

CITY OF VERNON

REPORT OF

JOHN VAN DE KAMP

INDEPENDENT REFORM MONITOR

Dated July 31, 2012

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PREFACE

On February 15, 2011 the City of Vernon, facing potential disincorporation as a result of the introduction of AB 46 and SB 781, engaged me as its Independent Ethics Advisor with specific duties, primarily relating to Vernon's policies and contracts with respect to the Political Reform Act, Government Code Section 1090, the Brown Act, the Public Records Acts and Conflict of Interest requirements, as well as reviewing its policies and procedures relating to the payment and expenses of invoices, the selecting and payment of consultants, and the training and education relating to ethics and conflicts of interest.

The first report was issued July 29, 2011, and offered some 32 recommendations, including some 11 recommendations relating to Vernon's internal operations and staffing.

A follow-up report was issued January 31, 2012, reporting on Vernon's progress in responding to those recommendations, as well as the recommendations made by Senator Kevin De Leon.

I stated in the January 2012 report that "significant reforms have been undertaken by Vernon. But as can be seen there is still some unfinished business. The good news is that timetables have been set for completion of many of the remaining recommendations emanating from the De Leon and Van de Kamp reports."

The January 31, 2012 report noted 12 recommendations from the July 2011 report needed to be completed, and made 7 new recommendations.

The term of my services as Independent Ethics Advisor was originally for one year, i.e., to end February 15, 2012. However, Senator De Leon in his August 22, 2011 series of Critical Path Reforms, called for the appointment of an Independent Reform Monitor for a four year term. In November of 2011 Vernon's voters unanimously endorsed that proposal through a charter amendment. The City Administrator then negotiated with me for a new contract as Independent Reform Monitor, to include "reporting on the same subject matters as in the first engagement, and to review the City's governance reform measures and initiatives and recommend measures and initiatives in the best interest of the City."

The engagement was approved by the Council on December 20, 2011 with an effective date of February 15, 2012, to run for four years. Under this contract the first report is due July 31, 2012 to be circulated to the City Administrator and the City Council and the state legislature with reports to be issued every six months thereafter.

The first Independent Reform Monitor engagement letter agreement was entered into with me in conjunction with my then law firm Dewey & Le Boeuf. As a result of the law firm's closure, a modified engagement letter agreement with me and my new law firm, Mayer Brown, was approved by the Council on June 5, 2012.

This report which has been developed in conjunction with my outside consultants, Robert Stern, former President of the Center for Governmental Studies and former General Counsel of the Fair Political Practices Commission, and Cynthia Kurtz, formerly Pasadena City Manager, will address the status of the remaining "Critical Path Reforms" recommended by Senator De

Leon in his August 22, 2011 letter to the City, primarily Housing reforms, the establishment of the Environmental and Community Benefit Fund, funding for Regional Community Recreational facilities, and the revision of the City's trash hauling program. It will also address the status of the "to be completed" recommendations and new recommendation in my Independent Ethics Advisor Report of January 31, 2012.

I will also report on the City's 2012-13 budget, its new tax provisions aiming at bringing the City's budget into balance, its business climate, and make new recommendations based on observations over the past six months.

John K. Van de Kamp

RECENT DEVELOPMENTS

AB 46 & AB 781

Both bills failed passage in the State Senate in 2011. As of this writing no bill has been introduced in 2012 calling for Vernon's disincorporation.

The City Budget

At its June 19, 2012 meeting the City Council approved a \$323,543, 444 budget for fiscal year 2012 -- 2013, a budget in which was slightly lower than the 2011-2012 budget. \$49,339,498 of the City's budget is dedicated to its administration (including Police and Fire which consume \$25.6 million of its budget). The lion's share of the budget, \$194,038, 550, is dedicated to its Light and Power utility. Because the City has suffered a decline in amounts available for general fund expenditures and a depletion of its reserves, the City has projected a \$12 million general fund deficit for fiscal year 2012-2013. As a result the Council took the following actions on June 19, 2012 to close the deficit;

(1) Set a Special Election for September 18, 2012 providing for a utility user's tax not to exceed 9.8% to be applied to all utilities including electricity, water and gas. An aggregate users cap as applied to electricity, water and gas would be set at \$250,000. The amount to be levied, subject to the cap, would be determined by the Council following approval of the tax at the special election. The tax rate would be revisited, at the very least, every year. The authority for the tax would expire in two years.

(2) Approved a Maximum Special Parcel tax at \$28.72 per 100 square feet pursuant to a 1998 Ordinance (No 1057), up from \$26.00 in 2010-11, to be applied to warehouses, truck terminals, freight terminals, railroad facilities and other distribution facilities.

(3) Approved an electric rate adjustment, responding to a report from Crossborder Energy, a rate consulting firm, which raises rates 7.89% effective July 1, 2012, 7.89% effective January 1, 2013 and 2% effective July 1, 2013, to meet revenue requirements for fiscal years 2013 and 2014.

(4) Approved continuation of a 2.85% Public Benefits charge (in place as of September 20, 1996) in the electric rates schedule, and approved an allocation of \$2 million per year derived from this charge to offset the renewable power cost pass through to customers.

At the council meeting there was substantial opposition to the tax increases from many speakers representing businesses in Vernon. The arguments centered on essentially two arguments: (1) that with the tax increases Vernon's competitive low cost edge would be lost, and (2) that with the rate increases Vernon's businesses would tend to relocate and/or reduce their power usage, diminishing badly needed revenue for the Light & Power Department, and indirectly the City's general fund.

A number of speakers called for Vernon to reduce its expenditures. The Vernon Chamber recommended cuts in City compensation and positions, cuts in the benefits fund and reserves, cuts in capital spending, and reduction of expenditures relating to outside contractors.

The City Administrator noted that since 2008 there had been a 20% reduction in City positions, and agreed to work with the City's departments by August 31, 2012 to obtain 5-10% in cost reductions. It is expected that the reductions will be presented to the Council by August 31, 2012.

It was stated that budget expenditure cuts not previously anticipated could be applied to reduce the utility user's tax rates.

Both potential new revenue sources and expenditure cuts are in the exploration stage.

The City of Vernon is looking at programs to support the business community and/or increase City revenues from other sources so taxes on businesses could be reduced. Before the end of 2012, the City is exploring a utility rebate program which is being modeled after similar programs in neighboring communities. Under such a program customers whose energy usage exceeds a certain amount (still to be determined) could apply for the rebates. The Power and Light Department would fund the rebates by reducing other costs so there will be no rate impacts on smaller energy customers.

The Business Development Committee is looking at rezoning areas of the City to allow retail business and truck terminals. These new businesses would bring new revenues directly to the City.

Vernon is in discussions with neighboring cities about providing services for them thereby allowing both to take advantage of economies of scale and bringing new revenues to the City of Vernon.

The City is also looking at ways to reduce the costs of acquiring the mandated percentage of "green" energy in its portfolio including allowing small green energy producers to locate in the City in return for being able to acquire the power at favorable rates. This could reduce future rate increases to existing businesses.

Labor Agreement

At its June 19, 2012 meeting the Council approved MOUs (Memoranda of Understandings) with the Vernon's Fireman's Association and the Vernon Police Officer's Benefit Association covering the period July 1, 2012 to June 30, 2014, which overall increased pay at 3% for each of the two years. The City estimated that its first year cost increase will be \$190,000 for the Police Department and \$352,000 for the Fire Department. These new costs will be included in the 2012-13 revised budget. The contract stipulated that the City will not lay off any personnel falling under the MOUs.

Personnel

At its July 17, 2012 meeting the Council approved searches for the City's Finance Director (with the incumbent Rory Burnett expected to retire in early 2013) and for the recruiting of a Police Chief. (it is expected that Daniel Calleros, the Interim Chief, will be an applicant.)

On July 23, 2012 Leonard Grosberg (the Interim Health Director) was appointed the Health Director after a search and interview of qualified candidates.

It is expected that the selection of a new City Attorney and the Human Resources Director will be announced at the August 7, 2012 City Council meeting. Also up for consideration at that meeting is a new contract with City Administrator Mark Whitworth.

Elections (See Chapter IV)

Two elections were held in the last four months. Michael Ybarra defeated incumbent Daniel Newmire in the regularly scheduled April election. Newmire has filed an election challenge in Superior Court.

At the special June election to fill the vacancy caused by Mayor Hilario Gonzalez's December resignation, Reno Bellamy received more votes than Luz Martinez according to the Los Angeles County Registrar's Office. However, the City Council has enacted measures to take control of the election contest. The election contest will be held before a neutral hearing officer. The hearing regarding challenged voters is expected to take place in August.

CHAPTER I

Senator De Leon's Critical Path Reforms to be Completed

Senator De Leon's Critical Path Reforms were listed in my January 31, 2012 report.

