



CITY OF MILPITAS
OFFICE OF MAYOR ROBERT LIVENGOOD

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August 17, 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 Milpitas appreciates the opportunity to review the 2009-2010 Santa Clara County Civil Grand Jury's Report entitled *Cities Must Rein In Unsustainable Employee Costs* dated May 26, 2010. I am writing to you on behalf of the Milpitas City Council. This will serve as the formal response of the City of Milpitas to that report. At its meeting of August 17, 2010, the City Council reviewed this letter and authorized that it be submitted to you. The City of Milpitas shares the Grand Jury's concerns and has already implemented some of its recommendations. The Milpitas City Council will consider additional measures to reduce employee costs in the future.

Finding 1 - The costs of total compensation for employees has grown substantially in the past decade and now threaten the cities' fiscal stability.

City Response: Agree, but of the factors affecting the total compensation picture, spiraling health care costs and increased contribution requirements of the PERS retirement plan are not directly in the City's control. In fact, increases to the base pay of City employees over recent years are consistent with increases to the Consumer Price Index for the area.

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: Wages are a mandatory subject of bargaining pursuant to collective bargaining laws. Milpitas has already commissioned a total compensation study and will utilize that information in upcoming bargaining sessions with labor representative groups to allow employee choice on how cost cutting will occur. Concession agreements that achieved the Council's fiscal goal were implemented for FY 10, and with some employee groups for FY 11 through side letters that provided an approximate 7% wage/cost reduction applicable to all employees across the board.

Finding 2 – Salary and wage increases do not reflect change 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: Agree in part. Historically, the bargaining process included negotiated increases that were not simply tied to economic indices, but rather sought to incorporate Milpitas specific needs in attracting and retaining employees. In FY 10, the only change to employee wages was to freeze salary by holding one previously approved wage increase in abeyance for one year.

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: The recommendation has been implemented. Wages are a mandatory subject of bargaining pursuant to collective bargaining laws. Currently, wage increases are not being provided to employees given the current economic data. Further, the City has negotiated 7% wage/cost decreases with all employees for FY10. It is anticipated that wage/costs for FY11 will follow a similar pattern of negotiation with employee groups unless clearly identified revenue sources are found supporting a different outcome. In addition, the City has commissioned a Citizen Task Force and an internal task force to focus on long-term budgetary needs to address structural deficit issues.

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: Agree in part and disagree in part. In Milpitas, step increases are specifically tied to the employee's performance appraisal, which does include evaluation of knowledge and skills related to the job. Employees may be denied a step increase if the work performance is not meeting standards. It is agreed, however, that when COLAs are being provided to all employees, new employee wages can increase quickly if the new employee is also eligible for a merit step increase in the same year.

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: Changes to the step system may be an issue of future negotiations with each labor group as an item that is a mandatory subject of bargaining pursuant to the Meyers-Millias-Brown Act. Lengthening the merit increase progression period and suspending contract increases for those receiving merit increases may be included as a component of those negotiations.

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.

City Response: Agree. The City will consider in the future modifications to its medical benefit programs to either cap employer costs or directly apportion cost to employees. Alternatives may include implementation of cafeteria plan style medical benefit program; disallowance of double medical

coverage; cost recovery of dependent medical, etc. Currently the City pays no more than the Kaiser medical benefit rate. Milpitas is a member of the Public Employees Medical and Hospital Care Act (PEMHCA) program offered through CalPERS. The purchasing power of this large group has allowed Milpitas to access competitive rates that likely would have been much higher if it utilized an independent plan.

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.
- B. Establish reasonable co-pays for doctors' visits, prescription drugs, and in-patient and out-patient hospital care.
- C. Prohibit an employee from being covered by both city-provided medical benefits and as a dependent of another city employee.
- D. Reduce cash in-lieu payments.
- E. Introduce a new lower premium, high deductible medical plan.

