

# PVP Watch Newsletter – November - 30 - 2017

## To Our Friends and Supporters

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<u><b>RPV Election Results</b></u>	<u><b>Total Votes</b></u>
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John Cruikshank	3306
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Eric Alegria	2399
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Dave Emenhiser	2125
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Krista Johnson	1477
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Ben Kelly	666
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Matthew Vitalich	477
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John Cruikshank ran a *textbook* campaign that began in a March / April timeframe and the results proved Cruikshank's efforts, a plurality of 907 votes over the next candidate Eric Alegria (2399). Eric Alegria, with Susan Brooks support, took the second seat attaining 274 votes more than Dave Emenhiser (2125). Although Alegria was not endorsed by PVP Watch, hopefully we will have compatible direction on important issues going forward. PVP Watch congratulates Ben Kelly and Matthew Vitalich for their efforts. Hopefully these two will get more involved in City functions and become competitive candidates in the future.

**Breaking News – November 29<sup>th</sup>, DTSC rules that there will be NO time extension for anti PVPUSD / PV AYSO antagonists.**

**The Alleged Contaminated Soil at Ladera Linda Soccer Fields.**

It was April 27<sup>th</sup> 2016 when the DTSC and other state agencies raided the PVP Unified School District facilities in response to a complaint alleging that there was contaminated soil at the PV AYSO soccer fields at Ladera Linda. The soccer fields are PVPUSD land that is not used for school purposes and is leased to the AYSO.

After a year of bureaucratic delay, May 30<sup>th</sup> 2017, a DTSC approved soil test process was conducted and the results were posted at a community meeting held by the DTSC on November 16<sup>th</sup> at the PVIC. Briefly, the DTSC report states that the tests revealed that any contamination that might be there was well below any acceptable levels and recommended the project be terminated by December 8, 2017. Although most residents found the DSC report to be Good News, not surprisingly, the anti anything PVPUSD / AYSO led by PVE resident Joan Davidson, were contesting the DTSC report and was seeking a delay because she believes there is contaminated soil regardless of DTSC findings. This hoax has gone on for far too long and has cost PVPUSD some \$500,000 (probably more) in funds that could have been used for school programs as well as another \$400,000 paid by AYSO; **fraudulent complaints have cost this community some \$1 Million**. As noted in headline above, this sham has now ended.

DTSC website - [http://www.envirostor.dtsc.ca.gov/public/profile\\_report.asp?global\\_id=60002419](http://www.envirostor.dtsc.ca.gov/public/profile_report.asp?global_id=60002419)

### **RPV Council Violates Brown Act**

At its October 17 meeting the Council violated its own Rules and Procedures as well Brown Act regulations by conducting an unplanned closed session to discuss a letter written by RPV resident Michael Huang threatening to sue RPV. As it often does, the Council overreacted and discussed the Huang letter in closed session without posting the event. Subsequently, October 24, 2017 Peninsula Attorney Jeffrey Lewis presented a "Cease & Desist" letter to RPV for violating Government Code 54960.2 (a)(1) / Brown Act Violation for having a closed session event without proper noticing. November 21<sup>st</sup> RPV City Attorney Aleshire responded disputing Attorney Lewis' claim. We shall await the resolution.

All of this for a political vendetta. Huang is a known writer of letters to the RPV Council with his usual anti Airbnb crusade. Background is that Huang had written a political letter disparaging two Council candidates because they were supported by Mayor Campbell, the issue being that Campbell had used his title in his response. This entire political hubbub for a nonsensical letter. One would think that the Council has better things to do than having a knee jerk reaction to a letter threatening an illogical lawsuit. Stay tuned...

### **RPV Street Lights**

This matter was on the October 3<sup>rd</sup> Council agenda and RPV residents should watch how this likely fiasco develops. RPV City Manager Willmore's plan is for RPV to buy 1799 LS-1 street lights from Edison for \$667,216 which according to Willmore will provide an annual savings of \$138,242. While this sounds wonderful, this plan has more holes than Swiss cheese. First of all there is no business plan that depicts all costs and benefits. Who will provide maintenance? Oh, this is to be negotiated. Street lights are going to be increasingly used for wireless (cell phone) sites and there will be fees for "pole attachments" which are the antennas. It is not clear whether or not Edison will include these revenues to RPV. How about costs for electricity used? There are other consequences as well. Without a defined business plan makes this idea a "pie in the sky" fantasy. During the October 3<sup>rd</sup> Council discussion, it did appear that Councilmen Duhovic and Misetich were beginning to have doubts with Willmore's unconvincing purchase of street lights from Edison.

