



# CITY OF EL PASO DE ROBLES

*"The Pass of the Oaks"*

## CITY COUNCIL MINUTES

Tuesday, September 18, 2012 7:30 PM

MEETING LOCATION: PASO ROBLES LIBRARY/CITY HALL  
CONFERENCE CENTER, 1000 SPRING STREET

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PLEASE SUBMIT ALL CORRESPONDENCE FOR CITY COUNCIL PRIOR  
TO THE MEETING WITH A COPY TO THE CITY CLERK

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### 7:30 PM – CONVENE REGULAR MEETING

**CALL TO ORDER** – Downstairs Conference Center

**PLEDGE OF ALLEGIANCE**

**INVOCATION**

**ROLL CALL** Councilmembers John Hamon, Nick Gilman, Fred Strong, and  
Mayor Duane Picanco

**ABSENT** Ed Steinbeck

**STAFF INTRODUCTIONS**

### PUBLIC COMMENTS

This is the time the public may address the Council on items other than those scheduled on the agenda. **PLEASE SPEAK DIRECTLY INTO THE MICROPHONE AND BEGIN BY STATING YOUR NAME AND ADDRESS. EACH PERSON AND SUBJECT IS LIMITED TO A 3-MINUTE DISCUSSION.** Any person or subject requiring more than three minutes may be scheduled for a future Council meeting or referred to committee or staff. Those persons wishing to speak on any item scheduled on the agenda will be given an opportunity to do so at the time that item is being considered.

- Cody Ferguson
- Chip Tamagni
- Arthur Anderton

**AGENDA ITEMS TO BE DEFERRED (none)**

### PRESENTATIONS

A motion was made by Councilman Gilman, seconded by Councilman Strong, to move consent items 8 & 9 to presentations section of meeting.

Approved 4-0 by voice vote (Steinbeck absent).

**8. Proclamation – Alzheimer's Action Day (September 21, 2012)**

Mayor Picanco presented a proclamation to **Nancy Sutton**, representative of the Alzheimer's association.

**9. Proclamation – Energy Awareness Month (October)**

Mayor Picanco presented a proclamation to Andy Muntzinger from the San Luis Obispo County Air Pollution Control District, on behalf of "Energy Awareness Month".

## **PUBLIC HEARING**

### **1. Paso Express Dial-A-Ride Proposed Fare Increase**

J. Throop, Administrative Services Director

For the City Council to consider approving an increase in Paso Robles Dial-A-Ride fares in order to help meet State-required farebox ratios.

Mayor Picanco opened the public discussion. Speaking from the public was Kathy Barnett. There were no other comments, either written or oral, and the public discussion was closed.

A motion was made by Councilman Strong, seconded by Councilman Gilman, to adopt Resolution No. 12-155 approving a fare increase for Dial-A-Ride service.

Motion passed by the following roll call vote:

AYES: Strong, Gilman, Hamon, Picanco

NOES:

ABSTAIN:

ABSENT: Steinbeck

## **CONSENT CALENDAR**

**ITEMS ON THE CONSENT CALENDAR ARE CONSIDERED ROUTINE, NOT REQUIRING SEPARATE DISCUSSION.** However, if discussion is wanted or if a member of the public wishes to comment on an item, the item may be removed from the Consent Calendar and considered separately. Councilmembers may ask questions of clarification without removing an item from the Calendar. **INDIVIDUAL ITEMS ARE APPROVED BY THE VOTE THAT APPROVES THE CONSENT CALENDAR, UNLESS AN ITEM IS PULLED FOR SEPARATE CONSIDERATION.**

### **2. Approve City Council Minutes from September 4, 2012**

D. Fansler, City Clerk

### **3. Approve Warrant Register No. 105102-105202 (8/31/12), 105203-105311 (9/07/12), and other payroll services**

J. Throop, Administrative Services Director

### **4. Advisory Body Minutes**

Youth Commission Meeting Minutes from May 2, 2012

Travel Paso Robles Alliance BID Meeting Minutes from August 14, 2012

### **5. Approve Resolution No. 12-156 awarding the purchase of 18,000 pounds of Pulsar Plus Briquettes to Knorr Systems Inc. in the amount of \$30,571.40**

D. Monn, Public Works Director

### **6. Adopt Resolution No. 12-157 making declaration of public nuisances relating to weed abatement within the City and setting October 2, 2012 as the public hearing date.**

K. Johnson, Emergency Services Chief

### **7. Read By Title Only and Adopt Ordinance No. 984 N.S., Amending The Uptown/Town Center Specific Plan (Specific Plan Amendment 12-002)**

E. Gallagher, Community Development Director

### **8. Moved to Presentations Section**

### **9. Moved to Presentations Section**

Mayor Picanco opened the public discussion. Speaking from the public was Mike Cussen, who submitted a letter to Council via email on September 13, 2012 (attached). There were no other comments, either written or oral, and the public discussion was closed.

Consent Calendar items 2 thru 7 were approved on a single motion by Councilman Strong and seconded by Councilman Hamon.

