



April 9, 2015

**TO:** Honorable Mayor and City Council

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

**SUBJECT:** WEEKLY REPORT: April 3-9, 2015

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

- On Thursday, May 7, the City of Montclair and the Montclair Chamber of Commerce will host the 3rd Annual Mayor's Prayer Luncheon at the Montclair Community Center from 11:30 a.m. to 1 p.m.

Reservations are due by April 30 and may be made by contacting the Montclair Chamber of Commerce at 909-985-5104. The cost is \$15 per person, or \$150 for a table sponsorship that seats 8.

An event flyer is included on Page 16.

- With California facing one of the most severe droughts on record, Governor Brown declared a drought State of Emergency in January 2014. Since that time, the Governor has issued three additional Executive Orders directing actions to prepare for water shortages.

For the first time in state history, the Governor, in his April 1, 2015 Executive Order, directed the State Water Board to implement mandatory water reductions in cities and towns across California to reduce potable urban water usage by 25 percent statewide. This savings amounts to approximately 1.3 million acre-feet of water over the next 9 months. To achieve these savings, the State Water Board is expediting emergency regulations to set usage targets for communities around the State.

The mandatory water reductions, along with specific restrictions on commercial, industrial and institutional irrigation uses, apply to urban water suppliers as defined in water code section 10617, excluding wholesalers. Generally, urban water suppliers serve more than 3,000 customers or deliver more than 3,000 acre feet of water per year. Suppliers regulated by the Public Utilities Commission are included in the mandatory water

restrictions. The Executive Order requests that the Public Utilities Commission require investor-owned water utilities to implement reductions consistent with the State Water Board requirements for all other urban water suppliers. The specific restrictions and prohibitions on water use in the Executive Order apply to all Californians and are in addition to the specific restrictions and prohibitions contained in the emergency conservation regulation approved by the Office of Administrative Law (OAL) on March 27, 2015.

As part of the mandatory water reduction, the State Water Board is proposing creating a tiered rate structure in order to achieve the mandatory aggregate 25 percent reduction in water consumption. The table below indicates the various proposed tiered water reduction percentages for the various urban water suppliers.

<b>R-GPCD Range (Sept 2014)</b>	<b># of Suppliers Within Range</b>	<b>Conservation Standard</b>
Under 55	18	10%
55-110	126	20%
110-165	132	25%
Over 165	135	35%

As part of the proposed draft regulatory framework, Monte Vista Water District, which provides retail water to the City of Montclair, northern portions of the city of Chino, and wholesale water to the cities of Chino and Chino Hills, will be required to reduce water consumption by 25 percent. The percentage reduction is based on a formula, which measures the amount of water consumed from June 2014 to February 2015 in comparison to the amount of water consumed from June 2013 to February 2014.

The State Water Board is expediting the development and adoption of additional regulations to implement the new restrictions and prohibitions contained in the Executive Order, including the implementation of the proposed tiered rate structure for water consumption. The proposed draft regulatory framework will address the following provisions of the April 1, 2015 Executive Order:

- ✓ Provision 2: Mandatory 25 percent reduction in potable urban water use
- ✓ Provision 5: Commercial, industrial, and institutional potable water use reductions
- ✓ Provision 6: Prohibition on using potable water for irrigation of ornamental turf in street medians

- ✓ Provision 7: Prohibition on using potable water for irrigation outside of new home construction without drip or micro-spray systems
- ✓ Provision 8: Development of new rate structure and other pricing mechanisms to encourage water reduction.

There will be several opportunities for stakeholder involvement prior to the release of the formal notice of emergency rulemaking. The first opportunity follows the release of a Proposed Regulatory Framework and the second will follow the release of a draft regulation, as follows:

- ✓ Governor issues Drought Executive Order: **April 1, 2015**
- ✓ Notice announcing release of draft regulatory framework and request for public comment: **April 7, 2015**
- ✓ Notice announcing release of draft regulation for informal public comment: **April 17, 2015**
- ✓ Emergency rulemaking formal notice: **April 28, 2015**
- ✓ Board hearing and adoption: **May 5 or 6, 2015**

To meet a mid-May to June 1 timeline for implementation of the emergency regulation, interested persons and organizations will be requested to provide input within one week of a document's release.

