

---

---

# CITY of BELVEDERE

450 San Rafael Avenue • Belvedere, CA 94920

Tel: 415/435-3838 • Fax: 415/435-0430

---

---

July 5, 2005

The Honorable Terrence Boren  
Marin County Superior Court  
PO Box 4988  
San Rafael CA 94913-4988

Dear Judge Boren:

Enclosed please find the City of Belvedere's response to the 2005 Marin County Grand Jury's reports regarding "The Bloated Retirement Plans of Marin County, Its Cities and Towns."

Please extend the City's appreciation to the 2005 Grand Jurors for the important work they do on behalf of all of the citizens of the County of Marin.

Sincerely,



George J. Rodericks  
City Manager

Encl.

cc: City Council  
✓ J. Patrick Burke, Foreman, Marin County Grand Jury  
3501 Civic Center Drive, Room #303  
San Rafael CA 94913-4988

## RESPONSE TO GRAND JURY REPORT FORM

**Report Title:** The Bloated Retirement Plans of Marin County, Its Cities and Towns

**Report Date:** May 9, 2005

**Response by:** George J. Rodericks, City Manager, City of Belvedere

### FINDINGS

- We agree with the findings numbered: 7, 8, and 9
- We disagree wholly or partially with the findings numbered: 1, 2, 3, 5, 6, 10, and 11

### Statement on those findings for which there is disagreement or comment:

#### Finding #1 –

Private sector employers often offer numerous other types of benefits that are not typically offered by public employers. These include employer contributions to 401 plans, stock options, subsidized stock purchase programs, profit sharing plans, revenue sharing plans, and others. The Finding by the Grand Jury does not seem to indicate that it takes these types of programs into consideration when comparing private and public sector pension systems. While these benefits are not always categorized as part of a pension program, such plans do provide the private sector employee with a source of funds or added benefits that can be taken into consideration for retirement or as added compensation.

Additionally, there does not appear to be a private sector comparative to a public sector safety employee pension. It is not clear in the Report to which private sector plan the public sector public safety employee plan is compared.

Lastly, private sector programs are often more transportable – often nationwide and internationally – depending on the organization. Whereas a public sector plan is only transferable to agencies that continue to participate in the California Public Employee's Retirement System or have reciprocity with the system. Such considerations must be taken into account when comparing the value of a private sector plan to a public sector plan.

#### Finding #2 –

Finding #2 is a generalized statement. Many agencies have different tiers of participation for employees. Some agencies participate in Social Security while others do not – throughout the entire State of California. The local government pool of employees for recruitment is from such other agencies. It is these agencies that the City's compete against for recruitment and retention. While the agency may not participate in Social Security, the employee may contribute to their retirement as required by the agency's MOU. For instance, in the City of Belvedere stipulates that in order for the miscellaneous employees to increase their retirement benefit from 2% at

## RESPONSE TO GRAND JURY REPORT FORM

55 to 2.5% at 55, the increase in cost must be defrayed entirely by employee contributions. Such amendments did not pass and the City retains the 2% at 55 retirement program.

### Finding #3 -

We agree that the employers' cost for public sector pensions have been extremely volatile in recent years. However, the majority of this volatility has been the result of stock market fluctuations during the late 1990's and early 2000's. Due to the methodology used by the California Public Employees' Retirement System (CalPERS), the rates charged to employers fluctuate based on performance indicators and trends in the market. For years, many employers were considered to be "superfunded" by the CalPERS actuaries. Some employers used this opportunity to negotiate "total compensation" packages with employees, increased retirement for limited pay adjustments, or retirement contributions to a higher retirement plan for increase pay adjustments. However, as the market turned downward, trends depressed the market returns and the value of CalPERS' overall portfolio worsened. As opposed to a one or two year issue, this trend continued for several years. As a result, the CalPERS trended average used to calculate the employer's rates had more poor performance years as its base than good performance years. This meant that the overall value of the employer's funds decreased and the employer contribution rates increased. Rate fluctuations are more often based on the CalPERS investment methodologies than on decisions made by employers.

CalPERS has been and continues to attempt to correct for this problem through "rate smoothing" and the elimination of "superfunded" status to prevent some agencies from attempting to use their over funded status to increase benefits. Over time, these methodologies will eliminate drastic cost increases through the employer rate and agencies will be able to accurately predict their future costs and funding status with CalPERS.

### Finding #5 -

While we agree that there is continuous pressure on the legislature to adjust public sector pensions there is equal systematic pressure to protect public sector pensions at their present levels. Additionally, just as the municipal legislatures are obligated to evaluate increases that impact the cost to the community so are state legislatures obligated to conduct similar evaluations. Decisions should be made at the state level to eliminate further pension enhancement programs where the cost analysis shows that there will be or may be dramatic cost increases at the level to which it is adjusted - despite pressure by lobbyist groups.

### Finding #6 -

California law reads differently than that intimated by Finding #6. Once an employee retires, that employee has a vested right to receipt of benefits contained in the program

## RESPONSE TO GRAND JURY REPORT FORM

from which they retired. However, until an employee actually retires, the employee only has a vested right in the pension program adopted by the local agency. The agency retains the power to modify the pension program as long as those modifications are reasonable and are enacted for a pension-related purpose. Any modification which produces a disadvantage to employee pension rights are accompanied by comparable new advantages to those pension rights. As an example, the City of Belvedere contains the following clause in all of its MOU's – "The City continues to reserve the right to select the retirement plan provider."

