

REGULAR MEETING #614
CAPISTRANO BAY DISTRICT BOARD OF DIRECTORS
MINUTES
Tuesday, July 28, 2015
REGULAR MEETING: 6:30 pm
OPEN TO THE PUBLIC
Location: Palisades United Methodist Church
27002 Camino de Estrella, Capistrano Beach, CA

1. CALL TO ORDER

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

2. PLEDGE OF ALLEGIANCE

Board President Masto led attendees in the Pledge of Allegiance.

3. ROLL CALL

Directors Present: Breeding, Haack, Masto & Muller
Directors Absent: Clark
Staff: District Manager Russell
Agents: Authorized Agent Morris, Webb Community Management, Inc.
Contractors Absent: Securitas, Branch Manager Keirouz

4. PUBLIC COMMENTS

Liz Davis brought to the attention of Board Members the seawall case won by homeowners in Sandyland Cove, Carpenteria. In 1983, the lot owners undertook emergency repairs to an existing seawall by constructing a large rock revetment/seawall. It was suggested that the District could also file and win a similar case, should homeowners decide to unite and create a giant, connected seawall.

5. APPROVAL OF MINUTES - Meeting #613 of June 30, 2015

Board President Masto summarized the June 30, 2015, #613 Meeting Minutes.

MOTION - A motion was made by Director Haack and seconded by Director Breeding to approve the Minutes of Meeting #613. The motion was passed by a vote of 4-0 (Director Clark was absent)

6. SECURITY - Monthly Securitas Report for June 2015

Securitas Branch Manager Keirouz reported that the month of June was relatively incident free, except for the weekend flow of traffic into the community and the turn over.

7. SECURITY – Additional Training for Gate Attendants/Saturday Renter Backup

Several homeowners have complained about the traffic backup at the community entrance on Saturdays. The afternoon of July 11, 2015, was one of the busiest the District has had all year. Some owners indicated it took as long as fifteen minutes to get from Coast Highway to the community entrance.

In response to the congestion problem, the District Manager and the Security Supervisor spent several hours studying surveillance video of that day. They concluded that the morning traffic was typically house cleaning service, some miscellaneous service, a few invited guests of homeowners and some owners returning from breakfast, shopping, etc.

The flow of traffic was intermittent and random, until approximately 3:00 PM when it became extremely heavy, and the new group of weekly vacation renters started arriving. The surveillance video, during this time, evidenced a solid lineup of vehicles from the gatehouse out over the railroad tracks and onto Coast Highway.

On Saturday, July 11, 2015, from 3:00-4:30 PM, the gate processed 60 vehicles, primarily renters and/or guests of renters. This means, we were processing one vehicle every 90 seconds, and with the video record showing at least 10 vehicles backed up from the gatehouse, it is no wonder that it took 15 minutes for homeowners to obtain entry during this time.

There are several variables that combine to create the vehicle backup. Most notably, was the lack of experience on the part of two new gate officers who have recently been assigned to attend the gate. Additionally, a backup can also occur when many renters/guests all show up at the same time, regardless of who is attending the gate. The tie up is compounded when the weather is sunny and warm and the adjacent County beach facility becomes impacted with the public, which can cause a substantial backup at the railroad grade crossing. It was noted that the District recently removed two experienced gate officers due to performance concerns. The District is now attempting to bring the new replacements up to speed. This primarily involves on-the-job training, with either the security supervisor or one of the more veteran gate officers working alongside the new officers to obtain hands-on experience. Last Saturday was a good training opportunity, as the gate traffic was a bit slower due to the rain. At that time, the training was focused on increasing the speed with which guests are processed. The District has a second gate officer during this busy time on Saturdays. Although this has proved helpful, it was suggested that more manpower is needed to deal with the other variables mentioned above.

RECOMMENDED SOLUTIONS: In order to facilitate gate entry, it was suggested that it may be necessary to have additional gate attendants on duty at the gate, as follows:

1. The regular gate officer to process guest entries
2. A second gate officer to respond to phone calls and assist in data entry
3. A third gate officer in the driveway completing a new renter/guest entry form that the guest then presents to the gate, to speed up the necessary information exchange. This gate officer would also direct guests who already have a gate pass to pull out of the lineup and enter through the transponder lane (this helps to reduce the number of cars backed up in the guest driveway).
4. A fourth gate officer in the crossway, at the railroad tracks, directing and controlling traffic movement. There are two narrow, incoming lanes at the grade crossing. New visitors often caught out in the middle and end up blocking the access for the public to get to the beach park. This causes a gridlock and no one can move until the vehicle in the lead gets their pass and moves out. This is extremely hazardous if a train should come by or if emergency vehicles need rapid access. When a gridlock occurs, the only outlet is to open the gate into the District's maintenance yard and direct guests and renters into this area to clear the railroad tracks. This is a new procedure that will be implemented on Saturdays through the end of the rental season, after Labor Day. Before the next Board Meeting, security will have a weekend to practice new procedures. At that Meeting, security will report on the effectiveness of these protocols.

