

League of California Cities

Report by Voting Delegate Fred Strong

11-1-16

The most important information received was about the Brown Act, River Basin planning, CEQA and AB 52. I made contact with a resource for libraries that our Mayor had already contacted and moved that project forward. I also heard Christopher Thornberg of Beacon Economics deliver a very optimistic report on the state of the economy in California.

A reliable source reported that the State is looking at river basin planning as the next approach to Regional Planning of our watersheds.

As far as meeting the requirements of the Brown Act are concerned, one of the most important things that must be paid attention to is its statement of intent and purpose. Primarily it is the right of the people to know what business their delegates and employees are conducting, how they are doing so and what they are doing except for specific exclusions reserved for Executive Sessions of the Council. A copy of the full text and discipline for violation of both is being given to each Council Member, City Manager and City Clerk.

As we move forward on environmental assessments it is very important that we pay attention to the new Native Americans section added to CEQA. This section combined with NEPA and Rule 106 of the Office of Historic Preservation create some very difficult situations which may create more problems than solutions. AB 52 mandates inclusion of native American tribes in every early CEQA action. This can be very expensive. Also, in California, by separate state action, the tribes that must be consulted may be different than those that are Federally recognized. On any CEQA action local government needs clearance from local interest tribes before proceeding.

Regarding architectural sites ONLY THE TRIBE is the expert. No outside opinion or research may be considered. Intrusion in any tribal architectural resource automatically triggers an EIR. The combination of Federal Law

and AB 52 requires conclusion of tribal consultation before any EIR may be certified. While there is no longer any requirement that the lead agency notify tribes regarding projects in process a tribe may, at any time, insert itself into the process and initiate a “conversation”. On new projects the local agency MUST demonstrate a reasonable effort to notify appropriate tribe(s) because, if challenged, the level of evidence required is higher than normal.

Two other problems with this, with one involving The Brown Act, are that the “consultation” has NO TIMELINES and that the record of the consultations must be kept separate and confidential without being available to the public.

Other CEQA items to keep in mind:

1. There must be some public notice of decisions, including at staff level, with possible environmental concerns.
2. We may not outlaw any use after issuing an approval for that use and money having been spent on it.
3. Mitigation fees have a better legal standing if they are based upon our broad police powers than if they are a “specific” mitigation.

On Friday the General Session said goodbye to CEO Chris McKensie who retired that afternoon following 17 years of service. The General Assembly also adopted a resolution making traffic safety our top priority in California for fiscal year 2016-2017. All cities are urged to support programs, policies and/or initiatives that reduce injuries and deaths on our roadways.

The Channel Counties Division met Thursday and reviewed some issues, urging our members to vote No on Proposition 53 and Yes on Proposition 54 this November.



THE CALIFORNIA OFFICE OF HISTORIC PRESERVATION COMMENTS ON CEQA DOCUMENTS AS AN AUTHORITY ON HISTORIC AND CULTURAL RESOURCES. THIS PUBLICATION USES CASE-STUDIES TAKEN FROM ENVIRONMENTAL DOCUMENTS PRODUCED IN CALIFORNIA TO HELP ENVIRONMENTAL ANALYSTS AND LEAD AGENCIES UNDERSTAND HISTORICAL AND CULTURAL RESOURCE IDENTIFICATION AND EVALUATION.

THIS IS NOT AN OFFICIAL POLICY DOCUMENT, BUT THE EXAMPLES INCLUDED CAN HELP PROFESSIONALS AND DECISION MAKERS UNDERSTAND HISTORIC AND CULTURAL RESOURCE EVALUATION AS AN INTEGRAL ELEMENT IN SUCCESSFUL COMPLETION OF THE CEQA PROCESS.

CEQA and the California Register

Understanding the 50-year Threshold

CEQA is a California Statute, so logically the CEQA Guidelines rely on the California Register of Historical Resources (California Register) eligibility criteria. It is important for Lead Agencies to understand the references made in the CEQA Guidelines as they pertain to the California Code of Regulations (CCR), Title 14, Chapter 11.5 which provides the California Register's criteria for significance and integrity. Understanding the California Register is integral to understanding identification and evaluation pursuant to the CEQA process.

There is a common misconception that resources of 50-years and older need to be evaluated, but anything younger cannot be considered significant. The 50-year threshold originally comes from 36 *Code of Federal Regulations 60.4*, which pertains to the National Register. Those regulations require a resource to be "exceptionally important" to be considered eligible for listing. On the other hand, the California Register criteria (CCR § 4852) state that in order for a resource to achieve significance within the past 50-years, sufficient time must have passed to obtain a scholarly perspective on the events or individuals associated with the resource. The language provided in CCR § 4852, is much broader than the National Register eligibility requirement for exceptional significance. Specifically, the California Register statute allows CEQA Lead Agencies a fair amount of flexibility in justifying that a resource is significant, even if that resource is less than 50-years old. This flexibility also puts greater responsibility on Lead Agencies to evaluate resources based on substantial evidence, rather than relying on the age of the resource alone. Finally, many local preservation ordinances do not include an age threshold, and a property listed on a local register is presumed to be a historical resource for the purposes of CEQA.

In this CEQA case study, a Lead Agency proposed to redevelop an existing civic center complex for use as a

community college. The project site included a courthouse building, a public works office building, a public library, and a sheriff's substation. The majority of the buildings in the civic center would be reused for the new community college, except for the sheriff's substation, which would be demolished. The civic center buildings were all constructed in a mid-century architectural style known as New Formalism. This style of architecture was common in the post WWII-period and has received a fair amount of scholarly attention for its use on capital improvement projects, such as civic centers. The sheriff's substation building in our case study was the largest and most architecturally distinct resource in the civic center complex.

The historic resource evaluation determined that because the sheriff's substation building was 46-years old, rather than 50-years old, it did not need to be evaluated pursuant to the California Register eligibility criteria. The evaluation cited a "general rule" of eligibility for listing on the California Register. However, as we discussed above, the environmental document should first use the historic context to determine if enough time has passed to gain a scholarly perspective on the events or individuals associated with the resource. Second, the evaluation should determine if the civic center and the sheriff's substation are historically significant and contain sufficient integrity for listing on the California Register. By relying on the strict 50-year threshold established by the National Register regulations, the civic center complex was never evaluated to determine if it should be treated as a historical resource for the purposes of CEQA.

Reliance on the National Register criteria for eligibility is a common misstep in CEQA documents because the National Register and California Register are intentionally very similar. However, the California Register is more flexible and was intended to create a comprehensive list of historical resources in California. As demonstrated by our civic center case study, familiarity with the CCR Title 14, Chapter 11.5 is important when using the CEQA Statute and Guidelines to determine if a specific project may impact historical resources.



CEQA CASE STUDIES

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Requesting CEQA Comments from OHP

Requests for OHP comments from local agencies and concerned local citizens should be made at least two weeks prior to the end of the comment period for the CEQA document prepared for the project in question. Requests made any closer to the end of the comment period will generally not provide OHP with sufficient time to respond to the request. Requests must be made in writing (e-mail, fax, or mail) and should include as much information as possible about the project (name, location, and project description); historical resources information (name of property, location, property description and significance); lead agency information (contact person, contact information, other involved agencies); and CEQA process (document type, comment period).

