

PVP Watch Newsletter – February - 3 - 2018

To Our Friends and Supporters

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LASD Sergeant Doug Shive - Honoring those police officers who have died in the line of duty

This May LASD Sgt. Douglas Shive (Lomita Sheriff) will participate in the Police Unity Tour by riding his bicycle nearly 300 miles during the 3 day event from Somerset, NJ to Washington, D.C. He will join more than 2500 fellow police officers from across the nation “*honoring those fallen in the line of duty*”. He is the only local officer from the Los Angeles Sheriff's Department or the Palos Verdes Estates Police Department that is participating this year.

To participate, each officer is required to raise and make a minimum donation of \$1,900 and this does not include his personal expenses include flights, \$150 dollar application fee, meals, lodging, and miscellaneous expenses. Last year Sgt. Shive raised substantial monies, but beyond making the required donation he had significant personal expenses including his bike, uniforms, accessories and personal expenses. PVP Watch wants to make certain Sgt. Shive is not out of pocket this year. Please send contributions to Sgt. Doug Shive, Lomita Sheriff's Station 26123 Narbonne Ave. Lomita, CA. 90717. All contributions will be appreciated and the Police Unity Tour is non-profit and tax deductible.

At Last, The End Of The Two Year Saga Of Alleged Contaminated Soil at Ladera Linda Soccer Fields.

April 2015, soil from a building site in Torrance was moved to the PVPUSD owned / PV AYSO leased soccer fields in the upper Ladera Linda area in RPV. Subsequently, November 2015 ALTA Environmental was retained to perform toxic tests of this soil. A small amount of Asbestos was found, however the findings were less than what was considered a hazard and harmful to public safety.

The next event was on April 27th 2016 when the DTSC and other state agencies raided the PVP Unified School District facilities in response to a complaint apparently alleging that there was contaminated soil at the PV AYSO soccer fields at Ladera Linda. Subsequently it was learned that someone had filed a criminal complaint with the DTSC that there was contaminated soil at the Ladera Linda soccer fields. Why the DTSC accepted the criminal complaint remains unknown. Also unknown is what was presented as evidence to support the allegations that there was criminal activity in the PVPUSD / PV AYSO organizations when the soil had already been proven not to have contaminants that were dangerous to human health.

To recap PVP Watch's recent posting, May 30th 2017, a DTSC approved soil test process was conducted and the final results were posted January 19, 2018. DTSC approved test procedures found that any contamination that might be there was well below acceptable levels and recommended that the DTSC investigation be terminated. While most found the DTSC findings that "*concentrations were below human health screening levels and that metals concentrations were within accepted background ranges*" to be good news, several of the "naysayers" will not accept DTSC findings. Briefly, the DTSC test results are comparable to earlier tests by Alta Environmental and several other testing agencies as well.

Although the contaminated soil matter has ended, the criminal complaint has not and will have to be adjudicated with the LA County District Attorney.

Another matter; who filed the initial complaint and what evidence was submitted that convinced Peace Officer Stephen Hardy to swear under oath to Judge Michael E. Pastor that there was Probable Cause that a felony had been committed and a Sealed Search Warrant be issued to search PVPUSD and PV AYSO offices and facilities? From what is known so far is that the complaints seem fraudulent and need to be further investigated by the LA County District Attorney.

This hoax has cost PVPUSD some \$400,000 (probably more) in funds that could have been used for school programs as well as similar costs by the PV AYSO. In total **fraudulent complaints cost this community almost \$1 million** that could have been better spent on community needs.

DTSC website - http://www.envirostor.dtsc.ca.gov/public/profile_report.asp?global_id=60002419

That a few dissidents continue to believe that four tests are wrong and that there are hazardous contaminants in the imported soil at the Ladera Linda soccer fields is ridiculous in view of the facts proving otherwise. We wonder, does filing a *fraudulent* criminal complaint have criminal implications?

RPV – Portuguese Bend Landslide

Everyone who drives PV Dr. South thru the landslide area knows there is a problem. The roadway continues to slip (reportedly about 8 feet per year) and it is a continuing effort to patch and resurface the roadway at about \$1 million or so annually. The Sunday January 28th Daily Breeze recapped the current situation and the effort to find a "fix."

Most likely many are unaware that there are TWO landslides in the Portuguese Bend area. Abalone Cove and Portuguese Bend. The Abalone Cove was slowed significantly in the 1980's & 1990's with the installation of "dewatering wells" and a sewer system. Dewatering wells have been installed in the Portuguese Bend slide area but have been unsuccessful as the moving land soon shears off the wells. It is a common perception that the dewatering wells need to be positioned closer to the water sources.

