

# Marinwood Community Services District

## Minutes of Board of Directors Meeting

Tuesday June 9, 2015

**Time and Place:** 7:30PM Marinwood Community Center classroom.

### **Present:**

Board Members: President Tarey Read, Justin Kai, Bill Hansell, Deana Dearborn and Bill Shea.

Staff: District Manager Eric Dreikosen, Fire Chief Thomas Roach, Recreation Director Shane DeMarta, Firefighter Brandon Selvitella and Administrative Assistant Carolyn Sullivan.

Park and Recreation Commissioners: Chair Izabela Perry.

Others Present: Stephen Nestel and Linda Barnello.

### **Call to Order and Pledge of Allegiance**

### **Agenda**

Read moved item I (1) to before Consent Calendar.

### **New and Other Business**

1. *Exploratory Discussion Regarding Marinwood Plaza as Potential Site for Marinwood Community Services District Purposes:* Kai commented community member Tom Royal had approached the Board a few months ago requesting discussion regarding the possibility of the District purchasing the property. Read stated it would require a bond issue and a 2/3 vote by the constituents. Shea stated the District would be purchasing an environmental money pit. Dearborn agreed with Shea; additionally it is not the nature of the CSD to purchase private land and the CSD does not have the money. Hansell commented he has a folder regarding the Plaza that goes back ten years. The District is not in a position to fully acquire the land. The property has four plots, if Marinwood Market purchases their plot it would make the potential purchase less costly to the District. Hansell noted these are just creative thoughts and all discussion should happen in public. Read commented in her opinion the purchase would be a money pit especially due to the nature of the former dry cleaning business. Kai stated it was his intent to have discussion regarding the topic, but feels that if purchase were to occur it would only make sense if the District is the only purchasing party. Nestel questioned the purchase price. Kai said fully entitled, roughly about 12 million. Nestel commented Hyott is under order to clean up the property, there are concerns regarding contamination at Silveria Ranch as well as Casa Marinwood. A community member commented that the District should keep an open mind; the Government has grants to help improve communities; we may be able to build an auditorium or a community garden. He added limited housing may be ok, but this community doesn't need stack and pack housing. Read reminded the public that any entitlements would be at the County level, not the CSD's. Kai commented it is not ideal for the District to purchase the property at this time; the current process involving other interested parties will likely move faster than we can act as a district, considering we'd have to do a bond purchase through a ballot measure. There are other buyers involved and he feels a better proposal for the land is in the near future. Hansell commented if the Hyott's would like to donate the land to the District it would be considered.

### **Consent Calendar**

- a. *Draft Minutes of Regular Meeting of May 12, 2015:* No comments.
- b. *Draft Minutes of Special Meeting of the Board of May 26, 2015:* No comments.
- c. *Bills paid Nos. 991-1067:* Shea stated he was pleasantly surprised with the low overtime costs. Roach replied with the temporary hire the department is fully staffed.  
M/s Dearborn/ Shea to approve Consent Calendar. Ayes: Kai, Read, Hansell, Dearborn and Shea.  
Nays: None. Motion carried unanimously.

### **Open Time for Items not on Agenda**

Hansell distributed a letter to the Manager, Board and Commissioners with attached spreadsheet. Hansell read the letter aloud. (Please see attached material.)

Barnello asked the amount of interest the District paid for the dry period loan. Dreikosen replied net interest is \$76.00.

Barnello asked if Dreikosen had contacted Counsel regarding Brown Act Training. Dreikosen replied yes and that nothing currently scheduled. They discussed the possibility of county-wide training after the November elections.

### **Fiscal Matters**

1. *FY 14-15 Budget Amendment- Fund transfer of Measure A Funds:* Dreikosen stated there is no net change to the budget.  
M/s Shea/ Dearborn to approve 14-15 Budget Amendment- Fund transfer of Measure A Funds.  
Ayes: Kai, Read, Hansell, Dearborn and Shea. Nays: None. Motion carried unanimously.

### Fire Department Matters

1. *Draft Minutes of Fire Commission Meeting of June 2, 2015:* Roach reported the Commissioners reviewed the bylaws with approval occurring in July. Kai asked about the status of the homeless encampment. Roach responded he had met with the Sheriff and the person has vacated the area and the site has been cleaned. Roach noted he is looking for direction in regards to the change order for the fire engine. The Board gave direction to have the change order paid in fiscal year 14-15. Perry asked if the change order was unforeseen. Roach replied the District was aware a change order would occur and did budget for the amount. Dearborn commented in engineering change orders are common.
2. *Fire Department – Activity Summary Report for May 2015:* Roach reported it was a busy month. The vegetation flyer has been printed and volunteers will be distributing the material. Tomorrow he, DeMarta and Dreikosen will be meeting with a grant writer.
3. *Fire Department Chief Report:* Roach reported Rudy Gelenter has stepped down from the Commission. The Commission decided to drop to a five person Commission with two alternates; this will be written in the bylaws.
4. *Shared Services Update:* Hansell stated this is a lopsided agreement, the call volume differential is substantial. Roach commented discussion needs to occur with the labor group in regards to the paramedic situation.
5. *Implementation of Vesting Schedule for Post-Retirement Health Benefits as Agreed Upon in 2012 MOU signed with Marinwood Professional Firefighters’ Local 1775:* Dreikosen stated the District needs to engage in an actuarial study prior to adopting the vesting schedule; the one done in 2013 is outdated. The cost for the two required studies is \$14,300 and is budgeted for in the 2015/16 budget. If the Board would like to add future miscellaneous hires to the vesting schedule study it will be an additional \$7,000; for current employees it would be an additional \$4,700. Hansell stated the studies are required, but the MOU states they may be done when feasible; additionally this had been tabled by the Union at their request. The Union has requested the miscellaneous employees be included in the vesting schedule, but it is false to assume that the past study was to encompass the whole District. Dearborn stated the Board should consider budgeting for a miscellaneous employee study to be done in FY 2016-17.