OHP is occasionally contacted by members of the public who feel that a CEQA document should have been prepared for a

specific project, but one was not. When making a request for comments from OHP in such a circumstance, OHP should still be given at least two weeks prior to any final action on the project in question to respond. A shorter time frame will generally not provide OHP with sufficient time in which to do so. To the extent possible, the same information as described above should be provided.

OHP recognizes that there may be times when no CEQA document is prepared and it is not possible to provide OHP with sufficient information on which to act prior to a lead agency's final action on a project. In such circumstances, and subject to OHP commenting criteria listed below, OHP may request that the lead agency provide additional time in which OHP may provide further comments. The closer the request is made to anticipated final action by a lead agency, though, the less likely it is

that OHP will take any action.

OHP is also occasionally contacted by members of the public for advice and assistance with general CEQA questions not related to a specific project. OHP will attempt to respond to all written requests for advice and assistance with general CEQA questions within a timely manner. All requests should include the name and affiliation of the person making the request and contact information, including phone number, fax number, and email address. Please allow at least two weeks for OHP to respond.

THE OFFICE OF HISTORIC PRESERVATION (OHP) MAY CHOOSE TO COMMENT ON THE CEQA COMPLIANCE PROCESS FOR SPECIFIC LOCAL GOVERNMENT PROJECTS. OHP HAS COMMENTED ON CEQA DOCUMENTS AND ADVISED LEAD AGENCIES SINCE THE 1970s. HOWEVER, IT WAS NOT UNTIL THE ADOPTION OF THE CALIFORNIA REGISTER OF HISTORICAL RESOURCES REGULATIONS IN 1992 AND THE 1998 AMENDMENTS TO CEQA THAT DEFINED HISTORICAL RESOURCES, THAT OHP INITIATED A SPECIFIC CEQA PROGRAM. BECAUSE OHP HAS NO FORMAL AUTHORITY OF LOCAL GOVERNMENT AGENCIES IN CALIFORNIA, THIS PROGRAM IS APPROACHED IN A MORE INFORMAL MANNER THAN OUR COMMENTING RESPONSIBILITIES UNDER SECTION 106 OF THE NATIONAL HISTORIC PRESERVATION ACT OR COMMENTS ON STATE PROJECTS UNDER PUBLIC RESOURCES CODE SECTION 5024.5, WHICH PERTAINS TO STATE OWNED HISTORIC PROPERTIES.

FOR QUESTIONS ABOUT CEQA AND HISTORIC AND CULTURAL RESOURCES, PLEASE CONTACT: SEAN DE COURCY, AT (916) 445-7042 OR AT SEAN.DECOURCY@PARKS.CA.GOV

CEQA RESOURCES

- ◆ [PRC Section 21083.2-21084.1](#)
- ◆ [CEQA Guidelines CCR Section 1500-15387](#)
- ◆ [Advocating for Historic Resources Under CEQA](#)



Assembly Bill No. 52

CHAPTER 532

An act to amend Section 5097.94 of, and to add Sections 21073, 21074, 21080.3.1, 21080.3.2, 21082.3, 21083.09, 21084.2, and 21084.3 to, the Public Resources Code, relating to Native Americans.

[Approved by Governor September 25, 2014. Filed with Secretary of State September 25, 2014.]

LEGISLATIVE COUNSEL'S DIGEST

AB 52, Gatto. Native Americans: California Environmental Quality Act.

Existing law, the Native American Historic Resource Protection Act, establishes a misdemeanor for unlawfully and maliciously excavating upon, removing, destroying, injuring, or defacing a Native American historic, cultural, or sacred site, that is listed or may be eligible for listing in the California Register of Historic Resources.

The California Environmental Quality Act, referred to as CEQA, requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment. CEQA requires the lead agency to provide a responsible agency with specified notice and opportunities to comment on a proposed project. CEQA requires the Office of Planning and Research to prepare and develop, and the Secretary of the Natural Resources Agency to certify and adopt, guidelines for the implementation of CEQA that include, among other things, criteria for public agencies to following in determining whether or not a proposed project may have a significant effect on the environment.

This bill would specify that a project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource, as defined, is a project that may have a significant effect on the environment. The bill would require a lead agency to begin consultation with a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project, if the tribe requested to the lead agency, in writing, to be informed by the lead agency of proposed projects in that geographic area and the tribe requests consultation, prior to determining whether a negative declaration, mitigated negative declaration, or environmental impact report is required for a project. The bill would specify examples of mitigation measures that may be considered to avoid or minimize impacts on tribal cultural resources. The bill would make the above provisions applicable to projects that have a notice of preparation or a notice of negative declaration filed or mitigated negative declaration on or after July 1, 2015. The bill would require the Office of Planning and Research to revise on or before July 1, 2016, the

guidelines to separate the consideration of tribal cultural resources from that for paleontological resources and add consideration of tribal cultural resources. By requiring the lead agency to consider these effects relative to tribal cultural resources and to conduct consultation with California Native American tribes, this bill would impose a state-mandated local program.

Existing law establishes the Native American Heritage Commission and vests the commission with specified powers and duties.

This bill would additionally require the commission to provide each California Native American tribe, as defined, on or before July 1, 2016, with a list of all public agencies that may be a lead agency within the geographic area in which the tribe is traditionally and culturally affiliated, the contact information of those agencies, and information on how the tribe may request those public agencies to notify the tribe of projects within the jurisdiction of those public agencies for the purposes of requesting consultation.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. (a) The Legislature finds and declares all of the following:

(1) Current state law provides a limited measure of protection for sites, features, places, objects, and landscapes with cultural value to California Native American tribes.

(2) Existing law provides limited protection for Native American sacred places, including, but not limited to, places of worship, religious or ceremonial sites, and sacred shrines.

(3) The California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) does not readily or directly include California Native American tribes' knowledge and concerns. This has resulted in significant environmental impacts to tribal cultural resources and sacred places, including cumulative impacts, to the detriment of California Native American tribes and California's environment.

(4) As California Native Americans have used, and continue to use, natural settings in the conduct of religious observances, ceremonies, and cultural practices and beliefs, these resources reflect the tribes' continuing cultural ties to the land and their traditional heritages.

(5) Many of these archaeological, historical, cultural, and sacred sites are not located within the current boundaries of California Native American reservations and rancherias, and therefore are not covered by the protectionist policies of tribal governments.

(b) In recognition of California Native American tribal sovereignty and the unique relationship of California local governments and public agencies with California Native American tribal governments, and respecting the interests and roles of project proponents, it is the intent of the Legislature, in enacting this act, to accomplish all of the following:

(1) Recognize that California Native American prehistoric, historic, archaeological, cultural, and sacred places are essential elements in tribal cultural traditions, heritages, and identities.

(2) Establish a new category of resources in the California Environmental Quality Act called "tribal cultural resources" that considers the tribal cultural values in addition to the scientific and archaeological values when determining impacts and mitigation.

