

**CITY OF VERNON**

**REPORT OF**

**JOHN VAN DE KAMP**

**INDEPENDENT REFORM MONITOR**

**Dated July 31, 2015**

## TABLE OF CONTENTS

	<b>Page</b>
PREFACE .....	1
RECENT DEVELOPMENTS .....	2
CHAPTER I Senator De Leon’s Critical Path Reforms.....	9
CHAPTER II Recommendations From Past Independent Reform Monitor Reports To Be Completed .....	14
CHAPTER III Housing .....	20
CHAPTER IV The Audits .....	22
A. PERS Audit .....	22
B. The JLAC Audit (Joint Legislative Audit Committee) .....	22
CHAPTER V Compliance Review .....	29
A. Conflicts of Interest–Economic Interest Statements .....	30
B. Campaign Statements .....	30
C. Public Records Request .....	30
CHAPTER VI Business Activity in the City.....	31
CONCLUSION .....	36
RECOMMENDATIONS	
A. Recommendations from Senator De Leon’s 2011 Critical Path Reforms To Be Completed.....	i
B. Recommendations from the Independent Reform Monitor To Be Completed .....	i
C. New Recommendations .....	ii

## PREFACE

In 2011 Vernon was a City in trouble.

After surviving the recession, Vernon faced disincorporation. Then Speaker John Perez introduced two measures (AB 47 and AB 71) to disincorporate the City. At that time Vernon was seen (among other criticisms) as paying outlandish salaries to its City Administrator and its Councilmembers, and substantial questions were raised as to whether it could govern itself properly.

The measures failed, in large measure because when it reached the State Senate, Kevin De Leon, now the President Pro Tem of the Senate and other Senators, concluded that Vernon should be given an opportunity to put its house in order.

Before the measure died, on February 11, 2011, I was tasked with the role of Vernon's Independent Ethics Advisor and promptly brought in Robert Stern, the former general counsel of the Fair Political Practices Commission and Cynthia Kurtz, the former City Manager of Pasadena, to help me make recommendations for change and "initiatives in the best interest of the City," as well as to report on the City's compliance with the Political Reform Act, Government Code §1090, the Brown Act, the Public Records Act and conflict of interest requirements. We filed our first report on July 31, 2011.

My role was retitled as "Independent Reform Monitor" and my term was extended for four years on February 15, 2012. My reports have been issued every six months.

This will be my ninth report. All of the reports can be found on the Vernon website, [www.cityofvernon.org/goodgovernance-reforms](http://www.cityofvernon.org/goodgovernance-reforms). They provide status reports about Vernon's progress (or lack thereof) to offer recommendations regarding the way the City should go about its business.

This report which covers the period January 31, 2015 to July 31, 2015 has been prepared with the assistance of Robert Stern and as in the past has received strong cooperation from Vernon's administrative staff as well as my staff at Mayer Brown LLP.

Let me make this clear: I have no executive power. The City Council and the City Administrator bear the burden of decisions affecting reforms and improvements in the way the City does its business. I can only recommend. The City has shown consistent support for the essential reform measures recommended by Senator De Leon and me.

In the next section I will report on recent developments in Vernon.

But in sum it can be said that Vernon's good governance momentum is still strong. At the same time its government leaders must keep in mind that the primary stakeholders in Vernon are the businesses that employ over 50,000 men and women and must work to make sure that the City provides the necessary services they require at a cost that is competitive with other cities.

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John K. Van de Kamp

## RECENT DEVELOPMENTS

### The City's Financial Picture

At the May 19, 2015 Council meeting Finance Director Fox reported on the City's financial results for the third quarter of 2014-2015 and has provided me with a forecast for fiscal year ending June 30, 2015. They are in short as follows:

	<u>Recorded Results of 3/31/2015</u>	
	Budget/in millions	Actual/in millions
Governmental Revenues	50.9	54.9
Governmental Expenditures	56.0	53.1
Enterprise Revenues	209.0	185.0
Enterprise Expenditures	220.7	196.1

	<u>Forecast For The Year – in millions</u>	
	Budget	Forecast
Governmental Revenues	71.8	75.5
Governmental Expenditures	71.8	70.6
Enterprise Revenues	271.5	245.6
Enterprise Expenditures	271.5	247.0

The net result, if the forecast holds true, is a small surplus of \$3.5 million. This amount could change depending upon final year end accounting adjustments. Such a deviation, if any, would not be material in nature.

### Pension Funding Liability

There is no change to report on the Pension Funding Liability. The most recent report being the 6/30/2013 Valuation Date. The 6/30/14 Valuation Date actuarial report is expected to be released by CalPERS in October 2015. There is always a lag time when this information is made available and published.

- Safety Plan Schedule of Funding Progress

Valuation Date	Actuarial Liability	Asset Values	Unfunded Liability	Funded Ratio
6/30/2013	\$195.5	\$144.3	\$51.2	73.8%
6/30/2012	187.8	156.9	30.9	83.5%
6/30/2011	169.9	149.2	20.6	87.9%

- Miscellaneous Plan Schedule of Funding Progress

Valuation Date	Actuarial Liability	Asset Values	Unfunded Liability	Funded Ratio
6/30/2013	\$122.7	\$93.7	\$29.1	76.3%
6/30/2012	116.8	101.7	15.1	87.1%
6/30/2011	108.1	97.2	10.9	89.9%

While the CalPERS provided information is 25 months behind the date of this report and does not consider the cumulative improved market conditions since the June 30, 2013 valuation date, the reduction in the funded ratio is cause for concern. Reasons advanced for the substantial reductions in the funded ratio are an increased number of normal retirements, a 2013 early retirement program, and an older remaining work force. Vernon's workforce has declined substantially from 2007. In 2007 Vernon's workforce totaled 322 employees. On June 30, 2015 it stood at 260 (including City Council members).

As required by the Government Accounting Standards Board (GASB), Vernon is addressing the accounting and financial reporting of government pensions following pronouncement GASB #68, *Accounting and Reporting for Pensions* effective fiscal year ending June 30, 2014. Under this methodology, Vernon is required to account and report the full cost of pension costs and establish a funding plan to address the existing shortfall.

**2015-2016 Budget**

On June 2, 2015 the Council approved the 2015/2016 budget: The numbers approved:

(1)	Government Funds	\$75,157,866
	Government Expenditures	\$75,428,334

(2)	Business Type Funds (includes light, power, water, etc.)	\$265,116,467
	Business Type Expenditures	\$264,845,999
(3)	Total Revenues	\$340,274,333
	Total Expenditures	\$340,274,333

This budget called for a small increase in revenues and expenditures over the forecasted results from 2014-15, primarily related to the cost of natural gas being projected to be higher. Budget expenditures are adequate to address staffing, service levels, and deferred maintenance. New revenues included a 3.5% increase in its electric rate schedule, an increase in its warehouse parcel tax from \$29.39 to \$29.54 per 100 square feet of gross area of land based on increases in the Consumer Price Index. Overall, revenues and expenditures constitute a 1% decrease over that budgeted from 2014-2015.

### Refinancing

On July 9, 2015, the City successfully sold \$111.7 million in 2015 Series A Taxable Electric System Revenue Bonds. The sale provided funds to (a) refund a portion of the City's outstanding 2009 Series A Electric System Revenue Bonds, (b) finance costs of terminating two existing interest rate swap agreements, (c) fund a deposit to the Debt Service Reserve Fund, and (d) pay the cost of issuance of the new 2015 Series A Taxable Electric System Revenue Bonds. The fortuitous time of the sale enabled the City to secure this debt at an attractive average coupon rate of 4.58%.

### **Finance Director Fox Reports**

“The financial impact of the bond financing is a reduction in cash outflow over the next 7 years of \$12.5 million annually, with some fluctuations depending on the level of debt service each year. However, after 7 years, the new refunded debt service over an additional 5 year period will increase approximately \$21.8 million per year, which will still be lower than debt service payment levels prior to bond refinancing. After that seven-year period, there will be even lower debt service payments since the debt restructuring will have been substantially completed. The net impact of the financing is \$9.1 million additional debt and interest costs over the next 27 year period. The new debt structure provides a smooth transitioning to stabilize customer electric rates so that future increases can be lower and more predictable. The retirement of the two interest rate swap agreements eliminates the market rate volatility and financial burden that existed in the City's financial structure.”

