

EDITOR • JON KAWAMOTO

# The Montclairion

"... were it left to me to decide whether we should have a free press or government without newspapers, or newspaper without government, I should not hesitate a moment to choose the former."

JEFF HANSEN • HILLS NEWSPAPERS

## GUEST COMMENTARY Voters need protection of full disclosure laws

By John Russo

It's ironic that the March 16 commentary complaining about the state law invalidating the Oak to Ninth petitions appeared during Sunshine Week — a week designated to highlight the necessity for transparency in our democratic processes.

My office's legal opinion on the Oak to Ninth petition signatures, not only upheld state election law, but defended a fundamental principle of democracy — a voter's right to full disclosure.

State law is draconian and strict in its requirements for petitioners seeking to challenge the actions of local government through the method of referendum. In California, a failure to present the actual text of the ordinance being challenged, or to attach the exhibits to the ordinance, is fatal to a referendum petition. Such failures to give people all the information necessary for an educated decision confuses and misleads voters; thereby threatening the overall integrity of the process.

Apparently, the Oak to Ninth Referendum Committee did not get competent legal advice; they chose to collect signatures while presenting to the public a document that was not the ordinance they were hoping to challenge. The Referendum Committee used an early, incomplete version of the Oakland City Council's Oak to Ninth ordinance. The Referendum Committee should have known this because the document they used was printed in bold and capital letters: "NOT ACCURATE - TO BE UPDATED".

Even though the committee claimed that the City Council's action in approving Oak to Ninth was wrongheaded due to the potential loss of park land, the committee's leaders chose not to circulate the actual maps of the approved project. This failure to provide the public with the maps by itself, invalidated the petition.

Sadly, the referendum committee leaders failed the public and those well-intentioned people who volunteered to help the campaign by not doing their homework. The heedless rush to get signatures without an accurate copy of the ordinance is the entire reason for the frustration these volunteers now feel.

Now, some leaders of the referendum committee are complaining about the cost of pursuing their lawsuit. A lawsuit they filed in order to blame someone — anyone else — for

their own failure to follow the law. A lawsuit in which their attorney has shockingly argued in open court that the requirements of state law, the requirements that defend the voter's right to know what they are signing, should not be applied to this committee.

My office did not write this demanding state law, but I have taken an oath to uphold the law. That law — and this is the point the referendum committee leaders keep obscuring with their personal attacks — protects the public from voter fraud by making sure that when we are approached by someone gathering signatures to overturn a City Council decision, we are presented with the actual text of the decision we are being asked to overturn.

A lot of the mistakes made by referendum committee leaders sprang from their fear that, with only 30 days under state law to collect signatures, they needed to move very quickly. In hopes of remedying future mishaps with petition drives, my office is proposing an amendment to state law regarding the allotted time for gathering petitions. Under current law, a person or group that wants to use the power of referendum against a city ordinance must submit its petition signatures within 30 days of a City Council's adoption of the ordinance.

This amendment would ensure future referendum petitioners had the full 30 days to obtain their signatures. This amendment would do so by starting the clock for the signature gathering period from the date a City Clerk attests to the final and full copy of the ordinance, not the date a City Council adopted the ordinance.

In a time when our federal government is increasingly stripping away civil liberties and hiding information from the public, we have a duty to ensure basic disclosure laws are upheld. Public access to information is the very basis for our democracy. Transparency is a value that must apply equally to all who participate in our democratic process. No one can or should put themselves above it — no matter how passionately they believe in the righteousness of their cause.

Oakland City Attorney John Russo can be reached at 510-238-3601 or [jrusso@oaklandcityattorney.org](mailto:jrusso@oaklandcityattorney.org). More information about the Oak to Ninth issue can be found at [www.oaklandcityattorney.org/ninth](http://www.oaklandcityattorney.org/ninth).

