

RESPONSE TO GRAND JURY REPORT FORM

Report Title: *Marin's Retirement Health Care Benefits: The Money Isn't There*

Report Date: May 22, 2013

Public Release Date: June 3, 2013

Response by: Las Gallinas Valley Sanitary District

FINDINGS

- I (we) agree with the findings numbered: F3, F4, F6, F8
- I (we) disagree wholly or partially with the findings numbered: F1, F2, F5, F7, F9, F10  
 (Attach a statement specifying any portions of the findings that are disputed; include an explanation of the reasons therefor.)

RECOMMENDATIONS

- Recommendations numbered R1, R3 have been implemented.  
 (Attach a summary describing the implemented actions.)
- Recommendations numbered R6 have not yet been implemented, but will be implemented in the future.  
 (Attach a timeframe for the implementation.)
- Recommendations numbered R5 require further analysis.  
 (Attach an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or director of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.)
- Recommendations numbered R4 will not be implemented because they are not warranted or are not reasonable.  
 (Attach an explanation.)

Date: 7/18/13 Signed: Megan O'Leary  
 Number of pages attached 3

## Las Gallinas Valley Sanitary District

### Response to Grand Jury Report: *Marin's Retirement Health Care Benefits: The Money Isn't There*

#### ***General Comment***

The Board and staff of Las Gallinas Valley Sanitary District (LGVSD) have reviewed the report, findings and recommendations. One comment concerning a conclusion in the body of the report is the assertion about the liability calculated for obligations pursuant to GASB 45 (see page 17, first paragraph, second sentence). It is our understanding and that of our actuary that GASB 45 does calculate the obligation for the promises made for retiree health benefits for current retirees and prior service of current employees. It is not solely the obligation that has arisen since GASB 45 was implemented.

#### ***Response to Findings***

- F1. LGVSD partially disagrees with this finding since it cannot comment on most of Marin's local government's actions, which will or will not be taken in the future. LGVSD will limit its comments to its own actions. These include pre-funding for costs for retired employees and for current employees who will retire in the future, by making investments to cover promised benefits. In 2009, the LGVSD Board, with public and staff input, implemented pre-funding as part of our five year rate review.
- F2. LGVSD partially disagrees since it cannot comment on the majority of entities. The failure to begin an investment program to provide a portion of the needed funds to pay for retiree health care benefits, may be a breach of fiduciary responsibility but not unethical.
- F5. LGVSD disagrees with this finding. Our desire is to exceed community needs; there is no margin for mediocrity when dealing with the public's health and environmental damage. Collecting and treating wastewater is a matter of public safety which requires the utmost care. We have observed instances where other agencies, the City of San Jose to name one, who have cut benefits to such an extent that they cannot recruit qualified personnel. The increasing complexity of operating a wastewater utility requires excellent employees to ensure that the public and environment are protected. Other agencies have tried to trim their staff or leave positions unfilled in order to save money resulting in fines based on these so called cost savings. If an agency cannot compete for qualified staff, of which there is a shortage, they are one step closer to a sewage spill. The District's success is due to its ability to hire and retain quality employees.
- F7. LGVSD disagrees with this finding and in fact considers it to be a recommendation. The work performed by the majority of our staff is physically demanding, occurs 24 hours a day, 7 days a week, and during part of the year in the worst weather when the stakes are the highest for a sewer overflow and treatment plant problems. They are also working with hazardous materials such as raw sewage and chemicals. These factors can lead to shorter working careers. Employees who continue to work longer to qualify for healthcare in retirement may be subjecting themselves and others to risk of injury resulting in higher worker's compensation claims. LGVSD is committed to providing and promoting a safe work environment where employees can continue to work as long as they want to and are productive. However, we are not in favor of forcing people to continue working past the time that is appropriate for them. In addition, there is the current generation of young adults who cannot obtain jobs in the current economy. Requiring the generation at the end of the careers to continue working does these young people a disservice.

