

REGULAR MEETING #573
CAPISTRANO BAY DISTRICT BOARD OF DIRECTORS
MINUTES
August 30, 2011
CLOSED SESSION – 5:30 PM
REGULAR MEETING – 6:30 PM
OPEN TO THE PUBLIC
Palisades United Methodist Church
27002 Camino de Estrella, Capistrano Beach, CA 92624

A. CALL TO ORDER

Board President Board President Bell called the meeting to order at 6:52 PM.

B. PLEDGE OF ALLEGIANCE

C. ROLL CALL/CLOSED SESSION REPORT OF ACTION

Directors Present: Board President Bell, Vice President Levinson, Gutierrez, Schwartz
Directors Absent: None
Staff Present: District Manager Russell
Guests Present: Brian Sanchez, Securitas Branch Manager
The Board met in closed session to appraise the annual performance of the District Manager. No actions were taken.

D. PUBLIC COMMENTS

Homeowner Jerry Southwick, 35735, did not receive the June board minutes in a timely manner. Timeline for sendout of meeting minutes will be 7-10 days after the board meeting. District Manager Russell to make schedule available to all residents. Homeowner Alex Martinez/Address #35431 discussed four items:

1. Martinez wrote a letter to District Manager Russell and forwarded it to the property owner regarding a contractor incident. Martinez did not receive any reply from the property owner.
2. Cleaning crews are dumping buckets of detergent on Saturdays after housecleaning. This is a city ordinance violation. District Manager Russell to contact the City of Dana Point water quality engineer for violation enforcement. Director Gutierrez suggested that verbiage advising of the ordinance needs to be added to lease agreements.
3. Rental property tenants let their dogs run loose, requiring cleanup of excrement and causing potential bite threats. Martinez asks that Capistrano Realty be notified to advise tenants that dogs are not allowed to run loose. Residents should call Securitas if a loose dog is seen.
4. Construction on weekends. A complete carpet installation crew was working on Sunday in the 200 block address area. What is the weekend construction schedule allowed by the City? Isn't construction ceased or limited on weekends?

E. APPROVAL OF MINUTES

1. Regular Meeting #571 held on June 28, 2011

Director Schwartz requested that District Manager Russell review the June 28 minutes tape for missing verbiage on a budget item discussed by Vice President Levinson. Motion was

made by Director Schwartz, seconded by Vice President Levinson, passed 4-0 to approve the minutes of meeting #571 of June 28, 2011, pending the addition of the missing verbiage.

F. SECURITY ACTIVITY REPORT

1. Two month period for June/July 2011 (Securitas)

Securitas Branch Manager Brian Sanchez reported that there were technical issues. The Fourth of July ATV's were unarmed. There were 18,000 gate entries for July 2011, which was a slight increase. The 9AM-3PM time slot increased to over 200 entries. Two staff members were gone. A new Securitas employee Ray Morena will assume the swing shift. Securitas employee Herman Obeng will move back to the graveyard shift. A new patrol vehicle with a fixed light bar (light bar screwed down on vehicle) will be delivered.

Incidents were slightly above normal. A few of them were unique such as a female jumping over a wall, a belligerent drunk male, a nude male riding a bike at 2AM, a gasoline container stored in sunlight, and access control issues. There were more speeding violations over 25 mph but no repeat offenders for parking or speeding.

Homeowner Sandy Hoose, 35565, asked why there are no reports from the police officer showing tickets written and warnings issued so that the residents/public can see them. Board President Bell and District Manager Russell discuss the police officer's reports on a weekly basis. The Board had decided not to present them at the monthly meeting. Director Levinson shared that the cost to employ the police officer is \$2500 per ticket. Resident Hoose would like to see how many tickets are written to determine if the officer is issuing a reasonable number of tickets. The reason the police officer was hired was to effectively deal with speeding. A statistical report is needed. Director Gutierrez asked to know entry/exit data, when and where tickets are issued. Director Gutierrez and Residents group discussion followed about recording general data such as a chart where hour is noted and brackets of speed (15-20, 20-25 mph) and how many cars. What is the policy? A survey/speed study was done to capture the data. Speed bumps have been added since the speed study. Homeowner Alex Martinez, 35431, commented 20 mph was brought down to 15 mph because drivers were going 30 mph. The purpose was to lower to a safer speed.