(3) Establish examples of mitigation measures for tribal cultural resources that uphold the existing mitigation preference for historical and archaeological resources of preservation in place, if feasible.

(4) Recognize that California Native American tribes may have expertise with regard to their tribal history and practices, which concern the tribal cultural resources with which they are traditionally and culturally

affiliated. Because the California Environmental Quality Act calls for a sufficient degree of analysis, tribal knowledge about the land and tribal cultural resources at issue should be included in environmental assessments for projects that may have a significant impact on those resources.

(5) In recognition of their governmental status, establish a meaningful consultation process between California Native American tribal governments and lead agencies, respecting the interests and roles of all California Native American tribes and project proponents, and the level of required confidentiality concerning tribal cultural resources, at the earliest possible point in the California Environmental Quality Act environmental review process, so that tribal cultural resources can be identified, and culturally appropriate mitigation and mitigation monitoring programs can be considered by the decisionmaking body of the lead agency.

(6) Recognize the unique history of California Native American tribes and uphold existing rights of all California Native American tribes to participate in, and contribute their knowledge to, the environmental review process pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(7) Ensure that local and tribal governments, public agencies, and project proponents have information available, early in the California Environmental Quality Act environmental review process, for purposes of identifying and addressing potential adverse impacts to tribal cultural resources and to reduce the potential for delay and conflicts in the environmental review process.

(8) Enable California Native American tribes to manage and accept conveyances of, and act as caretakers of, tribal cultural resources.

(9) Establish that a substantial adverse change to a tribal cultural resource has a significant effect on the environment.

SEC. 2. Section 5097.94 of the Public Resources Code is amended to read:

5097.94. The commission shall have the following powers and duties:

(a) To identify and catalog places of special religious or social significance to Native Americans, and known graves and cemeteries of Native Americans on private lands. The identification and cataloguing of known graves and cemeteries shall be completed on or before January 1, 1984. The commission shall notify landowners on whose property such graves and cemeteries are determined to exist, and shall identify the Native American group most likely descended from those Native Americans who may be interred on the property.

(b) To make recommendations relative to Native American sacred places that are located on private lands, are inaccessible to Native Americans, and have cultural significance to Native Americans for acquisition by the state or other public agencies for the purpose of facilitating or assuring access thereto by Native Americans.

(c) To make recommendations to the Legislature relative to procedures which will voluntarily encourage private property owners to preserve and protect sacred places in a natural state and to allow appropriate access to Native American religionists for ceremonial or spiritual activities.

(d) To appoint necessary clerical staff.

(e) To accept grants or donations, real or in kind, to carry out the purposes of this chapter.

(f) To make recommendations to the Director of Parks and Recreation and the California Arts Council relative to the California State Indian Museum and other Indian matters touched upon by department programs.

(g) To bring an action to prevent severe and irreparable damage to, or assure appropriate access for Native Americans to, a Native American sanctified cemetery, place of worship, religious or ceremonial site, or sacred shrine located on public property, pursuant to Section 5097.97. If the court finds that severe and irreparable damage will occur or that appropriate access will be denied, and appropriate mitigation measures are not available, it shall issue an injunction, unless it finds, on clear and convincing evidence, that the public interest and necessity require otherwise. The Attorney General shall represent the commission and

the state in litigation concerning affairs of the commission, unless the Attorney General has determined to represent the agency against whom the commission's action is directed, in which case the commission shall be authorized to employ other counsel. In any action to enforce the provisions of this subdivision the commission shall introduce evidence showing that such cemetery, place, site, or shrine has been historically regarded as a sacred or sanctified place by Native American people and represents a place of unique historical and cultural significance to an Indian tribe or community.

(h) To request and utilize the advice and service of all federal, state, local, and regional agencies.

(i) To assist Native Americans in obtaining appropriate access to sacred places that are located on public lands for ceremonial or spiritual activities.

(j) To assist state agencies in any negotiations with agencies of the federal government for the protection of Native American sacred places that are located on federal lands.

(k) To mediate, upon application of either of the parties, disputes arising between landowners and known descendants relating to the treatment and disposition of Native American human burials, skeletal remains, and items associated with Native American burials.

The agreements shall provide protection to Native American human burials and skeletal remains from vandalism and inadvertent destruction and provide for sensitive treatment and disposition of Native American burials, skeletal remains, and associated grave goods consistent with the planned use of, or the approved project on, the land.

(l) To assist interested landowners in developing agreements with appropriate Native American groups for treating or disposing, with appropriate dignity, of the human remains and any items associated with Native American burials.

(m) To provide each California Native American tribe, as defined in Section 21073, on or before July 1, 2016, with a list of all public agencies that may be a lead agency pursuant to Division 13 (commencing with Section 21000) within the geographic area with which the tribe is traditionally and culturally affiliated, the contact information of those public agencies, and information on how the tribe may request the public agency to notify the tribe of projects within the jurisdiction of those public agencies for the purposes of requesting consultation pursuant to Section 21080.3.1.

SEC. 3. Section 21073 is added to the Public Resources Code, to read:

21073. "California Native American tribe" means a Native American tribe located in California that is on the contact list maintained by the Native American Heritage Commission for the purposes of Chapter 905 of the Statutes of 2004.

SEC. 4. Section 21074 is added to the Public Resources Code, to read:

21074. (a) "Tribal cultural resources" are either of the following:

(1) Sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are either of the following:

(A) Included or determined to be eligible for inclusion in the California Register of Historical Resources.

(B) Included in a local register of historical resources as defined in subdivision (k) of Section 5020.1.

(2) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Section 5024.1. In applying the criteria set forth in subdivision (c) of Section 5024.1 for the purposes of this paragraph, the lead agency shall consider the significance of the resource to a California Native American tribe.

(b) A cultural landscape that meets the criteria of subdivision (a) is a tribal cultural resource to the extent that the landscape is geographically defined in terms of the size and scope of the landscape.

(c) A historical resource described in Section 21084.1, a unique archaeological resource as defined in

subdivision (g) of Section 21083.2, or a "nonunique archaeological resource" as defined in subdivision (h) of Section 21083.2 may also be a tribal cultural resource if it conforms with the criteria of subdivision (a).

SEC. 5. Section 21080.3.1 is added to the Public Resources Code, to read:

21080.3.1. (a) The Legislature finds and declares that California Native American tribes traditionally and culturally affiliated with a geographic area may have expertise concerning their tribal cultural resources.

(b) Prior to the release of a negative declaration, mitigated negative declaration, or environmental impact report for a project, the lead agency shall begin consultation with a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project if: (1) the California Native American tribe requested to the lead agency, in writing, to be informed by the lead agency through formal notification of proposed projects in the geographic area that is traditionally and culturally affiliated with the tribe, and (2) the California Native American tribe responds, in writing, within 30 days of receipt of the formal notification, and requests the consultation. When responding to the lead agency, the California Native American tribe shall designate a lead contact person. If the California Native American tribe does not designate a lead contact person, or designates multiple lead contact people, the lead agency shall defer to the individual listed on the contact list maintained by the Native American Heritage Commission for the purposes of Chapter 905 of the Statutes of 2004. For purposes of this section and Section 21080.3.2, "consultation" shall have the same meaning as provided in Section 65352.4 of the Government Code.

