



MISSION VIEJO BUZZ

Keeping the California Promise

Week of June 10, 2006

The Patriot Post Founders' Quote Daily

"Experience is the oracle of truth; and where its responses are unequivocal, they ought to be conclusive and sacred."

-- Alexander Hamilton and James Madison (Federalist No. 20, 11 December 1787) Reference: Hamilton, Federalist No. 20 (138)

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WHAT'S THE FOUNDATION'S BOTTOM LINE? STAFF EDITORIAL

A letter writer suggested in the June 2 Saddleback Valley News that the Mission Viejo Community Foundation should be shut down. The writer said, "We have no control over this foundation. Ten months after its first board meeting, it has only received \$360,000 in pledges."

Time has run out for the foundation to make a good first impression. The foundation's goal is to raise \$1 million for the expansion of the community center. Two grants to the foundation from the city – "seed money" – have cost taxpayers nearly \$400,000.

Since the city has already spent the \$400,000, the case could be made to let it ride. Residents should hope the foundation will be able to raise at least that much – in a sense paying back the grants. The foundation will have a fund-raiser on Sept. 11, a golf tournament at Mission Viejo Country Club. It's a start, which some people think is overdue.

The foremost issue beyond raising cash has been raising public trust. The city council hired a consultant, Bob Zuer, to form the community foundation. Zuer stayed on the payroll, becoming the foundation's director after it became an independent entity – a 501(c)(3) organization – with its own board of directors. As such, it has no obligation to taxpayers to reveal financial statements.

Zuer received approximately \$9,000 a month as a consultant. When he became the foundation's director at the same salary, residents began asking how many hours he works and what he does. With the wall in place between the foundation and the city, he isn't obligated to tell. In addition to Zuer's salary, the foundation's other expenses include impressive-looking literature and a part-time employee.

As a new organization, the foundation hasn't raised much money. The City Outlook magazine continues to give fund-raising "updates" by combining pledges, cash and in-kind donations. A substantial portion of early donations was supposed to come from board members and/or their employers, including city vendors. After 10 months, it's time for them to shake the money tree and turn pledges into cash.

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Ultimately, the success or failure of the foundation will become the legacy of its board members. When residents ask questions without getting answers, perhaps they're asking the wrong people. Board members, not city employees or council members, have access to financial data.

Residents are right to have high expectations for a \$9,000-a-month director. After 10 months on the job, his performance has not met expectations, and the board of directors is beginning to look more like an exclusive club than a fundraising team.

The groundbreaking for expansion of the community center is Aug. 5. Time is running out to raise money, and the foundation clock appears not to be plugged in. Ten months of marginal performance is not a reason to shut down the foundation. However, the director and board members should be keenly aware that cash is not coming out of their spin cycle.

PROPERTY RIGHTS ARE NOT ABSOLUTE BY DALE TYLER

Recently, both the Libertarian Orange County Register (OCReg) and the Orange County Republican Assembly (OCCra) in their June Primary 2006 issue got it wrong when they condemned Yorba Linda's "Right to Vote" initiative. There was the typical scare-mongering about "dozens" of elections and quoting from the "non-partisan" city clerk of Yorba Linda. This is the same city clerk who sued the proponents of the Right to Vote initiative to block their initiative from being qualified for the ballot. Fortunately, the judge hearing the case said the city clerk had no right to block a properly qualified initiative, and the citizens of Yorba Linda voted on it on June 6.

The fundamental issue is one of the balance of property rights of different people. Almost eve-

ryone would agree that certain land uses are fundamentally incompatible. For example, schools and adult entertainment establishments, like adult bookstores and clubs, are not permitted within certain distances of each other by law in most cities. If you take the argument of the OCReg and OCCra to its logical conclusion, no interference with property rights is to be tolerated, so we should allow any mix of land uses right next to each other. Of course, this is ridiculous, and I would bet that even the OCReg and the OCCra would not want adult bookstores next to schools, although probably for different reasons. Thus, this argument comes down to a balancing of competing interests, like most things in life.