Motion passed by the following roll call vote:

AYES: Strong, Hamon, Gilman, Picanco

NOES:

ABSTAIN:

ABSENT: Steinbeck

## DISCUSSION

### 10. Amendment to Title 12 of Municipal Code (Vehicles and Traffic) to Add New Chapter 12.92 – Operation of Motor Vehicles on Public Property

R. Burton, Acting Chief of Police

For the City Council to consider amending Title 12 of the Paso Robles Municipal Code (Vehicles and Traffic) to add new Chapter 12.92 – Operation of Motor Vehicles on Public Property.

Mayor Picanco opened the public discussion.

*Spoke against:*

- Tim Pilg
- Chip Tamagni
- Bruce Witcher
- Doug Barth
- Ron Scott

*Spoke in favor:*

- Stephen Smith
- Jerry Crabhill
- Tim Wilhelm
- George Dugas

There were no other comments, either written or oral, and the public discussion was closed.

A motion was made by Councilman Hamon, seconded by Councilman Gilman, to introduce for the first reading **Ordinance No. 985 N.S.** to amend Title 12 of the Paso Robles Municipal Code to add new Chapter 12.92 to address and regulate off-highway motor vehicles on public property, and set October 2, 2012, as the date for adoption of said ordinance.

Motion passed by the following roll call vote:

AYES: Hamon, Gilman, Picanco  
NOES: Strong  
ABSTAIN:  
ABSENT: Steinbeck

### 11. Amendment To Title 5 Of Municipal Code (Business Licenses) To Add New Chapter 5.38 – Massage Therapy And Massage Establishments

R. Burton, Acting Chief of Police

For the City Council to consider amending Title 5 of the Paso Robles Municipal Code (Business Licenses) to add new Chapter 5.38 - Massage Therapy and Massage Establishments.

Mayor Picanco opened the public discussion.

*Spoke against:*

- Chip Tamagni
- Rachael Tamagni
- Mary Uberstaff
- Cody Ferguson
- Tobi Anderson

*Spoke in Favor:*

- Kathy Barnett

There were no other comments, either written or oral, and the public discussion was closed.

A motion was made by Councilman Strong, seconded by Councilman Hamon to introduce for the first reading **Ordinance No. 986 N.S.** to amend Title 5 of the Paso Robles Municipal Code adding Chapter 5.38 to address and regulate Massage Therapy and Massage Establishments; set October 2, 2012, as the date for adoption of said

ordinance; and adopt Resolution No. 12-158 approving a fee schedule for massage businesses and establishments.

Motion passed by the following roll call vote:

AYES: Strong, Hamon, Gilman, Picanco  
NOES:  
ABSTAIN:  
ABSENT: Steinbeck

**12. 21st Street Improvements Construction Budget**

D. Monn, Public Works Director

For City Council to consider a construction budget for 21st Street Improvements.

Mayor Picanco opened the public discussion.

*Spoke against:*

- None

*Spoke in favor:*

- Justin Hurst
- Gail Gallagher
- Sally Reynolds
- Delisa Harris
- Pam Armas
- John Bryant
- Chet Simon
- Steve Fleury
- Jim Wilde

Jerry Jones and John Bryant both had questions regarding the project that were answered by staff. There were no other comments, either written or oral, and the public discussion was closed.

A motion was made by Councilman Hamon, seconded by Councilman Strong, to adopt Resolution No. 12-159 adopting the final construction budget for the 21st Street Project (111.910.5452.688) as follows:

Urban Greening Grant .....	\$ 993,000
General Fund Reserves advance .....	218,000
Sewer Fund.....	380,000
Water Fund .....	80,000
SD Impact Fee .....	235,000
Gas Tax Fund 200 .....	490,000
Traffic Impact Fee.....	<u>399,000</u>
Total: \$ 2,795,000	

Motion passed by the following roll call vote:

AYES: Hamon, Strong, Picanco  
NOES: Gilman  
ABSTAIN:  
ABSENT: Steinbeck

**13. Highway User Tax Account Funds Expenditure Plan**

D. Monn, Public Works Director

For the City Council to consider establishing an expenditure plan for Highway User Tax Account Funds (HUTA) received from the State (borrowed by the State to balance the State Budget).

Mayor Picanco opened the public discussion. There were no comments, either written or oral, and the public discussion was closed.

A motion was made by Councilman Hamon, seconded by Councilman Strong, to adopt Resolution No. 12-160 authorizing HUTA funds be expended as follows:

Street Striping .....	\$ 77,500
21st Street Improvements (supplemental funding) .....	\$ 490,000
Rambouillet/Niblick to Nicklaus, heavy overlay and upgrade 28 ramps ...	\$ 713,816
Maple Street and Blossom Street, cape/slurry seal .....	\$ 35,147

Motion passed by the following roll call vote:

AYES: Hamon, Strong, Gilman, Picanco  
 NOES:  
 ABSTAIN:  
 ABSENT: Steinbeck

**14. Police Chief Selection – Participative Process**

J. App, City Manager

For the City Council to appoint citizens to participate in Police Chief Candidate interview panels.

Mayor Picanco opened the public discussion. Speaking from the public were Danielle Fresca, Brandon Goodman, and Kathy Barnett.

There were no other comments, either written or oral, and the public discussion was closed.

A motion was made by Councilman Gilman, seconded by Councilman Strong, approving a citizen appointment will be made by each Councilmember with the Mayor choosing 2 to serve on the Police Chief Interview Panel, all at the October 2, 2012, City Council meeting.

