

Summary of Actions

BROAD BEACH GEOLOGICAL HAZARD ABATEMENT DISTRICT REGULAR SESSION MEETING

Sunday, May 17, 2015

31330 Broad Beach Road, Malibu, CA 90265

1. CALL TO ORDER

Chairman Karno called the meeting to order at 9:24 a.m.

2. ROLL CALL

PRESENT: Chairman Karno, Vice Chair Grossman, and Board Member Levitan. Board Member Rosenbloom was present by phone, but not officially participating in the meeting.

ABSENT: Board Member Lotman.

BBGHAD STAFF also present (not subject to Roll Call): Project Manager Mark Goss, Project Counsel Ken Ehrlich, BBGHAD Engineers Russ Boudreau and Chris Webb, and BBGHAD Clerk/Treasurer Heike Fuchs.

Upon calling the Roll, the Board immediately convened Closed Session. Regular Session reconvened at 12:07 p.m.

3. ADOPTION OF AGENDA

Vice Chair Grossman moved to adopt the Agenda as presented, except for the striking of item number 10, which duplicates Item number 7. Board Member Levitan seconded the Motion, which passed 3-0.

7 PUBLIC HEARINGS

- a. Declaration of Intention to Adopt New Engineer's Report and Order New Assessment. (Project Manager and Project Counsel)

Project Counsel reported that the BBGHAD had received the new Engineer's Report and that it had been posted on the BBGHAD website and emailed to the entirety of the GHAD homeowners. The Project Manager and Project Counsel reported on and summarized the BBGHAD property owner workshop which occurred on Wednesday, May 13, 2015. It was reported that the workshop was well attended by property owners in person and via telephone. Project Counsel stated that that two written submissions, one from Mr. Factor and the other from counsel for the Magidson Trust, have been received and will be appended, coupled with the BBGHAD responses to same, to the final Engineer's Report (if approved by the Board).

The Chair recognized Max Factor. Mr. Factor asked the Board to defer adoption of the Engineer's Report until such time as he and other West End property owners could provide additional information for the Board to consider. Mr. Factor stated that, as of the meeting date, the only client of Ms. Salt's was his wife, Jane.

The Chair recognized Elizabeth Zaillian. Ms. Zaillian asked in the BBGHAD's Closed Session meeting discussed the CCC process and the BBGHAD's CCC permitting efforts. The Chair recognized the Vice Chair, who responded that the Closed Session did not discuss the CCC permitting process in any way. Ms. Zaillian further inquired on the likely tax treatment for the costs of relocating the revetment (to be borne by affected property owners). The Chair stated that property owners should consult their own tax professionals for the best possible advice on this question. Ms. Zaillian questioned the basis for the proposed revetment relocation. The Chair recognized Board Member Levitan, who stated that the State Lands Commission and other agencies believe that a portion of the revetment currently encroaches on public land. further, the Coastal Act mandates that shoreline protective devices be located as close as feasible to the structures that they protect. Here, significant distance exists between some of the eastern revetment homes and the revetment itself. The CCC insists that this situation be corrected.

The Chair recognized Theresa Nathanson, who asked about the effects of a potential El Nino on the proposed beach restoration work. The Chair recognized the Project Manager, who explained that construction must halt when Trancas Creek breaches, and begin again after the breaching ceases. The Project Manager further explained that the BBGHAD has no interest in transporting or placing wet sand as it will increase the costs of the Project. The Chair recognized the Vice Chair, who asserted that the BBGHAD's contracts with sand vendors and truckers should ensure that the BBGHAD may stop the Project for specified reasons, including wet sand, with no penalty to the BBGHAD.

MOTION: The Vice Chair moved to defer further consideration of the draft Engineer's Report until further input is received from BBGHAD property owners and other stakeholders, if any, and the BBGHAD has the opportunity to respond to such input. Board Member Levitan seconded the Motion, which passed 3-0.

9. Old Business

a. Permitting and Regulatory Process Status (Project Manager and Engineer).

The Project Manager reported that CCC continues to contemplate considering the BBGHAD Project at its July (8-10) hearing, but that this was not yet confirmed. Regarding the upcoming BBGHAD CDP submission to the CCC, it was decided that, to facilitate a July 2015 hearing date and to foster goodwill with the CCC, the BBGHAD would submit two (2) checks totaling the fee requested by the CCC: a) one check for the amount that the BBGHAD believes it should pay (approximately \$34,000) and the other

(approximately \$40,000) representing the difference between the amount requested by the CCC and the amount that the BBGHAD believes it should pay—and that the BBGHAD will request the CCC staff to refund the \$40,000 if it agrees with the BBGHAD's reasoning.

