

**Big plans for Sacred Heart schools. Page 7**

# The Almanac

THE HOMETOWN NEWSPAPER FOR MENLO PARK, ATHERTON, PORTOLA VALLEY AND WOODSIDE

JULY 28, 2010 | VOL. 45 NO. 48



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[SECTION 2]



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## Council begrudgingly approves legal settlement involving El Camino project

By Renee Batti

Almanac News Editor

They were peeved and frustrated in doing so, but Menlo Park City Council members on July 20 gritted their teeth and unanimously supported a settlement agreement with Concerned Citizens of Menlo Park, a group of anonymous members who in November 2009 sued the city and would-be developers of the property at 1300 El Camino Real on environmental review issues.

The settlement agreement scales back the size of a planned grocery store on the site. The only person to emerge as being a member of the Concerned Citizens group as the settlement was made public two weeks ago is Tony Alexander of San Jose, the political director of the United Food and Commercial Workers Union, which represents employees of grocery stores including Draeger's and Safeway.

Mr. Alexander has not returned numerous phone calls from The Almanac.

The lawsuit, which challenged the city's approval of the environmental impact review for the planned project at the site — the former home of the now defunct Cadillac dealership — named the city and the developer: Peter Pau, president of Sand Hill Property Management; and SHP Los Altos LLC.

The original project called for 110,000 square feet of office and retail space, including about 51,000 square feet devoted to a grocery store. The agreement approved by the council and the developer doesn't reduce the size of the overall project, but limits the grocery store size to 32,000 square feet. It also prohibits the "self-checkout of alcohol sales" by any retail business on the site.

The anonymity of the plaintiff was a sore point for council members. But City Attorney Bill McClure said the law protecting citizens' right of associa-

tion also protects their privacy as members of a group, making the filing of this type of lawsuit by anonymous members of a group legal.

The settlement terms were worked out by the developer and the Concerned Citizens' attorney. Jeff Warmoth of the development firm, who said he didn't know the names of individual plaintiffs during negotiations with the group's lawyer, said the lawsuit had "no basis in fact," but he urged the council to approve the settlement. "It's not something we're happy about," but the company wants to move ahead and build the project, he said.

The plaintiffs agreed not to oppose future housing the company may want to add to

and costs. The developer must also pay "for all city costs and fees associated with processing the project and fees related to the lawsuit and settlement," according to the staff report.

The lawsuit was filed using the private attorney general statute, which allows private citizens acting as representatives of the public interest to bring lawsuits against government entities.

It challenged the EIR done for the project on grounds that it failed to evaluate the project's air pollution impacts, and failed to follow required procedures in evaluating the project's traffic, land-use, and greenhouse gas impacts. The settlement agreement did not address these environmental issues.

The law firm representing the Concerned Citizens, Lippe Gaffney Wagner of San Francisco, is a public interest firm "protecting the natural environment and public access to government records," according to its website.

Keith Wagner of the firm wouldn't say how many people belong to the plaintiff group. When asked to comment on Councilman Boyle's concern that an anonymous member of the group could challenge the project again when a housing component is added, he asserted such a challenge wouldn't happen. "Why would they?" he asked.

In 2008, when details of the planned development of the site began emerging, Whole Foods specialty grocery was said to be interested in moving there, which raised concerns by several business owners. Among them was Richard Draeger, whose family owns Draeger's market. When the lawsuit was filed, Mr. Draeger said his store was not involved.

Mr. Warmoth said passers-by may see some action at the site this week. PG&E is scheduled to disconnect utilities, and building demolition should begin soon after, he said. ■

*The settlement agreement did not address the environmental issues that were the purported purpose of the lawsuit.*

the retail development, Mr. Warmoth said.

Councilman John Boyle noted that, given the anonymity of individual plaintiffs, it would be difficult to know whether one of them files another legal action against the developer once a housing plan is brought to the city for approval.

Before voting to approve the agreement, Councilman Heyward Robinson said that, "as distasteful as it may be," approval is the right thing to do.

Mayor Rich Cline said: "I really have a problem with it. ... It sets a real wicked precedent. If I had my druthers, I would get in the ring" and fight the lawsuit. But the developer, he added, "has been up here too many times."

The agreement requires the developer to pay the Concerned Citizens \$38,000 in attorney fees

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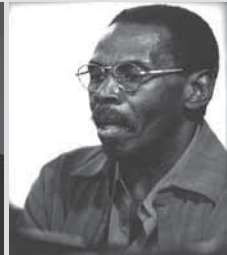
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In the vicinity of 2750 Woodside Road at Hobart Heights

Request to renew a Conditional Use Permit (formerly CUP 00-006) for a wireless facility at Woodside Road and Hobart Heights that requires renewal after five years. No changes to the facility are proposed.

2. Town of Woodside public right-of-way. Joint Pole Association (JPA) Power pole (members include AT&T, PG&E and Pacific Bell) CUSE#2010-0004  
In the vicinity of 1600 Canada Road at La Questa Way

Request to renew a Conditional Use Permit (formerly CUP 99-017) for a wireless facility at Woodside Road and Hobart Heights that requires renewal after five years. No changes to the facility are proposed.

All application materials are available for public review at the Woodside Planning and Building Counter, Woodside Town Hall, weekdays from 8:00 – 10:00 AM and 1:00 – 3:00 PM, or by appointment. For more information, contact the Woodside Planning and Building Department at (650) 851-6790.

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# Local News

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## Divided council takes no position on pension initiative

By Renee Batti

Almanac News Editor

Two council members have forcefully declared their support for the citizen-driven pension reform ballot initiative, but the Menlo Park City Council will not offer a ballot argument for the measure set to go before voters on Nov. 2.

