



APRIL 2006

# Do you want more?

- TRAFFIC
- PARKS & OPEN SPACE
- VOICE IN PLANNING ISSUES
- OFFICE SPACE/COMMERCIAL IN RESIDENTIAL NEIGHBORHOODS
- TRUST IN OUR CITY REPRESENTATIVES

## PAY DIRT

Let us give due credit to community watchdog, Donna Westbrook. At the March 15 City Council meeting she got Peter Cota-Robles to admit, on the record, that the City of Encinitas had allowed Barratt Construction to haul away as much fill as they wanted for the Sheridan projects with no contract, no paperwork, and no accounting of amounts, from the La Costa “slide” area. Mr. Cota-Robles described this as “a win win situation” as the City did not have to pay for removal and Barratt needed the fill. I would describe it as an off the books “deal” that made the City look better by not showing the removal costs or the exposure to the City of unlimited liability for any problems during the transportation of the fill.

The City seems to be a little defensive about the 17 acres on La Costa purchased from Mr. Barelmann (this is the purchase that gave Barelmann the Orpheus piece of property zoned Open Space/Park which he tried to have rezoned, but later withdrew his application). The La Costa property was designed by the City to be part of a Habitat Preservation area—unfortunately no adjacent properties have been acquired, the vast majority of the land is too steep to be built on, and the flat area of the property (already graded at least once) is now a drainage basin surrounded by a chain link fence. Happy Habitat!

What’s worse, the City was well aware of the drainage problems when it bought the property, as attached to the deed is a waiver from the Coastal Commission which would have required Mr. Barelmann to construct drainage improvements to the area, very similar to what the City has built, if he had built on the property.

Then there are the continuing Sheridan blunders. We have the “temporary” power pole on Sheridan that still has not been removed. We have utility boxes in the right of way. We have raised pads that have outraged the neighbors. There are un-fined code violations (staff admitted in a Planning

Commission meeting that Barratt began grading before their permit was in effect). And now a “secret” deal comes to light. Makes you wonder what else may come to light doesn’t it?

I wonder why Barratt gets free fill from the City. I wonder why they haven’t been fined on the grading issues. I wonder what relationships exist between Barratt and staff members. The City owes us answers to these questions—demand that they are answered!

*Herb Patterson <lindpat@cox.net>*

## FRAUD? NO PROBLEM

I was, and continue to be, concerned by the action taken by four council members at the City Council meeting of March 8, 2006.

At issue were the veracity of the letters and statements submitted by an applicant and his attorney at the February 15, 2006 City Council meeting as part of their application for a nonconforming use permit. The applicant seeks to run his business on Union Street in Leucadia, a street zoned residential. At that meeting, some of application’s supporting documents and statements were challenged by members of the public.

At the March 8 council meeting, neighbors presented documentation supporting their February 15 statements that the applicant had made fraudulent claims. Included was proof that he had used phoney State Contractors License number(s) in support of his application. Many Union Street neighbors requested that, at the very least, the council investigate the discrepancies before making their decision.

The dictionary defines fraud as: willful deceit; deception; trickery. In the broadest sense fraud is a deception made for personal gain. In the broad legal sense a fraud is any crime or civil wrong for gain that utilizes some deception, including forged documents, as the means to the end.

On the record, Dan Dalager offered that yes, at the previous meeting, he knew some of the letters were fraudulent. But he had decided to let it go because they, the council, had done such a darn good job and had put adequate restrictions on the permit. Now the neighbors can be the watchdogs to insure that the applicant complies.\*

Why should the neighbors have to be watchdogs?

On the record, Jerome Stocks wondered why the neighbors did not make Council aware of this fraud at the last meeting when council could have done something about it? Now it was too late.\*

So, why is it irrelevant that the fraud HAD been mentioned at the previous meeting? Why is “on time” now “too late”? Why couldn’t council delay their decision until the applicant’s claims were confirmed to be legitimate or fraudulent?

*So an ATM gives someone too much cash... Will the bank accept the excuse that it is now too late and then agree that “what counts” is that a “real good job” was done in spending all the ill-gotten money?*

City Attorney Glenn Sabine told the four council members who were present, Stocks, Bond, Guerin and Dalager, that they had two choices (and one was NOT discussing it again). They could:

1. Take no action which would send the application back to planning where the process would begin again where all submitted information could be verified.
2. Approve the nonconforming use permit.\*

After much **discussion** in defense of their previous actions, the four voted unanimously to approve the permit. Their actions strongly suggests that they are not concerned in the least with fraud when it supports their world view.

\* Statements by council members have been paraphrased for brevity. Complete transcripts are available at City Hall.

*Kathleen Lindeman*



## APRIL 2006

### NANTUCKET NOISE

Noise pollution from new housing construction is a serious matter which disturbs our quality of life. Unfortunately, noise during normal working hours is something we can't avoid.

Already on the Barratt/Nantucket sites there have been numerous occasions where work starts at 6 am and deliveries have been made at 10:30 pm. This is entirely unacceptable and we need to make them live up the city code like everyone else. No more special favors.