Homeowner Bill Nassour shared a solution from his prior community. For every 300 yards of road a camera could be installed with radar detection underneath that is connected to the guard house. The camera can clock speeds and show the locations of the car. In Mr. Nassour's HOA community they were able to issue a warning or ticket or place a lien on the offender's home. For Beach Road, it would take about six cameras and it could be automated. A sign warning of monitoring could be posted for guests or renters. Using cameras would decrease costs for a police officer.

Homeowner Martinez noted that a study was done where cameras were placed in the security office to monitor and were found to be too expensive. A camera could capture the license plate number. An ordinance with a fine provision exists. If the ordinance is violated, the fine is payable or it goes to municipal court. Homeowner Sandy Hoose estimated that the cameras would be low cost if amortized over a 5-10 year period. District Manager Russell to follow up with costs in 60 days.

2. Review of Securitas contract and additional security service proposals.

Four bids were received for the security services contract. Securitas bid \$334,089. Heritage is close at \$327,069. District Manager Russell expressed concern that Heritage's lower pay scale may result in more marginal staff. Securitas Manager stated that they cover any openings with higher pay to their employees in order to not sacrifice service. Other companies provide a base cost but then add other costs a la carte. Securitas provides all costs up front. Although there will be a 3% increase in state and federal payroll taxes, Securitas can hold their costs steady for the remainder of this fiscal year. Director Gutierrez received additional bids from Universal Protection at \$312,566 and Nordic at \$322,000. Per Securitas Manager, Securitas' margins are lower than the competition.

Director Schwartz noted that maybe graveyard and swing shifts are difficult to staff. For example, a package was delivered for Don Russell and the guard did not know him. There has been some difficulty with English. The guard could be working this post as a second job. Securitas is assigning the current swing shift guard back to graveyard shift. The Board agreed to remain with Securitas and will officially approve their contract for this year when the draft budget is approved under agenda item G.4.

3. Review of this past Fourth of July safety program.

District Manager Russell reported that the ATV's used on the beach had mechanical difficulties. This makes two years in a row that the ATV's have not worked properly and residents are not receiving the fully intended service for the holiday. Russell proposed to obtain more officers on foot (around five) rather than spend more funds on equipment that is unreliable and does not work. Per Homeowner Martinez, a mobile patrol unit was on the road. What is the cost to rent the quads? Russell responded \$600 to rent quads. Russell will create report to be used for next year's Fourth of July planning. Director Gutierrez asked about the entry activity. Per Martinez/Russell, three officers were in the guard shack, two at the intersection and one was moved back/forth between locations to keep people from coming down the driveway when the county park closes. There was congestion but it was never blocked to emergency vehicles. The Sheriff's Dept. stationed two Deputies at the entrance to the County Beach Park who stopped every vehicle checking for alcohol. This presence aided immensely with maintaining control over pedestrians and vehicles near our entrance.

4. Further discussion regarding armed or unarmed police officer.

The Board acted at the previous meeting to unarm the police officer and have him continue working without his weapon. Of concern to many homeowners are three issues: (a) possibly losing the officer (b) a possible Brown Act violation (c) no advance notice to homeowners. All written communications are included under this agenda item in the reports.

Vice President Levinson announced he would rescind the motion/resolution made at the June meeting on an emergency basis regarding the police officer carrying a gun.

1. The issue needs to be expanded to cover all aspects. Levinson noted especially at the CBRA meeting, there were more issues than just whether to carry a gun or not. There were more than two CBRA members who didn't want a police officer at all.

2. Was the emergency basis board action legal or not? Rescinding the prior motion will ensure the process is legally compliant. The issue needs to be brought up again at the September Board meeting.

Motion was made by Vice President Levinson, seconded by President Bell and passed 4-0 to rescind the Board's action at the June meeting to prohibit the use of a firearm by the District Police Officer. Although he rescinded the motion, Vice President Levinson stated he is not in favor of the officer carrying a gun. He requested that the topic be added to the September meeting agenda for board discussion and public comment.