Councilmen John Boyle and Andy Cohen said at the July 20 council meeting that they support the pension measure, which would increase the retirement age for new, non-police employees and decrease the pension payments they receive.

Arguing for the initiative and urging his colleagues to take an official position in support of it, Councilman Boyle said that he would not have voted in 2007 to enhance retirement benefits for city employees if he had had more information.

In hindsight, he said, the city

is now burdened by the “unintended consequences” of that decision. “It didn’t turn out the way we thought it would.”

With staff analysis suggesting it would save the city money, the council approved the multi-year labor contract in 2007 with the provision that employees would agree to a lower wage increase in exchange for the enhanced retirement benefit, which would take effect in 2009.

As of March 2009, non-emergency employees can retire at 55 with 2.7 percent of their highest wage, multiplied by every year they’ve worked. That allows an employee who has worked for 30 years to retire at 55 with 81 percent of his or her salary. The prior formula limited the benefit to 2 percent at age 55.

The ballot measure, sponsored by the grassroots Citizens for Fair and Responsible Pension Reform, would among other things change the formula for

new hires to 2 percent at age 60, which would allow a 60-year-old, 30-year employee to retire with 60 percent of the average of his or her three highest consecutive annual salaries.

At the meeting, council members considered whether to offer to write a ballot argument in support of the initiative; the supporting argument would typically be written by the sponsoring citizens group, headed by residents Henry Riggs and Roy Thiele-Sardina.

Before the vote on supporting the measure was taken, the discussion centered on the merits of the initiative, with Councilwoman Kelly Fergusson speaking out most strongly against it as being “flawed,” counterproductive, and “ideology-driven.”

“This could end up costing us more ... than the more measured approach the council is taking,” she said, citing information in the staff report that said a retire-

ment plan dictated by the pension initiative may force the city to move its retirement program for new hires from CalPERS to another system with higher administrative costs and lower investment returns.

The city’s approach involved imposing a two-tiered “2 percent at 60” formula for new hires on one employee group when its contract was up for renewal earlier this year, she noted.

But Councilman Boyle pointed out that the imposed two-tiered system for new hires hasn’t gone into effect, and might never do so because a second employee group will have to agree to it, or also have it imposed.

Also, he noted, another City Council could overturn the two-tiered system — not an option under the pension ballot initiative.

Although Mr. Boyle supports placing limits on future councils’ ability to enhance pensions, as

the initiative would do, Mayor Rich Cline said he’s troubled by such restrictions on future councils’ authority. Still, he said, he leans toward supporting it, “but I don’t think I want to be the author of a ballot argument.”

Noting that he began waving the red flag about the economy and urging pay cuts several years ago, Councilman Cohen said: “I support this initiative (even though) it doesn’t go far enough. ... Private industry has taken voluntary cuts; other cities have taken them. Let the voters speak.”

The council rejected Mr. Boyle’s motion to offer the citizens’ group a ballot argument showing council support, with Mr. Boyle and Mr. Cohen supporting it, Mayor Cline and Councilman Heyward Robinson opposed, and Ms. Fergusson abstaining.

Asked later why she abstained, Ms. Fergusson said, “I wouldn’t read too much into it.” ■

## Atherton city attorney under fire by mayor

By Dave Boyce

Almanac Staff Writer

The Atherton City Council has not asked City Attorney Wynne S. Furth to reapply for her job, which she has held since February 2009, but such a request could be coming.

Ms. Furth’s firm, Oakland- and Sacramento-based McDonough, Holland & Allen, is dissolving, and the council is considering retaining Ms. Furth at her new firm, or opening up the position for bids.

Some outside analysis may be useful, and maybe residents of this upscale town who have experience in the law could lend a hand, Mayor Kathy McKeithen said at the July 21 council meeting. “We need some lawyers, some judges, whatever, to assist us in this process,” she said. “We’ve done a dismal job in the past.”

With the town’s legal expenses at \$400,000 to \$600,000 a year, Ms. McKeithen continued, “our litigation has escalated out of control and it’s continuing to escalate out of control. There’s got to be a way to do a better job at this. Maybe (a citizens committee) can help. Maybe not.”

Councilman Jim Dobbie told his colleagues: “Law firms at the

moment are very, very hungry.

There’s a lack of business out there. To me, this is an ideal time to go out for bids.”

Ms. McKeithen complained at length about Ms. Furth, including that she has issues with Ms. Furth’s ethics, that Ms. Furth lacks transparency and responsiveness, that she extends litigation unnecessarily, and that she has an adversarial attitude.

“That is not to say that Wynne is not a far better attorney than our last attorney,” Ms. McKeithen added.

Ms. Furth, who had left the room prior to the council discussion, said “not at this time” when asked for a comment.

If the council were to decide on a lawyer without community input, there could be a conflict of interest, Ms. McKeithen said. Ms. Furth arrived at exonerating conclusions in recent investigations of three council members: Charles Marsala on an ethical question, Jerry Carlson on a parliamentary procedure



Wynne Furth



Photo by Chris Michael

This photo shows the car and carport enveloped in flames.

## Menlo Park fire destroys vehicle, carport

By Dave Boyce

Almanac Staff Writer

A fire in a carport at 1452 San Antonio Ave. in Menlo Park destroyed the vehicle parked there, the carport, and nearby facilities at around 11:30 p.m. Thursday, July 22, according to a tenant of the five-unit apartment who witnessed the fire.

An online record shows it was

a one-alarm fire involving three engine companies, which generally means about 15 firefighters from the Menlo Park Fire Protection District.

Calls to the fire district were not returned in time for publication.

Medics treated one tenant for a minor case of smoke inhalation, the tenant said. There were no other injuries and the building is still inhabited, the tenant said. Firefighters had the flames

under control in about 10 minutes and continued to douse the vehicle for another 30 or 40 minutes, the tenant said, adding: “It just kept smoking.”