The Yorba Linda Right to Vote (<http://www.ylrv.org/>) initiative is a very simple law that says the people of the community have a right to approve any major zoning change. The things that can trigger a vote by the people are changes that: (actual text from initiative follows)

- a. Increases the number of residential units which may be constructed on a parcel designated for residential uses.
- b. Increases the number of separate parcels which may be created from an existing parcel.
- c. Changes any residential land use to allow any other land use.
- d. Changes any non-residential land use to allow any residential land use greater than ten (10) net dwelling units per acre or allow a mix of commercial and residential uses.
- e. Increases the allowed maximum height of development.
- f. Provides for the private development of land owned by a government entity within five years of the date of the approval to develop the land.
- g. Repeals any of the Planning Policy Documents.

Each of these is designed to promote continuity of the existing land uses within the community. For any project that changes any of the items listed above, the normal planning process would be followed before the project was placed on the ballot, including properly noticed public hearings where people can learn about the project. This means both the planning commission and city council would have to approve a project before any special election was called. Most projects would not require any

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changes to the list of items above, including virtually every remodeling or renovation of any existing structure. Only major projects would likely require a special election, and while an election costs taxpayer money, a bad project could cost the city a thousand times more.

When someone owns land or buys a new piece of land, they are aware of the uses permitted by the zoning code. The surrounding property owners also know the zoning of that property and make investments in their own properties accordingly. For example, if I know that the properties near my house are going to have high-density apartments, I might not spend a lot of money upgrading my house. If I have an industrial property, I would like other businesses nearby to buy my products and be my suppliers. If houses were built next door, then I might start to receive complaints about noise and light from my second-shift operations. All of these situations are what zoning is designed to prevent. By placing compatible land uses near each other and by providing certainty about future developments on adjacent land, empty or not, zoning laws allow property owners to plan for the future. This increases investment and the sense of community, because there are no surprises. Fundamentally, the existing landowner's right to have their property's value and utility protected trumps the right of adjacent landowners to make changes that would adversely affect their neighbors. There may be disagreement about what changes are bad, but that is what a vote of the people will decide.

In some cities, like Mission Viejo and, apparently, Yorba Linda, developers treat the current zoning as just a suggestion. In Mission Viejo, for example, developers gave large contributions to the city council. That same council changed the zoning on a piece of property long designated for commercial-industrial use to high-density residential. The Right to Vote initiative takes the matter out of the hands of the city council and gives the citizens the direct approval of the proposed project. No one's rights are being violated; it's just a simple approval process that will, hopefully, be less affected by payments from developers. The developers must think this is a real roadblock to their way of doing business, because they have spent huge sums in Yorba Linda to

try and push their anti-democracy position. Ask yourself, who is more likely to have the best interests of Yorba Linda's (and Mission Viejo's) citizens at heart, a group of developers or the entire voting population of the city?

I trust the voters to make more informed decisions and decisions that properly reflect the long-term goals of the city than politicians and bureaucrats. Those folks can do a good job for minor projects, but they have conflicting priorities like campaign contributions and developer-fee income that sway their judgments. Citizens will likely do a better job, and if they are fooled by developer promises on a bad project, then they have only themselves to blame.

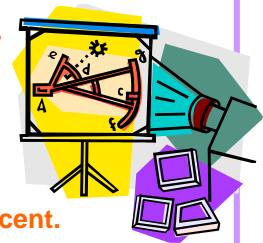
You also need to wonder why developers are spending more than \$113,000 to defeat this measure. Perhaps they know something we only suspect – that it is easier to buy politicians than voters.

<http://buyapolitician.com/index.html>

LETTERS TO THE EDITOR

COUNCIL REVIEWS CITY SURVEY

At the Mission Viejo City Council Meeting on June 5, Item 15 covered the Community Opinion Survey by slide presentation. The random-sample survey was conducted by telephone with 20 minutes of questions. True North Opinion Research performed the survey, which had an error rate of plus or minus 4.88 percent.



