

Pittsburg: Seeno's Tuscany Meadows project begins approval process

By Eve Mitchell *Contra Costa Times Contra Costa Times*
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PITTSBURG -- The first step in a regulatory process that could eventually clear the way for a developer to build more than 1,000 houses at the site of a former petroleum tank farm got under way Tuesday night.

Discovery Builders, a Seeno company, wants permission to build Tuscany Meadows on 170 acres west of Somersville and south of Buchanan roads, on unincorporated land between Pittsburg and Antioch.

Leigha Schmidt, project planner with the city of Pittsburg, said the Tuscany Meadows application was submitted in May and preparation of a draft environmental impact report is under way.

The Tuscany Meadows project calls for building up to 917 single-family homes and up to 365 multifamily units. If approved, it would be Pittsburg's largest residential development since the 2,938-unit Seeno-owned San Marco project launched in 1993. To date, more than 900 of those homes have been built.

The purpose of Tuesday's meeting was to gather comment from residents and local agencies to help planners determine the scope of the draft environmental impact report. Written comments can also be submitted through Dec. 28 to the Pittsburg planning department. The draft report will be released next year for public comment.

It is a given that the report will look at things such as traffic, land use, and noise issues. The idea behind the scoping meeting was to gather more specifics about how the report can best address those issues or to suggest other issues that should be taken up

Only one person not associated with the Tuscany Meadows project, Nathaniel Taylor, a consultant for the Local Agency Formation Commission, showed up for Tuesday's meeting.

The door was opened for Pittsburg to consider the proposed development as a result of voters approving Measure I in November 2011 by a 4-to-1 margin. The Seeno-backed measure called for extending the city's urban limit line to include the parcel in anticipation of its future development and annexation.

But before that can happen, a final environmental report for the project must be certified by the Pittsburg Planning Commission, and a development agreement would have to be approved by the City Council. Pittsburg would then apply to the Local Agency Formation Commission to annex the parcel.

Regulatory approvals would also be needed from the Contra Costa Water District and Delta Diablo Sanitation District.

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Residents in area near Antioch may not have say in annexation process

By Paul Burgarino *Contra Costa Times* *Contra Costa Times*

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ANTIOCH -- Nearly 200 people who live in the unincorporated area off Viera Avenue may soon become Antioch residents, whether they want to or not.

As Antioch and Contra Costa County officials continue to negotiate a complex annexation package for 678 acres to the city's northeast that would bring GenOn Energy's 760-megawatt power plant within the city, much of the recent discussion has focused on the 108-acre rural tract of large lots and isolated properties.

The county agency that oversees boundary changes is considering waiving the hearing process for Viera residents to vote on the annexation.

Ken Wentworth, who lives on the gravel road of Trembath Lane, sees it differently.

"It's annexation without representation," he said.

But, under state law, a county's Local Agency Formation Commission has the authority to approve annexation without a vote of property owners or registered voters for pieces of unincorporated land surrounded by a city or "land islands."

The land islands must meet certain conditions, including being no larger than 150 acres and substantially surrounded by a city or adjacent cities.

That process has been used "hundred and hundreds" of times in California counties but not recently in Contra Costa County, Executive Director Lou Ann Texeira said.

Many residents in the area, which drew international attention in 2009 because of the Jaycee Dugard kidnapping case, have expressed a desire to keep their bucolic way of life.

"My wife and I purchased (our property) both for what was here and what wasn't here," Wentworth said. "One of my concerns is that they'll expand the street through, take out a chunk of property in front of my house and charge me to hook up water and sewer."

Antioch has looked at annexing the rural area about three times in the past 30 years, but plans fell through, said John Mitosinka, who has lived on St. Claire Drive since 1952.

"It ought to be left the way it is," Mitosinka said. "It seems like they are trying to dispense with what is our rights."

Possibly waiving a vote of residents concerns Antioch leaders, who requested last week that the city be indemnified -- or shielded from any significant legal exposure -- from the formation commission's action.

The annexation has already faced legal objections on environmental grounds from West Coast Home Builders, an arm of the Seeno Construction Co., even though the firm has no financial stake or property in the area.

