

Section

B

Friday
November 5, 2004

LOCAL

The Bakersfield Californian • City editor: Bob Christie • 395-7413 • fax: 395-7519 • e-mail: local@bakersfield.com

Coming
Saturday

With Veterans Day less than a week away, some local schools are getting ready to honor our newest veterans.

Air district declines to increase fees

Boost in vehicle license charge would bring matching funds

By MATT WEISER

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The valley air district on Thursday declined to increase vehicle license fees by \$2 to pay for clean-air projects. If the decision stands, the nation's smoggiest region would miss out on

\$12 million annually in state matching funds to fight air pollution.

The action came despite the fact that the governing board of the San Joaquin Valley Air Pollution Control District consists of city and county politicians, who complain constantly about the state failing to return enough tax revenues to local government.

No one from the public spoke against the fee increase. In fact, it was a rare case in which clean-air advocates and industry officials agreed on a pollution-control measure.

The board will reconsider the fee at its meeting in December.

"When you think about it, it's less than the cost of a gallon of gas per year," said Barbara Patrick, a Kern County supervisor and chair of the air board, who supported the fee increase. "I personally think it would be shameful if the San Joaquin district is the only district that turned down the money."

The fee was rejected on procedural grounds because the vote was a tie, with one of the board's 11 members absent. That the vote was even close

came as a surprise to most observers.

"I'm just not comfortable with it," said Bakersfield City Councilman Mike Maggard, who voted against the fee. "Just simply reaching into the public's pockets to take two more dollars, I don't think that's a good enough fix."

The fee increase is made possible by an initiative supported by Gov. Arnold Schwarzenegger that provides state money to clean up old-technology engines and vehicles that pollute California's air. His support ensured there would be \$86 million available

statewide to match vehicle registration fee increases approved by local air districts. The valley air district could get \$12 million of that money if it approves a \$2 increase in the fee, which is paid by all vehicle owners in the valley when they renew their annual license registrations. By itself, the fee increase will raise \$4.8 million annually.

The money will be available to local government and businesses to subsidize replacement of old farm pumps and tractors, polluting diesel school buses, and to buy natural-gas powered

garbage trucks, for example.

Since 1990, the district has managed a similar program using a \$4 surcharge on vehicle license fees. The district has no legal authority over motor vehicles, so the fee helps clean up other polluters. This program has collected \$42 million and cut 7,000 tons of pollution from the valley's air. The district approved another \$1 increase last year as required by SB 709, a new law drafted by Sen. Dean Florez, D-Shafter.

The proposed \$2 increase would **Please turn to SM06 / B4**

Defense in Brothers case seeks assistance

Judge to rule next week on addition of public defender to aid defendant's case

By JESSICA LOGAN

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The future of the prosecuting and defending attorneys remained in question Thursday in the case of Vincent Brothers, the former vice principal accused of killing five family members in July 2003.

At a hearing Thursday morning, Brothers' private attorney, Kevin Little, asked for a public defender to help him prepare the defense case.

But Public Defender Mark Arnold argued against adding an attorney from his office as the second attorney because it would put Little in charge of public resources as lead counsel. Arnold said case law does

not support that course of action. But, he said his office is willing to take the whole case. Defendants like Brothers facing the possibility of the death penalty are entitled to two attorneys.

The Public Defender's Office is generally assigned to defendants who are incapable of paying a private attorney. Little's request was heard by Judge Sidney Chapin, who is hearing only this part of the case. He is set to rule on the matter next week.

In a separate ruling in Fresno, an appeals court denied Little's appeal of a local ruling keeping Deputy District Attorney Lisa Green on the case.

The 5th District Court of Appeal ruled Thursday that the Kern County trial judge on the case, Lee Felice, should rule if Green can be allowed to continue as prosecutor after a full hearing, with witnesses and evidence presented. Felice had denied Little's request to have Green tossed from the case after a brief hearing on Oct. 22.

He's now set to oversee a full evidentiary hearing on the matter Wednesday. Felice also will be asked to rule on a defense request to dismiss the charges against Brothers due to prosecutorial misconduct and witness tampering. Little argued in October that Green may be called as a witness in Brothers' trial because she was present when the defendant's brother was allegedly badgered into giving false testimony to a federal grand jury.

