

**SUMMARY OF ACTIONS
BROAD BEACH GEOLOGIC HAZARD ABATEMENT DISTRICT
BOARD OF DIRECTORS
REGULAR MEETING
JUNE 3, 2012
31330 BROAD BEACH ROAD, MALIBU, CALIFORNIA**

1. CALL TO ORDER

Chair Karno called the meeting to order at 8:30 a.m.

2. ROLL CALL

PRESENT: Chair Karno, Vice Chair Grossman, Board Member Levitan, Board Member Lotman, Board Member Marquis, and Advisor Goss.

ABSENT: None.

GHAD STAFF ALSO PRESENT (not Board Members and not subject to Roll Call): GHAD Manager Jeff Adams (telephone), GHAD Clerk and Treasurer Barbara Hamm, GHAD Engineer Russ Boudreau, and GHAD Project Counsel Ken Ehrlich.

Closed Session: Following Roll Call, the GHAD Board with Engineer Boudreau and Project Counsel Ehrlich went into Closed Session to give direction to negotiators Chair Karno, Vice Chair Grossman, Board Members Marquis, Lotman, and Levitan, Engineer Boudreau, and Project Counsel Ken Ehrlich in connection with real estate issues regarding potential future seaward boundary and future seaward lateral access from the mean high tide line of 6525 Point Lechuza - 30708 Pacific Coast Highway, Malibu California 90265. GHAD Project Counsel Ehrlich announced that the GHAD negotiators are Chair Karno, Vice Chair Grossman, Board Members Lotman, Marquis and Levitan, Engineer Boudreau, and GHAD Project Counsel Ehrlich; the agency negotiators are Curtis Fossum, Charles Lester, Eric Gilles, Shelli Haaf, Steve Hudson, Jack Ainsworth and Alex Helperin.

At approximately 9:45 a.m., the Closed Session ended and the Board reconvened in Regular Session. GHAD Project Counsel Ehrlich announced that the Board had given the negotiators direction to negotiate the pending real estate issues with the Coastal Commission and the State Lands Commission.

3. ADOPTION OF AGENDA

The Chair recognized the GHAD Clerk. GHAD Clerk Barbara Hamm reported that the meeting Agenda was posted on May 31, 2012, at 8:30 a.m. within the boundaries of the GHAD. Board Member Lotman moved, and Board Member Marquis seconded, that the Agenda be approved with no changes. The Motion approving the Agenda passed 5-0.

4. **APPROVED SUMMARY OF ACTIONS FROM APRIL 29, 2012 MEETING**

Board Member Lotman moved, and Board Member Marquis seconded, the approval of the Summary of Actions from the April 29, 2012 meeting. The Motion passed 5-0.

5. **CEREMONIAL PRESENTATIONS**

None.

6. **CONSENT CALENDAR**

None.

7. **PUBLIC HEARINGS**

None.

8. **OLD BUSINESS**

A. Permitting and Regulatory Process. The Chair recognized Project Counsel Ehrlich. Project Counsel Ehrlich reported that the GHAD's response letter to the State Lands Commission's April 2012 Notice of Incomplete Application had been sent. Project Counsel also stated that Moffatt & Nichol's draft Technical Report is due to be circulated within the next 10 days and, with Board Member Marquis, updated the Board regarding recent meetings with dredge contractors.

Mr. Ehrlich then sought Board input on the non-real estate issues anticipated to be discussed at the June 7, 2012 meeting with the staffs of the Coastal Commission and State Lands Commission. The following issues and recommendations were discussed:

(i) Revetment Alignment: The existing revetment ECDP calls for the possibility of relocating or removing the easternmost 1,300' of the existing revetment. To date, no agency has requested the movement or removal of this portion of the revetment. The Chair recognized Vice Chair Grossman, who commented that the issue of relocating the easternmost portion of the revetment should be open for discussion with the agencies in the context of other permitting issues and conditions. Vice Chair Grossman moved, and Board Member Marquis seconded, that the GHAD should agree to relocate the easternmost portion of the revetment no more than 15 feet landward. The Motion passed 5-0. Vice Chair Grossman also suggested that once the Coastal Commission develops permit conditions, the GHAD should request a refund of the \$189,000 currently on deposit and allocated for the potential removal of this portion of the revetment.

