

PVP Watch Newsletter – January 27, 2014

To Our Friends and Supporters

In this Newsletter:

- * Happy Days Ahead
- * RPV in Chaos...
- * RPV – Financial Considerations
- * PVE – Via Panorama

We trust that everyone had a Merry Christmas and enjoyed the holidays. It is a new year and better days are ahead for RPV residents. For those who may have missed the announcement, RPV City Manager Carolyn Lehr decided not to seek renewal of her employment agreement with RPV that terminates June 30, 2014. A separation agreement was approved by the RPV Council at the January 8th Council meeting and effective February 1st Ms. Lehr will be on special assignment until her agreement ends on June 30th. Deputy City Manager Petru has been appointed as Interim City Manager.

Jerry Duhovic was selected to be RPV's mayor in 2014 and PVP Watch is optimistic that with Mr. Duhovic as mayor, this Council will take the time to "get it right." At issue is the responsibilities and authority of the City Manager vs. the Council. There is a belief by some that that the California City Manager form of government enables the City Manager to be an all empowering CEO who can make decisions without benefit of Council advice or consent. In fact RPV Municipal Codes were written to support this premise. However, a search of California State Government Codes has revealed Sections 34851-34859 that state that the Council is empowered to "delegate" powers to a City Manager as the Council finds appropriate.

The City Council is our elected representatives and who the taxpayers can hold accountable. Although we do not suggest that the Council be involved in all operational decisions, there is a need for the Council to have some oversight of some decisions. For example, as Ms. Lehr was making plans to leave RPV, she hired a new Public Works Director, a senior management employee without any discussion with the Council that she was doing so. We could go on as to why changes are needed to protect the taxpayer's interests but let's give the Council some liberty to make needed changes. PVP Watch will continue to observe and report to the residents.

RPV in Chaos...

A the December 17th RPV Council meeting City Manager Lehr and HR Manager Sean Robinson reported on their efforts to hire seven more City Employees. While the need for some employees seems questionable, City Manager Lehr and HR Manager seemed quite proud of their accomplishments. What is not being questioned is the expense the taxpayers will have to bear not only in salary but benefits and pension contributions as well. Another question is how this will impact the unfunded pension liability situation as well as ObamaCare costs with over 50 full time employees?

We understand that RPV employees believe they are entitled to salary increases. May we suggest to our employees, yes they are OUR employees, that we taxpayers believe you have long been *very well paid* in contrast to residents who have had to deal with horrible economy of the past four / five years. The Councils of all the Peninsula Cities should be conducting *Classification and Compensation* analysis to compare how municipal employees compare to private industry for salaries and benefits.

The Council is now updating Goals and Priorities. We would hope that the Council makes Pension Costs and California Unfunded Liabilities one its highest priorities. Governor Jerry Brown reported in his recent "State of the State" report that unfunded pension liabilities continue to be a significant problem.

We suggest that all Peninsula as well as South Bay cities make support of HJTA (Howard Jarvis Taxpayers Association) efforts to protect "Prop 13" property tax protection from encroachment by the California Legislature a priority. We suggest that Peninsula residents who are not already HJTA members might consider doing so as well. HJTA reports that the two Peninsula representatives in Sacramento, Assemblyman Al Muratsuchi and State Senator Ted Lieu both rate an "F" for their votes against "Prop 13" protections. Hopefully Republicans that can run a competitive race in this November's election will soon emerge.

RPV – Financial Considerations

The October, 2013 Cash Balance Report identifies that RPV has over \$48 million in Cash Balances that are divided into three categories; General Fund, Restricted by Law or External Agencies and Restricted by Council.

General Fund - \$14 + million is the current amount in the City's annual operational budget which is compiled and approved by the Council usually in June for the ensuing fiscal July 1 to June 30 period.

Restricted by Law or External Agencies – These funds are derived from many sources such as sales taxes, gas taxes and other sources and can be only used for designated projects or services. Included is RPV Water Quality Flood Control wherein much of funds are derived from the RPV resident authorized tax now approximating \$100 per residence annually. These funds can only be used for storm drain related repairs. Currently there is approximately \$19 million in this fund including \$9 million the City moved from the Restricted by Council funds to pay for the San Ramon Project.

