

SUMMARY OF ACTIONS
BROAD BEACH GEOLOGICAL HAZARD ABATEMENT DISTRICT
REGULAR MEETING
DECEMBER 11, 2011
31330 BROAD BEACH ROAD

1. CALL TO ORDER

Chair Karno called the meeting to order at 9:17 a.m.

2. ROLL CALL

PRESENT: Chair Karno, Vice Chair Grossman, Board Member: Marquis. Board Member Lotman arrived at approximately 9:35 a.m.

ABSENT: Levitan, Advisor Goss.

ALSO PRESENT (not Board Members and not subject to Roll Call): Ken Ehrlich, Tom Levyn, Lynne Norton, Allen Mutchnik, Bill Curtis, Nancy Hastings, Robert Cameron, Casey Zweig, Cindy Vandor, Ronald Vandor, Debbie Rosenberg, Ken Norvet, and Ann Forkeotes. GHAD Council Patricia Curtin and GHAD Manager Uri Eliahu participated by telephone.

3. ADOPTION OF AGENDA

The Board Members unanimously approved the agenda with no changes. Ken Ehrlich reported that the meeting agenda was posted at 8:50 a.m. on Thursday, December 8, 2011, within the boundaries of the GHAD.

4. APPROVED SUMMARY OF ACTIONS FROM NOVEMBER 6, 2011 MEETING

Vice Chair Grossman moved, and Board Member Marquis seconded, the approval of the Summary of Actions from the November 6, 2011 meeting. The motion passed 3-0.

5. CEREMONIAL PRESENTATIONS

None.

6. PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA

Casey Zweig, City of Malibu Coastal Preservation Specialist, addressed the meeting. Ms. Zweig stated that she provides water quality counseling and compliance assistance to property owners on behalf of the City of Malibu and serves as a resource for the entire community. Ms. Zweig mentioned that she would be available to the public for consultations and questions.

Nancy Hastings from the Surfrider Foundation addressed the meeting to state that her organization is neutral on the GHAD budget and proposed assessment, but is against the existence of the rock revetment at Broad Beach. Ms. Hastings stated that her organization would

work with the GHAD through the permitting process with the intent to remove the rock revetment.

7. **CONSENT CALENDAR**

None.

8. **OLD BUSINESS**

a. **Report on Status of Transfer of Restoration Project Regulatory Applications and Costs from the TPOA to the GHAD, and Presentation of Resolution No. 2011-04.**

Special GHAD counsel Patricia Curtin reported that the amount previously expended by the TPOA and to be transferred to the GHAD has been substantiated and backed up with documentation, and that such amount was \$2,153,239 as of September 12, 2011 and is \$2,332,211 as of this date. If the GHAD assumes this debt, the GHAD would purchase the work product and other tangibles and intangibles related to the beach restoration project from the TPOA. GHAD Manager Uri Eliahu reported that his firm, ENGEQ, prepared the GHAD's Plan of Control and Engineer's Report, and that his colleague, Jeff Adams, took the lead in preparing the GHAD budget and text of the Engineer's Report. Vice Chair Grossman questioned whether the proposed Resolution would obligate the GHAD to pay all or part of the \$2,332,211 if no funds for payment of same existed. Special Counsel Curtin responded that funds would be paid only as available. (At this point in the meeting, Board Member Lotman arrived). Vice Chair Grossman urged the GHAD to obtain a certification to the best of the knowledge of the TPOA that the amount to be transferred is true and correct, and that such total amount for acquisition of TPOA's costs incurred and paid by the TPOA until the GHAD became responsible for same is \$2,332,211.

Motion: Board Member Marquis moved that the GHAD Board adopt Resolution 2011\04 as amended. The Motion was seconded by Board Member Lotman.

The Chair Karno then opened Resolution 2011-04 for public comment. Ronald Vandor asked if the GHAD was seeking to transfer all of the costs incurred to date from the TPOA to the GHAD. Special Counsel Curtin answered in the affirmative. Cindy Vandor asked if a property has nothing to do with the "Petitioner", can it be forced into the GHAD? Chair Karno stated that public commenters are requested to comment on matters related to the GHAD and not seek to enter into a question and answer session with the GHAD Board. Ms. Vandor continued that she is a Malibu West homeowner, not part of the TPOA, and does not want to constitute part of the GHAD. She stated that she would refuse to pay bills from the TPOA and does not want to be part of the GHAD. Ms. Vandor stated her view that no emergency exists and that she is opposed to the GHAD.

