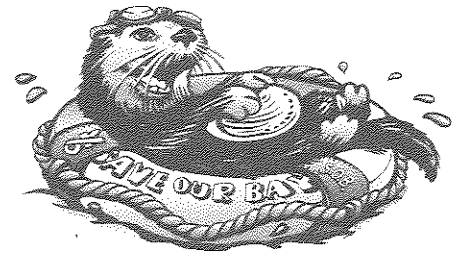


*"Change is inevitable...  
Survival is not."*



July 16, 2004

San Mateo County Civil Grand Jury  
Court Administrators Office  
400 County Center  
Redwood City, CA 94063

Re: Referral and Request for Investigation (LAFCo and Elections Irregularities)

Dear Grand Jury Foreperson:

It is our understanding that the San Mateo County Civil Grand Jury serves as the public "watchdog" of county, cities and special districts. The Grand Jury is the conscience of the community, providing government oversight and protecting local citizens from unacceptable government management and misconduct of government officials and employees.

### **Background**

During the past several years, a pattern of unacceptable conduct and illegal activities by local government in consort with open-space entities, acting under the color of law, has deprived the civil rights and property interests of county residents. In the zealous effort, in the name of the preservation of "open-space," these entities have trampled citizens' right to protest government action, have disenfranchised voters' rights, and has participated in activities constituting voter fraud, all in violation of the American democratic way of life.

### **Recent Local Agency Formation Commission (LAFCo) / Midpeninsula Regional Open Space District (MROSD) Annexation Issue**

This week, July 13, 2004, the San Mateo County Superior Court ordered LAFCo to immediately stay the verification of protest forms for the MROSD annexation matter and to recount protest votes based on a revised standard after more than 33% of submitted protests had been invalidated. (See attached Written Protest Certification submitted by Warren Slocum, Chief Elections Officer, and forwarded by Martha Payotos, Executive Director, LAFCo). After a day-long hearing and listening to several witnesses, the court concluded that a staggering number of protests had been invalidated, primarily based on technicalities, by the process utilized by the County Elections Division pursuant to directions from LAFCo. This issue involves the right of local residents to have the opportunity to vote on the confirmation of the LAFCo annexation action.

Judge Mark Forcum clearly stated: "I think, as we all know, the right to vote is the most cherished right that we have in this outstanding democracy that we live in. And, as I said last week, young men and women in this country are serving honorably in the military and they're sadly dying to protest these very rights that protect all of us. And the problem here is that, as I said at the outset of this hearing, there's a staggering number of

invalid votes which troubles this court a great deal.” (Court Transcript, July 13, 2004, p.81, l. 9 -17).

Reference was made by LAFCo’s counsel, Carol Woodard, Deputy County Counsel, at the court hearing that the 1998 open-space advisory vote (Measure F) was supported by “78 or 80%” of coastside residents. LAFCo’s position is contradicted by the record. The official published report issued by the Elections Division confirms: registered voters (15,903); ballots cast (10,615); turnout percentage (66.75%); “yes” (5,300); “no” (4,379); margin of approval (921 votes “yes” over “no”); ballots cast unaccounted for (936); counted ballots “yes” (55%); counted ballots “no” (45%).

**Retaliation Against Local Residents and Elected Representatives Who are Proponents of Placing the MROSD’s “Coastside Protection Program” aka MROSD Annexation of San Mateo County Coastside on the Ballot (220 square miles)**

At the appropriate time, upon request, we will submit documents supporting unlawful misconduct by government officials and employees. At the direction of Lenore Roberts, Lobbyist for the Committee for Green Foothills, and member organizations of the Coastal Open Space Alliance (COSA) open-space enterprises, with the active involvement and participation of government officials and employees, have engaged in a pattern of racketeering activities resulting in irreparable harm to the community and residents. The facts and evidence supporting these allegations include court documents.

**Conclusion**

We request the San Mateo County Grand Jury in its role as the public “watchdog” of county government, cities and special district to open a formal investigation into the serious issues raised by the facts in this case. Thank you for your cooperation and assistance.

