



City of Brea

November 18, 2015

Hon. Glenda Sanders, Presiding Judge
Orange County Superior Court
700 Civic Center Drive West
Santa Ana, CA 92701

Re: Response of City of Brea to the Grand Jury Report, entitled
“*Unfunded Retiree Health Care Obligations – A Problem for Public Agencies,*”
released on June 29, 2015.

Dear Judge Sanders:

The City Council of the City of Brea (the “City”) has reviewed the above-referenced Grand Jury Report and authorized the delivery of this letter, as the City’s, the City Council’s and the Mayor’s comments to the Grand Jury’s findings and recommendations pursuant to Penal Code Sections Code 933(c).

Grand Jury Findings

F-2: *The Grand Jury found: “Twenty one of the 32 agencies that provided June 30, 2013, data to the Grand Jury had not put aside funds in an irrevocable trust to help pay for the accrued actuarial liability of retiree healthcare costs in the future. This is an imprudent level of contribution.”*

Response: The City wholly disagrees with this finding.

The decision to have an irrevocable trust is a fiscal policy. However, the City has made reasonable efforts to address this issue. In 2014, the City established an Other Post Employment Benefits (OPEB) Fund to build a savings account for post employment medical benefits for retired employees, and the City provides funds annually for Other Post Employment Benefit obligations. In other words, it pays for its liability on a pay-as-you-go basis.

In addition, on October 20, 2015, the City Council instructed Staff to negotiate an agreement with the Public Agency Retirement System (PARS) for the purpose of “pre-funding” the City’s pension obligations. The money which is set-aside can at any time be used to offset either pension **or** post employment medical benefits.

F-3: *The Grand Jury found: “Anaheim, Buena Park, County of Orange, Huntington Beach, Lake Forest, and Stanton were in compliance with the requirement to contribute a full*

City Council

Marty Simonoff
Mayor

Christine Marick
Mayor Pro Tem

Cecilia Hupp
Council Member

Glenn Parker
Council Member

Steven Vargas
Council Member

100% or more of their Annual Required Contribution in the FY 2012-13. The remaining 26 agencies were not in compliance.”

Response: The City wholly disagrees with this finding, as applied to the City.

The City recognizes the full amount of its Annual Required Contribution (ARC) as an expense in the current reporting period. As a preliminary matter, there is no requirement that the City contribute a full 100% or more of its ARC. GASB Statement 45 governs accounting and financial reports by employers for OPEB, other than pensions. According to a handout issued by GASB entitled “GASB Statement 45 on OPEB Accounting by Governments a Few Basic Questions and Answers”, a common misconception about Statement 45 is that it requires governments to fund OPEB. Statement 45 does not impose this requirement but rather “establishes standards for *accounting and financial reporting*. How a government actually finances benefits is a policy decision made by government officials. The objective of Statement 45 is to more accurately reflect the financial effects of OPEB transactions, including the amounts paid or contributed by the government, whatever those amounts may be.” See page 2 of the GASB handout, a copy of which is enclosed herein. Thus, under Statement 45, the City is only required to identify the OPEB debt on its financial statements; the City does not need to make the full 100% ARC contribution. Nonetheless, the City does contribute a full 100% or more of its ARC because it has determined that it is a fiscally sound practice to do so.

F-4: *The Grand Jury found: “All agencies surveyed (except Anaheim) do not disclose retiree health benefits as part of employee compensation per GAAP standards.”*

Response: The City wholly disagrees with this finding, as applied to the City.

The City disagrees with the finding that it was required to disclose retiree health benefits as part of employee compensation pursuant to General Accepted Accounting Principles (“GAAP”) standards. The Grand Jury Report states that according to GAAP, retiree health benefits earned by current employees for their future use should be recognized in the agency’s compensation report in the period in which those benefits are earned. See page 15 of the Grand Jury report. The grand jury reviewed the City’s financial documents for the period ending June 30, 2013.

Government Code Section 53892(l) provides that the report submitted to the State Controller’s office shall contain “[t]he annual compensation of a local agency’s elected officials, officers, and employees in accordance with reporting instructions developed by the Controller pursuant to Section 53891 in consultation with affected local agencies.” Before it was amended in July 2015, Government Code section 53891 stated in part that:

“[t]he officer of each local agency who has charge of the financial records shall furnish to the Controller a report of all the financial transactions of the local agency during the next preceding fiscal year. The report shall be furnished within 90 days after the close of each fiscal year and shall be in the form required by the Controller.”

There was no requirement that the compensation report be GAAP compliant. In July 2015, Government Code Section 53891 was amended to state that:

“[t]he officer of each local agency who has charge of the financial records shall furnish to the Controller a report of all the financial transactions of the local agency during the preceding fiscal year. The report shall contain underlying data from audited financial statements prepared in accordance with generally accepted accounting principles, if this data is available. The report shall be furnished within seven months after the close of each fiscal year and shall be in the form required by the Controller. A local agency shall submit to the Controller information on annual compensation, as described in subdivision (l) of Section 53892, for the previous calendar year no later than April 30th.”

Government Code Section 53891 governs the reporting requirements for both the State Controller’s report and the compensation report, which are two separate reports submitted by the City to the State Controller. The Government Code was recently amended to include a requirement that the State Controller’s report contain data from financial statements that are prepared in accordance with GAAP, but only if the data is available. Notably, the Government Code was not similarly amended to require that the compensation report be prepared in accordance with GAAP.

Grand Jury Recommendations

R-2: *The Grand Jury recommended: “That the 21 agencies that have not contributed into an irrevocable trust fund to finance their retiree health obligations should begin to put aside monies to fund this obligation and reduce their unfunded public liabilities.”*

Response: Although not required by GASB 45, the City has made reasonable efforts address this issue per its response to F-2.

R-3: *The Grand Jury recommended: “That the 26 agencies that are not recognizing the full amount of their Annual Required Contribution as expense in the current period and should comply with the requirement to do so.”*

Response: The City currently adheres to the Grand Jury’s recommendation. The recommendation has already been implemented and no further action is needed by the City to comply with this recommendation.

R-4: *The Grand Jury recommended: “All agencies surveyed should recognize the retiree health care benefits in employee compensation in conformity to GAAP.”*

Response: The City is not aware of any requirement that obligated it to prepare either the State Controller’s Report or compensation report in accordance with GAAP, prior to July 2015. The recommendation has not yet been implemented. However, Government Code section 53891 has been amended recently to require that the State Controller’s report contain data from financial statements that are prepared in accordance with GAAP. Therefore, the City will comply with this requirement in the future, to the extent the data is available.

* * *

The City hopes that this response is helpful and takes this opportunity to thank the Grand Jury for its services and efforts.

Respectfully submitted,



Marty Simonoff
Mayor of the City of Brea

Cc: Paul S. Borzcik, Foreman
2014-15 Orange County Grand Jury
700 Civic Center Drive West
Santa Ana, CA 92701