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SATURDAY, JANUARY 19, 2002

Volume 1, Issue 59

Santa Monica Daily Press

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Santa Monica attorneys lobby in federal court for city ban of ATM fees

BY CAROLYN SACKARIASON
Daily Press Staff Writer

Federal appeals court judges on Thursday appeared to frown on Santa Monica's ordinance regulating fees on automatic teller machines (ATMs).

Banks levy such fees on customers who use their ATM machines but do not have an account with that bank. The fees can be as much as $2.50 per visit.

During an hour of oral arguments before a U.S. appeals court panel in San Francisco, the judges seemed unimpressed by lawyers arguing for the bans in Santa Monica and San Francisco.

Consumer watch

"What's the constitutional problem to charge what you want?" Judge Joseph Sneed asked.

Judge Trott added: "You are asking them to provide a free service?"

In July 2000, U.S. District Judge Vaughn Walker in San Francisco struck down the two ATM fee bans after Bank of America, along with other California banks, filed a lawsuit seeking their repeal. The first was approved by the Santa Monica City Council in October of 1999 and the other by San Francisco voters a month later. Santa Monica was the first city to enact the ban on what officials — and many consumers — regard as a "double charge."

City Councilman Kevin McKeown brought the issue to the forefront after he realized he was charged twice when he used ATM machines in San Francisco's Chinatown. It irked him enough to bring the issue to the council, where the ban passed 4-3. The council indicated that banks who allowed customers to be charged twice were ripping them off.

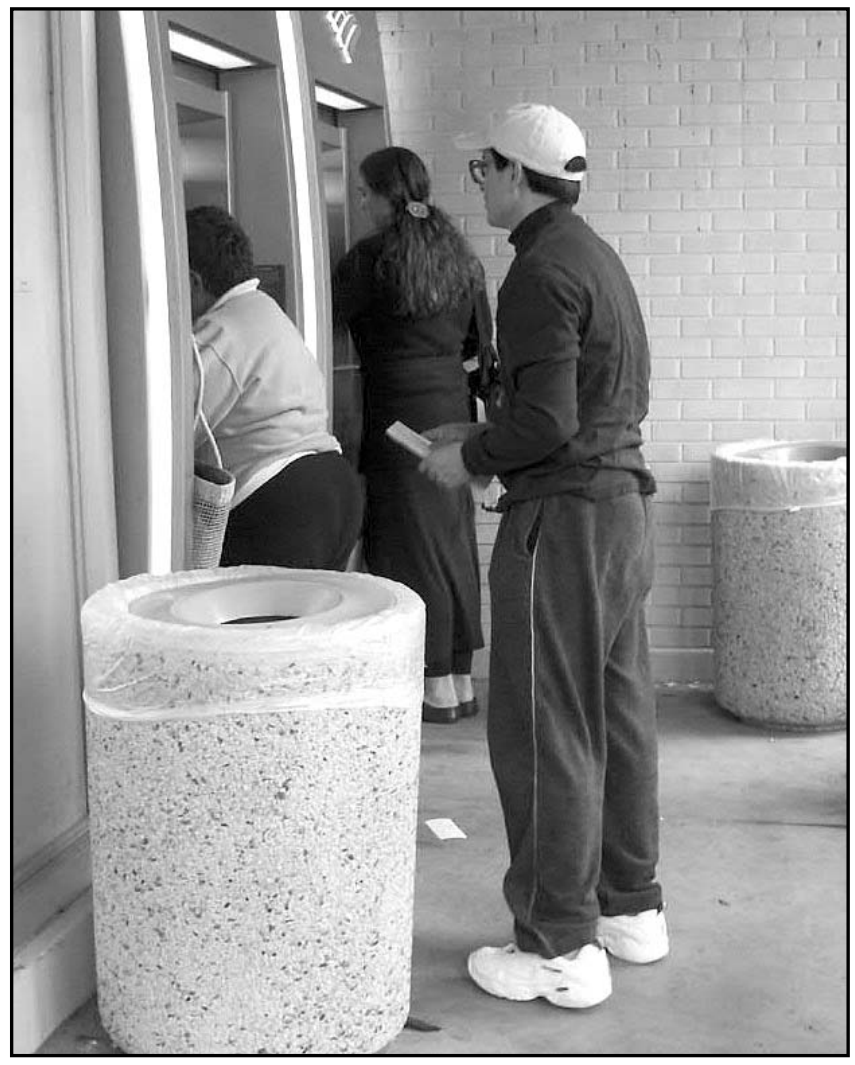
City officials and consumer advocates explain it this way: Customers who approach an ATM machine at a bank other than their own pay not only a $1.50 fee, but $2 more tacked on by their own bank.

"But then there is a third fee that nobody wants to talk about which they call an 'interchange fee,'" said Santa Monica Deputy City Attorney Adam Radinsky. That's a fee customers don't see because the banks privately charge each other for their customer's withdrawals, he said.

