

Santa Monica Daily Press

A newspaper with issues

DAILY LOTTERY

SUPER LOTTO

4 12 20 32 36
Meganumber: 10
Jackpot: \$15 Million

FANTASY 5

1 10 22 28 31

DAILY 3

Daytime: 0 6 7
Evening: 4 8 7

DAILY DERBY

1st: 10 Solid Gold
2nd: 04 Big Ben
3rd: 11 Money Bags

RACE TIME: 1:44.06

Although every effort is made to ensure the accuracy of the winning number information, mistakes can occur. In the event of any discrepancies, California State laws and California Lottery regulations will prevail. Complete game information and prize claiming instructions are available at California Lottery retailers. Visit the California State Lottery web site: <http://www.calottery.com>

NEWS OF THE WEIRD BY CHUCK SHEPARD

Opportunities in Toilet Paper: (1) Rev. Rick Oliver of the First Church of God in Pendleton, Ore., decided last fall that the church's new fund-raising campaign would involve sales of toilet paper, specifically the upscale brand Angel Soft. (2) The Portuguese paper producer Renova introduced black toilet paper in France last fall (and expect to introduce it in the U.S. soon). A Renova statement called the tissue "elegant, rebellious, alternative and eternally fashionable."

TODAY IN HISTORY

Today is the 46th day of 2006.
There are 319 days left in the year.

On Feb. 15, 1898, the U.S. battleship Maine mysteriously blew up in Havana Harbor, killing more than 260 crew members and bringing the United States closer to war with Spain.
In 1564, Italian astronomer Galileo Galilei was born in Pisa.
In 1764, the city of St. Louis was established.
In 1820, American suffragist Susan B. Anthony was born in Adams, Mass.

QUOTE OF THE DAY

"We live by encouragement and die without it — slowly, sadly and angrily."

CELESTE HOLM
AMERICAN ACTRESS

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SMC's funding may fall this year

BY KEVIN HERRERA

Daily Press Staff Writer

SMC — Before state legislators approve a new funding formula for community colleges, officials here want them to pay what they owe.

Under a funding formula supported by Gov. Arnold Schwarzenegger, an alumnus of Santa Monica College, a handful of community college districts like Santa Monica College are receiving millions of dollars to make up for decades of underfunding due to the passage of Prop. 13, which capped property taxes and forced colleges to rely mostly on the state for funding.

This year, SMC officials are expecting to receive \$4 million under the current funding formula, the last and largest installment in a plan to equalize funding for all colleges that was proposed by education officials here and supported by the governor.

However, SMC may never see that money. There is a growing movement in Sacramento to pass a bill, SB 361, that would once again change the way community college districts are funded. The bill, sponsored by State Sen. Jack Scott (D-Pasadena), has gained strong support from the majority of community college districts and the chancellor of California Community Colleges because they feel it would finally even the playing field for all.

If the bill is approved, SMC would go from \$4 million in equalization funding this year to roughly \$400,000, said Randal Lawson, executive vice president of SMC.

Lawson and others here said that would be a major blow to SMC, which is in the middle of an aggressive campaign to increase

See SMC FUNDING, page 5



Fabian Lewkowicz/Daily Press

A group of mothers stroll with their children under the pier along the water's edge. City officials last month discussed the possibility of closing the area due to security concerns, but the idea has been tabled for now.

City officials on fence over pier access

BY KEVIN HERRERA

Daily Press Staff Writer

CITY HALL — Elected leaders last month discussed behind closed doors whether or not to block public access underneath the Santa Monica Pier as a way to enhance

security in a post Sept. 11 world.

While no action was taken, consideration was given to placing security fencing around the end of the pier that would prohibit the public from walking or jogging underneath near the water's edge.

The idea was presented to the

City Council by Santa Monica Police Chief James T. Butts Jr. during a closed-session meeting Jan. 24. The potential security measure also was publicly discussed in a meeting with the Pier

See PIER ACCESS, page 6

Snack attack: What SM's council craves

BY RYAN HYATT

Daily Press Staff Writer

CITY HALL — Everyone gets the munchies, and Santa Monica's elected leaders are no exception.

And whether it's to pass the time or to boost their energy during their marathon meetings, City Councilmembers are routinely seen behind the dais in their chambers at City Hall munching away while the public looks on, mouths watering, stomachs growling.

See SNACKS, page 7



Carolyn Sackariason/Daily Press

Sugar rush: Elected leaders keep within arm's reach an assortment of snacks to keep them going through marathon City Council meetings. Chocolate, nuts and candy are favorites among decision makers to keep them fueled up to deal with the controversial issues in front of them.

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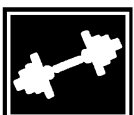
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HOROSCOPES

As you wish, Leo

Santa Monica Daily Press



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)
 ★★★★★ This Full Moon pulls you in many different directions. You feel between and betwixt, and you are. The best intentions backfire. Lie back and do the best you can. At a certain point in your day, you might want to retreat. Tonight: OK, now play ostrich.



TAURUS (April 20-May 20)
 ★★★★★ You are on overload as you try to respond to your many calls and requests. Trying to fit everyone into your schedule could be close to impossible. You could toss your plans in the air. You cannot please everyone all the time. Tonight: Catch up on others' news.



GEMINI (May 21-June 20)
 ★★★ Your expenses could get out of control because you like to spend and indulge. You might be seeing the damages right now. A little self-discipline could go a long way. You will need to say no. Examine your true needs. Tonight: Curb spending.



CANCER (June 21-July 22)
 ★★★★★ You are all smiles. Expect to touch base with many people right now. You could find someone to be quite hyper and touchy. Let go of an immediate problem, because you might be making more out of it than you need to. Tonight: Know when to cut the socializing.



LEO (July 23-Aug. 22)
 ★★ You might want to hide out or play it cool until midafternoon, when the Moon slides into your sign. You will feel the difference and be quite revived and enthusiastic. You might be relieved to feel more like your old self. Tonight: As you wish -- finally.



VIRGO (Aug. 23-Sept. 22)
 ★★★ Make the most of the daylight hours, when you are full of vim and vigor. Listen to and handle others with clarity, sensitivity and understanding. By late afternoon, you might want to retreat or take some time off. Tonight: Early to bed.



LIBRA (Sept. 23-Oct. 22)
 ★★★★★ Take charge and handle matters that others might not be able to. Others might buck your leadership, but ultimately, events fall into your lap. Surround yourself with friends late afternoon. Let the good times happen. Tonight: You are the party.



SCORPIO (Oct. 23-Nov. 21)
 ★★★★★ You toss and turn between two alternatives, perhaps having a difficult time coming up with answers. You might not like what happens, but no matter how you juggle plans and what you hear, you won't make a difference. Tonight: A force to be dealt with.



SAGITTARIUS (Nov. 22-Dec. 21)
 ★★★★★ Build understanding and confidence by keeping communications open right now. You could be overwhelmed by what happens and what goes on. Listen to others and think positively. Tonight: Try something very different.



CAPRICORN (Dec. 22-Jan. 19)
 ★★★ You are juggling more than you can generally handle. No one would believe that could ever happen to the Goat, but it can and will. Deal with a partner on a closer level. Examine an offer carefully before saying yes. Tonight: Togetherness becomes a theme.



AQUARIUS (Jan. 20-Feb. 18)
 ★★★★★ Stay even despite all the challenges that could be tossed in your face. Your ability to accept others turns the day around to make it even better. Accept an invitation that allows friends in. Let what you want happen. Tonight: Let the party begin.



PISCES (Feb. 19-March 20)
 ★★★★★ You might not be sure how to juggle all the different invitations, requests and needs that come in as demands. You'll succeed, but by late afternoon, you are more than ready for a nap. Yes, you are tired. Tonight: Play it easy.



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COMMUNITY BRIEFS

Calling all poets

By Daily Press staff

Your prose could make you \$1,000 richer.

Hollywood’s Famous Poets Society is sponsoring a new poetry contest, open to everyone. There is no entry fee and nothing to buy. Poets from the Santa Monica area, especially beginners, are encouraged to enter for their chance to win and share their artistry with others.

To enter send one poem of 21 lines or less: Free Poetry Contest, 1626 N. Wilcox Ave. #126, Hollywood, CA 90028. Or enter online at www.famouspoets.com. The deadline for entering is March 18. A winner’s list will be posted online. Editors reserve the right to publish winning poems online or in a pamphlet.

“Any poet, whether published or not, can be a winner,” said executive director Mark Schramm. “When people learn about our free poetry contest, they suddenly realize that their own poetic talent can win cash prizes, as well as garner national recognition.” Famous Poets has awarded more than \$400,000 in cash to amateur poets over the past eight years, more than any other poetry society.

Black History Month noted at SMC

By Daily Press staff

In honor of Black History Month, Santa Monica College next week will present Dr. Thomas A. Parham — a charismatic speaker, renowned psychologist and university administrator who has won many awards.

Parham will speak on “Building for Eternity: Educational Foundations that Nurture Young Minds” on Feb. 21 at 11:15 a.m. in the SMC Concert Hall, 1900 Pico Blvd. The talk is free, but seating is limited and is on a first-arrival basis. For information, call (310) 434-4303.