It is interesting to note that the high points are issues that have been obvious for months. The low crime rate in Mission Viejo was rated highest in importance by the respondents. The economic development category showed residents desired a Wal-Mart or Costco, which is not available in our city. Shopping areas were not rated as high as other neighboring areas, such as residential or the city in general. The category of traffic and signal coordination was a high priority. Streets and infrastructure were high priorities, as well as emergency prepared-

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ness.

The focus of the council and our city leaders should be on those things rated highest by our residents. Focusing on nonessential areas only raises the ire of residents and accomplishes nothing.

The survey results will be added to the city's Website. <http://cityofmissionviejo.org/>

James Edward Woodin
Mission Viejo



OPEN LETTER TO THE CITY COUNCIL WHAT CAN BE DONE ABOUT NEWHART?

I am a long-term resident of the city of Mission Viejo, having the privilege to live in Canyon Crest. My purpose in writing to each of you separately and collectively as the City Council is regarding the alarming state of affairs at Newhart Middle School. Attached is a copy of the recent report issued by the Newhart PTA Campus



Modernization Oversight Committee which details the shocking, deplorable conditions that exist at Newhart, and which have been present for years. As both a resident of Mission Viejo and a parent of a daughter who is set to graduate from Newhart this school year and a son who is set to commence attending Newhart the next school year, I have a very keen interest in Newhart.

To say I am outraged at the current state of Newhart would be a gross understatement. My daughter who attends Newhart has confirmed

what the report reveals. Newhart is a cesspool and an embarrassment to its students, parents and teachers, and to the city of Mission Viejo. Based on information I have gathered, it is my understanding that Capistrano Unified School District has and/or is using Mission Viejo redevelopment funds to pay off a \$35-million Certificate of Participation that was used to finance the new CUSD administration building that will cost approximately \$52 million. The redevelopment funds were supposed to fund a reconstruction of Newhart per Resolution 0102-72 dated March 18, 2002. To the credit of each of you, the City Council voted unanimously to have an audit conducted of CUSD. In doing so the City Council pointedly noted there is something terribly wrong with CUSD. The City Council was 100 percent correct; something is terribly, terribly wrong with CUSD, from the shabby and inexcusable manner in which it maintains its schools (such as Newhart), to its shady financial dealings (the new \$52 million administration building and \$133+ million new high school, San Juan Hills HS, immediately come to mind).

In light of the foregoing, please advise what the city of Mission Viejo, specifically, the City Council, is going to do to help and protect some of the city's most precious resources and some of its most vulnerable residents, the children currently trapped at Newhart and those who will be attending Newhart in the near future. Whatever the City can do, it must. If that means conducting health inspections at Newhart, the City should do so immediately. If filing suit is an option, that should be undertaken with undue haste. If withholding moneys and funds from CUSD is viable, that should be done forthwith. I and many other concerned parents at Newhart, who are residents of Mission Viejo, want to see the City and its City Council act promptly and forcefully. Please let me know what steps and actions the City and its City Council will undertake at your earliest opportunity.

I thank each of you for your time, efforts and service.

Wayne P. Tate, Esq.
Mission Viejo

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To read the full 30 page report
please click on the link below.

NEWHART REPORT

A 30-page description of facilities and conditions at Newhart Middle School was compiled by the school's PTA. The complete title of the paper is "The Report by Newhart PTA Campus Modernization Oversight Committee, May 11, 2006."

According to the document, the committee was "established in April 2006 to expedite and prioritize the improvement of facilities" to bring Newhart up to an acceptable standard. The report documents the school's state of disrepair and neglect with color photographs.

<http://www.missionviejoca.org/pdfs/NewhartFinalReport.pdf>



Following is a letter the OC Register declined to publish. Although I agree with the Register editorial staff on most issues, and I get quite a few letters published, I am disappointed they declined my letter while running in the next few days two letters with glorious praise of libertarian ideas in the most general of terms.

With Congressional Republicans outspending any previous Democratic Congress by wide margins on non-security matters, the Libertarians are missing an opportunity to win over fiscal conservatives.

I would like to get response from readers on the next blog.

