



CITY OF MONTCLAIR

Montclair Civic Center
5111 Benito Street
Montclair, CA 91763

December 20, 2012

TO: Honorable Mayor and City Council

FROM: Edward C. Starr, City Manager

SUBJECT: CITY MANAGER'S WEEKLY REPORT: December 14-20, 2012

➤ **CITY MANAGER/ADMINISTRATIVE SERVICES DEPARTMENTS**

- Last month, the California Supreme Court, in *City of Alhambra et al. v. County of Los Angeles*, ruled for cities challenging the method of calculation used by most counties for property tax administration fees (PTAFs). By statute, counties are responsible for the administration of local property taxes, including the assessment, collection, and distribution of tax revenues. Counties are also authorized to impose a property tax administration fee on each public agency within their respective borders. The PTAF is based on an apportionment of the amount of property tax revenue allocated to each entity—i.e., the administrative cost apportionment factor—which includes the actual cost of administration plus surcharge components. The Legislature determined, however, that property tax revenues allocated from cities and other public agencies to county Educational Revenue Augmentation Funds (ERAFs) are exempt from the PTAF—the Legislature reasoned that since cities and counties are not recipients of property tax dollars re-directed to ERAFs, it was inappropriate to assess the PTAF against these revenues. ERAFs were first established in 1991 to shift a portion of the state's constitutional obligation to fund education, pursuant to Proposition 98, on to local governments.

In 2004, voters approved Proposition 57, the California Economic Recovery Bond Act to address the state's \$15 billion deficit. To establish a dedicated revenue stream for bond payments, the Legislature created a complicated revenue scheme called the "Triple Flip." In the first "flip," the state diverts 25 percent of local sales and use tax revenues for bond payments; in the second "flip," lost sales and use tax revenues are replaced by property tax

revenues that would have been placed in each county's respective ERAFs; and in the third "flip," any shortfall to schools caused by the reduction to ERAFs is compensated out of the state's General Fund.

Also in 2004, the state reduced the annual vehicle license fee (VLF)—a significant revenue source for local governments. To compensate each city and county for lost VLF revenue, the state established the "VLF Swap" which diverted property tax revenue away from county ERAFs back to each local government agency.

In both the VLF Swap and Triple Flip, the state backfills revenues lost to cities and counties with local property tax revenues previously earmarked for ERAFs. In other words, the state takes local government property tax dollars to reimburse local governments for VLF revenues and sales and use tax dollars diverted by the Legislature to the state Treasury.

It is that portion of property tax revenues in the second "flip" and "VLF Swap" diverted away from county ERAFs and assessed an excessive property tax administration fee that is the current point of contention between cities and counties.

In creating the VLF swap and Triple Flip, the Legislature enacted section 97.5 of the Revenue and Taxation Code prohibiting counties from imposing a fee, charge, or other levy on a city beyond the actual cost of administering the PTAF program. However, counties throughout California followed a model schedule that imposed a substantially higher property tax administration fee on each impacted city—the higher fee resulted in counties improperly withholding tens of millions of dollars in excessive PTAFs. Cities sued to enjoin counties from imposing the higher fee; and in *Alhambra v. the City of Los Angeles*, the Court agreed with cities.

Under the Court's ruling, Montclair and other cities throughout the state stand to receive a refund of excessive property tax administration fees. However, Los Angeles County announced last week it will ask the State Supreme Court to rehear the case. If reconsidered, the *Alhambra* decision would be replaced by any new or revised ruling issued from the reconsideration. The Court has until February 2013 to decide if it will reconsider its decision. Most Court watchers doubt the Justices will agree to L.A. County's request for a rehearing.

It should be noted, however, the Court failed to settle the period of retroactivity related to refunding excessive PTAFs to cities. Cities argue they should be reimbursed back to Fiscal Year 2006-07, when counties first started collecting excessive PTAFs. Counties argue they should only be required to go back one year. Conversely, statute of limitation laws suggest counties may be required to go back three years.