Many of those reforms have been implemented. Most important were the Charter Reform measures approved by Vernon's voters in 2011.

In Chapter 3 of this Report, one will find a status report on his recommendations to "construct approximately 50 new housing units with a significant affordable component within three years with the goal of doubling the electorate." Efforts are underway to figure how new housing can be developed in the next two years.

Collective bargaining for jobs and firefighters: As reported in the preface new collective bargaining agreements have been approved.

There is still unfinished work to complete several of Senator De Leon's Critical Path Reforms:

A. Good Neighbor Program

(1) Environmental & Community Benefit Fund

Critical Path Reform

"Establish a substantial and long term Environmental and Community Benefit Fund to help mitigate the decades of noxious air released from Vernon (the exact amount to be negotiated)."

Response from Vernon

Vernon adopted a Resolution (2011-149) on August 25, 2011 ordering the establishment of the Fund for a duration of 10 years with \$5 million a year plus consumer price adjustments to be allocated to the fund. However, only \$3.2 million has been set aside in the 2012-2013 budget for the Fund and for funding Regional Community Recreational facilities. (See recommendation 3 below for discussion of the Regional Community Recreational facilities.)

The August 2011 Resolution was not the product of negotiation with Senator De Leon, opening the door for further negotiation. The \$3.2 million set aside comes as Vernon faces declining revenues, particularly as a result of the elimination of the use of the City's redevelopment funds, which in 2011 were looked upon as a possible source of revenue for this new fund. 2012 has brought no relief for Vernon with respect to the utilization of redevelopment funds. Therefore, the \$3.2 million comes from its General Fund.

As a result of the City's financial situation, the City should amend Resolution 2011-149 to make it consistent with Vernon's ability to fund the measure, as well as the programs for regional community recreational facilities. One option would be to lengthen the time for payments to 15 years. Another would be to call for funding increases when the City's financial

picture improves by August 20, 2021 when some of the City's bonded indebtedness-- \$360,745,000 (as of June 30, 2012) will have been paid off.

2. Independent Board

Critical Path Reform

“b. Creation of an independent board to allocate those Environmental and Community Benefit Funds (ECBF) including representation from outside affected communities.”

Response from Vernon

In Resolution 2011-149 adopted August 25, 2011 the City ordered management of ECBF by a nine member committee, including appointees from the Senate Rules Committee, the Assembly Speaker, the Governor, Vernon, Huntington Park, Maywood, City of Los Angeles (two from Boyle Heights and South Los Angeles), and Los Angeles County (with an appointee from East Los Angeles). Solicitations for the appointments have not yet been made.

3. Regional Community Recreational Facilities.

Critical Path Reform

“e. Immediately fund regional community recreational facilities in affected neighboring communities (the scope and sites to be negotiated)”

Response from Vernon

In Resolution 2011-149 the City agreed to provide a separate allocation of \$5 million to assist programs for the Hazard Park Armory Youth Center in Boyle Heights and \$5 million to assist in the renovation of the Salt Lake Park in Huntington Park.

As indicated earlier, a total of \$3.2 million has been budgeted in 2012-2013 for these programs and the ECBF requirement.

Negotiations have been ongoing with representatives from Huntington Park and Boyle Heights.

In Huntington Park, design work is underway for the renovation of the Salt Lake Park project. \$124,000 will be paid by Vernon upon completion of the design work. Additional sums will be available as the project is developed. It is estimated that the project will take around two years to finish after completion of the design work.

Alex Kung of the Vernon City Administrator's office has met four times with Hazard Park Armory Youth Center officials to review documents for the renovation of that youth center. It's estimated that \$500,000 will be sought in 2012-2013 from Vernon for design, engineering, and renovation costs of that facility.

While no time limits have been established for funding these programs, it is recommended that Vernon continue to support these programs, and such programs in other

neighboring communities when able. Since Senator De Leon set no dollar amount on the funding of these regional facilities it is in the City's best interest to negotiate with Senator De Leon as to the timing of the funding and add flexibility to its 2011-149 Resolution so that Vernon would be able to assist other programs in neighboring communities.

4. Sustainable Development and Energy Efficiency Commission

Critical Path Reform

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

Response from Vernon

Members of the SDEEC were appointed by the City Council on January 3, 2012.

Since then three meetings have been held. A work plan and budget were adopted, as was a mandatory commercial recycling policy calling for 75% diversion (designed to permit businesses to determine individually the type of facility to utilize to meet the requirement). A Recycling Policy and a Sustainability Action Plan were approved by the City Council. A Mission Statement was also adopted.

5. Trash Hauling Program.

Critical Path Reform

"Revise existing trash hauling program with strong environmental standards."

Response from Vernon

Resolution 2011-149 directed the City's Health Officer/Director of Health and Environmental Control to consolidate trash hauling enterprises within the City and improve environmental and safety standards governing trash hauling in the City.

At present 17 trash haulers have contracts within the City running to December 31, 2014. The City's Health Officer/Director of Health and Environmental Control, Leonard Grosberg, is working in conjunction with the SDEEC to prepare an updated program to address truck emissions and the number of trash hauler trucks on the streets of Vernon, and is looking to develop a program that minimizes emissions and road traffic.

Such a program could lead to a consolidation of trash hauling to a single contractor with "clean" trucks. Such a program should be developed with SDEEC, seeking input from the trash haulers and expertise from the environmental community, and then sent to the City Council for approval no later than six months before the expiration of the present contracts.

CHAPTER II

A. Recommendations from the Independent Ethics Advisors January 31, 2012 Report to be completed.

- “1. All Councilmember salaries should be set at \$24,996 by April 17, 2012, when the newly elected Councilmember takes office. (Chapter I, Section A.)”

Response from Vernon

No action has been taken on this recommendation. As it now stands, newly elected Councilmen Michael Ybarra’s salary was set at \$24,996 at the beginning of his term in April 2012, and the salary of other Councilmembers (or their replacements) will go to Ybarra’s level when their new term begins. As it stands the three other Councilmembers and the person elected to complete former Mayor Gonzalez’s term stands at \$55,800. Their salaries were reduced 18% to that level July 31, 2011.

It is recommended that all Councilmembers salaries should be set at the \$24,996 level as soon as possible.

- “2. The City has provided training but not written materials on complying with Government Code Section 1090. A compliance manual should be completed by April 2, 2012, with the assistance of Reed & Davidson, LLP. (Chapter II, Section A.2.)”

Response from Vernon

Written materials addressing Government Section 1090, the Brown Act and the Public Records Act have been prepared by Reed and Davidson and made available to all employees on the City’s intranet site, and will be utilized in the annual training sessions of Councilmembers, department heads and key staff in the first quarter of 2012-2013.

- “3. Reed & Davidson, LLP is reviewing the City’s existing conflict of interest codes, and the City should adopt any updates or amendments by October 31, 2012 in accordance with the Fair Political Practices Commission biannual review period. (Chapter II, Section A.4.)”

Response from Vernon

City Administrator Mark Whitworth and Dana Reed of Reed & Davidson report that the City will comply by October 31, 2012.

- “4. 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. (Chapter II, Section B.)”

Response from Vernon

At its meeting on June 5, 2012 the Council discussed the staggered election proposal and concluded that with its present small electorate, a decision regarding moving to a staggered

Councilmember election should be held in abeyance until new housing is in place with a substantially larger electorate. Concerns were raised that with the present size of the City electorate that an engineered takeover of City government might be inimical to the City's best interests. In 2006 such a takeover was attempted when homeless persons were registered out of a Vernon warehouse in an attempt to influence the City election.

It is expected that a Resolution confirming the Council's discussion to revisit this subject when new housing is in place will be placed on the Council's agenda by October 1, 2012.

- “5. Vernon, with the assistance of Reed & Davidson, LLP, should complete the Brown Act compliance manual by April 2, 2012. The Brown Act compliance policy and, when completed, the Brown Act compliance manual, should be posted on Vernon's intranet site. (Chapter II, Section C.2.)”

Response from Vernon

See Response No. 2. The City has complied with this recommendation.

- “6. Vernon, with the assistance of Reed & Davidson, LLP, should complete the Public Records Act compliance manual by April 2, 2012. The Public Records Act Compliance Policy and, when completed, the Public Records Act compliance manual, should be posted on Vernon's intranet site. (Chapter II, Section D.2.)”

Response from Vernon

See Response No. 2. The City has complied with this recommendation.

- “7. 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 rate. (Chapter II, Section E.1.)”

Response from Vernon

The City has not finalized the recommended policy document. It reports that a redraft of its contract ordinance has been prepared and is undergoing review.

The City Administrator expects to have the redraft before the Council for approval by October 1, 2012.