City Response: Milpitas will consider cost cutting measures consistent with this recommendation in future negotiations. Changes to health care benefits are a mandatory subject of bargaining under collective bargaining law. Currently, co-pays are in place for doctor visits, prescriptions, in-patient care, and out-patient care. Further, employees who are a dependent on another outside health plan can waive medical insurance coverage through the city in exchange for a cash in-lieu benefit. This results in substantial savings to the city. Currently, PEMHCA does not provide a high deductible health plan option, although this may be an option for consideration in the future.

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: Agree in part and disagree in part. Milpitas agrees that pension costs generally are rising to an unsustainable level and are straining the fiscal health of our city. Current costs as well as future rate increases are problematic thus making pension plan cost reductions a top priority for the Milpitas City Council. A two-tier system of retiree benefits has been proposed and, while a subject of mandatory negotiations, will be seriously considered for its potential long-term budgetary savings.

Recommendation 5a – Cities should:

1. Renegotiate and make provisions for increasing the employees' contributions 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.

City Response: Changes to pension/retirement benefits are a mandatory subject of bargaining under collective bargaining law. Milpitas has made it a priority to reduce pension costs and will continue implementation efforts subject to applicable statutes governing collective bargaining. Both Safety and Non-safety employees currently pay the full employee contribution to CalPERS. Further increase of employee contributions for pension and OPEBs will be part of future negotiations in the ongoing effort to address the structural deficit.

Recommendation 5b – Cities should thoroughly investigate reverting to prior pension formulas that were less costly.

City Response: As noted previously, a two-tier system may be considered in future negotiations but changes to pension/retirement benefits are a mandatory subject of bargaining under collective bargaining law. A two-tier system would result in a long term reduction of pension costs, but would not have a significant short term effect.

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.

City Response: Changes to pension/retirement benefits are a mandatory subject of bargaining under collective bargaining law. Reducing pension costs is a priority for the Milpitas City Council. A two-tier system, increase in retirement age and highest and best spread across three or more years, may be considered and proposed to labor groups as contracts come open for negotiations.

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: Agree.

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: Vacation, holiday, and personal leave time reduction are a subject of future bargaining with labor groups as a mandatory subject of bargaining under the Meyers Milias Brown Act. To the extent there are significant potential budgetary savings, the City will consider the feasibility of this recommendation during future negotiations.

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: Changes to holidays and leave time benefits are a mandatory subject of bargaining under collective bargaining law. Currently, Milpitas observes 12 major holidays; not greatly exceeding what is afforded in private industry. This recommendation could be explored by the city during future bargaining on the issue.

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: Agree in part, disagree in part. The City agrees that the public sector predominately compares to other public sector jurisdictions with the same or similar job classifications. However, the City of Milpitas does not compare to all Santa Clara County cities, nor does it establish its comparison cities based on geography alone. Other factors such as population, socio-economic status, budget size, and similarity in services are all key components of identifying a comparable jurisdiction. Nonetheless, it may be beneficial to compare with the private sector while keeping in mind that the public service component that is a major factor in the mission of public employees and the entities for which they work is largely not a factor in for-profit private business. The Grand Jury's suggestion to include appropriate private sector comparisons can be explored during successive negotiations with bargaining units conducted in accordance with state law.

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: Changes to wage and benefit packages are a mandatory subject of bargaining under collective bargaining law. The City of Milpitas is willing to consider use of private sector employment data, if available, for purposes of comparing similarly-situated job classifications.

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: Changes to wage and benefit packages are a mandatory subject of bargaining under collective bargaining law. The City agrees with this recommendation and this recommendation could be explored by the city during future bargaining on the issue.

