

The San Bernardino County Sentinel

News of Note
from Around the
Largest County
in the Lower
48 States

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DA Probing Chino City Council Fund Misappropriation Allegations

A retired postal inspector has alleged Chino city officials have engaged in a number of illegal acts and breaches of their fiduciary duty in providing themselves benefits and compensation to which they are not entitled totaling at least \$478,000 since the year 2000.

Specifically, Bob Nigg, a 15-year resident



Dennis Yates

of Chino who was formerly employed by the federal government as a

postal inspector, maintains that members of the city council with the assistance of senior city staff and the city attorney passed resolutions which conferred upon themselves retirement and allowance benefits that exceeded those permitted by law and which were not the same as benefits made available and paid to the city's employ-

ees, actions which are in violation of California's Government Code §1222, §36506, §36514.5, §36516, §37206, §1090 and Penal Code §424.

Chino's official spokeswoman, Michelle Van Der Linden, told the *Sentinel*, "We have reviewed the allegations raised by Mr. Nigg and are convinced that the city, its employees, and



Eunice Ulloa

its council members have fully complied with all legal See P 2

SB & CalPERS Come To An Agreement

San Bernardino and the state of California's public employee retirement system have apparently staved off a potentially earth-scorching battle over the city's arrearages on pension payments that threatened to undermine the city's 2012 bankruptcy filing and also threatened to set a precedent by which financially troubled cities might skip out on their obligations in a way that would undercut the pension system's integrity.

After years of financial challenges, San Bernardino filed a Chapter 9 bankruptcy petition in August 2012. In its filing, the county seat asserted it had \$180 million in ongoing unfunded liabilities and a \$49 million annual operating deficit. Shortly thereafter, the state's public employees retirement system, known by its acronym CalPERS, contested the city's filing, maintaining San Bernardino has hundreds of millions of dollars worth of assets it could liquidate to make good on its responsibility to its creditors.

CalPERS is San Bernardino's largest creditor. The city currently has a \$26 million annual obligation to the retirement system and it withheld more than \$14 million in pension fund payments from July 2012 until July of 2013 and has continued to underpay CalPERS the amount the system's administrators maintain is continuously due it. The city has offered to make partial payments into the system until such time as it gets back on its feet financially. Even more alarming to CalPERS was the city's effort to forge a long-term solution that includes renegotiating the See P 6

Yucca Valley Inching Toward Commercializing & Industrializing Residential Zones

The town of Yucca Valley this week took a major stride toward the liberalization of its land use policy, with the planning commission making a recommendation that the city council alter its development code to allow greater latitude with regard to the type and nature of home-based businesses that can locate in the town's

residential zones.

Challenges made by some city residents of businesses run out of single family residences in several of the town's neighborhoods, including at least one that involved a lawsuit, resulted in the town revisiting the issue of home occupation permit regulations earlier this year. In some of those cases,



Tim Humphreville

complainants referenced violations of the town

code that had been ongoing for several years.

The operators of those businesses and their supporters, including nearby residents who signed letters or petitions saying they had no objection to industrial or quasi-industrial uses in the midst of their residential neighborhoods, petitioned city officials to amend the town code, in particular

Development Code Section 84 with regard to home-based businesses.

There has been some degree of back-and-forth between two differing factions in town – those advocating strict enforcement of the town code to prevent commercial or manufacturing operations in residential areas and others maintaining that See P 8

\$2.6 M Budget Deficit Seen As Adelanto Bankruptcy Herald

ADELANTO—Bankruptcy still looms as a prospect for the city of Adelanto as the city council this week ratified a 2014-15 general fund budget replete with a \$2.61 million deficit.

According to city manager Jim Hart, the city anticipates taking in \$10,564,589 in revenues to infuse the general fund over the next 12 months and anticipates expenditures of \$13,206,499 out

of the general fund in the same span.

Last year at this time, Adelanto declared a fiscal emergency just as fiscal year 2013-14 was about to begin. Total revenues though all of the city's funds – the general fund, special revenue funds, enterprise funds, non-profit funds and agency and trust funds will come to \$30,196,210 in 2014-15. Spending from all of See P 5

County Challenges Jail Abuse Lawsuit By Claiming Inmates Filed No Grievances

The success of a federal lawsuit alleging San Bernardino County sheriff's deputies abused and tortured inmates at the West Valley Detention Center in Rancho Cucamonga could hinge on a court's determination of whether that abuse and threats of further abuse prevented the defendants from reporting their ordeals to sheriff's department higher-ups.

The lawsuit, filed by attorneys Stan Hodge,



Stan Hodge

Jim Terrell and Sharon Bruner on behalf of inmates John Hanson, Lamar Graves, Brandon Schilling, Michael Mesa, Christopher Sly and Ed-

die Caldera allege they were physically and psychologically tortured by deputies from January 1, 2013 through March of this year. According to the lawsuit, the plaintiffs were submitted to abuse and torture that included being shocked with Taser guns, having shotguns held to their heads, being rectally invaded during unreasonably aggressive pat down searches, and having their arms pulled up behind their See P 5

Morongo Unified Puts Superintendent On Paid Administrative Leave



Cecelia English

TWENTYNINE PALMS — The Morongo Unified School District Board of Trustees

abruptly placed superintendent Cecelia English on paid administrative leave on June 21.

That move came almost a month after the board balked at giving English a 5.77 percent raise over her \$175,000 annual salary, while conferring the same 5.77 percent raise on the district's three assistant superintendents, Doug Weller, Tom Baumgar-

ten and David Price.

English's one-year tenure with Morongo Unified was rocky from the outset. The director of academics at the Newark School District in Northern California, English was hired on a 3-2 vote of the board of trustees in June 2013, with trustees Karalee Hargrove and Ronald Palmer in opposition.

English possesses a

doctorate in education and seemed intent upon leading the district forward in the aftermath of Jim Majchrzak's departure as superintendent. Majchrzak remained with the district for the last six months of 2013 as a special assignment administrator applying for grants.

Elements of the community, including Hargrove, Palmer and some

members of the Morongo Teachers Association, were critical of the salary provided to English, which was \$25,000 more than Majchrzak received and a substantial raise over what English was making in the Newark School District.

