

# The Almanac

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

JUNE 5, 2013 | VOL. 48 NO. 40



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**Why shrouding binding arbitration in secrecy serves neither the public nor law enforcement**

page 8

# The unfiring of a Menlo Park police officer

untruthful when they omit facts. Officer [redacted] standard in an effort to avoid detection. [redacted] unnecessary force on [redacted] admits hitting [redacted] in the [redacted] this statement is false and misleading. [redacted] was not out [redacted] who was arrested [redacted] and placing him [redacted] on the ground. [redacted] made false or misleading statements to his [redacted] and kept information from him regarding an important [redacted] namely releasing Mr. [redacted] before protocol regarding [redacted] force could be followed to protect the city from [redacted] or not [redacted] have some information to his [redacted] of force about two hours after the assault. [redacted] the finding of this charge. The point [redacted] order to release [redacted] information when he did [redacted] ation that Officer [redacted] ive as little [redacted] o avoid [redacted] about [redacted]

leg sweep to be documented in [redacted] that it was Officer [redacted] on top of him. [redacted] Once [redacted] twice as a distraction of these blows to [redacted] slapped rather than [redacted] a shirt for [redacted] as a punching motion. [redacted] Officer [redacted] b that night. For ex [redacted] was present although [redacted] minutes. [redacted] There was no evi [redacted] route to the jail, [redacted] advised him that since [redacted] do that. Officer [redacted] booked at that time. [redacted] released. [redacted] went [redacted] Officer [redacted] wrote [redacted] arrest as well as the [redacted] "use of force" form. [redacted] [redacted] went to his s [redacted] force on a suspect. The [redacted] practice that required an [redacted] scene when a minor use of [redacted] When advising his Sup [redacted] in the presence of Officer [redacted] them. However [redacted] stated [redacted] the union contends that [redacted] that he heard the conversat [redacted] it [redacted] admitted hearing [redacted] and if he had anything to rep [redacted] policy and law to report the [redacted] untruthfulness. By claiming [redacted] would escape this predic [redacted] met with internal af [redacted] Whitney that he [redacted] cy for failing to [redacted] reported that [redacted] or that when the [redacted] o'clock in the [redacted] [redacted] and forced him to sit down. Nick [redacted] kneced [redacted] and kneced [redacted] in the [redacted] stated Grievant choked [redacted] testified in the instant proceedings. [redacted] Officer [redacted] testified [redacted] was "test [redacted] had to be told more than once to do things like get [redacted] in the school parking lot until [redacted] and Gri [redacted] which point [redacted] was walking in a cooperat [redacted] or forcefully directed to invol [redacted] twice.

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Photo by Michelle Le/The Almanac

These gables are one of several historic elements preserved on the Albert Shine farmhouse, an 1893 Gothic-Victorian home on Canada Road in Woodside and one of three Woodside homes honored with the town's first annual Historic Preservation awards.

## Woodside recognizes residents for historic preservation of their homes

By Dave Boyce

Almanac Staff Writer

To the community in Woodside that is concerned with the town's history, the age and historical significance of older homes are of vital interest. Last week, the current owners of three such homes were honored for preserving the historic value in their homes in the first of what is to become an annual ceremony.

For the 2013 Woodside Historic Preservation awards, the town's History Committee on May 29 recognized Karin and Oliver Friedrichs for their 1893 Gothic-Victorian farmhouse on Canada Road; Jim and Judy Rice for their simplified Colonial Revival frame house on Woodside Road built in 1900; and Stewart and Carolyn Putney for their 1939 home on Woodside Road, designed by notable architect William W. Wurster. Each household received a plaque.

The farmhouse is the Albert Shine house, once part of a 180-acre estate and farm, according to the narrative account on the Friedrichses' award application. The town's official history lists the original owners as Michael and Bridget Byrne, who built the house from a mail-order plan.

Through an inheritance, ownership passed to Judge Albert T. Shine in 1939.

The Friedrichses have lived in the house since 2003. They bought it on the day they went to look at it, Ms. Friedrichs told the Almanac. "I love it," she said. The owners have since added a terraced garden, stone walls, a pool and a pool pavilion designed and built by Ms. Friedrichs and Bill Giffin to "replicate an orangery/conservatory" complementing the house.

The interior had been completely restored when they bought it, with the walls done in bead board. "My next challenge is how we can get (more) closet space," Ms. Friedrichs said, but added: "I don't have a lot of stuff around and I actually like it better. It's funny how that works."

The design of the two-story simplified Colonial Revival frame house is thought to have been from a book of house plans. The exterior includes decorative shingle siding on the upper story and saw-tooth bargeboards decorating the eaves, the Rices wrote in the application. Other elements of the original style include covered porches, the posts and spindles in the porch railings, and the hipped roof with its pitched and gambrel elements.

"It is significant as an extant

farm complex dating from 1870-1900," the application says. The couple has lived there since 1959. According to the town history, Ms. Rice is the great-granddaughter of the original owners.

The original owners, referred to as "Woodside pioneers" in the application, were Hugh and Elizabeth McArthur. Mr. McArthur was in the lumber business, starting out as a teamster and then co-owning the McArthur-Hartley Shingle mill near La Honda.

The third house, designed by William Wurster, "is from the modernist period in architecture and beautifully reflects Wurster's attention to simple proportion," Carolyn Putney said in an email. The windows are original and the floor plan is "almost identical" to the original, the Putneys said on the application.

"We were always interested in a restoration renovation," Ms. Putney told the Almanac. "We have a great appreciation for Wurster and his contemporaries. He was a master at what he did and we felt a great responsibility to protect this work of art."

"The windows, room proportions, access to the outside, and creative use of topography, as well as the relaxed, simple, deliberate design inside and out are all great examples of Wurster's style." ■



### NOTICE OF PUBLIC HEARING TOWN OF ATHERTON PROPOSED INCREASES TO THE MASTER FEE SCHEDULE

**NOTICE IS HEREBY GIVEN** that the Atherton City Council will hold a public hearing to receive public input regarding proposed changes to the Town of Atherton's Master Fee Schedule concerning fees for general government, police, planning, development, engineering, and other services.

Said Public Hearing will be conducted at a Regular Meeting of the Atherton City Council scheduled to commence at **7:00 p.m. on Wednesday, June 19, 2013** at Atherton City Council Chambers, 94 Ashfield Road, Atherton, at which time and place all interested parties may appear and be heard. A copy of the proposed Master Fee Schedule is available for review at the Office of the City Clerk, 91 Ashfield Road, Atherton, California, during normal business hours beginning on Friday, May 31, 2013.

If a citizen wishes to challenge the nature of the above actions in court, they may be limited to raising only those issues they or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Atherton City Council, 91 Ashfield Road, Atherton, CA 94207 at or prior to the public hearing.

Theresa N. DellaSanta  
City Clerk

Dated: May 22, 2012

Publication: Almanac – May 29, 2013 & June 5, 2013



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# Local News

MENLO PARK | AHERTON | WOODSIDE | PORTOLA VALLEY

## Portola Valley teachers' pay will depend on performance

By Barbara Wood

Special to the Almanac

In a radical departure from the way teachers have been paid in the past, Portola Valley School District teachers will soon receive raises based on their performance, advanced training, and their students' performance, and not on the number of years they have been in the district.

Under a contract unanimously approved on May 29 by the district's governing board, starting in the 2013-14 school year the district's teachers will get raises based on annual evaluations and completion of additional training. Step increases based on mere longevity will be phased out over

the next two school years while the alternative criteria are phased in. In 2015-16 and future years, teacher raises will also depend on student performance.

John Davenport, Portola Valley Teachers Association president, says the new contract is "a rare instance, in which a school district and a teachers' union have come together to redesign the way teachers are evaluated and paid."

District Superintendent Carol Piraino said the new contract is "a real win-win for everybody. ... I think it's great." She said the change will lead to "a really great incentive program."

Superintendent Piraino said only a few other districts she knows of, including

**'My personal belief is it will become the trend and will be where many contracts will go in the future.'**

SUPERINTENDENT CAROL PIRAINO

those in Denver and in San Jose, have adopted similar contracts.

"My personal belief is it will become the trend and will be where many contracts will go in the future," she said.

According to material prepared for the board showing the cost of the new

contract, the teachers' overall pay will increase by 3.5 percent by the 2014-15 school year. Teachers will see no increase in the amount paid toward their medical, vision or dental plans.