## **Elections**

Two elections were held in the period.

On February 17, 2015, Melissa Ybarra, the daughter of former councilmember Michael Ybarra, ran unopposed and was elected to fill his unexpired term.

On April 14, 2015, an election was held to fill the seat of retired councilman Richard Maisano. In that election Yvette Woodruff-Perez prevailed over Dennis Roberts in a 21-13 vote.

Both Ybarra and Woodruff have assumed office.

## **Personnel**

The only major personnel change in the past six months was the appointment of Maria E. Ayala as the City Clerk. Ana Barcia, who filled in admirably while Deputy City Clerk, continues to fill that position.

On July 7, 2015 the City Council's agenda package included an "Authorization to Issue a Request for Proposals for an Executive Search Firm to Conduct a Recruitment for the Position of City Administrator."

The background: The City Administrator is planning to retire after 26 ½ years of service with the City. In anticipation of the City Administrator's retirement, it is vital to begin recruitment planning for the next "big picture generalist."

The Council approved going forward with the RFP. At the Council meeting the City Administrator said he was considering retirement at the end of 2015 but had not yet submitted resignation papers.

In my last report, January 31, 2015, I noted that there had been a hint of City Administrator Mark Whitworth's resignation, but he never submitted a resignation request. On January 6, 2015, the Council approved a new contract with him.

In that report I stated that "should retirement be reconsidered, I recommend that it be done in such a way that a search be undertaken, with enough lead time so that the search be completed and an adequate transition period be in place before he begin retirement."

This recommendation has been accepted. Given the need to select a search firm, followed up by a search, it appears that approximately six months will be needed to complete this critical task. I say critical, because the continuation of Vernon's good government policies falls directly on the shoulders of the City Administrator. Getting the right person to fill this position is critical to the future success of the City.

It is strongly recommended that the Council stress in its RFP material as well as in its ultimate determination for a new City Administrator that he or she should be committed to continuance of the reforms that have been made, and to good governance practices.

## **Bruce V. Malkenhorst**

Long time City Administrator Bruce Malkenhorst has filed a variety of law suits against CalPERS and Vernon regarding his retirement benefits for his work in Vernon. The final hearing of his administrative appeal had been set for February 19, 2015, but that has been continued. Below is a status report on the pending Malkenhorst cases.

1. In the Matter of the Calculation of Final Compensation of Bruce V. Malkenhorst, Sr. (CalPERS Case No. 2012-0671) (administrative appeal of CalPERS' decision to reduce pension.)

Administrative hearings have concluded, and the parties were ordered to submit closing briefs by May 22, 2015, in lieu of oral closing arguments. In its closing brief, CalPERS' arguments focused on the agency's discretion in interpreting and applying its own regulations, and the lack of a published salary schedule for Malkenhorst's multiple positions.

After completing this administrative appeal, Malkenhorst will have exhausted his available administrative remedies, and will likely appeal (if he loses) and/or re-file other cases that have been dismissed pending exhaustion.

2. Bruce V. Malkenhorst, Sr. v. City of Vernon, et al. (Los Angeles Superior Court Case (LASC) No. BC516321) (Breach of contract action against the City; Malkenhorst alleges that the City is contractually obligated to make up the difference between his higher pension amount and the amount reduced by CalPERS.)

After the City prevailed in having this case dismissed by the trial court (based on failure to exhaust administrative remedies), Malkenhorst filed a notice of appeal. Malkenhorst has requested an extension of time to file his opening brief, until June 23, 2015.

3. Bruce Malkenhorst, Sr. v. State of California, et al. (United States District Court Case No. SACV14-00269) (Federal lawsuit challenging the constitutionality of Government Code section 53244, "Malkenhorst's Law")

District Court (Judge Carney) granted the City's motion to dismiss, finding that there is no legal basis for naming the City as a real party in interest. The Court also granted the State of California Defendants' motion to stay the case, finding that the federal litigation is premature since the same facts and legal issues were pending in the LASC case against Vernon. This case is stayed pending the resolution of the breach of contract action against the City in state court.

## **Exide**

Exide, the long time battery recycler in Vernon, announced on March 11, 2015 that it would permanently close its Vernon plant, thereby avoiding criminal charges under an agreement reached between the company and the U.S. Attorney's Office.

The facility, which has operated in Vernon since 1922, was taken over by Exide in 2000 and had operated for years with only a temporary permit from the California Department of Toxic Substance Control (DTSC).

Before the announcement, Exide had stated that its goal was to have a full permit in place by the Spring of 2015, and had begun working on a remediation program to remove excessive lead contamination from the soil in a number of homes in Maywood and Boyle Heights.

DTSC had also found that Exide had been releasing cancer causing arsenic into the air for years. Elevated levels of lead in the soil had been found in the soil of homes and a school near the Vernon plant.

Under the agreement, Exide will demolish and clean its 15 acre Vernon facility and remove lead contamination from hundreds of homes in Southeast Los Angeles County. (Exide has already cleaned soil from about 40 homes where elevated lead levels were found).

Closing and cleaning the plant site will cost at least \$38.6 million dollars according to state officials. At least another \$9 million will be spent cleaning home sites. The company is required to put clean up money in its trust fund, with payments over the next five years.

Exide also agreed to provide free blood lead testing for another five years. Of the testing conducted thus far no children tested above the level the United States Center for Disease Control considered elevated for children. Of the 600 persons tested by March 11, 2015 none had lead levels high enough to require medical intervention. In the meantime the Exide closure impacts 130 employees and their families. The company filed for bankruptcy in 2013. On March 27, 2015 Exide Technologies won bankruptcy approval to restructure, cutting \$600 million from its \$1 billion in debt, and put the Company under the ownership of its senior lenders. In so doing, the bankruptcy judge approved the closure of the Exide plant in Vernon.

The rest of Exide's 3200 employee business remains intact with plants and recycling facilities involved in the manufacturing of automotive and industrial batteries remaining open. It has plants not only in the United States (Baton Rouge, Louisiana; Canon Hollow, Missouri; Muncie, Indiana; and Lampeter, Pennsylvania), as well as in the Pacific Rim, Europe and Australia.

### **Vernon Village Park**

While noted elsewhere in the report Vernon's promise to build new housing has come to fruition. The project which was initiated in 2011 in the midst of the disincorporation crisis has been completed and the 45 unit 52<sup>nd</sup> Drive housing development developed by Meta Housing Corporation has been completed, and new residents selected through a lottery process have moved in. The Village Park is a LED Silver apartment development that features one, two and three bedroom units with balconies and patios, on site laundry facilities, a community building, and a Vernon Police Department substation. The 102 new residents at Vernon Village Park has doubled Vernon's population.

### **Taxes**

In 1999 voters approved a maximum tax rate for the Warehouse Special Parcel tax to be adjusted annually based on the Consumer Price Index for all urban consumers. On May 19, 2015 the council approved a rate adjustment pursuant to this formula, raising the tax rate to \$29.544

per 100 square feet for 2015-16, as opposed to the \$29.39 rate for 2014-15. The tax is estimated to generate \$9.8 million dollars annually.

Another tax, the Public Safety Special Parcel Tax, was also raised, based on the Consumer Price Index for all urban consumers to \$0.03046 per square feet of the taxable area for 2015-16 from \$0.0303 for 2014-15. The tax generates approximately \$1.99 million per year.

While not tax rates per se, power rates will increase in 2015-2016. The increases are more fully described in Chapter 2 and in the discussion of the work of the Business and Development Commission.

## CHAPTER I

### Senator De Leon's Critical Path Reforms

Many of Senator De Leon's Critical Path Reforms were approved in principle by Vernon's voters in 2011.

In the Recent Developments section and in Chapter III of this report I report on one of his most significant recommendations, increasing Vernon's residential population; that recommendation has been fulfilled with the completion of the Vernon Village Park Apartments, which includes a significant affordable complement.

Other of his recommendations can be considered works in progress and will be reported on regularly.

#### **1. Environmental and Community Benefit Fund.**

##### Critical Path Reform.

"Establish a substantial long term environmental community benefit fund to help mitigate the decades of noxious air released from Vernon. (The exact amount to be negotiated)."

##### Response from Vernon

On August 25, 2011 the City Council adopted a resolution (2011-149) ordering the establishment of the Fund for a duration of 10 years with \$5 million a year to be dedicated to this Fund. That was when redevelopment funds were available.

