

STATEMENT AND DOCUMENTS
FOR THE RECORD

ON BEHALF OF OSCAR BRAUN

JULY 27, 2004

AGENDA ITEM 13

SAN MATEO COUNTY BOARD OF
SUPERVISORS

Ted J. Hannig
Hannig Law Firm LLP
2991 El Camino Real
Redwood City, CA 94061

THE PROCESS

As you will recall, my efforts, up until this Board's reversal of the unanimous decision in favor of the Applicant, was to bring closure to the differences between Mr. Braun and the County. Indeed I unilaterally had our client submit additional fee payments where I thought they were due, yet those checks were returned by the County. That is probably among many firsts that Mr. Braun has experienced with the County.

In going completely against the unanimous planning commission, in ordering what I would describe (and I am uniquely qualified to describe it because I was the sole non-County person on the Braun property) as a Sheriff enforced caravan raid on the Brauns' residence, in interfering with the Brauns leasing and sale of their property and in submitting the packet that you have before you, the County has assured that this will not be a matter of closure but a matter transition. The transition, upon your approval, will be to the Federal Court, where we have filed an action against the County for violations of the Brauns rights under 1983. I hope and trust that you are familiar with the case and with the developments in that action, including the neutral evaluation.

The raid on the Brauns property, after I told them I would be the sole person present, was clearly about intimidation and, as the caravan of "Rural Crime Scene" sheriff's vehicles passed neighbors, also a form of attempted humiliation.

It is interesting to note the double standards. When those associated with Mr. Braun complain of violations on the Devil's Slide project, the County refuses to investigate further (as you will see from my packet). When it comes to Oscar Braun, after a unanimous Planning Commission hearing, he instead gets treated to raid. Or one can look to the ClaTrans process, again referring to my packet, and see there that the County accepts "close performance" to the LCP---that is unless you are Oscar Braun.

Interestingly you sought to force Mr. Braun to comply with an LCP that was adopted by the Coastal Commission. Need I remind you are Supreme Court has ruled the Coastal Commission was unconstitutionally composed at that time. How can one be forced to comply with an LCP certified by an unconstitutional body?

Sadly, what closure might have been accomplished through these exact terms of settlement over a year and a half ago, now leave the County with many millions of dollars of liability exposure. Why is the County acting in this manner? We believe firmly that it is the direct result of retaliation for free speech, intentional interference with our clients' equal protection rights and a political favor to one of the appellants who just last week again described herself to my associate as the 6th Member of the Board of Supervisors. That, of course, has no currency with the Court, and accordingly the Court refused Ms. Roberts efforts to allow her group to intervene in Mr. Braun's litigation with the County over the MROSD annexation.

Last week, when our local Federal Court issued the logical opinion that when county officials have animosity, acting to deny a constituent can give rise to personal, non-immune liability for equal protection violation. This make sense because how could one ever know what the true motives are behind the action. I received authorization from our client to speak with the County about it and about settlement, but given his prior treatment, only with County Counsel. Unfortunately, County Counsel has elected not to return that call. The call back was from Mr. Murphy, and as I explained, the only conversation would be with Mr. Casey. That conversation has never taken place.

THE SETTLEMENT AGREEMENT AND PROCESS

Mr. Braun remains, according to the County's official discovery response, the one and only person that the County has required to pay BOTH planning AND building permit fees in advance. This, along with other treatment in the process, has made Mr. Braun a "Class of One". It is that disparate treatment that is part of the basis of our 1983 action. But even within the settlement process and documentation, the County has sought to mis-treat and harm Mr. Braun.

The County sought to insist that its withdrawal of the documents that caused Mr. Braun grave financial harm would not be used against the County. Braun refused. Just because you end a fight by pulling the knife out does not mean you will not be held accountable for the stabbing and harm it caused in both directions.

Consider the moment we are in now. Mr. Braun has not received a single permit on this application----nothing has yet changed there --- all that has changed is that the County finally agreed to accept a small fraction of the total of fees that included unlawful penalties, yet the County, in its efforts to avoid a public trial, has withdrawn the notice of violation. Clearly there was no true threat to the County or the public that required recording of multiple clouds on the Braun title claiming violations unless, of course, the purpose was ulterior. Concurrent with the filing of this statement, I am including documents which we assert demonstrate the true ulterior motive.

What is wrong with today's hearing? Let's start with the packet prepared by the County that was not called for in the Settlement Agreement. All that was needed was a public discussion of approval of a settlement, not a de novo review. First, let me note that though the County knows very well of my involvement and appearances here, I did not receive a copy of the packet from the County either before or after it was distributed. I only learned of it through a copy my client received. The copy that I received did not contain a copy of the Settlement Agreement. Why not ---- is not the public entitled to know? I am placing a copy of the Settlement Agreement in the Record with my statement today so that the public will have access.

Returning to the rather absurd charade of today's hearing, in our view, there is no need for a de novo review at all and we vehemently object to the assertion that the matter is appealable to the California Coastal Commission and I reference you to my July 22, 2004 letter to the County in this regard. We are not alone in our view. When I saw the outrageous tactic of using the supposed settlement process to cause more harm to the Brauns, I made an ex parte application to the Court. The Court asked Deputy County Counsel to remove the Coastal Commission Appeal reference and the County refused. The Court then took recess, conducted its own research, found a case by Judge Shelton of San Mateo County Superior Court, as upheld by the Court of Appeal, and opined that the matter, having been forced into the Judicial Process, is now *not* part of the normal administrative process but is part of the separate judicial process.

In another clear demonstration of the irrational animosity the County feels towards Oscar Braun, Deputy County Counsel actually stated before the Court that while she had not read Judge Shelton's decision, she disagreed with it. I felt this was grossly disrespectful of Judge Shelton, the Court of Appeal, Judge Weiner and Mr. Braun. It is further in violation of the

Settlement Agreement, which calls out for the permits to be issued by the County; it does not call out for them to be subject to years of delay by a California Costal Commission review.

Due to Mr. Braun's concurrent participation in the Lafco/MROSD litigation, which is not independent of this subject at all, we were unable to force a further hearing with the County but we have instead elected to rely on making our record of protest here.

Indeed the County's tactics toward Braun there is highly relevant, as Judge Holm noted last week and as reported in several press accounts, that in the County's zeal to fight Mr. Braun and his foundation the County Counsel for the Elections Office, after informally assisting Mr. Braun's opponents at the Counsel table, sought to participate as an advocate against Mr. Braun and those seeking an election on the MROSD vote. *So intense is the County's focus on causing harm to all things Braun that the County, as the judge noted, lost sight of the independence and non-partisan obligation of the County Elections office.* Just as Ms. Robert's group efforts were rejected by the Court, so too was County Counsel's advocate participation on behalf of the Elections Office. The County's conduct, and the extremes you are willing to go to, is highly revealing, and clearly drew the attention and concern of the Court.