## **Wireless Service in RPV**

For those who have been following the wireless antenna caper (cell phone) at RPV City Hall, a new wrinkle is possible. California Senate Bill 649 was approved by both the Assembly and the State Senate but was vetoed by the Governor. SB 649 was merely a language cleanup to make California be in line with the FCC. Current law is that the FCC is the final arbiter of telecommunications / Internet services with local agencies having limited control over "Aesthetics."

Early 2006 RPV enacted a wireless antenna ordinance where in RPV assumed certain design prerogatives that are not in line with FCC dictates. In our view, City Manager Willmore poorly supported the Council by presenting a wireless ordinance that he should have known was not in concert with FCC regulations. To make the ordinance work, RPV recently retained two consultants at a cost of \$422,500 annually. Using this ordinance, RPV has some 24 AT&T applications subject to review by the Planning Commission (there are others that can be approved administratively). At this time, 8 have been denied and are now being appealed by Crown Castle (AT&T Wireless network contractor). So far, 6 sites have been approved.

RPV residents are concerned with some site designs as they well should be. However, what is more of a standard design using street lights with a small electronics package is becoming the preferred installation. Our view is that this design is not intrusive and will be a satisfactory option for many cell site antennas.

## **PVE - Panorama Parkland Appeal**

As readers may recall, a group of concerned citizens calling themselves Citizens for Enforcement of Parkland Covenants (CEPC) has been trying since early 2013 to reverse the 2012 sale of 1.7 acres of parkland to a private resident in Palos Verdes Estates who had built extensive encroachments on the parkland around his house over the past 40 years. John Harbison and CEPC filed a lawsuit in May 2013 and in June the LA Superior Court ruled in favor of the Plaintiffs. However, the defendants (the Palos Verdes Homes Association, the City of Palos Verdes Estates, and the Luglianis) all filed an appeal in November 2015. Since then, there have been multiple briefs from both sides and that process is nearing completion. For all the relevant documents and press articles, see [www.pveopenspace.com](http://www.pveopenspace.com).

Two recent developments. November 15, the Court accepted California Association Realtors Amicus Brief in CEPC Panorama Parklands Case. Significantly, the CAR supported the Judge's conclusion that the sale of Panorama Parkland violated CC&Rs and deed restrictions and should be voided. Further, CAR pointed out that overturning the ruling on appeal would set a dangerous precedent that could have far reaching negative impact on communities and HOA's across California that rely on adherence to the CC&Rs and governing documents pertaining to each entity. Finally, they were critical of the PVHA's arguments that the Business Judgment rule exempted the PVHA from following their own rules.

Three Appellate Justices will finally hear oral arguments at 9 AM on December 14th at Ronald Reagan State Building, 300 S. Spring Street, 2nd Floor, North Tower Los Angeles, CA.

For CAR's full amicus brief, see

[https://static1.squarespace.com/static/54c2de5ae4b08b9c092866bb/t/59c476682994ca248f535b83/1506047592829/B267816\\_ACB\\_CAR.PDF](https://static1.squarespace.com/static/54c2de5ae4b08b9c092866bb/t/59c476682994ca248f535b83/1506047592829/B267816_ACB_CAR.PDF).

## **PVE - Homes Association Election Challenge**

Ried Schott, as a member of the Palos Verdes Homes Association (PVHA) and ROBE (Residents for Open Board Elections) has been challenging the incumbent PVHA Directors since 2015 in an attempt to re-store democracy and promote respect for PVE parklands. Among ROBE's supporters are many recent Leaders: five former Mayors from the City of PVE, two former Presidents and Directors of the PVHA, and two Former School Board members.

ROBE's platform is to support community values by:

- Restoring Open Democratic Elections to Give Residents a Voice
- Preserving Parklands and Respecting Deed Restrictions
- Improving Transparency and Streamlining PVHA/City Approvals

The last two contested PVHA Director elections have not been valid because a quorum of 50%+1 has not been met. In fact, there has not been a quorum and valid election since 2009. As such, no incumbent director has been legitimately elected in eight years, and three directors have never been elected. Worst still, the PVHA Board has implemented a number of changes that make it harder to reach a quorum, and in the last election refused to even count the ballots received. The PVHA Board is also not following its own By-Laws which require it to adjourn day-to-day until a quorum is reached; in addition, the PVHA Board is not following its own Resolution #177 which requires all candidates (including incumbents) to collect petitions with at least 100 signatures.

The case was heard on November 30th by Los Angeles Superior Court Judge Ruth A. Kwan. She took no action, but set a hearing date for February 15, 2018 to review the outcome of the 2018 election. For further information go to [www.pvegoodgov.org](http://www.pvegoodgov.org).

