



December 18, 2014

**TO:** Honorable Mayor and City Council

**FROM:** Edward C. Starr, City Manager

**SUBJECT:** WEEKLY REPORT: December 12-18, 2014

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

- Last week prosecutors announced the arrests of two associates of the former law firm of Lackie Dammeier McGill & Ethir (LDME). At the peak of its success, LDME represented police and firefighters associations in many parts of Southern and Central California, including the Montclair Police Officers and Firefighters Associations.

The two private investigators were taken into custody on suspicion of illegally spying on two Costa Mesa city council members and were charged with felony counts of false imprisonment by deceit and one felony count of criminal conspiracy for falsely reporting a crime. If convicted, they each face a maximum sentence of up to 4.4 years, plus revocation of their private investigators' licenses. The Orange County Deputy District Attorney indicated the case remains under investigation, but did not confirm that additional arrests were forthcoming.

The private investigators are accused of illegally spying on the two Costa Mesa council members on behalf of the Costa Mesa Police Officers Association (CMPOA) and LDME—the law firm representing the CMPOA.

Between July and August 2012, prosecutors allege the private investigators conspired to place an electronic GPS tracking device on a vehicle belonging to one of the Costa Mesa council members, without his knowledge or permission, in order to track his movement.

A second council member was followed from a restaurant and a 9-1-1 call was placed alleging the council member was driving erratically and appeared under the influence of alcohol, prosecutors allege. A Costa Mesa police officer reportedly administered a field sobriety test to the council member outside of his home and determined he was not under the influence of alcohol, according to the District Attorney's office.

The two Costa Mesa council members filed a civil lawsuit in 2013, alleging the Costa Mesa Police Officers Association and the law firm acted in concert in an effort to develop negative information, allegedly because the council members proposed pension and benefit changes and supported outsourcing of some city services, according to the lawsuit.

LDME was the leading law firm representing police and fire associations in Southern and Central California before allegations of overbilling and strong-arm tactics against cities brought sharp focus on the representation provided to approximately 120 police and fire associations throughout the state and forced its disbanding in 2013.

In the ongoing investigation related to overbilling, the Legal Defense Fund (LDF) for the Peace Officers Research Association of California (PORAC) filed a lawsuit alleging the law firm double- and triple-billed the LDF for legal representation provided to its clients. The suit alleges legal malpractice, fraud, breach of fiduciary duty, negligence, unjust enrichment, and unfair business practices.

The LDF discovered the anomalies after it installed new billing software that gave its auditor the capacity to run sophisticated comparative reports and analyses. Shortly after its removal as a panel law firm, LDME allegedly waged a campaign to get police unions to leave PORAC and take their business elsewhere.

In a September 2013 letter to LDF Fund participants, trustees "found that the former panel law firm...committed serious acts of misconduct regarding their billing practices." As a result, the LDF removed LDME from its panel of approved providers. The letter defines multiple instances of overbilling, including the following examples:

- 24-hour per day billings by one attorney
- Excess billing almost equal to the average LDF attorney's entire yearly work product
- Acts of double- and triple-billing
- Billings for travel miles that were not actually travelled and billings for traffic delays that never occurred
- At least one LDME attorney allegedly practiced law during a period when her license was temporarily suspended by the California State Bar—LDME allegedly did not advise the LDF of the suspension.

Attorneys representing the LDF and LDME are reportedly working on a settlement related to overbilling-related charges.

California cities dealing with LDME often expressed concern and frustration with the aggressive and overbearing practices employed on behalf of police and fire associations.

After the Costa Mesa and LDF allegations surfaced, many police and firefighters associations dropped LDME, while others reportedly remained supportive and continued with the law firm until it disbanded.

- California has received congressional funding to begin rolling out an earthquake early-warning system next year, capping nearly a decade of planning, setbacks, and technological breakthroughs.

Scientists have long planned to make such a system available to some schools, fire stations, and more private businesses in 2015, but their effort hinged on Congress providing \$5 million. The system would give as much as a minute's warning before shaking is felt in metropolitan areas, a margin that experts say would increase survival.

The U.S. Senate approved the allocation this weekend as part of the \$1.1-trillion spending package, passed by the House of Representatives on Thursday that will fund most of the U.S. government through the rest of the fiscal year.

The early-warning system is considered a major advance in seismic safety because it can give the public crucial seconds to prepare for the effects of shaking. Scientists eventually want to make alerts available to a wider public via phones, computers, and special devices, such as modified weather radios, once the network is refined.

To the consternation of some, California is well behind Japan as well as Mexico, Taiwan, Turkey, and other countries in using early-warning technology.

