

# Office of the City Council



August 30, 2011

Thomas J. Borris  
Presiding Judge, Orange County Superior Court  
700 Civic Center Drive West  
Santa Ana, CA 92701

**RE: CITY OF TUSTIN'S RESPONSE TO ORANGE COUNTY GRAND JURY REPORT, "COMPENSATION STUDY OF ORANGE COUNTY CITIES"**

Dear Honorable Judge Borris:

We have reviewed the 2010-11 Orange County Grand Jury Report, "Compensation Study of Orange County Cities." The City of Tustin thanks the volunteer members of the Grand Jury for their time and considerable efforts in investigating and analyzing public employee compensation, which we agree is a matter of significant public concern. The City has a long-standing policy of providing employees with fair, but not overly generous, compensation, which is demonstrated in this report.

The City appreciates the opportunity to address the Grand Jury's findings and recommendations. While the City agrees with the Grand Jury that the public should have easy access to public employee compensation, and generally concurs with the study's findings and recommendations, we do have some areas of disagreement and constructive feedback that should be considered. Specifically, the City's responses are as follows:

## **GRAND JURY FINDINGS**

***F.4: Public disclosure of municipal compensation levels is widely inconsistent, ranging from good to non-existent.***

**Response:** The City disagrees partially with this finding. The City currently provides a significant amount of employee compensation information on its website and has done so for many years. Further, in September 2010, the City Council proactively adopted a resolution to create the "Transparency in City Government" website, a single web page that consolidates a great deal of information of public interest (including employee compensation), which is conspicuously linked in multiple locations from the City's home page. This "Transparency" website has been available to the public since November 2010.

In addition, it should be noted that in the course of conducting routine City business, City staff members have been able to obtain a wide variety of compensation data directly from most other Orange County cities' websites. While most public agencies have not historically posted individual employees' compensation

information in the specific format requested by the Grand Jury, prior to the City of Bell scandal there was little public interest in this level of detail of employee compensation. For many years, nearly all cities in Orange County have provided a great deal of compensation information on their websites in a format that was designed for the principal users, prospective job applicants and Human Resources professionals, but readily available to any interested party.

*F.7: There is currently no disclosure of written employment contracts on the majority of cities' websites.*

**Response:** The City disagrees partially with this finding. As defined by the Grand Jury, the only position at the City of Tustin with an individual employment contract is the City Manager. Since September 2010, we have posted the City Manager's employment contract on the City's website alongside our labor agreements and salary resolutions for all other employees. In addition, our employment contracts are included in the City Council Meeting agenda packets, which are available to the public in the meeting archives (available both on the City Council Meeting webpage and at City Hall). We are not aware of how many cities currently post individual employment contracts online, but in the course of business our staff has historically been able to obtain a great deal of employee compensation information from other cities' websites.

#### **GRAND JURY RECOMMENDATIONS**

*R.1: Transparency – All cities in Orange County report their compensation information to the public on the Internet in an easily accessible manner. The Compensation Disclosure Model (Appendix 4) provides a sample as to the items that should be included in determining total compensation.*

**Response:** The City has partially implemented this recommendation and will fully implement this recommendation in the near future. Since November 2010, the City has posted total compensation data for each elected official (City Council Members and City Clerk) and appointed official (City Treasurer, Audit Commissioners, Community Services Commissioners, and Planning Commissioners) on our "Transparency" web page.

While the City does not currently list total compensation data of specific employees on our website, we have for many years provided the salary ranges and other types of compensation for all job classifications in our salary schedules, memoranda of understanding, salary resolutions, benefits summaries, and classification specifications that have been available on our website.

To provide even more disclosure, as recommended by the Grand Jury, the City will also post total compensation data for all employees earning a base salary in excess of \$100,000 per year. Due to a recent transition to a new financial software program, we expect to have this data available by February 2012.

*R.2: Employment Contracts – Each city reveal any individual employment contracts in an easily accessible manner.*

**Response:** The City has already implemented this recommendation. As described in our response to Finding 7, we have been providing simplified website access to the City's only employment contract since 2010. From the City's home page, this information is easy to access in multiple ways by clicking on either the "Transparency in City Government" link (in the center of the City's home page and on the side menu bar of every page), or the "Departments / Human Resources" link, or the "Employment Opportunities" link. In addition, past employment contracts have long been available both online and at City Hall by accessing our City Council Meeting archives.

#### **ADDITIONAL COMMENTS**

In addition to the four items already addressed, the City believes it is important to address a number of other aspects of the report.

#### Total Compensation

The Grand Jury's compensation report shows a comparison of specific individuals occupying a similar (to varying degrees) position at a singular point in time. While this method illustrates a city's actual costs for a certain individual in a particular year, it does not provide a true "apples to apples" comparison of each city's costs for a given position.

Items that can vary significantly from individual to individual in the same position include base salary, health insurance, and leave payouts. Nearly all positions have a salary range, which means a newer employee typically has a significantly lower salary rate than a long-term employee. For any position, the City's contribution towards a specific individual's health insurance costs will also vary based on the specific employee's choice of coverage, family size, and hire date. As an example, for a given management classification, the City's annual contribution for health insurance could range from a low of \$3,600 to a high of \$18,168, a difference of nearly \$15,000. In addition, when an employee retires or otherwise leaves the City, we are required to cash out accumulated leave time. As a result, when an employee leaves the City (as was the case in 2009 with our Director of Public Works), the City's costs for benefits appears abnormally high due to the one-time payout. Therefore, if the goal is to compare relative costs for each position, a better approach would be to list the maximum cost of salary and benefits available to an employee in a particular job classification.

