

## PVP Watch Newsletter – July 23, 2015

### To Our Friends and Supporters

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Two of the four cities on the Peninsula, Rolling Hills Estates (RHE) and Rancho Palos Verdes (RPV) will conduct General Municipal Elections on November 3, 2015. The purpose is the election of members to the respective City Councils. The candidate nomination period opened on July 13, 2015 and the filing period ends on August 7, 2015 at 4:30 p.m.

If an incumbent officer does not file nomination papers by August 7, 2015, the filing process will remain open until August 12, 2015 at 5:30 p.m., for other candidates to file nomination papers.

RHE – Three Council members; John Addleman, Judy Mitchell and Frank Zerunyan terms expire this year. Unknown is whether or not these individuals will stand for reelection.

RPV – A similar circumstance with three Council terms expiring; Susan Brooks, Jerry Duhovic and Jim Knight. Whether or not all three current Council members will file for reelection is also unknown at this time.

This is an excellent opportunity for residents interested in good government to stand for election to serve our communities.

### **RPV – More on the Hawthorne Blvd. Traffic Signal Control “Boondoggle”**

PVP Watch has been posting for some time that RPV’s project for “synchronization” of the traffic signals along Hawthorne Blvd. makes no sense and is a waste of taxpayer funds.

**Overall project costs will likely exceed \$1,334,891 for a project whose true purpose is not the unnecessary synchronization of traffic lights but an expensive "communication want" that will cost the taxpayers of RPV \$627,891.**

Overall project costs will possibly exceed \$1,334,891; a grant from the California Department of Transportation (DOT) of \$707,000 is likely, thus a balance approximating \$627,891 for RPV residents to pay.

As readers may recall, staff's primary purpose for installing a "Fiber Optic" cable between City Hall, Ryan & Hesse Parks is for TV broadcasting of Council and other meetings. Staff's concept is that the Fiber Optic cable would be "piggybacked" on the traffic signal synchronization project. To our knowledge, never was there a cost benefit analysis of alternative options available to the City.

Data received from City Hall as a result of a Public Records Request was used to develop the following conclusions.

- The project was initially presented to the Council as a virtual "freebee" as the funds obtained for the Signal Synchronization project would also contribute to the "Fiber Optic" telecommunications cable desired by RPV staff.
- Early documents depicted project costs of \$785,532 with reimbursement of \$707,000 leaving a projected net approximating \$78,532, a manageable amount for RPV staff.
- However current engineering projections estimate costs of at least \$1,334,891, more likely greater. The difference now is the **\$627,891** depicted above that unless staff can "*pull a rabbit out of their collective hats*" will soon have to be presented to the Council.

We understand that staff is attempting to build support for the Fiber Optic cable project. Apparently Staff never looked at alternatives and we have recently ascertained that Cox can provide a TV broadcast channel for \$1,200 per month, (that's not a typo) **\$1,200 per month or less than \$15,000 annually**. This option allows continuation of RPV meetings on Channel 35 (Cox) and Verizon FiOS on Channel 39 as they are now. Other issues that may be of concern to the City, likely have better solutions as well.

There is much more to staff's ill-conceived "boondoggle" but we will not bore readers with excessive detail. Should anyone be interested, please send comments to [info@pvpwatch.com](mailto:info@pvpwatch.com).

As has been previously reported, synchronization of traffic signals on Hawthorne Blvd. will not provide any benefits to those motorists traveling on Hawthorne Blvd. in RPV. In fact *synchronization* may add delay.

A related matter, the lack of fiduciary responsibility for taxpayer's funds. We have reported on this as McLean's "Boondoggle" which it is and fortunately for RPV residents Mr. McLean moved on to different employment earlier this year. However, Michael Throne is the Director of Public Works and has direct oversight and determines project feasibility. Mr. Throne has been employed at RPV for approximately 18 months and seems to have "just gone along with the crowd." Mr. Throne is highly paid while demonstrating little fiscal responsibility for his important position.

A side note, while the staff apparently perceives that spending \$1,334,891 of taxpayer funds is a better alternative than spending \$1,200 per month. Staff also urges that RPV residents should continue paying the unneeded Storm Drain User Fee.

*Editor: Point of clarification: our most recent communication with RPV City Hall was July 13th wherein an analysis of the data was submitted that depicted the **\$627,891** number. We asked staff to prove us wrong. There has been no response from RPV City Hall.*

### **RPV – Storm Drain Fee / Tax**

No surprise that the RPV Council (June 16, 2014) with a vote of three to one, Brooks, Knight, Misetich in favor with Campbell opposing and Duhovic excused, voted to increase the Storm Drain User Fee for the 2015 / 2016 fiscal period. Although the amount of increase was small (less than \$1 for most residential properties), the fact that the increase was small demonstrated the willingness of Council members Brooks, Knight and Misetich to collect unnecessary taxes and fees from RPV residents.

The ten year sunset clause of the “Storm Water Tax / Fee” will terminate the collection of this fee on June 30, 2016. The current Council majority of Brooks, Knight and Misetich have made it clear that they are in favor of reinstating the user fee when the current fee expires next year. The Storm Water fee is not needed, for many reasons, but the most significant reason being that RPV is “awash” in Capital Fund Reserves.

Let there be no doubt, PVP Watch will oppose any continuation of the Storm Drain tax as it is NOT needed, unfair and discriminates because only 80% of RPV residents have to pay the user fee. So far, staff is presenting numbers that do not include the current Capital (CIP) fund approximating \$20 million. Also apparently being ignored is the Terranea TOT windfall payments to RPV now exceeding \$5 million annually.

