

CITY OF VERNON

REPORT OF

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INDEPENDENT ETHICS ADVISOR

Dated July 29, 2011

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PREFACE

On February 15, 2011, you engaged me to serve as an Independent Ethics Advisor with specific duties, among them to:

- (a) review and evaluate Vernon's internal controls and policies with respect to the Political Reform Act of 1974, Government Code Section 1090, Brown Act, Public Records Act, and Conflict of Interest requirements;
- (b) review and evaluate Vernon's policies and procedures relating to reimbursement of expenses and payment of invoices to any individual affiliated with the City or the City Council, including City employees;
- (c) review the effectiveness of Vernon's policies for selecting and paying consultants and to recommend any alterations to ensure the proposed consulting agreements comply with all policies and procedures; and
- (d) review whether Vernon has appropriate policies pertaining to ethics and conflicts of interests and to evaluate the extent of existing training and education and to make recommendations regarding additional training and education relating to ethics and conflicts of interest.

My Engagement Letter, dated February 15, 2011, provides that "all provisions defining the Advisor's jurisdictions, powers, oversight authority and duties shall be broadly construed." The first report is due July 31, 2011.

Staffing

Prior to the engagement I set about to organize a team of professionals who could assist me in an independent review and analysis of the areas you asked me to review.

Those on my team are:

- Robert Stern, President of The Center for Governmental Studies and former General Counsel of The Fair Political Practices Commission.
- Cynthia Kurtz, for 10 years Pasadena's City Manager and an experienced City Administrator.
- Daniel Callender, an Associate of mine at Dewey & LeBoeuf, LLP.

The report which follows is the result of the group's work, which includes interviews with each of Vernon's City Councilmembers, past and present City personnel, its outside consultants, Assembly Speaker John Perez, Senate President Pro Tem Darrell Steinberg, other public officials, and representatives of the Vernon Chamber of Commerce as well as a substantial review of the City's resolutions, contracts and records produced in response to my document requests.

While we worked as a team, each made individual contributions to this report. I take full responsibility for its conclusions and recommendations.

Per your engagement of me, the next steps are as follows:

- (1) Within 90 calendar days of receipt the City Council shall review and consider adopting recommendations in this Report.
- (2) Within 45 days of receipt the Council shall advise me of any recommendations that the City Administrator and City Council consider unduly burdensome, impractical, costly, or which would otherwise impair the day-to-day operations of the City.
- (3) As to those recommendations not adopted by the City Administrator and the City Council, the City Administrator or City Council shall prepare in writing an alternative policy, procedure or system designed to achieve the same objective or purpose.

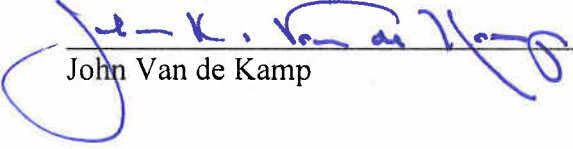
SCOPE OF REVIEW

While we have reviewed documents and material from over the past 5 years, our review has narrowed to how Vernon is operating in 2011, and what it needs to do now to operate like a typically well run Southern California charter city.

Its history is checkered, but in the face of public criticism of some of its past conduct and that of its principals and in the face of possible disincorporation, it has made progress in reforming its policies and procedures starting in 2009.

Our expressed aim is to help hasten the reforms that are still necessary to make it a city that can be proud of its governance, and its standards, and become accepted by its brother and sister cities as a model city, utilizing the best municipal practices in the State.

In developing this report, I thank everyone, particularly those in the City, for their cooperation and assistance.



John Van de Kamp

BACKGROUND

The City of Vernon is unlike most cities in California. It was established as and is primarily an industrial city.

Its first Board of Trustee resolution on September 30, 1905 affirmed that the City was incorporated for the following purposes:

- (1) "To promote and advance manufacturing industries of whatever nature..."
- (2) "That while we invite all persons who so desire to live and have homes within said city, yet they should do so having regard for the rights of manufacturing industries."
- (3) "To promote the maintenance of manufacturing interests which may be established within said city under its liberal policy."