California's effort was hampered by funding problems, which slowed the installation and upgrades of hundreds of sensors that instantaneously measure ground movement. Scientists also have been working to build a robust computer system that relays warnings faster than the speed of seismic earthquake waves traveling through Earth's surface.

So far, only academics, select government agencies and a few private firms have received alerts from the prototype system. But by next year, access will expand considerably, providing real-time tests that officials hope will identify glitches and help them improve the system.

Officials plan to hook up the alerts to a public announcement system at a select number of schools to warn students and teachers to drop and cover. Others would be routed to fire stations, enabling garage doors to be opened before the power goes out or structural distortions jam the doors. Eventually, the alerts also could give time for private businesses to shut off heavy equipment and for hospitals to suspend surgeries.

The system is already being used by the BART commuter rail system in the San Francisco Bay Area to slow down trains before a quake hits, reducing the risk of derailment.

Early warnings were successfully generated this year in Southern California after several moderate earthquakes. Officials testing the system in San Francisco received 8 seconds of warning before strong shaking arrived from the August 6.0 Napa earthquake that struck this past August.

The early-warning system works on a simple principle: the shaking from an earthquake travels slower than the speed of today's telecommunications system. For example, it would take more than a minute for a 7.8 earthquake near the Salton Sea to shake up Los Angeles, 150 miles away.

Seismic sensors stationed at the Salton Sea could detect the first waves in as little as 5 seconds, and transmit a warning throughout Southern California. In this scenario, Palm Springs would have 20 seconds of warning; San Bernardino, 45 seconds; and the Los Angeles area, more than a minute.

Scientists with the U.S. Geological Survey say they need \$16.1 million a year to build and maintain such a network for California, Oregon, and Washington.

They said they need to more than double the existing network of 400 sensor stations, mostly by adding equipment in areas outside of Southern California. An additional 275 stations are needed in Oregon and Washington.

The California Office of Emergency Services has been looking for private entities to help further fund the California system. One private firm has been using a proprietary system to provide early warning systems to some public agencies, particularly those near the San Andreas Fault. Other firms are looking toward the USGS's system to develop mobile applications and devices similar to emergency weather radios that would provide the alerts to consumers.

- The U.S. Senate on Saturday passed a \$1.1 trillion spending bill that lifts the threat of a government shutdown as Congress attempts to wrap up a two-year legislative session marked by bitter partisanship and few major accomplishments.

The Senate passed the bill by 56-40 sending the measure to President Barack Obama for signature. Passage of the 1,603-page bill was a long, tough struggle in the Senate and the House of Representatives marked by bitter disputes over changes to banking regulations and President Obama's recent executive order on immigration.

The budget had been the subject of months of intense cross-party debate, with both democrats and republicans making concessions.

From January onwards, republicans will hold a majority in both houses of Congress, which they will hope to use to block the adoption of President Obama's amnesty program for some illegal immigrants.

Republican tactics to delay the bill created an opening for democrats in a rare Saturday session to push through dozens of President Obama's nominations opposed by republicans. The roughly 20 nominations including that of Surgeon General, the head of Immigration, Customs Enforcement, and many district court judges would not likely have otherwise been approved this year, with just days remaining in the lame-duck Congress.

With the prospect of a government shutdown fast approaching, Congress twice passed emergency funding bills to buy more time for an agreement

At the behest of Wall Street's biggest banks, republican lawmakers had inserted a line item that repealed one of the signature provisions of the 2010 Dodd-Frank financial reform bill.

This provision, Section 716, required banks to put portions of their riskier derivatives businesses into holding companies. The idea was to separate some of the bank's riskier trading in things like credit default swaps and commodities into a separate entity not insured by US taxpayers. Nevertheless, banks have balked at the rule since it was passed in 2010.

Citigroup, one of the country's largest banks, wrote a measure repealing the provision, and with help from JP Morgan, managed to get republicans to include it in the final \$1.1 trillion budget bill.

Unsurprisingly, this angered many liberal democrats, and even conservative Tea Party members, who saw it as a dirty play by Wall Street to force a Congress desperately in need of passing a spending bill into doing the banks' bidding.

The legislation funds most government agencies through September 2015. The Department of Homeland Security will be treated differently, getting a funding extension only through February 27, by which time republicans will control both chambers of Congress.

The budget also adds emergency funding requested by President Obama, including funds to fight Ebola in West Africa and money for US air strikes against militant group Islamic State in Iraq and Syria.

The 1,600-page bill also included a number of provisions intended to gain votes from both parties, including:

- Increasing the amount an individual person can contribute to a national political party from \$32,400 to \$324,000
- Blocking the District of Columbia from using its own funds to set up regulatory systems for marijuana legalization
- Blocking certain Environmental Protection Agency (EPA) regulations
- Cuts in the budgets of the EPA and the US tax agency
- Increases in the budget for Wall Street regulation agencies, including the Securities and Exchange Commission.

