

## **Summary of Actions**

### **BROAD BEACH GEOLOGIC HAZARD ABATEMENT DISTRICT**

#### **REGULAR SESSION MEETING**

Sunday May 19, 2019; 9:00 a.m.

Juan Cabrillo Elementary School-Library  
30237 Morning View Drive, Malibu, CA 90265

#### **1. Call to Order**

The Chair called the meeting to order at 9:06 a.m.

#### **2. Roll Call**

PRESENT: Chair Karno, Vice Chair Grossman, and Board Member Needleman. Board Member Kuba arrived at approximately 9:16 a.m.

ABSENT: Board Member Marine

BBGHAD ALSO PRESENT: Project Engineer Boudreau, Project Manager Ovrom, Clerk/Treasurer Fuchs, Special Counsel Colantuono, and Project Counsel participated by phone.

#### **3. Adoption of Agenda**

The Chair recognized Project Counsel, who reported that the Agenda was posted on Wednesday May 15, 2019 at approximately 6:00 p.m. within the BBGHAD boundaries and concurrently posted on the BBGHAD website. The Chair recognized Board Member Needleman, who moved to adopt the Agenda as posted. Vice Chair Grossman seconded the Motion, and the Motion passed 3-0.

#### **Closed Session**

At 9:07 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 10:35 a.m. The Chair recognized Project Counsel, who reported on the agenda items discussed in Closed Session. No specific actions were taken.

The Chair announced, that the Board would take the agenda out of order and start with Agenda item #12, Public Comments.

## **12. Public Comment - Non-Agenda Items**

The Chair recognized Max Factor III, who inquired about specifics of the May 13, 2019 meeting with the CCC. Mr. Factor further requested copies of the documents provided to the CCC by staff. The Chair recognized Project Counsel, who responded to Mr. Factor's questions. The Chair asked Mr. Factor to submit a PRA request to avoid any ambiguity.

The Chair recognized Max Factor III, who asked how staff determined the percentage (91%) of the signed Springing Licenses. The Chair recognized Project Counsel, who responded to Mr. Factor's question.

The Chair recognized Jim Hornstein, a legal representative for Mr. Magidson, who asked if the Board discussed to pursue further discussions with the litigants in Closed Session, as suggested by legal representative for the Malibu Bay Company Nicki Carlson following the May 15, 2019 court hearing. The Chair recognized Special Counsel, who responded that he has no directions whether to pursue further discussions or not, but that he and Project Counsel had a constructive conversation with Ms. Carlson last week. Mr. Hornstein informed the Board that his client Mr. Magidson will be out of country for approximately 6 weeks.

Special Counsel left the meeting at approximately 10:44 a.m.

### **7. Consider Summary of Actions from April 28, 2019 Meeting**

The Chair recognized Board Member Needleman, who moved to approve Summary of Actions of Actions from the April 28, 2019. Vice Chair Grossman seconded the Motion, and the Motion passed 4-0.

### **8. Old Business**

#### **a. Permitting and Regulatory Process Status**

##### **1. Lead Agency Update**

##### **A. CCC**

##### **i. Prior-to-Issuance Conditions compliance**

The Chair recognized Project Counsel, who reported on the May 13, 2019 meeting with CCC staff. Project Counsel further reported on the guidance from CCC staff for a potential CDP amendment regarding the License Agreements and public access.

##### **B. Army Corps**

No report.

##### **C. RWQCB**

No report.

D. SLC

The Chair recognized Project Counsel, who reported that the SLC extension request is pending and staff anticipates for the extension request to be on the SLC's June 2019 consent calendar. The Chair asked if SLC staff indicted their recommendation for the extension request. Project Counsel responded affirmatively.

2. Responsible & Consulting Agency update: NMFS, Cal. DFW, CalTrans, etc.

No update.

**9. New Business**

None.

**10. BBGHAD Officer Report**

- a. Project Manager Report

1. Updated 2019-2025 Budget

The Chair recognized Project Manager, who reported that an updated budget is included in the Board Packet per the Board's directions. Project Manager further noted that staff has not updated sand costs as they have not been able to meet with CEMEX to discuss same. The Chair asked Project Manager about Project Manager's expected timeframe to report the updated sand costs. Project Manager responded that he anticipates to meet with CEMEX before the next Board meeting.

The Chair recognized Pat Healey, who inquired about the delay to schedule a meeting with CEMEX. Project Counsel responded, that due to past litigation they are sensitive to include all three parties (Moorpark/Fillmore/Ventura County) in the meeting and it has been a challenge to schedule the three necessary individuals for a meeting. Project Counsel anticipates to meet with the parties in June 2019.

The Chair recognized Jim Hornstein, who asked Project Manager to provide an update on the current status of discussions with Boskalis. Project Manager responded that Boskalis is still a viable candidate and he continues to be in discussions with Boskalis. Boskalis' costs remain too high but the firm is trying to further reduce its costs.

- b. Treasurer's Report

The Treasurer reported that as of May 13, 2019 the cash balance was \$5,044,697.20 and the estimated unpaid bills amount to \$120,718.93. The Treasurer further reported that the total fees and costs incurred through April 2019 for the Reef Group litigation amounts to \$409,752.09, \$170,637.00 for the Arnault/Factor litigation, and \$421,309.63 for the Validation Action.

1. Investment Strategy for BBGHAD Funds

The Treasurer recommended, based on budget projections received by staff and cash flow projections for 2019/2020, to invest \$2.5 million in an 11-month CD 2% interest bearing account, and \$1 million in a 5-month liquid CD 1.65%.

The Chair recognized legal representative Hornstein, who asked, in terms of transferring monies into a CD, if it has been taken into consideration the possibility that there will be a determination that the 3<sup>rd</sup> assessment is invalid and a bond would have to be posted. The Treasurer responded that it has not been considered in the evaluation. The Chair recognized Project Manager, who stated that he supports the Treasurer's recommendation. The Chair asked Project Counsel whether he has any commentary concerning Mr. Magidson's counsel question as to whether or not it is appropriate to transfer funds into a longer term CD. Project Counsel responded that, without the court's ruling on the pending litigation, no reason exists not to invest the monies.

MOTION: The Chair recognized Vice Chair, who moved to approve the recommendation by the Treasurer for investment of the BBGHAD funds currently on deposit at City National Bank. Hearing no further Board comments, the Chair called the question, and the Motion passed 4-0.

**11. BBGHAD Board Member Reports**

No Reports.

**13. Future Meeting**

The Chair stated that the next meetings are scheduled for June 9, 2019 starting at 1:30 p.m., and tentatively July 14, 2019, to start at 9:00 a.m. at locations to be determined.

**14. Adjournment**


The Chair recognized Board Member Kuba, who moved to adjourn Regular Session. Vice Chair Grossman seconded the Motion. The Chair called the question, and the Motion passed 4-0. Regular Session was adjourned at 11:07 a.m.

Approved and adopted by the Broad Beach GHAD Board



Norton S. Karno, Chair

Attest:



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Heike Fuchs, Clerk