"It's double dipping and it's unfair to consumers," Radinsky said. "It's an unfair business practice. Cities and states have a right to pass laws that protect consumer's interests."

But Judge Walker upheld the banks' argument that federal law, which governs nationally chartered and federal savings banks, trumps any local restrictions. The banks say they are protected by

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Del Pastrana/Daily Press

Consumers at Bank of America may soon be relieved of ATM fees, if the city of Santa Monica has its way. The city-enacted ban on bank fees at the machines is being challenged in federal court.

A very 'Green' weekend

Green Party takes on Santa Monica issues

By Daily Press staff

The Green Party this weekend will debate the city's controversial proposed Living Wage ordinance and host a workshop on Santa Monica renters' rights.

On Saturday officials from the Green Party, including Santa Monica Councilman Kevin McKeown, will discuss how advocates may enact living wage ordinances in their own communities. The workshop will be held in UCLA's Haines Hall from 10:45 a.m. until noon.

On Sunday, tenant organizers from Santa Monica and Los Angeles will present a workshop on renters' rights at the same location from 10:45 a.m. to noon.

Featured at the living wage event will be Madeline Janis-Aparicio of the Los Angeles Alliance for a New Economy, which helped pass living wage laws at the city and county level of Los Angeles.

Those laws force contractors working for the city or county to pay their workers a higher wage and provide health insurance. If health insurance is not provided for workers then the employers must pay almost $1.50 per hour extra to compensate for a lack of benefits.

Santa Monica's living wage ordinance goes a step further and demands businesses residing in what they deem the coastal tourism zone that do $5 million in business annually to provide their workers with benefits and wages far higher than the state's $6.40 minimum wage. Citizens will have a chance to vote on the ordinance this

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Woman dies in jail of apparent suicide

By Daily Press staff

A woman who was arrested for public intoxication Friday morning died hours later in Santa Monica jail of an apparent suicide.

At 2:29 a.m., a Santa Monica Police officer arrested a female at the corner of Second Street and Hill Street. She was intoxicated and was unable to care for her own safety. She was taken to the Santa Monica Jail and booked for public intoxication and resisting arrest. Her bail was set at $500.

While in her jail cell, the woman was later found unconscious by the jailer and an officer. CPR was immediately administered and Santa Monica Fire Department Paramedics were notified.

The woman was transported to a local hospital where she was pronounced dead. Evidence within the jail cell indicates a possible suicide, however final cause of death determination will be made by the Los Angeles County Coroner's Office after an autopsy is conducted.

Santa Monica Police Lt. Frank Fabrega said it unknown how old the woman was or what evidence indicated that the cause of death was a suicide.

The identity of the subject will not be released until next of kin have been notified.

The Robbery and Homicide Unit of the Santa Monica Police Department is handling the investigation.

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HOROSCOPE

Slow down with a loved one, Virgo



JACQUELINE BIGAR'S STARS

The stars show the kind of day you'll have:
★★★★★-Dynamic ★★★★-Positive ★★★-Average ★★-So-so ★-Difficult

ARIES (March 21-April 19)
★★★★★ Spontaneity draws success. Sort through what looks like a momentary happiness to make it long term. Extravagance suits you fine, especially if it involves someone close. A call might "sober" you up, but you're on a roll. Tonight: Let your sunny spirit lead.

TAURUS (April 20-May 20)
★★★ You might enjoy yourself much more if you play it low-key and easy. Yet you receive an abnormal number of calls or requests. If you really want to cocoon, do yourself a favor: Don't answer the phone. OK? You deserve a day off, too! Tonight: Happy at home.

GEMINI (May 21-June 20)
★★★★★ Your friends suggest different plans. The problem is that you want to do it all. Make an effort to squeeze in as much as you can. Slow down for a special pal. You might like to play and party away, but this person commands your attention. Tonight: As you like it.

CANCER (June 21-July 22)
★★★★ Your bouncy ways could be distracting at best and irritating at worst to a parent or a higher up. Become more self-aware, and sensitivity to others will increase. You cannot cancel a must appearance, even if you are dragging. Others depend on you. Tonight: In the limelight.

LEO (July 23-Aug. 22)
★★★★★ Simplify rather than complicate an up-and-coming trip. Energized by going away, you inadvertently could cause last-minute confusion. Be cognizant of your behavior. Step back from yourself. Make a point to seek out a special friend. Tonight: Try a new restaurant.

VIRGO (Aug. 23-Sept. 22)
★★★★ Dealing with someone might feel like an effort, but is worth it. Whether you realize it or not, this person needs a lot of nurturing and care. Be sensitive to a special request from an older friend or relative. Go out of your way for this person. Tonight: Slow down with a loved one.