Let us not forget why Judge Holm is even involved in matters between Mr. Braun and the County. It is because Judge Forcum, for the first time in County history, issued a TRO against the County elections office for the manner in which they sought to eliminate from consideration the petitions collected by Mr. Braun and his supporters. The Court noted that we have young men and women risking their lives overseas to protect our right to vote, yet the County went out of its way to eliminate that very right in dealing with Mr. Braun and his supporters. Once again, the County lost sight of what was important as they were blinded by there ill will towards the Brauns.

There are even more problems with the packet. For example, it completely fails to mention a critical settlement term, the retention of jurisdiction by the Court of certain issues. By requiring Mr. Braun to agree to the new conditions in the packet, the County was, in our view, seeking to re-write the settlement and waive his right to the retention of jurisdiction by the Court. I understand the County is now stipulating that to the extent of any conflicts

between the materials submitted and the Settlement Agreement, the Settlement Agreement shall prevail.

For those of you still thinking about the appealability of a judicially supervised settlement agreement to the California Costal Commission, consider the implications when a court has retained jurisdiction. The County, like the Costal Commission at the time *it* was declared unconstitutional, needs to understand and respect the doctrine of separation of powers.

Nor do we agree that the packet contains a fair summary of the relevant events in this matter. For example, see if you can find in the timeline where the County representatives were subpoenaed to court by Mr. Braun years ago and asked by the Court to tell Mr. Braun the specific sum he owed; that he paid that sum and that subsequently, in the initial proceedings before this Board, the County denied receipt of such funds before I produced the receipt showing the funds have been paid. I would think a permit proceeding where several county officials are subpoenaed would be significant in this County's history yet all that is mentioned is Mr. Braun's agreement to pay a fine of \$276 for lateness. The County record recites that the Sheriff was not allowed passage through the Braun gate --- the reason being Mr. Braun was on an international conference call at the time; however what the County record does not reflect is that the Sheriff's office then proceeded to enter the property without permission or warrant and interrupted the business proceedings at hand. I could go on, but we would be here all day.

I would like to leave you with two other matters to consider. The first is the expressed animosity declared against Mr. Braun. As a typical example, Mr. Nevin derogatorily used the "A" word when I asked him about Mr. Braun at an official county function. This past July 20th, 2004 the 9th Circuit Court of Appeals --- the same jurisdiction where our 1983 action is pending--- has held in a 1983 action that use of animosity towards a person or entity by a public official under a pretext of enforcement constitutes a denial of equal protection in creating "a class of one". We assert the whole application process and response from the County has placed Mr. Braun in a "class of one" to the extent it has, as the courts have noted, affected the petition and voting process in the County.

As you can see, I have been painfully upfront with you. I have sought resolution and closure with you on fair terms on the front end of this matter,

much like I did with the City of Redwood City, and as you are probably aware, ultimately there unlawful conduct cost them millions of dollars.

I don't mind a fair fight, but that is not what you have given me or Mr. Braun. The courts have perceived much of that. The "Blame it on Braun" program has backfired, as it did in Court when the County sought to explain LAFCo's legal errors as caused by Mr. Braun's exercise of his constitutional rights.

What was not perceived by me before was that the Board not only had animosity toward Mr. Braun --- and expressed it in profanity violating the County's stated code of conduct ---- but had financial activity with one of the appellants while Mr. Braun's matter was pending. The filing we found in Supervisor Gordon's FPPC filing demonstrated he donated \$500 to an appellant who, in appealing a unanimous Planning Commission decision in favor of the Brauns, gave the County the opportunity to seek nearly \$50,000 in fees and penalties from the Brauns. I would not have thought to have had to ask then, expecting more of you, but given that filing we request that any supervisor having any financial activity with any appellant to disclose the same and recuse themselves from voting on matters involving Braun.

In summary, approval of the application, with an understanding the matters I have laid out, will transition this matter from this Board to the Courts. We will fight any appeal to the California Costal Commission as outside their jurisdiction and we shall seek indemnification from the County in having to do so; accordingly, I would encourage the County to encourage the appellants here to honor the Settlement Agreement and allow the permits to issue.

Thank You.

SETTLEMENT AGREEMENT

This Settlement Agreement is made as of the date finally set forth below with respect to an action filed in San Mateo County Superior Court, styled HALF MOON BAY COASTSIDE FOUNDATION aka SAVE OUR BAY, BERNIE NEVES, OSCAR BRAUN and ANDREA BRAUN vs. COUNTY OF SAN MATEO, and DOES 1 to 100, inclusive, Case No. CIV 426174, and with respect to a Cross-Action filed thereto (collectively, the "Action").

Petitioners/Plaintiffs OSCAR BRAUN, ANDREA BRAUN, BERNIE NEVES, and HALF MOON BAY COASTSIDE FOUNDATION aka SAVE OUR BAY (hereinafter referred to as "Plaintiffs"), and Respondent/Defendant COUNTY OF SAN MATEO (hereafter referred to collectively as "County" or "Defendant"), for and in consideration of the terms stated herein, hereby agree as follows:

1. Plaintiffs will pay the additional amount of \$12,000 to defendant County of San Mateo by July 1, 2004, in advance of a decision on the issuance of planning permits by the County. This will constitute full payment of all permit and investigation fees, for each and every permit which is the subject of this action, including planning permits, building permits and environmental health permits.
2. Once Plaintiffs pay the agreed-upon fees, within 40 days thereafter the County of San Mateo will make a decision on issuance of and grant planning permits for each and every permit which is the subject of this action.
3. After obtaining planning permits, Plaintiffs will then make separate applications for environmental health and building permits within 180 days.

4. In order to comply with Environmental Health requirements, Plaintiffs must show that Plaintiffs can comply with the requirements of the septic ordinance for the waste disposal system, and the well ordinance for the water source, both of which serve the affordable housing unit.

5. Plaintiffs do not waive Plaintiffs' right to argue that the well which serves the affordable housing unit is "grandfathered" under section 4.68.220 of the well ordinance because it was in existence on April 14, 1987.

6. As Plaintiffs do not concede that the well ordinance applies nor concede that a permit is even necessary, the Court will retain jurisdiction to determine the dispute over this "well" issue, in case the County of San Mateo concludes that Plaintiffs have not shown compliance with the well ordinance requirements.

7. All pending notices of violation or of nuisance filed by the County of San Mateo against Plaintiffs and the subject property will be expunged upon Plaintiffs' payment in full under Paragraph 1.

8. There is no release of any claims presently pending in the federal action between the parties, entitled Oscar Braun v. San Mateo County, U.S.D.C. Northern District of California, No. C-03-3415 MJJ, which is a civil rights action under 42 U.S.C. Section 1983 ("1983 Action"). Adjudication of the federal claims shall proceed without prejudice.