The talk is cosponsored by the SMC Associated Students and SMC Associates, a private organization that funds speakers and special programs on campus.

Parham is currently the assistant vice chancellor of counseling and health services at the University of California at Irvine, as well as director of the counseling center and an adjunct faculty member.

He is a distinguished researcher, book author and speaker who has been active in many community and professional organizations, including the city of Irvine’s Human Relations Committee and the Orange County Chapter of the 100 Black Men, of which he served as president in 2002.

He is past president of the National Association of Black Psychologists and past president of the Association for Multicultural Counseling and Development, and is active in several other professional organizations and professional publication editorial boards.

His books include “Psychological Storms: The African American Struggle for Identity,” and he has produced several videotapes including “Counseling African Americans” and “Youth and Violence.”

He has spoken widely and conducted numerous workshops at schools, nonprofit organizations, municipalities and leading corporations such as Hughes Aircraft and Xerox Corp. on such topics as conflict resolution and multicultural education. He has been called a gifted and charismatic speaker in the tradition of Martin Luther King Jr. and Malcolm X.

Parham has won numerous awards and honors from such organizations as the NAACP, Association of Black Psychologists, University of California and American Psychological Association.

See BRIEFS, page 7



SNOW AND SURF REPORTS



CONDITIONS

DATA PROVIDED BY ONTHESNOW.COM

BEAR MOUNTAIN				
NEW SNOW	BASE DEPTH	LIFT HOURS	RUNS OPEN	LIFTS OPEN
(24 Hrs) 0"	12"-36"	8:30am - 4:00pm	18	10/12

CONDITIONS: Machine Made, Machine Groomed, Hard Packed, Granular, Variable, Wet

JUNE MOUNTAIN

NEW SNOW	BASE DEPTH	LIFT HOURS	RUNS OPEN	LIFTS OPEN
(24 Hrs) 0"	72" - 96"	8:30am - 4:00pm	35	6/6

CONDITIONS: Packed Powder, Machine Groomed

MAMMOTH MOUNTAIN

NEW SNOW	BASE DEPTH	LIFT HOURS	RUNS OPEN	LIFTS OPEN
(24 Hrs) 0"	96"-120"	8:30 am - 4:00 pm	150	27/28

CONDITIONS: Machine Groomed, Hard Packed

MOUNTAIN HIGH

NEW SNOW	BASE DEPTH	LIFT HOURS	RUNS OPEN	LIFTS OPEN
(24 Hrs) 0"	12"-24"	8:30 am - 10:00 pm	16	8/16

CONDITIONS: Machine Groomed, Hard Packed, Wet

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SNOW SUMMIT

NEW SNOW	BASE DEPTH	LIFT HOURS	RUNS OPEN	LIFTS OPEN
(24 Hrs) 0"	12"-36"	8:30 am - 4:30 pm	18	14/14

CONDITIONS: Machine Made, Machine Groomed, Hard Packed, Granular, Variable, Wet

SNOW VALLEY

NEW SNOW	BASE DEPTH	LIFT HOURS	RUNS OPEN	LIFTS OPEN
(24 Hrs) 0"	8"-18"	8:30 am - 4:00 pm	10	3/11

CONDITIONS: Machine Made, Machine Groomed

CONDITIONS

WATER TEMP: 59°

DATA PROVIDED BY WETSAND.COM

SWELL FORECAST (3-8 FT)

Today the NW swell will start to fade with surf running waist to chest. Early AM sessions may pick up an occasional plus, but the swell will fade throughout the day.

LONG RANGE SYNOPSIS

NW backs off over the next few days...
Small NW for weekend...
Rain in the forecast...

TIDE FORECAST FOR SANTA MONICA

	LOW TIDE	HIGH TIDE	LOW TIDE	HIGH TIDE
SATURDAY:	1:52AM	2:1FT	3:03PM	-0.8FT
	7:55AM	5.8FT	9:31PM	4.0FT
SUNDAY:	2:24AM	1.8FT	3:27PM	-0.7FT
	8:27AM	5.8FT	9:51PM	4.0FT
MONDAY:	2:54AM	1.6FT	3:49PM	-0.5FT
	8:27AM	5.8FT	9:51PM	4.0FT
TUESDAY:	3:26AM	1.5FT	4:11PM	-0.2FT
	9:26AM	5.4FT	10:31PM	4.2FT
WEDNESDAY:	3:59AM	1.4FT	4:30PM	0.1FT
	9:56AM	5.0FT	10:52PM	4.3FT
THURSDAY:	4:36AM	1.4FT	4:49PM	0.5FT
	10:27AM	4.5FT	11:14PM	4.4FT
FRIDAY:	N/A			

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The Q Line

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Some parents are outraged over what they feel was a weak response by school officials to a rise in tensions after racist graffiti was spotted at Santa Monica High School at multiple locations on campus. School officials say they are working to ease parent concerns and are conducting mediation and counseling sessions with students to discuss the graffiti, its impact and what can be done to foster better relations between different ethnic groups on campus.

So this week, Q-Line wants to know, **“How should school officials deal with racial tensions at Santa Monica schools?”**

Call (310) 285-8106 before Friday at 5 p.m. and we’ll print your responses in the weekend edition. Please try to limit your comments to a minute or less. It might help to think first about the wording of your response.

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GUEST COMMENTARY BY JOHN W. WHITEHEAD

To torture or not to torture?

During a recent debate in Chicago, former U.S. Justice Department official John Yoo, who wrote the crucial memos justifying President Bush's policies on torture, was asked, "If the president deems that he's got to torture somebody, including by crushing the testicles of the person's child, there is no law that can stop him?"

"No treaty," replied Yoo, now a professor at the University of California law school at Berkeley. He then went on to espouse the notion of the "unitary executive." This is the idea that as commander-in-chief the president is the sole judge of the law, is unbound by the Geneva Conventions against torture and possesses inherent authority to subordinate the entire government to his rule — including Congress and the courts — when he decides to do so.

This concept, the cornerstone of the Bush doctrine on presidential power, was attested to by Attorney General Alberto Gonzales in his testimony before Congress on the administration's warrantless electronic surveillance of American citizens. This doctrine also has been vigorously championed by the White House, which at some points has even argued in defense of the use of torture.

Moreover, it has been widely reported that American government agents have resorted to outsourcing suspected terrorists for torture through a program known as "extraordinary rendition." The program, apparently condoned by Vice President Dick Cheney, involves the clandestine transfer of suspected terrorists to countries ruled by regimes where it is possible that torture or other forms of cruel, inhuman and degrading treatment occur. Dr. William F. Schulz, executive director of Amnesty International USA, referring to a set of CIA flight logs obtained by the organization, said the logs were "irrefutable proof that the United States is 'disappearing' people into secret facilities where they are held incommunicado without charge, trial or access to the outside world."

Such reports give rise to a host of moral and ethical questions, such as: Can a country that claims to champion human rights and whose elected officials claim to abide by Judeo-Christian precepts advocate torture of any kind? And if the United States is determined to advocate torture, should there be limits to what can and cannot be done in the name of fighting the so-called war on terror?

Various government regimes in numerous countries throughout the world, including the United States, employ torture tactics. The following are just a few of the many examples of brutal methods of coercion employed by these regimes:

Uzbekistan (currently an ally of the United States), Iraq and Afghanistan all have long histories of subjecting people to torture and ill-treatment in the name of national security. These include stretching limbs apart; burns with cigarettes, heated instruments or a scalding liquid; electric shock; asphyxiation by drowning, smothering, choking or use of chemicals; penetrating injuries such as stab and gunshot wounds and wires under nails; chemical exposures to salt, chili pepper, gasoline, etc., in wounds or

body cavities; sexual violence to genitals, molestation, rape; medical amputation of digits or limbs and surgical removal of organs.

Interrogators in western Iraq have stuffed insurgents face-first into sleeping bags with a small hole cut in the bottom for air, which resulted in suffocating to death. An American warrant officer was recently found guilty of a similar act.

Torture by American interrogators of detainees in Guantanamo Bay, Cuba, also has been documented. An unnamed FBI agent reports:

"On a couple of occasions, I entered interview rooms to find a detainee chained hand and foot in a fetal position to the floor, with no chair, food or water. Most times they had urinated and defecated on themselves, and had been left there from 18, 24 hours or more. On one occasion, the air conditioning was turned down so far and the temperature was so cold in the room that the barefooted detainee was shaking with cold. When I asked the MPs what was going on, I was told that interrogators from the day prior had ordered this treatment, and the detainee was not to be moved. On another occasion, the A/C had been turned off, making the temperature in the unventilated room probably well over 100 degrees. The detainee was almost unconscious on the floor, with a pile of hair next to him. He had apparently been literally pulling his own hair out throughout the night."

The FBI report also notes that at least on one occasion an American female guard in charge "had grabbed the detainee's thumbs and bent them backwards and indicated that she also grabbed his genitals." The memo also stated that "her treatment of that detainee was less harsh than her treatment of others." One Marine indicated that "he had seen her treatment of other detainees result in detainees curling into a fetal position on the floor and crying in pain."