Resolution 2011-149 was amended, modifying the original dollar commitment when redevelopment funding was no longer available. No dollar commitments were specified in the amendments, although it was noted that there would be separate allocations for renovations of the Hazard Park Youth Center and Salt Lake Park.

Thus far funding has been completed to support the soccer field renovation in Huntington Park (\$900,000), which was opened in the fall of 2014, and a total of \$1,500,000 has been allocated over two fiscal years (2015 and 2016) for the Hazard Park Armory Youth Center in East Los Angeles.

The 2014-15 Vernon budget included \$2.2 million for the Good Neighbor Program, including \$1 million for the retitled Vernon CommUNITY Fund (VCF), which was administered by one representative from the Vernon business community, three representatives filling at large seats from neighboring communities, two representatives appointed by Senators De Leon and Lara, and one Vernon councilmember.

In the past six months the CommUNITY Fund has made the following grants:

On February 18, 2015 the CommUNITY Fund Grant Committee approved the following grants totaling \$255,000.

(1) Community Partners on behalf of Las Fotos Project (General Support for Arts Education project serving Boyle Heights)	\$10,000
(2) National Day Laborer Union on behalf of Immigrant Youth Coalition (Program Support for Boyle Heights and East Los Angeles serving immigrant children and LBGQT youth)	\$5,000
(3) Jovenes, Inc. (Program in Boyle Heights serving Latino and African American youth and young adults)	\$75,000
(4) Tides Center on behalf of Abriendo Puertas (Serving parents in Southeast Los Angeles with parenting practices enhancing pre-school children learning and preparation for school)	\$40,000
(5) Southeast Churches Service Center (Huntington Parks program, with funding dedicated to food program and operating costs for at-risk families)	\$50,000
(6) Southeast Community Development Corporation (Serving communities surrounding Vernon; grant aims at supporting summer camp for children focused on digital literacy)	\$75,000

On May 15, 2015 the CommUNITY Fund Grant Committee approved the following awards totaling \$250,000

(1) East Los Angeles Community Corporation (ELACC) (Operating funds, helping to support educational events available to low-income and working class East Los Angeles Latino families)	\$50,000
(2) Eastmont Community Center (ECC) (East Los Angeles program with funds used for structured maintenance operating support)	\$50,000
(3) Family Healthcare Centers of Greater Los Angeles (FHCGLA) (Supporting staffing services at Maywood Healthcare Facility)	\$60,000
(4) Project Return Peer Support Network (PRPSN) (Boyle Heights and East Los Angeles mental health program – funding for operating support)	\$40,000
(5) South Central Los Angeles Regional Center (SCLARC) (Grant to assist in moving and program expense for a new developmental disability center)	\$50,000

in the Vernon area)

The net result of the first year's grants by Vernon's CommUNITY Fund totals \$749,500.

\$250,000 is set aside for Capital Grants and will carry over to 2015-16 which means that \$500,000 will be available for Capital Grants in 2015-16, while \$750,000 of the 2015-16 budget is available for grants for programs and services.

In addition to these grants, on July 7, 2015 the City Council approved a Grant Agreement between Vernon and Legacy LA Youth Development Corporation, providing funding for certain capital improvements to the Hazard Park Armory Youth Development Center. \$150,000 was previously awarded to Legacy LA for the Initial Planning Phase of the proposed renovation project.

- (1) Up to \$350,000 in the 2015 fiscal year budget for a Design Development Phase;
- (2) Up to \$1,000,000 from the 2016 fiscal year budget for Phase 1 construction projects.

"Legacy" is a Boyle Heights 501(c)(3) non-profit established to counteract the history of gang violence in Ramona Gardens and surrounding neighborhoods in East LA by providing multi-faceted programs focusing on leadership, academic support, mentoring and the arts.

Vernon has been working with Legacy since January 22, 2013 as part of a key element in its Good Neighbor Program.

Jemmott Rollins Group, a consulting firm, continues to advise the VCF Grant Committee and city staff on their Good Neighbor programs.

Insofar as mitigating decades of noxious air, Vernon's Green Commission is now addressing that issue in conjunction with the AQMD, which has proposed a new rule (415) aimed at preventing odor releases from Vernon's rendering plants. The Green Commission, having found flaws in the proposed Rule 415 is developing an over arching odor management plan compelling each of Vernon's rendering plants to adopt an odor management plan based on best management practices, formulating a plan to quantify and qualify odors in a scientific approach, in compliance with Vernon's Fire and Safety requirements.

After years of emissions affecting the residents of neighboring cities as well as Vernon's, concerted action by the affected businesses to take corrective action appears likely.

## **2. Sustainable Development and Energy Efficiency Commission**

### **Critical Path Reform**

"Establish a sustainable development energy efficiency commission [SDEEC] that includes representatives from the environmental justice community."

## Response from Vernon

On June 17, 2014 the Council approved an ordinance to rename the Sustainable Development and Energy Efficiency Commission “the Green Vernon Commission,” with some changes in terms, term limits, membership requirements and powers of the City Council to remove members.

One of its primary duties is to “periodically review the sustainability Action Plan for the City which should among other things, (1) outline goals for the City’s sustainability infrastructure; (2) describe the regulatory framework and industry setting bodies that will govern the City’s infrastructure; (3) identify specific areas in which the City can become more sustainable and energy efficient; and (4) identify types of “green” businesses the City should attract.”

The Commission is mandated to prepare an annual work plan and request for budget authorization subject to approval by the City Council, and to make recommendations to the Council to enhance Vernon’s sustainability, including but not limited to water and energy efficiency, renewable resources, climate change strategies, air quality, waste management and recycling, water resource conservation, infrastructure, transportation, and natural resource conservation.

The Green Commission’s work regarding odor controls is described in the previous section.

Of interest to the Commission is Vernon’s ownership of some 30,000 acres of property in Kern County, with the aim of developing solar and wind power generating electricity to help Vernon meet its renewable requirements.

The City’s official statement in that respect reads as follows:

“Vernon has announced forward looking initiatives to achieve its goal of becoming a leader in environmentally responsible energy generation and environmentally sustainable city management. These initiatives include:

Vernon purchased 30,000 acres of property in Kern County with the intent of developing significant wind and solar-generated electricity to advance the renewable component of its energy resources and to assist other utilities in meeting their renewables objectives. The city is actively working with Kern County, state and federal agencies to move this ambitious plan forward. The initial proposed wind energy project is expected to generate 175 megawatts of renewable energy.

Vernon is committed to stimulating green development within the City, while expanding the City's capacity to sustain and grow the 1,800 businesses that support approximately 50,000 jobs in the region.

Vernon is creating a climate action plan. The plan, which is the first in the Southeast region, will provide guidance to the City on how to take advantage of

opportunities to reduce emissions of gases linked to climate change, which the City expects will have the additional benefit of also reducing traditional criteria pollutants.

The City has also commissioned a study to create a Green Industrial Development Plan, the goal of which is to establish a series of programs to enhance environmental sustainability and support economic vitality, while protecting the health of its residents and workers and the residents in surrounding communities.

Together, the two planning efforts will help the City to address such critical issues as improving energy efficiency, expanding the use of renewable resources, improving the management of water and storm water, and reducing the production of solid and hazardous waste, as well as many other important environmental issues.

Along with the other initiatives, these plans will ensure that the City of Vernon is ready to take a leadership role among its peers in building a model for municipally-led sustainable development.”

## CHAPTER II

### Recommendations From Past Independent Reform Monitor Reports To Be Completed

- “1. To the best of our knowledge, Vernon’s staggered election system remains unique in California, and should be amended to meet the norm in time for the 2013 election.” (Page 11 of July 31, 2012 Report)

#### Response from Vernon

Since its public deliberation on May 15, 2012, no further action has been taken by the Council on this proposal. Consideration of this proposal is expected to take place when Vernon’s new housing is in place and when there is a larger electorate. (See page 13 of January 31, 2013 Report). At present, Vernon’s Council members serve five-year terms with staggered terms, so only one Council position is up for election each year. Concerns were raised that changing the format would invite hostile takeovers of Vernon’s city government. The Council should revisit this in 2016 at a time when Vernon’s new housing should be fully occupied.

