

REGULAR MEETING #598
CAPISTRANO BAY DISTRICT BOARD OF DIRECTORS
MINUTES

Tuesday, January 28, 2014
REGULAR MEETING: 6:30 p.m.
OPEN TO THE PUBLIC

Location: Palisades United Methodist Church
27002 Camino de Estrella, Capistrano Beach, CA

A. CALL TO ORDER

Board President Masto called the Meeting to order at 6:30 p.m.

B. PLEDGE OF ALLEGIANCE

Board President Masto led attendees in the Pledge of Allegiance.

C. ROLL CALL

Directors Present: Breeding, Haack, Masto, Muller & Zerboni

Directors Absent: None

Staff: District Manager Russell

Agents: Authorized Agent Morris, Webb Community Management, Inc.

Contractors: Securitas, Branch Manager Keirouz

D. PUBLIC COMMENTS

Miles Coffin, a client representative from Bemus Landscape Company, came in to introduce himself to the Board and make sure the District was satisfied with their current services. He recommended that all inquires be directed through him.

E. APPROVAL OF MINUTES

1. Approval of Minutes of December 10, 2013, Meeting # 597

Board President Masto summarized the December 10, 2013 Meeting #597 Minutes and requested the reference to a statement made by homeowner, Sheila Bullock, under Public Comments be deleted from the record as she was not present at the meeting. A motion was made by Director Haack and seconded by Director Breeding to approve the Minutes of Meeting #597 with corrections. The motion was passed by a vote of 5-0.

F. SECURITAS ACTIVITY REPORT

1. One Month Period for December 2013 (Securitas)

Securitas reported the hiring of a new officer to assist on the weekend shifts and that he was working out well. The License Plate Video Camera is also working well.

2. Review of Policy Regarding District Use of Railroad Parking Areas

Discussion ensued regarding the railroad parking policy. Director Zerboni pointed out that his railroad parking was utilized the week of January 20, 2014, without permission. He requested that in the future, if railroad parking is needed for District necessity, i.e.; too many guests for the available on-site parking, guest or service parked at the wrong address, realtor/broker open house, trash day congestion, street construction or utilities maintenance, etc., that a courtesy phone call be made to residents for notification and/or permission.

ACTION ITEM – District Manager Russell was directed to revise the District's parking policy to include a courtesy phone call to homeowners requesting the homeowner's permission when that

homeowner's railroad parking area may be needed for the temporary parking of vehicles while in the course of keeping the roadway open.

ACTION ITEM – District Manager Russell was directed to proceed with the purchase of the new “NO PARKING” railroad signs this month, at the discounted price, for the homeowners who responded to the November notice. Any future homeowners who desire to purchase the signs may have to pay a higher, non-discounted price if the cost from the supplier goes up.

3. *Follow Up on Assembly Bill 1102 Regarding Fire Pits*

Board President Masto provided the following update: AB 1102 was introduced in the Legislature to counter the recent ruling by the SCAQMD prohibiting recreational wood burning fires on beaches in Southern California. On January 16th, the bill passed through the Assembly Natural Resources Committee with no opposing votes. Next it goes before the Assembly Appropriations Committee, possibly in February. Board President Masto said the District would be keeping the homeowners informed about the final ruling.

4. *Magnetic Bar for Patrol Vehicle*

The suggestion was made by Director Breeding at the December 2013 Board Meeting to obtain a magnetic bar, like the ones that are used on industrial vehicles in warehouse storage yards, to pick up loose metal shards, nails and screws. The idea was to hang it under the security patrol vehicle (about 3” off the pavement) so it could perpetually pick up sharp metal objects in our roadway that cause flat tires.

However, the owner of the vehicle, Securitas Security Services, rejected the plan citing serious liability concerns. If the magnetic bar, which weighs about 60 lbs., were to come loose while driving off property, example when the vehicle leaves the community for refueling, there could potentially be very serious damage inflicted.

There was some discussion among the Director's that the magnetic bar concept is a great idea and should be pursued until a less problematic solution is developed. No action was taken by the Board at this time.

ACTION ITEM – District Manager Russell is to provide the Board at the next Board Meeting, the cost per year that the District pays for use of the Securitas Vehicle.

5. *Speed Bump and Stop Sign at Service/Guest Entrance Driveway*

District Manager Russell reported that, in an effort to stop vehicles in the service driveway so they do not inch too far forward and block the view of the new license plate capture camera, a small sign reading, “2nd VEHICLE STOP HERE,” along with a small rubber speed bump has been installed. The results are not 100%, but it is catching on and the incidence of cars blocking the camera's field of view is gradually decreasing. It remains to be seen how effective the program will ultimately be when our summer rental season gets underway. There may be more congestion in the guest/service driveway during that time and drivers may be more inclined to ignore the signage and pull forward, as is currently being experienced at signal lights during rush hour.

G. FINACIAL REPORT

1. *Monthly Payment Claims*

The Board reviewed the Monthly Payment Claims.

