

# Las Virgenes Homeowners Federation, Inc.

Post Office Box 353, Agoura Hills, California 91301



*The **voice** and conscience of the Santa Monica Mountains for 45 years*

## January 2012 MEETING

**Tuesday, January 24 at 7:00 p.m.**

**The Place – Diamond X** – Take Las Virgenes to Mulholland; turn left on Mulholland. For the next 3/4 mile, the King Gillette Ranch will be on your right. After you've passed Stokes Canyon Road, in about 3/4 mile, you will see a sign on your right with "Diamond X" and the National Park Service logo on it. A short distance past the sign a narrow road goes south at a right angle. This is Wickland Road, and, at this point you are entering the King Gillette Ranch. Follow Wickland about 300 yards until the road forks; take the left-hand fork; keep bearing left to the lighted house on the right. Park; enter through the lit doorway.

**Call to Order**

**Roll Call**

**Agenda Changes/ Approval**

**Correspondence/Announcements**

**Officer's Reports**

**Approval of Meeting Minutes**

1. OWTS State Standards
2. Dues
3. Wireless Update
4. Dark Skies Ordinance

### **Old Business**

### **New Business**

#### **1. Malibu Lagoon**

##### **Challenge to Malibu Lagoon Restoration Go-Ahead**

Suzanne Goode – Senior Environmental Scientist for California State Parks

Presentation, Questions

(The \$7 million project, more than a decade in the making, would temporarily drain a 12-acre section of the wetland in Malibu Lagoon State Beach, scoop out sediment and replant its banks with native plants in order to improve water circulation and ecological health).

Marcia Hanscom – Executive Director, Wetlands Defense Fund

Presentation, Questions

(Looking towards a less extreme, non-invasive and balanced solution to the habitat, water quality and public access challenges at Malibu Lagoon).

Rebuttal Goode, Rebuttal Hanscom

2. Calabasas OWTS Hearing

# FEDERATION PAYS TRIBUTE TO OUR PETER ROTHENBERG

It is with great sadness that we report the unexpected and tragic death of Peter Rothenberg - our delegate, our friend, and president of the Westhills Homeowners Association.

Peter died on December 22, in Woodland Hills, in an auto mishap near Temple Aliyah on Valley Circle.

Born on April 23, 1941 in New York he was president of the Westhills Homeowners Association in unincorporated Los Angeles County for over 20 years.

His absence leaves a hole in the fabric of the Federation that cannot be filled. His quiet, thoughtful insight and activism, intelligence and savvy contributed greatly to prevailing in our most important battles in the Santa Monica Mountains.

It quite simply, will not be the same without him.

Peter is survived by his wife Geraldine, son Mark, daughter Sharon and granddaughter Georgie.