The tenant, who arrived first on the scene, told The Almanac of an attempt to put the fire out with a portable fire extinguisher.

“My face was just burning,” the tenant said. “We might have bought 30 seconds. The burning was just unbelievable.” ■

See FURTH, page 8

# STANFORD SUMMER THEATER 2010

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## Big plans at Sacred Heart schools

By Dave Boyce

Almanac Staff Writer

Redesigned sports fields and new classroom buildings for the elementary and middle schools are coming to Sacred Heart Schools, a private Catholic school complex for about 1,200 students along Valparaiso Avenue in Atherton.

The Atherton City Council, in consecutive 3-0 votes on July 21, approved a draft environmental impact report for the school complex's master plan, and a conditional use permit to begin five months of work on playing

fields and a parking lot.

Council members Elizabeth Lewis and Charles Marsala recused themselves and did not vote because they both live in close proximity to the school.

The initial phase, set to begin in August, will extend a parking lot near the corner of Park Lane and Elena Avenue, and relocate, realign and rebuild the baseball, soccer and multi-purpose fields, according to the staff report.

The fields will have synthetic grass surfaces to sidestep the muddy conditions of winter and spring, the report said. The project includes a concession stand with restrooms,

lockers and a storage closet.

The campus master plan describes several changes, including destruction of the Morey science building; replacement of five lower- and middle-school buildings with four new buildings, two of which will be two-story; a new "mini" tennis court, and a new gymnasium.

The changes to St. Joseph's lower and middle schools represent about 80,500 square feet of new construction and will include a new library, a new assembly hall and performing arts classrooms, administrative offices and a chapel. ■

## Atherton to refund some road-impact fees

By Dave Boyce

Almanac Staff Writer

Residents of Atherton have little to cheer about in considering the town's strained financial condition, but for residents who engaged in major home construction projects during the two years when the town had an elevated road-impact fee, partial refunds of those fees might be a reason to smile.

The Atherton City Council voted 4-1 on July 21 to refund 40 percent of the town's road-impact fee to anyone who paid it between Aug. 17, 2007, and Sept. 18, 2009.

Between those dates, the fee was 40 percent higher than it had been and, as such, Councilman Charles Marsala told his colleagues, was not consistent with such fees in other Bay Area

communities.

Affected residents and/or building professionals will have to apply for a refund from a pool of \$427,000.

Go to [is.gd/dCn7g](http://is.gd/dCn7g) and turn to Page 130 for an overview of the refunding procedure.

The road-impact fee is charged to developers and contractors and is to be used for repairing the roads their heavy equipment damages during construction projects. Many cities charge the fee, but a type of road-impact fee was successfully challenged in court recently, opening the door for broader legal challenges and making some cities nervous about charging the fee in the future.

The newly approved plan is a modified version of one approved in February. Under that plan, the refund would have gone to anyone who paid the fee from July 2006 to mid-September 2009, when the fee was rescinded.

Under this compromise plan, proposed earlier by Mr. Marsala but not accepted by the council majority, the refund will be limited to the additional money paid by builders as a result of the fee hike imposed in August 2007. Builders who paid fees from July 2006 to Aug. 17, 2007, will get no refund.

Any issue that affects Atherton's finances is important because the town is "fast approaching a fiscal emergency with a cumulative deficit over the next four years of \$4.889 million," said Alain Enthoven, a member of the town's Finance Committee and an emeritus professor in Stanford University's business school, in a July 15 letter to the council.

In opposing the refunds, Councilman Jim Dobbie said that he is against any refunding. "When you see the damage done to the roads, it's exponential," he

said, referring to the impact of a 10,000-pound truck as compared with that of five 2,000-pound cars.

Councilwoman Elizabeth Lewis agreed to the 40 percent figure, but said she considers the fee a disincentive to developers. "Real estate is our business in our town," she said in an apparent reference to the absence of sales tax revenues from retail businesses, of which there are none in Atherton.

Ms. Lewis said she would prefer that the town make do with property and parcel tax revenues.

Mr. Dobbie disagreed. "I don't think the road-impact fee is going to make one whit of difference to development here," he said.

Ms. Lewis responded with a single word: "Lawsuits."

Indeed, Menlo Park-based Pacific Peninsula Group has already filed a claim — the first step to a lawsuit — for \$300,000 over Atherton's road-impact fees, Town Attorney Wynne Furth told The Almanac.

While there is now about \$1.5 million in the road-impact fee fund, the money for the refunds will come from an undesignated reserve of the general fund, a 3-2 majority decided, with Mayor Kathy McKeithen and Councilman Jim Dobbie in opposition. Such a fund transfer would correct a use of \$432,713 in fee revenues to improve the town's corporation yard, a project not related to road impacts, according to a staff report.

Money collected through fees is restricted by law to uses directly related to the purpose of the fee, Mr. Marsala said in an interview. Using the money for other purposes can re-characterize the fee as a tax, which must be approved by voters, and could expose the town to lawsuits, he said. ■

## REAL ESTATE Q&A

by Gloria Darke



### Cooperative Tenants

**Dear Gloria, We have a rental property which has been a great investment for us. However, we have heard that to pay for the health care plan Obama and group are going to add another 3% to the gain on our investment. We think we should try to quickly sell it before years end but the tenants have a lease thru December. Are there any problems we should know about before we proceed to put it on the market?**  
Harry W.

Dear Harry, I have not read the health care plan but have also heard that they will be hitting real estate as one of ways to pay for other peoples health care. So it is wise to be aware and position your investments accordingly.

