



September 18, 2014

TO: Honorable Mayor and City Council

FROM: Edward C. Starr, City Manager

SUBJECT: WEEKLY REPORT: September 12-18, 2014

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

- Last year, Governor Jerry Brown signed AB 1371, the Three Feet for Safety Act, authored by Assembly Member Steve Bradford. AB 1371 requires motorists to give at least a three-foot clearance to bicyclists when passing from behind. The law also requires drivers to "slow to a speed that is reasonable and prudent" and pass when the cyclist will not be endangered when traffic or roadway conditions prevent giving three feet when passing. The new law went into effect on September 16, 2014.

In support of the law, the California Bicycle Coalition (CalBike) is launching "I Give 3 Feet"—a media awareness and outreach campaign. This month CalBike is collaborating with the California Chapters of the American Automobile Association, the California Highway Patrol, and CalBike's affiliate members across the state, to educate both the media and the public about the law and why it is so crucial for the safety of everyone concerned for motorists to give at least a three-foot buffer zone when passing a bicyclist.

A series of press conferences will be held across the state hosted by CalBike, the Automobile Club of Southern California, and CalBike's affiliate members across the state. Three Feet for Safety illustrates what many motorists still do not understand—that bicyclists legally have a right to be on the road in California, even on streets that do not include indicated bike lanes. Motorists need to respect bicyclists by learning to pass them safely.

Being hit from behind or sideswiped by a car passing too closely are the top ways bicyclists are injured. Nationally, 40 percent of fatal bike crashes are caused by unsafe passings, according to the League of American Bicyclists.

Motorists who are caught violating the new law will face a \$35 fine plus fees, or a \$220 fine (\$959 with fees) if a collision occurs. Where a violation results in a collision that injures a bicyclist, the law will be valuable because it establishes a basis for citing the driver for unsafe passing.

California now joins 24 other states with similar laws. The law goes into effect as California's state and local governments work to boost bicycling for improved health, reduced traffic congestion, and economic growth. Bicycling has increased 50 percent in California since 2000, according to the California Household Transportation Survey, with about 2 million bike trips daily in the Golden State.

In 2014, California moved from 19th to 9th in the annual Bicycle Friendly State rankings by the League of American Bicyclists. The California State Department of Transportation says it is working with its partners to infuse about \$360 million into biking and other active transportation projects over the next three years, while local sales taxes and the state's cap-and-trade revenue are slated to contribute more than \$1 billion to improve bicycling infrastructure.

California's chapters of the American Automobile Association are supporting the campaign with safety information cards that it is distributing to drivers it helps on the streets and in its annual "School's Open Drive Safely" campaign directed to 250,000 children, young drivers, and parents. The California Highway Patrol is distributing the cards to its public information officers and to visitors at hundreds of its community and safety events, in addition to social media tweets and Facebook posts about the law for their followers.

- Governor Jerry Brown signed a trio of bills Tuesday establishing a framework for statewide regulation of California's underground water sources, marking the first time in the state's history that groundwater will be managed on a large scale. The laws create new local agencies with broad powers to restrict groundwater pumping, shut down harmful wells, and impose fines and criminal penalties for failing to allow inspections.

The regulatory plan signed by Governor Brown is broken up into three bills: SB 1168 by Senator Fran Pavley (D–Agoura Hills) instructs local agencies to create management plans. A measure by Assemblyman Roger Dickinson (D–Sacramento), AB 1739, establishes when the state government can intervene if the local agencies do not sufficiently do their job.

A third measure, SB 1319, also by Pavley, seeks to allay some concerns of farmers by postponing the state's action in certain places where surface water has been affected by groundwater pumping.

Existing state agencies, including the Department of Water Resources and State Water Resources Control Board, will be granted new powers to oversee these local agencies and take over their programs, if deemed inadequate.

The overarching goal, according to the legislation, is to ensure California's groundwater is managed sustainably, generally defined as avoiding "chronic lowering" of aquifer levels. Groundwater makes up about 60 percent of all fresh water consumed in California during drought years, and about 40 percent in average years.

