

October 9, 2012

The Honorable Thomas J. Borris
Presiding Judge of the Superior Court
700 Civic Center Drive West
Santa Ana, CA 92701

Regarding: Response to 2011-12 Orange County Grand Jury Report “Transparency Breaking Up Compensation Fog – But Why Hide Pension Costs?”

Dear Judge Borris:

Thank you for the opportunity to comment on the “*Transparency Breaking Up Compensation Fog – But Why Hide Pension Costs?*” report prepared by the 2011-2012 Grand Jury. Moulton Niguel Water District’s (MNWD or District) responses to the Findings and Recommendation presented in the Grand Jury Report are as follows:

FINDINGS/CONCLUSIONS:

Finding 2 (F2) – Content & Clarity Ratings for EXECUTIVE Compensation Cost

Content and Clarity for the OC cities elected officials and executives over \$100,000 in base salary is improving in this 2nd year of ratings. On the other hand, there is understandably even more potential improvement possible for the Special Districts and joint power authority, which are in their 1st year of ratings.

- *Special Districts and Joint Power Authority (JPA):
Only three of twenty-three special districts/JPA (13%) were rated excellent for **Executive Compensation Cost Content and Clarity.***

Response: MNWD disagrees partially with this finding. According to the Grand Jury’s Table 1, there are three special districts that received an “A” grade in the Executive column. MNWD has not researched other special districts websites to verify if this information is accurate. However, MNWD’s website homepage (www.mnwd.com) has a tab for “Accountability and Transparency.” This tab presents salary and compensation information for each of the seven members of the Board of Directors, as well as for the General Manager. The web page has a direct link to the General Manager’s Employment Contract, which identifies compensation and

benefits. The Division Head's salary information is identified in the State Controller's spreadsheet.

Finding 3 (F3) – Content & Clarity for EMPLOYEE Compensation Cost Ratings

There is the most opportunity for more transparent reporting in the Content and Clarity of Employee Compensation Cost reporting on local government websites.

- Special Districts and Joint Power Authority (JPA)
Only four of twenty-three special districts and joint power authority (17%) were rated excellent for Employee Compensation Cost Content and Clarity.
 - ***Nineteen of the twenty-three special districts/JPA were rated good, average, poor and nonexistent for Employee Compensation Cost Content and Clarity, all of whom could improve to excellent.***

Response: MNWD disagrees partially with this finding. MNWD has not researched other special districts websites to verify if this information is accurate. MNWD's website, incorporated in the "Accountability and Transparency" page, includes the Memoranda of Understanding with the Employees Association, Job Classification Salary Schedule, and a direct link to the California State Controllers website, which takes the user to salary and compensation data for all MNWD employee classifications. The District has utilized this method of identifying employee compensation.

Finding 4 (F4) – Transparency of Employer Pension Contribution Rates

Many Orange County local government web sites do not generally post their employer pension annual contribution rates prominently to their web sites as part of their compensation cost disclosure for public disclosure.

Specifically, these employer contribution percentages refer to the annual percentages of employee salary that CalPERS (California Public Employees Retirement System) or OCERS (Orange County Employee Retirement System) requires of Orange County local governments to fund their employee guaranteed pension plans.

OCERS has the employer pension contribution rates buried in detailed actuarial reports and presentations on the OCERS website or requires member passwords to access these annual governmental funding rates. Thus, there is limited transparency for the public of these governmental pension contribution rates.

Response: MNWD agrees with this finding. MNWD provides CalPERS 2% @ 55 formula to its employees. As stated in the Memoranda of Understanding with the Employees Association, Article VIII "Retirement Benefits," "MNWD's contribution towards CalPERS will be capped at 17%. Employees hired after July 28, 2009, pay 100% of the employee's share." The California State Controllers Government Compensation spreadsheet identifies the employees' share of pension contributions. This data can be easily accessed by a link on the MNWD website.