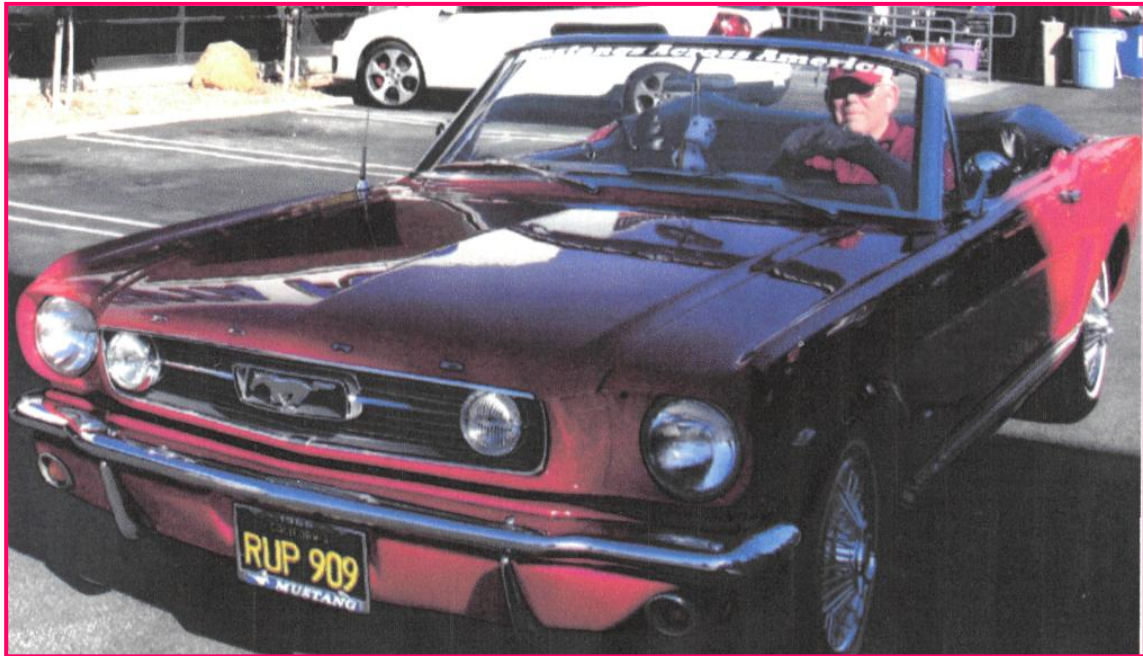
Senator Fran Pavley stated, "As president of the Westhills Homeowners Association, Peter was a member of my non partisan "Valley Advisory Council" that is made up of representatives from the San Fernando Valley's HOA's, Chambers, VICA, Neighborhood Councils and local activists. His thoughtful opinions, helpful suggestions, and positive attitude will be missed by myself and all the members of the Council."

Peter gave generously of his time and money to community affairs. He published a quarterly newsletter for his HOA that was always filled with interesting historical articles as well as neighborhood happenings. He and Geraldine both served on the FireSafe Council in Westhills.



(Left to Right) **Peter Rothenberg**, his wife Geraldine, Arlene Bernholtz and Sue Jenninas)

Peter was extremely knowledgeable about a wide range of subjects. He was an excellent and avid bridge player and very active in his Mustang Club, driving cross-country to partake in various shows.



*Peter at the wheel.....*

Like all good activists, Peter had an opinion on just about everything! His enthusiastic approach and optimistic outlook on life were admired by all.

Peter was part of our team and a very important player. His integrity, sincerity, and above all else **character** were defining characteristics of a great man.

We miss you Peter.....

## **MALIBU TO GO TO THE POLLS WITH 7 VYING FOR 3 SEATS**

The nomination period closed, and the residents of the City of Malibu will go to the polls on April 10, 2012, with seven candidates vying for three open Council seats.

Councilmember John Sibert is the only incumbent running for re-election. Jefferson “Zuma Jay” Wagner decided not to run again and Councilmember Pamela Conley Ulich's seat will be open due to term limits.

Wagner decided not to run for re-election because of the time and money serving as a Councilmember took away from his work. He said he could no longer afford to do both.

In addition to **incumbent John Sibert**, the other six qualified candidates in Malibu's General Municipal Election in ballot order, as determined by the Secretary of State are:

1. Hamish Patterson, Carpenter
2. Skylar Peak, Business Owner
3. Hans Laetz, Reporter / Environmental Analyst
4. Andy Lyon, Realtor / Actor
5. Joan House, Retired Teacher
6. K. "Missy" Zeitsoff, Teacher
- 7. John W. Sibert, Scientist / Administrator**

In actuality, twelve residents pulled nomination papers, but only seven qualified as candidates by the deadline last Wednesday, January 18.



## SALUTE TO DAN KUPERBERG

**16 Year Agoura Hills  
Councilmember and Three  
Term Mayor**



"Dan Kuperberg has been an excellent member of our City Council. From preservation of open space, strong support for our schools, taking the lead on anti hate crime policies, and an advocate for recreational activities and the construction of our Agoura Hills library, Dan Kuperberg has enhanced the quality of life for those who are fortunate to live and work in our city. Prior to his service on our City Council, Dan was on our Park and Recreation Committee, and active in the Fountainwood Homeowners Association."

*Senator Fran Pavley*



*Senator Fran Pavley*



Last month, as Agoura Hills welcomed their newest City Councilmember Illece Buckley-Weber, they also said good-bye to longtime Councilmember and Mayor, Dan Kuperberg.