9. The County of San Mateo's agreement to these terms was approved by the Board of Supervisors on June 29, 2004.

10. Except for the obligations imposed by this Agreement and the limitations on this release as set forth in paragraph 8 above, Plaintiffs and Defendants mutually release and discharge the other party, and their successors and assigns, from all claims, rights, demands,



actions, obligations, and causes of action of whatever kind or nature in law, equity or otherwise, arising out of conduct or omissions, known or unknown, on or before the date of this Agreement that are the subject of the Action. This release, when effective, is a final and full release applying to all unknown and unanticipated claims as well as those known and anticipated arising out of the Action, including claims for costs and attorney's fees; however, as recited in paragraph 8 above, this Settlement Agreement and this release do not in any way limit or restrict the arguments Plaintiffs may pursue or the damages Plaintiffs may claim in the 1983 Action.

11. Plaintiffs and Defendant are on notice of and hereby specifically and expressly waive the provisions of California Civil Code Section 1542, which provides as follows:

"A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

12. The undersigned acknowledge that in executing this agreement they are relying solely upon the legal advice of the attorneys hereinafter named, who are the attorneys of their own choice, and further state that they have not relied on statements of any attorneys or other persons acting on behalf of the parties herein released.

13. The undersigned hereby agree to dismiss with prejudice the Action (including the Cross-Action therein) and authorize and instruct their attorneys to execute and file with the proper court, a dismissal with prejudice thereof, with each party to bear its own attorneys' fees and costs arising out of or connected with the Action.

14. This agreement is not for the benefit of any person or entity not a party to it. This agreement is not intended to constitute a third-party beneficiary contract. The only parties

released by this agreement are the named parties in the Action (and not any parties named solely by fictitious names), and the successors and assigns of the named parties.

IN WITNESS WHEREOF the undersigned hereby execute this AGREEMENT on:

July 2, 2004, at Redwood City, California.

Oscar Braun

Oscar Braun, individually and on behalf of
HALF MOON BAY COASTSIDE FOUNDATION

Andrea Braun

Andrea Braun

Bernie Neves

Bernie Neves

COUNTY OF SAN MATEO

Thomas F. Casey III

Thomas F. Casey III
County Counsel, County of San Mateo

APPROVED AS TO FORM:

William R. Warhurst

William R. Warhurst
Hannig Law Firm LLP
Attorneys for Plaintiffs

Miruni Soosaipillai

Miruni Soosaipillai
Deputy County Counsel, County of San Mateo
Attorneys for Defendant

Ted J. Hannig, JD, MBA
Managing Partner

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William R. Warhurst*

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Teresa E. Cichucki**
Peter W. Daniel
David M. Woolfe

*Admitted in Nevada & California
**Admitted in Connecticut Only

July 22, 2004

VIA FACSIMILE

Miruni Soosaipillai
Deputy County Counsel
County of San Mateo
Hall of Justice and Records, 6th Floor
400 County Center
Redwood City, CA 94063-1662

*Re: Half Moon Bay Coastside Foundation, et al. v. County of San Mateo
San Mateo County Superior Court Case No. 426174*

Dear Ms. Soosaipillai:

With respect to your letter, while I appreciate your conciliatory tone, I must admit your inquiry of what is wrong with the County's settlement behavior is a bit like asking Mrs. Lincoln what was wrong with the show.

There is no "band-aid" fix to what the County has done. I believe the settlement process the County used was a fraud upon the Court and the parties.

This will be third time (the second under direct judicial supervision) where the County has abused the process.

At no time did our clients, or, I am sure, the Judge, understand or believe that the Final Settlement subject to Board approval would instead be a "de novo" full review and vote, with the County expressly announcing that the matter may then be taken up with the California Coastal Commission. We suspect that this is a pre-destined arrangement that allowed the County to extract thousands of dollars from our client yet leave him without a decision on permits for many, many years.

As you know it is our contention that Ms. Roberts is involved in seeking to cause Mr. Braun problems. Yesterday, at an unlawfully noticed ex parte motion where Ms. Roberts' group sought to intervene (unsuccessfully) in the matter where Mr. Braun obtained a restraining order



«ContactFirstName» «ContactMiddleName» «ContactSurname»

July 22, 2004

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against the County and where Judge Forcum previously reprimanded the County, she introduced herself to an associate in our firm as the “unofficial sixth member of the Board of Supervisors.”

We fully believe it is the County’s expectation that Ms. Roberts will now use the California Coastal Commission to, once again leave the Braun’s without permits. This is very similar to the case that drew Judge Shelton’s wrath. If it was the County’s position that the California Coastal Commission could review the judicial settlement the County should not have agreed to issue the permits solely on the condition of the Board approval.

Not only is the “de novo” submission of the Braun matter repugnant to the Settlement Agreement providing permits would (not might) issue, but the content of the repudiation itself is separately inaccurate and in many respects untruthful and offensive.

Staff analysis and recommendation contain terms, conditions and content outside the settlement and inaccurately seek to portray past history (as a small example, of the County chronology fails to disclose the two past settlements, particularly the court supervised settlement and payment of the fees demanded by the County.)

As you may know, I have been involved in other matters and therefore have requested the dictation be sent without my review.

Very truly yours,

Hannig Law Firm llp

Dictated but not read

Ted J. Hannig

cc: Hon. Judge Weiner
Clients

SAVE OUR BAY FOUNDATION



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

Protecting California's Future

December 26, 2001

To: Honorable SMC Board of Supervisors
From: Oscar & Andrea Braun
Subject: Stable/Affordable Housing Appeal of PLN-1999-00079

The purpose of this letter is to respectfully request that the Board of Supervisors uphold the SMC Planning Commission's legalization of our horse stable and affordable housing without conditions or mitigation measures. We request that the Board also take into consideration the following track record of the appellants during their review.

On December 6, 1995, Lenny Roberts told the San Mateo County Board of Supervisors that they are "partners" with the Committee for Green Foothill and Sierra Club for implementing the 1994 Coastside Protection Initiative. Ms. Roberts directed the Board of Supervisors to instruct the Planning Commission to begin the legislative process contained in their 1994 initiative. The Board was further instructed that the Planning Commission focus **only** on the specific amendments contained in their initiative and not broaden the proposal beyond that. These specific amendments included: Reduction of government expenditures; reduction of costs to San Mateo County taxpayers for roads, law enforcement, fire protection, and other government services for scattered and remote development (aka Rural Lands). The initiative defined perceived "Development Treats" and claimed that pressure for extensive development on the Coastside was severe, especially with proposed construction of increased water supplies, additional sewage treatment facilities, and larger highways.

The official public record shows what accomplishments the 1994 Coastside Protection Partnership has brought to the voters of San Mateo County and the quality of life on the Coastside.

