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**Mayor**

Patricia M. Mahan

**Council Members**

- Dominic J. Caserta
- Will Kennedy
- Joe Kornder
- Jamie L. Matthews
- Jamie McLeod
- Kevin Moore

**FILED**

AUG 25 2010

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

*Certified Mail*

August 19, 2010

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

Dear Judge Jacobs-May:

The City of Santa Clara received the 2009-2010 Santa Clara County Civil Grand Jury Report, *Cities Must Rein In Unsustainable Employee Costs*.

At the August 17, 2010 City Council meeting, the City Council reviewed and approved the City's responses to the 2009-10 Santa Clara County Civil Grand Jury's final report, and authorized the Mayor and City Manager to transmit the City's final response to the Presiding Judge of the Superior Court, as requested in the Grand Jury's letter dated May 26, 2010.

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,

Patricia M. Mahan  
Mayor

Jennifer Sparacino  
City Manager

Enclosure

- cc: City Council  
Libby Silver, Interim City Attorney  
Liz Brown, Director of Human Resources

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**CITY OF SANTA CLARA RESPONSE TO THE  
FINDINGS AND RECOMMENDATIONS OF THE  
2009-2010 SANTA CLARA COUNTY CIVIL GRAND JURY REPORT,  
“CITIES MUST REIN IN UNSUSTAINABLE EMPLOYEE COSTS”**

**Finding 1:**

**The costs of total compensation for employees have grown substantially in the past decade and now threaten the cities fiscal stability.**

**City Response 1:**

The City agrees with the finding.

The City agrees that the costs of total compensation for employees have grown substantially in the past decade. The City also agrees that these costs have impacted the City’s fiscal stability, as have other factors such as the impact of the economy and recession on City revenues; decisions of the State of California that have reduced City and Redevelopment Agency revenues, and rising costs unrelated to employee compensation for materials, supplies, services and infrastructure costs.

**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 1:**

The recommendation has been implemented, and will continue to be implemented in the future as the City conducts employee negotiations. During the 2010-2011 budget process, the City determined savings needed to balance the budget. In addition to reviewing employee costs, other cost savings measures and efficiencies are also reviewed.

The City of Santa Clara has ten employee union/associations. All ten groups have existing contracts (Memorandum of Understanding-MOU) in place. Two of the bargaining groups are scheduled for MOU negotiations in fall, 2010; 6 groups are scheduled for MOU negotiations in 2011; and 2 groups are scheduled for MOU negotiations in 2012. In order to open “meet & confer” negotiations with bargaining groups that have contracts in place, there must be mutual agreement between the City and each individual bargaining group. Because of the extremely difficult financial situation, the City Manager has asked employee bargaining groups to meet to discuss the financial challenges and employee compensation. Eight bargaining groups met individually with the City management negotiating team in July and 2 additional groups have meetings in August. Follow-up meetings are scheduled with all groups. These meetings should be concluded in 2010 calendar year.

**Finding 2:**

**Salary and wage increases do not reflect changes 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 2:**

The City agrees with the finding.

**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 2:**

The recommendation has been implemented in past MOU negotiations, and it will be proposed for implementation in the future when the City negotiates with employee bargaining groups. The City also analyzes sources of revenue and projected economic growth.

The City of Santa Clara negotiates wages including salary increases with all of the bargaining groups. Typically, several factors are used to determine wage adjustments and total compensation for employees. These factors include salary benchmarks from neighboring agencies (comparable agencies) and the Consumer Price Index (CPI), as well as consideration of the City's five year financial forecast of revenues and expenditures. We agree that more analysis needs to be given to regional, state and national economic conditions that effect City revenues.

However, once an MOU is approved, the City generally does not have the option to adjust the MOU based on updated economic data.

**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 3:**

The City disagrees in part with the finding, because step increases include a performance review process.

The City of Santa Clara has both Classified and Unclassified (management) employees.

Classified employee's have steps within their salary range. A probationary employee must pass probation prior to receiving a step increase. Prior to additional step increases, an employee is given a performance appraisal. If performance meets expectations, a step increase is granted. If performance does not meet the expectations of the job, a step increase is denied.

Unclassified (management) employees do not have automatic merit increases. Merit increases are based on performance, as well as the City's economic situation.

**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 3:**

The City agrees that revising step progressions should be considered.