Concerns have been raised that ending dates and expenditure caps may need to be adjusted for some types of contracts. In the case of construction contracts, duration dates with liquidated damages if the schedule is not met, would work better than absolute ending dates. In the case of some contracts, such as, electrical maintenance contracts, the duration may need to be longer than three years to allow for depreciation of capital investments. Those issues can be dealt with in the ordinance by providing for a required justification of changes and a transparent City approval process for changes to the caps and or ending dates.

Recommendation (a), requiring negotiations for best rates for professional service contracts, “especially for legal services,” will be in the hands of the new City Attorney who should have familiarity with the need to outsource legal work, the firms who can provide it, and the type of competitive “government rates” that will provide the type of service the City needs at far lower costs than the City has paid over the past five years.

- “8. The work assignments of one remaining contractor with the Light & Power Department fail to meet the criteria for a contractor. The Light & Power Department should request that the City Council create a staff position to take on this work by February 21, 2012. Once the position has been filled, the contract of the remaining contractor should be phased out. (Chapter II, Section E.1.)”

Response from Vernon:

The independent contractor referred to has resigned. The position, which has been approved, will be filled by a new regular staff member.

- “9. The City should hire a permanent City Attorney with expertise in municipal law and redevelopment. (Chapter II, Section F.)”

Response from Vernon:

The City Council approved the hiring of a search firm, Norm Roberts of Roberts Consulting, who after advertising the position, received and reviewed some 32 applicants. A number of them were interviewed by the Council. The City Council has scheduled a vote on the selection of a new City Attorney and his (her) contract on August 7, 2012.

- “10. The City should create a Human Resources/Personnel Department and hire a trained Human Resources Director. (Chapter II, Section F.)”

Response from Vernon

The City Council approved the hiring of a search firm, Bill Hawkins, of the Hawkins Co. who advertised the position. There were 15 applicants.

The City's screening panel interviewed some of the candidates on July 9, 2012, followed by interviews of selected candidates by the Council on July 18, 2012. The City Council has scheduled a vote on the new Human Resources Director on August 7, 2012. Once in place as new Director is expected to address the voter approved change to remove the requirement that City employees serve at the will of the City Council, and help develop an alternative employment structure such as a civil service system.

“11. The City should complete a study of the Vernon Police Department staffing and costs in comparison with other primarily industrial cities. (Chapter II, Section F. 18.)”

Response from Vernon:

Matrix Consulting was hired following an RFP in the last quarter of 2011-2012, to conduct the recommended study. Work has commenced on the study, and the study is expected to be furnished to the City by October 1, 2012.

In the meantime, at the request of the City, the Los Angeles County Sheriff's Department conducted a preliminary proposal for providing municipal police services to Vernon.

It reported its findings to the Council on July 17, 2012. To quote from the letter provided by Captain Bruce Fogarty of its Contract Law Enforcement Bureau:

“The proposal is based on our recommended service level and provides you with a strong deployment model to police your City. Highlights include a total cost of \$7,703,472 resulting in a 38% cost savings based on your 2012-13 budget and a proposed 17% increase in patrol service hours.”

If adopted, the proposal would save Vernon approximately \$4.2 million a year according to the Sheriff's Department. The savings come from salary and benefits savings, and economies of scale with respect to the administrative services now performed within Vernon's own Police Department.

Should the City wish to explore the feasibility of a contract arrangement, a Phase II study would normally be initiated (at a cost to the City) to assess facilities, equipment and personnel, to determine “one time start up costs and the impact on City personnel who would be affected by the contract.”

At its July 17, 2012 meeting the Council took no action after the City Administrator asked for two weeks to review the proposal.

Given the fact that the Matrix study is due shortly it is recommended that the City make the Matrix personnel aware of the Sheriff's proposal and ask it to offer its comments with respect

to the Sheriff's Department proposal. Following its receipt the City Council should immediately address the Sheriff's proposal and decide whether it's worthwhile to pursue Phase II. Unquestionably the savings offered by the contract are very attractive. What needs to be determined is whether they are real, and whether adequate service can be provided under its proposal. The Matrix Study may offer other alternatives which could significantly reduce the costs of Vernon's policing.

The City Administrator has also asked the Los Angeles County Fire Department to provide a similar proposal, i.e., what type of services it could provide, and at what cost, should the City decide to contract out its fire services.

"12. The City should establish an ongoing consulting relationship with City Administrators and City Managers from other Southern California cities and League of California Cities representatives to review best practices and Vernon's utilization of them. (Chapter II, Section F.20.)"

Response from Vernon:

The City Administrator, Mark Whitworth and Councilmembers have attended Independent Cities & League of Cities meetings on a regular basis. The City Administrator has been invited to join a small group of City Administrators and City Managers who meet on a regular basis to discuss best practices on a peer review basis and expects to join the group by October 1, 2102.

B. New Recommendations

"1. Allocation of money for the Environmental and Community Benefit Fund should await clarity regarding the future of the City's Redevelopment Agency funding. The City should begin to fulfill its commitment to this recommendation by July 31, 2012. By that time, the City's financial picture should be clarified and the 2012 budget adopted. (Chapter I, Section F.1.b.)"

Response from Vernon:

See page 9 of Chapter I. The 2012-13 City budget has been adopted. \$3.2 has been allocated for this fund and for Regional Recreational Facilities.

2. Given the uncertain status of Redevelopment Agency funding, the timetable for allocation of \$5 million to assist in the renovation of the Salt Lake Park in Huntington Park should await clarity regarding the source of funding.

Response from Vernon:

See page 9 of Chapter 1. The 2012-13 adopted City budget allocation \$3.2 million for this fund and the Environmental & Community Benefit Fund. Efforts are underway by Vernon to assist in the Hazard Park Armory Youth Center and the Huntington Park Salk Lake projects.

"3. On January 17, 2012, after interviewing three search firms in public meetings, the City Council was divided 2-2 on its choice of a firm to conduct the search. That

postpones the selection of a City Attorney. The City Council needs to work together to resolve this as soon as possible. When a City Attorney is selected, Latham & Watkins LLP, which has served the City in a number of ways during the disincorporation fights, expects its levels of service will be substantially decreased. 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. (Chapter II, Section F.)”

Response from Vernon:

The impasse was broken, as indicated earlier. Following the selection of a search firm, the narrowing of candidates, and interviews selected and approved by the City Council on July 19, 2012.

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)

Response from Vernon:

As indicated throughout this report Vernon continues to follow through in addressing these recommendations. In some instances the timeline has been lengthened, but given the stress facing the City, not unreasonably. They have not provided any written response as to their unwillingness of inability to respond positively to any of these recommendations.

In the case of the recommendation on staggered terms the Council addressed it directly at a Council meeting and provided reasonable arguments why the matter should be dealt with when new housing was in place.

One area where the City fell short was in response to the recommendation for all Council salaries to go to \$24,996 no later than when the victor of the April 2012 election was certified and took office. There has never been any justification articulated in public or in writing why that should not take place. It continues to be unreasonable for Mr. Ybarra to be paid \$24,996 while all the other Councilmembers receive \$55,800.

5. The City Council as it is constituted on April 17, 2012 should decide (1) whether to continue to employ Mr. Whitworth as the City Administrator, and if not (2) to employ a search firm to help find qualified candidates, keeping Mr. Whitworth in his role until a new City Administrator is chosen. (Conclusion)

Response from Vernon:

The City Council took no action on April 17, 2012 or at anytime thereafter to change Mr. Whitworth’s status. He now serves as the City Administrator and Fire Chief at a salary level set in December 2011 (2011-199). It is expected that a new contract for his continued employment as City Administrator will be considered by the Council on August 7, 2012.

He has thus far chosen to rely for internal support from two well qualified assistants, Kristen Enemoto and Alex Kung, who have had their job titles elevated to Assistant to the City

Administrator, and occasional outside assistance from Cynthia Kurtz, the former City Manager of Pasadena and a participant in my efforts. As yet an Assistant City Administrator position has not been sought. The arrival of a new full time City Attorney will be of assistance, but does not detract from the need for an Assistant City Administrator with a strong financial background to assist Mr. Whitworth.

In our prior report it was noted that Mr. Whitworth's relationship with two of the Councilmembers needed to be improved. Since that report was issued, Mr. Whitworth has been in closer contact with the two Councilmembers and offered them -- indeed challenged them -- to raise questions with him where they needed answers. The two Councilmembers have met more frequently with Mr. Whitworth and have been provided the opportunity to raise questions and get the answers they needed. (One of the Councilmembers, Daniel Newmire was defeated in his re-election bid). But there has been improved give and take from all concerned.

Mr. Whitworth continues to do a very demanding job under trying circumstances. He has been faced with budget issues, the PERS Audit, the Audit by the State Bureau of Audits, and the need to meet the recommendations for change made by Senator De Leon and this writer. Without having prior experience in the City Administrator's role he took over one and a half years ago, he has learned quickly, and continues to learn.

