

Email interchange between John Harbison and PVHA President Phil Frengs on Concerns over PVHA Voting Process

From: John Harbison <harbisonjohn@gmail.com>

Subject: Restoring Trust

Date: December 4, 2016 at 1:54:42 PM PST

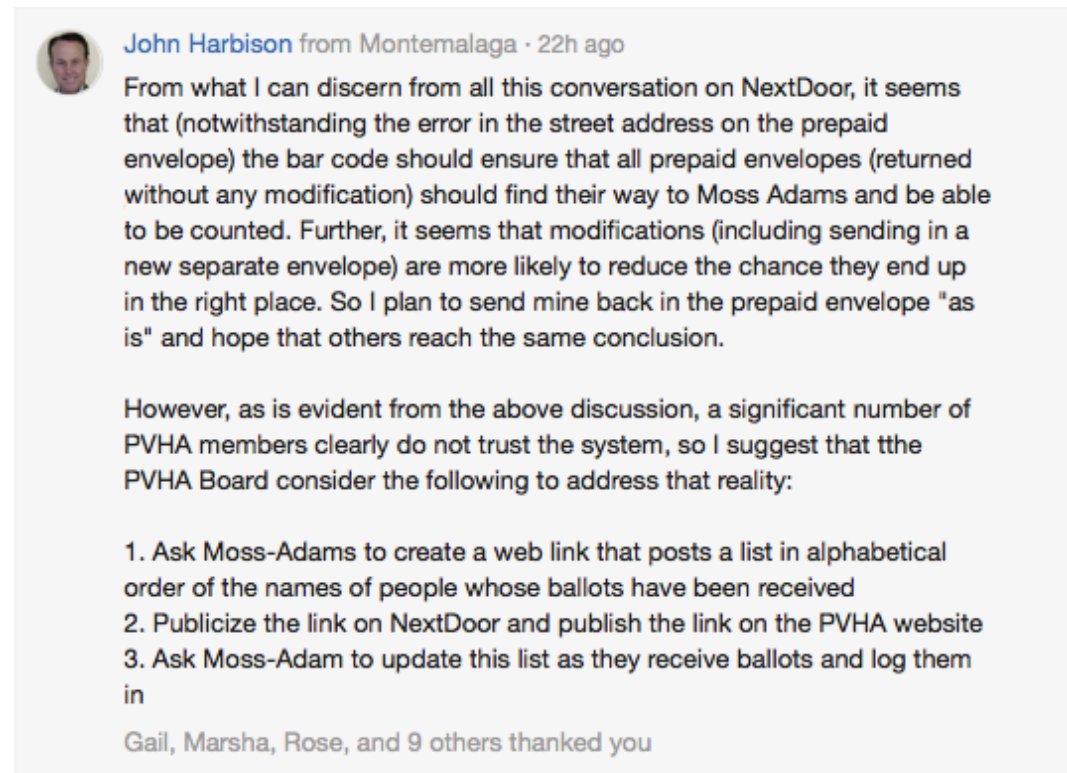
To: Carolbeth Cozen, Carol Swets, Dale Hoffman, Ed Fountain, Phil Frengs

Cc: Kim Robinson, "W. Richard Fay", Marlene Breene, Ried Schott, Jeff Lewis, Sid Croft

Phil, Ed, Dale, Carol and Carolbeth,

I don't know if you are all following the various NextDoor posts on the Election, but there has been intense interest in the community and questions being asked of candidates in the various threads. One thread that has 60 replies so far is called "PV HOA Election" and can be found at https://montemalaga.nextdoor.com/news_feed/?post=37567621.

In that thread, I tried to reassure people that they should trust the system (as discrepancies have been explained) and send in their ballots without modifying the envelope, but I believe they need to hear that officially from PVHA (not just me) that doing so is the best course:

A screenshot of a NextDoor post by John Harbison. The post includes a profile picture of John Harbison, his name, and the text of his message. The message discusses the reliability of the voting system and offers suggestions for improvement.