Motion passed by the following roll call vote:

AYES: Gilman, Strong, Hamon, Picanco  
 NOES:  
 ABSTAIN:  
 ABSENT: Steinbeck

**15. Habitat Conservation Plan**

E. Gallagher, Community Development Director

For the City Council to consider re-authorizing partnership with the County of San Luis Obispo (County) to prepare a multiple species North County Habitat Conservation Plan (HCP) and direct staff to prepare an updated “Planning Agreement” between the County and the City.

Mayor Picanco opened the public discussion. There were no comments, either written or oral, and the public discussion was closed.

A motion was made by Councilman Strong, seconded by Councilman Gilman, re-authorizing participation in this project, and directing staff to prepare and execute a Planning Agreement with the County of San Luis Obispo to develop a North County Habitat Conservation Plan.

Motion passed by the following roll call vote:

AYES: Strong, Gilman, Hamon,  
 NOES: Picanco  
 ABSTAIN:  
 ABSENT: Steinbeck

**16. Airport Restaurant Lease and Concession Agreement - LaGuardia’s Homemade Since 1912**

M. Williamson, Assistant City Manager

For the City Council to consider a lease and concession agreement with LaGuardia’s Homemade Since 1912 for restaurant space at the airport.

Mayor Picanco opened the public discussion. There were no comments, either written or oral, and the public discussion was closed.

A motion was made by Councilman Hamon, seconded by Councilman Strong, to adopt Resolution 12-161 authorizing the City Manager to enter in to a Lease and Concession Agreement with Lou LaGuardia for use of the terminal restaurant space at the Paso Robles Airport.

Motion passed by the following roll call vote:

AYES: Hamon, Strong, Gilman, Picanco  
NOES:  
ABSTAIN:  
ABSENT: Steinbeck

**17. San Luis Obispo County Grand Jury Report – Medical Marijuana**

E. Gallagher, Community Development Director

For the City Council to consider a response to the San Luis Obispo County Grand Jury's findings and recommendations regarding medical marijuana mobile delivery services.

Mayor Picanco opened the public discussion. Speaking from the public was Kathy Barnett. There were no other comments, either written or oral, and the public discussion was closed.

A motion was made by Councilman Hamon, seconded by Councilman Strong, to authorize staff to prepare the response letter for the Mayor's signature.

Motion passed by the following roll call vote:

AYES: Hamon, Strong, Gilman, Picanco  
NOES:  
ABSTAIN:  
ABSENT: Steinbeck

**CITY MANAGER (None)**

**COUNCIL COMMUNICATION**

- Mayor Picanco commented on the activities of the Grand Jury in regards to public records requests. He also asked his fellow Council members to support his signature on a letter to the grand jury.
- Councilman Strong gave a quarterly report, submitted document for the record (attached.)
- Councilman Hamon commented on League of Cities conference and inquired about the negative feedback from the car show participants. Council questioned the Acting Police Chief about same.

**CLOSED SESSION ITEMS (None)**

**ADJOURNMENT AT 11:01pm TO:**

- MEETING REGARDING THE CITY'S 125<sup>TH</sup> ANNIVERSARY - WEDNESDAY, SEPTEMBER 19, 2012 AT 2:00PM IN THE LIBRARY/CITY HALL CONFERENCE CENTER, 1000 SPRING STREET, PASO ROBLES.
- REGULAR PLANNING COMMISSION MEETING - 7:30 PM ON TUESDAY, SEPTEMBER 25, 2012 IN THE LIBRARY/CITY HALL CONFERENCE CENTER, 1000 SPRING STREET, PASO ROBLES.
- REGULAR CITY COUNCIL MEETING - 7:30 PM ON TUESDAY, OCTOBER 2, 2012 IN THE LIBRARY/CITY HALL CONFERENCE CENTER, 1000 SPRING STREET, PASO ROBLES.

Any writing or document pertaining to an open session item on this agenda which is distributed to a majority of the City Council after the posting of this agenda will be available for public inspection at the time the subject writing or document is distributed. The writing or document will be available for public review in the City Clerk's Office, 1000 Spring Street, Paso Robles, CA, during normal business hours, and may be posted on the City's web site at <http://www.prcity.com/government/citycouncil/agendas.asp>.

All persons desiring to speak on an agenda item are asked to fill out Speaker Information Cards and place them at the Staff Table prior to public discussion of that item. Each individual speaker will be limited to a presentation total of three (3) minutes per item.

**AMERICANS WITH DISABILITIES ACT** Any individual, who because of a disability needs special assistance to attend or participate in this meeting, may request assistance by contacting the City Clerk's Office (805) 237-3960. Whenever possible, requests should be made four (4) working days in advance of the meeting.

September 13, 2012

Members of the City Council (Via email to City Clerk)

RE: City Council Meeting, September 18, 2012  
Consent Calendar  
Item #6 – Weed Abatement

Dear Councilmembers:

It goes without saying that this item should be unanimously approved, which I'm sure you will do. However, there is a larger issue here that does require your attention.

The City ordinance requires that all weeds be cleared by June 1, which is a reasonable date. The fire season around here goes from June through October, and here it is September, and the parcel owners still have not removed the weeds from these 4 properties which you are authorizing the City to do tonight. And in reality, the Fire Department will not have legal authority to commence work until after your next meeting, October 2.