RPV retained the coastal engineering firm of Daniel B. Stephens and Associates to update alternative remedies' and potential costs. Stephens and Associates presented their report at the January 16th RPV Council meeting. It appears that Stephens confirmed that septic water from Rolling Hills and RPV as well as water from other sources are significant contributors to the landslide. Sources have never been adequately mapped to determine exactly where the water flow begins but it seems much comes from the septic tanks in Rolling Hills. Stephens projected that it will cost some \$31 million to slow down the landslide with maintenance costs approximating \$22 million over 30 years.

Stephens & Associates presentation is posted at: <http://www.rpvca.gov/DocumentCenter/View/11272>

Apparently the City Hall strategy is to seek Federal infrastructure funds for remedying the landslide problem. It seems to some of us that RPV has the resources, over \$30 million in CIP funds as well as other funds. What are these funds for? More of City Manager Willmore's dubious projects such as a new city hall.

It has been reported that one or more homes in Rolling Hills has been affected by the landslide. A starting point would be to begin dialog with Rolling Hills and include Supervisor Janice Hahn and the LA County Public Works and Sanitation Department. It has been long suggested that a starting point for dewatering wells needs to be closer to the water source and that seems to be in Rolling Hills.

PVP Watch will continue to follow and post on this very important matter.

RPV – Bicycles on PV Dr. South

All residents should be aware of planning at RPV City Hall to rearrange auto / bicycle traffic lanes on PV Dr. South thru the landslide area and Southward to the RPV line with San Pedro. One issue is access for entering / exiting the 14 homes that Trump plans to build along PV Dr. South in the area of the driving range. A requirement will be able to have a Fire Dept. "Hook & Ladder" truck be able to enter / exit and turn around in the homes area.

Another possibility is "restriping" and widening the roadway expanding bicycle lanes 6 feet on each side of the roadway. (traffic) thru the landslide area. We understand that the concept is to widen bicycle lanes and included in the planning is reducing the median size along PV Dr. South.

Auto traffic has long been a problem on PV Dr. South in that area. We understand that there was a traffic study some 2 / 3 years ago but city hall never released the report. Some home owners in Ladera Linda who exit from Forrestal to PV Dr. South are justifiably disturbed with wait time. Entering PV Dr. South from Trump Dr. is hazardous as well. It is past time for City Hall to stop being an advocate for bicycles and focus on the safety of RPV residents and taxpayers.

RPV – Purchase Street Lights from SCE

RPV City Manager Doug Willmore has recommended to the Council that RPV purchase 1799 LS-1 Street lights from Edison for \$667,216 which according to Willmore will provide an annual savings of \$138,242. We understand the current situation is that the proposal is at the California (CPUC) Public Utilities Commission for approval. While Willmore may be correct that this will be a "good deal" for the city, we have seen no business plan that supports Willmore's conclusions.

PVP Watch believes there should be a realistic "business case" analysis before venturing into an unknown business venture. One question that needs answering is; if this will be such a profitable venture for RPV, why then does SCE want to sell the street lights?

PVE - Parklands

Reported by John Harbison – Latest Update January 30th

Appeal Court Ruling Confirms Palos Verdes Homeowners Association – Sold PVE Parkland Illegally

Three justices in the California Court of Appeal (Second Appellate District) issued their ruling on January 30, 2018 on the

Motion for Summary Judgment in the case (# BS 142768) CITIZENS FOR ENFORCEMENT OF PARKLAND COVENANTS and JOHN HARBISON (Plaintiffs) vs. CITY OF PALOS VERDES ESTATES, a municipal corporation, PALOS VERDES HOMES ASSOCIATION (PVHA - a California corporation), ROBERT LUGLIANI and DORIS LUGLIANI as co-trustees of the Lugliani Trust, THOMAS J. LIEB, TRUSTEE, THE VIA PANORAMA TRUST U/DO May 2, 2012 (Defendants). The case was filed in May 2013. For the ruling, [click here](#).

The Appeals court unanimously found in favor of the Trial Court's decision that the PVHA had violated deed restrictions by selling Parkland to a private individual – ordering the sale reversed and encroachments removed. The Appeals Court rejected all the arguments made by the PVHA in the appeal. However, the Appeals Court concluded that the decision was “overly broad” in extending it explicitly to all such deed restricted parkland in PVE, and remanded the matter back to the Trial Judge to narrow the decision to the Panorama Parklands. It also concluded that the City of Palos Verdes had the right to transfer the property to the PVHA, unless it was aware of the PVHA's intent to sell the parkland to a private party and thereby violate deed restrictions; that matter was sent back to the Trial court to ascertain whether the City was aware of that. **We are confident that the Trial court will conclude that the City was aware of the issue since the MOU signed by all Parties specifies that the PVHA would immediately sell the parkland to Lugliani once it received the “Parcel A” Parkland from the City.**