Most Americans were shocked by the photos of the contorted bodies of Iraqi prisoners at Abu Ghraib as the American guards looked on with ghoul-like smiles. Megan Ambuhl, a former guard at Abu Ghraib, said she was stunned the first time she stepped into the prison. There were naked men in dusty cells, male prisoners wearing women's underwear and others hooded and shackled in contorted positions to metal railings.

A Jewish prophet once proclaimed, "The heart is deceitful above all things, and desperately wicked. Who can know it?" Understanding this about people, another Jewish prophet some 600 years later, who suffered extreme torture himself, taught his followers to "love your enemies, bless those who curse you, and pray for those who spitefully use you and persecute you." Indeed, one wonders what Jesus, with his professed love of children, would say to John Yoo about torture that might justify "crushing the testicles" of someone's child.

(Constitutional attorney and author John W. Whitehead is founder and president of The Rutherford Institute. He can be contacted at johnw@rutherford.org.)

ACLU needs to trade hypocrisy for sense



THE
WITNESS
STAND
BY CLIFF NICHOLS

Some people in our lives are like diapers. They need to be discarded from time to time and often for the same reason. But, even that description understates the case when it comes to describing some people at the ACLU.

Last week inmates rioted in jails across Los Angeles County. Tensions between blacks and Latinos were determined to be the cause of at least one death and more than 100 serious inmate injuries. So, Los Angeles County Sheriff Lee Baca did just what anyone else with a lick of common sense would do. He directed his officers to separate blacks and Latinos into different living quarters until the unrest could be brought under control. Make sense? Apparently not to some at the ACLU. Even Baca expressed "concern" about their "concerns." What is their problem, you ask? Apparently, their "concerns" center on their belief that separating prisoners on the basis of race, religion or national origin is unconstitutional.

Give me a break. I realize that sometimes ACLU attorneys appear in public disguised as responsible adults. So we really can't fault someone even as intelligent as Sheriff Baca for occasionally making the mistake of taking them seriously. But really, in some cases the only appropriate response such lawyers deserve is "Hey you, out of the gene pool — now!" In light of last week's violence, wasn't Baca's well-intentioned segregation policy more likely to safeguard a far more important and fundamental constitutional right than an inmate's right to be free from segregation? Namely, the right to be afforded a reasonably safe living environment — albeit segregated — where inmates could at least cling to a reasonable expectation that they would not be killed or maimed randomly solely on the basis of their race. I don't know about you, but if I had to choose between these two constitutional rights and realized that being housed in a desegregated environment could get me killed, I think I would prefer the right to remain alive now so I could worry about things like integration later.

Please understand, I am not advocating sympathy for the KKK. Rather, I personally abhor both their organization and its beliefs. Nor am I in favor of returning to a segregated society. I think Brown versus the Board of Education was a good thing. I am only advocating that people use some common sense, which these days sometimes appears to be not all that common.

Regretfully, we find ourselves today confronted with the ugly fact that we live in a society that is increasingly rife with violent street gangs. For better or worse, it is also a fact that a common thread found throughout these many "social organizations" is that who is, or isn't allowed to become a member of any particular gang appears to be decided largely on the basis of race. And it most probably also is a fact that many — if not most — of the inmates

who actually engaged in last week's violence were members of one of such racially discriminatory gangs. Based on those facts, would not logic thus compel a reasonable person to conclude that the sheriff's decision was the only practical alternative available to him to effectively defuse a racial tension among the inmates that he had nothing to do with creating? Rather than attacking him for making the decision, it might be more fair, if not logical, to argue that the sheriff's need to segregate the jail population was made necessary by the ACLU's failure to force street gangs to become racially integrated before the violence he had to deal with erupted.

Is this logic twisted? Perhaps, but before pronouncing judgment, contemplate this further exercise in twisted analysis. On a certain level, gangs are social organizations in some ways similar to many of the more acceptable mainstream "clubs" we are familiar with. They not only both organize social get-togethers, like dinners, dances or drive-bys, as the case may be, but also they both make available to their members access to economic opportunities they might not have otherwise. Why is it then that only the well-heeled clubs seem to be threatened with lawsuits by the ACLU if they discriminate on the basis of race, gender or religion? Could this dissimilar treatment be indicative of the existence of discrimination on the ACLU's part? Why doesn't the ACLU sue "clubs" like the Crips or the Mexican Mafia to desegregate their ranks? Could it be that the ACLU has assumed that nobody who's not black would want to join the Crips or the Bloods, just as nobody who's not Latino might want to apply for membership in the Mexican Mafia? If so, how condescendingly judgmental and discriminatory is that? Shame on the ACLU.

Were all this true, doesn't it also follow that had the ACLU acted earlier to compel the racial integration of street gangs, it just might have encouraged the racial tolerance of individual gang members to a degree that last week's crisis might have been averted entirely? And if this is true, shouldn't we at least expect the ACLU to take appropriate action now to compel gangs like the Crips to integrate and thereby conceivably reduce the probabilities of racially based violence recurring in the future? Now, that's something I would enjoy seeing the ACLU spend its time on. After all, is it not the organization's stated purpose in life to see to it that the civil liberties of all are enforced equally, regardless of race, color or national origin? In fact, for them to do anything less in this situation would be hypocritical, would it not? While we're waiting for them to act, however, don't you think in the meantime it would be nice if they got off the Baca's back at a time when he is busy trying to remedy a violent situation caused by racial tensions — particularly tensions he didn't create?

(Cliff Nichols is an attorney practicing criminal defense/entertainment law in Santa Monica. He may be contacted at either 310-917-1083, cliff@cliffnicholslaw.com or www.cliffnicholslaw.com, and you may join his blog at www.thedailystand.com.)

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Bill would impose a new funding formula

SMC FUNDING, from page 1

enrollment after severe cuts to education programs approved in 2003. During that time, the district, which had more students enrolled than ever before, had to reduce course offerings by 20 percent and intentionally cut enrollment to save money.

"We have completed a magnificent turnaround, but we are not quite back to where we were before. And now we are caught up in what most districts are experiencing, and that is very little growth in enrollment," Lawson said. "We need this money now more than ever to help in our efforts to get back to the level we were at before we had to make these cuts to programs. We are fine with SB 361 if it passes, but we want this last installment of equalization funds to go through before any changes are made. That would help us level the playing field."

If SB 361 is approved, it would rely on student enrollment from 2003 to determine funding. The current formula is based on enrollment levels in 2002, when SMC had the most students enrolled in its history. The district would receive more money if 2002 enrollment figures are used.

A spokesman for Sen. Scott couldn't be reached for comment.

SMC has historically been underfunded, said Bruce Smith, a college spokesman. Before the governor approved of the current equalization plan, the district was receiving approximately \$3,700 per full-time student, one of the lowest funding levels in the state's system, compared to a high of roughly \$8,000 in Western Kern Community College District.

When multiplied by the roughly 21,000 students who attend SMC, the disparity reaches into the millions.

"We hear all the time that Santa Monica is an affluent community, that we have multi-million dollar homes and that

we don't need the extra money, but the fact is we serve a very diverse student body, most of whom come from outside of the district, who take two or three buses to come here because of our reputation," SMC trustee Margaret Quinones said at a meeting Monday night with her colleagues. "We need to come up with a campaign to debunk this stereotype and make sure some community colleges remain in the fight for equalization. This needs to be the most important thing on Dr. (Chui L.) Tsang's plate."

Tsang is the new president of SMC. He starts in two weeks, Smith said.

Supporters of SB 361, which is still under consideration by the Legislature, said it will finally fix the funding structure, making the process more equitable for all colleges. The bill would set aside funding for facilities and operations and then provide money for each pupil, supporters said. Currently districts are funded per pupil, with the cost of operating included in that.

"All of the arguments for it and against its passage are reasonable when you think about enrollment numbers," said Scott Lay, vice president of Community College League of California. "Santa Monica obviously wants enrollment numbers from their most active year used while, say, Los Angeles, which absorbed a lot of students from SMC, wants to use more current data. We just have to make sure that we come up with the best formula possible. We want to make sure every student gets the same amount of funding."

SMC board of trustees chair Nancy Greenstein said her colleagues are not opposed to any change that will make funding more equitable, but the elected officials in Sacramento need to stick to their word and, at least for one more year, keep funding levels the same.

"We need to follow through with this commitment and then move on from there," Greenstein said.

Rock the Vote attempts to regroup

BY PAUL CHAVEZ

Associated Press Writer

LOS ANGELES — Rock the Vote is turning 16 this year, but the birthday for the organization that has used Madonna, R.E.M. and other music stars to get millions of young people involved in politics is shaping up to be anything but sweet.

The nonprofit group founded in Los Angeles in 1990 is \$500,000 in debt and down to just two employees, from 20 in 2002, according to tax documents and Hans Riemer, the group's political director.

Rock the Vote has been courting donors and hopes to make an announcement in about a month about its future, Riemer said.

"It will be the new Rock the Vote, that's what we have in the works," he said.

