



CITY OF PACIFIC GROVE
300 Forest Avenue, Pacific Grove California 93950

AGENDA REPORT

To: Honorable Mayor and Members of the City Council

From: RUDY FISCHER, COUNCILMEMBER

Meeting Date: August 5, 2015

Subject: *Managing future CalPERS rate increases.*

CEQA: This action does not constitute a “project” as defined by the California Environmental Quality Act (CEQA) guidelines section 15378.

RECOMMENDATION

Approve a resolution to:

1. Notify the California Public Employee Retirement System (CalPERS) that the City will honor and comply with the recent increase of over \$1.2 million toward the city’s annual payments to CalPERS for pension costs.
2. Inform the California Public Employee Retirement System (CalPERS) that any and all future increases will be rejected until and unless an agency employee or official meets with representatives of the City Council and staff to explain and justify those increases and allows the City to explain the effect such increase will have on the city’s budget.

DISCUSSION

The City of Pacific Grove agreed in 2002 to participate in the California Public Employee Retirement System plan to pay public safety employees retirement benefits equal to 3% of salary per year of service for Public Safety Employees. The agreement was based on a reliance of representations made by CalPERS that future earnings by the agency would cover the majority of future costs, that Public Safety employees had lower mortality rates than other employees, and with no indication that in the future the agency would require regular increases in payments. While it appears the City Council of that time may not have done full due diligence; there is also evidence that not all conditions, representations, planned actions by CalPERS, and costs of the new agreement were properly and accurately disclosed to the City and the Council.

After agreeing to make the change from the 2 percent of highest salary per year of service formula to one based on 3 percent per year of service for public safety employees, pension benefits were made retroactive by CalPERS without separate notification to, and agreement by, the City of Pacific Grove. Though this might have been deduced from the agreement as it called for those terms to be the benefits going forward, it is not certain because I cannot find documents specifically stating that. This action, however, provided those in public safety near retirement with a 50% increase in the retirement benefits that had been in place for approximately 50 years, and added millions of dollars in liability to the long-term pension obligations of the City of

Pacific Grove. This eventual increase in costs was originally disguised through the scheduling of payments over an artificially long and imprudent length of time. It was only the imposition of current FASB requirements which forced the disclosure of actual costs.

CalPERS has also granted hundreds of pension enhancements from 2002 to 2015. Additionally the agency may have miss-represented the length of time their members would receive benefits, and this information was used in actuarial calculations to determine member agencies' contribution costs – again keeping them low initially.

CalPERS initially presented the plan as needing to pay plan participants early in life (as young as 50) because they did not live as long as the general population because of the nature of their work. This contention was used in actuarial calculations to determine member agencies' contribution costs, as well as to sell this as a low cost pension plan. It was only recently that the agency “discovered” that their plan participant lived much longer than the figures they themselves had originally used to sell the plan - thereby undercalculating the burden to cities and counties.

All of the above actions have compounded the problem of pension underfunding and has led to a deficit of \$37 million or more for the city of Pacific Grove; a burden which grows by the year. Not only has that impacted past city budgets, and is it impacting the current one, but future increases may expose the citizens and businesses of Pacific Grove to additional future tax burdens to cover growing unfunded costs. This may place the future financial viability of the pension plans at significant risk and may eventually impair the city's ability to provide services to its citizens.

As a result, and through no fault of the City of Pacific Grove, at about 20% of the city's total budget for 2015-16 these payments have become a significant part of the City's budget.

Pensions rely on the amount of money coming in from contributors (from those who will eventually receive them AND their employers), their rate of return on investments, and the level of benefits eventually paid out (which is under the control of the pension administrator). The current system was set up at a time the stock market was going up year after year in a very unique and unsustainable manner. In addition, CalPERS assumed that their returns would average 7.5% forever.

Any increase in pension costs to the city can only be paid through a reduction of equal value in services to residents of the city, the laying off of staff of the city (which affects the ability to provide services to those residents), or by the imposition of further taxes or fees on the residents or businesses in the city.

As a pension administrator, CalPERS should be responsible for providing benefits, managing the costs and funds needed to provide them, and making adjustments in those benefits in order to keep the pension plan solvent. For most private pension plans, that is exactly the role the administrator would play. CalPERS, however, has also taken on the role of providing new, and enhancing existing, benefits.