In the Grand Ballroom of the Sheraton Agoura Hills Hotel, in a very touching ceremony, then Mayor Harry Schwarz paid tribute to a man who was first elected to Agoura Hills City Council in 1995, “I have known Dan, as a friend, colleague, husband, father, mentor and average poker player for a long time...17 years to be exact. Over the past 16 years, both as Councilmember and Mayor, Dan has helped our city in so many ways; it’s hard to list them all.”



*Mayor Harry Schwarz, Councilmember Dan Kuperberg*

Dan is a deputy public defender by occupation. He has three children, Ethan, Jonathan and Matthew who all grew up in Agoura Hills. It was his wife Elaine, who, 20 years ago encouraged Dan to move to Agoura Hills to pursue his passion of getting involved in local government. He answered an ad in the Acorn Newspaper for the City’s Community Services Advisory Committee, and that’s where it all started.



He was elected to Agoura Hills City Council on Nov. 7, 1995. He served as mayor for three terms – 1998-99, 2003-04 and 2006-07. He has been part of the Affordable Housing Committee, City/Schools Committee, Community Services Committee, Environmental Responsibility Committee, Legislative Committee, Norms - 2010 Review/Update Committee and Santa Monica Mountains Conservancy. Dan has also served his community as a delegate to the Federation.

He designed the Ladyface Mountain Overlay to protect the city’s hills, promoted reading by instituting One City One Book, and gave recognition to businesses by introducing Business of the Year.

Said Kuperberg, “I’ve enjoyed working with all our neighboring cities, agencies and groups: the Las Virgenes Unified School District, the leadership and personnel at the Lost Hills Sheriff’s Station and our own fire station here in Agoura Hills. I’ve enjoyed great relationships with elected officials and the staffs of our representatives: Congressman Brad Sherman and now, the great Congressman Henry Waxman, former State Senator and future County Supervisor Sheila Kuehl, former Mayor of Agoura Hills, current State Senator and future State Senator Fran Pavley, Assemblymember Julia Brownley, and current Supervisor and hopefully future Mayor Zev Yaroslavsky and all their staffs.”

Agoura Hills Councilmember Illece Buckley-Weber said, "For the past 16 years, Dan Kuperberg has been a true leader in our community. He has fought hard to preserve our open space and environment, protect our quality of life and beautify our city. As the newest city councilmember for Agoura Hills, I am aware of Dan's legacy and will strive to follow in his footsteps."



*Councilmember Illece Buckley-Weber*

As Councilmember Harry Schwarz so elegantly said, "Dan has always stood for the proposition that council was elected to protect the citizens of our city, and to this end, whether you agreed with his opinions or not, he was an advocate for everything that is good about our city. He made us think about what we were about to do."

Dan Kuperberg is a true leader – a passionate heart and soul for the great city of Agoura Hills, and he will be sorely missed.

We wonder where and when we will hear Dan Kuperberg's voice again....?

## **PUBLIC UTILITIES COMMISSION FINES EDISON \$99.2 MILLION**

The State Public Utilities Commission has ruled that Southern California Edison and four cell phone companies caused the brush fire that destroyed ten homes and the Malibu Presbyterian Church in lower Malibu Canyon in October, 2007.

The PUC found that Edison and four separate cell phone companies had cumulatively overloaded several wooden utility poles with too many transformers, heavy cables, and antennae, weighing them down and causing some of the poles to snap off and blow over during a strong Santa Ana wind. The downed power lines then quickly set the chaparral on fire.

Apparently, no one public or private agency monitors the total number and weight of items of attached to individual power poles.

The PUC has fined Edison and the phone companies a total of \$99.2 million for their role in causing the fire. A Malibu resident plans to file an identical lawsuit claiming an identical amount to make sure the victims are fully compensated.

How many wooden power poles are left in the Las Virgenes area? Who is monitoring them to make sure they are not being overloaded with cables and cell phone equipment?

