

Open Letter from Former ROBE Candidates for PVHA Board

October 23, 2018

To the PVHA Board

All of us signing below have been petition candidates for the PVHA Directors election in at least one of the last three years.

We appreciate that the Board has decided to appoint Mike Moody to fill the seat left vacant by Carolbeth Cozen last year when she resigned. That is appropriate since Mike got more votes than any of the nine candidates in the last election, and we appreciate that action. We also appreciate that you've extended the deadline for nomination petitions this year to October 16th.

However, other than Mike, who recently expected to be appointed to the Board, the other three Candidates from last year decided not to solicit petitions again this year because we've concluded the system is dysfunctional and is unlikely to be changed in a meaningful way under the current leadership of the PVHA. It is also unlikely to be meaningfully changed via the litigation presided over by Judge Kwan based on her statements to date. Let us explain our reasons.

Residents for Open Board Elections (ROBE) was formed in 2015 to help advocate changes that would bring democracy to the Palos Verdes Homes Association (PVHA). The current requirement of 50% plus one of PVE lot owners for a quorum resulted in **no valid elections in nine years. Since 1941, a quorum was achieved only 33% of the time, and only three times in the last 17 years.** The PVHA's current 50% quorum requirement is simply much too high.

Typical HOA quorum requirements are well below 50%. And even the civil code (5115b) states 33% and/or 25% as fall back numbers for organizations that do not specify their quorum number. Why is meeting a quorum requirement important? A valid election is the way members participate in HOA concerns and to hold an official annual meeting. Lack of a valid election for so many years is an indicator that the established system is not functioning correctly. Under the current Board leadership members are discouraged from participating. Lowering the quorum will allow the relationship between the Board and its members to reflect current norms, and in the process become more productive and responsive to community concerns.

For three years now, ROBE has helped gather petitions to nominate 3-4 new candidates per year and raised funds to mount a campaign. Our website is www.pvegoodgov.org, where we've chronicled our efforts and developments. But each year the vote count fell short of the 50% +1 quorum (39.5% in 2018, 29.2% in 2017 and 32.5% in 2016). Changing the By-Laws to lower the quorum is not practical since it would require 66.7% of the members to approve the modification which is considerably higher than the 39.5% vote in the last election.

As such, ROBE filed a legal action in May 2017 to ask the Court to intervene and to lower the quorum to 25-30%. Since then, the PVHA has vigorously opposed that legal petition and even refused to count the ballots in the most recent election -- until the Judge ordered a second ballot mailing and a counting of the votes. When the 2018 count revealed that the four ROBE candidates each got more votes than any of the incumbents, PVHA tried to suppress public disclosure of the results. But here is the tally:

1st Mike Moody (ROBE) 1,281
2nd Marlene Breene (ROBE) 1,268
3rd Ried Schott (ROBE) 1,215
4th Mary Elwell (ROBE) 1,179
5th Carolbeth Cozen (Incumbent) 1,108 – but she resigned in May to serve on the Art Jury
6th Carol Swets (Incumbent) 936
7th Dale Hoffman (Incumbent) 918

8th Ed Fountain (Incumbent) 859

9th President Phillip Frengs (Incumbent) 818

The most reasonable action would have been for the four current Board Directors with the lowest votes to resign, and the remaining Director to appoint the four ROBE candidates until the next election. But instead, the Board re-appointed themselves yet again – for the ninth year in a row.

The court case to reduce the quorum and restore democracy to the PVHA has dragged on throughout this year, and is now in its 17th month. Judge Kwan has cancelled the last three hearings and has been adverse in rendering any decision. She has refused to address several issues addressed in the petition and appears to only be interested in lowering the quorum - to 40%. This is considerably higher than our request of 25% to 30%. Frankly, 40% is not enough to cause a valid election to occur. In fact, in 11 of the past 14 years a quorum was not met, and only 3 of those 11 would have been valid under the 40% threshold. The next hearing is scheduled for November 8th.

As Ried Schott indicated in a letter to the Board in September, and again in this letter, he, Marlene Breene and Mary Elwell are willing to be candidates and appear on the ballots this year if the Board waives its onerous requirement of 100 signatures each year. After all, once the required signatures have been obtained, as all the noted candidates have done at least once, it should be sufficient if a quorum wasn't obtained for the previous election, and up until a term period of 3-years. But that request has apparently been rejected by the PVHA. It is our understanding that only Mike Moody shall be listed as a candidate along with the other four incumbents in the coming (2019) PVHA election. Additionally, since the three-year term limit for any incumbent expired six years ago, each incumbent should be subject to the same signature requirements as any challenger, as required by an existing PVHA resolution. However, the Directors refuse to follow this resolution they recently created and are deliberately using the annual signature requirement as a major and unwarranted obstacle for any member that wants to oppose them.

We implore the Board of the PVHA to appoint those Candidates that received the most votes in the past election. Or at a minimum, to allow the names of the Candidates from last year to be added to the ballot in the coming election and to make reasonable changes in all forthcoming elections such as lowering the requirements both for the quorum and for members to be on the ballot. By doing so, it will restore democracy to the PVHA. Before ROBE supported candidates in 2015, the Board prevented any names from being on ballots other than their own for decades. This practice, and the Board's routine of constantly invalidating elections due to the lack of a quorum, cancelling annual meetings and self-appointing themselves year after year, are unacceptable. The attorney representing the Board even admitted in court that: "The PVHA is not a democracy." This totalitarian regime by the PVHA needs to be replaced by a democratic process in order to best serve its membership.

This letter is supported by the following PVHA members who have run in one or more of the PVHA elections in the last three years.

Marlene Breene
Mary Elwell
Dick Fay
Jennifer Laity
Ried Schott