

REGULAR MEETING #578
CAPISTRANO BAY DISTRICT BOARD OF DIRECTORS
MINUTES
February 28, 2012
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 Ambrose Masto called the meeting to order at 6:33 PM.

B. PLEDGE OF ALLEGIANCE

C. ROLL CALL

Directors Present: Bell, Haack, Martinez, Masto
Directors Absent: Gutierrez (resigned 2/17/12)
Staff Present: District Manager Russell
Guests Present: Brian Sanchez, Securitas Branch Manager

President Masto would like to give a plaque for Past President Bell's service. Director Martinez suggested using one plaque with a list of past presidents' names to be posted in the district office.

1. *Resignation of Director Dave Gutierrez.* Director Gutierrez submitted his written resignation from the Board on February 17, 2012. The Board's bylaws state that a board member must give notice and isn't officially resigned until a new member is appointed, exception would be a medical emergency. Director Martinez discussed that these issues could potentially put the agency in jeopardy in regards to funding for the District.
2. *Possible appointment of replacement Director.* Property owner Jim Zerboni was one of the four volunteers in January who stepped up to fill the three vacancies. At that meeting, Mr. Zerboni offered to withdraw since there were enough volunteers already. Upon being made aware of this new vacancy he has agreed to accept. When the two previous resignations were received, Mr. Zerboni gave 30 day notice of intent to serve. Motion by Director Martinez, seconded by Director Haack and passed 4-0 to appoint Jim Zerboni as a new Director to replace resigning Director Dave Gutierrez.
3. *Election of new Board President for 2012.* Resigning Director Gutierrez had been elected as the new Board President for this year at the January meeting. Given his resignation, the sitting Vice President takes over the chair and becomes Board President. President Masto asked for volunteers for the office of Vice President. After some discussion among the Board members, Director Haack volunteered to take the position. Motion by Director Martinez, seconded by Director Bell and passed 4-0 to appoint Director Mike Haack as Vice President of the Capistrano Bay District Board of Directors.

D. PUBLIC COMMENTS

No public comments at this time.

E. APPROVAL OF MINUTES

1. Regular Meeting #577 held on January 31, 2012.

Motion was made by Vice President Haack, seconded by Director Martinez, passed 4-0 to approve the minutes of meeting #577 of January 31, 2012.

F. SECURITY ACTIVITY REPORT

1. One month period for January, 2012 (Securitas). Branch Manager Brian Sanchez reported that we received 12,000 vehicles through the front gate during January, with 135-150 cars per hour during 7AM-7PM. There were three incidents. The first occurred while a resident was away from his property. Upon his return his television was missing. A door was left open. It was reported to security but not reported to the police.

The second incident that occurred was that the security officer was accused of harassing the car detailers. Security will continue a camera policy of taking photos of violations but won't take photographs of individual people. Director Martinez stated that according to Bob, photos were taken of soap suds on the road. President Masto reminded that it is not up to the District to enforce the law. Manager Russell clarified that it is the City of Dana Point's code that regulates commercial car washing. We do not enforce regulations, but we help to provide public awareness. We have brochures listing do's and don'ts that we hand out. Director Martinez reminded the group of attention by media and environmental groups to this issue. If we're not going to observe the water quality standards, we can't expect anyone upstream to comply. President Masto commented that the code can be seen as taking away individual freedoms. The police can issue a fine. Manager Russell to provide the car wash brochure to the Board. Director Martinez stated that the City was here and stated that homeowners need to wash their cars on the lawn and the liquids need to be contained. Security can document on their report that we gave out the brochure but can't photograph individuals. Director Martinez noted issues may also occur because of rental management companies that hire cleaning companies. Vice President Haack asked if the brochure stated the code requirements? Yes, per Manager Russell. The third incident was that three teens were found under the last house on the road smoking an unknown substance. Security was notified. There were no unusual citations but five warnings were issued for parking in the fire lane.

Securitas has assigned a new gate officer on the graveyard shift, Brian Amante, who is also a military reservist and comes highly recommended. He will be working from 10PM-6AM. Last month, part time employee Kathleen Inouye was added to the security staff. Director Martinez asked for the roster of staff and assigned shifts. Brian Sanchez will e-mail a staff schedule to Manager Russell. Homeowner Sheila Bullock will place info in the homeowner newsletter.