(ii) Project Duration: The Chair recognized Project Counsel Ehrlich who briefed the Board that, to date, the GHAD has offered a 20 year nourishment obligation and permissive nourishment in perpetuity at the GHAD's discretion thereafter in exchange for the GHAD's right to maintain the revetment permanently. Vice Chair Grossman moved, and Board Member Marquis seconded, a GHAD commitment of no more than two (2) major beach nourishments (one per decade), encompassing a total of 20 years. In addition, the Board

recommended to the negotiators to attempt to ensure a permanent entitlement for the nourishment so that future entitlements and permitting, beyond 20 years, would not be necessary. The Motion passed 5-0.

(iii) Linkage of Revetment Permitting and Nourishment Permitting: The Chair recognized Project Counsel Ehrlich. Project Counsel Ehrlich stated that the agencies appear strongly inclined to link the permitting for the revetment and the nourishment -- in contrast to the GHAD's proposal for perpetual permitting of the nourishment and revetment following a 20-year nourishment commitment. The Chair recognized Vice Chair Grossman, who stated that the GHAD should maximize its ability to negotiate future terms and alter its position later. The Chair recognized Board Member Marquis, who stated that the GHAD should agree to linking the nourishment commitment and the revetment permitting during the June 7, 2012 meeting with the agencies. The Chair recognized Board Member Levitan, who stated that the GHAD's position on this point should be negotiable during the June 7, 2012 meeting. Board Member Levitan moved, and Board Member Lotman seconded, that the GHAD's position on this issue should be negotiable during the June 7, 2012 meeting. The Motion passed 5-0.

(iv) Dune Construction and Maintenance: Board Member Lotman moved, and Board Member Levitan seconded, that the GHAD should agree: (1) to develop and maintain restored dunes (GHAD to be responsible for restoration of the dune area itself, but not vegetation); (2) that removal of non-native dune vegetation and replacement with natural, native vegetation should be paid for and maintained by individual GHAD property owners with respect to their respective properties; (3) that the failure of any individual homeowner to comply with vegetation responsibilities is enforceable by the agencies according to law; and (4) that an alleged vegetation-based violation shall not be the basis for claiming that the GHAD has violated any CDP or Lands Commission-issued Lease or constitute the basis for termination of the CDP or Lease. The Motion passed 5-0.

(v) Trancas-Only Sand: The Chair recognized Project Counsel Ehrlich. Project Counsel Ehrlich stated that, if it becomes uneconomical or impossible for the GHAD to use the same Hopper Dredge to be used for the San Diego area nourishment project, the potential exists to use up to 750,000 cubic yards of relatively fine-grained sand from seaward of Trancas Canyon to complete the initial nourishment, and achieve significant cost savings over the Dockweiler Beach sand option. The Chair recognized Board Member Marquis, who moved, seconded by Board Member Lotman, that the GHAD's position regarding Trancas-only sand be negotiable at the June 7, 2012 meeting. The motion passed 4-0. (Board Member Levitan was temporarily absent during the vote on this Motion, and rejoined the meeting following the vote.)

(vi) Public Benefits Study: The Chair recognized Project Counsel Ehrlich. Project Counsel Ehrlich stated that, after previously expressing inconsistent positions, the agencies recently requested that the GHAD conduct a study of the project's benefits. Previously, Moffatt & Nichol had estimated the cost for such project at approximately \$50,000. The Chair recognized Vice Chair Grossman, who stated that the \$50,000 estimate is excessive for the proposed study. Vice Chair Grossman further suggested that any proposed public benefits study should not include any analysis or estimate of the property tax increment or increased property tax revenues resulting from the project. The Chair recognized Board Member Levitan, who stated that the cost estimate for the report appears excessive and further questioned the need for

such a report. The Chair recognized Board Member Marquis, who stated that, as a result of hearing the agencies' respective positions regarding our project, he perceived a genuine need for the GHAD to quantify the benefit for the agencies. Board Member Marquis moved, and Vice Chair Grossman seconded, that the GHAD agree to conduct a public benefits study, but that the GHAD should retain control of the scope and cost of the report. The Motion passed 5-0.

