

FREE

Santa Monica Daily Press

A newspaper with issues

DAILY LOTTERY

SUPER LOTTO

1 5 13 18 42
Meganumber: 12
Jackpot: \$16 Million

FANTASY 5

1 6 10 27 32

DAILY 3

Daytime: 5 2 1
Evening: 1 8 7

DAILY DERBY

1st: 08 Gorgeous George
2nd: 05 California Classic
3rd: 07 Eureka

RACE TIME: 1:40.68

NEWS OF THE WEIRD BY CHUCK SHEPARD

In 1998, a New York jury said Kenneth H. Payne murdered a man, but the state's highest court set him free in October 2004, with no strings attached. The jury had convicted him of "depraved indifference" murder (rejecting "intentional" murder), but the Court of Appeals said the circumstances of the crime better fit the latter rather than the former. Noting that state prosecutors have often used "depraved indifference" as a crutch for juries that might be reluctant to call a murder "intentional," the court decided to send district attorneys a message by essentially giving Payne a free murder.

TODAY IN HISTORY

In 1961, former Nazi official Adolf Eichmann was sentenced to death by an Israeli court.
In 1964, Canada's House of Commons approved dropping the "Red Ensign" flag in favor of a new design.
In 1979, the deposed Shah of Iran left the United States for Panama, the same day the International Court of Justice in The Hague ruled that Iran should release all its American hostages.

QUOTE OF THE DAY

"History is the record of an encounter between character and circumstances."

DONALD CREIGHTON
CANADIAN HISTORIAN

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O'Connor appointed as new mayor

Holbrook will take top spot next winter

BY JOHN WOOD

Daily Press Staff Writer

CITY HALL — Pam O'Connor, the lone woman currently sitting on the Santa Monica City Council, assumed the city's top office on Tuesday. The 56-year-old historic preservation consultant was

appointed mayor by a slim 4-3 vote; a vote made without discussion.

"It's a job to be done," said O'Connor, who also served as mayor in the late 1990s. "The campaign's over. We have a lot of business. We have a lot of stuff to do, and I want to move us forward as expeditiously as possible."

O'Connor, who both lives and works in Santa Monica, replaced City Councilman Richard Bloom,



PAM O'CONNOR

the previous mayor who stepped down on Tuesday.

The mayor of Santa Monica possesses no special voting powers, but does make slightly more money and enjoys the name prestige that goes along

with the office. The mayor also sets council agendas, along with the mayor pro tempore and the city manager.

Also Tuesday, Herb Katz was named mayor pro tempore, and the City Council voted to appoint Bob Holbrook mayor next winter, with newcomer Bobby Shriver serving as his mayor pro tempore.

City Councilman Kevin McKeown, who served as mayor

See MAYOR, page 5

School of hard knocks



Nicky Five Aces/Five Aces Photo

A man is consumed by his work while he installs an electric sign yesterday on the Third Street Promenade.

Ex-NFL star wins freedom

Jury split 11-1 in favor of Anthony Wayne Smith, who spent 18 months in custody for Santa Monica fire

BY JOHN WOOD

Daily Press Staff Writer

LAX COURTHOUSE — Former LA/Oakland Raider Anthony Wayne Smith spent his first free night in nearly one and a half years at home with his wife and three children on Tuesday after a judge dismissed the arson charge against him.

The judge's decision came after a second jury failed to reach a decision in the case. In June, a jury in the first trial ended up hung 7-5 in favor of Smith. The second trial concluded Tuesday, with jurors split 11-1 in Smith's favor.

Smith, 37, clenched a tissue in his hand and looked down at the table in front of him as the judge issued his ruling, standing only after a long pause.

"Thank you, thank you," sobbed Smith, choking through heavy tears. He then turned to his

wife, Teresa, who sat in the front row of the courtroom and embraced her for more than a minute in silence, tears streaming down his face.

Prosecutors pursued Smith after finding 21 partially burnt pieces of mail and personal documents with his name and address inside the firebombs that ignited the 2003 fire, which gutted Simply Sofas, a furniture and antiques store on Lincoln Boulevard.

Los Angeles Superior Court Judge Keith Schwartz explained he wouldn't let the case be tried a third time, despite a strong suspicion of guilt.

"I don't think it's possible for any other jury to make a decision in this case ... I don't believe the people are going to be able to swing all of these votes to not guilty," said Judge Schwartz, who

See SMITH, page 6

Con men take 'pigeon' for \$4K in lottery scam

By Daily Press staff

A woman was swindled out of \$4,000 Monday after two men convinced her she was chipping into a \$300,000 winning lottery jackpot, police said.

The woman was apparently the victim of a fraud scheme police call a "pigeon drop."

According to police, a man approached the 68-year-old woman at 12:50 p.m. on the Third Street Promenade, claiming he had a winning lottery ticket but was unable to cash it in because he was in the country illegally. He initially approached the victim, asking how to find a specific address while speaking in Spanish.

As he explained to her that he had the \$300,000 winning ticket, a second man joined in on the conversation, offering assistance.

The first suspect told the woman that he would give her \$10,000 if she helped him cash the lottery ticket. He told her that he needed to give the lottery commission \$15,000 before he could

claim the prize. The woman was asked if she had \$15,000, but she told the man that she only had \$4,000. The second suspect said he had \$9,000 and would be willing to help, police said. The woman and the two men went to her bank and withdrew \$4,000 in cash. After getting the money

See PIGEON, page 6

Jacquie Banks

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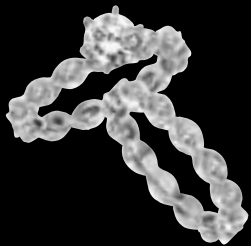
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JACQUELINE BIGAR'S STARS The stars show the kind of day you'll have:

★★★★-Dynamic ★★★★★-Positive ★★★-Average ★★-So-so ★-Difficult



ARIES (March 21-April 19)

★★★★★ Go for the pot of gold at the end of the rainbow. Your imagination helped along with others' good will makes nearly anything possible. Follow another's suggestion, but follow through on checking with an expert. Don't miss a meeting or get-together. Tonight: Hang out with your buddies.

TAURUS (April 20-May 20)

★★★★ Your work benefits from an authority figure's input. You have the energy to follow through and make what you want happen. A partner gives you strong feedback, which helps and/or supports you. Listen to this person. Some concepts might be far-out, but ultimately workable. Tonight: Out late.

GEMINI (May 21-June 20)

★★★★★ Reach out for someone at a distance. Explore getting holiday concert tickets as well. Express your jovial and happy personality. Others appreciate the lift and join in. Pay attention to a loved one or new friend. Use your creativity at work and in your personal life. Tonight: Go exotic.

CANCER (June 21-July 22)

★★★★★ Review important matters and decisions with a key partner or loved one. Working as a team can and will make all the difference in the outcome. Sometimes you need to refuse to carry the weight of the world on your shoulders. Try a shortcut. Consider adding something special to your office or home. Tonight: Have fun with a loved one.

LEO (July 23-Aug. 22)

★★★★★ Others find you to have the best of intentions. Be easygoing, especially when something totally new is dropped on your plate. Be willing to explore and break the mold. Your natural way and charm emerge. Use these qualities as assets. Tonight: Say "yes."

VIRGO (Aug. 23-Sept. 22)

★★★★★ Emphasize work rather than get distracted by holiday business or domestic matters. By staying focused, you'll accomplish a lot, leaving you with more spare time. Consider a new addition to your house or lifestyle. Tonight: Play Ralph Nader and do some price comparison.

