

# cemagram

county & court

## County Employees Management Association



**CEMA Executive Board Counts Ballots**

### CEMA Members Vote “Yes” on Dues Increase and Bylaw Changes

The CEMA membership voted 60% to 40% to increase CEMA dues from \$11.00 per pay period to \$18.00 per pay period. The increased dues will be used to cover full per capita payment to

the Operating Engineers as part of CEMA’s full affiliation, maintain the second business representative, and improve CEMA programs such as the CEMA Liaisons (site representatives) and the CEMA website. The new dues rate will go into effect on the pay period beginning October 11<sup>th</sup> and will be seen on the paycheck of October 29<sup>th</sup>.

Amendments to the CEMA Bylaws were also approved by a vote of 173 “yes” to 14 “no”. The amended bylaws provide for clearer procedures for the conduct of CEMA business and clearly recognize the affiliation between CEMA and the Operating Engineers.

### CEMA On the Web

The latest CEMA news, announcements of CEMA events & committee meetings, minutes of the CEMA Executive Board meetings, archive issues of the CEMAGRAM... They can all be founded at [www.sccema.org](http://www.sccema.org).

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## CEMA Executive Board

President  
**Edna Esguerra**  
(408) 494-7461

1st Vice President  
**Richard Hobbs**  
(408) 792-2340

2nd Vice President  
**Richard Rappachietta**  
(408) 918-7028

Treasurer  
**Peter Pham**  
(408) 423-0778

Secretary  
**Consuelo Collard**  
(408) 928-3805

Members-at-Large  
**Barbara Lang**  
(408) 885-5904

**Greg Monteverde**  
(408) 299-5301

**Mark Hand**  
(408) 885-6347

**Mary Mitchell**  
(408) 808-3483

## Staff

Business Representatives  
**Tom Starkey**  
**Randy Johnese**

Administrative Assistant  
**Rachel Martinez**

(408) 289-9691  
1654 The Alameda, Suite 110  
San José, CA 95126

# President's Message



by **Edna Esguerra**  
President

I would like to thank all of you for supporting the dues increase and ratifying the bylaws. Our full affiliation with Operating Engineers, Local 3 and full membership in the Operating Engineers International Union gives us the Article XX protection so that decertification is no longer a threat. CEMA's membership in the South Bay Labor Council and participation in OE 3's District 90 PAC means that CEMA is on the road to being a "stronger and more powerful" union, something that majority, if not all of you had always wanted. The newly ratified CEMA bylaws offer a more comprehensive guideline and process on how the organization handles its business.

One question that some of you have asked is, "why is it that CEMA is not a closed shop?" CEMA can not be a closed shop because it is against the law. And yes, the drawback of the law is that non-dues paying members also benefit from whatever financial gains the dues paying members get from negotiations with the employer. The difference is that the dues paying members have a voice on the issues, in the prioritization of the issues and in directing the business representatives who advocate for the interest of the dues paying members in

the labor-management discussions or negotiations.

Our individual value and belief systems contribute largely as to why some members choose not to pay dues. Some may not know that CEMA exists; or some believe that managers or supervisors should not belong to or should not be part of a union; or some believe that they will never need a union to represent them in those labor-management disputes or disciplinary actions, or some believe that they are "at will employees" (which we are not); or some believe that being part of a union makes them less of a "professional or manager or supervisor"; or some can not afford the dues; or the work ethics of some simply makes them feel good and comfortable as a "free loader". CEMA continues to address those that are within its control, i.e. employee education.

Whatever the reason is, we as workers are part of a labor group regardless of our classifications and scope of our jobs. As such, our strongest bargaining chip is our being "ONE and UNITED" and a part of a bigger labor work force. Let us therefore, carry our share of the load by being a part of the "dues paying team".

# Political Action



by **Sheila Stevens**  
**Political Action Committee**  
**Chair**

The Political Action Committee formed during the summer and continues to refine its goals. An essential goal identified early in the process is to strengthen CEMA's ability to influence decision makers to meet the needs of CEMA's members. Another goal is to support CEMA members for office who are aligned with CEMA's aims and labor's interests.

