

Danville: Judge tentatively rules for opponents of SummerHill housing development

By Joyce Tsai Contra Costa Times

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MARTINEZ -- A Contra Costa County Superior Court judge said he is leaning in favor of a group suing the town of Danville for allowing a proposed 69-house development without first seeking voter approval.

Judge Steve Austin issued a tentative ruling Tuesday afternoon in favor of SOS-Danville, which filed a lawsuit last year against the town over the planned SummerHill Homes development off Diablo Road. The judgment was made in advance of a hearing Wednesday between both parties in his Martinez courtroom.

In a mixed ruling, the judge said the town improperly changed its general plan to reassign agricultural land at Magee Ranch for residential development.

"And it did so without complying with Measure S by putting the issue to a popular vote, or by the Council voting (at least 4/5) to make the change," which was required, he wrote.

Measure S requires that general plan amendments obtain voter approval.

"It appears that the town interpreted the (general plan) in such a way to essentially circumvent the mandate of Measure S," Austin wrote.

The judgment, if finalized as is, would amount to a victory on the central issue of the lawsuit, said Maryann Cella, a spokeswoman for SOS-Danville.

And it would mean that any residential development of the site would need to be approved by voters -- and that a new environmental report that addresses bike safety effects be drawn up, said Stuart Flashman, an attorney for SOS-Danville.

Nonetheless, neither side was entirely satisfied with the ruling, which also tackled related issues such as the overall adequacy of the project's environmental report and previous zoning of the area, so they met in Austin's courtroom Wednesday afternoon to hash out the finer points of their arguments hoping to change the judge's mind on his preliminary ruling.

During the hearing, the town's attorneys argued that agricultural and P-1 zoning, which allows for residential development, are both allowed for the site under Danville's general plan, since it was deemed a "special area of concern" in town.

"This isn't an end run around Measure S," said Robert Perlmutter, an attorney representing the town. "It's a vindication that Measure S is working exactly how the (town) council intended it."

He said that as a matter of law, if the general plan is deemed ambiguous or unclear, the court is required to defer to the town's assessment of the general plan, so the judge should rule in favor of the town.

But Austin appeared to side with SOS-Danville's argument that the general plan does not presume that residential zoning is allowed in the area, without first amending the plan via a majority vote of the town.

He maintained that the land use map in the town's 2010 general plan should have been more clearly marked as P-1 -- rather than zoned for agricultural use alone -- if that was what the town council in 1999 truly intended. Then, there would be much less confusion over the plan, and thus no need for court intervention, he said.

But Perlmutter argued that even if the plan "may have not been written well," other pages within the general plan do indicate that the town councilors wanted the site to also be zoned P-1, even if it is not explicitly marked on the map.

"They could have had that vision, but if so, they had pretty cloudy glasses," Austin said.

"They could have put P-1 on the map, but didn't."

"Is there a list of all secret areas of zoning (in town)?" he pressed, implying that if that was the council's desire, it was not explicit enough in the general plan.

Also, Austin tentatively struck down the majority of SOS-Danville's claims that the project's environmental report was inadequate. The only section that he granted needed improvement was an assessment on the impact of bike safety on Diablo Road.

Austin also ruled in favor of the town in its petition asking that the final judgment in this case not be applied to future controversies outside of Magee Ranch, such as Elworthy East or Purcell properties, which are among the few Danville parcels remaining for development.

That is because extending the judgment in this case to "unpredictable future events" would essentially be "insufficient and speculative," he wrote.

A final judgment by Austin could be issued in a few days or take months, Cella said.

Published July 2nd, 2014

U-Turn, Then Full Speed Ahead

By Nick Marnell

The Board of Supervisors reversed course from one year ago and unanimously passed a motion to authorize the Contra Costa County Fire Protection District to continue negotiations with the Moraga-Orinda Fire District to jointly build and operate fire station 46. Only Supervisor Candace Andersen, whose district includes Lamorinda, cast a yes vote at both meetings. The four supervisors who voted no in 2013 fell into two camps. Chair Karen Mitchoff and Supervisor Federal Glover based their assents on the timing of the proposal. "It's the right idea at the wrong time," said Glover in May, 2013. But now, with the threat of closing additional ConFire fire stations all but squelched, he said he did not want to bypass doing something that could be beneficial to the district. "We've been able to reopen fire stations that served communities more critically impacted by closures than was Lafayette at this time last year," said Mitchoff.

Two supervisors based their turnaround votes on the proposal that ConFire presented to the board on June 17. "With the more complete information we were given, I felt comfortable acting to pursue the station," said vice chair John Gioia. "There were better details, and it was a better deal for ConFire," added Supervisor Mary Piepho.

Those details were outlined by ConFire assistant chief Lewis Broschard. According to the deal points he presented, ConFire will pay for the construction of the station on land that MOFD purchased last year for \$1.2 million. The construction is expected to be completed by fiscal year 2016-17 at an estimated cost of \$6 million; ConFire would pay \$2.5 million from its capital fund up front and finance \$3.5 million over seven years. Once the station opens, MOFD will pay 100 percent of the operating costs for five years before ConFire begins to chip in. Broschard presented a detailed payment schedule which showed that both districts will have contributed nearly \$16 million each for the purchase, construction and operational costs by 2026-27. From that point forward, the estimated \$2.2 million annual operating cost of station 46 will be shared equally by MOFD and ConFire.

"By September, we hope to have a final draft of an agreement to present to the supervisors, along with a detailed financing plan," said Broschard, who noted that meetings with county counsel and with MOFD had already been scheduled.