2. Dashboard video camera for the patrol vehicle. Securitas was asked to do research of an in-dash camera in patrol vehicle. Securitas VP Nicole McDargh confirmed that a beta test in Portland, Oregon saw a decrease in violations. Brian Sanchez has some quotes out for bid. When received, he will send them to Manager Russell. Director Martinez/Brian Sanchez discussion about the characteristics of the beta test community. Our district currently has only one patrol car.

3. *Proposed password policy for homeowner call-in identification. Discussion to implement an existing security feature of the dwellingLIVE gate computer system whereby homeowners calling in guests and service people would be required to provide a password for positive ID to the gate attendant.* President Masto reported that Mission Viejo and other communities have this. When you call gate, they will ask for code word to identify the caller. Someone could say they're a homeowner, could abuse system. In event of renter, they would have code word to use. There is a problem – if someone forgets the code, what happens? Do we work around it? There are pros and cons. Director Martinez says there can be a default password if your code is forgotten. Per Manager Russell, this doesn't happen often but the system allows for a special call-in I.D. Directors Martinez/Bell discussed using the district manager's name or having the security officer ask security questions to verify the homeowner. Brian Sanchez noted a con is that homeowners may have teens and their visitors that can abuse code use. Manager Russell suggested that the code should be changed periodically. Manager Russell asked Brian Sanchez what workaround other communities use. What back-up systems are in place? Another Securitas-protected community uses a password. Sanchez to check what other communities use and their workarounds. When our security officer brings up homeowner info on their monitor, he can ask security questions based on the information found on screen. President Masto requested to add the password policy to the agenda with pros and cons and the Board will vote at the next meeting. Director Martinez suggested that the district manager's name could be used.

Director Bell asked Manager Russell for an update on Matt/police officer. Russell confirmed that Matt is still working random shifts of 15-18 hours per week. He does speeding citations once every ten days. He stops and advises two or three homeowners per day. We are still tracking repeat offenders; they are predominantly first time speeders or isolated guests. The data doesn't tell the whole story, but could indicate that Matt is effective. Vice President Haack suggests that Matt go down where there are more houses rather than spending most time in the open road area; however, there's no speed bump on the open road section, which tends to create more speeding. Director Martinez suggests the board send a notice to homeowners, and then send another notice 45 days later. Per Manager Russell, Securitas Manager Brian Sanchez will get the policy. Director Martinez reminded that it needs to be in the policy manual. Martinez logged in to contact security and also called them. The time spent was about the same. Most homeowners contact security by phone.

G. FINANCIAL REPORT

1. *Claims and Demands.* President Masto confirmed that the question Director Bell had asked at the last meeting was resolved because payments were out of sync.
2. *Report of monthly expenses and year to date status through January 31, 2012.* Director Bell asked Manager Russell to continue to provide bank statement copies for Wells Fargo and Farmers & Merchants Bank.
3. *Collection of fees for services.* Director Martinez had a question on the *Statement of Revenues, Expenses and Changes in Net Assets* budget under cost codes 4035 and 4295: RR Parking Review and OCTA expenses. Are we over collecting? We have around \$2200 more in revenue than expense. Manager Russell: There is an admin expense for processing the billing. Director Martinez commented that if you look at the annualized

budget, you don't know where the admin cost is showing up. Manager Russell to e-mail budget worksheets to the Board.

4. *Review of proposal for new liability insurance policy.* Manager Russell reported there is no answer yet on the insurance. The agent ran into problems finding a carrier to write the policy. We should have something by the middle of March. We gave advance notice to the existing insurance company that we are looking for another new provider. March 30 is the deadline to discontinue with our existing company. Per Homeowner Sheila Bullock, Steve Schwartz gave different information to the insurance agent and then Philadelphia Insurance later changed/renegeed the old policy. She feels no one is going to want to write the policy for us. Director Bell agreed that insurance companies don't want to insure the District. Manager Russell to ask Steve to call the independent agent and work as the homeowners' consultant to find out options. Bell reviewed the situation that Steve had where five insurance companies were involved. If something happens, these companies will point the finger of responsibility at each other. If we had only one company, they would take responsibility. Homeowner Sandy Hoose stated that this is a deep pocket situation; it can come back to us as group of high-risk. Homeowner Sheila Bullock noted we have a long history and haven't put in a claim, so if something happens, we can remind the existing company that we have been with them and have made payments on a long-term basis; however, Bell reminded the group that any insurance company loves you until you have a claim. Manager Russell to talk to Steve Schwartz and respond to the Board by Friday, March 2.