The resolution contained other purposes, among them, the restriction of liquor licenses, opposition to a high rate of taxation, opposition to what is commonly called an "open town," and opposition to "any taxes except what are absolutely necessary to raise funds with which to properly carry on the public business of the said city on the most economic basis."

Over 105 years the City of Vernon has of course changed. In 1988, the City became a charter city, its Charter approved by its electorate. While the Charter sets out typical provisions, no mention was made of the original intent of its founders; yet its original purposes by implication were and are still largely intact.

In March 2008, the Los Angeles Economic Development Corporation provided the following statistics regarding Vernon:

- A total of 105,000 jobs in the region are directly or indirectly attributable to Vernon (I understand that over 50,000 people work there).
- Vernon's economy accounts for, on an annual basis, \$4.5 billion in wages, \$1.1 billion in taxable sales and \$343 million in state and local revenues.
- Vernon has 15.3% of Los Angeles County's food industry employment.
- Vernon has 10.7% of Los Angeles County's furniture industry employment.
- Vernon has 3.4% of Los Angeles County's employment in the fabricated metal industries.

In a study commissioned by the City, Capital Matrix Consulting issued a report on February 28, 2011; specific Vernon strategies were identified as supporting the strong economic activity that remains in Vernon today. Among those strategies:

- (1) Lower business license taxes: Vernon bases its business taxes on the number of employees, as opposed to gross receipts, and charges no utility taxes at all.
- (2) Low Cost Utility Service: Vernon's publicly owned light and power department costs up to 30% less than other entities nearby. Vernon's natural gas distribution system charges 10-30% less than private utility alternatives. Water rates are among the lowest in Southern California. The City also has installed 35 miles of fiber optic cable to provide Vernon's businesses with new ways to connect their office buildings and to access the internet at higher speeds for lower rates.
- (3) A Class 1 Fire Department: All of Vernon's firemen are HAZMAT certified. Its level of fire protection is essential in protection against the dangers inherent in an industrial community, and it results in a reduction in insurance costs.

Also cited are Vernon's one-stop business services as it relates to zoning, building codes, and public works. Additionally, Vernon is one of four California cities with its own Health Department.

While the business side of Vernon has remained strong even in the course of the recession, its housing capacity is minimal.

Vernon has less than 115 residents, most of them living in rental homes at low rates (\$120 per month for 1 bedroom, \$240 for 2 bedrooms, \$360 for 3 bedrooms). Vernon owns nearly all of the homes (average 900-1200 sq. ft.) and one apartment complex containing eight units.

A very high percentage of Vernon's residents work for the City or are related to or are friends of those who work for the City; a small minority of its residents work or have worked for businesses in Vernon. To have access to Vernon's housing in the past, one had to have approval of the City Administrator and/or the City Council. The City Councilmen (all men today) come from this small group of residents. Most of them have been appointed, and when up for election, run unopposed. There has been no contested election for the City Council since 2006.

Among the criticisms leveled at Vernon is that it is a closed community and that by its very nature it is unable to govern itself properly. The argument goes that this has led to self aggrandizement and favoritism to the elected and appointed City officials and their friends and relatives.

Three of its recent public officials have been successfully prosecuted, Leonis Malburg, a longtime Mayor, for falsely claiming City residency, and Bruce Malkenhorst, a longtime City Administrator, for misappropriation of public funds. Former City Administrator Donal O'Callaghan, pursuant to a plea agreement, pleaded guilty to conflict of interest charges relating to the hiring of his wife on July 15, 2011. Malburg left the City government in 2009, Malkenhorst in

2005 and O'Callaghan in October 2010. To date no one has received a jail or prison sentence. Malburg's case is on appeal.

There is evidence that in the past, the salaries of City officials were bloated, that some who held more than one position were receiving compensation for each position, and that some contracts were drawn so that after 1,500 hours of City work and a set salary, City officials would charge hourly rates that would elevate those salaries way beyond any norm.

There is also evidence that City contracts were "evergreen" — that once the original contract term had ended, the contracts would renew automatically unless the City Council took decisive action to retract them.