New hires will not be eligible for the program for their first two years, but will receive annual step increases until they are approved as permanent employees.

The new contract also includes a 1 percent bonus for teachers for the current school year as well as a 1 percent cost-of-living increase.

The new contract calls for teachers to receive between 1.25 and .75 percent sal-

See **CONTRACT**, page 10

## Council nixes ballot measure on downtown farmers' market

By Dave Boyce

Almanac Staff Writer

■ WOODSIDE

A small farmers' market now convenes on Sunday afternoons in a shaded section of the parking lot at Woodside Elementary School in downtown Woodside. The market opened for business in April and is popular, but it's also temporary, at least at that location.

Recent action by the Town Council that essentially removes another public parking lot as an alternative location, at least in the near future, may jeopardize the future of the market, some residents fear.

The natural location for the market may be a public parking lot, and the most obvious lot is the one shared by Town Hall and the Woodside Community Museum at Town Center. But that lot acquired restrictions in 1988 when voters approved Measure J to establish zoning that prohibits "commercial or professional uses" of that location.

That zoning could be amended by popular vote, but in a 4-3 decision on May 28, the council opted not to put that question on the ballot in November. The timing is not right, the majority said.

The school board is hosting the market temporarily, but "expressed their belief that the farmers' market should be located in the Town Center," Town Manager Kevin Bryant said at the council's March 12 meeting.

The council has shown strong support for this market as well as for the Wednesday afternoon

market that began in October in Skylonda. Recent council discussion touched on the idea of launching the ballot initiative, but that's now off. Council members Dave Burow, Peter Mason, Tom Shanahan and Dave Tanner said no to an initiative; in dissent were Mayor Anne Kasten and members Deborah Gordon and Ron Romines.

Members of the public could undertake their own initiative.

The council's divided vote, uncommon on a matter with such wide community support, reflects larger issues that the council, town staff and a community task force considering the future of downtown are just getting around to tackling:

■ One of the most valuable possessions on a weekend afternoon in downtown Woodside is a parking spot. Farmers' markets occupy parking spots, and not with vehicles.

■ Woodside prizes its "rural character" and the idea of creating more reasons to drive downtown, with the possible consequence of creating more parking spaces — an idea the task force is at least considering — is anathema to many.

■ Downtown commercial property owner Lee Ann Gilbert has threatened a lawsuit if a ballot measure to amend Measure J goes forward.

We want to use the town's money "wisely" and not be spending it on litigation, Councilman Burow said in an inter-

See **FARMERS' MARKET**, page 10



Michelle Le/The Almanac

Principal Sharon Burns of Encinal School, kisses Lily, a 7-month-old Vietnamese pot-bellied pig, held by owner Terry Tenzing, during lunch on May 31.

## When a kiss is not just a kiss

A promise is more than lip service, principal and teachers demonstrate

By Renee Batti

Almanac News Editor

Kids at Encinal School taught the community what they could do when they put their minds to their chores. And Principal Sharon Burns and teachers at the elementary school in Atherton taught their students they take their promises seriously when they lined up to kiss Lily the Pig, brought to the campus in all her squealing glory on Friday, May 31.

Ms. Burns and teachers had told the students they would

kiss a pig if the kids met their \$5,000 goal in a fundraiser for the Leukemia & Lymphoma Society — an effort they embarked on after fifth-grader Tyler Nelson was diagnosed with lymphoma, according to LLS spokeswoman Melissa Skelton.

Through Chores for Change, students surpassed the goal, raising \$7,290.46 and "earning the title of the fourth-highest fundraising school in the Silicon Valley and Monterey Bay Area (LLS) chapter," Ms. Skelton said in a press release.

The kids raised the money by doing chores at home and employing "a host of creative fundraising methods and incentive programs," she said.

Lily, a 7-month-old Vietnamese pot-bellied pig, was bused to the bussing fest by her owner, Terry Tenzing. Friendly Pony Parties of Half Moon Bay helped arrange the visit.

The LLS raises money for research aimed at curing leukemia, lymphoma and myeloma, and provides information and support services to patients and their families. ■

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**Menlo Park staff responds to commissioner's resignation**

■ Public works director says city committed no Brown Act violations.

By **Sandy Brundage**  
Almanac Staff Writer

Former Transportation Commissioner Charlie Bourne, who resigned after nearly six years of service, and Menlo Park city staff aren't seeing eye to eye on what constitutes adequate public notice.

Mr. Bourne cited Brown Act violations by city staff and attempts to stop the commission from reviewing projects when he stepped down from the Transportation Commission on May 21.

His frustration boiled over on May 8, when the commission agenda stated that commissioners would discuss a report on the safe-routes-to-school project for Oak Knoll Elementary School, but did not state on the agenda's synopsis that they would be making recommendations and forwarding the plan to the council for review.

Transportation Commission staff liaison Rene Baile did not respond to requests for com-

ment, but Public Works Director Chip Taylor told the Almanac that staff had reviewed the noticing of the Oak Knoll report item with the city attorney and found no Brown Act violations occurred.

Mr. Taylor said the report was agendized as a business item. "And if you look at the staff report, it's clear the commission was being asked to make recommendations," he said.

The Almanac reported last year that two commission meetings had to be canceled due to Brown Act violations; and that staff took steps to prevent it from happening again.

Mr. Bourne also took issue with the commission's limited involvement with large projects, such as the Stanford-Arrillaga proposal, Stanford Medical Center, and downtown/El Camino Real specific plan.

This may again be a difference of perspective, at least as far as the specific plan is concerned — the Transportation Commission reviewed the draft specific plan, according to city records, including the environmental impact report, during three meetings in 2011, and also received responses to a list of questions.

Mr. Taylor told the commission during its Aug. 10, 2011, meeting that the specific plan had been intended as an informational item during the draft environmental impact report review phase, but staff had placed it on the commission's agenda as a business item at Mr. Bourne's request.

The commission then voted to hold a special meeting on Aug. 18 to focus on the specific plan and provide recommendations to the Planning Commission and City Council. ■



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## School board faces tough decisions on new campus, bond measure

By Barbara Wood  
Special to the Almanac

The members of the Menlo Park City School District's board of education have had to make some difficult choices recently as they struggle to deal with a flood of new students, and it appears there are still some hard decisions ahead.

The board has decided it needs to open a new school, decided to do it at the district-owned O'Connor school site in the Willows neighborhood, decided to spend three years to complete the project, decided to make O'Connor a neighborhood school and decided tentatively (without finalizing the details) to ask voters to approve a bond to pay for it.

Among the decisions remaining are whether to build a completely new school, or whether the new campus should include the existing 1950s-era school building. Another key question: how much bond money to request.

The question that appears to remain the most vexing, however, is the discussion at a public hearing held in the Hillview Middle School's new auditorium on Wednesday, May 29, is any indication, is if O'Connor will house only kindergarten to third-grade students or be a kindergarten to fifth-grade school, serving children up to middle school age.

Most, but not all, of the parents who spoke said they favor a K-5 school. According to a report presented to the board on April 30 by Ahmad Sheikholeslami, the district's director of facility planning and construction, the consensus of a committee of teachers, principals and administrators who studied the issue was also in favor of K-5 schools, all other things being equal.

But board members seemed to be leaning away from the K-5 concept in favor of having

Laurel and O'Connor schools serve as a two-campus K-5 school, with Laurel hosting kindergarten through second grade and O'Connor serving third- through fifth-graders.

The two-campus school option is less expensive to build, but board members seem to be more concerned that it would be impossible to bring Laurel School up to the standards of other district schools as a K-5 school.

At the April 30 meeting, Mr. Sheikholeslami cited the staff committee's findings that a K-5 school is better for forming teams and relationships among staff, students and parents, with fewer transitions and more consistency in the parent-teacher organization.

**'It's an opportunity to create a great small school where you have your kids for the full six years and reduce the traffic in Menlo Park in one fell swoop.'**

JACQUI CEBRIAN,  
OAK KNOLL TEACHER

Drawbacks cited include the need to share specialized teachers such as art, music and physical education, and a perhaps difficult middle school transition from a small school into a large school.

At the May 29 meeting, Oak Knoll teacher Jacqui Cebrian voiced her support for K-5 schools. "I love our school being a K-5," she said. "I love having the kids there from kindergarten to the fifth grade."

Ms. Cebrian also voiced the opinion of many of the speakers who said that making O'Connor and Laurel neighborhood K-5 schools would help Menlo Park's traffic problems.