Homeowner/Board discussion followed: Homeowner Jerry Southwick asked why this was approved as an emergency basis? Director Levinson responded that we did not have enough liability insurance. We had \$2 million dollars insurance coverage; we now have \$20 million dollars insurance coverage. Directors and Homeowner group discussion followed that this is a big issue that needs to be heard by everyone. Will the officer be armed when he is on duty tomorrow? We need to get more people involved by mailing and a vote/feedback from the permanent residents. Suggestion to mail a voting ballot to each homeowner. Board to make decision on how to notify. One homeowner stated they have not received a letter regarding this issue in over 3 ½ years.

Director Levinson stated that the Brown Act says an emergency basis decision can be made by the Board. A homeowner asked why legal counsel was not allowed. Homeowner Martinez says we need a decision on how to notify the residents. Director Schwartz pointed out that during the previous meeting the Manager was asked if it was allowable to discuss the topic of unarming the police officer and that the Manager had said it was ok. The reason for the decision for emergency basis was due to liability limits. We were grossly underinsured. Homeowners are welcome to review the June 28 minutes cassette tape. It was appropriate to make the decision.

A Board member noted that the check was signed to the insurance company before the board meeting. Per Director Schwartz, a risk analysis was done. There is a risk issue of three exposures:

1. Beach exposure. Likelihood of liability to the District if a drowning occurs.
2. Beach Road. Incident could happen which will present complicated liability matters.
3. Weapon on premises carried by police officer. Due to presence of onsite armed officer, there are four or five tier levels of available insurance. The highest price has the least coverage. The coverage is layered to allow for huge exposures i.e. water districts. Special district entities are unable to get quality coverage. Layered coverage is the least desirable program as the policy has lots of exclusions to accommodate risk retention groups. A homeowner asked why we paid the increase. Schwartz responded that it was our intent to get better insurance, better costs and coverage. We have a joint powers agreement to bid insurance with 90 days notice.

A homeowner asked what is the difference in cost between coverages? For \$2 million dollars we pay around \$10,000. To raise coverage limits to \$20 million dollars, we pay \$28,000 for the same limitations and coverage exclusions, i.e. no contractor liability coverage. A homeowner noted that this is about an \$18,000 increase cost of coverage.

Board President Bell noted that with the armed guard, our insurance goes up \$18,000. No preferred insurance company coverage is available with an armed guard. The current policy for \$28,000 is for coverage increase. Homeowner Sandy Hoose commented that in today's litigious society, it is prudent to raise insurance coverage. We would be liable if we carried only \$2 million dollars and were not covered.

Director Schwartz explained that there is one insurance group with five layers of reinsurance. On a large claim, the insurance companies argue as to who will cover or if they will cover it. If a bad claim, it would be a complicated loss. A stronger insurance would be one carrier, one umbrella. Without an armed officer, we can get better insurance. Per Schwartz, yes, the board decision was an emergency. Levinson shared that the armed police officer was here only for speeding. We need a month for the residents to review the issues. Per Martinez, the officer may still carry a concealed weapon even if we do not allow the visible weapon. Per Schwartz there is no quality insurance with an armed officer. Levinson met with the District Police Officer regarding his job description. It is speed control. His police duty is to stop crime only if called to do so or he sees it in progress. A homeowner asked if the motion has been rescinded, why aren't we back to normal with additional insurance. Levinson noted that due to CBRA feedback from more than two people, we need to take a more comprehensive view of the issues.

Homeowner Nadine Levinson, 35131, clarified that by rescinding the motion, the police officer has a gun. Nadine suggested writing up pros and cons, circulating it to the homeowners; do a mailing and ask for responses. Nadine was part of the team to evaluate security and did not know about the gun. The Police Officer is an important part of the culture. He knows a lot. The crucial question is will he work without a gun. Can we have better liability and have him continue to write tickets? Director Levinson stated he had asked the officer if he would pull out his gun if a confrontation with a violator was getting uncomfortable or out of control and the officer explained that he would not but would call for police backup.