Sincerely,



OSCAR BRAUN  
Executive Director

Enclosures



## **WRITTEN PROTEST CERTIFICATION**

### **COUNTY OF SAN MATEO**

I, WARREN SLOCUM, Chief Elections Officer & Assessor - County Clerk - Recorder of the County of San Mateo, State of California, hereby certify:

That the PROTEST OF THE PROPOSED ANNEXATION OF THE SAN MATEO COUNTY COASTSIDE TO THE MIDPENINSULA REGIONAL OPEN SPACE DISTRICT was filed with this office on June 22, 2004.

A total of 5,340 protests were delivered.

A total of 253 withdrawals were delivered.

That said signatures on protests and withdrawals were verified by examining the records of registration of the proposed annexation area and from that examination, I have determined the following facts regarding this petition:


1.	Number of protests delivered	<u>5,340</u>
2.	Number of protests verified	<u>5,340</u>
a.	Number found sufficient	<u>3,583</u>
1)	Voter information changed or added	188
2)	Date variations, omissions or changes	7
3)	Protest sufficient, withdrawal insufficient	15
4)	Protests counted for which duplicate protests were filed (see b1 below)	483
5)	Other sufficient protests	2,890
b.	Number found not sufficient	<u>1,757</u>
1)	Duplicate protests not counted	542
2)	Not matching signatures	115
3)	Voter information changed or added	376
4)	Date variations, omissions or changes	14
5)	Date outside of required range	18
6)	Outside of proposed area	167
7)	Protest language not evident	1
8)	Not registered	341
9)	No Signature	0
10)	No date	30
11)	No address	3

12)	Address not same as registered	145
13)	Illegible	5
3.	Number of withdrawals delivered	<u>253</u>
4.	Number of withdrawals verified	<u>253</u>
a)	Withdrawals found sufficient	<u>140</u>
	Withdrawal form and protest form received where date of withdrawal is same or later than protest date and protest is a sufficient protest	
b)	Withdrawals found insufficient	<u>113</u>
i)	withdrawal form received and no protest form	76
ii)	withdrawal form and 1 or more protest form where protest dated after withdrawal	15
iii)	withdrawal form and protest form where protest deemed invalid	22
	<u>Reasons:</u>	
	Address not same as registered	7
	Voter info changed or added	5
	Not matching signature	4
	Not registered	4
	No date	1
	Duplicate withdrawals	1

#### RECAPITULATION:

Number of protests found sufficient	<u>3,583</u>
Number of withdrawals found sufficient	<u>140</u>
Number of registered voters in protest area as of June 11, 2004	<u>16,284</u>

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this 8<sup>th</sup> day of July, 2004.

  
**WARREN SLOCUM**, Chief Elections Officer &  
 Assessor-County Clerk-Recorder  
 County of San Mateo

ROUGH DRAFT

1 THE COURT: All right. Mr. -- well, we should

2 indicate we're back on the record in the matter of Half Moon  
3 Bay Coastside Foundation vs. San Mateo County Local Agency  
4 Formation Commission.  
5

6 So my tentative thinking now is that what should  
7 occur is that a temporary restraining order should issue and  
8 this is why in my mind:

9 I think, as we all know, the right to vote is the  
10 most cherished right that we have in this outstanding  
11 democracy that we live in. And, as I said last week, young  
12 men and women in this country are serving honorably in the  
13 military and they're sadly dying to protect these very rights  
14 that protect all of us. And the problem here is that, as I  
15 said at the outset of this hearing, there's a staggering  
16 number of invalid votes which troubles this court a great  
17 deal. It is interesting to hear Mr. Braitman's testimony  
18 about taking a more inclusive view toward the interpretation  
19 of Election Code section 5701 -- I'm sorry, 57051.

20 And what I'm very specifically troubled about in this  
21 record and during this hearing is that there are significant  
22 number of votes that were invalidated because, according to  
23 Mr. Tom, a post office box and a residence address was written  
24 on ballots, but the votes were not counted because someone  
25 else might have written a residence address down and no one  
26 bothered to check to see if the residence address match the

VALERIE J. CATHEY, CSR 9870

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**Open confrontation**  
**Proposal to expand preserve near**  
**farmland reveals fissure of distrust**  
**between south coast, urban**  
**neighbors**

- Christopher Heredia, Chronicle Staff Writer  
Friday, July 16, 2004



Leaning back in a handmade willow chair on his deck overlooking his 80 acres along San Mateo County's south coast is one of Geoff Allen's favorite pastimes.