Antioch leaders maintain that Viera residents should have the right to protest.

"It's up to us to convince (residents) and give them a reason to be in the city and sell them on the benefits of annexation," Councilman Gary Agopian said. "Our goal would be to provide those basic services without disturbing people or the area."

Antioch surveyed residents in the area in 2007 asking whether they wanted to be brought into the city, said Victor Carniglia, a city-hired consultant.

Of the nearly 60 percent of households that responded, about 75 percent were against becoming part of the city, he said.

The county's land formation commission will continue discussions on the annexation at its meeting next month, including the indemnification option and possibly forming an alternative plan where Antioch provides full city service regardless of whether the area is annexed.

Other steps that must be addressed before annexation include agreement by the city and county on how to split property taxes for the power plant and how needed utility and road improvements will be funded. Antioch must also revise some environmental documentation for the Viera area.

GenOn has offered an incentive to the city and county of \$1 million apiece to complete the annexation as soon as possible.

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Dissident Kensington board member resigns

By Rick Radin Correspondent San Jose Mercury News

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KENSINGTON -- The board that oversees the town's police department will be minus a consistent critical voice with the resignation of director Mari Metcalf last week.

Metcalf announced she was leaving in the middle of her four-year term at the Kensington Police Protection and Community Services District board's Dec. 13 meeting. Her departure follows the loss of ally Cathie Kosel to incumbent Chuck Toombs and challenger Pat Gillette, a Toombs ally, in the Nov. 6 election.

Metcalf's and Kosel's criticisms of Kensington police Chief Greg Harman and the police department in general had grown increasingly vocal. They both had also fought publicly with Toombs over the way he ran board meetings, saying that he and fellow board members Tony Lloyd and Linda Lipscomb were overly protective of Harman.

Metcalf said she was angered that members of the audience at meetings were allowed to shout out when she and Kosel were speaking and that her allies were often interrupted when they had the floor during public comment periods.

Allowing this behavior violates the board's policies and procedures, she said.

"My term is not up for another two years, but I can't take the bullying anymore," Metcalf said. "I refuse to be a part of the governing body of this very mismanaged district."

Toombs said he did his best to maintain decorum at meetings.

"When people acted out of turn, I silenced them," he said. "(Metcalf's and Kosel's) supporters also presented a challenge."

Toombs said that, despite his differences with Metcalf, he was disappointed by her decision.

"I would have preferred that she stay on the board, but what would you have us say?" Toombs said. "We don't have a response, except we're sorry."

The board will put out a request for applications from the community, and the remaining four members will select Metcalf's successor from those who apply, Toombs said.

Lloyd was elected board president Dec. 13, replacing Toombs, who handed over the gavel after 3½ years.

The board met in closed session during most of the meeting to deal with five legal issues that included its garbage contract with Bay View Refuse and Recycling and an abuse claim from Kosel against the police department.

Bay View requested a rate increase earlier this year, saying that its rate of return under its contract with Kensington that expires in 2015 was not covering its costs. The board agreed to a rate review and said it would abide by its terms.

But Bay View insisted on two separate increases, and the case is in arbitration, Toombs said.

The board denied Kosel's claim in the other case, Lloyd said.

"She has said 'I want a bazillion dollars,' and we have said we need to look at this deeper," Lloyd said. "It forces it to the next level, some form of litigation or adjudication."

Metcalf objected to the fact that Kosel was mentioned by name in discussion of the dispute. The board also is dealing with a harassment claim against Harman by a clerical employee who has not been named, she said.

Kensington police services district seeks applicants for vacant board seat

By Rick Radin For the Contra Costa Times San Jose Mercury News

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KENSINGTON -- The board that controls this unincorporated community's police services is taking applications to finish out the final two years of resigned board member Mari Metcalf's term.

Metcalf left the Kensington Police Protection and Community Services District board Dec. 13 after key ally Cathie Kosel lost her bid for re-election Nov. 6, citing irreconcilable differences with other board members over police department management, the conduct of board meetings, legal issues the district is facing and other matters.

Board President Tony Lloyd said candidates should submit a letter outlining their qualifications by Jan. 17.

