

**SUMMARY OF ACTIONS  
BROAD BEACH GEOLOGIC HAZARD ABATEMENT DISTRICT  
REGULAR MEETING  
MARCH 11, 2012  
30756 PACIFIC COAST HIGHWAY, MALIBU, CALIFORNIA**

**1. CALL TO ORDER**

Chair Karno called the meeting to order at approximately 1:12 p.m.

**2. ROLL CALL**

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

ABSENT: Board Member Marquis.

GHAD STAFF ALSO PRESENT (not Board Members and not subject to Roll Call): GHAD Manager Uri Eliahu (telephone), GHAD Clerk and Treasurer Barbara Hamm, and GHAD Project Counsel Ken Ehrlich.

**3. ADOPTION OF AGENDA**

Board Member Levitan moved, and Vice Chair Grossman seconded, the approval of the Agenda with no changes. GHAD Clerk Barbara Hamm reported that the meeting Agenda was posted at 8:30 a.m. on Thursday March 8, 2012 within the boundaries of the GHAD. The motion approving the agenda passed 4-0.

**4. APPROVED SUMMARY OF ACTIONS FROM FEBRUARY 12, 2012 MEETING**

Chair Karno referenced an edit on page 3 of the Summary of Actions circulated with the Board packet (adding the words "the project does not include" as the first words after the beginning of the parenthesis at line 10 of the first full paragraph on page 3). Subject to the edit requested by the Chair, Board Member Lotman moved, and Board Member Levitan seconded, the approval of the Summary of Actions from the February 12, 2012 meeting. The motion passed 4-0.

**5. CEREMONIAL PRESENTATIONS**

None.

**6. CONSENT CALENDAR**

None.

**7. PUBLIC HEARINGS**

Chair Karno stated that the Board will conduct a single Public Comment period for both agenda item 7a. and 7b., and Broad Beach GHAD property owners may substitute their ballots

on the proposed assessment at any time until the closing of the public hearing on agenda item 7a. The Chair further stated that the Board's three (3) minute time limit for commenters will be increased to ten (10) minutes per speaker for the entirety of Agenda item 7. The Chair stressed that the current item is quite important for the GHAD and all of its property owners, and the Board wants to ensure that all views are shared among the GHAD property owners, the public, the Board, and other stakeholders.

GHAD Counsel Ehrlich presented the Staff Report for the agenda item, and recommended Board approval, subject to the GHAD property owner's assessment vote, of both the agenda items 7a. and 7b, including Resolution Nos. 2012/03 and 2012/04. GHAD Counsel Ehrlich further reported on the March 9, 2012 receipt of written protests to the proposed assessment from Arthur Barends, counsel for Chad McQueen, and from Kenterra VI, L.P.'s ("Kenterra") counsel, Allan Abshez, and retained engineer, David Weiss. The Kenterra written protest (letter from counsel and report from David Weiss) was marked as Exhibit 1 and the Barends/McQueen protest was marked as Exhibit 2. GHAD Counsel Ehrlich also stated that the GHAD's Engineer, Moffat & Nichol, has prepared a response to Exhibits 1 and 2, a letter report dated March 10, 2012. The Moffat & Nichol letter report was marked as Exhibit 3.

The Chair then recognized Allan Abshez, counsel for Kenterra. Mr. Abshez stated that he represents the entity which owns the parcels at 31388 and 31406 Broad Beach Road and which has submitted a written protest to the proposed assessment. Mr. Abshez also submitted copies of maps of historic mean high tide lines for Broad Beach and a diagram of historic high tide lines in the area. These documents collectively were marked as Exhibit 4. On behalf of his client, Mr. Abshez requested that the GHAD Board decline to adopt the proposed assessment based on the materials submitted on Kenterra's behalf and for the reasons mentioned by Mr. Abshez during the January 2012 GHAD Board meeting. Mr. Abshez further requested that the GHAD remove the properties west of the beginning of Little Broad Beach Road from the proposed assessment district or, alternatively, decline to adopt the proposed assessment.

The Chair then recognized Wini Lumsden. Ms. Lumsden introduced herself as the President of Trancas Property Owners Association ("TPOA") and spoke about some of the history of the western end of Broad Beach. Ms. Lumsden stated that she has been a resident of Broad Beach since 1957. Ms. Lumsden presented a picture taken in 1975 that shows dunes at the western end of Broad Beach near Lechuza Point; a copy of this photograph was marked as ~~Exhibit 5~~ Exhibit 5. Ms. Lumsden stated that sand has been significantly eroded since that date.