English did not hit it off with Morongo Teachers Association President Terri Weitz, and her relations with the See P 2

English Placed On Administrative Leave from front page

Morongo Teachers Association never warmed.

With the dawning of 2014, things grew decidedly worse. At a board meeting in March, with

emotions running high over teacher compensation, approaching 200 members of the Morongo Teachers Association turned their backs on her as a show of contempt and protest while she was speaking.

In the face of concerted and vigorous opposition by members of the public and a group of teachers, the school board appeared intimidated out of providing to English the same raise as was given to Weller,

Baumgarten and Price.

In a special closed session held on Saturday, English was suspended. No reason for the board's action was given.



DA Probing Chino City Council Actions from front page

requirements, including the Government Code sections referenced by Mr. Nigg."

Nigg's accusations against the city council are contained in a complaint on file with the district attorney's office's public integrity unit. In addition, Nigg has also requested that the district attorney look into accusations that Chino City Attorney Jimmy Gutierrez violated Government Code Section

1090, which is aimed at prohibiting government officials from engaging in financial conflicts of interest by which they personally benefit, when he acted to negotiate on the city's behalf the terms of his own employment contract with the city, and in which the city council members also had a financial benefit.

That accusation parallels one made in a lawsuit brought against the city of Chino and Gutierrez by the Inland Oversight Committee, which is represented by

attorney Cory Briggs.

According to Van Der Linden, "The city is currently involved in litigation brought by Cory Briggs to challenge the city attorney contract and will reserve further comment until that matter has been resolved.



Glenn Duncan

tion brought by Cory Briggs to challenge the city attorney contract and will reserve further comment until that matter has been resolved.

We are confident of a favorable outcome."

At present, according to documents obtained by the *Sentinel*, district attorney's office investigators are examining and assimilating scores of city documents which are alleged to demonstrate how public funds were illegally used to compensate the elected officials of the city of Chino.

Nigg says he became concerned over the transparency and accountability of how public moneys were being spent as a consequence

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of the public corruption scandal in the city of Bell. As a consequence, he turned his focus to the city of Chino and its officials, discovering what he considered to be excessive salary and benefits paid to the city's elected leaders.

In the aftermath of the Bell revelations, the California state control-

ler created a database in which information concerning the compensation and benefits paid to California's governmental employees is posted.

"One of the purposes of the controller's database is to make available records to the public so that possible illegal compensation to public employees does not go unnoticed as it had in Bell," Nigg said.

Based upon a review of the controller's database, Nigg learned that Chino elected officials' total compensation was significantly higher than that paid to officials in other comparably sized local cities. Upon conducting a further analysis of the issue and making various public records requests to the city of Chino, Nigg uncovered what he believes are numerous violations of California state laws.

"Most of those consist of the method in which the elected officials of Chino are being compensated," he told the *Sentinel*. "Unlike Bell, which is a charter city, Chino is a general law city and there are various laws restricting the eligibility and amount of compensation that can be paid to elected official. Under Government Code §36516, there is a maximum amount of salary that can be legally paid to city council members. The Chino City Council enacted several policies, procedures, resolutions or ordinances to circumvent the maximum compensation as allowed by law. By my interpretation, such schemes are illegal."

Continued on Page 4

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Glimpse Of SBC's Past Hinkley's Doomed Hidden River

By Ruth Musser-Lopez

June 27, 2014. If you want to see a "glimpse" of Hinkley before it is too late, you should go at once to see what was

that sits above it, was unconventional, but effective. Though it may have been unplanned...it was still a water heist. First they polluted

First they polluted

cubic feet of natural gas per day. The compressor station in Hinkley was one of eight such stations along the line in California. Natural gas

1972 the cooling water was pumped into lined evaporation ponds.

These improvements to the system, however, did not undo the ecologi-

treatment units.

In 1993, attorney Ed Masry, with whom Erin Brockovich, a Hinkley resident, was working, filed a multi-plaintiff direct action suit against PG&E, alleging contamination of the town's drinking water and untoward consequences of that pollution. In 1996, the case was settled for \$333 million, the largest settlement ever paid in a direct-action lawsuit until that time. In 2000, the matter became an international cause célèbre, with the release of the blockbuster movie Erin Brockovich, which related a substantially accurate version of events in Hinkley. Contrary to widespread public as-

cal solution to the contamination problem was effectuated.

In 1997 and 2004, the water board reissued follow-up permits to PG&E for the use of land treatment units in the treatment of the contaminated groundwater around Hinkley. In 2006, with the Hinkley groundwater contamination issue fading from public consciousness, the water board gave permits for two subterranean remediation systems to clean up the source and central areas of the plume. In 2008, however, the issue was resurrected as one of regional and local concern when, amidst the water board's provision of a permit for Pacific Gas & Electric to apply additional cleanup measures, it issued redrafted cleanup and abatement orders. Steadily over the last six years, the condition of the lingering contamination in Hinkley has grown into a larger and larger public issue as evidence of how the underground plume of chromium 6 continues to migrate through the water table into the area from which local wells draw water used for household purposes has emerged.

The best hydrological data now available indicates the plume is more than six miles long and two miles wide and gradually expanding.



Bulldozers and other equipment used to raze Hinkley as seen from the other side of the BNSF tracks.

once "a boomtown," now just a "doomed town."

Near Hidden River Road and Highway 58, Pacific Gas & Electric's (PG&E's) bulldozer crews are currently hard at work tearing down farmhouses and dairies that once sat above Hinkley's trophy "hidden river" now a polluted giant toilet of ever spreading underground hexavalent chromium waste contamination.

The epitome of corporate water heists, PG&E's "take" of the Hinkley aquifer and now much of the property

the water, then by indirect action they polluted the people...many got sick, some have died, and most simply up and left—either bought out by PG&E or simply in hopeless abandonment.