LIBRA (Sept. 23-Oct. 22)

★★★★★ Your naughty side might emerge, but at the same time your creativity surges. How and where you choose to direct your ingenuity is your call. Some might want to take the day off and just enjoy themselves. Tonight: You cannot help but be spontaneous.

SCORPIO (Oct. 23-Nov. 21)

★★★★ Your family and domestic matters demand your attention. Carefully think through a decision, as you might be unusually idealistic. Feedback changes your perspective and thinking. Tonight: Get into the Christmas spirit.

SAGITTARIUS (Nov. 22-Dec. 21)

★★★★★ You discover that there are many ways to the same end results. Let your imagination rock and roll. You might be surprised by what will come up for you. Flex with change or better concepts. A meeting could dissolve into a fun happening. Tonight: Hang out.

CAPRICORN (Dec. 22-Jan. 19)

★★★★ Reach out for others, especially if you think you might be missing some details. Your instincts help as well. Just confirm what you are feeling. A boss becomes enormously helpful and gives you long-overdue approbation. Tonight: Balance your checkbook and study your Santa budget.

AQUARIUS (Jan. 20-Feb. 18)

★★★★★ Your ideas cannot help but blend with your imagination. Reach out for someone at a distance, or seek out advice from someone you consider to be an expert. Start thinking about vacation plans, even for just a weekend. Tonight: Just ask.

PISCES (Feb. 19-March 20)

★★★ Know when to back off. Your imagination could go haywire, but it will lead you in a new direction. Share your thoughts with a trusted associate. His or her enthusiasm makes you feel on top of the world. Let this person know how much you appreciate him or her. Tonight: Run Santa errands.

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LOCAL

COMMUNITY BRIEFS

A lot to Like during jam for the homeless

By Daily Press staff

More than 500 alternative pop music fans recently lined up for four hours to see Jason Mraz and The Like bring down the house at the historic Roxy Theater on the Sunset Strip.

Funds collected by the Gimme Shelter event will benefit the students of New West Charter Middle School in West Los Angeles and homeless and low-income individuals and families at St. Joseph Center in Venice.

The Like's lead singer and guitarist, Z Berg, is a student at Crossroads School in Santa Monica; and drummer, Tennessee Thomas, attends Santa Monica High School.

"St. Joseph Center does great work, and we're happy to be here again to do whatever we can to help," Berg said. "We hope to be here again next year."

This is the 13th year for the three-hour charity concert, founded by music producers Gary Spivak and Joel Amsterdam.

"As a musician, I, too, have been broke and homeless," said headliner Jason Mraz. "So when I can give back just by showing up, I'm there."

St. Joseph Center assists more than 7,000 working poor and homeless men, women, and children each year to achieve self-sufficiency through emergency services, food distributions, child care, case management, mentoring, job training, and senior services. For more information call (310) 396-6468, ext. 325 or visit www.stjosephctr.org.

Miramar bungalows get much-needed facelift

By Daily Press staff

The bungalows at The Fairmont Miramar Hotel Santa Monica have served as an exclusive playground for celebrities and politicians. Under the creative aegis of Virginia Ball of VB Designs, a small Los Angeles-based interiors firm, the bungalows recently underwent a \$1 million renovation, which represents the final phase of the hotel's \$18 million refurbishment program.

The 28 structures were remodeled one at a time. Each retaining the Craftsman design, the bungalows have patios and terraces, hardwood floors, oversized tubs and French windows.

Set apart from the main hotel building, the bungalows are connected by a winding path that runs through the property's landscape and pool areas.

Shortly after Fairmont Hotels & Resorts acquired the management contract in November 1999, the historic Miramar Hotel underwent a top-to-bottom redesign. The first phase of the renovation encompassed all guest rooms and suites in the Ocean Tower and Pacific Palisades building, as well as the lobby, lobby bar and Koi Pond Lounge, The Grille restaurant patio, and conference bungalows. The main drive-up entryway underwent a re-landscaping.

The hotel has 302 guest rooms, including the 32 single and bi-level bungalows. Boasting the largest ballroom in Santa Monica, the property features a total of 25,000 square feet of meeting and conference space.

Photo courtesy

The pop music band The Like joined headliner Jason Mraz in a performance at the Roxy Theater in Hollywood to benefit homeless and low-income families.



SURF REPORT

On Wednesday, a WNW (280+300) swell builds in. Lots of exposed spots of Northern LA get chest- to head-high plus surf. South Bay beaches see shoulder- to head-high plus waves, while top breaks in the north half of the bay go overhead. Slow drop Thursday, then bigger surf on Friday. Light winds in the morning turn moderate onshore WNW Wednesday afternoon. Offshore winds setting up for the second half of the week.

Today the water is:

59°

Write us at wood@smdp.com and tell us what the surf is doing today at your local break.

	LOW TIDES				HIGH TIDES			
	Morning	Height	Evening	Height	Morning	Height	Evening	Height
SATURDAY	1:21	2.0	3:04	-1.5	7:43	7.0	9:36	3.9
SUNDAY	2:04	2.1	3:52	-1.7	8:26	7.2	10:30	3.9
MONDAY	2:50	2.3	4:42	-1.6	9:12	7.1	11:27	3.9
TUESDAY	3:42	2.5	5:35	-1.4	10:02	6.8	N/A	N/A
WEDNESDAY	4:42	2.6	6:29	-0.9	12:27	3.9	10:56	6.2
THURSDAY	5:59	2.8	7:26	-0.4	1:30	4.0	1:57	5.5
FRIDAY	7:35	2.7	8:22	0.1	2:32	4.3	1:10	4.8

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The Q Line

It's been suggested that the vacant RAND building across from City Hall should be converted into a homeless shelter instead of being torn down, and made into a park and other governmental facilities.

City Hall owns the property and spends about \$2 million on homeless services each year. Some have suggested that City Hall should redistribute that money into its own shelter. The idea is that the shelter would provide transitional housing and would be tied to work and educational programs, as well as addiction and mental illness programs.

So this week, Q-Line wants to know, "Is this a good idea? Why or why not?"

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

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OPINION



LETTERS TO THE EDITOR

Right is right, no excuses

Editor:

How could the peace activists have been so far from reality? They said, "no blood for oil." Yet it was France who made war inevitable because of their unwillingness to lose their genocidal business partner. The Iraqi people have suffered for decades because of France's lust for their oil. Finally, a few strong Frenchmen have had enough and perhaps we will someday have the ally they profess to be.

Another popular bumper sticker was: "Impeach Bush." But it's (Jacques) Chirac who is going to be impeached. Chirac's crimes go well beyond Iraq (Sudan, Ivory Coast). So, why do our local bumper sticker salesmen praise France? Is it the slavery, genocide, greed, systematic rape and torture?

Speaking of corrupt governing bodies, the peace-loving Mr. (Kofi) Annan is on the verge of being ousted as head of the U.N., also a contributor to making war with Iraq unavoidable. The peace activists charged the United States with imposing murderous sanctions on Iraq when they were U.N. sanctions all along and it was France and the U.N. who were making a fortune from the people's suffering. Mr. Annan's son also made a buck or two, coincidentally. A side note, if Iraq wanted the sanctions lifted, all they had to do was disarm.

A related issue in the U.K. calls for the IRA to disarm before peace talks can continue. I say, if you can't find their weapons, they must not exist.