2. *Report of Monthly Expenses and Year-to-Date Status Through December 31, 2013*

The Board reviewed the monthly expenses and year-to-date status report for the period ending November 31, 2013 and December 31, 2013.

Discussion ensued regarding the status of the Reserve Study. District Manager Russell stated that the Reserve Study should be done by the next Board Meeting on February 25, 2014.

Board President Masto and Director Muller questioned that if the budget for next fiscal year will need to increase, could the District apply for a percent increase in tax base revenue?

ACTION ITEM - Director Muller will attempt to contact the Orange County Auditor-Controller to seek some answers concerning how the property tax revenue is applied, and if the District may request an increase if the District's budget warrants the additional, needed funds.

3. *Review of Draft Financial Audit for Fiscal Year Ending June 30, 2013*

The document is still in draft form and is not available to the public until reviewed by the Board of Directors. The Board will review and finalize the Audit by the next Board Meeting on February 25, 2014.

4. *Reminder to Directors to File the Conflict of Interest Form 700 and Ethics Training*

District Manager Russell explained that all publicly elected officials and management employees of public agencies are required to file Form 700 Statement of Economic Interest, due each year on April 1st. Directors were reminded to watch for their email notice, coming soon from the County that will contain instructions on how to go online and file.

District Manager Russell further explained that all officials must take a two-hour training course in ethics every three years. District Manager Russell will follow up with Director Muller next week with full instructions.

5. *Final Review and Approval of Draft Resolution Establishing Reserve Bank Accounts*

The proposed Resolution No 12-10-13 went before the District's attorney for review. The attorney has approved the resolution as written.

MOTION - A motion was made by Board President Masto, seconded by Director Breeding and passed 5-0 to approve Resolution No. 12-10-13, "A RESOLUTION OF THE BOARD OF DIRECTORS OF THE CAPISTRANO BAY COMMUNITY SERVICES DISTRICT ESTABLISHING ONE OR MORE RESERVE BANK ACCOUNTS FOR FUNDING CONTINGENCIES AND CAPITAL IMPROVEMENTS."

H. DISTRICT ADMINISTRATION OFFICE / PERMITS

The City is considering the impact of recent complaints from a homeowner and may require the office to be relocated in the District's northgate maintenance yard. Ursula Reynosa, Director of Planning at the City, has called a meeting with said homeowner to discuss the validity of their complaints. Ms. Reynosa will contact the Board to update them on the outcome of the discussion

I. COMMITTEE REPORTS

CBRA Activity Report

Carole Wunderly, CBRA President, asked the Board for discussion topics for the next CBRA meeting that will be held sometime in the Spring 2014. The Board's suggestions were to either have an attorney come speak on protecting liability, i.e. your home, and/or a presentation on the value of fiber optics to the Road. Both were accepted as great ideas.

J. MANAGER'S REPORT and OLD BUSINESS

1. *Closure of Proposed Filming of NBC TV Home Improvement Show on Beach Road*

NBC has officially cancelled plans to film an episode of a new home improvement TV show here in our community. The show was not able to secure permits in time to meet the filming deadline. The District received a letter from homeowner, Sheila Bullock, expressing her opposition to any form of publicity for the community, especially that which might be aired on National TV (this communication was received late and was, therefore, entered into the record during this Meeting).

2. *Update on Re-Bid of District Landscape Maintenance Monthly Service Contract*

The Board of Directors has requested the landscape maintenance contract for the District be put out for new proposals this month in time for the upcoming fiscal year beginning July 1, 2014.

The general requirements and scope of work description were submitted to the following list of landscape maintenance service contractors on January 15th:

Bemus Landscape Service

The Soto Company

Coastal Mirage Landscapes

Park West Landscape Management

Paradise Designs, Inc.

The following contractors were either out of business or indicated non-interest:

Rogers Gardens (no response)

Bevill Landscape Service (no longer in business)

Bota Company (could not locate)

On January 24, 2014, the District received a Proposal from Bemus and is expecting the other bids later on in the week. The entire bid process should be concluded and a contractor selected at the next Board Meeting, February 25, 2014.

3. *Webb Community Management Monthly Report*

Action Items from Board of Director's Meeting on December 10, 2013:

ACTION ITEM – Director Muller requested that Webb break down the payments for Securitas since the beginning of this current fiscal year. ***DONE***

ACTION ITEM – The Board asked that Webb move money from the Sunwest Bank account into the other accounts already in use, not to exceed \$250,000 per account. Accounts to use: Wells Fargo Bank Non-Interest Checking Account, LAIF and Farmers & Merchants Account. ***DONE with the exception of minor procedural details with LAIF.***

ACTION ITEM – Financial Statements for the month of November 2013 were completed and emailed to the Board on January 17, 2014. ***DONE***

ACTION ITEM – Financial Statements for the month of December 2013 were completed and emailed to the Board on January 23, 2014. ***DONE***

ACTION ITEM – All requested documents from the District's audit company, Rogers, Anderson, Malody & Scott, LLP, have been delivered. Draft Audit has been emailed to the Board on January 23, 2014 for review. ***DONE***

