

CITY OF SUNNYVALE

*The Heart of Silicon Valley*sm

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

Anthony (Tony) Spitaleri
Mayor

August 23, 2012

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Vice Mayor

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Councilmember

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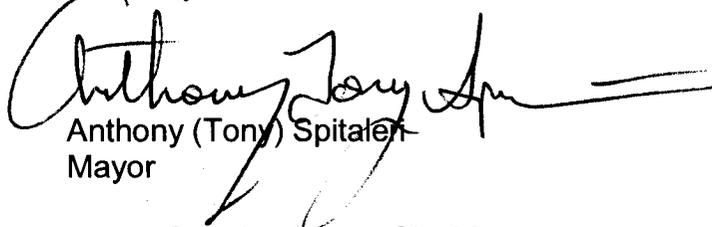
Jim Davis
Councilmember

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

Dear Judge Loftus, Jr.,

Enclosed is the City of Sunnyvale's response to the Santa Clara County Civil Grand Jury Final Report, **An Analysis of Pension and Other Post Employment Benefits.**

Sincerely,



Anthony (Tony) Spitaleri
Mayor

cc: Gary Luebbers, City Manager
Grace Leung, Director of Finance
Teri Silva, Director of Human Resources

Response to Civil Grand Jury Report, *An Analysis of Pension and Other Post-Employment Benefits*

Finding 1: Public sector employees are eligible for retirement at least 10 years earlier than is common for private sector employees.

City Response: The City disagrees partially with the finding. There are positions in the public sector that do not typically have comparable private sector counterparts. Most notably, police and fire services are typically provided by the public sector only, so it is difficult to compare retirement ages for public safety personnel against the private sector. As such, the City of Sunnyvale disagrees with the finding as it relates to our Safety personnel.

Recommendation 1: The Cities should adopt pension plans to extend the retirement age beyond current retirement plan ages.

City Response: The City of Sunnyvale, as a contracting agency of CalPERS, does not have the ability to extend the retirement age beyond current retirement plan ages offered by the CalPERS formulas. The City has recently implemented a second-tier retirement plan for its Safety employees that increased the retirement age from 50 to 55 and is actively working to extend Miscellaneous from 55 to 60. Additionally, the Sunnyvale City Council took formal action on April 3, 2012 to endorse Governor Brown's 12-point pension reform plan. One of the components of that plan is to increase the retirement age for both Miscellaneous and Safety. If implemented as proposed, the retirement age would increase for the City's pension plans.

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.

City Response: The City disagrees partially with the finding. In the time between the City of Sunnyvale completing the survey and the Santa Clara County Civil Grand Jury issuing its report, a second-tier pension plan was implemented for Safety employees, with new Safety employees now on the 3% @ 55 formula.

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.

City Response: Agree. This recommendation has been implemented for the City's Safety employees and is in negotiation for its Miscellaneous employees,

with three of four Miscellaneous bargaining units already in agreement on a second tier. The Memorandum of Understanding (MOU) for the fourth Miscellaneous bargaining unit expired on June 30, 2012, and negotiations on a new MOU are nearing a conclusion. As noted previously, the intended outcome of those negotiations is a second-tier pension plan for Miscellaneous employees.

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.

City Response: Not applicable

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: Increasing the retirement age is addressed in the response to Recommendation 1, and increasing employee contributions is addressed in detail as a part of the response to Recommendation 4A and 4B. The City of Sunnyvale, as a contracting agency of CalPERS, does not have the ability to adopt caps on pension plans beyond those set by CalPERS, which currently caps Safety plans at 90%.

Finding 3: Retroactive benefit enhancements were enacted by the Cities using overly optimistic ROI and actuarial assumptions without adequate funding in place to pay for them.

City Response: The City agrees with this finding.

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: Agree. The recommendation has not yet been implemented; however, City staff will update Council Fiscal Policy with a statement that addresses this recommendation and will seek Council approval of the update prior to the end of FY 2012/2013.

Finding 4: The Cities are making an overly generous contribution toward the cost of providing benefits.

City Response: The City agrees with this finding.

Recommendation 4A: The Cities should require all employees to pay the maximum employee contribution rate of a given plan.

City Response: The City agrees with this recommendation. As noted previously, on April 3, 2012, the Sunnyvale City Council took formal action endorsing Governor Brown's comprehensive pension reform proposal. One of the points of the Governor's 12-point plan is to have agencies and their employees equally share the normal cost of the pension benefit. If this component of the Governor's plan is implemented as proposed, it would ensure Sunnyvale's employees paid the maximum employee contribution rate plus a portion of the employer contribution rate.

Currently, the City is making incremental progress with its bargaining units to achieve full contribution by employees of the employee contribution rate. Currently, five of six bargaining units are contributing 3% of pay towards the employee contribution rate. The sixth bargaining unit is currently in negotiations with the City on a new MOU, and the City's expectation is that bargaining unit will also move to a 3% of pay contribution. Going forward as contracts expire, the City will continue to negotiate an increase in the amount the employees contribute to the employee portion of the pension expense until the maximum employee contribution is reached.

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: As noted above, the City is currently focused on making progress toward employees making the full employee contribution of the pension expense. Requiring employees to pay some portion of the past service cost associated with the unfunded liability would require negotiation, but is something that the City can consider once it has negotiated full employee contribution of the employee share of the pension expense. With that said, implementation of this recommendation would need to be considered and potentially pursued within the context of all elements of an MOU, and as such, the City cannot definitively commit to implementing this recommendation.

Finding 5: The Cities are not fully funding OPEB benefits as evidenced by large unfunded liabilities and small funded ratios.

City Response: The City agrees with this finding.

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: Agree. The City of Sunnyvale has implemented measures to fully fund its OPEB liability. The City has been making the full Annual Required Contribution (ARC) on our OPEB obligation since FY 2010/11.

Furthermore, the City Council approved the establishment of an OPEB Trust in 2010, with initial funding of \$32.6 million contributed during the first half of 2011. As of June 30, 2012, the OPEB Trust has a balance of \$37.8 million. Contributing the ARC each year is incorporated into the City's long-term financial plan, and doing so is expected to result in the OPEB Trust being fully funded by FY 2031/32. At that point, earnings from the Trust will be used to partially offset the City's annual cost for providing retiree medical benefits.

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 the pension trust funds are underfunded.

City Response: Not applicable

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: Not applicable

Finding 7: The Cities' defined benefit pension plan costs are volatile. Defined contribution plan costs are predictable and therefore more manageable by the Cities.

City Response: The City agrees with this finding.

Recommendation 7: The Cities should transition from defined benefit plans to defined contribution plans as the new tier plans are implemented.

City Response: As noted previously, the City of Sunnyvale contracts with CalPERS to administer the pension benefit for existing employees. CalPERS does not currently offer a defined contribution plan, and the City does not have the option of going to a defined contribution plan outside of CalPERS for new hires. However, one of the components of the Governor's pension reform plan is a hybrid defined benefit/defined contribution retirement plan. Should this aspect of the Governor's plan be implemented, the City will then have a portion of its retirement benefit shifted from defined benefit to defined contribution. If this particular component of the Governor's plan is not implemented, it would be up to CalPERS to otherwise offer a defined contribution plan in the future for the City to have this option. Should this occur, setting up a new tier plan based on a defined contribution is something that the City can consider. This would have to be negotiated with the City's bargaining units, but it would provide another option for containing personnel costs that the City could explore.