"What happened today pushed us toward a solution for fire service for western Lafayette," said Brandt Andersson, co-chair of the Lafayette Emergency Services Task Force, at its June 17 meeting. "Now that we've reached this milestone, where do we go next?"

"We should redirect our focus on getting 46 built," said co-chair Traci Reilly. The group agreed to next meet in October, allowing time for both districts to work out further details, including design review. "That will be the critical point," said MOFD fire chief Stephen Healy. "The selection of an architect will be very important." One stakeholder offered words of caution. "Local 1230 is in support of the concept," said Vince Wells, union president. "But we have not yet sat down and agreed on the staffing model."

The agreement states that fire station 46, though physically in Lafayette - ConFire's territory - will be staffed by MOFD personnel. "Having MOFD staff a station in Lafayette is something we have to talk about," said Wells. He explained that ConFire would be relinquishing up to nine positions under the proposed staffing model. Broschard remained undaunted. "We are going to get everybody in a room and make this thing work," he said.

Reach the reporter at: info@lamorindaweekly.com

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Urge supervisors to hold line on ‘New Farm’ development

Contra Costa Times July 13, 2014

By Donna Gerber and Joe Canciamilla

Contra Costa County has become California’s eighth-largest county. We have seen an explosion of residential development that far exceeded our ability to keep up with the demand for public services, including roads, schools and public protection.

Today, many of our communities continue to struggle with the changes and demands on our physical and social infrastructures that have come from growing so quickly.

To try and protect our rapidly disappearing open space along with at least some of our agricultural heritage, dramatic action was needed.

For nearly 14 years, our county has enjoyed the protections afforded by our adoption of a new limit line on growth and development, our own Urban Limit Line (ULL). That line protects and preserves land across our county, but today, in a misleading and desperate attack, those long-held protections may soon be lost for thousands of acres in the Tassajara Valley.

Shortly after being elected to the Board of Supervisors, we were faced with traffic predictions from the Contra Costa Transportation Authority showing a minimum 200 percent increase in commute traffic just from developments that had already been approved across the county.

We had expert projections showing the demand this growth was going to place on law enforcement, schools and other support services, and we knew the resources were not there to meet them.

Today, from one end of our county to the other, we see the truth in those predictions as we struggle with increases in congestion, crime, pollution and deterioration in our streets, schools. Local governments are forced to the ballot to ask voters for higher taxes and fees just to keep up with the ever-increasing demands from their residents.

Working alongside planning experts and with public input and support, we developed a plan that adjusted the voter-approved Urban Limit Line later that year and protected more than 14,000 agricultural acres in far East County and the Tassajara Valley from urbanization.

While not solving the problem of all that we knew was coming, we were able to keep it from growing even worse.

To their credit, Contra Costa voters have rebuffed efforts by developers in Brentwood and San Ramon to break those lines and destroy what is left of our valuable agricultural lands and open space.

Today, with another economic boom fueling a demand for more expensive “high-end” housing, longtime proponents of the so called “New Farm” project in Tassajara Valley are making their boldest and most cynical move yet.

These developers are proposing to develop 30 acres outside of the urban limit line; and they say if given this exemption, they will protect the remaining portion of the Tassajara Valley owned by other property owners using a “preservation agreement.” They are using this non-binding agreement, as well as designating park land, to gain support or silence from the park district and local environmental groups.

The Board of Supervisors will have to find, by a four-fifths vote, that this development meets a very narrow exception with the voter-approved ULL. These very narrow exceptions were intended to be used only when they could be found to be in the public interest, not in the interest of developers who want to build multimillion-dollar homes. While there’s not enough space here to explore all of the legal issues, of which there are many, we don’t believe that the public will be fooled by this charade, and certainly hope that the Board of Supervisors won’t be, either.

Violating the line with this project sets a dangerous precedent that developers can and will use to bypass our long-standing, voter approved, agricultural protections.

As the original authors of these protections, we urge the public to share their concerns with the Board of Supervisors and urge them to hold the line.

Donna Gerber and Joe Canciamilla are both former members of the Contra Costa Board of Supervisors.

Barnidge: Facchini's death leaves an enormous vacuum in Walnut Creek

[By Tom Barnidge Contra Costa Times Columnist](#)

Posted: 07/16/2014 03:57:38 PM PDT [0 Comments](#) | Updated: a day ago

One of Primo Facchini's favorite stories was the time he missed a Walnut Creek City Council meeting and the city clerk called him to see if he was OK. His attendance was so regular for more than four decades ("He was considered a sixth member of the council," Councilwoman Cindy Silva said) that a meeting didn't seem official without him in his front-row seat.

Facchini also loved to talk about his 35 years with the Walnut Creek Historical Society, where he was president and, later, chairman of the board. He relished his role in establishing Walnut Creek's sister-city program with Noceto, Italy. As a first-generation immigrant fluent in Italian, he also served as translator.

That's when he wasn't busy as a director of the Alamo-Lafayette Cemetery District, or a board member for the Selective Service System Region III, or a public member of the California State Bar's Planning Directory and Fee Arbitration Office.

"He was dedicated to seeing that things were done correctly," said former Walnut Creek Mayor Gwen Regalia.

"The word that comes to mind is tireless," said Brad Rovenpara, the city's former public information officer. "He devoted the better part of 40 years to the community."

"He was the Energizer bunny," said Rosemary Mazzetti, vice president of the historical society.

It's little wonder that Facchini was the Walnut Creek Chamber of Commerce's 2013 UXL Citizen of the Year. He could have qualified any year. That's why his death Saturday, at age 83, left such an enormous vacuum.