Beginning in 2009, some reforms were undertaken:

- (1) The City officials' contracts were modified to prevent double dipping; there would be a set salary for a position; if one held two positions, one received only the salary set for the one of the positions held. And contracts were modified to prevent supplementary hourly charges beyond the set salaries.
- (2) Beginning in 2009 and pursuant to City Council resolutions, individuals with contracts were notified that the evergreen nature of their contracts would be cancelled, i.e., that the Council would have to formally approve contract extension. In 2009, pursuant to a cancellation and notice provision, all solid waste franchisees were notified that their agreements would terminate in December 2014.

At the same time there have been voices for the City's abolition, Supervisor Gloria Molina and District Attorney Steve Cooley among them.

And on December 6, 2010 Assemblymen John Perez, the Speaker of the State Assembly, introduced AB 46, which would disincorporate any city with a population of less than 150 people – only Vernon fits that standard. That measure has passed the Assembly and awaits action in the State Senate.

Speaker Perez introduced a companion bill, AB 781, which in the event of disincorporation would create a community services district which would take over certain functions currently performed by Vernon, e.g., fire protection, water, telecommunications, gas, electric utility and street maintenance.

The City is opposing the bills, arguing that to do so is beyond the jurisdiction of the legislature, and that disincorporation would bring significant business and job loss because the business advantages Vernon brings would be lost in the County, or a neighboring community, or in the proposed special district.

Serious arguments have been made both pro and con regarding these two measures. It is not the function of this report to opine on their legality or impact. Rather, this report deals with what improvements and modifications should and can be made under existing law to bring Vernon's governance procedures in alignment with the best practices in other California cities.

On February 15, 2011, I was engaged as an Independent Ethics Advisor to review the items listed in the Preface and to make recommendations to the City for modifications and improvements in their practices and procedures.

I underscored the word independent, because this report attempts to look at Vernon as an independent outside observer not as a paid promoter for the City.

Since the four of us have gone to work, we have had numerous conversations with City officials and have made oral suggestions of areas where improvements (some big, some small) could take place. The response has been positive.

One surprising finding was that the business community, which by and large seems to believe it has been well served by Vernon's government (regardless of the government's own excesses), feels it had little influence or relationship with its City Council.

In a March 10, 2011 meeting with the Vernon Chamber of Commerce, it was noted by some that there was something of a divide between the City's management and the business community. While the Vernon Chamber of Commerce appreciated the business climate and the very good Fire and Police Departments, it wanted closer contact and involvement with City affairs, in particular with the setting of utility rates and with a Housing Authority (although the Vernon Chamber of Commerce favored a Housing Commission):

Subsequently, on May 26, 2011, the City Council unanimously passed an ordinance and a series of resolutions:

- (1) Establishing a Housing Commission, with 7 members appointed by the City Council, including 3 persons representing either a business in Vernon or person or entity owning Vernon commercial property to establish policies for tenancy/occupancy of City owned dwelling units and to enter into leases or rental agreements with tenants or prospective tenants (the members of which have not yet been selected). The Housing Commission was established by ordinance.
- (2) Fixing salaries for Vernon's department heads pursuant to a schedule that adjusts their salaries in line with comparable local jurisdictions in Southern California to be effective July 1, 2011.
- (3) Reducing Councilmember salaries to \$24,996 per year after a review of the council salaries for five comparable Southern California cities, to go into effect at the beginning of the Councilmember's next term (there are staggered terms, so the first reduction takes effect in 2012). On June 7, 2011, the Council voted to reduce their present salaries by 18% to go into effect July 31, 2011. The May 26, 2011 resolution also eliminates reimbursement for the Councilmember's health benefits that exceed and are otherwise not covered by insurance or Medicare and other ancillary benefits — effective July 1, 2011.

- (4) Calling for a Vernon municipal election for a ballot measure to approve or disapprove a two term (five years per term) limit for its Councilmembers with a lifetime ban thereafter. That election is scheduled for November 8, 2011.
- (5) Retaining the law firm of Reed and Davidson to provide annual Political Reform Act, Public Records Act and Brown Act training for City officials and to review the City's policies relating to those statutes. Training was provided on June 21, 2011. (More about that in the Brown Act and Public Records Act sections of this Report).

