

ITEM 5

REGULAR MEETING #679
CAPISTRANO BAY DISTRICT BOARD OF DIRECTORS
MINUTES
Tuesday, December 7, 2021 (NovDec combined)
REGULAR MEETING 6:30 PM
OPEN TO THE PUBLIC

1. CALL TO ORDER

District Manager Russell called the Meeting to order at 6:30 PM

2. PLEDGE OF ALLEGIANCE

District Manager Russell led attendees in the Pledge of Allegiance

3. ROLL CALL/CLOSED SESSION REPORT OF ACTION

Directors Present:	Irani, Haack, McNulty, Wiersig and Jenkins
Staff:	Manager Russell, Admin Assist. Morris
Absent:	None
Agents:	None
Contractors Present:	Allied Security Post Commander Robert Stabenow
Guest Speakers:	None

4. PUBLIC COMMENTS

Manager Russell reported that a letter from the Alex Schwada Law Firm, on behalf of the Coalition to Save Capistrano Beach, was submitted to the District at 2:10 PM, too late for the Friday submittal deadline and that the Board will respond to the letter at the next meeting, that being January 25th, 2022.

5. APPROVAL OF MINUTES

Meeting #678 for October, 2021

MOTION – Motion was made by Vice President Haack, seconded by President Irani, and voted 5-0 to approve the Minutes of Meeting #678 as presented.

6. SECURITY

a. Monthly Security Report – November, 2021

The security report was received and filed. Post Commander Robert Stabenow reported on a very quiet November with no speeding incidents, one trespasser, one erratic driving complaint and a loose dog.

7. BOARD OF DIRECTORS VACANCIES

Manager Russell explained that two of our Directors will be leaving the Board soon. Director Irani will vacate his seat at the end of December and Director Haack at the end of January, both leaving with one year remaining on their terms. The District has sent out a community notice for interested volunteers to step up and take the remaining unexpired portion of each of the vacancies. The District can lawfully appoint replacements but for the remaining year only. At the end of year, the District will have to conduct an election to vote in new candidates – this will take place on November 8, 2022, along with the general mid-term elections. Details for the election process will be provided in the Spring.

ITEM 5

8. FINANCE

a. **Monthly Expense Report**

The expense report through October was received and filed. Manager Russell pointed out that the scheduled property tax apportionments due in December of approximately \$300K will help build back the District's reserves that were drawn down due to the recent purchase of the vacant beachfront lot. This month's report only covers through the end of October and does not reflect the wire transfers of the \$1.4 M that went to escrow, taking the FMB account balance from \$1.9M down to \$500K.

9. OLD BUSINESS

a. **Shoreline Protection Progress Report/Homeowner Group**

Manager Russell opened the discussion, reporting that homeowners are in the process of organizing an advisory group to begin a more purposeful effort at a plan for some type of shoreline protection for the community. First efforts at establishing an advisory group/committee has yielded a group of ten homeowners. This advisory group has asked the District for support and endorsement. The consensus by the District was to encourage the homeowner group to take the next six weeks to develop a more organized plan of action and present this at the January 25th Board meeting. Some homeowners feel the District should be leading the charge on this, however, the Board has pointed out that the District's authority to deal with shoreline protection is limited by its Charter but is working with LAFCO to expand its powers in the area of 'Flood Protection'.

b. **LAFCO/Latent Powers-Flood Protection Facilities**

As per direction at the October Board meeting, the District has engaged with ENGEO Engineering to produce the remaining reports and studies required by LAFCO to complete the final *PLAN OF SERVICE* submittal for the process to expand District powers and authority for Flood Protection. Manager Russell pointed out that this process may take until early Spring to get completed and that there are no guarantees at this time that LAFCO will authorize such an expansion of powers.

c. **Acquisition of Real Property/County Beach Access Option**

Manager Russell reported that escrow closed on Friday, December 3rd and the District is now the owner of record for the undeveloped vacant beachfront lot at 35071 Beach Road.

Regarding the effort to gain a permanent access easement over the County Beach Park property, the County is more in favor of processing an annually renewable access permit as opposed to a permanent easement. The County points out that given the uncertainty with its current Beach Park shoreline protection project and any future Coastal Development Permits, there is reluctance on their part to create a permanent condition that could have a potential negative impact on the project design and permitting. Manager Russell recommends the District continue its efforts at establishing a second beach access option within the County Beach Park facility but that it be in pursuit of the annually renewable access permit. Board consensus was to set aside the effort at a permanent easement and work toward the option to establish a renewable access permit, at least until the County finalizes their plans for their facility improvements.

10. NEW BUSINESS

a. **Possible Release of Engagement with Steve Kaufmann of Nossaman LLP**

Nossaman LLP was originally hired a year ago by the District to deal with the violation threats coming from the Coastal Commission regarding their claims of the District performing unpermitted sand grading on the beach. With the issue resolved and with the delay caused by the District's efforts with LAFCO on further shoreline protection work by the District, the Board is considering the termination of the engagement, but before doing so has directed staff to discuss the conflict of interest issue with Nossaman to see if this can be waived rather than releasing the firm.

ITEM 5

11. QUALITY OF LIFE - CBRA DISCUSSION ITEMS

Admin Assistant Karen Morris reported that the City's efforts at developing a proposed three year pilot program has advanced to the point where the STR Subcommittee has received input from residents and plans to submit a draft of the program plan to the Planning Commission in January.

12. WRITTEN COMMUNICATIONS

The Board received resignation letters from Saeed Irani and Mike Haack (discussed in Agenda Item 7)

13. BOARD AND STAFF COMMENTS

The Board thanked outgoing Director/Board President Saeed Irani for his three years of contribution to community.

NEXT BOARD MEETING: Tuesday, January 25th, 2022

ADJOURNMENT Manager Russell adjourned the meeting at 7:53 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 a *DRAFT* copy of the Minutes of Meeting #679, held on December 7th, 2021.

Donal S. Russell

DONAL S. RUSSELL, Manager
Capistrano Bay Community Services District

December 14, 2021

DATE