

The San Bernardino County Sentinel

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

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Contentious Colonies Case Sent Once Again To Fourth Court Of Appeal

As was anticipated, prosecutors and the defense in the Colonies Lawsuit Settlement Public Corruption Prosecution are appealing San Bernardino Superior Court Judge Michael A. Smith's rulings this summer that variously dismissed some of the charges filed in the case and upheld others.

After defense attorneys earlier this year filed



Stephen Larson

a series of five motions that together sought the

dismissal of the entirety of the case against the four defendants, Smith during seven days of hearings in late July and early August made rulings that were favorable to both sides on various issues.

In the case, Rancho Cucamonga-based developer Jeff Burum, former Second District county supervisor Paul Biane, former assistant county



Dennis Fischer

assessor and one-time county sheriff's deputy

union president Jim Erwin, and Mark Kirk, former chief of staff for supervisor Gary Ovitt, are charged with having conspired in a bribery and extortion plot that effectuated a \$102 million settlement for Burum's company, Colonies Partners, LP, in November 2006. The payout of that money brought to an end a four-year duration lawsuit filed by the See P 7

RC Mayor Michael Makes Reelection Pitch



Dennis Michael

After 19 years as Rancho Cucamonga fire chief, six years as a city councilman and nearly four years as mayor, Dennis Michael is appealing to the city's voters to reinstall him as mayor for four more years.

He referenced a host of accomplishments during his tenure as mayor that he said recommend him for another term wielding the gavel of the third largest city in San Bernardino County.

"We've done some pretty incredible things in terms of creating safer neighborhoods," he said. "The number one priority under my leadership will be to continue the innovative crime fighting measures which have created one of the safest cities with a population of over 100,000 in the region. We have done video surveillance work to target specific areas. We purchased bloodhounds for use where we had break-ins. The bloodhounds helped us in apprehending those type of criminals."

He then referenced strides the city has made in fire safety during his watch. "We opened up a new fire station on Hellman Avenue off of Hillside," he said. "The primary objective of that facility was to reduce the fire hazard in our urban/wildland interface area. Combating wildfires has always been a strong pub- See P 2

County Alters Its Boating Code To Accommodate Lake Arrowhead Yacht Club

At the behest of the Arrowhead Lake Association, the county board of supervisors this week took a first step toward altering the county code to allow sail craft smaller than a dozen feet in length to navigate Lake Arrowhead.

Section 52.0204 of the San Bernardino County Code prohibits the use of

boats that are less than twelve feet in length on any county waterway except for the Colorado River, its tributaries and Lake Havasu.

At the suggestion of sheriff's captain Shannon Dicus, the board of supervisors took a first vote to amend Section 52.0203 to allow sailboats between seven and

twelve feet in length on Lake Arrowhead. The board is now scheduled to give a required "second reading" of the ordinance at its October 7 meeting. If approved then, it will go into effect 30 days later.

According to Dicus, "The Lake Arrowhead Yacht Club has utilized a twelve-foot sailboat

on the lake for many years to train the next generation of sailing enthusiasts. A seven-foot boat, the Optimist, has emerged as the leading sailboat trainer for youth. The Optimist is a small single-handed sailing dinghy intended for use by children and is one of the most popular sailing dinghies in the

world. Approval of this ordinance will allow this smaller class of sailboats to be used on Lake Arrowhead."

Rights to the navigation of and access to Lake Arrowhead have been in dispute for some time. The Arrowhead Lake Association, consisting of homeowners in the area, See P 9

Bunck Bucking The System In Apple Valley Council Race

Richard Bunck said he is running for Apple Valley Town Council because there is too much self-dealing among its current members.

"Two of the guys on there right now are doing business with the city," Bunck said. "Scott Nassiff owns Napa Auto Parts and he recuses himself when the city issues warrants but the others vote to give business to him. Larry Cu-



Richard Bunck

sack owns Apple Valley Communications and warrants have been issued by the town to his company. The See P 4

County Takes Back Portion Of Donut Hole From Redlands And Reapportions Taxes

A portion of land annexed by the city of Redlands inside what has become known as the "Donut Hole" has reverted to the county of San Bernardino. As a result, the county has revamped its tax sharing arrangement with the city of Redlands relating to the unincorporated pocket of county land surrounded by the city.

According to a report by county chief execu-

tive officer Greg Devereaux and his deputy, Katrina Turturro, which is dated September 23, "Tree Partners LLC, a developer, submitted a reorganization proposal to the San Bernardino county Local Agency Formation Commission in 2013 which, as revised, will detach approximately 34.22 acres from the city of Redlands and return the acreage to the unincor-

porated area known as the Donut Hole. The developer plans to develop five parcels of property in the Donut Hole area, consisting of two parcels currently in the city boundaries and three parcels in the county unincorporated area."

The Donut Hole is surrounded on all sides by the city of Redlands.

According to the report, on September 10, 2013 the board See P 3

County Boosts Environmental Engineering Firm's Contract From \$1.7M To \$2M For Chino Airport Solvent & Napalm Contamination Work

The county has increased the contract it has with the environmental engineering firm working on contamination issues at Chino Airport by \$290,000, taking the entire contract amount from \$1,695,880 to \$1,985,880.

According to James Jenkins, the director of the San Bernardino

County Department of Airports, the San Bernardino-based firm of Tetra Tech, Inc. has already been paid \$1,695,880 for historical site assessment, environmental site assessments, environmental compliance audits and the conducting of a monitoring program at Chino Airport.

On October 31, 1990, the Regional Water Quality Board issued Clean-up and Abatement Order No. 90-134 to the county of San Bernardino for suspected contamination of ground water beneath Chino Airport. At that time, it was thought that the groundwater had been contaminated due to past

usage of perchloroethylene/trichloroethene.

Perchloroethylene/trichloroethene were solvents that were commonly used in the aeronautic industry from the 1930s until the 1990s.

The county complied with the order by conducting activities at the Chino Airport to identify all potential

sources of contamination, characterizing identified source areas, remediating discovered soil contamination; characterizing ground water contamination; monitoring groundwater contamination; and mitigating identified groundwater contamination within the confines of the airport See P 4

Michael from front page

lic safety imperative in Rancho Cucamonga. A testament to my public safety commitment is that I have been given the endorsement of the firefighters and deputy sheriff's deputies."

Michael moved on. "We have implemented some very innovative pension control reforms," he said. "Employees have started to pay a portion of their share of their own pension contributions and we will keep ratcheting up the amount of their contributions for the next three years. Each year they will pay a little more toward their retirement. Under my leadership Rancho Cucamonga has attained what very few other cities in the region have attained. We no longer have a long term unfunded pension liability. We are one of only a few cities that can boast that."

He said that "Another aspect to being an

elected official at the local level is to make sure we have financial sustainability. Rancho Cucamonga has been very stable. Even during the economic downturn, we have been able to build our reserves and reduce costs. For the last three years, we did not use reserves to balance any of our budgets. When the state eliminated redevelopment agencies so the state could take more revenue from local government, we reduced our work force. Back in 2008, as opposed to 2014, we had twenty percent more employees. We now have twenty percent fewer workers than we did six years ago. By using innovative technologies and computer-based programs we are getting greater efficiency. That 20 percent reduction equates to about 110 employees that are no longer working in the city. At the same time we have increased citizen access and made more convenient applications for city services

through an on-line process."

Michael said that "We have done an outstanding job, in my view, in bringing new business to Rancho Cucamonga in the last couple of years, like Evolution Fresh, the manufacturer of Starbucks' juices; the Inland Empire Health Plan, which has brought its corporate and treatment offices into Rancho Cucamonga; and Falkentire, which located its corporate office in Rancho Cucamonga on Haven Avenue. A number of hotels have opened here in the last couple of years. These have been a godsend for us in the city. This has enhanced the quality of life because of the economic development this represents. We've done some pretty unique things, from my perspective, ones that are critically important to make sure we are bringing in employers who have high employee counts so opportunities for jobs in our city are there. We are

seeking commerce and warehouses that have Rancho Cucamonga as their point of sale. We have strived for economic development. Our economic development strategy has been updated from what it was eleven years ago when we had a redevelopment agency. We are continually looking at strengthening that process."

