



May 21, 2014

TO: Honorable Mayor and City Council

FROM: Edward C. Starr, City Manager 

SUBJECT: WEEKLY REPORT: May 16-22, 2014

➤ ***CITY MANAGER/ADMINISTRATIVE SERVICES DEPARTMENTS***

- In a strategic move that gives notice to California cities, the California Public Employee Retirement System (CalPERS) warned this week in a Sacramento bankruptcy court hearing for the city of Stockton, that CalPERS cannot be treated as a creditor, and any decision to do so would likely result in higher employer rates for California cities.

When Stockton unveiled its plan to reorganize its debts last fall, it spread the financial pain among a host of bondholders, but excluded CalPERS. This week, however, CalPERS was involuntarily pulled into the Stockton bankruptcy case when one bondholder demanded to know why CalPERS would not be impacted.

During bankruptcy court proceedings, a CalPERS official warned that Stockton could not reduce its pension contributions without facing dire consequences:

1. Its pension plan would be terminated, and unless the city paid an exit fee of several hundred million dollars (based on the city's unfunded pension liabilities), its employees and retirees would likely suffer scaled-back benefits. Stockton currently owes \$29 million in annual pension contributions.
2. The rest of the CalPERS system would probably be affected as well, with state and local agencies conceivably having to contribute funds to pay for Stockton's pension benefit plans.

A similar position from CalPERS can be expected if the pension fund is treated as a creditor in other municipal bankruptcy filings, including the city of San Bernardino. Ironically, with most California cities already facing massive pension fund-related employer rate increases over the next six years, adding to this burden may push many more cities toward fiscal insolvency.

The judge in the Stockton bankruptcy hearing has stated that even though the city decided not to cut its CalPERS payments, he may rule that the pension fund could be treated like other creditors.

The sanctity of public employee pension funds continues to be a political and legal issue as cash-strapped cities wrestle with pension obligations. CalPERS consistently maintains it needs a constant flow of contributions; therefore, pension contributions cannot be reduced, even when the city in question is in financial stress. Last year, however, in a landmark decision, a judge ruled in Detroit's bankruptcy that government pensions can be scaled back—municipal leaders in Detroit later cut a deal with its retirees. San Bernardino owes CalPERS millions in overdue payments and has signaled it might try to roll back its pension obligations. CalPERS and San Bernardino are currently in court-supervised mediation.

- Last week, Deputy City Manager Marilyn Staats, Personnel Officer Gary Charleston, Information Technology Supervisor John Nguyen, Administrative Specialist Andrea Phillips, and Administrative Analyst Mikey Fuentes attended the Museum of History and Art Ontario fundraiser presented by the Museum of History and Art Ontario Associates. Highlighted were current museum exhibits and educational programs provided to the community.

The event's theme was "Take Me out to the Ball Game," and stadium-style food was provided to guests. Sports-themed prizes were raffled and there was a silent auction. All proceeds collected from the event will help fund museum programs and provide docent training.

Representatives from the city of Ontario, the Museum of History and Art Ontario, Chaffey Community College, community partners, and local businesses were also in attendance.

Since 1981, the Museum of History and Art Ontario has helped strengthen the community by providing quality art and cultural programming to residents and visitors alike. The museum promotes knowledge and understanding of the history, art, and cultural traditions of the greater Ontario area in a broad context. Each year, thousands of school children, families, and visitors to the Inland Empire tour the museum to learn about Ontario history, art, and culture.

Information regarding the museum programs and current exhibits may be obtained by calling (909) 395-2510, or by visiting <http://www.ci.ontario.ca.us/index.aspx?page=444>.

- Last year, Governor Brown and the Legislature incorporated into a \$96.3 billion budget bill a provision that would have allowed local governments to deny certain requests for public documents. The legislative provision was added as a means to legitimize the state's ongoing push to avoid compliance with mandated reimbursement requirements. After a media and public outcry, the provision was struck and legislative members indicated they would support a constitutional amendment compelling local governments to fully comply with California's Public Record Act.