LIBRA (Sept. 23-Oct. 22)
★★★★ You beam while others seek you out. Popularity makes a big difference to everyone, but especially to you. Acknowledge others for their efforts. Someone who might be combative at times really does care. Don't kid yourself! Tonight: Go along with someone's plans.

SCORPIO (Oct. 23-Nov. 21)
★★★★ Get into a project or a new sport. Don't decide that something is impossible. Just go and do it, or at least try it. Your family supports you in a decision affecting your day-to-day life. Much changes quickly. Rely on a trusted friend or partner. Schedule some quality time with this person. Tonight: Don't push.

SAGITTARIUS (Nov. 22-Dec. 21)
★★★★★ Share your carefree, frivolous mood. You can only hope it's contagious, especially with a very stern associate, friend or loved one. Know that you can't change this person's mood, only he or she can. Offer a couple of fun ideas to do together. You'll have a good time wherever you are. Tonight: Let the good times roll.

CAPRICORN (Dec. 22-Jan. 19)
★★★ Stay close to home. You will discover that the action will come to you. A purchase is highlighted in the next few days. Consider comfort and why you want this item. Hop on the Net and do your "homework." Research this item. Tonight: Order in.

AQUARIUS (Jan. 20-Feb. 18)
★★★★★ Reach out for others. Touch base with a friend or neighbor who you often don't hear from. Make plans and catch up on each other's news. You might be surprised by a child or loved one who pulls away or who could be negative. Loosen the reins, please. Tonight: Beam in what you want.

PISCES (Feb. 19-March 20)
★★★ Balance your checkbook before you float out the door. In fact, you might decide to cuddle up with the cat and watch an old movie. Entertaining yourself doesn't have to be expensive. Invite friends over if you want. Allow everyone to pitch in. Tonight: Play a favorite game.

WEATHER

Today ...	Mostly sunny	High—62°F	Low—43°F
Tomorrow ...	Mostly sunny	High—63°F	Low—43°F
Monday ...	Partly cloudy	High—61°F	Low—45°F

QUOTE of the DAY

"... computers in the future may have only 1,000 vacuum tubes and perhaps weigh only 1 1/2 tons."
— Popular Mechanics, *March 1949*

Santa Monica Daily Press

Published Monday through Saturday
Phone: 310.458.PRESS(7737) • Fax: 310.576.9913
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LOCAL

Escrow account for bank fees grows to $1 million

ATM, from page 1

the National Banking Act and the Home Owners Loan Act, which govern them.

In essence, Walker said those congressional acts prevent cities and towns from restricting the fees, either by council vote or referendum.

"Don't let people tell you ATM fees are small change."

— KEVIN McKEOWN
Santa Monica pro-tem mayor

But Radinsky said Walker's interpretation of the law is wrong. The National Banking Act actually leaves open cities' ability to regulate bank fees, he contended.

"The United States Congress has repeatedly spoken on this issue and emphasizes the right for cities to pass consumer protection laws like this," he said. "The district court got it wrong and we are confident that the law is on our side."

Both Radinsky and the San Francisco attorneys argued to the appeals judges that they can ban the ATM charges under state consumer protection laws. The states, San Francisco attorney Owen Martikan said, hold the "right to protect the interests of their consumers."

But Judge Trott later responded, "You're prohibiting what federal law allows."

Banks in Santa Monica were forced to drop the extra fees for a couple of weeks directly after the ban went into effect in 1999. Later, Wells Fargo and Bank of America — the state's two largest banks — filed the suit in San Francisco.

McKeown points out that the fees are not chump change for customers. The original hearing convinced a judge to make the banks put ATM fees collected into escrow for possible return to customers. As a result, banks were ordered to put all the fees into that escrow account until the issue is decided in court. That account has grown to about $1 million.

"Don't let people tell you ATM fees are small change," McKeown said. "They are getting ripped off."

McKeown also said the fees help big banks compete unfairly with small, local banks who have fewer ATMs. In California, 60 percent of ATMs are controlled by Wells Fargo and Bank of America. He said they are the same two banks which, because of the city's law, electronically barricaded their Santa Monica ATMs against customers who don't bank with them.

California cities are not the only ones embroiled in such litigation.

Several banking concerns are suing Iowa to overturn that state's ban on ATM surcharges. And Arkansas, Missouri and Wyoming regulate the amount of those fees the banks can charge.

Some banks charge far higher than the usual amount for the ATM service. One such machine, at the foot of Aspen Mountain in Colorado, charges $3.50. After it defended the fee as a convenience, a local newspaper wrote that the machine might be expected to make mocha as well as dispense cash.

Banks say they need the surcharges to expand their ATM networks. Consumer organizations backing the San Francisco and Santa Monica bans say the fees merely pad bank profits.

Since appeals court arguments involve debates over the law and not trials, they provide forums in which judges frequently question attorneys for both sides — unlike a lower trial court.