(vii) Use of Restored Dune/Existing Revetment as Last Resort for Public Access in the Event of Erosion: The Chair recognized Project Counsel Ehrlich. Project Counsel Ehrlich stated that, in previous meetings, Coastal Commission staff members stated their desire for the revetment and/or the restored dune to serve as public access to the beach in the event of future erosion to the dry sand beach. The Chair recognized Board Member Marquis, who stated that he would be against use of the dune or the revetment as a public access source of last resort. Board Member Marquis moved, and Vice Chair Grossman seconded, that the GHAD should assert at the June 7, 2012 meeting that the dune and/or revetment should not be used for public access, but that the GHAD should be negotiable and open to other alternatives. The Motion passed 5-0.

(viii) Participation at June 7, 2012 Meeting: The Chair stated that an issue has arisen regarding Board participation at the June 7, 2012 meeting. The Chair noted that Vice Chair Grossman has stated his desire to participate in the meeting via telephone and cannot appear in person due to a previous commitment. Board Member Marquis has made himself available for the June 7, 2012 meeting, but feels that the GHAD's position would be compromised if one Board Member would appear in person and another via telephone. The Chair recognized Vice Chair Grossman, who stated that he has invested significant time into this project, remains deeply committed to the project, and remains respectful of all of his neighbors and GHAD Board Members. Vice Chair Grossman further stated that he very much desires to participate in the June 7, 2012 meeting, but due to unchangeable commitments, cannot appear in person in San Francisco for the meeting. Instead, he can only participate via telephone. Vice Chair Grossman further stated that he has another immediate commitment and must depart the meeting, but respects the Board's ultimate position on the issue. At this time, Vice Chair Grossman left the meeting.

The Chair recognized Advisor Goss. Advisor Goss stated that, regardless of the Board's decision, Board Member Marquis must attend the June 7 meeting. The Chair recognized Project Counsel Ehrlich. Project Counsel Ehrlich stated that Board Member Marquis has participated in all of the previous meetings with Lands Commission and Coastal Commission staff and is needed to maximize the effectiveness of the GHAD at the meeting. Chair Karno further stated that Board Member Marquis is essential to an effective project and added that the combination of Vice Chair Grossman and Board Member Marquis is a compelling combination. The Chair further stated that Vice Chair's experience as a former Coastal Commissioner and historic involvement in Broad Beach issues renders him essential for the June 7th meeting. The Chair requested a motion that Board Member Marquis be urged to reconsider his position and participate in person, regardless of Vice Chair Grossman's participation by telephone. The Chair recognized Board Member Levitan. Board Member Levitan stated that, while Vice Chair Grossman and Board Member Marquis in fact constitute a compelling combination, he believes value exists in having two in-person representatives as well. The Chair asked if Board Members Levitan or Lotman could participate in the June 7, 2012 meeting in San Francisco. Board

Member Lotman stated that, coincidentally, he had early morning business in San Francisco anyway and could participate. Board Member Levitan stated that, if necessary, he could participate in San Francisco as well. Board Member Levitan moved, and Board Member Lotman seconded, that the GHAD should have two in-person representatives at the June 7, 2012 meeting. The Motion passed 3-1 with the Chair opposing.

B. Discussion of Budget and Proposed Corrective Measures. The Chair recognized Board Member Marquis. Board Member Marquis asserted that a \$1,000,000 gap exists between current funds on hand and the anticipated necessary permitting/entitlement funding until the end of December 2012. Board Member Marquis estimated that, at the present spending rate and based on projections of anticipated costs, current GHAD funding should be exhausted by the end of July or early August 2012. The Chair recognized Advisor Goss. Advisor Goss reported that, at the Chair's request, Advisor Goss had assumed the task of contacting GHAD members who had not yet voluntarily contributed to the project's funding. Advisor Goss stated that he had already made at least 25 calls to non-contributors, and received varying responses. For example, Advisor Goss reported that the Malibu Bay Company's representative stated that it needed an additional two weeks to determine its position on voluntary contributions. Advisor Goss was informed that at least two voluntary contributions were in the mail and also promised to report to the GHAD clerk within one week of any additional developments.

