

**REGULAR MEETING #532
CAPISTRANO BAY DISTRICT BOARD OF DIRECTORS
MINUTES**

**November 27, 2007
OPEN MEETING – 6:30 PM**

**Palisades United Methodist Church
27002 Camino de Estrella, Capistrano Beach, CA 92624**

A. CALL TO ORDER

President Southwick called the regular meeting to order at 6:30 PM.

B. PLEDGE OF ALLEGIANCE

C. ROLL CALL

Directors Present: Southwick, Bancroft, Laster & Bell

Directors Absent: Martinez

Staff Present: Manager Russell

Guest Present: Russell Willmon, Securitas

D. PUBLIC COMMENTS

Gerald Levinson of Beach Road commented on the notice he received in the mail notifying the public of the coastal development permit application submitted by the County of Orange for a proposed Dana Point Harbor dredging project with an estimated 48,400 cubic yards of sand to be discharged onto the county portion of the Capistrano Bay beach. *(The District filed a letter in support of this proposed project with the US Army Corps of Engineers on August 3, 2007 in response to the notice published earlier this past summer by the Corps).*

E. APPROVAL OF MINUTES

1. Regular Meeting #531 of October 30, 2007

Motion was made by President Southwick, seconded by Director Laster and passed 4-0 (Martinez absent) to approve the minutes of meeting #531 held on October 30th, 2007.

Sandy Hoose of Beach Road commented that there were more speakers from the public during this meeting than were listed in the minutes and their statements should have been in the record. Manager Russell explained that this particular meeting was difficult to follow in the audio tape as some people who were speaking did not identify themselves and their voice on the tape was not recognizable. There were a lot of people talking at once.

President Southwick added that from tonight's meeting forward, members of the public who want to speak will have to first identify themselves for the record and, at the Board's discretion, will be given a three-minute time limit.

F. SECURITY ACTIVITY REPORT

1. The report for October, 2007 was presented for review.

President Southwick commented that the graveyard patrol officer was leaving at the end of the year and asked Securitas what their replacement plans were. Russell Willmon stated that they are fully aware of the upcoming personnel change and are working to bring in a replacement sometime in December. Mr. Willmon also brought up the concern for allowing drunk drivers to enter the community and asked if the District has a policy on this. Manager Russell responded that there is no such policy and that legal counsel would need to be consulted to consider some kind of policy describing the actions and procedures security should take in the event an intoxicated driver shows up at the entrance gate.

2. Progress on community speed control

Manager Russell reported that the Police Department has not yet analyzed the data from the radar trailer computer from last month. The intent was to try to get a feel for the busiest time of day or night and what the overall excess speed was. This information would then be used to determine the optimum time to bring in a police motor officer. President Southwick pointed out that there is one property owner who now has 40 instances since June of exceeding the speed limit. Nadine Levinson of Beach Road wondered if it might be effective for another property owner, like herself, to approach this individual or the parents in person and discuss the community's concern. President Southwick replied that letters have been sent that have been ignored, phone messages have been left with no return call and they will not answer their door.

Regarding speed cushions, Carl Becker of Beach Road commented that if you can't get drivers to slow down the thing to do is put in a lot of speed bumps. Manager Russell reported that the Glenwood Park Homeowners Association in Aliso Viejo held a meeting of their board and the OCFA for the purpose of getting approval for the general concept of speed cushions and not just one particular manufacturer's brand. Competition from several vendors will keep the price much more affordable. The results of this first meeting revealed that OCFA is only willing to approve of one brand of *prefabricated speed cushion* which is four times more expensive than that of the competitors' products. The Glenwood Park Board of Directors will continue pursuing this issue with OCFA and will keep the District informed on the progress. Given that Glenwood Park is about a month ahead of the District on the speed cushion issue, the District will give them until January to make substantial progress. If there is nothing promising by the middle of that month then the District will have to begin its own campaign for approval with OCFA.

3. Possible hiring of a District Police Officer (PC832 rated)

Manager Russell reported that since the discussion on this topic last month, research has resulted in information from the county that, at face value, seems to cast some question as to whether or not the District requires an official certification from the State Commission on Peace Officer Standards and Training (POST) to provide police services. It creates a somewhat confusing situation that for now has been passed on to the District's legal counsel to sort out with the Court and Orange County Counsel. Their findings will be reported when the investigation has been completed.