It is possible that your once cooperative tenant can suddenly turn into your worst enemy, after they learn about your inten-

tion to sell the house that has become their home. A difficult tenant can make a home sale drag on far beyond your expectations. Hopefully that would not put you in the year of increased capital gains tax.

Problems arise when a tenant makes showing difficult by not cooperating with real estate agents. They can also cause the property to look run down and unappealing. Just by not making the bed and leaving dishes in the sink can cause a prospective buyer to turn around and walk out.

Keep in mind that tenants do have their rights. They can demand 24 hour notice before a property is shown and if they insist on being in the house, that is also their right. You might offer an incentive for their inconvenience and cooperation.

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### ■ POLICE CALLS

Check [AlmanacNews.com](http://AlmanacNews.com) for information on reports of criminal activity filed with the Atherton and Menlo Park police departments and the Sheriff's Office.

### ■ BIRTHS

#### Menlo Park

■ Jennie Dal Busco, a daughter, June 29, Sequoia Hospital.

### ■ GRADS

■ Joseph Robert Fiorina of Portola Valley (Woodside High School class of 2006) received a bachelor of arts degree in athletic training from the University of New England in May. He is now enrolled in a master's program in athletic training at the California University of Pennsylvania ([calu.edu](http://calu.edu)). He is the son of Mo and Mary Fiorina of Portola Valley.

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# Menlo voters will decide on hotel-tax increase

By Renee Batti

Almanac News Editor

Voters will be asked to consider raising the hotel-occupancy tax in Menlo Park from 10 percent to 12 percent after the City Council on July 20 decided it was a reasonable way to raise revenue in the face of the city's fast-rising employee costs.

Council members struggled with the question, voicing concerns that the economic climate makes this a risky time to raise costs for business owners. But after citing the city's budget realities, the council voted 4-1 to send the proposed increase to the Nov. 2 ballot. Councilman Andy Cohen opposed the action.

Holding up a copy of the city's newsletter, MenloFocus, Councilman Heyward Robinson pointed to a pie chart showing that police salaries now account for 39 percent of the city's spending — up from 34 percent in 2007, he said.

The city, he said, must find a way to raise more revenue. "It doesn't have to be (the hotel-occupancy tax) ... but this is certainly one option," he said. If the

council doesn't approve sending the proposed hike to the ballot, "we need to look at raising the utility-users tax," he added.

Although the city staff report said that, overall, "representatives from the two Menlo Park hotels felt there would be no discernable impact if the (tax) rate were increased by either one or two percent," that appears to have changed.

Before the vote, Mike Casey, managing director of the Rosewood Sand Hill Resort, warned the council that

boosting the tax, which hotels, motels and inns must charge occupants, would take away the competitive advantage his hotel has over facilities in Palo Alto and San Francisco in attracting non-business customers. That's because Palo Alto and other nearby cities have set their hotel tax at 12 percent, and San Francisco at 15 percent.

"Raising it is a risk," he said, not only to hotels but to other Menlo Park businesses that benefit from the trade the hotels bring to town.

Greg Alden, manager of the Stanford Park Hotel, issued a written statement opposing the

**Councilman Heyward Robinson pointed out that police salaries now account for 39 percent of the city's spending — up from 34 percent in 2007.**



Photo by Michelle Le/The Almanac

## Work in progress

Down but maybe not out, these basketball hoops at Hillview Middle School along Santa Cruz Avenue in Menlo Park could find renewed purpose once the school is rebuilt. The hoops were cut down to initiate Phase 1, a four-to-five-month period in which the land is cleared for new buildings.

increase. "The travel industry is in the midst of a fragile recovery, and this is not the time to make visiting our city more expensive," he wrote.

The Rosewood and the Stanford Park Hotel contribute about 85 percent of all hotel tax — or transit-occupancy tax — revenue, according to the staff report. In addition to those hotels, there are five motel/inns in town, the report says.

Councilman John Boyle

expressed misgivings about raising the tax, but said he'd be willing to compromise on an increase to 11 percent. But Councilman Heyward Robinson and others cited the city's need to raise revenue because of growing costs, especially for police compensation, and shrinking revenue in other areas, such as property and sales tax.

Mayor Rich Cline spoke forcefully in favor of raising the tax to 12 percent, saying he is opposed

to raising the utility-users tax, which he called "regressive." The hotel tax is a more logical place to look for increased revenue, he said, noting that the tax hasn't been raised in 18 years and that the market, driven by Stanford University, is stable.

The ballot measure approved by the council would make the tax hike effective January 2012.

Mr. Cohen said he opposed the move because the city needs to do a better job reducing costs. ■

## FURTH

continued from page 5

matter, and Elizabeth Lewis on a building permit dust-up.

None of those council members criticized Ms. Furth at the meeting.

Ms. Furth should be kept on and not "thrown under the bus," Ms. Lewis said. "I don't see it as a golden opportunity to get a much better deal. We are a very complicated town. I think that getting a new lawyer up to speed will cost us time and cost us money."

Mr. Carlson said he considered tapping the legal expertise of the community "an interesting idea."

Mayor McKeithen gave City Manager Jerry Gruber two weeks to come up with a proposal.

Furth's professionalism and faults her for not appreciating the seriousness of "improper conduct" in the building department.

Ms. Furth, she alleges, does not understand her fiduciary duties, is heedless of impropriety and the appearance of impropriety, is unqualified to "properly conduct local governmental affairs, including the proper staffing and running of the building department," and is unskilled and uninterested in conflict resolution.

Asked for comment, Ms. Furth pointed out that she represents the town and does not run the building department. She said she spent "a couple of years" studying alternative dispute resolution and that her firm "believes in resolving

disputes promptly and equitably."

"We work hard to give accurate, timely advice to all our clients in an ethical manner," she said. "It is not always possible to avoid litigation."