In the original ruling, Judge Barbara A. Meiers wrote that the court granted the motion for summary judgment of the plaintiff (CEPC and John Harbison) as against all defendants and denied the City's cross-motion. The Superior Court ruling:

- Found both the City and PVHA acted ultra vires (beyond their legal power and authority)
- Provided for reversal of the sale of the 1.7 acres of parklands on Via Panorama to Robert Lugliani as a private owner, and called for removal of all “illegal encroachments” on the parkland
- Prohibited the City and PVHA from ever 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 a reversal and inconsistent positions.
- Called for reimbursing CEPC for all legal costs

Notwithstanding the narrowing of scope of the ruling, **this decision by the Appeals Court 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 should also be viewed as a win for the Palos Verdes Homes Association, because this secures the validity of the underlying protective restrictions that the founders of our community put in place in the 1920's, making it clear that only a majority (66%) of the PVHA members can modify those restrictions, and that process of amendment can only occur every 20 years. The PVHA Board's charter is to defend these restrictions, and the ruling reinforces that they cannot selectively choose to ignore language in a deed that their predecessors

wrote. **Thus the ruling reverses an illegal act and returns parkland to its original state.**

While the narrower ruling does not go as far as we'd like in protecting parkland forever, we believe it creates a sufficient legal precedent to discourage the PVHA, the City of PVE, and the Palos Verdes Peninsula Unified School District from trying to sell any of the approximately 800 acres of parkland and school property in PVE 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. In their Court arguments, both the City of PVE and the PVHA argued that they had discretion to ignore deeds and restrictions, and this ruling affirms that they do not.

The ruling also further solidifies the win by PVHA in the PVPUSD case, and the part of the MOU settlement preventing PVPUSD from selling any school property to private parties that it deems no longer necessary. Rather than just relying on the word of the School Board not to sell the land granted to it, this ruling establishes a second Court precedent blocking any future sale of parkland (which was the City and PVHA's justification of the MOU). Therefore, the stated objective of the City and PVHA is not just met, but exceeded. It's time that our leaders in local government accept this victory and move on and stop fighting the will of their constituents. Moreover, it's pointless for the City to continue to fight in court whether it knew the PVHA was going to sell the parkland, since that was a requirement in the MOU that was drafted by the City Attorney (by public admission of then Mayor George Bird in a City Council Meeting on May 9, 2012) and then signed by all the parties.

Over 500 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 Jeffrey Lewis, Attorney at Law, for his diligent support.

Working together, we have achieved an important victory for our community – preserving an essential aspect of what make Palos Verdes Estates so special – our public Open Space. **Thanks to all of you for your support!**

Last Chance to vote in PVHA Directors Election -- Extended to February 8, 2018

Partly in response to admonishes from the Judge in our "Quorum Lowering" lawsuit, the PVHA Directors on January 11th extended the election in an effort to obtain a quorum.

The above Appeals Court ruling that the current Directors acted illegally in selling parkland is proof positive that we need new leadership. But that cannot happen unless a quorum of 50% is reached. Mailed ballots must be received by Feb 8th, and a ballot box is available in City Hall again. The ballots will be counted by the Inspector of Elections on Feb 13. Therefore, the results will be available at the quorum petition trial on Feb 15.

If you voted already, then thanks! If not, please do not miss this last chance!

PVHA Election Survey

To help us in advocating changes in the election process to the PVHA, please take 2 minutes to complete this

survey -- [click here](#).

Spread the Word and Encourage Your Friends To Vote

Please download our postcard summarizing the need for new Leadership and email it to your friends. Over 400 supporters of Parkland who understand the need for change in PVHA leadership are on this email distribution from ROBE, so if each of you gets a few of your friends to vote, we may finally reach a quorum. For the postcard, [click here](#).

Tell your friends that they can vote for up to 5 candidates. A quorum is required to make the election binding. **Even if they do not have time to study the issues, please encourage them to sign and return their ballot immediately to make sure it is received by the deadline of February 8. That way, their vote of No Preference will count towards a quorum.**

The last year a quorum was reached was 2009 -- It's time for a quorum!

Candidate Forum Video

If you or your friends would like to be better informed about the candidates, the League of Women Voters of Palos Verdes Peninsula hosted a Candidate Forum on December 20th in which 6 of the 9 candidates for the PVHA Board of Directors made their case. To see the video, please [click here](#). The video is in two parts, so be sure to also view [Part II](#).

If you'd like to contribute to the campaign or participate in handing out flyers to your neighbors, please contact John Harbison at (310) 739-1838 or info@pvegoodgov.org. Thank you for your interest and support.

For more information, see www.pvegoodgov.org and www.pveopenspace.com.

PVP Watch Welcomes Subscriber Comments

PVP Watch welcomes subscriber Comments. Please send comments to info@pvpwatch.com.

A current email issue is overactive "spam" detectors and we urge everyone to enter 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 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.