In the City of Santa Clara, classified employees receive step increases in the first 4 years of their employment. Additional longevity steps (steps six and seven) are allowed at the 10th and 15th years respectively.

Since the procedures for granting step increases for classified employees are defined in the City of Santa Clara Personnel & Salary Resolution, and because of the long-standing practice, any changes to the process would require negotiations with employee unions/associations. The City will consider introducing this proposal to modify the step increases in its next regularly scheduled MOU negotiations with employee unions/associations.

**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.**

The City agrees with the finding.

**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.**

**City Response 4A:**

The recommendation has been implemented.

The City of Santa Clara has implemented a cost sharing approach to health premiums. The City places a cap on health premiums that the City as the employer picks up. Any amount over that premium is paid for by the employee. The cap is placed on how much the employer will cover rather than on how much the employee will be responsible to pay.

- B. **Establish reasonable copays for doctors' visits, prescription drugs, and inpatient and out-patient hospital care.**

**City Response 4B:**

The recommendation has been implemented.

The City contracts medical benefits, including copays for doctors' visits, prescription drugs, and inpatient and out-patient hospital care, through CalPERS. The Copays, prescription drugs and inpatient and outpatient hospital care are all plan driven by CalPERS as our Plan Administrator. CalPERS contracts with health plan providers that provide quality and affordable health benefits to our members. CalPERS rates are negotiated for all contracted employers and members on an annual basis.

- C. **Prohibit an employee from being covered by both city-provided medical benefits and as a dependent of another city employee.**

**City Response 4C:**

The recommendation has been implemented.

As an employer who has medical benefits contracted through CalPERS, the City is prohibited by CalPERS law to allow employees to enroll as both a member and a dependent or as a dependent on two enrollments from another public sector employer who has contracted medical benefits through CalPERS.

- D. **Reduce cash in-lieu payments**

**City Response 4D:**

The recommendation will not be implemented, because the City pays a relatively small percentage for cash in lieu of payments for health premiums. If the City reduces the cash in-lieu payments, there may not be enough incentive for the employee to waive the benefit. As a result the City could be required to pay the full premium at a greater cost.

- E. **Introduce a new lower premium, high-deductible medical plan.**

**City Response 4E:**

The recommendation has been implemented through the options offered by CalPERS.

The City purchases medical plan coverage from CalPERS, and CalPERS regulates those premiums, co-payments and related costs for medical services through its purchasing agreements.

CalPERS communicates to their contracting agencies that they are the third largest purchaser of health care in the nation, they provide benefits to more than 1.3 million public employees, retirees, and their families. Rates are negotiated for employers and members on an annual basis.

Because health care costs vary throughout California, regional pricing adjusts premiums to reflect the actual cost of health care in specific regions. As such CalPERS, ensures employers that our CalPERS premiums are appropriate for our area and are competitive throughout California.

**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 5:**

The City agrees with the finding.

**Recommendation 5a:**

**Cities should:**

- 1) Renegotiate and make provisions for increasing the employee’s contribution 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 for Other Post-Employment Benefits (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 5a (1) (2) & (3):**

The City has already implemented this recommendation (5a (1) & (2)). Currently the City of Santa Clara’s employees pay the full employee contribution to CalPERS.

The City has implemented a retiree health insurance premium reimbursement program at a fixed amount per retiree which effectively contains costs and reduces unfunded liability risks.

The City does not provide retiree dental benefits, with one exception for pre-1986 retirees.

**Recommendation 5b:**

**Cities should thoroughly investigate reverting to prior pension formulas that were less costly.**

**City Response 5b:**

The recommendation has not yet been implemented, but may be implemented in the future. 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 City employees with CalPERS.

**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.**

**City Response 5c:**

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

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 should include 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.

In reference to retiree health care, the City of Santa Clara has a Retiree Medical Reimbursement Plan that is made available to City retiree's. In general the Retiree Medical Reimbursement Benefit shall provide each employee who retires from the City with at least ten (10) years of regular City service with a reimbursement for unreimbursed single retiree health insurance premium beginning with the first full month of retirement from City service and ending with the last full month before the retiree's sixty-fifth (65th) birthday. Starting in the month in which the retiree turns age sixty-five (65), the reimbursement will be for unreimbursed Medicare single retiree supplemental health insurance premium. These reimbursements are capped with a CPI adjustment annually which cannot exceed 5%.