(c) To expedite the requirements of this section, the Native American Heritage Commission shall assist the lead agency in identifying the California Native American tribes that are traditionally and culturally affiliated with the project area.

(d) Within 14 days of determining that an application for a project is complete or a decision by a public agency to undertake a project, the lead agency shall provide formal notification to the designated contact of, or a tribal representative of, traditionally and culturally affiliated California Native American tribes that have requested notice, which shall be accomplished by means of at least one written notification that includes a brief description of the proposed project and its location, the lead agency contact information, and a notification that the California Native American tribe has 30 days to request consultation pursuant to this section.

(e) The lead agency shall begin the consultation process within 30 days of receiving a California Native American tribe's request for consultation.

SEC. 6. Section 21080.3.2 is added to the Public Resources Code, to read:

21080.3.2. (a) As a part of the consultation pursuant to Section 21080.3.1, the parties may propose mitigation measures, including, but not limited to, those recommended in Section 21084.3, capable of avoiding or substantially lessening potential significant impacts to a tribal cultural resource or alternatives that would avoid significant impacts to a tribal cultural resource. If the California Native American tribe requests consultation regarding alternatives to the project, recommended mitigation measures, or significant effects, the consultation shall include those topics. The consultation may include discussion concerning the type of environmental review necessary, the significance of tribal cultural resources, the significance of the project's impacts on the tribal cultural resources, and, if necessary, project alternatives or the appropriate measures for preservation or mitigation that the California Native American tribe may recommended to the lead agency.

(b) The consultation shall be considered concluded when either of the following occurs:

(1) The parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists, on a tribal cultural resource.

(2) A party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached.

(c) (1) This section does not limit the ability of a California Native American tribe or the public to submit information to the lead agency regarding the significance of the tribal cultural resources, the significance of

the project's impact on tribal cultural resources, or any appropriate measures to mitigate the impact.

(2) This section does not limit the ability of the lead agency or project proponent to incorporate changes and additions to the project as a result of the consultation, even if not legally required.

(d) If the project proponent or its consultants participate in the consultation, those parties shall respect the principles set forth in this section.

SEC. 7. Section 21082.3 is added to the Public Resources Code, to read:

21082.3. (a) Any mitigation measures agreed upon in the consultation conducted pursuant to Section 21080.3.2 shall be recommended for inclusion in the environmental document and in an adopted mitigation monitoring and reporting program, if determined to avoid or lessen the impact pursuant to paragraph (2) of subdivision (b), and shall be fully enforceable.

(b) If a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document shall discuss both of the following:

(1) Whether the proposed project has a significant impact on an identified tribal cultural resource.

(2) Whether feasible alternatives or mitigation measures, including those measures that may be agreed to pursuant to subdivision (a), avoid or substantially lessen the impact on the identified tribal cultural resource.

(c) (1) Any information, including, but not limited to, the location, description, and use of the tribal cultural resources, that is submitted by a California Native American tribe during the environmental review process shall not be included in the environmental document or otherwise disclosed by the lead agency or any other public agency to the public, consistent with subdivision (r) of Section 6254 of, and Section 6254.10 of, the Government Code, and subdivision (d) of Section 15120 of Title 14 of the California Code of Regulations, without the prior consent of the tribe that provided the information. If the lead agency publishes any information submitted by a California Native American tribe during the consultation or environmental review process, that information shall be published in a confidential appendix to the environmental document unless the tribe that provided the information consents, in writing, to the disclosure of some or all of the information to the public. This subdivision does not prohibit the confidential exchange of the submitted information between public agencies that have lawful jurisdiction over the preparation of the environmental document.

(2) (A) This subdivision does not prohibit the confidential exchange of information regarding tribal cultural resources submitted by a California Native American tribe during the consultation or environmental review process among the lead agency, the California Native American tribe, the project applicant, or the project applicant's agent. Except as provided in subparagraph (B) or unless the California Native American tribe providing the information consents, in writing, to public disclosure, the project applicant or the project applicant's legal advisers, using a reasonable degree of care, shall maintain the confidentiality of the information exchanged for the purposes of preventing looting, vandalism, or damage to a tribal cultural resources and shall not disclose to a third party confidential information regarding tribal cultural resources.

(B) This paragraph does not apply to data or information that are or become publicly available, are already in the lawful possession of the project applicant before the provision of the information by the California Native American tribe, are independently developed by the project applicant or the project applicant's agents, or are lawfully obtained by the project applicant from a third party that is not the lead agency, a California Native American tribe, or another public agency.

(3) This subdivision does not affect or alter the application of subdivision (r) of Section 6254 of the Government Code, Section 6254.10 of the Government Code, or subdivision (d) of Section 15120 of Title 14 of the California Code of Regulations.

(4) This subdivision does not prevent a lead agency or other public agency from describing the information in general terms in the environmental document so as to inform the public of the basis of the lead agency's or other public agency's decision without breaching the confidentiality required by this subdivision.

(d) In addition to other provisions of this division, the lead agency may certify an environmental impact

report or adopt a mitigated negative declaration for a project with a significant impact on an identified tribal cultural resource only if one of the following occurs:

(1) The consultation process between the California Native American tribe and the lead agency has occurred as provided in Sections 21080.3.1 and 21080.3.2 and concluded pursuant to subdivision (b) of Section 21080.3.2.

(2) The California Native American tribe has requested consultation pursuant to Section 21080.3.1 and has failed to provide comments to the lead agency, or otherwise failed to engage, in the consultation process.

(3) The lead agency has complied with subdivision (d) of Section 21080.3.1 and the California Native American tribe has failed to request consultation within 30 days.

(e) If the mitigation measures recommended by the staff of the lead agency as a result of the consultation process are not included in the environmental document or if there are no agreed upon mitigation measures at the conclusion of the consultation or if consultation does not occur, and if substantial evidence demonstrates that a project will cause a significant effect to a tribal cultural resource, the lead agency shall consider feasible mitigation pursuant to subdivision (b) of Section 21084.3.

(f) Consistent with subdivision (c), the lead agency shall publish confidential information obtained from a California Native American tribe during the consultation process in a confidential appendix to the environmental document and shall include a general description of the information, as provided in paragraph (4) of subdivision (c) in the environmental document for public review during the public comment period provided pursuant to this division.

(g) This section is not intended, and may not be construed, to limit consultation between the state and tribal governments, existing confidentiality provisions, or the protection of religious exercise to the fullest extent permitted under state and federal law.

SEC. 8. Section 21083.09 is added to the Public Resources Code, to read:

21083.09. On or before July 1, 2016, the Office of Planning and Research shall prepare and develop, and the Secretary of the Natural Resources Agency shall certify and adopt, revisions to the guidelines that update Appendix G of Chapter 3 (commencing with Section 15000) of Division 6 of Title 4 of the California Code of Regulations to do both of the following:

(a) Separate the consideration of paleontological resources from tribal cultural resources and update the relevant sample questions.

