

## PVP Watch Newsletter – September 5, 2014

### To Our Friends and Supporters

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### **California Politics and Election Issues.**

It is now September and election campaigns are moving into full campaign mode and absentee ballots are only a month away. A particularly critical campaign is the 66<sup>th</sup> AD (Assembly District) which includes the Peninsula.

A conservative candidate for the 66<sup>th</sup> AD is David Hadley / [www.davidhadley.com](http://www.davidhadley.com). David is a knowledgeable candidate and a refreshing individual who will represent us well in Sacramento. Visit his website for more information about David. Visit his campaign headquarters located at the NW corner of Hawthorne and Lomita Blvd's. Better yet attend a "meet & greet" in your neighborhood. And send him some \$\$\$, successful campaigns cost money and David is running a good campaign. David Hadley has the endorsement of the Howard Jarvis Taxpayers Association and David will work to protect Prop 13. Most of Hadley's funds come from within the 66<sup>th</sup> AD while most of AL Muratsuchi's (the union backed incumbent) funds are delivered by the Public Sector union bosses in Sacramento.

Al Muratsuchi voted "Yea" for Legislative Bill **ACA 8** that, according to HJTA, would **REPEAL** Prop. 13's *requirement that local "special taxes" (taxes intended for a specific purpose or purposes) be approved by a two-thirds vote*. Instead, special taxes imposed for the repayment of local bonded indebtedness would be reduced to 55%. The ostensible justification for ACA 8 is to make it easier to finance local "infrastructure."

According to HJTA, there are several reasons why ACA 8 will inevitably inflict severe harm on California homeowners. First, while state bonds are repaid out of the state's general fund -- into which most Californians contribute through income or sales taxes -- the same is not true for local bonds. Local bonds, usually referred to as "general obligation" bonds, are repaid exclusively by property owners. That means that voters who do not own property can vote to raise taxes on those who do.

PVP Watch will further report on Muratsuchi's voting record in the California Assembly in the next newsletter.

HJTA will be providing updated election information at [CAInitiatives2014.org](http://CAInitiatives2014.org) and we suggest that everyone go to that website for the latest and current election data.

### **RPV – A Major Concern**

This posting will update RPV residents on the “*shenanigans*” relating to the telecom portion of the UUT (Utilities Tax) and the recent discoveries concerning the Green Hills Cemetery Mausoleum.

Apparently it is naïve to perceive that City Council members would understand what they are voting for. I am specifically addressing RPV Council members Brooks and Misetich’s commentary during and after the vote on August 5<sup>th</sup> for the proposed Special Election for continuing the *unauthorized / illegal* telecom portion of RPV’s Utility tax. To conduct a Special Election requires that the Council declare an Emergency that MUST have the support / vote of ALL FIVE Councilmembers. Fortunately for RPV residents, Councilman Brian Campbell and Mayor Jerry Duhovic saw thru Staff’s ruse and opposed the Special Election.

To succinctly recap, May 26, 2006 the IRS issued Revenue Notice 2006-50 that essentially stated the method used by RPV and other cities to collect the telecom utility tax was incorrect and advised that corrections be made. RPV did make changes in the UUT ordinance but DID NOT conduct a taxpayer election as required by California Prop 218. The 2006 Council was Larry Clark, Peter Gardiner, Tom Long, Doug Stern and Stefan Wolowicz. Recently former RPV Councilman Tom Long reported that the Council was then aware of the situation but apparently did not believe the law meaningful. Tom Long; *“In 2006 there were still significant legal defenses to the challenges to the UUT that had not yet been tested that made submitting the UUT to the voters unnecessary if they proved to be correct. We decided to let other larger cities litigate those defenses in the hope they would work. Sadly they did not.”* Editor: While not a lawyer, it does seem that California Prop 218 law is clear, to collect a tax, there MUST be a vote of the taxpayers approving the tax and the 2006 Council failed then and ignored subsequent opportunities to resolve this matter before leaving the Council in November 2011.

