

## Summary of Actions

### BROAD BEACH GEOLOGIC HAZARD ABATEMENT DISTRICT

#### REGULAR SESSION MEETING

Sunday October 18, 2020; 9:00 a.m.

#### Via Teleconference & Zoom Videoconference

(Meeting held in accordance with Governor Executive Order N-25-20 issued March 12, 2020 and supplemental Executive Order N-29-20 issued March 17, 2020)

#### 1. Call to Order

The Chair called the meeting to order at 9:08 a.m.

#### 2. Roll Call

PRESENT: Chair Karno, Vice Chair Grossman (joined the meeting at approx. 9:30 a.m.), Board Members Needleman, Marine, and Kuba (joined at approximately 9:11 a.m.).

BBGHAD STAFF ALSO PARTICIPATED VIA TELECONFERENCE: Special Counsel Colantuono, BBGHAD Engineer Tonia McMahon, BBGHAD Manager Uri Eliahu, Clerk/Treasurer Fuchs, and Project Counsel Ehrlich.

#### 3. Adoption of Agenda

The Chair recognized Project Counsel, who reported that the Agenda was posted October 14, 2020 at approximately 6:00 p.m. and concurrently posted on the BBGHAD website. The Chair recognized Board Member Marine, who moved to adopt the Agenda as posted. Board Member Needleman seconded the Motion, and the Motion passed 3-0.

#### 4. Consider Summary of Actions from September 27, 2020 Meeting.

The Chair recognized Project Counsel, who reported that there are no edits to the draft September 2020 Summary of Actions in the Board Packet. The Chair recognized Board Member Marine, who moved to approve the Summary of Actions from the September 27, 2020 meeting. Board Member Needleman seconded the Motion, and the Motion passed 3-0.

#### 5. Old Business

##### Permitting and Regulatory Process Status

The Chair recognized Project Counsel, who reported that the CCC is considering the BBGHAD's CDP extension request. Project Counsel also reported that Resolution No. 2020/05 has been signed as well as the amended BBGHAD-SLC lease agreement, and copies of both have been submitted to SLC staff.

## 6. New Business

The Chair stated that there has been a request made from litigants Reef Group and homeowner George Novogroder to address the Board to discuss and/or resolve pending issues. The Board accepted the invitation after the Reef Group and Mr. Novogroder met with the BBGHAD negotiators, Board Members Marine and Kuba.

The Chair recognized Board Member Marine, who stated that he welcomes the opportunity for all parties to have a frank discussion about the pending issues.

The Chair recognized homeowner George Novogroder, who after his introductory remarks, cited the Reef Group's proposed 5-point resolution, which was developed with input from the BBGHAD negotiators. The proposed settlement includes:

1. Limiting Sand Nourishment
2. No further BBGHAD Assessment Money until start of construction
3. Coastal Trail on Northern Side of Broad Beach Road in lieu of License Agreements,
4. Property Owner's Assessment to be based on benefit to each owner after owner has opportunity to voice their opinion, and
5. Joint Approach to CCC staff to negotiate changes to the CDP; after good faith effort and no agreement, Project becomes "Revetment Only".

The Chair thanked Mr. Novogroder for his comments, stating that he welcomes the opportunity for the Reef Group and the full Board to have an open discussion without time restrictions for the Board Members and the Reef Group/Mr. Novogroder-- further clarifying that the Board is prohibited by the Brown Act to participate in informal meetings of more than two Board Members at a time. Further, the Chair stated that he and Project Counsel previously met with Reef Group, but representatives of the Reef Group declined to continue with discussions, insisting on a different negotiators from the BBGHAD to continue settlement discussions. The Chair further added that the Reef Group has also had the opportunity to participate in the monthly BBGHAD Board meetings.

The Chair opened the floor to Board Members and the Reef Group to respond to Mr. Novogroder's comments before taking public comments.

The Chair recognized Board Member Kuba, who opined that the Board and the Reef Group have the option to continue with litigation, or find common ground to negotiate CDP changes together with the CCC.

A discussion ensued about settling the lawsuits and finding common ground to achieve a consensus project.