Rock the Vote founder Jeff Ayeroff declined to comment to The Associated Press.

The organization provided a recent letter to the Los Angeles Times that said Rock the Vote has a "modest debt" that is typical after a presidential election, and a history of resolving its financial obligations.

"While no organization wants to deficit finance, elections are important enough to require hard choices," the letter said. "So when we sensed the surge of youth partic-

ipation in 2004, we used all the credit at our disposal. This is something organizations do routinely."

Rock the Vote registered 1.4 million voters for the 2004 election at college campuses, through its Web site and via ad campaigns featuring music stars.

In a recent study, Diana Owen, an associate professor of political science at Georgetown University, found that campaign off-years are trying times for youth voting organizations.

"What has happened, as usually happens in off-election years, is that many of them have disbanded and they will have to try to regroup for the next election cycle," Owen said.

"Rock the Vote seemed to be one that was a little less bad off than the others," she said.

Ayeroff was co-chief of Virgin Records when he founded Rock the Vote.

It has been followed by groups such as the New Voters Project, which targeted young voters in six states for the 2004 election, and music mogul Sean "Diddy" Combs' "Vote or Die" effort.

"In 2004, youth voting organizations just proliferated," Owen said. "There weren't that many in 2000 and far fewer in 1996 and less even before that."

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New law allows for private talks on security measures

PIER ACCESS, from page 1

Restoration Corp. on Jan. 11.

"There was some concern that evil doers will do something under the pier," Mayor Bob Holbrook said. "We want to send the message, 'Don't mess with us.'"

Currently, there are no plans to move forward with the proposal, officials said.

The area underneath the pier has become a favorite destination for joggers, photographers and tourists. It not only provides a respite from beach crowds, but also is an easy way to get from one side of the pier to the other without having to leave the beach.

Avid beach goer and former City Councilman Mike Feinstein said the area is used by many people — those looking for shade, runners who jog along the water's edge and students who like to make out in a secluded area. If the section was closed off, runners would be forced to go around the pier and fight crowds on the boardwalk, he added.

"If they ever do decide on it, it needs to be out in the open, number one. Number two, I know it's the police's role to bring up security measures, but the incremental benefits do not offer a good balance for public access to the tens of thousands of people who pass through there every year," Feinstein said.

City officials said they are not sure if they want to block access to the popular spot, even though security concerns have been raised. To move forward with the proposal for fencing, some council members said they would have to see substantial benefits, along with proof that the fencing would not cause any damage to the pier's structure.

"Under the pier at summer solstice is a wonderland of dappled sunlight streaming through the cracks of the pier deck above," Councilman Kevin McKeown said. "If you've walked under the pier at winter sunset, as I've done recently, you've seen crimson rays cutting through the mist rising off breaking waves. I'm hopeful we can find a security measure that doesn't deny public access to such a special place, nor block runners who want to enjoy a surf jog."

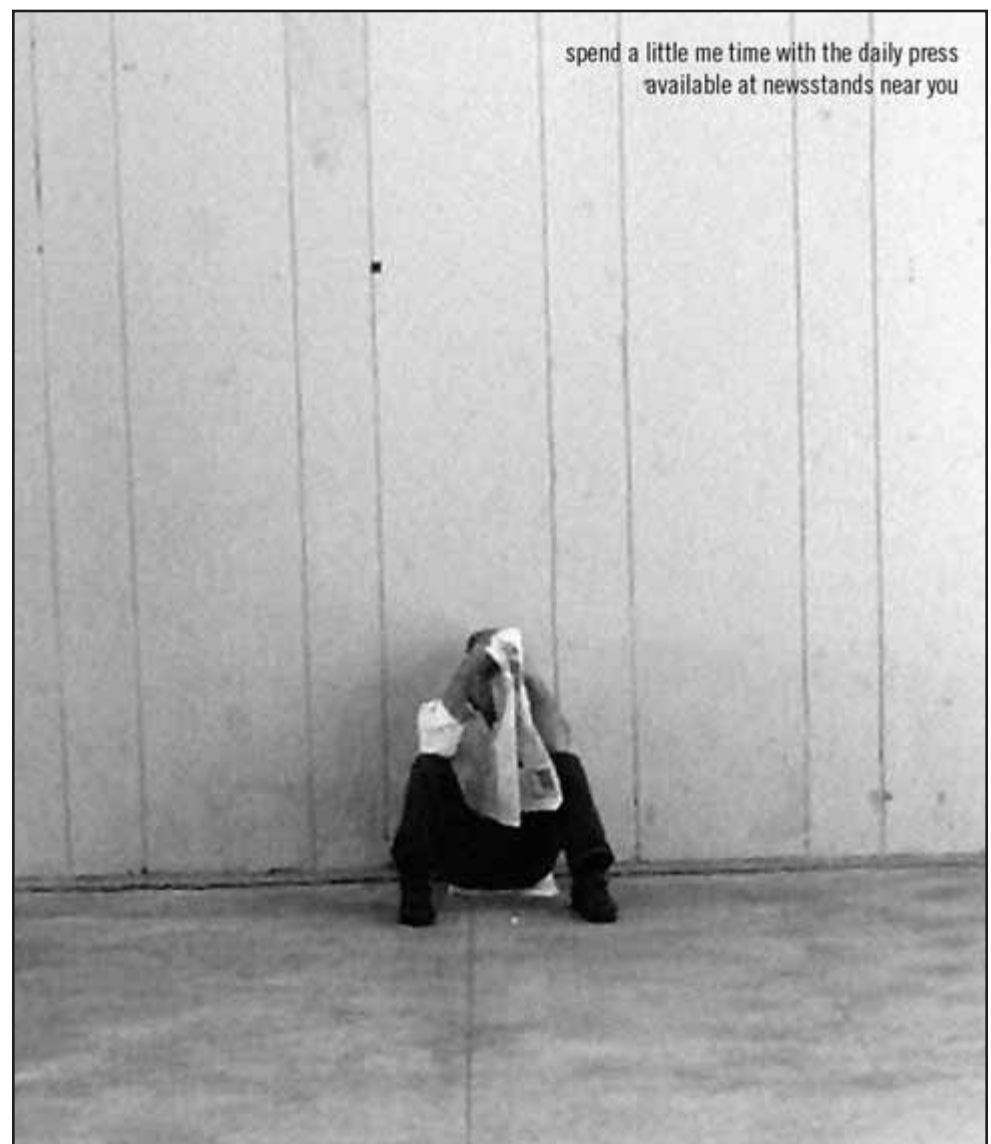
City Councilman Ken Genser said he was informed that extending a fence into the surf could damage the pier if the fence was knocked around by rough seas.

"There was discussion (in a PRC meeting) that the fence could be moved back some distance onto the shore to a point where it might be on dry land at low tide," Genser said. "I think if we are going to do that, the security benefits would be severely diminished, so why do it at all?"

The fencing idea was discussed by the City Council in closed session under a relatively new provision of the law governing public meetings that allows public officials to discuss matters dealing with public safety or terrorism. The intent is to not provide any terrorists or others looking to harm the public with sensitive information about security measures taken by police, said City Attorney Marsha Moutrie.

If the City Council ultimately decides to install a fence, Moutrie said it will have to bring the matter before the public and vote to enter into a construction contract — that is, unless the money has already been budgeted for that item.

"All of our major expenditures are subject to public approval," she said.



LOCAL



Cost of snacks: \$30 to \$35 each meeting

SNACKS, from page 1

The City Council is known for its long, drawn-out meetings, during which elected leaders spend hours listening to issues that concern the public. This extraordinary effort to hear and be heard for hours requires significant energy. City Hall ensures the council is up to the task, providing its members with a variety of snacks.

City Clerk Maria Stewart's staff sets up the council chambers and is responsible for stocking the Tuesday council meetings. The snacks include: Coke, Diet Coke, Dr. Pepper, water, cookies (Fig Newtons, Famous Amos, chocolate chip), health bars, jelly beans, gum drops, bite-size chocolates, cashews, peanut butter, cheese and crackers, hard candy, and chips (Cheetos, Fritos).

For City Councilman Kevin McKeown, who has trimmed down in recent months, his favorite is candy.

"Even since last summer, as I've been losing weight, I've found it helps my listening during long meetings to keep my blood sugar up with spice drops," he said.

The cost to taxpayers is \$30 to \$35 per council meeting. Stewart's staff does the shopping, but it rarely takes requests, she said.

"Staff tries to keep a variety on hand, and every once in a while tries a different item," Stewart said. "Those items that we notice are used up consistently, we keep buying."

So what does the council keep eating that staff keeps buying?

Cashews are popular. They're the favorite of Mayor Bob Holbrook, Councilwoman Pam O'Connor and Councilman Herb Katz.

"I'm ashamed to say it's the cashews," Mayor Holbrook said. "The only time I ever eat nuts is at the council meetings. I think Pam and I are the biggest cashew eaters."

O'Connor said the need to restrain her cashew cravings is similar to other forms of restraint she's had to practice before the council.

"I love the cashews, but you need to have discipline eating them, just like you need to have discipline when you're talk-

ing," she said.