Bush stole the election! Wrong again. But the Ukraine had an election stolen. President Bush is taking a stand against the fraud and, naturally, the leftists of America accuse our President of having a secret hand in causing the turmoil.

Part of being a left wing thinker is never taking responsibility for your life. It's always someone else's fault. Someone is always out to get you. Excuses only, never results. If you need proof, look at our last election.

Thomas Kenney
Santa Monica

Whoa, Canada: Be careful what you wish for

Editor:

Ron Scott Smith's editorial (SMDP, Dec. 9, page 4) is making big rounds here in Canada via the Internet.

A word of caution for liberal and progressive Americans as prospective immigrants. Not everything here in the Great White North is perfect for disengaged Kennedy/Gore/Kerryites. We too have a split of red and blue, only the colors are reversed.

Largely rural areas with some cities of significant size are voting for the newly re-vitalized Conservative Party of Canada. It represents a more moderate version of the Bush agenda. More on tax cuts and less on social conservatism. Here in Canada we really are more bread and butter as voters. Oh, by the way, our taxes here are just about double. Decent public health care, gun control and maintaining our ranking in the UN Poll costs taxpayers dollars.

Alberta, blessed with oil wealth and population, is flexing its constitutional muscle much like Texas and semi-populous states in the south are. The key difference is that 52 percent of Canadians live in liberal bastions like Toronto, Vancouver and Montreal.

Oh, by they way, there is no hockey. We are also a little grumpy.

John A MacDonald
Toronto, Canada

Knowing gay marriage, polygamy in Biblical sense



INCITES

BY ED SILVERSTEIN

I want to apologize to all you Bible thumpers out there. I have finally seen the light.

The man responsible for my epiphany resides in Washington. No, it's not George Bush. The man who will receive my everlasting gratitude is the congressman from Washington state's 7th district, Jim McDermott.

Congressman McDermott's speech of Feb. 25, 2004, which nonbelievers (and even Bush Republicans because it's a very short speech with very few big words) can read on his Web site: www.house.gov/mcdermott/sp040225c.shtml, has allowed me to understand that the Bible is the word of God.

More specifically, it's the literal word of God that should, under no circumstances, be taken with a grain of salt, or even a pillar of salt. And since the Bible is the literal word of God, we are bound to follow its decrees to the very last letter.

In his speech, Congressman McDermott quotes Genesis 29:17-28, which essentially advocates: Marriage shall consist of a union between one man and one — or more — women.

It's clear that this pretty much puts the kibosh on gay marriages, at least between men. Sorry boys, but that's just the way God wanted it.

However, when it comes to women, well, it seems that God may have left a loophole in the Bible. Apparently women may marry each other as long as there's a guy in the mix. Good news for both the lesbian community and men in general.

Oh, and there's also good news for Woody Allen. According to Genesis 19:31-36, apparently it's OK to sleep with your daughters as long as they get you drunk first.

The congressman goes on to cite II Samuel 2:13 and II Chronicles 11:21 as evidence that marriage shall not impede a man's right to take concubines in addition to his wife or wives, as the case may be. Needless to say, I found this cause for spiritual rejoicing.

Unfortunately, my celebration of God's word was to be short-lived. My wife, who has not yet embraced the literal word of our Lord, found the assortment of concubines I had brought home objectionable. Vainly I tried to get her to give up her evil ways, but, alas, my wife remained obstinate, refusing to even consider God's

edict that a wife must always obey her husband.

Fortunately the good congressman had a solution to my wife's intractability: Deuteronomy 22:13-20. Apparently a marriage shall be considered valid only if the wife is a virgin. Not only that, but if she isn't, you can kill her — stoning being the preferred method.

The problem was that my wife was a virgin when we married. Well, thinking back that may not be totally true. And as we all know we must be careful not to bear false witness — even though "Dubya" seems to have gotten around it with those Swift Boat Commanders but I digress.

The thing is my wife may never have actually claimed to be a virgin. It was more like my own assumption. And the more I think about it, the more I realize she did seem a tad knowledgeable.

But that's not really important because according to the Bible, when it comes to women and the whole virgin thing, it's sort of guilty until proven innocent. And the only way for my wife to prove her innocence, according to God, would be if her parents were to produce the proverbial smoking gun, in this case, "the bloody blanket."

Now I should provide a note of caution. Men might want to think twice about making the non-virgin accusation if there is any chance that their in-laws will be able to show up with the blankie as the penalty for a false accusation is a whopping 100 ducat fine.

After careful thought, I proceeded with the accusation, and, as expected, my wife's folks couldn't come up with said blanket, and, since marriage is for life, and divorce shall be prohibited by law (Deuteronomy 22:19), I decided to execute my wife in the manner proscribed by the Lord.

But, just to be on the safe side, I killed her in Alabama. At first I considered Texas, but then I figured that any state that would vote to keep school segregation in their constitution wouldn't give a damn (sorry) if I stoned my wife to death because she wouldn't let me keep my concubines.

So here I am today, married to my wife's cute younger sister (Genesis 38:6-10; Deuteronomy 25:5-10), and have a bevy of adorable concubines and, I finally understand what they mean by "The Rapture." If I'd only known how rewarding it would be to follow God's word, I'd have done it years ago.

Hallelujah!

(Comments or requests for copies of this column can be e-mailed directly to incites@incites.net).

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Santa Monica Daily Press

LOCAL



Possible violation raised amid hasty mayoral vote

MAYOR, from page 1

pro tempore for the last three years and had been hoping to take over the city's top seat, said after the narrow vote that he still wanted to serve as mayor at some point in the future.

"We found out the handwriting on the wall, so to speak," said McKeown.

The motion to install O'Connor as mayor, put forward by Shriver, was followed by no discussion. Bloom did suggest an alternative, however. He proposed City Councilman Ken Genser be named mayor for the first two years of his record fifth term, with McKeown serving as mayor pro tempore.

Only Bloom, Genser and McKeown backed that configuration.

The lack of public discussion about the appointments indicated some consensus had been reached before the meeting and, therefore, raised concerns about whether council members violated the Brown Act, which forbids council members to do the city's business in private. City Attorney Marsha Moutrie said she wouldn't initiate a complaint, but added she was very concerned about possible violations.

"I'm always concerned ... always," she said.

Under the Brown Act, elected officials are allowed to discuss public items with only two of their colleagues outside of public meetings that are properly noticed. The Brown Act also prohibits council members from discussing an item serially, meaning when one council member speaks with two other council members, if those two then go on to speak with other

council members, the law has been violated.

McKeown, who said he spoke to Shriver and Genser before the vote, declined to comment on any possible Brown Act violation, but acknowledged that gossip often surrounds mayoral appointments.

"It gets to be just background noise and you don't really know," he said.

O'Connor, who said she spoke to "one or two" council members before the mayor vote but declined to identify them, said her top priority in office would be to oversee an update already underway to the city's land use element, a document which regulates development projects throughout Santa Monica. The land use element was last updated more than 20 years ago.

Also apparently important to O'Connor is shortening council meetings, an issue championed by Holbrook, Katz and Shriver. Throughout the Tuesday meeting, O'Connor repeatedly referred to the hour, with the goal of finishing by 11 p.m.

In the meantime, O'Connor is still getting over the death of her mother and regular companion Esther Smicklas, who passed away earlier this month at the age of 93. During a break in Tuesday's meeting, O'Connor was approached by friends and colleagues, many of whom gave her mixed greetings — condolences regarding her mother's death and congratulations over her mayoral appointment.