Director Schwartz explained the insurance further. Our limits are high but coverage is marginal. If a child is killed, there are major coverage limits. Claims really do happen. We don't have major commercial coverage. The risk retention group talks to the main insurers. We have really marginal insurance. A homeowner commented that we don't want marginal insurance in a large scale community. We need to keep the best insurance. Schwartz noted interrelated issues due to claims. Martinez reminded everyone that the District had its insurance tested when dogs chased and bit a renter and they turned around and sued the District. Director Schwartz noted this is when reinsurers get involved.

Director Levinson continued to explain that he is uncomfortable with the officer carrying a gun until the issues are resolved. Bell asked for steps by the Board. Example: Send pro/con, survey residents for opinion, insurance explanation. Homeowner Martinez recommended that a polling be sent for a requested choice of "for" or "against". Obtain a check off from each homeowner. Gutierrez suggested an ad hoc workgroup. Homeowner Phyllis Mastro, 35141, would like a survey canvassed by a non-resident such as District Manager Russell.

President Bell asked Homeowner Jack Tarr if he thought it was the Board President's place to represent the community over the gun issue. Jack Tarr responded yes, and that rescinding the motion is right and may or may not influence a vote. It is necessary to create a process to inform/guide the Board. Majority rules. It is not a panacea – not a ballot, but polling software is available. It is a way to get a tension-filled topic guidance for the board. Manager Russell asked the Board if they have effectively put the gun back into the Police Officer's hand. Director Levinson stated that he is not in favor of an armed officer, he had rescinded the motion for more discussion.

Director Schwartz asked who the officer takes direction from. The officer reports to District Manager Russell, Russell contacts President Bell for guidance and the president works with the Board. Homeowner Sheila Bullock asked about a job description or written work order/contract. The Manager needs clarity on what direction to give to the Police officer. Per President Bell there is no contract with the officer or verbiage about the gun. Director Levinson stated he had asked the officer why he wants to carry a gun to which he answered that it makes his job easier. People see the gun and they respond. Homeowner Nadine Levinson, 35131, shared that Colonel Banks had a gun. There were many years in which there were no guns on the road. The last episode was speed control; the last Board created the job but didn't notify that there would be a gun. Per Martinez, the Board did notify homeowners of the gun. Nadine stated it is a given that a post-certified officer carries a gun. Director Schwartz shared that Laguna Hills Mall contracts out to the Orange County Sheriff. The mall officers, who are OC Sheriff Deputies, don't carry guns. Homeowner Martinez added that the District previously tried to obtain Sheriff's Deputies but they couldn't commit resources. Director Schwartz asked will the officer carry a gun beginning tomorrow?

G. FINANCIAL REPORT

1. The approved Claims and Demands documents are the record of payments made by the District for monthly bills, invoices for goods and services and employee payroll. The payment documents are referred to as payment transmittals and are always available for public review during board meetings and at the District office during business hours.

Director Schwartz asked if the purchase order system was being used. President Bell said yes, he receives all P.O.'s. No hires are made unless a P.O. is present and approved. A reminder that the P.O. is required only for a \$500 or greater expense that is out of budget. Manager Russell stated there were about nine recent P.O.'s. These P.O.'s were included with the payroll and payables where vendors are listed.

Director Gutierrez requested that the PO format be changed to indicate the insurance policy # and expiration date so that the Board and staff know when the insurance is about to expire.

2. Report of monthly expenses and year to date status through July 31, 2011.

Homeowner Martinez asked what retained earnings were from last year. President Bell responded that the figure is not exact until audit, but was around \$40,000. Martinez asked how much revenue is collected over operational expenses. We already had reserves. Per Bell, none was left over; everything went to the general expense for the entry project.

