

REGULAR MEETING #600
CAPISTRANO BAY DISTRICT BOARD OF DIRECTORS
MINUTES
Tuesday, March 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 6:30 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 (Zerboni arrived about 15 minutes late and left prior to discussion of item G)

Directors Absent:

Staff: District Manager Russell

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

Contractors Present: Securitas, Branch Manager Keirouz

Guests Present: Christy Teague and Ted Harris, City of Dana Point

D. PUBLIC COMMENTS

There were no public comments.

E. APPROVAL OF MINUTES

1. Approval of #599 Meeting Minutes from February 25, 2014

Board President Masto summarized the February 25, 2014, Meeting #599 Minutes.

MOTION - A motion was made by Director Haack and seconded by Director Breeding to approve the Minutes of Meeting #599. The motion was passed by a vote of 4-0-1. (Director Zerboni absent, he came into the meeting shortly after the minutes were approved).

**At this time Board President Masto directed the board to take agenda item K.1 out of turn given that two representatives from the City of Dana Point were present to discuss the City's Short Term Rental program. The minutes of the discussion are recorded under item K.1 even though the discussion took place after approval of the minutes and before the security activity report.*

F. SECURITAS ACTIVITY REPORT

1. One Month Period for February 2014 (Securitas)

Board President Masto brought up the matter of a certain homeowner repeatedly speeding and driving recklessly and with their dog regularly off leash and of a long-term renter's adult children who are consistently speeding on the Road.

Manager Russell pointed out that the renter-related issue has been resolved and the speeding has stopped. The issue with the homeowner, however, continues with many residents complaining of being tailgated by this individual.

Homeowner Ernest Klein offered to provide a Go-Pro video camera for test use by Security in dealing with the speeding resident. Mr. Klein feels a good video clip of the reckless driving and dangerous passing habits of this individual presented to law enforcement may be a good solution.

ACTION ITEM - Authorized Agent Morris will seek advice from Peggy Webb, owner of Webb Community Management, Inc. regarding how an issue such as this is handled in other private communities and will report back to the Board on April 29, 2014.

ACTION ITEM – District Manager Russell will coordinate with Mr. Klein on the video camera test.

2. *Follow-Up on Assembly Bill 1102 Regarding Fire Pits*

Assembly Bill (AB) 1102 that would protect the Southern California tradition of beach bonfires will be heard in the Senate in mid-June of this year. In the meantime, SCAQMD (South Coast Air Quality Management District) noted that effective March 14, 2014, fire pits can remain if:

- They are located at least 700 feet from the nearest residence; OR
- They are at least 100 feet apart and
- Air quality for fine particulates (PM2.5) in coastal areas is not forecast to exceed 100 on the Air Quality Index.

ACTION ITEM – District Manager Russell will draft a public notice to all homeowners and guests of the NO WOOD BURNING FIRES policy that went into effect as of March 14, 2014. Board President Masto said to not update the District's official ordinances as of yet, until the Senate has had a chance to rule on AB 1102.

ACTION ITEM - CBRA will make a notice of the NO WOOD BURNING FIRES in their next newsletter to the homeowners.

3. *NO PARKING Signs for Railroad Parking Areas*

Thirty-six signs have been installed so far. This represents those property owners who initially responded positively to the notification letter that was originally mailed out to the community back in November 2013. There are a total of 111 Beach Road properties that have additional parking developed on the railroad side of the road, and the District needs to somehow reach the remaining 75 homeowners.

Discussion ensued concerning the randomness of the existing NO PARKING signs, posted at varying heights, some bent and twisted.

ACTION ITEM – District Manager Russell will compose a second letter encouraging those remaining homeowners who have the railroad parking to consider removing their old, dilapidated signs and replacing them with the new NO PARKING signs.

4. *Discussion Regarding District Police Officer Position*

Officer Sokol has been briefed on the request for more evening hours; his schedule has been reorganized to include several shifts during those times when he has not normally been available while the Manager continues to interview candidates for a second part-time police officer.

G. FINACIAL 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 February 28, 2014*

Board President Masto questioned the category "Small Tools & Equipment" for \$2028.61. Authorized Agent Morris was able to answer that the total was three separate bills all relating to the new NO PARKING signs for the extra railroad parking.

Director Muller was questioning some of the numbers on page 2 of the Balance Sheet.

ACTION ITEM – Webb Management will set up a phone meeting between the CPA and Director Muller.

3. *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.

MOTION – A motion was made by Director Muller and seconded by Director Haack to approve the Reserve Study. The motion was passed with a vote of 4-0-1. (Zerboni left the meeting early)

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

Manager Russell reminded the Board that the annual Form 700 filing is due by April 1st.