It's here that Allen can best appreciate his most prized asset: his land, and the flora and fauna that call it home -- the gnarled oak, the towering redwoods, the bumblebees darting through the crisp mountain air, gathering pollen from wildflowers.

But Allen, who runs a flower and vegetable nursery on his Pescadero property, is afraid his peaceable kingdom will be overrun by tourists dumping soiled baby diapers and cigarette butts if environmental groups and a county agency are successful in expanding an open space preserve adjacent to his property.

Allen and a small but vocal group of San Mateo County residents have gathered more than 5,000 signatures to place the Midpeninsula Regional Open Space District's planned expansion on the November ballot.

"I love my spot," said Allen, 54, perched in his chair overlooking the valley. "The Audubon Society, the Sierra Club and their ilk want to control all this. I think the people who own the land are doing a good job taking care of what God gave us."

In April, the San Mateo County Local Agency Formation Commission -- which approves annexations -- voted to give the district the green light for annexing about 220 square miles from Pacifica to the Santa Cruz County border.

The decision, if it is not overturned by voters or the courts, will give the district the ability to purchase land adjacent to its properties from willing sellers.

The future is uncertain for Allen's group. On July 8, San Mateo County Chief Elections Officer Warren Slocum concluded that the group collected 3,583 valid signatures -- 417 short of the 4,000 needed to place the matter on the November ballot. But Superior Court Judge Mark Forcum issued a temporary restraining order Tuesday that forces the county Elections Department to recount the petitions. Another court hearing is scheduled for next week.

Craig Britton, general manager of the Midpeninsula Regional Open Space District, said he disagrees with Allen's characterization of the district as a greedy Goliath and said at most the district will be able to buy 12,000 acres over the next 15 years.

Britton said the district has taken the opponents' concerns into consideration and amended its plans.

Under a compromise reached with the San Mateo County Farm Bureau, the annexation proposal doesn't give the district the right to take land from unwilling property owners. Also, the district has promised not to levy taxes on property owners in its new boundaries.

"We have no power of eminent domain, no regulatory powers, no land near (Allen's) property," Britton said. "This is no David versus Goliath story. If anything, it's pioneers against progress."

Allen and fellow south coast residents' distrust of the district has been building since 1997, when the district introduced the idea of expanding. An advisory vote was held in 1998, with voters supporting expansion of the district's boundaries by a 55 to 45 percent margin.

But critics of the open space preserve annexation proposal believe voters weren't fully informed of the implications of their decision. County officials told them they would have input in the process in ensuing years, but they feel they got lip service.

So they took their campaign to the Internet and rural roadsides with a "Got Vote" petition effort.

"We had two minutes before San Mateo County LAFCO, which was just enough time to state our name and address before they said, 'Time's up,' " Allen said, referring to the agency that approves annexations. "When you have three important points you want to raise, that's hardly enough time.

"Our only alternative was the protest process... gathering signatures," Allen said. "The Coastal Open Space Alliance, the Sierra Club have called us liars. They've said we're trying to steal coastal open space. I'm not surprised, but I am disappointed."

"The annexation gives them (land owners) democratic representation on our board," he said. "I see the whole process as enfranchising people on the coast, strengthening property rights -- not reducing them."

Britton said that without the ability to annex land for open space, the south coast is at grave risk of being developed.

"The area is threatened by urban sprawl," he said. "Why do you think the Board of Realtors came out against this? Look at the Silicon Valley. How many peach trees do you see in bloom? Anybody who thinks this area is not threatened by development has their head in the sand."

Critics fear that not only will the land be subject to litter and wear and tear from hikers, horseback riders, off-road cyclists and picnickers, but that the district won't maintain the land or keep it safe from fire danger or from being overrun by feral pigs.

Britton said the district is making strides toward being a better steward of the land it purchases. In addition to working with local farmers, it is helping to control the feral pig population and wild grasses, which can be a fire hazard.

"It takes time to build trust," Britton said. "I am confident that in time, naysayers of this project will come to trust us. We'll earn that trust through good works."

One convert is Jack Olsen, the San Mateo County Farm Bureau executive administrator. In January, the bureau's board, which was initially skeptical of the annexation proposal, voted unanimously to support it after the district promised in writing that it wouldn't use eminent domain powers.

"The feeling of the board was that the district put on the page that they would protect and foster agricultural production," Olsen said. "The board wants to give the district the opportunity to prove what they are saying is true. I'm an optimist. The farmers tend to be very supportive, but don't ever double-cross a farmer, because a farmer never forgets."