Michael continued in touting the city. "The city has done an incredible job in winning some regional as well as national recognition, such as that given to our library by the National Institute for Museums and Libraries," he said. "Our Healthy Rancho Cucamonga Concept was given a gold medal by First Lady Michelle Obama for its efforts to reduce childhood obesity. We were given the inaugural award from the Inland Economic Partnership for turning red tape into a red carpet because of the changes we made to our development review process.

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I am proud to be part of a city that sets goals and visions where employees can be comfortable taking risks and accomplishing positive change. As a city council we try to make sure that our aims and goals are laid out for staff and then we let them take care of business on a day-today basis."

Michael pointed out that he has recently been elevated to two leadership roles within the extra-governmental panels on which he serves.

He was elected president of SANBAG - San Bernardino Associated Governments - the joint powers authority to which the county and all 24 incorporated cities in San Bernardino County belong, which acts as the county's transportation agency. He was also made the second vice president of the California League of Cities. "I take this additional responsibility very seriously," Michael said. "Being on these boards makes me a more well informed official and allows me to stay close to things that may negatively or positively impact cities throughout the state. These are issues relating to the form of government that is closest to the people."

The major issues now facing the city, Michael said, consist of continuing economic development and the outward appearance of the city.

"We need to make sure we continue to create the opportunities to attract good quality high end businesses that employ large numbers of workers," he said. "We have to keep our eyes and ears open for new businesses to come into Rancho Cucamonga. We need to really focus on our landscape maintenance assessment districts. I hope the public will understand the importance of keeping our landscaping at a higher level. It is important that we use the limited resources we have to provide for the best emergency operations

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Glimpse Of SBC's Past

Albert White: Capable And Accomplished Founder Of Riverside County & Traitor To San Bernardino County

By Mark Gutglueck

Albert S. White was one of those figures from San Bernardino County's history who is most closely associated with that section of San Bernardino County no longer within its jurisdiction, i.e., Riverside County.

Indeed, though he was at one time one of San Bernardino County's elite and a member of its establishment, ultimately he proved a traitor to the county when he joined with the forces that saw Riverside County removed from it.

Though he resides in infamy in San Bernardino County, he is celebrated in Riverside County as one of its founders.

San Bernardino County, which was itself formed when it was de-annexed from Los Angeles County by a legislative act on April 26, 1853, was itself cut up in 1893, when Riverside County gained its independence.

Albert Starett White was born in Belfast,

Maine, in 1840. He moved to New York City while still a child. He was mercantilist there during his early manhood. Ill health forced him to leave the metrop-

resorts along the Pacific Coast. The coastal climate did him no good; indeed, it seemed to worsen his condition. He ventured inland, seeking a higher altitude and

than 400 people. He purchased 40 acres of land along what is now Magnolia Avenue. He returned to New York to settle his business affairs there and headed back to California, arriving in Riverside again in the fall of 1876.

With zeal, he undertook the improvement of his barren ranch property, planting there the choicest varieties of fruit trees and vines which he had brought with him from the East Coast.

He established himself as an expert horticulturist and built up one of the most productive nurseries in the small Riverside colony.

Together with a man with the last name Rudisill, Albert White organized the first citrus fair in Riverside. That effort proved a success and he undertook a fundraising campaign to build a suitable structure in which to hold future fairs.

The Citrus Fair Association and the erection of a pavilion was the result of his labors and in all succeeding expositions Mr. White was the leading principal, de-

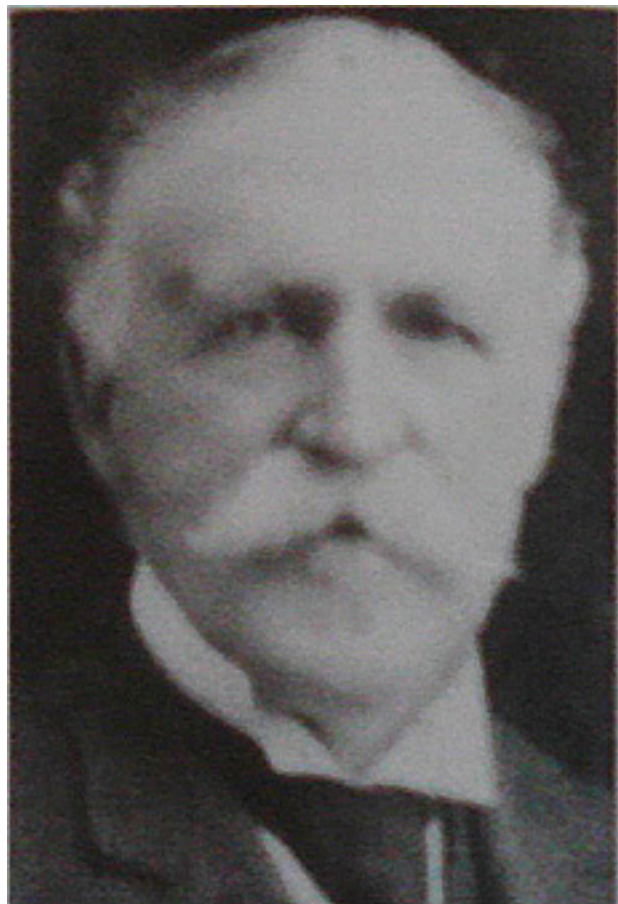
voting time, energy and money to the fair's advancement and success.

Among the endeavors he devoted himself to were the building of the Universalist Church and the Arlington School House. He was a founder of the Library Association and was a library trustee for many years. He had a leading role in the construction of the Carnegie Library Building. White was also the organizer of the Citizen's Water Company and its successor, the Riverside Water Company, and he served as a director on each board and as president for one term. He was for several years the vice-president of the Riverside Land Company and was a director at the time of his death. White was one of the original incorporators and directors of the Riverside and Arlington Railway Company. When the State Board of Horticulture was organized, he was appointed to that board for two years by Governor George Clement Perkins as the representative from Southern California. White was for

four years a trustee of the city of Riverside and for part of that time was president of the board and acting mayor.

In 1887, Mr. White associated himself with Frank A. Miller and entered the real estate and insurance business, in which his firm enjoyed a great success. He was one of the promoters of the Riverside Improvement Company, which, conversely, proved a disastrous failure and his reserves were seriously eroded in trying to make good that enterprise's indebtedness. One of his most successful enterprises and one which recouped for him some of his previous fortunes, was the White's Addition Subdivision. White was the pioneer on the east side of the canal, having realized early on the great potential for the development of that section of the city. His addition to Riverside, comprising eighty acres originally owned by the North family, was one of the means by which the borders of the city were

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Albert Starett White

olis for a more moderate climate. In January 1876 he crossed the continent and sampled several of the well known health

drier climate. Riverside suited him well. He spent the entire winter there, regaining his strength.

At that point, Riverside numbered fewer

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Donut Hole from front page

of supervisors adopted a resolution that approved the property tax revenue amounts to be transferred as a result of the pending reorganization and approved two letters of intent, one which related to the apportionment of sales and use tax and the provision of certain municipal services to the reorganization area, and one letter which entered into an agreement with the city of Redlands for the apportionment of certain property tax revenues. The city of Redlands adopted a similar resolution which also approved both letters of intent.

In order for the Local Agency Formation Commission to issue the cer-

tificate of completion for the property involved, the county and the city must amend the sales and use tax agreement and approve an agreement for the apportionment of certain property tax revenues, pursuant to terms outlined in the letters of intent.

According to Devereaux and Turturro's report, the amendment of the county's contractual commitment to the city of Redlands "provides for apportionment of sales and use tax revenue to fund the provision of certain municipal services within the unincorporated area commonly known as the Donut Hole. This contract was approved on August 12, 2003 and established a sales and use tax sharing agreement between the county and the city

allocating 90% of sales and use tax revenue to the city and 10% to the county. In return for the sales tax sharing agreement, the city committed to provide fire protection, law enforcement, retail water service, and wastewater collection and treatment services."

Upon Devereaux and Turturro's recommendation, the board of supervisors this week approved an amendment to the county/city contract to add the reorganization area to the boundaries of the Donut Hole, as defined in that agreement, thus ensuring adequate municipal services to the reorganization area.