Now that some sense of stability has been established it is recommended that Mr. Whitworth resign as Fire Chief once his successor is in place and continue on as City Administrator if that is the role he wants to play and if the Council wants him to continue in that role. He has been an able advocate and representative for the City in Sacramento and to the outside world.

While the Fire Department appears to be well run, with his help and the leadership of the Assistant Fire Chiefs tasked with much of the Fire Department's administration, he should concentrate on one job or the other.

- “6. The City should task the Business Development Committee to review not only ways to improve the City's business climate, but to review the City's financial situation and budget. That ten person Committee was established on January 3, 2012, consisting of two Councilmembers, three business representatives, two real estate representatives, two labor representatives and the City Administrator. That Committee should have the full cooperation of the City Administrator and the City Treasurer as well as other members of the City Administration. 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.”

Response from Vernon:

While the Committee has met and received budget updates, a presentation by Alex Kung on the proposed parcel tax (later abandoned), as well as a presentation on transit and right of way

issues, the Committee has been more focused on zoning issues and marketing the City. As the Committee becomes more knowledgeable about the City's financial picture, it can be very helpful in offering ideas and approaches regarding City expenditures as well as improving tax fairness for the City's business community. At the same time an Ad Hoc Committee sponsored by the Chamber has studied the budget and should continue to work with the City Administrator to find way to cut the City's budget. The City Administrator by the same token should cooperate and work closely with both Committees to find cuts that could be made, while keeping the City's budget in balance and retaining necessary services.

- “7. The Treasurer should make a public report to the City Council every quarter outlining the City's progress in meeting the City's budget revenue and expenditure expectations. The first quarterly report should be made at the City Council's first meeting in May 2012 when the financial results for the January – march period are available. (Conclusion)”

Response from Vernon:

The Treasurer's Office with the assistance of Alex Kung gave its first report at the City Council meeting in May and is expected to report on the last quarter of 2011-2012 in August 2012. It is recommended that the report be as complete and thorough as possible, shedding light on major expenditures beyond the original budget amounts and anomalies in both the revenue and expenditure side.

In that regard the City's budget itself – at least as revealed to the public—needs to show greater detail as well as year to year changes, and the reasons for them. A model will be provided to the City that provides better comparative information than that provided thus far to the public.

Chapter III

Housing

Increasing the Number of Housing Units

The City issued a Request for Proposal (RFP) on April 19 asking for bids to develop a two acre parcel on 4675 52nd Drive. The City hopes to have between 25 and 40 units built on this site. The City held a pre-submission meeting at which about 15 developers were in attendance. Six proposals were submitted to the City by the July 12th deadline, their proposals ranging from 24 – 60 units. The City has appointed a committee to examine the proposals and has asked for a recommendation on the best one by the beginning of Fall.

On June 19, the City Council heard a presentation by the its planning and development consultant, Hogle Ireland Inc., represented by Laura Stetson, on the various housing alternatives that the City could consider. Stetson presented a number of options in her power point presentation of 27 slides, including several different locations for additional housing and a homeless shelter.

The City had previously decided that it would permit additional housing within the City limits in order to increase the number of residents and voters. The City will have to adopt a new General Plan Housing Element in order to increase housing within its city limits. The City has hired Hogle Ireland to develop the amended General Plan.

While no vote was taken after the presentation, there seemed to be initial consensus on providing for 20 to 50 new residences by 2014 and for concentrated residential units to be constructed at one or two locations.

Rental Rates

At its February 9, the Housing Commission, approved a motion to establish rents for those presently on a month to month lease, based on market rates starting July 1 (changed to August 1 at its May meeting), the increases phased in four steps through July 2015. The Commission engaged three independent appraisers to evaluate the fair value of the leases.

The Commission selected Gold Coast Appraisal to determine fair market values. Its analysis looked at typical appraisal measurements, including rate adjustments for size, remodeling and garages.

One of the other appraisers looked at negative local impacts and found that the adverse location impact was between 15% and 30%; the Commission used 30% as the adverse location impact adjustment to the appraisal in setting rents. The Huntington Park rates were not adjusted since there was no adverse location impact found there. The Commission also determined that some tenants were receiving free internet service over the City's fiber network and decided to charge the tenants for the service if they wanted to keep using it (except for city council members.)

All of the month to month leases (14 in Vernon and two in Huntington Park) are being converted to one year leases. As the existing five year leases expire (currently numbering nine in Vernon and two in Huntington Park), they will also be converted to one year leases.

Rents of \$120 a month for one bedroom home were increased to \$696 a month by 2015. Two bedroom rents were raised from \$240 a month to \$985 a month. Three bedroom rents of \$360 a month were raised to amounts ranging from \$1,000 to \$1,700 a month, depending on the number of bathrooms.

Divesting City Owned Property

The Housing Commission voted to recommend that the five Huntington Park properties owned by the City be divested and sold as they became vacant. However, the City Council took no action on this recommendation at its June 5 meeting. One reason given by the Council was the state of the housing market; values have dropped considerably over the past few years. The Housing Commission has asked the Council to reconsider its decision.

First Responders

The Council at its June 19, 2012 meeting passed an ordinance giving first responders a first priority in leasing units until four or more units are concurrently occupied by first responders. First responders are defined by the Housing Commission, but must at a minimum include City firefighters, police officers, emergency medical technicians and similar positions held by employees of businesses located in Vernon.

The Housing Commission has enacted a definition for “business first responder”: a person employed in the City of Vernon, a full time employee (who regularly works 30 hours or more at a location in the City) and someone who holds either an Emergency Medical Technician or a Community Emergency Response Training (C.E.R.T) certificate recognized by the City of Vernon.

Lottery for Vacant Units

At the May 1 meeting, the Housing Commission held a lottery for two vacant units; both went to first responders who were members of the Vernon Fire Department. Fifty-two people had submitted their names to the lottery, with 27 of them identifying themselves as first responders. Incoming renters pay full rent.

Removal of Persons Who Have Violated Lease Agreements

At its June 14 meeting, the Housing Commission instructed the staff to remove residents at four households since they were found to have violated their lease agreements. The Commission acted on a report filed by its subcommittee consisting of its Chairman, Eric Gustafson, and two of its members, Bill Davis and Mike Hughes. Their report found that none of the lessees at the four households actually lived in their units. Two of the households were on month to month leases and two have leases ending November 30, 2014. The two month to month tenants have submitted proof of residence and have asked for a year lease on their rentals.

Removal of Housing Commissioners by City Council

On June 19, the City Council added a section to the Housing Commission's ordinance that allows the City Council to remove a Housing Commissioner for cause, defined as "inefficiency, neglect of duty, or misconduct in office." The Commission member must be given at least ten days notice prior to any hearing on the charges. The hearing must be conducted in open session at a noticed meeting of the City Council, and the Commission member must have the opportunity to be heard either in person or through representation by counsel. If a Commission member resigns or is removed, the Mayor, with the ratification of the City Council, must appoint a replacement within 30 days after the position becomes vacant. No action against any member has been commenced.

New Lease Procedures

At its May 1 meeting, the Housing Commission adopted new lease procedures, which included background and credit ratings checks for new lessees and tenants.

Number of Meetings to be Held by the Housing Commission

The City Council on June 19 passed an amendment to the Housing Commission ordinance that reduced the number of required meetings that the Housing Commission had to hold to no more than two a year. It can hold more than two if necessary.

Conclusion

The Housing Commission and the City Council have made great strides in responding to my recommendations and to the recommendations of Senator De Leon. While some may complain that existing residents will have their rental increases phased in, the Housing Commission made a fair accommodation on behalf of many long time residents, some of whom are of limited means and for whom the rental increases would be difficult.

Chapter IV

Elections in Vernon

Since my last report, Vernon has held two city council elections, both heavily contested. In April, the voters elected Michael Ybarra over incumbent Daniel Newmire by a vote of 26 to 19. Newmire has filed an election contest in Superior Court.

In June, the voters had a choice between Reno Bellamy and Luz Martinez in a special election to replace Mayor Hillario “Larry” Gonzalez, who had resigned October 31, effective December 1, 2011. The Los Angeles County Registrar/Recorder’s Office has reported that the vote was 34 for Bellamy and 30 for Martinez. The City has not yet seated a new councilmember pending completion of election contest hearings as described below.

April 12 Election

For the regularly scheduled April 12 election for city council, 69 vote by mail ballots were sent out. Fifty were received and submitted to the Los Angeles County Registrar/Recorder’s Office to verify the signatures on the mailed ballots. The Signature Verification Unit of the Registrar’s office recommended that two of these ballots be disallowed because their signatures on their mail ballot did not match the signatures on the registration forms. The Vernon City Clerk concurred with their recommendation.

