

CAPISTRANO BAY DISTRICT  
AGENDA REPORT  
December 7, 2021

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*Old Business*

## ITEM 9c

Acquisition of Real Property/Vacant Lot #071

Close of Escrow

The purchase of the vacant lot was scheduled to close the afternoon of Friday, December 3rd. Documentation of the recorded Grant Deed and Closing Statement should be in hand by meeting time on Tuesday, as there was no time on Friday after recordation to forward documents to the District and our bank, Municipal Finance Corporation. The District wired its final cash payment from our FMB account on 12-1-21. MFC (our bank loan) wired the balance on 12-2-21, combined with the \$100K cash deposit paid 60 days ago, for a total purchase price of \$2.49M. The District will see a reimbursement of approx. \$34K as our half of the realtors' fees. Our legal counsel, Sean Schwerdtfeger, represented the District in the transaction and since he cannot accept such a commission, the deal was made to compensate the District directly – this will in turn, go to cover his actual legal fees and hopefully a good portion of the \$20K bank fees for putting the loan together.

Lastly, the bank, Municipal Finance Corporation, expects annual payments in arrears or after each year has passed, so our first payment (approx. \$79K) will come due sometime late next calendar year – the District will receive direction for a payment schedule and since the budget this year included \$90,382 for an estimated loan payment, this will create an excess for this fiscal year – it might be advisable to establish a new payment account and begin building up some reserves now.

While the District is now in debt to the tune of about \$80,000 per year for the next 20 years to pay off the \$1M loan, try to think of this as a barrier or large hurdle for any outside agency, namely LAFCO, should they or some other authorized agency attempt to dissolve our District for whatever reason – there would be the matter of this debt to have to deal with if we were dissolved.

County Access Permit

To reiterate last month's report on this subject, the County has finally responded to our request for accepting an easement in favor of the District for beach access for maintenance purposes. Since the process is going to take several months and winter is near, they are offering us a 6 month temporary access permit to help us out through this winter while we continue the permanent easement process. *(continued on next page)*

Among the requirements for the temporary access permit would be a vicinity map showing the area and where the proposed entry point will be. For this we will need to engage with a surveying engineer plus some legal counsel work in writing up the permit details, etc. and making sure the District doesn't make any procedural mistakes that could affect us in the future.

There is no budget item for this process but the expense could be assigned to our *Beach Clean Up* budget item – we're forecasted to have a *La Nina* winter, meaning less than normal precipitation, so it is likely the beach won't need a lot of storm cleanup and we should have some unspent funds there, to help cover the costs.

As with the LAFCO Latent Powers issue, there is plenty of uncertainty with thinking the County would ever allow a permanent access easement for our District. The County is currently working with the CCC on the temporary CDP to armor their parking lot. There is push from the Surfrider Foundation to have the County create a pilot program that would include a *Vegetated Dune Structure* on a portion of the parking lot. Without knowing if this would become a requirement of the Coastal Commission and without knowing exactly where it would be located along the County facility, there is no way the County is going to place another hurdle (permanent access easement in favor of the District) in the way of bringing their project to a close.

It appears more and more reasonable to think that our best option with the County right now and for the foreseeable future, would be to work with them on establishing a rotating 6-month or annual access permit.

If you're wondering why bother with this at all since the District now owns permanent beach access for equipment deployment via the vacant lot that was just purchased, the reason is simply to go after a viable second beach access option. This can be relegated to a lesser priority right now but should be pursued this year or next.