

# ITEM 5

**REGULAR MEETING #670**  
**By Teleconference due to COVID Pandemic**  
**CAPISTRANO BAY DISTRICT BOARD OF DIRECTORS**  
**MINUTES**  
**Tuesday, February 23, 2021**  
**REGULAR MEETING 10:00 AM**

1. **CALL TO ORDER**

Board President Irani called the Meeting to order at 10:10 AM

2. **PLEDGE OF ALLEGIANCE**

Manager Russell led attendees in the Pledge of Allegiance

3. **ROLL CALL**

Directors Present:	Board President Irani, Haack, McNulty, Wiersig and Jenkins
Staff:	District Manager Russell, Karen Morris
Absent:	None
Agents:	Authorized Agent Kellyann Phillips, Ryan Phillips, Compass PMC
Contractors Present:	Securitas Post Commander Robert Stabenow
Guest Speakers:	None

4. **PUBLIC COMMENTS**

There were no public comments

5. **APPROVAL OF MINUTES**

Meeting #669 of January 26, 2021

*MOTION* – A Motion was made by Board Pres. Irani, seconded by Director Jenkins, and voted 5-0 to approve the Minutes of Meeting #669 as presented.

6. **SECURITY**

**a. Monthly Security Report (February)**

Due to a one-week illness-related absence of Security Post Commander Robert Stabenow, there is no security report for this month. PC Stabenow indicated the monthly report for February will be included in the security report for the Board meeting in March.

7. **THIS ITEM LEFT BLANK**

8. **FINANCE**

**a. Monthly Expense Report**

The expense report through January 31st was received and filed. Ryan Phillips of Compass PMC explained that District expenses will now be paid and accounted for out of the District's Sunwest Bank account to simplify the check-writing process.

9. **OLD BUSINESS**

**a. Shoreline Protection Progress Report**

The Board discussed several protection-related topics in the following order:

- *activating the latent power to engage specifically in operating flood protection facilities*

Manager Russell explained that the District has the responsibility and an obligation to take action to

## ITEM 5

protect the District's property (road, curbs, gutters, storm drains, etc) from high wave inundation. However, the five powers granted to our District do not specifically point to 'Shoreline Protection', but it is obvious that if the District is empowered to maintain the roadway, it only follows that the District should do what it can to protect that property and not just sit by and watch it get destroyed by the ocean. Due to a challenge by a homeowner (see next discussion item), the Board and its counsel agree that the District can strengthen its position by applying to the County for their consent to grant to the District the power to 'operate flood protection facilities'. A meeting with County officials has been set for 2/25/21.

*- Letter from Jackson Tidus law firm representing homeowner Jack Tarr*

Mr. Tarr has challenged the District's authority to engage in Shoreline Protection efforts. He stated that he feels the District is overreaching its authority. The District's counsel has an opposing opinion to which the Board agrees. In view of this, the Board will be making application to the County as indicated in the prior paragraph. Homeowner Bill Nassour stated he is in support of the District taking action to expedite a community-wide permit for some kind of shoreline protection noting that dealing with the CCC is a very difficult process for 195 separate homeowners to have to figure out and deal with on their own.

*- Lobbyist proposals for supporting helpful legislative bills related to Sea Level Rise*

With eleven Senate and Assembly bills introduced so far this year, there are possibly two that might serve as beneficial to Beach Road homeowners in the area of improved private property rights, in particular Senate Bill 627, introduced on Feb. 18<sup>th</sup> that strengthens the rights of homeowners to maintain seawalls. The Board indicated its support for SB627 by taking the following action:

MOTION was made by Board Pres. Irani, seconded by Director Wiersig and voted 5-0 to engage with the lobbyist firm McCabe & Company for the purpose of advising the Board on Senate Bill 627, also for anything that could be done to pass this bill into law and additionally, to consult with the District on an appropriate reply to the CCC letter that was just received yesterday, Monday Feb 22<sup>nd</sup>.

*- Follow up on community-wide CDP for shoreline protection*

Manager Russell reported that the Board has been somewhat delayed in its progress on this item due to the challenge of proper authority, by Jack Tarr, and in part due to the slow response on the part of the Coastal Commission in the matter of their letters alleging the illegal, unpermitted placement of sand bags, gabion cages, boulders and water-filled K-rails along the beachfront of the community. The Board has yet to submit an application to the City or the CCC for any kind of community-wide shoreline protection permit and may have to delay this while the Board crafts a reply to the CCC and until the matter of the challenge to District authority is closed.

**b. Development Impact Fee (DIF) Proposed Revision**

Manager Russell reported that the District's fee history for re-roofing projects indicates a wide range of fees charged when the projects appear to be very similar in scope. This is due to the DIF fees being calculated based on project valuation by the City. Manager Russell feels a more fair and reasonable fee structure for re-roofing projects would be to set a standard fee rather than using the sliding scale which results in gross unfairness to some owners. After considering this over two meetings, the Board took the following action:

MOTION was made by Board Pres. Irani, seconded by Director Wiersig and voted 5-0 to amend the DIF fee matrix contained in Ordinance No. 05-206, to assess all re-roofing projects according to either the fee matrix calculation or \$300, whichever is lower.

# ITEM 5

**10. NEW BUSINESS**

There was no new business

**11. QUALITY OF LIFE - CBRA**

Administrative Assistant Karen Morris reported that the City held a Short Term Rental workshop Monday night publicizing a new STR pilot program with enhanced enforcement regulations and looking at various rental scenarios. For the full Planning Commission report go to [www.capobay.org](http://www.capobay.org) and type in *STR Pilot Program Report* into the search bar to read the 30-page report.

**12. WRITTEN COMMUNICATIONS**

Manager Russell reported that the only written communication was the letter from Jackson Tidus law firm that was discussed under agenda item 9a, Shoreline Protection.

**13. BOARD AND STAFF COMMENTS**

There were no Board or Staff comments

**ADJOURNMENT**

Board President Irani adjourned the meeting at 11:40 AM

**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 a *DRAFT* copy of the Minutes of Meeting #670, held February 23, 2021.

Donal S. Russell

DONAL S. RUSSELL, Manager  
Capistrano Bay Community Services District

February 25, 2021

DATE