Nina Pellegrini, a Montara resident opposed to the annexation, said she will be satisfied once residents have another opportunity to vote on the matter.

"The last time we had a chance to vote on this, we didn't know anything," she said. "Most people, including me, voted for open space -- not realizing annexation was the next step. All we want is to bring this to a vote. Now that people have all the information in front of them, they can make an informed decision."

At the crux of the dispute is a deep-seated distrust that some coastside residents harbor toward people in more urban areas of the county.

"The people who support this are people from over the hill who have no stake in our town," said Allen, a member of the Pescadero Municipal Advisory Council. "I'm optimistic that we will prevail because I think a lot of people have woken up in the past five or six years. They're better informed."

While the district is forbidden from exercising eminent domain powers to annex land, Allen said he is fearful they may use another agency's ability to do so. "They'll use the State Parks power of eminent domain or some other group's. Their attorney will find some way around it," he said. And while the district doesn't own land abutting Allen's, he is concerned that trespassers will run roughshod over his and his neighbors' properties.

Environmental groups are equally resolute in their goals of preserving open space.

Zoe Kersteen-Tucker, spokeswoman for the Coastal Open Space Alliance, a group of environmental organizations lining up in support of the annexation, said expanding the district is the only way to keep pristine land out of the hands of developers.

"We view it as the best opportunity for providing long-term protections for open space and agricultural lands on the south coast," she said. "If we don't enact protections now, the pressure to develop will eventually gobble up piece by piece the remaining open space and farmland we prize on the south coast. The land can't protect itself."

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Page F - 1

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**SAN MATEO COUNTY**

# Open-space election petitions to be recounted

Judge's ruling  
delays district's  
plan to expand

By Ryan Kim  
CHRONICLE STAFF WRITER

A San Mateo County judge issued an order Tuesday that could jeopardize an open-space district's expansion plans, saying county officials were overzealous in invalidating hundreds of protest petitions seeking to put the matter to a vote.

Superior Court Judge Mark Forcum issued a temporary restraining order preventing a county commission from declaring as dead a bid to block the Midpeninsula Regional Open Space District's proposed annexation of 220 square miles of coastal land.

The San Mateo Local Agency Formation Commission had been poised to announce that too few registered voters in the annexation area had signed petitions to put the matter before voters in November.

Opponents of the open-space district's plans said county officials had invalidated too many petitions on technical grounds, leaving them below the required 25 percent threshold of voters in the proposed annexation area.

"These (voting) rights should not be ignored because of a narrow interpretation of the government code. I don't understand the logic of excluding potential voters rather than including them."

SUPERIOR COURT JUDGE MARK FORCUM

On Tuesday, Forcum agreed, ordering the county Elections Department to recount the petitions. The judge will hold another hearing July 22 to decide whether to issue a full restraining order and consider what other steps might be needed.

"These (voting) rights should not be ignored because of a narrow interpretation of the government code," Forcum said. "I don't understand the logic of excluding potential voters rather than including them."

Oscar Braun, a rancher who lives in the annexation area and who filed the request for a restraining order, was pleased by the decision and said he hopes it will ultimately lead to the issue making the November

ballot.

"I'm alarmed at how the county and the county employees running (the commission) are very quick to not allow coastal residents to vote on this annexation," Braun said.

Representatives of the open space district said they worked hard to involve the public in the annexation process.

"We were really looking forward to preserving open space and agricultural land, but we are confident that when the counting is finished, the results won't change," said Sue Schectman, attorney for the district.

The district's expansion plan calls for buying about 12,000 acres over the next 15 years from willing sellers and preserving the land for recreation or agricultural uses.

When finished, the district would be 61 percent bigger than it is now, stretching from Pacifica to Santa Cruz County and touching the bay and the Pacific Ocean.

The Local Agency Formation Commission voted unanimously April 7 to approve the district's proposal. Opponents, who felt the annexation was unnecessary and potentially damaging for landowners, began collecting protest petitions to place the issue on the November ballot.

They needed 4,071 valid protests in the proposed area. Last week, the Election Department found that of the 5,340 protest petitions submitted, only 3,583 were valid.