At one point, O'Connor began to cry. "It comes in waves," she said through tears.

COMMUNITY BRIEFS

BRIEFS, from page 3

Vets get a barbecue

By Daily Press staff

The Santa Monica Elks recently hosted 410 veterans at the Veteran Administration's Hospital to a barbecue lunch. While those in the hospital receive three meals a day, they welcomed the change of fare. There were 30 Elks and Emblem ladies manning the serving line, cooking and shuttling food trays back.

There also are homeless veterans living on the grounds — in the bushes and under the buildings. It's said that they have even tapped into the electric system. They use the facilities and get handouts from the mess halls. Some of them were seen going through the Elks line three or four times.

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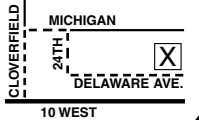
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LOCAL

Defense suggests owner stood to profit from fire

SMITH, from page 1

also presided over the first jury trial. "You get cases sometimes where you have a strong suspicion, but the evidence in the case isn't there."

Smith became a suspect in the case after he and store owner Marilyn Nelson had fought over the value of items to be sold on consignment. Prosecutors called the fire a rage-filled act of revenge.

Defense attorneys pointed to Nelson as a suspect, saying she profited several hundred thousand dollars from the fire. They also said the evidence showed the fire clearly was set from within the store, and put both Anthony and Teresa Smith on the stand.

As to the documents, lawyers suggested they may have been left outside the store mistakenly by day laborers hired by Anthony Smith to help transport items between Simply Sofas, his condominium, his storage space and his liquidation business in Lancaster. Smith, a standout defensive end who said he earned \$13 million during nine seasons playing in the NFL, owned and operated four small businesses.

Though several jurors thought Anthony Smith may have set the fire, all but one agreed the case against him was weak, forewoman Erika Scremin said.

Scremin, a physician who lives in West Los Angeles, also criticized Santa Monica Police Sgt. Robert Almada, a lead detective in the arson investigation. Scremin called Almada "sloppy, unprofessional and cocky." Fellow juror Nora Frausto agreed. Specifically, they said Almada acted like a bully during taped police interrogations and apparently changed his testimony and records in an attempt to strengthen the case against Anthony

Smith.

Asked about the documents inside the bombs, Frausto, a 26-year-old human resources worker also from West LA, said, "It could happen. It could. And the evidence just was not there."

Deputy District Attorney Jean Daly said no new suspects would be tried.

"We had the right guy," said Daly, adding it was frustrating the court excluded evidence about Anthony Smith's previous criminal history. "The jury does what the jury does. It was a credibility decision ... I don't think his complete personality was portrayed."

Michael Evans, Smith's attorney, called the case a "big win."

"There was no way he did it," he said after the proceedings. "There was so much evidence that said he didn't do it. I did what I had to do."

"It's good," he added later. "It's relief, it's relief."

After collecting several dress shirts and suits that her husband had kept at the courthouse during the trial, along with plastic bags stuffed with his ties and other personal items, Teresa Smith said she was relieved the ordeal was finally over.

"He's coming home," she said outside the courtroom. "I'm just glad that everything worked out. We're closing this chapter and moving on."

Anthony Smith was ordered freed from the courthouse. Still, he was taken back into custody after the ruling to undergo a formal discharge, which often takes several hours. Asked how it felt to know her husband would be spending the night at home with his three young children in their Marina del Rey condominium, Teresa Smith smiled and said, "Elation."

Police looking for suspects who bilked elderly woman

PIGEON, from page 1

from the victim, both suspects fled. When they didn't return, the woman called a friend and notified police at about 9 p.m.

The first suspect is described as a 52-year-old Hispanic, five feet, four inches tall, 180 pounds, having gray hair, brown eyes, a light complexion, wearing tan pants and a white jacket. The second suspect is described as a 35-year-old Hispanic, five feet, four inches tall, 140 pounds, having black hair, brown eyes, a dark complexion and wearing a dark suit.

Police warn residents to be cautious when someone asks for money in exchange for a prize, or to purchase items

not bought from a store. Authorities also say people should be wary of producing large sums of cash to show good faith.

"Do not underestimate these criminals because they can be very inventive and persuasive," said Santa Monica Police Chief James T. Butts, Jr. "Their game is to confuse or just plain trick you."

Anyone with information is encouraged to call the Santa Monica Police Department at (310) 458-8491. Callers who wish to provide anonymous information also can call the We-Tip national hotline at 1-800-78-CRIME (27463). Callers with information that leads to an arrest and conviction become eligible for a reward of up to \$1,000.



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STATE



Here comes the sun: Solar roof is bright idea

BY DON THOMPSON

Associated Press Writer

SACRAMENTO — California could have 1 million buildings producing solar energy by 2018, with half of all new homes powered by the sun, administration officials said as they outlined ways to meet one of Gov. Arnold Schwarzenegger's more ambitious campaign promises.

The goal is to create a self-sustaining solar industry in 10 years, making the zero-pollution power source so commonplace and cheap that costly incentives are no longer necessary, Joe Desmond, Schwarzenegger's deputy secretary for energy, said Monday.

Until then, environmental officials are considering funding methods that could include a charge on electricity bills to pay the estimated \$700 million to \$1 billion cost. That would return a projected \$3 billion to \$5 billion, Desmond said in an interview.

The goal is to generate 3,000 megawatts of power from the sun within 13 years, the equivalent of a dozen medium-sized power plants. One megawatt is enough to power about 750 homes.

To get there, solar manufacturers who move to California might be offered an investment credit, while homeowners' income and property tax credits, set to expire in 2006, might be extended, Desmond said.

The administration officials propose to require builders to offer solar power as an option in subdivisions of 50 homes or more by 2010. And they want the California Energy Commission to consider requiring solar energy in the same way the commission has in the past mandated low-flush toilets, insulation standards, energy efficient appliances or low-energy lighting fixtures in bathrooms.

They also want to let owners of solar-

powered buildings sell more of their electricity back to power utilities.

The proposals all come in the wake of the blackouts and spiraling power costs that plagued the state in 2000 and 2001 and reverberate today.

California already is the world's third-largest market for solar technology, but advocates say such a statewide incentive plan would put the state on a par with leaders like Japan and Germany.

Schwarzenegger backed a solar homes proposal that failed in the Legislature four months ago. Resource and Environmental Protection agency officials on Monday outlined their goals and solicited suggestions on how to meet his campaign promise, though Schwarzenegger has yet to endorse a new attempt at legislation.

Unlike the previous version, the latest variation would include commercial as well as residential buildings, which may make it easier and cheaper to reach Schwarzenegger's million-roof goal, Desmond said. That's also a goal of state Sen. John Campbell, R-Irvine, who is carrying a preliminary version of the bill with last year's legislative sponsor, Sen. Kevin Murray, D-Culver City.

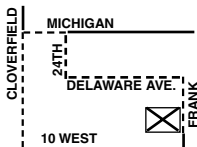
"The devil will be in the details," said Bernadette Del Chiaro of the Environment California Research and Policy Center.

Her organization estimated that the state needs to pay homeowners at least \$2,800 for each kilowatt of solar power generation they install to make the investment worthwhile.

The California Building Industry Association has been generally supportive, but opposes mandates that would cost its members and wants to begin with a smaller program. Utilities and unions in August supported a less ambitious competing bill that Schwarzenegger aides said would have been unworkable.