"Approval of the property tax sharing agreement with the city will provide that the city will receive 35% of the county general fund

share of property tax revenue generated by the developable acres within the five parcels proposed to be developed by the developer," the report states. "This 35% is proportional to the acreage of the two parcels currently in the city's boundaries to all five parcels proposed for development. In return, the city will provide maintenance for the roads and streets immediately adjacent to the two parcels currently in the city's boundaries. This agreement will terminate if all the parcels remain vacant five years after execution of the agreement."

The arrangement was reviewed and signed off on by deputy county counsel Michelle Blake-more.

Bunck from front page

other members of the council are going along with this. Town politics has gotten corrupt. We need a mindset change. Every politician makes political promises. I will make a very specific political promise. I will not take money from the city. I am a contractor. I won't bid on any jobs with the town. My brother who is also a contractor will not bid on any jobs with the town. I will have no self interest in what will come before the council. I can go onto the council knowing it won't affect my life. I will have no vested interest in the votes I make."

Dealing with the regional water shortage and reducing the pricing structure on water is a basic challenge Apple Valley needs to address, Bunck said.

"Water rates are a big issue in Apple Valley," he said. "It has become a political football. People understand they are paying high water rates, so some city officials are talking about buying the water company. I don't know if that is the best option. There is a history of cities taking over water companies and then the rates go up, not down. I think a better approach would be a consumer-owned utility company as opposed to the town owning it."

Bunck was critical of the town's rush to take money from the state and federal government in conjunction with accompanying mandates that he said are disadvantageous to the town and its residents.

"Town council members should be dedicated to stopping the quality of life from deteriorating in Apple Valley," he said. "One problem goes back to the town getting money in block grants or carbon tax and other federal programs where we end up having to let a lot of low income housing into town or we have to build things that eventually turn into low income housing. The city has opted to take the money as opposed to saying no

to the federal government. The federal government does not offer money without strings being attached. They are saying, 'If you want this money, then you have to have these programs.' If you are going to be on the town council, you have to look after the quality of life of the town first. It is an easy thing to take the money, but once you take the money, they inform you about the strings. Those strings take the quality of life down. This is an underground issue that people don't talk about to the council, but they have told me about it. I say if there is a program that will give the town money but it is going to cause things to deteriorate and bring down the quality of life, increase crime and cause other problems, then the town should have the guts to say no. Everything is not based on money. Some things are more important than money. Some of our council is ready to sell out the town for money. They will trade the money for having more low income housing. That is wrong thinking, the wrong mindset."

Bunck continued, "People always talk about generating tax revenue. I am all for funding the town, but the conversation should be about how do we get money into the city's coffers without strangling the taxpayer. Out of every dollar a taxpayer makes, in the end he pays sixty cents of it in taxes. Either income tax or sales tax or gasoline tax or other taxes. And when the taxing ends, the fees start. You pay fees to the city. That is just another form of tax.. To me it is double taxation."

The solutions to the challenges and issues facing the town, Bunck said, are elusive and will require patience and focus.

"It's hard to turn the clock back on something already done," he said. "Some things are very hard to change, but you can certainly not continue down that road. You can put the brakes on. With regard to the wa-

ter issue, the city should facilitate what the best solution is. What I would do is expedite forming a citizen owned water agency or company. That is better than having the town own it. We can stop taking federal grant money if the strings are unacceptable. We can pass an ordinance that no one on the council can do business with the city and no one in their family or the companies they work with or own can do business with the city. This is going to require a mindset change. I realize if I get elected I might be a lone wolf on there, but if I get elected I want the town's citizens to help me put pressure on the other council members to make those changes. I believe in heavy citizen involvement in government."

Bunck said there is something akin to religious fervor in his candidacy.

"Christians and Catholics talk about having a calling," he said. "I have a calling to be on the town council. I don't relish being a big fish in a small pond. I want get on there so people will be allowed to come to the council and say what is on their minds. Right now you can't address the town council and have them respond.

You can address them, but it is a meaningless exercise. People are frustrated about it. The current council is doing things that are not popular among the electorate. A big fancy Town Hall building may look good but if you go down to the other end of town, what is it like there? People tell me they are paying \$700 a month for water. That is obscene. I have been a businessman. I have dealt with numbers and budgets. From that viewpoint I can look at what the town is doing and see the problems. I have the background for that. What distinguishes me from the other members of the council is I have the courage to make decisions that are in the best interest of the town by not taking money. I will be one of the people opposed to the gravy train. Scott Nassif has been on the council for four terms. He is like the career politicians in Sacramento and Washington, D.C., getting things for himself. He has the inside track, flying around in planes and going to parties and he stays in office and people are frustrated and they have given up. I am not giving up. I say we get rid of the politicians who maybe when they started out had the right inten-

tions but now they've been on the gravy train so long they are hurting the people who elected them."

Bunck grew up in Downey and graduated from Pius X High School. He majored in

economics at the University of California at Irvine. He is an electrical contractor in California and a general contractor in Nevada. Divorced, he has two grown children.

Chino Airport Contamination Engineering Bill from front page

grounds.

On October 17, 2006, the San Bernardino County Board of Supervisors approved a \$200,000 contract with Tetra Tech, Inc. to conduct a groundwater assessment of the water table at the Chino Airport and investigate possible sources of contamination from the airport property. On September 11, 2007, the board approved a \$200,000 amendment to extend the assessment services, including investigation, characterization, testing and quarterly report preparation required to identify and mitigate soil and water contamination together with preparing bid documents for an additional 24 months. The county received a new clean-up and abatement order from the water board in June 2008.

That order required the county to conduct investigation, containment and mitigation of volatile organic compounds (VOC) down gradient of the Chino Airport.

In 2008, the county installed nine monitoring wells on and adjacent to Chino Airport to assist in the vertical characterization of the suspected contamination plume.

On September 22, 2009, the board approved a \$185,000 amendment to extend the assessment services with Tetra Tech an additional 12 months to continue its efforts.

In 2010, the county installed 10 additional monitoring wells on and adjacent to the Chino Airport to assist in the horizontal characterization of the VOC impacted groundwater plume.

The game changed when on the afternoon of July 22, 2010, during trenching for installation

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Martinez Looking To Pick Up Where Paulitz Will Leave Off In Montclair



Trisha Martinez

Trisha Martinez said she is running for city council in Montclair

“because I want to keep Montclair a good place for children to play and I want to keep the economy going forward and moving ahead.”

Montclair has been among the most politically stable of San Bernardino County’s 24 cities over the past decade. Its council lineup of Mayor Paul Eaton and council members Bill Ruh, John Dutrey, Leonard Paulitz and Carolyn Raft has held steady over

the last several election cycles. Paulitz has opted out of seeking reelection this year, meaning that for the first time in a half generation, the Montclair Council will swear in a new member in December.

Ruh is seeking reelection. Among those seeking election are Josie Garcia, Sean Brunske, Benjamin Lopez, Richard Beltran and Martinez.

Brunske and Beltran

vied for election two years ago but were unsuccessful. They were backed by the city’s public safety employee unions and a contingent of city employees who were unhappy with the economies imposed on city workers by city manager Ed Starr during the deepening recession that hit the nation, state and region that began in 2007 and continued for the next half decade.

The current council

backed Starr in his formulation of a plan to deal with the city’s fiscal challenges, which included staff reductions and further reductions in benefits provided to surviving city workers. Brunske and Beltran were unable to capitalize on the support of city workers to actuate effective campaigns to dislodge either of the incumbents then up for election, Dutrey and Raft.

Martinez is seen as

having an approach consistent with the city’s current council.

A major plank in her platform is ensuring the city’s passage of its soon-to-be-revamped five year strategic plan as it has been refined by top management at the guidance of the council.

“The major challenge we are facing as a city is the loss of our redevelopment agency, like

Continued on Page 6

30 Years As Commissioner Qualifies Him For Council In Colton, Prieto Says

After 30 years on the Colton Planning Commission, Richard Prieto is seeking voters’ approval to transition to the city council.

With councilwoman Susan Oliva having chosen not to seek reelection as District 4 councilwoman, Prieto is running to fill the void. Luis Gonzalez is also vying for the seat.

“I have been a commissioner for 30 consec-



Richard Prieto

utive years,” said Prieto. “In that time I’ve worked with all of the different council members, eleven

city managers, several city attorneys and all the different department heads. I was able to work with all of them at all times. With the 30 years of experience I have gained I believe I can get into City Hall and show what I can do.”