PROJECTED COST: A rough calculation of the labor expense based on four hours minimum for each of the three additional officers is projected to be from \$500 to \$700 to deal with the crush of renters checking in at the community entrance. In tracking the renter counts each week, the summer numbers are up to about 30 rentals per week.

It was reported that several years ago, the District began charging a Renter Recovery Fee of \$50 per rental group, each week, to help recover the cost to the community. The District's legal counsel previously opined that, since short term rentals were expressly prohibited in the City Zoning Code at that time, it was not legal for the District to charge a fee on a prohibited activity. At that time, the program was discontinued on the advice of the District's legal counsel. Today, however, with the City's legalization of vacation rentals, it now potentially becomes feasible/legal for the District to assess such a fee to owners of rental units.

The short term rental program does not benefit the entire community. It is the Board's understanding this fact is one of the first 'test' in determining the fairness of a "fee-related" program. If it's not fair to all District owners, it is understood that the community has to agree on what is acceptable/equitable to balance the scales. In this particular situation, a monetary compensation, i.e., Renter Recovery Fee, could be a practical, fair and reasonable solution.

PEDESTRIAN CROSSWALK SIGNS: There was discussion about the need for Pedestrian Crosswalk signs and new yield signs throughout the community.

ACTION – District Manager Russell will be replacing all the old yellow yield signs with new red yield signs.

HEDGES/BUSHES: Discussion ensued regarding the hedges and bushes along the railroad side of the road which are allegedly overgrown.

ACTION – District Manager Russell will investigate the cost of trimming the hedges/bushes and decide who would be responsible for paying for the trimmed hedges/bushes, the District or the homeowner?

ACTION – Board President Masto will be inserting an article into the next Community Newsletter regarding the need for all homeowners to take care of their landscaping.

8. FINANCE - Report of Monthly Expenses through June 2015

After reviewing the Financial Reports, Board President Masto conveyed that all the Reports looked in order.

9. FINANCE – Process New Bank Signature Card

District Manager Russell is working on gathering Director's signatures to update the Bank Signature Cards.

ACTION – District Manager Russell will continue to obtain the signatures from the Directors for the new signature card from Farmers & Merchant Bank and from Sunwest Bank, so that Directors Muller and Carter may be added as signatories on these accounts.

10. FINANCE – FDIC Bank Accounts

The Board expressed their concern with ensuring protection of the District's financial deposits by insured institutions. The Board felt that this is a prudent discharge of their duties and demonstrates a sense of fiduciary responsibility that takes priority over all other Board members' duties.

Over the past two weeks, there have been several discussions with bank reps regarding the need to maintain FDIC protection over all the District's funds. The banks have all confirmed that FDIC can only insure deposit accounts up to \$250,000, and that local governments, special districts and public agencies do not qualify for any additional FDIC protection.

It has been determined this week that the District does have protection of another type, as was pointed out by the District's professional Auditor, Rogers Anderson Malody and Scott ("RAMS"). The California Government Code mandates, by law, that the funds of local governments, special districts and public agencies must be protected by collateralization for any amounts not otherwise insured by the FDIC. The following statement was provided by RAMS to explain:

*"As we discussed, the district's public funds are collateralized by assets held by the financial institutions holding the public funds. Financial institutions are required by the California Government Code to maintain certain collateral for all local government funds held by the institution. The collateral is monitored by and reported to the Administrator of Local Agency Security in the Department of Financial Institutions of the State of California. As part of our audit procedures, we confirm with the Administrator of Local Agency Security that the District's financial institutions have sufficient required capital to cover the District's balances. As of June 30, 2014 the Administrator of Local Agency Security confirmed collateral for the District's accounts held with Sunwest Bank, Farmers & Merchants Bank and Wells Fargo Bank N.A. For more details on the collateral requirements, please refer to Note (2) Cash and investments of the District's June 30, 2014 financial statements. If you have any further questions on this please let me know.
Thanks!
Nathan Statham, CPA, MBA
Senior Accountant"*

ACTION – Authorized Agent Morris will communicate with the Auditor, Nathan Statham, ask him to put into writing for the District, clarification of Public Funds: Annual User Fee income vs. Property Tax income. The Board also requested clarification whether all the funds are under the umbrella of the collateralization?