Six provisional ballots were received. It was determined that three of these ballots were invalid because the persons submitting them had not registered to vote in time for the April election.

Prior to the April election, attorney Frederic Woocher, representing the Vernon Chamber of Commerce, challenged the residency and eligibility of several voters in the election,

City Clerk Willard Yamaguichi appointed a canvassing board to determine whether or not the ballots were valid. The board consisted of the following individuals:

Vida Barone, City Clerk of Cerritos serving as chair;

Alex Kung, Assistant to the Vernon City Administrator;

Daniel Calleros, Vernon Interim Chief of Police;

Cynthia Kurtz, former Pasadena City Manager and special consultant to Vernon;
and

Carlos Fandino, director of Vernon Light and Power.

Hector Garcia, an employee of Farmer John’s and a member of the Vernon Housing Commission, named as an alternate.

The canvassing board met the night of the April 10 election in City Hall. In his letter to the City, attorney Woocher challenged 21 persons, six of whom had cast ballots, alleging that none of the voters actually lived in the city and thus their ballots should not be counted.

One of the voters, Gary Sabara, appeared at the meeting and was questioned by Woocher. After discussion by the canvassing board, Sabara's vote was disallowed by a unanimous vote. None of the other five challenged voters appeared, and the canvassing board voted unanimously to disallow these ballots, based on the evidence presented.

The final vote of 26 to 19 in favor of Michael Ybarra was certified by the City Clerk and the City Council. This action has been challenged in court by Daniel Newmire, the losing incumbent.

June 5 Election

The City held a special election on June 5 to fill the vacancy caused by the resignation of the Mayor Hillario Gonzalez in 2011. Because it was scheduled on the same day as the statewide primary election, the City requested the county to conduct the election and process the ballots.

Attorney Fred Woocher, representing the Vernon Chamber of Commerce, challenged 10 voters. On June 5, 2012, the County Registrar responded that he would *not receive any live testimony*, and that he would instead rule on the pending challenges to voters based only on the written documentation previously submitted. The Registrar indicated that he would issue his determination on the challenged ballots by the close of business on Friday June 8, 2012.

On June 8, 2012, the County Registrar issued his determinations on the voter challenges, indicating that ten of the challenged voters had submitted vote-by-mail ballots for the June 5, 2012, special municipal election. In each case, the Registrar acknowledged that the written evidence submitted raised questions concerning the residency of the challenged voter, but he ultimately determined that the written evidence submitted was not a sufficient basis upon which to disqualify the ballots of the ten challenged voters prior to the processing of their ballots. The County Registrar emphasized, however, that he wanted to ensure that appropriate due process is afforded both to the challenger and to the voters whose ballots were challenged, and that "[b]ecause the Elections Code is not specific in identifying a process that serves that purpose, I want to further ensure that there is adequate time available for any party subject to the proceedings to seek additional review." Accordingly, the Registrar stated that the ten ballots subject to challenge would remain secured and unopened until Friday, June 22, 2012.

On June 18, 2012, an election contest of the June 5, 2012 Special Municipal Election was filed with the City Council of the City of Vernon by an elector of the City invoking its jurisdiction pursuant to Chapter 3.4 of the City Charter of the City of Vernon.

On June 20, 2012, the City Council discussed the contest at its duly noticed special meeting and the importance to the integrity of Vernon elections, of Vernon residents being accorded the opportunity to a hearing before the City Council on an election contest, and to provide testimony concerning the residency of persons who have cast votes in Vernon elections. The City Council unanimously voted to ask the Registrar that the challenged ballots remain secured and unopened until Friday, June 29, 2012, to provide any impacted parties additional time to seek appropriate relief. In a letter to City Clerk Willard Yamaguchi dated June 21, 2012, the Registrar declined the City Council's request.

On June 27, 2012, the City Council adopted Ordinance No. 1197, which amended the Municipal Code of the City of Vernon to establish procedures by which the City Council would exercise its authority under Vernon City Charter Section 3.4. Ordinance No. 1197 provides that, “The City Council of the City of Vernon may adopt by resolution additional procedures for election contests which shall provide for fair, transparent, and expedited adjudication consistent with due process and equal protection of the law.”

On July 2, 2012 Dean Logan the Registrar of Los Angeles sent the final tally to the City Clerk. There were 64 ballots cast. The vote reported was 34 for Reno Bellamy and 30 for Luz Martinez.

After a duly noticed public hearing held in conjunction with the July 10, 2012 special City Council meeting, the City Council adopted Resolution No. 2012-116, which establishes the specific procedures to govern election contests in the City of Vernon, which was intended to provide for fair, transparent, and expedited adjudication of such matters. Section 7 of Resolution No. 2012-116 provides for the appointment by the City Council of a neutral hearing officer within 7 days of the filing of a contest statement, disclosures by that hearing officer of any actual or possible conflicts of interest with the parties to the election contest, and an opportunity for a party to challenge the continued service of the hearing officer for cause.

On July 10, 2012 an elector of the City of Vernon timely filed a contest statement in accordance with Resolution No. 2012-116 incorporating the challenges set forth in the contest document filed on June 18, 2012 by the same elector. Reno Bellamy, one of the candidates has also filed an election contest with the City dated July 12, 2012 disputing “the legitimacy and merits of all challenges” made, and if a determination is made that he received a minority of the votes cast that the hearing officer consider and rule upon his challenge to 13 named persons

On July 17, 2012 the Council adopted resolutions providing for the issuance of subpoenas for election contest hearings, and subject to conflict of interest clearance appointed former Superior Court Judge and former U.S. Attorney Debra Yang as the neutral hearing officer for the election contests.

It is recommended that as long as procedural safeguards are in place to assure objectivity and neutral fact finding that the City should not consolidate its elections with state elections and administer all of its own elections, and where necessary election contests. Given his immense and wide ranging responsibilities the L.A. County Registrar has little time to devote to the type of process Vernon has established, and to a City as small as Vernon.

CHAPTER V

The Audits

In the report dated January 31, 2012, I included a reference to the Audits, which were expected to be released soon thereafter. A status report follows:

1.

PERS AUDIT

In 1948 Vernon contracted with PERS to provide retirement benefits for local miscellaneous employees, local police officers and local firefighters. It was amended to include local prosecutors in 2005.

PERS/Office of Audit Service reviewed Vernon's enrolled individual member compensation, retirement information and other documentation for the period of July 1, 2002 through June 30, 2010, a period that was expanded during its review.

On April 27, 2012, PERS issued its report, which can be viewed as critical of Vernon's recordkeeping, its mischaracterization of eligible employees and its failure to provide necessary documentation to PERS, causing PERS to conclude that it was "unable to determine whether payments and earnings were accurately reported, including for individuals simultaneously working in multiple positions." (One sampled individual was identified as working in 10 separate positions). Aggregate earnings exceeding full time are considered overtime and not reportable to PERS.

The problem was compounded by a City policy (which ended in 2009) that permitted the payment at hourly rates once the contracted hours paid at a flat yearly salary had been exceeded.

PERS found that the City had misrepresented that three individuals had worked for the City as employees rather than independent contractors and sought to acquire prior service credit for time served, even though they were ineligible because of their independent contractor status.

PERS also found the City over reported income for Councilmen who received extra income for attending meetings with other boards, commissions or committees. (Today Councilmembers receive no pay for such meetings).

It found that the City had incorrectly reported five attorneys under a safety retirement classification which provides for enhanced benefits when in reality they had no prosecutorial role.

In one instance, PERS found that the Fire Chief who became the interim City Administrator (he took the dual role without any change of pay) would have to have his pay reported out by the City separately, identifying the percentage of time spent in each position along with each position's base pay rate and retirement coverage group. (Assuming the PERS analysis is correct, the City Administrator/Fire Chief, lost pension benefits when he took over as

the interim City Administrator without a pay increase, while the City overpaid its pension contribution for him).

In all PERS made ten findings, not all of which are laid out here.

In late May 2012 CALPERS issued determination letters to five current and former City Officials outlining its decisions related to membership and compensation and reduced benefits. They were given 30 days from the date of the determination letters to appeal their decision. Both the present City Administrator and the former City Administrator were given 30 days to July 27 to provide further information before a decision would be rendered; after receipt of a decision they have 30 days to file a written appeal.

It is not known whether PERS intends to issue additional decision letters.

The City's response to the PERS audit noted some agreement, i.e., that the City had incorrectly reported attorneys under coverage for 79001, a safety classification that provides an enhanced retirement benefit formula of 3% at age 55, and that it had not tracked a former City Official who after leaving office in 2005 was convicted of perjury, and failed to report it to PERS. (The conviction was affirmed on appeal in 2011). The City noted, however, that in a number of instances City Officials had provided PERS letters and information regarding individual's employment status, and sought advice from PERS eligibility officers before submitting membership paperwork.