Earlier, on April 19, 2011, the City Council approved the following resolutions:

- (1) Directing the City Administrator to establish an Ad Hoc Advisory Committee on Electric Rates whose membership includes three business representatives "representing diverse business interests" and two labor representatives, to make recommendations to the City Council relating to rate adjustments to reflect current operating costs, emission reduction requirements and green house gas regulations. The recommendations were made to the City Council in a timely manner. On June 23, 2011, the Council adopted power rate increases of 8% effective July 1, 2011 and 8% effective January 1, 2012.
- (2) Directing the City Administrator to establish an Ad Hoc Advisory Committee on Sustainable Development (the members of which have not been selected) to include three business representatives and two labor representatives.
- (3) Directing the City Administrator to establish an Ad Hoc Advisory Committee for Business Development (the members of which have not been selected) to include three business representatives (the President of the Chamber of Commerce, a real estate developer and a real estate broker) and two labor representatives to explore ways to improve the business climate in the City and to make Vernon more attractive to business and its employees.

All these changes, including those from 2009, can be considered good government measures, unquestionably stimulated by the Perez bills and the public interest in Vernon.

More needs to be done. Implementation of some of these resolutions are works in progress. Timely and effective action needs to be taken, particularly as it relates to the housing issues.

But unquestionably the City has opened up to the world, and the need to operate on a "best practices" approach. Certainly its closer involvement with leaders in the business and labor communities can only enhance the sophistication with which it goes about its business.

The report that follows responds to our engagement scope and more, in that it makes some recommendations regarding better internal practices. The fact of those recommendations should not be considered as damning. Many of them are minor and could apply to other cities as well. But they are being passed on for what they are worth, again in the hope that if implemented they will help make Vernon a better city, of which its residents and businesses can be proud.

CHAPTER I

The Political Reform Act of 1974 and Ethics

A. Campaign Disclosure

1. Requirements under Engagement Letter

Section 2(a) of the Engagement Letter approved February 15, 2011, requested review and examination of the effectiveness of the City of Vernon's internal controls, record-keeping, internal audit and existing or new reporting policies and procedures with respect to the Political Reform Act of 1974.

2. Political Reform Act Requirements for Campaign Disclosure

The Political Reform Act of 1974 (California Government Code Section 81000 et seq.) imposes a number of requirements on city officials, both elected and appointed. The Act's campaign disclosure and conflicts of interest statutory provisions and regulations govern the conduct of such officials and candidates for city office. The lobbying portions and the contribution limitations sections of the Political Reform Act do not apply to the City.

The Political Reform Act requires every candidate who runs for office in California, both state and local, to file periodic campaign disclosure statements. In addition, if any group makes independent expenditures of \$1,000 or more for a city election, that group must file campaign reports. Govt. Code Section 82013(b).

If the candidate and his or her controlled committee (s) spend less than \$1,000 for an election, then the candidate only has to file a Form 470 stating that the candidate has not spent sufficient funds to require periodic campaign statements to be filed. Govt. Code Section 84206.

In the case of candidates running in Vernon, their campaign statements must be filed with the City Clerk's office and reviewed "on their face" by the city clerk to assure that the reports are completed properly. Govt. Code Section 81010. The City Clerk does not have to field audit the statements (review the original records of the campaign committee) to determine if the statements are accurate.

The City must make these campaign statements (and Statements of Economic Interests) available to anyone who requests them at a fee of no more than ten cents a page and an additional \$5 if the request is for records that are more than five years old. Persons who want to examine these statements may not be required to identify themselves. Govt. Code Section 81008. For all city council races, the reports of the candidates elected to office must be retained indefinitely. For all other committees and candidates who lost, the campaign statements must be retained for at least five years. Govt. Code Section 81009. All reports, both campaign statements and statements of economic interest, must be filed under penalty of perjury. Govt. Code Section 81004.