# OPENING CEREMONY FLAIR AND FANFARE

## Supervisor Yaroslavsky Gives Topanga Key to New Library!



*Left to right – Margaret Donnelan Todd, County Librarian  
Zev Yaroslavsky – Los Angeles County Supervisor, Third District  
Gail Farber – Director, Los Angeles County Department of Public Works*

There is nothing like experiencing **community** in Topanga and Saturday's grand opening of their long coveted, multi-million dollar, state-of-the-art library was no exception. It was one magnificent event thanks to our **Supervisor Zev Yaroslavsky** who made it **all** possible for this mountain community.





## The Event...

Zev's Senior Deputy Susan Nissman, and her staff, Timothy Pershing and Cynthia Scott did a brilliant job of orchestrating the event.

Maybe it was the magnetism of “special guests” Martin Luther King, Eleanor Roosevelt, Thomas Jefferson or Mark Twain (Theatricum Botanicum company actors who have played to audiences at the local Will Geer outdoor stage for over 50 years), that graced the event stage or the local brownie/boy scout troops that almost stole the show, or the wall-to-wall residents who squeezed **in** to joyously celebrate their new library serenaded by the Topanga Symphony String Quartet - all in all, it was those things and more that made this dedication so particularly “Topanga”, and so particularly special.



*Actor and Theatricum company member, Gerald Rivers as Martin Luther King, a part of opening ceremonies.*



*Supervisor Yaroslavsky presented local Topanga students with County of Los Angeles commendations.*

A host of elected officials came to salute Topangans and their new library too. They included Senator Fran Pavley who received an enormous round of applause, Assemblymember Julia Brownley, Malibu Mayor Laura Zahn Rosenthal, and Calabasas Councilmember Lucy Martin.



*Senator Pavley presents the Topanga Library with a Tom Gamache book.*



The Master of Ceremonies, actress, philanthropist, and Topangan, Wendie Malick also did a great job.

Federation delegate and TASC (Topanga Association for a Scenic Community) Chair, Roger Pugliese said, “The opening of our new Topanga Library on Saturday was an inspiring event. All of Topanga turned out for it. Its importance and value to our community is immeasurable and will be felt for a long time to come. I was hesitant at first with the idea of a Library, concerned with the urbanization of the Canyon, but after seeing the outpouring of excitement and realizing the benefit it will have for all ages, I commend the effort. It is an example of good government working alongside a committed group of citizens for the highest good of all. Under the leadership of Zev, his project team staff Maria Chong-Castillo and Susan Nissman, with original inspiration from Friends of the Library co-founders Cynthia Scott and Adriane Allan, as well as Steve and Leslie Carlson who owned the land, and all the others involved, thank you for a job well done.”



*Master of Ceremonies – Wendie Malick, with Growchoski light scone behind her.*

It was **Pulitzer Prize-Winning** Columnist and Topangan, **Al Martinez** that captured the essence and importance of the new library to his community’s residents. He said,

“Welcome to the world of Once Upon a Time.

That’s what our new library is, you know. This isn’t just an impressive edifice of stone and steel. It’s a house of knowledge and imagination, a trip to new worlds, a journey to the mystical land of tomorrow.

And it isn’t just for us. It’s for my year-old granddaughter GracieAnn and for her grandchildren, and her grandchildren’s grandchildren.

A library is a compendium of research beyond Google and Wikipedia, although it encompasses them too. It’s a simultaneous look at history and the future, a traditional place to view the wonders and weigh the disasters of humanity.

That’s why it’s here. That’s why we wanted it.

I wondered when they asked me to say something today what the point was of my presence. Others, not me, worked to see this place exist. Visionaries and volunteers hounded the bureaucrats to get it done. I wasn’t among them.

But then I received an e-mail from my good friend Topanga Maggie and realized that I was here today to answer her question.

She wanted to know why so much money was being spent on a building when it could have been used to feed the hungry. She is one of those caring, articulate people in our canyon who ask questions and demand answers. Why. How come. Who says.

It's this way, Maggie. Creating a library and feeding the hungry are not mutually exclusive. It is possible to do both. There is a need to work on behalf of those in our community and beyond who lack the necessities of life, mainly food and housing. But there is also a need to feed the mind, the spirit and the imagination.