M/s Hansell/ Dearborn to Implement Vesting Schedule for Post-Retirement Health Benefits as Agreed Upon in 2012 MOU signed with Marinwood Professional Firefighters’ Local 1775 as well as the study required by GASB 45. Ayes: Kai, Read, Hansell, Dearborn and Shea. Nays: None. Motion carried unanimously.

### Park and Recreation Matters

1. *Draft Minutes of Park and Recreation Commission Meeting of May 26, 2015:* Nestel stated attendance continues to be an issue. Dreikosen replied one member was ill, one was out of state and one had just given birth. They all notified the Manager before the meeting and all Commissioners were aware. Kai commented his name was left off the attendance. Sullivan apologized. Barnello questioned why the Recreation Department would want to “grow”. Read replied she should direct that question to the Commission.
2. *Recreation and Maintenance Activity Reports:* DeMarta reported summer camps begin on Monday with mandatory staff training to be held on Saturday and Sunday. Registrations are strong. The first Music in the Park is set for June 26<sup>th</sup> from 6-8pm. The nature trail in the main playground is complete; it looks great and staff has received many compliments. Staff continues to work on cleaning out the maintenance shed. DeMarta stated he had also dealt with some fallen trees in the open space. Dreikosen encouraged the Board members to visit the renovated section of the playground; it looks great. Shea commented he had seen a positive change in the appearance of the whole District.

### New and Other Business

2. *SEED Solar Power Purchase Agreement Update:* Dreikosen commented SolEd is finalizing their financing; an email was received today, but has yet to open it. Hansell stated he will monitor the progress for the Board. Nestel stated the Board should be aware that if the material provided is not the same as what was specified in the contract there will be repercussions. Dearborn asked if there was an update regarding the pool equipment efficiencies. DeMarta replied he had spoken with the installer today, we will be moving forward and the District was granted on-bill financing.
3. *Resolution 2015-04: Determining 2015-2016 Appropriations Limit on Tax Proceeds:*  
M/s Kai/ Shea to approve Resolution 2015-04: Determining 2015-2016 Appropriations Limit on Tax Proceeds. Ayes: Kai, Read, Hansell, Dearborn and Shea. Nays: None. Motion carried unanimously.

4. *Resolution 2015-05: Proposing an election be held in its jurisdiction; requesting the Board of Supervisors to consolidate with any other election conducted on said date, and requesting election services by the Marin County Elections Department:*  
M/s Shea/ Dearborn to approve Resolution 2015-05: Proposing an election be held in its jurisdiction; requesting the Board of Supervisors to consolidate with any other election conducted on said date, and requesting election services by the Marin County Elections Department. Ayes: Kai, Read, Hansell, Dearborn and Shea. Nays: None. Motion carried unanimously.
5. Requests for Future Meeting Agenda Items:  
Roach requested GAN Limit approval.  
Dearborn requested an update on the PG&E efficiencies.  
Barnello requested a LAFCO update. Read replied Kai will update the Board on LAFCO when applicable; as of now there are no new updates.

**Recognitions and Board Member Items of Interest**

Dreikosen noted the District had just completed a Cal PERS audit; the auditor was in house for four days. During the exit interview she had given the District good marks and noted she had never seen a part-time employee (Sullivan) so organized and responsible.

Dearborn offered a thank you to all staff; they work hard and it is much appreciated.

Hansell stated he would like to give kudos to Dreikosen; he had done a great job in regards to the fact-finding situation.

The meeting was adjourned at 9:15PM.

Respectfully submitted,  
Carolyn Sullivan

# Bill Hansell

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San Rafael, California 94903  
415-378-9064  
info@hanselldesign.com

09 June 2015

District Manager Eric Dreikosen  
Marinwood CSD Board of Directors,  
Fire Commissioners, and P&R Commissioners  
775 Miller Creek Road  
San Rafael, CA 94903

Dear District Manager Dreikosen, Fellow Board Directors, and Commissioners,

For the records of tonight's board meeting, I would like to outline a few important items I intend to raise during the Open Agenda Time for future consideration and discussion. Please include this letter and the associated attachments in the meeting minutes:

## **1.) Marin Grand Jury Report "The Need For Labor Negotiation Transparency":**

I have attached the Marin Grand Jury Report released last Friday, 6/4/15, for review by the Board and Commissions, as well as an article in the Marin IJ that covered the topic. The report makes a number of important recommendations which the District should implement. I believe that a lack of public transparency jeopardizes not only good governance but fiduciary responsibility. The District cannot legally approve benefit changes without properly notifying the public of the financial impact of those changes, therefore all negotiation processes should follow the steps of COIN (Civic Openness In Negotiations). The first step is "to hire a professional independent Lead Negotiator for all negotiations of wages, hours, and terms and conditions of employment." I have been arguing this point for years and the District has only followed that advice once. It turned out to be the only time the District empowered itself to gain much deserved and overdue concessions. Had the District hired professional negotiators prior to that and followed the steps of COIN, it might have avoided the financial burdens it unfairly carries today.