The Political Reform Act provides for a range of remedies. In serious cases, a person who violates the Act can be charged with a misdemeanor. Govt. Code Section 91000. In addition, civil injunctions can be brought by any interested party, as can civil actions. Govt. Code Section 91003 and 91004. Most violations, however, are handled administratively by the Fair Political Practices Commission, which can impose fines and order respondents to comply with the law. Govt. Code Section 83115. Finally, late filing penalties of \$10 per day up to the amount not properly reported can be imposed by the filing officer. Govt. Code Section 91013.

3. Investigation

The City was asked to provide campaign statements from 2006 to the present. They were provided except for statements for 2010 and 2011. No independent expenditure statements for 2006 were provided.

4. Findings

Two challengers ran in the 2006 election. One filed a Form 470 with a signature A. Lopez but his name did not appear in the space labeled "Name of Officeholder or Candidate." Instead an address was written: "2721 E 46th Street." However, an email address and phone number were listed on the statement.

The other candidate also did not list a name in the space labeled "Name of Officeholder or Candidate." Again an address was written: "2721 E 46th Street" in that space. A phone number was included, and the candidate signed the statement although the name is not legible.

The City Clerk should have asked for an amended statement that listed the name of the candidate on the statement.

The City Clerk should have requested Form 470 statements from the candidates for City Council in the 2010 and 2011 elections even if no money was spent by these candidates; no elections were held in these years because only one candidate filed to run for Councilmember.

5. Recommendation

1. The City Clerk should be sufficiently trained to review campaign disclosure statements and ask for supplemental information as needed.

B. Conflict of Interest Statements

1. Requirements under Engagement Letter

Section 2(a) of the Engagement Letter approved February 15, 2011, requested review and examination of the effectiveness of the City of Vernon's internal controls, record-keeping, internal audit and existing or new reporting policies and procedures with respect to the conflicts of interest requirements of the Political Reform Act of 1974 and Government Code Section 1090.

2. Requirements under the Political Reform Act and Government Code 1090

The Political Reform Act, starting with Govt. Code Section 87200 et seq., requires high level city officials to file statements of economic interest within 30 days of assuming office, on an annual basis and within 30 days of leaving office. The purpose of these statements is not to determine how wealthy an individual is. Rather, the purpose is to identify potential conflicts of interest by the person.

Vernon's Councilmembers, Mayor, City Attorney, City Treasurer and City Administrator must disclose pursuant to state law the following: all investments of \$2,000 or more of entities doing business in the city, planning to do business with the city or having done business within the city within the past two years; all interests in real property of \$2,000 or more located in the city or within two miles of the city; all income from entities doing business within the city of \$500 or more; all gifts of \$50 or more and business positions in entities doing business within the city, planning to do business with the city or having done business within the city within the past two years. Govt. Code Sections 87207-87210.

Other high ranking city employees must file statements of economic interest pursuant to a conflict of interest code adopted by the employee's agency and ratified by the city council. Govt. Code Section 87300 et seq. These codes are supposed to require disclosure only for interests that could possibly be affected by official governmental actions taken by the employee.

Many economic interests are not required to be disclosed. These include personal residences, bank accounts, mutual funds, investments and interests in real property not located in the jurisdiction, and bank loans, among others.

The Fair Political Practices Commission reviews the statements of economic interests for Vernon's Councilmembers, Mayor, City Attorney, City Treasurer and City Administrator. The City Clerk is charged with the responsibility of reviewing the statements for all other filers. Govt. Code Section 87500.

Government Code Section 1090 applies to all state and city elected and appointed officials and is an additional restriction beyond the provisions of the Political Reform Act. It says that no such official shall have an interest in a contract in which the official is participating. No forms are required to be filed. If a person violates Government Code Section 1090, the contract is void even if the person disqualified himself or herself from the contract. In addition, felony criminal charges can be imposed.