- “2. The following recommendations relate to policies and procedures for contracts and should be addressed in a single policy document for the City Council’s review and approval by July 3, 2012:
- a. Require all contracts, including professional service contracts, to include ending dates and/or expenditure caps.
  - b. Review and rebid professional service contracts at least once every three years.
  - c. Require lead staff on professional service contracts, especially for legal services to negotiate for best rates or rates similar to those provided to other government agencies.
  - d. Require the review and sign-off of professional service invoices by the initiating division or department be reinforced either through a policy amendment or by memorandum from the City Administrator.
  - e. As a general practice do not allow compensation rate increases during the term of the contract. In the event all parties are aware that external factors are going to significantly affect costs and rates during the term of the agreement, require rate increases to be tied to the most appropriate index or cost of living index.” (Page 21, January 31, 2012 Report)

#### Response from Vernon

On December 4, 2012, the City Council approved adoption of a “Competitive Bidding and Purchasing Ordinance” that substantially tracked all the recommendations made in January 2012. For details, see my January 31, 2013 Report.

On May 20, 2014, the Council, drawing on 18 months of experience, approved amendments which became effective on July 1, 2014. Those were summarized in my July 31, 2014 report and will not be repeated here.

In my last report I said while I have found nothing untoward thus far in the City's implementation of the new policies, it would be wise to review the policies periodically to determine how they have been implemented and in particular to determine if they have succeeded in avoiding undue favoritism in their administration.

I therefore continue to recommend that by July 2017 the City bring in outside expert contract analysts to review the policies and their implementation and to report publicly on their findings.

3. "The City should create a Human Resources/Personnel Department and hire a Human Resources Director." (January 31, 2012 Report, page 25)

HR Director McAllister, who was hired in 2012, has produced improved health benefits, various prevention programs, an approved classification program, altered reporting relationships and title changes, and on December 9, 2014 after conclusion of labor negotiations which adhered to Vernon's policy of setting salaries at the 75<sup>th</sup> percentile level, was able to achieve essentially the same result for management positions.

Once again I recommend (1) a periodic (every three years) compensation review be conducted by the City to determine if City salaries are in line with other Southern California Cities, and (2) The Council should require evidence justifying use of the 75% ideal compensation level for policy purposes, or in the alternative establish another level justified by the evidence and the City's needs.

Clearly Vernon wants to and has attracted capable and committed employees. But it would be wise to have some evidence to support its present "75%" policy. It has been taken as a matter of faith that the 75% level is appropriate. I continue to ask for evidence to support this.

#### Response from Vernon

1) The recent formation of six bargaining units by employees will require the City to systematically review its compensation and benefit levels in comparison to the comparable labor market. This would provide city staff pertinent and supportive data in preparation of each negotiation process. Current memoranda of understandings expire as of June 30, 2016. Therefore, compensation and benefit data will be surveyed from the labor market in early January 2016 and thereafter in accordance with the expiring terms of each bargaining agreement (normally every 2-3 years).

2) On September 17, 2013, City Council adopted the Salary Plan Administration Policy II-3. This policy is intended to attract, retain, and motivate highly qualified staff that are necessary to enable the City of Vernon to discharge its obligations to the community with regard to the quality and timeliness of services provided. Based on the desire of the City Council to provide high quality services and leadership to the community and management to the organization, the compensation policy should be postured to pay market average compensation

levels at a minimum, with an ideal of paying employees at the 75th percentile of the applicable labor market. To this end, the Human Resources staff shall make available to the City Administrator for consideration in determining pay, the salary grade at the 75th percentile of the competitive surveyed rates. The 75th percentile will be one of several internal and external factors that the City will use to consider appropriate compensation.

On June 3, 2014, in accordance with the above policy, city staff presented as part of the budget adoption process ten (10) factors for City Council consideration in the recommendation of the appropriate salary level for City of Vernon employees for fiscal year 2014-2015.

4. “The City should continue to follow through on the recommendations set forth in this Report, and when unwilling or unable to do so provide a written response for its rationale.” (Conclusion, page 24 of January 31, 2012 Report)

#### Response from Vernon

Vernon continues to follow through on addressing the recommendations made by Senator De Leon and me. At no time has the City provided any written response or unwillingness or inability to respond positively to the spirit of our recommendations. As is always the case, there are new challenges which will emerge. These challenges (like addressing pension liability) need to be discussed at the executive level together with programs to address them. The management team which meets regularly in an open discussion setting is a great place for these challenges to be raised, options discussed, and programs developed with everyone participating to make them a reality.

5. “The City Attorney should work to reduce its reliance on outside counsel and when necessary hire outside counsel at negotiated rates typical of those paid by governmental entities.” (Page 15-16, July 31, 2012 Report)

#### Response from Vernon

In the Audit Report for 2012-2013 it was reported that professional costs were \$2,879,215 lower than the prior year due the defeat of the disincorporation effort.

In the approved budget for 2014-15 the City Attorney’s Office was budgeted for \$1,469,588, including outside counsel. The City Attorney continues to use outside counsel in specialized areas, for example, Liebert, Cassidy, Whitmore on the Malkenhorst matters. Rates are negotiated per my recommendation. City Attorney Patel had made a conscious effort to deal with as many legal problems as possible in house, and avoid the use of outside counsel unless absolutely necessary. She is making an effort to centralize all of the City’s legal matters within her office. At the end of the 2014-15 fiscal year, she expected to have a reading on whether or not the efforts for the year resulted in cost-savings for the City. To date this report has not been issued.

6. “The Business Development Committee was established on January 3, 2012. That Committee should be tasked with recommending to the City Council new revenue possibilities, which could include rate and tax changes, as well as reduced City expenditures. The purpose is to develop a full and broader understanding of the

City's financial situation and ways to improve it and to be able to meet the commitments made by the City to Senator De Leon during the legislative debate over disincorporation." (Page 17, July 31, 2012 Report)

"The Business Development Committee needs to be reorganized, and a new mission statement needs to be adopted. That mission should include a broad understanding of the City's financial situation and needs with involvement in the City's long term planning." (See page 38 of July 31, 2013 Report)

As noted in my January 31, 2014 Report, "The original recommendation was based on the idea that the business community should have a better understanding of the City's governmental activities since its activities largely benefit their community, and to give it a stronger role in recommending to the City the scope and quality of the services it requires, with knowledge of the costs involved."

#### Response from Vernon

On July 15, 2014 the City Council adopted Ordinance No. 1223 establishing the Vernon Business and Industry Commission, whose mission was defined as "to make the City of Vernon even more attractive to employees, businesses, and investors, while appropriately considering the needs and concerns of the residents and communities within and in close proximity to Vernon. The Commission is intended to provide a special forum to address public concerns related to the City's business and industrial development related costs, procedures and activities."

On November 4, 2014, appointments were made to the Commission, and were noted in my January 31, 2015 Report.

The Commission has taken on the responsibilities of the Electric Rate Committee and the former Business Development Committee.

On May 14, 2015 the Commission approved a recommendation to increase power rates over a three year period, which was approved by the City Council on May 19, 2015 calling for a 3.5% increase effective July 1, 2015, an additional 3% increase effective July 1, 2016, and an additional 2.5% effective July 1, 2017, as opposed to the two year rate increases of 6.3% each that had been recommended by the 2014 Cross Border Study. The lower rates were approved in light of the proposed city debt restructuring.

The primary reasons given for the adjustment plan increasing rates were expected increases in transmission costs, capital expenses required because of an aging transmission infrastructure and increased power costs associated with the Power Purchase Tolling Agreement currently in place.

On April 28<sup>th</sup> and May 14, 2015, the proposed bond transaction referred to in the Recent Developments section of this report was reviewed and unanimously supported by the Commission.

7. "Long Term Debt Policies meeting the needs of the City should be established no later than January 1, 2013. The City should review its bonded indebtedness

which today costs \$54.3 million dollars a year to service and figure out a way to lower and smooth its costs.”

Response from Vernon:

Completed.

See Recent Developments, page 4.