H. ADMINISTRATION OFFICE RETURN TO BEACH ROAD

1. *JT Consulting Engineers will be submitting the Coastal Development Permit (CDP) application to the City this week to launch this step of the entitlement process. Drawings required for submittal of the CDP were produced and submitted to the District on February 22. The engineer has submitted the CDP to the City. Manager Russell has the blueprint. The actual permit is in City Hall. Vice President Haack asked if there is anything we can do to hurry the process along. Haack spoke with City Manager Doug Chotkevys and he will assist if we need help. Manager Russell to contact the Community Development Director and ask to move the process along.*

I. COMMITTEE REPORTS

1. *LCP Committee: No written report. There has been no further response from the Coastal Commission to the District's letter of reply regarding the allegation back in August that the District violated the Coastal Act in asking a member of the public to move from the beach. President Masto reported we have still not heard from the Coastal Commission. First contact was in August, the second contact was in September. No other work has been done. This item will be taken off of the Board's agenda. Homeowners would benefit if they had a handbook to know what we can do. Discussion on what rights we have as homeowners? No one will be asked to leave the road unless Manager Russell is notified. Director Martinez already created a brochure that serves property owner awareness. Director Bell asked to confirm that our policy is to notify Security? Manager Russell responded yes, and if the homeowner doesn't call Security, they may call the police. Bell suggested that policy should be to call Security or the police.*

The LCP Committee had discussed a primer set of useful info that is one handout for all three – homeowner, public, and police, so that everyone is on the same page. Manager Russell commented that there are at times gray areas in areas where there are no fences. Director Martinez thinks most homeowners are not aware of public rights. He created an informal brochure which educates on what public rights are. The Coastal Commission has a policy but it is at least 60 pages long. President Masto commented that it would be helpful if the Pacific Legal Foundation came to the meeting to advise us. Homeowner Sheila Bullock and Board discussed having the homeowners call Security. We can't distribute a handbook without the Coastal Commission's approval. Only a ten-house stretch has a problem. Homeowner Sandy stated that the problem is not universal, but is in the area that the public utilizes, perhaps the weekly rental tenants. Most of the homeowners don't have end of road issues with people wanting to camp out for the day. Homeowner David Wilson added that he agrees. President Masto suggested that we table the handbook idea for now and obtain more info.

2. *CBRA Activity report.* CBRA President Sheila Bullock Bullock/35737 Beach Road asked for a \$1500 contribution at the last Board meeting to pay for CBRA's summer meeting event for community relations. She spoke with Linda Halley, CPA who confirmed there was no problem with creating a bank account; however, it can't be an entity. It could be named "Beach Road Summer Event". Bell/Director Martinez wanted to ensure it was legal and Manager Russell had sent a request to auditor. The auditor responded there was no problem as the event is a business meeting, with food afterward. Group discussion on what tax I.D. number to use on an account and instead, why not have the board pay the Beach Road Summer Meeting bills directly?

Motion by Director Martinez, seconded by Vice President Haack, passed 4-0, to allocate up to \$1500 for Beach Road Summer Meeting, with Homeowner Sheila Bullock to provide the invoices to the Board.

Progress report on efforts by property owner group to specify more climate-appropriate plants for the entrance area. Homeowner Sheila Bullock thanked Homeowners Diane Southwick and Toni Bancroft for their site evaluation. Plants selected were indoor or shade plants; they don't like sun. The soil is dry because the plants are not watered enough. Maybe the timer is off due to Christmas decoration light changes. We're paying Bemus Landscaping quite a bit of money. The lawn is lovely, but the plants are dying. Unless the plants are taken care of, they will continue to die. Manager Russell reviewed that the plant specifications were made by the landscape architect; therefore, we can't hold Bemus or Ecola responsible. Sheila feels that the entity who selected the plants and the entity that cares for them are both responsible. Director Martinez recommended that the sprinkler system be cycled once a month. Sheila added that when the power goes off, we need to reset the timer. Per Vice President Haack, the majority of the dead plants are wrong plants to begin with. President Masto/Director Martinez discussed battery back-up. Russell has the list of suggestions for better plants. Russell met with Homeowner Toni Bancroft and they walked the areas. Russell to coordinate the site plan showing plant replacements and new plants into a usable layout that Bemus can price out. Masto suggested placing a numbered red flag and noting the replacement. Masto would like sprinklers to be taken care of and would like a bid from Lowe's for plants. Homeowner Sandy Hoose noted the bamboo will take over and suggested removal. Masto added that bamboo sheds lots of leaves.