Dozens of agricultural groups opposed the legislation, saying it would add burdensome regulations and costs, and potentially undermine the economic health of farms. The laws are written to exempt small domestic well owners who pump less than 2 acre-feet of water per year; but thousands of larger extractors will fall under the new regulations.

Under the new laws, local agencies will be empowered to impose fees on well owners to cover the costs of preparing a sustainability plan, monitoring pumping and carrying out enforcement. The agencies could undertake long-term water management activities. For example, they will be able to buy water to recharge aquifers and buy land to construct lakes or settling basins where that water could be pooled to soak into the ground. In addition, the agencies will be charged with protecting the quality of groundwater and have the ability to take actions to prevent pollution.

The legislation empowers local agencies to enter private land to inspect wells and pumps within their jurisdiction through a court-issued inspection warrant. Failure to heed such a warrant would be considered a misdemeanor.

The new laws require local agencies to address the interaction between groundwater basins and creeks and rivers in the vicinity, a connection long neglected in California water management. For example, a local agency could decide that sustainable groundwater management includes depleting surface water to some degree. Whether that would pass muster with state officials and wildlife agencies remains to be seen.

The Department of Water Resources and the State Water Resources Control Board, if the laws are enacted, would ramp up new programs to oversee local groundwater agencies. The bills require them to periodically review the sustainability plans. If a plan is found to be inadequate, the water board can take over groundwater management in a local area after holding hearings.

Local agencies would have five to seven years to submit a groundwater plan. The Department of Water Resources would have two years to conduct an initial plan review and must review the plans again every five years. In each case, it could recommend corrective actions. Each local agency would have 20 years to achieve the sustainability goals in its plan.

➤ **FIRE DEPARTMENT**

- Early yesterday morning, OES 331 was assigned to a strike team responding to the King Fire in El Dorado County. The crew assigned to OES 331 is Fire Captain Sergio Mejia, Fire Engineer Jim Colby, Firefighter/Paramedic Nathan Brooks, and Firefighter Mike Matheson.

The King Fire has burned 18,544 acres so far and is 5 percent contained. There are 1,632 single residences and 816 other minor structures threatened by the fire. Currently there are 2,519 fire personnel, 245 fire engines, 62 fire crews, 11 helicopters, 43 dozers, and 57 water tenders assigned to this incident.



Crew assigned to OES 331 (from left to right):
Fire Engineer Jim Colby, Firefighter/Paramedic Nathan Brooks,
Captain Sergio Mejia, and Firefighter Mike Matheson

- On Thursday, September 11, staff from the Police and Fire Departments visited Monte Vista and Ramona Elementary Schools for Patriot Day events, where students presented them with cards, letters, and sweet treats. These events honored police and firefighters in observance of 9/11.

At Monte Vista Elementary School, Deputy Fire Chief Steve Jackson, Fire Captain Thomas Dowser, Fire Engineer Rusty Vidal, and Firefighter/Paramedic Stan Boehm joined the assembly of school staff and students on the blacktop to recite the Pledge of Allegiance and sing *America, the Beautiful*.

At Ramona Elementary School, Police Chief Mike deMoet, Fire Battalion Chief Robert Crouch, Fire Captain Roger Mora, Fire Engineer Jim Colby, Firefighter/Paramedic Jordan Burchett, and Police Officers Andy Graziano, Courtnie Mair, Rob Pipersky, and Miguel Lozano were greeted by school staff and students with thank you cards and posters. During the school's event, a procession of staff and students passed by the first responders giving them thanks and hugs.

September 11, 2014, marked the 13th anniversary of the attacks on the World Trade Center in New York, United Airlines Flight 93, and the Pentagon in Washington, D.C. The Montclair Fire and Police Departments sincerely thank the schools for planning events such as these, where we are able to remember and reflect on the brave actions of 343 firefighters and 60 police officers that died while trying to rescue victims from the horrendous acts of 9/11.