4 months will have elapsed since the parcel owners were supposed to clear the weeds. This is a dangerous and unnecessary delay for dealing with a fire hazard that could destroy a whole neighborhood. I know. My family survived the Oakland Hills firestorm which started at a home under construction and next to a field of grass.

Fire hazards are a unique kind of nuisance and they require an accelerated abatement schedule to deal with. They should be fast-tracked through the legal process. I contacted the California Fire Chiefs Association, Legislative Director, Chief Tracey Hansen, who told me that her city, Elk Grove, has everything cleared by July 4, 34 days after required compliance. This shows me that Paso Robles can do the same.

I have been discussing this with Emergency Services Chief Johnson to see what can be done to change the ordinance so that the City can cut the weeds and lien the properties earlier, say July 4 (which would get a lot of good PR with that date).

I recommend that the Council have Chief Johnson revise the ordinance so that it applies to the 2013 fire season. I will be happy to assist him with the drafting if he so wishes.

Thank you for your time.

Mike Cussen

411 14<sup>th</sup> Street  
Paso Robles, CA 93446  
650-303-4491

Cc: Chief Johnson (Via email)

## **Quarterly Report on Activities – July 1 – September 15, 2012**

**(As promised to the citizens and requested by the Mayor)**

By Council Member Fred Strong

This report will briefly cover those areas where I represent the city directly ( San Luis Obispo Council Of Governments, "SLOCOG", and San Luis Obispo Regional Transit Authority, "SLORTA") and indirectly (LOSSAN Passenger Rail Corridor Board of Directors; National Association of Regional Councils "NARC" Board of Directors; League of California Cities (policy committee on Revenue & Finance and annual conference). This report will primarily cover only those areas that do, or could, affect Paso Robles.

### **July:**

As President of the Board I chaired the meeting of SLORTA. The meeting primarily dealt with some schedule changes on Routes 9, 10 and 12 and updates on recent accidents and repairs. The progress and alternatives regarding a central transit center and future space needs for the maintenance facility were also received and filed.

I chaired the Executive Committee meeting of SLOCOG in which we dealt with completion of the North County Transit Plan and anticipated efforts toward merging of local transit service operations into the RTA for a cost saving of \$350,000/year. We planned strategies to address difficulties with the Federal Transportation Reauthorization Act pending before Congress and proposed amendments which would eliminate SLOCOG and force us to lose Federal road and transportation funds or to merge with another Transportation Planning agency and lose local authority and some funding. We will work with other agencies and NARC in this regard.

The LOSSAN board reviewed recommendations for changes to the By-Laws which I addressed to preserve local control and a balance of power regions. The balance of power was maintained by re-designating four regions: North (S.L.O., Santa Barbara and Ventura counties), North Central (Los Angeles), South Central (Orange and Riverside counties) and South (San Diego County) all would have to concur with at least one favorable vote on any major structural or rule changes and budget items. We further reviewed the proposed legislation to gain independence as an agency from State control of our corridor in operational and capital improvement matters. The legislation (SB 1225) passed the Appropriations Committee with amendments.

I received a report from the League of California Cities Revenue and Taxation committee consultant and found that his report showed fiscal 2011-2012 revenues for Paso Robles at \$762,630 and for fiscal 2012-2013 scheduled to receive \$763,567.



These were the first repayment of money previously "borrowed" by the State. I notified city management and was told that intentions don't mean anything until the money is received. I checked personally with the author of the report and found that the money for fiscal 2011-2012 had been dispersed and 2012 -2013 was being dispersed. City staff found that the money had come in small increments and went unnoticed due to our antiquated bookkeeping system. It can be used for some street repairs. We subsequently programmed some of it in August and September.

**August:**

I chaired the meeting of SLOCOG and postponed the SLORTA Executive Committee meeting due to lack of any necessary action items and to save an unnecessary meeting expenditure. SLOCOG made an amendment to the Federal Transportation Improvement Program (FTIP) and discussed minor changes for consideration in the 2013 FTIP for consideration in September. A progress report was given on the Federal Transportation Reauthorization Act. I signed letters urging favorable action to our Federal representatives regarding future funding and local control implications.

I also sat in on a Citizens' Advisory Committee meeting at SLORTA headquarters to get a flavor for how our committee is functioning and interacting.

LOSSAN and the Coast Rail Coordinating Council (CRCC) met jointly in San Luis Obispo and discussed funding for improved rail safety and capacity. CRCC is trying to add two trips a day through Paso Robles. I offered my proposal that we seek to have some designated high speed rail money re-authorized to city-to-city rail. By eliminating the \$6 billion proposed for the L.A. Metro to Anaheim segment the State could double and triple track all existing rail in California's controlled corridors doubling freight and passenger capacity and reducing travel times by up to 30%. The proposal was taken under advisement but numerous legislative difficulties were noted. Disney is pushing for the Anaheim segment.

The pending legislation for LOSSAN autonomy has been amended again to shorten the "test" period from five years to three years and the implementation projection has been pushed back by one year. Prospects were reported as good for last minute passage by the Legislature the day following the meeting. (It passed.) Changes to the By-Laws were approved by the board and will be considered by the Technical Advisory Committee. We also received word that the Transportation Reauthorization Bill passed with bi-partisan support for a two year extension with some funding realignments.