Reserves are adjusted by the auditor. Martinez asked what was left over from revenue less operational expenses? Where are we now? President Bell explained that if we do all want to for 2012, we will run over budget. Director Gutierrez explained that the Board took \$150,000 out of reserves to make this year's budget work. What percent was needed in reserve? President Bell listed the needed projects: move the admin office, reserve study, slurry road, replace storm drain at 35121. If we do all of these, we will need to dip into reserves. Director Schwartz commented that we are doing a reserve study to get the life expectancy of the infrastructure. Homeowner Martinez pointed out there appears to be enough reserve to consider installing closed circuit cameras for security on the road. President Bell stated that the budget has been held up by the reserve study although Director Gutierrez stated he has received two proposals.

Motion was made by Director Schwartz, seconded by Vice President Levinson and passed 4-0 to select a firm to do the reserve study in an amount not to exceed \$2,000. Director Gutierrez to forward his proposal info to Manager Russell.

3. Collection of Fees for services.

No discussion on this item.

4. Discussion and approval of Draft Budget for year ending July 31, 2012.

Budget items to discuss further before approval are as follows:

- Consideration of security service proposals
- Administration office costs.
- Proposals for providing a budget/community assets and infrastructure reserve study.
- Consideration of roadway slurry coating cost estimates.
- Cost estimates for repairs to storm drain no. 2 at 35121 Beach Road.

President Bell advised approving the budget but exclude the admin office, storm drain and slurry costs until these expenses can be determined and added to the budget at a later date.. Motion was made by Director Gutierrez, seconded by Director Schwartz and passed 4-0 to approve the FY12 Budget at \$985,375.00 with the admin office, storm drain and slurry costs excluded. Manager Russell was asked to send an updated copy of the budget to President Bell.

H. ADMINISTRATION OFFICE RELOCATION

This is both a budget/financial topic (see item G.4) as well as a separate discussion item. There are several homeowner letters addressing this topic. Letters are included in the agenda report under item F.4 since most of the letters and emails address several agenda discussion items.

Manager Russell reported that he and Director Gutierrez met with OCTA and Metrolink officials on August 29th to discuss the new City requirement for a handicap restroom. It requires a change in the proposed scope of work. Informally, OCTA and Metrolink approve of the admin office/restroom proposal. With this preliminary approval it is time to begin the entitlement process, which will be ordered as follows:

1. Go to OCTA and get an amendment to the existing license agreement to add the admin office and adjoining handicap restroom.
2. Apply to the City for the Coastal Development Permit.

3. Submit plans to Metrolink for their approval.

Director Gutierrez estimated the process could take up to six months to gain all approvals and permits.

Two different agencies manage the use of the railroad. OCTA will amend the license. Metrolink processes the permit for construction on their property; Metrolink owns the land. Director Schwartz reminded the board re: John Tran. We don't need full engineering, just a site plan. Director Gutierrez added that OCTA wants a simple site plan. We need to hire John Tran to get the site plan to give to OCTA, Metrolink and the City of Dana Point. When approved, John Tran can then do the drawings. The agencies will tell us what they want. Tran can later do the landscape, architecture, public works, site specific safety plan, SWPPP, etc. We need to break down the contract for him to just do the site plan. Manager Russell was directed to contact John Tran and get him underway. Director Gutierrez reminded the Board that the change in the scope of work could increase costs.

Homeowner Chris Miller, 35119, stated that the zoning for the admin office is the same as the railroad right of way. How do we build an office building when it doesn't serve the zoning of the right of way. We are spending a lot of money. If it was easy, it would have been done when the front entry was done. Illegal use; why was the admin office removed? Why spend \$8,000 when we can utilize the existing office in the rear of the guard bldg? Gutierrez responded that it will be in phases; not \$8,000. Manager Russell stated the City has looked at the zoning and approves of the proposed use on the railroad right of way.

I. COMMITTEE REPORTS

1. LCP Committee

The annual Mean High Tide Line (MHTL) beach survey was completed on June 21st during the morning low tide. A report will be provided regarding how the MHTL has changed due to this year's physical changes in the beach profile and how this could affect the public's access to all areas of the beach below the mean high tide line.