John Harbison from Montemalaga · 22h ago

From what I can discern from all this conversation on NextDoor, it seems that (notwithstanding the error in the street address on the prepaid envelope) the bar code should ensure that all prepaid envelopes (returned without any modification) should find their way to Moss Adams and be able to be counted. Further, it seems that modifications (including sending in a new separate envelope) are more likely to reduce the chance they end up in the right place. So I plan to send mine back in the prepaid envelope "as is" and hope that others reach the same conclusion.

However, as is evident from the above discussion, a significant number of PVHA members clearly do not trust the system, so I suggest that the PVHA Board consider the following to address that reality:

1. Ask Moss-Adams to create a web link that posts a list in alphabetical order of the names of people whose ballots have been received
2. Publicize the link on NextDoor and publish the link on the PVHA website
3. Ask Moss-Adam to update this list as they receive ballots and log them in

Gail, Marsha, Rose, and 9 others thanked you

In particular, I encourage you to consider the suggestion I made about asking Moss Adams to post a list of

ballots received so that people can overcome their distrust and each confirm that their ballot has been received. Setting that up and communicating it would be a good signal that you are listening to their concerns, that you believe in transparency, and that you want to insure the integrity of the voting process.

All the best,
John

John Harbison

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cell: 310 739-1838

From: Phil Frengs <pjfrengs@legistics.net>

Subject: Re: Restoring Trust

Date: December 5, 2016 at 5:00:25 PM PST

To: John Harbison <harbisonjohn@gmail.com>

Cc: Carolbeth Cozen, Carol Swets, Dale Hoffman, Ed Fountain, Kim Robinson, "W. Richard Fay", Marlene Breene, Ried Schott, Jeff Lewis, Sid Croft

John,

As you know, your counsel mailed us a letter on October 27, 2015 advising us of his representation in forming ROBE, and further advising of the Corporations Code relating to our organization, and finally threatened us with litigation over the election in 2016.

Since that time, we have received advise from our counsel on all aspects of setting the rules for the 2017 election. As you also know we have outsourced the processing of election materials to the accounting firm of Moss Adams, under the supervision of elections, the honorable Michael Latin.

All materials received by Moss Adams are preserved in the form they are received in, until January 5, when under the supervision of Judge Latin, the outer mailing envelopes will be opened and the verification envelopes will be reviewed for proper verifications of members, and then counted to determine if a quorum is attained. If there is a quorum, the verification envelopes will be opened, and then the ballot envelopes will be opened and the ballots will be tabulated.

Your proposal sent in your email and posted on NextDoor will not accommodate these procedures. Frankly, communications directly to us would have allowed us to provide you this information without your "grandstanding" on NextDoor. But, that is done.

In the spirit of your offer to address any mistrust that has been expressed by the twenty or so members other than non-member Bill Patton, candidates Ried Schott and Dick Fay, yourself and Jim Nyman the author of the irresponsible original post, I suggest you do the following:

1. Post a new entry on NextDoor that says that after discussing the concern over the mailing envelope with me that you are convinced that all mail returned under the PVHA Permit is in fact distributed to Moss Adams based on the barcode on the return envelope, the artwork of which was provided by USPS, and that further all of that mail is processed in a department that is fully aware of this issue. That you can assure PVHA members that no matter what the written address or any hand-correction of the address on the envelope, that in this case its irrelevant.
2. Repost the same on Nyman's thread
3. Send a private message to those who replied on the Nyman Open Letter post that you have been assured to your satisfaction that the mail will arrive at Moss Adams, that they should not be concerned. And, that you disavow and further discourage those who are suggesting that this represents voter fraud. The names of those who generated the 60+ posts, other than you, Patton, Nyman, Schott and Fay on Next Door are below:

Simon Shober Judith Pollard Robert Grant Rose Ramsay Barbara Ailor Helen Banos Julie Goldberg Greg Pass David Kleinman Dez Mys Ellen Allan Jacqueline Peterson Mike Feyman Vince Nelson Gayness Benneman Sylvia Richardson Ratan Lai Susan Rice Tim Tang Dawn Murdock An Si Kartik Anath Marsh Davis Lyn Fernandez Todd Frazier