Proposition 42, appearing on the June 3, 2014 Primary Ballot, would amend the state constitution requiring cities, counties, school districts, and other local agencies to comply with state laws to make documents available and open their meetings to the public—requirements that already exists in state statutes. Local agencies would also be required to cover the costs for doing so. The state Assembly voted 78-0 and Senate voted 37-0 to qualify Proposition 42 for a statewide vote.

The Yes on 42 campaign includes California Association of Realtors and California Professional Firefighters. Proponents argue the issue is about transparency in local government, and the public has a right of access to public documents. Proponents have spent less than \$200,000 on the "Yes" campaign.

Organized opposition against this "state-manufactured" controversy is even thinner:

- ✓ The only prepared ballot argument comes from a Mountain View attorney who suggests the state should continue reimbursing the costs for local governments, at least on paper, just as it is supposed to do with other mandates. Although, increasingly, legislative enactments prohibit local governments from receiving reimbursement for state mandated programs.
- ✓ The California Association of Clerks and Election Officials, arguing the issue is about money, not transparency, urges a "no" vote. The group is not actively campaigning against the measure, but did issue a position paper that casts Proposition 42 as part of a long history of the state refusing to pay for laws it adopts.
- ✓ The League of California Cities takes no position, but is concerned about the fiscal impact to cities and suggests the state is not adhering to the same standards it is requiring of local governments.

The League points to a 2004 constitutional amendment promoting access to public records that exempted the Legislature.

Governor Brown sparked muted protests after proposing in January 2013 that requirements be loosened for local governments to comply with two transparency laws:

1. The California Public Records Act of 1968, which entitles the public to view documents such as contracts, official calendars, email correspondence, and salaries
2. The Ralph M. Brown Act of 1953, which requires local government bodies to meet in public and give adequate notice.

The controversy exploded five months later, with newspaper editorial writers and others warning that it was an invitation for local governments to run amok. One often-cited example: The *Los Angeles Times* used the public records act to reveal the city of Bell paid enormous salaries to top officials.

As controversy surrounded the Legislature, funding to reimburse local agencies was restored for the year, and the Legislature promoted a bill to ask voters to make local governments pay in the future.

The nonpartisan Legislative Analyst's Office says it could cost local governments tens of millions of dollars annually to comply with the California Public Records Act. The true cost is unknown because the Commission on State Mandates did not rule until 2011 that costs should be reimbursed and has not said how much. Local governments submitted \$48.3 million in reimbursement claims to the state to comply with the open meetings law from 2009 to 2012.

- Earlier this month, the Senate approved SB 962 (Leno) mandating that all smartphones sold in the state must come preloaded with anti-theft software commonly known as a "kill switch."

SB 962, introduced by State Senator Mark Leno and sponsored by San Francisco District Attorney George Gascon, states that device makers, including Apple and Samsung, would be required to install kill switch technology on every smartphone and have the switch automatically turned on when people buy a phone. A kill switch lets users lock the phone if it is stolen, making it inoperable.

The bill, which was initially shot down by senators on April 24, now has to make it through the California Assembly. Eventually, it will need to be approved by Governor Brown.

The bill was composed in response to a rising tide in smartphone theft. According to a study released by the mobile security firm, Lookout, 1 in 10 smartphone owners in the United States have had a phone stolen. In 2013, 3.1 million Americans were the victims of smartphone theft—nearly twice as many as the year before, according to Consumer Reports. In San Francisco, 67 percent of robberies in the first few months of 2014 have involved mobile devices.

The Senate approval is a legislative victory in a push by lawmakers to curb smartphone theft. On the federal level, a similar bill, the Smartphone Theft Prevention Act, was introduced in the US Congress in February. The federal bill is still in committee. Across the country, New York Attorney General Eric Schneiderman, who has worked closely with Gascon, has been leading a similar charge in New York State.

Apple and Microsoft, which had publicly opposed the bill, both backed off their stances after the bill was amended to include a kill switch on only smartphones and not other mobile devices, such as tablets. As amended, the bill would require all smartphones manufactured after July 1, 2015, to include a kill switch.

