

**REGULAR MEETING #576**  
**CAPISTRANO BAY DISTRICT BOARD OF DIRECTORS**  
**MINUTES**  
**December 12, 2011**  
**CLOSED SESSION – 6:00 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 Bell called the meeting to order at 6:30 PM.

**B. PLEDGE OF ALLEGIANCE**

**C. ROLL CALL**

Directors Present: Board President Bell, Vice President Levinson

Directors Absent: Schwartz, Gutierrez

*\*\*The Board received proxy letters from Directors Schwartz and Gutierrez thus providing the required quorum to allow for appointments of replacement directors. Given their absence, it was necessary to conduct the appointment process near the beginning of the meeting (after item E) instead of as originally scheduled under agenda item L.1, so there could be a quorum present to conduct the remainder of the regular meeting.*

Staff Present: District Manager Russell

Guests Present: Brian Sanchez, Securitas Branch Manager

\*President Bell announced that the closed session was cancelled due to the lack of a quorum of Directors.

**D. PUBLIC COMMENTS**

Jim Zerboni, 35665 Beach Road and one of the four candidates for the three open Director seats, stated that he was withdrawing his candidacy at this time but would make himself available next year to join the Board when two of the Directors' terms expire.

**E. APPROVAL OF MINUTES**

*1. Regular Meeting #574 held on September 27, 2011*

*\*Director Gutierrez (absent) provided his proxy vote for approval of the minutes:*

Motion was made by President Bell, seconded by Vice President Levinson and passed 3-0-1 (Schwartz was absent for meeting #574), to approve the minutes of meeting #574 of September 27, 2011.

*\*APPOINTMENT OF DIRECTORS (this was moved forward from agenda item L.1)*

Manager Russell handed out voting ballots to Directors Bell and Levinson (*Gutierrez and Schwartz had already submitted their votes by proxy*). Ballots were counted and the three candidates each received at least one vote for the three open seats. At that time Director

Levinson stepped down and the three replacement Directors took their respective seats on the Board.

Motion was then made by President Bell, seconded by Director Martinez and passed 4-0-1 (Gutierrez absent) to formally approve the appointments of Mike Haack, Ambrose Masto and Alex Martinez to the Capistrano Bay District Board of Directors and to accept the resignations of Directors Stephen Schwartz and Jerry Levinson.

Manager Russell then administered the Oath of Office to new Directors Mike Haack, Alex Martinez and Ambrose Masto

**F. SECURITY ACTIVITY REPORT**

*1. Three-month period for September-October-November, 2011 (Securitas):* Securitas Branch Manager Brian Sanchez reported that we received over 11,000 gate entries for the month of November, which is a slight increase, but consistent with the time of year. There were a handful of citations; seven, the normal trend is usually in the teens. For reported incidents, in November, there was one report of a fence down. Wind had previously blown over a section of construction safety fence. The second incident was that dogs were off leash and the resident was notified. A third incident was a report of property stolen from a vehicle consisting of a knapsack containing a laptop and I-pod. This was not reported to the sheriff.

There was one trespassing incident last weekend (Saturday/day shift). Security responded to a complaint of a stranger looking into parked cars. The officer approached the suspect, questioned the individual and asked him to exit and escorted him out. The individual ran from the vehicle to a construction area and hid under a home. The security officer notified police. The individual then ran south and jumped over the wall onto the railroad tracks but the security officer drove north to meet the police. Meanwhile, the police received a second call from a homeowner. The individual had jumped back into the community. It was unclear if he was apprehended in the community or at a later time, but it was discovered that this individual was wanted in connection with a homicide in a mobile park in San Juan Capistrano. For future, our security officers will be reminded not to allow a person into the security vehicle and to continue to observe individuals until they leave the community and until the police arrive.

Director Martinez asked if Securitas has a camera. Manager Russell responded yes; however, handheld camera photos are not allowed per Securitas company policy. Securitas Branch Manager Sanchez will send a policy copy to Manager Russell. Discussion followed between Homeowner Jim Zerboni, Securitas Manager Sanchez and homeowners about homeowners' privacy and use of the camera for evidence. Director Martinez reviewed the process that if the security officer identifies that an individual is not a member of the community, they notify the individual to immediately leave or the sheriff will be called. The sheriff is then notified that the individual may do damage and the security officer continues to observe the individual. Homeowner Jim Zerboni pointed out that using a camera might be effective in getting an uncooperative trespasser to leave the area.

The camera discussion turned to a security video camera system for the community entrance. Manager Russell reported that the District solicited bids two years ago before the entry project was built and is currently re-bidding the camera system to address the changes made to the entrance area. Homeowner David Wilson asked if the board can make sure the camera project for the entry area is a priority item.

