



CITY OF MONTCLAIR

Montclair Civic Center
5111 Benito Street
Montclair, CA 91763

April 18, 2013

TO: Honorable Mayor and City Council

FROM: Edward C. Starr, City Manager

SUBJECT: CITY MANAGER'S WEEKLY REPORT: April 12-18, 2013

➤ **CITY MANAGER/ADMINISTRATIVE SERVICES DEPARTMENTS**

- A Mayor's Prayer Luncheon will be held on Thursday, May 2 from 11:30 a.m. to 4 p.m. at the Montclair Community Center. Everyone is invited to join community and church leaders for a message of hope and encouragement for our community and our nation through prayer.

The cost is \$15 or \$150 for a table sponsorship for eight people. Reservations, due by April 25, can be made by calling the Chamber of Commerce at (909) 624-4569. Lunch will be catered by Los Portales.

- Last month, I reported CalPERS' Chief Actuary was proposing to the CalPERS Pension and Health Benefits Committee a conservative "direct" smoothing policy that would determine the rate increase needed to reach a public employee pension funding level of 100 percent over a 30-year fixed amortization period, rather than the current 30-year rolling amortization period. A "rolling" process is an accounting trick that pushes debt forward, typically on an annual or pre-determined budgetary basis, rather than paying off or amortizing debt within a fixed period of time.

The pressure on CalPERS and other public employee pension funds to address massive underfunding has been growing in recent years, particularly during the aftermath of extensive public pension fund losses stemming from the Great Recession, and contradictory university and private studies that identified significant differences in "actual" underfunding of public pensions versus the "under-reporting" by administrators of public pensions.

To achieve full funding over the 30-year fixed amortization period, the required employer rate increase for municipal agencies would be phased in over a five-year period starting in Fiscal Year 2015-16. This recommended approach would eliminate the current practice of using a "smoothing" process that tri-annually spreads investment gains and losses over 15-year rolling periods, rather than the proposed five-year fixed periods. Employer rates would only be reduced after full funding of pension plans is achieved and would thereafter be maintained at specified rates intended to ensure funding stability.

In making the case to the Pension and Health Benefits Committee, the Chief Actuary advised members there is a better than 50-50 chance CalPERS will fall below 50 percent funding at some point in the future if direct action is not implemented. For municipalities, increases in unfunded liability produce dramatic increases in employer contributions.

Under the Chief Actuary's plan, however, cities would also experience "rate shock" as employer rates climb by an estimated 35 percent to 45 percent by the end of the five-year phasing period—Fiscal Year 2019-20. The higher end of the range presumes CalPERS will approve discount rate changes (lowering the assumed rate of return) and actuarial assumptions changes related to mortality assumptions. The Board is likely to adopt these latter changes in 2014.

For Montclair, the reality of rate shock set in earlier last decade: for premium public safety tiers, Montclair's Fiscal Year 2013-14 employer rates are well-above 40 percent of pay, including employer rates of approximately 45.5 percent and 60.7 percent, respectively, for top tier police and fire safety employees. Under alternative asset allocation strategies proposed by the Chief Actuary, and assuming increases of up to 45 percent over current employer rates, Montclair would potentially realize a new round of unacceptable employer rate increases that could potentially increase First Tier employer rates by up to 20.47 percent for Police safety members (to an employer rate of 65.97 percent of payroll by Fiscal Year 2019-20) and 27.31 percent for Fire safety members (to an employer rate of 88.01 percent of payroll by Fiscal Year 2019-20).

Yesterday, the CalPERS Board of Directors, backed by the CalPERS Board of Administration and Pension and Health Benefits Committee, embraced recommendations of the Chief Actuary by voting to approve the proposed plan to significantly increase employer payments, starting in Fiscal Year 2015-16, in order to address the Fund's long-term liabilities. The accounting changes will trigger the higher contributions from municipal partners. Municipalities throughout California regard increases to the employer rates as unsustainable, arguing they may lead to a new rash of municipal bankruptcies, reductions in force, and consolidation or outsourcing of services—efforts frequently made difficult by a state legislature that seems

determined to hobble the ability of local government officials to address internal fiscal matters.

As adopted, the new policy will shrink the fund's asset "smoothing" period from the current 15-year rolling period to a fixed 5-year period. The Board also approved accounting changes that would amortize CalPERS' investment gains and losses over a fixed 30-year period. CalPERS alleges "smoothing" gains and losses avoids sharp spikes in the annual pension contribution rates public employers pay towards employee pensions. However, experience derived over the last decade would have many public agencies rebuking this perspective. Nonetheless, critics of CalPERS and other major public pension funds in California contend the current 15-year "smoothing" period unwisely delays a full accounting of an estimated \$200 billion in unfunded pension liabilities—CalPERS estimates a current unfunded liability of \$87 billion. These same critics recognize the adopted accounting changes agreed to by the CalPERS board represent a tremendous burden on municipalities and taxpayers. Out of concern for that burden, many had hoped the state's effort at public pension reform would have been more meaningful than what is represented in the Public Employee Pension Reform Act of 2012 (PEPRA).

