

Summary of Actions

BROAD BEACH GEOLOGIC HAZARD ABATEMENT DISTRICT

REGULAR SESSION MEETING

Sunday, February 7, 2016; 9:00 a.m.

31454 Broad Beach Road, Malibu, CA 90265

1. CALL TO ORDER

The Chair called the regular meeting to order at 9:03 a.m.

2. ROLL CALL

PRESENT: Chairman Norton Karno, Vice Chair Marshall Grossman, Board Member Jeff Lotman, Board Member Jeff Marine and Board Member Bill Curtis.

BBGHAD STAFF ALSO PRESENT: Malibu West Advisor to BBGHAD Board Chris Spiros, Project Manager Mark Goss, Project Counsel Ken Ehrlich, BBGHAD Engineer Russ Boudreau, and Clerk/Treasurer Heike Fuchs.

3. ADOPTION OF AGENDA

The Chair recognized the Project Manager, who reported that the Agenda was posted on February 4, 2016 at 8:30 a.m. within the BBGHAD boundaries and concurrently posted on the BBGHAD website. Vice Chair Grossman moved to adopt the Agenda as presented. Board Member Marine seconded the Motion, and the Motion passed 5-0.

Closed Session

At 9:06 a.m. the Chair announced, without objection, that the Board would move into Closed Session.

Resumption of Regular Session

The Chair resumed Regular Session at approximately 10:32 a.m. Project Counsel reported that, in Closed Session, the Board discussed the status of the revetment gap dispute with the owner of 30822 Broad Beach Road and the status of lease negotiations with the SLC.

4. APPROVE SUMMARY OF ACTIONS FROM JANUARY 10, 2016 MEETING

The Chair recognized Board Member Curtis, who moved to approve the Summary of Actions from the January 10, 2016 Board Meeting with certain minor edits announced

by Project Counsel. Board Member Lotman seconded the Motion, and the Motion passed 5-0.

5. CEREMONIAL/PRESENTATIONS

None.

6. CONSENT CALENDAR

None.

7. PUBLIC HEARINGS

None.

8. NEW BUSINESS

None.

9. OLD BUSINESS

a. Permitting and Regulatory Process Status.

(i) CCC: Briefing on implementation status of CCC's CDP.

The Chair recognized the Project Manager, who began his report with an update on the BBGHAD's position with the Coastal Commission (CCC). The Project Manager stated that the CCC has issued its Notice of Intent to adopt the CDP for the BBGHAD Project, CDP 4-15-0390, and issued the long-awaited "side letter" which clarifies certain CDP issues. The Project Manager added that the BBGHAD Engineer has issued a schedule for compliance with the "prior to issuance" conditions specified in the CDP and that BBGHAD staff will manage completion of these tasks within the next 2 to 3 months, with a target completion date of the "prior to issuance" conditions of June 30, 2016. The Project Manager further informed the Board about recent challenges with CCC staff in light of the agency's internal executive staff personnel issues.

The Chair recognized Project Counsel, who explained that the next step is for the BBGHAD to accept and sign the Letter of Intent. The BBGHAD then must accomplish the "prior to issuance" conditions within two (2) years prior to issuance of the Permit.

The Chair recognized the Project Manager, who updated the Board on the Scientific Advisory Panel ("SAP"). The Project Manager reminded the Board that the CDP creates the SAP and specifies its mission and extent of its' powers. The Project Manager further stated that he has been spending a considerable amount of time on SAP issues of late, including significant time with CCC biologist and SAP member Jonna Engel and newly-elected SAP Chair Pete Raimondi, a UC Santa Cruz Professor, to create

and implement an acceptable monitoring framework. The Project Manager further added that other agencies which are not formally represented on the SAP, such as State Lands Commission, Army Corps, federal and state fish & wildlife agencies, and Regional Water Quality Control Board, have indicated a willingness to participate in SAP meetings and the SAP process. The Project Manager further reported that he and the Project Counsel have urged the Coastal Commission and SAP Chair to advance SAP issues more expediently.

The Project Manager related his hope that, in light of the U.S. Army Corps' commitment to participate in the SAP process, the Army Corps will gain comfort in ceding authority over adaptive management and mitigation issues to the SAP.

The Project Manager further reported that Project Counsel and he contacted the CCC staff regarding the administration of funds to pay SAP members and other SAP expenses. CCC staff have informed the BBGHAD that the Monterey Bay Foundations currently administers other SAP funds and charges an 18% administrative fee for its services. Project Counsel's law firm has offered to complete the same administrative tasks for the SAP at no charge. In turn, the CCC executive staff has rejected the prospect of Project Counsel's office handling SAP administrative matters. The Chair recognized the Vice Chair, who reported that Marlene Grossman has experience with non-profit organizations and the Project Manager should seek advice on this issue.