- In 1999 & 2000 San Mateo County was found to be the most polluted county in the Bay Area...from sewage discharge and stormwater runoff by the Natural Resource Defense Council.
- All roads in the San Mateo County coastal zone are sub-standard and the CGF/Sierra Club Tunnel boondoggle has successfully failed the EIR process for the third time. The Tunnel Task Force greatest achievement has been Devil's Slide Hwy 1 improvement delay and loss of Federal funding.
- The San Mateo County Wildlands/Urban Interface (WUI) now has the highest risk level in history for a catastrophic WUI wildfire threatening the Bay Area's regional water system. The CCWD currently cannot deliver enough water or head pressure in the event of a WUI fire in approximately 40% of the Coastside.
- Effectively blocked PMAC supported flood control implementation measures to protect CDF Fire/Rescue/Emergency access to Pescadero



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

Protecting California's Future

from the West continues to be delayed . Endless CCC appeals resulting in: No Boys & Girls Club, no middle schools, no nun convents, no expanded health care clinic services, no affordable housing for our community employees, even less substandard sheriff and fire protection throughout the Rural Lands.

- San Mateo County has allowed, without benefit of USFWS or State Fish & Game site plan or EIR review, at least four prohibited and detrimental commercial/industrial classified operations that violate the Clean Water Act and the Endangered Species Act. The prohibited and detrimental commercial/industrial operations are Shamrock Ranch, Wildlife Associates, Half Moon Bay Sealing & Paving and Johnston Ranch unlicensed landfill. The County of San Mateo Planning Commission has reclassified prohibited uses and found, based on the advice of the Planning Administrator and lobbying by the Committee for Green Foothills Lenny Roberts, that these four commercial/industrial operators activities conducted in statutory delineated critical environmentally sensitive habitats qualify as non-residential uses accessory to agriculture and permitted by right in the Planned Agricultural District on either prime or non-prime soils. By allowing these four reclassified prohibited and detrimental commercial/industrial facilities uses to operate without benefit of EIR review or permits, the County of San Mateo violates both CEQA/ NEPA environmental review statutes. Clean Water Act or Endangered Species violations disqualifies the County from receiving State or Federal permit approval (ROD) and funding.

In closing, as stated on the record before the Planning Commission: Applicants do not concur with the Mitigation Measures for Case #PLN 1999-0079, a project to legalize Moon Acres agricultural structures. San Mateo County Environmental Services Agency, at the direction of Lenny Roberts, has conducted a four year campaign of unlawful punitive retaliation against the Braun family in response to their "lawful whistle blowing" complaints brought by the Half Moon Bay Coastsides Foundation's Watershed Posse against the County. Environmental Services has coerced and unlawfully compelled the Brauns to sign the mitigation agreement document. The Brauns have suffered significant financial damages from the actions of the San Mateo County Environmental Services Agency and are not precluded from now giving their notice of intent (NOI) to file a criminal complaint with the U.S. Attorney for violations under the U.S. anti-racketeering and environmental protection statutes.

In our opinion, as long as the San Mateo County Board of Supervisor's supports the agenda and purpose of the Anti-Community Alliance's (Committee for Green Foothills, Sierra Club, Peninsula Open Space Trust, Mid-Peninsula Open Space District) 1994 Coastsides Protection Initiative, the quality of life, health and safety of all communities in San Mateo County will continue to be at risk.



Please reply to: Miroo Brewer
(650) 363-1853

January 16, 2002

**ENVIRONMENTAL
SERVICES
AGENCY**

Agricultural
Commissioner/ Sealer of
Weights & Measures

Lennie Roberts
Committee for Green Foothills
339 La Cuesta Drive
Portola Valley, CA 94028

Cynthia Giovannoni
1780 Higgins Canyon Road
Half Moon Bay, CA 94019

Animal Control

Subject: County File Number PLN1999-00079
Location: 1589 Higgins Canyon Road, Half Moon Bay

Cooperative Extension

Dear Ms. Roberts and Ms. Giovannoni:

Fire Protection

On January 15, 2002, the San Mateo County Board of Supervisors considered your appeal of the Planning Commission's decision to approve a Coastal Development Permit, a Resource Management-Coastal Zone Permit and a Stable Permit, pursuant to Sections 6328.4, 6903, and 7700 of the San Mateo Zoning Regulations, to allow legalization of a 3-horse stable, tractor shed, agricultural barn, replacement of one 8,000-gallon water tank with two 5,000-gallon water tanks, and a mobile home as an affordable housing unit. The project is located at 1589 Higgins Canyon Road in the unincorporated Half Moon Bay area of the County.

LAFCo

Library

The Board of Supervisors continued this matter for ninety (90) days to:

Parks & Recreation

1. Have the applicant pay all fees due for planning, building and environmental health permits and approvals, including all applicable investigation fees and penalties due for construction without permits.

Planning & Building

PLANNING AND BUILDING

455 County Center, 2nd Floor • Redwood City, CA 94063 • Phone (650) 363-4161 • FAX (650) 363-4849

CSM 00104

Lennie Roberts & Cynthia Giovannoni

January 15, 2002

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2. Have staff record a notice of violation, to be released only when all required permits are finalized.
3. Have Environmental Health investigate and clarify sewage disposal and water supply issues and their proposed solution.
4. Have Planning and Building verify that the main house complies with approved plans and determine the appropriate remedy if it does not.

If you have questions regarding this matter, please contact the Project Planner shown above.

Sincerely,



Virginia Diehl
Administrative Services Manager

cc: Pete Bentley, Public Works
Stan Low, Environmental Health
Bill Cameron, Building Department
Planning Director, City of Half Moon Bay
Sarah Borchelt, Coastal Commission
Half Moon Bay Fire District
Cabrillo Unified School District
San Mateo County Assessor
Oscar Braun, Applicant
Jack Olsen, San Mateo County Farm Bureau
Interested Parties

CSM 00105

Schedule E Payments Made

Type or print in ink.
Amounts may be rounded
to whole dollars.

SEE INSTRUCTIONS ON REVERSE
NAME OF FILER

Richard S. Gordon - GORDON 2002

Statement covers period
from 7/1/02
through 12/31/02

CALIFORNIA
FORM 460
SCHEDULE

Page 9 of 15
I.D. NUMBER 1235711

CODES: If one of the following codes accurately describes the payment, you may enter the code. Otherwise, describe the payment.

