

MINUTES OF THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA



3.60

On motion of Supervisor Buster, seconded by Supervisor Tavaglione and duly carried, IT WAS ORDERED to delay action on the recommendation from Supervisor Tavaglione and Supervisor Ashley regarding Proposed Arbitration with Mr. and Mrs. Robert Mabee until response from the Attorney General and subsequent report back.

Roll Call:

Ayes: Buster, Tavaglione, Benoit and Ashley
Nays: Stone
Absent: None

I hereby certify that the foregoing is a full true, and correct copy of an order made and entered on June 14, 2011 of Supervisors Minutes.

WITNESS my hand and the seal of the Board of Supervisors
Dated: June 14, 2011
Kecia Harper-Ihem, Clerk of the Board of Supervisors, in
and for the County of Riverside, State of California.

(seal)

By:  Deputy

AGENDA NO.
3.60

xc: Supvr. Ashley, Supvr. Tavaglione, COB

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



FROM: Supervisors John Tavaglione & Marion Ashley **SUBMITTAL DATE:** June 14, 2011

SUBJECT: Proposed Arbitration with Mr. and Mrs. Robert Mabee.

RECOMMENDED MOTION: That the Board of Supervisors, once again, consider entering into arbitration with Mr. and Mrs. Robert Mabee in order to resolve a long-standing dispute with the County of Riverside over access to real property formerly owned by the Mabees. The individual must be a certified arbitrator that is deemed to be acceptable by both parties.

BACKGROUND: In the attached chronology of events, it is apparent that legal access to Mr. and Mrs. Mabee's property during the late 1980's and early 1990's **may** have been hindered by county projects related to the Bautista Channel. Mr. Mabee contends that this loss of legal access prevented them from dividing their land and selling a portion of it, the proceeds from which would have allowed them to keep their home and remaining land.


John Tavaglione
Supervisor, Second District


Marion Ashley
Supervisor, Fifth District

Chronology of Mr. Mabee's Claim

- 5/12/1960 Riverside County Flood Control District initiated action in Superior Court to condemn a portion of Parcel 1 for Bautista Creek Channel. Superior Court Case No. 72010 as recorded in Book 2694, page 316
- 10/7/1964 The Mabees purchased the Deischel property on October 7, 1964. Grant Deed was recorded on the same date with instrument no. 121565. The Mabee property is almost one half mile removed from the right of way and therefore needs additional right of way to reach his property.
- 8/9/1965 Riverside County Flood Control grants a non-exclusive private easement for ingress and egress over the 15' most immediately adjacent to the Bautista Creek Channel to Raymond and Lola Deichsel; instrument 91932. County Counsel later opines that the Mabees are legitimate successors to this easement right. This easement deed states in part: "if at any time a public highway or street shall be extended to the described lands in Section 22 lying easterly of Bautista Creek Channel, this easement shall cease and determine. If at any time this easement shall be intersected by a public highway or public street, the portion of this easement lying north and northwesterly of such intersection shall cease and determine".
- 1985 Barbed wire fence installed. Located on the easterly boundary of the 15 foot easement, away from the Bautista Creek Channel, the fence precluded direct access from the 15 foot easement to the southern terminus of the private Mabee access easement. This fence had restrictive openings for access of easement.
- 5/12/1988 Flood Control District built a 40 foot road adjacent to the 15 foot easement and dedicated it to the county of Riverside in May 1988, which thereafter accepted this dedication and extinguished the Mabee's easement.
- 1987-1988 Mabee's wrote several letters to grand juries and made complaints about the fence blocking their easement.
- 11/27/1989 Riverside County Flood Control and Water Conservation District granted to the county of Riverside an easement for public road and drainage purposes a strip of land 40 feet in width, concentric with the centerline of Bautista Creek within section 18, 21 and 22 of Township 5 south, Range 1 east of San Bernardino Base and Meridian. Access road within this easement was not constructed to County Road and Improvement Standards pursuant to Ordinance 461 and not accepted into the County Maintained Road System.
- 1989 Barbed wire fence was replaced without openings across Bautista Channel improvements (construction of the 40' road). After the construction of this fence, the Mabees could not reach the southwest terminus of their easement where it intersected with the 40 foot public road. The only access to this easement was to follow a diversion created by Riverside County Flood Control and Water

Chronology of Mr. Mabee's Claim

Conservation District across its property to a point on his easement northerly of its southern terminus. Allege that since they have to pass over Flood Control District property there is no legal access to their easement.