The subsequent steps of COIN follow open disclosure guidelines that allow for the public to review and comment on negotiation proposals. The Board needs to acknowledge that it is acting on behalf of the public's best interest and therefore must allow public comment during the process not at its presumed conclusion. Previous amateur negotiators have mistakenly assumed that they were or should be empowered to reach final agreements without public consent and that has cost the District substantially.

*I request that the COIN process be placed as an agenda item for the July Board meeting for consideration and approval. I urge the Board to implement it as quickly as possible and to follow its guidelines for the next pending Union negotiation (FY2015-2016.)*

## **2.) The Problem with Budgeting Overtime and Associated Inequities**

The excessive use of overtime by the District must end. For years, the District has postponed managing the assumed need for overtime by the Fire Department. I have attached the District's 2014 public employee compensation disclosure numbers which disclose the scope of the problem. The total regular pay for CSD firefighters last year ("Base Pay" + "Shift Differential" – "Fire Chief") was \$879,155.51 (approximately 54% of the total District non-union regular wages). Overtime costs of the CSD firefighters totaled \$271,664.90, or 30.9% of their normal pay total, and 16.67% of the total

District regular pay. Once you factor in the heavily additional benefit costs for these employees, you can see that the CSD cannot continue to carry this burden.

*I request that the overtime problem be placed on the July Board meeting agenda and recommend that the District take ALL measures to restrict any further use of overtime with the goal of eliminating it completely and managing its financial resources better. The public needs to be informed as to why this issue has not been addressed to date. It should be noted that the CSD staff who do not qualify for paid overtime and by comparison receive only minimal administrative leave as a benefit are not receiving equal compensation for the many times they work beyond their regular hours. Finally, since Strike Team assignments create a portion of this overtime burden, the District should elect to immediately cease participation until a full actuarial study (including the costs on equipment and other resources) are factored in. The CSD is not in a position to increase overtime via Strike assignments when it may be beyond its financial capabilities to do so.*

### **3.) Budgeted Reserves Do Not Equal "Profit"**

Repeatedly over the last couple of budgeting cycles it has become apparent that there is a general tendency to confuse budgeted "reserves" with "available profit". When the Board directed staff to include three line-items totaling 6.5% of every budget (2.25% for Capital Replacement + 3.25% for Unfunded Liabilities + 1% for Emergency Fund Balance), its intention was to plan for the future. While the last few years have resulted in net positive operational budgets, the "savings", as they are often referred to, do not indicate funds available for current operational purposes. They are for the future. Indeed, the annual target of 6.5% has yet to be met and we continue to fall short.

To put the need for these set-asides in context, please see the attached page from the "Actuarial Valuation of Postemployment Medical Benefits" report, dated 7/1/12. Note that the "Annual Required Contribution" at the time was \$399,527. This should be compared to our 3.25% Unfunded Liabilities target noted above which we fell far short of meeting that year. Also note that \$244,148 of that annual contribution is due to the burden of the Fire Department benefits alone. Last December, we were informed of rate increases for PERS contributions so that will add an additional annual burden to what was projected in 2012.

*I request that an agenda item be added to the July Board meeting to discuss the continued shortage in budgeting for the set-asides and to consider "pre-funding" payment options to PERS amongst other ideas. Our constituents need to consider the continued financial situation when reviewing any further proposals to employee compensation, and should be suspicious of claims that the District has "profits to share."*

Thank you for your consideration.

Sincerely,



Bill Hansell

**Marinwood Community Services District**  
**2014 Public Employee Compensation**  
**Regular Full Time Employees in order of Total Gross Pay**  
**(From Jan 2015 report issued to Bay Area News Group)**