The circuit court didn't indicate when it would rule on the matter. Radinsky said a ruling could be made in a couple of days or a couple of months.

The case is Bank of America vs. Santa Monica, 00-16355.

Associated Press staff writer David Kravets contributed to this report.

Fore!



Carolyn Sackariason/Daily Press

Joel Okada hits his first tee shot at Penmar by the Sea golf course Friday.

State meeting is party's first since national recognition

PARTY, from page 1

November.

"Living wages and benefits will allow working families to sustain themselves in dignity and in health," said McKeown in a Green Party press release advertising Saturday's event. "We invite everyone who shares this vision to join us at UCLA and help build the movement."

The Santa Monica Chamber of Commerce is leading the charge against the ordinance, arguing that it is discriminatory and unfair.

"Here in Santa Monica businesses are always paying above the federal minimum wage rate because the market has already set a (higher) rate," said Kathy Dodson, executive director of the chamber. "In this instance they (the city) are targeting businesses geographically and financially, but they conveniently exclude unionized hotels and city employees.

"This is really going to hurt business locally. Restaurant owners have already said many of them will stop serving lunch to get under the ($5 million) cap," said Dodson. "And to do this to the (local) tourism industry at this low point in the economy would be very hurtful. The timing of this is all wrong."

Featured speakers for the renters' rights workshop will be former Santa Monica Mayor Denny Zane and renter activist Nancy Greenstein. The two co-chair Santa Monicans for Renters' Rights, a 23-year-old political coalition originally formed to pass Santa Monica's historic rent control charter amendment in 1979.

The Green Party state platform calls for the repeal of California's 1995 Costa-Hawkins Act, which weakened rent control.

"A primary goal of Santa Monicans for Renters' Rights is to support, defend and enhance rent control and tenant protections even in the face of state intervention," said Greenstein.

Also presenting will be Amy Schur of the Association of Community Organizations for Reform Now, which is working to unite tenant organizers throughout California to seek legislative action in Sacramento.

McKeown, a SMRR-endorsed elected official, said affordable housing for Santa Monicans is critical for a strong community.

The event is the first Green Party state meeting since the Greens received their official recognition as a national party from the Federal Elections Commission. It also marks the 10th anniversary of the Green Party of California, which now boasts a membership of 140,000 registered voters.

The workshop is open to the public for a suggested $10 donation.

$100M judgement winner against tobacco Richard Boeken, dies at 57

BY ANDREW BRIDGES
Associated Press Writer

LOS ANGELES — Richard Boeken, a longtime smoker whose $100 million award was the largest judgment ever in a case brought by an individual against a tobacco company, has died. He was 57.

Boeken died of lung cancer Wednesday at his Topanga home, said Paula Lawlor, who works for Boeken's attorney, Michael J. Piuze.

Boeken and Piuze made international headlines in June when they won a staggering $3 billion damage award against Philip Morris U.S.A. A Superior Court judge reduced the award in August to $100 million.

"What his verdict represented was that the news for the tobacco industry in general and Philip Morris in particular is bad," Piuze said Friday.

"People of our state, at least, have a willingness to put this company and its executives and the industry and its executives up against the wall. It wasn't the first time, and it's not the last time."

Philip Morris is appealing the reduced award, which it has called "grossly excessive."

"We still believe the verdict was incorrect and will continue to pursue the appeal," said John Sorrells, a company spokesman.

Any damage award after the appeal would go to Boeken's estate.

Richard Daynard, a law professor at Northeastern University in Boston and chairman of the Tobacco Products Liability Project, said the award set a "high-water mark" in individual tobacco litigation.

"There were punitive damage awards before this of $25 million and $50 million and $80 million, but a $3 billion punitive damage award really demonstrates just how angry juries get at the tobacco executives and the tobacco companies when they see the evidence of their misbehavior," Daynard said.

Boeken, a former oil and securities dealer, testified he was the victim of a tobacco industry campaign that portrayed smoking as "cool" but concealed its dangers.

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LOCAL

COMMUNITY BRIEFS

Bowl for the homeless

By Daily Press staff

Interested in knocking down a few pins to help those less fortunate?

A bowl a thon tournament will take place next Friday, Jan. 25 at AMF Bay Shore Lanes, located at 234 Pico Boulevard. Tournament times are 12:00–1:30 p.m.; 2:00–3:30 p.m.; and 4–5:30 p.m.

Sponsored by SBC Pacific Bell and a project of the Santa Monica Chamber of Commerce Homeless Task Force, the proceeds of the event benefit local homeless service organizations. Participating teams include local businesses, non-profit organizations, local schools, local media and committees of the Santa Monica Chamber of Commerce.