3. Investigation

The City furnished economic interest statements (Form 700) for the Councilmembers in March of 2011. In addition, starting in 2011, the Fair Political Practices Commission, the filing officer for the Councilmembers, has posted the 2010 statements from the Councilmembers on its website. All the information may be viewed and printed except for the signature of the Councilmembers. All of the 2010 annual statements were filed on time.

a. Councilmembers

- i. Councilmember William Davis: annual statements for 2007, 2008, 2009 and 2010.
- ii. Councilmember Hilario Gonzalez: annual statements for 2007, 2008, 2009 and 2010.
- iii. Councilmember Richard Maisano: assumed office Jan. 12, 2009; filed an assuming office statement and annual statements for 2009 and 2010.
- iv. Councilmember William McCormick: annual statements for 2007, 2008, 2009 and 2010.
- v. Councilmember Daniel Newmire: assumed office July 6, 2009; filed assuming office statement July 7, 2009 and annual statements for 2009 and 2010.

b. City Employees

- i. City Finance Director and Treasurer Roirdan Burnett: annual statements for 2008 and 2009 and 2010 (assumed City Finance office Feb. 1, 2008; filed assuming office statement on March 24, 2008, and assumed City Treasurer office Aug. 31, 2009 and filed assuming office statement on Nov. 18, 2009).
- ii. Interim Police Chief Daniel Calleros: assuming office statement starting November 15, 2010 and annual statement for 2010, filed together on March 16, 2011.
- iii. City Treasurer Sharon Duckworth (Barrett): annual statements for 2007, 2008 and 2009 (left office Aug. 31, 2009).
- iv. Director of Power and Light Carlos Fandino: assumed office on Aug. 2, 2010; filed assuming office statement on Oct. 25, 2010 and an annual statement for 2010.
- v. Acting City Attorney Jeffrey Harrison: 2006 assuming office statement (Dec. 13, 2006) and annual statements until he left office. He filed a leaving office statement on August 5, 2009.
- vi. Director of Human Resources/Asst. City Attorney Avigal Horrow: assumed office on April 7, 2008 and filed assuming office statement Sept. 8, 2008 and 2008 statement. Listed AH Consulting Group from Manhattan Beach with income between \$10,000 and \$100,000 for 2008, indicating that "this was prior to taking the position at the City of Vernon." She failed to file any other statements, including a leaving office statement.

- vii. City Controller/Assistant Finance Director Masami Higa: assuming office statement March 10, 2008, annual statements for 2008 and 2009 and a number of leaving office statements filed February 24, 2011, although he left the Controller's office on January 4, 2010 and another office on October 4, 2010.
- viii. Director of Light & Power and later City Administrator Donal O'Callaghan: annual statements for 2007, 2008, 2009 and leaving office statement for his position as City Administrator (July 21, 2010 filed July 27, 2010).
- ix. Director, Health and Environmental Control, Lewis Pozzebon: annual statements for 2007, 2008, 2009 and 2010.
- x. Interim Police Chief James Rodino: assuming office statement starting July 1, 2010 and leaving office statement filed November 15, 2010, filed together on March 16, 2011.
- xi. Executive Director of Redevelopment and the Historic Preservation Society, Robert Toering: assumed office on March 5, 2007 and filed assuming office statement on May 10, 2007. He filed annual statements for 2007, 2008 and 2009 and left office on March 1, 2010 and filed leaving office statement on March 29, 2010. Reported income for 2007 and 2008 of between \$10,000 and \$100,000 from Concept Engineering Group, LLC, located in San Pedro, a company involved in management consulting. He was a member, manager of the company.
- xii. Police Chief Steven Towles: assuming office statement (Oct. 10, 2006) filed on Feb. 12, 2007, and annual statements for 2007, 2008 and 2009. He left office in 2010 but no leaving office statement was on file.
- xiii. Director of Personnel Martha Valenzuela: annual statements for 2007, 2008, 2009 and 2010.
- xiv. Fire Chief and later City Administrator Mark Whitworth: annual statements for 2007, 2008, 2009 and 2010 and assuming office statement on Aug. 4, 2010 for assuming the offices of City Administrator on July 21, 2010 and Purchasing Agent on Aug. 2, 2010.
- xv. Director of Community Services and Water Samuel Kevin Wilson: annual statements for 2007, 2008, 2009 and 2010.