The following photos were taken at the Ramona Elementary School event.





Battalion Chief Robert Crouch, Captain Roger Mora, Engineer Jim Colby, Firefighter/Paramedic Jordan Burchett, and Police Officers Andy Graziano and Courtnie Mair



Police Chief Mike deMoet

- At Monday's City Council meeting, Jim Colby was introduced as newly promoted Fire Engineer, and Jordan Burchett and Michael Hernandez were introduced as the City's newest Firefighter/Paramedics.

Jim began his career with the Montclair Fire Department as a Firefighter on June 9, 2008. On April 29, 2014, he completed the necessary requirements for the position of certified Acting Fire Engineer. Jim successfully tested for the position of Fire Engineer and was promoted on August 25, 2014. Jim takes a great deal of pride and honor with this promotion and looks forward to continuing his service to the City and its residents.

Jordan began his career with the Montclair Fire Department on August 25, 2014. In 2005, he became an Explorer with the San Bernardino County Fire Department. He attended the 35th Fire Academy in 2010 and the 18th Paramedic Academy in 2012, both at Victor Valley College. Jordan feels truly blessed and honored to have this wonderful opportunity with the City of Montclair.

Michael also came on board August 25, 2014. He attended Rio Hondo's 72nd Fire Academy. Previously, Michael worked on an ambulance service, attended paramedic school, and was a Reserve Firefighter at Alhambra Fire Department and a Firefighter at Fullerton Fire Department. Michael is happy to be part of the Montclair Fire Department and is excited to serve the residents of Montclair.

Please join me in congratulating Jim, Jordan, and Michael!



Pictured from left are: Firefighter/Paramedic Jordan Burchett, Fire Engineer Jim Colby, and Firefighter/Paramedic Michael Hernandez

➤ **HUMAN SERVICES DEPARTMENT**

- The City of Montclair is planning to open a community garden in 2015. To raise funds for the new venture, *The Incredible Edible Community Garden* is holding a raffle for a new living room set (\$1,100 value), donated by Ashley Furniture. Tickets for the raffle are being sold as follows: 1 ticket for \$1, 6 tickets for \$5, or 25 tickets for \$20. The winner will be chosen on October 25, 2014, and does not need to be present to win.

Tickets may be purchased by calling or emailing Jessica Wilson, Health Education Intern, at (909) 625-9459, or healthintern@cityofmontclair.org.

A picture of the living room set that some lucky person will win is shown on Page 16.

- Discounted L.A. County Fair tickets are still available for purchase at the Recreation and Senior Centers. Tickets are good for use on any day the Fair is open. Adult tickets are \$11 and child tickets (6-12 years old) are \$6. Children 5 and under are free.

Tickets must be purchased with cash only.

The Fair runs until Sunday, September 28 and is closed Mondays and Tuesdays.

- Yesterday, the Montclair Senior Center's monthly birthday party included an Elvis impersonator, line dancing, and collection displays. Two hundred and fifty seniors enjoyed lunch, cake, popcorn, and snow cones in this Montclair Senior Center Fair-themed event held at the Community Center

Photos are included on Page 15.

➤ **POLICE DEPARTMENT**

- Detectives recently received a DNA hit on a cold case homicide from 1985 utilizing the CHOP database (Codis Hit Outcome Project). The DNA match was linked to a subject who was recently contacted by members of the San Jose Police Department. Last week, Detectives traveled to San Jose in an attempt to locate the suspect. They were assisted by Detectives from the San Jose Police Department. Although they were not able to locate the suspect at that time, San Jose Detectives provided information to surrounding agencies. On Tuesday, September 16, the suspect was arrested by Milpitas Police Department.

Montclair Detectives traveled back to San Jose this week to interview the suspect. Based on the evidence and statements made by the suspect, he will be transported back to San Bernardino County where he will be booked and await trial for murder.

The arrest of this murder suspect can be attributed to the critical assistance received from the San Bernardino County District Attorney's Office and members of the San Jose, Fremont, and Milpitas Police Departments.