- 11/27/1990 Mr. Mabee took the case to superior court and there was a finding that: no "taking" of Mr. Mabee's property/easement by County of Riverside and Flood Control and Water Conservation District occurred. No damage issue to be determined by the jury.
- 10/25/1991 Appeal from first case in November of 1990, confirmed all of the findings in the first case. Denied a motion for a new trial because case was not filed in a timely manner, also the newly discovered evidence could have been discovered by anyone and therefore was not contingent in the case.
- 1992 Mabees want to divide their land and allege they can't do so because there is not adequate road access as defined by law
- 1993 In a certified letter to Mr. Mabee from the District it was stated that "you may access your property per a described easement that intersects a 40' road dedicated to and accepted by the Riverside County Transportation Department." The letter further states that "In order to secure the Bautista Creek Channel, the District has installed chain link fence . . . Although practical and physical access was never impaired the construction **may have impeded your 'legal' access to the dedicated road.** To remedy this situation the District is issuing you an encroachment permit for access across District property that approximates the traveled way being used to REACH THE ACCESS EASEMENT ON AND ACROSS THE DESICHEL [MABEE] PROPERTY."
- 10/3/1995 Easement Deed given to Mr. and Mrs. Mabee: joint tenants a non-exclusive easement for ingress and egress over the real property in the County of Riverside, State of California as described as Parcel 4030-500A; Easement has never been recorded.
- 1/10/1997 In 1988, the Riverside County Flood Control and Water Conservation District constructed an elevated ramp from the 40 foot road across District property to provide access to the subject easement. That ramp was approximately 12 feet wide and was used by residents, including plaintiffs to access the easement which led into Section 22. That ramp obviously cut off access to the terminus of the 40 foot road where that road and the Mabee easement intersected". (#000329, pg. 4, (f). Because the case exceeded the statute of limitations, judgment was entered in favor of the County.
- 12/28/2010 Letter from Riverside County Flood Control verifying that, after a thorough search of records, the easement deed was never recorded.

KAMALA D. HARRIS
Attorney General

State of California
DEPARTMENT OF JUSTICE



FAX TRANSMISSION COVER SHEET

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DATE: June 13, 2011 **TIME:** 4:18 PM **NO. OF PAGES:** 2
(Including Fax Cover Sheet)

TO:
NAME: _____
OFFICE: Supervisor Buster's Office
LOCATION: _____
FAX NO.: 951-955-1019 **PHONE NO.:** _____

FROM:
NAME: John A. Saurenman, Senior Assistant Attorney General
OFFICE: Land Law Section
LOCATION: Los Angeles
FAX NO.: (213) 897-2801 **PHONE NO.:** (213) 897-2702

MESSAGE/INSTRUCTIONS

Re:

STATE CAPITOL
P.O. BOX 942849
SACRAMENTO, CA 94249-0066
(916) 319-2066
FAX (916) 319-2166

Assembly California Legislature

DISTRICT OFFICE
41991 KALMA STREET, SUITE 220
MURRIETA, CA 92562
(951) 894-1232
FAX (951) 894-5053



KEVIN JEFFRIES
ASSEMBLYMEMBER, SIXTY-SIXTH DISTRICT

April 28, 2011

Attorney General Kamala D. Harris
California Department of Justice
P.O. Box 944255
Sacramento, CA 94244-2550

CONFIDENTIAL

Dear Attorney General Harris:

Enclosed please find a matter for possible review by your Department.

First let me state this matter involves a dispute between a private homeowner and the County of Riverside. As I am in fact a candidate for the Riverside County Board of Supervisors, my involvement in this matter could easily be perceived externally as being politically driven. I am therefore recusing myself from this matter in hopes that your office can determine the facts and a course of possible correction.

This case involves a long legal dispute between an elderly gentleman (Robert Mabee) and the County of Riverside. I believe Mr. Mabee deserves an independent review of this matter by your office. One of the current County Supervisors (Mr. Marion Ashley), has identified several significant concerns (see attached agenda letter of April 12, 2011) related to the treatment of Mr. Mabee. Mr. Mabee, who has since lost his home, alleges that the courts were misled by the County as to an easement having been granted and recorded for use by Mr. Mabee for ingress and egress to his (former) home. He believes the courts may have made a determination (against Mr. Mabee) based on possibly inaccurate testimony from the County that an easement had been granted and recorded - when it now appears that the easement had never been recorded.

It is my hope that your office will be able to review this matter and determine if Mr. Mabee has been improperly treated by the county or courts.

I have enclosed ALL of the original material (and copies) that have been furnished by Mr. Mabee. His contact number is: (951) 788-4858.

I appreciate your consideration.

Sincerely,

KEVIN D. JEFFRIES
Assemblyman, 66th District

Enclosures:

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PHARMACY BOARD
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 web site
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 ENFORCEMENT ACTION

Licensee Name: STONE JEFFREY E
License Type: REGISTERED PHARMACIST
License Number: 36398
License Status: CLEAR Definition
 Probation Terminated/Completed Definition
Expiration Date: April 30, 2013
Issue Date: August 13, 1981
Address: 33413 SUSAN GRACE CT
City: TEMECULA
State: CA
Zip: 92592
County: RIVERSIDE
Actions: No

Related Licenses/Registrations/Permits

No records returned

Public Disclosure

No information available from this agency

This information is updated Monday through Friday - Last updated: JUN-03-2011

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06-14-2011
 3.60

Robert
 Mabeel

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Not the first time

*From the
North County
Times*

- Story
- Discussion

Not the first time

By: JOHN HUNNEMAN - Staff Writer North County Times | Posted: Friday, January 13, 2006
12:00 am | [Loading...](#) | [Print](#)

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Be the first of your friends to recommend this.