"You have such a great opportunity to take a lot of cars off the road," Ms. Cebrian said. "It's an opportunity to create a great small school where you have your kids for the full six years and reduce the traffic in Menlo Park in one fell swoop."

But board member Laura Rich voiced opinions that several other board members also expressed, saying she does not want Laurel School to have to go through the construction process again. "I have watched that poor school going through construction over and over," she said. Building a new multipurpose room would also take from the school's already-limited field space.

Ms. Rich and other board members also worried that a school district with all neighborhood schools might have to keep adjusting attendance boundaries to deal with fluctuations in numbers of students and cause some families to involuntarily send their children to school outside their neighborhood. "I actually lean more toward the K-2 than the K-5," Ms. Rich said. "I think we can make that all work."

Board President Terry Thygesen also had concerns. "I feel very good about our ability to operate O'Connor as a K-5 school," comparable to existing district schools, she said. But some of the conditions at Laurel School cannot be changed. "At Laurel no matter what you do," she said, "you're not going to have more than a 29,000-square-foot field area."

While some of the other decisions can be put off, the board will have to decide on the amount of a bond measure by June 11, when it will meet to approve the language of the measure for submission to San Mateo County. Final approval on the bond language will come at a June 17 special meeting. ■

## La Entrada: reward offered in school vandalism case

By Sandy Brundage  
Almanac Staff Writer

Menlo Park police would really like to know "who done it" — there's now a \$500 reward to help smoke out whoever vandalized La Entrada Middle

School in March.

The Las Lomitas Elementary School District board is offering the reward for any information leading to an arrest, police announced on May 28.

When police responded to a burglar alarm at the school

on March 31, they found explicit graffiti spray-painted across the walls and a busted window, along with a small fire set outside an interior office door, according to the police report. The unknown vandals wreaked approximately \$2,000 in damage.

Anyone with information may contact the Menlo Park police at 330-6300 or via the anonymous tip line at 330-6395. ■

## REAL ESTATE Q&A

by Monica Corman



### Good Fences...

**Dear Monica: There's an issue, probably a common one, that we were hoping to get your advice about. Recently we did a major renovation to our home and had a survey done which showed that the fence between our house and our neighbors' is about one foot onto our property. We told the neighbors about it and agreed that corrective action would be taken but nothing has been done. Now the neighbors are selling their house and I want it to be made clear to a new owner that we are not giving away some fraction of our property. What would you advise? Phil D.**

**Dear Phil:** One way to resolve this issue would be to move the fence to the property line. If this isn't feasible right now, you can record an agreement that says that you both acknowledge that the fence is not on the property line but that you are not giving up this land by letting the fence be built on your property. You should consult a real estate attorney who can draft an agreement for you and your neighbor to sign that will protect your interest and state the details clearly. Then record this document on both parcels so that it runs with the land no matter who owns it. Your neighbor should also disclose this to potential buyers.

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# The unfiring of a Menlo Park police officer

How police officer Jeffrey Vasquez got his job back, and why shrouding binding arbitration in secrecy serves neither the public nor law enforcement

By Sandy Brundage  
Almanac Staff Writer

Questions linger months after the Almanac broke the story about the arrest, firing and reinstatement of veteran Menlo Park police officer Jeffrey Vasquez: How, exactly, does a police officer keep his job after being caught naked with a prostitute in a Sunnyvale motel room? How does he not only get reinstated after his firing, but awarded \$188,000 in back pay, despite reportedly admitting that wasn't the first time he'd solicited a hooker for sex?

A commentary written by the police union lawyer who represented Officer Vasquez throughout the binding arbitration that led to his reinstatement finally gives the public some possible answers.

Attorney Sean D. Howell, with Mastagni, Holstedt, Amick, Miller & Johnson, didn't detail the 2011 motel incident in his commentary, but said the Menlo Park police department violated his client's rights during the internal affairs investigation and the subsequent disciplinary hearing, called a Skelly hearing.

"They shouldn't have fired him in the first place. I pointed out the violations at the Skelly hearing; I told them up front,"

Mr. Howell told the Almanac after his article was published by the Peace Officers Research Association of California.

Former police commander Lacey Burt, now retired, supervised the internal affairs investigation and said the police department's attorney confirmed it was handled properly. "We take these investigations very seriously, and take great strides to make sure that we do not violate anyone's rights," she said. "We stand by the case."

The law prohibits the city

The attorney asserted that arbitrator James Margolin found several errors in how the Menlo Park police department conducted its review of Officer Vasquez, including:

- That then-chief Bryan Roberts and Cmdr. Burt improperly participated in a Skelly hearing after actively directing the investigation.

- That the lead investigator secretly recorded two witness interviews and disclosed confidential personnel information to one witness.

The attorney's commentary was a response to media coverage of the Vasquez matter triggered by an overheard conversation between City Manager Alex McIntyre and his predecessor, Glen Rojas, at a Menlo Park bar.

from commenting on personnel discipline.

Mr. Howell said his commentary was a response to media coverage of the Vasquez matter triggered by an overheard conversation between City Manager Alex McIntyre and his predecessor, Glen Rojas, at a Menlo Park bar.

Also, according to Mr. Howell, the arbitrator decided that Officer Vasquez committed no crime.

"He didn't get off on a technicality. He didn't commit a crime. On the merits itself, he was exonerated," said Mr. Howell.

Both the Sunnyvale police

department and Santa Clara County District Attorney's Office thought the officer had broken the law, and charged him with misdemeanor solicitation. Officer Vasquez pleaded not guilty. The case was later dismissed in court after the prosecution's time ran out while the investigating officer was on emergency family leave.

Mr. Howell's commentary alleges that the Sunnyvale police officer investigating the prostitution case testified during the arbitration that he wasn't planning to complete a crime report, but that his supervisor ordered him to do so nearly two weeks after the bust at the request of Chief Roberts.

Police reports show, however, that the investigating officer conducted follow-up interviews with the prostitute with-

in a week of the incident. Chief Roberts did contact the department at some point, but the investigation was ongoing regardless, Sunnyvale police told the Almanac.

The city of Menlo Park eventually fired Officer Vasquez, who then appealed through binding arbitration.

The arbitrator issued his ruling on Aug. 30, 2012. According to Mr. Howell, he decided the Menlo Park police department violated Officer Vasquez's rights and failed to prove the misconduct by a "clear and convincing" standard, as well as by a "preponderance of evidence." He ordered the officer reinstated with back pay.

That decision is final under the terms of binding arbitration.

Mr. Margolin declined to comment on the case, on whether the commentary accurately reflected his findings, and on his background as an arbitrator.

The attorney who represented Menlo Park — Cynthia O'Neill of Liebert Cassidy Whitmore — also declined to comment.

## The hearing process

A Skelly hearing takes place once a supervisor notifies a public employee of the intended discipline and the justification. Not a formal hearing with witnesses or cross examinations, according to labor attorneys, it's a chance for the employee to respond with mitigating information or explanations.

Afterward, should the discipline be levied, the employee may appeal. In Menlo Park,

where the police union's contract allows binding arbitration, the case goes before a third party. The union and city first try to agree on an arbitrator. If they can't, the state supplies a list of five names, and both sides take turns eliminating names until one remains; that person then serves as arbitrator. Most arbitrators are attorneys with years of experience working on both the employer and the employee side.

"It's the first opportunity the police officer has to present evidence, call witnesses, and cross-examine the city's witnesses," Mr. Howell said. "The city has the burden, on a preponderance standard, to show just cause for the discipline that was imposed."

To avoid due process violations, Mr. Howell said, the internal affairs investigator should present

a report after conducting an autonomous fact-finding investigation instead of taking direction about how to proceed from the chief or his administrators, who eventually conduct the Skelly hearing.

But labor attorneys with decades of experience representing public agencies during arbitration questioned that interpretation of case law, saying that as long as the supervising officer maintains an open mind, that person may be involved with both the investigation and the Skelly hearing.

"In smaller departments, you can't go out and necessarily get a neutral person. It's not practical, and not legally required," said Arthur Hartinger, an attorney with Meyers & Nave who specializes in representing public employers. "I do not think it is improper for a chief to have some oversight in an internal affairs investigation, where the internal affairs officer at some juncture says, 'Am I done? What else should I do?'"