The upshot today:

(1) Vernon City Employee's are paid for one specific position, even if they are assigned other positions

(2) The City no longer pays safety contributions for its attorneys.

(3) In 2009 the City terminated its hybrid program paying hourly rates for those working hours in excess of a specific number of hours at their primary position for which there was a set salary.

(4) Since 2009 the City stopped paying extra compensation to Councilmembers and others for attending meetings of boards, commission and committees.

(5) The City and its outside counsel Steve Berliner of Liebert Cassidy and Whitmore are working with and should continue to work with PERS to ensure that Vernon is in full compliance with its CALPERS contract.

As a result of the audit, PERS received retirement overpayments from Vernon representing both employee and employer contributions. To the extent overpayments were made and labeled as employee contributions, employees should get that money back from PERS, while employer contributions which are overpaid are usually retained in the City's PERS retirement account. The City's PERS retirement account is less than 100% funded.

The JLAC Audit
(Bureau of State Audits)

On June 28, 2012 the Bureau of State Audits, as requested by the Joint Legislative Audit Committee, released its audit report on the management and finances of the City of Vernon and its Light and Power Department.

The Auditor concluded that “although the City is enacting reforms, it has not developed policies necessary to implement some reforms and for others it will take years to achieve full benefits.”

The 126 page report was followed by a response to the draft of the report signed by David Schindler of Latham & Watkins, who in his cover letter stated “The Draft Report is neither objective nor neutral; rather it appears designed to justify the ten months of work and millions of dollars of taxpayers funds expended to create a report that simply rehashes the same issues that gave rise to the reforms already underway in the City. Finally, many of the purported findings and recommendations are untethered to the practical realities of running an industrial city that is home to more than 1800 businesses and 50,000 hardworking men and women.”

I prefer to look at the report in a more positive light. Taking its recommendations as a whole, it is aspirational; while it tends to downplay the strides that Vernon has made in the past year, it suggests best practices for Vernon to follow that would probably put it ahead of most California cities; other cities might take note of some of the Auditors recommendations.

I see no need to rehash the Auditor’s study of the City’s financial situation, which is now being addressed by the City (see the Preface,) except to comment briefly on some of their recommendations on a going forward basis.

It should be noted that at no time did the Auditor make contact with me, Bob Stern or Cynthia Kurtz, available as we were.

Housing

The Auditor reports that “although the City has made some progress in implementing a number of reform measures related to a State Senator’s direction to double its electorate, full reform of the City’s housing practices will take years to achieve.”

While the report states the City “has not developed a comprehensive plan for constructing the 50 new housing units” (recommended by Senator De Leon) it does indicate that an RFP for housing projects was active with a mid July due date for receipt of proposals from developers. Those proposals are now being reviewed and can lead to the comprehensive plan the Auditor suggests. Once those proposals have been fully vetted the City should develop the type of comprehensive plan the Auditor suggests, particularly with timelines and target dates so the City is on track to meet Senator De Leon’s recommendations. (For more on Housing developments see Chapter III).

Compensation Practices

While the City set new salary rates for its executives within the top quartile of other Southern California cities reviewed, I recommended in my July 28, 2011 report that salary surveys be conducted every three years, a recommendation that still holds.

An effort was made in the salary survey to include cities with Light & Power Departments. Vernon's situation in many ways is unique given its makeup. The fact that the staff size of the Vernon City Attorney office is much smaller than Pasadena's is one factor to consider, but also of importance is the scope of responsibility that the Vernon City Attorney has over a number of areas, including negotiating for and monitoring legal work handled by outside firms. When the salary survey is next conducted, special attention should be given to the complexity of the position (or lack thereof) in Vernon and its comparison to those holding similar positions in other cities in the survey. In short the process can be improved. But when one looks at past policies, there is no question that Vernon has moved in the right direction.

The salary survey that was conducted dealt with sitting executives in key positions. Attention was not given to minimum qualifications, but as positions open it should do so, as has been done for the City Attorney and the Human Resources Director positions.

Minimum qualifications should be set for future hires, as well as defining the role and responsibilities of key staff who participate in the hiring process for executives. The hire of the Human Resources Director should aid in the move to professionalize this process (with the steps already taken by the City spelled out on page 28 of the Auditor's report).

Also of importance are yearly appraisals of promotability for City executives. The Auditor was unable to find them in the City's personnel files. Yearly appraisals of promotability for executives should be integrated into the City's personnel review process, and certainly should be filed in the City's personnel records.

Contracting Services

(1) Caps & Time Limits

As noted elsewhere in this report Vernon has yet to complete its promised Contract Policy document; it is now in draft form. It should provide, as the Auditor recommends (as have I), that there be termination dates and expenditure caps, even with service contracts.

(2) The city's Use of the ERP System to track City contracts needs to be strengthened so that it can be used throughout City government to better manage contract compliance as well as ending dates. It is recommended the City:

(a) continue to continue to support the use of the Eden Contracting Modules and ask departments to use it for all contracts and purchase orders, including service contracts.

(b) Develop a monthly report for the City Administrator's use that would provide budget and expenditure information on active contracts and purchase orders.

(c) Investigate the bid and quote modules to determine if it will assist the City Administrator in his review of bidding history and help him determine if rebidding is necessary.

(3) The Policy document should insist on a well defined scope of work and deliverables, and detailed invoices for more effective monitoring, including those from law firms.

(4) As noted in our report, we have urged the negotiation of government rates with law firms. At least five of the contracts found in Table 9 (page 49) of the Auditor's report came from law firms, with a total of approximately \$31,000,000 expended by Vernon for their services between 2005 and 2011-2012. And there are other law firms hired (some of which charge "government rates) that would add to that total.

We join in the Auditor's proposal to review and rebid professional service contracts every three years and recommend that all professional service contracts be reviewed and rebid no later than July 1, 2013, if they have been in place for more than three years.

Other Expenses

(1) Credit Cards: The Auditor recommends establishment of internal controls specifying appropriate use of credit cards as well as a review and approval of credit card statements by someone other than the cardholders. While the City has current practices in place that provide layers of review, best practices should be developed and memorialized. It is hard to see how the Finance Director should be tasked with review of credit cards for appropriateness, given his responsibilities, but it is clear that the requestor's supervisor should sign off and that the responsibilities of each layer of review be defined. It should not be the function of the City Council to determine appropriateness, but rather to be an overseer to make sure adequate controls are in place.

(2) Travel Expenses. A written travel policy was adopted applying to both Councilmembers and staff on November 11, 2011 as a result of our previous recommendation.

The Auditor recommends limits on hotel accommodations because of "abuses in the past," and points to an ambiguity in the limitation on meal costs if a receipt is provided. No abuses have been noted in the past year, but we see an advantage in reviewing the policy to clarify the limits on meal and hotel costs, and the responsibility for approving exceptions to the policy.

Conflict of Interest Compliance.

While the Auditor found that in calendar year 2010 executives filed required Statements (which we noted in our July 28, 2011 report), it found that the City generally has not required its consultants to file statements of economic interests, and that the City Administrator has not made "the required written determination" as to whether its consultants should file such statements.

The law requires those consultants who are serving as staff members that would have been required to file a Statement of Economic Interest under the City's Conflicts of Interest Code, or who have decision making power as opposed to those making recommendations, file economic interest statements. (FPPC Regulation 18701 (a) (2): Definition of Consultant.)

To comply with this requirement, it is recommended that the City Administrator and the new City Attorney devise a review process which meets the Auditor's recommendation and the law, with a review of all consultant contracts, to determine whether an economic interest statement need be filed, and if so to give notice to those involved. A process for review of those should then be developed. Documentation of determination decisions should be maintained, and a process should be developed so that the City Council is fully informed of the determinations, as well as having access to the statements of economic interest provided.

The City's Finances

The Auditor's Report goes into great length in detailing Vernon's financial situation.

In the Preface to this report, I report the City Council's actions in June approving a new budget, calling for a Special Election with respect to a utility user's tax, ordering an increase in the special parcel tax and electric rate adjustments and other measures intended to bring the City into balance, with expected transfers from the Light and Power fund of approximately \$12 million to the City's General Fund, which has historically been underfunded.

In this segment I will not address the historic causes for Vernon's present predicament, which are detailed in Chapter 4 of the Auditor's Report. What is addressed here are some of the Auditor's recommendations relating to the City's budgeting and planning processes which can be improved.

1. Budgeting

The City's Charter requires that its proposed budget contain a comparison of the current fiscal years expenditures to the proposed expenditures for the ensuing fiscal year, along with reasons for the increase or decrease.

The 2012-13 budget submitted publicly and approved by the Council on June 19, 2012, failed to provide expenditure information for 2011-2012; nor did it give reasons for increases or decreases in expenditures. It did report on expected capital expenditures.