The City's Code Enforcement department needs to be notified immediately when Barratt crews violate construction hours. A phone call, AND BETTER YET a written complaint, will put Barratt's work on notice. I seriously doubt if the City would ever do anything since the City seems to side with Barratt, but let's put Barratt on the record as being really poor neighbors. (See Project Updates, item 3 - Ed)

1. The code says construction only between 7 am and 7 pm Monday-Saturday. No work on Sundays or holidays.
2. Call Kathy Sanders at 633-2685. FAX: 633-2818
3. Ask that Barratt American be CITED for violating city code. Ask that a copy of the citation be sent to you.
4. The City has told us that violations late in the evenings, Sundays and on holidays should be reported to the Sheriff's department at (non-emergency number) 760/966-3500.

Ron Ranson



### LOOKING FORWARD

The upcoming elections in November should give the citizens of Encinitas a good time to reflect on the effectiveness of their City government.

Cottonwood Creek Park and the planning progress on the new (if late) library certainly show that our City Council is trying to get things done to benefit the City. If only progress outweighed problems being caused by Council's handling of other matters.

One has only to remember the Hall property litigation, the wasted funds on Prop C, the Holiday parade fiasco, the ongoing Barratt development on Sheridan, the "deals" with the Eckes (Prop A), the fantasy road designations (all local roads can carry 11,000 average trips a day), the neglect of critical infrastructure (La Costa between I-5 and 101), the 101 Leucadia flooding "solution", and the complete inability of the City to plan for known growth, to realize we need some people with better vision, not adequate reaction times.

The most serious issue appears to be the council's inability to allow development in a manner which matches the infrastructure. The section of La Costa between I-5 and 101 is a perfect example. The City has now approved nine different developments impacting this stretch of roadway. This does not include the City of Carlsbad's Ponto project nor the Freeway widening.

The traffic reports I have reviewed and the 101 specific plan all show the the future of all intersections in the area to be at D/F levels in the near future. What was the City's response? Let's get one developer whose project barely impacts the intersection of Vulcan and La Costa to rebuild that intersection, completely out of context with the rest of the street. Last one in the door...

The fact is that this section of La Costa has long been planned to be a four lane developed street. Check any City document—they are unanimous. So you would think we have been planning for years to improve this section and saving the traffic mitigation fees collected from some of the dormant projects to do this, right? Wrong. It is my understanding that there are no plans, no money, and no urgency to doing this work, even though the projects are approved and a recent traffic count shows steady, predictable increases on a yearly basis without any of the projects!

So when I approach the elections in November, I don't plan to vote for the incumbents (Dan "name that parade" Dalager or Christy "love Prop A!" Guerin). I plan on carefully picking candidates who will face facts rather than believing fantasies, shake up a complacent City staff, and honestly try and deal with our future. I hope you will make the same decision.

Herb Patterson <lindpat@cox.net>

### PROJECT UPDATES

1. **825 & 837 Orpheus:** Rezone request from R3 to R11. As of February 4, 2006 the Tasviri's withdrew their application for a rezone request on Orpheus between the Fire Station and the Shell Station. This project has been closed. Local input at the CPP meetings contributed to this result.
2. **Lake and Santa Fe:** 10 acres currently R4 asking for R11 or higher. The CPP meeting is anticipated to be held by the end of April or May. To be put on the interest list for this project and notified contact Jay Dichoso at jdichoso@ci.encinitas.ca.us
3. **Sheridan & Andrew:** On Wednesday, April 5, 2006, code enforcement confirmed that Barratt American will receive a \$100 fine for working both before 7 am and after 7 pm on Monday, April 3. They

can work Monday through Saturday from 7 am to 7 pm. No work on Sundays. For violations during city business hours call Code Enforcement at 760/633-2685. For all other times call the Sheriff's Noise Disturbance at 760/966-3500. They will not respond to any anonymous calls.

### VOTE • VOTE • VOTE

On Tuesday April 11, 2006 there will be a Special Primary Election. The sole purpose of this election is selecting a new member of congress to represent us, the citizens of the 50th Congressional District, for the remainder of the current term. The man who has served our district for the past 15 years, with the full trust and support of the vast majority of the district's voters, now resides in disgrace as a guest of taxpayers with the Federal Prison System.

What does that say about our being hoodwinked? What does that say about the foresight of President Eisenhower, an old-school Republican and WWII Army General, when he warned us in 1959 of the dangers of the, then nascent, military industrial complex and the potential troubles which would be caused by the collusion of some members of the US Congress and Military with powerful multinational corporations?

Since the charter of this newsletter is dealing with issues local to the five neighborhoods of Encinitas, we leave it to you, the reader, to choose your particular candidate. **We hope you have done your homework. We urge you get out and vote!**

—The editors

### ENCINITAS MAYOR & COUNCIL MEMBERS

- Mayor** Christy Guerin 760/633.2620  
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- Deputy Mayor** Dan Dalager 760/633.2624  
ddalager@ci.encinitas.ca.us
- Council Members**
- Maggie Houlihan 760/633.2621  
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- Jerome Stocks 760/633.2622  
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- James Bond 760/633.2623  
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