8. “Vernon, through its Finance Director, should begin a planning process for the long term looking at such issues as street maintenance, improved mobility, setbacks where achievable, watershed and storm water management, graffiti and litter control, and landscape improvements that will make Vernon a more welcoming community (i.e., greening Vernon). Such a process should involve representatives from the business community from its outset.” (January 31, 2014 Report)

Response from Vernon:

Input for capital needs and future operational costs have been received in a strategic planning process. An overall five year plan has been circulated internally, but funding for the plan will depend on the City’s yearly financial situation and subsequent needs. It is expected that now this refinancing has been obtained, the plan will be presented to the business community for input, in the next six months.

9. “California Consulting, Vernon’s Grants Coordinator, should work closely with appointees making allocations from the Vernon CommUNITY Fund to document needs and help Vernon better assist neighboring communities.” (See page 38 of July 31, 2013 Report)

Response from Vernon

California Consulting’s contract has been terminated. The City is looking elsewhere for a Grants Coordinator; Jemmott Rollins Group is presently advising the CommUNITY Fund, but thus far there has been little outreach to neighboring communities to help them secure their own grants.

10. “The City website should show the results of all elections.”

Response from Vernon

Completed, effective with the February 15, 2015 election.

11. “The City should take action to address the shortfall in its unfunded pension liability.” (See Recent Developments, pages 2 and 3.)

Response from Vernon

No action has yet been taken, but its being considered.

Note: This will be followed in the next report, by which time better valuation numbers are expected, by virtue of a 6/30/2014 CalPERS valuation.

## **CHAPTER III**

### **Housing**

#### **Vernon Village Park Apartments**

The Vernon Village Park Apartments complex was completed and is now occupied by tenants. The building, constructed by Meta Housing Corporation for \$16 million, contains 45 units and doubles the population size of the city, from around 110 to 220. These are the first privately owned units in decades in the city.

Over 300 applications were received from prospective renters. Eleven of the apartments are rented to families who work for private companies doing business in the city of Vernon, and three tenants previously lived within a one-mile radius of the site. The complex has a recreation center and room for a tech center.

The City has no involvement in renting or maintaining the apartment complex. Solari Enterprises Inc. has the contract to rent and manage the property.

#### **Huntington Park Units**

The City Council voted to sell three of the five residential units owned by the City. The City is hoping to net over \$1 million for sale of the three single family units.

The two remaining units are condos that will be retained by the City in order to provide temporary housing for those persons living in Vernon whose buildings are being remodeled.

#### **Repairs on Vernon Units**

Three residential units in Vernon needed to undergo substantial repairs and remodeling because of moisture and shower issues. It cost the City \$100,000 to make those repairs and to perform additional work to prevent or mitigate against such potential damage in the future.

The City is proposing to remodel the remaining seven Vernon units that were not remodeled in 2007/2008, and estimates it needs to spend between \$100,00-\$150,000 each for the major remodeling work. Tenants will be temporarily moved to the two Huntington Park condos during the remodel work. The City expects to use a portion of the proceeds of the sale of the three Huntington Park units to fund the remodeling work for the seven Vernon homes.

#### **Leased Units**

All units owned by the City are leased and all inspections of the units have been completed.

One troubling note: ten payments (out of 26 tenants) were late in June. Staff expects that strict adherence to the Vernon Housing Commission Procedures Regarding the Non-Payment or Untimely Payment of Rent will greatly improve compliance.

The Housing Commission held its semi-annual lottery to determine who has first priority to occupy any units that become vacant. Twenty-six persons indicated interest and were in the lottery. One tenant submitted a unit-to-unit transfer request form; transfer requests have first priority for vacant units.

First responders now occupy three units and the city gives priority for up to four first responders. However, one of the first responders has formally notified the City that he will vacate his unit on August 31, 2015.

The Housing Commission voted four to two to urge the City Council to eliminate first responder priority. The City Council has reviewed the recommendation and has continued the matter to hear from the business community so that its needs are considered.

### **Housing Commission**

The Housing Commission met in March and June.

Four of the seven commissioners have terms ending in August, and the City Council must appoint members in time for the September meeting. At its July 21, 2015 meeting the Council voted to adjust the terms of the Commission's members to begin and end at the beginning and end of fiscal years.

## CHAPTER IV

### The Audits

#### A. PERS Audit

Four cases relating to retirement benefits of former Vernon employees await ALJ adjudication.

Two cases have resulted in decisions adverse to Vernon employees; judicial review is being sought in one; another awaits a hearing before the Cal PERS Board of Administration.

The ongoing saga of Bruce Malkenhorst's appeals of Cal PERS' action is described in the Recent Developments section of this report.

No new filings requesting Cal PERS review of its retirement decisions relating to Vernon employees are known to have been filed in the previous six months.

#### B. The JLAC Audit (Joint Legislative Audit Committee)

In the middle of the disincorporation crisis, JLAC reviewed Vernon's management and finances and on June 28, 2012 released its report and recommendations. In previous reports I noted JLAC's recommendations, Vernon's responses and JLAC's response to them. Vernon issued its last follow-up report to JLAC on July 28, 2014; these are noted in my July 31, 2014 report. Vernon has received no communication from JLAC since September 26, 2014 and believes it has largely met JLAC's recommendations.

What follows are what were considered "open issues" in January 2015, with some updates on Vernon's responses.

##### JLAC, Number 4

"4. To increase accountability and transparency in its governance, the city should develop a formal policy that describes the circumstances under which revenues can be transferred from its power department, and the limits and permissible uses of transferred revenue."

##### Vernon's Response

"Status: Fully Implemented

On February 4, 2014, the City Council adopted a formal Budget Policies and Procedures Manual prepared by the Finance Director. The Manual was developed utilizing the methodology used by the Government Finance Office Association (GFOA), approaches by other local cities, and the City's existing practices. The Manual includes a section specifically addressing interfund transfers. (See page 8 of Budget Policies and Procedures Manual.)"

JLAC's Reply – September 26, 2014

“Although the city’s budget includes an interfund transfers policy, the policy lacks specific detail related to transfers from the power department: the circumstances under which transfers can occur and the limits and permissible uses of transferred revenue. The policy is also unclear whether the limitation on total transfers is 15 or 20 percent of fund revenues.”

Vernon's Updated Response – July 2015

The clerical error in the Budget Policies and Procedures Manual has been corrected to reflect the maximum transfer rate of 15%. The City continues to follow the bond covenants that limit transfers from the electric utility fund to 11.5% of retail sales. The actual amount of transfer is reduced based upon whether debt coverage requirements are met. The City also monitors case law related to Proposition 218 and Proposition 26 relative to its transfer policy. As part of the annual 2016/2017 fiscal year review and report given to City Council, appropriate updates to the existing Budget Policies and Procedures Manual will be considered.

JLAC: Number 9.

“9. To ensure that it develops complete and appropriate personnel policies and procedures, the new human resources director should ensure that the city’s policies and procedures include, at a minimum, an improved methodology for and analysis of future salary surveys, ensuring that they are performed by staff or a consultant with experience and expertise in the area of salary surveys.”

Vernon's Response

“Status: Fully Implemented

On September 17, 2013, the City Council adopted Personnel Policy II-1: Classification Plan Administration. The purpose of the policy is to describe the Classification Plan and provide basic guidelines for plan administration and maintenance. The policy requires each class specification, including executive positions, to include the class title, a brief statement defining the essential duties and responsibilities of the class, the distinguishing characteristics of the class that differentiate it from other classes (if applicable), the supervision receive and exercised, examples of duties performed, the typical working conditions (as applicable), the medical category designation, and the minimum qualifications required in terms of knowledge, skills, ability, experience, and education.

On May 13, 2013, through an open and competitive RFP process, the City engaged Public Sector Personnel Consultants (PSPC) to conduct a Citywide Classification and Compensation Study of all City positions and staff, including executive positions. On January 21, 2014, Public Sector Personnel Consultants presented its preliminary findings to the City Council. As a result of the study, the job descriptions for 125 job classifications, including executive positions, were updated to reflect current duties, minimum requirements, desirable qualifications and essential functions of the job, including physical requirements that are in compliance with the Americans with Disability Act.

On March 18, 2014, the updated job descriptions for all existing job classifications were approved by the City Council. Copies of the current job descriptions for all executive positions are included.”

JLAC’s Reply – September 26, 2014

“The policies that the city references do not address our recommendation, specifically, they do not include “an improved methodology for and analysis of future salary surveys, ensuring that they are performed by staff or a consultant with experience and expertise in the area of salary surveys.”