The Project Manager further reported on efforts with the City of Malibu and CalTrans to erect a permanent signal at the Guernsey/PCH intersection so that egress of truck traffic from the offload site could be accomplished more efficiently. CalTrans will not allow the temporary placement of a signal. The Project Manager reported that BBGHAD staff will work with the various local and statewide officials to offer written support of the Project prior to the CCC hearing date.

The Chair asked the Project Manager if the Project Manager's budget includes all nourishments contemplated in the BBGHAD's Alt 4c CDP application. The Project Manager answered affirmatively.

The Project Manager further reported that he anticipates a BBGHAD response to the Army Corps January 2015 request for additional information within the next week or two.

b. Permitting Outreach & Strategy Update (Project Manager).

The Project Manager reported that he intends to send emails to BBGHAD property owners encouraging them to attend the upcoming CCC hearing for the BBGHAD Project.

c. Update on Election of Officers (Project Counsel).

The Project Counsel briefed the Board on the recent proposal received from Martin & Chapman for conducting the November 2015 BBGHAD election, including the August 7, 2015 deadline for candidates to submit papers indicating their intention to run for election or re-election.

MOTION: The Vice Chair moved, and Board Member Levitan seconded, to retain Martin & Chapman with a budget not to exceed \$3,000 to conduct and manage the upcoming Board Elections. The Motion passed 3-0.

The Chair instructed the staff to canvas the BBGHAD community for interest in running for the GHAD Board.

d. Ratification of Appointment of New Clerk/Treasurer (Project Manager).

The Chair recognized the Project Manager, who reminded the Board that it approved the retention of Heike Fuchs as the new Clerk/Treasurer at the April 2015 Board Meeting, and resolution is needed to finalize the retention.

MOTION: Board Member Levitan moved, and the Vice Chair seconded, that the Board adopt Resolution No. 2015/02 to authorize and ratify the retention of Heike Fuchs as the new BBGHAD Clerk/Treasurer at a rate of \$45.00 per hour subject to the Chair's final negotiation and approval. The Motion passed 3-0.

e. Discussion of Resolution No. 2015/01 (Project Counsel).

The Chair recognized Project Counsel, who explained that the Board passed Resolution No. 2015/01 in Closed Session at the February 2015 Board meeting, and subsequently paraphrased the language of the resolution in Regular Session at the same meeting. The resolution includes a provision stating that the retroactivity of, or credit for, any subsequent Engineer's Report which reduces the assessment on west end parcels to January 2015 would be rescinded if any west end property (or their agent) pursues litigation or any regulatory or administrative relief prior to the implementation of a new Engineer's Report. No written version was available at the time of the February 2015 Board meeting. Subsequently, two (2) west end property owners have filed property tax refund claims with Los Angeles County for BBGHAD assessments previously paid.

The Chair recognized Max Factor, who stated that Board Member Levitan's paraphrasing of the resolution in February 2015 was unclear and it was unfair for the Board to "punish" all of the West End property owners for actions he and the McQueens had taken to file for refunds for previously paid assessments. Mr. Factor reminded the Board that a lawsuit had not been filed, and that many other West End property owners were in the process of filing for property tax refunds. The Chair recognized the Vice Chair, who commented that it was not the BBGHAD Board's intention to punish anyone, and that the Board's intent was to reach an agreement with the West End homeowners. The Chair commented that, while the BBGHAD does not seek to punish anyone, these property tax refund claims may ripen into litigation within 60 days and the BBGHAD would prefer not to allocate its resources in litigation or fighting administrative or regulatory claims.

The Chair recognized the Vice Chair, who asserted that certain west end parcel owners opposed the BBGHAD's efforts at the CCC hearing in December 2014 and these actions undermine the BBGHAD Project. The Chair recognized Board Member Levitan, who asserted that certain west end owners place a sinister spin on all Board actions and discussions regarding west end issues, and such a "spin" perpetuates conflict between the Board and certain west end property owners.

The Chair further stated that, in the spirit of unifying all of Broad Beach and to foster neighborly relations: a) the Board has undertaken no action to punish Max Factor or Jane Arnault in response to receipt of their May 12, 2015 technical memo and questions, and b) the Board has intended to incentivize west end owners to avoid litigation and other

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claims against the BBGHAD. After additional discussion, this item was tabled for further discussion at a subsequent Board meeting(s).

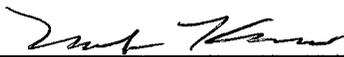
13. Future Meeting

The Chair stated that the next BBGHAD Board meeting is scheduled for June 14, 2015, followed tentatively by July 12, 2015

14. Adjournment

Board Member Levitan moved to adjourn, which was seconded by the Vice Chair. The Motion passed 3-0, and the Regular Session meeting adjourned at 2:49 p.m.

Approved and adopted by the Broad Beach GHAD Board on June 14, 2015


NORTON KARNO, Chair

ATTEST:


HEIKE FUCHS, Clerk