Ms. Furth, a graduate of Harvard University's law school, said she chaired a California League of Cities ad hoc committee in preparing "Practicing Ethics: A Handbook for Municipal Lawyers," published in 2004.

"I keep it on my desk," she added.

For 20 years, she was the city attorney for Claremont. "We had very little litigation, and what litigation we had, we won," she said, adding that this record was "a result of good policies, good process and good work." ■

## A special type of water polo clinic

By Wade Avery

Junior at Menlo School

South Peninsula Water Polo Club (SoPen), made up of players from Menlo School and other local schools, hosted its 6th annual clinic with members of the Boys & Girls Clubs on July 16 at the Menlo School pool.

About 25 children from Menlo Park, Redwood City and East Palo Alto learned the fundamentals of water polo from SoPen players, who assumed the role of clinic coaches for the day.

Most of the children had played little to no water polo. They met with SoPen coaches Jack Bowen

and Tim Kates, who covered the basics. Then, the players worked with the campers on shooting and how to set up an offense. The day ended with a scrimmage between the kids.

In addition to water polo, the campers learned about healthful eating habits and the team's philosophy of "being your best."

"It's really inspirational to watch the whole process," Bowen says.

After the clinic, campers were given healthful snacks, SoPen shirts, and a certificate for their participation.

Got to [menlowaterpolo.com](http://menlowaterpolo.com) for more information. ■

## ■ POLICE CALLS

### ATHERTON

**Auto burglary report:** Truck broken into, Atherton Ave., July 16.

**Fraud report:** Unauthorized use of credit card, Elena Ave., July 17.

**Grand theft report:** Watch missing, Acacia Drive, July 20.

### MENLO PARK

#### Fraud reports:

■ Unauthorized use of credit card to purchase \$23,000 worth of computer routing equipment, 3900 block of Bohannon Drive, July 22.

■ Unauthorized use of credit card to purchase \$8,600 in airline and concert tickets, July 21.

■ Losses of \$2,000 in telephone scam, 400 block of Burgess Drive, July 22.

■ Guest smoked in non-smoking room and left without paying \$200 fine, Mermaid Inn at 727 El Camino Real, July 17.

#### Residential burglary reports:

■ Bicycle, jewelry and laptop computer, together valued at \$2,900, stolen, 1000 block of Menlo Oaks Drive, July 17.

■ Loss estimated at \$27 for stolen wallet with ID and debit card, 1200 block of Willow Road, July 16.

■ Passports stolen, 200 block of Felton Drive, July 12.

**Commercial burglary report:** Arrest made after stolen jewelry valued at \$155 discovered in possession of suspect in tent, Connoisseur's Marketplace street fair, July 18.

#### Grand theft reports:

■ Thirty scarves valued at \$2,400 stolen, Connoisseur's Marketplace street fair, July 18.

■ Bicycle with estimated value of \$1,000 stolen, intersection of Laurel St. and Burgess Drive, July 7.

#### Auto burglary reports:

■ Window smashed and estimated \$1,400 theft that includes backpack, laptop computer, MP3 player and cell phone charger, 700 block of Menlo Ave., July 13.

■ Window smashed and Apple iPod stolen, 1100 block of Willow Road, July 20.

## Menlo Park names new police chief

By Renee Batti

Almanac News Editor

**B**ryan Roberts, a commander in the Citrus Heights Police Department in Sacramento County, has been offered the job of police chief in Menlo Park.

The city announced the appointment on July 26, saying the hiring is pending a background check and "other requirements typical for public safety officers."

Mr. Roberts will replace Bruce Goitia, who retired June 1. Chosen from a pool of more than 30 candidates who applied for the position during a nationwide search, Mr. Roberts will start his new job on Sept. 7, with a salary of

\$179,500.

According to a press release from the city, Mr. Roberts was hired as a commander in Citrus Heights in 2006. Before that, he held positions as corporal, sergeant, and lieutenant with the Ventura Police Department, where he worked for 20 years.

His experience includes work in investigations, narcotics, SWAT response, training, youth and family services, and internal affairs, the press release said.

Mr. Roberts holds a bachelor's degree in business management from Azusa Pacific University, and a master's degree in public administration from California State University, Northridge. He is

now attending the Naval Postgraduate School for the Center of Homeland Defense and Security Masters Program, the press release said.

City Manager Glen Rojas said the police chief selection process included interview panels of community representatives, staff, and local police chiefs and city managers.

"Bryan is known for high visibility in communities where he has worked, as well as his engagement and team orientation with officers at all levels," Mr. Rojas said in a written statement. "These were the most important aspects of a new chief mentioned by the department and community leaders." ■

## Traffic signal may be installed near school

By Renee Batti

Almanac News Editor

**A** traffic light could be in the future at Santa Cruz and Elder avenues, in front of Hillview Middle School, after the Menlo Park City Council directed city staff to begin talks with the school district about funding a signal there.

In taking the step at its July 20 meeting, the council emphasized that it expects the Menlo Park City School District to share the estimated \$240,000 cost of the signal, which would be installed to help mitigate the traffic impacts of the school's campus expansion, which is in progress, and enrollment increase to about 975 students in 2016 from the current 682.

The council heard from residents who live near the school and oppose the traffic signal. They said it will make the already difficult situation of accessing Santa Cruz Avenue from their driveways or side streets even worse. A number of those residents sent e-mails to the council and spoke at the meeting, urging the council to consider alternative measures to deal with the expected

increase in traffic.

Some residents advocate banning left turns from Elder onto Santa Cruz during school pick-up and drop-off hours, and not allowing left turns from the school driveway on Elder toward Santa Cruz, installing curbing at that location if necessary.