A community-wide closed circuit camera system has also been investigated. Estimated costs could be several hundred thousand dollars for such a system due to mounting requirements, power sources, access to existing utility poles or underground access and easement acquisition. CBRA President Sheila Bullock stated there are funds in the treasury. CBRA might be able to help out. Homeowner Nadine Levinson noted that step one should be a security camera system for the front entrance.

*2. Review of speed violations log (sample)*

Manager Russell explained that when the security officer runs radar, the data is entered on the radar log data sheet. It can be sorted by license plate to find repeat offenders. Homeowner David Wilson asked if there were many repeat offenders. Manager Russell responded that there have been many more in the past but the frequency is diminishing presently. A homeowner asked if the District can check how many cars registered to a home have received a speeding citation. Manager Russell answered that we have license plate data for the majority of the community because of the transponder program and it is easy enough to match them up. Homeowner Jim Zerboni asked if speeding is still a problem. Manager Russell responded yes, with more incidents in the summer months. He further added that he sends e-mail reminders to speeding offenders when he can match them up to a property address on Beach Road and find them in his email directory.

**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.*
- 2. Report of monthly expenses and year to date status through October 31, 2011. \*Expenses for November will not be closed out until mid-month and are therefore not included here.*

President Bell reviewed the financial reports with the new board members going through page by page and pointing out where to find monthly and year-to-date expenses and how to compare those expenses to the budget, etc.

*3. Collection of Fees for services.  
Development impact fees.*

Director Martinez explained that this fee is for wear and tear on the road due to construction. Over time the road will wear out faster with all the heavy vehicles coming in for home building. The fee covers the damage done by those vehicles and the money is used to help offset the cost of keeping the road properly maintained.

Director Masto asked what happens if a natural disaster such as a tsunami occurs that damages a home and it needs to be rebuilt. He feels that the homeowner should be exempt

from paying the development impact fee for any resulting construction work. President Bell responded that the Board would have to evaluate the merit of such an exemption before making a ruling.

*Summer trash collection fees.*

Director Martinez asked if the amount charged pays for itself. Manager Russell explained that the District charges enough to cover the cost of providing the service plus an incremental administrative charge for the District to manage the process.

President Bell asked for an update on the progress of the Reserve Study. Manager Russell reported that the engineer provided the initial draft last month but it was missing several infrastructure components. A reply was sent back identifying those components and requesting the study be reevaluated. A new draft is in process but has not been received back from the engineer. Director Martinez asked what the expectation is for the reserve study. President Bell stated we don't know what our reserves should be and the Reserve Study will help the District to determine the future financial needs for infrastructure repairs and replacements.

**H. ADMINISTRATION OFFICE RETURN TO BEACH ROAD**

*1. JT Consulting Engineers was officially hired and their services commenced on about October 5<sup>th</sup>. A concept layout showing the office and the new handicap restroom has been produced and is currently in revision and may be ready for a second review at tonight's meeting.*

Director Martinez asked what the office size is. Manager Russell shared the diagram showing the two buildings. The office is 10x20 and the handicap accessible restroom request is for 8x12 feet with a portion to be used for storage of supplies. The location is south of the grass area by the flagpole and the palapa. It will take up the first few parking spaces. Space is tight – we may lose the palm tree at that location. The engineer is working on a slight revision to this original concept layout

John Tran/Engineer will charge \$8000 to perform all of the design, plans and coastal development permit process. We then submit to the City for building permits. President Bell asked about the total budget. Per Manager Russell, the total budget was around \$60,000 before the bathroom plan was added. Director Martinez would like to review costs beyond the permit and application process due to the recent changes.

Director Martinez asked about signage around the admin. office and suggested a flashing yellow light and a pedestrian/caution sign for safety.

**I. COMMITTEE REPORTS**

*1. LCP Committee report on the Notice of Violation from the Coastal Commission.* Manager Russell reported that the Notice of Violation that was received in August has been responded to and as of this meeting there has been no reply from the Coastal Commission. LCP Committee members are: Wayne Shafer, Jack Tarr, Joe Dunn, Director Bell (via phone), Alex Martinez and Manager Russell.

*2. CBRA Activity report.*

CBRA President Sheila Bullock reported on the annual meeting held in November, at which Don Russell spoke about the entry area and the board of director activities. David Wilson and Don Russell gave a report on ad hoc committee activities and brought the community up to date. CBRA election of officers results were:

President	Sheila Bullock
Vice President	Diane Ferguson
Treasurer	Kay Rosoff
Recording Secretary	Darlene Anzel
Correspondence Secretary	Phyllis Masto

CBRA does have money in its treasury and can contribute to items that are aligned with CBRA's mission.