The Chair next recognized Max Factor. Mr. Factor shared a two page letter with the GHAD Board, and same was marked as Exhibit 6. Mr. Factor stated that he supports and endorses the comments of Mr. Abshez, but is primarily concerned about his own property at 31460 Broad Beach Road. Mr. Factor explained that he believes his property will incur physical damage from the proposed sand nourishment if 20 vertical feet of sand is placed on the beach seaward of his home. Mr. Factor is concerned that sand would spill over the existing retaining wall, into his yard and home and potentially the yard and home of his neighbor as a result of the

nourishment. Mr. Factor stated that the area of beach around his home needs less sand than areas to the east and, therefore, should pay a smaller proportionate share of GHAD costs than other GHAD owners. Mr. Factor also questioned the GHAD's beach frontage determination as he claimed that his frontage is actually 50 feet and not 51 feet as specified in the GHAD materials. By using 51 feet as the frontage for the proposed assessment, Mr. Factor claimed that his family is being charged too much for the proposed assessment.

Mr. Factor further stated that, in his view, a small group of GHAD property owners wants the proposed beach nourishment and dune restoration, but a larger group of GHAD property owners are disproportionately subsidizing the small group. Mr. Factor further stated his belief that, as a result of the project, the western Broad Beach area will be serving as a "warehouse" for sand and, therefore, the "warehouse" should get paid to store the sand. Mr. Factor also stated a concern for tide pools and other habitant areas at the western part of Broad Beach and claimed that these areas could be adversely affected by nourishment activities. Mr. Factor closed by stating that his family does not want to be treated disproportionately, and has spent hundreds of thousands of dollars on protection from the sea and does not want to be part of this GHAD effort.

The chair then recognized Allan Mutchnik. Mr. Mutchnik stated that he is the owner of 31372 Broad Beach Road, which is on Little Broad Beach Road, the same road that Mr. Abshez requested for exemption from the GHAD. Mr. Mutchnik stated that Little Broad Beach contains roughly 11 homes and that his home shares a sea wall with 3 other homes. Mr. Mutchnik asserted that he speaks for all of the four (4) owners with the common sea wall in stating that they welcome the sand nourishment and dune restoration contemplated by the project and that these homeowners are strongly committed to the project. Mr. Mutchnik asserted that the common sea wall shared by the 4 homeowners was severely damaged in September 2010 and that the homeowners have spent hundreds of thousands of dollars repairing same; without the project, their homes and sea wall would be compromised. Mr. Mutchnik further stated that nourishment sand will be contoured for each individual home and that the backpassing element of the project is critically important to maintain sand at the western end and to lengthen the amount of time between major nourishments. Since the historic pattern of sand movement at Broad Beach is from west to east for most of the year, Mr. Mutchnik asserted that backpassing is critical to the preservation of the nourishment. He expressed strong support for the project and stated that his support is shared by many homeowners of the west end.

The Chair then recognized Vice Chair Grossman. Vice Chair Grossman confirmed with Mr. Mutchnik that his property and those of the others with whom he shares a common sea wall are identified as property numbers 20, 21, 22, and 23 in the report prepared by David Weiss ("Weiss Report") and submitted by Kenterra. Mr. Mutchnik confirmed same. Vice Chair Grossman then asked when the 4-home sea wall was built and how it failed in 2010. Mr. Mutchnik related that the sea wall was built after severe storms in the early 1990's. The sea wall faces the ocean and has two (2) returns-- one at each end of the sea wall. The eastern-most return failed in September 2010 and collapsed into the deck of his current home at 31372 Broad Beach Road. Mr. Grossman then asked if Mr. Weiss served as the engineer of record for the

construction of the sea wall in 1990's or served in a similar capacity for the reconstruction in 2010. Mr. Mutchnik stated that he does not know if Mr. Weiss was the original engineer for the sea wall and that he was not the engineer of record for the recent reconstruction of the sea wall.