G. FINANCIAL REPORT

1. *The claims and transmittals were presented for review.*
2. *Monthly expenses and year to date reports through October were presented for review.*

There were no comments on this item.

3. *Collection of fees for services.*

Manager Russell reported on the following:

Development Impact Fees

There are currently no permits for which fees are due.

Total DIF unpaid as of 11/21/07	\$ 0
Total DIF collected this fiscal year	\$ 15,932.00
Total DIF collected since the program began	\$ 72,675.00 (approx. figure)

User Fees

Statements for the current fiscal year were mailed out on 7/19/07. As of 11/21 the collections amount to \$221,515 with \$3,135 (2 accounts) still outstanding. Staff has been phoning the unpaid accounts with a reminder.

RR Parking Fees

Billing for the coming calendar year 2008 was mailed out in mid-November. Payments are just now beginning to come in.

Renter Recovery Fees

Total renter fees collected for the fiscal year	-	\$700.00
Total renter fees collected since the program began	-	\$22,700.00

(there have been no additional fees paid since last month's report)

Summer Trash Collection Program/Fees

This program ended for the season on Friday, 9/14. Billings went out in October. As of 11/21 payments amount to \$2480 with \$520 (8 accounts) still outstanding. Reminder calls are now being made.

4. *Discussion regarding Christmas bonuses*

President Southwick made the recommendation that the District security officers and the administrative assistant be rewarded for their hard work with a gift of some kind. Motion was made by President Southwick, seconded by Vice President Bancroft and passed 4-0 to approve Christmas gifts to the District staff in the following amounts: \$200 value to the Post Commander and \$100 value to each member of the security staff and admin. assistant.

5. *Presentation of draft Financial Statement for FY06-07*

Paul Kaymark of the District's auditing firm of Charles Fedak & Company was present to discuss the details of the audit and answer any questions. Mr. Kaymark made the important point that while the District is in good financial condition at this time, he sees possible difficulty ahead as the State is expected to have a huge budget deficit coming in the next year or two. The District can expect the State Legislature to begin looking for more revenue

from special districts, despite the passage in 2005 of Proposition 1-A that is supposed to protect special district revenues. Director Bell inquired about how depreciation of the capital assets is accounted for and that there should be an increase in the *Capital Replacement Funds* to more accurately cover the expense of the entry improvement project that the Board knows is going to be \$200,000 higher than the figure shown in the draft audit. Mr. Kaymark answered that currently depreciation is only handled in the budget but a *depreciation* item could be shown under *Designation of Unrestricted Net Assets* in the financial statement.

Motion was made by Vice President Bancroft, seconded by Director Bell and passed 4-0 to approve the draft Financial Statement for FY06-07 by Charles Fedak & Company with revisions to the unrestricted net assets and depreciation.

H. LCP COMMITTEE REPORT

1. The next MHTL and cross section survey is scheduled for the week of December 17th.

I. MANAGER'S REPORTS

The manager reported on the following items:

1. Progress on 2nd entry lane project (additional incoming lane at entrance)

In a phone conversation earlier this month with Rob Harris, the Metrolink Right-of-Way engineer, it was explained that Metrolink had received a request from the City of Dana Point regarding the establishment of a "Quiet Zone" at the RR grade crossing near the community entrance. Project planners with Metrolink are expressing some concern with the existing location of the entrance gate and are wondering if it should be relocated to a point further south to allow more vehicles to stack up in the driveway before reaching the grade crossing. Mr. Harris expressed his own frustration with his planners and has not been able to get them together to finalize the District's request for approval. The Board agreed that Metrolink has had more than enough time to handle the District's request and asked staff to begin pressing them harder for progress.

2. Review of Manager's Priority List

President Southwick pointed out that there are some areas along the Road where vegetation should be trimmed back. Director Bell reminded staff to keep up with the progress on the District website and pointed out that there are community members who would be happy to assist in assembling the data so feel free to ask for assistance if it is needed.