I signed letters of thanks to those who had worked with us to accomplish this.

## **September:**

I represented Paso Robles as its voting delegate to the League of California Cities Annual Conference during the first week of September. The Revenue and Taxation Committee met and discussed two initiatives for recommendation to the Board of Directors and two resolutions going before the General Assembly.

I spoke in opposition to both Proposition 30 and 31. I opposed Proposition 30 because it does not solve the fiscal problems but merely kicks the can down the road regarding education funding. An increased sales tax and more income taxes do not streamline the State nor do they help us maintain local control of local issues. I supported the motion against it which passed.

I made the motion to oppose Proposition 31 on the basis that while it does lay out some needed reforms for the State it has too many specific, stringent procedures for all cities which also give the State additional control of city policies. This was discussed at our previous meeting and we told the proponents that we could only support this if the local segment was removed. It was not removed so I oppose. The committee rejected my motion on a very close vote and took a "no position" stance so as not to appear to be opposed to reform measures. I helped defeat a motion to "support".

On a measure to capture more funds from court fines and forfeitures I prevailed in committee to get an effort to capture more money and fight over 3,200 other agencies to do so. I don't believe in pursuing certain failure and making enemies in the process. The League staff had advised us that it couldn't be accomplished. However, it got through the resolutions committee with the full effort approved. On the floor I was the only one to stand up for removing the one segment that sought profit rather than cost re-capture. My motion failed on 100-137 vote.

I also brought back a few potential cost saving proposals and gave the material to our City Manager. I learned a few days later that one of the proposals had already been considered and would have saved money up front but cost us more than it saved in lost maintenance and repair money down the road. I informed the proponent that we were not going to pursue the offer.

I attended three days of sessions with City Attorneys from through out the state and came away with a good understanding of changes made to various laws affecting cities, employees, retirement and benefit packages and ADA updates. I also purchased a copy of the just released "Guide To Local Government Finance in California". It is an excellent book which I've arranged to have placed in our City Library. A copy will also be in the reference material in the Council's office.

I have discount certificates available, if used before September 30, for those interested in having their own copy.

September 12 was a big day. I chaired the second quickest SLOCOG meeting in history and still got the 2013 "Federal Transportation Improvement Program" adopted. It contains the assessment of city streets and county roads as to condition and money needed to bring to acceptable standards. It shows \$13.2 million needed per year to keep roads as they currently are. \$22 million per year to incrementally improve them and \$30 million a year to bring them to acceptable standards within ten years. We approved \$107.6 million for Highway 46 East improvements plus an additional \$55+ million for additional improvements mostly to Highway 101 north of Paso Robles. For the City of Paso Robles we approved \$27.4 million for numerous improvements consistent with our "Complete Streets" element of our General Plan for highway, transit and off road paths under specific funding availability programs. The largest single project funding is for the realignment of S. Vine Street near the 101/46 West intersection at \$20 million. Separately a half million dollar grant for the improvement of Union Road through use of bike path funds was issued the week before. The city will provide its matching funds from money in trust from Specific Plan fees in that area.

On that same day I received word that the Pension Reform legislation I had worked on for two years through my Revenue and Taxation Committee's subcommittee had been signed into law as amended. Of the ten points we had in our proposed bill, eight were approved. These changes affect primarily CalPERS members. The taxpayer savings in California over the next 30 years are projected to be between \$42 and 55 billion. This is AB 340 known as the California Employees' Pension Reform Act of 2013 (PEPRA). It will take effect between 2013 and 2018.

Next week I will be representing the United States and our Territories at the Board of Directors meeting of the National Association of Regional Councils (NARC) on additional national matters regarding transportation, economic development, energy, natural resources and the environment. I will report out those matters in my next report.

**Comparing League Policy and the Conference Committee Report on Public Employee Pensions (Conference Report)**

AB 340 (Furutani) was amended Aug. 28, 2012 and is intended to implement comprehensive pension reform through the enactment of the California Employees' Pension Reform Act of 2013 (PEPRA) as well as other statutory changes.


This proposal applies to all public employers and pension plans on or after Jan. 1, 2013 with the exception of the University of California, as well as charter cities and charter counties that do not participate in the California Public Employees' Retirement System (CalPERS) or the 37' Act System including the cities of Los Angeles, San Francisco, Fresno, San Diego, and San Jose. The proposal also excludes any retirement plan approved by the voters of any entity before Jan. 1, 2013.

Questions have been raised about whether the pension reform proposal applies to current or new employees. The short answer is that most of the provisions in the package apply to new employees while some of the provisions apply to current employees. Please see the attached Addendum A for that information.

The following is a comparison of League policy that was adopted by the League board of directors in July 2011. The Conference Report addresses the issues listed in the chart below.