Colton’s major issue is economic development, Prieto said, and the biggest challenge is “bringing more business here. We are getting a

new Starbucks. LA Fitness is opening. More homes are being built in the La Loma Hills. That’s a start. Hopefully, if I am elected, I can convince businesses to come here. We are the hub of the Inland Empire. We have land that is right up against the freeway. With our economic development program, we can offer them good deals. It is a little bit harder now that we have

lost our redevelopment agency to the state. But I am sure we can do it by offering these companies economic incentives to come here.”

Prieto said he is qualified to serve on the council by “the fact that I have thirty years’ experience in city government and I know my district. I have been in my district my whole life. Anyone can say they know what it takes to represent this

district and Colton, but I have been a planning commissioner for thirty years, looking at housing and zoning and development of all sorts. I am well aware of the things that are going on in the city. I am on top of the issues that could bring in more development.”

Moreover, Prieto said, he embodies the right attitude when it comes to

Continued on Page 6

McHenry’s Yucca Valley Platform Includes Water System & Old Town Upgrades

Charles McHenry is running for Yucca Valley Town Council, he said, “because I love the community and with everything going on I thought I’d step forward.”

There are many issues the city faces, McHenry said, and he adjudged the demands being placed upon it by the State’s Water Quality Control Board as the most critical.

Ten years after its No-

vember 1991 incorporation, Yucca Valley was notified by the California Regional Water Quality Control Board that the lack of a sewage treatment system had resulted in nitrates accumulating in the water table. Simultaneously, the Hi-Desert Water District, which serves the Yucca Valley community, experienced nitrate traces in district wells. In 2007, the California Regional



Charles McHenry

Water Quality Control Board declared Yucca Valley as a top priority for eliminating the use of

septic systems. In 2011, the town was firmly informed that it had only five years to take a definitive step toward water quality compliance, and the Regional Water Quality Control Board imposed three progressive phases of septic discharge prohibitions on Yucca Valley. Under the state mandate, phase 1 of a wastewater system must be completed or

significantly on its way to completion by May 19, 2016 or enforcement action will be initiated. The first phase of the project is to cover the downtown area of Yucca Valley, the area most proximate to the heart of the groundwater basin. Similarly, phase 2 must be completed or nearly completed by May 19, 2019 and phase 3 must be completed by May 19,

2022. The last two phases lie further out where future concentrated development is most likely to occur.

“I’d like to take care of the big sewer issue that is coming, get a plan in place and get it moving forward,” McHenry said.

McHenry acknowledged that “it is going

Continued on Page 6

Filippi Says Upland Must Up Its Reserves, Recover Financially & Stay Safe

Gino Filippi said he is seeking reelection to the Upland City Council “to promote financial stability and protect Upland’s quality of life through a balanced budget that will work to rebuild emergency reserves, promotion of policies designed to both attract and retain businesses and responsible management of our public services in order to ensure dependable public safety.”

Filippi said the major issues facing the city include revamping its financial circumstance,

rebuilding reserves, economic development, maintaining public safety, pension reform and addressing the large number of homeless people within city limits.

Financial revitalization can come, Filippi said, by the city adhering to “a financial recovery plan was drafted and presented by (former) City Manager Stephen Dunn. The plan was reviewed and endorsed by a 10 member Fiscal Response Task Force Committee.”

Filippi said, “I am

focused on keeping established businesses and attracting new business to grow sales tax revenues within the city. Last year, the BIA (Building Industry Association) recognized the City of Upland’s efforts to improve customer service with an award of excellence. Over the next 12 months Upland will experience continued retail sales growth at Colonias Crossroads, new housing developments along the Foothill corridor and near Upland’s Metrolink Station and historic



Gino Filippi

downtown.”

Filippi, who has been in office since 2010 and has had support from the city’s various employees’ unions, including the Upland Police Officers Association, was

less optimistic about the city’s ability to deal effectively with one of its gravest financial challenges, that is, its unfunded pension liability, the product of what many officials now recognize as overly generous commitments to city employees with regard to their retirement benefits. The pension problem consists not just in the size of the pensions themselves, which in many cases will exceed \$100,000 per year to city retirees for the rest of their lives, but the consideration

that the employees are not contributing anything toward those pension plans themselves. Rather, the pensions are funded entirely by the city’s taxpayers, who pay the city’s contribution and what years ago was considered to have been the employees’ contributions. At present, the pension costs represent over \$6 million of the city’s \$39 million annual general fund budget. That cost is growing. For the city to buy its way out

Continued on Page 7

McHenry
from page 5

to be expensive.” He said that technically, the town is not the lead agency with regard to the construction of the water treatment system.

“The water district has to take care of that and the financial burden,” he said, “unless the town decides it wants to take over for the district.

I am not in favor of the town putting out a tax measure, as I don’t think it would be a good idea at this time. Maybe down the road. But I think the town can apply for grants and work to help the water district. They should do that to see the project gets done. The town and the district need to work closely together to make this smoother and easier for the town’s citizens.”

A secondary issue,

McHenry said, is revitalizing Old Town Yucca Valley.

“I’d like to see it a little more developed,” he said. “There is infrastructure that needs to be taken care of. There are a lot of people in town whose voices are not being heard. The town council needs to talk with the business owners to find out what the Old Town area business owners want. The

council is not listening to them. I have. There are a lot of tourists who come through town who do not see our Old Town area. We could bring money in here rather than it going to the next town down the road.”

McHenry, who has served on Yucca Valley’s general plan advisory committee and its traffic commission, said he believes he is qualified to serve on the city coun-

cil in that “I have served on a civic committee and commission and the boards of nonprofits in Yucca Valley and worked well with people. I have voted for things that passed and did not pass. I know it doesn’t have to be my way. It has to be best for what is in the town’s interest. I am an average citizen of the town. I am used to living with the things here, like the other voters. Some-

times the right choices aren’t always the easy ones.”

McHenry grew up in the Sacramento area and attended American River College. He served for six years in the Navy. He works for the U.S. Marine Corps as a civilian employee. He is married with two children.



Prieto
from page 5

representing his fellow residents.

“I listen to the people,” he said. “A lot of people have had some issues and they have brought

them to me. I have responded to their needs. I will continue to have an open door policy and will respond to them, so they can be comfortable in the knowledge that I care about them. I am going to make my cell

phone number public. You can deal with me on a one to one basis. I will have my email address published. The people of District 4 can write to me about their concerns. I am not elected yet, but I want people to know

that if I am elected I will let them know everything about the city and its decisions and action that I can. I am not going to make promises I cannot keep but I will tell the people of Colton the truth, whether they like

to hear it or not.

A 1967 Colton High School graduate, Prieto served in the U.S. Army. After his discharge he worked at Bendix homes as a lead worker in the cabinet shop. He was later a car man with the

Southern Pacific Railroad, worked in the Parks Department with the city of Rialto, and was a delivery driver with Seven-Up and Yellow Freight Systems. He is married with four children.



Martinez
from page 5

every other city,” she said. “Even though we are coming off that loss, thank goodness we have a good city manager who kept our heads above water. We have a \$25 million budget with \$4 million in reserves. One of our greater challenges is keeping someone from getting elected who would oppose or change

the strategic plan. If someone who is not a team player gets elected who doesn’t understand the necessity of moving forward, one mistake could cause us a problem and end up costing the city millions of dollars. I am the only one running other than Bill Ruh who understands the importance of going forward with the strategic plan. The others have not been involved. They started attending the city council meetings

after they decided to run for the council. I have been attending the meetings long before I even thought of running.”

Martinez made an oblique reference to the tension underlying the surface at City Hall involving past layoffs and the reduction of city employee benefits.

“When we lost our redevelopment agency, our employees had to start paying their own pension contributions,” she said. “That created a lit-

tle bit of animosity. They are now paying their share. We are recovering financially as a city and are moving forward. Perhaps [the employees covering their own pension costs] is an issue in the minds of those who were reluctant to pay. I don’t want that to interfere with the camaraderie of Montclair. I see that everybody is willing to keep sacrificing to make Montclair a good city. In the 24 years I have lived

in Montclair, there have been ups and downs, but the people are still there very strong in their sense of community. One minor challenge that we might still have some employees who are still bitter and that could affect their morale. I pray for them every day. As the city’s finances get better, we might be able to compensate them for the sacrifices they are making.”

