The San Bernardino County Sentinel

Judges Next Logical Focus in Colonies Scandal

With the California attorney general's office and the San Bernardino County district attorney now focused on establishing that extortion and bribery of several public officials were key elements in the controversial 2006 vote of the board of supervisors to condemn at $102 million lawsuit settlement on the Colonies Partners, prosecutors' and investigators' attention has now logically turned toward three of the judges who heard various elements of the case.

Last week, the California attorney general's office and the district attorney's office jointly filed criminal charges against former county supervisor/assessor Bill Postmus and Jim Erwin, who were one of Postmus' closest political associates. Prosecutors allege that Erwin and Postmus were involved in an elaborate blackmail and extortion scheme that originated with Colonies Partners managing partners Jeff Burum and Dan Richards and their media consultant Patrick O'Reilly to induce Postmus and two of his board colleagues, Paul Biane and Gary Ovitt, to settle the lawsuit the Colonies Partners had brought against the county over fixed control issues at its residential and commercial subdivision in northeastern Upland on terms favorable to the company. While prosecutors last week limited the field of those charged with crimes to Postmus and Erwin, they included in their complaint allegations that Burum and Richards bribed and extorted, with the assistance of O'Reilly and Erwin, both Postmus and Biane, and that Burum and Richards bribed Mark Kirk, who was then and remains Gary Ovitt's chief of staff. Burum, Richards, O'Reilly, Kirk and Biane were not named in the complaint.

Conservatorship Lawyer Caught up in Family Guardianship Controversy

By Janet Felice

Redlands-based lawyer J. David Hor pulp, an elderly law partner who has made a career out of the practice of conservatorships, is no stranger to court proceedings. Ironically, Hor pulp is now involved in a bitter legal battle concerning the conservatorship of his own father, Raymond Hor pulp, Sr.

The older Hor pulp was put under a conservatorship in July of 2006, in a legal proceeding launched by three of his nine children—J. David, sister Karin Hor pulp (also an attorney) and sister Margaret Uphlick.

BrightSource Sticking with Solar Project Despite Setbacks

BrightSource Energy, the Bay Area company which is preparing to develop a 400 megawatt solar array near the Nevada border, will continue to pursue the project despite a series of setbacks and various reservations against it by San Bernardino County officials.

Last week the board of supervisors tightened up the county's regulations with regard to renewable energy systems, including new standards for wind energy systems and solar energy systems, development standards, design and location standards to minimize visual and safety impacts on the surrounding communities.

RC Nightspot Avoids Shutdown

RAMON CLIMENTA

After its operators made an obsequious apology to city officials, one of theErringer nightspots in Rancho Cucamonga was given a reprieve from a move to have it shut down.

Omaha Jack's, which was originally proposed as a restaurant at Main Plaza on Foothill Blvd/Route 66, over the last six years has transformed itself from what was once described as a nightclub that catered to a young and hard-partying clientele.

Owners Ron Vandenbrooks and Mike McCarthy and their employees have stretched the intent of the entertainment permit first obtained in 2004 to promote an increasingly larger dance floor fueled by the presence of a disc jockey not mentioned in the establishment's conditional use permit. The dance floor is supposed to be no larger than 100 square feet. Actually, the footprints of the dance floor has grown to roughly three times that.

Moreover, Vandenbrooks and McCarthy have consistently exceeded the hours of operation allowed under the permit on Sundays, Mondays, Tuesdays and Wednesdays for the last several years. The permit states that on those days, the establishment is to close at 2 a.m.

The council rejected a call to adopt the Good Neighbor Coalition's proposed moratorium on the construction of the Walmart Supercenter and other projects that scope, and instead signaled it would allow a vote on the issue.

The Good Neighbor Coalition achieved a threshold in its petition drive - the valid signatures of 15 percent of registered voters - that required the council to either adopt the call for the ban or allow a citywide referendum on the issue to proceed.

County Defers Filing Suit Against Colonies Case Co-conspirators

SAN BERNARDINO — County supervisors this week chose to take no actions against the Colonies Partners and seven individuals the district attorney's office has asked to be charged with obstruction of the public process that led to a $102 million payment to that company nearly three years ago.

The district attorney's office last week filed criminal charges against the former Colonies Partners supervisor/assessor Bill Postmus and former assistant assessor Jim Erwin. In that action, prosecutors alleged an elaborate criminal conspiracy involving extortion and bribery which tainted the 3-2 vote the board of supervisors as it was then composed to approve a $102 million settlement of a lawsuit the Colonies Partners brought against the county in March 2002 over food control issues at its Colonies at San Antonio residential and commercial subdivision in northeastern Upland.

According to the district attorney's office, Colonies Partners principals Jeff Burum and Dan Richards, along with media consultant Patrick O'Reilly, Fourth Supervisorial District chief of staff Mark Kirk and Second District supervisor Paul Biane were implicated in the conspiracy.

District Attorney Mike Ramos said he was hopeful the county could recover the $102 million in taxpayer funds spent on the company by proving that the lawsuit settlement was the product of what California Attorney General Jerry Brown called one of "the most corrupt acts" in the history of California.