11. FINANCE – Budget Adjustments

The draft budget that was presented to the Board at the June 2014 Meeting has been adjusted to reflect the following changes:

- Securitas Contract Increased by \$27,368
- Directors' Meeting Stipend (new line item): \$3000 (\$599 per year per Director)
- Rock Barrier Plates (storm drains): Reduce this item from \$5,700 to \$4,000 (save \$1,700)
- Repair Rubber Speed Cushions: Add new line item: \$1,700

12. **ADMINISTRATION OFFICE – Progress Report on Moving to the Grass Area**

Plans were finished by Dave Gutierrez and the vellum originals were submitted to the District on Friday afternoon, July 17, 2015 for review. The plans were reviewed on Monday, July 20, 2015, copies were printed on the following Tuesday, and the contractors were called that afternoon to pick up their set of plans. Currently, three of the four local contractors solicited have shown interest. It turns out the contractor who did all the exterior work on the guard shack now, works for one of the three who will be submitting a bid. Bids are due on Friday, July 31, 2015. Director Haack has proposed that the Board hold a Special Meeting to approve the contractor once all bids are in.

13. **Old Business – Undergrounding Utilities**

Director Muller updated the Board with the following information; the owner of Laguna Bobcat has dropped all communication, therefore, Director Muller is now soliciting another contractor, Utility Specialist, a referral from Steve Reid.

ACTION - Director Muller will be inviting Utility Specialist to attend our next Board Meeting in September.

14. **New Business - Ordinance No. 06-203 Wood Burning Beach Fires**

With the beach eroding back toward the homes, the available safe space for wood fires in front of the majority of homes in the community has been washed away over the past two summers. At most homes, it is no longer possible to place a wood fire at a distance of 30 feet from surrounding homes.

It was reported that the guests (vacation renters) in a home in the 500-block of Beach Road burned a wood fire near their patio, against the property line fence. This placed the fire within a few feet of a wood fence and approximately seven feet from the neighboring home. This group was uncooperative when asked to extinguish their fire. It was reported that the renter's manager and property owner failed to advise the vacation renters regarding wood fire restrictions.

It was stated that the Board's intent regarding this evening's discussion is to consider the current eroding beach, review the District's Ordinance regulating outdoor recreational wood burning fires, and to revisit the requirements of the AQMD. Ordinance No. 06-203 and the AQMD information is provided on the Capistrano Bay District website.

A lengthy discussion ensued concerning the concerns with parking and wood burning fire infractions and the question came up regarding why the District is not imposing fines on violators.

ACTION – A motion was made by Director Muller to adjust the fines for illegal beach fires from how it is currently written in the Ordinance: 1st Offense \$50 Fine / 2nd Offense \$100 Fine / 3rd Offense \$1,000 Fine to now be written as, 1st Offense \$250 Fine / 2nd Offense \$500 Fine / 3rd Offense \$1,000 Fine. Board President Masto recommended that legal counsel review this proposed change prior to the Board considering it for implementation. The Board authorized District Manager Russell to obtain a legal opinion on this matter and present it to the Board.

15. New Business – Discussion on Animal Nuisance/Use of Trash Barrels

There was a concern about dog walkers placing their doggie bags into other homeowners' trash barrels. It was noted that the resultant smell is not appreciated. It was also pointed out that, if a homeowner's trash barrel is only partially full, CR&R is not in the habit of picking it up weekly, thus allowing any dog waste bags to be left in the barrels week after week, causing a very bad smell.

ACTION – District Manager Russell will be contacting CR&R to instruct them to empty every trash barrel weekly, regardless of how much trash is in the barrel.

16. WEBB MANAGEMENT – Monthly Report through July 23, 2015

June Financials were completed and emailed to the Board on July 17, 2015, and the new billing statements went out in July for the annual user fees to all homeowners.

17. Written Communications

There were no written communication presented at this Meeting.

18. CBRA REPORT

CBRA announced the following upcoming event:

- August 15, 2015, Annual Summer Party, at 35811 Beach Road, the home of Wayne Schafer. Everyone is welcome!

19. BOARD AND STAFF COMMENTS

The Board of Directors reminded the audience that there will be no August 2015 Board of Directors Meeting and District Manager Russell noted that he will be out of the office from August 1 – 12, 2015.

20. ADJOURNMENT

Board 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 #614 held on July 28, 2015.

Donal S. Russell

DONAL S. RUSSELL, Manager
Capistrano Bay Community Services District

September 29, 2015

DATE