The Hinkley hexavalent chromium contamination came about as a consequence of Pacific Gas and Electric's operation of a compressor station there beginning in 1952. The compressor station was a facility located on a pipeline that ran between Texas and Canada and delivered in excess of three billion

available in the line was used to fuel compressors which repressurized the gas to push it through the pipeline. At Hinkley, the compressed gas was

cal havoc that had occurred up until 1972.

In 1988, the Lahontan Regional Water Quality Control Board, which oversees water qual-



If you hurry, you can still see this circa 85 year-old dairy with its insignia bearing the year it was built in 1931. Eye catching protest graffiti covers many of the structures in Hinkley. The face of an elephant was painted on the old water cistern with the words "Don't Drink This Water."

cooled with water circulating through two cooling towers. From 1952 until 1966, hexavalent chromium, also known as chromium 6, was added to the cooling water to prevent corrosion to the cooling towers and the water circulation system. Wastewater from the cooling system was disposed of in unlined ponds at the Hinkley site. Beginning in 1964, after the danger of chromium 6 was recognized, the cooling water was treated to remove the chromium before it was disposed in the pools and a non-chromium-based additive was substituted into the cooling system in 1966. As of

ity issues in that portion of the desert, issued a

sumptions, Pacific Gas & Electric's payment



The abandoned Leyerly Dairy still stands. Its water tank bears an old sign with the name of the original well drilling company.

cleanup and abatement order to PG&E to investigate a plume of chromium 6 in the water table. In 1991, the water board issued permits to treat the contaminated groundwater using land

of the \$333 million did not redress the underlying problem. Masry and his law firm netted over \$100 million in legal fees. Only a few of the plaintiffs received more than \$100,000. No physi-

Chromium is the 21st most abundant element in the earth's crust and as such naturally occurs in rocks, soil, ground water and plants.

Under current guide-
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Accusations Made Against Chino City Council from page 2

Nigg said mayor Dennis Yates and all four of the other council members - Eunice Ulloa, Glenn Duncan, Tom Haughey and Earl Elrod - were implicated in the wrongdoing.

According to Nigg, what he called "the most egregious" illegal compensation scheme relating to Chino consisted of the city council's adoption of Resolution 2006-051 on June 20, 2006, made retroactive to August 1, 2005.

"This resolution resulted in a health benefit bank compensation paid to the city council members that was not the same benefit available and paid by the city for its employees as mandated under Government Code §36516(e)," Nigg said. "As an example, in 2010 city council members received health benefit bank compensation of approximately \$26,629 annually, whereas other city employees received benefit bank compensation of \$15,672, a difference of \$10,957 annually in what I believe to be excessive and illegal compensation. In my complaint filed with the district attorney's office, I alleged such payments to be in violation of California Penal Code §424, related to the misappropriation of public monies. My complaint also alleges that in order to circumvent the maximum compensation requirement of the government code, the city council tailored a unique employment contract with the city attorney, which would allow the excessive health payments to also be classified as retirement benefits. Such a unique contract tailored for only the few council members and only one other individual, the city attorney, is also alleged to be a violation of Government Code §1090, as the city council members had a financial interest in the contract with the city attorney. In 2011, after the State Controller required the compensation

of the city council to be included in the database made available to the public, the city council took action to reduce the health bank benefits they had voted for themselves to being the same benefit amount as made available and paid to the other employees of Chino."



Tom Haughey

Nigg estimated the "total illegal benefits" so derived as "over \$270,000 between 2005 and 2011."

Nigg further alleges that city council voted to approve a "unique and tailored retirement benefit" for councilwoman Eunice Ulloa, who is a full time employee with another public agency, the Chino Basin Water Conservation District, where she receives both health and retirement benefit compensation.

"California retirement law restricts those enrolled in the Public Employee Retirement System (PERS) to only one retirement plan," according to Nigg. "To circumvent this legal restriction, the Chino City Council created a unique deferred compensation benefit tailored to benefit only Ulloa in possible violation of § 36516(e). I believe that such a plan resulted in Ulloa being compensation the value of the PERS plan into a separate retirement plan, and no other employee of Chino was bestowed this unique benefit. It is alleged in my complaint to the district attorney that such a benefit would be a violation of Government Code §1090 as a conflict of interest and would also be in violation of Penal Code §424. It is estimated that such alleged misappropriation of public monies could exceed \$24,000 since August 1, 2005."

Moreover, Nigg maintains that members of the city council for thirteen years helped themselves

to a perquisite to which they were not entitled in a way that ran afoul of state law.

"Since the year 2000, Chino City Council members have received \$1,440 annually in deferred compensation in addition to their salary," Nigg stated. "Such deferred compensation was never authorized by the passage of a city resolution or ordinance as required under Government Code §36506 and §37206. Such unauthorized payments continued until August 6, 2013, when the city council adopted Resolution 2013-46, authorizing such payment without taking any action to have the city council reimburse the city for the alleged previously unauthorized and illegal payments."

Nigg's complaint on the matter, filed with the San Bernardino County District Attorney's Office, alleges that even after the passage of Resolution 2013-46, the deferred compensation payments are still illegal and are in violation of §36516(e) as the same retirement benefit is not made available and paid to the other employees of Chino. In 2000, the annual deferred compensation payment represented over 13 percent of the salary of the city

council. Currently, the deferred compensation is calculated to be over 9 percent of their salary. It is alleged that the enactment of Resolution 2013-046 is a violation of Government Code §1090 as a conflict of interest because the deferred compensation benefit was tailored and unique to only the city council members. It is also alleged that a violation of §36516(e) has occurred as the other employees of Chino are not paid the same benefit of deferred compensation of over 9 percent of their salary, in addition to the city paid PERS contributions. It is believed that as a result of such possible violations of state law, the city council could have misappropriated as much as \$90,000 of public monies since the year 2000 in violation Penal Code §424.

Nigg has zeroed in on how the city council misapplied the process for obtaining reimbursement for expenses such that they received financial benefits to which they were not legally entitled.

