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City Manager: Brian Loventhal  
City Clerk: Andrea Chelemengos  
Finance Officer: Sue L'Heureux  
Building Official: Howard T. Bell

## City of Monte Sereno

August 5, 2010

Honorable Jamie Jacobs-May  
Presiding Judge  
Superior Court of Santa Clara County  
Santa Clara County Civil Grand Jury  
191 N. First Street  
San Jose, CA 95113

**FILED**

AUG 12 2010

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

RE: Response to Civil Grand Jury Final Report - Cities Must Rein In Unsustainable Employee Costs

This is to inform you that at the City Council meeting on August 3, 2010, the Monte Sereno City Council discussed the 2010 Grand Jury Final Report - Cities Must Rein In Unsustainable Employee Costs. At that meeting the City Council authorized the enclosed response pursuant to the California Penal Code.

The City appreciates the opportunity to comment on these important issues facing all of our communities.

Sincerely,

Andrea Chelemengos, CMC  
City Clerk

Enclosure

City of Monte Sereno Response to the  
Santa Clara County Civil Grand Jury Report:  
Cities Must Rein In Unsustainable Employee Costs

Report Issued: May 26, 2010  
Response Date: August 3, 2010

**Finding 1:**

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

**The City of Monte Sereno disagrees partially with the finding.**

- While the City of Monte Sereno agrees compensation has grown in the past decade, there are many factors impacting a city's economic situation; employee compensation is just one of them.
- The selected time frame reflects several economic anomalies which skew the portrayed rate of growth in total compensation:
  - In FY 2000/01, Monte Sereno's wages were not competitive with neighboring cities or the public sector. Therefore, a comparison between the two time periods contributes to an overstatement of growth in median wages (Table 2).
  - The City's 2.0% at 55 CalPERS pension plan benefit did not change during the selected timeframe. However, the FY 2000/01 CalPERS employer contribution rate was 0% due to a "superfunded status" at the time, whereas the FY 2009/10 CalPERS contribution rate is 12.656% of salary.
  - The City of Monte Sereno operates with a very small staff and therefore the addition of a single staff member contributes to an overstatement in growth based on a median calculation.
- The City of Monte Sereno remains fiscally stable due to conservative financial practices that include:
  - The City manages its staffing levels in line with revenues.
  - The employee retirement plan was not enhanced during the timeframe selected.
  - The City had a balanced budget and strong reserve accounts for all fiscal years in the timeframe selected.

**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.

**The recommendation has been implemented.**

- Monte Sereno has achieved budget stability.

- The City of Monte Sereno agrees that the overall intent to control total compensation growth is essential, and it continues to be a fundamental objective when considering employee costs.

### **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.

#### **The City of Monte Sereno disagrees partially with the finding.**

- Under the City of Monte Sereno's policy, COLA increases are tied to the United States Bureau of Labor and Statistics Average Consumer Price Index for All Urban Consumers (CPI-U) for the San Francisco-Oakland-San Jose region (for the months March to March). The CPI-U reflects the actual increase in the cost of living.

### **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.

#### **The recommendation has been implemented.**

- The City of Monte Sereno ties COLA increases to market CPI-U and retains the ability to adjust and withhold the COLA based on current 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.

#### **The City of Monte Sereno disagrees partially with the finding.**

- City of Monte Sereno step increases are contingent upon a satisfactory annual evaluation of an employee's performance, which includes achieving advanced knowledge and skills, to qualify for a higher step. Step increases are not automatic based solely upon completion of a specified period of time. In addition, the City retains the ability to adjust or withhold step increases based on economic conditions.

### **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.

#### **The recommendation requires further analysis.**

- The City will carefully review this recommendation in the next six months to determine the full scope of this suggestion, and the impacts this change would have on recruitment and retention.

- This recommendation does not accurately reflect the current five year step progression for Monte Sereno.

**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 of Monte Sereno 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.

**The recommendation has been implemented.**

- The City already requires that the increased costs for medical coverage are assumed by the employee.

- B. Establish reasonable co-pays for doctors' visits, prescription drugs, and in-patient and out-patient hospital care.

**The recommendation has not yet been implemented, but will be implemented.**

- When an expansion of CalPERS health insurance options become available.

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

**The recommendation has been implemented.**

- According to CalPERS, employees cannot be enrolled in a CalPERS health plan as a member and a dependent or as a dependent on two enrollments. This is called dual coverage and it is prohibited by CalPERS regulations.
- When dual coverage is discovered, the coverage will be retroactively canceled and the employee may have to pay for all costs incurred from the date the dual coverage began.

- D. Reduce cash-in-lieu payments.

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

- The City of Monte Sereno's cash-in-lieu payments is limited to only the portion of the benefit allowance that is not applied to health, dental, vision or deferred compensation benefits, which in most cases is a very small amount.

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

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

- When an expansion of CalPERS health insurance options becomes available.

### **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 expenses the cities are facing. The city contribution to pension plans and OPEBs far exceeds the employee contribution.

**The City of Monte Sereno partially disagrees with the finding.**

- Because Monte Sereno’s financial condition is stable and the City continues to have a balanced budget, the retiree pension and health care costs are not unsustainable for Monte Sereno.

### **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 to OPEB; this contribution should provide for a reasonable split of costs between a city and the employee for retiree medical and dental benefits.

**The recommendation has been implemented in part (5a3).**

- The employees already are required to pay for the majority share of OPEB. The City has capped its cost for OPEB contributions.

