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# Miracle on Miraloma: Bengal Alley Opens to the Public



When the chain-link fence went up 9 years ago, it looked pretty impossible. SF Department of Public Works (DPW) closed the stairway that had provided access to Sherwood Forest for over half a century because it was no longer safe. The Alley had been a popular shortcut to the 43 Masonic bus from the hills above, but now the concrete steps on the lower section were cracked and uneven, the dirt path was blocked by a fallen tree and rubble, and a heavy rainstorm had washed dirt and debris into the street below.



Then, in 2008, DPW told the households next to the Alley they had to fix the right-of-way, or the City would “cause such repair to be made, and all costs shall be a lien on such property.” “Estimates were thrown around,” Kay Curry said, “like half a million dollars.”

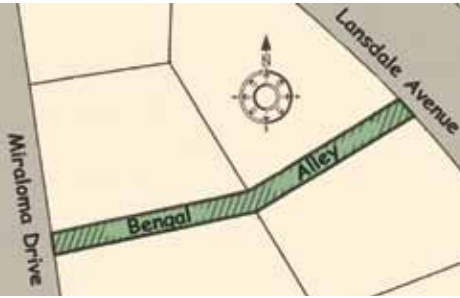
For the Currys, who are retired seniors, and for the other three households, it was a shocking prospect. The neighbors agreed that they would

jointly do the renovations, and that Fred and Kay Curry would take a leading role. The Currys worked tirelessly, negotiated with City Hall, arranged to have the Alley accepted as a Street Park, took classes in permaculture, organized their neighbors, and worked with DPW to get the permits. They have assumed the costs in order to move the project ahead.

The Currys don't wish to release the final accounting until after it has been presented to the other abutting neighbors, but overall costs are well below the half-a-million-dollar-figure cited by DPW staff and others.

David Cody, a member of the SF Permaculture Guild, was chosen as the project manager and designer. At that time, Mr. Cody was in charge of the Hayes Valley Farm, which reused an old freeway entrance at Octavia. Initially, the hope was to avoid hardscape improvements and the extensive permit regulations they might take.

Cont. p. 1



Seven years later, the fence is down and the pathway is open to the public. The stairs above replaced the crumbling cement stairway that was unsafe as well as the rubble and fallen trees that had blocked the path before. On the right the stairway with the chain-link fence obstructing passage was taken in 2008, when the Westside Observer began the campaign to “Bring Back Bengal Alley.” (Top Inset) Neighbor and Chief Visionary Kay Curry proudly displays the thriving plants that are quickly taking root, blooming and, in some cases, bearing fruit. .

## District 7 Focus Greater West Portal Area Leads the City in Traffic Deaths

By George Wooding

District 7 is the most likely place for a pedestrian in San Francisco to be hit by a car and die. Of the seven San Francisco pedestrians who died this year after being struck by cars, four of the fatalities — 57% — have been in District 7.

Highest Vehicle-Pedestrian Collision Intersections in District 7			
Street A	Street B	Five Year Collision Total	Citywide Rank
19th Avenue	Taraval Street	8	8th
19th Avenue	Judah Street	5	42nd
Junipero Serra Blvd.	Holloway Avenue	4	80th
Junipero Seirra Blvd	Ocean Avenue	4	80th
Vicente Street	West Portal Avenue	4	80th

At San Francisco's current pace of the pedestrian-vehicle fatalities, the City will exceed last years' 19 deaths and reach the highest levels in over ten years.

According to the SF Municipal Transportation Agency's (SFMTA), April 4 collisions report, 24 pedestrians have been killed by cars in District 7 over the last five years and 1,648 pedestrians have been injured in pedestrian-car collisions in District 7 over the last five years.

The reason District 7 collisions are so often deadly is because of the unsafe speed that cars travel through District 7. Unsafe speed was the major factor in 587 of District 7's accidents. Incredibly, 33% of all unsafe speed accidents in San Francisco are happening in District 7.

### Speed Kills

According to Walk SF Executive Director Elizabeth Stampe, and the Department of Public Health, people are six times more likely to die when hit by

a driver at 30 mph than at 20 mph. The 15 District 7 streets that drivers continually speed on include: Monterey Blvd., Sloat Blvd., 19th Ave., Portola Dr., Laguna Honda Blvd., Lake Merced Blvd., John Muir Dr., Brotherhood Way, Clarendon Ave., Skyline Blvd., Woodside Ave., Terisita Blvd., O'Shaughnessy Blvd., Panorama Dr., and Junipero Serra Blvd.

Many City pedestrians who are hit are victims of inattentive or drunk drivers. Conversely, pedestrians need to take responsibility for their own actions. Pedestrians often get hit walking against traffic signals or jaywalking. Eyes glued to smart phones — twittering, texting or, wearing ear buds — pedestrians become oblivious to surrounding traffic and walk in front of cars, buses, and bicycles, and amazingly, other pedestrians.

San Francisco's pedestrians are also growing older. Approximately 14% of us

Cont. p. 6

## Retaliation and Bullying of City Employees

High Costs of City Attorney's Advice  
By Patrick Monette-Shaw

Surprising legal arguments creatively developed by Deputy City Attorneys to fight lawsuits against the City — often with the supervisory approval of the City's Chief Labor Attorney and probably City Attorney Dennis Herrera himself — may be so misguided as to be costing the City millions of dollars, year in and year out, and may be damaging the reputation of the City Attorney's Office.

Troubling developments in Dr. Derek Kerr's settlement agreement against the City for \$750,000 have occurred since the Westside Observer first published details of his settlement terms in our April issue.

New information has surfaced regarding the 103 settlement agreements involving prohibited personnel practices against the City that have cost taxpayers at least \$11 million over a five-year period, showing a disturbing trend in how the City Attorney's Office mounts its legal defense in these cases.

“The City Attorney tried to use every pretext, lie, and smear used by the Defendants in my case to deny their whistleblower retaliation. The evidence from sworn depositions and subpoenaed documents — plus their pitiful contradictions — sank their defense,” said Kerr, who was awarded monetary and non-monetary damages in his wrongful termination lawsuit settled against the City last month.

### Developments in Settlement Agreement

As the Observer reported, Dr. Kerr's agreement included five non-monetary terms. Following the Board

Cont. p. 14



“The Currys didn’t want something that a rainstorm could wash away in a matter of a few hours. At the same time, they wanted to avoid hardscape improvements and the extensive permit regulations...”



*Bengal Alley (Cont. from p. 1)*

In 2010, when DPW Deputy Director Mohammad Nuru reviewed the initial renovation plans and visited the site, he denied the neighbors’ original plans, citing “concerns about the safety of people on the path.” Though Kay Curry agreed that the passageway was unsafe in 2008, “no one has ever, to my knowledge, been injured on the walkway.” But the Currys and David Cody agreed that



hardscape would be safer and would also avoid constant and critical rebuilding of planned earthen structures.

Boaz Mor collaborated with Mr. Cody in the design of the hardscape, and oversaw all construction, including path supports, retaining walls, and handrails, as well as drainage and retention of water on the site. As a Permaculture garden, plantings include fruit trees and berries, native species, and habitat for birds and beneficial insects.

It was five years ago, two years after the fence appeared, that the Westside Observer began its crusade to reopen the stairs between Lansdale Avenue and Miraloma Drive—October 2008.

The Bengal Alley stairs is a showcase as an inexpensive solution to slope



Above: Kay harvests the first crop: spring onions growing in the swards that serve to anchor the stairways. (Right) The old cobblestone stairs comprises the top section, and remains almost as they were when originally constructed.

challenges. This community asset is a planting, watering, weeding or much small treasure that will also have a sustainable planting and maintenance plan for the exotic and native plants.

To join Friends of Bengal Alley, or for information on how to help with

needed cash donations, contact Kay Curry at [kcurry415@grnail.com](mailto:kcurry415@grnail.com).

A tentative Grand Opening is planned sometime in May. Our next goal may be to rename stairs the Curry Stairway.

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Monday, May 27, 2013

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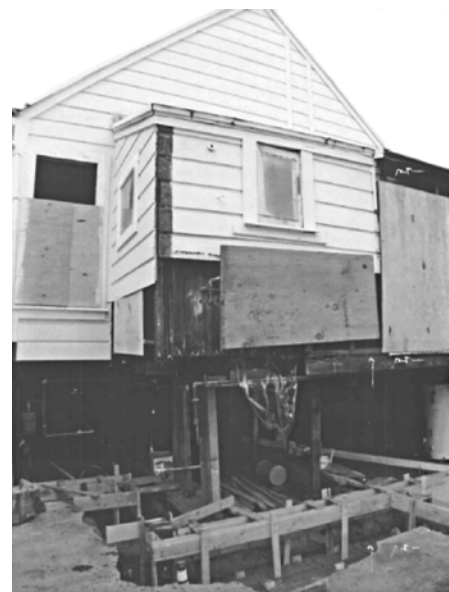
## An Open Letter to HUD

# Lead Hazard Program: Dangerous to Children

By Rita August O'Flynn

Two cottages on a single lot which I own jointly with my husband, were included in San Francisco's HUD-funded Lead Hazard Program. The near-unhabitable condition of one of the cottages was apparent to anyone. Yet San Francisco Lead Hazard Program filed a *doctored* clearance form (which stated that lead hazards were detected) with California's Childhood Lead Poisoning Prevention Branch (CLPPB), and notified the tenants (including a wheelchair-dependent senior and her grandchild) that all lead hazard reduction activities were finished and that the house could be safely occupied. The CLPPB accepted the late filed doctored

**“...Lead Hazard Remediation in your home was finished last week...it is now safe to re-occupy your unit.” — SF HUD-funded Lead Hazard Program Manager**



clearance form for my property (and others) and HUD simply accepted the City's accounting of these two cottages (and other units) as cleared as a matter of fact. A subsequent licensed, 3rd party assessment of my property indicated that San Francisco's Lead Hazard Program had not complied with mandatory State and Federal law resulting in:

- the failure to identify all hazards,
- the generation of a deficient scope of work,
- the failure to clear identified hazards,
- additional contamination due to lack of containment during demolition using a back hoe, and
- in addition, the Scope of Work had not been completed because the required soil abatement had not been performed and re-occupancy occurred prior to clearance of known lead-based paint hazards.

As of today, significant elements of the scope of work for my property remain incomplete, including the abatement of lead-based paint hazards from the outdoor play areas around the cottages, which tested out at over 4000 ppm for the presence of lead (and that was before the rear portion of one of the cottages was removed via back hoe, *without* the requisite containment). SF's Lead Hazard Program expended over \$40K of HUD Lead Hazard Reduction grant funding to leave my property in this condition.

While HUD contractually requires SF's Lead Hazard Program to conduct its activities in compliance with all applicable State and Federal law, San Francisco has successfully argued that its Lead Hazard Program is not contractually obligated to homeowners/tenants and their children to render homes safe from lead-based paint hazards. According to the City Attorney, the program only needs to complete lead hazard reduction activities to "its satisfaction" and to file a clearance form, in order to comply with its agreements with homeowners.

The photos above document what San Francisco considers to be completion to "its satisfaction". If this is how SF's Lead Hazard Program operates, it is unknown how many of the +1000 homes that were already classified as cleared are actually safe for children to occupy.

Recently the Mayor's Office of Housing submitted yet another grant proposal

requesting an additional \$3million for its Lead Hazard Program from HUD's 2013 Lead Hazard Reduction Demonstration Grant Program. According to HUD, this funding, "...assists states, Native American Tribes, cities, counties/parishes, or other units of local government to *identify and eliminate* (emphasis added) lead-based paint hazards in low - and very low - income private housing where children under 6 years of age reside or are likely to reside".

HUD has been routinely funding our Lead Hazard Program since 1993, and already provided tens of millions of Federal dollars to be used:

"...to provide safe and healthy homes for at-risk families and children..."  
 "...on making homes safer for children and families to live..."

More than once, the program was in danger of losing funding for failing to clear homes in a timely fashion. Circumventing the law may have been just one of the ways the program was able catch up with its commitment to clearing homes within a specified timeframe. It's unfortunate that San Francisco has made HUD's continued financing a priority over the health and well-being of the children who are the intended beneficiaries of these funds.

To say that San Francisco's Lead Hazard Program has been plagued with problems (+1million in missing funding, long-term use of doctored clearance forms, use of unlicensed contractors, etc.) is an understatement. These problems, however, would be inconsequential to families with children if the program had at least rendered homes safe from lead-based paint poisoning hazards as defined by law; without this, any accomplishments touted by the program are meaningless.

San Francisco's approach to lead-based paint hazard remediation is clearly not consistent with the terms and conditions of the millions of tax-dollars the Program has received from HUD so far, and certainly fails to meet the stated goals of the Federal program.

Because HUD, the EPA, and the CLPPB are either unwilling or unable to enforce its laws and San Francisco has established a standard for clearance much, much lower than that required by law,

## RUMINATIONS FROM A FORMER SUPERVISOR By Quentin Kopp



Debra J. Saunders, my favorite San Francisco newspaper columnist, illuminated on March 31, 2013 a 2012 California Department of Motor Vehicles report which finds that unlicensed motor vehicle operators cause fatal motor vehicle crashes in California almost three times more than licensed drivers. Yet, our inexperienced District Attorney (George Gascon) who has never tried a case, told her newspaper editorial board that illegal immigrants need automobiles for work and transporting children to school and that San Francisco's policy, enunciated in 2009 by then-Mayor Gavin Newsom, prohibiting San Francisco police officers from impounding motor vehicles of unlicensed drivers will therefore continue. Consider that if a licensed California driver, whose licensed was suspended, is stopped by a San Francisco police officer and fails blood alcohol content tests, his or her vehicle is subject to impounding. Ms. Saunders cited the case of a law student (Drew Rosenberg) killed on November 16, 2010 by a 52-year-old legal immigrant, who had flunked a driver's license test three times and thereupon suffered impounding of his vehicle, which a friend then retrieved and returned to the unlicensed legal immigrant. Instead of effectuating change of the Newsom-formulated policy, Gascon embraces it. He thus encourages unlicensed driving.

**“As gifts, the legal question arises of whether such gifts preclude the donors from doing business with the city. ... Quizzed by the press, Gascon dismissively (and curiously) declared: “People have way too much time on their hands.” Asked about his intentions regarding prosecution of corruption cases in city government during his 2011 campaign on West Portal Avenue, Gascon refused any explanation or statement of intent.”**

Now, this is the same D.A., who it was revealed in the same newspaper and on the same day, obtained \$26,945.43 from 13 individuals described in the *Bay Guardian* as "well-connected donors" for furniture and free decorating services in his office without obeying the law, which requires approval of the Board of Supervisors and a timely reporting to the state Fair Political Practices Commission receipt of the same as gifts. The gifts were conferred upon Gascon last October. In 2008, the City Attorney issued a memorandum opinion requiring city departments and officials to report gifts worth more than \$100 on their websites. The same City Attorney opinion informed City Hall and other local public officials that a department chief must obtain Board of Supervisors approval before (not after) accepting any gift to his department worth more than \$10,000. The District Attorney never disclosed the \$26,945 in furniture and decorating services until February 2013, and never even tried to obtain supervisors' approval until after newspapers exposed those violations of law.

Then, early last month, and only then, did the Board of Supervisors pass a resolution accepting the furniture and decorating services as gifts to the City and County of San Francisco. One Ron Conway, usually identified as a venture capitalist or investor; Nibbi Brothers Contractors, a construction company with public housing, the Port, and other City projects; their lawyer at City Hall, James Reuben; Victor Makras, a member of the San Francisco Public Employees Retirement System governing board and his wife and son; Ryan Brooks, a Cablevision executive and former Public Utilities Commission member; Pius Lee and Benny Yee, two longtime Chinatown operators, who, respectively, were on the Police Commission and Redevelopment Agency; Charlotte Schultz, City protocol director; one Joseph Tsang; Martin Richards, a decorator for City Hall functions; and Dr. William Breall, father of Hall of Justice Judge Susan Breall, comprise the donor array. Conway's contribution was \$9,999, one dollar shy of the \$10,000 limit on gifts to public officials; other donations were in \$2000 and \$1000 chunks, except for Reuben and Richards. The gifts were finally reported by Gascon on a Fair Political Practices Commission Form 803 for gifts received after a specific request from the public official. As gifts, the legal question arises of whether such gifts preclude the donors from doing business with the city. One also wonders

whether the furniture can be reused by city government or whether it's not of a typical governmental character. As two San Franciscans characterized such gifts to me in the aftermath, it's protection. The Fair Political Practices Commission ducked a complaint by several San Franciscans on the ground the Board of Supervisors had in April approved receipt of the furniture and decorating which "do not convey any personal benefit for Mr. Gascon." Quizzed by the press, Gascon dismissively (and curiously) declared: "People have way too much time on their hands." Asked about his intentions regarding prosecution of corruption cases in city government during his 2011 campaign on West Portal Avenue, Gascon refused any explanation or statement of intent. One shouldn't be surprised by the foregoing events.