Raul Perez is the lead Detective in this case. He is assisted by Detectives Amanda Holloway and John Minook.

- The Montclair Police Department in partnership with the Drug Enforcement Administration (DEA) will give the public its ninth opportunity in four years to prevent pill abuse and theft by ridding their homes of potentially dangerous expired, unused, or unwanted prescription drugs. Bring your pills for disposal on Saturday, September 27 from 10 a.m. to 2 p.m. to the Montclair Police Department, 4870 Arrow Highway, Montclair 91763. This is a free, anonymous, no-questions-asked service.

Last April, Americans turned in 390 tons (over 780,000 pounds) of prescription drugs at nearly 6,100 sites operated by the DEA and its thousands of state and local law enforcement partners. In its eight previous Take Back events, the DEA and its partners took in over 4.1 million pounds—more than 2,100 tons—of pills.

This initiative addresses vital public safety and public health issues. Medicines that languish in home cabinets are highly susceptible to diversion, misuse, and abuse. Rates of prescription drug abuse in the U.S. are alarmingly high, as are the number of accidental poisonings and overdoses due to these drugs. Studies show that a majority of abused prescription drugs are obtained from family and friends, including from the home medicine cabinet. In addition, Americans are now advised that their methods for disposing of unused medicines (flushing them down the toilet or throwing them in the trash) pose potential safety and health hazards.

Intravenous solutions, injectables, and syringes will not be accepted due to potential hazards posed by blood borne pathogens.

➤ **PUBLIC WORKS DEPARTMENT**

- A bulletin issued this week by the law firm Best, Best, & Krieger has advised cities that a recent appeal of a court decision could have significant impacts on the costs of new construction and pavement rehabilitation projects. The Ninth Circuit recently ruled that cities have an obligation under the Americans with Disabilities Act to provide on-street parking that is accessible to people with disabilities. In *Fortyune v. City of Lomita*, the plaintiff filed suit against the City of Lomita alleging none of the City's on-street parking is accessible. The City moved to dismiss the suit because the federal standards for design of ADA-compliant facilities do not contain any requirements related to on-street parking. The Ninth Circuit found, despite the lack of accessibility standards, on-street parking is a "normal function" of a city and, therefore, must be made accessible.

Fortyune is the first case to impose a duty under the ADA where there are no technical specifications for the particular facility involved. To assist public agencies in complying with the ADA, the U.S. Department of Justice has adopted standards that set forth technical requirements for public facilities. For example, the standards require parking lots to have certain minimum numbers of handicapped parking spaces. A city that operates a parking lot is able to ensure compliance with the ADA by following these standards. But the Department of Justice has never established standards for on-street parking.

Now, in light of *Fortyune*, cities must provide accessible on-street parking despite the absence of technical standards. The Ninth Circuit's opinion provides little help in how to comply with this requirement. The opinion does not address whether any particular conditions violate the ADA. The questions left open by *Fortyune* are numerous, but there are two key issues that cities should immediately consider: First, does the city provide a sufficient amount of accessible on-street parking spaces? Second, must the city provide accessible parallel parking spaces? Because the opinion gives little guidance, it is not clear how these issues should be addressed.

The Department of Justice is expected to eventually adopt accessibility standards for public rights-of-way, which should answer the questions related to on-street parking. The Access Board, the federal agency charged with developing accessibility guidelines for the Department of Justice, has already drafted proposed guidelines which include technical requirements for street parking. The Access Board has yet to complete a final version of these guidelines, and until it does, the Department of Justice cannot adopt final standards. In the meantime, cities must nonetheless provide accessible on-street parking even though there are no official standards to detail how this must be accomplished.

Previous court rulings regarding the ADA accessibility requirements have made it mandatory that accessibility be designed into new projects, and retrofitted to projects undergoing major rehabilitation. A thin pavement overlay on an existing street, for example, has previously been ruled a major rehabilitation project, typically requiring handicap ramps be installed at intersections. From this point on, it could conceivably also mean the periodic addition of handicap accessible parking spaces and mid-block ramps.