On her ballot designation, Martinez is listed as

a community volunteer.

She has been active in the Ontario-Montclair Junior Women’s Club, including its Eastern Extravaganza event and its annual scholarship program. She is also the liaison between Our Lady of Lourdes Catholic School and the Montclair Chamber of Commerce.

“I want to give back to the community,” Matinez said. “After it became known Leonard Paulitz wasn’t going to run, people approached me and asked if I would use the opportunity to run. I have been active in several community based organizations, including working with senior citizens and I was concerned there might be a conflict. I asked the city manager about it and he consulted an attorney. He called me back a few days later and said, ‘You’re good to go.’ I am running because I believe I am qualified. I am informed. I am ready to make a difference. I want to make this city better for our children. I am ready to go ahead with Montclair’s five-year plan.”

She attended high school in Anaheim and Oregon. She studied at Chaffey College and USC and California Southern University. She is married with two children.

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Filippi from page 5

of the California Public Employees Retirement System, it would have to pay out over \$90 million. “Unlike the private sector where pension and/or salary schedules can be changed at any-time for work not yet performed (except for new hires not yet under contract) the public job in California is protected by law that can only be changed by a vote of the people at the ballot box,” Filippi asserted. “This is a concern for most all cities. Upland has however made changes in how services are delivered and has entered into new agreements with both employee groups and private firms which have resulted in savings of nearly 3 million dollars over the past 12

months. This is a work in progress and will continue to be perused.” Filippi said he is committed to “maintaining responsible public safety.” He said, “As in many cities throughout our county, we have experienced increased calls for police, fire/paramedic, and public works services in the midst of state takeaways, budget cuts, and lingering effects of the recent recession. I remain dedicated to ensure responsible management of our public safety services in order to protect our quality of life and promote financial stability. I understand that Upland residents and businesses embrace having their own police and fire/paramedic services.” Filippi said, “Upland finds itself as one of our County’s leading populations of homeless.

Our city has limited resources available to assist those that are truly in need. Local outreach and faith-based organizations are also having difficulties and this coupled with the cutbacks in services and funds from the state and federal government has only made the situation worse. I am concerned with the criminal element that takes advantage of and victimizes defenseless women, children and men that cannot care for, or protect themselves. Personally, I believe we need to focus more on the newly homeless and helping them and I continue to work toward this effort.” He merits being re-elected, Filippi said. “Since first being elected as the reform candidate to City Council in 2010, I have worked

diligently on behalf of residents and businesses making difficult budget and policy decisions while remaining focused on keeping our neighborhoods safe and demanding fiscal responsibility. I not only bring a business approach to City Hall, I understand local government from the vantage point of both a resident and a business owner who has worked extensively with government on private/public projects. Partnerships and outsourcing of some services is good sense for a city the size of Upland.” Filippi concluded, “Unlike many politicians I am always willing to listen and handle my constituents concerns without delay. I’m easily accessible and work hard to bring timely results. Whatever the case may be, I lead, correct, or

advise to resolve problems.” Colonies Case Rulings To Be Reconsidered By Appellate Court from front page Colonies Partners over flood control issues at the Colonies at San Antonio residential and Colonies Crossroads commercial subdivisions in northeast Upland. Prosecutors allege Burum, using Erwin as a consultant, threatened and coerced former supervisors Bill Postmus and Paul Biane to settle the lawsuit and bribed Kirk to influence Ovitt to support the settlement. After the \$102 million changed hands, prosecutors maintain, Burum rewarded Postmus, Biane and Kirk with \$100,000

donations to political action committees they controlled. Postmus pleaded guilty to all 14 counts contained in an earlier indictment that was based on what was basically the same recitation of facts and alleged overt acts as contained in the indictment of Erwin, Burum, Kirk and Biane. After his guilty pleas were entered, Postmus served as a star witness before the grand jury that indicted the other four. The case has been sharply contested since its inception. After the 29-count indictment was handed down on May 9, 2011, defense attorneys filed demurrers challenging the sufficiency of the case on a host of le- Continued on Page 8

Michael from page 2

possible and have everything our police, fire department and animal services need. We cannot take our eye off the ball with regard to fiscal sustainability for our city. Just coming out of the recession, we received a

higher credit rating than we had ever received in Rancho Cucamonga. I am personally proud of that. We are not raiding our reserves like other cities. We have a general fund that is protected and provides the services the public deserves. We have a line item for

adding \$600,000 to our rainy day reserve fund. I am pretty happy about all of that. We continue to have top notch parks and libraries and amenities the public has come to appreciate.” He is the son of the late Lloyd Michael, a citrus grower in Rancho

Cucamonga who was also the general manager of the Cucamonga County Water District, and served on the boards of the Alta Loma Elementary School District, the Cucamonga County Water District and the San Antonio Hospital Foundation.

A life-long resident of Rancho Cucamonga, Dennis Michael attended Chaffey College. He began as a firefighter with the Foothill Fire District, the processor to the Rancho Cucamonga Fire Department, in 1976. He promoted through the ranks to engineer, cap-

tain, battalion chief, and division chief. He was appointed Fire Chief in 1984, and he held that position for nineteen years until his retirement in December 2003. With his wife, he has two children and five grandchildren.

Chino Airport Contamination Engineering Bill from page 4

of a storm drain pipeline for a new Southern California Edison facility, the first three of what turned out to be 51 drums of what is believed to have been napalm were discovered to have been buried at the airport. The

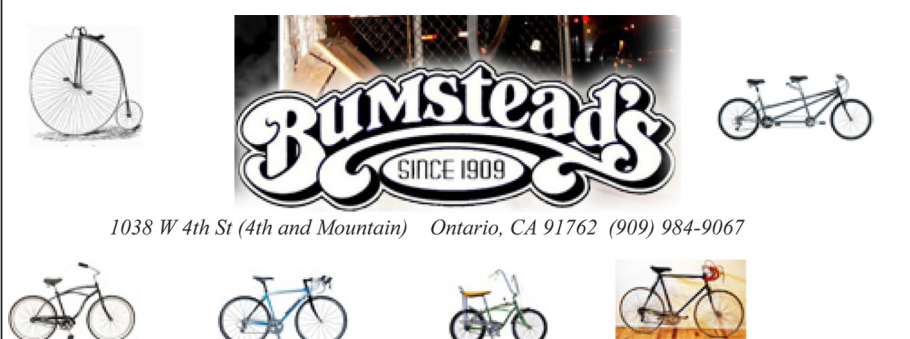
county of San Bernardino Department of Airports was notified and it contacted the county fire department’s hazardous materials division and Tetra Tech. Tetra Tech retained Double Barrel, a commercial hazardous materials emergency responder, to assess the situation. Additional drums were discovered that day and by sunset on July 22,

2010, eight buried drums had been removed from the excavation. The drums did not have lids and contained soil on top of a tan resinous material. The contents of the drums were field tested using a chemical identification kit and determined to be a non-explosive, flammable, non-corrosive, organic resin-type material. Soil samples were de-

livered to Microbac Laboratory in Riverside for analysis. Microlab determined the drums contained high concentrations of benzene together with lesser amounts of toluene, ethylbenzene, xylene, styrene, 1,2,4-trimethylbenzene, and naphthalene, leading to the conclusion that the tan resinous material was a jellied fuel mixture, most likely napalm. In all, 51 barrels were unearthed. In 2013, the county increased its contract with Tetra Tech, Inc. to \$1,695,880 and extended it through April 30, 2015. This week, Jenkins told the board of supervisors that Tetra Tech has essentially completed work that exhausts its previous contract allotment. He asked the board to appropriate another \$290,000 to “provide additional funding necessary for the continuation of engineering, testing, monitoring well

installation oversight and inspection services resulting from the characterization of a plume of perchloroethylene/trichloroethene (PCE/TCE) contamination extending south of the Chino Airport.” Based upon Jenkins’ report to the board of supervisors, it is not clear whether there has been any cross-contamination involving the perchloroethylene/trichloroethene and the napalm. His report referenced only the perchloroethylene/trichloroethene contamination. “The groundwater is suspected to have been contaminated due to past usage of PCE/TCE,” Jenkins wrote. “The county has complied with and continues to comply with this order by conducting activities at the airport to identify all potential sources of contamination; characterize identified source areas; remediate discov-

ered soil contamination; characterize ground water contamination; monitor ground water contamination; and mitigate identified ground water contamination within the confines of the Chino Airport, located at 7000 Merrill Avenue, Chino.”