- CAP campaign paraphernalia/misc.
- CNS campaign consultants
- CTB contribution (explain nonmonetary)*
- CVC civic donations
- FL candidate filing/ballot fees
- FND fundraising events
- IND independent expenditure supporting/opposing others (explain)*
- LEG legal defense
- LIT campaign literature and mailings
- MER member communications
- MTG meetings and appearances
- OFC office expenses
- PET petition circulating
- PHO phone banks
- POL polling and survey research
- POS postage, delivery and messenger services
- PRO professional services (legal, accounting)
- PRT print ads
- RAD radio airtime and production costs
- RFD returned contributions
- SAL campaign workers' salaries
- TEL T.V. or cable airtime and production costs
- TPC candidate travel, lodging, and meals
- TRS staff/spouse travel, lodging, and meals
- TSF transfer between committees of the same candidate/sponsor
- VOT voter registration
- WEB information technology costs (internet, e-mail)

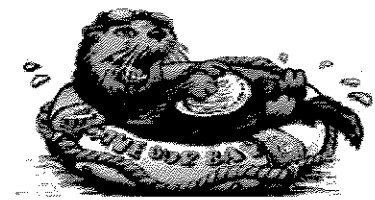
NAME AND ADDRESS OF PAYEE (IF COMMITTEE, ALSO ENTER I.D. NUMBER)	CODE OR	DESCRIPTION OF PAYMENT	AMOUNT PAID
San Mateo Labor Council Committee on Political Education 1153 Chess Drive, Suite 200 Foster City, CA 94404	PRT	Program Ad	\$ 125
San Mateo Labor Council Committee on Political Education 1153 Chess Drive, Suite 200 Foster City, CA 94404	CTB		\$ 125
Green Foothills Foundation 3921 East Bayshore Palo Alto, CA 94303	CVC		\$ 500
SUBTOTAL \$			750

Schedule E Summary

- Payments made this period of \$100 or more. (Include all Schedule E subtotals.) \$ 2,600
- Unitemized payments made this period of under \$100 \$ 485
- Total interest paid this period on loans. (Enter amount from Schedule B, Part 1, Column (e).) \$ 28
- Total payments made this period. (Add Lines 1, 2, and 3. Enter here and on the Summary Page, Column A, Line 6.) **TOTAL \$ 3,085**

Half Moon Bay Coastside Foundation

NOAA's Water Quality Protection Program



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

Transmitted Via Email & U.S. Postal Service
Published at www.saveourbay.org in 9/11 Dispatch
March 5, 2002

Sarah Wan, Chair, and Members
California Coastal Commission
C/O Peter Douglas, Executive Director
45 Fremont Street, Suite 2000
San Francisco, CA 94105

Dear Ms. Wan and Members:

Subject : Final Notice of Violation of the San Mateo County Local Coastal Program, California Coastal Act , U.S. Endangered Species Act and the CEQA/NEPA .

- On August 1st, 10th and August 25, 2000, the Foundation requested via letters (enclosed) that the Board of Supervisors place the Devil's Slide Highway 1 Improvement Project alternatives on the ballot as required by Measure-T; "It's now time for the electorate to make their final decision on the NEPA/CEQA/CCC approved Martine Creek Alignment." On August 8th, by enclosed letter, Supervisors Richard Gordon responded for the County of San Mateo and as Chair of the Sierra Club Tunnel Task Force .
- On August 24, 2000 , the Half Moon Bay Coastside Foundation aka Save Our Bay appealed by letter (see enclosed) to the San Mateo County Board of Supervisors to deny the Coastal Development Permit granted to Caltrans for the construction of a Tunnel mitigation pond for transfer of endangered species red-legged frogs granted by the San Mateo County Planning Commission. The Board of Supervisors denied our appeal without cause.
- On September 26, this Foundation via letter (enclosed) requested that Mark Delaplaine, the Federal Consistency Supervisor for the California Coastal Commission include the Foundation's provided Bosa Chica Ruling citation on Project Alternatives, Section 30240 & 30007.5 and Standard of Review for the Coastal Commission. Our CCC written request was courtesy copied to the San Mateo County Board of Supervisors and San Mateo County Planning Commission. Please note that the two primary Petitioners and Real Parties in Interest Bolsa Chica Land Trust were the Sierra Club and Surfrider Foundation. On April 16, 1999 the Fourth Appellate District Court filed their ruling: "We find the trial court erred with respect to relocation of the bird habitat. The Coastal Act does not permit destruction of an environmentally sensitive habitat area (ESHA) simply because the destruction is mitigated offsite. At the very least, there must be some showing the destruction is needed to serve some other environmental or economic interest recognized by the act." Find enclosed entire Bosa Chica ruling provided the Coastal Commission.
- On November 30, 2000, via enclosed letter, this Foundation notified Sara Wan, Chair, and Members of the California Commission re: **Subject** : Notice of Violation of the San Mateo County Local Coastal Program, California Coastal Act , U.S. Endangered Species Act and the CEQA/NEPA . The Coastal Commission refused to acknowledge or investigate our November 30, 2000 NOV . Enclosed please find a letter from the U.S. Fish and Wildlife Service to Caltrans

Half Moon Bay

Coastside Foundation

NOAA's Water Quality Protection Program



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

Mr. Sid Shadle received by the California Coastal Commission on October 5, 2000 re: Subject: Pond Construction, Devil's Slide Highway 1 Project Site, Pacifica, San Mateo County, California. The document speaks for itself and the CCC had full disclosure as to the scope of the permit issued by the Service. Enclosed please find a memo of acknowledgement to USFWS Ken Sanchez dated November 28, 2000 informing this Foundation that he will not allow an investigation of the Caltrans Section 9 "take" violation report by us on 11/24/00.

- January 8, 2001, via letters enclosed, Marcia Raines, Director of Environmental Services informed Save Our Bay Environmental Director John Plock that "Our earlier investigation found no evidence to support your allegations and your most recent letter does not change that situation. We consider the matter closed and see no basis for taking the extraordinary step of scheduling a hearing before the Planning Commission on an alleged violation for which there is no corroborating evidence." Enclosed please find the corroborating evidence Save Our Bay was provided by Caltrans Office of Environmental Planning, South "Biological Survey Report For The Devil's Slide Tunnel Bridge Geotechnical Investigation Program" dated November 20, 2001. On page 42 under Wildlife Species Of Concern, Caltrans states in part : "*The boring sites are within the footprint of the project site for the Devil's Slide Tunnel Bypass Project. As stated previously, a Biological Assessment was prepared in 1999 that included protective measures in regard to the California re-legged frog. A Biological Opinion was issued by the U.S. Fish and Wildlife Service (Opinion letter received by CCC on October 5, 2000) that concluded that the tunnel bypass, including the proposed conservation measures, is not likely to jeopardize the continued existence of the red-legged frog or destroy or adversely modify proposed critical habitat (USFWS, September 26, 2000). Due to the potential effect of the tunnel bypass, one of the conservation measures called for all of the California re-legged frogs to be removed from the pond and paced in a new pond located in a former horse pasture outside of the footprint of the project. The removal of the frogs from the north pond to the new pond has now been achieved, and a barrier fence has been installed around the north pond. This barrier fence will prevent any California red-legged frogs from getting out of the north pond. Since the frog population has been removed from the north pond, it is expected that the Geotechnical Investigation Program will have no effect on foraging or extivating frogs in the pond area. However, California red-legged frogs are present in the area and their natural instincts to seek out the ranch ponds could result in red-legged frogs wandering into the vicinity of Boring Sites 6, 7, 8, and 9. The barrier fence at the north pond is equipped with one-way funnel openings that allow wandering frogs to enter the pond enclosure but prevent them from leaving the enclosures.*"
- Enclosed please find San Mateo County Counsel letter dated January 25, 2001 to Harry Yahata, District Director Caltrans District 4, Re: Devil's Slide Tunnel Project. The opening paragraph states in part: "You have requested that the County clarify statements made in a letter dated May 11, 1999, from Paul M. Koenig, San Mateo County Director of Environmental Services, to Robert Gross and Ed Pang of your office. The letter offered comments regarding the Second Supplemental Impact Report. Your specific request is that the County further explain the statement made at page four of the letter that off-site mitigation of wetland impact is not allowed under the Coastal Act, and that, as a result, the County could not find that the proposed tunnel design complies with the County's Local Coastal Program. After further review of this matter, we have concluded the this statement was made in error. Our view is that a coastal development permit for a tunnel at Devil's Slide could be approved as consistent with the Country's Local Coastal Program notwithstanding some impacts to wetlands." San Mateo County and the

