

Meeting #614

CAPISTRANO BAY DISTRICT  
AGENDA REPORT  
July 28, 2015

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*New Business*

## ITEM 14

Beach Fires/Review of Ordinance No. 06-203

With the beach eroding back toward the homes, the available safe space out in front of most of the homes in the community for wood fires 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. The guests in a home in the 500-block burned a wood fire near their patio but over against the property line fence. This placed the fire within a few feet of a wood fence and about 7 feet from the neighboring home.

This group of vacation renters was uncooperative when asked to extinguish their fire. Apparently the renter manager and property owner had failed to lay down the law regarding wood fires.

The intent with tonight's discussion will be 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 following 4 pages.*

## ORDINANCE NO. 06-203

### AN ORDINANCE OF THE CAPISTRANO BAY COMMUNITY SERVICES DISTRICT ESTABLISHING RULES AND REGULATIONS FOR THE CONTROLLING OF RECREATIONAL OUTDOOR WOOD BURNING FIRES WITHIN THE COMMUNITY.

THE BOARD OF DIRECTORS HEREBY ORDAINS AS FOLLOWS:

1. Replacing Old Ordinance.

Ordinance No. 203 **and No. 05-203** are hereby repealed.

2. Statement of Policy and Necessity.

WHEREAS, section 61621.5 of the Community Services District Law, Government Code Section 61000 et seq., provides that a Community Services District may adopt regulations to govern the use of it's property; and

WHEREAS, it is necessary for the Capistrano Bay Community Services District to take certain actions to promote its ability to provide those services **authorized** by the State, to wit; the protection and safeguarding of life and property; and

WHEREAS, the practice of burning **wood-fueled** recreational fires on the beach within the Capistrano Bay Community Services District jurisdiction creates a condition hazardous to the health, safety and welfare of residents and guests of the District from smoke and burning embers left in the sand; and

WHEREAS, regulations are necessary to allow prompt intervention, citation and enforcement of penalties against persons burning hazardous beach fires.

3. Definitions

For the purpose of this ordinance, "hazardous fire" shall mean any **wood-burning** fire placed within **thirty (30) feet** of combustible walls or roofs or other combustible materials **from all sides of the fire**; or on the sand outside of a non-combustible, **permanent** cement fire ring or a metal container; **or any unattended fire**; or any fire at any time that creates smoke that is offensive or a health risk to the occupants of surrounding property.

4. Hazardous Fires Prohibited

No person shall cause a fire to be burned on the beach within the Capistrano Bay Community Services District jurisdiction that is deemed to be a hazardous fire. The determination of whether a fire *itself* is hazardous or if

(Ordinance No. 06-203)

the allowable permanent cement fire ring or metal container degrades to a state of disrepair, which could be reasonably construed to potentially cause a hazardous fire condition through its further use, shall be made and remedy enforced pursuant to this ordinance, by any **uniformed fire or police** officer, contract security officer or the District Manager.

5. Restrictions on Recreational Outdoor Wood-Burning Fires

All wood-burning fires are required without exception to observe the following restrictions:

- (a) Fuel load must measure no higher than 18 inches from the base of the fire;**
- (b) Only store-bought pre-cut corded wood shall be burned (no trash, paper, leaves, seaweed, driftwood, plastic, etc.);**
- (c) A functioning garden hose attached to a controllable and working water source must be available nearby within reasonable spraying distance of the fire ring or container;**
- (d) The accumulation of ash in the fire pit must be regularly emptied and cannot be dumped or buried in the sand in private or public areas;**
- (e) Burned wood or coals falling onto the sand must be immediately picked up;**
- (f) Wood-burning fires can never burn unattended and must always be within sight of person(s) initiating the fire.**

6. Penalties for Violation

Any person found violating any provision of this ordinance shall be deemed guilty of an infraction or a misdemeanor and shall be punished as follows:

- (a) For a first offense, punished as an infraction by a fine of **fifty** dollars (**\$50**).
- (b) For a second offense, punished as an infraction by a fine of not less than one hundred dollars (\$100) nor more than two hundred and fifty dollars (\$250).
- (c) For a third or subsequent offense, by imprisonment in the county jail not exceeding six months, or by a fine not exceeding one thousand dollars (\$1000), or both.

