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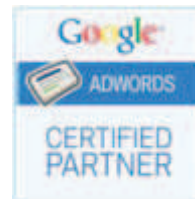
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# Edwardsville the Intelligencer

50¢  
DAILY

A HEARST NEWSPAPER

Tuesday

January 8 2013



Mark Polege/Intelligencer

The house at 7119 Route 140 was the scene of a fatal shooting Friday involving an armed man and a sheriff's deputy.

## ISP continues to probe shooting

*Shooting victim had poured accelerant down chimney before sheriff's deputies arrived*

By STEVE HORRELL  
stevehorrell@hotmail.com

Illinois State Police continue to investigate an incident Friday during which an armed man was shot to death in rural Edwardsville by a Madison County Sheriff's deputy who was called to investigate suspicious behavior at a home.

The victim was identified as Barry Cloninger, 51, of 7119 State Route 140, in Fort Russell Township.

Cloninger lived at the home but ownership of the property has been hotly contested since 2004.

According to documents at the Madison County Recorder's office, it is owned by Lisa Bricker and her mother, Peggy L. Reynolds. But that claim has been challenged in a lawsuit filed eight years ago in Madison County Circuit Court

by Joan Sims and Mary Beth Price.

The focal point of that suit is "mirror-image wills" that were filed in 1987 by Howard Morrison and his wife, Mildred. Sims is trustee for Howard Morrison's trust; Price is the Morrissions' daughter. Bricker is trustee for Mildred Morrison's trust.

A bench trial was finally held in Edwardsville on July 6, 2010. The court eventually found against Bricker and Reynolds, but they appealed to the Fifth District Appellate Court in Mount Vernon.

On May 9, 2012, three appellate justices unanimously voted to overturn the verdict, and the case was returned to Madison County.

In December, Circuit Judge Barbara Crowder was scheduled to oversee a case management conference to settle the dispute, but both sides agreed to a postponement. It has been rescheduled for Feb. 27.

In Friday's shooting incident, deputies were called at 10:13 p.m. by Cloninger's next-door neighbors, who reported suspicious activity, according to a news release from the Madison County Sheriff's Department.

Madison County

On Monday, Lt. Dave Wasmuth, who is investigating the shooting for the ISP, said that residents at the home at 7111 State Route 140 called the Sheriff's Department because they suspected that someone had poured an accelerant down the chimney. When the three deputies arrived, they smelled the accelerant as well, Wasmuth said. Crime scene technicians later came to the house — an earthen home built into a hillside — and gathered what forensic evidence they could. Toxicology and forensic evidence results are pending.

"They also saw footprints on the roof that led them to the neighbor's house," Wasmuth said.

The deputies walked down the driveway leading to Cloninger's home and were confronted by Cloninger, who had a shotgun, Wasmuth said. They ordered him to drop the gun, and a "verbal exchange" ensued after which Cloninger was shot.

See "SHOOTING" on Page 3

## Flu outbreak strikes early

Anderson Hospital restricts visitations

By JULIA BIGGS  
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Madison County

According to the Centers for Disease Control, the flu season started earlier than usual, and it's on track to be perhaps the highest since the H1N1 outbreak in 2009. Locally, we are seeing enough cases that Anderson Hospital in Maryville has already implemented its temporary visitor restrictions to hospital patients that it issues each year during the flu season.

Flu is a contagious respiratory illness that spreads from person to person through the air via coughs or sneezes or through contact with infected surfaces. It is caused by a group of continuously changing viruses called influenza viruses.

"The majority of the flu that we

are seeing is influenza B — 75 percent with only 25 percent being influenza A," Anderson Hospital Infection Control Nurse Doris Driscoll said in an Anderson Hospital news release "I have reported more influenza B this year than I have in all the other years combined."

Due to the rapid increase in positive flu swabs, as well as ER and inpatient volumes, Anderson Hospital is restricting visitors to its Pavilion for Women and on patient floors. The Pavilion for Women, obstetrics unit, is limiting visitors to four people as designated by the mother of the baby. This may include the baby's siblings.

See "FLU" on Page 3

## County jail sees bookings decline

Felonies also drop from previous year

By STEVE HORRELL  
stevehorrell@hotmail.com

Madison County

In 2012, 6,374 inmates were booked into the Madison County Jail, a drop of 170 from the year before. The 2012 figure is the lowest since 1996, when bookings stood at 5,668.

Felonies were down as well.