There weren't enough hours in the day for Facchini, a Korean War veteran whose passions included photography and symphony but who found time for the occasional episode of "Jeopardy" or "Judge Judy" with Rosemarie, his wife of 58 years. His business was real estate but his avocation was gardening at his Alamo home and as a member of both the Rhododendron Society and the Northern California Camellia Society.

Mostly, though, he was advocate for his adopted city of Walnut Creek from the moment he purchased property there in 1969 and attended a council meeting, because "I wanted to know what was going on," he said four years ago.

He believed in preserving the city's past but not at the expense of its growth.

"I like to talk in analogies," he once explained. "When we were born, we were small. Then we grew. The same thing happens to communities."

Regalia, a council member for 21 years, couldn't remember a meeting when Facchini wasn't around, usually speaking on behalf of a community project.

"He attended every single City Council meeting, planning commission meeting and, I think, transportation commission meeting since the '70s," she said. "He was a proper gentleman -- always in a shirt and tie -- who dedicated an enormous amount of time to community activities."

"The irony," said Rovenpara, "is he wasn't even a Walnut Creek resident. He lived in Alamo. Walnut Creek was his adopted community."

He guided the renovation of the historical society's Shadelands facility, oversaw fund-raising events and lobbied for a downtown history museum. After 11 years as president, he became the organization's first chairman of the board.

"We never had a chairman before, and we'll never have another," Mazzetti said. "The title will be retired with him."

Primo Facchini was one of a kind.

Contact Tom Barnidge at tbarnidge@bayareanewsgroup.com.

Primo E. Facchini(1930 - 2014)

Primo E. Facchini

Sep. 1, 1930 - Jul. 12, 2014

Alamo, CA

Alamo, Walnut Creek, and all of Contra Costa lost a tireless, long-time community servant with the passing of Primo Facchini, following complications from a fall last year.

Since moving to Alamo in 1958 with his wife, Rosemarie, Primo was dedicated to his community, "leaving an imprint somewhere in the East Bay nearly every day of the week." Among his contributions: Director, Alamo-Lafayette Cemetery District (30+ years); President and Board Chairman, Walnut Creek Historical Society (25+ years); co-founder, Walnut Creek Sister Cities International (1987); Selective Service Board (20 years); Public Member, California State Bar Planning Directory and Fee Arbitration Office (25+ years); Board Member, Camellia Society (10+ years); Member, Rhododendron Society.

Born and raised in Oakland, Primo was a first-generation Italian-American and credited his civic involvement as a way for him to re-pay the community for the blessing of growing up in America. He attended Sacred Heart School, St. Joseph High School, Golden Gate College, and Laney College, from which he graduated with a degree in photography. He enlisted in the U.S. Army in 1951, serving in the 2nd Engineers Battalion during the Korean War.

Following Korea, Primo returned to the Bay Area, going to work for Ladies Choice Foods in San Leandro, where his father was a partner. When the company was sold, he chose not to relocate, instead turning his focus to real estate. He also worked for Pacific Coast Chemicals in Berkeley and continued to consult with them until his death.

In 1956, Primo married Rosemarie Indelicato – "the only woman I ever dated," he once said. They built their home in Alamo in 1958, where they raised their three children, Primo, Monica, and Rosemarie.

Locally, Primo's real estate interests inspired his interest in civic affairs. For more than 40 years, he was a fixture at Walnut Creek City Council, Planning Commission and Design Review meetings. On the occasion of his 80th birthday in 2010, Walnut Creek named him the City Council's "sixth member." The Contra Costa County Board of Supervisors honored him for his dedication to the community and commitment to public service to the citizens of Contra Costa County. He was the State's 2010 Cemetarian of the Year.

He is survived by his wife, Rosemarie; his sister, Norma Logan (Lafayette); three children: Primo (Janet) (Clayton), Monica (Bay Point), and Rosemarie Craighead (Richard) (Manteca); 10 grandchildren: Primo and Giovanna Facchini, Ashley and Bianca Hall, Brittney and Denée Dominguez, and Kevin, Brandon, Joshua and Emilee Craighead; three great-grandchildren: Maleeah, Leilah and Aubreanna; and nephews and a niece.

The family will forever be thankful for the loving care given Primo by Sarah, Shari and Elizabeth of Hospice of the East Bay and by Bob, their wonderful volunteer.

A Celebration of Life will be held at St. Isidore Church, Danville, on Sat., July 19 at 10:30 a.m. Donations in Primo's memory can be made to Hospice of the East Bay or the Walnut Creek Historical Society.

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Published in Contra Costa Times on July 17, 2014

Antioch Councilman Gary Agopian dies after long cancer battle

By Paul Bugarino Contra Costa Times

POSTED: 07/28/2014 09:15:53 AM PDT1 COMMENT

UPDATED: 07/28/2014 11:31:48 PM PDT

ANTIOCH -- Hearts were heavy throughout the community Monday after longtime and well-respected civil servant Gary Agopian died in the early morning following a 10-month-long battle with brain cancer. He was 57.

Agopian, a 19-year Antioch resident elected to the City Council in 2010, was diagnosed with an inoperable brain tumor last September. Despite the grim news, he vowed to continue to serve out his term, including campaigning for a half-cent sales tax last fall.

Past and present city leaders spoke glowingly about Agopian's intelligence and visionary ideas, knack for being prepared and positivity in bringing people with differing views together.

"He brought such a tremendous energy. He was a real asset to the community," said Walter Ruehlig, who was elected to the Antioch school board with Agopian in 2004.

Agopian had a calming influence and was dependable for "bouncing ideas off of," Ruehlig said.

Firmly committed to Antioch, Agopian continued to attend City Council meetings until late June while he battled Stage IV glioblastoma -- the last two meetings he was escorted in by family members in a wheelchair.