Back to the proposed Special Election and why it was not necessary. May 28<sup>th</sup>, 2014 RPV City Hall received a Public Records Request from the Marks Finch law firm located in San Diego. Specifically the Marks Finch law firm requested data concerning RPV’s UUT (Utilities Tax). Our understanding is that Marks Finch has participated in a number of similar actions throughout California obtaining refunds / credits for residents in many California cities. RPV City Attorney Carol Lynch must have known of similar situations for some time as her firm has many other cities as clients and some have undoubtedly had to defend themselves from Marks Finch. Why Ms. Lynch had not previously brought this matter to this Council’s attention should be fully addressed by the RPV Council.

Nevertheless, upon receipt of the May 28<sup>th</sup> records request, staff apparently went into “full battle mode” and made no mention to the council of the public records request or the potential legal liabilities until a “closed session” meeting with the Council at RPV City Hall on July 4<sup>th</sup>. The meeting was “closed”, thus we do not know the discussion details but shortly thereafter it became “public” with the recommendation by staff to have a Special Election and to put the matter on the July 15<sup>th</sup> Council agenda. This matter was also on the July 28<sup>th</sup> and

August 5<sup>th</sup> Council agendas. Needless to say, as RPV residents became aware of what was being proposed by RPV staff which was to have a special election to make legal what City Hall had been doing illegally, collecting an unauthorized tax for some eight (8) years, residents became increasingly furious.

The following was included in the PVP Watch July 29<sup>th</sup> newsletter:

*Item #6 on The RPV Council July 15<sup>th</sup> agenda was a proposed “Ordinance Reducing the Utility Users Tax from 3% to 2.75% and modernizing the City’s Utility Tax.” Included was authorization for having a Special Election this November. The report is 35 pages and states on page 2 that the UUT (Utility Users Tax) is unfair, proposes a reduction of .25% (3% to 2.75%) and has a lot of words concerning past legal history. Reading the staff report “alarm bells” began ringing almost immediately. When RPV staff reports unfairness and a tax reduction the matter does attract attention.*

In summation, the Special Election was dubious and unwise as residents are disgusted with a City Hall that clearly knew that what they were doing was illegal yet plotted a scheme with a belief that residents are stupid and would not see what was going on. Had the Special Election been approved by the electorate, which was uncertain, what it would have accomplished is making an illegal tax legal. However, all taxes collected prior to the approval would have remained open to litigation. At the August 19<sup>th</sup> Council meeting with Mayor Duhovic leading the way, Council members Brooks and Misetich (Campbell & Knight were excused) begrudgingly agreed to immediately stop collecting the telecom portion of the UUT. Although there will be further wailing by staff concerning revenue losses, the need for the telecom portion of the UUT is questionable. We understand City Attorney’s position is that there is merely a one year tax refund liability for RPV. Question, what is the liability for perpetuating fraudulent actions by city employees?

An issue not yet discussed is why did it take from May 28<sup>th</sup> to July 4<sup>th</sup> for staff to inform the Council of the situation and when they did advise Council they had their *cockamamie scheme* prepared and at the ready? Why so long? We suggest going back to the June 3<sup>rd</sup> meeting where Susan Brooks, Jim Knight and Anthony Misetich along with cohort Tom Long sandbagged Mayor Duhovic before he could have a meaningful discussion regarding Council “oversight” and clarification of Council and City Manager responsibilities. Brooks, Knight and Misetich opposed “oversight” and opined that having “professionals” run the city is best. Hopefully everyone recalls that escapade and can see why Mayor Duhovic’s ideas concerning Council oversight better serve the public’s interests.

### **Green Hills Cemetery**

Have PVP Watch newsletter subscribers been observing the Green Hills Cemetery fiasco? Megan Barnes (PV News – August 14) reported that Green Hills received full approval and permitting to build the \$2.5 million Pacific Terrace Mausoleum in 2007. Included in the building plan were rooftop in-ground burial plots.

The August 14<sup>th</sup> edition of the PV News contained a “Letter to the Editor” written by RPV resident Jim Gordon on the Green Hills matter. Mr. Gordon opined that that the PV News article “*Correctly documents a tragic failure by RPV planners who allowed this disaster to be constructed and failed to keep their promise to avoid it later.*” Mr.