In fact, when the Madison County State's Attorney's office filed its final felony charge of 2012 — against Robert J. Primas, 19, of rural Edwardsville — it was only the 2,639th felony of the year, 184 fewer

than in 2011. Primas was charged with criminal trespass to a residence for "knowingly and without authority" entering a home in the 3100 block of Sand Road, in rural Edwardsville, when one or more people were present.

In addition to being the last person to be charged with a felony, Primas was the last to be booked into the jail.

See "JAIL" on Page 3

## HSSD turns to solar power

State grants cover 60 percent of project's total cost

By LAURA SCATURRO  
lscaturro@edwpub.net

Holiday Shores

Four years after Holiday Shores Sanitary District Trustee President Richard Hayes attended his first seminar to learn about the solar industry and the grant opportunities available, Holiday Shores Sanitary District officials have completed a \$600,000 renewable energy project that allows the District to transition the administration building and their award-winning water treatment facility to solar power.

The project was partially funded through two grants awarded to the district by the Illinois Clean Energy Community Foundation. The grants covered 60 percent of the total cost.

The scope of the project included the installation of 390 solar panels at the water treatment plant and 120 panels at the administration building, which, when erected, created a large awning at the public entrance.

The two locations, both now officially on-line, have solar panels with a lifespan of 40 years.

Although the savings resulted from the project will not be reflected in a lower water bill for residents, it may result in little to no rate increases in the future.

Hayes said, "Our objective in this matter was to attempt to curtail increase in electrical use — which could necessitate increases to our customers. This board's goals are to keep costs at a minimum while supplying the best service available. The cost of electricity is not going down."

Trustees saw the opportunities available in renewable energy and voted unanimously to take advantage of the opportunity in July, 2012. The problems were finding qualified professionals who could undertake the demanding task of implementing a solar operating system and maneuvering through the maze of multiple government grants and securing the needed financing in order to make a system affordable.

The district selected Day & Night Solar to provide the solution to both of these problems.

"We went ahead and signed up with them based on the fact that we would get a grant," said Ken Dulle, District Operations Manager. "Because we would only do this if we received some money to offset the cost. This system is designed to pay for 100 percent of our electricity uses in the administration building and should cover 50 percent of the water treatment plant's electricity use."

According to Day & Night's website, with renewable portfolio standards implemented in each state, utilities and power providers are required to purchase certain amounts of renewable energy each year. Utilities and power providers have the option of installing their own renewable energy but most purchase it from renewable energy power producers. This green power purchase allows solar system owners an added opportunity to get paid above and beyond savings on their power bill.

See "SOLAR" on Page 3



Laura Scaturro/Intelligencer

Holiday Shores Sanitary District's water treatment plant was recently fitted with 390 solar panels on both sides of the building's roof as part of a \$600,000 renewable energy project partially funded by two grants awarded to the District by the Illinois Clean Energy Community Foundation.

— **WeatherWINDOW**

Today	Mostly sunny, cool	High 50	Low 33
Wednesday	Mostly sunny, cool	High 54	Low 39
Thursday	Chance of rain, mild	High 58	Low 45
Friday	Mostly cloudy, mild	High 64	Low 50
Saturday	Chance of rain, mild	High 58	Low 27

KIDS  
Korner

Every Thursday

— **StorySTARTERS**

BEND, Ore. (AP) — An Oregon man who loves beer and loves his dog has concocted some hooch for the pooch.

Daniel Keeton works at Bend's Boneyard Brewery tasting room and calls his canine creation Dawg Grog.

KTVZ reports there's no alcohol in the

doggie brew. Ingredients include vegetable broth and spent grain.

Bottles of Dawg Grog are on sale at the Visit Bend store, along with other local beers.

Keeton says his dog, Lola Jane, usually licks her bowl clean.

## Regional

# Constitution prevents lawsuits over taxes

*Question: Like many people, I did not vote for Obama. I know he wants to raise taxes on all of us, not just the very wealthy, and he is going to try to raise taxes on small businesses to such an extent that the economy is only going to get worse! I know my taxes are going to go up, because I actually work for a living. I was talking with a friend of mine the other day about what we can do — other than move to another country, of course — and he told me that we hear about lawsuits all the time, but we never heard about lawsuits concerning our taxes. Can you tell me why that is, or is it just because liberal activist judges dismiss the suits that get filed?*

We do not hear about lawsuits involving taxes, because it has been a well settled principle of constitutional law for years that a person cannot sue over the kinds of tax provisions you mentioned in your question. The reason is legal — not political — in nature, and has to deal with the legal principles involving standing.