Except for the Retiree Medical Reimbursement Plan, the City of Santa Clara does not provide benefits for retiree health care. However, the City of Santa Clara does have available for employees a Voluntary Employee Beneficiary Association (VEBA) which is a tax-exempt trust account formed under Internal Revenue Code Section 501(c)(9) designed to accumulate assets to fund the future payment of qualified medical expenses (including specified insurance premiums). At retirement, participants may withdraw the accumulated plan benefits to pay for unreimbursed health insurance premiums, qualified long term care insurance premiums, and other qualified unreimbursed medical expenses and will not be taxed under current state and federal law. Withdrawals cannot be made for non-medical purposes.

**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 6:**

The City agrees with the finding.

**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 6a (1) & (2):**

The recommendation has been implemented in part.

The City applies a cap to the number of hours an employee can accrue for vacation time. The City applies this cap to encourage employees to take the vacation time off. The City will consider whether to propose reductions of vacation time in the next regularly scheduled MOU negotiations. An employee accrues 10 days after one year of employment; number of days increase with employee's seniority.

The City of Santa Clara observes 14 holidays; most are considered Federal or State Holidays. Holidays that are observed seem reasonable to maintain. Holiday's are negotiated with employee groups. Changes would require MOU negotiations.

The City of Santa Clara provides each calendar year, Personal Leave time. Depending on the bargaining Unit an employee is eligible to use between sixteen (16) to thirty-two (32) hours of accrued sick leave as Personal Leave, provided he/she has sufficient sick leave balance available. This program reduces the amount of sick leave accrued at retirement.

**City Response 6a (3):**

The recommendation has not yet been implemented, but will be considered for future MOU discussions.

Sick leave is accrued at the rate of 96 hours per calendar year or 3.7 hours per bi-weekly pay period. Use of sick leave must be authorized and may require an employee to provide a physicians certificate confirming the employee was sick during any period of time.

The cashing out of sick leave upon retirement should be revisited as a union discussion point.

The City does not allow sick leave accruals to be used towards added years of service credit towards CalPERS' retirement benefits.

**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 6b:**

The recommendation has not yet been implemented, but will be considered in future employee negotiations.



The City will consider including the concept of substituting paid holidays off for unpaid days as part of the next MOU negotiations. Furlough days may also be considered.

**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 7:**

The City agrees with the finding.

**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 7a:**

The recommendation has not yet been implemented, except for the City's Electric Utility, but will be implemented in the future in preparation for future bargaining sessions. For the City's Electric Utility, the City benchmarks with the private electric utility that services Santa Clara County as well as with other municipally-owned utilities.

When comparable positions are identified, the City can consider using private sector data. In some cases, comparable positions may not be available for comparison due to unique qualifications required for certain municipal positions. Adding new benchmarks is a meet and confer issue since current MOU's include specific Benchmark agencies.

**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 7b:**

The recommendation has not yet been implemented, but will be evaluated for implementation in the future in preparation for future bargaining sessions. Salaries and wages, and benchmark comparisons, are included in the meet and confer process. Changes to entry level compensation would also be a topic for discussion. Two bargaining group MOU's expire in December 2010; 6 bargaining group MOU's expire in December 2011; and 2 bargaining group MOU's expire in 2012.

**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 8:**

The City agrees with the finding.

**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 8a:**

The recommendation has been implemented for some functions and services.

The City of Santa Clara currently has a successful practice of outsourcing and/or forming partnerships with other cities for shared services. Examples: Most of the Information Technology Department functions are outsourced to a private company. Most tree trimming and some street sweeping functions are contracted to private companies. The City will continue to evaluate these and other outsourcing options, factoring in health and safety issues and other public service-oriented factors.

**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 8b:**

The recommendation has been implemented for some services.

The City of Santa Clara participates in several joint agency programs. Examples include: Silicon Valley Animal Control Agency (SVACA), a joint powers authority with Santa Clara, Campbell and Monte Sereno. The City's Electric Utility is an active member of joint powers agencies, including Northern California Power Agency, Modesto-Santa Clara-Redding Power Agency. San Jose and Santa Clara operate San Jose/Santa Clara Water Pollution Control Plant with several other cities as tributary agencies. The City is also a member of the Silicon Valley Regional Inoperability Agreement (SVRIA) which provides for shared costs for technology for public safety communications.