Vice Chair Grossman then addressed questions to Mr. Factor and Dr. Jane Arnault. After thanking Mr. Factor and Dr. Arnault for the professional and courteous manner in which they have stated their views on the proposed project, Vice Chair Grossman asked about the history of the sea wall at the Factor/Arnault home. Dr. Arnault responded that David Weiss was the structural engineer for the sea wall at their home and it was constructed with permits more than 10 years ago. Dr. Arnault stated that the cost of the sea wall was "six figures". She further explained that it was built with the cooperation of her neighbor, Bill Curtis, and the two homeowners have since started replacing and repairing under-home support columns one by one. A recent single column repair cost in excess of \$100,000, and six to seven more columns must be repaired. Dr. Arnault related that there are many unknowns and idiosyncrasies involved in the repair of each individual column and obtaining firm bids for the work is difficult. Dr. Arnault further stated that Mr. Weiss is assisting them now in their current replacement and repairing of the under-home columns.

Vice Chair Grossman then thanked Mr. Factor and Dr. Arnault for their December 2011 questioning of the beach frontage numbers used for purposes of the GHAD as their questioning allowed the GHAD to confirm the frontage for each parcel, including the Factor/Arnault parcel, and also obtain a third party, independent survey repair review of the entire survey aspect of the project. Dr. Arnault responded by stating that the date of the survey used to calculate GHAD beach frontages was arbitrary and not fair or appropriate for the process. Dr. Arnault suggested that all owners should submit their own surveys, regardless of dates, and the GHAD should use the submitted surveys. Vice Chair Grossman responded that the GHAD's outside professionals and consultants advised the GHAD as to the manner and conduct of the beach frontage survey.

The Chair then recognized Board Member Levitan. Board Member Levitan stated that, in the past year, his family has learned that their home suffers from significant foundational undermining caused by sand erosion. Board Member Levitan stated that an area originally filled with sand has now been carved out by wave and tidal action. Approximately 600 cubic yards of sand from under the Levitan residence has been washed out to sea. Board Member Levitan stated that having increased sand area between homes and the ocean and no wave action pounding against homes, such as that proposed by the project, can only benefit the community and area homes. In contrast, high waves, erosion, and water smashing into homes and sea walls hurts the community and area homes. Therefore, the proposed sand nourishment and dune restoration project will place wave action a far and significant distance away from homes, which will be good for all.

The Chair then recognized Vice Chair Grossman. Vice Chair Grossman requested Mr. Abshez to respond to various questions. Vice Chair Grossman asked if Exhibit 1 (letter and Weiss Report) were submitted on behalf of Kenterra only or other clients. Mr. Abshez

responded that Exhibit "1" was submitted on behalf of Kenterra only. Vice Chair Grossman then asked if Mr. Abshez inquired of Mr. Weiss as to whether Weiss had been consulted or retained by the GHAD in connection with this project. Mr. Abshez responded that he does not recall. Mr. Abshez added that he retained Mr. Weiss in January 2012. Vice Chair Grossman stated that on January 9th, 10th or 11th of 2012, GHAD Counsel Ehrlich had two different conversations with Mr. Weiss and in those conversations shared with Mr. Weiss attorney client confidential information in order to acquaint Mr. Weiss with the nature of the project, pending issues, and the GHAD's position on the same. Vice Chair Grossman stated that it would seem logical that Mr. Weiss would not have engaged in such an interview process with GHAD Counsel Ehrlich had he already been retained by Kenterra. Therefore, Vice Chair Grossman requested Mr. Abshez to provide a copy of his firm's engagement letter with Mr. Weiss. Mr. Abshez stated that he would need to look into the matter and did not commit to producing a copy of the engagement letter.

Vice Chair Grossman then asked if Mr. Weiss inspected the beach prior to the preparation of his report. Mr. Abshez responded that he believed that Mr. Weiss visited the beach, but Mr. Weiss was not present to confirm same. Vice Chair Grossman then asked about the status of permitting for shoreline protective devices at lot numbers 7, 27 and 28 as identified in the Weiss Report. Mr. Abshez responded that he has no idea of the permitting of shoreline protective devices for such lots. Mr. Abshez added that his client's sea wall is permitted and Mr. Weiss believes that the current sea wall at the Kenterra property will be acceptable for at least 20 years, the anticipated life of the proposed restoration project. Therefore, Mr. Abshez requested that his client not be assessed funds to protect a sea wall that, according to Mr. Abshez, does not need protection. Mr. Abshez stated that some of the homes within the GHAD are on rocky cliffs and bluffs and, therefore, do not need protection. He also asserted that the GHAD will be paying to "fill public land" to create a dry sand beach that will be owned by the public. Mr. Abshez questioned why Kenterra and other members of the GHAD are being required to subsidize property improvement on a public beach with no monetary participation by the state of California. Mr. Abshez further commented that his client: opposes the questioning of various facts in the Weiss Report, seeks to be deleted from the GHAD, and has no interest in paying to place sand at Lechuza Point and "incur environmental damage" as a result.