Name	Job Title	Dept	Base Pay	Overtime	Shift Differ	Gross Pay	Benefit cost	PERS	ee PERS	Other	Life, SS&Med	Total Cost
01	Heine, S.	Firefighter	91,679.66	40,823.40	5,244.16	137,747.22	16,291.86	31,232.73	969.24	300.00	14,754.93	201,295.98
02	White, J.	Firefighter	93,198.56	36,244.57	5,489.60	134,932.73	20,575.86	31,801.27	986.88	300.00	14,809.49	203,205.23
03	Comera, C.	Firefighter	82,817.28	30,276.24	12,365.86	125,459.38	16,291.86	30,671.82	951.83	300.00	13,407.24	187,083.13
04	Papanikolaou, J.	Firefighter	81,288.48	31,399.25	6,148.96	118,836.69	8,128.50	28,175.84	874.37	300.00	12,830.28	169,145.68
05	Smith, B.	Firefighter	81,288.48	31,059.28	6,036.78	118,384.54	20,575.86	28,139.69	873.25	300.00	12,795.69	181,069.03
06	Selvitella, B.	Firefighter	80,269.28	27,197.73	7,121.75	114,588.76	16,291.86	28,160.89	873.91	300.00	12,458.43	172,673.85
07	Cespedes, E.	Firefighter	76,440.00	29,934.03	4,670.44	111,044.47	16,291.86	26,137.03	811.10	300.00	12,011.14	166,595.60
08	Roach, T.	Fire Chief	108,257.12	0.00	0.00	108,257.12	20,575.86	34,884.77	1,082.57	0.00	13,261.50	178,061.82
09	Brackett, R.	Firefighter	76,440.00	20,030.13	5,867.40	102,337.53	20,575.86	26,522.74	823.07	300.00	11,345.08	161,904.26
10	Anderson, R.	Firefighter	71,373.12	24,700.27	4,753.86	100,827.25	8,128.50	15,767.42	761.27	300.00	10,996.45	136,780.89
11	Horne, T.	District Manager	97,448.01	0.00	0.00	97,448.01	18,079.86	11,683.04	1,705.34	0.00	11,937.38	140,853.63
12	DeMaria, S.	Recreation Director	91,624.00	0.00	0.00	91,624.00	22,891.86	10,984.80	1,603.42	0.00	11,223.94	138,328.02
13	Bagala, J.	Firefighter	83,603.04	0.00	3,058.80	86,661.84	8,128.50	27,925.91	866.62	300.00	10,475.37	134,358.24
14	Harrelson, G.	Park Manager	71,250.29	0.00	0.00	71,250.29	22,891.86	8,542.20	1,246.88	0.00	8,728.16	112,659.39
15	Collins, P.	Senior Administrative	63,200.81	0.00	0.00	63,200.81	18,079.86	7,577.15	1,106.01	0.00	7,742.10	97,705.93
16	Fretwell, L.	Recreation Supervisor	56,960.80	0.00	0.00	56,960.80	18,079.86	6,829.03	996.81	0.00	6,977.70	89,844.20
17	Sibbala, V.	Park Maintenance	55,394.88	38.94	0.00	55,433.82	22,891.86	6,645.96	970.09	0.00	6,788.85	92,730.58
18	Chavez, E.	Park Maintenance	52,686.40	37.99	0.00	52,724.39	9,016.50	6,321.13	922.68	0.00	6,456.99	75,441.69
19	Garcia, L.	Park Maintenance	52,686.40	0.00	0.00	52,686.40	22,891.86	6,316.57	922.01	0.00	6,454.08	89,270.92
20	Giron, M.	Park Maintenance	52,686.40	0.00	0.00	52,686.40	22,891.86	6,316.57	922.01	0.00	6,454.08	89,270.92
21	Bruton, R.	Recreation Supervisor	48,722.00	0.00	0.00	48,722.00	9,016.50	3,045.13	852.64	0.00	5,968.45	67,604.72
<b>Totals By Dept:</b>												
		Fire	926,655.02	271,664.90	60,757.61	1,259,077.53	171,856.38	309,420.11	9,874.11	3,000.00	138,945.58	1,892,173.71
		Admin	97,448.01	0.00	0.00	97,448.01	18,079.86	11,683.04	1,705.34	0.00	11,937.38	140,853.63
		Rec	260,507.61	0.00	0.00	260,507.61	68,068.08	28,436.11	4,558.88	0.00	31,912.19	393,482.87
		Park	284,704.37	76.93	0.00	284,781.30	100,583.94	34,142.43	4,983.67	0.00	34,882.16	459,373.50
		<b>Grand Total:</b>	<b>1,569,315.01</b>	<b>271,741.83</b>	<b>60,757.61</b>	<b>1,901,814.45</b>	<b>358,588.26</b>	<b>383,681.89</b>	<b>21,122.00</b>	<b>3,000.00</b>	<b>217,677.31</b>	<b>2,885,883.71</b>

## Health Benefit Costs Under GASB 45

The first year Annual Required Contribution (ARC) consists of the Normal Cost plus the current period amortization of the Unfunded Actuarial Accrued Liability.

Normal Cost is the portion of the actuarial present value of future benefits that is allocated to a particular year. Another interpretation is that the Normal Cost is the present value of future benefits that are "earned" by employees for service rendered during the current year. This valuation is based on the Entry Age Normal actuarial cost method and an attribution period that runs from date of hire until the expected retirement date.

In the year the new accounting rules become effective an employer is allowed to commence amortization of the Unfunded Actuarial Accrued Liability, over a period not to exceed 30 years. The following Tables are based on a level percent of projected payroll amortization over a closed 30-year period. Note: Statement 45 also allows amortization using a level dollar method.

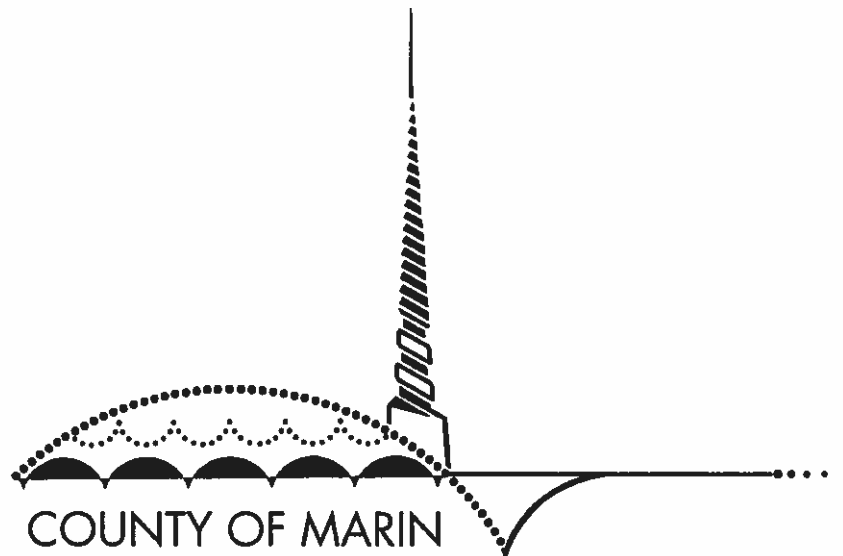
Table 2-3 presents the District's 2012/13 Actuarial Accrued Liability, Unfunded Actuarial Accrued Liability and Annual Required Contribution at a 4.00% discount rate.