District Manager Russell reported the beach is losing a large volume of sand. This brings mean tide line closer to the homes along with the zone that the public is entitled to traverse. The south end of the community will probably experience the most friction with public access to the beach. We need to take care in the future in dealing with the public as we received a notice from the Coastal Commission of a Coastal Act violation. The Coastal Commission violation stated that we were mistaken in asking a fisherman and other people on the beach to leave. There are deed restrictions for the private property that state that the public must keep moving, called *Pass and Repass* and it is legally within our right to ask beachgoers to keep moving along. Use of the Beach Road beach is well defined and is not for stationary/sunbathing use by the public which is defined as *Passive Recreation*.

A homeowner noticed that San Clemente dumps sand on the beach until the trailer homes/mobile home park. Doheny gets sand from the harbor. Do we have rights to dump sand? Can we ask the City of Dana Point to dump sand? Director Gutierrez explained that San Clemente has a \$50 million dollar joint venture with the federal government to dump sand on their beach which took about ten years to work out. Homeowner Martinez said the problem is the interruption of the natural coastline. We no longer receive sand from San

Juan Creek or the Harbor. The harbor dredges sand. San Clemente's sand will eventually leave. What does the Coastal Commission do to protect the coast?

Homeowner Jack Tarr thanked President Bell for his work several years back in helping to defend the community against some Coastal Commission issues.

Per Jack Tarr, last weekend there was an issue with stationary/sunbathing use and the two unarmed security guards called the sheriff. Pass/repass needs monitoring. Another homeowner asked what is the location of pass/repass coverage? Russell stated that the majority of the properties are pass/repass, near high tide to water's edge or slightly inland of the mean high tide. The public sometimes seeks safety if there is a super high tide. Director Gutierrez noted that timing is critical in responding to the Coastal Act violation notice. Manager Russell already responded on August 30 and pointed out pass/repass rights. Homeowner Martinez thanked the people who initiated the study to protect the beaches and sand ownership. Manager Russell stated that mean high tide was surveyed in June.

2. CBRA Activity report

There is no written report from the CBRA.

CBRA President Carole Wunderly reported on the CBRA meeting held on August 18, which 27 people attended. A written summary will be provided to the District and then emailed out to the community. The CBRA will include it in their newsletter.

3. Ad Hoc Committee Report – Outside Management Company

Report by ad hoc committee (David Wilson, Nadine Levinson, Director Steve Schwartz) regarding outside management company alternatives. Again, several homeowner letters were submitted regarding this topic and are included in the agenda reports under item F.4. Homeowner Nadine Levinson reported on the committee's pro/con study of contracted management and whether an outside company would be beneficial. The last study was performed in 1995. Ambrose Mastro has joined the current committee along with David Wilson, Nadine Levinson and Director Steve Schwartz. Nadine invited other homeowners to join the committee. The committee reviewed the 1995 report provided by Homeowner Sheila Bullock. They drew up a working process and want to have several meetings to gather data to review. They will review community needs, what kinds of services are needed. How can we support District Manager Russell? Outsource? Hybrid? Status quo? The committee will report monthly and serve strictly in advisory capacity to the Board. Nadine will send a communication to everyone to invite them to general meetings to help the board make informed decisions. District Manager Russell will join the ad hoc committee.

Please contact Nadine Levinson if you would like to join the ad hoc committee. There will be a meeting within the next two weeks to prepare the next report. Homeowner David Wilson and Nadine sent out a memo that frames what they are analyzing. Since 1995, the duties and tasks of managing Beach Road have been spread out because of the regulatory and compliance environment. It is too much for one person. We may subcontract out some work so that the Manager can do more work on the road.

J. MANAGER'S REPORTS

1. Review of Manager's PRIORITY List (including POCHE water quality project). This item was actually discussed at the end of the meeting under item N but is added here for continuity purposes.

Homeowner Jack Tarr briefly commented on progress with the project and pointed out that the County is working on obtaining a permit to conduct a more regular maintenance and cleaning out of the Poche channel that would be on an as-needed basis. Currently the County is restricted to maintenance two times per year which is not enough to keep the channel clean and functioning as intended.