The four current board members -- Lloyd, Chuck Toombs, Pat Gillette and Linda Lipscomb -- will then interview finalists at a special meeting to be held between Jan. 17 and Feb. 10.

Each board member will be allowed to ask each candidate two questions that will be cleared in advance by the entire board. The candidates will be given the list of questions ahead of time, Lloyd said.

"We won't be discussing anything that will compromise our litigation, but I hope it will be an open and honest exchange," he said.

The board will pick a winner either at the interview meeting or shortly thereafter.

"We're looking for someone who is sympathetic to being part of a team effort about how you solve an issue," Lloyd said. "However, we're not just looking for someone who is going along with the group, but someone who will stand up for themselves."

Lloyd said four community members have expressed an interest in being candidates and several more are considering it.

Interested candidates should submit letters to General Manager/Chief of Police Gregory E. Harman, Kensington Police Protection and Community Services District, 217 Arlington Ave., Kensington, CA.

For further information, call Chief Harman at 510-526-4141.

California Democrats signal they want to reform Proposition 13

By Steven Harmon sharmon@bayareanewsgroup.com *Contra Costa Times*

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SACRAMENTO -- The third rail of California politics may not be as deadly as once thought.

Three and a half decades after the passage of Proposition 13 shook the political landscape in California and sparked a taxpayer revolt across America, voters appear to be warming up to the idea of reforming the initiative as long as protections for homeowners stay intact.

And the apparent sea change in public attitudes, combined with the two-thirds majorities Democrats now hold in both chambers of the Legislature, has emboldened some politicians to take aim at the iconic measure.

"It is time for a fix, because Proposition 13 is broken," said Assemblyman Tom Ammiano, D-San Francisco, who plans to introduce a bill next year aimed at forcing businesses to pay higher property taxes.

The landmark 1978 measure rolled back property taxes and capped yearly increases until a property is sold, but critics say one of its unintended consequences was shifting more of the Golden State's property tax burden from businesses to homeowners.

In addition to Ammiano's bill, two constitutional amendments heading to the Legislature would allow voters to approve local parcel taxes for schools and libraries on a 55 percent vote, rather than the 66.7 percent now required.

In a recent poll by the Public Policy Institute of California, 58 percent of registered voters said they favored a "split roll" property tax, in which commercial properties would be reassessed annually or semiannually according to their market value, while taxes on residential properties would continue to be capped at 2 percent annual increases. And since Democrats took full control of the Legislature in last month's election, some legislators have suggested that it's time for a so-called "split roll."

Proposition 13 has held a central place in California's political discourse since voters approved it with nearly 65 percent of the vote in June 1978. It's credited with fomenting the rise of the anti-government, anti-tax movement that swept Ronald Reagan into the White House.

"It really has symbolized an unwillingness to permit Sacramento to raise general taxes," said Max Neiman, a fellow at UC Berkeley's Institute for the Study of Government. "It's suggested a kind of decline from the time California was a leader in an array of public services."

But voters in the Golden State now seem to have a "nuanced understanding that we simply aren't going to cut our way out of the fiscal deficit, and some kind of tax increases will have to take place," Neiman said. He pointed to the passage of Gov. Jerry Brown's tax measure, Proposition 30, as evidence that voters believe more revenues are needed, especially if they come largely from the wealthy.

A ballot box battle over amending Proposition 13, however, won't happen before November 2014. And it may come even later since Brown probably isn't eager to share the ballot with an issue that could blow up in his face if, as is expected, he runs for re-election.

Still, two Democratic lawmakers, Sens. Lois Wolk, D-Davis, and Mark Leno, D-San Francisco, next year will try to lower the Proposition 13 threshold for parcel taxes -- a move that would need voter approval. Senate President Pro Tem Darrell Steinberg, D-Sacramento, called it a "sound idea" to give local

governments the ability to "affect their own destiny," he said. "I think the public will get behind 55 percent."

The threshold for passing local school bonds is already 55 percent.

Steinberg, however, has balked at rushing through the constitutional amendments. And he said it's not yet time to take on an overhaul of Proposition 13 by creating a split-roll tax.

