

# PVP Watch Newsletter – March 31, 2014

This message was received from US Air Force Colonel John Fer (ret.) who is well known to many in the San Pedro / South Bay area. For those who may have missed the connection, Colonel Fer was a longtime resident at the Hanoi Hilton during the Vietnam conflict.

*“Another outstanding report--not being a resident but very interested in RPV because of my many friends who are, let me say that every like-sized city should be so lucky to have conscientious residents and a "watch" to be aware of conditions and "tendencies"!*

John Fer

Thanks John, you made our day.

## To Our Friends and Supporters

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RPV Budgetary Issues - Recently RPV posted 2013 salaries including benefit costs on the RPV website. Some reported difficulty in finding this data so it is also posted on the PVP Watch website [www.pvpwatch.com](http://www.pvpwatch.com) / about the middle of the Current Issues page. Label is RPV – Employee Compensation 2013. A problem, the report is compiled in an extremely small type font making the document difficult to read. This seems to be a staff trait, publish a document but use type font that makes the report difficult to read. Interesting is that sixteen (16) employees make over \$100,000 annually and thirteen employees make between \$85,000 and \$100,000 annually. Several senior employees were hired in 2013 so their income is less than \$100,000 in 2013. That will increase in 2014. Not considered are pension implications.

An item on the March 18<sup>th</sup> RPV Council meeting was an attempt to increase certain managerial salaries. Fortunately Mayor Jerry Duhovic and the Council saw through the “facade” and rejected staff’s proposal. As reported by staff, the leading candidate for the new IT Manager position was not satisfied with the current salary range of \$78 K to \$102 K and the proposed new range would be from \$85 K to \$143.6 K. In addition to the IT

manager position, several other positions would have the new range and undoubtedly some other requests for upgrading would soon follow. Of course the overly generous benefits provided by RPV are not mentioned.

While staff may perceive that they are underpaid, we the taxpayers find otherwise. It is past time for a factual evaluation of jobs and individual performance, particularly those considered management. A caveat, any job performance evaluation must be by an unbiased 3<sup>rd</sup> party not controlled by the City Manager.

How to pay for the San Ramon project was also on March 18<sup>th</sup> Council meeting agenda. RPV's had previously moved \$9 million from the Capital Reserves fund to the San Ramon project fund as this is a projected one-half of the projected ~\$18 million project cost. California Bond funds will provide the other half up to some \$9.4 million. Although there had been previous commentary about the need for other financing (bonds) the Finance Advisory Committee had recommended that existing financing should be used and the Council agreed with the Finance Committee's assessment.

RPV Cash Balances – The January 2014 cash balance report reported \$12,718,398 in “*Restricted by Council Action*.” funds. As previously noted, these funds can be used in any manner as decided by the Council. Interesting is the March 18<sup>th</sup> report concerning “*funding the San Ramon project*” (agenda item 2) which states (pg. 2-2) that this fund will approximate \$6.9 million on June 30, 2014. Funds for San Ramon project have already been moved from “*reserve funds*” and assigned to San Ramon project funding so we wonder how RPV staff is planning to spend \$6 million dollars in the next several months? To our knowledge, the Council has not approved any such expenditure. RPV Finance Director seems to ignore that between \$8 million and \$9 million flow into the “*Restricted by Council Action*” fund annually. The two largest contributors are the Terranea generated TOT funds now estimated at ~\$3.9 million annually and historical data that General Fund revenues exceed budget needs by almost \$5 million annually and are put in the “*Restricted by Council Action*” funds. These are good things that should be included in Capital Improvement planning.

*The following is a synopsis of an analysis the RPV Public Works GIS project dated February 25<sup>th</sup> that was delivered to each Council member by PVP Watch Newsletter Editor Ken DeLong. At the March 18<sup>th</sup> Council meeting Councilmember Susan Brooks introduced the subject as a future Council agenda item suggesting that the Council audit committee investigate. Several days later Ms. Brooks sent a note to the Council that this was not a matter that should be addressed by an independent 3<sup>rd</sup> party and not the Council. Council jurisdiction will be addressed later in this Newsletter.*

Ken DeLong - January 21<sup>st</sup> while watching the Council meeting video at home, I observed Mayor Duhovic and Finance Director McLean's discussion on PV Net billing invoices for the Public Works GIS project. The topic intrigued me and I subsequently went to the RPV website and located the check register and PV Net invoices. I noted there were nine (9) invoices for an approximate five (5) month period and that the PV Net agreement requires that invoices be presented monthly. Total amount of the nine invoices exceeded \$29,000. January 29<sup>th</sup> a Public Records Request was submitted to the City Clerk. We subsequently learned that PV Net provided two Interns to make electronic copies of “hard” copy data for RPV's GIS electronic data records system. Reportedly, a rate for the two Interns was \$12 per hour per person.