According to Mr. Hartinger, based only on the information in Mr. Howell's article, the arbitrator may have taken an overly broad view of the Skelly process, rather than assessing whether the hearing met the requirement of having a reasonably disinterested party evaluate the situation and the officer's response.

"There are a lot of good arbitrators and there are a lot of weak arbitrators. The arbitrator can be legally and factually wrong and it's still binding," Mr. Hartinger said.

Arbitration is 'the first opportunity the police officer has to present evidence, call witnesses, and cross-examine the city's witnesses.'

ATTORNEY SEAN D. HOWELL,  
WHO REPRESENTED OFFICER  
VASQUEZ



Michelle Le/The Almanac

### No data

At least 16 jurisdictions in California use binding arbitration for police disciplinary cases. The lack of a centralized database of arbitration decisions, or even statistics on how many cases are upheld, turns evaluating the effectiveness of the system — or individual arbitrators — into a monumental challenge.

The Almanac obtained 17 redacted decisions in cases involving San Jose, Stockton, Richmond, Alameda, Sierra Madre, Oroville, Merced County, and Oakland. Out of 17 cases, arbitrators reinstated the officers nine times, and reduced a suspension once — a reversal rate of about 59 percent. They upheld terminations in the remaining seven cases.

“That’s the kind of data that we would love to have,” Mr. Hartinger acknowledged. “We’ve been trying to get at that for years.”

The state doesn’t require arbitrators to publish their decisions, and due to confidentiality laws, both parties must give permission should an arbitrator choose to release a case ruling.

“It’s very non-transparent,” Mr. Hartinger said. “If you call up and say, ‘Can I get your resume and a sample decision,’ and you’re with city man-

agement, you get a decision that supported management. There’s always been a concern that they’re cherry-picking their decisions.”

California could require arbitrators to list their last 10 decisions, similar to a rule used in federal cases, he said. Another alternative is dispensing with binding arbitration, typically negotiated as part of union contracts, in favor of a civilian review board.

In the wake of the Vasquez case, Menlo Park council members told the Almanac they were considering the value of binding arbitration as they entered into negotiations with the police union this spring.

Labor attorney Monna Radulovich of Wiley Price & Radulovich noted that the process, while not perfect, does offer advantages to public agencies — arbitration tends to be faster and less expensive than pursuing a case through the courts, and the arbitrators usually know employment law, unlike judges who may handle mostly criminal or personal injury cases.

“The person who’s deciding the case is a human being, the same as with a judge or a jury. So it’s not foolproof,” Ms. Radulovich said.

Attorneys compare experiences with specific arbitrators, according to Ms. Radulovich, so the process isn’t entirely blind. “The attorneys will research the backgrounds of the arbitrators on the list and try to pick one who knows the law, and will consider the case carefully and fairly.”

Overall, the arbitration process provides a good mechanism for resolving disputes outside of court, she said. One way to perhaps improve the system would be to expand the grounds for overturning arbitration decisions, although that could lead to more expensive litigation and burden the court system.

### Hidden flaws

Confidentiality laws shield personnel information from public awareness. The laws safeguard private and public employees, but public safety officers receive more rigorous protections.

Some cities, like Menlo Park, refuse to disclose information that could legally be released; the Almanac has been unable to obtain even the number of local cases or names of the arbitrators. Other jurisdictions don’t take such a hard line.

The city of San Jose, for instance, releases annual reports on employee disciplinary actions, and, if the discipline was appealed, the final outcome.

Among the terminations overturned in arbitration: A police officer fired in 2011 for driving under the influence and failing to secure weapons; an officer fired in 2010 for conducting inadequate investigations; two

## One city’s five-year history of disciplinary actions

The city of San Jose maintains a public database on its website of employee disciplinary actions. As in Menlo Park, arbitration in police cases is binding. Menlo Park refused to release its employee disciplinary-action data.

### CITY OF SAN JOSE STATISTICS

**2013 (Jan. - March):** Five city employee disciplinary cases total. Two police officers suspended; neither appealed.

**2012:** 32 cases total. Nine police officers disciplined; two appealed to binding arbitration. Outcome pending.

**2011:** 41 cases total. Six police officers; four appeals. Two dismissals overturned, and one dismissal upheld. One case settled for resignation instead of termination.

**2010:** 51 cases total. Ten police officers; six appeals. Three dismissals overturned in arbitration. Two cases settled for suspension instead of termination.

**2009:** 65 cases total. Eighteen police officers; five appeals, three to civil service commission instead of arbitration. One case settled for suspension instead of termination. No reversals.

**2008:** 55 cases total. Seventeen police officers; three appeals — two to civil service commission, which reduced hours of suspension, and one to arbitration, which reduced suspension to counseling.

officers fired in 2010 for not properly investigating vehicle accidents. In the last case, arbitration reduced the discipline to 11-month suspensions.

An arbitrator did uphold the firing of a police officer in 2011 for driving under the influence, failing to book a controlled substance and spending on-duty time not related to police function.

Confidentiality, in these cases, cuts both ways.

“The officer never gets to make a statement or to rebut what information anybody (releases) until the hearing before the arbitrator,” Mr. Howell said. “The city is going to characterize the facts in a negative light, so if I read it, I go ‘why is this guy a cop?’ But then you get into the nuts and bolts of it and you can see all the facts and determine the employer has mischaracterized the actions of the officer.”

He said police departments bear some responsibility for employee conduct related to performance issues. For example, if an officer gets fired for conducting inadequate investigations, it is possible the department may have failed to train the employee properly, depending on the case.

“If I have inadequate skills for a position that my employer hired me for, and my department failed to train me properly, am I responsible? Partially. But they need to provide additional training.

Then, if I blow it, it’s on me.”

Professor Mark Iris at Northwestern University has published studies of binding arbitration in jurisdictions that disclose some data. The topic caught his attention during his service as the executive director of the Chicago Police Board years ago, when a news story broke about a Minnesota police officer reinstated by an arbitrator after pleading guilty to a misdemeanor related to exposing himself and fondling his 14-year-old babysitter.

Typically only the most inflammatory cases reach public awareness, he noted in a 1998 study, but “these cases are exceptional, not because the police

chiefs’ decisions were overturned, but because the arbitrators’ decisions became publicly known and attracted wide attention.”

In Chicago, arbitrators cut police officer suspensions, on average, by half, according to his review. The same proved true in Houston. “If a police chief wins half the time, they’re doing really well,” he said, and added that some cities, such as Philadelphia or Cincinnati, would be thrilled to win even 50 percent of their cases.

“I’d like to put a bright spin on this, that justice triumphs in the end, but the reality is, it does not,” Mr. Iris said. ■

‘There are a lot of good arbitrators and there are a lot of weak arbitrators. The arbitrator can be legally and factually wrong and it’s still binding.’

LABOR ATTORNEY  
ARTHUR HARTINGER

‘The person who’s deciding the case is a human being, the same as with a judge or a jury. So it’s not foolproof.’

LABOR ATTORNEY  
MONNA RADULOVICH

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**Farmers' market**

*continued from page 5*

view. Besides, he added, the best location for a farmers' market is along Woodside Road, not nestled in by the museum.

Mr. Mason agreed. "You're not going to know it's in there," he said.

During the discussion of the

initiative, no one was in the room to defend the farmers' market, Mr. Mason noted. And the council had just spent two intense hours on a report from the downtown plan task force. That discussion revealed a bigger picture, a necessary context for considering ideas like a farmers' market, Mr. Mason said.

Mr. Romines took a darker

view. The council's vote "is going to kill the farmers' market," he told the Almanac. "My fear is that the result of the decision not to put it on the ballot will be the farmers' market not being able to continue."

The school is a better location, he conceded, but the school board could always change its mind. ■

**CONTRACT**

*continued from page 5*

ary step increases in the 2013-14 school year, depending on how many years they have worked for the district, with those on staff longer getting the smaller increases.

In 2014-15 teachers will get between .25 and 0.5 percent step increases.

At the same time, teachers will be eligible for as much as a 1.2 percent pay increase for

completing university or professional development courses and 1 percent for a positive evaluation in 2013-14, with an additional 1 percent increase available in 2014-15 and following years for student growth and goal achievement.

The contract also includes a complete description of the process that will be used to evaluate teachers.

Mr. Davenport said teachers will have to earn their raises under the new system. "You will have to demonstrate whether or not a salary increase is applicable to you," he said.