All bowlers receive an official SBC Pacific Bell SuperBowl-a-Thon T-shirt and food will be provided by Arby's featuring their new "market fresh" sandwiches, Buca di Beppo, Networks Cafe and other donors. There is still time to sign up for a team or donate door prizes. For further information, call The Gentry Group at (310) 828-7010

The Santa Monica Chamber of Commerce advocates businesses' interests and issues that affect the community.

SMC, Santa Monica Place get recognition

By Daily Press staff

A joint Santa Monica College-Santa Monica Place program that provided job skills training to mall employees, job placement and referrals, and career counseling to the general public has won an international shopping center industry award.

The MAXI award was given in the "Retailer Development" category for a collaborative, multi-pronged program that "produced impressive results," according to Santa Monica Place officials. The two-year program was run jointly by the shopping center and SMC's office of workforce and economic development.

"Santa Monica Place has greatly benefited from this program in terms of increased competitiveness, productivity and community goodwill," said Santa Monica Place marketing manager Michelle Malynn.

Specifically, the program trained 230 Santa Monica Place merchants and retail employees in such topics as customer service, cultural sensitivity (the mall attracts shoppers from all over the world), and conflict resolution.

Through an SMC resource center located in the mall, the program provided referrals for employment, training and support services to local residents. The resource center also provided information about SMC to the public.

It also helped job seekers get employment through career fairs and pre-employment workshops.

The program, which ended last June, was funded by a $300,000 economic development grant from the California Community Colleges' Chancellor's Office.

Local car dealer makes it to the hall of fame

By Daily Press staff

The Automotive Hall of Fame has named Mary Simonson Rehwald as one of the five inductees of the 2001 Distinguished Service Citation. The recipients will be honored at the Automotive Hall of Fame & Popular Mechanics Annual Awards Luncheon Sunday, Jan. 27, in New Orleans during the National Automotive Dealers Association annual convention.

The citation recognizes men and woman who have made significant contributions to the motor vehicle industry through either sustained superior performance or a specific achievement.

Simonson Rehwald is president-emeritus of W.I. Simonson, Inc. Mercedes Benz, which was founded in 1937 by her father W.I. Simonson. She was one of first female Mercedes-Benz owner/dealer principals in the world. In 1976, when Simonson Rehwald became chief executive officer, the annual sales figures were $13.6 million. In 2001, overall dealership sales topped the $87 million mark, with more than 190 employees.

Today, W.I. Simonson is among the most successful Mercedes-Benz dealerships, with its parts department having led the nation in sales for seven consecutive years.

Accepting this award for Simonson Rehwald are her daughters, Judy Rehwald Richards and Francie Rehwald.

GOT SOMETHING TO SAY?
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NATIONAL

States try to win back money from Enron

BY ROBERT TANNER
AP National Writer

With the Enron collapse wiping out at least $1 billion from the retirement funds of teachers, firefighters and other public employees, states are joining a class-action lawsuit to win back some money from the once-giant energy trading company.

Several other states are examining their ties to accounting firm Arthur Andersen, or weighing legal action against it. Florida has already filed subpoenas for a potential civil lawsuit.

"We owe it to these public servants to get back as much of their money as we possibly can," Ohio Attorney General Betty Montgomery said. The retirement plans invested in Enron stock, once the darling of Wall Street before the company acknowledged it overstated profits and then went bankrupt.

The retirement of individual public employees — and the funds' financial stability — are not in danger, according to the directors of retirement funds in several states. Losses in each state accounted for just a fraction of a percent of each retirement fund's value.

Attorneys general in Georgia, Ohio and Washington state have asked a federal court in Texas to make them the lead plaintiffs in existing investors' securities fraud litigation. Others seeking to lead the class-action suit include agencies overseeing pension funds in Florida and New York City, and the university pension fund in California.

The U.S. District Court in Houston has yet to decide who will lead the suit; briefs are to be filed next week, according to Russ Willard, a spokesman for Georgia Attorney General Thurbert Baker.

Dozens of attorneys general have been discussing Houston-based Enron Corp. and state retirement funds in conference calls over the last month, according to officials in several attorneys general offices.

An Enron spokesman in Houston did not immediately return a call seeking comment on Friday.

The money lost varies widely — $300 million in Florida retirement funds, $127 million in Georgia, $35 million in Arizona.

Rhode Island lost only $4.7 million, after wisely — or luckily — selling all its Enron stock in early August, said Treasurer Paul J. Tavares, the chairman of the state's retirement system.

The lost money, like the $103 million gone in Washington state, needs to be seen in perspective, said James Parker, director of Washington's investment board, where the fund totals $54 billion.

"When the stock market each day goes up and down a half-percent, the change is of the same magnitude," he said. "When the market goes down, OK. But when it happens this way, you want to get it back."

Like Congress, officials in Texas, Florida and Connecticut are beginning investigations into Andersen's role in the downfall of Enron.