Vice Chair Grossman responded that the questions regarding the Weiss Report are important because Kenterra and Mr. Abshez have asked the GHAD Board to rely on the Weiss Report. Therefore, it is important for the Board to determine whether the Weiss Report presents accurate facts, was prepared with sufficient care, and is otherwise credible. Vice Chair Grossman then asked Mr. Abshez if, prior to the construction of the current sea wall at the Kenterra property, previous shoreline protective devices or other structural elements of the Kenterra property failed due to wave or tidal action. Mr. Abshez responded that he does not know. Vice Chair Grossman then showed Mr. Abshez a photograph at page 111 of a book entitled "Images of America Malibu" and asked if what is now the Kenterra property is in the background of the photograph. Mr. Abshez stated that he did not see how a response would benefit the discussion. Vice Chair Grossman stated that the GHAD Engineer has opined that

what is now the Kenterra property is in the background of the photograph, with visible dunes seaward of the improved property.

Vice Chair Grossman then asked if the Kenterra properties were in escrow to be sold. Mr. Abshez responded that he does not see how this question could be relevant to the issue at hand.

Vice Chair Grossman then asked Mr. Abshez if he could explain the recent failure of the steel sheet pile wall protecting property numbers 21 through 24, as numbered by the Weiss Report, in light of the fact that the Weiss Report concludes that such wall would not be undermined by wave action. Mr. Abshez responded he does not know anything about these properties or the shoreline protective device(s) seaward of them.

Vice Chair Grossman then asked Mr. Abshez if the statement on page 3 of the Weiss Report that "the western beach never had a protective dune" is correct. Mr. Abshez stated he could not answer the question and referred Vice Chair Grossman to the Weiss Report. Vice Chair Grossman then showed Mr. Abshez a photograph identified as taken on February 14, 1982 at Victoria Point with obvious sand dunes in the background. The photograph was marked as Exhibit "7". Vice Chair Grossman then asked Mr. Abshez if he could explain how it is that his client is endorsing a report that has factual inaccuracies in it-- i.e., representing that the western portion of Broad Beach never had a protective dune when other evidence shows otherwise. Mr. Abshez responded that he does not know that the report is factually inaccurate. Mr. Abshez then stated that it was his belief that, traditionally, eastern Broad Beach homes had deeper lots with more sand dune than western lots, and future protection of the eastern lots should not be borne by the owners of the western lots.

Vice Chair Grossman then asked Mr. Abshez to outline the relief that his client requests. Mr. Abshez responded that Kenterra seeks to be deleted from the GHAD assessment and/or revise the project so the "cove" is not filled with sand.

The Chair recognized Board Member Levitan. Board Member Levitan stated that review of Moffat & Nichol's 1972 and 2010 Broad Beach/Lechuza Point photographs clearly show the potential of the proposed project to restore all of Broad Beach, including the Lechuza Point area, to the approximate beach conditions which existed in or about 1972 - at least as close as possible. Board Member Levitan stated that this is a positive goal and a good thing for all stakeholders.

The Chair recognized Dr. Arnault. Dr. Arnault requested additional copies of the March 10, 2012 Moffat & Nichol Letter Report. Copies of the same were handed to all who requested them.

The Chair then recognized Mr. Mutchnik, who responded to previous speakers who claimed that the proposed project would disproportionately benefit eastern Broad Beach. Mr. Mutchnik testified that, at high tide each day, his sea wall is pounded by waves and that such pounding reverberates through his entire home. Mr. Mutchnik stated that eastern Broad Beach

properties are not pounded by waves in the same manner as his home or other western Broad Beach homes. With the project, the erosive and dangerous wave action would be moved significantly seaward, which would greatly benefit and protect all Broad Beach homes. Therefore, Mr. Mutchnik contests the claim that eastern Broad Beach would disproportionately benefit from the project more than western Broad Beach.

The Chair then recognized Mr. Abshez. Mr. Abshez stated that, based on the testimony he has heard, he does not doubt the sincerity of the various people who testified and shared their views. Based on the disparity of views asserted, he suggested that the Board not act on the assessment and engage in talks with all stakeholders to attempt to reach a compromise on the project.