Amidst the five-year or more debate on banks being "too big to fail" and incurring debts requiring loans from taxpayers, I have been struck by the lack of action, even by Congressional Democrats, much less the President, to restore a fundamental principle enacted during Franklin D. Roosevelt's presidency in 1933 as a consequence of the Great Depression. The Banking Act of 1933 prohibited paying interest on demand deposits (like checking accounts) and granted the Federal Reserve Bank authority to impose limitation on savings deposit rates. The idea was based upon discouraging competition for deposits, which could cause bank instability. The Congress and President also enacted the Glass-Steagall Act, which separated investment activity by banks and other financial services from regular banking, which consists of receiving deposits and then providing loans. During the administration of President William Jefferson Clinton, the Republican-controlled Congress passed a bill repealing the Glass-Steagall Act. Mr. Clinton signed the repeal measure. As pointed out by Thomas M. Hoenig, Vice Chairman of the Federal Deposit Insurance Corporation in Washington, D.C., and Charles S. Morris, Vice-President, Federal Reserve Bank, Kansas City, in the 1990's banks weakened the Glass-Steagall Act prohibitions on investment banking activities by creating statutorily-permitted subsidiaries to deal in stocks and bonds, which the Federal Reserve Board then encouraged by approving higher thresholds before accusing a bank of being "engaged principally in the issue, floatation, underwriting, public sale, or distributions of stocks,



## San Francisco's \$6.9 Billion SSIP

By Steve Lawrence

Goals of the upcoming Sewer System Improvement Program (SSIP) are big; this \$6.9 billion City expenditure aims high. Goals include: Earthquake-proof system—being able to continue to treat sewage after a large earthquake; adapt the sewage system to climate change (so rising sea levels don't sink the system); deal with storm water in a more "green" fashion (now it goes to sewers but it should recharge groundwater); provide benefits to communities affected by the sewer system and its changes; and keep rates affordable.

**Or are such programs an expensive waste of rate payer funds? Will bioswales become cesspits of garbage and dog doo? Will greenways soon blossom into patches of weeds? Are we improving a City, or the finances of City employees and consultants?"**



The SSIP is keen to promote and celebrates "green infrastructure." This is de rigueur (required) these days. The City is divided into "watersheds." Each watershed is a sacred space. The "day-lighting" of ancient streams is one way to worship. Green roofs, bioswales, green gardens, rain gardens, and permeable paving are more. Green alleys will come to Chinatown. "Wiggle" greenways will grace the Fell-Oak corridor, along with "bulb-outs" in those two main streets.

Green infrastructure improvements require extensive planning, public outreach, analysis of environmental impacts, and careful coordination with other city agencies. As such they are expensive, taking many hours of staff time. Public outreach is to include "guerrilla marketing."

Are these green ornaments in keeping with progressive San Francisco? Are they what are needed for the City to promote the panache it enjoys, i.e., attracting diverse, creative people who ignite a cutting edge economy: apps today, biotech or who knows tomorrow?

Or are such programs an expensive waste of rate payer funds? Will bioswales become cesspits of garbage and dog doo? Will greenways soon blossom into patches of weeds? Are we improving a City, or the finances of City employees and consultants?

In the past dozen years the cost of the program to fix the sewer system has grown nearly seven fold. Some of the increase is due to inflation, and some is due to an enlarged scope of work as problems have been realized and further developed. The water system improvement program, which is now mostly completed, so far has expanded in cost by about one-third. If the sewer program does the same, the final cost would come in at \$9 billion. Assuming the City grows to 900,000, that's about \$10,000 for every citizen.

How are decisions about such programs made? The reality is that staff—public employees—have the greatest role.

SFPUC is the one City department that is allowed to sell bonds (go into debt) without voter authorization. Staff proposes a program, such as the SSIP, at

\$6.9 billion. The five- person Commission then authorizes the sale of bonds. The Board of Supervisors can, theoretically, veto—most unlikely. Once the bond indebtedness is incurred, rates must rise enough to pay back the debt.

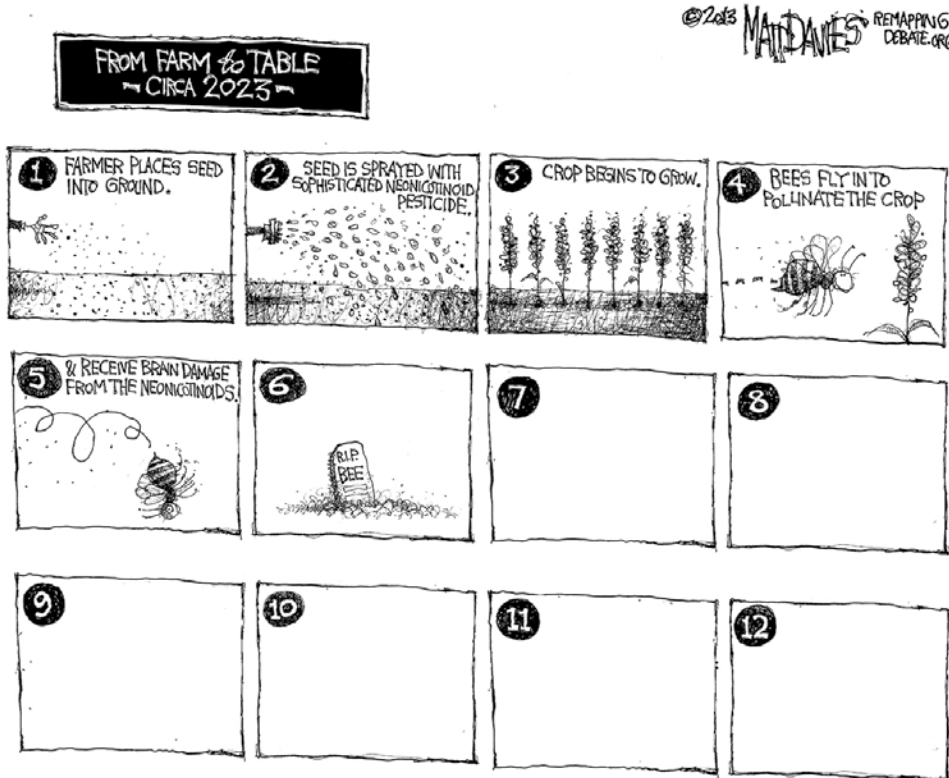
Who are the Commissioners who make decisions on such matters? It is important to understand that the Commission has a history of being pretty much a rubber stamp. Like a board of directors of a corporation, it theoretically sets policy. But unlike a board, it does not choose the General Manager, who is chosen by the mayor. Policy is mostly staff guided. Recently this has changed somewhat. A few years ago Ed Harrington was brought in as GM to get things done. His preference was to allow—at times almost force—the Commission to set policy. While it is early in Harlan Kelly's reign as GM, Kelly may follow Harrington's lead.

The Commission is not much enjoying its new role. Recently it has been asked to decide whether to expand the SFPUC with "CleanPowerSF," which would provide renewable electric power, displacing PG&E. Surprisingly, staff does not support what the Greens want: a robust local buildout of solar, wind and other renewable generation facilities. Staff prefers to dip toes in first, rather than dive headlong. Supervisors and Greens want big bold action now. The Commission is whipsawed. To dive in is to risk a billion dollar (probably more) boondoggle. It is all too easy to imagine the endeavor souring.

Commissioners now fill seats, one each for the environmental community, union (informal; "at-large"), rate payers, project finance, and utilities. Commissioners serve for four years, but one has served for sixteen years now.

For the SSIP, Commissioners have so far kept to their traditional role as overseer (or, less graciously, "rubber stamp"). What should be accomplished? Staff guides. What will it cost? Same. Perhaps the Commission takes some interest in where rates are projected to go, but rate hikes lag far behind the decisions that

Cont. p. 7



### My 2¢ / Will Durst

## PLAY BALL 2013.

Forget the robin. Ignore the tulips. Do not let the Easter Bunny, hummingbirds or awakening bears hoodwink you. The first baseball thrown in anger is the true harbinger of spring and calendar alarm for the lazy discard of the heavy encumbrances of winter. Ditch the parka and pull out the windbreaker. Stash the boots and burn the long underwear. Trust me. Burn the long underwear.



Civilization dodged another bullet. The dragon once again neglected to eat the sun; the light is returning and summer has embarked on its lollygaggingly capricious path. Barbecue grills are getting a good scrubbing. Complicated intra- family schedules are being examined through molecular microscopes for reunion potentialities. Carnies are accidentally shearing the heads off of retaining bolts to the Whip- A-Whirl. All activities destined to be accompanied by the mantra of summer; a play- by-play broadcast on AM radio.

Opening Day is the true American holiday of renewal, showcasing that memorably mortal moment when anything's possible. This IS next year. Second chances ARE real. Welcome to zero when every team has the same theoretic opportunity to make a run. Win a pennant. Stuff the 30 Flags trophy in a display case. Or just beat the Dodgers like a red headed stepchild. Hope. Springs. Eternal. Not even the Cubbies have been mathematically eliminated yet. The Astros and Royals, maybe.

Baseball's long haul season is another of its peculiar charms. 162 games. An eight month long soap opera in cleats. Plenty time enough for spectacular feats of athleticism, mythic comebacks, grandiose stumbles, the heroic shattering of records and an occasional ball bouncing off of a head over the fence. They call it the National Pastime, not the National Surgical Strike. And those who pay attention will see something every day that has never happened before. #snowflakes.

Baseball players are also easier to relate to as humans than other athletes. They are not augmented in outline by layers of armor plating. Nor are they freaks of nature towering above the populace like redwoods in a forest of pussy willows. Their job is to run and throw and swing a stick and catch a ball. "Hey. I can do that." Just not as good.

Encounter one of the Boys of Summer on the street and you could mistake them for plumbers or lawyers or corporate event planners. Very buff plumbers and lawyers and corporate event planners, with forearms the size of telephone poles- but still.

Sure, some make fabulous money, but they seem more like blue- collar workers at heart. Golfers require absolute quiet while approaching a teed ball with a metal club, but in baseball, the batter is assaulted by shouts and jeers and the heckling of tiered multitudes in his quest to swing a wooden bat at a white sphere approaching 100 mph thrown not too distant from the vicinity of his head.

You can smell it in the air. The musty team t- shirts pulled from the backs of closets and bottoms of wardrobes. The roasting of foot- long bratwursts on an open grill behind 3<sup>rd</sup> base. The toasting of the half naked fans in the center field bleachers. That odd pungent odor emanating from the men's room. Baseball is back and all is right with the world. "Play Ball!" And Go Giants!

5 time Emmy- nominee Will Durst's new one- man show "BoomerAging: From LSD to OMG" opened at the Marsh, San Francisco on April 16th. Go to [themarsh.org](http://themarsh.org) or [willdurst.com](http://willdurst.com) for more info.

# WESTSIDE OBSERVER

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## Letters to the Editor



The photo was shot from the SE corner of Victoria and Urbano. In the middle distance is the intersection of Victoria and Ocean Avenue, with the Ingleside Terraces rock gates.

The photo was probably taken from what is now the site of 806 Urbano. The house on the right is 710 Victoria, and

has been beautifully restored. The three houses on the left are also still there, at 727, 739, and 755 Victoria. I'm sure the History Center could research when the houses were built to get an idea on the date of the picture.

Thanks for publishing this very interesting photo. We live on the other side of Ocean, in what was the forest! **Warren McCausland**

Thank you for publishing the photograph of the wild turkey recently cited in the vicinity of Mt. Davidson Park. My husband and I were surprised to see it walk across on the north slope trail the Saturday before Easter. It flew off before we could take a picture of it and wondered if it was something we just imagined - if not for the picture captured and printed in your paper. It is exciting to see such a large and unusual bird for San Francisco in our neighborhood park. **Jacquie and Ron Proctor**





Parkmerced

Projectomania: Build First, Plan Later

By Glenn Rogers

On December 14, 2012, Judge Teri Jackson issued two decisions related to the California Environmental Quality Act (CEQA), approving two of the largest developments in San Francisco since the Bayview-Hunter’s Point project. On this day she approved the development of the Parkmerced and Treasure Island projects. These approvals gave developers, political lobbyists and finance firms (such as China Community Bank) reason to celebrate. Typically, Chinese contractors are required to perform work on projects funded by the China Community Bank and, though City officials claim this would never happen in San Francisco, it should be noted that the Oakland Bay Bridge was both fabricated and installed by many Chinese companies at a time when local unemployment was at



**...Judge Jackson approved the Parkmerced project based on its commuter-friendly status that waits 20 years for the “M” street car to extend to Daly City BART. Improvements like these need to be provided before development, not 20 years later. Safe to say, waiting this long for necessary improvements means they may never happen.”**

record high.

The Parkmerced decision<sup>1</sup> was largely ignored by the press, although Parkmerced is presently one of the largest garden rental apartment communities west of the Mississippi. Parkmerced was originally designed by the father of modern landscape architecture in the Bay area, Thomas Doliver Church, and is one of his only publicly-accessible sites. The landscape was featured in the traveling exhibition “Marvels of Modernism Landscapes at Risk” in 2008 by the Cultural Landscape Foundation.<sup>2</sup>

The decision to demolish Parkmerced poses a quandary regarding how densification of urban areas will be accomplished in the coming years. The Association of Bay Area Governments (ABAG), responsible for transit-oriented development and Assembly Bill 32 - Global Warming Solutions Act (AB 32), are in many ways in conflict with the San Francisco General Plan in how to best preserve and protect rental housing and culturally-significant landscapes against development. Assembly Bill 32 requires significant reduction in greenhouse gases by 2020. The Parkmerced project is expected to last 20-30 years from the beginning of development, a process which has been delayed by additional litigation. Adding to greenhouse gas concerns are pollution from dust, especially lead paint from decades of maintenance on Parkmerced. Despite this inconsistency, Judge Jackson claimed, “There is no requirement for the Project description to identify a specific date for completion of the Project.”

800 Brotherhood Way Now, another project is being planned for a unit development next to the Parkmerced project. This project, 800 Brotherhood Way, is being started without an EIR review. Along with the San Francisco State University (CSU-SFSU) master plan, this other project negatively affects Parkmerced as a master-planned community. 800 Brotherhood Way will add 182 housing units to an already densely crowded area, and inject many tons of CO2 and dust into the air west of 19th Avenue. Accordingly, the approval of these two projects should be undertaken together. Since the Parkmerced and 800 Brotherhood Way developments are intended for market-value housing, forcing most of the apartment bidders to pay full-price for rentals and possibly future condominiums, how would it be possible to find tenants willing to tolerate 20-30 years of unhealthy fumes and noise in a seemingly perpetual construction zone? Needless to say, some City officials question the feasibility of these projects.

The project’s Environmental Impact Report (EIR) described 19th Avenue, a traffic artery adjacent to Parkmerced, as

already impacted by traffic. Despite this description, Judge Jackson approved the Parkmerced project based on its commuter-friendly status that waits 20 years for the “M” street car to extend to Daly City BART. Improvements like these need to be provided before development, not 20 years later. Safe to say, waiting this long for necessary improvements means they may never happen. Besides, common sense challenges a project that claims to be commuter-friendly when it increases tenants by 17,000 and adds 6,000 additional parking stalls. Judge Jackson could have overturned this project on this recognized problem alone.

There are 11 existing towers, 13 stories high, only two miles from the San Andreas Fault line. Residents claim that these towers were seriously damaged from the Loma Prieta earthquake in 1989 and were repaired only superficially. Judge Jackson excludes retrofitting these buildings as part of the new improvements to Parkmerced. Stuart Flashman, the lawyer representing the preservation of Parkmerced, described a future scenario whereby these towers could be destroyed in another catastrophic earthquake in the near future. This anticipated earthquake could add to the scope of the development of this project not anticipated in the EIR. This scenario was also ignored by Judge Jackson.

A recent EIR on the topic of housing notes a culture of demolition and maximizing of profits for the few in San Francisco. This culture has ignored the real needs met by Met-Life in the development of Parkmerced, in conjunction with the City, during the World War II housing crisis. These three recent decisions by Judge Jackson have affirmed that appealing to CEQA, the public’s main venue for contesting and protecting existing communities, is becoming more difficult. As an appointee of former Mayor Willie Brown, Judge Jackson’s consistent favoring of City agencies and private developers hints at her past relationship with the famed business-friendly bureaucrat. Therefore, questions arise regarding Jackson’s ability to give a fair trial, when developments are seemingly approved in a “rubber-stamp” fashion.

Meanwhile, sweeping changes in CEQA are being proposed simultaneously by Supervisor Scott Wiener and Governor Jerry Brown that will further eliminate the public’s ability to appeal future EIRs. What is lacking in this discussion is how the Parkmerced redevelopment project will be analyzed for alternatives that generate a sounder investment in land-use, transit planning, environmental protection and enhancement. How can we preserve open space that prevents the demolition and destruction of

Cont. p. 8

GARBAGE RATES INCREASING

By Gary Noguera

Our monopoly trash pick-up company, Recology, is attempting to increase rates that would for the first time impose fees on the recycling bins. If you have not already received a notice in the mail about this, you will soon.