Katz said he prefers the cashews because they're the most nutritional of the snacks.

"I also like the cheese and crackers, and anything sweet, except Fig Newtons," Katz said. "I can't stand Fig Newtons."

"If I had a choice, I'd prefer ice cream, but it's a good thing I don't, because I'd eat a lot of it."

While cashews have earned high marks for rousing taste buds, Councilman Ken Genser said there's a snack he prefers that he suspects others enjoy as much as he does.

"Gum drops," Genser said. "They've been there ever since I've requested them, and a number of other councilmembers like them, too, because they're gone after almost every meeting."

"And I know I don't eat all of them."

Meanwhile, Councilman Bobby Shriver said he practices abstinence when it comes to the munchies.

"Alas, I do not eat the snacks, so I do not have a favorite," Shriver said. "But I have talked certain members out of certain snacks."

Councilman Richard Bloom, a self-described chocoholic (he bakes), said he requested fresh fruit when he was elected in 1999.

"That lasted about a month," he said.

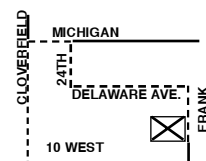
But now that there are more enticing goodies within feet, Bloom finds himself drawn to the Dove chocolates.

"Dove chocolates have witty little proverbs on the inside of the wrappers that are just another excuse to open one," he joked. "As council meetings wear on, you can't imagine the pressure. People come to us. They want things. When other people want things, its only natural: Richard Bloom begins to want things. Things like chocolate. OK. Only chocolate. And, the more things people want, the more chocolate I want. That's not wrong, is it? By about 10 p.m., my resistance dwindles and I find myself giving in. 'Just one,' I tell myself. But, it's never just one."

Stewart said the tradition of providing snacks to the council during meetings has been going on for at least the past 15 years.

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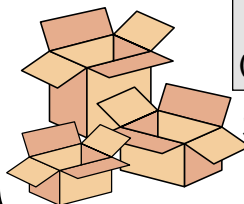
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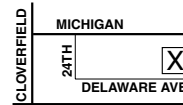
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COMMUNITY BRIEFS

BRIEFS, from page 3

Parham received his bachelor's degree in social ecology from UC Irvine, master's in counseling psychology from Washington University in St. Louis, and his Ph.D. in counseling psychology from Southern Illinois University.

Elks find a citizen of the year

By Daily Press staff

The Santa Monica Elks last week presented Lenore Johnson with the "Citizen of the Year" award for her 40-plus years of volunteer service with the Santa Monica branch of the Salvation Army. In presenting the award, exalted ruler Ray Beers detailed many areas of her accomplishments. She played music, and taught music, crafts and citizenship.

"If Lennie saw something that needed to be done, she did it," Beers said. "She didn't wait to be asked."

Roy Newman, president of the California-Hawaii Elks Association (CHEA), commended Johnson for her many years of volunteer work. He also commended the Salvation Army for the significant work that it has done for so many years.

Johnson, in spite of her own personal problems — she lost her husband 27 years ago — said to be successful, you have to keep putting one foot ahead of the other day after day.





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STATE BRIEFS

Police, city apologize to homeless

By The Associated Press

VENTURA — The police chief and city manager publicly apologized for wrongly issuing misdemeanor illegal camping citations to homeless people last year.

The city toughened its illegal camping ordinance last year, but police began issuing citations before the new law took effect.

City Manager Rick Cole and police Chief Pat Miller accepted personal responsibility for the mistake.

"We were wrong," Miller told the council as he detailed the results of an internal investigation into the matter. "I can assure you as police chief that it won't happen again."

The investigation found officers erroneously issued 49 misdemeanor citations to homeless people for illegally camping or storing property in public between January and October 2005. Seven people were arrested after they failed to appear to court.

Miller said the cases were dismissed.

Deputy Public Defender Jay Leiderman, who represented some of those wrongfully cited, asked why City Attorney Bob Boehm's name was not included among those accepting responsibility.

"Boehm is to blame," said Leiderman, adding the city attorney should have recognized the problem sooner.

"We all have accepted responsibility for our own actions," Boehm said after Councilman Neal Andrews also questioned why his name wasn't in the investigation report.

Marijuana dispensary under fire

By The Associated Press

PALM DESERT — The city wants to shut down a medical marijuana dispensary.

The City Council notified CannaHelp owner Stacy Hochanadel that the council will vote Feb. 23 on possible revocation of his business license. The issue focuses on whether Hochanadel's collective is legal under California's medical marijuana laws and its impact on public safety in the city.

California voters approved a ballot initiative legalizing medical marijuana in 1996, and the state Legislature passed a law providing guidelines for implementation in 2003.

Hochanadel said the council's notice has left CannaHelp's 440 clients "kind of confused and frustrated."

"If (the council) recognizes the law as law is written, they have no choice but to comply and provide some kind of vehicle that can provide this service (medical marijuana). They need to be fully accountable and explain things," said Alan Layton, who uses pot for depression.

City officials declined to comment on the decision to consider revoking CannaHelp's business license, which was made during a closed session during the council's Feb. 9 meeting.

The city originally issued a business license to CannaHelp, then called Hempie's, last October. The council later passed moratoriums, the latest a 10-month extension on Feb. 4, to give city officials time to draft an ordinance to allow dispensaries in the city.

CannaHelp was exempt from the moratorium.

Now, according to the city notice Hochanadel received Friday, the city claims dispensaries are not allowed under state law and Hochanadel's business does not comply with the provisions of the law allowing for use of medical marijuana by patients and caregivers.

California's medical marijuana law Proposition 215 passed in 1996. Senate Bill 420 passed in 2003. Neither allows nor prohibits dispensaries. But SB 420 does provide protection for collectives and cooperatives growing medical marijuana for a group of users.

Tensions between CannaHelp and the city flared in recent months with several arrests related to CannaHelp. Lt. Steve Thetford said most of the incidents involved dispensary clients who had "questionable doctor's recommendation letters."



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Beach-lovers' paradise, island of Maui is running out of sand

By The Associated Press

WAILUKU, Hawaii — For tourists basking on its beaches, it may seem hard to believe. But Maui is running out of sand.

Sources of readily available sand for construction may run out within five to seven years, according to a report being prepared for Maui County. A vast system of sand dunes on the island has largely been covered by development, and what's left is being mined, the report says.

Maui sand is in high demand because it's a key ingredient in concrete and the only material now available for beach restoration projects. About 318,000 tons of sand are dug out each year from inland sources, and 70 percent of it is shipped to the main island of Oahu to feed Honolulu's hungry construction industry.

"When we run out of sand ... the only alternative will be to ship it in from another source, and my first reaction is it will have a significant impact on the cost of concrete," said Eric Yoshizawa, vice president of Ameron Hawaii, which is excavating on some of the last undeveloped dunes.

"It doesn't bode well for the future of affordable housing on Maui," Yoshizawa said.

Local environmentalists and construction industry

leaders are urging the county to preserve what sand the island has left. They also want officials to restrict the export of sand to Honolulu.

"Anyone who knew about it would know we're running out of sand," said Chip Fletcher, professor of geology and geophysics at the University of Hawaii-Manoa. "It's just surprising it's happening so soon."

About 5.5 million tons of sand have been mined on Maui over the last 20 years, according to the report prepared by consultant Howard Hanzawa for the county Department of Public Works and Environmental Management.

There is still plenty of inland sand on the island, but it's now inaccessible beneath development. At this rate, open sand supplies could be exhausted in just under six years, according to the report.

If the dunes run out of sand, there won't be many alternatives. Importing granite sand or developing a new product out of crushed rock would increase the cost of concrete and give it a less-desirable texture he said.

And for beach restoration, the only other option would be to dredge sand from the ocean floor.

The price of sand already has been climbing over the last decade — from \$5 a ton to \$20 on Maui, and from \$10 a ton to \$40 in Honolulu.

Washington House votes to end unpopular fee on state park visitors

By The Associated Press

OLYMPIA, Wash. — Hoping to lure disgruntled patrons back to Washington's state parks, the state House has voted to repeal a highly unpopular \$5 parking fee blamed for driving away millions of visitors.

House Majority Leader Lynn Kessler, D-Hoquiam, said the three-year-old fee was a failed experiment after nearly a century of free access in Washington. During the first two years, the money was used to whittle away a \$350 million maintenance backlog. In the current budget, it helps finance basic operations at 120 state parks.

But it has proven unpopular, even with outdoorsy Northwesterners. Attendance has dropped by more than 7 million since it was introduced.

"Enough is enough. We have closed people out of our parks too long," Kessler said. "I don't really care what

other states do. I just know that our state needs to have free access to state parks."

Kessler pledged to work during the coming year to find a new source of money to replace the fees, which brought in some \$11.5 million through last December.

The fee repeal passed the House 94-2 on Monday, with some Republicans suggesting the state general fund as a permanent replacement.