Melvin Brothers testified to the grand jury that Vincent Brothers was with him around the time of the homicide. **Please turn to BROTHERS / B4**



Brothers

'He was a very courageous kid'



CASEY CHRISTIE / THE CALIFORNIAN

Andrea Prather holds her daughter, Nikolle, 4, as Hugh Prather sits on the couch while talking about the love of their son, Garrett, who recently died after a long battle with a brain tumor.

Boy's memory lives on

Family remembers enduring spirit of 9-year-old who died of brain cancer

By MARYLEE SHRIDER

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On Saturday, Hugh and Andrea Prather will bury their 9-year-old son, Garrett, who died Oct. 28 after a 3½ year battle with brain cancer.

On Thursday, the grieving couple summed up their life with Garrett in a single word. Lucky.

Lucky to have found the doctors they did. Lucky to have a son blessed with indomitable faith and courage. Lucky to have had him for nine years.

"We're so blessed," said Hugh, 36. "He was a very courageous kid. He endured this with smiles and laughter and never complained."

Garrett was a typically mischie-

vous and happy 6-year-old in May of 2001. He loved baseball, especially the New York Yankees, playing golf with his dad and playing pranks on his mom.

He was quiet and shy with strangers, but possessed an optimism and gentility beyond his years, friends and family said.

Those qualities only blossomed after doctors first diagnosed his brain tumor on May 22, 2001, his parents said.

"The day after we got back from Valley Children's hospital, it was an emotional day and Andrea was crying," Hugh said. "This 6-year-old reached up and patted his mother's arm and said 'Don't cry Mom, it's going to be OK.'"

Such compassion in one so young **Please turn to PRATHER / B4**



COURTESY OF THE PRATHER FAMILY

Garrett Prather is flanked by sisters Nikolle, 4, and Lauren, 12, on Oct. 25. The eye patch relieved double vision caused by the tumor.

Molestation suspect was acquitted in earlier case

By CHRISTINA VANCE

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A self-proclaimed pastor accused of child molestation on Tuesday was acquitted of similar church-linked molestation charges earlier this year.

Leonard Simental, 43, pleaded not guilty Thursday to one felony count of child molestation.

The east Bakersfield man was acquitted in March of six counts of child molestation tied to one of his previous churches.

Simental, who currently attends World of Life Worship Center at 404

Bernard St., allegedly told deputies he was ordained in 2002, according to investigative reports filed in court.

But leaders at Simental's current church said he's not acting as a minister there. Rather, he helps at church functions such as food giveaways.

It's at just such a barbecue that Simental's alleged 13-year-old victim

said she met him, according to reports.

The girl's family told detectives they had attended the church functions a few times and talked to "Pastor Leonardo."

At one barbecue, the girl told Simental her birthday was soon. He allegedly told her to visit his house and he would give her a present, according to reports.

Shortly after her birthday, the girl said she went to his house. She said Simental gave her presents including \$3, a wallet and a mini radio, according to reports.

The girl said he began praying over

her and made the sign of the cross on her forehead with oil. Then, he allegedly rubbed oil on her bare legs and feet.

After that, the girl told detectives Simental allegedly pushed her onto the bed, reached under her clothes and fondled her, according to reports.

Simental denied the allegations when confronted by detectives.

His pastor, John Martinez, said Thursday that Simental is a friend of his who is innocent until proven guilty. "I'm going to stand with him until the trial is over," he said.

Martinez told detectives he sat **Please turn to SIMENTAL / B4**



Robert Price
STAFF COLUMNIST

Robert Price's column will return on Sunday.

Get
involved

Upcoming

Bakersfield Redevelopment Agency, 4 p.m. Monday, Bakersfield City Hall, 1501 Truxtun Ave.

Board of Supervisors, issues regarding Kern Medical Center, 2 p.m. Monday, Kern Medical Center, 1830 Flower St.

PRATHER: 'I'm the luckiest boy in the world,' said child after meeting Yankees player

Continued from B1

touched all who knew Garrett, especially his teachers and fellow students at Almondale Elementary School, said Mary Nugent, Garrett's third-grade teacher.

Last year, when it became clear that Garrett had to be tutored at home, Nugent insisted on taking the job.

"He would be my student, so I wanted to journey with him," she said. "He and I met three or four times a week, depending on how his health was. We tried to make it as fun for him as possible."

Nugent's students were just as eager to support their ailing classmate. Sitting in the desk next to Garrett's was an honor the children fought over, even in his absence,

"We prayed together as a family asking God to either heal Garrett or take him home. We'd trusted God for the past three years. We know he doesn't make mistakes."