This proposed rate increase seems completely counter intuitive to the City’s overall plan to reduce waste being dumped into landfill. They are proposing a charge of \$2.00 per month for each 32 gallon blue bin you have, and \$4.00 for each 64 gallon bin. Another \$2.00 for each 32 gallon green bin you use, and \$4.00 for each 64 gallon bin. They also want a \$5.00 “fixed charge.” They are proposing these increases to, “pay for possible physical improvements to the garbage transfer station.” They state that this will be a 21.51% or \$6.60 per month for residential customers. I don’t see the math adding up correctly.

Recology already makes a mint from our monthly pick-up charges, as well as from the cans/bottles that we place in the blue bins. They separate these items and sell them on the commercial recycling market for even more profit. With these additional charges, why bother to recycle?

**ACTION:** They state that if they receive enough negative feedback, the rate increase will not go through. In the increase notice it states, “THE RATES WILL NOT GO INTO EFFECT IF WRITTEN PROTESTS ARE RECEIVED FROM A MAJORITY OF THE EFFECTED CUSTOMERS”

- To protest, you must send a letter only [no emails or faxes, phone calls] to:  
Refuse Collection Rate Hearing Officer  
c/o Dept. of Public Works room 348  
City Hall, SF 94102  
You must follow these rules exactly to the “t” to get your input considered:
1. Address the letter exactly as stated above.
  2. List your home address in the letter or your Recology acct. number.
  3. *HAND SIGN* your letter. They must have an original signature.
  4. Send ASAP as closing date for comments is **May 30, 2013**.
  5. *State clearly that you oppose the rate increase. You must state this clearly.*

If you fail to do any of these 4 steps exactly as they demand, your letter will be discarded.

Please take the few moments it will take to send your letter, to help prevent this proposed increase. Sample:

“Dear Rate Officer. I live at 000 Teresita and I strongly oppose the proposed Recology rate increase.

Yours,  
Joe Blow [HAND ORIGINAL SIGNATURE]”

Gary Noguera is a long time resident of Miraloma Park, served on its Board, as well as being a past president of CSFN



Senior Smarts: Celebrating Mother’s Day

By Anise J. Matteson

As we approach Mother’s Day, the elderly, ill, family members, friends and caregivers will experience a more hectic schedule.

While enjoying the holidays, remember to follow the dietary regimen prescribed by your primary care physician and other health care professionals involved in your treatment plan.

If you are taking medications, remember to follow the instructions on the prescription.

Kitchen aids seniors may find helpful: long handle reachers; talking food scales; big and bold 60-minute timer; large digit hand-held timer; jar opener with flexible ribbing on a built-up handle; peelers: vegetable peelers with cushion grip or horizontal peelers with soft, comfortable grip; grater with suction feet; built-up handle eating utensils; food prep board (one-handed); bladeless hand-held electric can opener; curved eating utensils (comfort grip cutlery); plastic coated spoon [protects teeth and gums]; knife with sharp curved blade and solid handle [for those with the use of only one hand]; scoop bowl; scoop plate; tumbler with special cutout (nosey cup); spill-proof cup with lid that accepts a straw; 3-section plate; terry cloth food catcher; grip knob (faucet handles); wide-base pitcher; insulated pitcher; insulated mug; spouted beverage lid; two handle transparent mug; food guard [keeps food on plate]; non-slip matting [in lieu of place mat].

**Creative Cooking Made Easy** instructions for cooking are: Be accurate. Read recipe and gather ingredients before starting to cook. Preheat oven to degree specified. Gather the necessary utensils. Use standard measuring cups and spoons. Glass cups with graduated markings are recommended for measuring liquids.

**The Settlement Cookbook** instructions for serving food are: Serve in the most pleasing manner possible. Serve in small quantities. Serve at frequent intervals. Serve in appealing dishes.

Albeit Mother’s Day is celebrated the second Sunday in May to honor mothers, in my opinion, while wishing a stranger Happy Mother’s Day is well-intended, it may not be appropriate. The individual may have experienced a loss in the family—their mother or a child, or caring for an ill mother.

To boomers with aging mothers—Happy Mother’s Day.

Anise Matteson is an elder care consultant and writer of reference books for seniors, *Coping with the Holidays: Excerpts from Elder Caregivers NEWSLETTER*, ©2007, included in this article. She can be reached at cfaalo@yahoo.com.





**Pedestrian Deaths** (Cont. from p. 1)

are over the age of 65. Many older people are physically unable to cross the street as fast as they used to. Approximately 13% of the public is disabled and may need more time crossing the street.

The elderly, who may suffer from age-related hearing loss, often cannot hear bicyclists — who are themselves terrified of riding their bikes on the streets and violate the law by riding on sidewalks — approaching, due to state-of-the-art bicycle dérailleurs that emit no sound as bicycles shift gears; many of the elderly simply can't hear bicycles approaching above the din of traffic and other City noise. Similarly, state-of-the-art skate boards now make little to no noise, and neither the elderly nor other pedestrians can hear whisper-quiet skate boards approaching.

**No License to Kill**

Unlike many other big cities, San Francisco does not require bicyclists to obtain a bicycle license, handing some bicyclists a non-existent license to kill. Having no basic skills test for bicyclists leads to bicyclists with no basic road skills.

Bicyclists have long been a menace for pedestrians. Bicyclists often don't obey the rules of the road. City government's zeal to become a "bike friendly" City has led to abysmal, non-existent traffic enforcement against bicyclists who flaunt basic traffic laws. San Francisco's police officers routinely observe bicyclists running red lights and stop signs, or riding on sidewalks, without citing the bicyclists.

A red-light running bicyclist killed 68-year-old Dionette "Didi" Chenery in San Francisco. Ralph Ang, the 23-year-old bicyclist, pled guilty to vehicular manslaughter. Sutchi Hui, 71, was killed walking across Castro Street in a crosswalk at Market by Chris Bucchere, who ran a red light and later allegedly texted, "The cops took my bike. Hopefully they'll give it back. The moral of this little story is: WYFH (wear your F@cking Helmet)." Bucchere — who has been charged with felony vehicular manslaughter — appears to have demonstrated little, if any, remorse, and appears to have missed the real "moral" of the story: Bicycles are vehicles, and bicyclists, like drivers of other vehicles, must obey traffic laws!

Pedestrians need to obey street signs and observe good judgment while they cross the street, while motor vehicle drivers and bicyclists need to travel at safe speeds at all times, need to be on the lookout for pedestrians, and need to stop violating traffic laws.

**Pedestrians' Danger of Death**

In District 7, pedestrians may have the right-of-way, but they may be very smart to look both ways before entering traffic.

**The sad pedestrian death toll in District 7 between December 2012 and April 2013:**

Chinese citizen and tourist, Yuee Yao, 56 was killed at 8:50 p.m. on December 19 at the Twin Peaks Lookout. Her two sons were also injured. According to the San Francisco Examiner, 23-year-old San Francisco resident Gina Eunice was charged with gross vehicular manslaughter while intoxicated.

Ellen Barrett, 72, was killed by a MUNI driver on Lake Merced Boulevard at John Muir Drive at 4:30 p.m. "A preliminary investigation revealed the bus' middle-half struck the senior as she walked in a crosswalk." The intersection of John Muir and Lake Merced Boulevard, a high-speed motorway, is a perilous place for pedestrians. The crosswalk spans five, wide traffic lanes, and other than a small refuge island there are few measures to protect pedestrians and slow drivers down.

Hanren Chang, a 17-year-old Lowell High School student was hit by a car at 11:20 p.m. on March 2 walking north across Vale Avenue while crossing Sloat Boulevard. Vale Avenue is located eight blocks West of 19th Avenue. Ms. Chang was on her way home from celebrating her 17th birthday. According to the *San Francisco Chronicle*, the male driver, Kieran Brewer of San Francisco, 29, stayed at the scene, and was arrested on suspicion of felony drunken driving and vehicular manslaughter.

There is a crosswalk at Vale and Sloat, but

police officers did not know whether Chang was struck in the crosswalk. The intersection does not have stop lights, and there is no stop sign at that location on Sloat.

Tania Madfes, 68, and her husband David were returning home March 21 and were walking across Vicente Street at West Portal when a car struck them at 9:40 p.m. Mrs. Madfes died from her injuries. The driver, whom police have not identified, stopped and cooperated with investigators. According to David Madfes "I looked-up as we hit the ground and the walk sign was green." Police did not arrest the driver, but will forward the case to the District Attorney for further investigation.

Becky Lee, 60, was walking in a crosswalk at the intersection of Judson Avenue and Edna Street at 6:58 p.m. on April 10 when a Dodge pick-up truck struck her. The 42-year-old woman who was driving the truck was not arrested, and remained at the accident scene where she cooperated with the police.

Drivers who accidentally hit and kill pedestrians, but who don't flee the scene of the accident and aren't intoxicated, usually aren't arrested. San Francisco's estimated annual cost for severe pedestrian injury is \$15 million, and District 7's annual cost is \$5.15 million.

Newly-elected District 7 Supervisor Norman Yee has made pedestrian safety one of his top priorities. On April 4, Yee, an acting member of the Board of Supervisors' Neighborhood Services and Safety Committee, held a hearing on pedestrian safety. Speakers included Cristina Olea (Department of Public Works), Ricardo Olea (Municipal Transportation Agency), Meagan Wier and Ana Validzic (Department of Public Health), and Anna LaForte (Municipal Transportation Authority).

Pedestrian safety is a very personal matter to Supervisor Yee. Prior to becoming a Supervisor, Yee was the President of the School Board. On December 27, 2006, Yee was in the intersection of Fourth and Bryant Streets, crossing Bryant at 10:00 p.m., and was hit by an out-of-town driver in a rental car making a left turn. Yee was severely injured, but has recovered and is now the District 7 Supervisor.

No one wants the current epidemic of cars and bicycles hitting pedestrians stopped more than Norman Yee. "I care deeply about pedestrian safety, and I've heard from many, many residents in District 7 who are also deeply concerned about this issue," said Yee.

Yee has been working with District 8 Supervisor Scott Wiener to help create a central clearinghouse for project disputes between agencies that are responsible for various aspects of City traffic. Currently, there is no formalized coordination between agencies when implementing pedestrian safety projects, which has caused delays in long-overdue traffic safety projects.

Although Yee's hearing was centered on pedestrian safety throughout San Francisco, a great deal of the information presented pertained to District 7's pedestrian safety. Many methods of making traffic safer for pedestrians were discussed by the SFMTA.

**City's Efforts to Improve Pedestrian Safety**

Measures to improve safety at signalized intersections will include: 1) Upgrading signals to improve visibility; 2) Adding pedestrian signals that are missing; 3) Re-timing traffic signals; 4) Introducing regulatory changes, such as turn restrictions; 5) Removing parking at corners; 6) Improving pavement markings; and 7) Narrowing roadway width by implementing sidewalk extensions.

Yee will help to add new pedestrian signals at 18th Avenue and Taraval, 47th Avenue and Sloat, Howth and Geneva, and at Lake Merced and John Muir.

Pedestrian crossing times are being increased by approximately 30% Citywide. Regular crosswalk markings will be changed from two white horizontal lines to "continental" crosswalk markings that look like yellow or white railroad ties. Traffic-calming devices, such as speed bumps and road narrowing, will be increased.

Supervisor Yee's legislation to add

**Interview with Mark Massara**  
**Attorney, Coastal Advocate, and Surfer!**

By Kathy Howard

Mark Massara is the lead attorney for the appeal of the Beach Chalet soccer complex to the California Coastal Commission. This project will replace over 7 acres of living natural grass at the western end of Golden Gate Park with over 7 acres of toxic artificial turf — gravel, plastic carpet, and SBR rubber infill. The project also includes over 150,000 watts of 60-ft tall sports lighting plus 50 additional night lights, as well as over an additional acre of paving in an area that is currently grass, shrubs and trees.

**The Coastal Commission will be meeting in San Rafael on May 9th, 2013 to consider this issue.** Mark Massara will be there, and so we thought we'd get some more information on the Coastal Act and his impression of the project.

“...San Francisco itself is a poor steward of coastal resources. It is embarrassing that even California's smallest cities do so much more to protect the coast than wealthy, resource rich San Francisco.

<b>Date:</b> May 9, 2013	<b>Who:</b> California Coastal Commission
<b>Time:</b> Daytime - contact SF Ocean Edge for approximate time or call (415) 407-3211	<b>Where:</b> Marin Civic Center Board Of Supervisors Chambers
<b>What:</b> Decisive Hearing on Beach Chalet Soccer Complex	3501 Civic Center Dr. San Rafael
	<b>Attend:</b> Come to testify
	<b>Learn more:</b> <a href="http://www.sfoceanedge.org">www.sfoceanedge.org</a>

*How did you get involved?*

"I grew up in Santa Barbara. When I was a little kid, In 1969 there was a giant oil spill by Unocal. My father brought me down to the beach, and we tossed straw on the oil as it came into shore. We got birds and tried to help clean them. We saw dead and dying marine mammals. That was a galvanizing event in my young life, and I developed a serious passion for ocean wilderness and coastal resources. I have enjoyed playing at the beach and surfing for the last 50 years, and still get incensed over the senseless destruction of coastal resources."

*What is the Coastal Act?*

"The Coastal Act is the result of a citizen's initiative (Prop. 20) in 1972. The Coastal Initiative was passed by over 62% of California voters and was the direct result of activists campaigning statewide in favor of protecting coastal resources and public beach access. It led to the immediate formation of regional coastal commissions and provided a four-year window for the legislature to pass a comprehensive coastal protection law that would replace it. The California Coastal Act was enacted by the legislature in 1976 and signed by Jerry Brown. It is the nation's premiere environmental law. It mandates protection of coastal resources, sensitive habitats, water quality, beach access, our quality of life, and visitor-serving coastal amenities in California for residents, visitors and future generations."

*What are your most satisfying victories?*

"There have been more than a thousand victories, big and small. I have had the luxury of having a front row seat and participating in legal arguments before the Coastal Commission on behalf of the Sierra Club and many other environmental organizations for more than two decades. Our cases have included everything from wetlands protections to natural gas terminals, mitigating nuclear power plants, defeating toll roads, deliberating the future of the Hearst Ranch, development of Pebble Beach in Monterey, all of the onshore oil and gas issues throughout California, and literally hundreds of other projects, big and small, on the California Coast."

*What San Francisco coastal issues have you been involved in?*

"The entire shoreline is a national park, and it is supposed to be protected. But San Francisco itself is a



poor steward of coastal resources. It is embarrassing that even California's smallest cities do so much more to protect the coast than wealthy, resource rich San Francisco. A great example of this is that San Francisco didn't even realize the Beach Chalet fields were in the coastal zone when they decided to build a soccer stadium with AstroTurf and high-rise lights."

*How about Beach Chalet soccer complex?*

"This situation is so distressing and should be alarming to anyone who cares about Golden Gate Park. The City flush with donated money, and they are reckless. They are the exact reason that California voters enacted the Coastal Act in the first place. If we want to protect the shore and our coastal environment we have to prevent cities like San Francisco from paving it over with Astro-turf."

*Does the Beach chalet project conform to the Coastal Act?*

"The Coastal Act is filled with policies that protect lower-cost, visitor-serving opportunities to the coastline, coastal resources, water quality, character and quality of the environment and habitat of the coast, and maximizing public access to it. The Beach Chalet project fails in every single regard. It will eliminate or adversely impact wildlife and public enjoyment of the park and beach, injure kids, prevent enjoyment of night skies and permanently alter the historic natural nature of Golden Gate Park, a registered US Historic Resource for its natural open space character."

"The city has spent hundreds of thousands of dollars of taxpayer money and time, consultants and lobbyists on this project in GGP. If they had gone to the Coastal Commission staff five or six years ago, they could have gotten advice for free not to do this project."

*What should the City do now?*

"The City needs to make a dramatic reformation of the project. They need to abide by the Golden Gate Park Master Plan, the Coastal Act, and the will of the people who do not want our natural environment paved over with plastic Astro-turf."

*What can the public do?*

Attend the California Coastal Commission hearing on May 9th!

Massara is the attorney for SF Ocean Edge and the 200 other co-appellants for the Beach Chalet soccer complex appeal to the California Coastal Commission



## Hidden Gems of SF

## Explore San Francisco: Chinatown

By Alixx Ortiz

San Francisco's Chinatown boasts a significant number of temples dedicated to a variety of gods and family ancestors. I've visited a number of them, and am always impressed at how willing the volunteers and staff are to chat with visitors about the particulars of a given temple. Many of these temples are a walk up to the third or fourth floor of a family association, the potent odor of incense wafting throughout the hallways I make my way through. My favorite is the Kong Chow Temple, dedicated to the God of War and Literature, an unlikely combination that works within its context!