(ii) SLC

The Chair recognized the Project Manager, who reported that the BBGHAD has issued its written response to the SLC's most recent lease terms, and hopes to meet with SLC Commissioners soon to continue lease negotiations with the SLC.

(iii) Army Corps

The Chair recognized the Project Manager, who stated that the U.S. Army Corps still insists on mitigation prior to the implementation of the Project.

The Chair recognized Project Counsel, who reported that he contacted the most senior Army Corps staffer (in light of Aaron Allen's temporary transfer), Dan Swenson, trying to change his view of our mitigation and the Army Corps' process of dealing with the impact of the BBGHAD Project. Project Counsel reported that he informed Mr. Swenson of the finding from the BBGHAD's November 2015 Mean High Tide Line survey that the beach has actually grown since the revetment has constructed. Mr. Swenson was surprised by the findings and requested to review the data, which has been provided to the Army Corps. Mr. Swenson also admitted that Army Corps staff has not yet reviewed the BBGHAD's latest 404(b)(1) alternatives document submitted to Army Corps in mid-January 2016.

Project Counsel stated that the Army Corps claims that certain impacts are now known, due to the 6-year presence of the revetment, and such impacts can be quantified and "paid". The agency also asserts that it does not know the possible impact(s) associated with beach nourishment. Typically, the Army Corps' permitting process requires mitigation payments as part of Project approval even though scope and breadth of future impacts are then known. Here, Project Counsel believes that the Army Corps may be receptive to the concept of evaluating future impacts through the SAP.

The Chair recognized the Project Manager, who stated that the BBGHAD's federal lobbyist has been re-hired and is working to schedule a meeting with senior Army Corps staff including the head of the LA regional office, Colonel Kirk Gibbs, within the coming weeks. The Project Manager added that Vectis is also lobbying at the Congressional level to accelerate the federal approval process and to discuss the SAP in detail.

The Chair recognized the Vice Chair, who inquired about Vectis' effectiveness to date and the planned duration of Vectis' retention. The Vice Chair questioned if the BBGHAD-Vectis agreement contains a provision reducing or eliminating any fees owed if Vectis is not actively engaged on a BBGHAD matter. The Project Manager responded that he would forward a copy of the agreement to the Vice Chair. The Vice Chair also recommended contacting the now-transferred Army Corps staff member, Aaron Allen, to help in navigating through the BBGHAD's permitting process.

The Chair asked the Project Manager: a) to access Vectis' performance, and b) if the BBGHAD is completing every action appropriate to assist the Project's permitting effort. The Project Manager responded that he believes Vectis is working hard on the BBGHAD project and that the BBGHAD is doing within its knowledge to get the Project permitted. The Chair asked the same questions to Project Counsel, who responded that, from previous experience with Vectis, he believes Vectis will be effective with congressional leaders and decision makers, but that they have not yet committed to a specific timeframe.

The Chair asked the identity of the primary Army Corps decision makers and an overview of the Army Corps process. The Chair recognized the Project Counsel. Project Counsel stated that senior Army Corps staffer David Van Dorp and Colonel Gibbs are the ultimate decision makers for this region. Project Counsel then presented an overview of the federal NEPA and Clean Water Act process for the Project.

The Chair questioned the rotation policy for the head of the Army Corps' LA regulatory division. Project Counsel stated that the Colonel serves for two years before being rotated, and his tenure began within the past 4 months.

The Chair recognized Board Member Jeff Marine, who asked if the Board can receive an update by email of the the Army Corps meeting before the next BBGHAD Board meeting. The Chair stated that BBGHAD staff should not wait for any feedback

from the directors if staff feels that they should proceed with contacting people at congressional level.

(iv) Responsible & Consulting Agency update: RWQCB, NMFS, Cal. DFW, CalTrans, etc.

The Chair recognized Project Counsel, who reported that BBGHAD consultant Michael Baker submitted a draft 401 water quality certification package to the Regional Water Quality Control Board.

The Chair recognized the Project Manager, who presented an overview of CalTrans' responsibilities for the Project.

b. Permitting Outreach & Strategy Update.

The Chair recognized the Project Manager. The Project Manager briefed the Board of new developments with a potential sand source, upland Calleguas Creek, in Ventura County. Previous tests 2+ years ago from a downstream location at Calleguas Creek revealed significant pesticide contamination, which prevented it from Project use. More recently, in light of the dispute among Moorpark, Fillmore, and Ventura County over Project sand truck routes, Ventura County officials invited the BBGHAD to test the sand in a more upland location of Calleguas Creek. The BBGHAD's initial sampling results appear favorable for contaminants and color, but the sand is slightly more coarse than the CCC specification. The Project Manager reported that the next step is to receive Dredge Material Management Team (DMMT) approval for a more thorough sampling and analysis plan for more detailed testing. The Project Manager opined that, if approved, this source could lead to reduced costs and a reduced carbon footprint.