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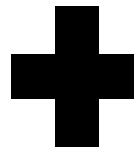


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Jodi Summers * Boardwalk Realty
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Getting rid of your rental the right way



DAYS ON THE MARKET
BY JODI SUMMERS

Bob calls the Gold Coast in Orange County home, but he's got a couple of rental houses in North Beach, Venice. Back when Bob bought these single-family homes, the alleys were littered with drug addicts. Now it's a delightful pocket neighborhood on the Venice/Santa Monica border where some properties have recently broken the \$1 million mark. Bob is thinking of selling off his Venice properties but is not sure whether to cash out on his houses or reinvest the money in something with fewer management headaches. As he figures out what to do with his money, he ponders his taxable consequences. Are there ways of avoiding or deferring his tax obligations?

In many jurisdictions throughout the world, including the United States and the United Kingdom, a capital gains tax is charged on the profit realized on the sale of an asset that was previously purchased at a lower price. The most common capital gains are realized from the sale of stocks, bonds, precious metals and property.

The tax rate on long-term gains (assets held more than year) was reduced in 2003 to 15 percent, or to 5 percent for individuals in the lowest two income tax brackets. Short-term capital gains are taxed the ordinary income tax rate. In 2013, these reduced tax rates will "sunset," or revert back to the rates in effect before 2003, which were generally 20 percent.

Statistics show that only 7 percent of all taxpayers report capital gains in any given year, and over two-thirds of the gains reported went to people making more than \$100,000 a year. Most Americans own capital assets — like homes or businesses — but they sell them only a few times in their lives.

As for what to do with your money when you exercise your capital gains option, you have a number of choices. Before taking any action, be sure to consult your financial advisor. Benny Kass, senior partner with the Washington, DC, law firm of Kass, Mitek & Kass PLLC and a specialist in real estate, said that property options can include:

1. Sell and pay the tax: Assume Bob paid \$250,000 for his Venice two-bedroom, one bath unit, and has depreciated the property by \$50,000 over the years. His basis in the property will be \$200,000 (\$250,000 - \$50,000). If he were to sell the property for \$800,000, he will have made a profit of \$600,000 (\$800,000 - \$200,000). This does not take into account other costs and expenses that may reduce his gain — fix-up costs, closing fees and real estate commissions. For federal tax purposes, Bob will owe Uncle Sam \$90,000 in capital gains tax — at the 15 percent rate — not including state taxes and other prizes.

When Bob's done with the federal government, his bottom line — excluding state taxes and other expenses — will be approximately \$510,000 in gross sales proceeds. Any remaining mortgage fees will have to be paid off at settlement.

Almost everything you own and use for personal purposes, pleasure or investment is a capital asset. The IRS says when you sell a capital asset, such as stocks, the difference between the amount you sell it for and your cost basis — the original purchase price, adjusted for various things including additional improvements or investments, taxes paid on dividends, certain fees and depreciation — is a capital gain or a capital loss. While you must report all capital gains, you may deduct only your capital losses on investment property, not personal property.

2. Do a Like Kind exchange: Under section 1031 of the Internal Revenue Code, Bob can exchange his property for another piece of property that will be equal to or more expensive than his current property, deferring his capital gains tax obligation along the way. Bob can purchase a replacement property for \$600,000 or greater. However, since this is an exchange, his tax basis will be the basis of the relinquished property, i.e. \$200,000.

There are strict rules applicable to 1031 exchanges. Net sales proceeds must be held by a neutral intermediary. Replacement properties must be identified within 45 days after the sale of the relinquished property. The title needs to be taken to the replacement property within 180 days after the sale of the relinquished property. 1031 exchanges are only if you want to continue on as a landlord and keep that income stream running in.

3. Installment sale: Bob can defer — but not avoid — paying capital gains tax if he sells the property and carries back a mortgage. This is known as an "installment sale." Under this arrangement, you pay a portion of the capital gains tax as the moneys come in each year.

4. Donate the property to a charity: There are restrictions and limitations on such donations that Bob should fully understand before he decides to go this route.

5. Sell the property to a family member: Is the property worth keeping in the family? Bob can sell it to a family member and carry back the financing. If he is concerned about estate tax issues, he can gift up to \$11,000 per person per year on the outstanding balance of the money he is owed by his family on his property.

In layman's terms, Bob sells the property for \$800,000 to his children, and agrees to carry back all of the purchase price. His lucky kids sign a promissory note in the amount of \$800,000 — there will be a deed of trust (mortgage) on the property in this amount. If Bob's two children now own the property and if Bob is married, he and his wife can gift back — tax free — \$44,000 of the balance of the note each and every year. Thus, in the first year, the note balance will be reduced down to \$656,000 (\$800,000 - \$44,000), and so on each and every year.

There are a number of ways in which you can dispose of your rental property. But talk with your family and your financial advisors before making any final decisions.

(Jodi Summers is director of the investment division at Boardwalk Realty Santa Monica. Contact her at jodis@boardwalkrealty.com, or call 310-309-4219. Visit her community history Web site at www.santamonicalandmarks.com.)

How to improve investment property cash flow



IN YOUR SPACE

BY CHRISTINA S. PORTER

There are many things an investor must take into account when evaluating the pros and cons of an investment and specifically, how and if it will fit into their long and/or short term plan. A key component in an investment analysis is the relationship between risk and reward, and how best to maximize the reward and minimize the risk.

Depreciation can assist an investor in capitalizing on the reward by improving the after tax cash flow. Cost segregation is an increasingly popular form of asset depreciation. It is unique compared to the standard straight line depreciation in that it is used for parts of a property that, from a tax standpoint, are usually incorporated into the building and therefore automatically included in the 39-year straight line depreciation, or 27.5 years for residential income properties.

Using cost segregation allows a property owner to divide the building into components and depreciate each one separately, some of which are most likely eligible to be assigned a shorter tax life, allowing for larger depreciation amounts sooner and effectively increasing your immediate cash flow. Examples are carpet, lighting systems and wall coverings. Another considerable advantage to cost segregation is that separately depreciating each component of a building — even if it is over the same time period — allows a property owner to more quickly and easily write off the cost of a component of the building that has failed. Examples are a roof, or an HVAC system.

A taxpayer can use cost segregation when constructing a building, buying an existing one and sometimes even years after owning or selling one, depending on the date of disposition. When using cost segregation, a property owner must distinguish between parts of a property that are considered “real property” and “tangible personal

property,” the latter of which usually affords a much shorter tax life. This is where you can run into trouble. The ability to distinguish between tangible personal property and a building made up of its structural components is an area of great controversy.

In an article written by Jay Soled and Charles Falk, “Cost Segregation Applied,” the authors state that in deciding a case, the tax court came up with the following questions that, when answered, would qualify an asset as “tangible personal property” or a “structural component:”

- Can the property be moved? Has it been moved? For example, a shed with a concrete floor versus a shed with a wooden floor.
 - How difficult is removal of the property, and how time-consuming is it? For example, a wine cellar versus a prefabricated photo-processing lab.
 - Is the property designed or constructed to remain permanently in place? For example, a wooden barn versus a wire chicken coop.
 - Are there circumstances that tend to show the expected or intended length of affixation, or that the property may or will have to be moved? For example, permanent concrete pilings versus floating docks that can be removed in the winter.
 - How much damage will the property sustain upon its removal? For example, a steel-encased bank vault versus an easily removable lighting system attached by bolts.
 - How is the property affixed to the land? For example, permanently glued bathroom tile vs. removable billboard.
- There are some challenges to cost segregation. The

SAMPLE INVESTMENT PROPERTIES

City	State	SF	Price	Cap Rate
Wesley Chapel	FL	19,000	\$5,100,000.00	9.14%
Atco	NJ	48,800	\$6,250,000.00	7.60%
San Mateo	CA	13,800	\$7,500,000.00	5.97%
Memphis	TN	547,971	\$20,000,000.00	8.08%
Adrian	MI	288,202	\$25,250,000.00	7.40%

Tenant In Common (No Management)

Type	State	Minimum Year 1 Investment	Year 5 Cash On Cash	Cash On Cash
Dry Stack Boat Storage/Marina	NC	\$100,000.00	6.00%	20.00%
Assisted Living	USA	\$100,000.00	10.00%	10.00%
Condo Conversion	GA	\$100,000.00	9.00%	NA
Office/Warehouse NNN Co Ownership	LA	\$182,500.00	9.12%	10.00%
Food Lion Credit Retail Center	SC	\$560,000.00	9.00%	11.00%
Office	NV	\$750,000.00	7.25%	8.00%

The cash on cash percentages are estimates and not guaranteed.

most significant being the cost of an engineering study — a necessity — to identify the types of assets and whether they are personal property or structural components, which can be prohibitive. It can enhance the benefits of a 1031 exchange. However, it could also further complicate the transaction.

An investor must be certain that all of the rules are followed very carefully. All of this must be discussed with your tax professional prior to making any investment decision.



(You can reach Christina Porter at 1-877-4 TM 1031, or e-mail her at Christina@tm1031exchange.com to discuss your specific needs. TM 1031 Exchange assists investors in planning and executing successful real estate investment strategies. Visit www.tm1031exchange.com for a complete list of investment properties and to download the TM 1031 Tool Kit.)