Information including discussion drafts, draft regulations, and related materials will be available on the State Water Board's website at:

[http://www.waterboards.ca.gov/waterrights/water\\_issues/programs/drought/emergency\\_mandatory\\_regulations.shtml](http://www.waterboards.ca.gov/waterrights/water_issues/programs/drought/emergency_mandatory_regulations.shtml)

For more information regarding the drought and what individuals can do to reduce water consumption please visit: <http://www.ca.gov/drought/>

- In a unanimous decision issued last month, the US Supreme Court, in *Direct Marketing Association v. Brohl*, gave online retailers a significant, albeit temporary, victory. The case involves a question of paramount importance to online retailers whose business model depends on not charging sales taxes. A Colorado statute required online retailers selling to Colorado customers to file a report each year advising Colorado tax authorities of the purchases local residents have made from that retailer. Collectively, the reports would facilitate the state's collection of use taxes from local taxpayers for their online purchases. Because use taxes substitute directly for the sales taxes charged on retail purchases, effective enforcement of the

Colorado statute would end the advantage online retailers have when they can sell tax free.

The Direct Marketing Association (a trade group for online retailers) filed suit seeking an injunction against the tax. The Association argued that the statute violates the Commerce Clause and is nothing more than a device to avoid the Supreme Court's holding in *Quill v. North Dakota* (1992) that online retailers ordinarily do not have to pay sales tax.

The district court agreed and issued an order enjoining enforcement of the statute. On appeal, however, the Tenth Circuit held that the district court's order violated the *Tax Injunction Act*. The Appeals Court's decision did not address the merits of the Colorado statute's constitutionality.

The Supreme Court reversed and remanded. Without deciding whether the statute is constitutional, the Court said the injunction against enforcement of the statute can stand while the parties litigate about the statute itself. The *Tax Injunction Act* limits only those injunctions that reach "the assessment, levy, or collection" of a tax. The Court said the Colorado statute imposes notice and reporting requirements, but those are nothing like "the assessment, levy, or collection of a tax."

However, what is more telling regarding the question of collection of sales taxes for products sold online is the concurring opinion issued by Justice Anthony Kennedy. Justice Kennedy wrote separately to emphasize his view that the Court should overturn *Quill v. North Dakota* and allow the states to impose sales taxes directly on the business of online retailers.

The *Quill* opinion is much more harmful now to the states and local governments than when it was decided. Justice Kennedy noted that mail-order commerce was approximately \$180 million at the time of *Quill* (1992 – a few years before internet commerce), compared to more than three trillion dollars in 2008. Given the increased harm and the transformational effect on our society and economy of electronic communication, Justice Kennedy called for the Court to reconsider *Quill* as soon as possible.

- A pay-TV industry trade study reports that in 2014, as many as 1.4 million U.S. households cut their pay-TV subscription, a number that appears to have markedly increased over previous years. If the assumptions are correct, the data could spell bad news for cable and satellite operators and another blow to the generation of local government revenues.

According to the Moffett-Nathanson report, the new figures are the highest 12-month total recorded since 2010 and bring the cumulative total of cord cutters (households that terminate pay-TV service) to about 3.8 million households nationwide.

There was a caveat in the information, though: The analyst firm warned that the government's occupied housing data is "notoriously volatile." Furthermore, the latest pay-TV subscriber data coming in is from the fourth quarter of 2014, and plenty has changed just in the first two months of 2015 with the launch of Dish Network's Sling TV over-the-top (OTT) service and the anticipated launches of HBO's a la carte OTT service and Sony's virtual MVPD play.

Industry analysts appear to be scrambling to make sense of cord-cutting from a slew of consumer data. Earlier in 2015, Parks Associates reported that a survey of broadband homes returned data suggesting that as many as 7 million U.S. households would cancel their pay-TV subscriptions after services like HBO a la carte became available. Similarly, a Sanford C. Bernstein analyst reports a 4 percent decline in total day TV viewing was due to direct competition from subscription video on demand services like Netflix and Amazon.

However, the latest OTT services may not be the real danger to pay-TV operators or networks. The dark horse is a growing millennial generation of new content creators using entirely different distribution models.