*3. Ad Hoc Committee Report – Management Support Alternatives.*

**\*Jim Zerboni was appointed to the Ad Hoc Committee by Board action (see under Item N, Board and Staff Comments at the end of the meeting)**

Nadine Levinson reported that the minutes for the September, October and November Committee meetings are being presented to the Board of Directors for acceptance so they can be made available to property owners. The committee laid out tasks and duties and formed an RFP (Request For Proposal) to send out to property management companies to bid for specific services. The intention is not full offsite property management; rather, it is a hybrid style using an offsite property management that assists onsite Manager Russell to integrate outsourced items under one management system to minimize costs. Four RFP's were sent out and we received two proposals in return: Webb Property Mgmt. and Merit Property Mgmt., both long-term local management companies working with high-end residential communities. The committee is now breaking down individual management tasks and developing a cost for those separate tasks in order to more evenly evaluate the proposals.

President Bell pointed out the importance of providing a letter to the community, as soon as possible, explaining the committee's purpose and task and bringing property owners up to date with the committee's efforts and progress. CBRA President Sheila Bullock suggested the letter should also ask for input from property owners.

Committee member Nadine Levinson recommended that the Board call a town meeting for all homeowners to discuss. Committee member David Wilson pointed out that proposals should be submitted and reviewed before the Board organizes any type of public hearing. Sheila Bullock reiterated that we need to give the community the opportunity for input. Nadine Levinson added that it will be helpful to direct property owners to the minutes that provide the history for what the committee has been doing either through the District website or contact a Board member or the Manager.

For a community town hall meeting, Director Martinez suggested that visuals such as PowerPoint are incredibly helpful. Sheila Bullock recommended that the meeting should be held on Beach Road on a Saturday to make it easy for more homeowners to attend. Jim Zerboni pointed out that if you wait too long to solicit community input homeowners may

feel that they didn't have a real chance to participate in the process. It's possible the community may need more than one meeting. Committee member David Wilson added his agreement that including the community is essential but that the Committee is still in the discovery phase and is not ready to present any recommendation at this time.

President Bell asked the committee to send the letter out as soon as possible. The main point is to engage homeowners in the process. President Bell then acknowledged on behalf of the Board of Directors that Ad hoc committee meeting minutes were read and accepted for September 16, October 18, and November 10, 2011 Committee meetings and are therefore officially entered into the record.

**J. MANAGER'S REPORTS**

*1. Review of Manager's PRIORITY list*

President Bell and Manager Russell discuss the priority list and Manager's duties on Fridays. Bell gave a copy of the list to the new board members.

*2. Community entrance area landscape and lighting maintenance report.*

*Proposal from Bemus Landscape Inc. for misc. minor landscape improvements.*

Manager Russell indicated that he has not yet received the Bemus proposal. Director Gutierrez and Manager Russell walked the entry area with Bemus management to work out the scope of the improvements. The cost of new plants and maintenance work is estimated to be around \$1400-\$1600. The work would include some plant replacement, some plant relocation, fertilizing, repairing and some drain ditch improvement.

Director Martinez asked about plant performance and pointed out that it might be helpful if the District were to consult with a nursery professional regarding those varieties that perform better in our climate. Manager Russell stated there are some varieties that die off because they are seasonal, not because the plant is diseased or was planted wrong and that these have to be replaced once or maybe twice each year.

Homeowner David Wilson shared that there is strong community sentiment that resents the extravagance of the lush landscaping. Why choose plants with a life cycle? Just put plants in, hedge it and it will look nice. Wilson feels there needs to be less emphasis; just get plants that last a long time and are easy to maintain. Less maintenance is needed for the front entrance. It looks nice as it is and this would reduce the District's time spent on landscaping.

Homeowner Bullock commented that we overplanted. We will have to thin and start smaller. It is time-intensive to thin out and move plants. Another homeowner recommended obtaining natural/native plants.

*Signage.*

Manager Russell expressed concern that the exit gates have been hit by vehicles four different times now and showed an artistic rendering of a proposed bronze sign plaque to be mounted on the column that supports the exit gates, on the right-hand side at a cost of approx. \$400. This would be a caution sign reading, "Caution – Gate Opens Slowly."

Director Martinez asked about placing a sensor in the road farther back to trigger a flashing light to wait for gate to open or a sensor that opens the gate sooner. If the gate is activated sooner (when the vehicle is further away) the driver will see that he doesn't have to come to a complete stop and maybe those impatient drivers will see this and not be tempted to bump the gate.

The Board turned down the caution sign proposal and directed the Manager to obtain a proposal for installing a sensor further back on the exit driveway that will open the gates a bit sooner so drivers don't have to come to a complete stop.