As the judge in the Stockton bankruptcy case said of CalPERS, however, “It does not bear financial risk from reductions by the City in its funding payments because state law requires

CalPERS to pass along the reductions to pensioners in the form of reduced pensions.” Though he found that the law governing public employee pensions was “like a jigsaw puzzle”, by challenging the concept that pensions are sacrosanct he opened the way for the agency to either lower pensions to current recipients or reduce the level of benefits for future recipients.

No individual or business would just accept an ever increasing bill without question and discussion with the agency doing the billing about both the amount owed and the reason for it. For most people this applies to the mortgage, car payments, the electric or water bill, or charges for services provided. The City is no different; and should be run in a manner similar to a home or a business. The time has come where we need to discuss proposed increases with CalPERS, making the agency aware of the difficulty imposed by ever increasing payments, before simply paying them and putting the ability of the city to function at risk.

FISCAL IMPACT

Unknown at this time. If the most recent increase is the last one imposed, there should be no additional cost incurred. If CalPERS explains any future increases to the City’s satisfaction, there may be additional future costs to comply with reasonable increases. If CalPERS has unreasonable additional rate increases planned, however, and refuses to explain and/or negotiate future increases, and the city refuses to pay those unreasonable increases, we could experience significant legal costs to defend our position. This is troublesome because the agency has already indicated that it feels the need to increase pension contribution amounts for most cities by as much as 50% - which would bring pension contributions for Pacific Grove to between 25% and 30% of the city’s General Fund budget. It is important, however, for this City to at least make CalPERS aware of the fiscal pain and distress the agency’s actions are causing.

ATTACHMENTS

1. Resolution No. 15-_____

RESPECTFULLY SUBMITTED:

REVIEWED BY:

Rudy Fischer

Thomas Frutchey

Rudy Fischer
Councilmember

Thomas Frutchey
City Manager

RESOLUTION NO. 15-xxx
RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PACIFIC GROVE TO
ATTEMPT TO MANAGE FUTURE CALPERS RATE INCREASE REQUESTS.

FINDINGS

1. The City of Pacific Grove agreed in 2002 to participate in the California Public Retirement System payments of 3% per year of service for Public Safety Employees based on incomplete information provided by CalPERS.
2. The change from the 2 percent of highest salary per year of service formula to one based on 3 percent per year of service was made retroactive to some employees by CalPERS without consultation with the city; providing those near retirement with an immediate 50% increase in the retirement benefits that had been in place for approximately 50 years; thereby increasing Pacific Groves financial obligations to CalPERS.
3. The City of Pacific Grove will no longer comply with CalPERS increases unless and until an official representative of the agency meets with members of the City staff and City Council to explain the need for the increase and allow the City to explain the impact those actions have on the community.
4. By using artificial and imprudent actuarial accounting this action alone added tens of millions of dollars in liability to the long-term pension obligations of the City of Pacific Grove.
5. CalPERS has granted hundreds of pension enhancements from 2002 to 2015; each of which have added to the long-term financial obligations of the City of Pacific Grove.
6. The agency may have miss-represented the length of time their members would receive benefits, and this information was used in actuarial calculations to determine member agencies' contribution costs – which may have significantly undercalculated the burden to the city.
7. CalPERS has not yet undertaken the action suggested by Judge Christopher Klein in the Stockton bankruptcy case of adjusting benefits downward, and continues to charge member cities as and what it decides.
8. If this trend continues, there is no possible outcome other than financial distress to the City and the inability to provide normal services to our community.
9. The duty of the City Council of the City of Pacific Grove is to keep the city solvent, as a result of which it is incumbent on this Council to take actions now to avoid future fiscal problems.

**NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF
PACIFIC GROVE:**

1. The City will comply with the recent CalPERS rate increase of \$1.2 million to cover current and future pension costs.
2. The City of Pacific Grove will no longer comply with CalPERS increases unless and until an official representative of the agency meets with members of the City staff and City Council to explain the need for the increase and allow the City to explain the impact those actions have on the community.
3. It is only fair and appropriate that the City of Pacific Grove should notify CalPERS of this decision and it's continued willingness to work with the agency on future increases – if needed and justified – as long as that agency meets with the City to learn of its concerns and issues with future increases.
4. Throughout the process, the City will abide by all laws, ordinances, codes, and regulations of the state of California.
5. This Resolution shall become effective immediately following passage and adoption thereof.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE this 5th day of August, 2015, by the following vote:

AYES:

NOES:

ABSENT:

APPROVED:

BILL KAMPE, Mayor

ATTEST:

SANDRA KANDELL, Deputy City Clerk

APPROVED AS TO FORM:

DAVID C. LAREDO, City Attorney