

**REGULAR MEETING #599
CAPISTRANO BAY DISTRICT BOARD OF DIRECTORS
MINUTES**

**Tuesday, February 25, 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 6:33 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
Directors Absent: Zerboni
Staff: District Manager Russell
Agents: Authorized Agent Morris, Webb Community Management, Inc.
Contractors Absent: Securitas, Branch Manager Keirouz

D. PUBLIC COMMENTS

No comments.

E. APPROVAL OF MINUTES

1. Approval of #598 Meeting Minutes from January 28, 2014

Board President Masto summarized the January 28, 2014 Meeting #598 Minutes.

MOTION - A motion was made by Director Haack and seconded by Director Muller to approve the Minutes of Meeting #598. The motion was passed by a vote of 4-1. (Director Zerboni absent)

F. SECURITAS ACTIVITY REPORT

1. One Month Period for January 2014 (Securitas)

Securitas was not present at the current meeting.

2. No Parking Signs for Railroad Parking Areas

As of Thursday, February 20th, all the posts, signs, mounting hardware and address stickers have been delivered. The District can now begin installing the signs in the railroad parking areas of those homeowners who have responded and requested a sign. Currently there are 34 homeowners participating in this new program. The sign company offered an unbeatable discount after January 1st, so the District ordered 50 signs, knowing that there will be homeowners wanting a new sign once they see them being installed.

ACTION ITEM – District Manager Russell will organize the installation of the signs during the week of February 24, 2014.

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

Assembly Bill (AB) 1102 passed the Assembly Floor on January 27, 2014, with bipartisan support. AB 1102 would protect the Southern California tradition of beach bonfires by requiring the South Coast Air Quality Management District to work with local cities and the California Coastal Commission to ensure

that there will be no loss of beach access, no harm to local economies, and that any environmental concerns are addressed before a city can remove the fire rings from the beaches in Orange and Los Angeles counties. AB 1102 now heads to the Senate for its consideration

ACTION ITEM – District Manager Russell will request, in writing, from AQMD, how they think AB 1102 may impact the AQMD ruling, and report his findings at the next Board Meeting, March 25, 2014.

4. *Analysis of Cost for Securitas Patrol Vehicle*

Securitas was asked at the previous Board Meeting to provide a breakdown of the expense charged to the District for providing the patrol vehicle in the annual service contract. A report from Branch Manager Joe Keirouz was not available. However, the most recent evidence of annual vehicle expense is from the 2011 contract renewal, which indicates a cost of \$1,344.00 per month, which includes vehicle cost plus insurance, fuel and maintenance. Discussion ensued regarding the possibility of the District purchasing its own electric vehicle; however the idea was quickly dismissed by several of the Directors. Board President Masto suggested the Board table the vehicle matter for a couple of years and wait to see if technology improves the electric vehicle capability for small pickup trucks.

5. *Discussion Regarding District Police Officer Schedule*

The current District Police Officer works a random, part-time schedule. Security has been reporting an increased frequency of speeding/hazardous driving by homeowners, guests and service people during those times when our police officer is off duty. An inquiry has been made to Securitas Special Projects Department to look for another retired or semi-retired, POST certified, sheriff's deputy or police officer who would be interested in picking up a few extra days working for the District as a second police officer. The District's annual budget for this position is \$29,950. Through the end of January 2014, District expenses totaled \$10,864. At this rate, the District will have a balance of \$11,336 that can be used to hire a second officer without exceeding the current year budget (the position currently pays \$32.00/hr.)

ACTION ITEM – The current District Police Officer will be asked to take on some additional evening patrol hours and District Manager Russell will continue to seek help from Securitas Special Projects Department with recruiting an officer for some weekend hours.

G. FINANCIAL REPORT

1. *Monthly Payment Claims*

The Board reviewed the Monthly Payment Claims with no action taken.

2. *Report of Monthly Expenses and Year-to-Date Status Through January 31, 2014*

The Board reviewed the monthly expenses and year-to-date status report for the period ending January 31, 2014. Board President Masto requested a breakdown of the miscellaneous maintenance account. The amount seemed to be high for the month and he wanted to see what expenses were paid out.

ACTION ITEM – Webb Management will provide the Board with a breakdown of the miscellaneous maintenance account.

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

Director Muller brought to the Board's attention a mistake in the Capistrano Bay Community Services District Year End Audit. On page 3 of the Draft copy of the Year End Audit, under Financial Highlights, second bullet point: "During the year, the District's property tax revenues decreased by 4.01%" It really should have read "increased".

ACTION ITEM - Webb Management will bring the correction to the attention of the auditor, Scott Manno.