Chip Taylor, the city's transportation manager, opposed the left-turn bans, however, and told the council that they "would merely shift the (traffic) impact" to Valparaiso Avenue and Politzer Drive.

Mr. Taylor said the proposed signal would improve traffic flow on the busy street; it would "create traffic platoons and provide gaps in traffic along Santa Cruz Avenue, allowing easier movements out of the side streets," according to the staff report.

The intersection timing would be operated by video traffic-detection controls, he said, and would be adjusted for the school's schedule.

Councilman Heyward Robinson acknowledged nearby residents' concerns, but said, "If we do this project correctly, we can make it better" for the school's neighbors.

Councilman John Boyle joined

the council majority in authorizing the staff to negotiate with the school district, but said that his final vote on installing the signal "will be contingent on an equitable split (in costs) with the school district."

District Superintendent Ken Ranella said that the school board has made no commitment of funds, but "there's been discussion about some level of contribution" the district would consider making toward the cost of the signal. "If we're causing a problem (with the campus expansion project), we want to contribute and be good neighbors," he said.

The city is also recommending that the existing signal-controlled pedestrian crosswalk in front of the school be removed, and that a new, in-pavement-lighted crosswalk be installed at the Santa Cruz Avenue-Olive Street intersection. The estimated \$30,000 cost of the crosswalk could be funded through a Safe Routes to School grant, according to the staff report.

The council approved pursuing the matter with the school district on a 4-1 vote, with Councilman Andy Cohen opposed. ■

## Fire board member takes out papers for council race

Peter I. Ohtaki, a member of the Menlo Park Fire Protection District board since 2007 and its current president, took out candidate papers on July 22 for the Menlo Park City Council race.

Mr. Ohtaki said he intends to file the papers before the Aug. 6 deadline.

Two others have taken out papers: Mayor Rich Cline and

Councilman Heyward Robinson, who are finishing up their first terms on the council.

As of The Almanac's press time on July 26, no one had filed their papers with the city clerk.

Incumbent John Boyle has



Peter Ohtaki

announced he will not run for a second term. If he sticks to that decision, the filing deadline will be extended to Aug. 11.

Three seats on the five-member council will be filled by voters on Nov. 2.

Mr. Ohtaki is the executive director of the California Resiliency Alliance, a private/public partnership focusing on disaster preparedness.

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## Anonymous plaintiffs in lawsuit get their way

It may have been legal, but that didn't make Menlo Park City Council members feel any better about approving a deal last week with a mostly anonymous group that will substantially alter the design of the recently approved office and retail project at 1300 El Camino Real.

Using the state's private attorney general statute, the "Concerned Citizens of Menlo Park" sued the city and the developer, challenging the project's environmental impact review, which the city approved last year. The individual plaintiffs were not named,

**EDITORIAL**

*The opinion of The Almanac*

although one name emerged July 15 after a tentative settlement was reached. Such lawsuits are perfectly legal, and are designed to give cover to groups of private

individuals who fear retribution if they challenge large projects.

Nevertheless, we wholeheartedly agree with Mayor Rich Cline, who said: "It sets a real wicked precedent. If I had my druthers, I would get in the ring" and fight the lawsuit, even though he said he felt compelled to support his colleagues, as well as the developer, and approve the deal.

The reason: Before last week's vote, developer representative Jeff Warmoth told the council his company had agreed to settle the case, scaling back the size of a planned grocery store at the site and paying \$38,000 to the plaintiff's attorneys. He urged the council members to agree. Without the city's approval, the project would have faced even more delays while litigation continued.

The man who was finally named two weeks ago as a member of the plaintiffs' group is Tony Alexander of San Jose, the political director of the San Jose-based United Food and Commercial Work-

ers Union, whose members apparently did not want a non-union grocery store at 1300 El Camino, the site of a former Cadillac dealership. In the settlement, Mr. Warmoth's company agreed to reduce the size of any grocery store from 51,000 to 32,000 square feet, and restrict the sale of food items by other tenants and the use of an automated checkout for alcoholic beverages.

Beyond whether these changes will be beneficial for the citizens of Menlo Park, the council and other city officials should be concerned about special interest groups using this statute to change the design of other projects after final city review. In our opinion, there was no reason for the Concerned Citizens of Menlo Park to operate in secret. Mr. Alexander and the others did not need anonymity. They should have testified before the Planning Commission and City Council like everyone else, and if they were not satisfied, challenged the EIR in a public court case.

What if a similar — after-approval — challenge was filed against the hotly contested environmental review of the Menlo Gateway project, before it was decided to give voters the final say, or the sure-to-be-controversial decision that could rezone much of El Camino Real and the downtown area?

In this case, the developer apparently was willing, though not happily, to accept demands from the anonymous challengers that could seriously damage the viability of the project, which had the full approval of the City Council and Planning Commission. Litigators may look on these tactics as perfectly acceptable, but we see what could be a dangerous precedent that gives special interest groups a way to make an end run around a city's regulatory processes.

As Mr. Cline said, "It sets a real wicked precedent."

**LETTERS**

*Our readers write*

### Hotel occupancy tax could backfire

*Editor:*

It's a sign of the times. Last week the Menlo Park City Council voted to raise the hotel occupancy tax in our city from 10 percent to 12 percent, with the logic that if Palo Alto charges that much, we should. (Redwood City charges 10 percent). This tax is the city's favorite as it's not shared with the state or county like other major taxes.

Of course this is passed on to the hotel guest, who is not a Menlo Park resident, so what's the problem? According to the manager of the new Rosewood Hotel, it will reduce his volume because currently there's an advantage to booking premium rooms in Menlo Park compared with Palo Alto (and interestingly, this market also competes with San Francisco as a destination).