Half Moon Bay Coastside Foundation

NOAA's Water Quality Protection Program



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

Petitioners and Real Parties in Interest Bolsa Chica Land Trust Sierra Club and Surfrider Foundation have declared themselves exempt from any ESHA Appellate Court rulings regarding their Devil's Slide Hwy 1 Improvement Tunnel alternative. County Counsel asserts that Director Paul Koenig erred with respect to the April 16, 1999 Fourth Appellate District Court Bosa Chica Land Trust ruling: "We find the trial court with respect to relocation of the bird habitat. The Coastal Act does not permit destruction of an environmentally sensitive habitat area (ESHA) simply because the destruction is mitigated offsite. At the very least, there must be some showing the destruction is needed to serve some other environmental or economic interest recognized by the act." County Counsel Michael Murphy clarifies for Caltrans that not only did Director Paul Koenig misquote the Court's Bosa Chica ruling, so did the Coastal Commission's Jack Liebster. The Caltrans November 2000 USFWS unauthorized "take" was in fact proposed, authorized and concealed by the County of San Mateo and the California Coastal Commission. Why? Because the Sierra Club Tunnel Task Force and Committee For Green Foothills Lenny Roberts concocted the entire "ESHA Tunnels Mitigation Scheme". The County of San Mateo, at the direction of the Sierra Club Tunnel Task Force, required Caltrans to implement their ESHA mitigation scheme while knowingly violating the U.S. District Courts injunction against any construction activities regarding the 1986 Devil's Slide Highway 1 Improvement Project.

The Half Moon Bay Coastside Foundations asserts that the Sierra Club, Surfrider Foundation, Committee for Green Foothills, County of San Mateo and the California Coastal Commission have conspired to prohibit all legal and approved coastal zone community growth by limiting road access as well as the water and sewer systems. The Coastal Commission has illegally delayed and blocked voter approved development of our schools, Boys & Girls Clubs, housing, water and sewage systems in the San Mateo Coastal Zone. The California Superior Court last year ruled that the California Coastal Commission violates the states' separation of powers as embodied in our California Constitution. The Half Moon Bay Coastside Foundation demands that the California Coastal Commission immediately exempt "ALL" locally approved development projects in the San Mateo County Coastal Zone that provide mitigation schemes for their proposed statutory delineated coastal ESHA development. The Half Moon Bay Coastside Foundation asserts that "ALL" Californians receive equal treatment under the Coastal Act. We demand a public hearing regarding this Final Notice of Violations of the San Mateo County Local Coastal Program, California Coastal Act, U.S. Endangered Species Act and the CEQA/NEPA review process.

Sincerely,

Oscar Braun, Executive Director

CC.

Harry Yahata, District Director Caltrans

Norman Y. Mineta, U.S. Secretary of Transportation

Rubin Borrables, Deputy Assistant to the President of the United States

Maiser Khaled, FHWA Team Leader, 1986 Devil's Slide Highway 1 Improvement Project

Ken Sanchez, U.S. Fish & Wildlife Service, Devil's Slide Hwy 1 Project

Judge D. Lowell Jensen, U.S. District Court

Judge Charles Kobayashi, California Superior Court

Ronald Zumbrun, Esquire, Pacific Legal Foundation

Jerry Hill, President, San Mateo County Board of Supervisors

MEMORANDUM

COUNTY OF SAN MATEO
ENVIRONMENTAL SERVICES AGENCY
PLANNING AND BUILDING DIVISION

DATE: March 21, 2002
TO: Planning Commission
FROM: Michael Schaller, Project Planner
SUBJECT: Revised plans from CalTrans

Subsequent to the publication of the March 27, 2002 Planning Commission Staff Report for the Devil's Slide Geotechnical Report, the applicant submitted a revised project description with accompanying plans. This revised information arrived too late to be incorporated into the project packet. Therefore staff has prepared a supplemental memo to inform the reader of the changes between the project as proposed and described in the February 27, 2002 report and the current proposal to be considered by the Planning Commission on March 27. In the table below, each proposed drilling location is listed, with the originally proposed activity, and the proposed change if any in the revised application.

Devil's Slide Bypass Geotechnical Investigation Sites

Site Number	Originally Proposed Activity	Revised Activity	Landscape Position	Comments/Mitigation
01-1	Inclined Bore (55 m) (within wetland buffer zone)	Eliminated		Replaced by multidirectional bore at location 3B
01-2	Vertical Bore (60 m) (within riparian buffer zone)	Moved to location outside of buffer zone	Steep slope above ravine; rocky outcrops	Helicopter access in conjunction with 01-3; will require platform structure
01-3A, B, C	Vertical Bore (60 m)	Multidirectional bore (80 m and 90 m)	Steep slope adjacent to trail	Nearby special-status seabird roosts; helicopter access in conjunction with 01-2; will require platform structure; No night-time lighting or operation of drill rigs in the South Portal vicinity; Helicopter operations must occur outside of the peregrine falcon nesting season (January through July).
01-4	Not included as part of original proposal			

Site Number	Originally Proposed Activity	Revised Activity	Landscape Position	Comments/Mitigation
CTB-5	Vertical Bore	No change		
CTB-6	Vertical Bore	No change		
CTB-7	Vertical Bore	No change		
CTB-8	Vertical Bore	No change		
CTB-9	Vertical Bore	No change		
CTB-10	Vertical Bore	No change		
CTB-11	Vertical Bore	No change		



As shown in the table. Certain drilling locations were either eliminated or moved to locations outside of riparian and wetland buffer zones. This was done to bring the project as much as possible into compliance with the County's LCP. The applicant redesigned the project after consultation with the County and the Coastal Commission regarding the applicability of Measure T and its provisions.

Staff's recommendation contained in the accompanying staff report stands. There will be no development occurring in riparian or wetland habitats and all impacts to required buffer zones have been avoided, minimized and mitigated as much as possible as discussed under Policy 7.33 of the report. Staff recommends approval of this Coastal Development Permit as conditioned.