The Chair recognized the BBGHAD Engineer, who circulated sand samples from Calleguas Creek to Board Members. The BBGHAD Engineer informed the Board that the CCC approved sand coarseness of approximately 0.6 millimeters and the Calleguas sand measures approximately 0.71 millimeters.

The Chair asked the BBGHAD Engineer his opinion about the probability for the CCC to modify its position on sand specification to approve the Calleguas sand. The BBGHAD Engineer asserted that sand from other areas of the same source may have reduced coarseness and a chance exists that the BBGHAD can persuade the CCC to allow this sand in light of the Moorpark-Fillmore-Ventura County controversy.

The Chair asked the Project Manager if Ventura County would give the sand to the BBGHAD at no cost since Ventura County wants to dispose of the sand. The Project Manager stated that the costs of Calleguas Creek sand are unknown at this point.

The Chair recognized Project Counsel. Project Counsel briefed the Board on the process to get the sand approved by the CCC: a) DMMT approval, b) cost and logistics confirmation, c) vetting with surrounding municipalities of truck route and logistics, and d) attempt to obtain CCC approval. Project Counsel voiced his concern about the timeframe and costs.

The Chair inquired about the cost and time involved in the testing of the Calleguas sand. The Chair recognized the BBGHAD Engineer, who reported that the comprehensive costs would be approximately \$20,000 to take more samples in accordance with DMMT approval.

MOTION: Board Member Curtis moved, and Board Member Marine seconded, that the Board proceed with further testing at upland Calleguas Creek, with costs not to exceed \$20,000. Hearing no further discussion, the Chair called the question, and the Motion passed 5-0.

The Chair recognized the Project Manager, who stated that he had been approached by another possible sand source and will take a meeting within the next week. The Chair expressed his satisfaction with having multiple, competing sources and it is worth further exploring our options.

10. BBGHAD Officer Reports

a. Project Manager Report

The Chair recognized the Project Manager. The Project Manager reported that the BBGHAD contractor Moffatt & Nichol has a liability concern for this Project in light of a claim from the SANDAG II project. Moffatt & Nichol has asked for further discussions in light of this recent claim.

b. Treasurer's Report

The Treasurer reported that the Board needs to sign a New Account Agreement with City National Bank to add the new Board Members as authorized signers. The Chair noticed that Board Member Curtis was not included in the agreement. The Chair recognized Board Member Curtis, who stated a concern with completing the form. The Chair asked the Treasurer to put Board Member Curtis in direct contact with City National to address his concerns.

The Treasurer reported that, as of January 29, 2016, the cash balance was \$2,818,150.64 and the estimated unpaid bills are \$19,070.26.

11. BBGHAD Board Member Reports

The Chair recognized the Vice Chair. The Vice Chair asked if it would be possible to move Closed Session to the end of the Board Meetings to better accommodate the public. The Chair responded that it is very difficult to predict the timing of the Closed Session as well as the Board Members' schedules. The Chairs' stated that the Closed Session issues are very important to the BBGHAD and should typically be handled before Regular Session. The Chair suggested informing the public that, assuming a 9:00 a.m. start time, Closed Session should end at approximately 10:30 a.m.

12. Public Comment - Non-Agenda Items

The Chair recognized Malibu West Advisor Spiros. Advisor Spiros outlined a potentially dangerous condition as the revetment currently ends at the parcel immediately west of Malibu West and, at times when the ocean laps against the revetment, tides and surf can direct Malibu West swimmers into the revetment. Malibu West would like to discuss placing a lifeguard at this location. The Board agreed to agendaize this issue for the next board meeting.

The Chair recognized Pat Healy, who requested the results of the BBGHAD's late 2015 Mean High Tide Line survey. Project Counsel referred Ms. Healy to contact the BBGHAD Engineer, who will provide the information.

Board Member Curtis suggested scheduling 2016 Board Meetings as far in advance as possible. The Vice Chair agreed to do so.

Board Member Lotman left the meeting at 12:18 p.m. The Chair departed the meeting at 12:21 p.m.

13. Future Meeting


Meeting: To Be Determined.

Location: TBD

14. Adjournment


Board Member Marine moved, and Board Member Curtis seconded, to adjourn the meeting. Hearing no objections, the Vice Chair called the question and the motion passed 3-0. The meeting adjourned at 12:24 p.m.

Approved and adopted by the Broad Beach GHAD
Board on _____, 2016



NORTON KARNO, Chair
Marshall Grossman, Vice Chair

ATTEST:



HEIKE FUCHS, Clerk