In other words, we may be squeezing the golden goose too hard and may actually reduce the tax receipts. Put this in the same category as deferring library hours and deferring road, parks and systems main-



Woodside Library Collection

### Our Regional Heritage

The Williamson Brothers store and cottage on the left was a fixture on Woodside Road across from Whiskey Hill Road in the early 1900s. The Haaker Store at the same location was established in 1880 and was replaced by the Williamsons around the turn of the century.

tenance — which we have done repeatedly: not good.

In spite of the city's largest income sources (our share of real estate taxes) being up \$8

million in the last nine years — more than the entire drop in sales taxes — we are still falling behind because of personnel costs. We won't get our basic city

services back to 100 percent until we tame those expenses, and we need leadership that will do it.

**Henry Riggs**  
**Callie Lane, Menlo Park**

# County ignores voting rights act

By Henry Organ

As a member of the county's charter review committee, I am very familiar with the job the Board of Supervisors asked us to consider during our deliberations, which began in January of this year and was completed June 23.

From my perspective, our charge from the supervisors was centered heavily on two letters to the board from the county's Civil Grand Jury of 2008-2009. One letter pertained to the county's election system for supervisors and the second to filling vacancies.

What was not adequately addressed by the charter review committee in recommendations to the supervisors is this pivotal question: Is the county's "at large" election system in compliance with the California Voting Rights Act of 2001?

(The public is urged to read the 2008-2009 Civil Grand Jury's letter to the supervisors, dated June 20, 2009, entitled: "Grand Jury support for district elections for the San Mateo County Board of Supervisors." It may be found on the county's website for the Charter Review Committee

under "Charter Review Committee Materials," tab 5C.)

Supporters of the "at large" system in use today have noted that this system has been endorsed by a majority of the county's voters in 1978, and again in 1980. Obviously, much has changed in the last 30 years, particularly ethnic demographics, and passage of the voting rights act just nine years ago.

In its letter, the grand jury requests the supervisors to take into account a court case that pertains to the legality/constitutionality of "at large" elections. This case was filed in 2008 on behalf of three Latino citizens against a California school district that had "at large" elections. Of this school district's seven trustees, only one was Latino; and, only one Latino had been elected to the board in the last quarter-century. (Over 40 percent of the voting population was Latino.) The plaintiffs stated that the "at large" system violated the California Voting Rights Act

of 2001. The judge ordered the school district to implement a "by district" election system, and the school sought not to appeal.

According to 2000 census data, over 20 percent of the population in San Mateo County were Latino, and the same percentage for Asians. It is reasonable to project that these percentages have increased in the last 10 years, and in the same three districts. Yet, the election of Asians and Latinos to the Board of Supervisors in San Mateo County is disappointingly similar to the school district cited above while under an "at large" voting system. A review of nine elections in the 1990s in San Mateo County shows that two districts account for approximately half or more of the voter turnout; and these districts are not where there is the highest representation of Latinos and Asians.

Just as disturbing, the problem extends beyond the Board of Supervisors in this county. During the deliberations of the charter review committee, elected, former elected and appointed county-wide officials were invited to make presentations. Not one of the elected and former elected county officials who appeared

were people of color; the only person of color who was invited to appear was in a county appointed position. This parade of county officials was ironic and embarrassing evidence of possible voting rights infractions in San Mateo County's "at large" system.

As further apparent evidence of the board's insensitivity or negligence on issues of representation and diversity was a lack of diversity in the composition of the charter committee. Each supervisor was able to appoint two individuals. I was privileged to be one. However, I was the only person of color out of the 10. In addition, six organizations were selected by the supervisors to have a representative on the committee. There were no organizations among the six in which their corporate mission is serving Latino or Asian communities, two major

communities in the county. Thus, from my perspective, the charter review committee was not instructed, or constructed, by the supervisors to address the fundamental and pivotal voting rights issues presented by the grand jury over a year ago.

Nevertheless, I would extend the highest praise to the 2008-2009 Civil Grand Jury for its effort to serve and alert the county to these important voting rights issues. The supervisors' rejection of the charter committee's recommendation to place the election system on the ballot in November does not remove the cancer. While some may boast of the current "at large" system, and interests in "regionalism," neither should be at the expense of voting rights of individual citizens.

Henry Organ is a Menlo Park resident.



# Supervisors accountable to all county residents

By Rose Jacobs Gibson

Whether members of the Board of Supervisors should be elected by district or at large is an issue that many of us have wrestled with for some time. After much thought and consideration, I believe the residents of this county are best served by at-large elections. It is why I voted not to place a measure on our ballot to change the current system.

When members of the board are elected at large, they represent the interests of all residents in the county, not just the interests of the residents in their own district. All five board members are therefore accountable to all voters, not just a subset of voters in their respective districts. This countywide accountability is significant.

Why is this so important? Most board decisions affect residents of the entire county. For example, the board decides how the county should provide healthcare and housing services, transportation improvements, and whether or not there should be a new jail. The board also determines land use in the unincorporated areas throughout the county. Moreover, the board decides how money from all county taxpayers should be spent. These critical decisions affect not just the residents within one district. Each decision has a potential impact upon all residents.

Decisions made by the board are not only diverse in terms of subject matter, but are also complex and layered with competing factors. An at-large election typically attracts candidates who have widespread public service experience and who, consequently, have experience making difficult policy decisions. From my term on the board, I have learned to appreciate that first and foremost, board members

must have a complete county perspective to make informed and reasonable decisions.

I respect all of the arguments presented on both sides of the issue, and appreciate the excellent report provided by the Charter Review Committee. In making my decision, I considered them all. I understand some believe that a district system would result in a board member's accountability to the residents of his or her district. The fact is, however, that over the course of my 12 years representing District 4, I have always made myself completely accessible to the residents of District 4. My colleagues have done the same with regard to the residents of their districts. And, we are all open and willing to meet with any resident throughout the county.