"His mind was still sharp. He didn't miss a beat," Mayor Wade Harper said.

Even in his last days before slipping into a coma on July 21, Agopian was trying to share ideas on how to help Antioch before he could no longer speak, his wife Robin said Monday.

Prayers and condolences from throughout the Antioch community poured in through social media upon hearing the news Monday.

"We have been blessed to have each and every one of you share in this 10-month journey ... you've shared your love through meals, gift cards, cards, phone calls, visits, housecleaning, prayers and so much more," Robin wrote Monday morning on Facebook.

"He encouraged so many of us to get involved in our city," resident Beverly Knight said. "I wrote Gary so many angry letters. He saw the passion and took the time to direct my passion where it would do the most good for Antioch. I really felt like he was approachable and explained things the average person wouldn't understand."

Before Agopian stepped into the political arena, he was a longtime business administrator. He spent 24 years working working at Sears, rising up the management ranks to become a district human resources manager.

After he was transferred to the Bay Area in 1995, Robin said their young family fell in love with a home in Antioch.

Years after transitioning into a job selling real estate in 2000, Agopian told his wife he wanted to get into politics when he retired to give back to the community.

"I remember telling him 'Why wait? We'll be fine, we'll make it work,'" Robin said. "It brings me some comfort that he was able to do that and accomplish his goal of making the community a better place."

In addition to his service on the school board and council, Agopian ran unsuccessfully for the county Board of Supervisors in 2008 and mayor in 2012, finishing second to Harper.

Some of Agopian's proudest moments included handing all three children their high school diplomas, baptizing them, walking his daughter down the aisle for her wedding and the birth of his first grandchild, she said.

Agopian also enjoyed hiking, swimming and staying active and was a prolific reader, especially of history. Often he was the "cheerleader on the sidelines" for his children's games, Robin said.

But, he was far from a spectator when it came to community service. Often he could be spotted with community members cleaning up graffiti or picking up abandoned shopping carts.

"For Gary, faith and service to the community were intertwined. It was a way of life," said former Mayor Donald Freitas, who appointed Agopian to the city's economic development commission in 2003.

Agopian continued waging war against graffiti while on the council, creating a committee to fight tagging. He also helped push forward a complicated annexation of 600 acres of industrial land to Antioch's northeast.

Agopian was often the most vocal and outspoken council member, particularly regarding the city budget, possible ferry service to the city and statewide water issues.

One item Robin said Agopian recently discussed with Freitas and local rodeo icon and friend Jack Roddy as a "last request" is to create a permanent shelter for the homeless, especially those young families with children.

"He saw that there are people who are hurting and the need to help," Robin said.

Services are tentatively set for Aug. 9 at Golden Hills Community Church, though details are still in the works.

Contact Paul Bugarino at 925-779-7164. Follow him at [Twitter.com/paulbugarino](https://twitter.com/paulbugarino).

EPITAPH

GARY AGOPIAN

Born: April 28, 1957

Died: July 28, 2014

Birthplace: Los Angeles

Survivors: Wife Robin, sons Corey and Jason, daughter Heather Renard, granddaughter Kaylei.

Memorial Service: Aug. 9, Golden Hills Community Church, 2401 Shady Willow Lane, Brentwood.

West Contra Costa hospital losing workers amid uncertain future

By Robert Rogers

Contra Costa Times

Posted: 07/28/2014 02:35:07 PM

Click photo to enlarge



Doctors Medical Center is seen in San Pablo, Calif. on Wednesday, May 7, 2014. (Kristopher...

SAN PABLO -- As Contra Costa County officials scramble for options to save Doctors Medical Center in some form, skilled workers are leaving in droves amid the continuing uncertainty.

Hospital CEO Dawn Gideon said 66 workers have left since early May, and about two dozen more have resigned and will be gone in the coming weeks, meaning the staff is down about 11 percent. The drop in staffing hasn't affected hospital services yet, but hospital officials are concerned that could happen if workers continue to flee.

"If that trend (of workers leaving) continues, the hospital is going to shut itself down," said Eric Zell, board chairman of the West Contra Costa Healthcare District, which owns and operates the hospital. "It doesn't mean we can't transition to a new model, but it does mean the continued hope of a full-service hospital is rapidly diminishing."

The exodus comes amid the hospital's prolonged struggles, which worsened when a parcel tax to shore up its balance sheet fell short in May of the two-thirds majority required for passage. The county last month agreed to loan \$6 million to keep the hospital afloat until October while other options are explored.

The hospital is running an \$18 million annual deficit, mostly resulting from poor reimbursement rates for its predominately Medicare and Medi-Cal patient base.

The healthcare district board on July 15 heard from county health officials about two last-ditch plans to save some level of services at the hospital, either a much smaller facility with 15 beds and an emergency department, or a stand-alone emergency department without inpatient beds.

But nurses unions and other health care advocates continue to lobby for saving the hospital as is, hoping to shore up its finances with public and private funds.

In a news release Monday, the California Nurses Association called for Chevron Corp. and the county to step in to keep Doctors Medical Center open as a full-service acute care hospital. The union wants the city

of Richmond to require Chevron to provide money to the hospital as part of an agreement to approve the refinery's \$1 billion modernization project.

Richmond Vice Mayor Jovanka Beckles sponsored a resolution to be heard Tuesday calling on the county to take over the hospital from the healthcare district and provide funding. The nurses union has rallies scheduled for Tuesday and Wednesday to call on Chevron and the county to step up.

Nurses at the hospital acknowledge that many of their colleagues have left amid the mounting uncertainty.