The Chair then recognized Dr. Arnault. Dr. Arnault claimed that an inaccuracy exists in the March 10, 2012 Moffat & Nichol letter report, Exhibit 3. Dr. Arnault stated that, contrary to a statement in Exhibit 3, there was no \$40,000 sea wall repair project recently completed at her home. Vice Chair Grossman thanked Dr. Arnault for the correction and further stated that Dr. Arnault and Mr. Factor's earlier comments clarify this point. Dr. Arnault further sought clarification as to the meaning of "sand scour below historic elevation" in photograph number 6 of Exhibit 3. Mr. Boudreau stated that the phrase was intended to show that the photograph depicts a low sand elevation and that the low sand elevation did not always exist.

Mr. Boudreau stated that he wished to make two additional points. First, Mr. Boudreau stated that the project presents a clear benefit and a clear special benefit to west end homes as the proposed project would eliminate or greatly reduce the damage to west end homes and damage referenced earlier in the meeting (foundation undermining, foundation column repair/replacement, and failure of shoreline protective devices). Second, Mr. Boudreau referred to a Moffat & Nichol poster board (marked as Exhibit 9) to illustrate a typical cross-section of the proposed project and stated that, in general, the beach nourishment project is planned to be built at an elevation of between approximately plus 12 and plus 16, which is a typical flat beach elevation. Therefore, there is no intent to "stack" sand as a result of the project and no intent to have sand entering back yards or structures.

The chair recognized Mr. Abshez. Mr. Abshez commented that Kenterra objects to the Engineer's Report on the basis that the report does not attempt to calculate the special benefit at the Kenterra property or other parcels and, according to Mr. Abshez, simply asserts that sand would protect the existing sea wall and proposes an assessment of up to \$400 per linear foot. Mr. Abshez questioned Mr. Boudreau if Moffat & Nichol ever calculated the special benefit to any individual parcel at Broad Beach. The chair directed Mr. Abshez' question to GHAD Counsel Ehrlich. GHAD Counsel Ehrlich responded by stating that Mr. Boudreau is not at the meeting to be deposed or cross-examined by anyone and that the Engineer's Report and all other documents prepared pursuant to the creation of the GHAD, the GHAD itself, and the proposed assessment are believed to comply with the laws of the state of California.

The chair then recognized Dr. Arnault. Dr. Arnault stated that, in or about Fall 2011, GHAD property owners were invited to meet with the GHAD Engineer to discuss the project and any specific details. Dr. Arnault stated that she subsequently contacted GHAD Counsel Ehrlich, who informed Dr. Arnault that cost considerations prevented the requested meeting. Dr. Arnault further stated a concern that, as proposed, the project would cause sand to blow from the Arnault property into the neighboring Curtis property. Board Member Levitan commented that certain Broad Beach homeowners, including certain west Broad Beach homeowners, have chosen to construct pools in backyards that border sandy beach areas. Therefore, the natural environment dictates that a relatively minimal amount of sand may naturally blow in the air on occasion and such sand may get into undesired places. Further, Board Member Levitan stated that it is difficult to believe that stated concerns are blowing sand when a primary project purpose is to prevent large ocean waves and tides from damaging structures and property.

Vice Chair Grossman added that the GHAD and the TPOA have held countless meetings with homeowners before and after the formation of the GHAD, and project engineers and consultants have been present at every one of those meetings and answered every question asked of them. Vice Chair Grossman further stated that, based on his own personal knowledge, the GHAD Engineer and others have met personally with Dr. Arnault and Mr. Factor at several of such meetings. Vice Chair Grossman also mentioned that the GHAD faces real budgetary constraints which, in the exercise of fiscal prudence, rendered certain requested meetings not possible. Vice Chair Grossman added that the project is being planned in such a way that sand will not simply be dumped into anyone's pool.

Dr. Arnault responded that her point was that certain west Broad Beach owners will likely need less sand than other Broad Beach owners and GHAD assessments on west Broad Beach owners should be proportionate based on the amount of sand received.