"Based upon abuses to payments made to government officials for official expenses, the state legislature enacted Government Code §36514.5, requiring that

city council members can only be reimbursed for actual and necessary expenses incurred in the performance of official duties, subject to the requirements of §53232.2 and §53232.3 of the same code," Nigg said. Nigg's complaint to the



Earl Elrod

district attorney's office alleges that the Chino City Council in violation of §36514.5 adopted Resolution 2005-093 in December of 2005, resulting in a monthly communication allowance of \$100. It is alleged that this \$100 monthly allowance is in violation of the reimbursement laws as such a monthly allowance is not for an actual expense. Additionally, it is alleged that prior to 2005, the city council never adopted a resolution or ordinance authorizing the payment of a communication allowance as required under §36506 and §37206. The failure to abide by the reimbursement laws is alleged to have result-

ed in the misappropriation of public monies in violation of Penal Code §424 that could exceed over \$80,000 since the year 2000.

Nigg said that on August 6, 2013, the city council implicitly acknowledged that such communication allowance payments were unlawful and put an end to such compensation by the passage of Resolution 2013-046. However, Nigg points out that the city council never reimbursed the city for the past illegal compensation, and in another move to pad their compensation, the council increased its members' vehicle allowance by the equal amount of \$100 per month.

"The city council is now receiving \$500 per month in compensation for a vehicle allowance and has done so without ever presenting any empirical evidence that such a vehicle allowance is reasonable," Nigg said.

Additionally, Nigg alleges that under IRS regulations, the \$500 allowance is considered to be included in the salary of the employee. Nigg points out that under the standards of Government Code §36516, the \$500 per month in vehicle allowances should be

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SB CalPERS Accommodation

from front page

amount of its commitment to the retirement system altogether.

CalPERS deemed such an eventuality unacceptable, as it would set a precedent in California of allowing municipalities in financial straits to stiff the pension system. Moreover, the reduction of the pensions of retired or soon-to-retire employees in cities seeking to dodge their commitments to the system could severely undercut the faith of the state's public employees in the system, a crisis of confidence that could lead to the system's demise.

In addition to opposing San Bernardino's bankruptcy petition outright, CalPERS asserted that the pension fund system has a special status among the city's creditors and that it should go to the front of the line when the city begins to pay those to whom it is in arrears. The federal bankruptcy judge overseeing San Bernardino's bankruptcy filing, Judge Meredith Jury, did not accept that, ruling that CalPERS has no greater or lesser standing than the scores

of other entities the city owes money to.

Moreover, Jury consistently ruled that San Bernardino is as insolvent as it claims. In August 2013, she ruled that the city's bankruptcy should be granted pursuant to a pendency plan by which the city continues to pay its employees and other expenses critical to its day-to-day operations but services its other debts on the basis of the limited financial means available to it.

CalPERS wanted out of Jury's courtroom and previously pressed for leave to appeal the matter to another judge, a request Jury denied.

CalPERS took a writ to U.S. District Court in Los Angeles, where Judge Dolly Gee granted the pension fund's request to appeal Jury's findings directly to the 9th Circuit Court of Appeals.

While the California Public Employees' Retirement System's request to have the 9th Circuit here the case was pending, further efforts at mediation between the city of San Bernardino and CalPERS continued under the guidance of a court-appointed mediator, Judge Gregg Zive.

The mediation between the city and CalP-

ERS was not the only touchy issue that grew out of the bankruptcy. The city is also involved in delicate negotiations with creditors, bondholders, service providers and vendors, as well as city employee bargaining groups.

In May, Jury expressed dismay at the lack of progress in the mediation talks and said the delay in coming to a workable arrangement with CalPERS was preventing the city from coming to terms with the both its police and fire unions, which have disputes with the city over the declining revenue available for public safety employee salaries.

Last week came word that the attorneys for the city and CalPERS have arrived at some form of tentative agreement that will allow the city's bankruptcy reorganization plan to proceed, though the terms remain secret.

A terse case status update noted that the terms of the agreement were in Zive's possession, and an early draft of the agreement had been provided to attorneys for the city's employee unions and the legal representatives of the city's other creditors. That document was subject to the confidentiality

restrictions imposed by Jury with regard to the mediation effort, such that no public disclosure of any of the agreement's particulars has been made.

A court filing, however, confirmed that tentative agreement, to which the city and CalPERS are amenable, has been forged.

"The details of the agreement, including the timing and amount of payments to be made, will remain confidential as the mediation regarding a potential plan of adjustment is ongoing," the filing states. The filing further indicates CalPERS for the time will hold in abeyance its appeal of Jury's ruling to the 9th Circuit Court in which it asserts the city isn't eligible for bankruptcy.

In return, the city is to "make certain payments to CalPERS on deferred amounts owing." The precise amounts the city will pay has not been disclosed. CalPERS maintains the city is at least \$16.5 million behind on its payments since July 2012, and owes interest on that arrearage. San Bernardino, in its pendency plan, announced its intention to eventually make CalPERS whole, but has not

provided a schedule for doing so.

Because of the confidentiality surrounding the tentative agreement and its precise terms, it is not publicly known whether the break CalPERS has assented to cutting San Bernardino on the money owed it is temporary or permanent, or whether it includes interest payments on the overdue payments or not.

Disclosure of those terms might be counter to CalPERS' interest, since other large California cities, such as Stockton and Vallejo have declared bankruptcy and other California cities are contemplating such a move. Those cities might seek terms relating to long term debt repayment similar to those CalPERS agrees to with San Bernardino.

The ongoing negotiations between the city and its two most powerful employee unions, those for the fire department and the police department, have been nearly as tense as those with CalPERS.

The San Bernardino City Professional Firefighters have charged that the city has not been negotiating in good faith, and has been less than straightforward in disclosing the city's ac-

tual financial condition. For example, according to the firefighters union, between June 2012, just prior to the city's bankruptcy filing, and December 2013, the city invested \$53 million in notes and federal agency-issued coupons, certificates of deposit, local agency investment funds and other securities. Moreover, according to the firefighters' union, the city made another \$23 million in investments during the first four months of 2014.

City negotiations with the firefighters union on its memorandum of understanding setting salaries and benefits for firefighters are ongoing.

Previously, the city and the San Bernardino Police Officers Association were at loggerheads. But recently, negotiators for the city and the police union have indicated they are within striking distance of closing an agreement on the memorandum of understanding relating to police pay and benefits.

