**John Harbison Comments at PVE City Council meeting October 27, 2015**

Honorable Mayor and City Councilmembers:

The City website enumerates **six objectives** for entering into the MOU. As we indicated in our email to you on July 22, 2015, by accepting the ruling (and not appealing) you would still be accomplishing those objectives. Here is my explanation against each of your objectives **in Blue**:

- **"Resolved litigation filed by the School District seeking to establish a right to sell open space for residential development (as agreed in the MOU, the School District dismissed the case and abandoned its effort to raise revenue through sale of open space Lots C & D). "**

  Check--The School District cannot re-instate its appeal, so that court judgment still stands. The CEPC ruling by Judge Meiers reinforces that by incorporating the earlier judgment; the current ruling further strengthens the deed restrictions since two Judges independently have now come to the same conclusion – that the deeds and CC&Rs cannot be modified other than through the procedures established in 1923. The CEPC ruling goes further and explicitly applies to **all property in PVE subject to these 1923 deed restrictions,** which includes all School property and all parkland owned by PVE City. The School District will keep its tax deductible donation and hence has no reason to renege on their settlement terms.
- **"Reaffirmed the enforceability of the deed restrictions on all property owned by the School District in the City. As stipulated in the MOU, the School District formally accepted the deed restrictions limiting use of its PVE properties to either school use or open space, thereby abandoning future legal challenges to those limitations on all School District-owned property in PVE. "**

  Check --There is no reason for the School District to renege, and the second ruling explicitly ties it to the other properties with the same/similar deed restrictions.
- **"Resolved certain encroachments in one area of previously City-owned parkland near 900 Via Panorama."**

  Check -- All encroachments will be removed without creating liability for the City (since we are advocating 1) that the large 21 foot tall wall remain in the ground as the dirt is moved back up to restore the slope, and 2) that the other lower retaining walls on the north and east side be permitted after the fact for safety reasons after permitting). In this way, the outcome is an improvement over the MOU – certainly from the standpoint of fairness to the 38 residents who complied with notifications of encroachment in 2005, and in terms of future application of municipal code and that precedent.
- **"Provided for the preservation of certain open space properties (Lots C & D) by transferring ownership from the School District to the City. The School District**

**had begun to use the lots as a fenced storage yard; the City is maintaining it as open space**."

Check --Lots C&D are untouched by the CEPC ruling. As described above, the School District continues to get everything it sought in the MOU with Lots C & D to remain as open space now owned by the City, so this aspect of the contract should not change.

- **"Protected the dark skies in the neighborhood around Palos Verdes High School by avoiding lights on the athletic field."**

  Check -- Again, there is no change anticipated. As described above, the School District continues to get everything it sought in the MOU, so this part of the agreement also stands.

- **"Facilitated the School District obtaining $1.5 million revenue from the property owner of 900 Via Panorama (the Luglianis) and the reimbursement of $400,000 in legal expenses incurred by the PVHA in defense of the community deed restrictions. In addition, the City received $100,000 to cover ongoing maintenance costs of Lots C & D."**

  Check -- The School District keeps the $1.5 million donation because the MOU went to great lengths to separate the donation from the rest of the transaction and hence the Luglianis are very unlikely to risk criminal tax fraud by claiming that the donation was tied to obtaining property. Both the IRS and LA County Tax Assessor would consider such a demand as admission of tax fraud since we expect a charitable gift deduction was claimed and the property value was submitted to and registered at LA County as $500,000 in consideration paid. Whether or not the City will need to return the $100,000 and the PVHA will need to return the $400,000 is still to be decided by the Court; a return of these funds would be unfortunate if that should occur, but both entities have sufficient cash reserves to cover that (unlike the PVPUSD).

So if those really were your reasons for entering the MOU in the first place, then please declare victory and accept the judgment. If not, then please explain to the public what exactly you are fighting for.