H. DISTRICT ADMINISTRATION OFFICE / PERMITS

**This agenda item was inadvertently left off the agenda by District Manager Russell and needed to be discussed at this current Board Meeting. Items can be added by a vote of the Directors present.*

MOTION – A motion was made by Board President Masto and seconded by Director Breeding to add to the agenda a discussion on the District Office location. The motion was passed with a vote of 4-0-1. (Zerboni left the meeting early)

Manager Russell reported that in his discussions with Director of Community Development, the City has indicated that they will allow the District Admin Office to remain in its present location, however they will not be processing any permits. The City is comfortable with the license agreement currently in force with OCTA which permits the office to be placed on their property. The City has also expressed its expectation that the District will perform improvements to the exterior of the building.

ACTION ITEM - District Manager Russell was directed to begin getting bids for the following improvements:

- roof with copper sheathing
- window and door trim with the same wood as is on the guard building
- walk-up ramp and deck to front door
- new paint
- additional potted plants

I. COMMITTEE REPORTS

CBRA Activity Report

CRBA Board President, Carole Wunderly, gave the Board a reminder of the Spring Meeting happening on May 17, 2014. Guest speaker will be Greenfield Communications who will enlighten the community on the benefits of bringing fiber optic service (TV, telephone, internet) onto the road.

J. MANAGER'S REPORT and OLD BUSINESS

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

Manager Russell reported that he had spoken further with the OC Registrar of Voters regarding the guidelines in the Elections Code that rule the process for filling vacancies on the Board of Directors. The

Code specifically states that if an incumbent wants to hold the office for another term, he/she must file papers, including the Declaration of Candidacy, with the Registrar of Voters' office by the filing deadline and run against any other qualified candidates who have also filed. There are no provisions in the Elections Code for incumbents to be automatically appointed to their current seats for another term of office.

However, if the incumbent files the necessary documents and no one else files for the same contest, then he/she would be appointed-in-lieu of election. For the November 4, 2014, General Election, the filing deadline is August 8, 2014.

Lastly, for persons interested in running for any of the three upcoming vacancies, the candidate must be registered to vote in the Capistrano Bay Community.

2. *Review/Approval of Amendment to the District Encroachment Permit (Ordinance No. 04-204)*

Board President Masto had requested that details be included in the District's *Encroachment Permit Application* (for cutting open the asphalt and digging in the road) that specify procedures and materials to be used in compaction and pavement patching that provide a more professional-looking finished patch job. Those specifications have been added to the Standard Encroachment Permit Conditions document as follows:

- Require the use of a vibratory steel drum roller (this compacts the asphalt surface to a higher density and leaves a much smoother and tighter finished surface) – added as item 12.C
- Provide requirement that all roadway repairs be seal coated – added as item 15
- Revise the asphalt specification to match the content and makeup of the existing road pavement material – added as item 17
- Provide specification for sealcoat material – added as item 18

3. *Report of Storm Drain Damage and Needed Repairs at Drain No. 3 (35195) and No. 9 (35507)*

During the last rain storm several weeks ago, the tide scoured a lot of sand along the beach. Two areas were exposed/damaged significantly and will require repairs:

35195/Drain #3 - The storm and tide action cut the beach back about 20 feet in this area and exposed a long-buried joint in the storm drain pipe. The joint disintegrated and the two pipe sections became detached. The repair work will involve exposing the existing pipe back about 10-15 feet and reattaching the surviving plastic pipe section in a properly constructed concrete collar joint and installing bracing at the outfall end to hold the drain pipe in position.

35507/drain #9 - This drain became exposed this month for the first time in about seven years due to the extensive beach scour by the storm a few weeks ago. We are now able to place two vertical pipe braces at the exposed outfall end of this pipe – there was no actual damage at this location.

Repair Schedule and Cost

The District has contracted with Kuno's Grading (same contractor who installed the pipe bracing last summer). The work is scheduled for the week of March 24th at a cost of \$4000 total for both drains, expensed from budget item #4705 (Winter Flood Cleanup).

4. *Webb Community Management Monthly Report*

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

The billing for homeowners who participated in the prior year 2012 Summer Trash Program was mailed out on Tuesday, February 25, 2014. Out of 57 households participating in the trash program for that summer Webb has now collected from all but 7.

Authorized Agent Morris provided the Board via email on February 27, 2014, with a breakdown of the miscellaneous maintenance account.

At the last Board Meeting on February 25, 2014, Director Muller pointed out a discrepancy on the Draft Audit. Authorized Agent Morris brought the discrepancy to the attention of the auditor, Scott Manno, who then in turn made the correction on February 26, 2014.

Budget Development for the new fiscal year is now underway as of March 19, 2014.

5. *Manager's Priority List*

ACTION ITEM – Director Muller has requested that District Manager Russell obtain a copy of Greenfield's financials for the Districts' review. This action item will be taken care of by the next Board Meeting April 29, 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.

Still 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.

K. NEW BUSINESS

1. *Discussion to consider Establishing a Renter Recovery Fee for Short Term Rentals*

Discussion regarding a renter recovery fee will follow the City's presentation on Short Term Rentals:

Ted Harris, the Dana Point Code Enforcement Officer for the rental program, along with Christy Teague, Community Development Manager for the City of Dana Point, were the guest speakers tonight's meeting, providing information and an opportunity for questions and answers on the current status of short term rentals. Ted Harris provided the following details: He works in the office/field Monday thru Friday, 8:00 am to 6:00 pm. There is a 24 hour hot line that all residents may call into.