Finding 5 (F5) – Inclusion of Overtime and On-Call Pay in Employee Compensation Costs

*The Orange County 'de facto' standard for CCT in the county, cities, districts and JPA now contain all employees, including a page for executives and all elected officials. **Two key categories are missing from compensation cost reporting. They are overtime pay and on-call pay.** They have become important as the new "de facto" compensation cost reporting standard which now includes all employees.*

These two cost categories can be significant for public safety employees. However, it is recognized that these cost categories generally do not apply to elected officials. On the other hand, if overtime does not occur for various employees positions, it is important for citizens to be aware of the aware (sic) of that in the annual reporting.

Response: MNWD disagrees partially with this finding. The overtime and on-call pay, if eligible, is reflected in the 2010 "Total Wages Subject to Medicare (Box 5 of W-2)" of the California State Controllers Government Compensation spreadsheet, which is easily accessed from the MNWD website. The 2011 State Controllers compensation request reflects a breakout of "Total Regular Pay," "Overtime Pay," "Lump Sum Pay," and "Other Pay." The District has complied with these new reporting requirements.

RECOMMENDATIONS:

Recommendation 2 (R2) – Content & Clarity of EXECUTIVE Compensation Costs –
The Grand Jury recommends that each of the forty-one of the fifty-seven Orange County cities, districts and joint power authority that were rated less than excellent for their Content and Clarity for their Executive and Elected Officials compensation costs page upgrade their Executive Compensation page. See Appendix D for suggested full disclosure model which is the same as 2011 with expanded descriptions, but with particular emphasis on pension costs.

Response: The recommendation will not be implemented. MNWD complies with the State Controller's requirements for reporting salaries and benefits. The information that is listed on Appendix D is included in the report to the State Controller's Office, which is available through a link on MNWD's website, in a clear table-format.

Recommendation 3 (R3) – Content & Clarity of EMPLOYEE Compensation Costs –

The Grand Jury recommends that the County of Orange and all Orange County cities, districts and joint power authority that were rated less than Excellent for Content and Clarity for their Employee compensation costs pages upgrade their Employee pages. See Appendix D for a suggested full disclosure model which is the same as 2011 with the addition of overtime pay, on-call pay and expanded descriptions, with particular emphasis on pension costs.

Response: The recommendation will not be implemented because MWND complies with the State Controller’s requirements for reporting salaries and benefits. The information that is listed on Appendix D is included in the report to the State Controller’s Office, which is easily accessed from the MNWD website.

Recommendation 4 (R4) – Transparency of Employer Pension Contribution Rates –

The Grand Jury recommends that all Orange County cities, districts and joint powers authority, as well as the County of Orange, post their employer pension annual contribution rates prominently and transparently on their web sites. Current and recent rates would be instructive and informative. It is recognized that some already do.

The Grand Jury recommends that OCERS display their member organizations annual contribution rates in a transparent way to the general public without password access on their web site. For a suggested model, see <http://www.calpers.ca.gov> and enter “public agency employee contribution search.”

Response: This recommendation has been implemented. The information is located in the Memoranda of Understanding with the Employees Association, under Article VIII “Retirement Benefits.” The Memoranda of Understanding identifies the percentage the District pays as well as the percentage the employees pay. In 2009, the Board of Directors adopted a two-tiered pension plan, which is also identified in the Memoranda of Understanding.

Recommendation 5 (R5) – Transparency of Overtime Pay and On-Call Pay in Employee Compensation Costs Reporting –

The Grand Jury recommends that all Orange County cities, districts and joint power authority, as well as the County of Orange, include overtime pay and on-call pay in compensation cost reporting on their employees’ compensation pages. See Appendix D for a suggested full disclosure model for these new compensation cost reporting categories.

Response: This recommendation has been implemented. This information is included in the “Total Wages Subject to Medicare (Box 5 of W-2)” of the California State Controllers Government Compensation spreadsheet, which is available through MNWD’s website.

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MNWD will continue to work with our communities and with agencies throughout the State to adopt best practices to better serve District customers and promote accountability.

MNWD appreciates the opportunity to respond to the Report. Please contact the District in the event further information or explanation is required.

Respectfully submitted,

MOULTON NIGUEL WATER DISTRICT

A handwritten signature in cursive script, appearing to read "Joone Lopez".

Joone Lopez
General Manager

cc: Moulton Niguel Water District Board of Directors