### **Finding #10 –**

We agree that GASB will require calculation of retiree healthcare obligations in the same or similar fashion as what is now required for pension obligations. We would like to note that the City of Belvedere has been and will continue to calculate its healthcare obligation for its retirees and plan for such costs. However, we do not have sufficient information to evaluate the cost reductions encountered by private sector employers.

### **Finding #11 –**

We disagree with the assertion that the City is not aware of its retiree healthcare obligation. The City is able to fairly accurately predict the budgetary impacts of the obligations since we can estimate the number of retirees and the anticipated dates of retirement. However, longevity of employees does make this an exercise only and not an accurate predictor – if anything, the cost impacts will be less as employees transition from employer to employer. Retiree healthcare obligations are often only applicable to those agencies that pay such costs or portions thereof into retirement and the employee retires from that agency. This serves to provide the agency with a fairly accurate predictor of future costs. The City itself does not produce such data internally, but would use an outside vendor to calculate such anticipated costs. However, the City is able to estimate such costs based on current employment. As part of the GASB compliance requirements, CalPERS is working on actuarial calculations for employers to address this issue.

## **RECOMMENDATIONS**

- Recommendations numbered **4, 7, and 10** have been implemented.
- Recommendations numbered **1, 2, 3, 5, 6, 8, and 9** have not yet been implemented, but will be implemented in the future.

### **Recommendation #1**

The City of Belvedere coordinates its lobbying efforts through the League of California Cities. The League of California Cities is currently studying pension reforms to include those mentioned in the Report. The City participates as one of more than 450 cities in

## RESPONSE TO GRAND JURY REPORT FORM

California. As such, we cannot provide a timetable for the commencement or the cessation of their activities. *Implementation of this recommendation is in progress.*

### **Recommendation #2**

*Implementation of this recommendation will require action by the State legislature.* As mentioned in the response to Recommendation #1, a timetable for commencement of this activity is not practical since the League continues to study the issue on behalf of its affected municipalities. However, as an aside, the only compensation that can be directly controlled by the employer is those for which the agency directly contributes. This would typically be in the form of 457 contributions, salary, tuition reimbursement programs, longevity pay, etc. Agencies must be careful not to add compensation that directly affects an employee's salary as defined by CalPERS law as such costs will be calculated as part of the employee's salary cost when calculating a pension. While such non-traditional benefits would be innovative, they would be outside of the typical and hamper an employer's ability to attract and retain quality employees in the marketplace. Such changes would need to be made universally so as not to handicap any particular agency.

### **Recommendation #3**

We have been working with the League of California Cities and CalPERS to develop new actuarial methods to streamline and smooth employer rate contributions to control rate volatility. CalPERS is expected to implement such measures during the next year. *Implementation of this recommendation is in progress.*

### **Recommendation #4**

The City of Belvedere does not spend "found money" by adopting new recurring costs depending on such "found money" as the source of repayment. Doing so does not make fiscal sense. *Implemented.*

### **Recommendation #5**

We continue to work with the League of California Cities toward pension reform and we continue to work with our local bargaining units to inform them of pension issues and costs. The City's bargaining units are well aware of the City's financial obligations and fiscal responsibility. *Implementation of this recommendation is in progress.*

### **Recommendation #6**

The only way this goal can be met is at the statewide level. The City will continue to work with the League of California Cities toward pension reform legislation. As mentioned previously, a timetable cannot be reasonably provided, as the City is merely one of many participants. *Implementation of this recommendation is in progress.*

## RESPONSE TO GRAND JURY REPORT FORM

### Recommendation #7

The City continues to participate with CalPERS in the provision of regular retirement planning programs for public sector employees. *Implemented.*

### Recommendation #8

CalPERS is in the process of preparing each agency their actuarial data to meet GASB requirements. GASB requirements go into effect in 2009. Although CalPERS is working on such data, assessing the impact of the costs, and translating that to the legislature, the City is not aware of any particular timetable for release to the local agencies. *Implementation of this recommendation is in progress.*

### Recommendation #9

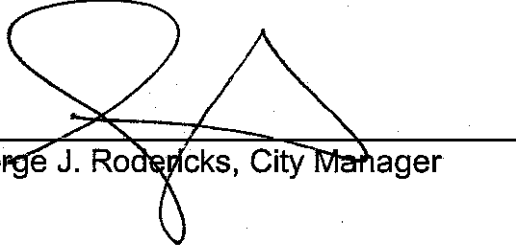
As stated in the response to Finding #11, the City can fairly accurately assess the impact of any retiree healthcare cost obligations. Since these costs are to be a part of the new GASB requirements calculated as part of the CalPERS actuarial it does not make fiscal sense for the City to hire an outside consultant to evaluate such costs independently. *Implementation of this recommendation is in progress.*

### Recommendation #10

The City of Belvedere is a fiscally responsible and fiscally sound organization. We believe in making sound financial decisions based on data that takes into account future cost impacts. Making knowledgeable decisions sooner rather than later is common financial practice for the City. *Implemented.*

Date: July 5, 2005

Signed:

  
\_\_\_\_\_  
George J. Rodericks, City Manager