ACTION ITEM – The billing for homeowners who participated in the prior year 2012 Summer Trash Program will be sent by Webb prior to the end of February. The fee that year was \$60 per

household, double if the property is split into either a duplex or upper & lower units. **IN PROCESS**

ACTION ITEM – Tax Apportionment Schedule will be forwarded to the CPA to incorporate a more accurate picture of the Property Tax Revenue on the Profit & Loss Reports for future financials. **DONE**

4. *Railroad Safety Fence – Requirement by OCTA to Reposition Fence Further Away From Tracks*

The District has four choices regarding the safety fence:

- Do nothing and wait for OCTA to react (no cost initially but could develop into a problem)
- Remove the existing fence and leave the area open (2 bids: \$1800 & \$2500)
- Relocate the existing fence using the existing materials (1 bid at \$7140)
- Remove existing fence and install Metrolink's preferred fence style (1 bid at \$38,455)

Request for bids have been solicited from the following fence companies:

- Armor Fence Concepts (bid \$1,800 and \$7,140 respectively)
- Alpha Fence Company (no bid submitted)
- Alcorn Fence Company (bid \$38,445)
- Fenceworks Inc. (no response)
- Crown Fence Company (no response)

The existing fence is currently placed 15 feet from the nearest railroad rail or 17.5 feet from the track centerline (the tracks are 5 feet wide). It appears that Metrolink is inconsistent with their measuring standard; in some cases they measure from the centerline of the tracks and in other cases, like ours, they measure from the near rail (the rail nearest to our development) – it seems to be applied arbitrarily.

Moving the fence to a point 20 feet from the nearest rail (as OCTA is requesting) places the fence directly up against the back line of vegetation – the Hibiscus and Bird of Paradise would have to be heavily cut back and maintained to provide space for the fence. This would provide no working space behind the bushes for maintenance. Additionally, there are some irrigation supply lines and electrical conduits running midway behind the line of vegetation and the fence that would be inaccessible and outside the fence if it is placed at 20 feet.

ACTION ITEM - District Manager Russell, along with Board President Mastro, will set a meeting with OCTA and offer to move the fence 2.5 feet closer to the bushes. This would provide the maintenance access the District would need and it would put the fence at 17.5 feet from the nearest rail or 20 feet from the track centerline, and would demonstrate our good faith effort to comply. The District may be able to negotiate this compromise with OCTA, as it seems reasonable given that there are many areas between San Juan Capistrano and San Clemente where the fence is much closer than 15 feet.

5. *Manager's Priority List*

Action Items from Board of Director's Meeting on December 10, 2013:

ACTION ITEM – District Manager Russell will re-circulate a second letter concerning the NO PARKING signs at all railroad parking areas after the New Year. *No letter was sent out (see next item).*

ACTION ITEM – District Manager Russell will make a sign order in January 2014 after a few more homeowners have agreed to participate in the sign program. *Signs have been ordered. When the*

first round of signs are installed, it is believed that this will attract the interest of other homeowners. At that time we can issue a second letter.

ACTION ITEM – District Manager Russell will check with MCI to see if they have easement restrictions over their underground fiber optic cable. ***MCI has no conditions regarding fence placement.*** The Board would like to meet with Bill Mock of OCTA again after the first of the year to determine an exact fence placement. No meeting time or date has been set as of yet. ***Pending***

ACTION ITEM – District Manager Russell was directed to meet with City officials to discuss the NBC TV show proposal and the District Administration Office, and as an alternate plan, to investigate whether the existing electrical conduit from the guard building power panel to the northgate maintenance yard is adequate to increase the wire size for bringing additional electrical power to the northgate in the eventuality that the office has to be moved to that location. ***Pending inspection by electrician.***

ACTION ITEM – 35691 Beach Road has a corroded and damaged drain pipe at drain #13. The City of Dana Point has been contacted, as this drain facility belongs to them. District Manager Russell will contact City Engineering to investigate making the outfall safer. ***The City has inspected the drain pipe outfall and will be making improvements some time in the next 4 to 5 weeks. They want to replace the rusted pipe in the last 10-15 feet (on the beach side) and install a flapgate. Pending***

Short Term Rental Matter

The City has officially legalized short term rentals; however, because Beach Road is in the Coastal Zone, the Zoning Code amendment has to clear the approval of the Coastal Commission before the legalization process is fully completed. The application has been submitted to the Coastal Commission, but no hearing date has been set yet. ***Pending***

K. NEW BUSINESS

Announcement of Directors' Terms Expiring in December 2014 (Terms last for 4 years)

Director Haack
Director Breeding
Director Zerboni

L. WRITTEN COMMUNICATION

No written communication was reviewed by the Board.

M. BOARD AND STAFF COMMENTS

No comments.

N. ADJOURNMENT

President Masto officially adjourned the Meeting at 9:06 p.m.

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 #598 held on January 28, 2014.

Donal S. Russell
DONAL S. RUSSELL, Manager

February 25, 2014
DATE