2. Community entrance area landscape/lighting maintenance report

Manager Russell reported on the plan for LED bulb illumination for the landscape accent lighting. We will test a small number of these bulbs to see how the lighting will be at the entrance. LED bulbs use 1/3 the energy of halogen or incandescent bulbs. LED life span is five years compared to a few months for the others. This is a cost savings. The LED is different in appearance. The LED bulbs are softer and have more diffusion. We have ordered five to see how they look. There is a sizeable cost to change out the bulbs to LED but we may recover the cost in electricity savings. The electric bill increase of \$350 is because 50 watt halogen bulbs draw on circuits which results in premature burnout of bulbs. The LED bulbs are not the mercury type but are brighter than the halogen.

3. Status of RR safety enhancements and county beach landscaping improvements.

Manager Russell reported that no response was received on the railroad safety enhancements. A crew was out to put up a section of fence. The overall schedule is due to complete in November.

4. Review of Purchase Order procedures.

This was already discussed in section G.1.

K. OLD BUSINESS

Board appointment of new Director to replace a current board vacancy. (To fill the unexpired term of resigning Director Bob Bancroft through December 2014).

The Board invited interested homeowners to apply for the Directors' vacancy. Sheila Bullock, 35737 Beach Road, reported that she had spoken to someone in the Orange County Registrar of Voters office and was told that candidates must reside in the District they would be representing. David Wilson was previously under consideration but sent a letter to the board stating that he does not reside here and will be unable to serve on the board. Group discussion continued on who might qualify/not qualify to serve based on residency.

L. NEW BUSINESS

Use of consultants by the District.

Discussion requested by Director Schwartz regarding an approval process of the use of various consultants and who should be the contact point thereof. No written report was submitted.

Director Schwartz will interview special district law firms, as the current law firm didn't take direction on the entry project. Director Schwartz spoke to the senior partner of a firm

in Irvine that provides legal counsel for special districts and thinks they can work within our budget. Homeowner Martinez commented that our current firm didn't follow direction or give us information. Homeowner Nadine Levinson agrees it is better practice to review the specialty firms every five years. Director Schwartz to continue to interview special district law firms.

M. WRITTEN COMMUNICATIONS

Letters or emails from Sheila Bullock Bullock (Board communication, Brown Act, unarmed police officer), Al Gudel (Brown Act and outside mgmt), Jim Wilson (unarmed police officer, outside mgmt, admin office, timely minutes), Debbie Morgan (Board vacancy), Joe Dunn (admin office, outside mgmt, unarmed police officer), CHP Lt. Gary Teragawa (unarmed police officer), Alex Martinez (unarmed police officer, outside mgmt), Ted Rasmussen (unarmed police officer), Sandy Hoose (unarmed police officer, Board vacancy, admin office, outside mgmt), PETITION with 41 signatures (unarmed police officer), Bill Matthies (unarmed police officer), David Alban (unarmed police officer, outside mgmt), Connie Waldron (lack of community notification, outside mgmt).

President Bell thanked all participants for the letters received by the board. Discussion was previously covered in item F.4, additionally under item K, and the management company firm discussed under item I.3.

N. BOARD AND STAFF COMMENTS

Director Gutierrez asked Jack Tarr to update the board on the Poche water quality project issue. The Army Corp of Engineers is involved, the press has increased public awareness. There is a 30-day wait for more information. The Water Quality Control Board is allowing the County to open for drainage as necessary with machinery or shovels. This may interrupt beach area pass/repass. The Water Quality Control Board contact was concerned about the bacterial effect if Poche contents go out to the water and wants a pipe to extend 10 yards farther into the water. There would be no new bacteria – the effect is the same regardless of whether the pipe extends out or not. Another issue under review is the possible presence of the snowy plover bird, which has not been seen in five years.

O. ADJOURNMENT

The meeting was officially adjourned at 9:45 PM.

ATTEST:

State of California)
 County of Orange)ss
 Capistrano Bay District)

I, **Donal S. Russell**, Manager of the Capistrano Bay Community Services District hereby certify that this is an *APPROVED* copy of the Minutes of meeting #573 held on August 30, 2011.

Donal S. Russell
 DONAL S. RUSSELL, Manager

September 27, 2011
 DATE