The Chair then commented. The Chair stated that Winter 1995-96 was a particularly bad storm season and certain neighbors installed temporary rock revetments to protect their parcels. Subsequently, the Coastal Commission sent threatening letters to the homeowners, urging the homeowners to remove the temporary rock revetments or face severe fines and penalties for the alleged unpermitted devices. The Chair stated that, at that time, his family owned 31360 Broad Beach Road, the first house east of where the four-home sea wall currently exists (the same sea wall that Mr. Mutchnik referred to earlier in the meeting). The Chair stated that he removed temporary rocks at his home, and wave and tidal action subsequently destroyed his home. The Chair believes that the four-home sea wall was built sometime in the fall in 1996 so that it was in place for the winter of 1996-97. The Chair further stated that, based on historic erosion and property damage at the western end of Broad Beach, the western homes would likely benefit the most from the project in relation to other Broad Beach area homes. The Chair further stated that, when he moved into the 31360 Broad Beach property in or about 1981, his property and his neighbor's property had dunes between their backyards and the ocean.



The Chair further sought confirmation that no member of the public, GHAD Board member, or GHAD staff had any further comments on this agenda item. No such comments were forthcoming. The Chair then declared the public comment portion of the meeting closed and asked the GHAD Clerk and GHAD Counsel to begin the tabulation of the votes on the proposed GHAD assessment.

GHAD Counsel Ehrlich thanked the board and the Chair, and stated that the tabulation of the votes on the proposed assessment would begin. GHAD Counsel Ehrlich explained that the votes will be tabulated both manually and electronically. The votes will be tabulated manually by GHAD Clerk Barbara Hamm, and electronically via a programmed Excel spreadsheet prepared by GHAD Manager ENGEO and in use on the GHAD Counsel's computer, the GHAD Clerk's computer, and that of the GHAD Manager in northern California. Each valid ballot will be opened and the vote will be announced, at which time the amount of that parcel's linear beach frontage (according to the January 18, 2012 Assessment Diagram) will be added to either the "yes" or "no" spreadsheet column depending on the GHAD parcel owner's vote. Concurrently, the GHAD Clerk will manually record each vote and, after opening all valid votes, will add the linear frontage feet voting "yes" and the linear frontage feet voting "no", and announce the results.

GHAD Counsel Ehrlich further stated that the vote will not be recommended for approval or certification until the manual tabulation and the electronic tabulation are identical. GHAD Counsel Ehrlich further announced that only valid ballots will be counted. Specifically, only those green ballots submitted by the owner of each parcel will be counted. GHAD Counsel Ehrlich announced that the GHAD Clerk has previously placed the received ballots in APN order, and the ballots will be opened in that order. Mr. Abshez asked if a record of non-green ballots would be kept. Mr. Ehrlich answered in the affirmative. Dr. Arnault asked if there would be a printout of the results available for the homeowners. GHAD Counsel Ehrlich answered in the affirmative.

The votes were then tabulated. During the course of the tabulation, it was discovered that the owners of the parcels with the APNs ending in 013-004 and 014-016 submitted white ballots and such ballots were not counted. After tabulating all of the valid, received ballots, electronic tabulation showed 4,618 feet voting "yes," 785 feet voting "no," and a total of 5,403 feet voting in the election. GHAD Counsel Ehrlich announced that the manual tabulation of the votes will now commence. After approximately ten (10) minutes, the GHAD Clerk announced a manual calculation of 4,618 feet voting "yes," 785 feet voting "no," and a total of 5,403 feet voting. The GHAD Clerk announced that the electronic and the manual tabulation matched identically. GHAD Counsel Ehrlich asked the GHAD Clerk if she, therefore, certifies the assessment vote. The GHAD Clerk responded in the affirmative. GHAD Counsel Ehrlich further questioned the GHAD Clerk as to whether she could certify the vote in writing in accordance with proposed Resolution No. 2012/03 to the extent that the GHAD Board passes the resolution. The GHAD Clerk responded in the affirmative. GHAD Counsel Ehrlich announced that he will take possession of all the ballots. At this time, the GHAD Clerk signed Exhibit 1 to Resolution No.

2012/03. The GHAD Clerk then handed the signed Exhibit 1 to proposed Resolution 2012/03 to the Chair. Due to a personal emergency, Board Member Levitan left the meeting at this time.

The Chair then declared the tabulation portion of this agenda item closed. The Chair then requested a motion to adopt Resolution No. 2012/03. Vice Chair Grossman moved that the GHAD Board adopt Resolution No. 2012/03. Board Member Lotman seconded the motion. The motion carried 3-0.