Towards this end the recent focus of this committee has been to define what those issues and interests are, and to finalize criteria for supporting issues and candidates.

Consistent with this direction, the committee has recommended, and the Executive Board has approved the following:

1. Support Measures A and B on the November ballot and oppose Measure C (See related article).
2. Support CEMA member Lan Nguyen for Trustee, East Side Union High District.
3. Support Measure G for San Jose Evergreen Community College District funding.

The next meeting of the committee is posted on the CEMA Website ([www.sccema.org](http://www.sccema.org)). All interested persons are invited to attend.



CEMA President, Edna Esguerra, presents CEMA member and School Board candidate, Lan Nguyen, with a campaign contribution from the CEMA Political Action Fund

## November 2

exercise your  
franchise as a  
citizen -

# VOTE

# Business Representative's Report



by Tom Starkey  
Senior Business Representative

I have been the Business Representative for CEMA for over 10 years. I have been exclusively assigned to CEMA longer than any other Business Representative within the Operating Engineers Union. I have seen the membership nearly double and have signed my name to twelve negotiated MOU or contract extensions as CEMA's chief negotiator. I assisted members with a successful FLSA law suit against the County and have seen the organization through two dues increases and bylaw revision votes. I also have helped to steer CEMA through serious problems we faced at VTA because we were not

members of the AFL-CIO and not protected by Article 20 of the AFL-CIO Constitution. In the past few years the Executive Board has been aware that I have not been able to focus on the many activities to make CEMA more powerful due to being stretched with servicing and representation matters.

The passage of the dues and bylaws proposals and the Executive Board actions to strengthen the affiliation agreement with Operating Engineers Local 3 are positioning CEMA to be more powerful in advocating for the membership and getting a stronger contract when we negotiate in 2006. Members have clearly spoken that they

want responsive representation and stronger advocacy. Now that dues income can support two Business Representatives, CEMA can build the membership to 95% paying dues instead of the current 70%. We can focus on getting a CEMA Site Liaison at each work location to improve communications and hear from members about important CEMA issues. We also now have the resources to build membership involvement in CEMA's political action efforts so that CEMA endorsed candidates know that CEMA / OE3 member's played a critical role in their victory.

The members and the Executive Board of CEMA have placed the organization on a new plateau. I believe CEMA now has the resources to take the organization to a new level. However our success will only get us so far unless we have members involved in all of the activities of CEMA. We are only as strong as our members who participate. With member participation, I see a very bright future for CEMA / OE3 members.

## Court Chapter Votes to Extend MOU

CEMA Members at Superior Court voted on August 25, 2004 to extend the term of their current Memorandum of Understanding (MOU). The MOU was set to expire in January of 2005. The extension agreement calls for a two year extension of all current provisions to January 14, 2007, a continuation of current health benefits and PERS benefits and a two year service credit for employees age 50 and older with 5 years of service who choose to retire in

a 90 day window beginning on October 25, 2004. No wage increase was offered but the Court agreed to pay a \$1250 cash payment by October 15, 2004 and a \$2000 cash payment paid on September 25, 2005. All other existing contract provisions remained unchanged.

The Court laid out a justification for their extension proposal with a clear message that they do not see the financial picture getting better for a few years due to the

uncertainty with the State budget situation. The Negotiations and Advisory Committee members Kimberly Henderson, Mary Mitchell and D'Mitra Murphy discussed the Courts proposal thoroughly and decided to recommend that the membership vote to accept the extension. The committee believed that it is important to maintain the current health benefits and PERS benefits. Those benefits would be subject to erosion, if CEMA faced a full renegotiation of the agreement.

## FLSA Changes May Impact Some in CEMA's County Chapter

CEMA Business Representatives Randy Johnese, Tom Starkey and Executive Board members Edna Esguerra and Richard Hobbs have held two meet and confer sessions with the County of Santa Clara regarding compliance with changes to the Fair Labor Standards Act (FLSA) regulations.