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

- The Elephant Bar Global Grill/Wok Kitchen casual dining chain has been acquired out of bankruptcy and will be operated by CM7 Capital Partners LLC.

Costa Mesa-based S.B. Restaurant Co., which operated the 34-year-old Elephant Bar chain, filed for Chapter 11 bankruptcy reorganization in June after closing 16 restaurants. At the time, the company said it was looking for a buyer of the remaining 29 units, according to documents filed with the U.S. Bankruptcy Court in Santa Ana. On August 6, Elephant Bar agreed to sell all of its assets to CM7 Capital Partners LLC, an affiliate of the Chalak Mitra Group, to avoid a court-supervised auction.

Terms of the deal, which was scheduled to close on August 29, were not disclosed, but a report in Bloomberg News indicated the buyer would pay about \$1.25 million in cash and assume certain liabilities, including an exit financing credit agreement by lender Cerberus Business Finance LLC for up to \$18.3 million to finance operations. Dallas-based Chalak Mitra Group is taking over operation of the Elephant Bar, with Jimmy Salas as incoming chief executive. Salas replaces former Elephant Bar CEO Bob Holden.

"We are excited to bring the Elephant Bar into our corporate portfolio of dynamic brands, and we're proud that we're able to retain the team members in the restaurant," said Salas in a statement. "We're looking forward to bringing the brand back and returning it to the positive growth trajectory that it was on before."

Chalak Mitra is an investment group with a portfolio that includes some 260 restaurants, including an estimated 100 Genghis Grill locations, along with the Baker Bros. American Deli, Twin Peaks, Ruby Tequila's, and a franchise group that operates Taco Bell and KFC restaurants across the Northeast.

In 2000, Elephant Bar was acquired by Saunders Karp & Megrue, which later became KarpReilly, a firm with an active restaurant portfolio that includes Café Rio, Café Zupas, Burger Lounge, Paxti's Pizza, Sprinkles Cupcakes, The Habit Burger Grill, and Hooters. KarpReilly officials confirmed it no longer holds a stake in Elephant Bar following the Chalak Mitra acquisition.

According to the bankruptcy filing, S.B. Restaurant Co. recorded revenue of \$165.5 million in 2013, a decrease from \$171.4 million the prior year. Same-store sales fell 3.4 percent last year, following a 2 percent decline in 2012. Over the first half of the year, same-store sales dipped 9 percent, largely on falling traffic. S.B. Restaurant Co. blamed the results on increased competition combined with declines in traffic and sales as customers cut back after the recession.

ECS:spa

*May I never miss a sunset or a rainbow
because I am looking down.*

~ Sara June Parker

SEPTEMBER 2014



22	Planning Commission Meeting Council Chambers	7:00 p.m.
23	Autumn Begins	
27	Drug Take Back Event Montclair Police Department, 4870 Arrow Highway	10:00 a.m. - 2:00 p.m.
30	City Manager's Staff Meeting City Hall Conference Room	9:00 a.m.

OCTOBER 2014



1	Community Action Committee Meeting Council Chambers	7:00 p.m.
6	City Council Meeting Council Chambers	7:00 p.m.
8	State of the City and Taste of Montclair Montclair Community Center	11:30 a.m.
8	Oversight Board Meeting Council Chambers	6:00 p.m.
13	Columbus Day – Observed City Offices Open	
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 Council Chambers	2:00 p.m.
20	Code Enforcement Committee Meeting - Canceled	
20	City Council Workshop – David Turch & Associates Council Chambers	5:45 p.m.
20	City Council Meeting Council Chambers	7:00 p.m.
27	Planning Commission Meeting Council Chambers	7:00 p.m.
28	City Manager’s Staff Meeting City Hall Conference Room	9:00 a.m.
31	Halloween	



Senior Center's September Birthday Party





Living room set donated by Ashley Furniture for the community garden drawing