February 6, 2014 I received an initial response from the RPV City Clerk's office and then met with Deputy City Clerk Terri Takaoka on February 7<sup>th</sup> and received 11 pages of "*requisitions and invoices*." Invoices were questionable; an example, invoicing for work hours prior to the work periods. There was an entry of \$3,987.50 listed as "billing adjustment" with no supporting documentation. Six of the invoices were date stamped as received on October 1<sup>st</sup> but all nine invoices were not approved for payment until December 9<sup>th</sup> by Mike Gibson. Why would RPV hold some \$29,000 in invoices for two months? Oh and the vendor was City Hall favorite, PV Net. PV Net is a small business and how can PV Net carry unpaid invoices exceeding \$29,000?

One of the Public Records Request items was for Intern work hour records. February 21<sup>st</sup>, 2014 I received a Public Records response from RPV Public Works Senior Engineer Nicole Jules. Ms. Jules in her response stated that she "approved all invoices for payment" and that "billing amounts were reviewed and approved by her." As this response was ambiguous to the request for work hour records, the conclusion is that there are NO work hour records and thus invoices were approved without validation. Does not the dispensing of public funds require greater oversight? It does seem that financial controls are lacking at RPV City Hall.

Although Ms. Jules stated in her written response that she *reviewed and approved* all invoices, the facts are that Mike Gibson's name and signature was the approval on all invoices. Not yet discussed is that the two Purchase Orders approximating \$55,000 exceeded the City Manager's authority and were not approved by the Council. Furthermore, the PO's were for units at \$1 each but invoices were for supposed hours worked and were approved by staff. How did staff correlate between units and hours worked? Hopefully residents are getting a better view of the complete disregard of how public funds are dispensed at RPV City Hall.

Another interesting fact is that on February 21<sup>st</sup>, the day Ms. Jules delivered her Public Records response, Acting City Manager Carolynn Petru sent a letter to the Council concerning "*Compliance and Change in Procedures Regarding Services Agreement with PV on the Net*." Contained within that document was Finance Director McLean's February 21<sup>st</sup> Action Plan concerning PV Net services.

The premise of Ms. Petru's and Mr. McLean's argument was:

- Mr. McLean was unaware of the project until Mayor Duhovic queried him prior and during the January 21<sup>st</sup> Council meeting.
- That staff inappropriately applied "Additional Services" option contained in the RPV / PV Net "IT" agreement.
- That PV Net requested prepayment of "some" invoices.

Finance Director McLean's commentary requires scrutiny when he stated he was unaware of the project when he responded; live on TV, to Mayor Duhovic's query. McLean stated the project was being paid by Public Works budget and was costing less than other vendors. Of course, as is often the situation, no comparative bids were submitted for comparison.

Finance Director McLean's conclusion that the "Additional Services" option was inappropriately applied is problematic. It is not logical that Public Works staff read the city's agreement with PV Net and thus reached a conclusion that the "Additional Services" section would allow staff to issue a \$40,000 PO without any

management approval? It would seem that Mayor Duhovic can best acknowledge how knowledgeable McLean was of this situation when they had the initial telephone conversation.

Another conclusion by Petru and McLean was that PV Net requested prepayment of “some” invoices. The facts do not support this conclusion. What we do have is nine questionable invoices, seven of those were received (date stamp) on October 1<sup>st</sup> but not approved until December 9<sup>th</sup>.

In Summary; Why did Nicole Jules report that she approved all project invoices when her signature is not on the invoices? Why were there no records of Intern work hours? How were invoices checked for accuracy before being paid? These are all serious concerns and it is the responsibility of this Council to assign a Council Committee to personally investigate this situation and report back to the Council and the entire community their findings.

Oh, and Ms. Jules was promoted to Deputy Public Works Director a few days after her report was sent to Ken DeLong.

### Council Responsibilities.

So where are we the taxpayers? There is a prevailing opinion the City Manager and staff is an autonomous group with little accountability to the Council or residents. California law does not support that conclusion and we the residents DEMAND that the Council take an active oversight of staff as Ms. Brooks initially proposed. It is difficult to understand how there could be a perception that there is a potential conflict of interest by Councilmembers doing their jobs providing “oversight” of City operations. The Council MUST take action when serious issues arise such as was discussed here. Is this matter merely incompetence or is it something more sinister? Responses are ambiguous and investigative actions are mandatory. Who better than the elected representatives, the RPV Council to determine the true facts?