1 equally available to plaintiff. Therefore, defendant exercises its option under CCP §2030(f). The
2 documents which would provide the response to this interrogatory include, but are not limited to, the files
3 concerning the property, kept by the County Planning & Building Division and the County
4 Environmental Health Services Division.

5 **Special Interrogatory No. 29:**

6 State every instance during the last 20 years where the County of San Mateo has refused to issue
7 a CONDITIONAL LAND USE PERMIT until anticipated building permit fees were first paid. A
8 CONDITIONAL LAND USE PERMIT refers to the present approval of a LAND USE PERMIT on the
9 condition that one or more conditions be satisfied by the applicant, such as obtaining a building permit or
10 satisfying a requirement of the San Mateo County Environmental Health Services Agency.

11 **Response to Special Interrogatory No. 29:**

12 Defendant objects to this interrogatory on the grounds that it is overbroad and unduly
13 burdensome. It is impossible for defendant to respond to this interrogatory, due to the fact that
14 defendant maintains its records by project, and does not have the capability to search for the requested
15 criteria. The information in the Planning Division's computer database can be searched only by project
16 file number, or by the name of the applicant or owner.

17 Subject to and without waiving its objection, defendant responds as follows. To the best of
18 defendant's knowledge, based on information provided by the Planning Administrator who has worked
19 for the Planning Division for over 15 years, neither the Planning Commission nor the Board of
20 Supervisors had previously required that Building Permit fees be paid prior to issuance of a Planning
21 Permit.

22 **Special Interrogatory No. 30:**

23 State every instance during the last 20 years where the County of San Mateo has refused to issue
24 a CONDITIONAL LAND USE PERMIT, because all environmental health issues had not yet been met.

25 **Response to Special Interrogatory No. 30:**

26 Defendant objects to this interrogatory on the grounds that it is overbroad and unduly
27 burdensome. It is impossible for defendant to respond to this interrogatory, due to the fact that
28 defendant maintains its records by project, and does not have the capability to search for the requested

HOMETOWN

Judge blocks open-space annexation

Forcum chides LAFCo, elections division for disqualifying voters

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 coastline voters who opposed Midpeninsula Regional Open Space District plans to annex 220 square miles of scenic coastline and woodlands west of Interstate 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 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

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.

"Obviously there needs to be a change in the way LAFCo goes about respecting the will of the voters in this county," Forcum said. LAFCo Executive Officer Martha Poyatos said her agency had acted in accordance with county election law and dismissed any implications of partiality.

"I'm not in any way trying to avoid an election or change the direction" of the proceedings, Poyatos said. A hearing to consider a permanent injunction against the annexation proceedings will be held July 22. Supporters of the expansion of the MPROSD in San Mateo County say it will allow for the eventual protection and management of thousands of private acres of county open space.

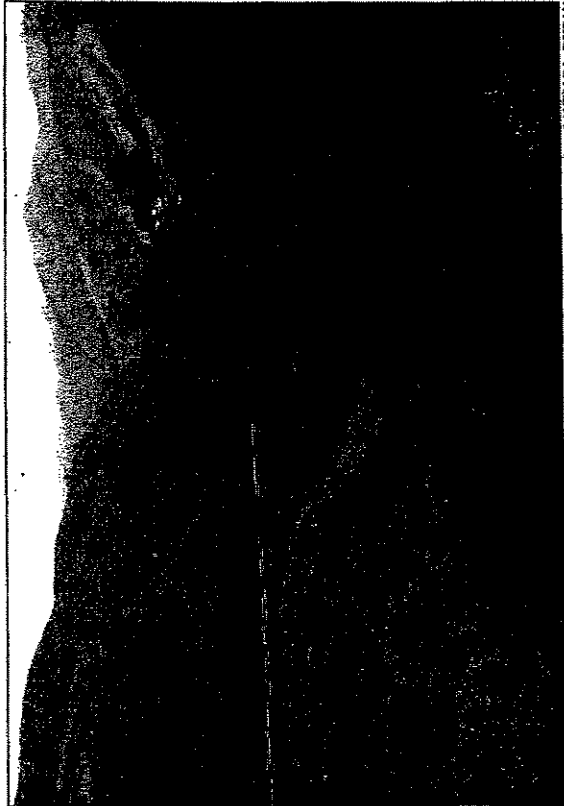
It would allow the district to levy taxes and buy properties from landowners, converting them to 11,800 acres of open space preserves over the next 15 years. Opponents of the plan fear a loss of local control over the lands and another level of bureaucracy overseeing the area.

Though the district is supported by property taxes collected within its boundaries, no taxes would be collected in the annexed area without a two-thirds popular vote. However, opponents of the project pointed out that private lands acquired by the district would become public and therefore no longer be taxable, depriving local school districts of property taxes.

The district agreed to reimburse the losses for at least two school districts that raised objections. In an attempt to appease jittery property rights groups, the district agreed to sponsor legislation by which it gave up its legal right to acquire land by declaring eminent domain, and would only buy properties from "willing sellers."

The MPROSD was formed in 1973 and manages 50,000 acres of preserve with 79 rangers and other staff. It is funded by grants and property taxes within 16 cities in three counties.

E-mail: nyberg@emindependent.com



LAVELLE L. DURAN

U.S. Highway 92 going towards Half Moon Bay cuts through disputed land. Agency Formation Commission 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.

"I find it rather shocking that 34 percent of any election for Chief Elections Officer Warren Stocum 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 filings up, so to speak," Stocum said.

Witnesses at Tuesday's hearing told of other irregularities, such

not the same as their registered voting address.

Chief Elections Officer Warren Stocum 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 filings up, so to speak," Stocum said.

Witnesses at Tuesday's hearing told of other irregularities, such

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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN MATEO

HALF MOON BAY COASTSIDE FOUNDATION)
AKA SAVE OUR BAY, OSCAR BRAUN, ANDREA)
BRAUN, AND H. JOHN PLOCK, JR.,)
PETITIONERS,)
VS.) NO.CIV 439808
SAN MATEO COUNTY LOCAL AGENCY FORMATION)
COMMISSION, AND DOES 1-200 INCLUSIVE,)
MID-PENINSULA REGIONAL OPEN SPACE)
DISTRICT,)
REAL PARTY IN INTEREST.)

REPORTER'S TRANSCRIPT OF PROCEEDINGS

BEFORE: HON. MARK R. FORCUM, JUDGE
DEPARTMENT 8
JUNE 9, 2004
PAGES 1-49

A P P E A R A N C E S:
FOR THE PETITIONERS:

PETER W. DANIEL
ATTORNEY AT LAW
HANNIG LAW FIRM LLP
2991 EL CAMINO REAL
REDWOOD CITY, CA. 94061

FOR THE RESPONDENTS:
FORMATION COMMISSION

CAROL WOODWARD
DEPUTY COUNTY COUNSEL
400 COUNTY CENTER
REDWOOD CITY, CA. 94063

1 THERE WAS POINT RAISED EARLIER, THE RESPONSE REAL
2 PARTIES IN INTEREST WERE DISCUSSING THE LACK OF, OF, THE
3 LACK OF ALL THE FACTORS THAT NEEDED TO BE IN THE NOTICE.
4 AND, AND THE POINT WAS RAISED OF SECTION 51607, 51606 AND
5 51607. IT WAS CITED, A MITCHELL CASE.