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Supreme Court rejects Dems' suit for a recount

BY REBECCA COOK

Associated Press Writer

OLYMPIA, Wash. — The Washington Supreme Court on Tuesday unanimously turned down the Democratic Party's request that previously rejected absentee and provisional ballots be included in the hand recount of the governor's race.

Republican Dino Rossi won the Nov. 2 election by 261 votes and held a 42-vote lead over Democrat Christine Gregoire after the first, machine recount.

In a brief written opinion, the high court said that under Washington law, "ballots are to be 'retabulated' only if they have been previously counted or tallied" — thus excluding those that had been disqualified by county canvassing boards.

The decision does not affect the 561 uncounted ballots in King County that were discovered Sunday to have been wrongfully rejected because of mistakes by election workers. Those ballots go to a canvassing board Wednesday for verification.

King County is Gregoire's biggest stronghold, so those ballots could tip the delicate balance of the election her way.

"The most likely outcome is Dino wins the hand recount, but we continue to worry about what's next in King County," said state Republican Party Chairman Chris Vance.

He praised the Supreme Court's ruling.

"We thought all along we had the law on our side, but it's good to see it actually happen," Vance said. "It would have created complete and utter chaos if they had gone

the other way."

Officials with the Democratic Party and Gregoire's campaign did not immediately return phone calls seeking comment.

The state Democratic Party filed its lawsuit with the Supreme Court the same day it demanded a hand recount, which began last week.

The lawsuit sought to force officials in Washington's 39 counties to reconsider ballots that had been rejected — most notably in King County. Some weren't counted, for example, because the voter's signature on a mail-in ballot didn't match the signature on file and the voter didn't correct the record by the deadline.

Chief Justice Gerry Alexander wrote for the court, "We are mindful that King County rejected a higher percentage of signatures than did other counties, but the record before us does not establish the reason for that disparity, and it could be for factors other than the standard employed."

The hand recount is expected to take until at least Dec. 22 to complete. The inauguration for governor is scheduled for Jan. 12.

Jury: Peterson's alibi didn't seem to add up in end

BY BRIAN SKOLOFF

Associated Press Writer

REDWOOD CITY — Upon learning of his death sentence, Scott Peterson sat defiantly still and tight-jawed, the same vacant expression he wore throughout a murder trial in which he never spoke. And to hear the jurors tell it, Peterson's apparent lack of emotion was the final piece that doomed him.

The jury had been told that Peterson did not wear his emotions on his sleeve. But juror Richelle Nice told ABC's "Good Morning America" on Tuesday that she noticed Peterson becoming emotional during the penalty phase of his trial.

"Is it just that he doesn't show emotion for Laci and Conner?" she asked.

She said her thoughts were with Laci Peterson and the fetus she carried.

"They can rest in peace," she said. "Justice was done."

A cheer went up outside the courthouse Monday as the jury announced its decision after 11 1/2 hours of deliberations over three days. The same six men and six women who convicted Peterson of murdering his pregnant wife recommended that he be sent to death row at San Quentin State Prison outside San Francisco, the infamous lockup overlooking the bay where Laci Peterson's body was discarded.

Inside, Laci Peterson's mother, Sharon Rocha, cried quietly — her lips quivering after the verdict was read. Scott Peterson's mother, Jackie, showed no apparent emotion.

Three jurors said at a press conference afterward that they couldn't let go of the fact that the bodies of Laci Peterson and her fetus had washed ashore a few miles from where Scott Peterson claimed he went fishing the day she disappeared.

Juror Greg Beratlis said the jury was convinced of Peterson's guilt by "many, many things," but added: "Those bodies were found in the same place. That played in my mind, over and over."

Most unsettling, the jurors seemed to agree, was Peterson's dispassionate demeanor.

"He has no remorse," juror Michael Belmessieri said Tuesday on CBS' "The Early Show."

"He lost his wife and his child — it didn't seem to faze him," said juror Steve Cardosi. "And while that was going on ... he is romancing a girlfriend. That doesn't make sense to me. At all."

Peterson did not testify during the six-month trial.

"Anything — a plea for his life, or just his opinion on everything that went on in the last two years. ... I would have liked to have heard his voice on that," Beratlis said.

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NATIONAL



Exclusive suburb knows what ‘rock burglar’ has been cooking

BY BETH DEFALCO

Associated Press Writer

PARADISE VALLEY, Ariz. — It’s the Arizona version of Bel Aire — home to professional athletes, politicians, executives and rock stars.

And for the past 11 years, Paradise Valley has also proved to be prime real estate for the area’s most elusive thief: the so-called rock burglar.

The thief, or more likely band of thieves, has hit hundreds of the area’s priciest homes, beating alarms in a low tech way — by throwing a rock through a window.

“They know what they are doing,” said Paradise Valley Police Lt. Ron Warner, whose department put together a multiagency task force devoted solely to the capture of the bandits. A \$26,000 reward has been posted for information leading to an arrest.

“We believe it’s more than one person working in concert,” said Detective Alan Laitsch, who has been working on the case since 1993 and first noticed a trend in the break-ins.

Nestled along Phoenix’s northeast side, the 16.5-square-mile town of Paradise Valley is one of Arizona’s most exclusive. Its residents include rocker Alice Cooper, Arizona Diamondbacks pitcher Randy Johnson, former Phoenix Suns forward Charles Barkley, retired news anchor Hugh Downs and former Watergate figure and radio personality G. Gordon Liddy.

Among the burglars’ notable victims are former Diamondbacks outfielder Steve Finley and former first baseman Mark Grace, as well as former Vice President Dan Quayle.

“I’m not really proud of that,” Quayle said jokingly of the 1999 break-in at his home. “Haven’t they found that guy yet?”

Quayle was home when the burglar threw a rock through his window. When Quayle quickly turned a light on, the thief fled.

In Quayle’s case, the burglar didn’t make off with anything, which is unusual. Police estimate the thieves have hit 323 homes and racked up at least \$12 million in loot, including a 10.5-carat diamond ring in one heist.

The burglar is starting to branch out.

After years of working in Paradise Valley — where the average home goes for \$800,000 — the burglars have started hitting other ritzy neighborhoods in north Scottsdale and Phoenix. The most recent heist was on Nov. 20.

No one has ever gotten a good look at the thieves.

“Some of these people are truly terrified,” Laitsch said. “I’ve had victims that have literally put their home on the market right afterward.”

Despite the simple method the burglars use to get into homes, police say the thieves are sophisticated and methodical.

Rock solid: Burglars have kept one step ahead for 11 years

By The Associated Press

THE HEISTS: 323 upscale homes burglarized since 1993.

THE TAKE: An estimated \$12 million worth of property, mostly jewelry and other valuables.

HOW THEY DO IT: The bandit, or bandits, throw a rock through the window of a master bedroom or bathroom, where security alarms are usually disabled. They never go beyond the master suite.

WHO ARE THEY: Police think they probably drive cars that fit in with the neighborhoods they hit, but no one’s ever gotten a good look at them.

First, they case a neighborhood for signs that an owner is away: newspapers stacking up, delivered bottled water sitting on a porch, or trash cans still outside days after pickup.

“They’re probably in a vehicle that fits in with the neighborhood,” Laitsch said.

The burglars almost always strike when unsuspecting homeowners are away — often during the holidays. They use a rock to break the a master bedroom or bathroom window and never leave the master suite.