**The recommendation will not be implemented because it is not warranted in part (5a1-2).**

- The City of Monte Sereno did not enhance its pension plan from the traditional 2% at 55 formula. Therefore CalPERS pension contribution rates did not increase to the higher premium levels.
- Because Monte Sereno’s financial condition is stable and the City continues to have a balanced budget the retiree pension and health care costs are not unsustainable for Monte Sereno.

### **Recommendation 5b:**

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

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

- The City of Monte Sereno did not enhance its pension plan from the traditional 2% at 55 formula, therefore CalPERS pension contribution rates did not increase to the higher premium levels.

### **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.

**The recommendation has not yet been implemented, but will be implemented in the future, in part (5c1).**

- The recommendation is currently being studied by City staff and will be implemented in the next two fiscal years.

**The recommendation requires further analysis in part (5c2-4).**

- The City staff will analyze the financial benefits and feasibility of the recommendations in the next six months.

### **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.

**The City of Monte Sereno 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.

**The recommendation requires further analysis.**

- The recommended reductions in benefits would impact negotiated employment packages.
- Staff will assess these recommendations in relation to data collected from other cities and regional employers and the City's budgetary constraints in the next six months.

### **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.

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

- The City does not impose furloughs or have service impact issues associated with office closures.

**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.

**The City of Monte Sereno disagrees partially with the finding.**

- While the City agrees it is prudent for wages and benefits to be aligned with reasonable market trends in both the private and public sectors with respect to salaries, benefits, and other non-salary compensation, it recognizes that Monte Sereno employee salaries, by position, are consistently less than public sector comparisons.

**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.

**The recommendation requires further analysis.**

- Many public sector positions involve functions that are specific to government operations.
- City staff will further review this recommendation in the next six months.

**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.

**The recommendation requires further analysis.**

- The City must analyze the feasibility and the fiscal and operational impacts and advantages of employing market-oriented practices.
- City staff will further assess this recommendation in the next six months.

**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.

**The City of Monte Sereno 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.

**The recommendation has been implemented.**

- The City of Monte Sereno currently functions with minimal staff and contracts services for legal, public safety, development and engineering reviews, landscaping and street maintenance, code enforcement as well as facility and infrastructure construction work.

**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.

**The recommendation has been implemented.**

- The City has established several joint partnerships with other cities and agencies, including law enforcement, fire protection, solid waste, recycling, and environmental services, public safety, animal control, emergency services, risk management, employee training and emergency responder radio interoperability. Staff also shares information and resources with other agencies to leverage skills and workload. The City continues to review other functional areas to determine practicality, cost savings, and/or operational efficiencies.

**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.

**The City of Monte Sereno 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.

**The recommendation has been implemented.**

- As a minimally staffed contract city, Monte Sereno continues to explore a wide variety of service approaches including the expanded use of technology, contracting for a variety of services, and creating partnerships with other public agencies.
- The City of Monte Sereno looks for opportunities to achieve savings through consolidating functions and job responsibilities.

**Finding 10:**

The San Jose City Auditor identified 88 positions currently being performed by public safety employees that can be performed by civilian employees at lower costs. The safety employees could be moved to positions that require their expertise and training. The auditor estimated this could be accomplished in less than 90 days and save approximately \$5 million annually.

**N/A, because it applies to the City of San Jose.**

**Recommendation 10:**

San Jose should negotiate this suggested transfer with the San Jose Police Officers' Association and set realistic timeframes to move these safety positions to civilian positions.

**N/A, because it applies to the City of San Jose.**

**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.

**N/A, because Monte Sereno does not have bargaining units that require labor negotiations.**

**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.

**N/A, because Monte Sereno does not have bargaining units that require labor negotiations.**

**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.

**The City of Monte Sereno partially disagrees agrees with the finding.**

- Monte Sereno does not have any bargaining units.

**Recommendation 12a:**

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

**The recommendation has been implemented.**

- Monte Sereno staff educates City Council candidates about City finances and operations beginning with the start of the election period, and continues this education with elected Council Members to keep them informed about the City's fiscal realities, long-term costs and commitments.
- City Council Members annually review the five-year forecast to understand the implications and status of the City's current and long-term financial situation, review monthly Treasurer's reports, quarterly financials, mid-year budget discussions. Staffing and contract service costs are reviewed in detail.
- Council Members meet regularly with the City Manager to keep informed of City operations and fiscal matters on a timely and ongoing basis.

**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.

**N/A, because Monte Sereno does not have bargaining units.**

**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.

**N/A, because Monte Sereno does not have bargaining units.**

**Recommendation 12d:**

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

**The recommendation has not yet been implemented, but will be implemented in the future,**

- On an ongoing basis, the City Council and Mayor will inform citizens of issues regarding employee costs as the topic is relevant - as part of the Council's regular meetings with various community groups, in public Council Meetings, study sessions, and the Council's annual goal setting, and through written communications such as the City's newsletter.

**Finding 13:**

Binding arbitration is not open to the public and results in an adversarial process between the city and employee groups. Binding arbitration limits the ability of city leaders to craft solutions that work for the city's budget. The process has resulted in wage and benefit decisions that have been greater than the growth in basic revenue sources.

**N/A, because Monte Sereno does not have bargaining units or binding arbitrations.**

**Recommendation 13a:**

San Jose City Council should make binding arbitration open to the public.

**N/A, because it applies to the City of San Jose.**

**Recommendation 13b:**

San Jose City Council should prepare a ballot measure asking voters to repeal Section 1111 of the City Charter that addresses binding arbitration.

**N/A, because it applies to the City of San Jose.**