*Kong Chow Temple to the God of War (and Literature) 855 Stockton at Clay St 788-1339 Open seven days weekly, 10 AM – 4 PM. Take the elevator to the fourth floor above the Post Office.*

Guan Gong, a historical figure who lived from CE 220-CE 280, fought to prevent political disintegration of the Han dynasty. He was captured in battle and beheaded. After his death, he became revered for his loyalty, righteous, bravery and benevolence. Subsequent emperors honored him, and he eventually gained status as a god of both war and literature.

Like many temples in Chinatown, Kong Chow is handsomely appointed according to the temple's theme — in this case, statuary of soldiers' dresses for battle with their war horses at the ready, relief carving of battle scenes, and in the center, an imposing figure of the God of War on his throne, ready to receive worshipers. Incense urns are arranged throughout the temple, and a fireplace to burn Joss-paper offerings to the ancestors sits off to the right. A balcony open to the outside rounds both sides of the corner.



My first visit to the temple was in the weeks prior to the lunar New Year, and the temple received a steady stream of worshipers, far more than the other temples I've visited. I have enough experience to know that non-Chinese tourists are not always aware that these are working temples, not museums, to be entered quietly and respectfully. The woman behind the front desk eyed me suspiciously, at first, but eventually relaxed. As there were a large number of worshipers in the temple, I stood off to the side on the

balcony for a few moments to observe, and then decided to return when there were fewer people in the temple.

I returned a few weeks after the holiday. The woman seemed to recognize me, and when I acknowledged "no pictures," she smiled and waved me in. A younger woman working at the temple asked me if I would like to pray, and took me through the entire ceremony of lighting the candles and incense and then said "talk to the Buddha!" I knelt in front of the statue for just a bit, and when I attempted to get up, she said "No! Talk longer!" After a bit, she folded some Joss papers and told me to light them, say a few prayers — quickly — and toss them into the fireplace. This was my first time making an offering to the ancestors! I ended with tossing my fortune, thanked the staff and left. A few weeks later I returned with a small tour group. The woman recognized me, and as there were no other worshippers there, she handed me the candles and incense and told me to show my group how to pray! Her lighthearted snicker told me that I more or less got it right!

If you want to pray, the incense and candles, which are bundled in the correct number, will cost you \$5, with an extra 50 cents the staff will tell your fortune. A donation of a few dollars is always appropriate. Come later in the afternoon, after about 2:30, when it is less crowded, be polite. And always remember that these are working temples, be respectful. After all, you would not enter a church during Mass and approach the altar chatting away and snapping photographs, or would you?

On our Explore Chinatown Tours on Saturdays, we take our guests to this temple, where they have the opportunity to take part in the ceremony; it is an honor and a thrill.

*Explore San Francisco is a locally owned co-op of guides who help us explore and discover the City's "hidden gems". For more information on touring SF, check out their website at ExploreSanFrancisco.biz or call them at 415.793.1104*

SSIP/Steve Lawrence (Cont. from p. 4)

drive them. Projects will be delayed. (No one admits that, but all know.)

In brief, the Commissioners are political, but they are quite far removed from the voters. They need to be appointed (or re-appointed) by the Mayor, and not rejected by the Board. They deal with un-sexy, technical matters. They follow the lead of staff.

Staff likes to plan—slowly. Staff likes community outreach (dog-and pony shows), and bestowing community benefits. Staff rarely finds fault with spending others' money. Delay is tolerated, and is good (less work today, more for tomorrow). "Process" is worshiped.

Public spending is nearly always inefficient. Yet there are some services where it is preferable. The Spring Valley Water Company did not provide for the outlier event of 1906, and the City burned up. Updating our old sewer system is probably a good and necessary thing. The trick is to limit the cost to something not too unreasonable. With the voters so far out of the loop, that is not easy to accomplish.

*Steve Lawrence is a Westside resident and SF Public Utility Commission stalwart. Feedback: lawrence@westsideobserver.com*

## WEST OF TWIN PEAKS CENTRAL COUNCIL By Mitch Bull



Supervisor Weiner sells his version of CEQA at the WOTPCC meeting

modify and define the process under which the city handles CEQA (California Environmental Quality Act) appeals and exemptions placed before the planning commission and Board of Supervisors.

The supervisor stated that the current "non-policy" allows for great variations of when projects are appealed, and several attempts have been made over the years by Aaron Peskin, Fiona Ma, Michela Alioto-Pier and now Wiener to amend the process to give it more structure and to better address the large ranges of project from home remodels to large projects such as Parkmerced.

Weiner cited that the current processes for appeal are opaque and unclear with no specific rules and dates to be applied for appeals under the tenets of CEQA. The supervisor termed the current situation as a "wild west process." His proposed legislation would amend the process to provide a deadline for the appeal process of 30 days from the 1st approval from the building department. If a project is amended and changed it would be classified as a new project with the deadline moving to 30 days from the permit approval (of the revised project). Currently, the "non-process" allows projects to be appealed up until the end, as permits are pulled throughout the scope of a project.

Wiener stated that he has reached out to community groups and other groups on the legislation and has incorporated over 40 amendments to his original document. He claims that over 26 groups have endorsed his legislation.

Later in the meeting **District 6 Supervisor Jane Kim** spoke to the attendees about her "competing" legislation, which also attempts to put specific guidelines and rules into place for the appeal process, but differs in several key aspects from Wiener's legislation, most notably that the 30 days window isn't started at the 1st approval of the permit for a project, but **starts at 30 days from the last permit** in the building process. Kim says it is necessary as having a deadline 30 days from the approval of the initial permit does not give nearly enough time for neighborhood groups and other public groups to examine and prepare appeal information for a project. CSFN and other neighborhood groups seem to share that sentiment, as most of the groups meet on a monthly basis (and are "dark" in the summer months) and wouldn't be able to make a qualified decision on the appeal process on any project within a 30-day window.

Kim noted that her legislation would require city planning and the "project owner" to do much **more public notification**, and makes it easier for the general public to be involved in the planning and appeal processes.

Readers can search on the sf.gov website to see the specific legislative documents from the prospective supervisors.

"Sandwiched" between the supervisors, **SF City College board trustee (and President) John Rizzo** updated the meeting attendees about the process of **City College's accreditation**. Currently, City College is under review by an accreditation panel that will decide whether the college keeps its accreditation and remains open. Rizzo says he is "**cautiously optimistic**" that the accreditation panel will give the college passing marks. Currently the college is working with their workers and labor unions to nail down negotiated costs. Rizzo is confident that the college is on the right track and will continue to improve its processes and (hopefully) receive the required accreditation. He expects the panel to make their decision known by the end of June/beginning of July. For this calendar year, enrollment is down, but this trend is expected to change if CCSF regains its accreditation.

In other WTPCC news, **Bill Chionsini** gave an update on the **Sloat Boulevard** pedestrian safety improvement project, and gave examples of Taraval-based SFPD officers being almost struck while attempting to cross Sloat in the crosswalk.

*The next meeting of the WOTPCC will be on Monday, May 20th at 7:30 PM at the Miraloma Park Clubhouse, located at 350 O'Shaughnessy Blvd. For more information see the WOTPCC website (www.westoftwinpeaks.org).*

## Protecting Our Digital Privacy

By Senator Mark Leno

Thirty years ago, it was impossible to imagine changes in technology that would become available, quite literally, at our fingertips. Back in the 1980s, the latest advancements in consumer electronics included the fax machine, cable television, Walkman and VCR. The savvy among us were "phoning home" on brick cell phones that were almost as big as the hairstyles in fashion at the time.

Fast-forward to today and we find ourselves immersed in a sea of technology. Grandparents are using tablets to video chat with their grandchildren, digital cameras have created a new class of citizen journalists and our smartphones have become the epicenter of our lives, managing our schedules, finances, contacts and entertainment. Our lives have certainly been enriched with technology, but with our reliance on electronic communication come new privacy challenges. Currently, there is a glaring hole in our digital privacy rights that I am addressing legislatively.

In 1986, Congress enacted the *Electronic Communications Privacy Act* (ECPA) that governs how law enforcement can access our personal electronic communications,

Cont. p. 18



Supervisor Kim counters her version of CEQA



MONEY MATTERS • By Brandon Miller and Joanne Jordan

## Socially Responsible Investing

As the global climate change discussions heat up in Washington, many investors are paying attention to the impact of their investments on the environment and well-being of people around the world. As this trend increases, so does the demand for investment choices that demonstrate not only financial soundness, but also a concern for quality of life. This investment philosophy, known as socially responsible investing (SRI), has a special appeal to many individuals concerned with the future of our planet.

### What constitutes socially responsible investing?

Investors who adopt an SRI strategy believe their decisions should be governed not only by economics, but also by social issues. This often means refraining from investing in companies or industries that produce products or offer services the investor disapproves of, regardless of the company's or industry's potential for profit or value. Investors who maintain an SRI strategy may choose to avoid investing in companies related to alcohol, tobacco, gambling and weapons. It can also mean investing in companies that promote workplace diversity, actively participate in community volunteer programs or work to improve the environment.

### Benefits, drawbacks and strategies of SRI

As with all types of investing, there are tradeoffs that come with socially responsible investing. Those who practice SRI can feel good that their investment choices reflect their values. However, socially responsible investors must balance this benefit with more limited choices with regard to portfolio diversification.

Some strategies that those interested in SRI may employ include divesting from companies that don't align with their personal morals or beliefs, and participating in shareholder activism or engagement. They may also include:

#### Investing in SRI mutual funds.

These funds include companies that many socially responsible investors support. They use SRI strategies as part of their fund objectives and portfolio choices.

#### Micro-financing.

Money invested in micro-financing service companies is used to support small businesses that otherwise would not be eligible for traditional financing.

**SocialFunds.com ... regarding sustainability investment issues and corporate responsibility practices... socialinvest.org ...promotes socially and environmentally responsible investing."**

#### Community-investing.

Community-investing directs capital from investors and lenders to communities that are underserved by traditional financial services institutions. It makes it possible for local organizations to provide financial services to low-income individuals and to supply capital for small businesses and vital community services, such as affordable housing, child care, and healthcare.

#### Building a socially responsible portfolio

To invest according to your ethical standards, research your investment decisions carefully. SocialFunds.com is a website of SRI World Group, Inc., a news, research, and consulting firm that advises clients regarding sustainability investment issues and corporate responsibility practices. The Forum for Sustainable and Responsible Investment (socialinvest.org) is a nonprofit organization that promotes socially and environmentally responsible investing. Their website also provides extensive information that may help you get started.

If you think a SRI strategy fits your financial objectives, consider working with a financial advisor to get professional advice about possible investment opportunities. A financial advisor can help you find appropriate SRIs and brainstorm options for future investments that satisfy both your financial goals and your desire to invest ethically and responsibly.

Brandon Miller, CFP and Joanne Jordan, CFP are financial consultants at Jordan Miller & Associates, A Private Wealth Advisory Practice of Ameriprise Financial Inc. in San Francisco, specializing in helping individuals and families plan and achieve their financial goals.

#### Parkmerced (Cont. from p. 5)

resources? How can we build upon housing design when we destroy a shining example of the 'Garden City' movement, a project that was as much a social experiment as an example of a master class landscape architect's abilities? The project's original courtyards display a unique vision of landscape design that will be lost in demolition. Indeed, older homes of the 1940's and 50's are often in better shape than contemporary public housing schemes built to far 'superior' specifications. Besides, little proof has been offered by the Parkmerced developer regarding the alleged poor condition of the existing Parkmerced Garden apartments. As Kathryn Moore, a planning commissioner, states, "The proposed development has no hindsight, insight or foresight. It is not a project of the 21st century. It is the agenda of a self-serving developer." Unfortunately, during the approval process, her position was in the minority.

A well-known award-winning affordable housing architect from the Netherlands, Mr. Oustermeijer, toured Parkmerced during Architecture in the City Week. Many of the architects, planners, and landscape enthusiasts were in awe of the design of Thomas Church, and in disbelief over plans to destroy a mature

landscape and wonderful example of the 'Modern' housing design for families. They questioned why local government agencies had not purchased the property outright or protected it through preservation. The judge's recent decisions, and dimming opportunities to appeal the case, bring into focus what happens when the pleas of preservationists, sustainable communities, and landscape advocates are disregarded.

The case against the City and County of San Francisco and the developer, Parkmerced Investors Properties LLC, filed by the environmental group San Francisco Tomorrow (SFT), and (PmAC) the Parkmerced Action Coalition, is at the next stage of appeal and may be the only representative case focused on the challenge of CEQA and the public's right to fight for what they need most, "a place to call home."

Your donations to stop this development can be made at both organizations web sites [www.sftomorrow.org](http://www.sftomorrow.org) and [www.pmacsf.org](http://www.pmacsf.org)

Glenn Rogers is a landscape architect, living in District 7. He was assisted by Aaron Goodman and Robert Rogers.

<sup>1</sup> [www.parkmercedvision.com](http://www.parkmercedvision.com)

<sup>2</sup> [www.tclf.org](http://www.tclf.org)



WHISTLEBLOWERS / Dr. Maria Rivero &amp; Dr. Derek Kerr

## Oversight Disregarded

When 71% of voters passed Proposition C in November 2003, the Controller became City Services Auditor (CSA) and took over the Whistleblower Program (SFWP). Oversight of these functions was assigned to the Citizens' General Obligation Bond Oversight Committee (CBOBOC). Last month, we examined some constraints placed upon CBOBOC's mission. Here, we review the Committee's own laxity in overseeing the Whistleblower Program.

**...taxpayers forfeited over \$1.76 million to settle 3 whistleblower retaliation lawsuits. Why pay, when we have ... an Ethics Commission that dismisses every retaliation complaint?"**

Since 2004, CBOBOC has struggled to keep up with a slew of reports about City services, plus those from Bond Projects. Still, they stuck to quarterly meetings, squeezing in an extra one yearly to plough through the work. Only after an August 2011 scolding by civic activist Nancy Wuerfel did they vote for 6 meetings annually.

Lapses in oversight of the Whistleblower Program came to light during May 2010 media coverage of whistleblower tips, and retaliation, related to Laguna Honda's Patient Gift Fund scandal. So in July 2010, CBOBOC devised a 3-member "Standing Committee on Audit Review" to better oversee the Whistleblower Program and CSA projects. But the 2010-11 Civil Grand Jury report; *Whistling in the Dark – the San Francisco Whistleblower Program*, faulted its dawdling 7 years before getting it organized. The Grand Jury characterized their oversight model as "weak" because it was dependent upon the agency it monitored, then concluded; "Clearly, CBOBOC is not an effective oversight body." Further, it can be a stepping-stone to political office. Political ambitions can skew oversight. Both previous Chairs campaigned for Supervisor while serving the Committee.

Disinterest in whistle-blowing also impaired the Committee's oversight. This is apparent from its 9-page Annual Reports. In the five Reports between 2003 and 2007, their role with the SFWP is covered in *one sentence!* For most of 2007, they forgot to assign a liaison to work with the program. The Annual Reports from 2008 through 2011 cover its work with the SFWP in one short paragraph, amounting to 2% of the text. Meeting minutes also reflect disengagement. In the 8 years between July 2004 and June 2012, it met 36 times. Ten of those meetings included briefings from the SFWP Director. But in only 3 did Committee members make comments worthy of entering the minutes. Two of these 3 discussions came after we criticized the Whistleblower Program.

Like Yin and Yang, CBOBOC's disregard of the Whistleblower Program dove-tailed with the Program's withholding of information from it. A tolerance for data-hoarding is most obvious in a 3-year period from 2008 through 2010 when the Committee accepted just two formal presentations by SFWP Directors. Without explanation – or opposition – the SFWP cut public reports from two to one a year in 2009, thereby reducing oversight opportunities by 50%. However, in a rare show of engagement in January 2009, Committee member Robert Muscat challenged the "mild" cases in the SFWP Annual Report, compared to "...all the kinds of activities in the City worthy of reporting and investigating." The Committee then ordered a "more comprehensive and substantive list of complaints – and the actions taken."

In response, a special Whistleblower report was presented in April 2009, with information never before disclosed. Of 414 complaints received in 2008, 24% had come through the 311 Customer Service Center, and 55% through the Whistleblower website. Only 13% of all complaints were substantiated. Only 42% were investigated. City departments bearing substantiated complaints were named: Public Health (16%), Recreation & Parks (11%), Public Works (11%), Parking & Traffic

(9%). This degree of transparency wasn't pursued by Committee. So, the SFWP stopped providing it. Although the Grand Jury's activity pushed for more frequent and detailed reports, CBOBOC's inertia allowed spotty and airy content. Vigilance had waned after Muscat's 2009 protest. In a November 2012 replay, Jonathan Alloy panned the Whistleblower Program's penchant for presenting pabulum while excluding exhibits with information "more relevant to this Committee".