Table 2-3 Development of Illustrative Fiscal Year 2012/13 OPEB Annual Required Contribution – based on a 4.00% discount rate	
Actuarial Accrued Liability	\$ 4,736,435
Actuarial Value of Assets	<u>\$ 0</u>
Unfunded Actuarial Accrued Liability	\$ 4,736,435
Illustrative Amortization Period	27 years
Level percent of pay Amortization Factor (based on a 4.00% discount rate and a 3.25% annual increase in payroll)	23.668
Annual Level Percentage of Pay Amort. of Unfunded AAL	\$ 200,122
Normal Cost (based on the Entry Age Normal Method)	<u>\$ 199,405</u>
Annual Required Contribution	\$ 399,527 *
* \$244,148 for firefighters plus \$155,379 for others	

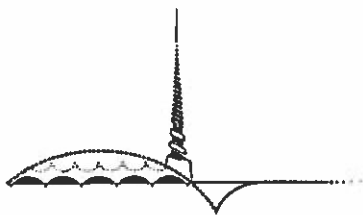
**2014/2015 MARIN COUNTY CIVIL GRAND JURY**

# **The Need for Labor Negotiation Transparency**

Report Date: June 1, 2015  
Public Release Date: June 4, 2015







## Marin County Civil Grand Jury

### **The Need for Labor Negotiation Transparency**

#### **SUMMARY**

During the 2014-2015 Marin County Grand Jury investigation leading to its 2015 report, *Pension Enhancements: A Case of Government Code Violations and A Lack of Transparency*, the Grand Jury learned that negotiations between Marin County, and the cities and towns therein, and their respective unions (hereafter collectively referred to as the “Parties”) are conducted in private, without transparency, and removed from the scrutiny of the Marin community. Although Marin County residents pay taxes to support decisions made by the Marin County Board of Supervisors (BOS) and the City and Town Councils, (hereafter collectively referred to as “Employer(s)”), there are numerous times when no transparency into the background of those decisions is made to the public.

The Grand Jury learned that the public is notified of a negotiated tentative labor agreement only when the agenda, which schedules consideration of the agreement, is posted—some three to four days prior to the Employers' public meetings. This is also the meeting at which the Employers vote to approve or disapprove the agreement. Prior to the agenda posting, little or no detailed information is made public about the terms of the tentative agreement or what it will cost. Without this information, there is no full public disclosure of the terms and cost of an agreement during the negotiation process and prior to its being voted upon. With no transparency, the public is excluded from input until it is too late for a reasoned public dialogue.

During its investigation, the Grand Jury also learned that various California cities and Orange County adopted a formal negotiation process, Civic Openness In Negotiations (COIN), which allows for community review of not only what is being negotiated, but also what a tentative agreement will cost to implement. One key element of the COIN process is the stipulation that the Employer hire an experienced, independent Lead Negotiator for all negotiations. This requirement precludes any city or county employee from negotiating terms that may benefit that employee, thus avoiding any conflict of interest.

The common elements of the COIN process are as follows:

1. The Employer hire an experienced, independent Lead Negotiator for all negotiation of wages, hours, and terms and conditions of employment.

2. The Employer hire an independent auditor to assess the fiscal impacts of each provision in the current labor contract. This fiscal impact is made available for public study.
3. After each proposal is accepted or rejected by either of the Parties, it is publicly disclosed (generally on the Employer's website). The costs for the implementation of the proposal are verified by an independent auditor and also publicly disclosed.
4. Seven days prior to the Employer's public meeting, the final tentative agreement is made public (generally on the Employer's website), including all associated costs, which are independently verified.
5. After seven days, the final tentative agreement is placed on two consecutive Employer's public meeting agendas: at the first meeting, the agreement is a discussion item; at the second meeting, the Employer votes on the agreement.

The Grand Jury recommends that the Employers adopt an ordinance implementing the COIN process to ensure transparency and prior public review of all proposals and final tentative labor agreements.

## **BACKGROUND**

During the 2014-2015 Marin County Grand Jury investigation leading to the 2015 Grand Jury report, *Pension Enhancements: A Case of Government Code Violations and A Lack of Transparency*, the Grand Jury learned that labor negotiations in Marin County and the cities and towns therein are conducted without transparency, and are thereby removed from the scrutiny of the community. During this time, the Grand Jury also learned that various California cities and Orange County had adopted a transparent negotiation process, Civic Openness in Negotiations (COIN), which allows for community review of tentative proposals being negotiated and also what those proposals will cost if accepted or rejected. As a result, the Grand Jury decided to investigate whether a more transparent negotiation process might be appropriate for Marin County and its cities and towns.