The Restricted by Council Fund is currently almost \$15 million. Use of these funds is available to the Council for whatever the Council may decide to do. These funds are primarily derived from the “TOT” tax which is the Transit Occupancy Tax primarily paid by Terranea guests. Another source are funds received by the City which are not needed for General Fund purposes. Recent history is that this input approximates \$4 to \$5 million annually. Together, the TOT and other revenues going to this fund currently approximate \$8 million annually.

For those wondering what this is about is that our employees at City Hall will soon be presenting a “Sky is Falling” scenario that reportedly will require a massive funding plan undoubtedly including sizeable bond indebtedness.

First of all, the Council will need to give the Staff report very close scrutiny. Past observation of City Hall planning usually leaves much to be desired and we shall have to see what develops but we are not optimistic that viable, cost effective solutions will be forthcoming.

PVP Watch will keep everyone apprized as to what occurs here.

PVE – Palos Verdes Estates

Concerning the Via Panorama situation, the following are excerpts from an update provided by Renata Harbison, a Via Panorama resident.

“The hearing on the demurrer in our writ of mandate case was held on Friday January 3rd. The scope of the hearing was very narrow: Judge O’Brien only ruled on one of several claims and has not, for example, ruled on whether the sale of public parkland to a private person constitutes an “ultra vires” act in violation of the law. The Judge announced that he intended to sustain the demurrer on the writ of mandamus claim because he “did not see evidence of a ministerial duty” which required PVE City and PVHA to follow the protective restrictions. The PVHA had argued that they had the “*right but not the duty*” to follow the CC&Rs, and they based this on the word “shall” in the CC&Rs claiming that it actually means “may” and hence is optional (PVP Watch Emphasis).

....Contrary to the belief held by many members of our community, the PVHA and City have now gone

on record as stating the enforcement of land use restrictions is now a matter of discretion. It remains to be seen what problems this may cause the PVHA and City when they later attempt to enforce the same restrictions at issue here.

.....At the hearing the Judge said he had not decided on whether to allow us leave to amend our petition..... Subsequently Judge O'Brien issued a written ruling in favor of the defendants, with no leave to amend. Three justices of the court of appeal will review Judge O'Brien's decision. Note that the demurrer only covers 1 of the 3 counts in our original petition. We (Harbison) are disappointed by the outcome but resolved to see this case through on the remaining claims."

PVP Watch – The community should be concerned with the decision making of the PVE Council as well as the integrity of the Palos Verdes Homeowners Association. It was reported that PVE had submitted a draft of a new Housing Element plan to the state that *asserted that parkland CC&Rs would not allow other uses of that land (including low income housing) (Editor's emphasis)*. So the City is using the CC&Rs when it suits them, and then ignoring them when it does not suit them. Do not elected bodies, and others, have a responsibility to follow the law?

This brings us back to the "Lots C & D" situation wherein the PVPUSD desired to change the zoning to residential which was denied by the PVE Council and PVHA. Subsequently PVPUSD was denied in Court where the PVHA was upheld that designated land use was sacrosanct. Perhaps PVPUSD should make the Court aware that land use designations are not sacred in PVE and had the truth been presented by the PVHA, the Court's decision might have been different.

PVP Watch

You may have observed that with the posting of this Newsletter the new domain name is pvpwatch.org rather than pvpwatch.com. We suggest that all include the new domain name – pvpwatch.org in their contact list to prevent spam detector blockage.

PVP Watch – Newsletter List - A reminder to ALL PVP Watch supporters, should you change your e-mail address don't forget to advise PVP Watch of your new address. We suggest that pvpwatch.com be added to your computer address book to assure delivery of PVP Watch Newsletters.

PVP Watch – Contributions

PVP Watch thanks the many subscribers who have contributed to PVP Watch. Those desiring to make a modest contribution, please send checks to PVP Watch / PO Box 2041 / Palos Verdes Peninsula, CA 90274

Subscribers

The PVP Watch e-mail list continues to grow. For those who wish their addresses removed, please send notice to info@pvpwatch.org. Those who have topics of community interest are encouraged to bring those issues to info@pvpwatch.org as well.

The Editorial Committee