I was raised in the 1930s during the so-called Great Depression in a family without work, without money, and without hope, barely housed and often not fed. I was one of the hungry.

I found solace in a library not far from where I lived that offered not only books but toys we could borrow and take home as long as we also took a book. It was the books that changed my life. I lost myself in them and merged into the worlds they created. I soon found myself less concerned with a wagon I had borrowed and more interested in the books.

They fired my imagination and took me to places I would not have otherwise gone. I met heroes and villains and was privy to great events. I found words I never knew, the ones circling my head each morning today, and began the long trek to what I was to become.

A library did that.

A library, with its thousands of books, fills a need beyond a more basic one. Books feed the soul and the heart and the mind and the imagination. Without books we would be less than we are, bereft at the intersection of mind and body without a human history. We need books to grow, to expand, to chart a higher destiny, and this repository of books and dreams fills that need.

In Topanga we understand the importance of that place beyond the horizon that is the future. That's why we fight to save parks, to keep the open lands and to prevent the inroads of those who want to desecrate the green hills with housing tracts and country clubs.

We also need the journeys that Once Upon a Time provides.

Toward that end, I for one welcome this edifice, this symbol, this need, into our community as sustenance for our intellectual and emotional selves.

**Come on in and take a bite."**

## The Library...

Long sought by Topanga residents, who for generations have had to rely on bookmobiles and other communities' libraries, the new facility—brings a 42,000-volume permanent library to the community.

It took a county team to build the facility. Maria Chong-Castillo, who oversees all of Zev's Third District facilities projects, and Susan Nissman, (who are both now working on the Don Wallace Trail Connection the County Department of Parks & Recreation will be building), met with the County's Library Department, DPW, CEO, and Arts Commission staff for over ten years to see the various stages implemented.

The 11,000 square foot, LEED Silver-certified new building is designed to reflect the town's rich intellectual, literary and artistic traditions and provide an inspirational showcase for Topanga's passionate commitment to lifelong learning.

The new library offers spacious reading areas, and a community meeting room, homework center, group study room, teen center and children's area with outside reading patio. Separate adult and children's sections feature state of the art technology, self-checkout stations, online computer terminals, and free WiFi access.

The building is decorated with distinctive civic art pieces by the internationally renowned sculptor Norman Grochowski – comprising three nine-foot painted steel flowers whose petals are open books. Complementing the flowers are steel vines winding their way through a trellis as dragonflies hover above. Other notable contributors to the Topanga library artwork include brothers Matt and Paul Doolin, Megan Rice and James Sullivan.

The two oak trees and two gnarly old pine trees that had to be cut down to accommodate a Caltran's mandated deceleration lane, were salvaged and turned into furniture for the library. Of special note is the beautiful grain of the oak podium that graced the event stage.

The trees, like the community, came home to a beautiful new community space Saturday, and we offer the Supervisor and his staff, the County, and Topanga, our sincerest congratulations. What a fabulous job. Bravo!

*Photo credit: Louise Rishoff*

# **FINALLY!**

## **Calabasas Council to Consider Rescinding OWTS Ordinance Jan. 25**

In case you missed it, here is the link to the Los Angeles Times article this past weekend re: Calabasas to end septic tank inspection program:

<http://www.latimes.com/news/local/la-me-septic-repeal-20120122,0,4508168.story>

As Old Topanga's HOA president, Jody Thomas said, "The final vote on this matter (it's not quite a "done deal" yet) will take place this Wednesday, 1/25, at City Hall at 7pm. Although the photo of our beloved neighbor Chet Allen made me so sad, I was happy that Bob Pool, the Los Angeles Times reporter, did not forget to remember the casualties along the path to this bittersweet victory."

It was Mayor James Bozajian who requested that the "OWTS Ordinance be rescinded" and placed it on the agenda along with the support of Councilmembers Mary Sue Maurer and Lucy Martin. We are grateful for their support.

(Excerpt from the Los Angeles Times....)

### **Calabasas to end septic tank inspection program**

Officials cite financial and emotional grief stemming from a septic tank crackdown in outlying areas that drew a sharp backlash. Calabasas plans to abide by impending new, simpler state rules.