Most people keep their expensive jewelry in the bedroom and don’t use motion-activated alarms there to avoid tripping the alarms themselves.

Sharyl Bancroft’s case fit the profile. She was hit in 2002 while her family was away for July 4. The burglar ransacked her bedroom and bathroom.

“You feel very violated,” she said. “They just take their hands through your stuff like a whirlwind. It looked like tornado went through there.”

In Bancroft’s case, the thief used pillow cases off her bed to load up her fine jewelry and a couple of collectible guns.

“It was very obvious they knew the difference between costume jewelry and the real expensive stuff,” she said.

Almost none of the stolen goods in the hundreds of thefts have resurfaced. Only two guns have been recovered, and police said they were unable to track the source very far back.

“These guys are pretty tricky,” said Bryan Hill, a police crime analyst who used a mapping system to try to predict where the burglar’s next job would be. “They have some kind of ears, they knew we when we were doing stakeouts in the neighborhood.”

Laitsch said he tries not to let the cases eat at him.

“But honestly, yes, it frustrates me and bothers me,” he said. “I very much care about solving these cases.”

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**BUYING
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BY THOMAS KHAMMAR
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A real estate purchase is usually one of the best investments you can make. A home is probably the largest single purchase you will make in your lifetime.

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Title insurance covers defects in the title prior to when you purchased your property.

FOR HOW LONG IS MY TITLE POLICY GOOD?

The owner policy is valid for the time your policy was issued until you choose to sell your property, whether that that one year or 20 years of ownership.

The lender policy is valid through the life of the loan. A lender's policy may be passed to another lender/mortgagee through an assignment of the loan, however, it's not assignable should you refinance the property. A new lender

policy would be issued at that time.

An owner policy is nontransferable.

The new owner will be required by his or her lender to purchase a new policy. At that time, the new owner may elect to insure the property with a new policy issued in her/his name.

WHY DO I NEED ANOTHER POLICY IF I PROVIDED ONE FOR THE LOAN?

You are not insured by your lender's policy.

A one-time premium protects your property from actual loss resulting from any risk covered by your policy, up to the amount of the policy.

Your fee or owner policy also may provide for legal defense costs should a claim arise, unless specifically excluded from your policy.

Typically, the lender and owner policies are issued at the same time to reduce your title policy costs.

An owner's policy also may be issued on a property where no lender is involved as protection for the new owner of the property against possible claims.

Also, a current owner may upgrade the amount of a title policy on a property should it increase significantly in value due to improvements, such as building on a vacant lot or an addition to an existing structure.

WHAT IS A LENDER'S POLICY?

Your lender knows that title problems can occur more often than you think. Most lenders require title insurance to protect their interests in the property.

You are not insured by the lender policy.

WHAT ARE TYPICAL CHARGES FOR TITLE WORK?

Actual costs vary from state to state however, you can expect any of the following:

- One-time premium fee for a lender's policy for life of loan
- One-time premium fee for an owner or fee policy for as long as you own the property
- Title search — comprehensive search of all public records.
- Lender required endorsements and closing service protection letter
- Closing settlement agent fee
- Non-title closing fees
- County recording fees to record new deed and mortgage
- Overnight and express mailing
- Lender required appraisal and/or survey
- Legal representation and attorney fees

WHAT ARE THE PROBLEMS THAT COULD AFFECT MY TITLE?

The following are some of the types of title defect that would adversely affect your property:

- Forged deeds, mortgages, satisfaction or release of mortgages and other instruments.
- False impersonation of the true owner of the land or his consort.
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(Should you have any questions pertaining to real estate, call Thomas Khammar at 310-943-7656 or Brent Parsons at 310-943-7657.)

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Sold Santa Monica 12/10/2004	1016 SAN VICENTE SqFt: 1,503 Lot Size: 8,890	SANTA MONICA 90402 List Price: \$1,450,000 Sold Price: \$1,400,000	Bed: 2 Bath: 2.00
Sold Santa Monica 12/10/2004	2344 27TH ST SqFt: 1,475 Lot Size: 7,732	SANTA MONICA 90405 List Price: \$929,000 Sold Price: \$875,000	Bed: 2 Bath: 1.00
Sold Santa Monica 12/08/2004	1124 FRANKLIN ST SqFt: 2,515 Lot Size: 9,000	SANTA MONICA 90403 List Price: \$1,769,000 Sold Price: \$1,775,000	Bed: 3 Bath: 3.00
Sold Santa Monica 12/08/2004	2433 28TH ST #L SqFt: N/A HOD: \$360	SANTA MONICA 90405 List Price: \$729,000 Sold Price: \$729,000	Bed: 2 Bath: 2.00
Sold Santa Monica 12/10/2004	1415 26TH ST #3 SqFt: 1,343 HOD: \$170	SANTA MONICA 90404 List Price: \$675,000 Sold Price: \$661,900	Bed: 2 Bath: 2.50
Sold Santa Monica 12/08/2004	211 CALIFORNIA AVE #503 SqFt: N/A HOD: \$460	SANTA MONICA 90403 List Price: \$799,000 Sold Price: \$799,000	Bed: 2 Bath: 2.50
Sold Santa Monica 12/07/2004	1753 1008 6TH ST #E SqFt: 0 HOD: \$119	SANTA MONICA 90403 List Price: \$399,000 Sold Price: \$410,000	Bed: 1 Bath: 1.00
Sold Santa Monica 12/10/2004	2912 MONTANA AVE #1 SqFt: N/A HOD: \$325	SANTA MONICA 90403 List Price: \$859,000 Sold Price: \$800,000	Bed: 3 Bath: 2.50
Sold Santa Monica 12/07/2004	901 10TH ST #110 SqFt: 1,380 HOD: \$316	SANTA MONICA 90403 List Price: \$649,000 Sold Price: \$675,250	Bed: 2 Bath: 2.00
Sold Santa Monica 12/08/2004	1753 521 MONTANA AVE #203 SqFt: 930 HOD: \$198	SANTA MONICA 90403 List Price: \$585,000 Sold Price: \$555,000	Bed: 1 Bath: 1.00
Sold Santa Monica 12/09/2004	1753 909 GRANT ST #1 SqFt: 1,937 HOD: \$479	SANTA MONICA 90405 List Price: \$749,000 Sold Price: \$751,000	Bed: 3 Bath: 2.50
Sold Santa Monica 12/11/2004	916 15TH ST #6 SqFt: 1,364 HOD: \$210	SANTA MONICA 90403 List Price: \$675,000 Sold Price: \$747,000	Bed: 2 Bath: 2.50
Sold Santa Monica 12/09/2004	2940 NEILSON #202 SqFt: 1,264 HOD: \$675	SANTA MONICA 90405 List Price: \$785,000 Sold Price: \$770,000	Bed: 2 Bath: 2.00
Sold Santa Monica 12/06/2004	1921 17TH ST #2 SqFt: 1,252 HOD: \$200	SANTA MONICA 90404 List Price: \$565,000 Sold Price: \$575,000	Bed: 3 Bath: 2.50
Sold Santa Monica 12/08/2004	1527 CENTINELA AVE #B SqFt: 488 HOD: \$190	SANTA MONICA 90404 List Price: \$339,900 Sold Price: \$330,000	Bed: 1 Bath: 1.00
Sold Santa Monica 12/09/2004	2325 KANSAS AVE #9 SqFt: N/A HOD: \$198	SANTA MONICA 90404 List Price: \$385,000 Sold Price: \$385,000	Bed: 1 Bath: 1.00
Sold Santa Monica 12/06/2004	912 12TH ST #1 SqFt: 1,684 HOD: \$325	SANTA MONICA 90403 List Price: \$899,000 Sold Price: \$899,000	Bed: 3 Bath: 3.00
Sold Santa Monica 12/06/2004	1043 11TH ST #4 SqFt: 1,845 HOD: \$200	SANTA MONICA 90403 List Price: \$1,099,000 Sold Price: \$1,085,000	Bed: 2 Bath: 2.50
Sold Santa Monica 12/08/2004	1012 7TH ST #6 SqFt: N/A HOD: \$235	SANTA MONICA 90403 List Price: \$520,000 Sold Price: \$532,000	Bed: 2 Bath: 2.00
Sold Santa Monica 12/07/2004	2677 CENTINELA AVE #105 SqFt: 1,401 HOD: \$403	SANTA MONICA 90405 List Price: \$499,000 Sold Price: \$475,000	Bed: 2 Bath: 2.00
Sold Santa Monica 12/10/2004	1127 PACIFIC ST SqFt: 2,835 Lease Option: No	SANTA MONICA 90405 List Price: \$5,000 Sold Price: \$5,000	Bed: 5 Bath: 2.75