<b>Pension Proposal</b>	<b>Does League Policy and Conference Report Align?</b>
Cap pensionable income	X No
Increased retirement ages	✓ Yes
New cost sharing authority	✓ Yes
Prohibit pension spiking/ 3-yr. avg.	✓ Yes
Eliminate double dipping	✓ Yes
Base retirement on regular, recurring pay	✓ Yes
Forfeit pension benefits upon felony conviction	X No
Eliminate airtime	✓ Yes
Eliminate retroactive benefit increases	✓ Yes
Eliminate pension holidays	✓ Yes


**1. PENSIONABLE COMPENSATION CAP & HYBRID**

	<b>Proposal</b>	<b>Align?</b>
<b>Pension Reform Package</b>	<p>Establishes a cap on the amount of compensation that can be used to calculate a retirement benefit for all new members of a public retirement system equal to the Social Security wage index limit (\$110,100) for employees who participate in Social Security or 120% of that limit (\$132,120) if they do not participate in Social Security. [GC. Sect. 7522.10 (c)]</p> <p>Adjustments to the cap are required annually based on changes to the Consumer Price Index (CPI) for all Urban Consumers. [GC. Sect. 7522.10 (d)(1)]</p> <p>Authorizes the Legislature to modify the CPI prospectively. [GC. Sect.7522.10 (d)(2)]</p> <p>Prohibits employers from offering a defined benefit or any combination of defined benefits, including a privately provided defined benefit, on compensation in excess of the new cap. [GC. Sect.7522.10 (e)]</p> <p>Authorizes employers to make contributions to a defined contribution plan for employees so long as the plan and contributions meet federal limits and requirements. [GC. Sect. 7522.10 (f)(1)]</p> <p>Except that employer contributions made to a defined contribution plan for an employee above the cap is limited. [GC. Sect. 7522.10 (g)] *See attached Addendum B for further explanation.</p> <p>Provides that a contribution made by an employer to an employee's deferred contribution plan is not a vested right. [GC. Sect. 7522.10 (f)(2)]</p> <p>Prohibits employers from providing new members with a supplemental defined benefit plan. [GC. Sect. 7522.18 (a)(b)]</p> <p>Prohibits employers from making contributions for new members to any qualified retirement plan on pensionable compensation above the amount specified in Section 401(a)(17) of Title 26 of the United State Code (\$250,000). [GC. Sect. 7522.42 (a)]</p>	

<b>League Policy</b>	Provide employers with a hybrid pension system <u>option</u> that caps the defined benefit PERS pension at an annual maximum retiree benefit equal to 70 percent of the retiring employees' eligible base pay and supplement the defined benefit plan with a risk managed PERS defined contribution plan. A defined contribution plan should <u>integrate</u> with a defined benefit plan not substitute for it.	
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<b>Differences</b>	<p>League policy and the Conference Report diverge considerably on this particular issue. League policy suggests that employees should be guaranteed a percentage of their income when they retire provided by a defined benefit plan and that any defined benefit plan should be substituted with a professionally managed defined contribution plan.</p> <p>The Conference Report does not guarantee a percentage of income replacement. Instead it caps pensionable compensation for the defined benefit and does not provide a guaranteed hybrid option. However, it permits employers to provide defined contribution plans above the new defined benefit structure. The plan also seems to limit employer contributions that can be made to a defined contribution plan for highly compensated employees.</p>	
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## 2. INCREASE RETIREMENT AGE & NEW FORMULAS

<b>Proposal</b>		<b>Align?</b>
<b>Pension Reform Package</b>	<p>Increases retirement ages for new members.</p> <p>The formula option for miscellaneous members will be 2% at 62. The formula will be adjusted to encourage longevity. The formula will be adjusted to a maximum retirement factor of 2.5% at age 67. [GC. Sect. 7522.20 (a)]</p> <p>There will be three formula options offered to safety members including: 2% at 57; 2.5% at 57; and 2.7% at 57. [GC. Sect. 7522.25 (a)(b)(c)(d)]</p>	
<b>League Policy</b>	<p>Give government agencies through the collective bargaining process the option to extend retirement ages for miscellaneous employee up to social security retirement ages.</p> <p>Seek minimum (floor) retirement age of 60 for miscellaneous employees and 55 for safety employees before earning full retirement benefits.</p> <p>Repeal SB 400/AB 616 formulas returning to more sustainable PERS benefit formulas.</p>	

	Provide a broader range of formula choices with lower benefit local options for all types of member classes.	
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<b>Differences</b>	While League policy and the Conference Report do not align exactly on this issue, League policy overall supports an increase in retirement age including repeal of the SB400/AB 616 formulas.
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### 3. COST SHARING & EMPLOYER PICK-UP

	<b>Proposal</b>	<b>Align?</b>
<b>Pension Reform Package</b>	<p>Requires new members to pay at least 50% of normal cost and prohibits employers from paying this contribution on the employee's behalf. [GC. Sect. 7522.30 (c)]</p> <p>Provides that new members can pay more than 50% of the normal cost if the increase has been agreed to in collective bargaining and under the following conditions:</p> <ul style="list-style-type: none"> <li>(1) An employer is prohibited from contributing a greater rate to the plan for non-represented, managerial, or supervisory employees than the employer contributes to other public employees.</li> <li>(2) An employer can only increase employee contribution rates if agreed to in a memorandum of understanding (MOU) that has been collectively bargained.</li> <li>(3) An employer cannot use impasse procedures to implement greater cost sharing above the 50% of normal cost.</li> </ul> <p>[GC. Sect.7522.30 (e)(1)(2)(3)]</p> <p>Authorizes employers to require (subject to good faith bargaining) after Jan. 1, 2018 current employees to pay at least 50% of the normal cost so long as the employee contribution does not exceed 8% for miscellaneous, 12% for police and fire, and 11% for all other local safety members. [GC. Sect. 20516.5 (b)(c)]</p> <p>Authorizes employers and employees to agree to share the costs of the employer contribution and prohibits the use of impasse procedures from being used to implement a cost sharing arrangement on any contribution amount above what is required in law. [GC.Sect. 20516 (a)(b)]</p> <p>Member cost sharing under GC. Sect. 20516 may be bargained on a unit-by-unit basis if agreed to in an MOU. [GC. Sect. 20516(c)]</p>	