## **APPROACH**

The Grand Jury interviewed representatives of the Orange County Management of Government Affairs, various Marin County officials directly involved with labor contract negotiations, and officials from Costa Mesa who are engaged in the implementation of COIN. Orange County and Costa Mesa COIN ordinances were reviewed along with numerous websites of various cities and counties involved in the use of COIN. Additionally, Grand Jury members attended multiple Marin County Board of Supervisors meetings at which the public brought COIN to the attention of the Board of Supervisors. Grand Jury members also attended the April 28, 2015, BOS meeting where COIN was agendized for discussion; they later viewed the video of the meeting and read the staff report relating to COIN as presented at that meeting.

## DISCUSSION

### The Need for Civic Openness in Labor Contract Negotiations (COIN)

Although Marin County residents pay taxes to fund decisions made by the Marin County Board of Supervisors and the City and Town Councils, often there is no transparency into the background of those decisions. One specific area that lacks transparency is labor negotiations between the Parties. In general, the public is notified of the Parties' tentative agreements only three to four days prior to the Employers' public vote; it is only then that the meeting agenda is posted for public view. Prior to the agenda posting, little or no detailed information is made public about the terms of the tentative agreement or what it will cost. In sum, there is no transparency before the vote on the tentative agreement.

This short time period (three to four days) gives the residents of Marin little time to review the tentative agreement in order to provide input at an Employers' public meeting—the meeting at which the tentative agreement is presented for approval. Furthermore, the public receives no information regarding any proposal made by either Party or the associated costs of those proposals, which leads to the question: *What should be disclosed to the residents of Marin and when?*

### COIN Started In Costa Mesa

The Grand Jury learned that a newly elected Costa Mesa City Council had discovered the financial strain placed on their city by their unfunded pension liabilities. This discovery, coupled with the realization that opaque labor negotiations had created an environment devoid of public oversight, review or input, motivated the Council to adopt a more transparent process for all labor negotiations. Accordingly, the City of Costa Mesa adopted a COIN ordinance in September of 2012, the first municipality in California to do so.

Subsequently, Beverly Hills, Fullerton and Rancho Palos Verdes also adopted variations of COIN, as did Orange County (Appendix A)<sup>1</sup>. For all these entities, the principal objective of the COIN process is to allow the public to review and to provide input during negotiations. One person interviewed stated, "...it occurred to the Council that the public's full understanding of what they are being asked to pay for is good governance."

Learning this, the Grand Jury investigated various existing COIN ordinances and procedures to determine what the COIN process might mean for Marin Country and its cities and towns.

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<sup>1</sup> Orange County Employee Association has made an unfair practice charge to the Public Employment Relations Board concerning how COIN was adopted, not the implementation of COIN. This is not yet resolved.

### **What COIN Is: Key Components**

The common elements of the COIN process are as follows:

1. The Employer hire an experienced, independent Lead Negotiator for all negotiation on wages, hours, and terms and conditions of employment. This requirement precludes having a city or county employee negotiate terms of an agreement that could directly benefit such employee.
2. The Employer hire an independent auditor to assess the fiscal impacts of each provision in the current labor contract. This fiscal impact is made available for public study.
3. Labor contract negotiations begin.
4. After each proposal is accepted or rejected by either Party to the negotiation, the proposal is publicly disclosed (generally on the Employer's website). The long-term and short-term costs of the proposal are verified by an independent auditor and also publicly disclosed.
5. Negotiations conclude with a final tentative agreement.
6. Seven days prior to the Employer's public meeting, the final tentative agreement is made public (generally on the Employers' website), including all associated costs that are independently verified.
7. Following these seven days, the final tentative agreement is placed on the following two consecutive Employer's public meeting agendas: at the first meeting, the tentative agreement is a discussion item; at the second meeting, the Employer(s) vote on the tentative agreement.

The above process is used in a number of municipalities. For more details see Appendix A.

### **What COIN Is Not: Misconceptions**

The Grand Jury learned that there are many misconceptions about the COIN process, as follows:

*Misconception #1: The public negotiates.*

COIN does NOT involve the public in actual negotiations, nor does it disclose what occurs at the negotiation table. Fair-minded taxpayers recognize that such an attempt would lead to an unproductive bargaining environment at best and would likely evolve into intractable positions by both sides that would prevent a constructive outcome.

*Misconception #2: Negotiations are held open for public observation.*

In none of the cities or Orange County are COIN negotiations open for public view or public participation. Negotiations occur in private, but the decisions on proposals are made available for public review.

*Misconception #3: COIN slows down the negotiation process.*

The Grand Jury has learned that, during the first round of negotiations using the COIN process, there is a learning curve, since COIN provides a new framework within which to operate. However, after learning the new process, those interviewed noted that negotiations proceeded in a timeframe similar to prior negotiations.

*Misconception #4: Not all types of negotiation methods can adapt to the COIN processes.*

The COIN process is about transparency and not about the negotiation method. Commonly used negotiation practices, such as interest-based or adversarial, can still be the norm while using the COIN process.

The COIN process is about the transparency of decisions made during negotiations that lead to a tentative agreement – the agreement that is recommended to the Employer for approval. It is through the COIN process that the public is made aware of the terms and associated costs of tentative agreements well before they are adopted, thereby giving taxpayers opportunity to provide timely public review and input.

## **FINDINGS**

- F1. The residents of Marin County pay taxes to support decisions made by the Board of Supervisors and City and Town Councils, however these residents have minimal opportunity to provide input into labor negotiations.
- F2. The COIN process can be implemented without affecting the manner in which tentative agreements are negotiated but which nevertheless will ensure public awareness of the terms and cost of those agreements in advance of their being adopted.
- F3. The COIN process mandates transparency in government decision-making, allowing residents to be informed and to participate in public discussion of how their tax dollars are spent.