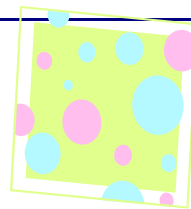
Allan Pilger
Mission Viejo

LETTER TO THE ORANGE COUNTY REGISTER

A Register editorial ("Sign of the times bad news for liberty in Arizona," Dec. 28) demonstrates why more fiscal conservatives like myself don't become libertarians. The Register condemns Mesa, a Phoenix suburb, for enforcing a sign ordinance that says only 30 percent of a business window can be covered. The owner went to court and lost, so in the Register's view, the entire business-friendly state of Arizona has become Los Angeles East.

The editorial contends an owner can promote his business as he pleases, provided it does not compromise public safety or health. A perception I usually hear is that painting your house

with yellow polka dots or green and purple stripes is just dandy with libertarians, regardless of neighborhood impact. There are no lines drawn.



Maybe that's the wrong impression, but the Register reinforces it with the editorial. Shoppers insist on pleasing aesthetics. Just compare Wal-Mart to the old, dead Kmart stores. Hugh, garish signs drive shoppers away from all businesses in a center.

In Mission Viejo, businesses accept a proposed 30-percent maximum for window coverage as part of a well-publicized update of the sign ordinance. Sign code aside, putting up reasonable business signs, like painting your house in a reasonable color, is being a considerate neighbor.

I'll stick with the Republican Party while the Libertarian Party remains on the outside looking into American politics.

Allan Pilger
Mission Viejo



Editor's note: for another take on this topic, see the article, "Property rights are not absolute," in this issue of the Mission Viejo Newsblog.

JUNE 5 COUNCIL MEETING SUMMARY EDITORIAL STAFF

The relatively short June 5 council agenda grew into a long meeting. The only consent calendar pulled by a council member was an amendment to the Marguerite Recreation Center (YMCA) regarding a \$436,000 increase in funding. Councilwoman Gail Reavis asked at what point the city would be finished with the facility's renovation of capital improvement projects. City Attorney Bill Curley responded that the original obligation was \$1.35



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million. The additional \$436,000 is needed to finish the pool. The vote was 5-0 for the increase.

The council held a public hearing regarding speed humps on Padilla and Las Nieves and voted 5-0 to follow the planning commission's recommendation of installing the speed humps. The neighborhood effort to slow down traffic began with a petition in 1995. The area is near Trabuco Hills High School, and neighbors cited school traffic as a primary problem.

Timothy McClarney of True North Research presented a summary of the city's Community Opinion Survey. While not all residents supported spending \$20,000 on the telephone survey, the summary was consistent with the message many people are delivering from the public microphone. According to the survey, residents are highly satisfied living in Mission Viejo. They rate as important a low crime rate, street maintenance, trash collection and emergency services. Fixing traffic problems is a high priority, and adding recreational facilities is a low priority.

The controversial item on June 5 was the audit of taxes collected in the Capistrano Unified School District. CUSD parents and other community members encouraged the audit, asking the amount of tax dollars that have been collected and spent in Mission Viejo through Mello-Roos, the Measure A bond fund and the city's Community Redevelopment Agency. The initial discussion took place on April 3 when the vote was 5-0 to approve the audit, although Councilmen Lance MacLean and Frank Ury debated against it. Council members John Paul Ledesma, Gail Reavis and Trish Kelley argued for the audit on April 3.

The June 5 discussion followed same split, with Ledesma, Reavis and Kelley arguing for and MacLean and Ury arguing against. Public comments from residents were in favor of the audit. Ury said, "I've asked each council member what we'll do with the information after receiving it, and I haven't received an answer." Reavis said, "If something is amiss, we can turn it over to the Grand Jury and let them decide what to do."

MacLean said conditions at Newhart Middle

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School are "pretty darn good," and he indicated the claims of disrepair and neglect are exaggerated. He said, "This information is being collected at taxpayer expense and used against the trustees in an election year." He didn't mention why an audit shouldn't be conducted during an election year when community members are requesting it on the basis of suspected mismanagement of funds. MacLean indicated the Newhart PTA should pay for the audit, and he said any problems at Newhart resulted from the principal and administrative staff not turning in work orders to the district.