Thanks in advance for your help in this matter.
Phil

From: John Harbison

Subject: Re: Restoring Trust

Date: December 6, 2016 at 4:03:49 PM PST

To: Philip Frengs

Cc: Carolbeth Cozen, Carol Swets, Dale Hoffman, Ed Fountain, Kim Robinson, "W. Richard Fay", Marlene Breene, Ried Schott, Jeff Lewis, Sid Croft

Phil,

I am shocked that you have not accepted any responsibility for the many mistakes that have been made by PVHA in this election, and that you or your staff have not been proactive about communicating with the public to address the legitimate concerns that your constituents have expressed on NextDoor. Further, I find it incomprehensible that you are projecting blame on me (and others) when my post was nothing but constructive and encouraged people to send in their ballots in the envelope provided without altering those envelopes.

Your lack of leadership is remarkable. It is YOUR responsibility to answer members' questions and give the reasons why your members should be confident that their votes will be counted; it is not my responsibility. I already posted my perspective on the matter on NextDoor, and encouraged people to trust the system and return their ballots in the envelope provided, and said that I would do so myself. However, why have you and your staff not stepped in to provide transparency and provide enough information to calm their concerns?

First, allow me to review some of the mistakes that have people concerned:

- On the pre-paid return envelope, the **street address is in error** – showing “11960 Wilshire Boulevard” not “10960 Wilshire Boulevard.” This caused people to wonder why the zip code was confusingly not the same as the Moss Adams address listed on the ballot itself (“90099-9811” on the outside envelope instead of “90024”). The incorrect house number was reported to Kim Robinson at PVHA, but PVHA took no action to explain this to the public, nor to explain the specialized zip code.
- On the ballot, PVHA **misrepresented the years of membership** by **overstating incumbent** Carolbeth Cozen by eleven years (15 years instead of 4 years) and **understating petition** candidate Marlene Breene by ten years (21 years instead of 31 years). Our offers in September and October to review the draft ballots before they were sent were repeatedly refused, and perhaps we would have caught that error for you if PVHA had been more transparent and accepted our offer to help? And while Kim Robinson allowed Dick Fay and Ried Schott to look at the mailing when they met with her, they were not allowed to photograph the material, they were not given a copy and were not aware of the inconsistencies since they were not proof reading the material generated. To proofread properly someone must have original input and compare it to new output; no ROBE candidate had that information. We appreciate that you did

decide to send a postcard correcting the mistake, but I find it surprising that PVHA has chosen **not to post this correction on NextDoor, on the PVHA website or in the local Newspaper.** If I missed those posts then I apologize, but I would have hoped PVHA would have taken those additional steps in the spirit of transparency.

- Even the correction postcard was implemented poorly because multiple people have complained that the ink was smeared and parts of the message illegible (See attached samples of the smudging problem).
- Also, there are many people stating on NextDoor more than a week after the ballots should have been received that they had not received a ballot. I have posted multiple times to encourage them to remedy the situation by going to PVHA and listing the address and office hours. Why hasn't anyone from PVHA stepped in to give that answer and encourage them to do so?
- Other NextDoor questions about process have also gone unanswered by PVHA, such as whether a ballot will be allowed if less than five names are selected. Again, why not step in to clarify this? You are obviously monitoring the posts – why not just answer members' question about the process?