➤ ***FIRE DEPARTMENT***

- On Monday, Medic Engine 151 staff went to Kingsley Elementary school for a fire safety demonstration for three 2nd grade classes and a special needs class. In all, 100 2nd grade students were shown Fire Department apparatus and personal protective equipment; and all of them experienced how it feels to flow water from a fire hose.

Montclair Fire personnel lectured the students on the importance of listening to and respecting their teachers and parents, getting good grades, good behavior, and eating healthy foods. They also discussed what it takes to be a firefighter. Firefighters entertained questions and offered valuable information on what to do if they find matches.



- Montclair Fire administrative and suppression personnel assisted the Human Services Department with the packing and distribution of toy and food baskets on Tuesday and Wednesday.



➤ **HUMAN SERVICES DEPARTMENT**

- At Monday's City Council meeting, the winners of the Community Action Committee's 2014 Holiday Home Decoration Contest were announced. And the winners are:



**Winter Wonderland**  
*Brad & Robin Holtzman*  
9332 Rose Avenue



**Many Faces of Christmas**  
*Pech Family*  
4833 San Bernardino Street



**Simply Christmas**  
*McMillan Family*  
4509 Hawthorne Street

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

Photos are shared on Page 17.

- On Tuesday, a large number of City staff and volunteers took part in the annual food and toy basket sorting in the Community Center. On Wednesday, they assisted with the distribution of baskets. Donations from City staff, businesses, and community members, including a large toy donation from Pacific Towing, helped provide baskets for 191 needy families in Montclair. As always, it was heartwarming to see the appreciation on so many faces as their burdens were made a bit lighter and brighter for Christmas.

Special thanks go to the Fire, Police, Public Works, and Community Development Departments; the Montclair Community Collaborative; Montclair Ontario Junior Women's Club; Montclair Kiwanis; the Montclair business community, and our volunteers for their time and energy that helped to make this program a success.

A collage of photos compiled from the two days is featured on Page 16.

➤ **POLICE DEPARTMENT**

- Annual awards for 2014 were announced by Chief Mike deMoet on December 11 at a holiday party hosted by the Montclair Police Officers Association at Dolce Bistro & Bakery.

Police Officer Nick Almeida was selected by the Police Sergeants as "Officer of the Year"; Police Dispatcher Wendy Vlasak received the Annual Achievement Award; and the Top Shooter awards went to: Detective John Minook (first place); Officer Chris Fisher (second place); and Chad Ebli (third place).

Congratulations to all!

- On December 11, members of the Montclair Police Department conducted a bicycle/scooter/pedestrian safety class at Montera Elementary School. The class is part of the Department's Selective Traffic Enforcement Program (STEP).

The approximately 75 children who attended the safety class were able to demonstrate some of the skills learned on a special course set up for that purpose. Each child in attendance received a bicycle helmet and a headlight for their bicycles.

Funding for the program was provided by a grant from the California Office of Traffic Safety, through the National Highway Traffic Safety Administration.



Motor Officer Michael Lang



- Reserve Officers joined developmentally and physically challenged children and Santa and the Chipmunks aboard the BNSF Santa Clause Express on December 14. They are pictured in the photo below (Ron Foss, Randy Ortiz, Scott Stephenson, and Joe Kuskie).

Children are selected for the free rides by various area hospitals and other organizations. BNSF Railway employees volunteered to host the children and helped Santa and the Chipmunks deliver gifts and refreshments during each of the train trips.



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

- PetSmart Inc., the largest pet store chain in the U.S., agreed to be bought for about \$8.3 billion by a group led by BC Partners in the biggest leveraged deal for an American company this year.

The group will pay \$83 a share, according to a statement. That's about 39 percent more than PetSmart's price on July 2, before activist investor Jana Partners began pushing for the sale. Including debt, the total value of the deal is about \$8.7 billion.

BC Partners beat out other bidders, including Leon Black's Apollo Global Management and KKR & Co., during an auction that came down to negotiations over the weekend. BC Partners struck a deal Sunday after making a final offer a day earlier that topped other bids.

The sale is a victory for investors Jana Partners and Longview Asset Management, which both urged the retailer to sell as its business waned. Same-store sales at the pet supply company were flat last quarter after falling in the previous three months for the first time in at least a decade, as competition from Amazon.com Inc. and other retailers intensified.

Until Jana Partners, the \$10-billion hedge fund run by Barry Rosenstein, began its campaign July 3, PetSmart's shares had tumbled 18 percent in 2014. Shares of Phoenix-based PetSmart jumped \$3.30, or 4.2 percent, to \$80.97. They have climbed 11 percent this year, compared with a 7.6 percent gain for the Standard & Poor's 500 index.