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Real Estate

Answers to the questions haunting condo owners



THE HOA ADVISOR

BY MICHAEL CHULAK

Question: The condominium above ours has a defective shower pan that leaks into our home. Our management company insists that we must deal directly with the person above us and will offer no assistance. Their position is that the association has no power to act. Are they correct, or should they take action to force the owner with the leaking pan to repair it?

Answer: Your association has the power to act whenever common area property is being damaged by a member of the association. If the defective shower pan is allowing water to wet the internal structure of the building, or common area, it may cause dry rot, electrical problems or other damage. Thus, the association has the power to act.

If your management company and association will not provide you with assistance, you may take legal action yourself. Before filing a suit against your neighbor, your

attorney should review your CC&Rs. If a claim can be brought for the enforcement of the CC&Rs, you may be entitled to recovery of legal fees.

Question: The board of directors of our homeowners' association rarely holds meetings. Our bylaws do not specifically address this issue. How often are boards required to have meetings?

Answer: Normally, the frequency of board meetings is set forth in the association bylaws, or in some instances, in the CC&Rs. If your governing documents are silent concerning the number of board meetings to be held each year, there is still a statutory minimum. The California Corporations Code requires nonprofit mutual benefit corporation boards to meet at least twice each year. Also, in accordance with California Civil Code §1365.5, a board of directors of an association must review its finances at least each quarter year. Consequently, a board must meet at least four times each year.

Whether a board of directors should meet more often than four times each year depends upon the amount of business to be conducted by the association.

Question: Our homeowners' association is intending to amend its CC&Rs. Will it be necessary to obtain the approval of the California Department of Real Estate to any amendment?

Answer: Possibly. When a proposed amendment to CC&Rs affects the rights to ownership, possession or use of the subdivision interest or common area that is subject to the jurisdiction of the Department of Real Estate, at a time when the subdivider holds at least 25 percent of the voting power — that can vote for the proposed amendment — the amendment constitutes a material change, and the Department of Real Estate must then give its approval prior to any solicitation of the members for a vote on the proposed amendment.

Question: In order to reduce the number of renters within our townhome development, our board of directors is considering a move-in fee of \$1,000 each time a person moves into our community. Is there any reason we cannot have such a rule?

Answer: Yes. The California Civil Code provides that "an association shall not impose or collect any assessment, penalty or fee in connection with a transfer of title or any other interest except the association's actual costs to change its records ..."

We interpret this law to mean that while an association may be reimbursed for its actual out-of-pocket costs incurred in connection with the move-in of a new resident — whether an owner or tenant — an association is not entitled to charge an arbitrary fee that is simply intended to discourage the turnover of residents.

(Michael T. Chulak is a partner with Chulak Shiffman Quisenberry & Drescher LLP, Attorneys at Law. Questions can be e-mailed to info@CSQDLaw.com. Answers are general in nature. An attorney should always be consulted when legal advice is needed. For more information, visit www.CSQDLaw.com or www.HoaQandA.com.)

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REAL ESTATE BRIEFS

Sonderegger named Lowe VP

By Daily Press staff

LOS ANGELES — Lowe Enterprises Inc., a national real estate investment, management and development firm, has named Santa Monica resident David Sonderegger senior vice president of Lowe Enterprises Real Estate Group.

Based in the firm's Los Angeles office, Sonderegger is responsible for construction management of commercial and industrial development projects on the West Coast.

"David has been a key member of our development and construction team for more than eight years and has helped champion the successful construction of many high-profile development projects," said Rick Newman, president, Lowe Enterprises Real Estate Group, Western Region.

During his tenure at Lowe Enterprises, Sonderegger has been involved in more than 3.5 million square feet of construction projects, including the 1.4-million-square-foot Howard Hughes Center in Los Angeles; The Exchange, a 1.8-million-square-foot mixed-use project in Hawthorne; and the 200,000-square-foot Specialty Labs Headquarters in Valencia. Recently, he completed construction of the 75,000-square-foot construction of the Ocean Ridge office building in San Diego and will soon begin work on The Vista at Rancho Bernardo, a planned three-building 270,000-square-foot office project in San Diego and renovation of a 315,000-square-foot office building in Portland.

He earned his B.S. from California State University, Long Beach.

Los Angeles-based Lowe Enterprises is a leading national real estate investment, development and management firm. Over the past 33 years, it has developed, acquired or managed more than \$7 billion of real estate assets nationwide. The firm is currently developing 4.7 million square feet of commercial projects nationwide. Through its investment management affiliate, the firm currently manages in excess of \$2 billion in real estate assets on behalf of institutional clients. In addition to its Los Angeles headquarters, Lowe Enterprises maintains regional offices in Denver, Irvine, Phoenix, San Francisco, Sacramento and Washington, D.C.

NATIONAL



Cheney victim has heart irregularity after birdshot moves into his heart

BY LYNN BREZOSKY

Associated Press Writer

CORPUS CHRISTI, Texas — The 78-year-old lawyer who was shot by Vice President Dick Cheney in a hunting accident has some birdshot lodged in his heart and he had a “a minor heart attack” Tuesday morning, hospital officials said. The victim, Harry Whittington, was immediately moved back to the intensive care unit for further treatment, said Peter Banko, the administrator at Christus Spohn Hospital Corpus Christi-Memorial in Texas.

Banko said there was an irregularity in the heartbeat caused by a pellet, and doctors performed a cardiac catheterization. Whittington expressed a desire to leave the hospital, but Banko said he would probably stay for another week to make sure more shot doesn’t move to other organs or to other part of his body.

“Some of the bird shot appears to have moved and lodged into part of his heart in what we would say is a minor heart attack,” Banko said in a news conference outside the hospital.

The doctors said Whittington did not experience symptoms of a heart attack or any other problems. They left the birdshot in place and said he could live a healthy life with it there.

David Blanchard, chief of emergency care, called it “a silent heart attack, an asymptomatic heart attack. He’s not had a heart attack in the traditional sense.”

White House physicians who attended to Whittington

at the scene after Cheney accidentally shot him were involved in the treatment, the officials said.

Whittington had initially been placed in intensive care after the accident Saturday evening. He had been moved to a “step-down unit” Monday after doctors decided to leave several birdshot pellets lodged in his skin rather than try to remove them.

A Texas Parks and Wildlife Department report said Whittington was retrieving a downed bird and stepped out of the hunting line he was sharing with Cheney. “Another covey was flushed and Cheney swung on a bird and fired, striking Whittington in the face, neck and chest at approximately 30 yards,” the report said.

The wildlife department issued a report Monday that found the main factor contributing to the accident was a “hunter’s judgment factor.” No other secondary factors were found to have played a role.

The department gave Cheney and Whittington warning citations for breaking Texas hunting law by failing to buy a \$7 stamp allowing them to shoot upland game birds. A department spokesman said warnings are being issued in most cases because the stamp requirement only went into effect five months ago and many hunters weren’t aware of it.

Cheney’s office said Monday night in a statement that Cheney had a \$125 nonresident hunting license and has sent a \$7 check to cover the cost of the stamp. “The staff asked for all permits needed, but was not informed of the \$7 upland game bird stamp requirement,” the statement said.

New trial looms for Alaska teen accused in her mother’s murder

BY ANNE SUTTON

Associated Press Writer

JUNEAU, Alaska — The ordeal is far from over for the family of a Southeast Alaska teenager accused of conspiring with two older men to kill her mother.

As a jury in Juneau on Tuesday told Superior Court Judge Patricia Collins they could not reach a decision in the murder trial of 17-year-old Rachelle Waterman, her father Carl “Doc” Waterman dropped his head into his hand, looking tired and sad.

The judge declared a mistrial.

Waterman, who is in the unique position of being both the husband of the victim and the father of the defendant, has supported his daughter through the trial.

He declined to comment to reporters after the jury had left the room.

His daughter wept — her pale, normally composed face red and streaked with tears — as the jury filed out of the room. Two jurors also appeared to be crying and most looked drained.

Ketchikan District Attorney Stephen West said the state has not made a final decision on whether to retry the case, but added there is “a good chance that will happen.”

If convicted, Waterman could face up to 99 years in prison for each of the three main charges against her, including conspiracy to commit murder, murder one and murder two.

The jury of five men and seven women were just 90 minutes into a fifth day of deliberations when they sent a note to the judge saying they could not reach a unanimous decision on any of the charges.

Juror Mark Kasberg, a real estate appraiser for the Alaska Department of Transportation, said the jury took its first vote Monday, when it split 10-2 in favor of the teen. A second vote on Tuesday was the same.

He said everyone on the jury agreed she was involved, but differed on whether she actually intended for her mother to die.

“There were people dug in so far, it was pointless to keep going,” said Kasberg, who declined to say how he voted.

While both attorneys said they were disappointed the jury did not reach a unanimous verdict in their favor, Wells said he considered a hung jury a win for the defense.

Wells said public opinion was swayed against his client by police statements made in the weeks following her arrest. But he said the trial was a chance to show

Waterman’s perspective.

“And the jury did not walk away with a conviction,” he said. “That is a huge win for us.”

Wells had earlier filed a motion to have all charges against Waterman dropped. The judge has requested written briefings on the motion and will take up the matter on March 7.