**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 classification in all departments and work groups.**

**City Response 9:**

The City agrees with the finding.

**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 9:**

The recommendation has been implemented and continues to be implemented by the City.

On a regular basis, prior to the budget process the City conducts, analysis of functions performed in departments with the goal of increased efficiency and cost savings. As an example, Public Safety Communication Dispatch and Technical Services was consolidated with the Police Department. Traffic Maintenance was combined with Street Maintenance. Other department streamlining approaches are being evaluated. In fiscal year 2010-2011 budget, the City eliminated 9 positions and eliminated funding for approximately 100 positions in the General Fund, with no layoffs. Positions are frozen as attrition and retirements occur.

**Finding 10:** Not applicable to the City of Santa Clara.

**Recommendation 10:** Not applicable to the City of Santa Clara.

**Finding 11:**

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

**City Response 11:**

The City agrees with the finding.

**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 citizens clearly what changes have been made in contracts.**

**City Response 11:**

The recommendation has been partially implemented. Prior to beginning employee negotiations, the City Council approves Employer Negotiation Principles at a regularly scheduled City Council meeting. These Principles define the way negotiations will be handled including a tone

of respect at the negotiating table. The Principles also refer to the City's Code of Ethics and Values including the value of fiscal responsibility as key tenets in meet and confer. All City Council Members and the City Manager sign the Employer Negotiation Principles.

In addition, during the budget process in May and June 2010, there were discussions of employee salaries and benefits as well as the impacts of the "Great Recession" on City revenues. These discussions were listed under "Special Order of Business" at the beginning of the agenda.

At the end of negotiations or conclusion, a tentative agreement is placed on the consent agenda for City Council approval. During future negotiations, the City will list agenda reports on employee negotiations under "Reports for Council Action" (not "Consent Calendar").

**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 employee 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 12:**

The City agrees with the finding. However, in addition to city council's responsibility for formulating and approving solutions to restore the cities' financial stability, city managers also have important responsibility in this area to advise, inform and make recommendations to city council.

**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 12a:**

The recommendation has been implemented.

The Santa Clara City Council places a high priority on fiscal responsibility. Numerous reports, study sessions and Council meeting discussions focus on the budget, Five Year Financial Plan, City infrastructure needs, mid-year revenue reports, monthly financial status reports, and outstanding bonds and investment reports. In addition, Council Principles and Priorities for 2009/2011 include the following major initiatives: Focus on fiscal responsibility and balanced budget; and replenishing City's General Fund Emergency Reserves.

**Recommendation 12b:**

**City councils and mayors should direct city administrators to renegotiate collective bargaining agreements that reverse the escalation of employee costs through concessions, cost sharing and a second tier for new employees.**

**City Response 12b:**

This recommendation has been implemented.

The City Council has given authority to the City Manager to ask employees to meet for discussion of the City's financial crisis situation and employee compensation costs. In June 2010, this request was made to all ten bargaining groups. Meetings were held in July and additional meetings are scheduled for August. Because 8 of the 10 bargaining groups have contracts in place that are not scheduled for formal negotiations in 2010, in order to open negotiations mutual consent between City and each of the bargaining groups is required.

**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 budget.**

**City Response 12c:**

This recommendation is implemented through the City Manager, with the City Council support. The City Manager and Director of Finance met with all ten bargaining groups in June 2010, and provided a detailed analysis of the City's budget including employee cost impacts on the budget.

**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 12d:**

Recommendation has been implemented and will continue to be implemented. During several budget study sessions in May and June 2010, residents were informed about the budget challenges. At those meetings, residents were informed that the City would request employees to meet regarding the financial challenges. In addition to residents and business representatives who attended the televised Council Budget Study Session and Public Hearing, information was provided on the City's Cable Channel 15, the City's newspaper *Inside Santa Clara* which is mailed to all residents and businesses, and the City's website.

Five budget presentations were made to employees by the City Manager, Director of Finance and Assistant City Manager. In addition, budget presentations were made to the Chamber of Commerce Board of Directors and the Citizens Advisory Committee. The City will continue to utilize a variety of means to inform citizens.

**Finding 13:** Not applicable to the City of Santa Clara.

**Recommendation 13a:** Not applicable to the City of Santa Clara

**Recommendation 13b:** Not applicable to the City of Santa Clara.