The city is scheduled to come before Jury for an update on its progress toward exiting from bankruptcy protection on July 10.



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Glimpse Of Hinkley from page 3

lines, the U.S. Environmental Protection Agency specifies 100 micrograms per liter as

One effort Pacific Gas & Electric made to prevent the spreading of the plume entailed drawing up to 80 gallons of water per minute from supply wells south of the com-

in the drinking glasses, cooking utensils, showers, baths, toilets and garden hoses of Hinkley residents, PG&E offered to provide every household and business

the community, PG&E began making offers to individual property owners and undertook appraisals of their properties. As soon as mutually acceptable terms between PG&E and the individual homeowners were arrived at, purchases were made. Since February, houses in Hinkley are being sold to PG&E at a rate of two to four per week. Once the houses are empty, Pacific Gas & Electric has not spared time in having those homes razed, foreclosing any possibility that squatters or anyone else will be tempted to take up residence therein ever again.

In September 2013, the Santa Ana-based law

PG&E should be required to pay more for the homes than they are currently offering, since the company is responsible for the depression in Hinkley's land values. In early 2012, Hinkley's population stood

for as relief, the State has instead acquiesced to corporate influence.

How twisted would it be that just as PG&E has completed the purchase and leveling of Hinkley that suddenly a solution to the chromium 6 pol-



Fenced and boarded up houses and businesses, many spray painted with graffiti (some of which is pretty artistic) are the eye-popping sign of citizens under stress.

the maximum acceptable total chromium contaminant level acceptable in water to be consumed by humans. On July 1, the state of California will reduce the permissible amount of cancer-causing hexavalent chromium to 10 parts per billion.

Pacific Gas and Electric has been wrestling with the contamination issue and has applied a number of experimental cures to the problem which have proven inadequate, including pumping groundwater through a subsurface drip irrigation system and organic matter in the soil around plant root zones to create conditions, which Pacific Gas & Electric hoped would "chemically reduce the level of chromium 6 in the water [reducing] the hexavalent chromium to insoluble trivalent chromium." Pacific Gas & Electric sought ways of keeping the contaminated water from migrating to other areas of the aquifer and tainting the water there.

pression station, pumping it north through new underground pipes and

in Hinkley with either a filtration/treatment system to capture the chro-



injecting the water outside the northwestern plume boundary. This strategy, Pacific Gas and Electric claimed, was intended to "create a hydraulic barrier designed to prevent spreading of the plume." While partially effective, that measure did not achieve the goal of reducing the chromium 6 in the water supply to an acceptable level.

As a practical means of ensuring that the tainted water does not end up

mium before it would be dispensed at the tap or in the alternative, commercial bottled drinking water.

But with no certain, final and comprehensive cure of the problem in sight, Pacific Gas & Electric in April 2012 began surveying homeowners with regard to their willingness to sell their property and move elsewhere. When roughly two-thirds of those surveyed indicated their readiness to depart

firm Callahan & Blaine filed suit against PG&E in San Bernardino County Superior Court on behalf of a substantial number of Hinkley residents who were not a part of the litigation brought by Masry. Calla-



han & Blaine are seeking that the plaintiffs be recompensed for the damages they have sustained as a consequence of the continuing contamination and the ongoing expansion of the toxic plume and its threat to the area's groundwater.

Of issue is that PG&E, in offering "fair market value" for the properties, is benefiting by its deliberate efforts to convert Hinkley to a ghost town. Under various theories,

at 1,900. Today it has dwindled to an estimated 1,300, as residents continue their exodus. Earlier this year, the Barstow Unified School District moved to shutter Hinkley School at the end of the 2012-13 school year last month. The town is down to one market, a post office and a tavern.

Now, by court order or in an effort to avoid further court orders, PG&E in a process of buying

lution problem is found.

Though with "The Destruction of Hinkley" it would seem that the county of San Bernardino and the State of California would have suffered significant losses with a local economy that appears to have entirely collapsed, we have yet to see or hear of any action by our state or county officials for compensation from PG&E for lost revenue in the form of income tax, sales tax, property tax and lost federal funds for public facilities such as schools, post offices, etc.





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Town Opening Residential Neighborhoods To Commercial & Industrial Uses from front page

commercial and light industrial activities should be deemed acceptable within the town's rural neighborhoods.

The planning commission on June 24 made a non-binding recommendation that the city council adopt the newly drafted ordinance, which would repeal Development Code Section 84.0615 of the Town Code and amend Title 9 by adding a section and a chapter to the Yucca Valley Development Code.

The ordinance changes the language in the code from a reference to home-based business to home occupation operations. It contains language which states that such activities should "not alter the character of any residential neighborhood, or create impacts or activities that are not typically and commonly associated with residen-

tial neighborhoods. It is the intent of this section to allow for commercial uses that are accessory and incidental to the primary purpose of residential zones homes, which is that of providing a habitable dwelling for the owner or occupant as the primary use of the residential dwelling unit."

The ordinance would yet prohibit home occupations that entailed "animal hospitals; automotive and other vehicle repair, upholstery painting or storage; junk yards; medical and dental offices, clinics and laboratories; mini-storage; storage of equipment, materials and other accessories to the construction trades; welding and machining; cabinet shop[s]; uses which may include the storage or use of explosives or high combustible or toxic materials; sales of ammunition; [and] massage establishments." The ordinance also disallows sales of firearms in residential zoning districts other than those designated as

Rural Living or Hillside Reserve.

Planning commission chairman Tim Humphreville lobbied his colleagues to allow the sale of firearms in all residential zones. That request was not endorsed by the full commission, however.

The ordinance identifies four classes of home occupation operations that are permitted.

Class I are those that "shall have no impact on the neighborhood in which they are located" and would include "telecommuting and internet or electronic based business or other similar activities that are transparent inside the residential structure and do not involve customers to the site, employees, or any structural alteration." According to the proposed ordinance, "no permit is required for home based businesses where no business activity takes place other than the scheduling of appointments or paper work, there are no customers received at the residence, the exterior of

the property is not modified for the business and there is no outdoor storage of materials or vehicles. Operating hours on these Class 1 businesses are limited to the hours of 7 a.m. to 7 p.m."