*Woodwork maintenance.*

President Bell asked Manager Russell about woodwork maintenance. Russell reported that we have wood on the guard shack and gate that requires oil maintenance on a 3-month cycle. Some areas show signs of drying out. The seaward side weathers more rapidly; the shady side weathers less. Not all areas are done at the same time. We select what is needed every three months.

**K. OLD BUSINESS**

*1. Review of Peter & Associates proposal for design/CDP application submittal to the City for improvements to storm drain no. 2 at 35121 Beach Road.*

Manager Russell requests board approval of the Peter & Associates proposal in the amount of \$3827.50. This engineer provided all prior storm drain hydrology studies. They know our area's hydrology, including outside areas, railroad and San Clemente. The proposal includes drawings, CDP processing and permits for construction. Director Martinez asked why this is needed. Manager Russell explained that we replaced the upstream portion that extends to the railroad block wall back in 2003 when we rebuilt the roadway. The area of the drain that is included in this proposal begins at the edge of the street and extends seaward a distance of 130 lineal feet. The pipeline is blocked or collapsed along this part.

Motion was made by Director Martinez, seconded by President Bell, passed 4-0-1 (Gutierrez absent) to approve the Peter & Associates proposal for civil engineering services in the amount of \$3827.50 for pipeline repairs to storm drain no. 2 at 35121 Beach Road.

**L. NEW BUSINESS**

*1. Appointment of Directors to replace outgoing Directors Bancroft, Levinson and Schwartz. \* This item was moved to the beginning of the meeting just after Item E.*

The remaining members of the District Board may appoint replacement Directors in mid-term pursuant to Government Code Section 1780. Candidates for the three open seats are listed in order of the date of submitting their letter of intent to the District:

Alex Martinez -	35431 Beach Road	11-07-11
Ambrose Mastro -	35141 Beach Road	11-09-11
Jim Zerboni -	35665 Beach Road	11-21-11 (Withdrawn tonight)
Mike Haack -	35255 Beach Road	11-28-11

*2. Acceptance of resignations of Directors Jerry Levinson and Steve Schwartz*

**\*This item was also moved to the beginning of the meeting after Item E.**

**M. WRITTEN COMMUNICATIONS**

The District received emails from John and Kathy Smead (armed officer and admin. office), Madalaine Waters (district mgmt), Katie Brady (armed officer and admin. office), Roger and Marji Davisson (armed officer). Manager Russell summarized topics as:

1. Armed officer (function of liability insurance)
2. Admin office (board/staff is working on it)
3. District management alternatives (in ad hoc committee)

Manager Russell will send copies of these written communications to the board and a copy of the district management alternatives communication to the ad hoc committee.

**N. BOARD AND STAFF COMMENTS**

Manager Russell reported that the *annual audit* was submitted by the auditor and filed with the State Controller in Sacramento in late October.

Director Masto noted that two ad hoc members are now on the board of directors, which needs consideration on voting. Per Director Martinez, it is generally acceptable to sit on both the ad hoc committee and the Board. Director Masto explained there might be potential conflicts. Homeowner Nadine Levinson stated this is a good point, especially since there are two members. It is understandable that a member could be on a committee like this because he is on the board. He shouldn't vote on his own proposal. Membership could be via ex officio and it would be proper to not vote on ad hoc proposals. Director Haack suggested the appointment of Jim Zerboni to the ad hoc committee. Director Masto stated that the outgoing letter should be specific for people to come and voice their opinions. Homeowner Levinson commented that a proposal from ex officio member and a board vote on that proposal by the same member is against the Brown Act.

Homeowner Bullock asked, should the *ad hoc meeting agenda* be posted? Legally it should be posted. Homeowner Levinson/Director Martinez responded yes, it should be posted. Minutes are sent to the board first, then can go out to community from the board.

Motion was made by Director Masto, seconded by President Bell and passed 4-0-1 to appoint Jim Zerboni to ad hoc committee. Board members Haack and Masto can become ex officio members of the ad hoc committee.

Homeowner Sheila Bullock asked about the District's liability insurance. Are we to continue with the current insurance or investigate a change? President Bell explained that the District has given advance notice to our current provider of intent to cancel and is currently soliciting proposals for liability insurance coverage.

Director Martinez reported suds in the street due to dumping of car wash liquids/housecleaning detergents. This continues to be an issue. He asked what Securitas does. Per Manager Russell, there is a flyer handout advising the homeowner not to dispose of liquids in the street and if washing a car, to use a porous area such as the lawn. This is a law from Sacramento and part of the City code.



Regular Meeting #576  
December 12, 2011

The next *Board of Directors meeting* is scheduled for Tuesday, January 31 at 6:30 PM.

**O. ADJOURNMENT**

The meeting was officially adjourned at 8:50 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 #576 held on December 12, 2011.

Donal S. Russell  
DONAL S. RUSSELL, Manager

January 31, 2011  
DATE