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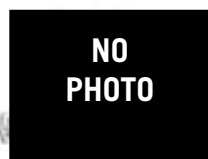
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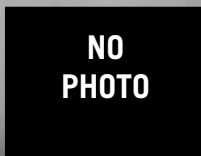
3259 ROSEWOOD AVE , LOS ANGELES 90066

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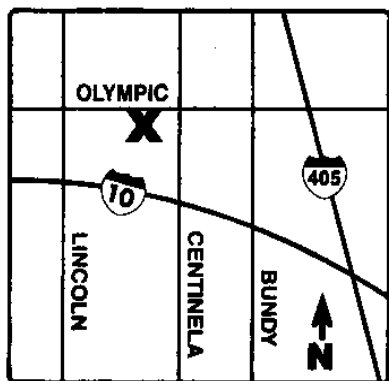
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Flames of man's desire have yet to be satiated



DAYS ON THE MARKET

BY JODI SUMMERS

Fire is the element that allowed man to conquer his environment. Over the millennia, as man has evolved, so has his fire. Cavemen used open pit fires as a heating and cooking source. As man progressed, he learned to contain fires in fireplaces, furnaces and ovens, and it all grows continually more sophisticated. As history has found, the most organic way to efficiently fuel these fires is wood.

Fascinating firewood fact: Pound for pound, all varieties of wood have approximately the same heat content, about 6400 BTU. Softwoods and hardwoods burn differently because of differences in density. Hardwoods like oak, maple and beech are dense, and burn slow and long. Softwoods, such as pine, spruce and cedar are lighter, and burn hot and fast.

WoodHeat.Org says the best species of firewood is, "The one that is most plentiful, easy to split and doesn't cover your hands and clothes with sticky sap."

According to the forest service, "Douglas Fir is one of the best possible choices for firewood in this area. It is readily available and has a wonderful texture. It burns well, smells pleasant and remains affordable."

Traditionally, the favored trees in central North America were oak and maple because they are very dense and produce long-lasting coals. Here in the mild climates, long-lasting heat is not as essential as the frigid Midwest.

"A combination of eucalyptus or a hardwood mix is best because it burns slow and steady," suggests Kirk Baker, owner of Mr. Firewood. "Avocado and pine are good, and the least expensive, if you want to take the dampness out of the air or just warm your toes."

More important than the flavor of wood is to see that your logs are seasoned.

"The most important thing about firewood is that it must be 'seasoned,'" note the experts at Master Sweep Chimney, Inc. "This involves storing cut wood in the sun with plenty of air circulation for six months to a year to reduce its water content."

Drying is key when it comes to firewood. Well-seasoned firewood has about 20 percent to 25 percent moisture. It is easy to start, produces good heat, and burns clean.

Freshly cut "green" wood can be up to

45 percent water. Greenwood, which has not been seasoned, is problematic. It is difficult to light. It goes out. It smolders. It burns poorly and inefficiently. The moisture content in the wood determines how much heat the fire puts out, and how much creosote will build up in your chimney. Creosote is the condensation of unburned, flammable particulates present in the exhausting flue gas (smoke). Too much exposure is said to be potentially hazardous to your health. Not cleaning the creosote out of your fireplace on a regular basis is said to cause house fires.

You can identify well-seasoned firewood because it has darkened ends with visible cracks or splits, and is virtually white on the inside. It's brittle or gnarly, and relatively lightweight. Seasoned wood makes a clear "clunk" when you hit two pieces together. Greenwood is heavier and the ends look fresher. It has very few cracks and the bark is still tightly attached. It has a wet, fresh looking center, with lighter "drier looking" wood near the ends which have been exposed since cutting. Unseasoned wood makes a dull "thud" when struck.

Size matters in firewood. Log size affects the rate of combustion. Larger pieces ignite and release their energy more slowly — great for a night by the fire. Smaller pieces are better for short, hot fires.

Firewood is often sold in cords — cubic feet of wood, generally a pile 8 feet long by 4 feet tall by 4 feet deep. All varieties of wood are said to have approximately the same heat content, but a cord of seasoned hardwood weighs about twice as much as the same volume of softwood, and will provide double the heat. Remember that when you're pricing cords.

There's an old American adage that says "A long straight row of firewood standing in the yard in springtime is like money in the bank." It is indeed.

As it dries in the summer sunshine, you're collecting interest."

Those with large yards buy firewood in the spring for the following winter, allowing it to dry off the ground, protected from the elements in a shed or wood crib away from the house because wood brings termites.

When you go to buy wood, think environmental. Ask your supplier where the wood comes from and how it was harvested. If available choose firewood from sustainable sources.

(For your real estate needs, e-mail Jodi Summers at jodis@boardwalkrealty.com, or call (310) 309-4219).

Bitch!
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Check Out the Question of the Week on Page 3 and let us hear what you have to say

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Cap rates and their relationship to operating income



IN YOUR SPACE

BY CHRISTINA S. PORTER

A capitalization rate — also known as a “cap rate” is generally used to measure the value of an investment property. It’s also the ratio between the purchase price and the first year’s net operating income, also known as the “NOI.”

For example, the purchase price is \$100,000 and the NOI for the first year is \$8,000, which equals an 8 percent cap rate. If the NOI \$6,000, then the cap rate would be 6 percent.

In order to understand the meaning of a cap rate, it’s important to be aware of how the NOI is calculated. The NOI is the gross operating Income less the sum of all operating expenses. Operating expenses have been the subject of an ongoing argument between the lessor and lessee as to what should be included in operating expenses and what should not. Many peo-

ple think that whatever is spent on a building should be included in the operating expenses. This is not always true. Operating expenses, as defined by Frank Gianelli, from Real Data Software for Real Estate, must be “necessary to maintain a piece of property and to insure its ability to continue to produce income.” This does not include loan payments or capital expenditures. Capital expenditures are not considered operating expenses but the amount of money used to purchase or improve fixed assets, which have an extended useful life and are not purchased or sold in the normal course of business.

A cap rate is not the same as the “return on your investment” or “yield.” As with most commercial real estate investments the NOI should increase as the years go by (annual lease rate increases), which would increase the cap rate and at the same time increasing your yield.