For City Council compensation, the Grand Jury chose to list the one Council Member at each city with the highest level of compensation during the survey year. We believe this approach does not paint an accurate picture, as the benefits paid towards each of our Council Members in 2009 ranged from a low of \$3,858 to

the high of \$26,319 listed in the report. A more valid approach would be to list the maximum cost of benefits available to any Council Member in each city, or to list the average of the actual compensation provided to all Council Members in that city.

#### Positions Compared

The Grand Jury's report states that eleven management positions were analyzed for "consistent analyses". However, the top position in a specific field at one city is not necessarily comparable to the top position in that same field at another city. The City believes that many of the benchmark positions included in the Grand Jury's study are not truly equivalent and would not typically be compared in a routine compensation study, which paints a misleading picture of relative compensation.

There are many factors to consider when determining the comparability of positions, including scope of responsibility, complexity of assigned programs, breadth and depth of required education and experience, decision-making authority, breadth and complexity of supervision exercised, and nature and extent of interpersonal communications. As examples, using these criteria, we do not consider the Director of Human Resources in Anaheim (a department head) to be equivalent to the Human Resources Manager in Cypress (a division manager) or the Information Technology Director in Garden Grove (a department head) to be comparable to the Information Technology Supervisor in Tustin (a division manager).

The Grand Jury's report mistakenly indicates that Tustin has separate positions of Public Works Director and City Engineer, with vastly different compensation figures for each position. At the City of Tustin, these two roles are assumed by a single job classification, the Director of Public Works / City Engineer. The data provided by the City showed two employees with the title of Director of Public Works / City Engineer receiving compensation in 2009, with a total compensation differential of \$65,654. Over the course of 2009, the City had two individuals in the Director of Public Works / City Engineer position, as a long-term employee retired and was succeeded in the position by the Assistant Director of Public Works. This particular example illustrates how the Grand Jury's methodology of listing actual compensation provided to specific individuals can produce misleading results, as previously discussed.

#### Correlation with City Population

The City believes there is a flaw in the report's premise that there should be a direct correlation between a city's population and a position's total compensation. While residential population is a factor in determining the comparability of cities and positions, focusing on correlation between population and compensation is not especially useful. Other key factors that should be considered include the number and quality of services provided by the city, the amount and complexity of the city's annual budget, and the size of the city's workforce. All of these factors significantly affect the work that is performed by a city's staff, and are relevant to the level of compensation provided to its employees.

### Exclusion of Services

The Grand Jury's analysis specifically excluded certain types of employees, including police. However, at the City of Tustin, the Police Department comprises half of the City's workforce and providing police services internally significantly impacts many other City departments and positions. Having a police department adds significantly to the complexity and volume of work in areas such as labor negotiations, personnel issues, medical leaves, risk management, payroll processing, and information technology.

### Transparency Grades

The City of Tustin prides itself in transparency to the public, and we believe the City has been very proactive in providing the content people in which people are interested, in a format that is easy to access. Therefore, we take great exception to the Transparency grades given to our City by the Grand Jury.

Regarding accessibility, the industry standard statewide, if not nationwide, has been to provide compensation information on the agency's Human Resources web page. As previously discussed, to augment to information we already provided online, the City implemented a new "Transparency in City Government" web page in November 2010 to make it even easier for the public to access information on employee compensation and other areas of interest, such as financial documents and mandatory reports and filings.

In terms of content and clarity, it appears that the Grand Jury provided the City with lower than expected scores because while we have for many years listed the salary and benefits paid for each position, we do not currently list actual salary and benefit costs paid in a given year for specific individuals. As discussed earlier, until very recently there was little public interest in presenting compensation data in this particular format, but the City will provide this information going forward.

The City's intent is to be as transparent as possible, so if there is anything else we need to do to receive straight "A's" in transparency, we would greatly appreciate specific feedback.

### Adjustments to Compensation

It should also be noted that the study evaluated compensation data from calendar year 2009. Since that time, we have significantly lowered the City's personnel costs. Since 2010, in addition to eliminating a number of positions, the City has cut contributions toward the employee share of retirement by approximately one-half and drastically reduced the compensation paid to City Council members' salary and benefits.

Overall, the City believes the Grand Jury did a commendable job in putting the spotlight on public employee compensation and preparing an objective analysis of compensation in Orange County. We offer our sincere

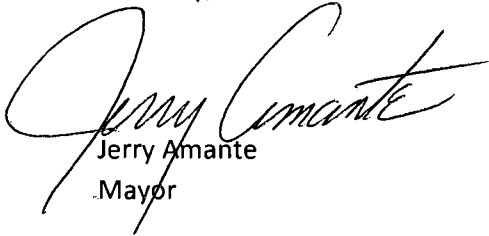
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thanks to the Grand Jury volunteers for their public service. If you have any questions regarding this letter, please contact Kristi Recchia, Director of Human Resources, at (714) 573-3052.

Sincerely,



Jerry Amante  
Mayor

C: Orange County Grand Jury  
City Council  
William A. Huston, Interim City Manager  
Kristi Recchia, Director of Human Resources