## **RECOMMENDATIONS**

- R1. Marin County Board of Supervisors and each City Council and Town Council in Marin County adopt and implement a COIN ordinance prior to June 1, 2016, or prior to the next round of negotiations, whichever comes earlier.

- R2. Marin County Board of Supervisors and each City Council and Town Council in Marin County adopt and implement a COIN ordinance which includes, but is not limited to the following:
1. Hire an independent, experienced Lead Negotiator to negotiate all labor agreements.
  2. Hire an independent auditor to determine the fiscal impact of each provision in the current contract, and make this analysis available for public review.
  3. Make public each proposal, after it is accepted or rejected by either Party, and publicly verify the costs of that accepted or rejected proposal by an independent auditor.
  4. Make public seven days prior to a Board or Council meeting the negotiated tentative agreement and the fiscal analysis thereof, which are to be independently verified.
  5. After seven days, place the final tentative agreement on the following two consecutive Employer's public meeting agendas: the first meeting is for discussion of the tentative agreement; the second meeting is for a vote by the Employer to approve or disapprove the tentative agreement.

#### **REQUEST FOR RESPONSES**

Pursuant to Penal Code section 933.05, the Grand Jury requests responses as follows:

From the following governing bodies:

- Marin County Board of Supervisors: All Findings and Recommendations.
- City Council of Belvedere: All Findings and Recommendations.
- Town Council of Corte Madera: All Findings and Recommendations.
- Town Council of Fairfax: All Findings and Recommendations.
- City Council of Larkspur: All Findings and Recommendations.
- City Council of Mill Valley: All Findings and Recommendations.
- City Council of Novato: All Findings and Recommendations.
- Town Council of Ross: All Findings and Recommendations.
- Town Council of San Anselmo: All Findings and Recommendations.
- City Council of San Rafael: All Findings and Recommendations.
- City Council of Sausalito: All Findings and Recommendations.
- Town Council of Tiburon: All Findings and Recommendations.

The governing bodies indicated above should be aware that the comment or response of the governing body must be conducted subject to the notice, agenda and open meeting requirements of the Ralph M. Brown Act.

APPENDIX A

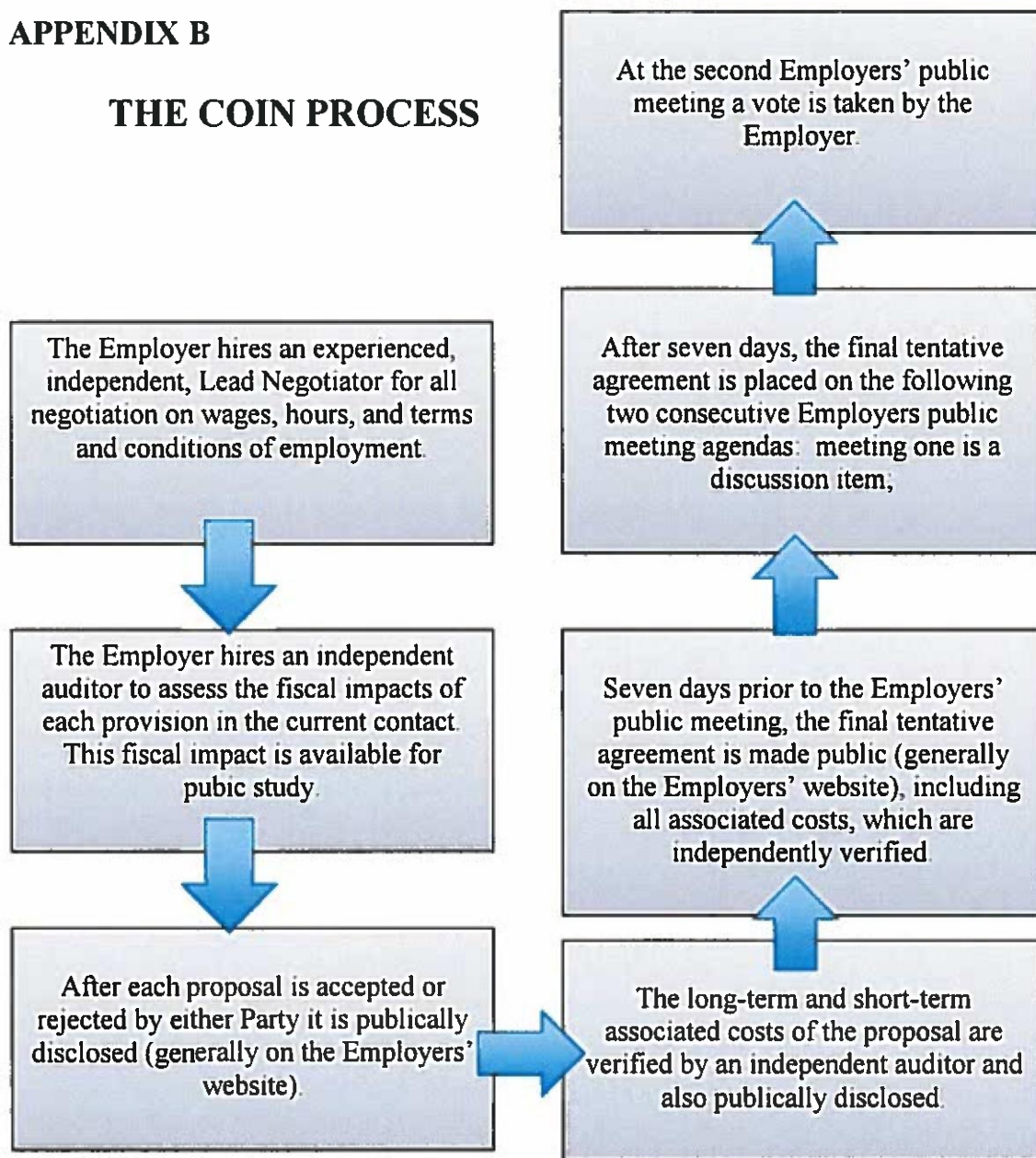
**Summary of “COIN” Requirements Adopted by City/ County**