These errors and omissions may just be clerical errors, but in the context of other more serious errors in the past, people are understandably concerned. For example:

- A Letter from PVHA President Mark Paulin to support closure of a portion of the Paseo Del Sol Trail that you now maintain does not mean it when it said ***“the Board of Directors supports the concept of the project...”***. Again, PVHA took no action to rescind that letter of support and inform the public.
- A formal court declaration filing by PVHA Attorney Sid Croft in on October 13, 2015 that revealed that an [unnoticed] special meeting of the PVHA Board had been held on Friday, October 9th and that **“the Board decided to appeal the Judgment, and also to pursue a stay of enforcement of the Judgment pending appeal from the trial court ... and I declare **under penalty of perjury** under the laws of the State of California that the foregoing is true and correct.”** Then on October 13th (a week later) when I challenged PVHA President Mark Paulin **about the unnoticed meeting and the desire of members to address the Board on this matter**, Mark claimed that its Declaration to the Court filed by its attorney was incorrect, and that they had not voted to appeal the case and confirmed this in a letter. Here is a [link to the letter](#). Perjury is a very serious issue for PVHA and its attorney.
- You and Sid Croft representing to the PVE Planning Commission on February 29, 2013 that PVHA **supported rezoning** the Panorama Parkland property to R1 Residential from OS Open Space, and then several weeks later Sid reversing himself at the March 12th PVE City Council Meeting and saying **PVHA did not support the rezoning.**

These mistakes, coupled with the many misrepresentations that you have made in your November 2016 open letter to members (all of which I've documented previously so I won't repeat but here is the [link](#)), have caused the public to be suspicious and concerned that the recent mistakes have been intentional

and that using the envelopes provided may cause their vote to be “lost” and hence not counted.

So why hasn't the PVHA stepped in to be more transparent?

- Why has PVHA not posted on NextDoor evidence that shows the address error is indeed the fault of the USPS rather than a mistake on the form that PVHA filed with the USPS?
- Why has the PVHA not explained that the barcode has all the identifying information needed to be supremely confident that the USPS will not be confused and deliver to the wrong address showing on the envelope?
- Why has PVHA not answered the many questions about whether alternative or modified envelopes are acceptable, whether ballots with fewer than 5 names are acceptable, etc.?

I appreciate now that your plan was for Moss Adams to wait and open any envelopes only after voting closed January 5th, but that is not in time for members to react if their ballot was indeed lost. The errors and omissions that PVHA have made have created the problem that you need to address – even if that means you must modify your process. It also led me to constructively propose one possible solution -- posting the names of ballots received so that members can assure themselves that their ballot is being counted. If you have a better way of doing that, then do it. But to just say that you don't care about these concerns is certainly a strong argument that you should no longer be serving in your role on the Board. PVHA created the problem, not me nor the ROBE candidates. PVHA needs to fix it. PVHA created the mess, and it is PVHA's responsibility to restore trust by creating a mechanism to confirm receipt of ballots.

Finally, your email chided me for not communicating with you directly. I point out that I have asked questions repeatedly on certain topics going back to last February that you have yet to answer. For instance, I have asked you repeatedly why the PVHA is not following its own by-laws in regards to what happens when there is no quorum. PVHA's by-laws state in Article V on page 51:

*...“at such annual meeting of the members, directors for the ensuing year shall be elected by secret ballot, to serve as herein provided and until their successors are elected. If, however, for want of a quorum or other cause, a member's meeting shall not be held on the day above named, or should the members fail to complete their elections, or such other business as may be presented for their consideration, **those present may adjourn from day to day until the same shall be accomplished.**”*

“Day to day” does not mean “until a year from now”. The language means PVHA should extend the election long enough to establish a quorum. So please confirm that PVHA **will** follow its own by-laws if this election does not achieve a quorum by the 2017 Annual Meeting, and that if that happens, PVHA will extend the election until enough ballots are returned.

Best regards,

John

[John Harbison](#)

cell: 310 739-1838



**PALOS VERDES
HOMES ASSOCIATION**

November 28, 2016

Dear Members,

Last week you should have received the Annual Meeting information which included the PVHA Board of Directors ballot. There were two inadvertent errors on the ballot. Marlene Breene has been a PVHA Member for 31 years, not 21. Carolbeth Cozart has been a resident of Palos Verdes for over 15 years. She has been a member of PVHA for the past 4 years. The length of her residency rather than the length of her membership was listed. We apologize for the mistake.

Sincerely,

Kimberly Robinson, Manager
Palos Verdes Homes Association