Class II home occupations, according to the ordinance, "may have a limited impact on the neighborhood in which they are located. Class II home occupations shall be allowed in the Residential Single Family, Rural Living and Rural Hillside Reserve zoning districts. Class II home occupations are subject to a field investigation by city staff and may be permitted without notice or a hearing, although the town director of development has the option of scheduling a hearing before the planning commission to establish special conditions of approval. Class II home occupations can feature sales of products on the premises, a maximum three customers or clients per day, one employee who is not a resident of the premises, and can operate between

the hours of 7 a.m. and 7 p.m., but cannot receive customers before 9 a.m. or after 5 p.m. No business activity is to take place at a Class II operation outside the home.

Class III home occupations are those categorized as having "a limited impact on the neighborhood in which they are located but are also slightly more intense than Class II in that they may involve outdoor storage of material and or outdoor home occupation activities that do not impact the neighborhood. Class III operations are permitted in the Rural Living and Rural Hillside Reserve zoning districts and are subject to notice and hearing for the issuance of a permit. The planning commission is the review authority and can forward the application to the council for consideration. Class III businesses can have sales of products on the premises. Customer may visit Class III operations only by appointment, one appointment at a time. The monthly average of the

total trip count for business activity shall not exceed 12 trips per day in all zoning districts. Class III businesses can employ up to two workers who do not live on the premises. Operation is limited to between 7 a.m. and 7 p.m., with customers restricted to the hours between 9 a.m. and 5 p.m. Class III home occupation operations located on lots one acre or larger are permitted to have outside business activity or screened outdoor storage of materials.

Class IV home occupations, according to the proposed ordinance, "may exceed the standards provided in classes I, II, and III, subject to the review and approval of a conditional use permit by the planning commission. No alteration of the home in which a Class IV operation is taking place can be made, according to the proposed ordinance, "in such a manner as to change the residential character and appear-

Continued on Page 12

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Inmate Abuse Lawsuit *from page 5*

complaints or file grievances.

According to not only the plaintiffs but other inmates at the jail involved in the litigation, deputies working at the jails are extremely resistant to facilitating the grievance process and have on certain occasions simply refused to provide inmates with grievance forms or used intimidation in an effort to dissuade prisoners from filing complaints.

Hodge is a former Superior Court judge. Along with Terrell and Bruner, he is now seeking to document, to the extent possible, that their clients, and by extension others, faced an unreasonable and even illegal burden in exhausting their administrative remedies.

Once the amended complaint is filed, the county's attorneys will have until July 11 to respond to it. The *Senti-*

nel has learned that the county is already seeking to obtain information, from both deputies who have served as guards at the county's jails and from inmates, to rebut assertions that inmates faced an uphill battle in lodging complaints about their treatment at the hands of their captors.

That rebuttal will need to extend beyond events occurring at the West Valley Detention Center in Rancho Cucamonga, where all of the mistreatment alleged in the federal lawsuit was alleged to have occurred. Inmates housed at the county's central jail in San Bernardino and at the recently opened High Desert Detention Center in Adelanto have come forward to corroborate what the plaintiffs have alleged about being unable to bring the action of lower ranking deputies to the attention of their supervisors at the West Valley Detention Facility in Rancho Cucamonga.

One way the county hopes to show that avenues of communication with senior jail administrators were open is to cite, and produce, grievances filed by other inmates.

Despite the county's current efforts to vindicate the actions of sheriff's department jailors, action that was already taken by the sheriff's department has implicated several of the lowest ranking members of the department in abuse of prisoners of the type alleged in the lawsuit.

In March, three deputies - Brock Teyechea, Andrew Cruz, and Nicholas Oakley, each of whom had been with the sheriff's department for less than a year, were ignominiously fired.

The lawsuit brought by Hanson, Graves, Schilling, Mesa, Sly and Caldera names Teyechea, Cruz and Oakley. It also names deputies Robert Escamilla, Robert Morris, Russell Kopasz, Daniel Stryffeler and Eric Smale, and ci-

vilian custody specialist Brandon Stockman, all of whom remain with the department.

The deputies' two supervisors up the chain of command, captain Jeff Rose and sheriff John McMahon, are also named in the lawsuit. The *Sentinel* was unable to confirm a report that efforts are ongoing to have Teyechea, Cruz and Oakley "go quietly," i.e., accept the loss of their employment and accede to likely eventual criminal convictions for their action that will grow out of the FBI probe and U.S. Attorney's Office's action without implicating any of their former colleagues or supervisors in the sheriff's office, thus allowing the county to represent the inmate abuse issue as an isolated one that was quickly and responsibly redressed, alleviating the county from the imposition of punitive damages as a result of the lawsuit.

Criminal charges of deputies determined to have been involved in

the mistreatment of inmates is a given, a former sheriff's deputy told the *Sentinel*. "It may take a while, but it's coming," the 15-year sheriff's department veteran said. "Just like it happened with the Los Angeles Sheriff's Department when the FBI got involved with what is happening in the jails there."

The combination of the lawsuit and the FBI involvement in the case has created a perilous circumstance for the officers alleged to have been involved in the abuse and the sheriff's department as well as the county and its taxpayers. One element of that peril is the obliteration of the Garrity protection law enforcement officers normally have during a probe by their department into any wrongdoing they are suspected of having engaged in while in uniform. When being questioned by their own department's investigators or internal affairs officers about their action, they are normally given

the same Miranda Rights warning as citizens being arrested. If the officers then do not waive their Miranda Rights and continue to maintain their silence during questioning, they are issued an order compelling them to give a statement or otherwise face discipline or discharge. Garrity Rights provide a law enforcement officer with a guarantee that those statements he/she makes under the threat of discipline or discharge will not be used in the criminal prosecution of the officer.

Because the FBI is doing the questioning, however, the Garrity protection does not apply. It is illegal to lie to an FBI agent. Though statements made to the FBI are initially kept confidential to protect the integrity of an ongoing investigation, at some point a transcript of the interview will become available to attorneys for use in the civil proceedings.