Most of the rest were invalidated because county officials concluded petitions were duplicated, had been changed by a third party, submitted by people who were not registered to vote or had signatures that didn't match election records.

Warren Slocum, chief elections officer for the county, said his department has done everything by the book.

"It's our responsibility to follow the code," Slocum said. "We're not there to look at the government code and make things up."

E-mail Ryan Kim at  
rkim@sfgchronicle.com

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Posted on Wed, Jul. 14, 2004

## Annexation put on hold

### JUDGE ORDERS REVIEW OF PROTEST PETITIONS IN DISPUTE OVER COASTAL LAND

By Kim Vo  
Mercury News

A judge on Tuesday temporarily blocked one of the region's largest land preservation districts from annexing the San Mateo County coast, citing concerns that officials discarded too many protest signatures from residents who want the issue placed on the November ballot.

The decision comes just before the Midpeninsula Regional Open Space District was to add 140,000 coastal acres to its territory. It sets up a showdown in court later this month that could ultimately put the issue on the ballot -- or scuttle the protest effort.

After a six-year campaign that included advisory votes, aggressive campaigning and legislative wooing, San Mateo County Superior Court Judge Mark Forcum ordered a hearing July 22 to consider the disputed protest petitions.

Forcum was troubled that county officials disqualified nearly 33 percent of the 5,340 protests submitted -- a "staggering number," he said -- and called for a more "inclusive" process that wouldn't disenfranchise voters. Several dismissed protest petitions had technical problems, such as listing post office boxes instead of home addresses.

"The right to vote is the most cherished right we have in this country," Forcum said while issuing his ruling. "We have people dying in foreign countries for this right."

Petitioners hope a judge ultimately orders that the annexation be placed on the November ballot, said attorney Peter W. Daniel.

### Move to annex land

A binding election would be an apt ending to the Midpeninsula saga. In 1998, coastsiders approved the annexation in a non-binding advisory election. That vote encouraged the district, which already oversees 230,000 acres in Silicon Valley -- had been eyeing the coastsides with its acres of farmland, redwood forests and open space. The move would allow Midpeninsula to manage recreational trails and purchase land to protect it from development.

However, annexation has been a divisive process since some coastsiders distrust the open space district. They worry that it would hamstring farmers, drain property taxes and could seize land from unwilling sellers. To win some support, open space officials sponsored a law to eliminate their own eminent domain powers on the coast.

The district finally won approval in April from the San Mateo County Local Agency Formation Commission, which oversees such matters and is commonly known as LAFCO. Under commission rules, those objecting to the annexation had two months to gather protest petitions from a quarter of the area's registered voters, or 4,000 people.

The opponents submitted more than 5,000 protest petitions, but too many were deemed irregular. Many people on the coast use post office boxes instead of a home address, a common practice in rural areas. So when several protest petitions were submitted with a post office box listed, organizers tried to be helpful by writing in the proper address, said Terry Gossett, a coastsider resident who testified Tuesday.

Election officials routinely disqualified such protest forms. The rules require that signers affix their own name and address, said David Tom, county elections manager. If someone else provided that basic information, it didn't count.

Tom said his office had little experience with LAFCO's protest process and relied on government and elections codes for guidance.

Judge Forcum ordered elections officials to try to verify whether the addresses were correct on many of the disputed petitions by comparing them against voter registration records. That information will be provided to the judge who hears

the case.

But even if those hundreds of petitions are validated, the protest movement still will fall short of the necessary 4,000 votes, argued deputy county counsel Carol L. Woodward, who was representing LAFCO.

### **Review granted**

The argument didn't sway the judge, who conceded that the coast still may ultimately be annexed but that a review was in order.

Zoe Kersteen-Tucker, spokeswoman for an alliance of environmental groups who support the annexation, said she was confident that if the matter ultimately went before voters, Midpeninsula would again prevail.

``The majority welcome the district," she said.

Oscar Braun, whose non-profit Half Moon Bay Coastside Foundation filed the lawsuit, predicted the coastsiders would turn against the annexation but says that was not the point.

``It has nothing to do with open space," he said. ``It's about: You have a right to vote."

Contact Kim Vo at [kvo@mercurynews.com](mailto:kvo@mercurynews.com) or (650) 688-7571.