Separate documents with the requested information were provided to the Council and the Chamber by May 31, 2012. The Council heard from Department heads at public meetings on June 11, 12, 2012 to review department budgets and hear about their needs.

The Auditor cites the Government Finance Officers Association which recommends that the budget be a tool to facilitate public study and effectively communicate key economic and fiscal issues to policy makers and the public.

The City has taken steps to increase public awareness of budget policies and practices incorporating GFOA's recommendations (See page 69 of the Auditor's report and page 169 of the City's response); it has also followed through on our recommendation for public presentation of quarterly expenditure reports. (The next report is set for a Council meeting in August). The narrative and details can be improved for the public budget presentation including, among other things, revenues budgeted and received, as well as budgeted and actual expenditures, and reasons for deviations.

Given the City's reliance on transfers from other funds to the General Fund, greater detail should be provided, particularly with reference to the specific funds. In the June 17, 2012 presentation to the Council, under the heading "estimated revenues" the City listed "Other Income" -- \$12,012.370, and "Transfer in—from other funds"--\$20,864.758, raising the questions where did the other income come from, and from what funds, were there transfers and how much?

It is recommended that the City takes further steps along the lines suggested to improve its budget transparency, and continue to post its budget and financial information on its website.

Given the commitment by the City Administrator to obtain cost reductions of 5-10%, it is recommended that a revised budget be submitted to the Council by October 1, 2012 and January 1, 2013 to insure that the necessary reductions are made. Given the anger in the business community as noted elsewhere in this report, it is clear that "sharing the pain" in the newly balanced budget is very important for Vernon's future.

The Auditor also noted that the City does not have a long term financial plan to help it assess the impact of its financial decisions as a whole, and to the general fund in particular.

While the Auditor outlines some of the long range planning in which Vernon engages, e.g., for the Light and Power Department, more needs to be done in this area. Normally internal staff should be responsible for this; if the present staff is incapable of this effort either new staff should be found or outsourcing should be utilized.

Debt: Citing GFOA the Auditor recommends a comprehensive debt policy consistent with its long term financial goals, and a formal process and guidelines that better identify the benefits and risks of proposed transactions. While the City has utilized multiple reputable consultants, the City does agree with the need for short and long term debt policies that meets the needs of the city and says it is working with its advisors to develop such a plan.

A deadline should be set for the establishment of such a plan, preferably no later than January 1, 2013; this recommendation should be placed in the City's matrix.

And just as a fulltime qualified City Attorney is in the best interest of the City, the City needs to have qualified persons within its Finance Department who can work closely with City staff and outside advisors and consultants where necessary to provide prudent financial advice to the City. This will serve the City in the long term, in particular figuring out a way for the City to reduce its \$60 million a year debt payments, which has fueled the recent tax increases that the City's business community argues places the City's future in jeopardy. As it stands as of June 30, 2012 \$360,745,000 of Vernon's bonded indebtedness will be paid off by August 20, 2021.

CHAPTER VI

Compliance Review

A. Conflicts of Interest Compliance

A review was made of Conflict of Interest filing by Councilmembers and high ranking City employees.

All of the 2011 Statements of Economic Interests were filed on time according to the City Clerk Willard Yamaguchi, which was confirmed by our review.

Assuming and leaving office statements are also required within 30 days of assuming or after leaving office. All Statements were filed in a timely way, except in the case of Michael Montgomery, the Interim City Attorney who left office on October 31, 2011. He has failed to file a Statement.

B. Campaign Statements

Statements are being retained by the City for seven years. Candidates running for office are also required to file campaign disclosure statements.

In the April 2012 election, candidates Daniel Newmire and Michael Ybarra filed statements that they did not expend more than \$1,000 on their campaign.

In the June 2012 elections candidates Reno Bellamy and Luz Martinez filed statements that they did not expect to spend more than \$1,000 on their campaign.

Outside expenditure groups are also required to file if they make \$1,000 or more in expenditures for a candidate in a City election.

On April 2nd the Vernon Chamber of Commerce reported spending \$6,956 in the April elections to support candidate Michael Ybarra for City Council, and later filed an amended statement reporting spending \$7,588 in the election in support of candidate Ybarra.

The Chamber did not file a report for the June elections. A final statement showing all activity from January 1 thru June 30th is due July 31st.

C. Public Records Act.

According to City Staff an unknown number of Public Records Act requests have been filed directly with the City Clerk in the past six months. Extensions were granted in a number of cases. The requested records were ultimately provided. No complaints were filed.

Vernon's departments also directly receive such requests. If a complaint is filed for a non-compliance it goes to the City Attorney. Dana Reed who has served as the contract City Attorney over the past six months reports having received no complaints.

It is recommended that Vernon establish a centralized log where all incoming Public Records Act requests are recorded as well as their disposition. Such a log will help the City Administrator and his staff know whether or not its Public Records Act policies are being followed.

D. Brown Act.

Since the report of January 31, 2012 there are no known complaints of Brown Act violations. Dana Reed in advising the Council at its meetings keeps the Brown Act in mind and is quick to speak up and control matters to avoid potential inadvertent Brown Act violations.

Again, the annual Brown Act training will be rolled into a combined Public Records Act, Conflict of Interest and Brown Act training program for Councilmembers, department heads and staff by October 1, 2012, and will be scheduled when the new Councilmembers take office. At that time printed manuals will be provided.

Chapter VII

Business Activity in the City

In my January 31, 2012 report I reported on the business activity in the City.

Once again I turned to Cushman and Wakefield to provide a more current report. John McMillan, the Executive Director for Industrial Brokerage provided the following report.

“Attached is the current Vernon vacancy rate as measured against other cities in Southern California with a large industrial base. As you will note, despite the age of the majority of the buildings within the City of Vernon, and arguably the functional obsolescence of most of the buildings by today’s market standards, Vernon continues to have one of the lowest vacancy rates. The primary reason for Vernon’s attraction to the business community is the location, as it is the bull’s-eye of the Greater Los Angeles basin. Not only is it a great draw for the labor base, but clients of ours in Vernon live as far away as Malibu, San Marino, Diamond Bar, Palos Verdes and Orange County. The same cannot be said for clients of ours in Carson for example, where the vast majority of the principals and decision-makers live in the South Bay, or Santa Fe Springs, where most seem to be driving in from Orange County.

In addition to the location, we hear from clients that they enjoy the ability to talk to city staff without having to wind their way through a jigsaw puzzle of various departments, where they often have to make appointments or even wait in line, and often times are dealing with staff who “kick the can down the road” and never make a clear cut decision. The Health Department is also a big draw, not only for its ability to understand and work with the food industry in particular, but also given it can serve as lead agency for environmental closure and remediation issues, versus the alternative of having to work through the DTSC or LARWQB, both of which are under-staffed and buried and the same projects seem to take literally 4-5x as long to complete. Next up would be simply being surrounded by the industrial community, as many of our clients prefer to locate within an area where they are surrounded by similar uses, and not for example across the street from residential, or a school, or retail, etc where their use, or trucking, or noise, etc, could be viewed as a liability, threat, or create a future NIMBY issue. Also, the Fire & Police Departments are big draws, not only for insurance purposes but also just to “feel safe”. Finally, while Vernon’s reputation as the “low cost alternative” for conducting industrial business in Southern California certainly could change with the recent increases to property and utility taxes, historically at least, that was always a big draw for the city too, and may continue to be so should some of the other municipalities and utilities change their fees and tax structures to contend with their own budget issues, but only time will tell.

There are some negatives, starting with the smell in some areas which can be a huge turn-off, the lack of amenities, and the overall “curb appeal” that some companies are looking for that prefer to locate in cities with a far higher percentage of modern buildings and rolling landscaped setbacks, like Santa Fe Springs for example. But, you’d asked for my thoughts on why Vernon remains popular despite its age and those are some of the reasons we hear from our clients. There may be plenty of others, but those would be best answered by members of the industrial community directly.”

Vernon’s vacancy rate, which was 4.1% in 2011, increased slightly to 4.2% in its June 20, 2012 report. That according to data provided by Cushman and Wakefield’s Market Research Department compares favorably with that of other cities in the greater Los Angeles market area.

Overall Vacancy Rate Rankings – Low to High June 26, 2012 Greater Los Angeles Markets	
Market	Vacancy Rate
Burbank	1.9%
Van Nuys	2.8%
Santa Fe Springs	3.5%
Vernon	4.2%
Pico Rivera	4.3%
South Gate	4.4%
Gardena	4.5%
Carson	4.5%
Commerce	4.9%
Valencia	5.1%
Rancho Dominguez	5.2%
Torrance	5.6%
City of Industry	6.0%
Cerritos	6.1%
El Monte/S. El Monte	6.5%
Chatsworth	6.6%
Compton	6.9%
Montebello	7.0%
Pomona	7.2%
La Mirada	10.5%

Another barometer of Vernon’s business activity lies in the Electric Power usage, which was up approximately 1% comparing fiscal year 2012 (July to May – the June figure not yet available) to fiscal year 2011. The figures were provided by Carlos Fandino, Director of Vernon’s Light and Power Department.