In his July 2011 response to the Grand Jury, Controller Ben Rosenfield wrote: "an official liaison from the Citizens' Audit Review Board...regularly receives updates and provides feedback on overall program metrics, reviews the program's policies and procedures, and provides feedback to program staff on individual cases." Really? Why isn't any of this recorded in Committee minutes or Annual Reports? Notably, Rosenfield's claim clashes with the April 2011 announcement by then-Chair, Abraham Simmons: "As you know, the Liaison has never been asked to do a review of the Program itself. This is the first time we undertook to do that."

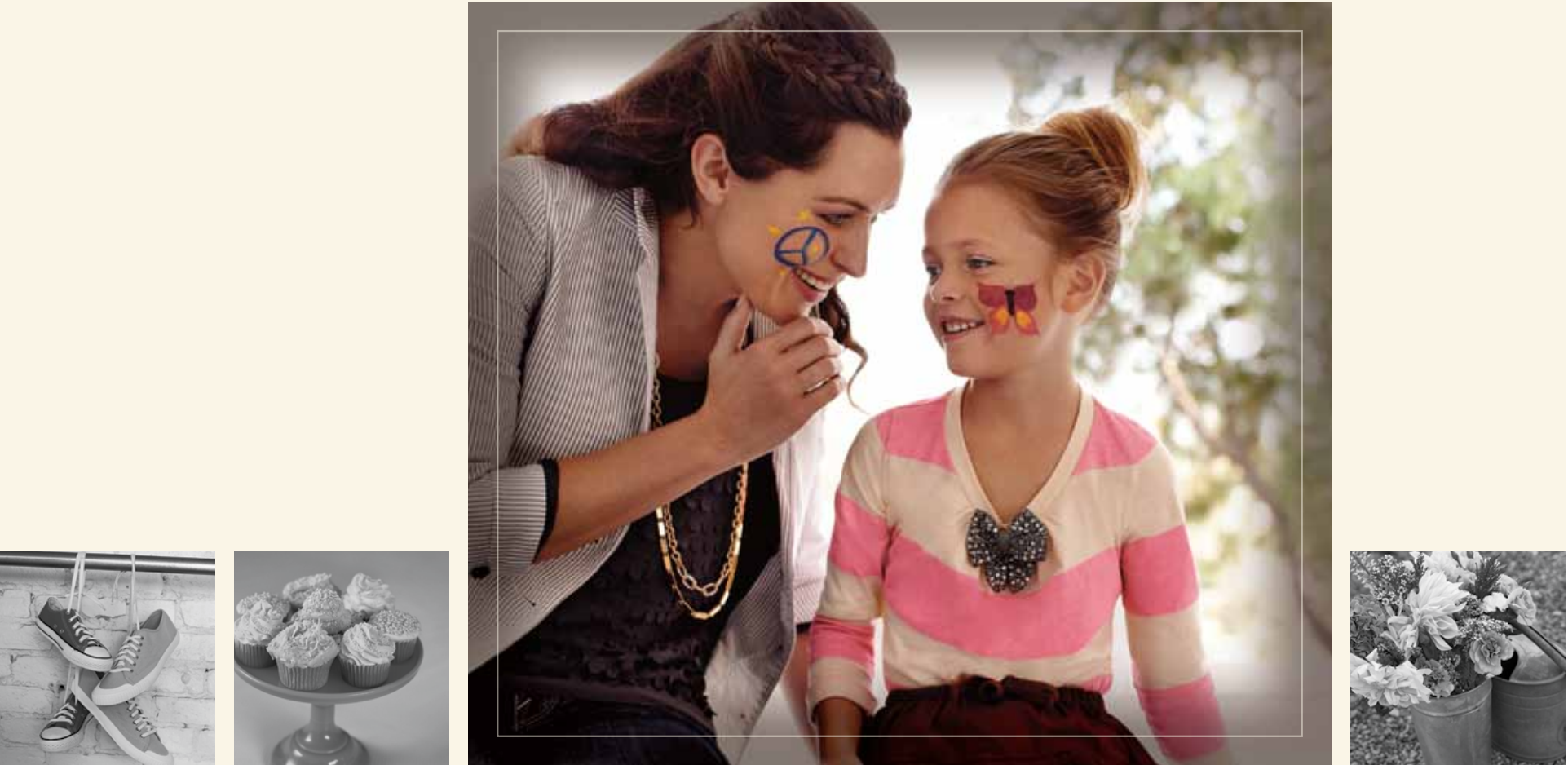
In her October 2011 reply to the Grand Jury, past-Chair Thea Selby defended the Committee's oversight; "We have discussed the Whistleblower Program at over half the meetings I have attended in the last year and a half..." However, Selby had been a member since July 2009 – for 2 years and 3 months – not one and a half years. Committee agendas during her first year show just one item about the Whistleblower Program – in July 2010. That item was; "Creation of a subcommittee to facilitate review of whistleblower complaints." That decision came *after* KGO-TV's coverage of Laguna Honda's Gift Fund abuse. Subsequently, every discussion about the SFWP was triggered by public complaints, media coverage, or Grand Jury criticisms.

CBOBOC members have generally been open to public comments, but hesitant to act, even in overseeing bonds. Since 2002, the Committee has amassed \$1,080,865 to audit bond expenditures. This pile of money sat unused for ten years, according to its 2011-12 Annual Report. No independent auditors were hired. Similarly, no outside consultants were asked to assess the Whistleblower Program, although there are ways to get *pro bono* help. For example, its Bylaws allow for a "Special Subcommittee" composed of: "members of the Committee and/or the public." After 8 years, no public experts have been recruited.

The Charter empowers the Committee to "recommend departments in need of comprehensive audit." But it hasn't even recommended a whistleblower satisfaction survey. In the past 6 months, taxpayers forfeited over \$1.76 million to settle 3 whistleblower retaliation lawsuits. Why pay, when we have a Whistleblower Program, a Whistleblower Protection Ordinance, and an Ethics Commission that dismisses every retaliation complaint? CBOBOC must reclaim its mission and recommend an audit.

Dr. Maria Rivero and Dr. Derek Kerr were senior physicians at Laguna Honda Hospital where they repeatedly exposed wrongdoing by the Department of Public Health. Contact: [DerekOnVanNess@aol.com](mailto:DerekOnVanNess@aol.com)





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**H**ow about Mom?...The weather is continuing to get warmer and as spring inches forward, it's time to do something special for "Mom" as Mother's Day is on May 12. **Booking a brunch** at one of our many neighborhood restaurants, surprising her with **flowers** from our florists on West Portal Avenue, or pampering her with a spa day at **Dimitra's** are just some of the ways in which we can honor the Moms in our lives.

The season for **"Warriors"**... "Warriors" are on the mind as our local basketball team is currently making only their 2nd playoff appearance in the past 19 years, and playing very well against the **Denver Nuggets**.

Over at the **Asian Art Museum**, crowds are being enthralled by another group of warriors, the **Terracotta Warriors from Xian, China**. We recently visited the exhibit and it is spectacular, a must see this spring.

Save the date – **Neighborhood Night Out** (Miraloma Park/ Ingleside Police Station)... Neighborhood Night Out is a community police-awareness festival held on the first Tuesday of August throughout the U.S. and Canada. Mark your calendars for Tuesday, August 6th, at the Miraloma Park Improvement Club clubhouse. Starting at 5PM, the officers from the Ingleside Station will preside over a barbeque. Other entertainment will include information booths, games, party favors, photos and comradeship. The equine members of the SFPD may also make an appearance (that's horses you know...).

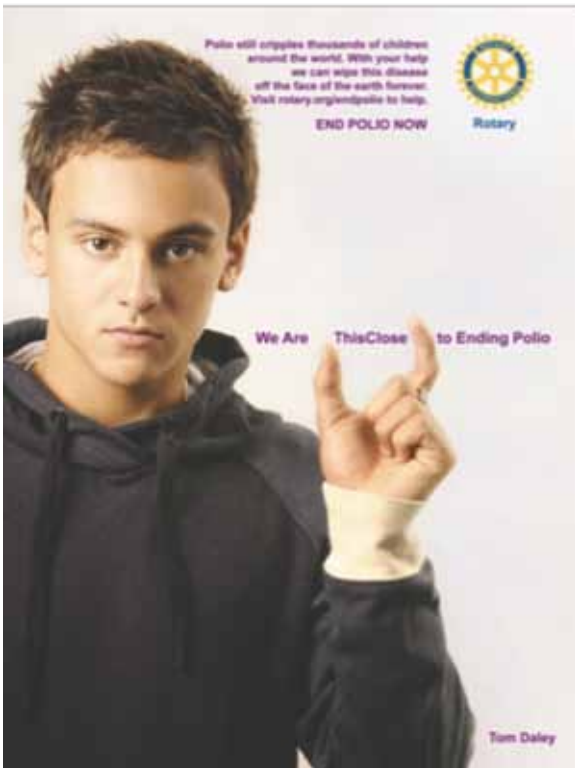
**Sunnyside Membership Drive....** The SNA wants you!! The Sunnyside Neighborhood Association is undertaking a membership outreach to everyone in the neighborhood to bolster membership in the association. Its quarterly membership meeting is on May 4 at the St. Finn Barr Church Hall, located on Edna St. @ Flood.

Birthday wishes...A "shout out" to the founder and former publisher of this periodical, **Phyllis Sherman**, to wish her a very happy birthday. We helped her celebrate her event at Alfred's Steakhouse on Merchant St. and the evening was most enjoyable. The food was great, the service wonderful and we had lively conversation. If you haven't been to Alfred's (or it's been a while) make the trip; the ambiance is "pure San Francisco."

**Racing on the Bay...** the newest America's Cup racer for the Oracle (U.S.) team was unveiled last week on the Bay, with the customary cracking of the champagne bottle across the bow, which was heavily protected. The challengers for the Cup race in their series from July 4 to August 30, with the Cup finals starting on September 7 and continuing through the 21st. These large sailboats, 72 feet in length, will actually rise out of the water when racing to ride the waves on foils, increasing their speed and making for difficult and exhilarating sailing. It should be a great show.

A note for the **Mayor...** I was in attendance at the Public Health Commission meeting where the work of **Dr. Derek Kerr** and **Dr. Maria Rivero** was publicly acknowledged as part of the settlement of the whistleblower lawsuit. Over 70 people were in attendance and many spoke out on the good work performed over 20 years by the doctors, and also about the poor management by the CEO of the hospital, which resulted in the lawsuit and settlement. Although I am sure it was stinging for the commissioners to sit and hear each speaker discuss the failings of the board, it was extremely galling to watch a commissioner (appointed by the Mayor) texting on her smart phone while seemingly tuning out the speakers. You would think the commissioners should at least pretend to care about what they were hearing. I would be surprised if any further action was taken. Nevertheless, with the television media in attendance this shameful performance by the commission will be on the internet in perpetuity.

Do you have an event, a neighborhood fact or just an observation to share? Drop us a line at [mitch@westsideobserver.com](mailto:mitch@westsideobserver.com) and share your ideas or just let us know what you think.



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❖ MAY EVENTS ❖  
CITY GUIDES WALKING TOURS

San Francisco City Guides offers special walking tours throughout the year in May. Free (donations welcome). Info: schedule at any SF library branch, or visit: [sfcityguides.org](http://sfcityguides.org), or 557.4266.

EVERY SUNDAY • FARMERS MARKET

Farmers Market | Every Sun | 9 am–1 pm | Stonestown back parking lot: at Stonestown Galleria (19th Ave @ Winston).

EVERY TUES • QUE SYRAH HAPPY HOUR

Every Tue Happy Hour | 4–8 pm | Que Syrah Wine Bar. Take \$1 off each glass, 10% off each bottle of wine consumed on site. 230 West Portal Ave 731-7000

Every Thu | 5:30–9 pm | Chef Val's Tapas \$3–7.

EVERY THURS – NIGHTLIFE

Thu | 6–10 pm | The Academy of Sciences is transformed with live music, provocative science, mingling and cocktails. GG Park \$12 (\$10 Members). [calademy.org/nightlife](http://calademy.org/nightlife)

JAZZ FRIDAYS @ THE CLIFF HOUSE

Fri | 7–11 pm | The Balcony Lounge at the Cliff House hosts jazz performances every Friday night. 1 Seal Rock. Performers: [www.cliffhouse.com/home/jazz.html](http://www.cliffhouse.com/home/jazz.html)

FRIDAY NIGHTS @ THE DEYOUNG

5–8:45 pm | Music, poetry, films, dance, tours and lectures. Cafe: special dinner, no-host bar. Art-making children/adults. deYoung Museum, GG Park. [deyoung.famsf.org/deyoung/fridays](http://deyoung.famsf.org/deyoung/fridays)

TUE • PEOPLE OF PARKSIDE/SUNSET

Thu May 2 | 7 pm | Formerly Taraval Parkside Merchants Assn. Taraval Station, 2345 24th Ave. 1st Thu each month.

SAT-SUN • PACIFICA CASTLE TOURS

May 4–5 | The Pacifica Historical Society conducts public tours of this 1908 historic building only two weekends a year. Proceeds go toward the restoration of the Ocean Shore RR Car and the Little Brown Church. \$25. Info: 650.359.5462 or [pacificahistory.org](http://pacificahistory.org).



SAT • CINCO DE MAYO FESTIVAL

Sat May 4 | 10 am – 6pm | Entertainment lineup: [sfincodemayo.com](http://sfincodemayo.com). Dolores Park, Dolores St. and 18th St.

MON • CHINESE COMMUNITY MTG

Mon May 6 | 7–8 pm | Supe Katy Tang and Captain Curtis Lam host a Chinese-speaking police and community meeting conducted in Cantonese with Mandarin translation. Taraval Police Station, 2345 24th Ave. Info: Carol.Mo@sfgov.org, or 554-7460

SAT • SF BUDGET TOWNHALL MEETING

Sat May 11 | 10 am | Budget Town Hall Series 2013 Mayor Lee, Supes Katy Tang (D 4) & Norman Yee (D 7) at Hoover Middle School, 2290 14th Ave. Engage in budget discussions with City officials. Speak directly to City officials and share what matters most to you.

TUE • GREATER WEST PORTAL-GWPNA

Tue May 14 | 7:30 pm | West Portal Clubhouse, 139 Lenox Way. 2nd Tues each month. [www.gwpna.org](http://www.gwpna.org)

WED • BERNAL HEIGHTS & THE MISSION



Wed May 15 | 7 pm | Bernal Heights branch library 500 Cortland Avenue Glenn Lym will speak on the geography of those areas. Free. Info: [www.bernal-historyproject.org](http://www.bernal-historyproject.org)

SUN • AUTHOR CLAIRE MESSUD

Sun May 19 | 7 PM | Bestselling author of *The Emporer's Dream*. In *The Woman*

Upstairs a school-teacher dreams of being an artist, settling for life as a third-grade teacher, “whose trash is always tidy, who smiles brightly in the stairwell.” Enter the exotic Shahid family — Nora sees them as saviors — who ultimately become her betrayers. BookShop West Portal, 80 West Portal. Info 564-8080.



MON • SUNSET-PARKSIDE MEETING

Mon May 20 | 6 pm | SPEAK aims to educate residents on public safety, zoning, planning etc. 3201 Ulloa St. (Grace Lutheran) 3rd Mon each month. [speak-sanfrancisco@yahoo.com](mailto:speak-sanfrancisco@yahoo.com)

TUE • COMMUNITY SAFETY MEETING

Tue May 21 | 7 pm | Taraval District Police Station. 3rd Tue of the month. Meet with Captain Curtis Lum. 2345 - 24th Ave 759-3100.

SAT • FREE HEALTH SCREENINGS

Sat May 18 | 10 am– 3 pm | American Society of Hypertension offers free Blood Pressure, Glucose and Cholesterol Screenings Yerba Buena Lane and Market St., behind the SF Marriott Marquis, 55 Fourth St.

SUN • BAY TO BREAKERS

Sun May 19 | 7 am to 4 pm | The 7.46 mile race features world-class athletes, costumed runners and ‘fun-loving’ folks out for a great San Francisco day.

MON • WOT? CENTRAL COUNCIL

Mon May 20 | 7:30 pm | West of Twin Peaks Central Council (usually) meets on 4th Monday each month for those interested in local issues. Miraloma Park Clubhouse, 350 O'Shaughnessy.

THU • DEMYSTIFYING DEMENTIA

Thu May 23 | 6 – 7:30 pm | Parents Caring for a loved one with dementia? Special guest Elizabeth A. Landsverk, M.D. will shed light on your most pressing concerns. Please bring your questions. Refreshments. AlmaVia, One Thomas More Way. Info: 337-1339-[tcastle@eldercarealliance.org](mailto:tcastle@eldercarealliance.org) Free

SAT • SHARP

Mon May 27 | 7 pm | Sunset Heights Assoc. of Responsible People. Last Mon each month - [sharpssf.com](http://sharpssf.com) for details. 1736 9th Ave. @Moraga.