— Hugh Prather
Garrett's father

for the first time."

Garrett knew how serious his condition was, but the bond between him, his family and God, only grew stronger, his father said.

That faith was evident in June when, after doctors discovered yet another recurrence of the cancer, he pleaded with his parents to forgo chemotherapy.

"We prayed together as a family asking God to either heal Garrett or take him home," Hugh said. "We'd trusted God for the past three years. We know he doesn't make mistakes."

In September, doctors were alarmed to find the tumor growing at an accelerated pace. Garrett's parents and doctors decided to operate for a fifth time, then send the boy to a clinical trial at a cancer clinic in Houston.

It was not to be. Garrett came through the surgery well, but his condi-



CASEY CHRISTIE / THE CALIFORNIAN

Hugh and Andrea Prather talk about how wonderful their son Garrett was before and during his battle with a brain tumor.

tion began to deteriorate within 24 hours. He died at 9:45 p.m. Oct. 28 with his parents and sisters by his side.

A week later Garrett's parents and sisters — Lauren, 12 and Nikolle, 4 — sit in their living room, close together on the sofa.

The Prathers said they find peace in God and the knowledge that they will see their son again one day. They said they draw strength from the memory of Garrett's own strong faith and courage.

At no time was that courage more evident than the day in June when the boy and his family met the New York Yankees before a game against the Arizona Diamondbacks. After meeting some of the Yankee greats, including Derek Jeter and Manager Joe Torre, Garrett turned to his father, overwhelmed with his good fortune.

"Dad," he whispered. "I'm the luckiest boy in the world."



COURTESY OF THE PRATHER FAMILY

Garrett Prather with New York Yankee Derek Jeter. In June, Garrett was a guest in the Yankee dugout before a game against the Arizona Diamondbacks in Phoenix.

Garrett Prather timeline

May 2001

Garrett is diagnosed with a brain tumor on the 22nd. Two days later, he undergoes his first operation to remove the tumor at Valley Children's Hospital (now Children's Hospital Central California) in Madera.

June 2001

Garret has his second surgery on June

8, as doctors operate to remove more of the tumor.

July-September 2001

Garrett undergoes six weeks of radiation at UCLA Medical Center. Doctors send Garrett home, instructing his parents to bring him in for an MRI every three months.

June 2003

Garrett suffers a seizure. Doctors tell his parents the tumor is back. They operate on June 8 to remove as much of the tumor as possible.

August-November 2003

Garrett undergoes chemotherapy.

June 2004

Another recurrence. Garrett loses much of the feeling on his right side. Doctors operate for a fourth time.

October 2004

An MRI shows tumor growth is accelerating at an alarming rate. Doctors operate Oct. 26. The surgery goes well, but Garrett's condition deteriorates quickly. He dies at 9:45 p.m., Oct. 28.

SMOG: Some opponents seek more information about program, specific projects

Continued from B1

bring the total license surcharge in the valley to \$7. It would also allow the valley to tap into additional state funds that would match the \$2 increase.

"With the \$2 that we add onto our fee, we're actually able to recapture another \$2," said Linda Urata of Bakersfield, coordinator of the San Joaquin Valley Clean Cities Coalition. She spoke in favor of the fee increase, as did farm and oil industry representatives. "I appreciate the opportunity to bring two more of my tax dollars back to the valley, and specifically direct it to air quality."

Some of those who voted against the proposal said they merely want more information about how these programs have worked in the past, and

whether the money was well spent.

"We're being asked to fund projects without knowing what the projects will be," said Merced County Supervisor Michael Nelson. "I don't think the motoring public should be asked to fund projects that don't directly address the motoring public."

The board agreed to reconsider the proposal at its next meeting on Dec. 16, and district staff will compile more information for the board in the meantime. "The air board stumbled. Everybody thought this was a no-brainer," said Kevin Hall, an air quality specialist with the Sierra Club's Fresno group. "They're going to look very bad if they don't take this opportunity. And appearances aside, they will hurt efforts to clean the air if they don't support it."

The vote on license fees

Here is how the governing board of the San Joaquin Valley Air Pollution Control District voted Thursday on a proposal to increase vehicle license fees by \$2 to fund clean-air projects. A "yes" vote is a vote to adopt the fee increase.