Reavis received applause from the audience when she said she would support the audit because the residents asked for it and it was something the council could do. Councilman Ledesma led each of the motions to approve the audits.

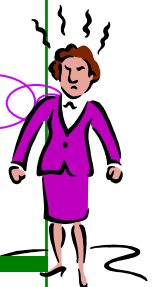
The council voted 5-0 to audit the Redevelopment Agency funds. The audit of Measure A bond money passed 3-2, with Ledesma, Reavis and Kelley for, MacLean and Ury against. The Mello-Roos audit passed 3-2 with Ledesma, Reavis and Kelley for, MacLean and Ury against. The cost of the three audits, \$54,185, will come from the General Fund Unappropriated Fund balance.

Despite persistent reference by various council members to the city's \$28 million in reserves, Assistant City Manager Irwin Bornstein made clear that all but \$594,000 is appropriated – already obligated for other expenses.

I get it, how come they don't?
Public officials are paid from
MY tax dollars and paid very
well. Technically they work
FOR me, right? So again,
how come they don't get it?!

We

are

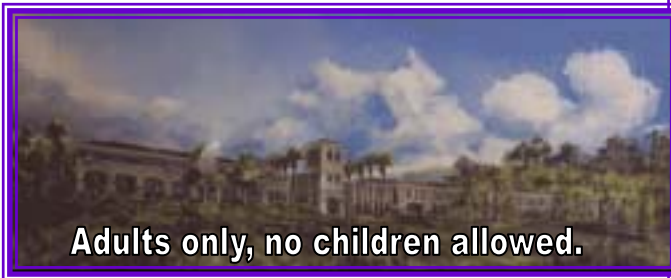


**JUNE 6 ADDRESS AT CUSD
ADMINISTRATION CENTER
BY KEVIN MURPHY**

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here today to let the taxpayers and parents in the Capistrano Unified School District know the truth about the new CUSD administration build-



ing.

The most important thing to understand about the largest, most expensive school administration building in Orange County history is what it is not. It is not a school for our children.

The second most important thing to understand about this building is how the district could afford such an extravagant building for administrators when Supt. James Fleming claimed the district was experiencing "budget cuts."

Many of us parents wondered where the district got the money when the district claimed it couldn't afford to give our teachers cost-of-living raises and threatened three of our schools with closure. We wondered how they came up with \$35 million to build this unnecessary building when so many of our schools were doing without basic programs and supplies.



We parents started digging for answers. We reviewed hundreds of documents and found that on March 18, 2002, the CUSD school board approved a Certificate of Participation, or COP, to finance the new administration building. We learned that a COP is a type of loan, a bond that does not require voter approval. We also learned that the school board pledged two of our schools, Las Flores and Capistrano Valley High School, as collateral assets to secure the loan for their administration building. This means that our school board put these schools at risk, allowing bond holders who live outside Orange County to decide the fate of our schools, should CUSD default on the

loan.

We learned that this \$35-million loan was also supposed to fund a 50-meter pool at Capistrano Valley High School and the sorely needed modernization at Newhart Middle School.

We also learned that the money instead was spent on this building, leaving no money for Newhart's modernization. The school board has recently acknowledged that Newhart needs to have some of its many portable classrooms replaced and bathrooms brought up to minimum California Department of Education standards, among other necessary repairs. However, since the money for Newhart was spent on the administration building, they will now have to take money from other schools to fix the problems at Newhart.

The trustees and superintendent claim they will save money on lease payments. We learned that nothing could be further from the truth. In fact, the principal and interest payments alone on this building are over \$1.5 million per year, *after* rent from tenants is collected. The lease payment on their current facilities is about \$550,000 per year. That leaves a deficit of almost \$1 million per year. For a school district that can't afford to pay for full-time librarians, school nurses and basic supplies in the classroom, this is inexcusable.

We also learned that according to the most recent CDE report, CUSD has 861 portable classrooms and only 821 permanent classrooms. The life span of a portable or "temporary" classroom is about 10 years. Two hundred of the portables in CUSD are more than 25 years old, some with mold, others with dry rot. Parents and taxpayers in CUSD want to know how the administration can justify spending \$35 million on this building when over half of the kids in the district are in trailers.