Florida Attorney General Bob Butterworth has already issued civil investigative subpoenas to Andersen and Enron.

The Texas Board of Public Accountancy has initiated an investigation into whether the firm violated state auditing standards.

Connecticut Attorney General Richard Blumenthal is seeking a similar investigation, calling recent allegations against the firm "strikingly and surprisingly similar" to a probe into a 1990 real estate investment scam.

In Connecticut, the accountancy board's investigation could lead to the suspension or revocation of the firm's permit to practice in the state.

An Anderson spokesman at the firm's Chicago headquarters did not immediately return a call on Friday. The company said Thursday it retained Enron as a client, despite warnings of problems, because "it appeared that we had the appropriate people and processes in place to serve Enron and manage our engagement risks."

War heats up



Nasser Nasser/Associated Press

Palestinians kick tear gas canisters as they run from the gas during clashes with Israeli soldiers in the West Bank town of Ramallah on Friday. Israeli forces overlooking Palestinians leader Yasser Arafat's headquarters in Ramallah were reinforced, as were the number of Israeli positions in and around the West Bank town.

Tech leaders see Web access as new manifest destiny

BY BRIAN BERGSTEIN
AP Business Writer

SAN JOSE, Calif. — This is the future in America as high-tech leaders see it: People work from home more often. They watch high-definition TV on their computers. They get information on national security instantaneously.

The key ingredient, the boosters say, is for everyone to have always-on Internet connections that pump data nearly 2,000 times faster than today's dial-up modems.

This week, a prominent high-tech lobbying group challenged the government to make that happen by 2010, saying universal broadband access should be a "national imperative" just like the 1960s drive to land on the moon.

The report from TechNet asks the government to loosen regulations on telecommunications and refrain from imposing new ones. It doesn't seek subsidies or tax credits for companies that would roll out the technology, only for poor and rural users who otherwise could not afford broadband.

Not surprisingly, the TechNet initiative has the support of Cisco Systems Inc., Intel Corp., AT&T Corp., Microsoft Corp. and other companies that stand to benefit from a souped-up Internet.

Others question whether the plan is feasible, worthwhile or does anything to promote competition.

"It's not in the consumers' best interests, but that's not what this is about," said Mike Jackman, executive director of the California Internet Service Provider Association, a group of 140 independent Internet companies. "It's about big companies protecting their big customers."

Kathie Hackler, a broadband analyst at Gartner Dataquest, applauded the goal of keeping the United States from falling further behind other countries, such as South Korea and Germany, in broadband deployment.

But she was skeptical of TechNet's suggestion that the industry could cooperate better if only the government would eliminate uncertainty over how it will regulate investments in new broadband networks.

Forrester Research analyst Carl Howe was even more circumspect.

"There is no proof, in any way, shape or manner, that says if we give more broadband to everybody it's going to make us more productive," he said. "It will make us more connected. It might make us happier. But I'm not sure it's a better use of our money than putting 50,000 more teachers in schools."

Forrester says more than 11 million U.S. households have broadband service now, generally through cable TV lines, satellite TV hookups or phone wires that have been transformed into digital subscriber lines, or DSL.

But only 12 percent of consumers who could get broadband have sought it. Many are put off by service problems and high prices.

Cable broadband costs an average of $44 a month, while DSL averages $52, according to ARS Inc., a market research firm.

Many Internet service providers say the telecom giants keep prices artificially high by charging excessive fees for access to the phone lines they control. Telecoms counter that DSL in particular is hindered by a patchwork of local, state and federal fees and taxes.

Still, the number of broadband households will hit 54 million by 2006 even if no significant changes in government regulation are made, Forrester projects.

TechNet calls for accelerating that significantly: not only getting broadband to 100 million homes and small businesses by 2010, but at speeds of 100 megabits per second. That is as much as 250 times faster than the typical broadband connection in most American homes now.

That would require an overhaul of the existing telecommunications infrastructure, digging up streets in neighborhoods across the country to install new fiber-optic cables. The estimated cost: at least $100 billion, perhaps $300 billion.

But TechNet cites a Brookings Institution study that found that the improvements in education, health and office productivity from universal broadband could generate $500 billion for the economy.

Though most consumers haven't embraced broadband yet, TechNet believes just about everyone would want it once new applications are developed to take advantage of super-fast connection speeds.