Debbie Rosenberg stated that she is a Malibu West resident, would like Malibu West to withdraw from the GHAD, and asked how to accomplish same. Special Counsel Curtin advised Ms. Rosenberg that Malibu West has its own counsel and she could consult with such counsel to obtain the answer. Karen Norvet stated that she is a Malibu West resident and asserted that

certain Malibu West owners do not agree with the Malibu West Board's position to support the GHAD.

Ann Forkeotes stated that she is a Malibu West homeowner and is uninformed about the GHAD. She does not know the function or purpose of the GHAD and, therefore, wants to stop the process to allow herself to be informed. She wants to know what Malibu West is being asked to pay before committing herself or any other Malibu West resident to support the GHAD.

GHAD Project Counsel Ehrlich explained that both the TPOA and the GHAD have met with Malibu West representatives and Board members, including multiple presentations at Malibu West's Board of Directors meetings, on at least five occasions in recent weeks and months. Project Counsel Ehrlich emphasized that, on the day of the Malibu City Council's formation of the GHAD, September 12, 2011, GHAD representatives met with Malibu West representatives and their counsel for many hours. Board Member Lotman reiterated the GHAD's historic outreach to Malibu West.

Chair Karno called the question. The Motion carried 4-0.

b. Consideration of Financial and Accounting Checks and Balances

The GHAD Clerk reported that a checking account has been opened at Chase Bank at Point Dume with the GHAD Clerk and a GHAD Board Member as required signatories. The GHAD Clerk stated that she would get signature cards from the Bank for execution by GHAD Board Members. The GHAD Manager stated that he would share typical GHAD financial protocols with the GHAD Board.

Motion: Chair Karno moved that: (a) the GHAD shall retain an outside, independent third party Certified Public Accountant (CPA) to review the GHAD's finances and monitor and implement financial control measures for same, (b) in the interim and prior to the retention of an independent CPA, the Chair shall review monthly bank statements and copies of all cancelled checks, and (c) Board Member Marquis shall consider candidates for the independent CPA reviewer within the next month. Board Member Lotman seconded the Motion. The Motion carried 4-0.

9. NEW BUSINESS

None.

10. PUBLIC HEARINGS

a. Declaration of Intent to Order Assessment. Special Counsel Curtin described the process to implement the proposed GHAD levy and assessment. In general, the process begins with the declaration of the intent to order an assessment, preparation and circulation of ballots to all GHAD owners-- which includes documentation such as the Engineer's Report, Notice and Ballot, and the proposed assessment itemized for each GHAD parcel. Special GHAD

Counsel Curtin stated that, if approved, the balloting would close on February 5, 2012 at a public hearing. If no majority protest exists, the assessment will be ordered.

GHAD Manager Eliahu stated that the benefit proposed by the beach restoration project is proportional and based on linear frontage distance. There is no general benefit and, therefore, no general benefit is part of the cost profile for the Project. GHAD Manager Eliahu further stated that any general benefit is incidental to the proposed beach restoration project. Mr. Eliahu further stated that approximately \$2.3 - 2.6 million would be the annual steady state revenue for the GHAD. The GHAD Manager further stated that, if the assessment is approved, the County Tax Assessor would be asked to impose the assessment on property taxes within the GHAD. Typically, the Assessor would need the necessary information by August for normal billing, which is due in November and delinquent in December. GHAD Manager Eliahu related that, under the present circumstances, the first dollars received by the assessment, if approved by the GHAD owners, would be at the end of 2012 at the earliest. Mr. Eliahu stated that the GHAD could chose to conduct a supplemental assessment for 2011/2012, which could potentially allow the GHAD to pick up an additional three months of revenues from the 2011/2012 tax year.

The GHAD Manager continued that a short term budget deficit is anticipated to exist in or about the first quarter of 2012. The GHAD is in immediate need of short term funds totaling \$1.3-\$1.5 million to cover the shortfall between anticipated project permitting costs in the first quarter of 2012 and funds on hand. Further, the GHAD Manager mentioned that the anticipated income stream from property tax assessments would be inadequate to immediately repay the "fair share" contributions and TPOA advances to date. The GHAD Manager reiterated that the GHAD intends to repay the "fair share" contributions and TPOA advances, but would likely do so from the revenue stream from the sale of bonds, if the GHAD Board chooses such a course of action. The GHAD Manager stated that the GHAD's budgeting is based on an assumed 5% interest rate for any bonds sold and the proposed assessment of \$400 per linear foot of beach frontage per year.

At this point, Chair Karno opened the agenda item for public comment. Cindy Vandor expressed her displeasure with the proposed GHAD assessment and stated that she would contest same. She specified her opposition to claimed "unending" costs and believes that the GHAD has no cost cap in place. Among other comments, Ms. Vandor requested that Malibu West be excluded from the GHAD.