Requirement	Costa Mesa	Beverly Hills	Fullerton	Rancho Palos Verdes	Orange County
Applies to all negotiations between the Parties.	Yes	Yes	Must include Salary Changes	Yes	Yes
Independent Negotiator	Yes	Yes	May be Waived by Council	Yes	Yes
Executive Employee Involved in Bargaining	Yes	Yes	Yes	Yes	Yes
Pre-Negotiation Economic Analysis (Baseline)	Yes	Yes	Yes	Yes	Yes
Each Accepted or Rejected Proposal plus the Economic Analysis made public	Yes	Yes	Yes	Yes	Yes
Proposals Verified Independently	Yes	Yes	Yes	May be Waived by Council	Yes
Tentative Agreement an Agenda Item on 2 Meetings Prior to Adoption	Yes	Yes	Yes	Meetings must be 2 Weeks Apart	Yes



**APPENDIX B**

**THE COIN PROCESS**



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## **Grand Jury: Marin taxpayers have right to know about public employee pay deals**

*By Nels Johnson , Marin Independent Journal*

marini.com

The public has a right to know about how Marin's elected officials strike pay and benefit deals with public employees, the county's civil grand jury says.

The jury Thursday urged county supervisors and city councils across Marin to let taxpayers see how pay and benefit pacts progress and what they cost, giving them a chance to chime in before decisions are final — and making officials more accountable for the result.

The jury's report, "The Need for Labor Negotiation Transparency," urges officials to adopt a formal negotiation process used in Orange County, Beverly Hills and several other Southern California cities called Civic Openess In Negotiations, or COIN.

The program requires public agencies to hire independent professional negotiators and an outside auditor, issue a fiscal analysis of all pay and benefit proposals, and post details of tentative labor pacts at least two board meetings before they are adopted. After each proposal is accepted or rejected during closed-door negotiations involving labor and management, it is publicly disclosed, along with costs. Tentative agreements would be made public a week before their consideration, and a final agreement would be placed on the agenda for discussion for two consecutive meetings of the agency board, giving taxpayers time to weigh in.

"Although Marin County residents pay taxes to support decisions by the Marin County Board of Supervisors and the city and town councils, there are numerous times when no transparency into the background of those decisions is made to the public," the jury said.

The issue, as the jury framed it, is "What should be disclosed to the residents of Marin, and when?" More disclosure than now provided is needed, jurors concluded.

There is now little or no time for the public to react to city or county agenda announcements of labor pact deals, and little advance disclosure of fiscal impacts in a process that excludes taxpayers "until it is too late for a reasoned public dialogue," the jury observed.

Marin residents have "minimal opportunity" to review and comment on labor issues, and the COIN process can be put to work without affecting the manner in which tentative agreements are negotiated, the jury said.

The COIN process, it asserted, illuminates "decisions made during negotiations that lead to a tentative agreement." Negotiations are not held in public, and the program does not allow the public to negotiate. It does require periodic reports about proposals and their costs — and time for the public to react to a final package before it is adopted.

### **Advertisement**

"The COIN process mandates transparency in government decision-making, allowing residents to be informed and to participate in public discussion of how their tax dollars are spent," the jury reported.

The panel urged the county board and local city councils to adopt COIN ordinances no later than July 1, 2016, including providing for independent negotiators and auditors, fiscal analysis, public disclosure and weeks-in-advance notice before agreements are adopted. It sought formal responses from the county

board and Marin's 11 city councils.

Marin's Citizens for Sustainable Pension Plans urged the county board to adopt the COIN plan in April but it drew heated protests from union representatives. County supervisors expressed lukewarm interest, calling aspects of the plan challenging but worth exploring.

Supervisor Judy Arnold at the time said supervisors will never "open existing contracts" and cut benefits. Arnold, questioned about the grand jury report Thursday, said she intended "to put the report where I put all jury reports," and then, told she would be quoted, added, "...in a bag to take home and read this weekend."

Roland Katz, head of the Marin Association of Public Employees, could not immediately be reached for comment Thursday, but made clear last April he was no fan of the COIN program.

Jody Morales, head of the sustainable pension group, was jubilant after reading the jury report, noting it will force elected officials at the Civic Center and in city halls across Marin to issue formal responses.

"We will now have answers as to how our elected officials feel about this critical issue," Morales told pension critics in an email blast. "We should all offer our thanks to this, and all grand juries, for their vigilance on our behalf."



*Nels Johnson*

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