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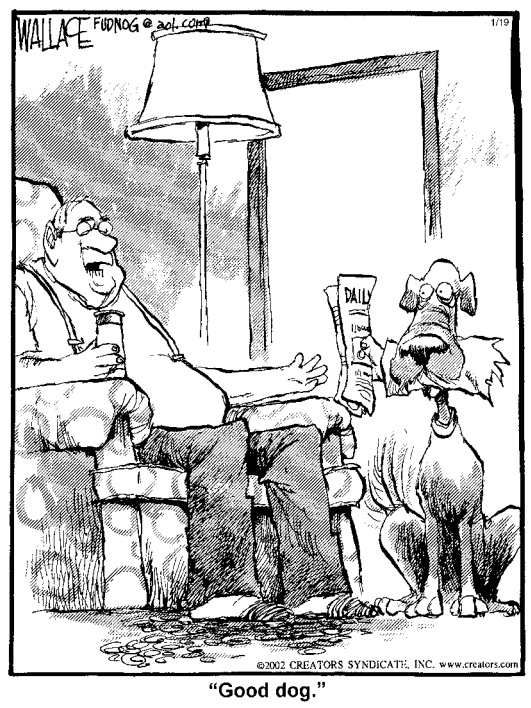
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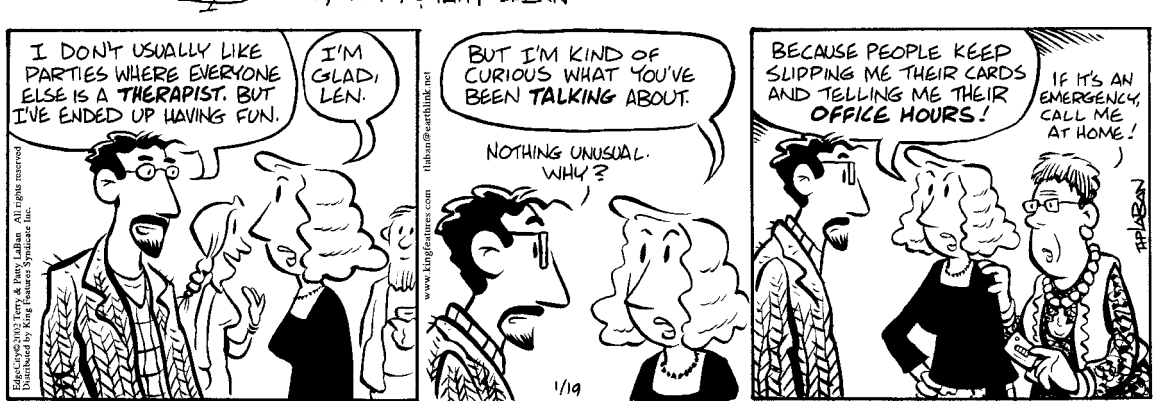
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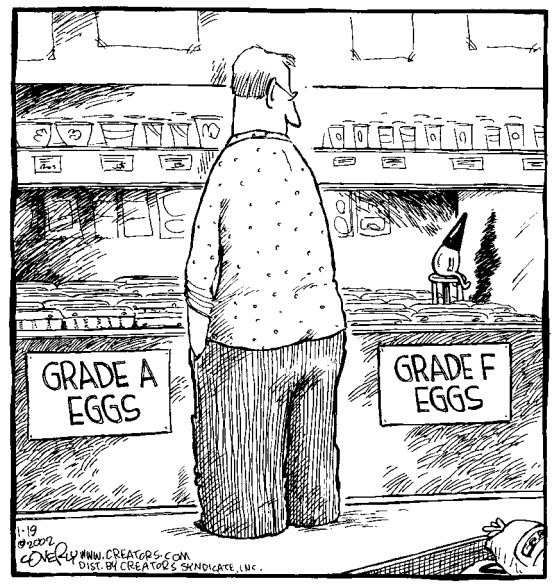
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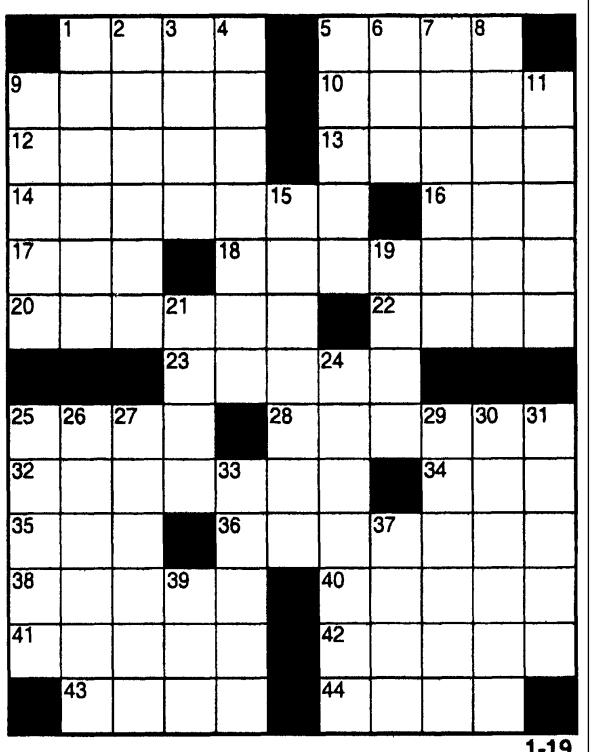
1 Plummet
5 Thanks-giving staple
9 Stiller's partner
10 Pass
12 Lot makeup
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14 Locks
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17 Animation frame
18 Mensa require-ments
20 Attention getter
22 Rose holder
23 Ouzo flavoring
25 Broker's advice
28 Get comfy
32 Checked the fit of
34 Equivocate
35 Pitcher's pride
36 Radical
38 Tower site
40 Bran offering
41 Purloin
42 Some tourneys
43 Fine study
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6 Director Lee
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9 Equal
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19 Vigil times
21 Harvard rival
24 Sum-moned
25 Rough tries
26 Print goofs
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29 Ancient city on the Nile
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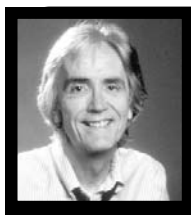
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NEWS OF THE WEIRD