But longtime teachers, who reached the top of the salary schedule at 22 years, will be able to keep on getting raises if they meet the criteria.

"We've kind of worked it so that you can earn what you can demonstrate you deserve," Mr.

Davenport said.

Superintendent Piraino said the new compensation system "is rewarding for teachers" who work hard to get further training and do a good job.

Currently, the lowest possible starting salary for a Portola Valley district teacher is \$53,372; the highest salary, for 22 or more years of experience, is \$110,017. Additional stipends are paid for master's and doctoral degrees or national board certification — up to \$2,000 for each additional credential.

The new contract also includes set rates for stipends for additional work done by teachers. For example, attendance at most committee meetings will garner \$50 per hour; an after-school athletic director will make up to \$5,500 per year; and a teacher putting on a drama or music event will make \$200. ■

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TOWN OF PORTOLA VALLEY  
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NOTICE IS HEREBY GIVEN that the Town Council of the Town of Portola Valley, California, will hold a public hearing to consider adopting an amendment the Town's Master Fee Schedule to reinstate, create or increase fees for the following departments; Administration, Planning, Building and Public Works. The amounts of the proposed fees are based on information which will be available to the public at least 10 days in advance of this Public Hearing.

NOTICE IS HEREBY FURTHER GIVEN that the Town Council of the Town of Portola Valley will hold this Public Hearing on Wednesday, June 12, 2013, at 7:30 p.m., or as near as possible thereafter, in the Historic Schoolhouse of the Town of Portola Valley, Town Center - 765 Portola Road, Portola Valley, California, at which time and placed interested persons may appear and be heard thereon.

Dated: May 22, 2013

Sharon Hanlon  
Town Clerk

Published in the Almanac on May 29 and June 5

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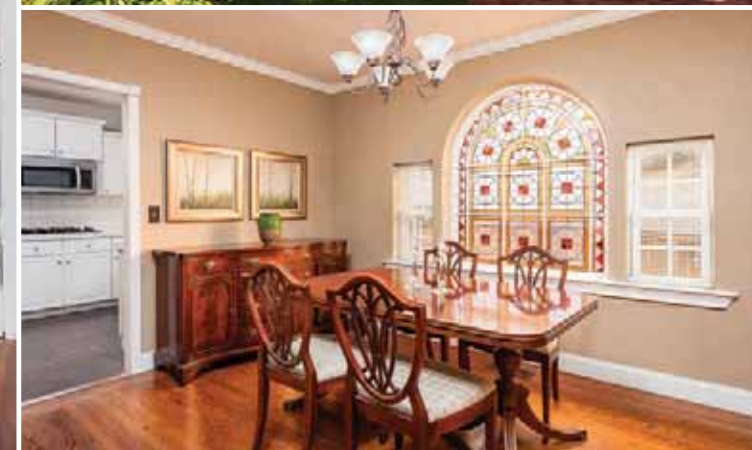
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## Menlo Park hires assistant for the city manager

Not to be confused with the assistant city manager, Clay Curtin has been hired to be Menlo Park's new assistant to the city manager, sources told the Almanac.

Mr. Curtin spent nearly four years as the senior management analyst for the city of Manhattan Beach before starting his position with Menlo Park on June 3. His background includes working, with a similar job title, for West Covina, and degrees in public administration, according to an online newsletter for city managers.

Menlo Park will pay him \$99,599 annually. City Manager Alex McIntyre said Mr. Curtin will oversee special functions and projects, such as the new Belle Haven police substation, work plans for the city's commissions, staff performance measures and policy updates.

"We have needed the capacity all along. Clay could not join us at a better time since the City remains without a Finance Director, IT Manager and City Clerk," Mr. McIntyre said in an email.

Although the city manager

### ■ MENLO BRIEFS

has added other new hires in recent months, he's also facing an outflow of senior staff. In the past 12 months nine department directors and managers have left — a police chief, police commander, finance director, city clerk, housing and redevelopment manager, senior transportation engineer, information technology manager, senior civil engineer and a librarian, according to Director of Human Resources Gina Donnelly.

Mr. McIntyre has asked the council to consider salary increases for city staff as part of its budget deliberations, in part to maintain Menlo Park's ability to attract good employees.

How large a role salary and other benefits played in the recent departures remains unknown, but two former employees told the Almanac that money wasn't a consideration. By going to other public agencies, at least one had actually taken a cut in retirement benefits.

### Big traffic delays predicted for pipeline project

The week of June 24 will be marked by construction crews grinding asphalt and paving portions of Sand Hill Road in Menlo Park, according to city staff.

Pacific Gas and Electric started replacing a 24-inch gas pipeline on Sand Hill Road near Braner Drive last August. While the work crews will start the final phase of the project by grinding pavement at night, the repaving will have to take place during the day, Menlo Park Public Works Director Chip Taylor said.

"We had hoped to do the paving work in the evenings as well, however, the rubberized asphalt is very temperature sensitive and must be placed during daytime hours to maintain minimum temperatures and ensure a quality product," Mr. Taylor said in a press release.

While the repaving will take place outside commute hours, he predicted extreme traffic delays.

The paving work should finish by June 29, with lane restriping scheduled for the following week.



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## OBITUARY

### Thor Madsen

*Civic leader*

Thor Madsen of Atherton, a former mayor of San Carlos, died May 18 at the age of 96.

He grew up in Los Angeles and came to the Bay Area with his new bride to work in the Richmond shipyards during World War II.

After the war, he moved his growing family to San Carlos, where he started Thor Madsen Plumbing.

He was active in local civic affairs and served on the San Carlos City Council from 1970 to 1973, and as mayor in 1973. He also was appointed to serve as a liaison between the mayors of San Mateo County and San Francisco.

Mr. Madsen was executive director of the Peninsula Builders Exchange. In 1981 he and

business associates founded the Bay Area Bank of Redwood City. He was a founding father and lifetime member of the PACE organization.

A member of the Lions Club, 75 Club, Squires Club, Elks Club and Athletics Club, Mr. Madsen also was an avid fisherman, bridge player and gardener. He also enjoyed world travel, say family members.

Survivors include his three children, Barbara Woodward of Del Mar, John Madsen of Palo Alto, and Carolyn Caine of Los Angeles; seven grandchildren; and four great-grandchildren.

At his request, there will be no services. Memorial donations may be sent to The Peninsula Humane Society, 12 Airport Blvd., San Mateo, CA 94401; or the Boys & Girls Clubs of the Peninsula, East Palo Alto branch, 2031 Pulgas Ave., Palo Alto, CA 94303.

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# NASDAQ hit with record \$10 million fine in Facebook IPO

■ Securities and Exchange Commission cites stock exchange for numerous violations.

By Sandy Brundage

Almanac Staff Writer

The aftermath of Facebook's glitchy transition to a public company continues to unfold a year after the social media company, headquartered in Menlo Park, held its initial public stock offering (IPO).

The Securities and Exchange Commission slapped NASDAQ with a record \$10 million fine on May 29 for "securities laws vio-

lations resulting from its poor systems and decision-making" during the IPO.

According to the SEC, the violations included the stock exchange deciding against delaying the trade of Facebook stock despite not completely fixing a computer problem that was causing more than 30,000 trading orders to remain frozen for at least two hours instead of being carried out promptly. That in turn skewed the price and available volume of shares.

"This action against NASDAQ tells the tale of how poorly designed systems and hasty decision-making not only disrupted one of the largest IPOs in history, but produced serious and pervasive violations of fundamental rules governing our markets," said George Canellos, co-director of the SEC's enforcement division, in a press release.

A Facebook spokesperson said the company will not comment on the case.

In December, Morgan Stanley, one of the lead underwriters of the 2012 IPO, agreed to pay \$5 million to settle the first regulatory action brought against Facebook financial backers who allegedly withheld information from public investors. The underwriter settled the case brought by the state of Massachusetts without denying or admitting any wrongdoing.

Multiple class action lawsuits resulted from the IPO. The suits allege that Facebook provided

false and misleading statements in documents filed with the Securities and Exchange Commission and made available to the public prior to the stock offering.

In addition, according to the lawsuits, the company allegedly gave a private heads-up to lead underwriters, including Morgan Stanley and Goldman Sachs, who then decreased their revenue projections. The lawsuits allege that the underwriters told a handful of select investors about the change, but not the public.