"This uncertainty has gone on for a long period of time, and some workers live elsewhere and have gone on to other, more secure facilities," said Maria Sahagun, a longtime DMC nurse. "But most of us are committed to be here, and if we get new funding, it won't be hard to get new skilled people to fully staff the hospital."

The healthcare district board has a meeting Aug. 5 to get a status report on the hospital's worsening finances and zero in on which option to pursue.

"The sooner we can come to a definitive plan for the hospital's future, the better," said Gideon, adding that in the coming weeks the number of patients in the hospital is expected to dip below 60. The hospital is licensed to carry 189 beds.

"We haven't had to refer anyone to another hospital yet," Gideon said.

County emergency services is expected to begin diverting some ambulances that would normally go to DMC to other hospitals by mid-August, Gideon said.

Longtime nurses at the hospital continue to hold out hope and point to a recent increase in county property tax revenues as further reason the county should save the hospital. Like the hospital's administration, they say a firm plan is key.

"Nurses are called to care for patients," said Seung Choo, a DMC nurse, in an email. "Contra Costa County must act to secure a long-term future for DMC by integrating the hospital into the County Health Services department so that nurses who desire to serve West County can continue to do so. The uncertainty about the hospital's future causes nurses to question if the best place to do that is DMC."

So far, the push to have the county take over and run the hospital in its current form has not gained support among Contra Costa supervisors, who are leery of the costs. The county already runs a hospital in Martinez.

"There is continued pressure on the county to take over the hospital, but it's like trying to squeeze blood out of a turnip," said Supervisor John Gioia, of Richmond, who also sits on the hospital's governing board. "The county can't close the funding gap."

Contact Robert Rogers at 510-262-2726. Follow him at [Twitter.com/sfbaynewsrogers](https://twitter.com/sfbaynewsrogers).

Published **July 30th, 2014**

Local Fire Officials Mixed on Ads

By Nick Marnell



In a different kind of public-private partnership, Saint Mary's College purchased MOFD's aerial ladder truck to assist the district in handling campus high rise emergency calls. The Spirit of Saint Mary's is quartered at station 41 in Moraga. Photo Ohlen Alexander

are a taxpayer funded organization, and we answer only to the taxpayers. By placing advertising on our engines, we would lose our exclusivity as a government agency and send mixed messages." "If it is used right, it could fund a special program or a project for the department," said Jeff Carman, fire chief of the Contra Costa County Fire Protection District. "I would say, if the message is fitting, and there is revenue to offset the hassle of putting ads on your apparatus, I'd be interested." The hassle of implementing the Stockton program will be absorbed by Public Service Advertising of Phoenix, Ariz. "We cover everyone," said CEO Chad Dragos. "We are a third party who can do it all, giving the district a buffer, and promoting a fair process for everyone." The most frequent objections that he deals with are the buy-in from the municipality, the integrity of the system - are we endorsing one company over another? - and negative push back from firefighters. "We don't want stickers on our fire trucks!" is the initial reaction from the rank and file, he said. Piechura agreed that he will not infringe on the integrity of his fire service. Dragos estimated Stockton fire engine ad revenue of more than \$10,000 annually per vehicle. And Piechura said he hoped to merge all 16 of the department vehicles into the program. Prediction is difficult, observed scientist Niels Bohr, especially about the future. Whether this radical program instituted by the Stockton Fire Department takes hold throughout the industry will be closely followed.

Despite forecasts of operating losses for this fiscal year, and only slight improvements for next year, officials of both Lamorinda fire districts say they are skeptical of the viability of a new revenue generating idea unveiled by a fire agency in the Central Valley.

The Stockton City Council approved a plan July 15 for the Stockton Fire Department to begin selling advertising on its fire engines. "We're the first California department to go into this," said fire chief Jeff Piechura. "This is the first step to see how the community accepts the concept." Public acceptance was the most frequent objection raised by Lamorinda fire officials. Supervisor Candace Andersen, whose district includes Lamorinda, said that it would be critical to be selective about the types of ads and she raised concern about the dignity of the fire agency. "Would we really want to commercialize it as a means for revenue?" she said. "I'd rather create efficiencies in the agency and look for more traditional sources of revenue." Moraga-Orinda Fire District chief Stephen Healy acknowledged the potential detraction from district branding. "Our uniforms, our patch, our crest and the decals on our engines reflect our identity," he said. "We

Reach the reporter at: info@lamorindaweekly.com

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West Contra Costa officials trade blame for lack of hospital money in Chevron deal

By Robert Rogers
Contra Costa Times

Posted: 08/01/2014 06:12:58 PM PDT Updated: 3 days ago

RICHMOND -- City Council members, Chevron and the head of the governing board for West Contra Costa's floundering public hospital traded blame this week about how a \$90 million community benefits package agreed to by the oil giant to secure city approval of its \$1 billion Richmond refinery upgrade included nothing for the hospital, which is on the verge of closure.

Instead, the money that three council members negotiated in a series of private meetings with a Chevron lobbyist will go mostly toward their favored projects, including electric vehicle charging stations, a solar farm and scholarships for Richmond students.

The lobbyist, who also heads the health care board that runs Doctors Medical Center in San Pablo, says he wanted some money to go to the hospital, but key council members were unwilling; the council members deny that.

County health care officials have been scrambling for weeks to preserve some level of service at the safety net hospital, which operates the area's largest emergency room, and avert what they say would be a public health crisis resulting from its closure.

Some who opposed the Chevron deal groused about the echoes of Richmond's past, when local officials and business leaders carved up public dollars in smoke-filled rooms.

"Council members worked out deals behind closed doors for dividing up the Community Benefits Agreement for pet projects and did not provide for Doctors Medical Center," mayoral candidate Mike Parker wrote in a statement after the council vote. "A community needs a hospital, just like it needs schools, parks and roads."