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: *Agree as to some cities. Milpitas City Council has not made any decision to outsource any additional services in FY10.*

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: *Milpitas has existing contracts with the private sector in several areas, including, but not limited to: landscaping, street sweeping, janitorial services, claims administration, trash collection, computer software services, recreational programs, HVAC systems maintenance and waste water treatment plant. Milpitas will continue to explore cost-effective opportunities for privatization. Contracting out work currently performed by bargaining unit employees is subject to impact bargaining pursuant to collective bargaining laws. In addition, the decision to contract out may also be a mandatory subject of bargaining.*

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: *The City presently operates partnerships with other cities and special districts and continues to explore viable options that will create greater efficiencies appropriate to the City's service needs. Like contracting out, shifting work to another entity when the work is currently performed by bargaining unit employees is subject to meet and confer obligations. Currently, the City of Milpitas does contract out animal control and other areas described in response to Recommendation 8a above.*

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 classifications in all departments and work groups.

City Response: *Agree.*

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: *Milpitas has always worked to be an efficient and effectively staffed organization. Changes to staffing receive careful review and consideration and are included in the budget process. As vacancies in staffing arise, careful consideration of the vacant position is completed before refilling the position and any changes to the job classification are pursued. Since 2007 the City has been under a hiring freeze and has replaced vacant positions only if deemed essential after full analysis of need. In June of 2009, the City imposed a lay-off which eliminated 21 full time positions as a cost-saving measure. Reductions occurred in all departments and at all levels of the organization. This significant organizational staffing reduction has necessitated the consolidation of duties, elimination of lower priority work, and regular pursuit of efficiencies in an effort to maintain quality services to the public.*

Layoffs and substantive job changes are subject to impact bargaining pursuant to collective bargaining laws.

Finding 11 – In many cities, the contract negotiation process is completed by placing the negotiated collective bargaining agreement on the consent calendar for approval, which is acted on quickly at the start of council meetings by a single motion vote of the council.

City Response: Agree, but not as to Milpitas. The Milpitas Open Government Ordinance requires that collective bargaining agreements be publicly available at least ten days before the meeting of the public body considering the agreement. As such, employees and the public have the opportunity to review the contract in advance of the meeting and offer comment in writing or be present to offer comment directly.

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 the citizens what changes have been made in contracts.

City Response: The recommendation has value and the City Council may implement such a process in order to educate employees and the public about the City's goals regarding balancing the budget. The City Council has held various discussions at Council meetings on topics related to negotiations such as salary costs, pension costs, and contracting out. The Council has appointed an internal task force and a Citizens Task Force to come up with recommendations on this topic. The Citizens Task Force meetings are publicly noticed and open to the public.

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.

City Response: Agree.

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: This recommendation has been implemented. The City Council has become well versed in the labor contracts associated with each labor group. With tightening budgets, need for such knowledge will become more acute and Council will be provided additional data. The Council and staff will continue to pursue this education and sharing of information for all future negotiations.

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.

City Response: *This recommendation has been implemented. Staff will propose necessary cost saving measures during upcoming MOU negotiations and as a component of the budget process for FY11.*

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.

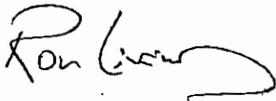
City Response: *The Milpitas City Council operates through the executive management team to negotiate with its bargaining units. Recently, direct communications during a series of meetings conducted by the City Manager were successful in bringing about agreement to a 7% wage/cost decrease with all city employees which was essential to balancing the FY10 city budget. During these numerous meetings, several of which were town hall type meetings with all city employees, the City Manager with the assistance of the Finance Director made a clear, sobering presentation of the City's financial situation and how it is affected by employee costs. Such sharing of information and meetings will continue as a part of future negotiations.*

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: *The City Council has utilized the public meeting forum to communicate to the citizens of Milpitas their priority of reducing employee costs. The Council has commented about this during recent meetings surrounding the budget adoption and appointment of budget task forces. The Milpitas City Council will continue to make this a priority and will continue to keep the public informed of its plans for controlling these and other costs.*

Please feel free to contact me or Milpitas City Manager Thomas Williams if you seek additional information or have any questions regarding this response to the SCCCGJ report.

Sincerely,



Robert Livengood
Mayor

cc: Members of the City Council
Thomas Williams, City Manager
Michael Ogaz, City Attorney
Milpitas City Department Heads