Vernon’s Updated Response – July 2015

“It is not feasible to outline a specific methodology for salary surveys in the policies themselves, as most components of any particular salary survey are mandatory negotiable items under the Meyers Milius Brown Act. The policies place the responsibility of plan maintenance, which would include the conduct or oversight of salary surveys, with the HR Director, which is the staff position with the most experience and expertise in the area of salary surveys.”

JLAC: Number 28.

“28. The city should clearly present the general fund structural deficit to the city council and the public in a budget that includes narrative and summary information to help users understand the city’s budget process and its priorities and challenges, and that incorporates the elements for improved budgeting practices recommended by the Government Finance Officers Association (GFOA).”

Vernon’s Response

Status: Not Fully Implemented – Estimate Completion by December 2015

“On February 4, 2014, the City Council adopted the Budget Policies and Procedures Manual, which incorporates best practices recommended by GFOA, including Fiscal First Aid, and provides for the method of communication of budget information (see pages 7 and 12-13). These practices were implemented as part of the fiscal year 2014-2015 budget preparation process. Additionally, the Finance Director’s fiscal year 2013-2014 2<sup>nd</sup> Quarter Financial Update to the City Council identified the need to address the General Fund’s structural deficit through the budget process.”

JLAC’s Reply – September 26, 2014

Not fully implemented

Vernon’s Updated Response – July 2015

“The Finance Director will present the General Fund balance and other City Fund balances at a future City Council meeting in conjunction with the report on the 2014/2015 fiscal year-end results.”

JLAC: Number 35.

“35. To ensure that it can demonstrate sufficient analysis and provide justification for its decisions on significant energy-related transactions, the city should create a formal process and guidelines that include the following: identifying the benefits and risks of proposed transactions, quantifying the benefits and risks of proposed transactions, evaluating and comparing proposed transactions against alternative proposals, quantifying the impact of proposed transactions on short-term and long-term rates paid by the city’s energy customers, seeking an independent validation of the fair market value of proposed transactions, and documenting and communicating the findings of the evaluation process to the city council.”

Vernon’s Response

Status: Fully Implemented

“On February 4, 2014, the City Council adopted the Budget Policies and Procedures Manual, which establishes guidelines regarding planning, revenue development, investments, capital improvements, debt management, fixed assets, use of reserves, and inter-fund transfers. In some cases, consultants are used to assist with the various elements of the guidelines because they have specific, task-related expertise and resources. For example, in the case of a recent electric rate adjustment on July 1, 2014, the consulting services of Crossborder Energy and Michael Bell management Consulting were utilized to provide specific expertise in addressing business risks and to ensure that appropriate electric rates were developed. As part of this analysis, scenarios were examined against alternative proposals which quantified proposed transactions on rates for a three year period. This provided an independent assessment and validation that was documented and communicated to City Council as part of the related public hearing held on June 17, 2014. A copy of the presentation made to the City Council is included.”

JLAC’s Reply – September 26, 2014

“Although the city’s Budget Policies and Procedures Manual establishes a framework, it lacks guidance for how the city will analyze financial transactions. To address our recommendation, the city will need to ensure that its policies and procedures specifically include the aspects of appropriate financial decision making that we listed.”

Vernon’s Updated Response - July 2015

“As part of the annual 2016/2017 fiscal year review and report given to City Council, appropriate updates to the existing Budget Policies and Procedures Manual will be considered. Currently (as recently evidenced by the 2015 bond restructuring), the City utilizes independent consultants on major financial activities such as bond financing and electric rate studies. The consultants provide various alternatives resulting in differing outcomes. These are provided as options to City Management and City Commissions who then make recommendations to City Council.”

JLAC: Number 38.

“38. To ensure that any future decisions to enter into interest rate swaps are carefully considered, the city should develop and follow a process that thoroughly analyzes the risks and benefits of the potential swap transaction.”

Vernon’s Response

“On February 14, 2014 the City Council adopted the Budget Procedure and Policies Manual which contains a section specifically addressing investments and examination/analysis of swap transactions. (See page 5 of Budget Policies and Procedures Manual.)”

JLAC’s Reply – September 26, 2014

“The city’s policy addresses existing interest rate swaps but our recommendation is specific to any future interest rate swaps.”

Vernon’s Updated Response – July 2015

“The City has terminated the two existing swap agreements effective July 2015 and does not intend to enter into any future agreements. As part of the annual 2016/2017 fiscal year review and report given to City Council, the existing Investment Policy will be updated to prohibit entering into Investment Derivative Instruments, including interest rate swap agreements.”

JLAC: Number 39.

“39. To ensure that any future decisions to enter into interest rate swaps are carefully considered, the city should specifically disallow the use of derivatives for speculative purposes and should require the retention of the documents and analyses that support the decision to enter into the swap.”

Vernon’s Response

“On February 4, 2014, the City Council adopted the Budget Policies and Procedures Manual, which contains a section specifically addressing investments and examination/analysis of swap transactions. (See page 5 of Budget Policies and Procedures Manual.)”

JLAC’s Reply – September 26, 2014

“The city has not implemented a policy that specifically disallows the use of derivatives for speculative purposes.”

Vernon’s Updated Response – July 2015

“As part of the annual 2016/2017 fiscal year review and report given to City Council, the existing Investment Policy will be updated to prohibit entering into Investment Derivative Instruments, including interest rate swap agreements.”

### C. The Vasquez Audit Report

Earlier, the audit report from Vasquez & Co., Vernon's external Auditor, was noted and quoted in part. While there were no findings, recommendations were provided to management, and Vernon's management provided the current status as of July 2015 as follows:

1. **Recommendation:** "Expand on the City's existing antifraud program (e.g., whistleblower policy, code of conduct and ethics, background checks, etc.) by hiring an independent third party for reporting, tracking of fraud cases and formalizing a structured fraud prevention training program for City employees."

**Vernon's Response:** "The City agrees with the recommendation and it has been implemented. A third party service provider, The Network Inc., has been retained by the City. They provide 24/7 live coverage and online access capability for reporting of fraud. The Fraud Hotline is administered by the City Attorney's Office, who is notified of fraudulent reporting by The Network. The City Attorney in cooperation with the City Administrator determines the appropriate follow up actions required to investigate allegations. Council is briefed on material fraudulent activities. Training of employees has been completed in conjunction with scheduled employee meetings periodically held. This recommendation is considered complete."

2. **Recommendation:** "Adopt a written policy regarding accounts receivables including processes for evaluating collectability, authorizing write-off and submitting to third parties for collection."

**Vernon's Response:** The City agrees and has developed a draft written policy that is currently being circulated to the Department Heads for review and input prior to adoption."

3. **Recommendation:** "Strengthen controls over cash receipts at City Hall by restricting access to the vault by the person responsible for cash collection and by assigning someone independent of the cash collection function responsibility for storing the daily cash receipts in the vault."

**Vernon's Response:** "The City agrees with the recommendation. Improvements have been made by developing a schedule where the duties of opening and closing the vault are rotated among staff. Operationally, cash deposits are done on a daily basis and collected by an armored truck service to minimize the amount of cash in the vault at the end of the day. This recommendation is considered complete."

4. **Recommendation :** "Enact a policy incorporating the option for supplier/vendor audits as part of the procurement process. Auditing vendors/ suppliers can provide both the City and the vendors an opportunity to strengthen their quality processes, and also serve as a fraud deterrent and detection device for City personnel."

**Vernon's Response:** "The City agrees with the recommendation. An audit clause has been developed and is now in the relevant standard city contract templates. This recommendation is considered complete."

5. **Recommendation:** “Begin using checks containing security features, such as erasure protection, high-resolution micro-printing, watermarks, security inks, and ultraviolet ink. Such security features may help the City reduce its exposure to physical check tampering.”

**Vernon’s Response:** “The City agrees with the recommendation. Blank check stock has been ordered that includes security features that reduce the likelihood of alteration or tampering. The recommendation is considered complete.”

Compliance with the open recommendations from JLAC and Vasquez & Co. will continue to be monitored and tracked by City Administration and the responsible departments.

## **CHAPTER V**

### **Compliance Review**

#### **Candidate Elections**

Vernon held two elections in the first months of 2015. The first election was held on February 17 to fill the unexpired term of the late Michael Ybarra, who died September 26, 2014.