Susan Brooks and Jim Knight will be running for reelection this November. A good question for both is “why do we need a Storm Drain Tax when there is almost \$20 million in CIP Funds.

### **RPV - Green Hills**

Nothing new here but as previously reported we understand that the “Who Did What” investigation has been completed and a final report was delivered to City Manager Willmore. We also understand that the Council has not yet seen this report, many months later. Initially this matter was to have been presented to the Council last January. For the past eight months or so the matter has been rescheduled and postponed and is now scheduled for September 2nd. We wonder what is going on?

### **RPV – Utility Users Tax**

Have you submitted your claim for reimbursement of the illegally collected telecom UUT? Claims are now being processed and the deadline to complete and submit your claim form is **August 5, 2015**. You may submit it by mail, fax, or online to the Claims Administrator. If you did not receive a Claim Form, contact the Claims Administrator at (888) 287-4974 or by email at [info@RanchoPalosVerdesUUTRefund.com](mailto:info@RanchoPalosVerdesUUTRefund.com).

Website address is <http://www.ranhopalosverdesuutrefund.com/>

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## PVE – Via Panorama

Here's an update provided by John and Renata Harbison on the Via Panorama Parklands issue in Palos Verdes Estates.

As some may recall, in 2012 1.7 acres of public parkland was sold to a private resident who had previously built extensive encroachments (including a sports field carved out of the hillside, structures, pilasters, gazebos and 50 foot trees) on the parkland surrounding his house. This was part of a broader Memorandum of Understanding (MOU) resolving litigation between the Palos Verdes Peninsula School District, the Palos Verdes Homes Association (PVHA), and the City of PVE. The notice given for the public meetings approving the MOU was woefully inadequate, and hence few people were aware of the sale of parkland at that time. But in early 2013, there was an attempt to re-zone the parkland as residential and over 100 people appeared at City Council meetings to protest the actions brought before the Planning Commission. A group of concerned residents (called Citizens for Enforcing Parkland Covenants) were alarmed by this unprecedented illegal move, and after trying unsuccessfully for months to convince the parties to reverse the sale, CEPC filed a lawsuit in May 2013.

All the details on the transaction including source documents, court documents, City Council proceedings, speeches, letters, photos, newspaper articles, etc. from both sides of the issue can be found at [www.pveopenspace.com](http://www.pveopenspace.com). The crux of the matter is that the original Conditions, Covenants & Restrictions (CC&Rs) that were set in place in 1923 combined with explicit language in the 1940 deed which transferred the property from the PVHA to the City of PVE expressly prohibits sale of parkland to private entities and requires that it be “parkland forever” and be held for public recreational use.

On June 29<sup>th</sup>, 2015, the Superior Court of the State of California issued its ruling on CEPC's Motion for Summary Judgment and found in CEPC's favor. In the ruling (which can be found [here](#)), Judge Barbara A. Meiers wrote that the court grants the motion for summary judgment of the plaintiffs (CEPC and John Harbison) as against all defendants and denies the City's cross-motion. Moreover, the ruling:

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- Finds both the City and PVHA acted ultra vires (beyond their legal power and authority)
  - Provides for reversal of transfer of the 1.7 acres of parklands on Via Panorama to Robert Lugliani as a private owner, and calls for removal of all “illegal encroachments” on the parkland
  - Prohibits the City and PVHA from trying to do this ever again — not just on this property BUT ON ALL PARKLAND PROPERTIES covered by the 1923 “Establishment Documents.”
  - Criticized the PVHA for advocating the position of its opponents in the earlier court case BC 431020 when the PVHA was defendant and the Palos Verdes Unified School District (PVPUSD) was plaintiff seeking to sell school property to private owners in defiance of the same Protective Restrictions. The Judge called this “judicial estoppel” which prohibits such reverse and inconsistent contentions.
  - Calls for reimbursing CEPC for all legal costs
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This ruling is a big win for all Palos Verdes Estates residents who value our open space which is a critical ingredient in what makes PVE a truly special place to live. It not only reverses an illegal act and returns parkland to its original state, but also the language of the ruling directly binds the City and PVHA from ever trying to sell any parkland that is covered by these restrictions to private parties. The deeds explicitly use language such as “parkland forever” for the use of the public for recreational purposes, and now that is secure for the future.

The ruling also further solidifies the win by PVHA in the PVPUSD case, and the part of the MOU settlement preventing PVPUSD from selling to private parties any property that it deems no longer necessary.

Over 150 people have signed letters in support of our cause, and this is a big win for all of them. We are grateful to them for their support and to our legal counsel, Jeffrey Lewis of Broedlow Lewis, for his diligent support.

Working together, we have achieved an important victory for our community.

John and Renata Harbison

For further information contact Renata Harbison at [Renata\\_Harbison@yahoo.com](mailto:Renata_Harbison@yahoo.com) or 310.373.2349.

### **Subscriber Comments**

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

We recognize that many PVP Watch newsletter subscribers use mobile devices to read newsletters. However, mobile devices do not provide acknowledgement that a newsletter has been opened and read; that must come from the primary computer whether desktop or laptop. PVP Watch is now using a new system with capability to report opening and reading newsletters which is a very important tool for newsletter management. We ask that those who do read newsletters from mobile devices also open the newsletter at their primary computer before deleting.

One of the current email issues is overactive “spam” detectors and we urge everyone to enter [info@pvpwatch.com](mailto:info@pvpwatch.com) and PVP Watch into their computer address book

PVP Watch welcomes all input and awaits subscriber feedback on the new newsletter format and postings.

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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 also suggest that [info@pvpwatch.com](mailto:info@pvpwatch.com) be added to your computer Contacts Directory 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*

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

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