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San Bernardino County Coroner Reports

Coroner case #701404843 – On 06/25/2014 at approximately 5:00 P.M. Deputies from the Los Angeles County Sheriff’s Department were in the unincorporated area of Apple Valley searching for a homicide suspect. Deputies observed the suspect at Bear Valley Rd. and Central Rd. where the suspect, James Jaimez, a 29 year-old resident of Ontario, engaged the deputies in gunfire. Jaimez was pronounced dead at the scene at 5:14 P.M. The San Bernardino County Sheriff Homicide Detail is investigating this incident. [06262014 1459 SY]

Coroner case #701404831 and 701404832 – On 06/24/2014 at approximately 11:40 P.M. a 1995 Peterbilt dump collided with a blue 2003 Chrysler PT Cruiser at Highway 138 and Interstate 15 in Phelan. Two occupants of the PT Cruiser were pronounced deceased at the scene: 18 year-old Victorville resident Nicole Brittney Lyle and 16 year-old Phelan resident John Anthony Cabrera Jr. The California Highway Patrol is investigating this incident. [06252014 1407 SY]

Coroner case #701404786 – On 06/23/2014 at approximately 3:06 A.M., Alicia D. Gotto, a 25 year old resident of Pomona, was the sole occupant and driver of a 1999 Toyota 4-Runner involved in rollover traffic incident southbound Interstate 15 near Oakie Flats Rd in Devore. Paramedics arrived and Gotto was transported to Community Hospital in San Bernardino where she was pronounced dead. San Bernardino California Highway Patrol (CHP) is investigating this incident. [06242014 0815 SY]

Coroner case 701404783 – On 06/23/2014 at 1:44 AM, California Highway Patrol officers responded to a 911 call for a traffic collision on Interstate 210, east of Haven Ave. Officers arrived on scene and found the driver, Yasmin Rashawn Doris Baines, a 22 year old resident of Rancho Cucamonga, had been ejected from her 2014 Nissan Versa. Baines was pronounced dead on the scene. The California Highway Patrol is investigating the incident. [06242014 0810 SY]

Coroner case # 701404733 – On Friday, 06/20/2014, at 4:18 PM, Juanito Lara, a 64 year old resident of Victorville, was involved in a traffic collision on Seneca Rd. in Victorville just west of Amethyst. Lara was transported by ambulance to Victor Valley Global Medical Center, where he was pronounced dead in the emergency room. The California Highway Patrol is also investigating. [06/22/14 1200 JK]

Coroner case # 701404738 – On 06/20/2014 at 8:31 PM, San Bernardino Fire Department personnel responded to a 911 call in the 1700 block of Valencia Street, in San Bernardino, for a drowning. Paramedics found Damian Lares, a two year old resident of San Bernardino, in full arrest and transported him to an area hospital where he was pronounced dead at 9:11 PM. An autopsy will be conducted to determine the cause of death. The San Bernardino Police Department is also investigating the incident. [06/22/14 1200 JK]

Coroner case #701404746 – At 3:31AM on 06/21/2014, San Bernardino police officers were called to the 800 block of N. Davidson Avenue in San Bernardino. Police and paramedics arrived to find James Kofu, a 22 year-old resident of Fontana dead at the scene. The incident is also under investigation by San Bernardino Police Department Homicide Detail. An autopsy is pending. [06/22/14 1200 JK]

Coroner case #701404763 – Back on 06/21/2014, Andy Garcia age 20 years of Rialto was transported to Arrowhead Regional Medical Center following an altercation. He later died on June 22, 2014 at 4:30 am. Rialto police department is also investigating the incident. [06/22/14 1200 JK]

The Coroner Reports are reproduced in their original format as authored by department personnel.

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DA Probe Of Chino City Council

from page 4

included in the total salary calculations paid to the city council. Thus, he reasoned, the compensation paid to the Chino City Council exceeds the maximum salary allowed to be paid to city council members. Such payments would also be in violation of the Government Code and are alleged to be in violation of Penal Code §424.

"Government Code §36516 states that for a city with a population the size of Chino the monthly maximum salary of the city council is \$600 per month," Nigg said. "This law also allows for the maximum salary of \$600 per month to be increased by up to no more than 5 percent per year since the last increase. The Chino City Council has showed a pattern of normally voting itself the maximum 5 percent per year, and the current salary of the city council members is \$1,281 monthly or \$15,372 annually."

Even though the city council is allowed the 5 percent per year in-

crease as permitted by §36516(a)(4), the city council salary had been illegal compounded, Nigg insists.

"The California State Attorney General in issuing Opinion Letter #06-504 made clear that the 5 percent salary increases should not be compounded," Nigg said. "Since at least the year 2000, the city of Chino has unlawfully compounded the salary increases of the city council, which would not be permitted under §36516. Such alleged illegal compounding was brought to the attention of the city manager and the city council in late 2012. Chino officials took no known action to correct the improper payment or to have the city council reimburse the city for the improper payments. It is alleged that such payments would be in violation of Penal Code §424 and could exceed \$14,000 in unlawful compensation since the year 2000."

Nigg's complaint also alleges a violation of Government Code §1222 has occurred as the public officers of Chino have willfully failed to perform their duties as enjoined by law.

Suit Filed To Protect SB Mountain Flying Squirrels

An Arizona-based environmental group sued the federal government last week in an effort to protect the San Bernardino flying squirrel.



nardino flying squirrel.

The small, light-bodied creatures which sport flaps of skin that allow them to glide the length of a football field between trees or from trees to the ground, giving the illusion that they are capable of flight, have been on the wane in Southern California for some time. Once plentiful in Riverside County's San Jacinto Mountains, they have not been spotted there for nearly three decades.

Concern has been growing that the cute little rodents in the San Bernardino Mountains could be going the way of their relatives across the county line. Four years ago, the Center for Biological Diversity petitioned the U.S. Fish and Wildlife Service to take measures to protect them and preserve their habitat in the San Bernardino National Forest.