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Colonties Case Appeal from page 7

gal, factual and technical grounds. In August 2011, Judge Brian McCarville granted several of those demurrers, throwing out a number of the charges. The prosecution appealed McCarville's ruling to the Fourth District Court of Appeal, a move which was matched by defense attorneys, who asserted that McCarville should have dispensed with even more of the charges than he actually did. The Fourth District Court upheld McCarville on all but one of his rulings favoring the defense and, in addition, threw out even more of the charges. Prosecutors then filed a last-minute appeal of the Fourth District Court's ruling with the California Supreme Court.

After a year-long delay, the Supreme Court reinstated the charges and sent the matter back to the trial court. It was at that point that the several motions for dismissal were put before Smith.

At the heart of the case was a single conspiracy charge against

each of the defendants, upon which the primary narrative of the case was hinged, including 43 overt acts. Defense attorneys, led by Burum's primary counsel, former federal judge Stephen Larson, sought to derail the case by having the conspiracy element dismissed, based upon statute of limitations grounds. Larson in his court papers asserted that conspiracy charges are subject to a strict three-year statute of limitations rather than the four years alleged by the prosecution. Because the last overt act of the conspiracy, that is, the final delivery of the alleged bribe money in the form of the contributions to the political action committees, occurred in June 2007 and the indictment did not come until May 2011, Larson posited that the statute of limitations had been exceeded.

Prosecutors countered that because one of the acts alleged in the conspiracy involved government fraud, the statute for which is four years, the criminal case did not fall outside the statute of limitations. Smith

sided with the defense on that question. Smith made another ruling favorable to the defense, dismissing twelve other charges in the case, likewise on statute of limitations grounds based on arguments that the victim, i.e., the county and its officials, knew of or had strong grounds to suspect as early as 2006 that the illegal activity described in the indictment had taken place, thus making the May 2011 indictment too late given the three-year statute of limitations. Smith did, however, give the prosecution the opportunity to amend the complaint to clarify that both law enforcement officers and county officials had no substantial indication that the alleged crimes had occurred until November 2008. Prosecutors in August availed themselves of that option by filing an amended indictment with that clarification, preserving those charges.

Smith then heard several of the other motions for dismissal, the grounds for which included lack of probable cause, jury misinstruc-

tion, prosecutorial misconduct in having raided the defense camp and seizing privileged materials crucial to the defense, along with prosecutorial and investigator misconduct in having made misrepresentations to obtain search warrants and hiding information about a witness from the grand jury. Smith denied those motions, allowing that portion of the case relating to misappropriation of public funds – Penal Code Section 424 – to proceed, as well as sustaining the charges of tax and perjury against Erwin that were based upon his not having properly reported having received gifts from Burum. Smith did dismiss another set of perjury and tax fraud charges against Erwin, Biane and Kirk relating to the contributions to the political action committees they controlled, ruling such political donations cannot be considered income to the founders of the political action committees (PACS) or those in control of them. Smith also dismissed conflict-of-interest charges against Burum

and Erwin, reasoning that Burum was never a public official and Erwin was not a public official at the time of the alleged crimes.

In all, Smith left standing 18 of the original 29 charges in the indictment. This created a delicate stand-off between the prosecution and defense. Larson and the other defense attorneys – David Goldstein, representing Biane; Raj Maline, representing Erwin; and Paul Grech, representing Kirk – simultaneously succeeded and failed. They had achieved victory by getting the most serious charge – that pertaining to conspiracy – thrown out. But nearly two thirds of the case against their clients remained intact. At the other side of the table, Supervising Deputy California Attorney General Melissa Mandel and San Bernardino County deputy district attorneys Michael Abney, Lewis Cope and Reza Sadeghi were acutely aware that the dismissal of the conspiracy charge severely complicated their efforts, in that the dis-

missal erased a multitude of overt acts from the indictment upon which much of the case is based. The dismissal of the conspiracy charges and the narrative attached thereto rendered the job of convincing a jury of the guilt of the defendants on the remaining charges very difficult.

The question that ensued was whether the prosecution team would satisfy itself with proceeding with the eighteen charges Smith indicated had some order of merit or whether it should dig in even further and seek to revive the conspiracy count by means of an appeal. A consideration in this decision was that there simultaneously exists for the defense what in legal parlance is referred to as "writable" issues with regard to Smith's sustaining of some of the other charges. By appealing Smith's ruling on the big charge on which it had lost – the conspiracy charge – the prosecution would invite the defense to appeal Smith's deci-

Continued on Page 9

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Colonties Case Appeal from page 8

sion on the charges on which the prosecution had prevailed.

Recognizing the prosecution was leaning toward just such an appeal, Larson, working in conjunction with Dennis A. Fischer, who is considered one of the leading appeals attorneys in the state of California, began authoring a writ of prohibition and a writ of mandate on Burum's behalf. On September 16 the writ of prohibition was filed with the Fourth Court of Appeal in Riverside. On September 19, prosecutors filed notice of an appeal with regard to Smith's July 23 ruling dismissing the conspiracy element of the case. This week, Larson and Fischer were preparing to double down, putting the final touches on the writ of mandate.

County Accommodates Yacht Club from front page

claims the shoreline around Lake Arrowhead is privately owned by the Arrowhead Lake Association and is exclusively reserved for the benefit of the residential property owners of Arrowhead Woods.

The precise substance of the prosecution's appeal has not been disclosed, as only the notice of the appeal has been filed. According to the court record, it is Smith's "7/23/2014 order sustaining defendant's demurrers to Count 1 [i.e., the conspiracy charge] of the indictment without leave to amend and the 8/25/2014 order sustaining defendants demurrers to Count 1 of the first amended indictment without leave to amend" that is the subject of the appeal.

Because the defense had filed the writ of prohibition, the language in it is publicly available.

In the writ of prohibition, Larson and Fischer asserted "All criminal charges against Mr. Burum should have been dismissed for lack of probable cause. The trial court agreed with [the appellate court in one of

its previous rulings] that the alleged bribery could not alone render the settlement 'without authority of law.'"

In particular, according to Larson and Fischer, "The trial court should have dismissed misappropriation of public funds charges against Mr. Burum" because, they argued, the prosecution failed to properly lay the foundation for crimes of that nature, which are prohibited under section 424 of the penal code, and because such crimes must necessarily involve intent, an element of the crime the defense attorneys say was not present. "The trial court mistakenly held that the People's admitted failure to instruct the grand jury on the intent element of Section 424 was harmless error," Larson and Fischer maintain. "The factual record did not support a finding of probable cause as to the Section 424 charge."

Furthermore, the writ resurrected the defense's contention, which was rejected by Smith, that the prosecution failed to establish probable cause with regard to the charges that Burum facilitated Postmus, Biane and Kirk in the reception of bribes. In legal parlance,

a so-called 995 motion is a request that the court dismiss criminal charges based upon the contention that there was insufficient probable cause to obtain an indictment.

"The trial court erred in denying Mr. Burum's 995 motion to dismiss aiding and abetting bribery," the writ of prohibition states. "The trial court erred in finding sufficient evidence to establish probable cause of Mr. Burum's intent to aid and abet the receipt of a bribe. The trial court erred in failing to dismiss all charges against Mr. Burum based on the People's failure to properly instruct [the grand jury] on the alleged tolling of the statute of limitations. This material instructional error should have resulted in dismissal of all counts against Mr. Burum."

The writ of prohibition disputes the prosecution theory that Postmus and Biane, by voting to approve the settlement, were in effect diverting money from the settlement to themselves.

"In denying Petitioner Jeffrey Burum's motion to dismiss the indictment pursuant to Penal Code section 995, the trial court disregarded California case law," Larson and Fischer

maintained. "The grand jury needed to find probable cause that the officeholders - supervisors William Postmus and Paul Biane in this case - not only knew they were receiving a bribe, but that they knew at the time of their votes that they were allocating funds to themselves. Although the trial court correctly recognized this requisite knowledge element, it ultimately ignored the fact that the People did not instruct the grand jury on this legal requirement, did not argue this theory and did not submit any evidence supporting this factual proposition.