(b) Add consideration of tribal cultural resources with relevant sample questions.

SEC. 9. Section 21084.2 is added to the Public Resources Code, to read:

21084.2. A project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment.

SEC. 10. Section 21084.3 is added to the Public Resources Code, to read:

21084.3. (a) Public agencies shall, when feasible, avoid damaging effects to any tribal cultural resource.

(b) If the lead agency determines that a project may cause a substantial adverse change to a tribal cultural resource, and measures are not otherwise identified in the consultation process provided in Section 21080.3.2, the following are examples of mitigation measures that, if feasible, may be considered to avoid or minimize the significant adverse impacts:

(1) Avoidance and preservation of the resources in place, including, but not limited to, planning and construction to avoid the resources and protect the cultural and natural context, or planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.

(2) Treating the resource with culturally appropriate dignity taking into account the tribal cultural values and meaning of the resource, including, but not limited to, the following:

(A) Protecting the cultural character and integrity of the resource.

(B) Protecting the traditional use of the resource.

(C) Protecting the confidentiality of the resource.

(3) Permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places.

(4) Protecting the resource.

SEC. 11. (a) This act does not alter or expand the applicability of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) concerning projects occurring on Native American tribal reservations or rancherias.

(b) This act does not prohibit any California Native American tribe or individual from participating in the California Environmental Quality Act on any issue of concern as an interested California Native American tribe, person, citizen, or member of the public.

(c) This act shall apply only to a project that has a notice of preparation or a notice of negative declaration or mitigated negative declaration filed on or after July 1, 2015.

SEC. 12. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

CITY MANAGER REPORT

Report on Attendance at League of California Cities Annual Conference, October 5-7, 2016.

Selected notes from sessions attended.

City Attorney Relationship with City Hall; Various City Attorneys from around the state (Wednesday, October 5, 2016, 1:00-2:45 p.m.)

Iris and I both attended this, as the session had particular relevance for cities with contract city attorneys.

Among other topics, discussion centered on:

- ❖ Balancing the need to manage costs with the need for preventive lawyering. A conclusion is that the city manager (CM) should ensure open access by senior staff to the city attorney (CA), but work with both the staff and the CA to control it.
- ❖ Discussions between a single Councilmember and the CA are not protected by the attorney-client privilege from disclosure to other Councilmembers
- ❖ , since the City is the client, as personalized by the Council as a whole.
- ❖ If an individual Councilmember takes actions in opposition to the CA's advice (e.g., regarding conflict of interest), the CA needs to tell the entire Council.
- ❖ Council policies need to address situations when a Councilmember is violating the duties of trust, loyalty, and care. In general, the policies should require the CA to tell the full Council.
- ❖ Executive manager discussions including the CA are not reportable. Thus, neither the public nor the Council can require these discussions to be reported out.
- ❖ In the absence of established best practices, the CM must devise the strategy and needed operational approaches to implement Council policy as s/he goes along. The CA is different, unable to devise the approach as s/he goes along; instead, the CA provides the needed grounding, by using the law and established case law.
- ❖ CAs are distinct from most attorneys; they tend to be more idealistic, have a stronger conscience, want to serve the community, and are loyal to good governance.

Build a Better Block; How to Make Real Change in Your Community, Today; Jason Roberts of the Better Block Project (Wednesday, October 5, 3:00-5:00 p.m.)

Mr. Roberts' Better Block Foundation team (see <http://betterblock.org/>) "offers consulting, tools, and support for rapid urban prototyping initiatives to advance the development of livable [up/downtown] neighborhoods. [Their] human-centered approach and short-term Better Block process leverages the strengths of local community resources to catalyze change at a fraction of the cost of traditional planning initiatives."

Using readily available materials and volunteer labor, they convert dysfunctional streetscapes into inviting neighborhoods virtually overnight, as a pilot project, to give the neighborhood a chance to decide the look and feel it desires for the long term. They typically address the following four areas when developing a Better Block:

Safety (Real and Perceived). If an area feels unsafe, then everything breaks down. Whether it be business, school, or neighborhood revitalization, the key to changing a place is addressing its perceived safety. When approaching blocks, the Better Block team asks:

- Does it feel safe to cross the street?
- Does it feel safe to stand on the sidewalk?
- Does it feel safe to linger in the area?
- Does the area have hidden corners or large obstacles that reduce open sightlines?
- Is the area filled with debris, graffiti, overgrown landscaping, etc.?

- Do the businesses have covered or opaque windows?

The goal here is to address each of these questions and find ways to improve the area rapidly.

Shared Access. The next goal is looking at ways to bring more people into the area by various modes of transportation. the Better Block team asks:

- Do pedestrians have easy and clear access to the area?
- Do bicycles feel welcome in the area?
- Is the area easily accessible from neighborhoods?
- Are there way-finding signs that direct people into and out of the area?
- Are there amenities that allow people to linger in the space (seating, tables, etc.)?

Stay Power. The next goal so to determine how to encourage people to visit the area, have them linger, and invite their friends To answer this question, the Better Block team asks:

- Are there food options on the block?
- Are there places to eat outdoors?
- Are there maps, bulletin boards, games, or other amenities that encourage people to linger?
- Is the identity of the area prominent (arts district, cultural district, historic area)?

8-80, Dog-Owners. The last goal to is create amenities that invite everyone—from babies to 8-year-olds to 80-year-olds, and beyond. These groups tend to be indicators of a healthy environment that feels welcoming and attracts other people.

Lessons from the Cal-ICMA “City Manager Challenges and Strategies Report,” Presented by several report authors, city managers, and councilmembers (Thursday, October 6, 8:00 – 9:30 a.m.)

The purpose of the study was to:

- Identify the Key Issues Impacting City/County Manager Success
- Identify Successful Strategies/Best Practices
- Determine How to Add Resources/Improve Accessibility to Resources
- Identify Short and Long Term Implementation Strategies

Major Findings:

Areas of Most Frequent Challenge:

- Councilmember/Councilmember Conflict
- Financial Issues
- Personality Issues/Interpersonal Relationships
- Defining and Respecting Roles (Council/CM Form of Government)
- Policy Issues

Most Significant Challenges:

Relationship issues are the most significant

- Relationships with Individual Council Members
- Relationships with Unions/Employee Groups

Technical issues are also important, but less significant

- Dealing with the Consequences of State Actions/Outside Factors
- Budget/Financial Challenges
- Conflicts Regarding Planning/Development Issues

Overarching Themes

- Need to Focus on Best Practices for BOTH Elected Officials and Appointed Managers
- Lack of Structured Mutual Support Within the Profession
- Technical Skills vs. People Skills
- The Focus on Policy Issues (While Very Important) Detracts from Professional Skill Development/Professional Support

Keynote Address: Fact of Fiction for the California Economy; Thursday, Christopher Thornberg, Beacon Economics, LLC. (Thursday, October 6, 9:45 a.m.)

A wealth of valuable information presented in the slides, which will be available on the City's website.

