

# ITEM 5

**REGULAR MEETING #689**  
**CAPISTRANO BAY DISTRICT BOARD OF DIRECTORS**  
**MINUTES**  
**Tuesday, November 15, 2022**  
**REGULAR MEETING 6:30 PM**  
**OPEN TO THE PUBLIC**

**1. CALL TO ORDER**

District Manager Russell called the Meeting to order at 6:37 PM

**2. PLEDGE OF ALLEGIANCE**

District Manager Russell led attendees in the Pledge of Allegiance

**3. ROLL CALL**

Directors Present:	McNulty, Wiersig, Jenkins, Lurner and Misher
Staff:	Manager Russell, Admin Assist. Morris
Absent:	PC Stabenow/AUS
Agents:	None
Contractors Present:	None
Guest Speakers:	None

**4. PUBLIC COMMENTS**

There were no public comments

**5. APPROVAL OF MINUTES**

Meeting #688 of September 27, 2022

**Motion** was made by Board President McNulty, seconded by Director Jenkins and voted 5-0 to approve Minutes #688 of September 27, 2022, as submitted.

**6. SECURITY**

**a. Monthly Security Report – October 2022**

With PC Stabenow absent, Manager Russell reported on two STR violation incidents during the month that were sent to the City for enforcement action. It is not known at this time what action was taken by the City Code Enforcement team – they don't always follow up with the District.

Director Lurner complimented the security staff for their very helpful actions at the community entrance during the recent RR grade crossing incident where the crossing was shut down due to a pedestrian death on the tracks.

**b. Road Striping/15 MPH Signage**

Manager Russell explained that the striping was being done incorrectly and was stopped until he and the contractor can devise an effective black-out procedure to cover up all the mistakes and start over. Corrections will take place after the Thanksgiving holiday.

**c. District Police Program/Three Month Trial /Budget Report**

Manager Russell was directed, at the previous Board meeting, to provide a cost analysis for retaining the District Police Officer through to the end of the fiscal year at his regular weekly time of two days, then for three, four and five days a week commitments to allow the Directors to see what the District can afford.

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As was reported last month, an informal email polling of the community to continue the District Police program produced the following results from the 47 property owners who responded:

- Support continuation           34
- Oppose continuation           9
- Undecided                       4

With the cost analysis indicating the District can draw from existing reserves to carry the program to the end of June, 2023, at full time rather than part time, the Board took the following action:

**Motion** was made by Director Lurner, seconded by Director Wiersig and approved 5-0, to continue the District Police Officer and Program for employment at five days per week, only to the end of June 2023, to allow for further evaluation of the effectiveness of the program on speeding, parking, late night disturbances, etc.

### 7. **This Item is Left Purposely Blank**

### 8. **FINANCE**

#### a. **Monthly Expense Report**

The expense report through September, 2022 was received and filed, without comment.

### 9. **OLD BUSINESS**

#### a. **Food Scraps Recycling/State Law/Senate Bill 1383**

Manager Russell wanted to remind the Board and Community that the new state law is requiring all residential property owners to start separating food scraps from the regular household trash. The District will provide additional notice by postal mail and email when our trash hauler, CR&R, will begin the distribution of the new half-size green trash barrels for the food scraps. We are being told this could take place possibly in December but with no specific date provided at this time.

#### b. **Renter Recovery Fees/McNulty**

In general, this would be to assess a fee on active rentals to recover the costs born by the District in dealing with the impact of rental activity in the community.

Manager Russell explained that today's laws prevent cities and special districts from randomly assessing fees on their constituents without first conducting the due process required by Prop. 218, that was passed into law several years ago. The process requires the services of legal counsel and an assessment engineering firm to study the benefit to property owners and to analyze the impact of the rental activity and translate that into a fair and reasonable fee amount and then have the property owners vote on it. The cost to have this process done and brought to a vote could cost the District up to \$30,000 and while this is not in the current budget, staff was directed to seek a proposal from an assessment engineering firm.

Additionally, Director Lurner asked that staff report next month on the actual number of rentals operating in the community, including STR's, long-term rentals and unpermitted rentals.

### 10. **NEW BUSINESS**

#### a. **Undergrounding of Power and Communications Utilities (Lurner)**

In the previous Board meeting, Director Lurner wanted to know why the efforts for the project were stopped and what the reasons were. Manager Russell stated that community interest in shoreline protection took precedence over the undergrounding of utilities and that there were several unanswered questions around items that could prevent the project from developing further, for example:

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- would property owners vote in a majority to support the expense (should have two thirds support)
- will enough property owners accept having a transformer in their yard
- will the CCC want the private entrance gate opened to the public – would owners accept this
- would SDGE consent to placing their utilities underground in the coastal flood zone
- will LAFCO agree to grant to the District the authority to underground the utilities

Because any one of these issues could prevent the project from progressing, the Board agreed to let this matter remain on hold for the time being.

### **b. Trash Enclosure Request/35395/Jenkins**

Manager Russell presented the plans to the Board and showed that the proposed structure is in compliance with the District's guidelines and policy. Director Lurner asked about the landscaping requirement, pointing out that while this submittal seems to have more vegetation showing, the three recently built trash enclosures at 35715-725 don't seem to have enough, thus leaving a very stark and bare look to the area. It was explained that the guidelines require a minimum of 20% for landscaping. Director Lurner asked if the guidelines could possibly be revised to increase the percentage of greenery and asked staff to show photos at the next meeting of different locations with differing landscape percentages to inform a possible revision to the guidelines. Director Misher also pointed out that those three trash enclosures have roll-up doors which add to the commercial look and maybe this could be considered in with the vegetation revisions being considered. With that, the Board took the following action:

**Motion** was made by Board President McNulty, seconded by Director Wiersig, and voted 5-0 to approve the proposed trash enclosure at 35395 Beach Road, pursuant to the plans dated 11-1-22.

## **11. QUALITY OF LIFE - CBRA DISCUSSION ITEMS**

### **a. Short Term Rentals**

The Coastal Commission is conducting a hearing on the CDP application on STR's by the City of Dana Point on Wednesday, Nov. 16th, the day after our Board meeting. Therefore, there will be no STR report until the next regularly scheduled Board meeting.

## **12. WRITTEN COMMUNICATIONS**

### **a. Letter from Schwada Law Firm dated August 30, 2022**

Letter was received and filed.

## **13. BOARD AND STAFF COMMENTS**

- Director Misher requested that staff Christmas bonuses be placed on the next agenda for discussion.
- Manager Russell asked the Board to check their calendars for a possible next meeting on 12-6-22.

**NEXT BOARD MEETING:** Possibly December 6, 2022, 6:30 PM

**ADJOURNMENT** Manager Russell adjourned the meeting at 8:11 PM.

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**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 #689, held on November 15th, 2022.

*Donal S. Russell*

DONAL S. RUSSELL, Manager  
Capistrano Bay Community Services District

*November 18, 2022*

DATE

*DRAFT*