On the weekends, there will be additional code enforcement officers available during regular business hours. When a complaint is called in to the City, either the code enforcement officer on duty or a Sheriff's Deputy will come out to follow up on the matter. Violation notices will be written up and issued to the rental property owner. A lengthy discussion ensued regarding the ins and outs of how the code enforcement process will operate.

Homeowner Sandy Hoose expressed serious doubts regarding the ability of one single code enforcement officer to manage the problems of all the vacation rentals in town during the summer. Mr. Hoose also stated his concern that by legalizing short term rentals, the City has essentially directed the burden onto the Beach Road community to monitor and manage with the City taking all the bed tax proceeds. Sandy went further to point out that the entrance gate to Beach Road essentially becomes a 'hotel front desk' on Saturdays during the summer rental season.

Homeowner Bill Matthies added that in the rush of incoming rental guests on Saturday afternoons, the gate officer has very little time to try and educate the renter of the community rules and ordinances, and he wants to know what the District's plan or program is for proactively enforcing the rules for parking, house occupancy, beach fires, party noise, etc.

Homeowner Alex Martinez strongly recommended the Board conduct a formal polling to determine the community's majority position and then abide by and enforce that position to protect the greater public interest.

Christy Teague pointed out that since Beach Road is within the coastal zone, the Coastal Commission has to review and approve the City's Zoning Amendment legalizing short term rentals. The amendment has been submitted to the CCC and staff comments indicate early support, however, it has to be presented and discussed in a public hearing so the Commissioners can hear the support and opposition before the amendment is actually approved. In the meantime, the Zoning amendment stands as approved, thus legalizing short term rentals within the city's residential zones.

Ted Harris wrapped up his presentation with the assurance to the Board and the homeowners that he will be doing his best and that this is a work in progress. He hopes to enlist the eyes and ears of the homeowners who live near these short term rentals to be pro-active in notifying the City of perceived violations so code enforcement can follow up and do its job more effectively.

With the legalization of short term rentals by the City, the District can now legally charge a fee for impact to the community from rental activity. Discussion ensued regarding this matter and brought up more questions than the Board had time to answer. The District's legal counsel will be enlisted to help guide the District as they look into formulating this impact fee. The Board requested this matter be placed on the agenda again for the next meeting on April 29th while the Manager pursues the following:

ACTION ITEMS:

- Follow up with legal counsel to find out if a fee charged to homeowners for recovery of expenses will trigger compliance with Proposition 218 (voter approval requirement) and review the details of the proposed renter recovery fee program.
- Follow up with a pavement engineer to get an estimate of cost to develop a methodology for assessing a vehicle impact fee.
- Begin developing a program that provides guidelines for management and security to proactively and consistently enforce the community rules and ordinances with regular reporting to city officials of all perceived rental violations.

2. *Discussion to Consider Removal of Pavement Striping/Dotted Line on Roadway*

This discussion is in reference to the vehicle parking space on the street, along the seaward curb of Beach Road. Director Breeding has voiced concern that drivers think the narrow six-foot wide space between the seaward curb and the white dotted line is a lane for people to drive in. Director Breeding has offered two solutions:

- Completely black-out the white line entirely
- Paint in those universal 'bicycle lane' symbols

Blacking out the white line

The white line is part of the authorized 'Fire Lane' and cannot be removed or we risk losing all the street parking along the road.

Painting in universal 'bicycle lane' symbols

Simply stated, it is a violation of the Vehicle Code to park vehicles in a bicycle lane.

Manager Russell pointed out that it's possible that what is confusing some drivers is the presence of that concrete gutter that runs down the middle of the roadway. Maybe they're mistaking it for a center divider and are subconsciously driving further over to the right side which puts them within the white dotted line of the street parking area.

Director Breeding closed the discussion after realizing removal of the white dotted line is not an option.

L. WRITTEN COMMUNICATION

1. *Security Guard Acknowledgement Letter from Homeowner Bill Matthies*

Homeowner Bill Matthies sent in a letter written to District Manager Russell on behalf of one of the guards for a job well done.

ACTION ITEM – District Manager Russell will hand out to Securitas Officer, Herman Obeng, a \$25 gift certificate for appreciation of a job well done.

2. *Re-Election of John Withers to LAFCO Board*

The position of Special Districts' representative on the LAFCO Board is up for election in May. Board President Masto received a campaign letter from John Withers, Director of Irvine Ranch Water District, requesting the District's support on his Re-Election for the Special Districts' Representative position. The District will receive a ballot and voting instructions in time for the April Board meeting.

M. BOARD AND STAFF COMMENTS

Manager Russell reminded the Board that he will be away on vacation for the week of April 7th and will return to work on Monday, April 14th.

N. ADJOURNMENT

President Masto officially adjourned the Meeting at 9:57 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 #600 held on March 25, 2014.

Donal S. Russell
DONAL S. RUSSELL, Manager

April 29, 2014
DATE