Homeowner Nadine Levinson reminded that the original purpose of the bamboo was to screen for noise. Toni says bamboo will spread. She also identified that the entry (area where the gate guard looks through now) has plants that will eventually grow too tall. President Masto thanked Homeowner Sheila Bullock and her property owner group for their work. We want to be budget-conscious. Board discussion followed.

3. Ad Hoc Committee Report – Management Support Alternatives. David Wilson reported that the committee will submit a summary report to the Board by March 5. The district management process was looked at for a review of functions, analyzed for efficiencies, redundancies, and for how changes would affect homeowners. The bids were narrowed down to one firm, Webb Property Management, to provide a hybrid model in which the district manager is the primary lead, supported by the property management company. Benefits are cost savings, contingency planning, enhanced services to add capacity, district professionalism through property management's professional support, and to free up Manager Russell's time.

The Ad Hoc Committee's recommendation is to schedule a town hall meeting to address homeowner questions and concerns. The Ad Hoc Committee came up with questions when they met informally with Webb. Webb has outstanding responsiveness to answer questions. The committee recommends a trial basis to begin, with the potential for a permanent contract later. President Masto commended the committee for being very well-prepared. Director Bell would like to review. Director Martinez wants to see two proposals, tasks, and matrix and then ask Manager Russell questions. If we do contract out to the property management company, can we parse things back to Manager Russell? Wilson recommends asking Webb Property Management and Manager Russell to address this.

Homeowner Levinson/Director Martinez suggested the option that the Board could meet with Webb before the town hall meeting. Levinson created a chart that covers everything needed for the District. Webb would be happy to come out to meet with the Board. Vice President Haack received homeowner feedback that they are left out of this process. If you do a town hall meeting, people can ask questions at the same time as the Board. Bell feels the Board doesn't need to meet with Webb but requests that both the Webb representative and the Board attend the town hall meeting. Wilson requested that if the Board and homeowners please write examples of questions, Webb could provide FAQ's.

Over the last eight months, the only homeowner who Wilson has heard feedback from is Sheila Bullock. Haack suggested we need to announce the town hall meeting. Bell would like to know what info we would like to have so that people have a chance to give feedback before the town hall meeting. We need to announce it and ask people to send questions in advance. Homeowner Sandy Hoose commented that it is difficult for homeowners to find out what's happening in the ad hoc committee. They need to hear a presentation at town hall saying, "Here's how we got here". Having only one property management company option is troubling. Hoose asked about the numbers; how were comparisons done? Levinson referred to the scope of work located in the proposal package. The process should be discussed. Wilson says everyone can come to the meeting. It is important to trust the committee members who did the process. The community didn't see what the process was. Bell stated that two board members were on the ad hoc committee. Homeowners tend to

take interest suddenly. Bell agrees with Homeowner Hoose that we have to go through the process. Russell will e-mail the matrix to Martinez and Board. Group discussion followed of how you get 20-25 households participation out of 70-80. It's not a concern until there's a problem. Wilson reminded the group of the risk of no back-up or succession plans. Bell stated we have to give homeowners the opportunity to comment. Levinson reported that Webb showed professionalism and that they are down to earth. They do accounting, the vendor list, contractor duties, etc. Sandy asked Wilson if in analysis of Russell, the committee feels he needs a full time executive assistant. Levinson responded no, as Manager Russell felt it would be more work because he would need to oversee that person. It is expensive to hire another full-time employee. There are tasks above that needing a professional property management company: government, legal, compliance. We need one person who can support all of those functions.

Concerns expressed were fears that homeowners will lose the community with an outside agency telling us what to do. Levinson responded that the process will be the same as before but better behind the scenes. If a homeowner calls the office for info and Manager Russell is not there, the call goes to the management company and they answer the question or take a message for Manager Russell to get back to the homeowner when he returns. Per President Masto, the packet states that calls go to the person assigned to our community, available 24/7, who handles our account exclusively. They would have the files and could talk with Manager Russell if they didn't have the answer. Director Martinez commented that homeowners are comfortable with an archaic method and there is an assumption that something is going to change. Manager Russell is the primary contact unless he is absent or on vacation. Example: How does Homeowner Sheila Bullock get labels for meeting? Currently, if you call Manager Russell and he's out, you get voice mail or during hours, you'll get Judy. With a property management company, you would leave a message with their representative and they would help you or have Russell respond to you. Homeowner Phyllis Masto is concerned about what will happen if there is a dispute of some kind. The Board has the final decision. The property management company works under Manager Russell and reports to the Board of Directors. Masto suggests that we have the town hall meeting and have people address specific questions to dispel rumors, where the committee and Board and homeowners can ask questions together at the same time.