On April 30, 2004 the United States Department of Labor published new and final regulations under the FLSA. The regulations went into effect on August 23, 2004 and are the first substantive changes to the white collar exemptions in more than 50 years. All of the CEMA administrative/supervisory employees have been exempt from FLSA overtime

requirements and these congressional changes may now make some CEMA classifications overtime eligible. The County is also considering revising the discipline policy that affect CEMA represented employees to reflect changes in the FLSA Regulations.

The County has not decided which classifications meet the criteria for being overtime eligible nor have the figured out what changes they want to make with the discipline policy. We expect a proposal at the next meeting which has not been scheduled yet. Once we know what classifications are involved we will meet with the members affected to get direction on how to proceed.

## The OE 3 Connection

In the dues and bylaws election there was a lot of talk about the Operating Engineers Local 3 (OE 3). If you are wondering what the OE 3 connection is just consider this.

CEMA has been affiliated with OE 3 since 1977. At that time the membership voted to affiliate with an AFL-CIO union and chose OE 3. However, at that time the affiliation agreement that was negotiated with OE 3 provided for representation services but not membership. As a consequence, CEMA has been represented by the Public Employee Division of OE 3 but has not had access to membership privileges.

CEMA members could not vote in OE

3 elections, collect on the \$2500.00 death benefit or get member discounts from Union Privilege. More importantly, CEMA was not protected from being raided by other AFL-CIO unions. Nor could CEMA participate in OE 3's political or legislative programs.

This meant that CEMA could not use OE 3's clout to leverage bargaining and legislative goals for CEMA members. With the passage of the new CEMA bylaws and dues rate, CEMA will be able finalize an affiliation with OE 3 that provides for full membership. Full access to OE 3's political and legislative clout and full AFL-CIO protection.

That is the OE 3 connection!

## Make CEMA Stronger- Become a CEMA Liaison

CEMA continues to urge members at each major work location (VMC, SSA, County Government Center on Hedding, Burger Drive and Superior Court) to volunteer to become a CEMA Liaison for your work area. The major role of a CEMA Liaison is to inform CEMA members about important CEMA issues and events and to approach non members to join CEMA. The CEMA Liaison will also keep members informed about Professional Development events and may be a ticket seller. CEMA Liaisons are not expected to function like a union steward and will play a vital role to improve communications with the membership. If you are interested in becoming a CEMA Liaison please contact Tom Starkey at the CEMA office. Your actions will make CEMA stronger!



### New CEMA Bylaws Available On-Line

The new CEMA bylaws can be downloaded at the CEMA website - [www.sccema.org](http://www.sccema.org). A hard copy will be mailed to members early next year.

## Professional Development



by **Richard Rapacchietta**  
2nd Vice President

### **Professional Development Committee Luncheon Seminar Friday, October 15, 2004**

*The next Professional Development luncheon is scheduled for Friday, October 15, 2004 at Lou's Village 1465 West San Carlos Street. The luncheon is scheduled from 11:30 am to 2:00 pm with the program beginning at 12:30 pm. **Dr. Sivasailam "Thiagi" Thiagarajan**, from the Thiagi Group, an organization with the mission of helping people improve their performance effectively and enjoyably, will speak on the topic,*

*"Creating a Motivating Environment"*

*If you are interested in becoming a ticket seller or if you know of an interesting topic or speaker for our future Professional Development luncheon, please contact Richard Rapacchietta by phone at 918-7028 or email [richard.rapacchietta@isd.sccgov.org](mailto:richard.rapacchietta@isd.sccgov.org) at*

## New Executive Board Members Appointed

Three vacancies were created on the CEMA Executive Board by the retirements of Secretary, Delia Ho, County Member-at-Large, Barbara Whittingham, and Superior Court Member-at-Large, Steve Baron. The Executive Board has filled those vacancies with the following appointments:

### Secretary



**Consuelo Collard**  
SSA/IHSS  
[consuelo.collard@ssa.co.scl.ca.us](mailto:consuelo.collard@ssa.co.scl.ca.us)

### County Member-at-Large



**Mark Hand**  
SCVHHS  
[mark.hand@hhs.co.scl.ca.us](mailto:mark.hand@hhs.co.scl.ca.us)

### Superior Court Member-at-Large



**Mary Mitchell**  
Superior Court  
[mmitchel@sct.co.scl.ca.us](mailto:mmitchel@sct.co.scl.ca.us)

James P. McEntee, Sr.