Chester Allen, left, and neighbor Robert Hahn are seen in September 2010 on Allen's patio in the Old Topanga Canyon area of Calabasas after the city began a crackdown on septic tanks. Allen complained before his death last year that the city had sent him a complaint demanding improvements to his house that he estimated would cost \$50,000. (Mel Melcon, Los Angeles Times / September 17, 2010)



# CALABASAS APPOINTS DAVID SHAPIRO TO FILL VACANCY

When Jonathon Wolfson announced his plan to resign from the Calabasas City Council last month, the Council agreed to fill the vacancy by appointment of an interim councilmember to serve out the remaining 13 months of Wolfson's term rather than go to the expense of holding a special election.

At last Wednesday's *Special Council Meeting*, 19 applicants used the five minutes of time allotted to each, to try and convince Mayor James Bozajian, Councilmembers Lucy Martin, Mary Sue Maurer and Fred Gaines that they were the best person to fill that vacancy. (Initially there were 22 applicants, but three dropped out).

After the applicants finished speaking and answering questions, Mayor Bozajian suggested each councilmember write down three applicants they would like to consider. He made it clear that even if the same candidate's name appeared on three or more of their lists, it would not constitute an automatic selection.

Former City Council member Bob Hill's name **did** appear on three of the four councilmembers' ballots in that first round of voting. But the Council held back from appointing him presumably because Mr. Hill, amongst other things insulted a large percentage of the City's active citizens. In his own words, he denigrated residents as "naysayers" and the "vocal minority". He pre-judged issues, disparaged another applicant, and made other controversial and inflammatory remarks. The City has changed dramatically in the 13 years (1999) since Mr. Hill was a Councilmember and 4 years before that when he ran in his last election campaign.

Councilmember Lucy Martin on the other hand spoke steadfastly in favor of **Bob Sibilia's** interim appointment. Former Mayor and Councilmember Bob Sibilia, a 21-year resident of Calabasas, came in third in the last election, just 200 votes shy of Martin and Fred Gaines who won the two Council seats that were up for election at that time.

Councilmember Martin felt that the residents across the city had spoken with "their votes" and that therefore Bob Sibilia would be the natural, fair and impartial choice backed by the votes of the residents of Calabasas.



Bob Sibilia

In actuality, Sibilia finished a winner in that last election in four of the city's seven precincts by taking first or second place – a majority of the city. In both Westside precincts he came in second; in Calabasas Park he tied for first place in one of two precincts; and in the Rural Community precinct, he placed second.

Mr. Sibilia had strong support in **all** of the City's precincts - in Calabasas Park, in Greater Mulwood, in the Rural Community and

on the Westside.

Mayor James Bozajian had also placed Bob Sibilia on **his** list.

It became apparent however that Councilmembers Maurer and Gaines were in favor of appointing Alicia Weintraub. Weintraub is a relative newcomer to the City, having lived in Calabasas for just three years. She had placed fifth in the last election well behind third place Bob Sibilia and even behind fourth place finisher, Martha Fritz, who had also applied to be appointed. As a fifth place finisher, Ms. Weintraub for example, only garnered a meager 36 total votes in the Rural Community precinct and a scant 47 and 37 total votes respectively in the City's two Westside precincts.

Mayor Bozajian and Councilmember Martin held their ground, and it looked like the City might go to an election to fill Wolfson's vacant seat after all.

After quite a bit of more back-and-forth deliberation, the City Council in a 3-to-1 majority



David Shapiro

vote finally agreed to appoint David Shapiro, an attorney who has lived in Calabasas Park since 1994. Councilmembers Gaines and Maurer as well as Mayor Bozajian apparently know Mr. Shapiro quite well. Councilmember Martin did not. Further, Martin remained unwavering in her conviction that the votes and voice of the residents of Calabasas should prevail, and the next highest vote getter in the last election, with citywide support, was the next-in-line and therefore a democratic choice.

Ms. Martin congratulated Mr. Shapiro on his appointment and said she was very much looking forward to working with him.