The bill had stalled in the past because of pushback from leading telecom companies and the CTIA, a trade organization that represents mobile-telecom companies.

Opponents of SB 962 argue that kill switch software leaves phones vulnerable to hacking, places unnecessary burdens on smartphone manufacturers, and stifles the development of smartphone technology.

Instead of requiring a mandatory kill switch on smartphones, the CITA has proposed the development of a voluntary commitment program. Under the voluntary commitment program, a kill switch feature would come pre-installed on a smartphone by default, but would require a customer to activate the feature. The program would be voluntary and would need to be adopted by wireless carriers.

Supporters of SB 962 argue that requiring a customer to turn on the kill switch feature defeats its purpose since the intent of the law is to send a message to would-be thieves that stealing an inoperable phone would be useless.

➤ ***FIRE DEPARTMENT***

- On the evening of May 13, Fire units from Montclair, Upland, and Ontario responded to a reported fire in a commercial building in the 200 block of East Foothill Boulevard in Upland. The fire within the interior of the building was brought under control within 20 minutes after the first emergency vehicle arrived on the scene. Six fire engines, one ladder truck, and two Battalion Chiefs responded to quickly extinguish the fire which, thankfully,

was stopped before it could spread to other occupancies within the building, including a preschool.

- Last Thursday evening, there was a traffic collision on Moreno Street along the north side of Montclair Plaza. Acting Deputy Fire Chief Jackson, Battalion Chief Pohl, and crews from the Montclair Fire stations 151, 152, and the Upland Fire Department crew with Medic Engine 161 responded. A Multi-Casualty Incident was declared, due to the number of victims and the seriousness of the injuries. Four ambulances and a helicopter were used to transport victims to the appropriate hospitals. The hydraulic rescue tool was used to cut around one vehicle to remove a victim.

➤ **COMMUNITY DEVELOPMENT DEPARTMENT**

- No new information to report.

➤ **HUMAN SERVICES DEPARTMENT**

- Mark your calendars for the 2nd Annual Country Fair Jamboree, to be held on Saturday, June 7 from noon to 8 p.m. at Alma Hofman Park. This year's event will feature children's carnival rides and games, a giant Ferris wheel, a fiberglass slide and a spinner ride for adults and kids alike, a DJ, performances by a an 80's band and a Latin variety band, pony rides, a petting zoo, a BMX demonstration, a skateboarding competition, food vendors (including Tommy's Burgers), contests for all age groups, community organizations, and much more. An added feature this year is the availability of wine and beer for purchase.

Employees interested in volunteering at the event should contact Junior Intern Linda Olmos at ext. 457 or lolmos@cityofmontclair.org.

- The Community Action Committee will sponsor its annual Memorial Day Program on Monday, May 26 at 6 p.m. in the Memorial Garden, located adjacent to City Hall. Featured will be the dedication of two new plaques on our Veteran's Memorial, which is a tribute to deceased Montclair veterans from all branches of service. There will also be a presentation of colors by the Montclair High School POTC, patriotic music performed by the Montclair Walker's Choral Group and a barbershop quartet, refreshments, and readings.

➤ **POLICE DEPARTMENT**

- The Police Department honored its Reserve Officers at an Appreciation Dinner and Awards Ceremony on Thursday, May 15. Joining me, City staff, and family members were Mayor Paul Eaton, Council Members Carolyn Raft and John Dutrey, Fire Chief Rick Mayhew, and Director of Human Services Marcia Richter. The catered affair was held in the Police Department's atrium.

Reserve Officers in attendance, and their family members, were Captain Ron Foss; Sergeant Scott Stephenson; and Joe Kuskie, Randy Ortiz, and Keith Dow.

The Reserves Program is under the supervision of the Department's Community Relations Division. The program was established to supplement and assist regular sworn Police Officers in their duties. As Reserve Officers, Captain Foss, Sergeants Fonseca and Stephenson, and Officers Kuskie, Ortiz, and Dow put on their uniforms and risk their lives side-by-side with regular sworn Officers. They receive similar tactical training and get involved in the same critical incidents as well.