<b>League Policy</b>	<p>Give employers greater flexibility at the collective bargaining table to get at current costs of employee pensions including unfunded liabilities. Allow for greater cost sharing mechanisms in the PERL that do not currently exist.</p> <p>Require that employees pay the employee share of PERS (e.g. 7-8% for miscellaneous employees and 8-9% for safety employees.) Also eliminate the availability of Employer Paid Member Contributions (EPMC)</p>	
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<b>Differences</b>	<p>No major differences. League policy and the Conference Report align closely on this issue. The Conference Report gives local employers greater flexibility to share costs with current and future employees.</p> <p>First, after Jan. 1, 2018 local employers can require current employees to pay 50% of the normal cost subject to limits and collective bargaining. The report also gives employers greater flexibility to bargain with current employees over paying a portion of the employer contribution. This strengthens the statutory framework for cost sharing arrangements between employers and employees on sharing a portion of the employer's costs.</p> <p>Second, the plan requires that new employees pay one-half of the normal cost.</p> <p>Third, the measure prohibits employer pick-up of the new member's normal cost contribution.</p>
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#### 4. PROHIBIT PENSION SPIKING

<b>Proposal</b>		<b>Align?</b>
<b>Pension Reform Package</b>	<p>Requires for new members that final compensation shall be calculated on the highest average annual pensionable compensation earned by a member during a period of at least 36-consecutive months. [GC. Sect. 7522.32 (a)]</p> <p>This is otherwise known as the 3-year average.</p>	
<b>League Policy</b>	<p>Base final retirement salary on three highest paid years worked.</p>	

<b>Differences</b>	<p>No major differences.</p>
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**5. RESTRICTIONS ON RETIREES**

<b>Proposal</b>		<b>Align?</b>
<b>Pension Reform Package</b>	<p>Requires newly retired persons to sit out for at least 180 days before returning to work for an employer in the same retirement system that which they receive a retirement allowance. [GC. Sect. 7522.56 (f)]</p> <p>An exception can be made if the governing body certifies that the nature of the employment and that the appointment is necessary to fill a critically needed position and the 180 days has not yet passed. This also requires governing body approval in a properly noticed public meeting and cannot be placed on a consent calendar. [GC. Sect.7522.56 (f)(1)]</p> <p>This 180-day sit out rule does not apply to a public safety officer or firefighter. [GC. Sect. 7522.56 (f)(4)]</p> <p>Provides that a retiree that accepted a retirement incentive (e.g., handshake or cash incentive) upon retirement must sit out the 180 days and the exception cannot be used. [GC. Sect. 7522.56 (g)]</p>	
<b>League Policy</b>	Allow retired annuitants to work for CalPERS agencies under contract or appointment by a local agency	


<b>Differences</b>	League policy in this area has always been very broad to allow employers to use retired annuitants because in many cases it can be a cost saving measure. However, when several pension bills were being considered a year ago in the Legislature the proposal before us was an outright 6-month restriction. The proposal in the Conference Report represents a deal struck with CSAC and the League to allow local agencies to bring back retirees when a need was evident.
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**6. BASE RETIREMENT ALLOWANCE ON REGULAR, RECURRING PAY**

<b>Proposal</b>		<b>Align?</b>
<b>Pension Reform Package</b>	<p>Defines “pension compensation” for a new member of any public retirement system as the normal monthly rate of pay or base pay of the member paid in cash to similarly situated members of the same group or class of employment for services rendered on a full-time basis during normal working hours, pursuant to a publically available pay schedule. [GC. Sect.7522.34 (a)]</p> <p>Also provides that pension compensation does not include:</p> <ul style="list-style-type: none"> <li>• compensation paid to enhance a retirement benefit;</li> <li>• compensation previously provided “in-kind” and converted to cash in the final comp period;</li> <li>• one-time or ad hoc payments;</li> <li>• terminal pay;</li> <li>• pay for unused sick leave or time off;</li> <li>• pay for work outside of normal hours; any employer provided allowance including uniform, housing, vehicle allowances;</li> <li>• pay for overtime, except planning overtime, extended duty workweek, or pay defined in federal labor code section 207(k) of Title 29 of the United States Code. [GC. Sect.7522.34 (c)(1-12)]</li> </ul>	
<b>League Policy</b>	<p>Supports calculating benefits only on base salary eliminating all “spiking.” No overtime, vacation or sick leave should be included in the pension calculation. Eliminate the CalPERS contract option to include Employer Paid Member Contributions (EPMC) in the calculation of an employees’ base pay for retirement purposes.</p>	

<b>Differences</b>	No major differences.
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**7. FORFEIT PENSION BENEFITS UPON FELONY CONVICTION**