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# San Mateo County Times

## **Court chooses to side with opponents of open-space district** **Judge blasts vote-counting process**

**By Amelia Hansen**  
**STAFF WRITER**

**Wednesday, July 14, 2004** - REDWOOD CITY – A judge on Tuesday followed what he believed to be the spirit of the law rather than the letter by supporting a group fighting an open-space district's plan to expand to the San Mateo County Coast.

Citing the "people's right to be heard," Superior Court Judge Mark Forcum issued a temporary restraining order, requested by the Half Moon Bay Coastside Foundation, halting the Midpeninsula Regional Open Space District's plan to expand its boundary to the Coast.

Following the San Mateo Local Agency Formation Commission's (LAFCO's) approval of the plan in April, unrelenting opponents of the program gathered over 5,340 protest signatures in hopes of bringing the controversial issue to a public vote.

But of those signatures, County elections officials and LAFCO deemed only 3,583 valid or "sufficient." Of the 1,757 signatures found "insufficient," or 34 percent, many were disqualified because of duplicate protests, voter information that had been changed, or nonmatching signatures.

According to those numbers, district opponents failed to get the 4,071 signatures needed to bring the matter to a vote.

But after several hours of testimony – and chiding LAFCO for "finding technicalities" to try to keep signatures from being excluded rather than included in the count – Forcum sided with the plaintiff, ruling in a swirl of political and philosophical rhetoric.

"As we all know, the right to vote is the most cherished thing in the democracy we live in," Forcum said, after announcing his intention to issue the temporary restraining order. "Men and women are overseas right now, dying to protect these rights."

The "staggering number of invalid votes troubles this court," Forcum continued. The fact that protests, for instance, had been invalidated because people had given their post-office-box numbers instead of the address found on their voter registration cards showed LAFCO had given a "narrow interpretation" of government code, according to Forcum.

The people had a right to be heard, he said.

Attorneys representing LAFCO and the open-space district could hardly contain their dissatisfaction as Forcum spoke.

Carol Woodward, deputy County counsel, maintained that LAFCO executive officer Martha Poyatos and County Elections Manager David Tom had done everything in their power to follow the law and be fair. Tom testified he had consulted elections and government code in making decisions about the signatures.

"It is our job to follow the law," Woodward said. "We didn't think we had any discretion at all."

As part of his decision, Forcum mandated that certain invalid signatures, including those with only post office box addresses and those with residential addresses written in by a third party, should be verified and counted.

Woodward pointed out that even if all those signatures – some 521 – were deemed sufficient, district opponents still would not have enough signatures to get a vote.

Forcum said that issue would be among those considered on July 22, when the court hears a motion to place a full restraining order on the protest process.

"In the end, perhaps this may be academic," Forcum said. "But this will give the plaintiffs an opportunity, through discovery, to see if there are other infirmities in this process. If there are not, there are not."

The open space district, known as "MROSD" or "Midpen," was formed in 1972 and is funded by a share of property tax revenues and other grants. It owns and maintains 48,000 acres of open space in Santa Clara and San Mateo counties.

Under its "Coastside Protection Program," the district would begin to purchase and manage an additional 18,000 acres of land over the next 15 years. The land would be purchased from "willing sellers" only.

Staff writer Amelia Hansen covers the Coast. She can be reached at (650) 348-4301 or by e-mail at [ahansen@sanmateocountytimes.com](mailto:ahansen@sanmateocountytimes.com).

# Open-space annexation foes win round in court

BY SARA GARDNER  
DAILY NEWS STAFF WRITER

Opponents of the expansion of an open space district to the San Mateo County Coast won a victory in court yesterday, where a judge found

major problems with the way protest petitions were counted. Superior Court Judge Mark For-

cum granted a temporary restraining order halting the annexation of 220 square miles to the Midpeninsula

petitions filed against the annexation on technicalities. Forcum said. Opponents needed 4,071 petitions to

put the issue on the November ballot, or 25 percent of registered voters in the affected area, but county offi-

cials disqualified 1,757 and found another 140 had been withdrawn by the protesters themselves, leaving only 3,583 qualified petitions.

Calling the number of disqualified See OPEN SPACE, page 51

## OPEN SPACE

fied petitions "staggering," Forcum said disqualifying ballots because they showed only a post office box as an address, or because a third party appeared to have added the correct address, risked disenfranchising voters.

"Those votes should have been counted," Forcum said. "What you have, unfortunately, is an election with problems. You have a process that is not fair."