Facebook stock was trading at around \$24 on NASDAQ on May 31; it debuted last year at \$42.05. ■

## Margaret Gilles

*Beloved Wife and Mother*

September 28, 1924 – May 28, 2013

Born in Cleveland, Ohio to Ann and Harry Hogan, Margaret died peacefully in Palo Alto, California. She was preceded in death by her husband, Paul and daughter, Anne Kennelly. Margaret and Paul were longtime residents of Menlo Park, Ca.

Margaret and Paul spent 57 happy years together, moving their growing family from Ohio to Michigan to New Jersey and lastly Menlo Park. There they raised their family and made many friends for life. Margaret enjoyed a successful career as a realtor with Wright and Company until Paul's retirement. Then they enjoyed travelling, bridge, golf and spending time in their lovely home surrounded by family and friends. Her Christmas Eve open house was an annual tradition.

Margaret will be remembered for her quick wit, Midwestern common sense and sharp mind.

After Paul's death in 2004, Margaret moved into the Vi in Palo Alto. Macular degeneration may have dimmed her eyesight but never her spirit.



She is survived by daughter Paula (Tom) Maurano of Menlo Park; daughter Teresa O'Rourke of San Ramon, Ca; son Mark (Mary) Gilles of Menlo Park, CA and daughter Kathy Gilles of Menlo Park, CA. She will be sorely missed by grandchildren Margaret (Ted) Hazelrig, Maureen Kennelly, Matthew (Michela) Maurano, Stephen (Carly) Maurano, Megan Maurano, Paul Gilles and Francesca Gilles as well as numerous nieces and nephews.

Funeral service will be held Friday, May 31 at 10:30 a.m. at St. Denis Church, 2250 Avy Avenue, Menlo Park. In lieu of flowers, the family requests you donate to St. Jude's Children's Hospital or a charity of your choice.

PAID OBITUARY

## Dr. John VanWinkle Young

Dr. John VanWinkle Young (Dr. John) passed away at Channing House in Palo Alto on May 21, 2013 at the age of 89. He is predeceased by his twin sister, Jane, and his older sister, Betty. He is survived by Sally C. Young, his wife of 52 years, and his children, John Q. Young and Susan Y. MacLeod and their spouses (Jenny and Rod), and his adoring grandchildren (Alex, Abigail, Matthew, Naomi, and Hannah) and nieces (Mary, Sarah, and Katie).

Dr. John was born in Evanston, Illinois on April 4, 1924 and grew up in Oxford, Ohio. He attended McGuffey High School where he played multiple sports, including football for the then high school coach Weeb Ewbanks. He graduated Phi Beta Kappa from Miami University in Oxford in 1947 with honors in physics. His college career was interrupted by World War II during which he served in the US Navy on a supply ship in the Pacific from 1944 to 1946.

After finishing his bachelor's degree, he continued his studies at Northwestern University School of Medicine, followed by a 4 year residency in Internal medicine at the Mayo Clinic in Rochester, Minnesota. One of the high points of his career was a fellowship at the Peter Bent Brigham Hospital in Boston (Harvard Medical School) where he worked with Dr. John Merrill on the development of kidney dialysis and transplant and participated in the world's first successful kidney transplantation.

He joined the Palo Alto Medical Foundation in 1957. In 1961, he directed the medical team overseeing the first kidney transplantation on the West Coast. He was a Clinical Professor of Medicine at Stanford and loved teaching medical students how to take a history – an endeavor he continued after he retired from clinical practice in 1990. After retiring, he also volunteered at Samaritan House in Redwood City. His retirement years were filled with travel, golf, teaching, studying Spanish, volunteering, and other adventures.

Dr. John met his wife, Sally, in the San Francisco Bach Choir and that was the beginning of a long and happy marriage. John and Sally lived in Menlo Park in the Allied Arts Neighborhood where they raised their two children, John and Susan. He continued his love of music through the years by singing in Schola Cantorum and the Aurora Singers, playing cello and attending a wide variety of musical events.

He is best remembered by his family for his love of his children, sense of humor, the laughter he generated, enjoyment of the mountains, passion for medicine and healing others, curiosity and quest to learn about the world and God, calm and steady-hand during difficult times, and his wisdom that he imparted to those around him.

The memorial service will be held at Trinity Episcopal Church (330 Ravenwoods Avenue, Menlo Park; (650) 326-2083) at 4pm on June 10. A reception will take place at the church after the memorial service. In lieu of flowers, memorial donations may be made to the Palo Alto Medical Foundation.

PAID OBITUARY

## Willis Wayne Nelson

Willis Wayne Nelson passed away May 21st, with his wife by his side. He was 88.

Will was born in Kingsburg, CA on Nov. 18, 1924. When he was 18, he enlisted in the Army Air Corps. After training, he served as First Lieutenant in the 15th Air Force in Italy. As navigator, he flew 25 missions in the B-24 Bombers. He served in many of those missions as Lead Navigator, leading as many as 200 bombers over the Ploesti Oil Fields in Romania.

Upon his return from the war, he attended Fresno State College. He was then accepted to the Dental School of the College of Physicians and Surgeons in San Francisco.

Will and Bonnie married in 1948. They settled in Menlo Park and then soon moved to near-by Atherton where they lived together for 50 years. Will had purchased and developed 3 lots in downtown Menlo Park on the site where Menlo's first school had been built. He practiced dentistry there for 30 years.

After his retirement, he and Bonnie spent much of their time at their ocean-front home in Carmel. It was his pride and joy to maintain the ocean getaway.

He served as President of the Chamber of Commerce from 1967-1968. He dedicated the new Bank of America when it was opened. He was a member of the Kiwanis Club, the Menlo Circus Club, and the Menlo Park Presbyterian Church.



The last 3 1/2 years of his life at home, he was cared for by a very kind attendant, Nano, from Tonga. His final 6 months were spent at Lytton Gardens in Palo Alto before moving on to Heaven.

He is survived by his wife of almost 65 years, Bonnie, three married children (Steve - Los Altos, Sue - San Diego, Tom - San Diego), 11 grandchildren and 4 great-grandchildren.

His memorial service will be at Menlo Park Presbyterian Church on June 6th at 2 p.m.

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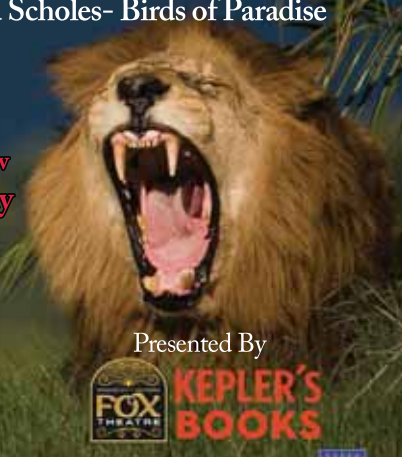
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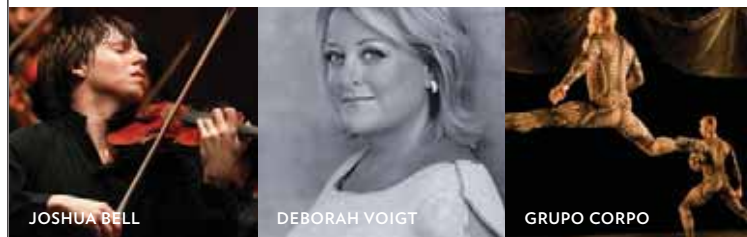


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## Las Lomitas, Woodside High parents spar at forum

By Dave Boyce  
Almanac Staff Writer

There was both faint and full-throated praise for Woodside High School at the May 29 public forum at Woodside High, the last of six forums in May on ideas for addressing a projected 22 percent enrollment surge by the 2020-21 school year in the Sequoia Union High School District's four comprehensive high schools.

Las Lomitas Elementary School District parents, as in previous forums, emphasized their desire to retain the right to send their eighth-graders to Menlo-Atherton High School which, on a scale of 1,000, scores about 100 points higher than Woodside High in state academic performance evaluations. That right may disappear with the creation of new attendance rules the district will be considering in the months ahead.

Some Las Lomitas district neighborhoods are physically closer to Woodside High than to M-A, and some families are assigned to Woodside. But unlike East Palo Alto eighth-graders who are bused to Woodside and Carlmont High (in Belmont) and must participate in an open-enrollment lottery to attend their "neighborhood school" — M-A — the Woodside-assigned Las Lomitas families enjoy a policy by which they can skip the lottery and Woodside and go to the head of the line into M-A.