After eight days of testimony and more than two dozen witnesses, the jury had to decide if Waterman’s role in her mother’s November 2004 death was unwitting or complicit. Two former lovers of the teen said they killed the 48-year-old teacher’s aide in order to protect the girl from her mother’s abuse.

Described as “cold-blooded” by the prosecution and the “quintessential small-town teen” by the defense, the Craig honor student painted herself as a rebellious outcast in an infamous Internet blog, or Web log, titled “My Crappy Life.”

The online diary, however, contained nothing that qualified as evidence, according to prosecutors.

Much of West’s case hung instead on the testimony of one of the two men, Jason Arrant, then 24, and videotaped statements Waterman made to police in the days following her mother’s murder.

Arrant, a former school janitor, testified that Waterman complained at various times that her mother threatened her with a knife, tried to push her down the stairs and hit her with a baseball bat. Waterman later admitted the claims were exaggerated.

Arrant said the teen told him she wanted her mother dead and that prompted him to enlist the help of his friend Brian Radel, also 24 and a former Waterman boyfriend, in planning the murder of Lauri Waterman.

The two men finally settled on a plan to fake a drunken-driving accident — a plan they set in motion on a weekend when Waterman told Arrant she would be at the state volleyball tournament in Anchorage and her father would be in Juneau.

Radel, 6-foot-5 and weighing more than 270 pounds, admitted to being the muscle in the plot, abducting Lauri Waterman from her home. When their plan to stage an accident fell through, Radel beat and suffocated her. They poured gas on the body and van and torched it.

A hunter found the still smoldering remains the next day.

The men were arrested several days later and pleaded to one count of murder.

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Expo Rail Gets Go Ahead

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Hamas assails United States

BY AMY TEIBEL
Associated Press Writer

JERUSALEM — Hamas derided the United States and Israel on Tuesday following reports they were exploring ways to topple the militants' incoming government.

Israeli security officials said they were looking at ways to force Hamas from power, and were focusing on an economic squeeze that would prompt Palestinians to clamor for the return of Palestinian leader Mahmoud Abbas' ousted Fatah Party. The officials spoke on condition of anonymity because they were not authorized to discuss the matter with the media.

But Foreign Ministry spokesman Mark Regev said, "There is no such plan."

The New York Times, citing anonymous U.S. and Israeli officials, reported Tuesday that the United States and Israel were considering a campaign to starve the Palestinian Authority of cash so Palestinians would grow disillusioned with Hamas and bring down a Hamas government.

U.S. Embassy spokesman Stewart Tuttle had no immediate comment.

The reports came a day after the outgoing Fatah parliament gave sweeping new powers to Abbas, allowing him to set up a sympathetic court that would be able to veto Hamas legislation unchallenged.

Mushir al Masri, a Hamas spokesman and incoming legislator, said attempts to bring down a future Hamas government were hypocritical.

"This is ... a rejection of the democratic process, which the Americans are calling for day and night," al Masri said. "It's an interference and a collective punishment of our people because they practiced the democratic process in a transparent and honest way."

"We need a firm Islamic and Arabic position to confront this challenge," al Masri added.

The idea of withholding aid is not new. Since Hamas' electoral victory, the West has been threatening to cut nearly \$1 billion in annual aid to the Palestinians, though Russia's recent invitation to Hamas to visit Moscow, and France's support for the Russian approach, have cracked what was a united front.

Israel has also threatened to cut off monthly transfers to the Palestinians of about \$50 million from taxes and customs it collects for them, once Hamas takes power. The new Palestinian parliament is to convene for its first session on Saturday, and a new Cabinet is expected to be appointed within weeks.

What is new is the twist of forcing regime change by

impoverishing the Palestinians even further.

Even with the Israeli tax transfers and Western aid, the Palestinian Authority is expected to run a \$660 million budget deficit in 2006. Without the tax and aid, the Hamas government could be forced to enact widespread layoffs that would scotch the livelihoods of hundreds of thousands of Palestinian families.

Besides the cash squeeze, Israel has other leverage on the Palestinian Authority, including its control of the movement of people and goods between the noncontiguous West Bank and Gaza Strip, and the entry of Palestinian workers into Israel.

The strategy of bringing Palestinians to their knees by cutting off cash could easily backfire, however, with Palestinians blaming the U.S. and Israel — not Hamas — for their growing misery. Moreover, Hamas would certainly turn to the Muslim world and private donors to try to make up at least some of the Western shortfall.

Israeli security officials said they weren't optimistic about prospects for ousting Hamas.

Israel, which was caught unaware by Hamas' sweeping victory in Jan. 25 Palestinian elections, is putting the finishing touches on its policy toward Hamas, which is to be sent to Defense Minister Shaul Mofaz and acting Prime Minister Ehud Olmert later this week for his review, Israel Radio reported on Tuesday.

Asked how Israel would handle Hamas, Mofaz told the radio station, without elaborating, that "Israel is strong enough to deal with any eventuality that would come down the pike. ... If Hamas creates a situation in which it continues to act as a terror group and takes over the Palestinian Authority, Israel has the tools to deal with an authority ruled by Hamas."

Mofaz was headed to Cairo on Tuesday to discuss Hamas' ascent to power and security arrangements on Israel's border with Egypt.

The Times said the idea of forcing regime change by further impoverishing the Palestinians was being discussed at the highest levels of the U.S. State Department and the Israeli government. The ultimatum to Hamas would be either to recognize Israel's right to exist, abandon violence and accept previous Palestinian-Israeli agreements, or risk isolation and eventual collapse, the newspaper said.

Hamas, which swept to power on the strength of public dissatisfaction with Fatah's failure to eradicate lawlessness and corruption, has repeatedly rejected Western demands to change its violent ways. On Monday, a Hamas leader said the group would annul landmark interim peace accords with Israel from the mid-1990s.

Bush bows to midterm political pressures, puts off some top agenda items

BY TOM RAUM
Associated Press Writer

WASHINGTON — Rolling into a campaign year, President Bush is trying to avoid bumps in the road. And this year there are plenty.

As he stumps for his 2006 agenda, Bush seems to be putting off as many problems as possible. Balance the budget? Not on the horizon. Fix Social Security, Medicare and Medicaid? Refer them to another commission. Cut oil dependence? Long in the future. Same for the moon-to-Mars program.

Subdued by budget constraints and failure to sell his Social Security plan last year, Bush has proposed a modest series of short-term initiatives, a lot of unspecified spending cuts for the midterm, and some bold long-range schemes that future presidents will have to decide how — or whether — to pay for.

"It's kind of like the return of the 'magic asterisk,'" said budget analyst Stanley E. Collender, recalling accounting gimmicks of the 1980s that allowed for the budgeting of unspecified — and never intended — spending cuts and programs.

Bush faces major obstacles. "You have a president with low approval ratings, and a Congress that's more worried about their re-election than his legacy," said Collender, a former congressional budget aide and now general manager of Financial Dynamics Business Communications.

A lot is at stake. Even though Bush isn't on the ballot, continued GOP control of Congress hangs in the balance.

"If majority control of either chamber is lost, it makes him a lame duck overnight," said Bruce Buchanan, a University of Texas political scientist. "He loses control over, potentially, funding for the war effort, control over ethics investigations, and over the ability to move any of his agenda items."

This is the traditional time for presidents to stump for their new proposals, and Bush is following that pattern after delivering his State of the Union address and submitting his budget.

He campaigned for his 2006 agenda in New Hampshire last week, and has at least two out-of-town trips planned this week.

Bush's \$2.77 trillion fiscal 2007 budget plan leaves a lot to the imagination — and future presidents and Congresses.

Breaking with recent tradition, his five-year budget provides full spending details just for the budget year that begins Oct. 1, leaving a lot of blanks for the remaining four.

Bush vows to halve the annual budget deficit — expected to be \$400 billion this year, up from \$319 billion last year — by the time he leaves office in January 2009. But he provides little insight on how.

Getting there will require far deeper cuts in popular domestic programs than the ones Bush proposed in his most recent budget. This is not a happy message for lawmakers seeking re-election, and Bush and his advisers are mindful of that.

Bush's budget also does not include much of the anticipated costs of the conflicts in Iraq and Afghanistan.

The president's highly concentrated focus on the war and his efforts to make his first-term tax cuts permanent "aren't going to let him achieve his lower-priority goals, which include reducing the deficit," said Bill Frenzel, who was once the top Republican on the House Budget Committee.

"I don't believe that this budget, even if it could be achieved — and I don't think it can be achieved — is going to lower the deficit at all," said Frenzel.

Although Bush spent much of last year campaigning for his plan to add individual accounts to Social Security — in exchange for reduced guaranteed future benefits — now he is calling for a bipartisan commission to examine the impact of baby boomer retirements on the program and to recommend long-term solutions to control costs.

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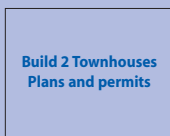
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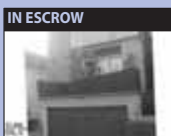
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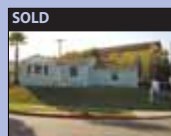
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