by Chuck Shepard

Relatives cry witchcraft in serial murders

In November, prosecutors in Greenbelt, Md., finally indicted Josephine Gray, 55, for her role in the serial murders of her two husbands (in 1974 and 1990) and a boyfriend-cousin (1996), cases that have long been stymied by several relatives' resolute refusal to testify against her out of fear that she would use voodoo on them. (She was not indicted for murder but rather for collecting on the men's life insurance policies after helping arrange their deaths.) One relative of the eventual second victim said Gray could control the man as long as he was eating Gray's cooking but returned to "his old self" when he ate elsewhere. Other relatives said a spell from Gray caused the eventual first victim once to scratch his face to shreds.

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BACK PAGE

Law against serving drunks proves tough to enforce

BY BOB ANEZ
Associated Press Writer

HELENA, Mont. — Just when is someone too drunk to be served up another drink at a bar?

An Associated Press review of 700 liquor violations in Montana over the past decade found just four instances in which businesses were cited for serving booze to someone already drunk.

The problem, say law officers and industry representatives, is determining when a customer is too drunk for another drink.

"It's a very difficult situation for everybody," said Jeff Bryson, investigative chief for the state Justice Department, which oversees liquor licenses.

"The bar industry doesn't want to be in the business of serving drunk customers but it's not always easy for a bartender to tell," he said.

"And what about police? Are they supposed to take a breathalyzer into a bar and say 'OK, everybody, line up against the wall and let's see who is already drunk?"'

Last August, House Majority Leader Paul Sliter was killed when the car in which he was riding rolled down an embankment on a winding dirt road west of Helena.

Shane Hedges, Gov. Judy Martz's policy adviser, was driving and later pleaded guilty to negligent homicide in the death of his best friend. Tests showed his blood-alcohol level was 50 percent above the legal limit.

The popular bar and restaurant where the two spent the evening was not cited. Leo Gallagher, the county prosecutor, said investigators were unable to determine if Hedges was clearly drunk when he was sold his last drink that night.

"And what about police? Are they supposed to take a breathalyzer into a bar and say 'OK, everybody, line up against the wall and let's see who is already drunk?"'

— JEFF BRYSON
State Justice Dept., investigative chief

"I never thought there was sufficient evidence to charge" the bar, Gallagher said. "Everyone said Shane looked fine as he left."

In 2000, Montana had the nation's second-highest rate of alcohol-related traffic deaths, trailing only Mississippi. A total of 110 people died in alcohol-related traffic accidents, a rate of 12.19 alcohol-related traffic fatalities per 100,000 residents.

State law forbids alcohol from being sold to "any person apparently under the influence of alcohol." Administrative penalties range from $250 for a first offense to license revocation for a fourth offense. The law also states those giving alcohol to someone "visibly intoxicated" can be responsible for injury or damage that person causes because of his drunken condition.

In one of the few cases in which a tavern was held liable, a Great Falls bar owner was ordered in 1993 to pay $750,000 in damages to a customer injured when another patron left the bar drunk and drove his vehicle through the tavern's wall.

Mark Staples, attorney for the Montana Tavern Association, said that decision, upheld by the state Supreme Court in 1999, put bar owners on notice they have little legal protection if a drunken customer is served alcohol and illegal behavior later can be traced to that intoxication.

Helena Police Chief Troy McGee said state law offers little direction to bartenders.

"The law doesn't say how drunk you have to be before you can't be served," he said. "It's in the judgment of whoever is doing the arrest."

And Gallagher said placing blame can be next to impossible in tavern settings.

"When you have a large group of people at a table, drinks are served. How can you hold somebody liable when it's unclear who at the table is drinking and who is driving?" he said.

Bryson, the Justice Department official, said putting undercover officers in bars to watch if drunken customers are being served is impractical. Enforcing drinking laws is up to local law enforcement agencies, he said — and most lack the manpower for such operations.

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