

CAPISTRANO BAY DISTRICT
AGENDA REPORT
April 26, 2022

Old Business

ITEM 9b

Counsel Review of RR License and RR Parking Lease Agreement

The District is regulated by a Master License For Use Agreement with OCTA that permits the District to make use of the available Railroad Right-of-Way (ROW) land for vehicle parking, trash enclosure placement and activities incidental thereto.

The Master License Agreement has been in place since 1998, was written by OCTA's general counsel, was negotiated back and forth by the Board at that time, has worked superbly all these years, and is not a document that the District should go back and argue for revisions. However, it was submitted to our counsel for review. The fees charged by OCTA for premium beach property in South OC is ridiculously low, as counsel pointed out, and it's probably not a good strategy to open pandora's box and risk giving them an opportunity to revise the License and raise our rates. OCTA will someday get around to requesting increased fees, so let's not try to fix something that is working so great to our advantage right now. Actually, OCTA did make a run at raising rates, about six years ago, but they made a big mistake in their facts and justification for an increase and the District prevailed in retaining the status quo. The District has not heard a single word out of them since then.

The Sub-Lease Agreement between the District and the individual property owners however, is different matter. District's counsel did conduct a thorough review of the *RR Lease Agreement* and made numerous edits and revisions to bring the language of the lease document into conformance with today's legalese. Additionally, the Design Standards for trash enclosures and structures recently approved by the Board of Directors needed to be incorporated into the lease agreement.

The lease agreement has been updated and the only piece of business left to complete the process will be a revision to District Ordinance No. 05-205 (Regulates the keeping of trash, etc) to incorporate the new CBD Trash Enclosure & Storage Structure Design Standards. The update to the ordinance will be on the agenda for review and approval at the May Board meeting.