Several major takeaways:

- ❖ The California economy is humming quietly, but humming. Solid growth, not spectacular, but solid and sustained. Yes, there are challenges, but there are no significant bubbles. California is not a drag on the national economy (as is Texas, for example); instead, California is a key driver of the national economy's recent performance.
- ❖ There are no reliable ways to predict when the next recession will occur. This recovery is much different from prior recoveries, so the normal cycles are not good indicators of how this cycle will play out.
- ❖ Real long-term growth is likely to be lower than the growth experienced in California and throughout the U.S. during the 1950s-1990s. Think 2-2.5% average, rather than 3.5-4.0% average.
- ❖ The labor shortage and other factors are starting to help increase wages, but wages are not increasing as fast as the cost of housing.
- ❖ The population is increasing in California at four times the rate of the increase in housing. Some parts of the state are looking to reduce the land zoned and available for housing. CEQA and Proposition 13 are also major inhibitors of new housing production.
- ❖ Too many people are still dropping out of the productive economy; they are not even looking for work. This has broad ramifications for family incomes, social stability, productivity growth, etc.
- ❖ In terms of overall wealth, the top 10% of households in the U.S. have regained all of the wealth they lost in the Great Recession. The bottom 90% have not. And, even worse, the bottom quartile is significantly worse off than they were before the Great Recession.
- ❖ Income inequality is not the key issue regarding income distribution. The key issue is wealth distribution; the households in the bottom quarterly have an average -\$13,000 negative net wealth: they owe more than they have in assets.
- ❖ In some ways, the general divergence between the population along the California coast and the people in the rest of the state is not holding. The economies in the Central Valley are growing faster, on average, than the coastal counties.
- ❖ Hotel occupancy rates in California have increased from an average of 59% in April, 2009 to 74% in April, 2016. Occupancy rates throughout the rest of the country have recovered much more slowly and were only 64% in April, 2016.
- ❖ The cost of government services in California has increased 70% faster than the rate of inflation over the past 20 years. General tax revenues are not growing at a rate that can sustain this growth. We are not having the conversation at a statewide level, however, on how to address this problem.
- ❖ The state, as well as the counties and cities, are still not investing enough in new or replacement capital assets.
- ❖ Personal income taxes are making up 67% of state revenues, compared to 55% in 2000. The state is more susceptible to revenue shrinkage in a recession than it has been any time in the last 25 years.

- ❖ California farmers use 5.1+ million acre feet of water per year, at an average cost of \$35/acre foot, raising winter alfalfa (an example of a water-intensive crop) much of which will be shipped to China and South Korea. Thus, the state's water shortage is being exacerbated, because we are not having a discussion among the three sectors of users—farmers, cities, and environmentalists—on how we can work together to minimize overall impacts.
- ❖ Increasing the minimum wage doesn't reduce poverty overall. It benefits some (those who receive the higher wages) and hurts some (those who now don't get a job). There are tools for addressing poverty, such as the Earned Income Tax (EIT), pre-kindergarten, etc. that are more effective.

Central Coast Division Luncheon, hosted by Dave Mullinax (Thursday, October 5, 12:00 Noon – 1:00 p.m.)

A good opportunity to meet with other cities in our district, finding out the common challenges and sharing best practices and solutions.

Emerging Issues in Policing and Emergency Services: Implications for California Cities (Thursday, October 6, 1:00 p.m. – 2:15 p.m.)

Anaheim Fire's 2-Person Squad—Randy Bruegman, Fire Chief, Anaheim Fire and Rescue

Foundational Challenge: Why does the fire service continue to send a big engine and an ambulance to low-acuity calls?

The City asked 3 questions:

- How do we become more competitive in the future?
- How can we create *value added service* for the customer beyond the 911 call?
- How do we re-engineer and retool our profession for the future?

Since the Inception of Emergency Medical Services (EMS) provision by Fire Services:

- Citizens are using 911 for their primary or unscheduled care
- Affordable Care Act –March 23, 2010
- Hospitals get monetarily penalized for return patients within 30 days of discharge for the same chief complaint. No Medicare payments.
- Needed a system to still serve the public for 911, reduce ER visits and allow for paramedic unit availability.

Integration of Mobile Integrated Healthcare into EMS Patient Care

- Combining a Captain Paramedic/Nurse Practitioner in the field
- Non-transport
- Provide a higher level of care in the field
- Tracks patient follow-up care

Capabilities in the Field

- Unit can handle both BLS, ALS and provide clinic level services in the field
- Bandage
- Suture
- Clean Wounds
- Prescribe Medications
- ISTAT- Blood Analysis
- Involve Primary Care/ Urgent Care Facilities

The \$4.00 Solution: Bus Passes and Prescription Cards

- Partnered with Walmart for Prescription & Medical Cards
- Provide One-Day Bus Passes

How Data Visualization Uncovers Secrets to Better Outcomes, Matthew Seal, Data Scientist, Open Gov; Frank Zerunyan, Professor of the Practice of Governance USC Sol Price School of Public Policy (Thursday, October 6, 2:45 p.m. – 4:00 p.m.)

OpenGov, as well as other providers, develop creative ways to process and display city data that facilitates understanding of complex city projects and ongoing operations, and helps develop options for improvement. As Paso Robles moves slowly into a more data-driven approach to managing and decision-making, these kinds of tools will be more and more valuable. Among other cities, the City of Sherwood, Oregon uses the OpenGov approach; Some of Sherwood's results can be viewed at

https://sherwoodor.opengov.com/transparency#/388/accountType=expenses&breakdown=c7588eb7-0165-4db4-9834-1a5cb3b19e29¤tYearAmount=cumulative¤tYearPeriod=years&graph=pie&legendSort=coa&proration=true&saved_view=null&selection=63DFA90E1D4A31BFA33BC9DF8F9719EA&year=NaN&selectedDataSetIndex=3&fiscal_start=earliest&fiscal_end=latest

Dr. Zerunyan developed a collaborative data analysis approach, called the collective impact model, while at Stanford. This approach was used to develop the City of Palo Alto's Safety Net program, designed to reduce and prevent youth suicides.

Reducing CalPERS and OPEB Costs, Troy Butzlaff, City Manager, Azusa; Isabel Safie, partner, BBK; and Katrina Veldkamp, Associate, BBK. (Thursday, October 6, 4:15 to 5:30 p.m.)

What Affects Pension Liabilities?