But Ammiano plans to introduce legislation early next year to close a loophole that allows corporations to sidestep reassessments on properties they purchase.

Ownership of a property isn't considered transferred unless 50 percent or more is sold. Critics say corporations find ingenious ways to avoid triggering reassessments.

In one of many similar cases, the wine company E&J Gallo averted a higher reassessment 10 years ago after buying the prime 1,765-acre Louis M. Martini vineyards in Napa and Sonoma, when 12 Gallo family members bought individual shares -- none greater than 50 percent. The move costs Napa County as much as \$700,000 a year in taxes.

"Why should these multibillion-dollar corporations get these breaks at the expense of regular folks?" Ammiano asked.

Ammiano said he hopes the Legislature will act on his bill before the end of spring. It would not require voter approval because it would only be a statutory change.

But it's expected to kick up a firestorm of opposition from businesses.

"You'll see them feeling like they're targeted. And when that happens, you'll see them stand up and fight," said Allan Zaremberg, president and CEO of the California Chamber of Commerce.

A key finding in the PPIC poll that should give Democrats pause is that 60 percent of voters still support Proposition 13, said Kris Vosburgh, executive director of the Howard Jarvis Taxpayers Association, a group founded by the measure's co-author.

"Proposition 13 is more popular today than when it passed," Vosburgh said. "We are definitely for enforcement when we know there are documented cases of efforts to get around legitimate change of ownership. But we don't see it as an overall problem. It's all about the state trying to get more money."

Larry Stone, Santa Clara County's assessor, said even if voters approve a split roll, county assessors won't be able to carry it out without vastly expanding their staffs.

"I don't have the staff or skill set to reassess all business, commercial and industrial property every two or three years," Stone said.

Simply raising the tax rate above the base 1 percent for commercial properties would be an easier way to get more revenues, though "it doesn't avoid the inequities of Proposition 13," Stone said. "You couldn't devise a more unfair property tax system if you tried than the one we have in California."

The turning point for reformers could come when homeowners begin to realize they're carrying most of the load for property taxes, proponents say. In 55 of 58 counties, residential homeowners are paying more property taxes than businesses, after businesses had taken up much of the burden before Proposition 13, according to a study compiled by Lenny Goldberg, president of the California Tax Reform Association.

In Santa Clara and Contra Costa counties, just before the passage of Proposition 13 in 1978, residential homes and all other properties shared the tax burden evenly -- 50-50. But now homeowners are responsible for 70 percent of their counties' assessed value, the study said.

"Nobody can defend the way we assess commercial property," said Goldberg, who is working with Democrats on Proposition 13 changes. "Commercial property is the biggest hole in our tax system, and we avert our eyes at the hole in the middle of the system because it's not politic to discuss this."

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Facts about PROPOSITION 13

Approved in June 1978 with 64.8 percent of the vote.

What it did: Rolled back property values for tax purposes to 1975-76 levels and created a base tax rate of 1 percent, with annual tax increases limited to the inflation rate or 2 percent, whichever is lower. When a property is sold, it is reassessed based on the selling price.

Declared constitutional by the U.S. Supreme Court in 1992.

Other requirements: A two-thirds majority of the Legislature must approve all new taxes. A two-thirds vote is also required if local governments want to raise a tax for a specific purpose.

Past changes: Voters have approved four measures to amend Proposition 13, most strengthening it. In November 1978, Proposition 8 permitted a reassessment of property values in the wake of a disaster or a declining market; Proposition 60 in 1986 allowed homeowners 55 and older to transfer the assessed value of their present home to a replacement home; Proposition 39 in 2000 lowered the required supermajority necessary for voters to pass school bonds from two-thirds to 55 percent; and Proposition 218, in 1996, gave the people the right to vote on all local taxes and required taxpayer approval of assessments and property-related fees.

Tax burden hits residential property owners hardest

Since Proposition 13 passed in 1978, the tax burden has shifted greatly from businesses to residential property owners. Annual proportion of property taxes paid by Bay Area residential and nonresidential property owners:



Source: California Tax Reform Association, Alliance of Californians for Community Empowerment

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