When the town hall meeting is announced, it would be helpful to note in the executive summary that for a full report, please contact Manager Russell. This is all public record. The homeowner may not see this as the Board does. Directors Martinez and Bell recommend a short one-page executive summary. The full report, proposal and appendix can be available on e-mail as additional pdf attachments. The Webb proposal is 23 pages. Masto interviewed five different communities about Webb including Las Brisas, Ritz Point, et al. They all had great comments on Webb's integrity, usefulness, and knowledge. Bell commented that most homeowners care about how it affects them. Levinson thinks a hybrid model will make things better and if not, we can discontinue the property management company. Masto asked if the Board should meet separately with Webb? Bell responded no; instead, he recommends to send info to homeowners and invite them to next Board meeting with questions, then do the town hall meeting. Homeowner Sheila Bullock announced the CBRA Spring Meeting on Saturday, April 14 at 10AM either at the Hamilton home or at a location to be confirmed. Questions might be: how much it will cost, and other examples.

President Masto asks that if homeowners can't attend the meeting, please honor the decision that is made at the meeting. Homeowner Sheila Bullock asked for feedback in the newsletter. One homeowner responded and she forwarded it to Manager Russell. Group discussion of asking Manager Russell to present comments, how to get homeowners to attend the meeting, and how to satisfy the community.

President Masto and Manager Russell to work on ideas with Webb to develop FAQ responses. Homeowner Sheila Bullock to talk to the Hamiltons to find out if they are available for April 14. Before the town hall meeting takes place, there will be a March Board of Directors meeting and an April 14 CBRA Spring meeting with the presentation of ad hoc committee findings. At that meeting, we will invite all of Beach Road and Webb Property Management. Director Bell outlined the three opportunities homeowners have to present feedback and voice opinions or questions:

- Write or call in
- Attend March Board of Directors meeting
- Attend April 14 CBRA Spring meeting

President Masto requested that an agenda item be ready to vote on at the April Board of Directors meeting. Manager Russell to send draft communication to the Board before sending by mail and e-mail to homeowners. A one-page executive summary proposing a hybrid district management model will be included along with an invitation to attend the next Board of Directors meeting. Webb Property Management will not come to the March Board of Directors meeting.

J. MANAGER'S REPORTS

1. Review of Manager's PRIORITY list.

Vehicle loop detector in exit driveway – The company was out to install the loop detector system on February 17. Manager Russell will follow up and the job will be completed within the next few days. *Block wall repairs* – Director Martinez is removing all plants along his section of the wall. District policy states that homeowners are responsible for these repairs.

2. Community entrance area landscape and lighting maintenance report. (Progress report on efforts by property owner group to specify more climate-appropriate plants for the entrance area – Sheila Bullock already reported under Section I.2)

3. Progress on Storm Drain No. 2 improvement project. Peter & Associates Engineers was retained by the District to design improvements to storm drain no. 2 at 35121 Beach Road and to process the required Coastal Development Permit through the City of Dana Point. The CDP application is currently waiting for the preliminary title report before it can be submitted to the City to launch the entitlement process. Manager Russell reported a delay from the City because a title report is needed. The easement area is a 12-foot walkway between the Bird's home and the Harvey vacant lot. First American has to research back to the 1920's. Manager Russell asked the engineer to go ahead and submit the designs to the City pending the completed title report. The engineer will submit the designs to the City on February 28 or 29. The District will now have two projects going – the storm drain and the admin office. Manager Russell will talk to the City to move the process along.

K. OLD BUSINESS

1. Report/discussion regarding unpaid subcontractor from the Entry Improvement Project.
President Masto reported that the unpaid contractor is not resolved yet. Our attorney has resubmitted a settlement offer to Robinson's Ready Mix.

L. NEW BUSINESS

1. Approval of agenda items for next month. Agenda items for the next board meeting are:
- Password I.D. Call-in Policy
- Landscape Improvements
- Evaluation of In-Dash Video Camera for patrol vehicle (who will pay unresolved)
- Liability Insurance
- Ad Hoc Committee discussion recommendations
(these items are in addition to the regular monthly agenda items)

M. WRITTEN COMMUNICATIONS

There were no written communications this month.

N. BOARD AND STAFF COMMENTS

No comments at this time.

O. ADJOURNMENT

The meeting was officially adjourned at 8:43 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 #578 held on February 28, 2012.

Donal S. Russell
Donal S. Russell, General Manager
Capistrano Bay Community Services District

April 4, 2012
DATE