The lack of money for DMC in the massive benefits package also drew sharp criticism from the two council members who abstained from Tuesday's 5-0 vote approving the refinery modernization. The hospital treated thousands of local residents in the aftermath of a fire at the refinery two years ago.

The participants in the series of meetings that took place in a wine cellar, restaurant and the Point Richmond office of Chevron lobbyist Eric Zell gave different accounts of what transpired in the negotiations over the benefits package, which swelled from \$30 million to \$90 million in recent weeks.

Council members Tom Butt, Jim Rogers and Jael Myrick said they were told at the meeting that money from the benefits package wouldn't be made available quickly enough to help the hospital, which is expected to close or drastically reduce services in coming months. DMC

officials on Friday announced that on Aug. 12 they would begin diverting ambulances, close the cardiac unit and cap inpatient beds at 50.

Butt said a key hurdle was that Chevron wanted most of the money to be distributed after it secured permits for construction, which could take six months or more. Only \$5 million of the \$90 million is guaranteed regardless of whether construction begins, according to Chevron, and that money goes to Rogers' programs.

Myrick said he proposed giving DMC half of the money earmarked for student scholarship programs in the benefits package, but was told it would be too little, too late.

Said Rogers: "Millions up front for DMC was a deal breaker. We pushed hard for DMC, and we got a definite no."

Zell, chairman of the West Contra Costa Healthcare District board, and a Chevron spokeswoman acknowledged Friday that most of the money from the benefits package would not be made available until the refinery project is cleared to break ground but dismissed any notion that they ruled out funneling money to the hospital.

"I gave (Butt, Rogers and Myrick) the facts about the status of DMC, and I said repeatedly if you're willing to give money to DMC, you should, we will put the money to good use," Zell said. "The only council member in that room that had a real interest in saving DMC was Jael (Myrick). I'm not saying they don't all want DMC to be saved, but DMC was not on their list of funding priorities.

"There wasn't the political will to do Jael's plan, and it wasn't me or Chevron standing in the way," he added.

"Zell's role in the negotiations, and failure to secure funds for DMC, led some to question his loyalties.

"Zell's duty as chair is to support the hospital," DMC nurse Seung Choo said Friday. "He went and negotiated with the city to get them money and he managed to get \$90 million for the next 10 years but nothing for DMC, and I have to wonder why."

Nurses and doctors at DMC have been at odds with Zell and other local leaders about the best path to take in rescuing the hospital. Workers want the county to take control of the hospital and maintain current services, while Zell and management are focused on drastically downsizing the hospital or turning it into a free-standing emergency department.

Zell said he had no qualms about acting as both consultant for Chevron and chairman of the hospital board because Chevron was willing to fund the hospital and he was in a good position to advocate for it.

Butt, Rogers and Myrick became the city's de facto negotiators because they represent swing votes on the divided council. The final details were worked out in Zell's Point Richmond offices Tuesday morning, hours before the City Council meeting.

When the package came before the council, Mayor Gayle McLaughlin and Vice Mayor Jovanka Beckles, advocates for DMC, abstained from the vote.

"Support for Doctor's Hospital should have been included in the Chevron package," McLaughlin said in an email Friday.

What was included was a package of projects favored by Butt, Rogers and Myrick. For Rogers, Chevron ponied up \$18 million -- the amount of DMC's annual deficit -- for Electric City and Easy Go, transportation programs that include bike-sharing and electric vehicle charging stations. For Myrick, there is a \$35 million scholarship fund for Richmond residents who graduate high school. Butt helped secure 60 acres of Chevron land -- valued at \$10 million -- for a solar farm for Marin Clean Energy, a nonprofit of which he serves on the governing board.

"I don't know if we left money on the table or not," Butt said. "I've been called a sellout and disgrace, and others said they're proud of us. I don't know which is right. I don't think we'll ever know, but I felt like this was the best we can do for Richmond."

Tom Butt E-Mail Forum – 2014

DMC, Chevron and the City Council
August 3, 2014

I know Robert Rogers worked long and hard on the following story, but he still missed some important nuances that I can fill in, particularly with respect to Doctors Medical Center (DMC).

There were only two scenarios where the Richmond City Council could have directed Chevron money to save, or at least to postpone the demise of, Doctors Medical Center in conjunction with the Chevron Modernization Project:

1. Attach a condition to the Conditional Use Permit requiring \$27 million to be paid from Chevron to the Hospital District over the next 18 months.
2. Included a provision in the Environmental and Community Investment Agreement providing that Chevron pay \$27 million to the Hospital District over the next 18 months.

Both options carried fatal flaws.

Conditional Use Permit

Our entire legal team told us (in public - where legal advice is almost never given) that we had no legal basis to fund Doctors Medical Center as a permit condition. Furthermore, Chevron would have no obligation to do anything required by the Conditional Use Permit until it takes out the permit and starts construction. Even without a legal challenge, Chevron, by its own words, "...will now move quickly to request the court to dismiss the writ which was placed on the original project in 2009, and we hope to have a decision by the end of the first quarter of 2015"

(<http://richmondproud.com/news/>). If Chevron gets a legal challenge based on CEQA, its resolution could be at least two years away, or more. Doctors has only enough money to operate another 60 days, so whether funding from Chevron would start next spring or two years or more from now is moot. In either case it would be too late.