The rise of multi-channel networks on YouTube and the surprising popularity of the live-streaming game site, Twitch, are two prime examples of content distribution models that appeared out of left field, catching networks and distributors by surprise and spurring a rash of acquisitions by Disney, Amazon, and others.

Apparently, the way people are consuming video is changing. People have not stopped watching programming; rather, they appear to be watching in different ways.

➤ **COMMUNITY DEVELOPMENT DEPARTMENT**

- In July 2010, Planning Division staff crafted the City's Water-Efficient Landscaping and Conservation Ordinance, which was in large part modeled after the State's Model Water Efficient Landscape Ordinance. In preparing the subject Ordinance, City staff participated in a month-long joint effort with the Inland Empire Utilities Agency (IEUA), representatives from local water agencies and municipalities served by IEUA, and landscape professionals to develop a model ordinance that would be consistent with and/or exceed the provisions of the State's model, and yet be tailored to local conditions.

The IEUA Model Ordinance was completed in the summer of 2009 and was used in the preparation of the Ordinance for the City of Montclair. The intent of the Ordinance is to protect water supplies through the implementation of a comprehensive approach to the design, installation, and maintenance of landscapes, resulting in water conserving, climate-appropriate landscapes.

Because the 2010 Ordinance was far more comprehensive than the one it replaced, often referred to as the "Green Lawn Ordinance," the old Code section governing landscaping was scrapped and replaced in its entirety nearly five years ago.

Chapter 11.60 of the Montclair Municipal Code contains the following requirements:

**Landscape Architect** – A duly licensed landscape architect is required to prepare landscaping plans for a project.

**Water Budget** – Each project subject to the Ordinance is required to develop a water budget to tailor water usage to the proposed plant materials and evapotranspiration (ET) factors to reduce the use of artificially applied water. The reduction in applied water allowance influences design and plant selection, and limits the amount of turf used.

**Hydrozones** - New landscapes are required to be divided into hydrozones, with plants requiring similar water usage grouped into appropriate hydrozones. The State Department of Water Resources (DWR) model ordinance requires use of a state-recognized publication listing plants and their water usage known as the Water Use Classification of Landscape Species (WUCOLS), published by the University of California Davis, DWR, and the Bureau of Reclamation. Rather than incorporate the entire plant list into the Ordinance, it incorporates the WUCOLS document by reference.

**Turf Limits** – Turf is limited to a maximum of 50 percent of total front and/or street side landscape areas. Lawns will need to be smaller and more purposefully placed. This requirement would not apply to "special landscape areas," such as active parks and playfields.

**Synthetic Turf** – Unlike the City's former "Green Lawn Ordinance," the Water-Efficient Landscaping and Conservation Ordinance allows the use of synthetic turf subject to specific criteria and limitations.

**Weather-Based Irrigation Systems and Schedules** – Irrigation controllers are required to incorporate weather-based, soil moisture-based, or other self-adjusting technology. Sensors (e.g., rain, freeze, wind, etc.) are required to suspend irrigation during unfavorable weather conditions.

**Sprinkler Setbacks** – No sprinklers or other overhead irrigation are allowed within 24 inches of hard scape or non-pervious pavements. Allowable irrigation within the setback from non-permeable surfaces may include drip, drip line, or other low-flow technology.

**Certification** – Post-installation certification is required, which includes a water audit of the installed irrigation system, an irrigation schedule for both

establishment and ongoing maintenance, and the results of the post-installation soil analysis.

The standards contained in Chapter 11.60 apply to all new residential, multi-family, commercial, mixed-use, industrial, and public institutional projects when discretionary approvals or permits (e.g., a Precise Plan of Design, Conditional Use Permit, tentative parcel or tract maps) from the City are required. Types of projects requiring discretionary City review and approval include residential subdivisions, construction of new commercial and industrial buildings, and major building additions or modifications that include landscaping improvements.

The following table summarizes the applicability of the Ordinance to new projects within the City.

Applicability of Chapter 11.60 MMC	
<i>Project Type*</i>	<i>Threshold</i>
Single Family Residence (with landscaping installed by developer or homeowner)	New landscape area of 5,000 square feet or greater (cumulative)
Residential Subdivisions (including maps)	New or affected landscape area of 2,500 square feet or greater (cumulative)
Multi-Family Developments	
Commercial (new or expanded)	
Industrial (new or expanded)	
Public Agency (new or expanded)	
*Discretionary approvals and permits from the City include PPD, CUP, and building permits.	

