

Setback won't halt E. Palo Alto

By Steve Taylor
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The legal blow delivered this week to East Palo Alto's status as a city will not stop efforts to hire a city government staff, even though those staff members could find themselves out of work in the near future.

City Manager Fred Howell, the only high-ranking city official employed by the 14-month-old city, said Thursday he will continue to interview applicants for police chief, public works director, finance director and three other positions. He also does not expect any applicants to suddenly change their minds and withdraw their names from consideration due to the state Court of Appeal decision issued Wednesday.

On a 2-1 vote, the 1st Appellate District Court in San Francisco ruled that 106 ballots cast in the June 1983 incorporation election are of questionable validity and must not be counted.

If upheld, the ruling ultimately would make East Palo Alto's city government illegal, and the community would return to being an unincorporated area under San Mateo County government control.

Indications are that most, if not all, of those votes were cast in favor of incorporation. Because incorporation passed only by a margin of 13 votes, the deletion of the 106 controversial votes would

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mean that a majority of voters instead rejected the idea of turning the predominantly minority community of 18,000 residents into a self-governing city.

The court ruling is the latest in a long series of setbacks for incorporation advocates. If the election results are reversed, pro-city forces will have to start all over again and seek voters' signatures to put the issue on an election ballot for the third time since 1982.

The court ruling will be appealed, however, by the East Palo Alto city government and the county government. Attorney Tom Adams, who represents the city on this matter, and county District Attorney Jim Fox both expressed optimism that the California Supreme Court will agree to review the appeals court ruling and overturn it.

Howell said the city already has

reserved \$43,000 to pay for litigation. The voting dispute is the only legal matter now confronting the city in court, so all of the money is available, if needed, and if it is allocated as expected by the City Council, he said.

Adams said the Supreme Court probably will decide within 100 days if it will consider the case. After that, the amount of time taken to reach a decision would depend on the court's schedule, he said.

In an interview, Howell appeared undisturbed by the appeals court decision. He noted that if the ruling had gone the other way, incorporation opponents could have appealed the matter to the state Supreme Court and the situation still would remain in flux.

"We're not suddenly in limbo. We've been in limbo from Day One," Howell said. "It is not sudden, it is not a surprise, it is not the end of the world. Experience and intuition say to me it's business as usual as far as running a city."

Those ultimately selected to fill various city jobs, including police chief, could find themselves suddenly unemployed if the appeals court decision is not reversed. Howell said he feels the lack of job security has not changed from the time job applications were filed, even though this is the first legal battle the city has lost on this issue.

As of Thursday, none of the applicants for the six city jobs have contacted Howell to withdraw their names from consideration, he said.

"This thing could be in court for 10 years," he said. "They will be in the same position I was in when I got this job."

Howell also suddenly would be out of a job. He said he was not disturbed by the prospect.

"It was a calculated risk on my part," Howell said. "I took it knowingly, advisedly, and I'm not troubled by it at all."

Howell does not expect the city's legal uncertainty to effect development or other business activities