ELECTRICITY USAGE COMPARISON

Month	2012	2011	Up/(Down)
July	97,031,156	98,396,138	(1,364,982)
August	100,429,157	99,393,454	1,035,703
September	102,669,913	100,090,119	2,579,794
October	98,736,103	95,552,413	3,183,690
November	99,152,041	97,199,686	1,952,355
December	92,904,873	93,692,106	(787,233)
January	90,386,943	88,512,350	1,874,593
February	94,439,063	90,830,124	3,608,939

March	91,115,412	87,297,673	3,817,739
April	95,234,547	95,992,272	757,725
*May	91,546,847	93,771,347	(2,224,500)
	1,053,646,055	1,040,727,682	12,918,373

*May decrease in kilowatts is due primarily to the closure of AFA Foods. AFA Foods filed bankruptcy due to the Pink Slime controversy. The City has spoken to the property owner and they are actively searching for a new tenant to continue the business.

Vernon's Chamber of Commerce was asked to provide a written statement to be included in this report on its take on business activity in the City, but did not submit such a statement.

CONCLUSION

Vernon continues to make real progress towards recovery from bad decisions, mistakes, and mismanagement. For the last 2 years Vernon has been in a turnaround mode.

Speaker John Perez deserves some credit for this. His introduction of AB 46 in 2010 scared the bejeezus out of Vernon. The pressure of his bill has forced Vernon and its residents and its business community to understand that Vernon could no longer do business the way it had in the past.

And so it began to initiate best municipal governmental practices and put its house in order.

There has been a flurry of activity in the last 18 months to respond to the recommendations of Senator De Leon and me, and to the City's predicament.

Most notable recently are the establishment of a balanced budget and the necessary taxes to achieve that. And now the City stands committed to reduce its expenditures to reduce the negative impact that those taxes may cause.

After lengthy professionally managed searches to fill key positions it stands ready to appoint a new City Attorney and a Human Resources Director with a search process underway for a new Finance Director, and Police Chief, and an intention to seek an Assistant City Administrator with a municipal executive background who can backstop the present City Administrator.

The new team, once it's in place is expected to continue the reform process, and set a tone that can serve Vernon well in the years to come.

In the past six months Vernon has had two close elections, with substantial questions raised about the qualifications of some of those voting. Vernon's decision to take over the challenge process after the 2nd election was a difficult one; no one in City government wanted to be accused of supporting one side or another. But given the County Registrars decision not to hold a hearing nor take live testimony Vernon was left with a hard choice. Should it accede to the Registrar or put a process in place that would better assure its electorate and the outside world that the election was fair and above board? The process it put into place, with a neutral hearing officer with no previous ties to Vernon and with subpoena powers to the parties to be able to call the challenged voters to the contest hearing, provides an open window to the electorate and the general public of the facts and the reasons for any ultimate determination by the hearing officer. Whatever the outcome, the process should help clear the air.

There is still more to be done.

Progress needs to continue on expanding the electorate with new housing.

Its contract policy document needs to see the light of day.

With the arrival of a Human Resources Director, the City should start to move towards a civil service system.

With the new City Attorney, professional service contracts (particularly with outside law firms) needs to be closely monitored and carefully considered.

Budget cuts need to be made with input from its residents and the business community.

There are some 19 new recommendations in this report, some big some small, that should be added to the City's matrix, and efforts need to commence to meet them, as well as responding to previous recommendations which are still in the incomplete category.

There are complaints that the City still is not as open as it should be. The City government should not be afraid to air its ideas with its citizens and the business community, and engage in the spirited analysis and debate that can enlighten decision making. Advance notice of big ideas, spirited questioning by the councilmembers, the residents and the business community, asking simple questions such as "why?" force better decisions.

The City has made progress, but messy as it may be, there is more to be done.

RECOMMENDATIONS

A. Recommendations from Senator De Leon’s Critical Path Reforms to be completed

1. “Establish a substantial and long term Environmental Community Benefit Fund to help mitigate decades of noxious air released from Vernon (the exact amount to be negotiated).” (See page 8)
2. “Creation of an independent board to allocate those Environmental and Community Benefit Funds (ECBF) including representation from outside affected communities.” (See page 9)
3. “Immediately fund regional community recreational facilities in affected neighboring communities (the scope and sites to be negotiated) (See page 9)
4. “Revise existing trash hauling program with strong environmental standards.” (See page 10)

B. Recommendations from the July 2011 and the January 2012 Report to be completed

1. All Councilmember salaries should be set at \$24,996 by April 17, 2012, when the newly elected Councilmember takes office. (See page 11)
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 31, 2012: (See page 12-13)
 - a. Require all contracts, including professional service contract, 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 even 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 rate.

3. The City should create a Human Resources/Personnel Department and hire a trained Human Resources Director. (See page 13-14)
4. The City should complete a study of the Vernon Police Department staffing and costs in comparison with other primarily industrial cities, and after its completion and review determine whether to engage in the Phase II Study with the L.A. Sherriff's Department that could lead to contract out Vernon's policing to that Department. (See page 14-15)
5. The City should establish an ongoing consulting relationship with City Administrators and City Managers from other Southern California cities and League of California Cities representative to review best practices and Vernon's utilization of them. (See page 15)
6. Allocation of money for the Environmental and Community Benefit Fund should await clarity regarding the future of the City's Redevelopment Agency funding. The City should begin to fulfill its commitment to this recommendation by July 31, 2012. By that time, the City's financial picture should be clarified and the 2012 budget adopted. (See pages 8 – 10)
7. Given the uncertain status of Redevelopment Agency funding, the timetable for allocations of \$5 million to assist in the renovation of the Salt Lake Park in Huntington Park should await clarity regarding the source of funding. (See pages 9-10)
8. 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)

C. New Recommendations

1. The City should amend its Resolution 2011-149 which called for funding specific amounts and transfers from the Environmental and Community Benefit Fund and for Regional Community Recreational Facilities to make it consistent with the City's ability to fund those measures. (See page 10)
2. The City Administrator/Fire Chief and the Council should determine which role he should fill, City Administrator or Fire Chief. (See page 16-17)
3. The City Administrator, the City's departments, and the City's business representatives should work closely and cooperatively to find and make cuts in the 5 to 10% range as soon as possible. (See page 18)
4. As long as procedural safeguards are in place, such as those provided for by the City after the June 5 election the City should not consolidate its elections with State elections and should administer all of its own elections, and where necessary election contests. (See page 24)

5. The City should continue to work with PERS to ensure that Vernon is in full compliance with its CALPERS contract. (See page 26)
6. Once the Housing RFPs have been fully vetted, the City should develop a comprehensive plan suggested by the State Auditor with timelines and target dates in order to meet Senator De Leon's recommendations. (See page 27)
7. Salary surveys for Councilmembers and key executives should be set within three years after its last survey, looking at the complexity (or lack thereof) of the positions with respect to the comparative positions in other cities. (See page 28)
8. Minimum qualifications should be set for future key executive hires along with a definition of the role's responsibilities of the position. (See page 28)
9. Appraisals of promotability for City executives should be conducted annually and placed in the City's personnel file. (See page 28)
10. The City's use of the ERP system to track City contracts needs to be strengthened. (See page 28)
11. All professional service contracts should be reviewed and rebid no later than July 1, 2013, if they have been in effect for more than three years. (See page 29)
12. Credit card approval processes need to be reviewed, better controls put in place, and a memorialization of the controls established. (See page 29)
13. Travel policies with respect to controls on hotel and meal costs need to be amended to eliminate ambiguity and provide better guidance when and how exceptions are to be approved. (See page 29)
14. The City Administrator and the City Attorney should devise a review process with respect to consultants to determine when and how they must file economic of interest statements under State Conflict of Interest Laws, and provide documentation of determination decisions, with notice to the affected consultant and to the City Council. (See page 29-30)
15. The City Administrator and its Finance Director should improve the narrative and details for its budget and expenditure presentations. (See page 30)
16. The City Administrator should submit revised budgets to the Council by October 1, 2012 and January 1, 2013. (See page 31)
17. Internal staff or outsourcing should be utilized for better long range financial planning. (See page 31)
18. Short and long term debt policies meeting the needs of the City should be established no later than January 1, 2013. (See page 31)

19. The City should study reviewing its bonded indebtedness which today costs \$60 million a year to service, and figure out a way to lower and smooth out its payments, thereby putting it in a position to lower its recent tax hikes. (See page 31)