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- F9. Disagree. See the responses to F5 and F7. LGVSD maintains that our purpose as a wastewater collection system, treatment plant, and recycled water supplier classifies us as a public safety agency. Staff members are exposed to contaminants and hazardous biological matter on a routine basis. Providing health care benefits during retirement is an appropriate, prudent and, one could say, a fiduciary duty of the Board. While we do agree that there is a wide range of benefits offered amount the entities, we feel that the agencies that offer minimal benefits should explain their reasoning. The assertion by the Grand Jury that some agencies are providing "extremely generous" benefits is subjective without definition provided.
- F10. Partially disagree. The discount rate that an entity may use in the actuarial valuations of the future annual costs of retiree health care benefits is subject to several factors. These include investment risk, investment rates of return, professional judgment and whether the assets to satisfy the obligation have been segregated from the general assets of the sponsoring agency. Pursuant to GASB 45, if a sponsoring agency has established a funding policy for the post-employment benefits to fund 100% of the annual required contribution (ARC) and established an irrevocable trust in which to deposit funds to pay these obligations, it may use a higher discount rate in the valuation. This typically results in rates is the 6% to 7.5% range for those entities, such as LGVSD, that established their trusts with CalPERS. However, if an agency does not fund 100% of the ARC and/or does not establish an investment account separated from its general assets, then the interest rate must reflect its general investment returns. The result is the use of discount rates in the 4-5% range which the Grand Jury has cited as being fairly reasonable, however these entities are not satisfying the full ARC which would seem imprudent and unreasonable.

***Response to Recommendations***

- R1. LGVSD implemented this recommendation during its fiscal year ended June 30, 2010 when it joined the CalPERS sponsored California Employer's Retiree Benefit Trust and committed to funding 100% of the ARC each year.
- R2. This requires additional analysis. LGVSD's actuary will perform the upcoming biennial valuation as of July 1, 2013 in the first quarter of fiscal year 2014. As part of the valuation, we will ask them to provide an analysis of using a shorter amortization period.
- R3. LGVSD implemented caps on the amounts it commits to pay for retiree health care benefits beginning in 1989. They are as follows:

Tier 1	Retired prior to 1/1/2003	For 2013:\$582.02 per month, currently indexed 6% per year.
Tier 2	Employed as of 1/1/2003	Set by the State of California, equal to 100% of the weighted average of the premiums for employee or annuitant enrolled for self alone, in the four Basic health plans with the largest State enrollment, excluding family members, for the previous benefit year. For 2013, the cap is \$622 which is less than the least expensive plan for our area.

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Tier 3	Employed after 1/1/2003	Set by the State of California, equal to 100% of the weighted average of the premiums for employee or annuitant enrolled for self alone, in the four Basic health plans with the largest State enrollment, excluding family members, for the previous benefit year. For 2013, the cap is \$622 for an individual: \$1,183 for two parties: and \$1,515 for a family. These rates are less than the least expensive plan for our area.
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- R4. This recommendation will not be implemented. See LGVSD's response to F7. We will encourage people to work as long as they want to in a safe and productive manner.
- R5. This recommendation requires further analysis. The current labor agreement does not expire until June 30, 2014.
- R6. LGVSD has not implemented this recommendation but will consider it when the OPEB valuation as of July 1, 2013 is completed. This is expected to occur in the first quarter of fiscal year 2014.



**DISTRICT BOARD**

Megan Clark  
Rabi Elias  
Russ Greenfield  
Craig K. Murray  
Judy Schriebman

**DISTRICT ADMINISTRATION**

Mark R. Williams,  
General Manager  
Michael Cortez,  
District Engineer  
Janice Mandler,  
Collection System/Safety Manager  
Susan McGuire,  
Administrative Services Manager

July 16, 2013

The Honorable Judge James Ritchie  
Marin County Superior Court  
P.O. Box 4988  
San Rafael, CA 94913-4988

Rich Treadgold, Foreperson  
Marin County Grand Jury  
3501 Civic Center Drive, Room #275  
San Rafael, CA 94903

Re: Grand Jury Report: *Marin's Retirement Health Care Benefits: The Money Isn't There*

Dear Sirs:

The Las Gallinas Valley Sanitary District has responded to the findings and recommendations as required by Penal Code Section 933.05 in the attached document. Please contact me if you require additional information.

Sincerely,

Megan Clark  
Board President 2013

Cc: Las Gallinas Valley Sanitary District Board

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