

REGULAR MEETING #619
CAPISTRANO BAY DISTRICT BOARD OF DIRECTORS
MINUTES
Tuesday, March 1, 2016
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: Haack, Masto & Muller
Directors Absent: Breeding, Clark
Staff: District Manager Russell
Agents: Authorized Agent Morris, Webb Consulting Services, Inc.
Contractors Present: Securitas Branch Manager, Susan Baron

4. PUBLIC COMMENTS

No comments.

5. APPROVAL OF MINUTES

Meeting #618 of January 26, 2016

Board President Masto summarized the January 26, 2016, #618 Meeting Minutes.

MOTION - A motion was made by Director Haack and seconded by Director Muller to approve the Minutes of Meeting #618. The motion was passed by a vote of 3-0-2 (Directors Breeding and Clark absent).

6. SECURITY

Monthly Securitas Report for January 2016

Branch Manager Susan Baron reported on the progress of Patrol Live. She reported that within the next week the program should go live; Securitas is still waiting to hear back from a number of homeowners where the beach-check transponders will be placed. Securitas officers have been trained on the proper use of the equipment and are ready to begin the program. All Board Members will be taught how to access the system and view the reports.

There was a lengthy discussion concerning the pros and cons of actually having patrols on the beach side of the road. A suggestion was made that these Patrol Officers should be wearing security vests that would identify them as Securitas officers.

There was also discussion regarding the pros and cons of installing security cameras with radar detection capability to help deter any reckless drivers and vandals.

Two new Patrol Officers have been trained and are fitting into the community well. Branch Manager Baron would like to add one more Officer to the staff.

Board President Masto would like a biography created for each of the new guards for inclusion in the next newsletter.

7. **FINANCE**

a. Follow Up on 'Self-Insurance' Reference Comments in the FY15 Financial Audit

This year, the District's auditor had mistakenly carried over an outdated note under the Risk Management Section that referred to the District's self-insured general liability insurance. The District no longer participates in the self-insurance program for general liability insurance and carries liability insurance through a private insurance policy. It was noted, however, that the District continues to joint-venture with other California Special Districts in a self-insurance program for Workers Compensation Insurance. The correction has been made in the final audit document on page 20, noting that this correction to the audit is available to view at the District office. No further action is needed.

Experience Modification Factor - EMOD

The District's Workers Compensation Insurance accident history is zero, and because of this the District is rewarded with a reduced EMOD rate of 81% this coming year (our rate has averaged approximately 85% over the years). What this means is that the District will only pay 81% of the standard rates set by the Insurance Rating Bureau. Comparing this to members in State Fund or any agency with high accident histories, those EMOD rates can be as high as 300% or three times the standard rates. Anyone who has to pay Workers Compensation bills each month will instantly recognize that an EMOD of 81% is lower than most in the industry and is directly due to a zero accident history and a good worksite safety environment and culture.

b. Report of Monthly Expenses through January 2016

Board President Masto reviewed the Financials through January 2016 and replied that all looked in order.

c. Webb Report on Short Term Rental Data Collection

Board President Masto gave the following Report: The District has been compiling data since 2013 on renter activity in the community that creates a cost burden to the District's operating expenses. Some potential impacts to the community would be difficult to measure, so the reporting is being restricted to those activities that are easily tracked and which can be quantified.

The basic areas of activity being measured are restricted to the following areas:

(renter-related vehicles count for 25% of ALL vehicles per year for Beach Road)

- Renter vehicles
- Renter guest vehicles
- Service vehicles related to renter needs
- Phone calls to District from renters requesting assistance
- Patrol time to respond to requests for assistance

- Illegal parking, party noise, illegal fires, loose dogs
- Extra gate officer assigned on Saturdays, during the summer months

ACTION – District Manager Russell will attempt to obtain Short Term Rental income information from the City of Dana Point. Once the information has been procured, then the Board of Directors will have a workshop meeting to formulate the process of implementing a Rental Recovery Fee and what that fee will look like. Please note that the ultimate goal of the Board would be to recover a portion of the 10% TOT tax that the City of Dana Point has been collecting from all Short Term Rentals and not have to apply the Renter Recovery Fee to the Rental Owners.

8. ADMINISTRATION OFFICE

*Total cost for all work through January 31, 2016: \$89,779.