The Court was also silent on how much interest should be paid to cities related to the excessive property tax administration fees. Cities argue for a 7 percent interest rate; however, counties argue for a smaller interest rate—perhaps as low as 1 percent.

Some counties are also taking the position that unless a city entered into a tolling agreement, they are not eligible for a refund. Tolling agreements have the effect of tolling or suspending time restrictions imposed by statute of limitations legislation.

At last week's City/County Managers Technical Advisory Committee, County Administrative Officer Greg Devereaux indicated San Bernardino County officials are evaluating a course of action and amounts owed to the County's various cities. Mr. Devereaux indicated the County has sufficient funds set aside to reimburse cities for the principle, but not interest on excessive PTAFs. Mr. Devereaux also indicated the County may seek to enter into settlement agreements with cities to resolve the PTAF issue. County officials may presume they have some leverage to reach settlement with cities if the County of Los Angeles seeks to drag the matter through courts for the next several years. Understandably, many cities are anxious to identify new operating funds.

Earlier this month, City Attorney Diane Robbins filed a request with the County for a full refund of excess property tax administration fees, plus interest, from the date of passage of SB 1096—the VLF Swap bill that contained Section 97.5 of the Revenue and Taxation Code, prohibiting counties from collecting excessive property tax administration fees.

The City Council will be kept advised of any decision by the California Supreme Court to rehear the *Alhambra* decision and any resolution reached between Montclair and San Bernardino County.

➤ **COMMUNITY DEVELOPMENT DEPARTMENT**

- At the December 17 City Council meeting, the winners of the Community Action Committee's 2012 Holiday Home Decoration Contest were announced:

Whimsical Christmas

Hernandez Family
Located at 9877 Greenwood Avenue

Bright Lights of Christmas

Bui Family
Located at 10990 Kimberly Avenue

Holiday Light Extravaganza

Billy Murray

Located at 9015 Helena Avenue

Children's Fantasy Land

Sheila & Kirk Billingsley

Located at 9996 Fremont Avenue

City staff and community members are encouraged to view these award-winning homes.

A photo collage of the winners is included on Page 10. Congratulations to all of our winners!

- On Tuesday City staff and volunteers took part in the Annual Food and Toy Basket Program sorting in the Community Center. Yesterday, staff and volunteers distributed the food and toy baskets to 213 needy Montclair families. Donations from City staff, businesses, and the community helped to provide the food and toys. The appreciation from the families who received the baskets was heartwarming!

Special thanks goes to the Fire, Police, and Public Works Departments; as well as the Montclair Community Collaborative; Montclair Ontario Junior Women's Club; and Montclair community members for volunteering their time and energy to make this program a success. Because of their assistance, we were able to make the holidays a bit brighter for our residents in need so they could have a Merry Christmas.

A collage of photos taken at the sorting and distribution is featured on Page 11.

➤ ***POLICE DEPARTMENT***

- On Sunday, December 16, the Police Department organized its annual Santa's Sleigh event. The sleigh carrying Santa and Mrs. Claus (Rob and Esther Pipersky) was towed by the Department's new Ford Police Interceptor (Explorer) SUV. With a full Police and Fire escort, Santa and Mrs. Claus toured the City for over three hours, despite drizzly, cold conditions. Santa's helpers passed out 2,000 candy canes and many bags of candy to residents who ran out of their homes to see Santa and his helpers.

Santa's helpers included Mayor Paul Eaton and Councilman John Dutrey. From the Police Department, helpers included Director of Public Safety Keith Jones, Captain Mike deMoet, Lieutenant Robert Avels, Officer Andy Graziano, and their family members. Fire Captain Roger Mora, Engineer Steve Ward, and Firefighter Jim Colby manned the fire engine, while Senior I.T. Specialist Ricky Tankersley and his wife, "Elf"

Eloise Tankersley, rode on the sleigh with Santa. Despite the near freezing conditions, everyone was happy to be part of the fun.

A special thanks goes out to Rob and Esther Pipersky; and the Montclair Police Officers' Association and Vons Division of Safeway for donating the candy canes and other treats.

Photos are included on Page 12.