Melissa Ybarra ran unopposed and received all 25 votes cast in the election. She will serve until April, 2017.

The second election was held on April 14 at which Yvette Woodruff-Perez was elected. She received 21 votes while her opponent, Dennis Roberts, received 13 votes. One vote was not counted because the County Register-Recorder's Office was unable to verify the signature on the ballot envelope.

With the election of Woodruff-Perez, Vernon now has the first female and first Latina majority on the City Council in its 109 year history. Woodruff-Perez term is for five years, ending April, 2020.

#### **Ballot Measures Approved**

At the April election, the voters approved two measures put on the ballot by the City Council. Measure O received 29 "Yes" votes, 4 "No" votes, with 2 votes blank. The measure provided that in elections where more than one seat is to be filled because there is a city council vacancy, that the person receiving the highest number of votes is elected to a full-term while the next highest candidate fills the unexpired term or terms. [Note: Vernon usually only has an election for one council seat a year, unless there is a vacancy cause by a death or resignation of a city council member.]

Measure P received 27 "Yes" votes, 6 "No" votes, with 2 votes blank. Measure P allows the council to fix the duties, tenure and compensation of officers by any means it deems appropriate.

#### **Candidate Campaign Statements**

No candidates in Vernon filed any candidate statements prior to the April election even though Political Reform Act requires two pre-election statements unless the candidates do not anticipate raising or spending more than \$1,000; in which case, they may file Form 470 so stating.

The winner of the April election, Yvette Woodruff-Perez, did not file a campaign statement until the day after the election when she filed a Form 470 indicating that she had spent less than \$1,000 on the election. Her opponent, Dennis Roberts, filed a campaign statement for the election on June 30, 2015, more than two months after the election. His statement showed that he had spent less than \$1,000.

The City Clerk follows FPPC guidelines regarding deadline notifications and follow-ups. Every candidate, when pulling papers, is provided information about what forms are to be filed and the deadlines for filing.

### **Other Campaign Statements**

The Committee to Elect Leaders for Reform, a Committee sponsored by the Vernon Chamber of Commerce, filed a year end 2014 campaign statement indicating that it made few expenditures for the last six months of 2014. It did not file any campaign statements for the two elections held in 2015.

### **Conflict of Interest--Economic Interest Statements**

Under Government Code Section 87201, all City Council candidates must file a Form 700, Statement of Economic Interest, prior to the election. The city clerk received these statements from all the candidates in a timely manner.

Designated city employees and city commissioners must file Statements of Economic Interests annually by April 1.

All city council members and designated employees filed their statements on time with the following exceptions:

The City Attorney Hema Patel timely filed her annual Statement of Economic Interest, but was informed that it got lost in the shuffle, and was asked to refile (which she did). Eleven employees or consultants filed their statements of economic interest late, seven of them more than two months after the deadline.

The City needs to consider imposing late fines of those who are late. The Political Reform Act allows fines of \$10 up to a maximum of \$100 a day, so very late filers could face major monetary penalties.

Insofar as City appointees are concerned, they should receive notices of due dates for filing, and if tardy, should be given three follow-up notices of continued failure, following which the Council should be notified and take appropriate action including removal of the appointee from their position.

### **New City Clerk**

A new City Clerk was appointed by the City Council. Maria Ayala assumed her office on February 3, 2015.

### **Public Records**

From January 1 through May 17, 157 public records requests were received. The city keeps excellent records on the types of requests and its responses to each of them. No complaints were received from the recipients regarding the timeliness of the City's responses.

## CHAPTER VI

### Business Activity in the City

John McMillan, Vice President of Industrial Brokerage for Cushman and Wakefield, has once again provided industrial vacancy rates of Vernon for the end of 2015's second quarter, and rates for cities in Greater Los Angeles markets, and first quarter rates for US industrial markets. Vernon's vacancy rate of 3.9% is slightly lower than the 4.2% reported a year ago.

Overall Vacancy Rate Rankings - Low to High <i>Second Quarter 2015</i> Greater Los Angeles Markets	
Market	Vacancy Rate
South Gate	0.9%
Van Nuys	1.6%
Santa Fe Springs	1.8%
Compton	1.9%
Burbank	2.0%
Gardena	2.0%
Pico Rivera	2.1%
City of Industry	2.5%
Carson	2.8%
Pomona	2.8%
El Monte/S. El Monte	2.9%
Commerce	3.2%
Valencia	3.7%
<b>Vernon</b>	<b>3.9%</b>
Cerritos	4.1%
Torrance	4.1%
Montebello	4.4%
Chatsworth	5.1%
Rancho Dominguez	5.2%
La Mirada	5.4%

Vernon, as well as the Greater Los Angeles Markets, score well when one looks at vacancy rates in other parts of the United States at the end of 2015's first quarter.

Overall Vacancy Rate Rankings - Low to High

**First Quarter 2015**

U.S. Industrial Markets

Market	Vacancy Rate
SF Peninsula, CA	2.3%
Greater Los Angeles	3.0%
Lakeland, FL	3.3%
Orange County, CA	3.5%
Oakland, CA	3.9%
Denver, CO	4.1%
Pennsylvania I-81/I-78 Distribution Corridor	4.4%
San Francisco North Bay CA	4.9%
Portland, OR	5.1%
Philadelphia, PA	5.3%
St. Petersburg/Clearwater, FL	5.5%
Houston, TX	5.7%
Palm Beach, FL	5.7%
Inland Empire CA	5.7%
Miami, FL	6.4%
Ft. Lauderdale, FL	6.5%
San Diego, CA	6.5%
Chicago, IL	6.5%
Silicon Valley, CA	6.7%
National U.S.	6.7%
Contra Costa, CA	7.2%
Atlanta, GA	7.7%
New Jersey - Northern	7.7%
Tampa, FL	7.8%
Long Island NY	8.0%
Orlando, FL	8.1%
Dallas/Ft. Worth TX	8.3%
New Jersey - Central	8.4%
Baltimore, MD	8.5%
Stockton/Tracy CA	8.9%
Jacksonville, FL	10.2%
Boston, MA	10.7%
Sacramento, CA	10.9%
Northern VA	11.8%
Suburban MD	11.9%
Phoenix, AZ	12.5%
Hartford, CT	13.0%
New Haven, CT	13.7%
Southern New Hampshire NH	18.3%

Mr. McMillan offered this commentary:

“Most major industrial markets across the US are still experiencing substantial growth as the economy continues to recover and grow. The National US average vacancy rate dropped from 7.2% to 6.7%, and that's taking into account a substantial rebound in speculative industrial construction across the country, adding new product to the inventory.

The Greater Los Angeles region continues to lead the nation with its 3.0% vacancy rate, which is down a full 100bps from this time last year when it hit 4.0%. While the SF Peninsula remains at first place at only 2.3%, it should be noted that its industrial footprint is only 65 +/- Million sf, while the Greater Los Angeles region encompasses nearly 1.1 Billion sf.

Vernon's vacancy rate dropped as well, from 4.2% to 3.9%. That's not as dramatic of a drop, but still very impressive given the vast majority of industrial buildings in Vernon are considered functionally obsolete by the standards of US Fortune 1000 firms, who typically require facilities with 32' clearance or higher, ESFR sprinkler systems, 165' or larger truck courts, additional trailer storage and/or car parking, and other Class A features found in facilities developed in the last 20+/- years. Unfortunately land sells for such a high premium in Vernon, it's difficult to justify new speculative development, and thus Vernon's industrial base continues to age, forcing corporate occupiers such as for example, Amazon, Gelsons, US Corrugated, and Ball Corp to relocate to facilities in neighboring cities such as Commerce, Santa Fe Springs, and Carson, all of whom did just that in the first six months of 2015. There are exceptions, like Whole Foods, who we sold 9.8 acres to on Pacific Boulevard in Vernon, but they are a rare breed among corporate occupiers as they prefer to own their facilities, and were willing to acquire the land and develop it themselves. The vast majority of global occupiers prefer to lease.”

## Electricity Usage

Electricity usage is one factor to be considered in the health of Vernon’s business. The chart is a year over year comparison of electricity usage.