TUE • AMERICAN JERUSALEM

Tue May 28 | 7 pm | Jews and the Making of San Francisco with filmmaker Marc Shaffer. Because of the Gold Rush, Jews were far more assimilated into and impacted



a major city than any other in America. For the first time, Jews—the ultimate outsiders—became insiders. SF History Assn., St. Philip's Catholic Church 24th & Diamond. \$5 non-members.

THU • OMI NEIGHBORS IN ACTION

Thu May 30 | 7 pm | Developer & Architect for 268-270 Capitol St. Meets last Thu each month. This meeting is at Temple UMC 65 Beverly/Sheilds Street.

WED • AUTHOR CHIMAMANDA NGOZI

Wed Jun 5 | 7 pm | Meet Nigeria born Ngozi, who's *Americanah* follows the lives of Nigeria's postwar generation through corruption and poverty under a military dictatorship. BookShop West Portal, 80 West Portal. Info 564-8080.

Have a local event? Free listing: [editor@westsideobserver.com](mailto:editor@westsideobserver.com)



The Panhandle, a favorite gathering place for gawkers and revelers who gather to celebrate Bay-to-Breakers, San Francisco's wackiest, tackiest and just plain fabulous event, is always full of surprises.

SUN • BAY TO BREAKERS

Sun May 19 | 7 am to 4 pm | One of the world's largest and oldest footraces takes tens of thousands of participants from The Embarcadero to Ocean Beach. The 7.46 mile race features world-class athletes, costumed runners and ‘fun-loving’ folks out for a great San Francisco day.

At 5:13 am on April 18, 1906, a devastating earthquake destined to become one of history's most notorious natural disasters rocked San Francisco. The subsequent fire and destruction were unimaginable, and many feared the City would never fully recover. But San Franciscans, displaying their typical fortitude, immediately began rebuilding the city and orchestrating events to lift civic morale. One of those events, the Cross City Race - better known today as the Bay to Breakers - was first held on January 1, 1912. It was intended as a precursor to the world-class athletic events being planned for the 1915 Pan Pacific International Exposition. There were 218 registrants, 186 starters, and 121 names on the finisher's list. Robert Jackson “Bobby” Vlught, a St. Mary's College student, was the first runner to cross the finish line, with a time of 44:10.

Since then, Bay to Breakers has prevailed as a testament to San Francisco's uniqueness and audacity—a glorious celebration of the human spirit.

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## Now At the Movies • By Don Lee Miller

42

Jackie Robinson: Chadwick Boseman takes his bride Rachel: Nicole Beharie to Florida spring training when he's signed for Toronto by Dodgers' president/general manager: Branch Rickey: Harrison Ford. Rickey declares "Dollars aren't black or white, they're green." as he sets out to break the color barrier in place against blacks in baseball. Manager Leo Durocher: Christopher Meloni encounters problems due to his romance with actress Laraine Day. Supporting players include Pee Wee Reese: Lucas Black, the first teammate to accept Jackie; the hateful manager of the Philadelphia Phillies, Ben Chapman: Alan Tudyk; Dodgers radio commentator Red Barber: John McGinley; plus T.R. Knight and Max Gail. Director/screenwriter Brian Helgeland does a better job of presenting the hero than what makes the man tick. Jackie is hired because he will control his temper and not fight back at the racial slurs. Thematic elements. Drinking. Profanity. Minor sexual content.

## G.I. JOE: RETALIATION 3D

General Joe Colton: Bruce Willis, for whom the special unit was named, is now led by Roadblock: Dwayne Johnson. Duke: Channing Tatum dodges explosions and is also firing machine guns at villain Zartan: Arnold Vosloo and his forces. The President: Jonathan Pryce foolishly takes the North Korean delegation to the bunker 90 ft. under the White House, to his regret. This was not the time to disband the special unit framed by COBRA. Look for a grown up Mouse: Joseph Mazzello. Directed by Jon M. Chu and co-written by Rhett Reese and Paul Wernick with lots of action in 3D. Intense combat violence and martial arts action throughout. Sensuality. Profanity.

## JURASSIC PARK 3D

Paleontologists Dr. Alan Grant: Sam Neill and Dr. Ellie Sattler: Laura Dern are lured to a Pacific island off the Costa Rica coast owned by billionaire John Hammond: Richard Attenborough. He will fund their digs for three years if they inspect his "amusement park." Much to their amazement and ultimately to their horror, they find fully grown dinosaurs, etc. behind an electric fence. Computer expert Wayne Knight has dual purposes when he shuts down the electricity. The excellent supporting cast includes: Dr. Ian Malcolm: Jeff Goldblum, and John's grandchildren: Tim: Joseph Mazzello and Lex: Ariana Richards. Oscars were won in 1993 for

Visual Effects, Sound and Sound Effects Editing so viewers can image the thrills supplied by top-notch addition of 3-D, which brings the second half to life...and death as the critters roam the island amok and are no longer vegetarians! The 3-D work is superior to recent films made in 3-D! Spielberg's masterpiece becomes more so and a Must See. Michael Crichton wrote the novel and co-wrote the screenplay with David Koepp. After 20 years it's not dated. Profanity. Intense sci-fi terror.

## NO

Chile at the end of its dictatorship adds new meaning to "Just say No!" The upcoming referendum in 1988 to oust Dictator Pinochet is led by advertising executive René Saavedra: Gael García Bernal. Under constant government scrutiny, a plan is conceived to free the country from oppression. His boss, Lucho Guzmán: Alfredo Castro is advisor to Pinochet so René must be especially careful...Pinochet has been known to order murder, violence and intimidation. Director Pablo Larrain keeps the tension taut in Pedro Peirano's busy screenplay. Spanish with English subtitles. Profanity. War violence. Smoking.

Awards: Won National Board of Review: Top 5 Foreign Language Films, 2012; Cannes Film Festival: C.I.C.A.E. Award; Cinema for Peace Award for Justice; Audience Award: both Sao Paulo and Thessaloniki Film Festivals. Oscar Nominated Best Foreign Language Film.

## OBLIVION

Jack Harper: Tom Cruise, 50 but doesn't look a day over 30, appears comfortable in this part and the futuristic setting is most attractive. Jack and Victoria: Andrea Riseborough, 31, are among the few repair people left on Earth after decades of war with the destructive alien Scavs. Most of the population has moved to Titan, a Jupiter moon. When Jack investigates a crashed ship in his sector, he discovers passenger Julia: Olga Kurylenko, 33, who has been haunting his dreams. He comes to learn what she meant to his past. Sally: Melissa Leo is Vic's computer screen contact for assignments. Beech: Morgan Freeman and Sykes: Nicholas Coster-Waldau at first seem to be Jack's enemies. Director and co-writer of the screenplay, Joseph Kosinski brings the viewer a rich new sci-fi environment which is a real treat. Sci-fi action violence. Mild profanity. Sensuality. Nudity.

## THE PLACE BEYOND THE PINES

Luke: Ryan Gosling, a motorcycle stunt performer, returns to upstate New York and finds the waitress

Romina: Eva Mendes he left behind has given birth to their son, Jason. Unemployable, he reverts to robbing banks. Police officer Avery: Bradley Cooper builds his career around Luke. The central character shifts to Avery and his rise within a crooked police department. Fifteen years later, the tale concerns the sons of Avery and Luke. Studied performances by the leads are engrossing. Director/co-writer Derek Cianfrance keeps viewers guessing, there is no way to imagine what is coming next. Teen drug and alcohol use. Violence. Profanity.

## SIDE EFFECTS

Emily Taylor: Rooney Mara happily greets husband Martin Taylor: Channing Tatum upon his release from a 2-year prison sentence. Depressed, she goes to see Dr. Jonathan Banks: Jude Law and is given an experimental drug: Ablixa. While "sleepwalking" she kills Martin. With his practice falling off daily, Banks consults Em's previous psychiatrist, Dr. Victoria Siebert: Catherine Zeta-Jones but is not given the full truth. Steven Soderbergh directs the crime thriller from the creepy screenplay by Scott Z. Burns. Canny acting by the leads. Sexuality. Violence. Nudity. Profanity.

## STOKER

Wentworth Miller (Prison Break) scripts this eerie story of Uncle Charlie: Matthew Goode who suddenly appears after the sudden death of his brother Richard Stoker: Dermot Mulroney. Charlie comforts Richard's wife Evelyn: Nicole Kidman and daughter India: Mia Wasikowska. Both seem on the verge of going nutty. Relationships get complex. Profanity. Violence. Smoking.

## TRANCE

Art auctioneer Simon: James MacAvoy has stolen Goya's Witches in the Air valued at \$25-million. But in his getaway, he sustains a head injury causing him to forget where he hid the masterwork. Frank Bright: French actor Vincent Cassel (Black Swan) wants the oil yesterday! Hypnotherapist Elizabeth Lamb: Rosario Dawson is brought aboard to help Simon remember. Director Danny Boyle (Slumdog Millionaire) doesn't pull any punches in this crime drama. Sexuality. Violence. Nudity. Profanity.



## At the Theater • By Flora Lynn Isaacson

## Fringe of Marin Opens 31st Season in Remembrance of Annette Lust

The Fringe of Marin was created in 1995 by Dr. Annette Lust, Professor Emerita at Dominican University. She ran the Fringe, which was very close to her heart for 30 seasons, until her death this past February. Gina Pandiani, a Dominican University alum (1985) became the new Managing Director and Pamela Rand stepped in as Production Manager. Running in two programs on alternate nights, this festival features a combination of fourteen plays and solo performances.

On Saturday, May 5, following the last performance of Program II, the Bay Area Theatre Critics' Circle Awards for Best Play, Actors and Directors will be announced at Meadowlands Assembly Hall, Dominican University, followed by a celebration of Annette Lust's life with her family in attendance.

Program II opened on April 21, 2013 with the play Here's Your Life (A Tribute to Syd Caesar) written by Stacy Lapin and Pamela Rand and directed by Jerry Ambinder. Rand also stars in the play as Susannah P. Metcalf who is dragged from the audience to face her life story. Pamela Rand is a master of physical comedy. Kris Neely is outstanding as the M.C. who calls up people from Susannah's past life including Kenneth Sollazzo as Kenny, a Frenchman from her past; Lauren Arrow as Minifred, a spirited high school friend; Burl Lampert as Charles, her brother and Terri Barker as Terri, her most recent amour.

The next play was a solo performance, The Wreck written by Henry Wadsworth Longfellow, adapted by

Deanna Anderson and directed by the famous Leonard Pitt. The Wreck was beautifully performed by Anderson. It was a combination of Longfellow's poem and her own autobiography and a highlight of Program II.

The third play was a delightful comedy, Freeons written and directed by Rachel Cohen. In this play, Tom (Doug Newkirk) invites Michelle (Mary Hicks) out on a first date--dinner in a dumpster! Hicks gives a delightful performance as Michelle, who goes through many changes.

The last performance before intermission was a solo performance, Something's Not Wright...written, directed and performed by Steve North. North has great charisma and stage presence in his semi-autobiographical account of Newton Fig, a substitute teacher.

After intermission, the fifth play was Lauren and the Ocean written by Peter Hseih and directed by Terri Barker. In this story, we follow a tender friendship between Lauren, a young girl (Jiawen Liang) and Shelly (Rick Arrieta) an aging artist, over the course of seven years. This play is sensitively directed by Terri Barker.

The sixth presentation was a solo performance, Admissions in the Dark, written, directed and performed by Michael Belitsos, a talented magician. Here he shares with us his love affair with horror films dating to when he was seven years old.

Last but not least was play number seven, A Marriage Proposal "2013" written by Anton Chekhov and adapted and directed by Gina Pandiani. Sandi Weldon gives an outstanding performance as Stephania Stepanovna, the Russian mother of Natalia (Angela Monique) while Damion Square plays Ivan Vasilovich, the suitor. Gina Pandiani's modern

adaptation covers Obamacare, politics, global warming, the Green Party and gay rights. What a clever adaptation!

*The Fringe of Marin runs April 19-May 5, 2013. For ticket information, call 415-673-3131 or go online at [www.fringeofmarin.com](http://www.fringeofmarin.com)*

## REASONS TO BE PRETTY

*Reasons to be pretty*, a dark comedy by Neil LaBute, is the third play in his trilogy with includes *The Shape of Things* and *Fat Pig*, which all focus on our American obsession with physical appearance.

Greg (Craig Marker) has been living with Stephanie (Lauren English) for four years when he makes an offhand remark to Kent (Patrick Russell) that Stephanie has "a regular face" which triggers a violent outburst from Stephanie. This scene is way "over the top" and begins at such a high pitch that the two actors have nowhere to go. So the simple, offhand use of the word "regular" to compare a girlfriend's face to that of a new, pretty co-worker is more than enough to warrant the explosion that follows.

Greg, a warehouse worker with an interest in classical literature is such a straightforward person that it's hard to believe he really meant anything by his remark. He explains often enough and tries as best as he knows how, to apologize, but Steph isn't buying it. Neither are his co-workers Kent and Carly (Jennifer Stuckert), a married couple with issues

of their own. So, Greg is left to navigate his newly single life while remaining embroiled in the drama that continually swirls around him.

Bill English's wonderful set is mounted on a revolving stage allowing the action of the play to flow smoothly without interruption. Marker and Lauren English are so good they are able to bring this play to life under Susi Damilano's clever direction (except for the opening scene). These are the two characters who show growth and are able to change.

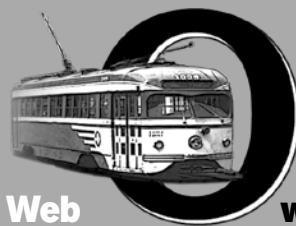
*reasons to be pretty* makes for an interesting jumping off point, the examination of the importance of beauty and the power of everyday words.

*reasons to be pretty* runs through May 11 at the San Francisco Playhouse, 450 Post Street (second floor of Kensington Park Hotel) b/n Powell and Mason. Performances are Tuesday-Thursday at 7 p.m. and Friday-Saturday at 8 p.m.; also Saturday at 3 p.m. For tickets, call 415-677-9596 or go online at [www.sfplayhouse.org](http://www.sfplayhouse.org).

*Next at SF Playhouse will be Abigail's Party by Mike Leigh/directed by Amy Glazer, May 21-July 6, Flora Lynn Isaacson*



Flora Lynn Isaacson



We're On The Web

westsideobserver.com



SECOND THOUGHTS / By Jack Kaye



Something for Nothing

When I was young, my father had one phrase that he kept repeating to me: “You don’t get nothing for nothing.” He had trouble with English and didn’t know about the problem with double negatives. What he meant was that you can’t get something from nothing. Apparently, many Americans never heard that same advice

Today, I see many Americans expecting something for nothing or at least for a reduced price. Half of American families pay no state or federal income tax. They expect to receive all government services for nothing because it is coming to them. Seniors receiving Social Security and Medicare say they expect it to take care of them forever because they paid into it and deserve it. The fact of the matter is that most receive more benefits in a few years than they paid in 30.

The “hard working” ruling class also wants something for nothing. Corporate CEOs and Wall Street brokers expect to receive millions of dollars a year even if they fail; to get multi-million dollar golden parachutes if they are fired for accomplishing too little and then to receive a low tax rate on the money they never really “earned” to begin with.

We also have people who come here illegally wanting all the benefits of American citizenship while still declaring their loyalty to their beloved homeland which they left because they couldn’t stand living there. We have naturalized citizens who don’t learn English expecting all government services from passports to voter pamphlets to be also in their native language if that language is Chinese or Spanish.

We have fellow Americans who can trace their ancestors’ residence here back to the 1700’s expecting to live on government benefits without working because their distant ancestors worked too hard under terrible conditions. We have people who contribute nothing to the country expecting to get as much medical treatment as possible for free because they don’t buy insurance and know that American hospitals must take of them regardless. We have some who live on the dividends from their inheritance paying at the lowest tax rate and contributing little to the community.

People who borrowed heavily against their homes as housing values increased now find that they owe more than their collateral is worth. They want the banks to reduce their loan amount and their interest rate. Recent college graduates who are faced with large student loan bills and with parents who did not save for their education want the loans that cannot be avoided, even in bankruptcy, forgiven now.

But now there is a new twist to the something-from-nothing theorists. It comes from the world of physics. Stephen Hawkins, who has the best reason in the world to be an atheist, has theorized that the world could exist without a creator because everything comes from nothing and there was never anything before nothing since nothing has no time or space. (And yet he also says he does not believe in philosophy. I think that he must mean good philosophy.) Other notable physicists have come up with varieties of the big bang theory (also the name of the funniest comedy on T.V.) with many supposing that it all started 13.8 billion years ago when nothing exploded into something causing a chemical reaction which then created all the planets and every element found on earth today including hydrogen, nitrogen, carbon, oxygen and even gold and silver. They say our bodies come from exploding stars. All of it, they say, was born from nothingness.