"If one thing is clear from the record," the writ of prohibition states, "it is that the People repeatedly failed to properly instruct the grand jury on crucial elements needed to make a factual probable cause finding. Any single one of the People's incorrect instructions should have raised great doubts about the propriety of the grand jury's findings, and those errors were only compounded by the lack of evidence to support the People's case."

Larson and Fischer assert that "the trial court acknowledged the California Supreme

Court's ruling that the People had the express burden of presenting evidence that Mr. Burum engaged in 'additional conduct' independent of offering or giving a bribe - with the intent to aid and abet supervisors Postmus and Biane in receiving bribes. Again, however, the trial court ultimately disregarded the law of the case. It incorrectly held that the grand jury need not be instructed on this 'additional conduct' element, a conclusion that strips the Supreme Court's ruling of any meaning at the grand jury stage. It then ignored the People's critical concession that they could not show that Mr. Burum acted with the intent for supervisors Postmus or Biane to receive bribes - a concession the People had no choice but to make given that all the evidence and all the argument before the grand jury was that Mr. Burum's intent was to obtain the settlement agreement. Nevertheless, the trial court held there was sufficient evidence to support the conclusion that Mr. Burum could have held 'dual' intents to both give the alleged bribes to obtain the settlement

Continued on Page 10

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San Bernardino County Coroner Reports

Coroner case #701407083 Back on Thursday, 09/11/2014, Nola Pauline Taylor, an 84 year old resident of Joshua Tree, was reported missing to the Palm Springs Police. Her vehicle was subsequently found along a dirt road in Twenty-Nine Palms, approximately 1.3 miles east of the Indian Cove Ranger Station. Multiple searches of the area were conducted by elements of the San Bernardino County Sheriff Volunteer Forces Search and Rescue and Joshua Tree National Park Search and Rescue. On Sunday, September 21st, just after 9:00 AM, search and rescue personnel located remains in the desert, approximately one half mile south of the intersection of Desert Quail Dr. and Baseline Rd. An examination will be conducted early this week in order to attempt to determine the cause of death. [09/21/14 1945 VN]

Coroner case #701407081 On 09/21/14, at 2:24 PM, San Bernardino Police Department was dispatched to the area of the 300 block of S. San Felipe Road in the city of San Bernardino reference a shots fired call. Travelle Alexander, a 40 year old resident of San Bernardino was found deceased at the scene. The San Bernardino Police Department Homicide Division is investigating this homicide. [092114 1430 TC]

Coroner case #701407072 On 09/20/14 Gregory Loren Bell, a 52 year old resident of Fontana, was riding his motorcycle westbound along Glen Helen Parkway, in Devore, when he lost control and rolled onto the railroad tracks crossing the roadway. Paramedics arrived at the scene and pronounced Bell dead of his injuries at 6:13 PM. The accident is under investigation by California Highway Patrol. [09/21/14 1430 TC]

Coroner case #701407071 On 09/20/2014, at 1355 pm, a vehicle stopped for traffic in the southbound lanes of Interstate 15, south of the Interstate 60 interchange, was rear ended by another vehicle. A male juvenile was taken to Kaiser Ontario where he was pronounced dead from his injuries. The name of the juvenile is being withheld pending positive identification. Riverside CHP is investigating this collision. [092114 1430 TC]

Coroner cases #701407027 and #701407028 On 09/18/2014 at 10:33 PM, Ontario Police Department officers responded to report of a single vehicle rolled over on S. Grove Ave, north of Mission Blvd, in Ontario. Officers arrived on scene and found a 16 year- old Hispanic female with trauma to the upper body. She was confirmed dead on scene. A second deceased person was located in the vehicle that had burned. The names of the decedents will be released after positive identification is completed and the next of kin is notified. The Ontario Police Department is investigating the incident. [091914 0754 SY] Name released (701407028): Valerie Zavala, a 16 year-old resident of Ontario [09192014 1105 SY] Name released (701407027): Julia Salas, a 16 year-old resident of Ontario. [09202014 1850 TC]

Coroner case #701406995 On 09/18/2014, at 2353 hours, California Highway Patrol officers responded to 911 calls for a vehicle which had collided with a tree at Arrow Blvd and Banana Ave, in Fontana. Froyan Arteta Rodriguez, a 43 year-old resident of San Bernardino who had been a passenger in the vehicle, was transported to an area hospital where he was pronounced dead of his injuries at 12:40 AM. The name of the decedent will be released after the next of kin has been notified. An autopsy will be conducted to determine the cause of death. The California Highway Patrol is investigating the accident. [091814 0752 SY] Name released: [091914 0759 SY]

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Colonies Case Appeal from page 9

and to have supervisors Postmus and Biane receive bribes. Although it is true that a person can theoretically act with dual intents (a point rec-

ognized by the Supreme Court), in this case the grand jury heard no evidence, nor even any argument, of any 'dual' intent. Absent this requisite probable cause, the bribery counts also must be set aside. The People's multiple instructional er-

rors, combined with the lack of admissible evidence supporting their theories of the case on these counts, caused Mr. Burum to be indicted on less than probable cause. Given the materiality of the People' errors, the trial court should have

granted Mr. Burum's Section 995 motion. A writ of prohibition is warranted to reverse the trial court's error and restrain trial on those charges." Larson and Fischer maintain that the indictment was based on the

prosecution's unsupported theory rather than the marshalling of fact. The lawyers said the prosecution relied on "guesswork, speculation or conjecture" in instructing the grand jury that "that supervisors Postmus or Biane

knew before the vote that they were appropriating the settlement funds to themselves. Supervisor Postmus testified that prior to his vote he had no knowledge of any specific thing he would receive. In fact, he was emphatic that he did not find out he might receive a PAC contribution (or any payment of money) until several months after the settlement vote. Nor did anyone else testify that supervisor Postmus or supervisor Biane knew that the supposed bribes would take the form of PAC contributions – or that they were even going to receive PAC contributions – until months after the settlement votes. Bare speculation does not satisfy the probable cause standard of Section 995."

The most significant element of the writ for prohibition is buried deep within the document, contained in a passage by which Larson and Fischer marshal what may prove out as the central piece of evidence supporting Burum's innocence if the case actually goes to trial, consisting of a court finding that Colonies

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Colonies Case Appeal from page 10

Partners LP was due the \$102 million.

"There is another fact that reinforces the lack of probable cause here: The fact that the payment of \$102 million was actually made pursuant to the inverse-condemnation judgment entered against the county on March 29, 2007, not pursuant to the settlement vote of November 28, 2006," Larson and Fischer state in the writ. "Specifically, Judge [Christopher] Warner ordered that the sum of \$102 million be paid by the county to Colonies Partners LP as follows: (a) The sum of twenty-two million and 00/100ths dollars (\$22,000,000.00), which sum was advanced by the [county] and paid to [Colonies] on November 29, 2006. (b) The sum of eighty million and 00/100ths dollars (\$80,000,000.00) to be paid in full on or before May 29, 2007. Given this order, the board of supervisors had no choice but to appropriate the \$102 million in order to satisfy the judgment against the county."

Prior to the vote by the

board of supervisors in November 2006 to confer the \$102 settlement on the Colonies Partners, the civil case had gone to a bench trial, that is, one without a jury in which Warner was empowered by the mutual consent of the plaintiff and the defendant to decide both questions of fact and questions of law. Warner found in the Colonies Partner's favor but had not, at the time of the settlement, ruled with regard to the amount of damages.

Thus, the prosecution's contention that Burum had bribed Postmus, Biane and Kirk would be subject to contradiction were the criminal case to go before a jury, as it could be demonstrated that Burum and his company were already assured of a positive outcome on the civil suit against the county.

The defense's writ of mandate was filed on September 25. By press time the *Sentinel* had not fully examined nor assimilated that document.

Phone calls to the prosecution team seeking comment on the writ for prohibition did not elicit any response.