Last summer, Reserve Officers provided a safe and secure environment for weekend guests of the Splash Pad and Skate Park at Alma Hofman Park. They will brave the hot weather again this summer to ensure the safety of park visitors. They also participate in National Night Out, Concerts in the Park, Costco's Safety Fair, the Halloween program, the Easter Eggstravaganza, and several other City and community events. In addition, every month the Reserve Officers work a traffic enforcement detail resulting in the issuance of over 50 citations at each detail. Over the past year, Reserve Officers volunteered a total of 2,294 hours!

Reserve Officer Randy Ortiz received two awards this year: one for volunteering the most hours (394.5) and the other for Outstanding Police Work. Randy continually volunteers his services to better serve the community by working patrol, traffic enforcement, and community events. In addition, Reserve Officer Ortiz focused his efforts on Driving under the Influence enforcement and made three arrests in the past year for DUI. Congratulations, Randy!

The Reserve Officer of the Year award went to Joe Kuskie. Joe dedicates his time and efforts to provide hundreds of hours of service to the community each year. He consistently volunteers for extra assignments, such as DUI Saturation Patrol, Traffic Enforcement Details, and community events. He is also well respected by his peers for his proactive approach towards enforcement activity in the field and his dedication to the community. Congratulations, Joe!

Again, my sincere appreciation goes to Ron, Scott, Frankie, Joe, Randy, and Keith for their devotion and service to the City of Montclair!



From left: Reserve Officers Joe Kuskie and Randy Ortiz



Pictured from left are: Reserve Officer Keith Dow, Reserve Sergeant Scott Stephenson, Reserve Captain Ron Foss, Chief of Police Mike deMoet, Reserve Officer Joe Kuskie, Reserve Officer Randy Ortiz, and Police Captain Robert Avels

➤ **PUBLIC WORKS DEPARTMENT**

- On April 7, 2014, the Montclair City Council awarded a construction contract to Hillcrest Contracting, Inc. for the Monte Vista Avenue Widening Project, which will widen the east side of Monte Vista Avenue from Howard Street to Mission Boulevard. The street currently has one northbound lane and two southbound lanes of travel. When completed, Monte Vista Avenue will have two lanes of travel in each direction.

The improvements include new curb, gutter and sidewalk; new asphalt concrete pavement; fencing; and street lighting. Work also requires the relocation of several power poles, electrical meters, gas meters, and water meters.

This week, utility companies began work to relocate overhead and underground utilities. Following completion of their work, Hillcrest Contracting, Inc. will begin demolition and grading.

Work on Monte Vista Avenue is expected to be completed by August 15. During construction, travel will be cut down to one lane each for northbound and southbound traffic.

Funding for the Monte Vista Avenue Widening Project comes from Proposition 1B and Transportation Development Impact fees.

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

- No new information to report.

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"Patriotism consists not in waving the flag, but in striving that our country shall be righteous as well as strong." ~ James Bryce

MAY 2014



26	Memorial Day – City Hall Closed	
26	Memorial Day Program Montclair Civic Center – Memorial Garden	6:00 p.m.
27	City Manager’s Staff Meeting City Hall Conference Room	9:00 a.m.
27	Planning Commission Meeting Council Chambers	7:00 p.m.

JUNE 2014



02	City Council Meeting Council Chambers	7:00 p.m.
07	Country Fair Jamboree Alma Hofman Park	Noon - 8:00 p.m.
09	Planning Commission Meeting Council Chambers	7:00 p.m.
10	City Manager's Staff Meeting City Hall Conference Room	9:00 a.m.
11	Fiscal Year 2014-15 Preliminary Budget Review Council Chambers	6:00 p.m.
15	Father's Day	
16	Code Enforcement Committee Meeting City Hall Conference Room	6:00 p.m.
16	City Council Meeting Council Chambers	7:00 p.m.
19	Safety Committee Meeting City Hall Conference Room	9:00 a.m.
19	Public Works Committee Meeting City Hall Conference Room	2:00 p.m.
23	Planning Commission Meeting Council Chambers	7:00 p.m.