Environmental and Community Investment Agreement

This is a two-party agreement, not an imposition like a conditional use permit. Regardless of what Chevron has said, it was unwilling, with one exception, to commit the flow of any funds until all legal challenges to the Modernization Project have been resolved, which again, would be the spring of 2015 at the earliest and could be as much as four years from now. The only exception was a \$1 million payment for Easy Go/Electric City that Jim Rogers insisted on. Even when legal challenges are successfully resolved, Chevron was unwilling to commit to releasing more than a few million a year. This is a ten-year deal. Even if the \$27 million had been included in the Environmental and Community Investment Agreement, it would have been too little too late.

I suppose we could have held up the entire project for another six weeks and continued to negotiate the Environmental and Community Investment Agreement until Chevron capitulated and agreed to provide \$27 million for Doctors beginning in October 2014 and continuing for the next 18 months, but there is no indication that such an outcome would have been possible. Chevron was certainly clear that it was not going there.

What Eric Zell was quoted by Robert Rogers as saying is simply not accurate:

"I gave (Butt, Rogers and Myrick) the facts about the status of DMC, and I said repeatedly if you're willing to give money to DMC, you should, we will put the money to good use," Zell said. "The only council member in that room that had a real interest in saving DMC was Jael (Myrick). I'm not saying they don't all want DMC to be saved, but DMC was not on their list of funding priorities."

It wasn't a matter of saving DMC, or not. It was a matter of whether Chevron would be willing to provide the money when it would be needed. Chevron refused, and Chevron's representative said, "We'll take the bullet, if anyone asks."

Regardless of the finger pointing that ensued, it simply isn't either fair or accurate to portray any City Council member as being more or less willing to save DMC. The City Council has passed more than one resolution (<http://richmondconfidential.org/2014/01/08/richmond-city-council-urges-kaiser-to-rescue-fiscally-troubled-doctors-medical-center/>) urging saving of DMC, and we have done what we can. Without being critical of the County, I want to be clear that health care is a County responsibility, not a city responsibility, but the County doesn't have the funds either. DMC also serves West Contra Costa County, not just Richmond. Why aren't the other cities in West Contra Costa being targeted as potential saviors instead of just Richmond?

Also, what is not being discussed is what projects or programs the \$27 million would have come from even if it had been possible to reallocate the funds in Environmental and Community Investment Agreement to address DMC in a timely fashion? Would it come from college scholarships for Richmond high school graduates that might be their only way to attend college? Would it come from job training for unemployed Richmond residents? Would it come from programs to help Richmond kids do better in school? One thing we do know is that it could not have come from any program related to greenhouse gas reduction because of legal constraints. And it all would have come from Richmond rather than the rest of West County.

The California Nurses Association (CNA), which is leading the latest charge and who lobbied City Council members to make Chevron save DMC declined to back Measure C, which was the best opportunity to save DMC. When local developers paid for a flurry of anti-Measure C mailers this spring, no one, including the CNA, stepped up to counter the negative campaign. In fact, I don't think that CNA even endorsed Measure C.

Having said all that, I join in acknowledging that closure of DMC is a tragedy that will likely spawn a health care crisis in West County. I continue to support any reasonable way of saving DMC, and it is inaccurate to portray me or any other City Council member as unsupportive.

Eric Zell Weighs in on DMC, Chevron and the City Council
August 3, 2014

Tom-

Please send the following to your email list as continued clarification of Robert Rogers' story:

As in any news story, it is difficult to get all the nuances correct or clear. To be clear, all the council members in the negotiations care about the hospital and were interested in spending money to support DMC, if the amount and timing of the funds would assure a full service acute care hospital.

However, as was reported by Robert Rogers, and clarified by Councilmember Butt, neither adequate funding, or timely funding, could have been made available to DMC to preserve our full service acute care hospital in the long term. DMC has an \$18 million dollar annual deficit due primarily to insufficient government reimbursements for Medi-Cal and Medicare patients. These populations make up 80% of our payor mix. Another 10% are uninsured.

DMC will run out of funding to meet payroll as soon as [October 1](#), which will force the full service hospital to close.

In addition, the hospital is already not able to operate at full capacity. Approximately 90 members, or 11%, of our nursing and administrative staff have voluntarily left or indicated that they are leaving DMC due to the financial condition of the hospital.

The DMC Board has been dedicated to keeping DMC open the past seven years and we are currently doing everything we can to save the Emergency Room and other critical services. The loss of the parcel tax in May, Measure C, helped seal the fate of our full service hospital. It was our last real chance to create a sustainable future for a full service DMC.

It is easy for everyone to point fingers during this time of crisis for DMC and this community. I believe we can do better than that as a community. No one individual, company, elected official or anyone else is solely responsible for the fate of DMC. It is a failure of our society as a whole, which has yet to adequately guarantee medical services for our communities' most needy and equally deserving residents.

Let's focus on what we CAN do right now - save our critically needed emergency room.

We need to come together for that purpose before we lose that essential and critical service for our community.

Thanks,
Eric Zell
zellandassociates.com

East Contra Costa property owners to vote on fire assessment this month

[By Rowena Coetsee Contra Costa Times](#)

Posted: **08/04/2014** 11:19:08 PM PDT [0 Comments](#) | Updated: about 12 hours ago

OAKLEY -- Property owners in far East Contra Costa will decide this fall whether they are willing to pay more to preserve what's left of their fire services, although at this point even a "yes" vote won't prevent a temporary station closure.

East Contra Costa Fire District board members unanimously agreed Monday to pursue a benefit assessment that would generate just over \$4 million annually for the distressed agency, which will have to close two of its remaining five stations before year's end if the proposal fails.

A larger-than-normal crowd turned out for the proceedings, where district residents who advocated for an assessment outnumbered those opposing it.

"I need my fire department saving not only my son but other children like him," said Oakley's Meghan Bell, who volunteers on behalf of special-needs youngsters.