Chapter 11.60 does not affect existing landscapes. Existing landscapes installed before the effective date of this Ordinance are exempt provided they are maintained in good condition, or that any new landscape improvements do not exceed the applicable threshold levels for compliance. Similarly, there is nothing that would require replacement of any landscaping or irrigation system that would remain undisturbed by construction activities (e.g. during an interior remodeling project). However, voluntary upgrades of existing landscaping to meet the "General Requirements for all Properties" as listed in Chapter 11.60 are strongly encouraged.

Adoption of the Water-Efficient Landscaping and Conservation Ordinance has resulted in more attention being given over the past five years to the issue of water usage for landscaping, the incorporation of new irrigation methods and technology, and its maintenance and management. Since implementation of the Ordinance, the most observable difference in new projects has been a reduction, or in many cases, the complete absence of turf areas, which require more irrigation than other plant materials. In the long run, a more efficient landscape plan will be of major economic benefit to the property owner in the form of lower water bills, in addition to helping with water conservation efforts.

While the Ordinance applies primarily to new construction projects, owners of existing properties are encouraged to voluntarily incorporate water-saving techniques into their landscaping and irrigation practices whenever feasible. Front yards with no landscaping or unmaintained landscaping are a detriment to Montclair's neighborhoods, negatively impact property values, and indicate a lack of pride of ownership to the casual observer.

Over the past several years, Planning and Code Enforcement staff have encouraged many homeowners who have yards exhibiting these conditions to seriously think about moving away from traditional landscaping and consider what has come to be known as "California-friendly" landscaping, which incorporates drought-tolerant plant species, mulch, decomposed granite, gravel, rock gardens, drip or low-flow irrigation, and the like. Such landscape palettes are generally turf-free.

More recently, Senior Code Enforcement Officer Gabe Fondario initiated a project that provided deliveries of mulch, at no charge, to homeowners desiring to eliminate their lawns and pursue alternative landscaping palettes. An additional resource in Montclair is the Chino Basin Water Conservation District, where the staff will provide advice to homeowners interested in installing drought-tolerant landscaping, including preparation of a site-specific project design.

During his presentation at Monday night's City Council meeting, General Manager Mark Kinsey of the Monte Vista Water District said the rulemaking associated with the Governor's directive to cut water usage by 25 percent is expected to be completed next month. In conjunction with the directive, modifications are expected to the State's Model Water Efficient Landscape Ordinance. Once those amendments are identified and adopted, staff will prepare amendments to the City's Ordinance in order to be in compliance with State law.

➤ ***HUMAN SERVICES DEPARTMENT***

- Yesterday, the City's Por La Vida Program received the "Women Helping Women" award at the 24th Annual Prism Awards Luncheon, hosted by Soroptimist International of Montclair/Inland Valley Mayor. Program Specialist Leticia Gavilanes accepted the award on behalf of the City and Por La Vida.

Paul Eaton and Ginger Eaton, Director of Human Services Marcia Richter, Senior Human Services Supervisor Michelle Castillo, and Administrative Aide Thailin Gavilanes were all in attendance to applaud the winners. Also present were three longtime Por La Vida consejares (lay community health promoters) who teach health and nutrition classes.

Since 1998, the Montclair Por La Vida Program has taught more than 2,000 students and 125 consejares in Montclair the importance of health and nutrition.



Leticia Gavilanes pictured with Ginger Eaton (on right)



From left, pictured are: Consejara Cleo Miranda, Consejara Emma Castillas, Leticia Gavilanes, Consejara Garcicela Reza

- Several hundred children and adults attended the City's Easter Eggstravaganza and Pancake Breakfast on Saturday, April 4 at the Community Center. Council Members John Dutrey, Bill Ruh, and Trisha Martinez, and I enjoyed ourselves immensely, especially the delicious pancake breakfasts cooked and served by members of the Kiwanis Club. Kudos to the club's members for serving over 300 meals of pancakes, sausage, orange juice, and coffee!