Board Member Lotman moved that the Board adopt Resolution No. 2012/04. Vice Chair Grossman seconded the motion. The motion carried 3-0. The Chair noted that, inherent in the results of the vote on the proposed assessment and the GHAD Board's adoption of Resolution Nos. 2012/03 and 2012/04, there was no majority protest or opposition to the proposed assessment, and that the tabulation results revealed at least 85% of the voting property owners in favor of the proposed assessment. Thus, the Chair stated that the GHAD Board finds no majority protest to the proposed assessment, and Resolution Nos. 2012/03 and 2012/04 are enacted accordingly.

## 8. OLD BUSINESS

A. Report On Permitting and Regulatory Process. GHAD Counsel Ehrlich reported on the status of the permitting and regulatory process for the project. GHAD Counsel Ehrlich reported that, in the last month, the permitting effort has continued even though the proposed assessment has taken significant attention. The State Lands Commission ("SLC") is moving forward with its assessment and analysis of environmental impacts for the project. The SLC has informed the GHAD that, if the assessment vote passes, the SLC would assert that the CEQA exemption in GHAD law would apply and, therefore, prevent the agency from completing an Environmental Impact Report ("EIR") or otherwise applying CEQA to the permitting process. Instead, the SLC has informed the applicant that, instead of an EIR, the agency will prepare an Analysis of Public Trust Resources ("APTR") using its existing contractor, AMEC, with substantially the same format of a CEQA EIR. The SLC has also confirmed that it is coordinating efforts with the California Coastal Commission ("CCC") such that the two agencies will share analyses and investigations conducted and prepared by AMEC and the applicant's technical consultants.

GHAD Counsel Ehrlich also reported that the GHAD received in the last week a letter from the Regional Water Quality Control Board ("RWQCB") stating that the agency has ceased processing the GHAD's water quality certification request due to the lack of fee payment. GHAD Counsel Ehrlich reminded the Board that the applicant and the agency have a dispute over the applicable fee, and that a meeting is scheduled to occur in mid-April in an attempt to resolve the dispute.

**9. NEW BUSINESS**

A. Proposed BBGHAD Web Site. Board Member Lotman reported that the web site is ready to be launched with the relevant documents for inclusion. The Chair requested that the contact numbers for the GHAD Clerk be placed on the "Home" page and the "Contact Us" page, and that the emails and contact information of Board Members be deleted. Board Member Lotman agreed to implement the request. Vice Chair Grossman thanked Board Member Lotman for his significant efforts in creating the web page.

**10. GHAD BOARD MEMBER REPORTS**

The Chair solicited reports from the remaining Board Members. Vice Chair Grossman asserted that the active participation of those who objected to the GHAD assessment and the repeated inquiries from various Malibu West Board members and residents enriched the GHAD Board's consideration of the GHAD itself and the proposed assessment, and benefited the community at large. Vice Chair Grossman stated that this input demonstrates democracy in action and has resulted in a better process than would have otherwise occurred. Vice Chair Grossman also expressed thanks to GHAD Board Advisor Mark Goss for his wise counsel under difficult circumstances on behalf of Malibu West.

Board Member Lotman had no further comments. The Chair echoed the Vice Chair's comments and observed that all of the people on the beach remain neighbors and expressed the hope that we can go forward in a constructive and neighborly way to beautify and restore the beach.

**11. GHAD OFFICER REPORTS**

A. Financial Report. GHAD Treasurer Barbara Hamm reported a cash balance of \$453,092 as of February 29, 2012. Several GHAD property owners have been contributing significant fair share payments. The Chair stated his appreciation and that of the Board for those who have contributed to date and have helped the GHAD pay bills in these difficult times. The Chair expressed his hope that, now that the assessment has passed, additional fair share payments would be made. The Chair noted that a budget discussion was agendaized, but the two principal Board Members to lead the discussion, Board Members Levitan and Marquis, were absent. Therefore, the Chair announced that this item would be tabled until the next GHAD Board meeting.

**12. PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA**

The Chair solicited any additional comments from the public. None were forthcoming.

**13. FUTURE MEETING**

After conferring with Board Members, the Chair announced that the next GHAD Board Meeting will be April 29, 2012, at 9:30 a.m. at the private residence located at 31330 Broad Beach Road.

**14. ADJOURNMENT**

Board Member Lotman moved for adjournment. The Chair seconded the motion. The motion carried 3-0. The meeting adjourned at 4:47 p.m.

Approved and adopted by the Broad Beach GHAD Board on April 29, 2012.

  
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NORTON KARNO, Chair

ATTEST:

  
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BARBARA HAMM, GHAD Clerk