- On Tuesday, Chief Keith Jones, as president of the San Bernardino County Police Chiefs and Sheriff Association, spoke to the San Bernardino County Board of Supervisors regarding the Association's support of appointing Assistant Sheriff John McMahon as the new Sheriff, replacing retiring Sheriff Rod Hoops. Chief Jones stated Assistant Sheriff McMahon shares the same vision as Sheriff Hoops and will continue to move the Sheriff's Department forward.

The Sheriff is the head law enforcement official for the County, and the police chiefs have a vested interest in who will be the next County Sheriff. The cooperation between the police chiefs and the Sheriff plays a vital role in the safety of the County's residents.

On December 13, the San Bernardino County police chiefs met to discuss the replacement of Sheriff Hoops. The police chiefs have worked closely with Sheriff Hoops during the past four years and appreciate the guidance and direction he has taken, and they would like to see the Sheriff's Department continue on the course Sheriff Hoops has charted. Chief Jones emphasized, with the State of California transferring prison inmates back to the cities and County, now is not the time to have a paradigm shift in the direction Sheriff Hoops and the Police Chiefs Association have worked toward addressing this critical issue.

➤ **FIRE DEPARTMENT**

- On December 11, 12, and 15, Fire Department staff participated in Firefighter Survival Training to review skills and techniques that may prove to be instrumental in reducing or eliminating the risk of firefighter injury or death.

The class consisted of two sessions. The first session held in a classroom covered the following topics: 1) how to avoid firefighter-down situations; and 2) how to activate "mayday" or emergency traffic. In this session, staff were taught how to stay active to avoid injuries and escape life-threatening situations should they become trapped while operating on the fire ground. They reviewed case studies that focused on firefighters who lost their lives because of a lack of training, and firefighter-down protocols.

The second session consisted of hands-on drills and techniques including Self-Contained Breathing Apparatus (SCBA) low profiling, window hangs, SCBA entanglement props, fire hose escape slide, and a grueling SCBA consumption course. There were a series of events where the Firefighters would breathe down their entire air supply while still having to perform fire-fighting functions.

A big "thank you" goes to Montclair Firefighter/Paramedic and California State Fire Instructor Chris Jackson for teaching this course!

A photo collage is included on Page 13.

➤ ***PUBLIC WORKS/SUCCESSOR REDEVELOPMENT AGENCY***

- Under the crisp blue skies of a December morning in the San Gabriel Valley, over 350 honored guests, elected officials, and dignitaries came together last Saturday to mark the on-time, on-budget completion of the Gold Line Bridge, and to thank the men and women who made this magnificent structure possible. This bridge spans the eastbound lanes of I-210 in Arcadia, taking the Gold Line out of the I-210 right-of-way and through Arcadia.

Notable speakers included Representatives Grace Napolitano and Judy Chu; State Senator Carol Liu; Los Angeles County Supervisor Mike Antonovich; and Metro and Construction Authority Board Member John Fasana. Business radio personality Frank Mottek officiated as emcee and thanked Authority Board of Directors Chairman Doug Tessitor of Glendora for his leadership in making the bridge more than "just another bridge," but a true work of art. Also in attendance were Senator Bob Huff; and Assembly members Norma Torres, Ed Chau, and Chris Holden. They helped thank the Caltrans and CHP representatives present for their work over the last two and a half years of design and construction on behalf of the project.

Despite the fact that the bridge represents only three percent of the overall Gold Line Foothill Extension project budget, it has become an icon for the San Gabriel Valley and the nearly two million residents who will benefit from this extension along the historic railroad corridor. All those in attendance marveled at the intricate design envisioned by artist Andrew Leicester and the fine craftsmanship provided by Skanska and its designers, AECOM.

A photo of the bridge is included on Page 14.

- Most of us have already heard the City of San Bernardino has filed for bankruptcy—but did you know that action could potentially have a financial impact on Montclair?