As is customary, the Easter Bunny arrived in a Montclair Fire engine and then posed for pictures (sponsored by the Montclair-Ontario Junior Women's Club). Attendees enjoyed taking their individual pictures at the new Easter photo booth station.

Special appreciation goes to the following:

The Information Technology Division for setting up and printing the bunny photos

The Fire Department for delivering the Easter Bunny

The Montclair Fire Fighters and Police Officers Associations for donating and presenting the children's opportunity gift baskets

The Montclair Kiwanis Club and Montclair-Ontario Junior Women's Club

The countless number of volunteers for their tireless work during the event

The Human Services Department for coordinating the event.

Pictures are featured on Page 15.

➤ ***POLICE DEPARTMENT***

- This week, the Montclair Police Department hosted Standardized Field Sobriety Testing (SFST) and Advanced Roadside Impaired Driving Enforcement (ARIDE) training in the EOC. Eight of our Officers attended the four days of training, taught by officers from California Highway Patrol and Glendale Police Department.

The classes were arranged by Lt. Brandon Kumanski to keep the Department in compliance with the training requirements of the California Office of Traffic Safety grant.

The use of SFSTs is an effective means of identifying, apprehending, and prosecuting impaired drivers. The two-day SFST training is a comprehensive course designed to increase an officer's ability to detect the impaired driver.

The ARIDE program was developed by the National Highway Traffic Safety Administration. The two-day course trains law enforcement officers to observe, identify, and articulate the signs of impairment related to drugs, alcohol, or a combination of both, in order to reduce the number of impaired drivers and impaired driving-related traffic collisions.

It is the intention of the Department to ultimately have every Officer attend this DUI training.

➤ ***PUBLIC WORKS DEPARTMENT***

- Yesterday, Leadworker Chad Quidor held a "Concrete 101" class for City Yard Maintenance Workers.

Over the past several years, Chad has attended World of Concrete conventions, and he has received certificates in multiple concrete standards and processes. With this specialized knowledge, Chad developed a manual on basic-to-intermediate concrete techniques and procedures that he assembled for classroom instruction and hands-on training.

Chad spent the morning going over the fundamentals of concrete which include grade preparation, forming, properties of concrete, processes, calculations, finishing, and problems. Each segment contained details on required tools, types of form boards, types of concrete, finishing styles, and things that can go wrong and how to prevent them.

Next week, Chad will host two additional classes. Day one will be on grading and forming, and the second day will consist of pouring and finishing.

This training will give the City Yard staff a good grasp on sidewalk, curb, and gutter repairs on City streets and slab work needed in areas throughout the City.

Thanks, Chad, for stepping up to assist with this necessary training.

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

- Buffalo Wild Wings is the fastest-growing restaurant chain in the US, and the company is thriving where casual-dining competitors like Red Lobster, Olive Garden, and Applebee's have struggled.

How did executives do it? By making Buffalo Wild Wings a fun place to hang out.

While many chains focus on the food and the menu, Buffalo Wild Wings invests in the customer experience.

Each location has numerous TVs, and customers can watch the event of their choice. Customers can play trivia games on tablets as servers entice them to sample new sauces.

Buffalo Wild Wings has been able to capitalize not only on serving budget friendly meals, but also on providing entertainment to customers. Buffalo Wild Wings it not only entertaining, it provides cost-conscious customers with a meal and a show.

Buffalo Wild Wings' success can be partly attributed to consumers moving to affordable subscription services like Netflix over traditional, costly cable packages, writes Bryan Gruley at Bloomberg.

Buffalo Wild Wings focuses on providing customers with top cable and satellite channels. In particular, Buffalo Wild Wings has focused on providing premium channels that many customers have abandoned as many households have begun to "cut the cord" with traditional bundle cable and satellite providers. Buffalo Wild Wings became an early adopter of flat screens and high-definition TV that allows customers to view a multitude of programs.

The company has hired "guest captains" who are responsible for changing TV channels. They were key to the brand's March Madness strategy, vice president of marketing Bob Ruhland told *Business Insider*.

Buffalo Wild Wings is slated to build as many as 600 locations in the US.