Mr. Shapiro's views are not yet known to us. He has not run in an election or weighed in on issues impacting our homeowners. We will be eager to learn his position on matters that have been dominating the City for several years, and of course, on open space, preservation, etc.

Mr. Shapiro serves on the City's Library Commission and has served in the past on the Parks and Recreation Commission.

The Federation congratulates Mr. Shapiro and we very much look forward to working with him.

We also look forward to his fresh perspective!

He will be sworn in on Wednesday, January 25, 2012 at the Calabasas City Council meeting.

# COASTAL COMMISSION APPROVES HOUSE ON SADDLE PEAK RIDGE

Back in the late 70's an aviator named Loretta Foy, who made her living selling helicopters to police and fire departments, built her house at an elevation of over 2400 feet on the crest of Saddle Peak above upper Stunt Road. She then applied to the County for a permit to build a helipad in the driveway of her house.

Loretta's proposed helipad was right on top of the federally-owned route of the State Backbone Trail, but that didn't prevent the County Regional Planning Commission from approving it. The prospect of helicopters landing on top of the Backbone Trail and stampeding horses and hikers apparently didn't worry the folks on the RPC at that time.

Fortunately, the Coastal Commission soon took jurisdiction over Saddle Peak, and the helipad was put on hold.

When asked about the fire hazard at her ridgetop house, Loretta had a stock answer. In case of fire, her friends would come in their helicopters and carry her off to safety.

In November, 1993, the fire did come, backed by gale-force winds. Her friends' helicopters couldn't get off the ground, so Loretta Foy ended up saving herself by diving into her swimming pool. The house burned to the ground, leaving only a concrete pad.

Last month's Coastal Commission agenda included an application by a Kevin Foy, Loretta's Grandson, to build a 6,396 square foot, 27-foot high house and a 1745 square foot garage and guest house on the ridgetop foundation of his grandmother's burned-out house between Stunt and Schueren roads just east of the 30 million gallon LVMWD water tank.

The Coastal Commission staff report informs us that, "The project site is located in a scenic area, visible from various public viewing points, including Stunt Road ... Schueren Road ... Saddle Peak Road ... and surrounding public parkland. However, no alternative siting options exist on the parcel in which the development would be significantly less visible from public viewing areas..."

The Coastal Commission staff report designates the Foy project site as "ESHA" ("Environmentally Sensitive Habitat Area"). Under Section 30240(a) of the Coastal Act. Areas that are designated "ESHA" must be "protected against significant disruption of habitat values", and "only uses dependent on the resource" are allowed there. The Coastal Commission has ruled that single-family homes are not a "use dependent on the resource" in areas designated "ESHA".

However, the Supreme Court has also ruled that Section 30010 of the Coastal Act forbids the Coastal Commission from using its permit powers to deny an applicant all economically viable use of his property, because this would amount to a "taking" of private property without just compensation.

Thus, according to the Foy staff report, “ ... outright denial of all residential use on the project site would interfere with reasonable investment-backed expectations and deprive the property of all reasonable economic use.” ... Thus, “notwithstanding Section 30240, a residential project on the subject property must be allowed to permit the applicant a reasonable economic use of their property consistent with Section 30010 of the Coastal Act.”

(All this in spite of the fact that the first house built on the Foy property burned to the ground in the 1993 brush fire, and the water to help protect its replacement and future houses from a similar fate would now have to be pumped up Saddle Peak to an elevation of 2400 feet at the expense of present LVMWD customers.)

So, how does the Coastal Commission try to reconcile the conflicting requirements of Section 30240 and Section 30010 of the Coastal Act as they relate to Kevin Foy’s Saddle Peak ridgetop house?

According to the staff report, “...The development can be sited and designed to minimize ESHA impacts by measures that include but are not limited to: limiting the size of structures, limiting the number of accessory structures, clustering structures, siting development in existing disturbed habitat areas, locating development as close to existing roads and public services, and locating structures near other residences in order to minimize additional fuel modification.”

However, all of these attempts to minimize the impact of the Foy development on ESHA will not be able to mitigate the statement in the staff report that says, “There is no feasible alternative whereby the structure would not be visible from public viewing areas.”