The requested protec-

tion would have consisted of listing the animals, known by their scientific names of Pteromyini or Petauristini, as endangered under the Endangered Species Act, such that it would be illegal to harm, trade or sell the squirrels or wreak havoc upon or in any way degrade habitat deemed critical to their survival.

Though the U.S. Fish and Wildlife Service



in 2012 made a finding that there was "substantial" evidence indicating climate change, development, domestic and



feral cats, and tree thinning were threatening the squirrel's habitat and range, it continued to temporize with regard to the request for listing. The Center For Biological Diversity on June 17 filed suit in San Francisco Federal Court to obtain a court order to have

the flying squirrel listed.

The life expectancy of flying squirrels in the wild is roughly six years. Young flying squirrels have a high mortality rate due to their vulnerability to diseases and predators, which include snakes, raccoons, owls, martens, fishers, coyotes, bobcats, and feral cats.

Flying squirrels are

nocturnal, largely because escaping birds of prey in the daytime is a challenge. Opportunistic eaters, they consume whatever food is available in terms of seeds, insects, slugs, snails, spiders, shrubs, flowers, fungi, and tree sap.

Flying squirrels mate in February and March and are typically born in a maternal nest site, where they remain protected. Males do not participate in nurturing their offspring. At birth, flying squirrels are hairless except for their whiskers, and most of their senses are not developed. Their

internal organs are visible through the skin. They are highly dependent upon their mothers during the first three to five weeks of their lives.



Within six weeks of birth they are fully developed and shortly thereafter will embark on leaping and gliding expeditions. After reaching the age of ten weeks, their gliding skills are refined and they will leave the nest permanently.

"If these amazing flying squirrels don't get Endangered Species Act protection, global warming could push them out of their last mountain refuge," said Shaye Wolf, the Center For Biological Diversity's climate science director. "The federal government needs to act before these unique animals disappear forever."



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Nigg said he was aware of current civil litigation in the San Bernardino County Superior Court, including Case No. CIVDS 1314931. Attorney Corey Briggs had alleged city attorney Jimmy Gutierrez acted improperly when he negotiated the terms of his law firm's contract with the city. Nigg alleges the contract not only contained a conflict of interest because the city attorney negotiated his own level of remuneration, but the contract created a financial conflict of interest for the elected officials of Chino whereby they were able to increase their compensation as elected officials paid in retirement

benefits and that these retirement benefits were not made available and paid to the other employees of Chino as required by law. "I believe the contract between the city attorney and the city was tailored and contained a unique benefit in which only the city attorney and the elected officials received the additional compensation," Nigg stated.

In the demurrer to the lawsuit brought by Briggs on behalf of the Inland Oversight Committee relating to Gutierrez negotiating his employment contract, the attorneys representing Gutierrez, his law firm and the city of Chino, Stephen Larson and Jon-

athan Phillips of the Los Angeles-based law firm Arent Fox, maintained no crime of any sort had been committed and that the lawsuit seeks to apply an impossibly impractical standard to the conducting of the city's business.

"Plaintiff The Inland Oversight Committee has brought a meritless and untimely claim for an alleged violation of Government Code Section 1090. Despite a complete lack of legal or evidentiary support, plaintiff contends that defendants Gutierrez, Fierro & Erickson, a professional corporation, and its individual attorneys, Jimmy L. Gutierrez, Arturo N. Fierro,

and James E. Erickson violated Section 1090 when they entered into an amended contract to continue serving as city attorney for real party in interest the city of Chino," the demurrer states. "In filing this frivolous complaint, plaintiff ignores the fact that California law permits government employees to negotiate the terms of their own employment, and fails to recognize the absurd real-world consequences that would otherwise result."

Nigg acknowledged that in terms of scale and monetary totals, the scandal that engulfed Bell was more egregious

Continued on Page 12

California Style Refresh For Summer

By Grace Bernal



This summer while picking your pieces, take the time to mix in a little bit of everything from a swimsuit to a romper. It's no secret we all love black and it's hard to stray from the color come summer time. Luckily, the latest fashion news is saying that



the color is in, making it a breeze to wear the



color for summer. Think floaty cotton and linen



fabrications, plus cut-out eyelet styles as you search for the lighter side of the wardrobe stan-

dard. Also, gaucho style pants are a new summer trend along with short and long rompers. When it comes to a swimsuit, the one piece and two piece are both popular this season. Midskirts



are a lot of fun this summer along with the summer maxi dress. Summer is a time for fun creativity, so get to mixing up your wardrobe. If you're shopping, look for pieces that will go with your



wardrobe, too. Summer is all about refreshing. Be creative this summer and stay cool.

"Fashion is about dreaming and making other people dream."
Donatella Versace

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DA Probe Of Chino City Council

from page 11

than the action involving Chino officials. Nevertheless, he said, he believed Chino officials had acted contrary to the interests of those who had entrusted them with the authority they are

wielding and that they had violated the law. "This may not be as big as what happened in Bell, but the same principle is involved," Nigg said. "They abused their positions of trust."

Nigg, who obtained documentation relating to the crimes he is alleging through a sever-

al-month long series of public records requests, has turned that documentation over to the San Bernardino County District Attorney's Office's Public Integrity Unit. He called upon the district attorney's office to pursue criminal charges against all five members of the city council rath-

er than merely seeking restitution and allowing them to remain in office. "I believe the acts they engaged in are violations of the official

duties of the Chino officials," Nigg said. "Under California laws, including Government Code §1770(h), if convicted in a court of law for the

alleged criminal violations, the law would require their removal from office as their positions become vacated."



Yucca Valley Changes Home Business Rules

from page 8

ance of the dwelling, or in such a manner as to cause the structure to be recognized as a place where a home occupation is conducted." No limitation is specified in the proposed ordinance as to the number of employees not residing on the premises who may work in a Class IV home occupation setting. No displays, sales, or advertising signs are permitted on the premises other than "one unlighted identification sign containing the name and address of the owner attached to the building not exceeding two square feet in area

per street frontage." The commission recommended that the home occupation permits, which currently must be renewed annually, be deemed operative for three years. The

commission also recommended that any recently granted home occupation permits which contained previous conditions of approval be updated with the new conditions.

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