6 AND 51607 CLEARLY, I'D JUST LIKE TO STATE FOR THE
7 RECORD, THAT STATES, NO CHANGE OF ORGANIZATIONAL OR
8 REORGANIZATION OR RESOLUTION ADOPTED BY LAFCO, I'M
9 PARAPHRASING, SHALL BE INVALIDATED BECAUSE OF A DEFECT.

10 THAT STATUTE REALLY ONLY APPLIES TO THAT. WE'RE TRYING
11 TO INVALIDATE THE ENTIRE RESOLUTION OR ORDINANCES. THAT'S
12 WHAT WE'RE TRYING TO DO HERE. SET THAT STRAIGHT. TALKING
13 ABOUT PROTEST NOTICE. THAT SENTENCE DOES NOT MENTION
14 ANYTHING ABOUT THE PROTEST HEARING THAT'S INAPPLICABLE.

15 I WANTED TO TOUCH ON THAT POINT.

16 THE COURT: ALL RIGHT.

17 MS. WOODWARD: MAY I RESPOND YOUR HONOR?

18 THE COURT: I DON'T THINK YOU NEED TO AT THIS POINT.

19 THE COURT IS HIGHLY TROUBLED BY LAFCO'S CONDUCT IN THIS
20 CASE. HIGHLY TROUBLED THAT THEY DIDN'T COMPLY WITH THE
21 STATUTE. I DON'T UNDERSTAND HOW THESE NOTICES ARE NOT DONE
22 PROPERLY. I DON'T UNDERSTAND WHY LAFCO WOULD SEND A MORE
23 DEFECTIVE NOTICE AS A MAILING.

24 HOWEVER, ALL THAT BEING SAID, HOPEFULLY THE NEXT TIME
25 THIS EVER HAPPENS, THEY'LL PROPERLY COMPLY WITH THE LAW.

26 THE PROBLEM THAT I SEE IS, THAT SHOULD I ISSUE A TRO

1 LAFCO'S ALMOST BEING SORT OF, NO GOOD DEED GOES UNPUNISHED.

2 LAFCO'S BENT OVER BACKWARDS TO EXCEED THE REQUIREMENTS
3 OF THE LAW. AND WHILE THE LANGUAGE --

4 THE COURT: THAT'S NOT TRUE. HAD --

5 MS. SCHECTMAN: WHAT I MEAN, IN TERMS OF --

6 THE COURT: THERE'S NO REASON. YOU CAN'T STAND HERE
7 AND TELL ME, THAT THERE'S ANY GOOD REASON TO NOT PUT THE
8 REASON FOR WHAT THEY'RE SEEKING TO DO INTO THE NOTICE.
9 THERE'S ABSOLUTELY NO GOOD REASON FOR THAT.

10 ONE, I, I'M VERY SKEPTICAL ABOUT WHY THEY TAKE THAT
11 POSITION. I'M SURE IT'S NOT AN OVERSIGHT.

12 THE PROBLEM THAT I SEE WITH ALL OF THIS NOW IS JUST
13 WHAT YOU HAVE BEEN TALKING ABOUT AND WHAT MISS WOOD IS
14 TALKING ABOUT, IS THE REMEDY A REASONABLE ONE?

15 BECAUSE THIS PETITION IS BROUGHT ON BEHALF OF AN
16 ORGANIZATION, AND THREE NAMED INDIVIDUALS. AND THEY HAVE
17 CERTAINLY THE RIGHT TO COME TO COURT AND SEEK THIS RELIEF.

18 BUT AS YOU SAID, YOU USED AN INTERESTING WORD, THERE'S
19 BEEN A ROBUST ELECTION PROCESS, AND WE'RE VERY CLOSE TO THE
20 END OF THAT PROCESS.

21 AND IF THE COURT TAKES CERTAIN ACTIONS, IT RUNS THE
22 RISK OF DISENFRANCHISING PEOPLE THAT HAVE ALREADY KIND OF
23 WEIGHED IN AS A RESULT OF THIS ROBUST PROTEST AND PROCESS.

24 AND IF THE COURT WERE TO ORDER ANOTHER RE-ELECTION,
25 THERE WOULD BE CONFUSION. NO DOUBT PEOPLE, PEOPLE THAT
26 HAVE ALREADY VOTED MIGHT THINK THAT THAT VOTE COUNTS. I

1 AGREE, THAT IT HAS BEEN. I THINK THAT, THAT'S, CERTAINLY
2 MAKES FAILURE TO DO ADEQUATE NOTICE ALL THE MORE EGREGIOUS.

3 AND YOUR HONOR, FRANKLY IT'S TROUBLING THAT, THAT WE'VE
4 GOT A, WE'VE GOT A PROBLEM HERE. WE'VE GOT A STATUTE THAT
5 WAS NOT COMPLIED WITH. LAFCO DIDN'T DO WHAT IT WAS
6 SUPPOSED TO DO FOR WHATEVER REASON.

7 THE COURT: YES. I SHARE, I SHARE THAT. I'M HIGHLY
8 TROUBLED BY THAT PARAGRAPH.

9 MR. DANIEL: THE PROBLEM THEY'VE MADE SUCH A MESS,
10 THEY'VE MADE SUCH A MESS, IT'S NOT EASY TO CLEAN UP.

11 WE'VE MADE SUCH A MESS. IT'S JUST TOO HARD TO CLEAN
12 UP.

13 MS. WOODWARD: YOUR HONOR I TAKE EXCEPTION TO THAT.

14 THE COURT: HOLD ON. EXCUSE ME. I DIDN'T ASK FOR
15 RESPONSE TO THAT, PLEASE.

16 MS. WOODWARD: SORRY.

17 THE COURT: ANOTHER POINT MISS SCHECTMAN MADE IS
18 INTERESTING, INTERESTING POINT.

19 MR. DANIEL IS, LET'S ASSUME THAT I'M CORRECT AND YOU'RE
20 CORRECT THAT THE NOTICE IS DEFECTIVE.

21 AND LET'S ASSUME THAT YOUR CLIENTS DON'T PREVAIL IN
22 WHATEVER IT IS THAT THEY'RE SEEKING FROM THEIR PERSPECTIVE
23 TO HAVE HAPPENING DONE, THEY HAVE A REMEDY TO COME BACK AND
24 BRING POST ELECTION LITIGATION TO SAY THAT THE NOTICE WAS
25 DEFECTIVE, COURT, YOU MUST DO THIS ALL OVER AGAIN.

26 AND DOESN'T MISS WOODWARD HAVE A VERY VALID POINT THAT