Gordon further opined that “*Senior Planner Schonborn, who authored the Mitigated Negative Declaration which included Resolution P.C. 2007-33 that stated NO mausoleum buildings are proposed along the perimeters of the cemetery that abut the residents to the north or south.*”

For those not familiar with the Green Hills situation, the mausoleum in question DOES abut the Vista Verde Condo’s which are located on PV Drive North in Lomita, not RPV. From a legal perspective, we wonder what “standing” the Vista Verde Condo owners have in RPV? Certainly from a good neighbor perspective it would have been appropriate to involve the condo owners early on rather than deal through attorneys after the fact. However, there are unsubstantiated reports that the Vista Verde home owners association did send letters to RPV but apparently the purported letters cannot be located.

We have not addressed the “setback” issues as they are complex and involve burial sites that already are occupied and what does the law allow for movement of deceased. A legal question is whether or not RPV CUP (Conditional Use Permits) must conform to Federal and California laws or is there latitude for municipalities to create different specifications / requirements?

In view of letters received by Acting City Manager Petru which undoubtedly included Jim Gordon and Diane Smith’s letters and likely others as well, Ms. Petru announced that she has initiated a 3<sup>rd</sup> party independent review of staff’s actions and likely others as well. To our knowledge, no other public announcements have been made.

Tuesday August 26<sup>th</sup> the Green Hills matter was again before the RPV Planning Commission. After several hours of discussion, little was accomplished and the matter will be brought back to the Planning Commission with a public hearing on October 28<sup>th</sup>.

Does anyone wish to project what the legal liability of this matter could eventually be to RPV residents?

### **RPV - The Shahbazian Residence at 29029 Sprucegrove Dr.**

PVP Watch has posted the following message from the Shahbazian family because it, the Green Hills story (above) and other anecdotal data describe RPV’s “Community Development Department” as having a serious void in management leadership.

*“Our names are Vicky and Hoss Shahbazian and have lived at 29029 Sprucegrove Drive for 20 years. Since we moved into our home in 1991, ourselves and our neighbors, have a complete 180 degree ocean view, spanning from the beautiful Malibu Hills to the right, to Catalina Island. Recently, the City granted our neighbor an approval to construct a 4ft combination fence on top of a 3ft retaining wall. The portion measuring 4ft will be constructed of solid wood, and our neighbors are permitted to construct an addition 2’6” on top of clear plastic. As one of the most desired cities to live in the country, RPV’s scenic views provide beauty to residents, economic value to property, and a desirable place to retire. Despite these known amenities, the City has indicated that our neighbor has unfettered discretion to erect any structure of vegetation to his liking.*”

*During this appeal process, our neighbors constructed a structure they call a “trellis,” which is undoubtedly a fence. However, because our neighbors have called the structure a “trellis” and built it 5ft from the property line, the City calls it an accessory structure. This “trellis,” is between 8.5-10ft high, and obstructs 100% of what used to be our beautiful ocean and Malibu view. Even more, because it was in the City’s discretion to permit this structure, we were not given any prior notice, nor an opportunity to voice our objections. This structure is unlike any structure you will see in our beautiful RPV, and is absolutely incompatible with the character of RPV, what attracts people to our city, and what any reasonable person would do.*

*We have filed an appeal with the city planning commission and have so far paid close to \$8,000 in legal fees. The appeal will be heard September 9 at Hess Park at 7pm.*

*If this could happen to us, it could happen to anyone. It must be stopped. We are opening our home to all RPV residents to see first-hand what the City has approved. If you have any questions, concerns, or would like further information please call or email me at: Vicky Shahbazian Cell: 310-292-6305, my email Vicky@hawthornemotorsexpress.com.*

OR EMAIL THE CITY IN REGARDS TO THIS APPEAL CASE: AN APPEAL OF A DIRECTOR APPROVED FENCE/WALL PERMIT (ZON2014-00202) WITH YOUR CONCERNS AND COMMENTS.”

### **RPV Crime Data – 2<sup>nd</sup> Qtr 2014**

Link below is to 2<sup>nd</sup> Qtr Comparison of RPV Crime Stats. Overall Part I crimes were reduced while Part II crimes Fraud / ID Theft and Drunk- Alcohol / Drugs increased.

**<http://pvpwatch.com/currentissues.html>**

### **PVP Watch**

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, to also open the newsletter at their primary computer as well 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* 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*

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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