- xvi. Risk Manager, City Clerk and former interim City Attorney Willard Yamaguchi: annual statements for 2007, 2008, 2009 and 2010 and assuming office statement for City Clerk on March 15, 2010 (assumed office on March 1, 2010) and annual statement for 2010.
- xvii. The City also provided statements for former Mayor Leonis Malburg: his annual statement for 2008 and his leaving office statement for 2009. His leaving office statement was filed two weeks before he left office (statement filed June 17, 2009 while it indicates he left office on June 30, 2009).
- xviii. The City also provided the leaving office statement filed by City Administrator, City Clerk, and City Treasurer Bruce Malkenhorst dated December 3, 2005.

4. Findings

- a. Councilmember McCormick failed to include a General Description of Business Activity for his investments for his 2007 and 2008 statements; he received no letter of correction for those statements. For his 2009 statement he received a letter from the County Sanitation Districts of Los Angeles County (its letter not included in the materials sent to us) and provided the appropriate information. On his 2008 statement he listed Delphi Corporation, a company not listed on his 2007 statement: in the 2008 statement he needed to indicate the date he acquired an interest in Delphi Corporation.
- b. City Administrator Donal O'Callaghan, for his 2007 statement, failed to indicate the type of statement (annual) or whether or not he had reportable interests.
- c. Police Chief Steven Towles left office in 2010 but no leaving office statement was on file.
- d. The leaving office statement filed by City Administrator, City Clerk, and City Treasurer Bruce Malkenhorst dated December 3, 2005 was not filed with the Fair Political Practices Commission until January 26, 2006 (although he left office on June 30, 2005.)
- e. The leaving office statement for City Controller/Assistant Finance Director Masami Higa was filed late, more than 30 days after leaving office.
- f. The assuming office statements for interim police chiefs, Daniel Calleros and James Rodino, were filed late.

With these exceptions, the statements were filed in a timely manner.

In terms of Government Code Section 1090, the City provides no written instructions on how to comply with its provisions.

Former City Administrator Donal O'Callaghan, pursuant to a plea agreement, pleaded guilty to a violation of Government Code Section 1090 on July 15, 2011. While City Administrator, O'Callaghan was alleged to have personally participated in putting his wife in a City position. He was sentenced to 200 hours of community service and one year of summary probation.

5. Recommendations

1. The City Clerk should ensure that assuming office and leaving office statements are filed on-time. Some City employees filed statements more than 30 days after taking office or 30 days after leaving office, which did not meet the requirements of the Political Reform Act.
2. The City Clerk needs to ensure that all statements are readily accessible and kept for at least seven years.
3. The City should provide all incoming affected employees with written guidance regarding compliance with filing the required documentation together with copies of the forms to be completed.
4. The City should provide written instructions on how to comply with Government Code Section 1090.

C. Ethics Training

1. Requirements under Engagement Letter

Section 2(a) of the Engagement Letter approved February 15, 2011, requested review and examination of the effectiveness of the City of Vernon's internal controls, record-keeping, internal audit and existing or new reporting policies and procedures with respect to the conflicts of interest requirements.

2. Requirement of the Conflicts of Interest Law

Govt. Code Section 53235 requires that all councilmembers and local agency officials attend a state approved two hour ethics training course every two years. This law, adopted in 2005 as AB 1234 by the legislature, is intended to educate government officials about ethics and the latest rules. The purpose of the law is to enhance the awareness of ethics by all state and local officials.

3. Investigation

The City was asked whether training session for Councilmembers and staff were held. They promptly responded. A member of our team was present at the June 21, 2011 training session.

The Reed & Davidson AB 1234 Ethics Training session was attended by all City Councilmembers and key staff.