YES

- Barbara Patrick, Kern County supervisor
- Susan Anderson, Fresno County supervisor
- Ronn Dominici, Madera County supervisor
- Sam Armentrout, Madera city councilman

- J. Steven Worthley, Tulare County supervisor

NO

- Mike Maggard, Bakersfield city councilman
- Tony Barba, Kings County supervisor
- Dan Prince, Ripon city councilman
- Michael Nelson, Merced County supervisor
- Jack Sieglöck, San Joaquin County supervisor

ABSENT

- Thomas Mayfield, Stanislaus County supervisor

SIMENTAL: Girls in earlier case accused man of fondling them

Continued from B1

through Simental's molestation trial earlier this year and mentored him throughout it, according to reports.

In that case, two girls at Simental's previous church, ages 5 and 8, said he fondled them, according to reports. They all attended Disciples of Christ

church at 1701 Quincy St., detectives said. The girls said the inappropriate touching happened between December 2002 and April 2003, according to reports.

One girl said she was allegedly fondled when Simental leaned her back to baptize her when the two were alone,

according to reports.

A jury acquitted Simental of all charges in the case. Prosecutors claimed it was because the girls were too young to give effective testimony, according to reports.

Simental's next court date was set for Nov. 17.

BROTHERS: Lawyer says D.A. on case witnessed alleged coercion

Continued from B1

cides, but said investigators attempted to coerce his testimony and Green was witness to this conversation, Little alleged in a court filing.

Little argued that his client would not be able to get a fair trial if the prosecutor in the case were also a witness.

Brothers' mother-in-law Earnestine Harper, his estranged wife, Joanie Harper, and their three children, Marques, Lyndsey and Marshall, were found slain in their Bakersfield home July 8, 2003. Brothers, the former vice principal of Fremont School, was arrested April 30.

Presidential vote tie leads to recount in Mono County

The Associated Press

BRIDGEPORT — The final tally for the U.S. presidential race made Mono County Clerk Renn Nolan gasp.

Democrat John Kerry: 2,200 votes. Republican George Bush: 2,200 votes.

"You think you were startled, I about dropped dead," Nolan said. "I've had such trouble with this (ballot counting) machine and then it comes out a dead heat?"

Nolan and helpers Wednesday began recounting all 5,141 ballots cast in the sparsely populated county of 7,000 registered voters.

They looked out, in particular, for ballots cast with blue or black ink, which sometimes doesn't register on

optical scanning equipment.

"If they would just all stick to a No. 2 pencil, we'd be fine," Nolan said.

The county's largest employer is the Mammoth Mountain resort and it is Mammoth, which has all of the county's five or six traffic lights, that likely brought more Democratic votes than expected.

Nolan, who voted for Bush and thought he would take the county, said about 1,500 voters registered late in the campaign. She suspected they were people in their 30s or younger.

Nolan finished her re-count at 4:51 p.m. Wednesday and determined that Kerry had won Mono County by seven votes.

Shooting of man during foot chase ruled justified

Incident began over stolen pickup; deputy now will be allowed to return to duty

By CHRISTINA VANCE

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A Kern County sheriff's deputy was justified when he shot a man last month in McFarland, a department review board ruled.

Deputy Vincent Martinez, 26, shot and wounded Juan Carlos Elizalde twice during a foot chase on Oct. 23, the department announced Thursday.

Elizalde, 24, was hit in the arm and chest. He was treated at Kern Medical Center and released the day of the shooting.

Martinez was placed on administrative leave after the shooting but will now be allowed to return to duty. He joined the Sheriff's Department in 2000.

The chase that led to the shooting began over a stolen GMC Sierra pickup. Deputies got the call around 2:30 p.m., according to the department.

Martinez reportedly drove to Sixth Street where the truck was parked. He walked to the cab and ordered Elizalde to raise his hands, according to deputies.

Instead, Elizalde allegedly tried to drive away. Martinez drew his gun, and Elizalde allegedly reached for it.

The deputy fired once, hitting Elizalde's arm, according to the department. The suspect then broke away from Martinez and ran, deputies said.

When Martinez caught up with the running man, they reportedly struggled over his gun a second time. Martinez shot Elizalde in the left side during the scuffle, deputies said.

Deputies arrested Elizalde a short time later in an alley after he ran again, they said.

They reportedly found a 9mm pistol and two casings, but Elizalde denied firing at Martinez.

Elizalde was arrested on suspicion of attempted murder, resisting an officer, taking a vehicle without an owner's consent and receiving stolen property.

His next court date was scheduled for Tuesday.

BILL WRIGHT TOYOTA

California staff writer

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