In order to sue, a person must have what is referred to as standing to file his lawsuit. Standing is the legal interest that a person has in a dispute that must also be legally protectable. If a person has no legal interest in a case, then he or she is in no position to sue. If the interest that a person has in a case is not legally protectable, such as in instances when a person waited too long

## Brendan Bukalski Attorney at Law Ask the Lawyer

to file a lawsuit, then the person will be deemed not to have standing to engage in the litigation. In other words, if the neighbor of a friend of yours somehow injures your friend's legal interest because of something the neighbor did, but your friend is too afraid to sue, you cannot file a lawsuit on your friend's behalf, because you have not suffered an injury yourself and are not in a legal relationship with your friend such that you could maintain the lawsuit on his or her behalf.

For any lawsuit, there has to exist some kind of injury to the person filing the lawsuit. Sometimes the injury might be actual, like where a person suffers from a broken limb, while other times the injury might be personal, like where a person suffers damage to his or her character because of something libelous or slanderous written or said about him or her.

In instances of cases involving standing, there is no such thing as a general citizenship standing. In other

words, if an injury alleged in a lawsuit is too generalized in nature, then standing does not exist. For this reason, there is no such thing as standing to sue as a citizen, because any injury that can be alleged will be too generalized in nature, since there would be no personal claim that directly affects the individual filing the lawsuit.

As a result, a person does not have standing to sue over a particular tax expenditure or a particular imposition of a tax. However, an individual taxpayer would have standing in order to litigate his or her own personal tax bill. When an individual taxpayer has taxes levied against him or her, he or she can seek to litigate that individual bill, but the litigation of the tax expenditure or the underlying laws resulting in the individual bill would be too general a basis for the individual to file a lawsuit.

Like many issues in the law, the rule is not without, at least, one exception. This exception occurs when an individual taxpayer seeks to challenge the imposition of a law imposing a tax because it violates the Establishment Clause found in the First Amendment of the United States Constitution. The Establishment Clause provides in pertinent part, "Congress shall make no law respecting an establishment of religion ...."

In order to successfully allege that an individual tax violates the Establishment Clause, a taxpayer would have to establish that the tax was enacted under the United States Congress' tax and spending power under the United States Constitution, and that when Congress did so, it exceeded the limitations put on that power.

This is the only exception to the standing rule discussed above that the Supreme Court has found, and it is a fairly narrow exception. This exception is so narrow that other lawsuits alleging that a tax law violated other provisions of the Constitution have been dismissed because the party who filed the lawsuit lacked standing.

*Have questions for Brendan Bukalski? E-mail him at askthelawyer@gmail.com, or write him, c/o The Edwardsville Intelligencer, 117 N. 2nd St., Edwardsville, IL 62025.*

*Editor's note — the answers provided in this column are general in nature, and should not be relied upon as legal advice or interpreted as creating an attorney-client relationship. As a general rule, all specific legal problems should be handled by an individual's personal attorney.*



Associated Press

## Windy City walkers

Debby Eades takes a walk with her dogs Koko, left, and Rascal at Montrose Beach in Chicago, Sunday. Warmer weather is forecast this week in both northern and southern Illinois. A high of 62 is forecast locally on Friday, although it might be accompanied by some rain.

# Illinois drivers face new laws

For the Intelligencer

Three important pieces of legislation supported by the Illinois Department of Transportation (IDOT) aimed at reducing cell phone use while driving and clearing lanes of traffic immediately following crashes are now in effect as of January 1, 2013.

Senate Bill 2488 prohibits cell phone use in construction or maintenance speed zones regardless of the speed limit in those zones. Motorists can use cell phones in voice-operated mode, which includes the use of a headset or cell phones used with single button activation.

Prior to the passage of this law, the speed limit in a work zone had to be lower than the posted speed limit, or it was not actually considered a work zone by the definition in statute and the higher ticket did not apply. Voice activated use of cell phone was permitted prior to this change.

House Bill 5101 prohibits texting or using a hand-held cell phone while driving a commercial motor vehicle and makes this a serious traffic violation. Previously, Illinois law prohibited

texting while driving for all vehicles, but cell phones were permitted. Illinois statutes were since amended to be in compliance with the Motor Carrier Safety Regulations (MCSR) law that prohibits texting and cell phone use by commercial motor vehicle drivers.

A commercial motor vehicle is a vehicle used in commerce with a weight of 26001 lbs or more (or a lesser weight if determined by the federal government or Secretary of State) or a vehicle designed to transport 16 or more people, or a vehicle transporting hazardous materials. Exceptions are RVs for personal use, military vehicles, fire trucks, police vehicles and other emergency response vehicles.