	FY13-14	FY14-15		
July	94,099,580	96,276,161		
August	101,325,695	101,248,983		
September	101,028,990	103,346,732		
October	97,335,245	98,015,584		
November	97,849,927	99,246,788		
December	91,945,638	88,860,311		
January	87,903,097	88,647,003		
February	91,141,505	91,293,051		
March	86,879,313	86,070,401		
April	92,228,954	95,029,154		
May	92,580,982	91,268,587		
June	97,175,233	92,047,267		
	1,131,494,159	1,131,350,022	-0.01%	

The conclusion: Vernon’s electricity usage was virtually identical in 2014-15 with that of 2013-2014. While Vernon saw Exide exit, new customers like Nature’s Produce, Whole Foods and Golden West have helped keep the load steady. Matheson Tri-Gas has recently signed an agreement for an additional load of up to 12 mw for 2017, and another large industrial customer is in negotiation with the City. The expected result according to Carlos Fandino is “projected load increases over the next several years.”

Total revenues are down, but that has been largely offset by lower gas prices.

Insofar as Vernon’s rates competitiveness, Vernon’s billing averages are overall slightly lower than LADWP and SCE with respect to large industrial/commercial users but as quoted in my last report, the May 2014 report by Michael Bell Management Company notes “Vernon’s rates are competitive with other local utilities, but no longer reflects historical margins.”

As noted in Chapter 2, page 17, electricity rates were increased 3.5% effective July 1, 2015, an additional increase of 3% on July 1, 2016 and an increase of 2.5% effective July 1, 2017. The increases were kept in check as a result of the City’s favorable bond refinancing.

## Building Activity

A sign of the vitality of Vernon’s business community is its building activity.

Calendar year 2014 saw an uptake in building activity, for a total of \$70,595,024 (\$5,000,000 of which was for Vernon’s Village Park).

In the first six months of calendar year 2015 the Building Department reports a \$1.7 million increase over 2014, much of that coming in June with the permitting of three buildings at the former Thermador site. Kevin Wilson, Vernon’s Public Works, Water & Development Services Director, believes Vernon is on track to at least equal the construction activity of 2014 “with a couple of other new buildings that we anticipate will be permitted by the end of the year.”



**City of Vernon  
Building Department  
Monthly Report from 6/1/2015 to 6/30/2015**

Type	Value	# of Permits
Demolition	\$10,000.00	1
Electrical	\$576,775.00	17
Grading	\$120,000.00	1
Industrial - Remodel	\$919,000.00	4
Industrial - New	\$13,085,580.00	3
Mechanical	\$268,271.00	8
Miscellaneous	\$1,483,000.00	10
Plumbing	\$298,133.00	9
Roof	\$270,800.00	3
June 2015 TOTALS PERMITS:		56
PREVIOUS MONTHS TOTAL		472
YEAR TO DATE TOTAL		528
June 2014 TOTALS PERMITS:		107
PREVIOUS MONTHS TOTAL		526
PRIOR YEAR TO DATE TOTAL		633

## CONCLUSION

Is Vinci really Vernon? Vinci is the name of a city now featured in the noir True Detective series running on HBO.

The answer: Not now.

True Detective producers asked if they could film in Vernon. The answer was yes, and so they did. You'll see Vernon's factories and warehouses and small homes in the series.

Fictionalized as it is, some of its stories parallels Vernon's past - corruption by City officials, excessive salaries, cronyism, a questionable death.

Three of Vernon's former City leaders were convicted of various charges, including misappropriation. None received jail or prison sentences.

And Eric Fresch, a former interim City Administrator and longtime Vernon legal and financial advisor who earned millions working for Vernon was found dead at the bottom of a cliff in June 2012 in Marin County with severe head injuries. Officials there deemed it an accident.

It seems likely that Vernon's past led Speaker John Perez to introduce the disincorporation bills in late 2010, which while they failed, put pressure on Vernon to shape up or face the consequences he was urging.

Vernon's City government is not run the way it was in the past.

Salaries of its officials and Council members are in line with other Southern California cities.

Competitive elections have now taken place.

Voter lists have been updated.

New housing, in large measure sponsored by the City, will double resident population. Still small, it will have around 220 fulltime residents, but one must remember Vernon was not established for residences but for businesses and the 50,000 plus people they employ.

The City's finances have been substantially improved as a result of its July refinancing, and the City government's net worth, which fell precipitously during the disincorporation crisis and the recession, is rising.

The City's purchasing policies have been amended to comply with best practices.

The City has put into place a "good neighbor" policy to help non-profit entities in neighboring areas provide public services to their constituents.

Access to the leasing of residences, which the City owns, is now controlled by a Housing Commission, which has set up a lottery process for those interested in moving into vacant housing. And similarly, access to the City's new leasing of apartments in Vernon Village Park is administered by Solari Enterprises Inc., the property management firm hired by Meta Housing Corporation, its developer, which also uses a lottery process for admission to residency.

The long and short of it is that if Vinci's writers looked at Vernon post 2010, they would find it an interesting place, but far short of the sensational stories that plagued its past.

Not that there isn't more to do.

- The selection of a new City Administrator wedded to best practices and good governance.
- Dealing with the unfunded liability of its pension program.
- Working with AQMD to set new rules for odor emissions.
- Infrastructure investments in its roads, and finding renewable sources of energy to fuel its power production.
- These are the types of issues facing most cities, and Vernon appears to be facing up to them.

Confronting Vernon is the essential question – can it continue its good governance path? That will depend on strong and ethical leadership, which can learn from its past history.

## RECOMMENDATIONS

### **A. Recommendations from Senator De Leon’s 2011 Critical Path Reforms To Be Completed**

1. “Construct approximately 50 new housing units with a significant affordable component within three years, with the goal of doubling the City’s electorate.” Completed.
2. “Establish a substantial and long term Environmental Community Benefit Fund to help mitigate decades of noxious air released from Vernon.” See pages 9-12. To follow.
3. “Creation of an independent board to allocate CommUNITY Benefit Funds including representation from outside affected communities.” Completed. See page 9. To follow.

### **B. Recommendations from the Independent Reform Monitor To Be Completed**

1. The City should continue to follow through on the recommendations set forth in this Report, and when unwilling or unable to do so provide a written response for its rationale. (See page 16)
2. Appraisals of promotability for City executives should be conducted annually and placed in the City’s personnel file. To follow.
3. Consideration of staggered terms should take place when Vernon’s new housing is in place and there is a larger electorate. (See page 14). To follow.
4. The Business Development Committee needs to be reorganized, and a new mission needs to be adopted. That mission should include a broad understanding of the City’s financial situation and needs with involvement in the City’s long term planning. (See page 17) Completed. To follow.
5. Vernon, through its Finance Director, should begin a planning process for the long term looking at such issues as street maintenance, improved mobility, setbacks where achievable, watershed and storm water management, graffiti and litter control, and landscape improvements that will make Vernon a more welcoming community (i.e., greening Vernon). Such a process should involve representatives from the business community from its outset. (See page 18) In process. To follow.
6. The City should conduct a periodic (every three years) compensation review to determine if City salaries are in line with other California cities. (See page 15). To follow.

7. The City Council should require and obtain evidence based information justifying use of the 75% ideal compensation level, or in the alternative, establish another ideal level justified by the evidence. (See page 15). To follow.
8. The City, by 2017, should bring in outside expert contract analysts to review the City's amended Competitive Bidding and Purchasing Ordinance and its implementation. (See page 15). To follow.
9. The new City Attorney should continue to reduce its reliance on outside counsel and when necessary hire outside counsel at negotiated rate typical of those paid by other governmental entities. At the end of the 2014-15 fiscal year the City Attorney should report on a comparison of the costs of outside counsel for each of the prior five years. (See page 16). To follow.
10. In its long range planning the City should make sure it keeps pace with its infrastructure needs, and in so doing seek the advice from the business community as to what it believes is most important. (See page 18). To follow.
11. The City should compare itself with the competition (other cities) to prove that its taxes and utility charges are lower than the competition. (See page 34). To follow.
12. The City should take action to address its unfunded pension liability. (See pages 2, 3 and 18).

**C. New Recommendations**

- (1) When the time comes, the City should hire a City Administrator committed to reforms and good governance practices, as was his or her immediate predecessor. (See page 5).
- (2) City Council members or designated employees and appointees should receive notices of due dates for Statements of Economic Interest, and if they fail to file should be given three follow-up notices, and if still in violation, the Council should be notified and take appropriate action including removal from the appointed position. (See page 30).