J. OLD BUSINESS

1. Discussion regarding unanswered communications to the City (on short-term rentals)

Ken Ross of Capistrano Realty presented a two-page letter he just received from the City explaining their intent with regulating short-term rentals on Beach Road. The City's plan is to continue to allow short-term rentals and will respond to complaints received regarding public nuisances. Gerry Levinson stated he would like to see something from the Board stating this is no longer an issue and the District will no longer pursue it. Nadine Levinson stated she feels the threat is from the District Board. Sheila Bullock urged the Board to let the matter drop at this time. Sandy Hoose stated that the letter sent to Ken Ross was not addressed to the District and he thinks the City still has an obligation to do so. Vicki Bird stated she doesn't understand why the City doesn't have to abide by their own code.

President Southwick stated the issue appears to be dead and that the City has now been notified that the District is going to abide by the letter of the law.

Vice President Bancroft stated that it is his opinion that the City is going to be needing additional revenue in the near future and he feels they will be looking for the Transient Occupancy Tax from Beach Road and other areas of the City, therefore the Board should leave the issue alone and let the City deal with it in due time.

Director Bell stated he feels the District should not be the agent to force rental oversight action by the City.

Director Laster stated the Board has done its due diligence and its responsibility has been handled.

President Southwick closed the discussion by summarizing the Board's intent to leave the short-term rental issue to the City to oversee while maintaining the right to report complaints of public nuisances as they arise.

Manager's Note: The letter submitted to the Board by Ken Ross will become part of the public record and will be made available to anyone requesting a copy.

Manager Russell announced that the Board would now hear from the *ad hoc committee* formed during the last Board meeting.

David Wilson of Beach Road reported that the committee is initially made up of himself, Gail Becker, Sheila Bullock and Nadine Levinson. In response to frequent District Board discussions concerning violations of the Dana Point Municipal Code pertaining to the rental of private homes, the District Board authorized the formation of an ad hoc committee to study the issue and report their recommendations back to the District Board. The committee will be comprised of those with various viewpoints and will give progress reports to the District Board. The *proposed* objectives of the committee are summarized as follows:

- make recommendations regarding safety issues and quality of life standards
- maintain a balanced representative membership
- to solve complaints from community members of ordinance violations including beach fires, excessive noise, speeding, trespassing and loose dogs
- make recommendations that respect the right of homeowners to use their property as they see fit so long as they do not unreasonably disturb the quality of life of their neighbors and others in the community
- to offer recommendations that include suggestions for efficient and effective implementation

Nadine Levinson stated the committee's purpose is advisory only, to study a problem in greater detail in order to assist the District in coming up with a good solution. The committee will have no authority. Sheila Bullock pointed out that the objectives stated

represent what the committee initially understands as the purpose and requests that the Board review this and revise or adjust as the Board sees fit.

Director Laster pointed out that this would give the Board a better representation of the whole community and could be a great aid in the Board's future decision-making.

Sheila Bullock added that part of the committee's job would be to give everyone in the community an opportunity to voice their thoughts either by surveys or meetings. The committee also wants to develop a time line which can be presented at the January meeting.

Director Bell suggested the committee limit itself to addressing the issues arising out of short-term rentals and increasing the communication between renters and non-renters and that it should not be about dealing with codes and ordinance issues.

Vickie Bird asked how the committee could help with quality of life issues. Sheila Bullock responded that increased communication between the residents can only serve to improve the community and that is what the committee feels is its purpose.

Nadine Levinson commented that this is not about establishing more rules or controls but to try to build a forum where people can get together and talk and share about what we all know are the problems everybody has, unique to their section of the community.

President Southwick pointed out the importance of the committee maintaining an open communication with Ken Ross and the other rental agents in the community and added that any meetings held by the committee should be publicly noticed and open to all visitors.

David Wilson finished the discussion by stating that for now District communications to the committee should go to Sheila Bullock with copies to himself, Gail Becker and Nadine Levinson.

K. NEW BUSINESS

There is no new business

L. WRITTEN COMMUNICATIONS

There were no written communications

M. BOARD AND STAFF COMMENTS

President Southwick thanked everyone in attendance for their efforts and hard work to bring the short-term rental issue to a close.

N. ADJOURNMENT

The meeting was officially adjourned at 8:20 PM.

Regular Meeting #532
November 27, 2007

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 a copy of the Minutes of Meeting #532 dated November 27, 2007.

DONAL S. RUSSELL, MANAGER

DATE