### **Palos Verdes Estates – Financial Challenges**

Last March PVE residents elected a new Treasurer, Ms. Victoria Lozzi who has 25 years of financial industry experience and two Council members (Davidson and Kao). Measure M, a Parcel Tax supposedly for Fire services, did not pass.

The City hiring and discretionary expenses have been increasing at an inordinate, even appalling rate; causing the voters to seek more responsible fiscal management from City Leaders. The failure of the voters to pass the new and higher Parcel Tax requires the City to fund fire and other services using general funds. This resulting fiscal deficiency is an opportunity for the City to finally address fiscal decisions which have resulted in a 30% decline in the City's Net Change/Worth in the last few years; which is on a continuing trajectory.

The City received a bid from the LA County Sheriffs of \$3.4 M for the same, some say better services, which was \$4 M less than present costs of the PVE Police Department which is currently \$7.4 M. The \$7.4 present expenditure is about 55% of the City's annual costs so choosing the Sherriff department, which serves the other 3 Cities on the Peninsula for police services, would obviate the need for any new Parcel Tax. But the Council decided not to pursue a final bid from the Sheriffs, but rather seek to reduce local police costs. Based on the last Council meeting, it appears a 10% (\$780 K) reduction is targeted but that is far from solving the as noted above financial problems of the City.

A group of residents formed a committee called PVrrg which reviewed the City financial report and surfaced numerous fiscal concerns and questions. They noted PVE spending has exceeded revenue for 7 years straight (2017 will be the 8<sup>th</sup>) thereby causing a continuous depletion of City funds and reserves.

The Council tasked the City Manager with identifying cost savings. However, he has not provided any suggested reductions in waste or efforts to achieve cost efficiencies, no reduction in fixed overhead, no transparency of expenses; thus did not present any cost savings to the City Council. So the Council contracted consultants reporting directly to themselves to pursue avenues of resident engagement, cost cutting and a new much higher Parcel Tax to be present the residents in April 2018.

Next Council Member Davidson and Ms. Lozzi proposed a Financial Advisory Committee (FAC) of residents to provide guidance to the Council. After months of reluctance, the Council finally agreed. On 11/29/17 Council discussed the new FAC and the role of the new Treasurer Ms. Lozzi. Mayor Vandever and Council Member King were firmly against Ms. Lozzi having any role with the FAC and the Mayor erroneously, stated that Ms. Lozzi's responsibility as Treasurer was only to "review investments".

Davidson was quick to disagree and further pointed out Ms. Lozzi would provide a valuable advisory role on the FAC with an agenda that the Council should also have to bring financial stability and transparency to PVE. Finally, in a 3 to 2 vote, Council made Ms. Lozzi a FAC de-facto member but eliminated her voting authority on the committee. Ms. Lozzi then pointed out "that the elected Treasurer reports directly to the residents, and is not subordinate to the Council, therefore, the Council had no legal standing to override State Codes/Laws to reduce the authority of the Treasurer. The Attorney provided the CA state Codes/Laws. All finally agreed the Treasurer responsibilities are far reaching beyond "investments".

**IN SUMMARY Passage of a new higher Parcel Tax in April will not prevent the continued depletion of City Funds. And it also seems this is may be only one of a series of new higher taxes the City intends to put before the voters. New taxes without considering the practicality of the Sheriff bid to provide the City with Police Services for about \$4 M less than the present onerous expenditure for the in-house Police Department will not fix the underlying problem of fiscal mismanagement? Residents must expect more if PVE is to have open, transparent, and competent financial management.**

### **PVP Watch Welcomes Subscriber Comments**

PVP Watch welcomes subscriber Comments. Please send comments to [info@pvpwatch.com](mailto:info@pvpwatch.com).

A current email issue is overactive "spam" detectors and we urge everyone to enter [info@pvpwatch.com](mailto:info@pvpwatch.com) and pvpwatch into their computer address books. This signals your ISP (Internet Service Provider) that you wish to receive PVP Watch newsletters.

Those who have topics of community interest are encouraged to bring those issues to [info@pvpwatch.com](mailto:info@pvpwatch.com) as well.

### **PVP Watch Welcomes Contributions**

PVP Watch appreciates the financial contributions of the many subscribers who have sent checks to PVP Watch as we remain on the financial support of our many subscribers. Those wishing to make a modest contribution, please send checks to PVP Watch / PO Box 2041 / Palos Verdes Peninsula, CA 90274

### **PVP Watch – Newsletter List**

A reminder to ALL PVP Watch subscribers, should you change your email address, don't forget to advise PVP Watch. For those who wished to be removed from the PVP Watch newsletter data base, please notify [info@pvpwatch.com](mailto:info@pvpwatch.com).