MOTION - A motion was made by Director Haack and seconded by Director Breeding to approve the Financial Audit for Fiscal Year Ending June 30, 2013 pending the correction to be made concerning the reference to "property tax revenues *increased*". The motion was passed by a vote of 4-1. (Director Zerboni absent)

4. *Progress with Effort to Increase the District's Annual Tax Revenue*

To be clear from the outset, this is not an effort to increase property taxes. The District receives a small percentage of the property taxes paid to the County (from Beach Road Community only) to fund our operations. An effort is underway to seek an increase in the percentage that is apportioned to the District each year. Director Muller met with officials from the county this month to better understand how the property tax is apportioned among the various county entities. Discussion ensued at the Board Meeting on how the property tax is calculated and apportioned.

ACTION ITEM - Director Muller will prepare a written report for the Board and the homeowners with an explanation of how the property tax revenue apportionment works and how the District is benefited by this money.

5. *Review of Draft Reserve Study from Foresight Financial*

The Board had ordered a new reserve study to be prepared for use in developing the upcoming budget for the fiscal year beginning on July 1, 2014. Pending review by all the Board Members, approval of the Reserve Study has been postponed unto the next Board Meeting, March 25, 2014.

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

Board members are publicly elected officials and must file the annual Conflict of Interest Form 700 and participate every three years in a two-hour ethics training course. Director's Breeding, Haack and Muller have all filed Form 700 and Director Muller has completed the Ethics Training.

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, met with said homeowner to discuss the validity of their complaints.

ACTION ITEM - District Manager Russell and Board President Masto will attempt to meet with said homeowner to confirm the matter has been resolved to the homeowner's satisfaction.

I. COMMITTEE REPORTS

CBRA Activity Report

No report given.

J. MANAGER'S REPORT and OLD BUSINESS

1. *Discussion Regarding Directors' Terms Expiring/Upcoming Vacancies*

The terms of three Directors are due to expire December 2014. A notice was mailed out to the community on February 7, 2014, announcing the vacancies. According to the Elections Code, an incumbent director whose regular term is expiring must file with the Orange County Registrar if that director intends to run for another term. All candidates, including incumbents, must file with the Registrar by August 8, 2014, to be considered for the positions. If the number of candidates (incumbents and/or others) is greater than the number of open seats, there will be an election. Conversely, if the number of candidates is equal to or less than the number of open seats, those individuals will be appointed in lieu of an election. In any case, ALL CANDIDATES MUST FILE with the OC Registrar whether for election or appointment.

Director Breeding brought up a matter of confusion on what is the official procedure for a Director desiring a second term. Kay Cotton, the Candidate and Voter Services Manager from the Orange County

Registrar of Voters, relayed an email regarding the filling of Board Vacancies. Director Breeding has requested further clarification.

ACTION ITEM – District Manager Russell will obtain clarification on the procedure for serving a second term and present his findings at the next Board Meeting, March 25, 2014.

2. *Follow Up with Possible Fiber Optic Cable Service for the Community*

A local fiber optic cable company, Greenfield Communications, has solicited the District over the past few months for an opportunity to bring new communications technology to Beach Road. The service would include telephone, internet and TV.

Some of the advantages Greenfield Communications has reported relating to service delivered over a fiber optic cable include:

- More powerful signal.
- No corrosion problems in the line because it is a glass filament that cannot corrode.
- The monthly rates are much lower than current Cox or satellite dish services.
- The tech center for handling service problems is located in Dana Point with a technician on duty 24hrs a day.

Greenfield Communications is currently working on a proposal to present to the community in the near future. President Masto and District Manager Russell have toured the local service facility in Dana Point. They will next visit a residential community nearby where the full, 3-part service is in place, so the quality of the product can be inspected first-hand.

ACTION ITEM – Director Muller has requested that District Manager Russell obtain a copy of Greenfield's financials for the Districts' review.

3. *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.
- Terra Firma Landscape Mgmt. Inc.

The following are the only contractors to submit proposals as of Friday February 21, 2014:

- The Soto Company \$1,750.00/month
- Bemus Landscaping \$1,050.00/month
- Paradise Designs Inc. \$1,050.00/month
- Terra Firma Landscaping (bid not received)

A vote was made by the Directors to remain with Bemus Landscaping for the upcoming fiscal year beginning July 1, 2014, unless an additional bid is received that would warrant further review. The vote was passed, 4-1. (Director Zerboni absent)

4. *Webb Community Management Monthly Report*

Financial Statements for the month of January 2014 were completed and emailed to the Board on February 20, 2014.