<b>Proposal</b>		<b>Align?</b>
<b>Pension Reform Package</b>	<p>Requires public officials and employees to forfeit pension benefits if they are convicted of a felony related to the performance of official duties, related to seeking an elected office or appointment, in connection with obtaining salary or pension benefits, or committed against a child who the official or employee has contact with as part of his or her official duties. [GC. Sect.</p>	

	<p>7522.72 (b)(1) and (2), (c)(1); GC. Sect. 7522.74 (b)(1) and (2), (c)(1)]</p> <p>Only pensions benefits earned or accrued after the earliest date of the commission of the felony are subject to forfeiture. Benefits earned or accrued prior to this date are not subject to forfeiture [GC sec. 7522.72(c); GC sec. 7522.74(c)]</p> <p>These provisions apply to employees hired both before and after January 1, 2013. [GC. Sect. 7522.72 (a); GC. Sect. 7522.74 (a)]</p>	
<b>League Policy</b>	To the extent permitted by federal and state law prohibit payment of pension benefits to a public employee convicted of a felony related to fraudulently enhancing those benefits.	


<b>Differences</b>	Both the Conference report and League policy address felonies that arise in connection with fraudulently obtaining pension benefits. The report goes beyond this by including felonies committed in obtaining disability retirement or "other benefits". The report further goes beyond the League policy and addresses felonies that arise out of or in the performance of one's official duties, felonies in the pursuit of office or appointment, or felonies committed against children by employees who come in contact with the child as part of their official duties.
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### 8. ELIMINATE AIRTIME

Proposal		Align?
<b>Pension Reform Package</b>	Prohibits a public retirement system from allowing the purchase of unqualified service credit. [GC. Sect. 7522.46(a)]	
<b>League Policy</b>	Supports eliminating the purchase of "air time" (purchase of time not served)	

<b>Differences</b>	No major differences.
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### 9. PROHIBIT RETROACTIVE BENEFIT INCREASES

Proposal		Align?
<b>Pension Reform Package</b>	Requires that any retirement enhancements to formulas or benefits must occur prospectively and not retroactively. [GC. Sect. 7522.44]	

<b>League Policy</b>	Prohibit retroactive benefit increases.	
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<b>Differences</b>	No major differences.	
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**10. PROHIBIT PENSION HOLIDAYS**

<b>Proposal</b>		<b>Align?</b>
<b>Pension Reform Package</b>	<p>Prohibit all employers from suspending employer and/or employee contributions necessary to fund annual pension normal costs. [GC. Sect. 7522.52(a)]</p> <p>Allows a public retirement system to suspend contributions under limited circumstances:</p> <ul style="list-style-type: none"> <li>• The plan is funded more than 120%</li> <li>• The excess earnings could result in disqualification of plans tax deferred status</li> <li>• The board finds that additional contributions would conflict with its fiduciary responsibility</li> </ul> <p>[GC. Sect. 7522.52 (b)(1)(2)(3)]</p>	
<b>League Policy</b>	Prohibit employers and employees from taking contribution "holidays."	

<b>Differences</b>	No major differences.	
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**Which proposals apply to current and new employees?**

The new benefit plan required by this proposal applies to public employees who are “new members.” A New member includes:

- 1) An individual who has never been a member of any public retirement system prior to Jan. 1, 2013.
- 2) An individual who moved between retirement systems with more than a 6-month break in service.
- 3) An individual who moved between public employers within a retirement system after more than a 6-month break in service.

Provides that individuals who are employed by any public employer before Jan. 1, 2013 and who become employed by another reciprocal public employer after the reforms proposed in SB 340 take effect will be offered the retirement plan given to employees by the subsequent employer before SB 340 takes effect.

Proposal	Current Employees	New Members
Pension Cap		✓
Increase Retirement Age		✓
Cost Sharing	✓	✓
3-Yr Average		✓
Retiree Restrictions/6-month sit out	✓	✓
Final Comp Reg. Pay		✓
Felony Forfeiture		✓
Eliminate Airtime	✓	✓
No Retroactive Increases		✓
No Pension Holidays	✓	✓

**Addendum B**

**Maximum Overall Cap on Combined Defined Benefit and Defined Contribution Payments to Employees Over \$110,000**

GC 7522.10 (g) in AB 340 (p. 12 – 13) reads as follows:

(g) Any employer contributions to any employee defined contribution plan above the pensionable compensation limits in subdivision (c) shall not, when combined with the employer’s contribution to the employee’s retirement benefits below the compensation limit, exceed the employer’s contribution level, as a percentage of pay, required to fund the retirement benefits of employees with income below the compensation limits.

Examples of what this means:

<b>Employer’s Contribution as % of Salary</b>	<b>10%</b>	<b>15%</b>	<b>20%</b>
<b>To Employees Below 110,000 DB Pension Cap</b>			
<b>Maximum Contribution to \$250,000 employee</b>			
(D.B.) First \$110,000 salary	\$11,000	\$16,500	\$22,000
(D.C.) Next \$140,000 salary	<u>\$14,000</u>	<u>\$21,000</u>	<u>\$28,000*</u>
<b>TOTAL</b>	\$25,000	\$37,500	\$50,000

*\*Current federal limit on employer contributions to D.C. Plan: \$50,000*