The Reed & Davidson AB 1234 Ethics Training addressed:

- Personal financial gain laws, including (i) laws prohibiting bribery; (ii) contractual conflicts of interest; (iii) conflicts of interest under the Political Reform Act, including an official disqualifying himself or herself from a meeting and penalties for failure to comply with the Political Reform Act; (iv) special rules for property in a redevelopment area; (v) conflicts of interest and campaign contributions; and (vi) conflicts of interest when leaving office.
- Perquisites of office laws, including (i) limitations on the receipt of gifts; (ii) honoraria; (iii) restrictions on personal loans; (iv) mass mailing restrictions; (v) misuse of public funds; (vi) prohibitions against gifts of public funds; and (vii) transportation by transportation companies.
- Government transparency laws, including (i) economic interest disclosure; (ii) the Brown Act; and (iii) the Public Records Act.
- Laws relating to fair processes, including (i) common law bias prohibitions; (ii) prohibition of holding simultaneously two incompatible offices; (iii) competitive bidding requirements; and (iv) anti-nepotism laws.

4. Findings

All Vernon City Councilmembers and officials of City agencies attended a two hour ethics training session on June 21, 2011. The session was conducted by Dana Reed and Jerry Simmons of the law firm Reed and Davidson.

Previously, all Councilmembers attended a session on October 1, 2009. The session was conducted by Craig Steele from the Richards, Watson and Gershon law firm.

Records for 2008 indicate that four of the five Councilmembers completed a training session on May 31, 2008. After assuming office on January 1, 2009, Councilmember Maisano completed his training on October 1, 2009. These Councilmembers have been in compliance with the required Ethics Training since 2008.

5. Recommendations

1. The City should continue to provide ethics training to all Councilmembers and staff in compliance with Section 53235, and should consider yearly courses as appropriate, particularly if there is an influx of new employees and/or if there are significant changes in the rules.
2. Written manuals for the Ethics Training should be provided to new high level employees and Councilmembers within 30 days of assuming their positions.

D. Conflict of Interest Codes

1. Requirements under Engagement Letter

Section 2(a) of the Engagement Letter approved February 15, 2011, requested review and examination of the effectiveness of the City of Vernon's internal controls, record-keeping, internal audit and existing or new reporting policies and procedures with respect to the conflicts of interest requirements.

2. Requirements under the Political Reform Act

The Political Reform Act requires each state and local agency to adopt a conflict of interest code for its agency employees. The Fair Political Practices Commission through Regulation 18730 has set forth the requirements of the conflict of interest code. The code must set forth the employees who are required to file economic interest statements and the types of disclosure each employee must disclose on his or her annual economic interest form.

3. Investigation

The City was requested to provide conflict of interest codes for all City agencies. The City submitted conflict of interest codes adopted for the following City agencies:

- a. The City of Vernon Resolution No. 2010-135 adopted by the City Council on Oct. 4, 2010, which superseded Resolution No. 9711, adopted by the City Council on Oct. 6, 2008 and Resolution No. 9136, adopted by the City Council on Oct. 4, 2006. (This Resolution notes that the City Council originally adopted a conflict of interest code for Vernon on June 17, 1980 and amended the code eight times before the Oct. 4, 2006 amendments. These resolutions were not included in the materials but are not needed since they have been superseded.)
- b. The Industrial Development Authority of the City of Vernon, Resolution No. IDA 23 adopted on Oct. 4, 2010, and ratified by the City Council as Resolution No. 2010-137 on Oct. 4, 2010, Resolution No. IDA 18, adopted on Oct. 6, 2008, and ratified by the City Council as Resolution 9737 on Oct. 20, 2008 and Resolution No. IDA-15, adopted on Oct. 4, 2006. (This resolution noted that the Industrial Development Authority originally adopted a conflict of interest code on Aug. 30, 1994 and amended it four times.)
- c. The Redevelopment Agency of the City of Vernon, Resolution No. RA-387, adopted Oct. 4, 2010 and ratified by the City Council as Resolution 2010-136 on Oct. 4; Resolution No. RA-369, adopted Oct. 6, 2008 and ratified by the City Council as Resolution No. 9378 on Oct. 20, 2008, and Resolution No. RA-308, adopted Oct. 4, 2006. (This resolution noted that the Redevelopment Agency originally adopted a conflict of interest code on Sept. 5, 1989 and amended it three times.)