The billing for homeowners who participated in the prior year 2012 Summer Trash Program was mailed out on Tuesday, February 25, 2014. The fee that year was \$60 per household and double if the property was split into either a duplex or upper & lower units.

5. *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: \$1,800 & \$2,500).
- Relocate the existing fence using the existing materials (1 bid at \$7,140).
- Remove existing fence and install Metrolink's preferred fence style (1 bid at \$38,455).

At the last Board Meeting, District Manager Russell was instructed to arrange a site meeting with Bill Mock, the Right of Way Administrator for OCTA, to discuss the recommended compromise of moving the fence 2 feet rather than OCTA's required 5 feet. Before a meeting could be scheduled, Mr. Mock sent his assistant, Chris Williamson, on February 3, 2014, to conduct a site review of the existing development for purposes of bringing the existing License Agreement up to date.

The following items regarding the railroad safety fence were pointed out to Mr. Williamson during his site visit:

- The standard of measuring 20 feet from either the nearest rail or the tracks centerline seems to be applied arbitrarily; i.e. the inconsistency of fence placement, for example, the area at the railroad grade crossing at the San Clemente Pier, the fence is actually 11 feet from the tracks.
- The MCI fiber optic underground cable is located generally at the 20 foot mark and the District cannot place the fence posts directly on top of the buried cable.
- Moving the fence to 20 feet places it right against the line of vegetation and OCTA does not want any vegetation growing on the fence. At this proximity, the Hibiscus will immediately grow right through the fence. Since the vegetation was permitted by OCTA/Metrolink and provides an aesthetic shield to District residents, this is a conflict with the design originally approved by OCTA/Metrolink.

Mr. Williamson seemed somewhat sympathetic to the points made about the problems with relocating the fence. To date, there has been no additional comment since February 3, 2014.

6. *Manager's Priority List*

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**

ACTION ITEM – District Manager Russell will invite Ted Harris, the Dana Point Code Enforcement Officer, to be a guest speaker at the next Board Meeting, March 25, 2014.

35691 Beach Road Corroded and Damaged Drain Pipe at Drain #13.

The City of Dana Point has been contacted, as this drain facility belongs to them. The City has inspected the drain pipe outfall and will be making improvements some time in the next 4 to 5 weeks. They indicated they would replace the rusted pipe in the last 10-15 feet (on the beach side) and install a flapgate.

Pending

Bids for a Community-Wide CCTV System for Security Monitoring Purposes

This item is still pending as it might become a part of the Greenfield Communications effort. **Pending**

K. NEW BUSINESS

Review of District Encroachment Permit Procedure/Ordinance No. 04-204

This relates to the regulating process for cutting open and trenching in the road for running underground power and communications, sewer tie-ins, etc., for new home construction. Every new home built in the community has to cut open the road for one or several of these purposes. The District currently requires contractors to apply directly to the District for a permit to open the road. The process requires proof of liability insurance naming the District as an additional insured on their policy, proof of current contractor's license, a \$1000 security, damage and completion deposit, confirmation of processing a DIG ALERT file # and inspections by SCWD, SDGE, The Gas Company, etc. to document compliance with the trenching, backfill, compaction and pavement patching details issued with the encroachment permit.

Recommended revision to the Ordinance: The Ordinance, in its current version, only addresses the structural elements of a roadway opening and closure. The structural details were developed by Nichols Vallerga & Associates, the Engineer of record, who designed the roadway improvements in 2003. Missing from the requirements is any reference to leaving the surface clean and re-seal coated. Now that the community has gone through the disruption of the slurry seal coating project, it is appropriate that the Ordinance be revised to include a seal coating requirement AND a specification for the exact type of asphalt-to-aggregate composition that was used on the original road reconstruction so that the pavement used in the patching is the most closely similar to the adjacent pavement area. Using the proper asphalt composition and the same seal coat product used on the roadway last summer will help to minimize the noticeable variation between the patchwork and the remaining roadway surface. The District will have to obtain the asphalt composition specs from the original pavement contractor, RJ Noble, and write them into the revised Ordinance along with the spec for the seal coating material for review and approval at the Board Meeting, March, 25, 2014.

ACTION ITEM – District Manager Russell will write up new language to add to the existing Ordinance No. 04-204 and present it at the next Board Meeting, March 25, 2014.

L. WRITTEN COMMUNICATION

No written communications were reviewed by the Board.

M. BOARD AND STAFF COMMENTS

No comments.

N. ADJOURNMENT

President Masto officially adjourned the Meeting at 9:15 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 #599 held on February 25, 2014.

Donal S. Russell

DONAL S. RUSSELL, Manager

March 25, 2014

DATE