And so now we have Warnie-Gate.

On the surface, the 14 felony charges filed against Murrieta City Councilman Warnie Enochs this week appear to have little or nothing to do with his duties as an elected official, but stem mostly from what insiders knew to be a messy divorce.

Still, if proven true, serious moral and ethical questions arise here especially for someone charged with keeping the public trust.

Enochs is far from the first Southwest County councilman to face legal woes while in office.

For some perspective -- and for all you newcomers -- let's take a look at some of the run-ins local elected officials have had with authorities in recent times.

J. Sal Munoz was elected to the Temecula City Council when the city incorporated in 1989 and was re-elected in 1992. He resigned his City Council seat in 1995, citing the strain of a difficult divorce.

In 1997, the Riverside County district attorney's office filed felony charges against Munoz alleging two counts of accepting a bribe, two counts of forgery, conflict of interest and fraud in connection with the city's purchase of land for a park.

The charges focused on allegations that while serving as Temecula's mayor in 1993, Munoz tried to get the city to pay a higher price for 20 acres of land on Margarita Road -- land owned by a man

who had loaned Munoz \$10,000 to help the councilman save his house, which was facing foreclosure.

The Temecula City Council eventually voted 3-1, with Munoz abstaining, to pay the higher cost.

The case spent years in the legal system and was finally settled in February 2001, when Munoz agreed to plead guilty to one count of conflict of interest in exchange for the district attorney's office dropping three felony charges. Munoz was fined \$10,000, sentenced to 200 hours of community service and given three years' probation.

In January 1999, a civil jury found Lake Elsinore City Councilman George Alongi had abused his powers while in office.

The jury returned a verdict finding 14 of 16 malfeasance of office charges against Alongi to be true because he failed to accurately report his financial interest in compliance with state conflict-of-interest laws. The accusations centered on 11 Lake Elsinore properties Alongi owned and accused him of failing to disclose his financial interest in them on economic statements while using his official position on the council to influence government decisions.

A Riverside Superior Court judge ordered Alongi removed from office for "willful and corrupt misconduct in office."

In August 1999, law enforcement officers descended on Temecula Mayor Steve Ford's home and seized boxes of documents. Other officers searched the mayor's office at Temecula City Hall. The investigation centered on Ford's alleged financial interest with a weed abatement company that did business with the city.

Ford, who had previously announced he would not seek re-election, finished out his term on the council, which ended in November 1999.

In May 2000, he pleaded guilty to one conflict of interest charge and three counts of failing to disclose business interests, all misdemeanors, in connection to the case. Three other charges, also misdemeanors, were dropped. Ford was fined \$5,000, sentenced to 200 hours of community service and given three years' probation.

Finally, in November 1999, Temecula Mayor Jeff Stone, a pharmacist, agreed to a settlement with the state Board of Pharmacy over 20 accusations they had made alleging Stone had operated an unlicensed pharmacy, improperly labeled drugs and committed dishonesty, fraud, deceit and corruption. Under the settlement, Stone admitted to four of the charges, all of them minor, and reimbursed the pharmacy board and state attorney general's office a total of \$10,000 for the cost of the investigation.

Although Stone's case had nothing to do with his duties as a councilman, there was still a call by a few in the community for him to resign his council seat on ethical grounds.

Contact columnist John Hunneman at (951) 676-4315, Ext. 2603, or hunneman@californian.com.

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Posted in Hunneman on *Friday, January 13, 2006 12:00 am* Updated: 1:22 pm.

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Week in Review: Live Calls For Service, Arrest in Fatal Stabbing & Water Rates (Patch - Glendora, CA)
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[what's this]

**Riverside County Board of Supervisors
Request to Speak**

✓

Submit request to Clerk of Board (right of podium),
Speakers are entitled to three (3) minutes, subject
Board Rules listed on the reverse side of this form.

SPEAKER'S NAME: Robert MABEE

Address: 3086 Mibuel St
(only if follow-up mail response requested)

City: Riverside **Zip:** 92506

Phone #: 788 4858

Date: 6-14-11 **Agenda #** 3.60

PLEASE STATE YOUR POSITION BELOW:

Position on "Regular" (non-appealed) Agenda Item:

Support **Oppose** **Neutral**

Note: If you are here for an agenda item that is filed
for "Appeal", please state separately your position on
the appeal below:

Support **Oppose** **Neutral**

I give my 3 minutes to: _____