The board of supervisors, which was not previously scheduled to meet this week, held at Fifth District supervisor Josie Gonzales's request a special meeting to discuss the issue. See P3

Walmart Faces Vote in Redlands

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The Redlands City Council this week voted to place an initiative on the June ballot that will allow voters to determine whether or not Walmart should be permitted to build a Supercenter on the north side of town.

The council appropriated $55,000 from the city's operating fund to pay for the special election.

The council surrendered the decision making process on a land use decision normally reserved for itself and/or the planning commission after the Redlands Good Neighbor Coalition filed a petition requesting an anti-Walmart initiative on October 14 that contained 5,310 valid signatures.

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The Good Neighbor Coalition achieved a threshold in its petition drive - the valid signatures of 15 percent of registered voters - that required the council to either adopt the call for the ban or allow a citywide referendum on the issue to proceed.

The decision is driven by the (Call-See P3)
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The lawsuit was settled to handle the water runoff to the area, and it was a great decision to accommodate potential stormwater runoff, and what financing agreements and other sharing, between the county and the Colonies Partners to provide for this flood control infrastructure needed to be made.

After the appellate court decision was handed down, Novell discontinue the trial judge on the case, but left himself the standing to over see a status conference, according to the court record.

The case then went to trial before Judge Christopher Hartman. Both sides agreed to forego a jury trial and entrust litigants to Warren to join the verdict and a decision as to damages if he found in favor of the Colonies Partners.

The master was heard by a settlement agreement that the case was settled, with $250,000 to be paid to the Colonies Partners and no prior relationships with Burrows, Richards or any of the company's other 19 investors or minority owners.

During the course of the trial, the county and its attorneys and legal observers were shouted at, with one making a finding that replicated Novell's, holding that nothing could be done to stop the settlement agreement from being enforced, despite the appellate court's reversal of Novell's decision to order the trial.

As had Novell, Warren again utilized law and language pertaining to easements of ingress and egress in making his decision, ignoring the distinctions between easements of right-of-way and easements pertaining to waterways.

The judgment was based on a series of actions and decisions made during the settlement negotiations, as the terms under dispute were focused on the reports that the Colonies Crossroads Partners were profiting, bribes or in some other fashion offering illegal inducements to Ianos, Postmus, or other county officials. At that point, using his authority as supervising judge, Novell confronted then-County Judge David F. Burrows, and grand jury advisor David Henness, and persuading them to shut down the ad-hoc committee's inquiry.

Three members of the 2004-05 grand jury confirmed that Novell quashed the investigation, Burrows told investigators that the term "witch hunt" was in characterizing the investigation.

"I initially set up the group [i.e., the ad hoc committee] and decided to have a crucial impact on the course of events relating to the Colonies matter. By then, Novell was serving in the capacity of San Bernardino County Superior Court presiding judge. The 2004-05 grand jury had formed an ad-hoc committee which was charged to look into the matter involving the negotiating session involving Postmus, Bryan, Burrows, Richards and Brate during which the lawyers had been excluded from participating. The ad- hoc committee, appointed by county staff members or the county's legal team to potential improprieties in how the negotiations were carried out as well as the terms under discussion,

just have taken offense at being investigated. Burrows said he did not agree with Novell's description of the grand jury's investigation into the matter as a "witch hunt" but insisted he had good reason to go along with backing off the investigation of the two supervisors.

"The judge has the authority to shut an investigation down or to disband the grand jury," he said. "He would have disbanded the grand jury if we continued."

Burrows said the ad-hoc committee was looking into reports that bribes and other payments were made to influence the Colonies project. The grand jury was pursuing the investigation, he said. "We heard a lot of rumors," he said.

Burrows said he believed the basis for the investigation was a valid one, but that he was under tremendous pressure to back off.

"The supervisors do what they do and we [the grand jury] do what we do. I had to decide if we would challenge the supervisors. My decision was we would not," Burrows said.

No reference to the Postmus and Bryan investigation or what ground the ad-hoc committee had covered before it was shuttered was made in the 2004-05 grand jury report released on July 1, 2005. Nor was a reference to the information that the ad hoc committee had uncovered provided to the subsequent 2005-06 grand jury.

As troubling as Novell's action was, it is even more troubling when considered in light of a property transaction that involved his ex-wife with regard to a residence located in the Colonies at San Antonio development.

Title documents obtained by the Sentinel show Catherine Novell, from whom the judge had been divorced in 1994 and to whom the judge was still paying alimony, in 2004 acquired interest in a home located within the Colonies development. That transaction was recorded in the name of a trust, for Catherine Novell, CAI Trust, which she wholly controlled.

Documents recorded with the San Bernardino County recorder's office show that CAI Trust did not obtain the property, located in the 1900 block of Partridge Avenue, directly from the Colonies, but rather from Standard Pacific Corporation, one of the Colonies' homebuilding subcontractors on the Colonies at San Antonio project.

Title documents show that the home was sold...