The new accounting changes and shortened "smoothing" period will not increase the employee contribution as set by PEPRA—the employee contribution is based on 50 percent of the "normal" cost range, not the unfunded liability portion. However, the changes will dramatically increase pressure on public employers to move quickly in negotiating that employees pay the full cost of the employer contribution as required under PEPRA.

- This past February, the Ninth Circuit Court of Appeals agreed to rehear a case in which it previously found a Costa Mesa ordinance governing rules of decorum at city council meetings to be unconstitutionally overbroad because the ordinance in question prohibited insolent behavior by someone attending the meeting, even if such behavior did not cause a disruption of the meeting.

In *Acosta v. City of Costa Mesa (2012)*, the court struck down the term "insolent"; however, the balance of the ordinance was upheld based on a narrowing construction which required an actual disruption of the meeting in order to silence a speaker or remove him/her from the room.

In reaching its decision, the court relied on prior Ninth Circuit precedent holding that a city council meeting is a highly regulated, limited public forum where government business is conducted. In this "limited public forum," scenario limitations on speech must be reasonable and viewpoint neutral, but that is all they need to be.

Acosta filed a petition seeking rehearing, claiming the Ninth Circuit applied the wrong legal standard because speech at city council meetings should be treated the same as speech in public parks; therefore, restrictions on speech violated the First Amendment. In his petition, Acosta argued speech at city council meetings can only be restricted by reasonable time, place, and manner.

Costa Mesa filed an opposition, defending the standard applied by the Ninth Circuit in its 2012 decision. Costa Mesa argued city council meetings are limited public arenas and reasonable restrictions on speech can be imposed.

The Ninth Circuit granted Acosta's petition for a rehearing and withdrew its decision in *Acosta v. City of Costa Mesa (2012)*, filed September 5, 2012—the opinion can no longer be cited as precedential. The court has not scheduled a date for rehearing.

The Ninth Circuit Court's decision to rehear is important for municipalities—an adverse decision could have broad implications for the conduct of meetings and the ability to complete municipal business in a timely and efficient manner.

➤ **COMMUNITY DEVELOPMENT DEPARTMENT**

- On Monday, the Montclair Community Action Committee-sponsored 27th Annual Volunteer of the Year Program was held. Ten nominees were recognized during the City Council meeting; a reception, cake-cutting ceremony, and photos followed.

This year, ten organizations whose volunteers serve the Montclair community submitted nominations for this coveted award. A panel of three individuals from surrounding communities served as judges, and from the nominations, they selected a Volunteer of the Year, a first runner-up, and a second runner-up.

This year's Volunteer of the Year is Walter Askier, nominated by Pomona Valley Habitat for Humanity. Four days a week, for at least six hours a day, Walter volunteers at the organization's Restore in Montclair. He often accompanies a store specialist to a donor's house to pick up items for donation, and then he unloads the items at the store. He often listens to donors who are going through difficult times, such as those who are donating furniture that belonged to their deceased parents. Often the first to arrive and one of the last to leave, Walter is known to look for ways in which to organize and improve the store. He also loves talking to customers and helping them to become familiar with the store and its overall mission.

The first runner-up, Elizabeth Davalos, was nominated by Montclair Por La Vida and the Montclair Medical Clinic. A year ago, Elizabeth was trained as a Por La Vida teacher, known as a "consejera." Since then, she has taught numerous nutrition and diabetes education classes at Mission Elementary School. In addition, she recently became certified as a medical interpreter. For the past six months, Elizabeth has served as a volunteer interpreter one night a week at the Montclair Medical Clinic.

The second runner-up, Dee Copeland, was nominated by the Montclair Senior Citizen Program. For many years, Dee has welcomed seniors at the Senior Nutrition Program by selling daily lunch and party tickets. She also volunteers to help in varied ways at the monthly senior nutrition party, is a member of the Montclair Walkers Choral Group, and she helped form a weekly "Uno" group. Dee has also volunteered at City events, such as the Family Fun Festival and the Easter Eggstravaganza.

Other nominees included:

- ✓ Vicki Brobeck, nominated by the Montclair Police Department
- ✓ Jack Clay, nominated by the Montclair Youth Basketball League
- ✓ Marilyn Hall, nominated by Montclair Ontario Junior Women's Club
- ✓ Kimberly Heideman, nominated by House of Ruth
- ✓ Martha Lopez, nominated by El Camino Elementary School
- ✓ Betty Morrison, nominated by Meals on Wheels
- ✓ Sylvie Pronovost, nominated by the Montclair Branch Library

We thank all of our volunteers for their service.

- Montclair residents are invited to apply for two vacancies on the Planning Commission. Applications will be accepted in the City Clerk's Office until 5:30 p.m. on Monday, May 20, 2013. Applicants must be legally registered voters in the City of Montclair.

The Planning Commission prepares a comprehensive plan for anticipating and influencing the orderly and coordinated development of land and building uses in the City and its environs; convenes public hearings on the plans and any amendments; reviews all proposed amendments to the City Zoning Code; conducts, on its own initiative or by request of the Mayor and City Council, investigations into matters related to the physical, economic, and environmental development of the City and civic improvements; and reports findings and submits recommendations to the Mayor and City Council with respect to same.