The Painted Lady is a medium to large butterfly, with a wing span of two to three-and-a-half inches. They are identified by the black



and white corners of their mainly deep orange, black-spotted wings. They sport five white spots in the black forewing tips and while the orange areas may be pale here and there, there are no clean white dots in them. The hindwings carry four small submarginal eyespots on dorsal and ventral sides. Those on the dorsal side are black, but in the summer sometimes manifest small blue pupils. There are different types of Painted Ladies, but in California the West Coast Lady (*Vanessa annabella*) is the most prolific. West Coast Painted Ladies do not have obvious ventral eyespots. On the dorsal side, *annabella* lacks a white dot in the subapical orange found in other butterflies, and is a purer orange color. *Vanessa annabella* has a fully orange subapical band and leading edge on the forewing. The submarginal row of

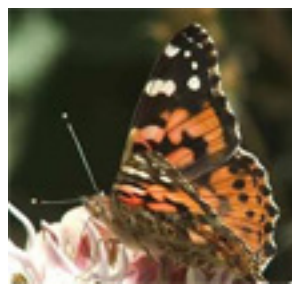


hindwing spots in *annabella* features three or four blue pupils. The two larger pupils in *annabella* are the inner spots, rather than the outer spots as in other butterflies

The lifespan of a Painted Lady Butterfly is 2-4 weeks.

The life of a Painted Lady begins when the female oviposits (lays an egg) onto a host plant. Eggs are laid, usually, singularly on the tops of the host plant leaves,

though on occasion eggs will be laid one on top of another or, more rarely, in clusters. Eggs are a light green color and somewhat barrel-shaped. They have horizontal lines that go from tip to bottom. After four days or so, a caterpillar will hatch from the egg. After it has emerged, it will turn around and go back to eat the chorion or outer eggshell. This first meal provides the larva with protein. It will then feast upon the leaf upon



which the egg had been laid.

First instar Painted Ladies are extremely small. They soon sprout bristles and the head shrinks a bit to become more proportional to the rest of the body. Soon



little white 'dots' form at the base of some of the bristles in the next instar. Molting, or the shedding of skin takes place in several stages. With each successive molt, it grows larger and the larval features become distinctly different. The larval period lasts ten to thirteen days. By the fourth instar, the caterpillars grow very bristly and thicken. A white stripe is visible along its side and spiracles, which appear as little spots on the caterpillar's sides, form. They are part of its respiratory or breathing system.

Soon, the larva will be ready to pupate. As do most brush-foot butterflies, the Painted Lady to deter predators will find a spot usually a distance away from its host plant upon which to pupate.

A silken button will

be made and the caterpillar will suspend from its last prolegs in a 'j' position with its head hanging downward. It can take upwards of 24 hours for this final larval molt. A little black blob will attached to the chrysalis or on the ground nearby. This is the remaining exuvia, the final 'molt' from the caterpillar stage. It will include the head capsule of the caterpillar. The chrysalis or pupa is a non-descript brownish or tan colour with gold flecks. Close inspection will show the spiracles and other features of the soon-to-be butterfly.

To stand off predators, the pupa may begin to rapidly jiggle.

In about ten days, the pupa will begin to change color and then a butterfly will eclose. It will take about an hour for the butterfly to fully expand its wings. The wings are very soft and unsupportive. They will require time to 'harden.'

An orange-red liquid will often be found either in the exuvia (chrysalis 'shell') or on the ground. This is called meconium and is the waste material from the pupa. It is not blood as butterflies do not have blood; they have what is called hemolymph.

During the time the wings are drying, the proboscis (tongue tubes) will uncoil and recoil, as the imago (adult butterfly) readies itself to go out into the world to begin its 2-week or so life to procreate.

Each Spring, Painted Lady butterflies begin migrating northward, much like the 'famous' Monarchs. In California, every few years, particularly after an El Niño, there is a massive migration of Painted Ladies that will come up from Mexico. The rains

from the El Niño help to increase the growth and number of host plants, and the Painted Ladies will then have a large number of options upon which to oviposit eggs as they travel. Although



they migrate annually, it is during these El Niño seasons where they become highly noticeable, with hundreds of them traveling together, en masse.

The adult Painted Lady nectars on many plants, especially the composite flowers of the Asteraceae plant family. Favored nectar sources include thistle, aster, cosmos, blazing star, ironweed, and joe-pye weed. Painted Lady caterpillars feed on a variety of host plants, particularly thistle, mallow, and hollyhock.

The Painted Lady's mottled colors look much like military camouflage, and provide effective cover from potential predators. The small caterpillars hide in their silk nests.

The Painted Lady inhabits open meadows and fields, disturbed areas and roadsides, and generally any sunny place that provides appropriate nectar and host plants.

Painted Ladies can cover a lot of ground, up to 100 miles per day during their migration. A painted lady is capable of reaching a speed of nearly 30 miles per hour. Painted ladies reach northern areas well ahead of some of their more famous migrating cousins, like the monarch butterflies.

Male painted ladies actively patrol their territory for receptive females in the afternoon. Should he find a mate, he will usually retreat with his partner to a treetop, where they will mate overnight.



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California Style

Fall Transition



Transition from summer to fall can be confusing in California because, as we all know, fall here can be on the warmer side. With fall still feeling like summer, it can be difficult to figure out your morning wardrobe. By mixing in a few summer pieces

with a few fall trends you'll create some stylish outfits. Begin by pairing summer dresses with light jackets or sweaters. Shorts look amazing with dark or patterned tights, and a patterned



flannel. Jeans will definitely begin to play a bigger as the cooler weather works its way into fall. Transition is all about creativity and what can be worn year-round. Farewell summertime and hello autumn! By adding a sweaters, scarves, and tights you can make your summer pieces fall ready. So, get the summer mad-

By Grace Bernal

ness out of your system and go fall crazy before the crowds. So have fun



dramatizing your fall wardrobe and enjoy the madness of fashion transition.



"In difficult times, fashion is always outrageous." —Elsa Schiaparelli

As always, if there's anything you need, I'd love to hear from you: Greygris@aol.com or visit my page [I Love Your Style](#) on Facebook Copyright Grace Bernal all rights reserved

Traitor To San Bernardino County from page 3

enlarged. That part of the city was laid off with sidewalks added and a strip of land specially reserved for shade trees on each side of the street and on the outer side of the sidewalk. The street trees were also planted by White and his associates – W.A. Hayt and C.W. Sylvester. Everything was thus ready for making a very attrac-

tive addition to the town in conformity with the movement that in later years became the policy of the city authorities in regard to the planting and care of street trees. White was elected to the office of San Bernardino County Third District supervisor, which included the town of Riverside, serving from January 5, 1885 to January 7, 1889. He was again elected in 1891. It was at this point that his perfidy with respect to

San Bernardino County reached its zenith, as he actively militated to have Riverside County secede from San Bernardino County. He served as supervisor from January 12, 1892 to August 14, 1893, when Riverside County was officially formed. He continued as supervisor, this time south of the county limits, serving his new county. During his latter term of office the Box Springs Road on the way to Perris and the eastern

part of the county was built. At the time the road was finished, it was one of the best in California. When the road was planned, White insisted that it run in a straight line from the head of Eighth Street to the front of the grade, as there was at the time a site for a town laid off on the level land to be supplied by water from a tunnel fun into the hill near the original Box Springs. The idea of a town was abandoned when the supply of water proved inadequate.

A monument to White was created with Albert S. White Park, which occupies part of the four blocks situated between Eighth and Tenth, Market and Chestnut Streets.. White donated the land for the park. A deed from the Riverside Land and Irrigating Company contained conditions about it being improved as a park, and White spent several of the last years of his life seeing that its

conversion to a park was fulfilled. He laid the park out, planning its design and landscaping it. There were features to the park that would have been difficult to duplicate elsewhere, the most noted of which was one of the largest collections of cacti to be found anywhere. White was the first president of the Rubidoux Hotel Association. In 1889 he was a director of the Loring Opera Stock Company, which gave Riverside the most

elegant opera house in Southern California. He was a member of the Huntington Park Association, which had the first auto road installed to the top of Mt. Rubidoux in 1906. He was one of the founders of the Knights of Pythias Lodge in Riverside. White was one of the city of Riverside's park commissioners. He died on June 21, 1909, while still serving in that capacity. Unmarried, Mr. White was survived by various cousins and their families.

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