One group of quantum physicists is coming close to what sounds like the right answer. They believe that the universe is one big quantum mechanical computer system which creates the universe the way a quantum mechanical computer can create different realities. This begs the question: where did the universal quantum computer come from? The answer is not China.

Another school of theoretical physics, a very small one, believes that it is all just in our minds and that we have created the universe - known in philosophic circles as solipsism. If that is true, I want to make some big changes in the universe that I have created, starting with better weather, good health and fewer insects

I think that physicists should stop trying to justify their atheism and see creation as something close to the quantum computer analogy. Here is my theory.

I believe that the universe is driven by three basic realities: the infinite is finite/ the finite is infinite (as above so below); everything/everyone has and is consciousness, making the infinite finite and the finite infinite - (every outside has an inside); and entropy (everything that begins must end).

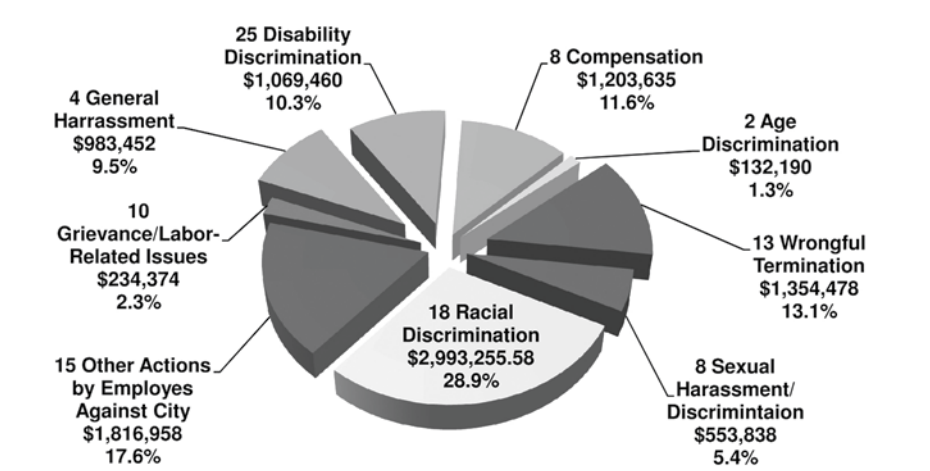
To the theist this translates to: G-d is infinite and finite and His consciousness creates the universe. There was nothing before consciousness because nothing can precede it. Like the Zen koans - “what is the sound of a tree falling in the forest if no one hears it?” and “what is the sound of one hand clapping?” What both are saying is that without consciousness, nothing can be said to exist. That without a subject, there is no object, not even a verb.

Physicists are slowly coming to these conclusions. They already have endorsed the notion of entropy being life’s way of changing matter/ energy (consciousness) without ever losing or gaining it in the universe. Science has also found the existence of fractals, which are infinite iterations of form within all objects. So a leaf, which is finite, has an infinite number of fractals - the infinite is finite, the finite infinite. The infinite would not be infinite if did not include the finite. And now some theoretical physicists have realized that everything is conscious - from sub atomic particles to single cell organisms to the earth, outer space and the entire universe. They are about to realize that everything is and has consciousness. The Zen Buddhists call this big mind, small mind - the latter being part of the former. In Vedanta, G-d is said to be Sat Chit Ananda, or Truth, Consciousness and Joy.

My theory makes all the theoretical physics theories also correct. The world is in our minds because our minds are part of the universal mind. Everything did come from nothing in the sense that consciousness is not a thing but the space that contains and creates all things. The universe is like a quantum computer and is creating everything because this computer is consciousness. The big bang was the originating cause of our universe because it was what happened when consciousness created the objects of its awareness, like a mind getting great ideas.

So something comes from consciousness, which is like a nothing that is the source of everything as well as its constant companion.

City and County of San Francisco 2007 – 2012  
103 Lawsuit Settlement Awards Involving Prohibited Personnel Actions  
103 Settlements Cost a Total of \$10.3 Million Across Just Five Years!



Legend: Number of Cases | Type of Case | Total Dollar Amount of Settlements in Category | Percent Mix of 103 Lawsuit Settlements.  
Source: Data provided by San Francisco’s City Attorney’s Office, November 2012.

Retaliation/Abuse (Cont. from p. 1)

of Supervisors unanimous passage on second reading of Kerr’s settlement agreement on March 26, the City appears to have already deliberately mucked up two of the settlement deals.

First, the non-monetary provisions ordered the City to issue a formal retraction signed by Director of Public Health Barbara Garcia in the *same* format that former Director of Public Health Mitch Katz jointly issued with Laguna Honda Hospital (LHH) CEO Mivic Hirose in 2010, falsely accusing Drs. Kerr and Maria Rivero of not only being “detractors,” they publicly claimed Kerr and Rivero had made, and would continue to make, “false

statements” — publicly defaming the two doctors as dishonest and liars.

But Garcia’s “retraction” notice was not signed by her, and was not in the same format that had been issued by Katz, which had been a key requirement of Kerr’s settlement agreement. Since the settlement agreement takes place under Court supervision, Kerr is required to report any departure from agreed-upon terms to his attorneys to prevent any breach of the settlement terms.

Second, the required public apology to Kerr at a meeting of the Public Health Commission was improperly announced via a deficient agenda notice for the Health Commission’s April 2 meeting.

On Friday, March 29, the Health

“But the costs are substantially higher when City Attorney costs are added in ... a total of 40,828 hours at a total cost of \$7.726 million, above and beyond the \$11 million settlement...”

Commission released its April 2 meeting agenda, which listed agenda item seven merely as an “LHH Update.” The item carried only a subheading, not any “meaningful description” required by the Sunshine Ordinance and the Brown Act. Members of the public had no way of knowing the “LHH Update” item would include Dr. Kerr’s public apology so they may have chosen to attend the meeting, had there been a clear agenda description. Only by a stroke of accident did Kerr’s associate, Dr. Rivero, discover over the weekend that the “LHH Update” item would include Kerr’s public apology.

Once alerted, 32 speakers attended the Health Commission. All unanimously testified in support of Kerr’s contributions to Hospital’s hospice program. Had there been sufficient agenda notice, attendance would have likely doubled.

Nobody spoke in support of the administration, particularly not in support of Mivic Hirose, LHH’s CEO.

City Pays Millions Yearly

On April 16, the *Examiner’s* Chris Roberts reported \$11 million awarded in 103 prohibited personnel practice cases, uncovered through a public records request to the City Attorney. The 103 cases filed by City employees “includes nearly \$3 million paid out in 18 racial discrimination cases and more than \$1 million in 25 disability discrimination cases.”

This reporter performed a secondary data analysis. As the pie chart in Figure 1 shows, settlements for prohibited personnel practices between 2007 and 2012 also include almost \$1 million awarded for “general harassment” of employees, at least \$1.3 million for “wrongful termination,” \$553,838 for “sexual harassment,” and close to \$2 million for other prohibited personnel actions.

The \$11 million doled out in the 103 cases is one clue that there’s a lot of bullying of employee cases often thinly disguised retaliation involving personnel practices prohibited by law.

But the costs are substantially higher when City Attorney costs are added in for

the time Deputy City Attorneys (DCA) spent defending the City against these lawsuits. According to a further public records request, DCA’s spent a total of 40,828 hours at a total cost of \$7.726 million, above and beyond the \$11 million settlement awards, defending the 103 cases against the City involving prohibited personnel practices.

In the *Doe and Raskin v. the City of San Francisco* 9–1–1 dispatcher’s case, they were awarded \$726,000, but the City spent \$304,508 fighting it.

In *Derek Kerr, MD v. the City of San Francisco* case that awarded him \$750,000, the City spent \$450,493 (1,740 hours) fighting Kerr

A City employee was awarded just \$322,750 in a racial discrimination case, but new data shows the City Attorney racked up 3,107 hours fighting the case, at a cost of \$526,597. In a wrongful termination case, a City employee was awarded just \$15,000, but data shows the City Attorney racked up \$247,772. In another racial discrimination case, the Plaintiff was awarded \$1.6 million, the City Attorney spent \$488,022 (2,817 hours).

A senior human resources professional in the City who spoke recently on condition of anonymity, said the City considers the costs of on-the-job bullying, retaliation and wrongful termination, to be a “cost of doing business.”

Supervisors Settle 309 Lawsuits

During the same five-year period a total of 309 legal settlements filed against the City — for a whole host of lawsuits and other unlitigated claims beyond just prohibited personnel practice cases — were heard before the Board of Supervisors’ Rules Committee. The 309 cases cost taxpayers a total of \$105.8 million, without including the costs of City Attorney time fighting the lawsuits.

Additional data shows that 225 of the cases heard by the Board of Supervisors involved settlements of lawsuits, not other actions, fully 87.5% of all settlements. Another 38 cases involved unlitigated

Cont. p. 15

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**Retaliation/Abuse** (Cont. from p. 14)

claims, 24 claims apparently litigated, and the remaining 22 cases involved a variety of settlements.

103 cases involving personnel cases represent 33% of the 309 cases referred to the Board of Supervisors and account for about 10.5% of settlement awards. These costs are completely preventable if City managers simply followed existing laws regarding prohibited personnel actions.

In February 2012, KGO 7's "I-Team" reported that during the five-year period it examined, thousands of claims and lawsuits totaled more than \$212 million to resolve, plus at least \$53 million in City Attorney time and costs to fight 10,000 cases receiving no payout, ballooning the total to \$265 million.

In response to an I-Team's question about whether the \$265 million was considered a cost of doing business, City Attorney spokesman Matt Dorsey said that when you consider that San Francisco spends \$6.8 billion every year to run City government, "You know, it is. It's the cost of ... running a major city." Dorsey said most of the claims and lawsuits stemmed from the vast amount of vehicles San Francisco has on its streets, ignoring that the \$265 million in costs were attributable mostly to MUNI.

This same Matt Dorsey claimed that the wrongful termination case of Dr. John Ulrich from Laguna Honda Hospital in 1998 over free speech issues that resulted in a negotiated \$1.5 million payout to Ulrich from the initial \$4.3 million jury award, was "not an instance of reprisal," and that the City Attorney's Office ... "considers this outcome ... an aberration."

**Rationales for "Summary Judgment"**

As Mr. Roberts reported in the *Examiner* on April 16, two recent and prominent City employee retaliation cases include "a pair of 9-1-1 dispatchers who received \$762,000 and Dr. Kerr's \$750,000 settlement for wrongful termination, after complaining about misuse of Laguna Honda Hospital patient gift fund.

In both cases, the City Attorney attempted to convince judges to grant a "Motion for Summary Judgment" (MSJ), a legal process in which judges make a summary judgment regarding disputed facts before a case goes to jury trial. In both cases, the rationales City Attorneys used calls into question their understanding of Summary Judgment law.

**Specious Smears of 9-1-1 Dispatchers**

In the 9-1-1 dispatcher's lawsuit, the Deputy City Attorney (DCA) claimed there were no disputes involving material fact, and requested that eight claims for relief be granted in their MSJ. In its motion, Defendants also smeared Plaintiffs, by claiming "Plaintiff Ann Raskin lived a charmed life at Department of Emergency Management prior to the e-mail incident," a snide statement wholly out of place in a legal filing.

U.S. District Court Judge Thelton Henderson granted only one of the City Attorney's dubious claims for summary judgment, and denied the other seven

claims, including:

**Federal Stored Communications Act.** Plaintiff Jane Doe claimed her private e-mail had been improperly searched by Defendants over an 18-month period on a shared computer, and was bullied and harassed by supervisors as a result

DCAs asserted that Defendant's inadvertent discovery of Plaintiffs work-related, but personal e-mail account documents viewed on a shared computer did not constitute a "serious invasion" of Plaintiff's privacy. Since both sides had presented evidence supporting each version of events, Judge Henderson ruled there was a genuine issue of material fact for the jury, denying Defendants claim for summary judgment on the issue.

**Intentional Infliction of Emotional Distress:** The City wrongly asserted that Plaintiffs' emotional distress claim duplicated their Fair Employment and Housing Claim. The Court had to point out that it is established law that Plaintiffs can allege both employment discrimination and additional intentional infliction of emotional distress.

Instead, the DCAs contended the conduct in question didn't rise to emotional distress, and was merely "rigorous, difficult training that dispatcher's must go through." Judge Henderson again ruled the dispute involved a question of fact that had to be presented to a jury.

**"Truth of Retaliation Is True"**

By denying seven of the Defendants' eight claims for summary judgment, Henderson effectively moved to trial. At trial, the jury ruled in *Doe* and *Raskin's* favor, and they were eventually awarded the \$762,000 settlement, suggesting that City Attorney Dennis Herrera and his legal defense team — often tosses out flaky defense strategies hoping to see something stick on the wall.

To do that, Herrera's team not only resorted to using *ad hominem* smears against Plaintiffs *Kerr* and *Doe* and *Raskin*, they used wrongful claims and disingenuous arguments.

"The City Attorney used every trick in the book, but the evidence of Laguna Honda Hospital's wrongdoing was so overwhelming that they were forced to settle," said Dr. Rivero. "It took us three years to convince the City Attorney, and the Court, that the truth was true,"

If Kerr's and the 9-1-1 dispatchers lawsuits prove nothing else, the two cases demonstrate that, all too often, the City Attorney defends City officials against City employees and the very citizens paying the miscreant officials' bloated salaries.

It's time to confront the City Attorney's spurious advice, which appears to be costing taxpayers millions that could be better spent on other City needs.

*Monette-Shaw is an open-government accountability advocate, a patient advocate. monette-shaw@westsideobserver.com.*

*The print edition of this article is a condensed version; the expanded version will be available at westsideobserver.com.*

**Lead Abatement** (Cont. from p. 3)

- continued funding of this program must cease,
  - all existing funding should be frozen and
  - the program's most recent request for funding should be turned down.
- Furthermore before funds are released or rewarded, measures must be taken to assure that:
- all the previously cleared homes are indeed safe from lead-based paint poisoning hazards as required by law and
  - the City's future contracts with homeowners provide for this as well, meaning that contractual obligations between the City and homeowners, must contain

a statement requiring the City to comply with any and all applicable State and Federal laws regarding Lead-Based Paint Hazard Remediation.

I think HUD will agree that the risk to children is simply too great to allow things to continue as they have.

*Rita O'Flynn is a professional writer and researcher, and a former Federal employee. She is an Open Government Activist, and a member of San Franciscans for Sunshine and the Society for Professional Journalists. Ms. O'Flynn is pursuing litigation against the City to mandate compliance with the law so that the children of San Francisco can be safe from the harmful effects of lead-based paint poisoning. You may contact her at rita\_august@msn.com.*

**Crime and Safety Focus**

**You Can Prevent Auto Break-ins**

Auto break-ins are the most common property crime in San Francisco. Fortunately, you can take steps to protect your property and make your car less attractive to thieves. Most property crimes are crimes of opportunity; your goal is to *make your car look like it's not worth the trouble* for a the thief.

**Lock your doors** While this piece of advice should be a no-brainer, up to a quarter of vehicle thefts are from unlocked cars, according to some law enforcement agencies. Even if you're running into the store for a soda, that's too long to leave your vehicle's contents open for the taking. Simply locking the doors will deter those who might just be waiting around for an easy target.

**Keep it tidy** Almost any worthless personal item that's visible from the outside, even an empty shopping bag, could be seen as a valuable or a carrier of valuables. If you have a wagon or SUV that leaves your cargo area on display, consider getting a cover. Most of these vehicles can be fitted with inexpensive retractable covers to help keep shopping bags or other belongings out of sight. Hide all electronic equipment. Don't leave any bait out for thieves; store your electronics and accessories well out of sight-or better yet, bring it with you. The evidence alone might be enough to catch the attention of thieves, so hide that too, including power plugs, telltale iPod adapters, or nav-system windshield suction cup mounts, and even put the cigarette lighter back in place.

**Hide before — not after — you park** Get in the habit of putting shopping bags in the trunk right when you return to the vehicle, rather than after you park at the next place. According to National Insurance Crime Bureau (NICB) spokesman Frank Scafidi, thieves sometimes linger in busy parking lots looking for valuables being-moved out of sight. Don't display to them what you have.

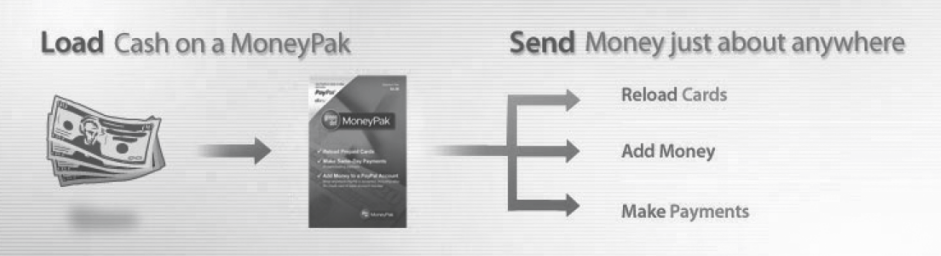
**Close windows and sunroofs completely** No, it's not just because thieves might reach in through the gap and open your locks with a coat hanger. Open windows will disable the pressure sensor in some car alarms, leaving the vehicle more vulnerable to break-in and potentially giving thieves more time before the alarm sounds.