The Chair asked Project Counsel to respond to Mr. Novogroder's questions regarding the ballots from the pending assessment vote, and to respond to the Reef Group's/Mr. Novogroder's 5-point settlement outline. Project Counsel reported that his office has received approximately 50 sealed ballots, which will be opened by an Election Official at the appropriate time.

Project Counsel proceeded with a PowerPoint presentation in response to the Reef Group's proposed plan to move forward. Project Counsel's presentation pointed out the potential high costs associated with revising the Project to a "revetment only" project and other deficiencies of the Reef Group/Mr. Novogroder's proposal.

The Board heard extensive input from the Reef Group, and their representatives on how to move forward.

The Chair thanked everybody for his or her participation, input, and for the constructive discussions.

## **7. Public Hearing**

### **Draft Engineer's Report**

The Chair recognized Project Counsel, who gave a brief overview of Resolution No. 2020/06, which would suspend the scheduled October 25, 2020 public hearing and would schedule a new assessment process and should set a new public hearing date of January 17, 2021 where the ballots would be opened and the votes be tabulated on a new property assessment for Broad Beach. Project Counsel further stated that if Resolution No. 2020/06 passes, the new Engineer's Report and new ballots would be immediately sent out to Broad Beach homeowners with an election date of January 17, 2021.

The Chair opened Agenda item 7. for public comment. The Chair recognized Hans Laetz, who opined that his neighborhood would be substantially impacted by the Project. Mr. Laetz further stated that he is hopeful to find a mutually satisfactory solution and would like for the Project to succeed.

The Chair recognized homeowner Bill Curtis, who inquired about the status of a new possible sand source from the LAX area.

The Chair recognized Project Counsel, who responded to Mr. Curtis' question in detail, opining that there are still significant challenges, but if the BBGHAD would have the support from stakeholders, the Project would need to be amended accordingly.

The Chair recognized Mike Messina, a neighbor on Surfside Way, who stated his concern about the anticipated noise levels and construction associated with a Project dependent on truck-delivered sand.

The Chair recognized Jim Hornstein, a legal representative for the Reef Group, who suggested, considering today's public input and information received, to postpone the vote on Resolution No. 2020/06.

The Chair asked Project Counsel to respond to the Mr. Laetz's and Messina's comments/questions. Project Counsel suggested that the Board to authorize someone to further engage with Mr. Laetz and Mr. Messina to exchange ideas and to describe the Project, as there may be some misconceptions about the Project.

The Chair recognized homeowner Max Factor III, who stated that he would like to endorse Mr. Hornstein’s suggestion to postpone the Resolution No. 2020/06 vote.

The Chair recognized Board Member Marine, who asked why the Resolution No. 2020/06 vote needs to take place today.

The Chair recognized Special Counsel Colantuono, who responded that the Board needs to act on suspending the October 25, 2020 election, but could postpone the vote for the January 17, 2021 public hearing.

**MOTION:** The Chair recognized Board Member Marine, who moved to adopt Resolution NO.2020/06 subject to amending the Resolution as follows: to suspend the vote set for October 25, 2020, but not to initiate a new assessment process. The Vice Chair seconded the Motion.

The Chair stated that valid reasons exist for the timing involved in setting the January 17, 2021 election date. The Chair recognized Project Counsel, who stated that the January 17, 2021 date was the recommendation of the BBGHAD lawyers to accommodate a 2023 implementation of the Project assuming various court challenges and appeals.

Hearing no further discussions, the Chair called the Question and the Motion passed 5-0.

## **8. BBGHAD Officer Report**

### **a. Treasurer's Report**

The Treasurer reported that as of October 12, 20 the cash balance \$3,689,529.05 in the regular checking account and the estimated bills amount to \$129,509.95.

## **9. BBGHAD Board Member Reports**

No Reports.

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

No comments received.

## **11. Future Meeting**

The Chair stated that a meeting has been tentatively scheduled for November 15, 2020, pending reports back from potential settlement meetings.

The Chair recognized Board Member Marine, who moved to recess Open Session and to move into Closed Session. Board Member Needleman seconded the Motion. The Chair called the question and the Motion passed 5-0. The Chair recessed the Regular Session meeting at 12:24 p.m.

Approved and adopted by the Broad Beach GHAD Board



Norton S. Karno

Attest:



Heike Fuchs, Clerk