The term length of a Planning Commissioner is four years. The terms for these vacancies will commence on July 1, 2013, and will expire on June 30, 2017. The Planning Commission normally meets on the second and fourth Mondays of the month at 7 p.m. Planning Commissioners receive a stipend of \$125 per meeting attended.

Application forms are available at City Hall, 5111 Benito Street, or by calling (909) 625-9416.

➤ ***POLICE DEPARTMENT***

- On the evening of February 21, three suspects entered the USA Gas Station in Montclair and robbed a clerk at gunpoint. The suspects fled the business in an unknown direction and no vehicle was seen. On March 23, the same suspects were arrested in Victorville by San Bernardino Sheriff's Department deputies during another robbery. The victim in the Montclair robbery positively identified the gunman after his arrest, and the clothing the suspects were wearing in the Montclair robbery was recovered by San Bernardino Sheriff's Department.

Both cases have now been filed in Victorville where the suspects are facing over 100 years in prison for the robberies.

➤ ***FIRE DEPARTMENT***

- On April 12, Deputy Fire Marshal Scott Sherwood and Administrative Aide Angelic Bird participated in a Nurse Awareness and Agency Annual Conference at ACES Home Health Care in Chino. Their presentation on fire safety and emergency preparedness included the following topics: use of fire extinguishers, smoke and carbon monoxide detector installation, E.D.I.T.H. (Exit Drills in the Home), building an emergency supply kit, making an emergency plan, and being informed about the different types of hazards.

The ACES staff expressed their appreciation to Scott and Angelic for a successful event!

- On April 9-11, Deputy Fire Marshall Scott Sherwood presented a class to the suppression personnel on the use of the Fire Records Management System (FireRMS) for occupancy inspections. Scott covered the FireRMS occupancy module and critical data needed to input and update annual fire inspections. He also shared strategies on organizing each shift's annual inspection list into monthly inspection goals based on scheduled dates and occupancy type.

PUBLIC WORKS DEPARTMENT

- Several weeks ago, the City issued a temporary street closure permit to Skanska Construction Company to allow modifications to the railroad track crossing at Monte Vista Avenue and State Street. The closure was in effect for approximately two weeks during which time curb, gutter, sidewalk, median, and pavement improvements were installed. That work was completed in early March.

Union Pacific Railroad has now requested a second closure, expected to last three days beginning this Saturday, April 20, in order to install additional safety warning devices at the railroad crossing. The warning device is similar to the signal shown below and is known as a cantilevered flashing light signal. The warning devices will be installed at the northbound and southbound approaches for Monte Vista Avenue. The foundations for the cantilevered arms were installed as part of the Skanska project.



On a related matter, the City is continuing its work on the federal environmental clearance for the construction of a grade separation at this location. The City received approval from Caltrans in March 2012 for the Preliminary Environmental Study (PES). The PES was approved subject to eight technical studies being prepared addressing such issues as noise, traffic, community and visual impacts, biological impacts, and historical properties. To date, seven of the eight technical studies have been approved by Caltrans with final approval for final study expected by the end of next month. Following the approval of the final report, the design will be completed. Construction of this project is expected to begin in mid 2014.

➤ **SUCCESSOR REDEVELOPMENT AGENCY/MONTCLAIR HOUSING CORPORATION**

- There are no items to report this week.

ECS:spa

"Nothing can stop the man with the right mental attitude from achieving his goal; nothing on earth can help the man with the wrong mental attitude."

~ Thomas Jefferson

APRIL 2013

		
18	Public Works Committee Meeting City Hall Conference Room	2:00 p.m.
21	National Volunteer Week – April 21-27, 2013	
22	Earth Day	
22	Planning Commission Meeting Council Chambers	7:00 p.m.
23	Human Services Division's 32nd Annual Volunteer Recognition Dinner, Montclair Community Center	5:00 p.m. - 7:00 p.m.
30	City Manager's Staff Meeting City Hall Conference Room	9:00 a.m.

MAY 2013



1	Community Action Committee Meeting Council Chambers	7:00 p.m.
2	Mayor's Prayer Luncheon Montclair Community Center	11:30 a.m.
6	City Council Workshop Council Chambers	5:45 p.m.
6	City Council Meeting Council Chambers	7:00 p.m.
12	Mother's Day	
13	Planning Commission Meeting Council Chambers	7:00 p.m.
14	City Manager's Staff Meeting City Hall Conference Room	9:00 a.m.
16	Safety Committee Meeting City Hall Conference Room	9:00 a.m.
16	Public Works Committee Meeting City Hall Conference Room	2:00 p.m.
20	Code Enforcement Committee Meeting - Canceled	
20	City Council Meeting Council Chambers	7:00 p.m.
27	Memorial Day – City Hall Closed	
28	Planning Commission Meeting Council Chambers	7:00 p.m.
30	Retirement Celebration for Police Chief Keith Jones Montclair Senior Center	6:00 p.m.