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## THE WAR IN IRAQ MARKS FOURTH YEAR

THE CLUE IS "MISSION ACCOMPLISHED"  
AND THE WORD I CAME UP WITH  
IS "MISTAKE."  
COULD THAT BE RIGHT?

SOUNDS ABOUT RIGHT



### LETTERS TO THE EDITOR

#### FDA fails on produce rules

The Food and Drug Administration is telling spinach and lettuce growers that sanitation is optional? Come on, give me a break.

If it takes more frequent testing of the water supply for contamination, if hand-washing facilities in the fields must be made available and the practice enforced, if other rules are required to make our food safe, then those rules should be mandatory. All companies benefit from such mandatory regulation. The practices become part of the cost of doing business. When rules are voluntary, then good companies suffer the extra costs because they follow the rules, but their business is harmed as well when unethical companies cause an E. coli outbreak.

This is weak-kneed, spineless regulation by FDA. It's deplorable.

**Helen Black**  
retired registered dietitian  
Oakland

#### Throw some light on the road

I read your recent editorial regarding the expenditures to be allocated to improve or maintain local Freeways, including Highways 13 and 580. I live on Detroit Avenue just off Redwood Road in Oakland.

Many times driving back home to Detroit Avenue from Livermore or adjoining towns at night, I note that some crucially located overhead freeway lights are missing or not lit so messages to drivers below cannot be read by these drivers. Existing overhead lights obviously must be used or a light added where necessary to protect the driver and maybe a car full of people.

I am an elderly man and although I consented to drive, I do not drive my car at night. I make this trip home occasionally when my car is driven by my adult son. Sitting beside him, I marvel at his ability to discern his whereabouts and make the correct turn-off despite poor or no adequate lighting overhead. That route is in

#### Police Department quick to correct its mistake

The League of Women Voters of Oakland commends the Police Department of Oakland for its prompt and thorough response to the December 2006 audit which gave them a failing grade in providing access to public records.

A Californians Aware, a Sacramento-based public interest organization conducted the audit in which citizens requested public records from 216 police departments in 30 California counties.

It is good news that the our Police Department took the audit seriously. In a March 5 report to the Public Ethics Commission, Deputy Chief Lowe reported that the department's first response was to survey other police departments that handle public records requests correctly. Then the department instituted several core changes that will provide appropriate public access to documents and make a big difference in how the public perceives the department.

The League of Women Voters is built in part on the principle of the citizen's right to know. We also are sensitive to the special needs of our police who perform such a crucial role in the community. Please accept our congratulations.

**Helen Hutchison**  
President  
League of Women Voters  
of Oakland

#### Sharks not good for figure skaters

My name is Stephanie Pearl. I have two daughters who figure skate at the Oakland Ice Center. The Oakland Ice Center has a great Learn to Skate program with lots of freestyle sessions after school that accommodate our public school Oakland public schools.

My daughter Kiley, who attends Montara Middle School, is not allowed by the school to opt out of physical education in exchange for the hours she works on the ice by her credentialed teacher/coach. Kiley is on the ice an average of 12 hours

#### Obama and Ciack courage

Sen. Barack Obama is a visit to the Bay Area last year, only create more crime and

the name representing the Center. The Sharks are famous in San Jose. We are in

If the afternoon freestyle taken away, my children will quit skating or be home they can skate the morning stions.

But I ask? How many have to leave public school the decision to hire the She know that Kristi Yamaguchi Bolzano skate at the Oakland when they are in town. aguchi's family lives in Fremont? Isn't she skate there? But not any ice time available it starting to get the picture?

I agree we need new management for the Oakland Ice Center. I think Rink Management Service firm that initially won the has an excellent reputation well-balanced community program would likely result in changes for our programs.

Berkeley Iceland is closing ure skaters there tell me if ing to Oakland once it closes ure skaters are worried if O the Sharks.

I understand that if the there are no afternoon freesi there goes the money and in ice rink and coaches. Do you to get rid of the public skating You would be saving me a But what's most important a and happiness on the child.