The remaining work to be completed as of Friday, February 26, 2016, is as follows:

- Install new handrail at wheelchair ramp - The original design called for a wood handrail system, however, the bids came in very high, with the lowest of the bids at \$6200. It was agreed to by the Board to obtain bids for a metal handrail system, constructed of steel pipe with a wood top cap. The bids for this revised scope of work are as follows:
 - Saddleback Iron \$3340
 - Prime Fabrication \$2500
 - Armor Fence \$2962

Prime Fabrication was the selected contractor for the revised scope of work. This railing will consist of 1 7/8" OD steel pipe, sandblasted, primed and painted. Installation will be by core-drilling holes into the sidewalk/ramp surface and setting the posts into concrete for a clean appearance. The top rail will be covered with IPE, sanded and oiled to match the exterior woodwork on the office.

The only task left to complete will be the eventual installation of air conditioning for the office, which was temporarily tabled by the Board. The power into the office was upgraded from the original, 20 AMP service to a 70 AMP service, which will be necessary to run the air conditioning system.

9. ENTRY AREA LANDSCAPING

Report on Irrigation System and Watering Schedule

With the placement of the administration office on the grass, a large portion of the existing sprinkler and lighting system had to be re-routed and improved to accommodate new plants and lighting. The area was re-graded, primarily around the palapa area; new grass seed and fertilizer was installed and new plant material was installed around the office.

During this process, it was determined that many of the existing sprinkler heads were either not working at all or were clogged and/or out of adjustment. There were also several irrigation line breaks where water was leaking when the system came on each time.

With the leaks fixed and sprinkler heads adjusted to be more efficient, the sprinkler schedule has been increased to two days per week, which should begin to show results over the next few weeks.

The six jasmine vines growing along the fence, adjacent to the service entrance will most likely succumb to saltwater intrusion, occasioned by ocean saltwater that reached the guard shack some time ago. These vines will likely need to be replaced and the District is investigating suitable replacement plant material that is more saltwater resistant.

The plant material in the center divider planter, which separates the resident entry from the exit lane will be replanted soon with Xanadu philodendron. This species seems to take well to the District's environment. The two floral bowls in this planter area were recently replanted with a new array of succulents.

The two missing stools at the palapa were recently removed because they posed a potential safety hazard. A solution has been worked out and the two missing stools will be back in service soon.

In the opinion of the District, Bemus Landscaping has not performed their duties to the District's standards regarding maintenance of the overall District landscaping. In the near future, the District will go out to bid for the entire scope of landscape services for the annual landscape contract, in preparation for the new fiscal year budget, which begins in July 2016. Director Breeding recommended the change be made as soon as a competent replacement is found, and not wait until July 1st.

10. OLD BUSINESS

a. Temporary Shoreline Protection/Emergency CDP – Possible Time Extension

*Legal expenses, to date, for the Emergency Coastal Development Permit (Nov/Dec/Jan) are approx. \$73,500.

The Emergency Coastal Development Permit ("ECDP") issued to the community in December 2015, is valid through May 21, 2016. This means that in three months the Coastal Commission will expect property owners to remove their sandbags, K-rails and gabions.

With global climate change and the past three summers of Pacific hurricane seasons, the District's emergency shoreline protection needs are no longer seasonal, but are becoming a year-round necessity. If the sandbags and K-rails currently in place are removed in late May, the community can expect more sand to be eroded off of the beach by the south swells during summer months.

There was a lengthy discussion concerning whether to seek an extension of the ECDP. The Board opted to wait and see if the Coastal Commission comes to the District with a formal removal request and deal with it at that time.

b. Follow Up on Question Regarding District Authority Relating to Shoreline Protection

The legal counsel for the California Special District Association ("CDSA") was reluctant to offer an opinion about the 'sphere of influence' of the District's authority for shoreline protection, citing the fact that our legislative mandate does not preclude the District or any other Community Service District from complying with State and local laws.

The District's legal counsel has pointed out in the past that the District's powers and jurisdiction do not include "land use" or "planning authority over private property." This power is mandated to the local planning authority, which for the District is the City of Dana

Point and the Coastal Commission. The District could request a written legal opinion on this matter, however, they would have to pay for the legal work if the Board chooses to dig deeper into an official response. No further action was taken by the Board at this time.

c. Undergrounding of Utilities – Possible Next Step

Last summer, Director Muller worked with an undergrounding consultant, Utility Specialists Inc., to prepare a cost estimate for conversion of the community overhead power and communications utilities. The District paid \$4,500 to the consultant for an initial Assessment of the proposed project.

Utility Specialists, Inc., developed a description of the full scope of work involved in the utility conversion and they outlined the various steps for bringing this project to completion. Their evaluation included entitlements, bidding, and scope and course of construction. This document is available at the District office for public review. The evaluation was presented to the District back in August 2015, and is being discussed now, in order to bring the Board and the community up to date on progress, to determine whether there is interest in moving forward.