7. Notice

The Capistrano Bay Community Services District shall post a written notice for 30 days on the community entrance bulletin board and a public notice in the legal section under the classified ads of the local Orange County Register newspaper.

## **Bill to preserve beach bonfire rings passes Senate committee**

June 4, 2014

Updated June 5, 2014 2:50 p.m.

**BY NICOLE SHINE / STAFF WRITER**

A bill to safeguard beach bonfire rings passed Wednesday out of the state Senate Environmental Quality committee. Assembly Bill 1102 now heads to the Senate Natural Resources and Water committee; a hearing is expected June 24. FILE PHOTO: JOSHUA SUDOCK, STAFF PHOTOGRAPHER

### **Who supports the bill?**

California Coastal Commission, Orange County Board of Supervisors, City of Huntington Beach, National Federation of Independent Business, California Travel Association, City of Los Alamitos, California Small Business Association, Friends of the Fire Rings, California Association of RV Parks & Campgrounds, Huntington Beach Chamber of Commerce, Coastwalk California, NAACP, OC LULAC, Azul, SPON, Banning Ranch Conservancy, California Coastal Protection Network, North County Watch

### **Who is against it?**

South Coast Air Quality Management District, the American Lung Association in California and the Sierra Club  
Source: Office of Assemblyman Travis Allen

A bill to safeguard beach bonfire rings by requiring coastal regulators to sign off before rings can be removed or their use restricted passed Wednesday out of the state Senate Environmental Quality committee.

Assembly Bill 1102 heads to the Senate Natural Resources and Water committee; a hearing is expected June 24.

The bill passed on a 4-2 vote, with some lawmakers questioning the bill's purpose, after hearing testimony that fire rings are enjoying heavy use – even after Newport Beach required charcoal be burned in all 60 of its fire rings in March.

The rings have been subject to new rules by the city and the South Coast Air Quality Management District, which have cited health concerns in their efforts to regulate the bonfires. Meanwhile, California Coastal Commission members have said changes to the rings that potentially limit their recreational use require a coastal permit.

Committee chairman Jerry Hill said the regulatory battle seemed to have little impact on beachgoers' actual enjoyment of the iconic fire rings.

“To me this is working; this is working fine,” said Hill, who opposed the bill. “If the Coastal Commission doesn’t agree, they can go after the city of Newport Beach to change that.”

As passed by the committee, the bill would require cities or jurisdictions to obtain a permit from the California Coastal Commission before removing or restricting the use of beach fire rings. The bill would not limit the ability of the AQMD to enforce an open burning rule that went into effect March 1. The district’s Rule 444 requires fire rings to be at least 700 feet from homes or 100 feet apart.

Since it was enacted, Barry Wallerstein, executive officer of the AQMD, said Wednesday that all 765 of the region’s fire rings remain.

Supporters and opponents of the bill testified in about equal numbers Wednesday. Opponents cited concerns about the health risk posed by particulates and soot. Bill McGavern of the Coalition for Clean Air said beachgoers would adapt to new rules regulating beach bonfires the same way they did after a statewide ban on smoking in bars and restaurants.

“People will still be able to go to the beach, but they’ll be healthier when they leave,” McGavern said.

The bill has attracted broad support from the NAACP, the California Travel Association and local groups, such as Banning Ranch Conservancy, SPON, and Friends of the Fire Rings. The inexpensive past-time, some said Wednesday, was vital to the local economy.

Assemblyman Travis Allen, R-Huntington Beach, co-sponsor of the bill, said the bill finds a middle ground, while “preserving this historic, safe and inexpensive family recreational tradition on our beaches.”

The Assembly unanimously passed an earlier version of the bill in January. If passed by the Senate, the amended bill would need to go back to the Assembly.