One option before the Sequoia school board is redrawing the 30-year-old boundary map. At

the forums, the community has sounded off on the boundaries, as well as on preserving middle-school communities and open enrollment. The district will collate these comments and hold more forums before the board considers actions sometime in 2014, Sequoia Superintendent Jim Lianides said.

**'It makes me really sad that people who cannot go to M-A think that Woodside isn't a good school. I wish people had a little bit more of an open mind about the equality of schools.'**

WOODSIDE PARENT

There was an immediacy to complaints from Las Lomitas parents. "We invest in the community because of the schools our kids can go to," one woman told Mr. Lianides, adding that she is already looking at private schools and considering moving away.

"It's politically inappropriate to say, but (property value) does need to be taken seriously," another woman said. "This is a huge investment to live in this community. ... This is a significant shift that we're talking about. ... Many people may not want to say that, but a lot of people are thinking it."

One man complained of a \$300,000 to \$500,000 "expropriation" from his property values.

Woodside High parents, outnumbered in their own territory, defended their school.

"It makes me really sad that people who cannot go to M-A think that Woodside isn't a good school," said one woman. "I wish people had a little bit more of an open mind about the equality of schools."

Fearful parents should "take a moment of self-reflection to think about what's driving that fear," another woman said. Some students "from the lower-income places" are achieving at levels equal to students at M-A, she said.

"It's a nice school," said Nancy Krosse, a Woodside High foundation board member. "I get the feeling that we're the red-headed stepchild. I'm a nice person, and I spent a lot of money on my house," she said. Referring to a nearby Woodside mother, Ms. Krosse said she "is another billionaire! Come to my house and we'll have tea and we'll cry together."

That got a round of laughter on a night otherwise punctuated mostly by partisan applause for less ecumenical points of view.

The forums revealed priorities of keeping enrollment open and middle-school communities intact, with less concern for socioeconomic diversity and equalizing populations at the four schools, Mr. Lianides said. A new campus is out of the question, given the \$200 million outlay if a site could even be found, he added.

"Any child attending (Woodside High) will get as strong and as high a quality of an education as you will get anywhere," he said. "Yes, this high school has challenges. They all have challenges. ... It shouldn't matter, at the end of the day, where you went to school." ■

## Two-day book sale at Menlo Park Library

The Friends of the Menlo Park Library will hold a two-day book sale Saturday and Sunday, June 15 and 16, at the library in the Menlo Park Civic Center.

From 10 a.m. to 2 p.m. Saturday, a portion of the sale will be located outside on the brick patio near the library's main entrance at 800 Alma St. It will feature the most popular categories, such as children's and

young adult books, VHS tapes, DVDs and music CDs.

The downstairs meeting room at the library will house autobiographies, biographies, collectibles/special books, science fiction/fantasy, history and literature, mystery, religion, philosophy, and more.

On the second day of the sale, from noon to 2 p.m., all merchandise, upstairs and downstairs, will be either half-price

or part of the \$5 bag sale.

The Menlo Park Friends group, which conducted the first book fair on the Peninsula in 1952, has replaced its annual book fair with quarterly book sales, two of which are two-day events, according to Tim Goode of the Friends.

Proceeds from the sales go directly to the Menlo Park main library and the Belle Haven branch library.

## Picnicking in Portola Valley like it's 2013

Running, walking and everything in between will be fine in the Zots to Tots race on Saturday, June 8, at the Portola Valley Town Picnic.

As for bikes, scooters, skates, skateboards and other wheeled vehicles, those will be fine, too, but for the last time. For "safety reasons," future picnics

will have foot races only, unless you're 4 or under and accompanied by an adult, according to a statement from the town.

The race begins at 10 a.m. at the Alpine Inn (formerly Ros-sotti's) at 3915 Alpine Road, with registration beginning at 9 a.m. The fee is \$15 for a racing bib, good for a T-shirt at the end

of the race at Town Center at 765 Portola Road, where the picnic will begin at 10:30 a.m. There will be water available along the 2.5-mile course.

Live music begins at noon, bingo at 2 p.m., with local beer and wine tastings in between at 1 p.m. The picnic officially ends at 3 p.m.

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JUNE 2013



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### SEASONAL ALLERGIES

**Mountain View Center**  
701 E. El Camino Real  
Mountain View  
650-934-7373

**JUNE 12, 7 – 8:30 P.M.**  
STEVEN RUBINSTEIN, M.D.  
PAMF ALLERGY, ASTHMA, IMMUNOLOGY

This presentation will discuss the prevention and treatment of seasonal allergies.



### PREDIABETES

**Santa Clara Public Library**  
2635 Homestead Rd.  
Santa Clara  
No registration required.

**JUNE 17, 2 – 3:30 P.M.**  
JUDY FARNSWORTH, R.D., CDE  
PAMF NUTRITION SERVICES

Prediabetes – a wakeup call! Registered dietitian, Judy Farnsworth, will discuss what prediabetes is and how to manage it. Learn small lifestyle changes for making big steps toward diabetes prevention.



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## Income, housing costs separated by growing gap in county

■ 2013 indicators report released.

By Sandy Brundage

Almanac Staff Writer

Incomes are dropping even as housing prices increase, according to the 2013 “Indicators for a Sustainable San Mateo County” report.

Data from 2002 through 2011, show that average weekly income fell 14 percent, and although the number of jobs rebounded slightly after dropping in 2009, the sectors with the highest job growth — leisure/hospitality and education/health — also had average weekly wages below the county average of \$1,521.

San Mateo County continues to perch near the top of the nation’s housing-cost ranking, with only 47 percent of households able to afford their first entry-level homes, compared with 71 percent in California and 82 percent nationwide. The median sales price for a single-family house last year came in at \$740,000— a 6 percent hike from 2011.

Within the Almanac’s coverage area, the median price went even higher: \$3.2 million in Atherton, \$2.2 million in Portola Valley, \$1.6 million in Woodside, and \$1.3 million in Menlo Park.

The average rent in the county jumped nearly 20 percent during the past two years, according to the report.

Some findings surprised the

staff of Sustainable San Mateo County, the nonprofit responsible for compiling the report. The median income for people with bachelor’s degrees dropped, and those with more advanced degrees had median incomes about 61 percent higher than those with bachelor’s degrees.

“I think this shows the extent to which we are becoming more and more a knowledge society, and the importance of a high-quality education for lifetime earning potential,” said Adrienne Etherton, executive director of Sustainable San Mateo County. “At the same time the cost of education is going up and there are significant disparities in funding for public education, with per-pupil expenditures at the high end almost two and a half times that at the low end for school districts in our county.”

The 2013 report focused on income inequality, and the staff hopes it spurs community dialogue. “We were seeing a lot of reports on a national level about the growing income divide, which spurred an interest in taking a look at this issue on a local level and examining how equity affects other aspects of our community,” Ms. Etherton said.

Go to [sustainablemateo.org](http://sustainablemateo.org) to review the complete report, which includes analysis of natural resource consumption, commute patterns and other topics. ■

### ■ POLICE CALLS

*This information is from the Menlo Park and Atherton police departments and the San Mateo County Sheriff’s Office. Under the law, people charged with offenses are considered innocent until convicted.*

#### ATHERTON

##### Residential burglary reports:

■ Someone stole a Honda generator and two Graco paint sprayers from a Toyon Road construction site for a total loss estimated at \$5,900, May 28.

■ Burglary of a Selby Lane residence resulted in estimated losses of \$1,096 in the theft of a Coach wallet, a brown purse, a ring of keys, a credit card, a debit card and \$726 in cash, May 28.

#### LADERA

**Residential burglary report:** Someone stole \$2,000 in jewels and a pillowcase from a residence on La Cuesta Drive after using gardening tools at the residence to pry open an unlocked rear window, May 21.

#### WOODSIDE

**Auto burglary report:** Someone stole several thousand dollars worth of tools from the passenger compartment of a pickup truck parked at Woodside Road and Interstate 280, May 24.

#### MENLO PARK

##### Residential burglary reports:

■ Someone forced open the front door to a residence on Sevier Avenue and stole two purses with an estimated value of \$3,000, May 30.

■ An open window allowed someone to enter a residence on Callie Lane, ransack the house, and get away with costume jewelry, an Apple iPad, a wallet and \$300 in cash for a loss estimated at \$1,725, May 30.

■ Someone pried open a back door on a Trinity Drive house and stole pocket knives and a necklace for a loss estimated at \$300, May 30.