Overall Estimated Cost of Project - \$3.8M (this does not include costs for formation of an Assessment District). Below is a summary of the consultant's assessment and proposed scope of work:

- **Initial Assessment, at a cost of \$4,500** – Evaluate the client-provided construction plans and provide a cost opinion representing real-market costs in 2015 (already performed and paid for August 2015).
- **Design Management and Coordination, at a projected cost of \$29,600** – Update the original design drawings in coordination with the power, cable TV and phone service providers. Provide a detailed scope of work description for bidding purposes.
- **Bid Management and Course of Construction Consulting, at a projected cost of \$15,000** – Assist with public bid process, bid selection, construction critical path scheduling, consulting with project supervision during course of construction, and consulting for verification of completed work for construction progress payments, etc.

At this point, the District has a preliminary estimate of the overall projected cost of the project. The District could now present this information to the community to obtain a sense of the community's willingness to pay for the project. As was done for the road improvement project in 2002, the community would have to form an Assessment District to create the capital for covering the cost.

In compliance with Proposition 218, an officially sanctioned vote of the community would eventually have to be performed in order to create the Assessment District. Before that process is launched, an informal vote of the community is advised, to assess where the community stands on this proposal.

Assessment District formations are expensive to put together and this cost would have to be added to the estimated \$3.8M for construction. In 2002, the actual Assessment District formation costs, which included the Assessment Engineer, Bond Counsel, Financial Advisor and Trust Consultants, etc., came to approximately \$450,000. It is now twelve years later and, with a larger project, the formation costs alone may be much higher.

ACTION – Board President Masto will be drafting an advisory letter within the next month to send out to the community in order to obtain a feel for the community interest in this project of undergrounding utilities. The letter will include information regarding the project and an estimate of the approximate cost per home. President Masto will reconfirm the estimate with Utility Specialists, ensuring that the District is not missing any known contingencies.

11. QUALITY OF LIFE DISCUSSION TOPICS

a. Feasibility of Homeowner Storage in the Northgate Area

There is an area within the District that may be able to accommodate additional storage. It is located in the north gate area, along the fence that separates the area from the railroad tracks. The space is approximately 135 feet long and 7 feet deep, with the fence that is 5'-7" high. The other possibility in the Northgate area, behind the green fencing, is currently in use for District maintenance purposes and cannot be made available.

The type of storage structure that would fit in the available space would be lockers of some kind, which would be no higher than the fence (5'7") and no more than 7' deep. Length would be a function of what a homeowner wanted to store. If, for example, a length of 10' was used, the District could accommodate 13 storage lockers/cabinets.

In the past, the City forced the District to remove a shipping container that was placed inside the green fence area, as they alleged that the structure was blocking of the public's panoramic ocean view from Pacific Coast Highway. The area being considered has never been blocked from view, not for the past 100 years. Concerns were raised that the District would receive additional complaints from the City regarding allegations of obstructed view. If you drive by on PCH and imagine the clear ocean view, now blocked by a line of storage lockers, one could assume that someone from the public is going to complain to the City or worse, to the Coastal Commission.

12. WEBB MANAGEMENT / CBRA ITEM

a. The following information was previously provided to the Board:

- District Financial Statements for the month of January 2016
- Short Term Rental Spread Sheets
- Renewal Questionnaire for the Special District Risk Management Authority ("SDRMA").

b. CBRA Resident Directory – Discussion Regarding Posting the CBRA Resident Directory on DwellingLIVE

A discussion ensued regarding publication of private homeowner information. The main concern is protection of privacy. It was noted that the District-developed website and DwellingLIVE website, requires password access, i.e. each homeowner who logs onto either of these websites must enter a username and password.

A request was made of the CBRA to make the community resident directory available to homeowners, via the username, password protected DwellingLIVE website, since it is password-protected. This would not preclude CBRA from providing a hard copy of the directory to any requesting homeowner.

The Board consented to posting the Resident Directory on the DwellingLIVE website.

13. **WRITTEN COMMUNICATIONS** – There were no written communications.

14. **BOARD AND STAFF COMMENTS**

Director Haack made a request to have the homeowner at 35341/345 clean up their property. The property has been vacant for many years and has become a rodent habitat due to the lack of any activity.

15. **ADJOURNMENT**

Board President Masto officially adjourned the Meeting at 9:25 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 #619, held on March 1st, 2016.

Donal S. Russell

DONAL S. RUSSELL, Manager
Capistrano Bay Community Services District

April 12, 2016

DATE