- Investment returns
- Experience gains/losses
- PEPPRA – minimal effect until new members replace classic members
- Changes in CalPERS' policies (improve funded status, less volatility in contribution rates)

New demographic assumptions effective as of the June 30, 2014 valuation (longer life expectancy)

Amortization and rate smoothing method changes effective as of June 30, 2013 valuation

- Market value rather than actuarial value of assets for rate setting
- Converted rolling amortization periods to fixed periods
- Gains and losses are tracked and amortized over a fixed 30-year period, 5 year ramp up, 5-year ramp down
- Changes in actuarial assumptions or methodology amortized separately over 20-year period
- Future change in assumed rate return possible

Outside Pressures on Pension Liabilities

- Shift from GASB 27 reporting to GASB 68 reporting as of fiscal years beginning after June 15, 2014
- Tension between funding public services and paying for increasing pension liabilities
- Public perception
- Legislative PEPPRA
- New "classic member" hires are enrolled in plan in place on 12/31/12, new "new member" hires are enrolled in pre-designated plans based on classification
- Prior option to create tiers is no longer viable except in limited cases for safety classification

- Shifting costs to employees
 - New Members--Normal costs
 - Required contribution equal to 50% of normal costs
 - Can increase normal cost contribution pursuant to collective bargaining principles
- Employer normal costs and unfunded liabilities
 - Cost-sharing of employer contribution rate pursuant to Gov't Code Section 20516
 - Classic Members
 - Section 20516.5 permits a unilateral shift of normal costs to classic members – permissive, not mandatory
 - Completion of good faith bargaining process.
 - Subject to applicable caps (8% miscellaneous, 12% safety)
 - Not applicable until January 1, 2018
 - However, Section 20691 already provides authority to eliminate EPMC
 - Eliminating EPMC may be impractical if Section 20636(c)(4) benefit has been added
 - Nonetheless, employers want to achieve AB 340 standard for classic members

Pension obligation bonds (POBs)

Bonds issued by state or local government to pay its obligations to the pension fund

Benefits

- Savings generated by paying for pension costs with lower cost debt
- Discounts from paying contributions up front rather than periodically
- Potential for bond proceeds to perform better if investment performance exceeds assumed interest rate
- Budget relief

Disadvantages

- Pension fund investments underperform bond rate
- Subjects bond proceeds to volatility of CalPERS investment return (e.g., equity correction could create more debt)

Borrow from general fund to increase payments to CalPERS

Anticipated repayment through savings is uncertain

Funds are subject to CalPERS investment volatility

Loss of control over timing and allocation of payment

Establish internal reserve fund

Subject to investment limitations of general fund investments

Would not offset pension liabilities

Request a shorter amortization period

Increases short-term costs, affecting ability to provide Services

Prefund pension liabilities through irrevocable trust

Pension volatility risk mitigation

Investment flexibility

City retains oversight and local control of fund management selection and monitoring of performance

Increased flexibility on use of trust assets

Offset pension liabilities for GASB 68 purposes

Change on the Horizon?

California courts have held that vested pension benefits can be changed before an employee retires if the following criteria are met:

- the change is made for the purpose of keeping a pension system flexible to permit adjustments in accord with changing conditions and to maintain the integrity of the system
- the change must be reasonable
- the change must bear a reasonable relation to the theory of a pension system
- changes which result in a disadvantage to employees should be accompanied by comparable new advantages

Marin Appeals Court found that a modification in pension benefits was not required to be replaced by a comparable benefit, and that the fourth criterion is permissive rather than mandatory

The Court found that, while public employees have a vested right to a pension, a right that is secured at the time of employment, such a right is not to a fixed or definite pension but to a reasonable pension

Court focused on whether the modification constituted a substantial impairment of a vested right

- So a legislative body may make modifications to a pension system up until an employee's retirement in consideration of changing conditions that impact the viability and integrity of the system, such as unfunded liabilities
- If this ruling is upheld, it will signify a monumental shift in the way that pension reform measures are crafted, implemented, and evaluated

Budget Forecasting in Financial Policy Making; Rod Butler, City Manager, Upland; Bill Lindsay, city Manager, Richmond (Friday, October 7, 9:00 – 10:15 a.m.)

Detailed best practices for introducing forecast models into City Council, labor union, and staff discussions and for presenting the results in public forums.

Some of the practices are refinements over what we are doing but, on the whole, the good news is that this session helped confirm that Paso Robles is already using accepted best practices.

Both cities used an outside firm to do their initial forecasts, and then continued developing the model and the reliability of the results using in-house staff.

Gifts of Public Funds—Brian Forbath, Stradling Yucca Carlson & Rauth (Friday, October 7, 10:30-11:45 a.m.)

The laws in California, as well as case law, continues to evolve. A few notable changes:

- ❖ In settlement agreements, must identify fully and clearly the benefits being received by the City and community.
- ❖ In labor agreements, must ensure any specialty pay, bonus, etc. has a clearly identified public purpose e.g., promoting retention of top employees, assisting recruitment of highly qualified new employees, etc.
- ❖ Ensure there is always a legal or substantive purpose; a moral or ethical purpose is not always enough. For example, if a City assists a private not-for-profit to provide a service to residents, must spell out the benefits (e.g., reduces demand on Police services, provides shelter to homeless persons, thereby reducing health issues and demand for emergency services, etc.)

Additional notes are available, if desired.

DEANNE PURCELL REPORT

Fiscal Officers Meeting

AirDNA (www.airdna.co) is a market summary report that tracks AirBNB

- Can see competitors
- Monitors activity on AirBNB, incl advertised listings, booked listings, listing nights, avg daily rate
- Where units are
- City of Mountain View did it, as an example; cost was approx. \$50

Michael Coleman

- Chapter on TOT (good stuff)-Look up his link
- Can be used as a model for Stds of Reporting

Marijuana

- Measure 64-Marijuana (Hot Area) – 37 measures on November ballot dealing with TAXATION alone!
 - Be careful how you classify the tax – Call it Business License, NOT sales tax
 - Some cities adding additional 15% or something like that
 - 15% Excise tax, cannot call it sales tax, will revoke Bradley Burns sales tax, but can call it Business License
 - If it passes will be full of regulatory issues
 - Might have a webinar on it

Video services (i.e. Netflix)

- Franchise Tax (like telecom, cable)
 - Look up article on Pasadena <http://www.latimes.com/business/la-fi-agenda-netflix-tax-20161003-snap-story.html>
 - 9.4% "Netflix taxes" video tax
 - Pay tax to watch Netflix, Hulu – Pasadena approved in 2008
 - Is it legal (require vote of the public?)
 - How does Netflix keep track of different city tax rates for different subscribers?
 - Political opportunity

Succession-The Achilles Heel of City Government

Intro

- 10K Baby Boomers retiring every day – Will continue for the next 17 years
- Millennials have passed Boomers (Early career)
- Need to actively be preparing for next generation

Mistakes

- Have pulled back on training (during recession)
- No time for talent develop
- Not understanding EE's cost more in long run (a lot of turn over when not treated well)
- Not giving a bright future or development
- Need to remember one day we are expecting them to LEAD

- We fail to develop soft skills (solid work ethic, positive attitude, flexible, time mgmt. capability, communication skills, a team leader (teamwork), adaptability, problem solving, critical observation, conflict resolution, self-confident, able to accept constructive criticism, work well under pressure)
- Most dept heads arrive Unprepared to LEAD (need to start process soon)
- Best training is on the job training
- Millennials want to learn WHY & HOW – need to know how to work with multi generations
- Need to give more key roles in Leadership or supervisor training
- Speaking in public/making mistakes – need to reach those levels, enrich and use your mentoring

City of Arcadia

- In 2014, started a Next Generation Academy
 - Run by City Manager
 - Monthly meetings
 - 29 employees

HR roles

- HR-involvement in succession planning – Critical Role, but does not OWN it!
- Like a maze
 - Establish a path
 - Write a form (written succession plan)
 - HR does not own it; it starts with CC and CM
- HR Roles
 - Flexibility- biggest mistake is status quo is not acceptable – new way of thinking is required – work-life balance is one of the major differentiators between merely good and truly great orgs
 - Advocate, Advisor, positive enabler
 - Resources limit you (talent, money, etc.)
 - Begin with end in mind
 - Educator

Misc.