This building should be a source of pride. If our schools looked as good as this building, I and many other parents would be proud. But too many of our campuses are so overcrowded that kids have to sit on the blacktop to eat lunch, or are forced to share lockers or lug around 30-pound backpacks because there aren't enough lockers



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to accommodate them. Too many of our campuses don't have enough bathrooms, and existing ones are so poorly maintained kids won't use them. Too many of our campuses look like dilapidated trailer parks.

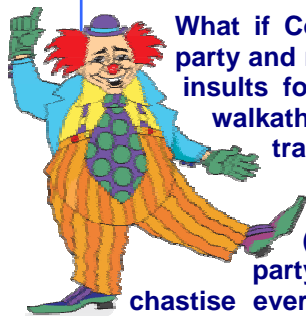


As a result, this building is a source of shame, not pride. It's time for the school board and superintendent to start putting our kids first, not themselves.

I invite you to visit our website: www.cusdwatchdog.com, to review some of the documentation that we have compiled to support our claims. The next time Supt. Fleming or the school board members make a claim, ask them to show you the proof, in writing. It's time we start holding them accountable.



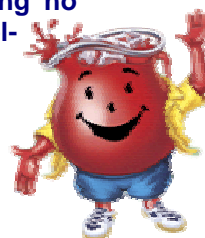
San Juan Capistrano residents have all the fun. They celebrate the return of mud-slinging swallows, moon the train north of town and have good old-fashioned protests. On June 6, a group of parents carried signs and banners, objecting to the school district's new "Taj Mahal" administration center in SJC. Mission Viejo residents joined them in the protest. Among other features, the \$35-million building has eight sets of restrooms for 250 employees. One of the parents said, "If each of the high schools had that many restrooms per capita, it would amount to 96 per school."



What if Councilman Frank Ury threw a party and no one came? An exchange of insults followed Ury's June 3 precinct walkathon turned flop-a-thon. Contrary to popular practice of downplaying a social bomb, a henchman from Ury's camp (who also didn't attend the party) sent scathing emails to chastise everyone else for not attending. Ury had invited a large group of people to walk precincts in support of a political candi-

date and return to his house for a barbecue. Most didn't even bother saying no thanks to drinking Ury's Kool-Aid.

"No Thanks Kool-Aid Man!"



Ury continues to criticize his fellow council members. At the June 5 meeting, he said, "This council doesn't understand its roles and responsibilities." What has his role been on the council? Ury tried to give a \$1 million city park to his homeowner's association. He voted to dismantle the former Planning Commission and dump the progress toward a state-required affordable-housing plan. His vote for Steadfast's housing project resulted in a lawsuit against the city. Ury also promoted the \$200,000 contract for what turned out to be a cell-tower lobbyist, who could receive up to \$2 million in commissions. Some residents describe Ury's role as the biggest threat to the city.

David Smollar, former director of communications at Capistrano Unified School District, has either vanished or he's been banished, depending on who's talking about his disappearance. Without notice or departing words, Smollar is gone. CUSD's Website was changed immediately, removing any reference to the former employee. If questions persist, perhaps the district should make a statement about Smollar's leaving "to spend more time with his family."



Farewell

What is the city getting in return for its \$100,000 contract to Roger Faubel for "educating the public" about the Crown Valley street-widening project? Apparently, p.r. stands for public rip-off. The contract resulted in a ceremony for dignitaries, pricey die-cut brochures and a few signs. How much could these empty gestures cost, and what happened to the rest of the money?



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The graffiti on the Crown Valley hospital structure is hard to miss when driving east near Medical Center Road. Taggers hit the top floor of the seven-story building, which is still under construction. With affordable housing projects within walking distance, is anyone still in denial about the nature of such projects? Mayor Lance MacLean, who is pushing hard for affordable housing and other high-density projects, announced the graffiti hotline number at the June 5 council meeting, (949) 460-2924. MacLean should print the number in his campaign literature as a reminder of what he brings to the table.



949-460-2924

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949-460-2924



~ ~ **That's it for this week!** ~ ~