■ An O’Connor Street resident found a back door pried open but nothing missing from the house, May 29.

**Commercial burglary report:** A bathroom window showed signs of an attempted forced entry at a school in the 2600 block of Sand Hill Road, May 27.

**Auto burglary report:** Windows of two vehicles parked in the 200 block of Oak Grove Avenue were smashed, with the items stolen including a purse and its contents (for a loss estimated at \$150) and another purse and cell phone for an unspecified loss, May 26.

##### Theft reports:

■ A locked bicycle with a value of \$750 was stolen from Alma Street, May 24.

■ Someone stole a firearm valued at \$400 from an unlocked vehicle parked at Market Place and Pierce Road, May 25.

■ Someone stole a \$200 bicycle locked in a bike rack in front of an office in the 300 block of Middlefield Road, May 29.

**Fraud report:** A prospective tenant reported (to the main police station) the unfortunate wiring of \$2,350 for a rental property described in an online rental site advertisement that was later discovered to be false, May 30.

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**WHAT'S YOUR VIEW?**

All views must include a home address and contact phone number. Published letters will also appear on the web site, www.TheAlmanacOnline.com, and occasionally on the Town Square forum.

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**Mail** or deliver to: Editor at the Almanac, 3525 Alameda de las Pulgas, Menlo Park, CA 94025.

**Call** the Viewpoint desk at 223-6507.

# Viewpoint

IDEAS, THOUGHTS AND OPINIONS ABOUT LOCAL ISSUES FROM PEOPLE IN OUR COMMUNITY. EDITED BY TOM GIBBONEY

## Binding arbitration leaves public in the dark

**M**enlo Park and at least 15 other jurisdictions in California rely on binding arbitration to resolve police disciplinary cases.

The Almanac spent five months investigating binding arbitration to find out how Officer Jeffrey Vasquez got his job back, with \$188,000 in back pay, despite being fired after he was caught naked with a prostitute in a motel room, and admitting, according to the police report, that it wasn't his first time soliciting a hooker for sex.

The Almanac found that:

■ No state agency has oversight of the binding arbitration process. The state doesn't track how many times arbitrators overturn or uphold employee discipline, and doesn't keep a centralized database of their rulings. In short, no one knows how well or how badly binding arbitration works in California, particularly in police misconduct cases.

■ The arbitrator's decision can be legally and factually wrong, and it's still binding.

■ A sampling of 17 arbitration decisions in California obtained by the Almanac revealed that in 59 percent of the cases, arbitrators overturned disciplinary actions against police officers. That pattern corresponds with statistics from other cities, such as Houston and Chicago.

Efforts to examine the arbitration decision in a specific case smashes into a wall of secrecy, thanks to confidentiality laws that prohibit public agencies from commenting on personnel disciplinary actions.

The criminal case against Jeffrey Vasquez ended after the officer pleaded not guilty to a misdemeanor charge of solicitation, and the court dismissed the case for a procedural issue.

Details of the binding arbitration case — even the name of the arbitrator — came to light only after the police officer's attorney published a column about how he won the case. The attorney

claimed the city erred in its investigation, an assertion denied by police officers involved in the investigation. The arbitrator declined to comment on the case or whether the column accurately described his ruling.

Menlo Park carries the secrecy even further than the law requires, refusing to release information that it could disclose, such as how many police officers have faced discipline and how many cases have gone to binding arbitration. In contrast, San Jose posts annual reports on employee disciplinary actions, and the final outcome if appealed, on its public website, stripped of identifying information to remain within the law. Where Menlo Park looks for reasons to turn down a public records request, San Jose and other jurisdictions look for ways to say yes, in keeping with the spirit of transparency laws.

The Menlo Park City Council is currently negotiating next year's contract with the police officers' union. The council should seriously consider eliminating binding arbitration in favor of a civilian review board or administrative panel like that found in other cities.

It's also time for the city to stop hiding information about employee disciplinary cases that can legally be disclosed, such as the number of actions and the outcomes. When the Almanac asked several months ago how many police officers have been fired in recent years, the city claimed it didn't keep track. It's time to start, and to make that information available to the public, which has a vested interest in the performance of all city employees.

Finally, state legislators also need to step up and examine whether to make it easier for a public agency to appeal an arbitrator's ruling. They can also push to create a database of arbitration decisions, accessible to at least the attorneys handling these cases, as well as statistics available to everyone for evaluating the system's effectiveness.

**EDITORIAL**

The opinion of The Almanac



Atherton Heritage Association

### Our Regional Heritage

Preparing to rehearse for an event at the Menlo Circus Club in the 1920s are, from left, Evelyn Taylor, Clara Bransten, Katherine "Timmie" Doyle and Carol Lapham.

# Why I resigned from the city's Transportation Commission

By Charlie Bourne

I recently resigned from Menlo Park's Transportation Commission after serving since 2005, and I've been asked by several people why I did that; this is a brief response to that question.

My decision to resign was triggered by the Brown Act violations forced upon the commission by the city's transportation department management at our May 8 meeting and the subsequent May 13 meeting of the Bike Commission, because of the city staff's desire to speed up the approval of a consultant's plan (which was not a plan) for an Oak Knoll Safe Routes to School project. These violations were pushed by staff in spite of my warnings then that this appeared to be a clear violation of the Brown Act. The staff had brought forward a "Discussion Paper No. 3" and urged that it be sent to the City Council with our approval as a "plan."

But this was simply the latest in a long series of demonstrated shortcomings by the city staff and its management, and their attempts to limit the scope of activity and influence of the commission. The most recent assault was the attempt by the city manager and staff to eliminate the video recording and minutes of this important

committee.

The city staff, city manager, and council (by its acquiescence with proposals by the planning department) have worked actively to keep the commission from focusing on, and commenting on, things that really need its attention. These include the transportation issues associated with recent big projects such as the Stanford Medical Center, Downtown Vision Plan, and Stanford El Camino Real plan. The city planning department drew up a process for

the Downtown Vision project that excluded the Transportation Commission from seriously participating in that review process. Our requests to city staff to get those matters on our agendas and to get staff to provide relevant information to permit such a review were declined, citing council approval of that process. Furthermore, the transportation department staff would not give us their comments on the environmental impact reports that were published for these projects.

Our attempts to include the commission in a review of the transportation issues associated with the Stanford Medical Center were rebuffed.

Similarly, the commission was not permitted to review the transportation issues asso-

ciated with the current Stanford El Camino Real project.

These are the kinds of critical reviews that the commission was designed to do, but has not been permitted to do.

Shortcomings of the transportation staff management have also been evident in the poor oversight they've given to consultant reports. Such reports have been brought to the commission for review and approval that were found to be poorly written, with content issues, and judged to be of lesser quality than should be expected of professional consulting firms. The city deserved better, and the reports were sent back to the consultants for rewrites. The shocking part of these actions was that the transportation staff itself had not even read or critiqued these reports before they were brought to the commission for approval.

Twice in 2011 I asked the council to allow us to review the ECR/Downtown Specific Plan EIR, but received no response from any council member other than Andy Cohen.

Without some change in council attitudes and oversight, and some change in all levels of city staff, I see no future for this commission other than deciding where to paint the curbs red.

*Charlie Bourne has lived in Menlo Park since 1958 and served on the Transportation Commission since 2005.*



such a small endeavor a serious threat to established businesses in town? Have any of them been to the Farmers' Market, which is now held in the elementary school parking lot?

The postage-stamp-sized Farmers' Market is a delight where on any given Sunday one can find fresh organic greens, delicious cakes and sauces, cheeses, locally harvested seafood and fresh baked goods. It is a little gem that adds to the character of Woodside. Yet four council members who could have allowed Woodsiders to decide for themselves voted to take that decision away from us.

Do they believe holding a Farmers' Market in an empty Town Center parking lot on a Sunday afternoon will have a detrimental impact on the town? Do they actually believe Woodside voters can't evaluate

this issue for themselves? That is the result of the Council's 4-3 vote on May 28.

Let your council representative know if you want a Farmers' Market or if you believe this issue should be decided by the voters. The entire Town Council can be reached at council.members@woodsidetown.org

*Judy Romines  
Woodside*

*Editor's Note: Ms. Romines' husband is Ron Romines, a member of the Woodside Town Council who voted to move the Farmers Market to the Town Center site.*

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June 3

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The Almanac

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