**Get an alarm** If you don't have an alarm system, get one. The noise alone may be enough to scare away an inexperienced thief and prevent the break-in. Factory-option alarm systems are generally best, but a carefully installed, properly calibrated aftermarket system can provide just as much safety. Beware, many less-expensive new cars have remote entry but not a true alarm.

**Park for visibility** Park in a busy, well-lit area, and avoid concealment from larger vehicles, fences, or foliage. Except for the most brazen thieves, the greater the chances are that someone might see a crime in progress, the lower the chances are that the potential thief will attempt it.

**Scam Alert: PG&E Moneypak Scam**

There have been several reports of victims receiving a phone calls from a persons claiming to be from PG&E. The caller tells the person that their utilities are going to



be turned off due to non-payment of a PG&E bill. The victim, who has usually been late paying in the past, believes this is a legitimate call. The caller tells the victim that the only way to pay the bill is for the victim to go to a store and buy a "Green Dot" money card. After the victim buys this card, the caller calls back and asks for the pin number. The victim gives the caller the pin number and the caller uses it to access the money contained in the money card. One victim was scammed out of over a thousand dollars.

Use your MoneyPak number only with businesses on MonyPak approved list. If anyone else asks for your MoneyPak number or information from your receipt, it's probably a scam. Don't give your MoneyPak number to pay for something you buy through the classifieds or to collect a prize or sweepstakes. Do not give away your receipt information to another party either. If you give your MoneyPak number or information about the purchase transaction to a criminal, Green Dot is not responsible for paying you back. Your MoneyPak is not a bank account. The funds are not insured against loss.

*Anyone who has questions regarding their PG & E billing statements, please contact PG & E Customer Service line 1-800-743-5000.t*

**Auxiliary Law Enforcement Response Team (ALERT)**

The San Francisco Police Department has developed a volunteer citizen disaster preparedness program. The Auxiliary Law Enforcement Response Team (ALERT) will recruit, train, credential, and uniform volunteers to assist law enforcement in the event of a natural or manmade disaster. Volunteers must be at least 16 years of age and live, work, or attend high school in San Francisco.

The ALERT program is modeled after and works in partnership with the San Francisco Fire Department's Neighborhood Emergency Response Team (NERT). The ALERT program will train members of the public to assist law enforcement in essential tasks after a major disaster. Such tasks may include: traffic control, foot patrol of business and residential areas, reporting criminal activity, working in partnership with NERT volunteers to provide well-being checks, assisting with medical aid, at district police stations, or with Animal Care and Control in the handling of pets, securing resource locations, and delivering logistical supplies. In addition, ALERT members will direct individuals to mass casualty and shelter locations, assist at reunification centers, provide support at schools for reunification, and participate in Operation Return.

Volunteers will receive training from both the San Francisco Fire Department and the San Francisco Police Department.

*For a comprehensive overview of the ALERT program, please visit our webpage at [www.sanfranciscopolice.org/alert](http://www.sanfranciscopolice.org/alert) Additional information can also be obtained by emailing [sfpdalert@sfgov.org](mailto:sfpdalert@sfgov.org), or by calling Sergeant Mark Hernandez (SFPD, Ret.), SFPD ALERT Program Coordinator, at (415) 401-4615.*



Captain Curtis Lum



Remember When?



Aerial view of inner Sunset District Date 1927 Sept. 6.. Got info? editor@westsideobserver, we'll pass it on to the SF History Center. Published by permission of the SF History Center, SF Public Library

3			5	8				
	2				4			7
				3				
		4				6	5	
		1	4		6	7		
	6	8				4		
				1				
5			9				8	
				6	8			1

Sudoku-fun!

**Rules:**  
Each puzzle is a 9 by 9 grid of squares divided into nine 3 by 3 square blocks, with some of the numbers filled in for you.  
**The Object:**  
Fill in the blank squares so that each of the numbers 1 to 9 appears exactly once in each row, column and block.  
**Answer:**  
The answer appears below.

1	2	5	8	9	2	3	6	4
9	8	2	3	4	6	7	1	5
3	4	6	5	1	2	2	8	9
2	1	4	6	5	3	8	9	7
8	3	2	9	2	4	1	5	6
6	5	9	1	7	1	3	4	2
5	2	6	3	7	8	1	4	9
5	2	6	3	7	8	1	4	9
7	6	7	3	4	9	1	2	8
4	9	4	2	1	8	5	7	3

BRAIN FUD

Words Containing "GM" (Not the automaker...)

Five words that contain GM as a letter pair have had all of their other letters removed and placed into a pool. Put those letters back in their proper places. What are the words?

\*\*GM\*, \*\*GM\*\*, \*\*\*GM\*, \*\*\*\*GM, \*\*GM\*\*\*

Pool: A, A, A, A, B, E, E, H, I, L, N, N, P, P, S, T, T, U, Y, Y

Answer  
PYGMY, BAGMAN, STIGMA, PHLEGM, AUGMENT

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Phyllis will be back soon.





Kopp (Cont. from p. 3)

bonds, debentures, notes, or other securities.”

As Messrs. Hoenig and Morris note in a marvelous paper last December, the limit to not being “engaged principally” was that underwriting issuance of new stock and dealing in stocks accounted for 5% or less of a bank subsidiary’s gross revenue. That limit was increased to 25% in 1997 and the entire repeal of the Glass-Steagall Act prohibition against banks affiliating with securities companies occurred by enactment of the Gramm-Leach-Bliley Act in 1999, allowing formation of financial holding companies in which banks could engage in specified non-banking activities such as securities underwriting, broker-dealer transactions and insurance underwriting previously prohibited. Thus, the large banks (“Too big to Fail”) began activity traditionally limited to investment banks like Goldman Sachs or the late and lamented (by creditors and stockholders) Lehman Brothers. That exposes banks to risks, unlike the traditional bank which obtained deposits and loaned money for home mortgages, businesses or otherwise.

Big banks like Wells Fargo, Bank of America and Citibank thereby incurred risk from trading stocks and other investments. They bought and sold stocks, including those supported by “bundled” home mortgages. As the housing market collapsed, such banks lost much, much money, and taxpayers, through their Congress and President, lent them money to survive. The line was destroyed between commercial banks, in which we deposit money for checking and savings purposes, and investment banks for the high-rolling Wall Street, Montgomery Street and similar financial entities which now can “wheel and deal” at will. Why not restore the Glass-Steagall Act? The aforementioned Messrs. Hoenig and Morris so argue cogently in a 29-page paper which I gladly will supply any reader upon request. Our country must again separate banking functions from stock broker-dealer functions. Ask Mrs. Pelosi and Senators Boxer and Feinstein what they have done to foster such restoration of financial integrity. Let me know the answers, if any.

Retired former Supervisor, State Senator and Judge Quentin Kopp lives in District 7

Pedestrian/Wooding (Cont. from p. 7)

\$130,357 to a \$797,000 Caltrans grant for pedestrian safety was unanimously approved on March 5 by the Board of Supervisors. The grant money will help make safety improvements on Sloat Boulevard. Sadly, the Board also officially mourned the death of Henren Chang on March 5th.

Yee, the bill’s sponsor, stated that he hoped that the Sloat pedestrian safety grant improvements will help us to, “Never have to be in this situation again.”

The grant money will be used to make pedestrian safety improvements at three streets that intersect with Sloat Boulevard: Everglade Drive, Forest View Drive, and 23rd Avenue. In addition to adding more traffic signs and flashing crossing beacons, the grant will help pay for widening the sidewalks on Sloat to reduce the distance pedestrians have to cross at each intersection.

Vale Avenue, the street where Henren Chang was killed, is less than a block from Forest Hill Drive. San Francisco police installed a mobile speed-radar trailer near Sloat and Forest View Drive three days after Chang’s death.

District 4 Supervisor Katy Tang asked that the March 5 Board meeting be adjourned in memory of Henren Chang, who would be remembered by her friends and Lowell High school classmates as “a happy person, a great student, and a good friend.”

Please observe a moment of silence for all of District 7’s dead pedestrians. Then observe another moment of silence for dead or injured pedestrians in the City’s other ten districts, who face the same pedestrian safety issues as we do in District 7.

George Wooding, Coalition for San Francisco Neighborhoods

## How do you thank a teacher? Let me count some ways.

By Carol Kocivar

The first full week of May is Teacher Appreciation Week—a special time to say “thank you” to all who have helped our children this school year.

It should come as no surprise that this special week of celebration was started by the PTA — The Parent TEACHER Association.

And the PTA has lots of ideas for parents and community members.

Here are some high tech suggestions and some with a more personal touch:

### High Tech

“Thank You” has gone digital.

Well, at least the ideas on how to thank a teacher. The National PTA has created a Pinterest page. And wow, lot’s of great pictures and suggestions:

I really like the “Thanks a Latte” idea—the coffee gift card and the “Thanks for Helping Me Grow” flower pot.

And then there is the “Great Tea-cher Wreath” made out of—yes, you guessed it—tea bags.

### Personal Touch

Looking for some ideas for your school community?

- Create and display posters, banners, and fliers in your school.
- Work with students on projects to do together to honor teachers.
- Brainstorm with your principal. How can you honor all your staff throughout the year?
- Contact area business and community

groups and invite them to join you.

- Plant a tree or flowers on the school property.
- Provide a brunch.
- Wash cars or windshields.
- Design a resource file for teachers with names of parents and family members who can use their expertise to help teachers on projects and activities
- Call in to radio talk shows early and tell the host or hostess what your PTA is doing for teacher appreciation.
- Nominate a teacher for the PTA Teachers-Making A Difference Award.

<http://www.surveymonkey.com/s/PTATeachers>

National PTA has created customizable recognition tools for you and your child to use to make your teacher feel special: You can find lots more of ideas at on the National PTA website: [www.PTA.org](http://www.PTA.org) and search for PTA Teacher Appreciation Week

Or just do it the old-fashioned way. Write a Thank You note.

What are your ideas for honoring a teacher?

Carol Kocivar is President of the California Parent Teachers Assn. and lives in the Westside. Feedback: [kocivar@westsideobserver.com](mailto:kocivar@westsideobserver.com)



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- **Openhouse** - Programs & services in the LGBT community. (415) 296-8995
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674 Rockdale Dr	Miraloma Park	2	1	1	599000	562500	93.9
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## THE REAL ESTATE ANSWER MAN By Kevin Birmingham



**Q:** Besides a mortgage payment, what other costs should be factored into my monthly payment?

Samantha Lingsch

**A:** PITI which stands for principal, interest, taxes, insurance. Also if the property is a condo or in certain neighborhoods like St Francis Wood, there are also HOA dues.

**Q:** What is the best approach to winning a real estate bidding war?

Cindy Davis

**A:** I have had clients write heartfelt letters and even include photos of the family in order to gain an edge. The fact is that price and terms mean more to getting an offer accepted than any letter can. More and more buyers are writing offers without inspection contingencies, which is a dangerous strategy. If you really love the home and the seller allows, you can order a home inspection prior to submitting your offer.

**Q:** Is it legal for my landlord to have a shared PG&E meter with my apartment and the apartment below me?

Jeff Hughes

**A:** It is legal for a landlord to have a common/single utility service for multiple units. What is required is that there is an objective way to divide the bill. It need not be fair or equitable, but hopefully it is.

Kevin Birmingham is a licensed real estate broker, have a question for the Real Estate Answer Man? Submit them to [kevinb@zephyrsf.com](mailto:kevinb@zephyrsf.com)

## Privacy/Mark Leno (Cont. from p. 7)

which are stored online by service providers such as Google, Microsoft, Facebook and Twitter. As it stands today, law enforcement can obtain the content of all opened email and unopened email 180 days or older without letting the user know or obtaining a search warrant. When ECPA was drafted, the internet was still in its infancy – personal computers were not yet widely used and we still predominately communicated using landline telephones. At the time, ECPA may have made sense, but our current technology has far outpaced the law. Just as we have evolved to keep up with advances in technology, so too must our privacy laws adapt to accurately reflect our modern electronic age.

This year I introduced digital privacy legislation, Senate Bill 467, that will fill some of the existing holes in ECPA and protect the privacy rights of Californians. SB 467 will require government agencies to obtain a search warrant before accessing all email communications and personal data stored by online service providers. This means that our email and other messages and records stored online will have the same level of privacy protection as communications and other documents stored physically in our home or office.

This simple standard will uniformly apply to all California law enforcement agencies and service providers. In fact, SB 467, which is sponsored by the Electronic Frontier Foundation, would codify the existing consumer protection policies of many of the biggest service providers, including Google, Facebook, Microsoft and Yahoo!, allowing them to comply with law enforcement requests faster, with greater ease and at a lower cost.

SB 467 will not hinder the ability of law enforcement to investigate and solve crimes. The contents of electronic communications may still be obtained without a warrant by asking for user permission. Furthermore, in cases of emergency, law enforcement may access information without a warrant if doing so would help prevent death or serious injury.

Today, email has become a universally accepted form of communication in our work and personal lives. Many aspects of our lives now center around the web, with years of conversations, financial transactions and personal history stored online. This sensitive information should be protected in a manner consistent with the Fourth Amendment, which guards against unreasonable search and seizure. Even the U.S. Department of Justice has stated that it supports requiring a warrant to gain access to stored emails.

California, the home of many of the world's top technology companies, should be a leader in safeguarding people's electronic communications. We should not have to choose between using modern technology and protecting our privacy.

If you would like more information about SB 467 or our legislative work, please contact our San Francisco office by phone at (415) 557-1300 or by email at [Senator.Leno@senate.ca.gov](mailto:Senator.Leno@senate.ca.gov).

Senator Mark Leno represents the 11th Senate District of California, which includes San Francisco, Broadmoor, Colma, Daly City and portions of South San Francisco.



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## Real Travel *By Sergio Nibbi*

## Déjà Vu



In Florence they call it the “Rinascimento.” We know it as the “Renaissance”, a new beginning, a fresh start, a new chapter in life and in nature. The trees are in bloom; the countryside turns from sound asleep to wide awake. And what better place to see God’s glory than in the Napa Valley where last year’s grapes were picked, the vines pruned and neatly tucked away for a long winter’s rest. But now they are reawakened and coerced into producing yet another award-winning crop where the cycle will repeat itself. From grapes crushed into juice, to fermentation, to the miracle of wine as it silently matures in oak barrels. Soon the vintners will stand proudly, as awards and accolades are bestowed to those fortunate enough to make the pages of the wine magazines, or enjoy private wine tastings in the company of close friends.



In the Salinas Valley the orchards are showing new buds that will soon become delicious figs, almonds, lemons, limes and oranges. The strawberries will regain new sweetness, and the lettuce picked, cleaned and bagged to be shipped around the world. My back aches as I watch the workers in the fields bent over their crops for our enjoyment.

We may not be so fortunate as to have the world famous artists, philosophers, poets and architects from Tuscany where the Renaissance began, but we do have the beauty of fog-covered farm land hovering near the majestic Pacific Ocean, growing delicious artichokes served piping hot or braized over an open fire with freshly-caught salmon.



As humans, we too reproduce, and as the sun starts to shine brightly once again there also seems to be a new crop of infants. Is it our imagination, or as the saying goes “it must have been a cold winter.” Stroller’s line the sidewalks, while panicked dads escort their older children wearing safety helmets while resting precariously on training wheels as they weave around terrified adults.

We backyard farmers are deep into tilling, fertilizing and planting as the pages of local nurseries advertise the latest crop of heirloom tomatoes, herbs and garden tools. During the Second World War we used to call them “Victory Gardens.” Now we boast of the fact that our produce is organic, and with our own compost for good measure. No need to go to the Farmer’s Markets on the weekend, we have our own crop to share with friends and family.

And what better place to enjoy the beauty of nature than with friends and family?

The old Italians proudly served their homemade wine at every meal, followed by a shot or two of Grappa made from the left-over pomace of the crushed grape. I'll never forget the meals that my mother cooked for us. No need to call ahead, in just a matter of minutes a feast would appear that always impressed my buddies and eventually the girlfriends.

But before moving on to the dog days of summer, let's all take a moment to enjoy what nature has so generously provided for all of us. We are all so fortunate to live in such an amazing area that we sometime forget those less fortunate. Enjoy the day and enjoy the season, as my Italian friends say in North Beach, "Buona Primavera."

Feedback: [sergio@westsideobserver.com](mailto:sergio@westsideobserver.com)



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