1931 - 2004

## In Memoriam

On the death, September 13th, of Jim McEntee, long time director of the Santa Clara County office of Human Relations, who toiled tirelessly for justice, equality and humanity. Jim was a friend to many in CEMA. He will be missed.

# CEMA Recommends:

## Measure A - Yes

## Measure B - Yes

## Measure C - No

The CEMA Political Action Committee and the CEMA Executive Board have taken action to oppose Measure C and to support Measures A and B on the November Ballot.

The main concerns for CEMA as well as other County employee organizations such as SEIU Local 715 and SEIU Local 535 is that if Binding Interest Arbitration (Measure C) is approved by County Voters and an Arbitration Panel awards large pay increases to Attorneys, Nurses and Correction Officers in a lean economic year then there would be little resources for the Board of Supervisors to grant all the other employee organizations a fair pay increase. Here is a brief explanation of the three ballot measures.

**Measure A** will revise section 709 of the County Charter section that addresses Prevailing Wages. The new section requires that salary comparisons be based on other Government employees and must include the costs of pension and benefits.

CEMA was involved in Meet and Confer regarding the changes to 709 that are outlined in Measure A and saw that the

changes the County residents are voting on do not substantially affect our bargaining unit because CEMA has never used section 709 to prove wages are not prevailing. The economic resources that would be necessary to prove each case would be cost prohibitive to CEMA and CEMA has always reached agreement on salary issues.

**Measure B** will create a new Charter section 715 and will negate the impact of the passage of Binding Interest Arbitration, Measure C. The intent of this Measure is to protect the right of the people and their elected representatives to retain financial control over local government. If Measure C passes then the Board of Supervisors can put the provisions of the contract that was decided by the Arbitrators to the voters if the Board finds that the cost of the offer would be a financial hardship to the County. The voters would then decide if the Arbitrator award should be approved or disapproved.

**Measure C** is Binding Interest Arbitration. It was put on the ballot by the Correction Peace Officer Association, RNPA, and the Government Attorney's Association. If passed by the voters then

any economic dispute that arises from negotiations would be submitted to an Arbitration Panel for the final binding approval. The three associations would give up any right to strike if the measure is approved by the voters.

All five Board of Supervisor members, the South Bay Labor Council, SEIU Local 715 and 535, a tax payers group and a nonprofit umbrella organization have all come out in opposition to Measure C and in favor of Measures A and B.



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## Notice: Timeline for Nomination and Election of CEMA Officers

Election of CEMA Officers and Executive Board members will occur by mail ballot to be mailed out on November 30th and returned no later than December 17th. This will be the first election of officers under the new bylaws which provide for a two year term and allow members to nominate themselves by submitting a petition to the CEMA elections committee signed by five other CEMA members.

In order to run for office you must be a CEMA member, you must have

been a CEMA member for the past six months, and you must be employed in a bargaining unit which CEMA represents.

Nominating petitions may be obtained from the CEMA website or by calling the CEMA office.

Challenges to or appeals from the election process must be addressed to the Elections Committee Chair, Sheila Stevens, care of the CEMA office.

The timeline for the election is as follows:

Nov 17 Nomination petitions due. Must be filed with Election Committee Chair.

Statement of willingness to serve must be submitted.

Nov 30 Ballots will be mailed.

Dec 17 Ballots must be received by 5 pm. Ballots will be counted immediately after 5 pm.