"People are tragically injured and killed in work zones and by commercial motor vehicles due to distracted driving. Cell phone distractions have been proven to be as dangerous as drinking and driving," said Illinois Transportation Secretary Ann L. Schneider. "These laws will stiffen distracted driving laws and save lives."

Senate Bill 3409 allows the driver of a vehicle involved in a motor vehicle crash resulting only in damage to a vehicle to move the vehicle off the highway to the nearest safe location. The

locations for the driver to consider are an exit ramp shoulder, a frontage road, the nearest suitable cross street, or other locations that will not obstruct traffic. The law states the driver should remain at that location until the requirements are fulfilled concerning the duty to give information and render aid.

The previous statute involving moving a vehicle following a crash stated "Every such stop shall be made without obstructing traffic more than is necessary." Senate Bill 3409 clarifies the language and explains that moving your vehicle to safety will not violate the statute.

"The decisions made immediately following a crash are critical," Secretary Schneider said. "This law will reduce the chances of further injury and secondary crashes by allowing able vehicles to clear the roadway following a crash."

The Illinois State Police and nearly 300 law enforcement agencies statewide began enforcing these new laws on January 1, along with current impaired driving and seat belt laws.

For more information about IDOT's traffic safety programs, please visit <http://www.trafficsafety.illinois.gov>.

# Drake to speak at Piasa Palisades meeting

For the Intelligencer

The Piasa Palisades Group of the Sierra Club will feature Jane Drake from the SIUE Gardens this month. Her topic will be "Small Yards, Big Plans: Meeting Diverse Needs in Our Landscapes." Attendees may be seeing snow, but they'll be thinking about

spring gardening after this special program.

"We have many choices when it comes to selecting plants for our landscapes and gardens," Drake said. "In this presentation, we'll explore beyond the basics and learn how to incorporate plants that can meet multiple needs." That includes choosing trees and shrubs that provide good

shade, fabulous fall color, support for wildlife and nutrition for dinner tables. Drake holds a bachelor's degree in horticulture from Kansas State University and a master's in biology from SIUE. Jane moved to the metro-east in 2005 and served as education director for The Audubon Center at Riverlands at Riverland Migratory Bird Sanctuary in West

Alton, Mo. She previously owned and operated an organic farm in Kansas.

The meeting will be held at 7:30 p.m. Jan. 14 at Riverbender Community Center, Suite 101, 200 W. Third St., in Alton. Members and friends are invited to eat and socialize at 5:45 p.m. at Chez Marilyn in Alton. For more information, call 618-462-6802.

# FLU

Continued from Page 1

Anderson is also restricting visitors to patient floors. No visitors under the age of 18 will be allowed on patient floors. The only exception is siblings in OB.

Anderson representatives have also asked that all visitors who have cold or flu-like symptoms do not visit patients at Anderson Hospital.

"Patients are hospitalized for a reason, so we cannot risk subjecting them to the flu and other cold viruses," Chief Nursing Officer at Anderson Hospital Lisa Klaustermeier said in the release.

"We regret any inconveniences, but the health of our patients is our priority."

Driscoll also pointed out that the flu has to simply run its course. "In most cases, flu sufferers just need to stay at home, rest, and drink plenty of fluids," Driscoll added.

Driscoll, however, also emphasized that people with certain conditions such as lung, liver, kidney and weakened immune systems should consult their physician. "You should seek immediate medical attention if you encounter fast breathing or trouble breathing, pain or pressure in the chest or abdomen, sudden dizziness, confusion, severe or persistent vomiting, or flu-like symptoms that get better and then get worse with fever and a worse cough, and fever with a rash," Driscoll further explained.

While antiviral drugs may help combat the flu, they must be started within 24 hours after onset of symptoms.

If you are ill, you should stay home for at least 24 hours after your fever is gone without the use of fever-reducing medications. "Stay away from others as much as possible to keep from making others ill," Driscoll urged. "You can spread the flu as early as 24 hours before feeling ill to about five to seven days after getting sick."

To protect yourself from becoming infected with the flu virus, cover your nose and mouth when you cough or sneeze, wash your hands often with soap and water or alcohol-based hand gel, avoid touching your eyes, nose and mouth to avoid spreading germs, and avoid close contact with sick people.

# SOLAR

Continued from Page 1

The project didn't happen without a few glitches — one of which was securing a variance from Madison County to ensure that a 100-year-old oak tree located near the entrance to the administrative building wasn't destroyed in the name of "green" progress.