The private equity deal tops Blackstone Group's \$5.4-billion purchase of industrial products maker Gates Global. Buyout firms have held off on making purchases this year as valuations climb with stock benchmarks that have reached records.

- California's unemployment rate will nearly equal that of the nation within two years, according to a new forecast.

The state's jobless rate currently sits at 7.3 percent—the nation's 5th highest and well above the overall U.S. rate of 5.8 percent. Nevertheless, California's job creation has outpaced the national average since 2012, a trend that will continue, according to the quarterly UCLA Anderson Forecast.

The analysis predicts the state's unemployment rate will fall to 5.3 percent by the end of 2016, just slightly higher than the projected national unemployment rate of 5 percent. The report cautions that the state's economy has undergone a fundamental shift since the Great Recession, one that means diminished job prospects for middle-class workers in industries such as construction and manufacturing. As California's workforce shifts toward the higher-skilled information and technology sectors, the change threatens to leave "a sizable segment of the state's working population out in the cold," the report concluded.

The report zeroed in on trends in the construction and manufacturing industries, which sustained heavy job losses during the recession and are not expected to fully rebound. Construction has grown jobs faster than any major industry in California over the last year, but the pace is expected to slow. One reason is the rise of multifamily construction to serve younger buyers and renters who prefer apartments in urban areas. That means less demand for construction workers, because such complexes require far less labor than building single-family homes, according to the analysis.

Manufacturing employment has declined for decades because of automation and a shift to overseas production. However, the job losses have been more pronounced—and permanent—in the wake of this recession and previous ones.

The forecast projects slight growth in California manufacturing employment over the next two years but points out that many laid-off workers may lack the advanced skills required in the evolving industry. The shifts in construction and manufacturing employment means that the state must prioritize workforce development efforts or risk having many older workers left with few opportunities.

Though experts at UCLA project continued economic growth in California that is faster than in the U.S. overall, they point out that the failure to attract and nurture a higher-skilled workforce could put the forecast in jeopardy. The ability of California to attract highly skilled labor from other parts of the U.S. and homegrown workforce development could derail, or accelerate, forecasted growth rates.

One impediment to attracting a skilled workforce to the Los Angeles area, in particular, is the high cost of housing. UCLA economist William Yu noted that, since 2000, Los Angeles has had greater home price appreciation than any other major metro area. He suggested the problem is one of supply, pointing out that Los Angeles has one of the lowest shares of new housing units built since 2000—even when compared with much denser metropolitan areas such as New York City and Boston.

Overall, the continued declines in the unemployment rate are expected to come from consistent job gains at both the low- and high-skilled ends of the workforce. There are steady increases projected in leisure and hospitality, traditionally a lower-paying industry. But growth is expected to be faster in industries connected to the entertainment and technology sectors

Higher consumer demand in California and across the country is also expected to generate more jobs in the transportation and warehousing sector. The tech boom also is expected to produce major gains in the professional services industry, which includes IT workers, accountants, and other consultants.

ECS:spa

*At Christmas, all roads lead home.*  
~ Marjorie Holmes

## DECEMBER 2014



18	Public Works Committee Meeting City Hall Conference Room	4:00 p.m.
21	Winter Begins	
24-31	City Administrative Offices Closed	
25	Christmas Day	

## JANUARY 2015



01	New Year's Day	
05	City Council Meeting Council Chambers	7:00 p.m.
07	Community Action Committee Meeting Council Chambers	7:00 p.m.
12	Planning Commission Meeting Council Chambers	7:00 p.m.
13	City Manager's Staff Meeting City Hall Conference Room	9:00 a.m.
14	Oversight Board Meeting Council Chambers	6:00 p.m.
15	Safety Committee Meeting City Hall Conference Room	9:00 a.m.
15	Public Works Committee Meeting City Hall Conference Room	4:00 p.m.
19	Code Enforcement Committee Meeting City Hall Conference Room	6:00 p.m.
19	City Council Meeting Council Chambers	7:00 p.m.
26	Planning Commission Meeting Council Chambers	7:00 p.m.
27	City Manager's Staff Meeting City Hall Conference Room	9:00 a.m.



*2014 Holiday Food and Toy Program*

# 2014 Holiday Home Decoration Contest

## Winners

### Winter Wonderland



9332 Rose Avenue

**Brad & Robin Holtzman**

### Many Faces of Christmas



4833 San Bernardino Street

**Pech Family**

### Simply Christmas



4509 Hawthorne Street

**McMillan Family**



**Congratulations to all the winners!**