As a requirement of the federal Clean Water Act and National Pollutant Discharge Elimination System (NPDES), an Implementation Agreement was entered into between the Principal Permittee (the San Bernardino County Flood Control District) and Co-Permittees (which include San Bernardino County, the City of San Bernardino, the City of Montclair, and several other municipalities within San Bernardino County). The Implementation Agreement outlines the funding responsibilities of each Co-Permittee for the area-wide program, as well as other responsibilities, such as monitoring requirements for the Middle Santa Ana River and area-wide public education.

The City of San Bernardino's funding share for fiscal year 2012-13 is \$225,800 or approximately 10 percent of the area-wide storm water budget of \$2.1 million, an amount San Bernardino has so far refused to pay. The City of San Bernardino is considered the largest city contributor to the area-wide program. By comparison, Montclair's share of the budget is \$59,600, or 2.8 percent of the area-wide budget.

NPDES Coordinator Joe Rosales attended a meeting with other Co-Permittees last Wednesday at the County Flood Control District to discuss the 2013-14 area-wide storm water budget. The County's finance department indicated to the Co-Permittees there is a carryover surplus from fiscal year 2011-12 of approximately \$900,000. That should be sufficient to cover the unpaid storm water fees from the City of San Bernardino, plus other permit requirements that were deferred from last fiscal year.

Since the City of San Bernardino is considered a Co-Permittee as stated in the Implementation Agreement and has not paid its share of the area-wide storm water program budget, the Principle Permittee believes they are in breach of contract. The County Flood Control District is drafting a letter to the City of San Bernardino indicating the city is in breach of the Implementation Agreement and has 90 days to pay its share. If the City of San Bernardino does not pay within the 90 days, it will be removed from the Implementation Agreement and will have to comply with all of the requirements of the NPDES permit on its own. More importantly, however, if the City of San Bernardino chooses to opt out of the area-wide storm water program in the future, an increase to Montclair's share as well as all other Co-Permittees' shares can be expected next fiscal year and all following years. It is unknown what the increase will be as this is a first-time scenario for the NPDES Program. Collectively, it is hoped the City of San Bernardino pays its share now and in the future as it is a major cog in the success of the area-wide storm water program.

ECS:spa

"Christmas—that magic blanket that wraps itself about us, that something so intangible that it is like a fragrance. It may weave a spell of nostalgia. Christmas may be a day of feasting, or of prayer, but always it will be a day of remembrance—a day in which we think of everything we have ever loved."

~ Augusta E. Rundel

DECEMBER 2012



20	Safety Committee Luncheon Dolce Café & Bakery	11:30 a.m.
20	Public Works Committee Meeting - Canceled	
24	City Hall Closed through December 31 in Observance of Christmas and New Year's Eve	

JANUARY 2013



01	New Year's Day – City Hall Closed	
07	City Council Workshop Council Chambers	5:45 p.m.
07	City Council Meeting Council Chambers	7:00 p.m.
09	Oversight Board Meeting Council Chambers	6:00 p.m.
14	Planning Commission Meeting Council Chambers	7:00 p.m.
15	City Manager's Staff Meeting City Hall Conference Room	9:00 a.m.
16	Community Action Committee Meeting Council Chambers	7:00 p.m.
17	Safety Committee Meeting City Hall Conference Room	9:00 a.m.
17	Public Works Committee Meeting City Hall Conference Room	2:00 p.m.
21	Martin Luther King, Jr. Day – City Hall Closed	
22	Code Enforcement Committee Meeting - Canceled	
22	City Council Meeting Council Chambers	7:00 p.m.
28	Planning Commission Meeting Council Chambers	7:00 p.m.
29	City Manager's Staff Meeting City Hall Conference Room	9:00 a.m.

2012 Holiday Home Decoration Contest



Winners



Whimsical Christmas

The Hernandez Family

9877 Greenwood Ave.

Bright Lights of Christmas

The Bui Family



10990 Kimberly Ave.

Holiday Light Extravaganza

Bill Murray



9015 Helena Ave.

Children's Fantasy Land

Sheila & Kirk Billingsley

9996 Fremont Ave.





Holiday Toy and Food Program



December 1-8 & 19





**Santa's
Sleigh
2012**



**Firefighter
Survival
Training**



GOLD LINE BRIDGE