### Point, counterpoint

David Tom, head of the county elections office, said that he had evaluated the protest petitions the same way he would a petition for a recall or a ballot measure. Opponents argue that a different law governs annexation protests and petitions should not be held to the stricter standards of the elections code.

The annexation was approved by the San Mateo County Local Agency Formation Commission in April, setting off a heated race to gather protest signatures on the coast among opponents before a June 11 deadline.

**'Those votes should have been counted. What you have, unfortunately, is an election with problems. You have a process that is not fair.'**

Judge Mark Forcum

The current lawsuit was filed by the Half Moon Bay Coastside Foundation July 2 after opponents learned that a court order extending the protest period had not been given to county elections officials, according to foundation member Oscar Braun. The complaint, which was first heard last week, was then amended to protest the methods used to count petitions.

### Short

Even with some of the disqualified petitions added back in, the count would still fall short of the number needed to force an election, argued attorney Carol Woodward, repre-

senting the county's Local Agency Formation Commission, which handles annexations.

Yesterday's ruling was described as "disappointing" by Zoe Kersteen-Tucker, leader of annexation advocates the Coastal Open Space Alliance.

### 'Disappointed'

"We're disappointed, especially on behalf of the vast majority of Coastside residents who support the Coastal Protection Program," Kersteen-Tucker said. "This was a very lively and spirited debate in our community and even with that (opponents) didn't have enough signatures."

FROM PAGE 1

The Los Altos-based Midpeninsula Regional Open Space District, which currently operates around 50,000 acres of open space preserves in San Mateo and Santa Clara counties, was invited to consider expanding to the coast by a group of local residents in 1997.

### Opposed

An advisory measure calling for the expansion passed in 1998 by a 10 percent majority but was solidly opposed in the southern part of the county where much of the current opposition is based.

District officials say they have conducted more than 40 public meetings on the Coastside over the past six years and consulted extensively with local residents in preparing the annexation.

The district hopes to acquire around 11,800 acres of open space in the annexed area over the next 15 years, but can buy only from willing sellers because it has eliminated its power of eminent domain.

# Judge blocks open space plan

BY JUSTIN NYBERG  
Staff Writer

REDWOOD CITY — A judge has halted the annexation of hundreds of square miles of San Mateo County coastline set to become part of an open space preserve after discovering significant "irregularities" in how county elections officials handled petitions collected by opponents of the plan.

Invoking soldiers dying overseas and the core tenets of democracy, Superior Court Presiding Judge Mark Forcum ruled Tuesday that the county elections division had improperly disqualified the petitions of hundreds of coastside voters who opposed Midpeninsula Regional Open Space District (MPROSD) plans to annex 220 square miles of scenic coastline and woodlands west of U.S. Highway 280.

Forcum issued a temporary restraining order blocking the annexation until a full judicial inquiry can be conducted.

"People's right to be heard, people's right to have their votes



LANELLE L. DURAN/SPECIAL TO THE EXAMINER

County elections officials were chided for disqualifying voters.

counted is fundamental to the way our county works," Forcum said. "These rights should not be ignored by a narrow interpretation of the government code."

On April 7, the county's Local Agency Formation Commission (LAFCo) approved the MPROSD's plans, but opponents had until July 14 to collect signatures from at least 25 percent of

voters in the proposed annexation area to force the issue onto the November ballot.

A total of 5,340 protest forms were collected, well more than the 4,071 necessary. However, 1,751 forms were invalidated for various reasons.

Chief Elections Officer Warren Slocum said his department had followed a strict interpretation of the government code in

disqualifying the petitions.

"It's our responsibility to follow the code. We're not here to make things up, so to speak," Slocum said.

Witnesses at Tuesday's hearing told of other irregularities, such as inconsistent rules about what would disqualify a protest form, misleading public notices about the petition drive and observers of the ballot counting who appeared to be writing down the names of local officials who had opposed the expansion.

Forcum said he was "troubled" by the argument submitted by LAFCo's lawyers that the annexation should proceed in spite of the irregularities. Forcum hinted that the agency which is supposed to be independent, seemed eager for the protest proceedings to fail.

LAFCo Executive Office Martha Poyatos said her agency had acted in accordance with county election law and dismissed any implications of partiality.

A hearing to consider a permanent injunction against the annexation proceedings will be held July 22.

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