Dulle admits he's still learning about renewable energy, energy credits, electric spikes and peaks but he has detailed reports and software tracking systems in place to provide snapshots of electricity usage as well as other analyses by the hour. He enjoys the analytical portion of the process.

"In November, we saved roughly over \$1,000 compared to last year's electric bill," Dulle said. "The excess energy that we don't use goes back into the grid. They have installed a net meter which tracks the excess number of kilowatt (kw) hours produced. When we over produce, the energy gets stored on the grid and we pull the excess energy when we need it at full retail rate."

Water treatment technicians are now fine tuning the work schedule of the pumps and water operating components so that they maximize the usage of the electricity when it's being made during the day.

The initial savings reported by the district do not include the Solar Renewable Energy Credits (SREC) that the district has been accumulating since the solar operating system went online in October, 2012.

Dulle said, "For every 1,000kw hour produced, it equals one SREC credit. These are considered a commodity. Illinois is not really set up yet to buy back the credits, but I'm working on selling our SREC credits. We have 18 credits so far. For example, if we sell them at \$200 a credit, that income will come back to the district."

The trustees are optimistic about meeting the 10-year payback of the \$240,000 cash outlay for the project allocated from the district's reserves account.

"That payback schedule doesn't even take into consideration selling our credits and making the adjustments in our operating systems to capitalize on minimizing spikes in our electrical usage," he said.

Although the future of the district looks bright with solar, one mile east of the community sits the 16-acre lagoon which Dulle said will be requiring updates once the Environmental Protection Agency (EPA) installs expected new guidelines.

"That treatment process lagoon was designed for 750 homes out here and we're at 1,300 homes," Dulle said. "But, we're keeping the discharge within limits of the EPA guidelines. But, once new EPA guidelines are in place, this will hurt us down the line, so, we're building up our reserves. Costs for repairs and parts for electronics keep going up. That's the stuff that kills you. The savings may not reduce our water bill, but we can try to keep the costs from going up."

Hayes and Dulle agreed that proactive thinking and planning of the past trustees with respect to the planning and building of the new water treatment plant that went on line in July, 2011, paid off in August, 2012, when the treatment plant handled a record setting 8 million gallons of water for the area.

"We used more water that month than ever recorded in history," Dulle said. "If we didn't have the new facility, we would've had real problems. We would've run out of clean water."

Currently, there are 1,155 homes using the water treatment facility and recently customers noticed a slight reduction in their water bill.

"The Illinois Environmental Protection Agency sewer loan was recently paid in full and customers saw a reduction in their water bills of 73 cents in July which was the debt service charge assessed to customers since 1992," Dulle said.

The next meeting of the Holiday Shores Sanitary District Board will be held on Jan. 14 and Jeff Sedlacek will be assuming the role of board president.

# JAIL

Continued from Page 1

The lower numbers fit into a nationwide trend of lower crime rates, said Madison County Sheriff Robert Hertz. Hertz said there were several factors that help explain the lower numbers in Madison County. "Maybe we've just been locking up the bad guys. Maybe more people are just seeing the light," Hertz said.

Hertz credited Edwardsville, Glen Carbon and other local police departments that are seeking to improve their officers' training and professionalism. Officers have been "identifying the criminal element" more often, adding that people who wind up behind bars are often repeat offenders.

The average age of prisoners booked into the jail last year was 32, a figure that hasn't changed in recent years. Seventy-three percent

of those booked into the jail were male. On a typical day last year, the jail held 252 inmates. Fifteen of the prisoners are currently being held on murder charges, a category that includes first-degree murder, involuntary manslaughter and reckless homicide.

Hertz said he will release a more detailed breakdown of bookings next week.

Not all the crime results trended down last year. There were 1,198 DUI arrests in 2012, an uptick from the 2011 total of 1,162, according to figures released from Madison County State's Attorney Tom Gibbons' office.

There were 55,687 traffic tickets written county-wide last year, a figure that does not include DUIs. That's a drop of 701 from 2011.

And in 2012, 7,239 misdemeanors were filed in Madison County Circuit Court, according to Chief Deputy Circuit Clerk Dina Birch. In all, 7,423 misdemeanors were filed in 2011.

# SHOOTING

Continued from Page 1

He ran behind his house, and the deputies anticipated a standoff, Wasmuth said.

Cloninger's body was eventually found behind the house. Wasmuth declined to say how many shots had been fired.

An investigator with the Madison County Coroner's office pronounced Cloninger dead at the scene.

The name of the deputy has not been released. He has been placed on administrative leave, which is standard procedure for such an event.