I am sensitive to the argument that having elections by district would increase opportunities for persons who wish to run for election. I strongly support expanding opportunities for those who desire to serve in public office. This is why I endorsed the call of the Charter Review Committee for the board to explore public financing and campaign finance reform, and alternative voting systems such as ranked voting.

Some question why I did not vote to place the matter on the ballot, despite my belief that the current system of electing members of the board is the best system. Our county charter amendment process calls for the board to make a determination as to whether or not a measure is placed on the ballot to change the charter. Under this process, it is my responsibility to determine whether a change is needed, and to then act accordingly. I, along with the majority of our board, determined that no change was needed. I believe the current at-large system provides the best representation for San Mateo County and its residents.

**Rose Jacobs Gibson is a member of the Board of Supervisors representing District 4, which includes Redwood City and Menlo Park.**



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**CHRISTIAN MCBRIDE**

SAT 13 NOV

"An effortlessly charismatic bassist" (*NY Times*), McBride returns with an acoustic quintet.



**MIDORI & ROBERT McDONALD**

WED 17 NOV

Violin virtuosa Midori in an intimate evening of Bach, Mozart, and more.



**EMANUEL AX**

WED 12 JAN

Solo recital: Legendary pianist Ax performs late works of Schubert.



**BERRY SAKHAROF**

SAT 29 JAN

The Israeli rock legend unites East and West, classical and contemporary, sacred and secular.



**MINGUS BIG BAND**

WED 13 APR

The iconic jazz composer Charles Mingus lives on in his incendiary name-sake ensemble.

PLUS: Punch Brothers featuring Chris Thile (10.15), Takács Quartet (12.3), Rennie Harris Puremovement (1.22), Mingus Dynasty (2.2) AND MANY MORE!

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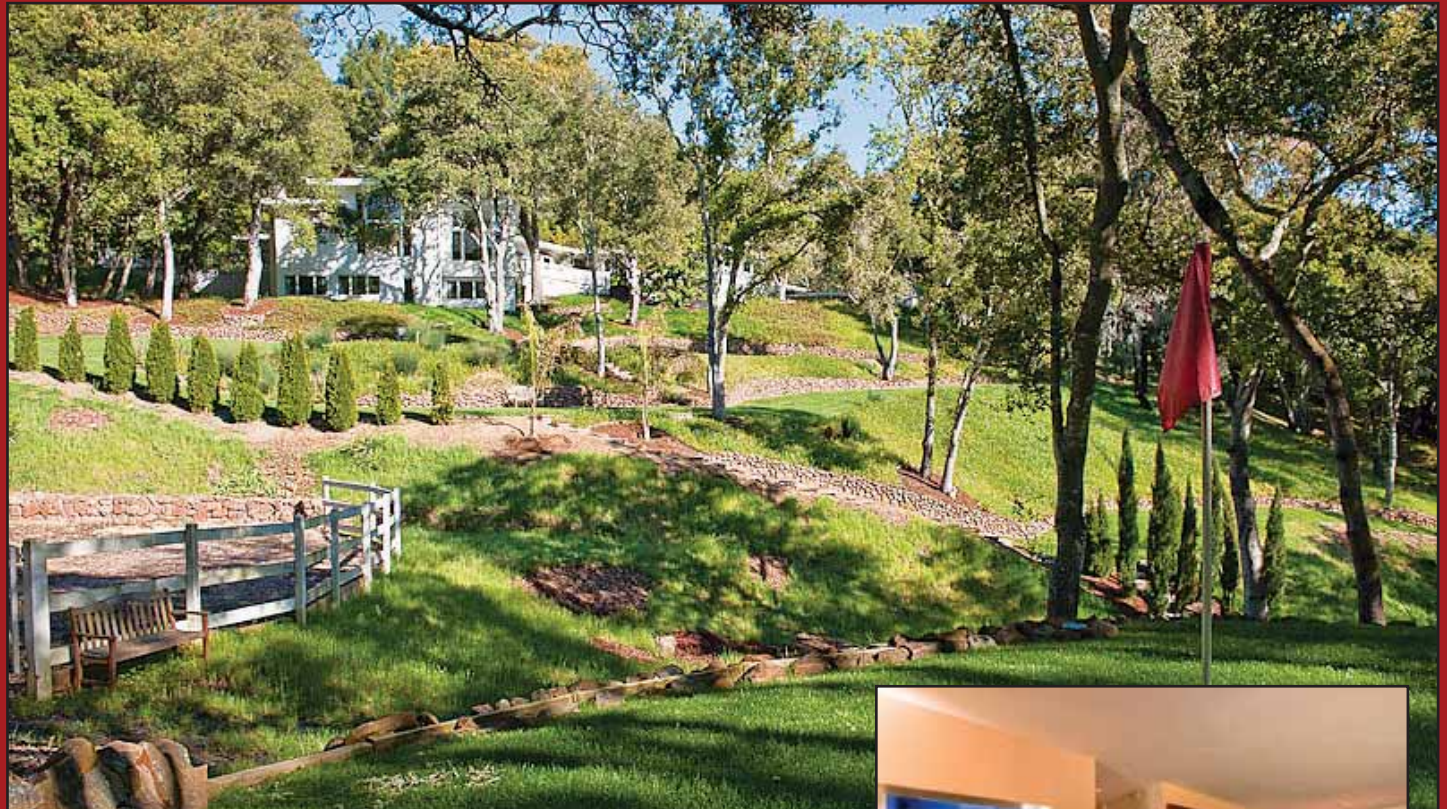
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