A “low” cap rate usually presents itself when it’s a seller’s market as the market in Los Angeles is currently. The reason a cap

rate does not reflect what your yield will be on an investment is that the calculations do not include, among other things, what your initial cash investment will be or what the final sales price will be. Both of these factors are included in the calculations when determining your rate of return.

The purpose of a cap rate is to measure the value of an investment on an even playing field, removing the subjective variables. Interest rates on your debt, down payments initial cash investment, and operating expenses are unique to each investor and property, so the yield of an investment will vary depending on the value and/or cost of these factors.

(The above is intended for informational purposes only and not meant to be taken as advice. Christina S. Porter is in the business of leasing and selling of office and industrial buildings on the Westside of Los Angeles and beyond. She can be reached at (310) 806-6104 or cporte@naicapital.com).



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NATIONAL



Senators fired up about preserving states' rights

BY KEVIN O'HANLON

Associated Press Writer

LINCOLN, Neb. — Sen. Ben Nelson visited a wildlife area this week to tout his bill meant to preserve the right of states to set hunting and fishing regulations.

"There's enough work in Washington for the feds to do," Nelson said Monday during a stop near Branched Oak Lake. "They don't need to start getting involved in pheasant and deer."

Nelson and fellow Democrat Sen. Harry Reid of Nevada are co-sponsoring a bill to ensure that states have the right to make their own hunting and fishing laws.

The bill, which is before the Senate Judiciary Committee, was prompted by a 2002 ruling from a three-judge panel of the 9th U.S. Circuit Court of Appeals that said Arizona's 1991 law allotting just 10 percent of bull elk and antlered-deer hunting tags to nonresidents was an act of "overt discrimination."

The San Francisco-based court added that such discrimination was an unconstitutional restriction on inter-

state commerce for hunters wanting to sell antlers and other animal parts.

The court said states were not free to discriminate solely on the basis of residency.

The Arizona case was filed by three New Mexico outfitters who have since accused Nevada of discriminating against nonresidents when issuing big-game hunting permits.

"I'm not aware that the interstate commerce clause has ever been interpreted to pre-empt the rights of states to pass their own hunting and fishing laws and promulgate their own rules," Nelson said.

Rex Amack, director of the Nebraska Game and Parks Commission, agreed.

"From the very beginning, with the public trust doctrine of managing wildlife in the United States of America, it's always been a state's right to manage those

wildlife species without any other intrusion," he said. "It's basically a state's rights-local control issue."

Nebraska and most states charge much more for non-resident licenses than resident licenses. In Nebraska, for example, a deer license is \$175 for a nonresident compared to \$25 for a resident.

Nebraska also limits the number of nonresident permits for hunting elk and antelope, Amack said.

Nelson said if the court ruling is allowed to stand, state's should expect more federal intrusion into the wildlife arena.

"If they take away the rights of the states to establish their own regulations, how long does it take for the next action to take your ability to distinguish between fees or the number of birds that can be shot or anything else?" Nelson said. "The last thing in the world you need is the federal government stepping into this."

Tomato squeeze taking a toll on eateries, eaters

BY JIM SUHR

Associated Press Writer

At supermarkets across the nation, shoppers are being confronted with a different kind of tomato dilemma: Pay premium prices or just call the whole thing off?

A triple whammy of rotten circumstances — a rash of Florida hurricanes, a nagging pest in Mexico and a bruised California harvest — has pushed prices skyward. And any way you slice it, consumers and businesses have been squeezed in recent weeks by the tomato shortage that still has suppliers playing catch-up.

In Columbia, Mo., Sandy Smith was seeing red at the \$3.99 price for a pint of about two dozen grape tomatoes. She put a container into her cart, only to return it to the shelf. In and out they went before she finally relented.

"When I came upon this sign with the price, my eyes about popped out and landed in the tomatoes. What is going on here?" Smith said while shopping last week at a Gerbe's supermarket.

Only now are prices easing in some areas as a new crop gets picked in Florida, supplier of about half the domestically produced fresh tomatoes in the nation, including nearly the entire supply from October through June.

The volume of shipments out of Florida in the past couple of weeks has reached about 75 percent of normal. November shipments fell sharply at Florida's hurricane-raked farms, a spokeswoman for the federal regulator of the state's tomato industry said.

"This thing has been an ordeal for all of us, but we're turning the corner," the Florida Tomato Committee's Samantha Winters said.

In October, torrential downpours in California halted harvesting at times. That month is a crossover one for the nation's top two tomato producers, with California dominating the market June through October.

Florida's hurricane season knocked flowers off the fruit-producing blooms and weakened plants, in other cases delaying planting in a state where growers produced nearly 58 million 25-pound boxes of round tomatoes in the 2003-04 season, Winters said. That doesn't include smaller varieties such as cherry and grape tomatoes, she said.

Complicating matters: a pest outbreak that ruined up to 40 percent of production in the Baja region of Mexico, another top source of tomatoes.

True to the laws of supply and demand, the shortage sent prices up. During a typical year, a 25-pound case of tomatoes might cost less than \$20; during the shortage, that price in some instances more than tripled. Businesses big and small got bruised.

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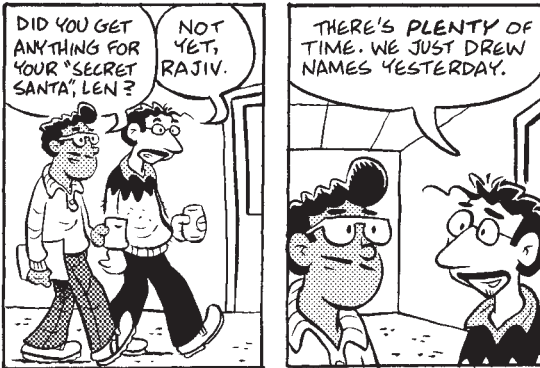


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CROSSWORD

By THOMAS JOSEPH

- ACROSS
- 1 Singer Robert Tiff
 - 11 Atlas section
 - 12 Aspiration
 - 13 Flammable stuff
 - 14 Like some tea
 - 15 Biological groups
 - 17 Ordered, in olden days
 - 20 Fire starter
 - 23 Commotion
 - 24 Like very cold temperatures
 - 26 Dijon denial
 - 27 Mamie's hubby
 - 28 Zodiac cat
 - 29 Fishing boat
 - 31 Track trip
 - 32 To the time that
 - 33 May honorees
 - 34 Guarantee
 - 37 Refuse to go on
 - 39 Bath powder
 - 43 Eyeball
 - 44 Wake up
 - 45 Well-behaved
- 46 "Water Music" composer
- DOWN
- 1 Grasp
 - 2 Opposite of 26-Across
 - 3 Coffee holder
 - 4 Skiers' hangout
 - 5 Fencing weapon
 - 6 Sea flier
 - 7 Red wine
 - 8 Idaho city
 - 9 Mimic
 - 10 Cartoonist Key
 - 16 Glowing coal
 - 17 African tongue
 - 18 Decorate
 - 19 Florentine sculptor
 - 21 Coffee add-in
 - 22 Court sport
 - 24 Singer nicknamed "Bubbles"
 - 25 Luau strings
 - 30 Was flirtatious

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Yesterday's answer

- 33 Head, in slang
- 35 California neighbor
- 36 — avis
- 37 Marsh
- 38 Before now
- 40 Bossy's chew
- 41 Work
- 42 Gibson of "Lethal Weapon"

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12-15

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