

**REGULAR MEETING #644**  
**CAPISTRANO BAY DISTRICT BOARD OF DIRECTORS**  
**MINUTES**  
**Thursday, July 31, 2018**  
**CLOSED SESSION 5:30 PM**  
**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**

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

**2. PLEDGE OF ALLEGIANCE**

President Schwartz led attendees in the Pledge of Allegiance.

**3. ROLL CALL**

Directors Present:

Haack, Breeding, Muller, Clark, Board President Schwartz

Staff:

District Manager Russell

Absent:

Agents:

Authorized Agent Ryan Phillips, Kellyann Phillips, Compass PMC

Contractors Present:

Securitas Post Commander Robert Stabenow

Guest Speakers:

No Guest Speakers were present

**CLOSED SESSION REPORT OF ACTION**

Board President Schwartz reported that no action was taken during the closed session.

**4. PUBLIC COMMENTS**

Homeowner Charlotte Bloom said she knows someone named Bill Green running for the Water Board who will do a power point presentation re the proposed ocean water desalination plant in September if the Board is interested.

Homeowner Bill Nassour wanted to speak about the Coastal Commission and shoreline protection, was told to wait since it is an agenda item

**5. APPROVAL OF MINUTES**

**Meeting #643 of June 28, 2018**

*MOTION* – A Motion was made by Director Haack, seconded by Director Breeding and voted 4-0-1 (Schwartz was absent for that meeting) to approve the Minutes of Meeting #643 as presented.

**6. SECURITY**

**Monthly Securitas Report for June 2018:**

Securitas Post Commander Robert Stabenow reported that June was slow, mostly in preparation for Fourth of July community safety. There were a few fire complaints and a few trespassers.

Homeowner Jeff Lurner stated that he witnessed what seemed to be a vagrant who had climbed over the block wall and noted that security drove by without questioning or investigating the matter. Lurner also

noted security personnel do not appear to be sufficiently trained and should do a better job patrolling and directing traffic.

Securitas PC Robert Stabenow responded in agreement with how the vagrant incident was handled and said the security employee was reprimanded. The board directed Manager Russell to proceed with the use of two patrol cars with a staggered schedule to double up on speed control.

Board members responded to a homeowner's question about why the pedestrian gate needs to be left open saying they were not sure and suggested keeping the gate closed at all times. The Board left open the possibility of discussing the use of our own police at some future point, after having the opportunity to assess the effectiveness of additional patrol measures now being instituted.

**7. LCP/COASTAL UPDATE**

President Schwartz enumerated the District's efforts with Counsel and the Coastal Commission and their policy of Managed Retreat, pointing out that our community should expect to encounter more development restrictions as sea level rises. Also explaining that Counsel has been in communication with CCC staff regarding the Notice of Violation received back in early June.

Homeowner Murad Siam asked for a copy of the written report that President Schwartz was reading from during his presentation and discussion on this topic.

Homeowner Dave Gutierrez suggested to research the Subdivision Map Act for possible historic references to early property ownership entitlements, pointing out that the Map is a recorded document that can be accessed through the County Recorders Office.. Homeowner Michael Casey suggested to approach the city of Dana Point as a group class action to fight the zoning restrictions. Homeowner Murad Siam suggested the District, as a governmental agency, should approach the City as such.

The board noted that the effort is ongoing as they work with legal counsel for a resolution.

**8. FINANCE**

**Report of Monthly Expenses through June 2018:**

Director Muller gave the financial report and advised that they are keeping an eye on the legal because this could potentially be a large number by the time the coastal issues are resolved. Muller also stated projected property taxes netted \$60,000 more than estimated plus Development Impact Fees were greater by \$64,000 than estimated.

Director Muller inquired about how the road is holding up related to repair and maintenance expenses. Manager Russell reported the road is in the 15<sup>th</sup> year of its 30-year design life and aside from minor annual spot repairs and inexpensive slurry sealcoating, the road should not require any major maintenance work, such as a total grind/overlay, for the next 15 years. Manager Russell also noted that the recent south swell/lunar high tides did not damage any of the District's storm drain outfalls on the beach.

**9. OLD BUSINESS**

**A. Undergrounding of Utilities – Progress Report from Dave Gutierrez**

Mr. Gutierrez reported that the entitlement process is time consuming and could take up to four years to complete, although the proposal for the 1<sup>st</sup> Phase at \$94,500 should only be six to seven months. Director Clark asked about where the transformers will be located in the south half of the community. Mr. Gutierrez indicated that this has not been worked out yet. With that explanation, the Board took the following action:

**Motion** was made by Director Haack, seconded by Director Breeding and approved by a vote of 5-0 to authorize Dave Gutierrez, in an initial amount of \$50,000, to proceed with the first part of Phase I of his proposal.

The total proposed amount for Phase I is \$94,500 and is described as ‘*Due Diligence and Preliminary Design.*’ It was not made clear during the meeting exactly what would be completed for the initial \$50,000 amount but Mr. Gutierrez indicated he would spell that out in the written agreement forthcoming in about a week.

**B. Termination of legal services of Rutan & Tucker LLP**

Manager Russell was directed to retain Rutan for miscellaneous legal needs such as reviewing ordinance and resolution language, minor Government Code research, etc.

**C. Eligibility requirements for District Board members**

The Board agrees that the primary eligibility requirement, as stated in the Elections Code, is being registered to vote in the Beach Road community. What is in question is whether actual residency is a secondary requirement. Manager Russell stated that the residency issue should to be evaluated by counsel.

**D. Public access easements granted by homeowners**

The Board pointed out that back in the 70’s and 80’s several homeowners recorded public access easements over their beachfront property in exchange for coastal development permits for home remodeling/rebuilding. While the CCC can no longer continue this practice, the 29 easements are in place and in full force. On these 29 properties, the owners must allow the public to pass and repass across their beachfront area.

**10. NEW BUSINESS**

There was no new business

**11. QUALITY OF LIFE DISCUSSION TOPICS**

**Summer CBRA general meeting and party set for Saturday, August 18th**

CBRA member Charlotte Bloom reported on plans for improved food and music. Additionally, the CBRA will be renting two six-seater golf carts to shuttle attendees to and from the party. It is suggested to buy tickets prior so that the organizers can plan accordingly for food and drinks.

Karen Morris introduced Ryan and Kellyann Phillips with Compass Property Management, and stated the transition has started and seems to be going smoothly.

**12. WRITTEN COMMUNICATIONS**

The written communication was discussed during the Security report

**13. BOARD AND STAFF COMMENTS**

Manager Russell pointed out that due to the severe shoreline erosion from the recent high surf event, the public pedestrian/bicycle path adjacent to the District’s Northgate maintenance yard is about to become undermined and collapse. When this happens it is expected that the County will approach the District for some arrangement to use the District’s property for pedestrian access. Manager Russell recommended that District legal counsel be apprised of this threat to be prepared if/when the County takes action. No direction was given to staff.

**14. ADJOURNMENT**

President Schwartz adjourned the meeting at 8:51 PM.

**ATTEST:**

**State of California**            )  
**County of Orange**            )  
**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 #644, held on July 31, 2018.

*Donal S. Russell*

DONAL S. RUSSELL, Manager  
Capistrano Bay Community Services District

*August 28, 2018*

DATE