### **Miraleste Recreation Facility**

It is likely that many in our community are unaware that Miraleste Intermediate School was initially built as a High School and thus has the athletic facilities i.e. football field / stadium, gymnasium, tennis courts and practice fields usually found at high schools. While much of these capabilities are used by the intermediate school students and the adjoining Miraleste community, there is belief that much more use of these facilities could be developed if the facilities were improved.

A recent development is discussions between the PVP school district, the City of RPV and Marymount California University. Negotiations are in early discussion but there is optimism that a “deal” is possible. From Marymount’s perspective, a sports facility with the Miraleste capabilities offers many options for their growing athletic programs. From the community’s perspective, improved soccer fields, upgraded walking surfaces, an updated swimming pool, access to the gymnasium, for the Miraleste neighborhood and surrounding area is long overdue to the Eastside residents. However, much work is needed to bring the facility to usable standards. How will improvements be paid for?

The PVP schools system's mission is education and not maintaining "Parks and Recreation" for the community. Certainly Marymount would be expected to be a partner in the endeavor but certainly not the only participant in funding facility improvement and maintenance. The implementation of an improved athletic facility at the Miraleste Intermediate would be a significant asset to the RPV Eastside which currently lacks local parks and ball fields. RPV has long been remiss in not providing active recreational facilities to their residents, preferring to focus on passive recreation such as the nature preserve. RPV's participation in the Miraleste project will be beneficial to RPV residents and that justifies RPV's financial participation in this effort. PVP Watch encourages residents to speak up to their local elected officials.

### **PVE – Palos Verdes Estates**

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

Readers may recall that a hearing on the demurrer in the writ of mandate case was held on Friday January 3rd. The conclusion was that Judge O'Brian ruled 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.

An appeal of Judge O'Brian's decision on the writ of mandate has been filed. As readers may recall, the PVHA and the City of PVE claimed that "shall" means "may" and therefore following and enforcing these laws is discretionary. A history of what has occurred is posted at [www.pveopenspace.com](http://www.pveopenspace.com).

It seems that the crux of this matter is the definition of "**shall**" and "**may**" and whether or not "**may**" is the same as "**shall**." We understand that the definitions section of the [PVE Municipal Code](#) states "'**Must** and '**Shall** are each mandatory" and "**May** is permissive.'" From a laymen's perspective, it seems clear that the PVE open space group has a clear perspective of PVE law. However, the Courts move in strange ways. This situation should be an interesting legal debate.

### **In Sacramento...**

We urge all Peninsula as well as South Bay residents to support the HJTA (Howard Jarvis Taxpayers Association) efforts for "Prop 13" property tax protection from encroachment by the California Legislature a priority. Peninsula residents who are not already HJTA members might consider doing so; its \$25 per year. HJTA reports that the two Peninsula representatives in Sacramento, Assemblyman Al Muratsuchi and State Senator Ted Lieu both have an HJTA "F" rating because of their votes against "Prop 13" protection.

The tax and spenders in Sacramento, with the support of their union brethren, had their 2/3 thirds majority In sight until three Senate members; Rob Wright who was forced to take a *paid leave* because he was convicted of lying about his residence, Ron Calderon on March 3<sup>rd</sup> announced a voluntary leave of absence as he is under investigation for allegedly taking bribes, and State Senator Leland Yee, a gun control advocate was indicted by

the “Fed’s” for *bribery* and allegedly participating in a *Gun Running* operation. All three remain at full paid of \$95,291 while suspended from State Senate duties.

Mr. Muratsuchi who won the 66<sup>th</sup> District Assembly seat in 2012 with the aid of \$2 million in union contributions will be opposed this year by David Hadley a South Bay Republican. Mr. Lieu is the anointed Democrat to replace Henry Waxman in the 33<sup>rd</sup> Congressional District.

## **PVP Watch**

This is the first posting using the new PVP Watch format. The reason for changing is that PVP Watch outgrew the older technology used for the past 10 years. PVP Watch welcomes all input and awaits subscriber feedback. One of the current email issues is overactive “spam” detectors and we urge everyone to enter info @pvpwatch.com and PVP Watch into their computer address book so that delivery systems can recognize that PVP Watch messages are welcomed. Also those who longer desire to receive PVP Watch messages, please click on the “unsubscribe” to be removed from the PVP Watch database.

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

## **The Editorial Committee**

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