The Chair expressed the need for the Board to take action to collect additional funding to get through the permitting expenses. The Chair requested a Motion and Resolution to authorize the Chair and/or Board Member Marquis to approach a reputable bank to negotiate and obtain a credit facility in excess of \$1,000,000 and no more than \$3,000,000 with terms mutually acceptable to the GHAD and the bank. The Chair further requested that the Motion and Resolution include a provision that, in the event a line of credit cannot be obtained through reasonable means or terms, that Chair Karno or Board Member Marquis be granted the ability to negotiate and obtain a loan or loans from a single or multiple parcel owners within the GHAD (or their agents) in excess of \$1,000,000 and no more than \$3,000,000 with terms acceptable to the GHAD and the funding sources. Board Member Marquis so moved. The Chair recognized Advisor Goss, who asserted that the Board would be well served to pursue both funding options concurrently. The Chair recognized Board Member Levitan, who seconded the Motion and Resolution on the floor. The Motion carried 4-0.

C. Proposed New Moffatt & Nichol Contract. The Chair recognized Project Counsel Ehrlich. Project Counsel Ehrlich referred Board members to the Staff Report for this agenda item, and summarized the Staff Report. Board Member Lotman moved, and Board Member Marquis seconded, that Project Counsel Ehrlich should finalize negotiations with Moffatt & Nichol for a new engineering services contract in accordance with the Staff Report for Agenda Item 8C. Board Member Marquis seconded the motion. The Motion carried 4-0.

D. Future Management of BBGHAD Web Site. The Chair recognized Project Counsel Ehrlich, who discussed the need for appropriate support for the GHAD's web site in light of the fact that the current web site manager is leaving her position. Board Member Levitan and Advisor Goss both recommended the use of Square Space as a platform for the GHAD web site. Board Member Levitan volunteered to assume responsibilities of moving the current web site from the current provider to Square Space. Board Member Levitan then moved that: (1)

under guidance and direction from Board Member Levitan, the Board should attempt to use Square Space to support the current web site, and (2) in the event that such arrangement proves infeasible, then, under Board Member Levitan's guidance and direction, the GHAD shall retain an outside consultant, such as Sari Karplus, for web site support and development. Board Member Lotman seconded the Motion. The Motion carried 4-0.

9. NEW BUSINESS

None.

10. GHAD BOARD MEMBER REPORTS

None.

11. GHAD OFFICER REPORTS

A. Treasurer's Report. The GHAD Treasurer reported that, as of May 31, 2012, the GHAD had \$505,083 on hand. The GHAD Treasurer also predicted that, after June or July 2012, the cash on hand would likely be zero in light of current debts and responsibilities. The GHAD Treasurer reiterated that the GHAD must obtain funds to operate after the end of June or July 2012.

B. GHAD Manager Report. The GHAD Manager (Jeff Adams) reported that the County Assessor's office is anticipated to receive in the coming week the necessary documentation to finalize and confirm that the assessment will appear on the County's next-issued property tax bills.

12. PUBLIC COMMENTS

None.

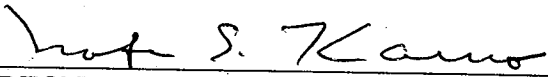
13. FUTURE MEETING

The Chair announced that the next GHAD Board Meeting is scheduled for July 22, 2012, at 31330 Broad Beach Road, Malibu, California 90265 at 9:30 a.m.

14. **ADJOURNMENT**

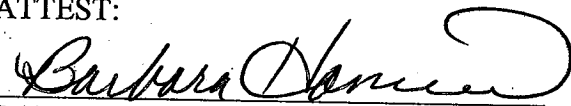
Board Member Lotman moved, and Board Member Levitan seconded, a motion to adjourn. The Motion passed 4-0.

Approved and adopted by the Broad Beach GHAD
Board on July 22, 2012.



NORTON KARNO, Chair

ATTEST:



BARBARA HAMM, GHAD Clerk