- Conventional wisdom is that women account for the lion's share of consumer spending, including online purchases. But it turns out that men are the power shoppers when it comes to purchases made on smartphones and tablets.

A new report released by *Business Insider Intelligence*, breaks down the demographics of U.S. online and mobile shoppers by gender, age, income, and education, and takes a look at what they are shopping for and how their behaviors differ.

The report found several note-worthy purchase patterns regarding men's e-commerce and mobile commerce habits:

When it comes to e-commerce, men drive nearly as much overall spending online in the U.S. as women. The conventional wisdom is that women drive shopping trends, since they control up to 80 percent to 85 percent of household spending. However, in 2010, comScore estimated that women account for \$6 out of every \$10 spent online. In 2012, a Greenfield survey found that women account for 58 percent of online spending in the U.S.

Men are more likely to make purchases on mobile devices: 22 percent of men made a purchase on their smartphones last year, compared to 18 percent of women. And 20 percent of men bought something on a tablet, while the percentage for women was 17 percent.

Men are avid users of online auction sites: 43 percent of men aged 18-34 say they typically shop on online auction sites like eBay, compared to only 31 percent of women the same age.

Men are price conscious. Men of all age groups are more likely to look for lower prices on their phones than women and are more likely than women to buy things on their phone.

Male teens are also more avid e-commerce shoppers than their female counterparts. Among teens, the proportion of males who report shopping online (86 percent) is 10 percentage points higher than that for teen girls (76 percent). Also, a higher percentage of teen boys say they shop at general interest e-commerce sites like Amazon (34 percent) and eBay (8 percent) than is the case among teen girls, who prefer more specialized and fashion-conscious sites.

ECS:spa

"The most precious thing that we as humanity hold is the innocence in that of a child's smile, and we have a moral obligation to preserve it."

~ Victor L. Guerrero

# APRIL 2015



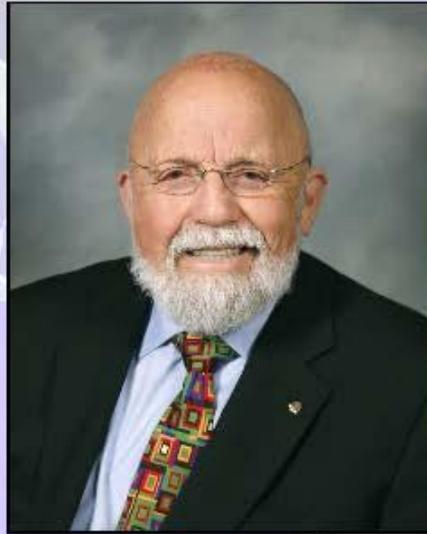
13	Planning Commission Meeting Council Chambers	7:00 p.m.
14	City Manager's Staff Meeting City Hall Conference Room	7:00 p.m.
15	Montclair Farmer's Market Montclair Town Center	4:00 p.m. - 7:00 p.m.
16	Safety Committee Meeting City Hall Conference Room	9:00 a.m.
16	Public Works Committee Meeting City Hall Conference Room	4:00 p.m.
20	Code Enforcement/Public Safety Committee Meeting City Hall Conference Room	6:00 p.m.
20	City Council Meeting Council Chambers	7:00 p.m.
22	Montclair Farmer's Market Montclair Town Center	4:00 p.m. - 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.
29	Montclair Farmer's Market Montclair Town Center	4:00 p.m. - 7:00 p.m.



**EASTER  
EGGSTRAVAGANZA  
2015**



**JOIN COMMUNITY AND CHURCH LEADERS FOR A MESSAGE OF HOPE  
AND ENCOURAGEMENT FOR OUR COMMUNITY THROUGH PRAYER**



*Mayor Paul M. Eaton*

# **MAYOR'S PRAYER LUNCHEON**

**THURSDAY, MAY 7, 2015**

**11:30 a.m. to 1:00 p.m.**

**Montclair Community Center**

**5111 Benito Street, Montclair**



**Make Your Reservation by Contacting the  
Montclair Chamber of Commerce**

**\$15.00 per person or \$150 for a table sponsorship for 8 people**

**Reservations due by April 30, 2015 ~ Check or Cash Only  
(909) 985-5104**

**A RESERVATION MADE IS A RESERVATION PAID**