Ronald Vandor asked if the TPOA is different from the GHAD and whether the proposed GHAD budget includes the existing rock revetment. Vice Chair Grossman responded that the TPOA is separate and distinct from the GHAD and that the GHAD budget includes nothing for the installation or potential removal of the revetment. Vice Chair Grossman further stated that Malibu West requested to be within the GHAD to better serve Malibu West's members and customers and that Malibu West has nonetheless not yet paid any "fair share" contributions to date. Vice Chair Grossman stated that Malibu West has, at the very least, a moral obligation to make its long promised "fair share" contribution in the spirit of strong neighborly relations and goodwill. Vice Chair Grossman further stated that all Broad Beach area property owners, including Malibu West members and customers, would benefit from uniform lateral public assess, an extended dry sandy beach, and properly restored dunes.

Vice Chair Grossman further questioned the GHAD Manager regarding a potential short term loan, specifically the amount and the identity of the lender. The GHAD Manager responded that an approximate \$2 million short term loan has been discussed with City National Bank, but no loan commitment has been received.

Allan Mutchnik stated that the Engineer's Report contains provisions for backpassing of sand within the GHAD boundaries as a means of extending the length of time between major nourishment episodes and requested that the GHAD Board change such language in the Engineer's Report to eliminate GHAD Board discretion for backpassing. Mr. Mutchnik requested that the GHAD Board not have any discretion on backpassing as long as the objective triggers for backpassing are met. Mr. Mutchnik stated that he would appreciate working with GHAD staff to come up with suitable language for the Engineer's Report. Chair Karno advised staff to work with Mr. Mutchnik to find suitable language.

Various Board Members then discussed proposed changes to the Engineer's Report in accordance with Mr. Mutchnik's comments and staff input. It was agreed that the last sentence of the third paragraph on page 8 of the Engineer's Report would be changed through "[o]nce approved as part of the overall Project, the backpassing activities shall occur in accordance with the objective triggers contained herein unless the backpassing activities are deemed infeasible (fiscally or technically) by the Board following the Board's consideration of a written report from the GHAD Engineer."

Without others coming forward with public comment on this agenda item, Chair Karno brought the matter back to the Board and sought additional Board input. Vice Chair Grossman expressed concern over the budget shortfall. He stated that interim financing may be worthwhile if such financing would correspond with the GHAD's financial model and such financing could be retired by future bond payments -- if the GHAD Board approves same. In such a scenario, if the bond does not issue, then the existing debts would be paid through GHAD assessments only and the income stream provided by the assessment portion of future property tax payments.

Chair Karno stated that the temporary budget shortfall could be solved in three alternate ways: (1) receipt of additional "fair share" contributions from GHAD property owners, (2) individual GHAD property owners or a group of same who step up as to fill the short term budget shortfall, and (3) a loan from an institutional lender, such as City National Bank. Chair Karno stressed that City National Bank would be interested in further discussions of a short term loan only if the proposed assessment is approved. Chair Karno then stated that, through March 2012, the GHAD anticipates a net total of \$1,364,000 in permitting costs (including professional bills) and the GHAD presently has \$259,000 in its accounts, which translates to a \$1.105 million anticipated budget shortfall.

Motion: Board Member Lotman moved, and Board Member Marquis seconded, that the Engineer's Report be approved with the aforementioned edit to page 8. The Motion carried 4-0.

Motion: Vice Chair Grossman then moved, and Board Member Marquis seconded, that the Board approve Resolution No. 2011-05, as amended by inserting the location of the February

5, 2012 GHAD Board Meeting at 31330 Broad Beach Road, Malibu, California 90265. The Motion carried 4-0.

11. GHAD BOARD MEMBER REPORTS

None.

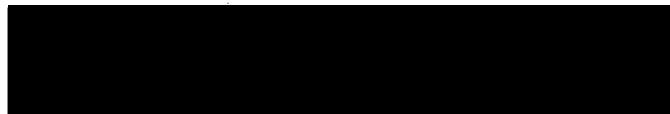
12. FUTURE MEETINGS.

The next GHAD Board meeting will be on January 15, 2012 at 31030 Broad Beach Road, Malibu, California 90265.

13. ADJOURNMENT

Board Member Marquis moved, and Board Member Lotman seconded, that the meeting be adjourned. The meeting adjourned at approximately 1:22 p.m.

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



NORTON KARNO, Chair

ATTEST:



BARBARA HAMM, GHAD Clerk