- Bring great ideas and propose to group
- Internal promotions
- Know your “up & comers” (shining stars)
- Cross pollination between depts.
- Implement staff ideas
- Expand to regions (Central Coast Chapter)
- ICMA.org/coaching-great link
- Inspire and motivate
 - Recruits you hire today are your future-what are you doing to inspire them & provide them with a road map for their future?
- Ask yourself these questions
 - How's it working for you?
 - Do you work with staff to benefit both them and the org?
 - Do you LEAD with a vision?
- Promote from within
 - If you don't, you lose momentum
 - Learning curve for new hires
 - Cost money and lost productivity

- Need a line item in budget for Succession Planning

New Tools for Funding your Stormwater Program

- Prop 218 -Join forces-Jt Powers Authority between Cities?
 - Look for big payers'/organization groups-talk to them
 - Expecting CM, PW Director, Engineers to do something they've never done
- Stormwater plan – need to include open space, trails, things that interest them (regional nature based approach)
- Have to put a comprehensive plan & strategy in place
- Network/collaborate
- Case Study-Rancho Palos Verdes-
- Infrastructure report card-Calif Soc of Engineers

Hot Topics in Muni Revenue

- Local budgets affected by State budgets
- Prop 30 has helped Gov Brown pay down debt-phasing out
- Prop 55 – Anything “NEW” that cost State money gets vetoed (by Gov Brown)
- Recession-gradual recovery -
 - Avg = 60 months (we are now in 80 months)
 - Need to prepare for when times are not so good (prepare for next down turn)
 - “CLEAN-UP ERA” – Nothing left-RDA gone!
- Prop tax exemption or grants
 - All that's left comes to Cities from State
- Gas tax
 - Going down – Standard rate would be nice
- A lot of areas need to be cleaned up!
 - Need **reform** (i.e. Sales tax reform/affordable housing, pensions, OPEB, marijuana, economic develop after RDA, Water/WW, Healthcare, AirBNB)
- Financial Mgmt
 - Important to know volatility
 - Pay attention to LT sustainability
 - Watch spikes in reserves, one-time capital projects, unfunded liability
- Financial Health
 - On Michael Coleman's website – can do an analysis on your own City
- Sales tax sharing
 - Amazon sites (i.e. Patterson, W San Bernardino) Can't do this anymore
 - Nationwide-Where product is received is location of sale

Reducing Pension & OPEB cost

- OPEB task force
- PERS substitute
- Health Market Place-LOCC
- OPEB off ramp
 - Google Manhattan Institute
- PERS unfunded liability – life expectancy, economic assumptions changing
 - 7.5% rate – current assumption
 - Much lower rate of return in FY 16
 - Future change in rate return possible, means increase in UAL

- Cost to withdraw from PERS is an obstacle
- Look for ways to pay down liability
- 82% of public agencies offer retiree healthcare benefits
- 73% of those surveyed set aside NO assets to cover future retirement healthcare cost
- City of Azusa - With elimination of retiree medical benefits, new dept. heads \$2K, \$1K added after ___yrs.
 - Offering HRA
 - Fixed value-very predictable – removes risk factors
 - If stay 20-30 years can have sizeable health/retirement account
- 401A – taxable – does not provide intended tax free treatment for retirees-Sec 125 rules
- Adopt retiree-only HRA, prefund using 115 trust
- Café plan for current EE's only
- Need statewide solution – instead of looking individually at what works
 - That is the reason for LOCC Marketplace
 - Solution to both active and retired EE's (OPEB)

Sitting is the New Smoking

Note-We were told by one of the presenters to leave our business card and she would email us a copy of the presentation (I have yet to receive it!)

- Dr. went over the impact of sitting at a desk all day
 - Compared it to smoking, went over stats
 - New desks where you can adjust standing and sitting are good
 - Taking walks
 - Exercising breaks at desk
- Two cities received \$5K scholarships from Kaiser Hospital
 - City of Lompoc was one
 - City in Northern California, the other
- Both Cities outlined what they did to improve health/wellness in their City
- Motivating talk!

KEN JOHNSON REPORT

Title: Mergers and sharing personnel: what's a city to do?

Description: Best practices and pitfalls associated with the merging of departments or sharing of personnel.

Highlights/takeaways:

1. Consolidation in local government
 - a. Conduct a feasibility study regarding long and short term financial impacts as well as employee and community concerns.
 - b. Advantages
 - i. Potential cost savings
 - ii. Potential revenue from contractor agency
 - iii. Access to more resources
 - iv. Risk pooling
 - c. Disadvantages
 - i. Reduction of loss in local control
 - ii. Difficult to undo change
 - iii. Potential negative impacts on personnel

- iv. Service providers may appear impersonal or inaccessible to the public
- v. Cost saving may eventually go away, or may be less than anticipated due to unforeseen costs
- vi. Potential for competing interests
- d. Act decisively
 - i. Request proposals from county, district, or neighboring agency
 - ii. Identify legal requirements for establishing/merging agencies
 - iii. Establish contractual language which addresses employment issues, e.g. indemnity for employment claims
 - iv. Set tight deadlines to avoid anxiety buildup in community and workforce
- 2. Resource sharing
 - a. Impact on daily operations/discipline- who has the ability to give and enforce orders and/or respond to community needs?
 - b. Designate a management representative from service provider to manage services for your agency and integrate with staff as a chief normally would
 - c. Employment practices liability—avoid joint employer doctrine (big issue)
- 3. Collective bargaining
 - a. If displacing employees and decision is motivated by labor cost savings, then must negotiate regarding decision and effects
 - b. If unmotivated by labor cost savings, then only required to negotiate effects through impasse

Title: How bad data is hurting the fire service

Description: Using relevant and objective data for better decision making.

Highlights/takeaways:

- 1. Data
 - a. Removes some of the emotion from the decision
 - b. Creates a baseline for measuring impacts
 - c. View in terms of goals or outcomes
 - d. Helps to determine ROI's
- 2. Minimum staffing
 - a. Use data to determine the optimal number of personnel per day (or by hour of day)
 - b. Consider peak demand versus a baseline demand
 - c. Critical tasking generally yields the needed effective response force
- 3. Staffing justification
 - a. Analyze the risk
 - b. Analyze historical performance
 - c. Analyze critical tasking
 - d. Determine daily minimal staffing
 - e. Consider determining peak demand staffing
- 4. Unit hour utilization
 - a. Emergency call commitment beyond 25 – 30% is excessive
 - b. Look at concurrent use of resources
- 5. Conclusion
 - a. Good data can solve problems and reduce arguments
 - b. Know where to get data
 - i. Some of it may be beyond department control
 - c. Make sure data is accurate
 - d. Know the audience before publishing the data