But some opponents complained that the assessment does nothing to fix the root causes of the district's chronic underfunding, which was blamed on post-Proposition 13's inequitable rules for property tax revenue apportionment along with a precipitous drop in the same since the collapse of the housing market.

"If you get this money it doesn't solve your problem. It's a Band-Aid," Discovery Bay resident Walter MacVittie said.

Some of the local politicians who turned out to support the assessment agreed but argued that something is better than nothing when it comes to protecting their constituents.

The fire district will mail ballots to owners of the 43,769 parcels within its boundaries Aug. 22. The proposal's outcome will be determined Oct. 6, when votes will be counted in public.

If a majority approves, the assessment would appear on tax rolls in 2015-16 and remain in effect for five years.

But even before voters weigh in, the district will have to shutter a station in downtown Brentwood on Sept. 1 at least temporarily.

Since February, 10 firefighters have taken more stable jobs elsewhere, another is about to quit, and two individuals are on long-term leaves. But with the federal grant that's been keeping the district afloat set to expire in November, district officials say that East Contra Costa Fire can't

afford to continue shelling out the amount of overtime pay needed to have those who remain pick up the slack.

The district will hire more firefighters to reopen Station 54 if the assessment succeeds; if it doesn't, the fire board will be forced to close a second station in Knightsen Dec. 1.

The assessment would vary from parcel to parcel depending on a number of variables, including the size of the property and its distance from a station and fire hydrant, all factors that determine the degree of "benefit" the land receives from fire services.

Consultants have determined that 96 percent of the parcels that have single-family homes on them will be assessed at less than \$113 annually. Most of the remaining parcels with improvements on them will have assessments under \$250. Very large properties and those with gas stations on them where the volume of flammable liquids poses a particular fire hazard would pay more than \$250.

Residents who have their parcel number can find out exactly how much the fire district is asking them to pay by contacting its business office, which has logs listing the proposed benefit assessment for each plot of land.

The engineer's report, a document detailing how the consultants calculated the assessments, will be available online later this week at www.eccfpd.org by clicking on the "What's New" tab.

Reach Rowena Coetsee at 925-779-7141. Follow her at [Twitter.com/RowenaCoetsee](https://twitter.com/RowenaCoetsee).

San Ramon: Councilman asks for Faria project to be downsized

By Joyce Tsai Contra Costa Times

Posted: **08/04/2014** 09:02:24 PM PDT [0 Comments](#) | Updated: about 16 hours ago

SAN RAMON -- Developers of the Faria preserve may have consider scaling back the number of homes they plan there, from 740 to 630 -- and paring down their inventory of affordable homes to 15 percent -- to get the city's blessing to build.

At a special meeting Monday night, City Councilman Harry Sachs requested such a downsizing be explored. It was the second public hearing called by the City Council to review the controversial project.

"We are looking for an overall reduction of units to deal with the impacts" on the environment, traffic and schools, Sachs said.

About 80 residents showed up to the City Council's review of the mix of single-family houses, townhouses, apartments, senior housing and parcels for a church and sports field, which is planned for 450 acres near Interstate 680 north of Crow Canyon Road and east of Bollinger Canyon Road. About 18 residents spoke at the meeting, most against the project. Michael Jones and a couple of others also called the proposed development "illegal," based on the town's most recent general plan, even threatening legal action if it's not properly modified.

After nine public hearings, the Planning Commission unanimously approved the project in May.

That would have been the last in a chain of city approvals needed before developer Lafferty Communities attempts to secure permits from the California Regional Water Quality Control Board, the state Fish and Wildlife Department and the U.S. Army Corps of Engineers to build. But the council voted 4-1 last month to continue its review, initiated by Sachs, with an eye toward lessening the project's environmental, traffic and school impacts.

The original 786-unit project's land footprint, approved in 2006, has been reduced by 22 percent, spurred by environmental concerns. On Monday night, Sachs said, "I should be seeing a similar decrease in housing units, but I do not see that."

He also said only 15 percent of Faria's 630 housing units, rather than 28 percent of the 740 units currently planned, should be "affordable," because the city's affordable housing needs will be accommodated by other future developments, such as City Center and within the North Camino Ramon Specific Plan.

"We have burdened the Specific Plan with too much affordable housing," Sachs said.

Ultimately, the City Council voted 3-1-1 to ask city staff to work with Lafferty to explore options to reduce the percentage of affordable housing. The dissenting vote was Bill Clarkson, who maintained it's important to provide workplace housing in the city.

"I have seen it be a huge plus in San Ramon," said Clarkson, who doesn't believe affordable housing automatically begets crime. The city's affordable housing in the past 15 years has grown to 2,300 units, and in the last 10 years, "our crime rate has dropped by half," he said.

Hudson abstained from the motion, adding that he believed "the smart growth is to put people near the jobs."

He then tried to propose a motion to end the City Council's review in support of the Planning Commission's approval, but he was unable to find a second council member to second it.

"What we should have been focused on from day one is how best to do the project that was approved by the Planning Commission, period," Hudson said.

Planning Commissioner Donna Kerger said she and others had studied Faria thoroughly for 12 years.

"And I truly believe I was acting in the best interest of the city of San Ramon," she said, as she showed off a box of research to present her years of hard work on it.

Planning Commission Chairman Eric Wallis also said the city needs a variety of affordable workforce housing -- for teachers, firefighters, police officers and others who wish to live the city.

"I urge you to vote for the plan we originally picked," he said.

Contact Joyce Tsai at 925-847-2123. Follow her at [Twitter.com/joycetsainews](https://twitter.com/joycetsainews).