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Summary of Actions

BROAD BEACH GEOLOGIC HAZARD ABATEMENT DISTRICT

REGULAR SESSION MEETING

Sunday February 10, 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 9:09 a.m.

2. Roll Call

PRESENT: Chair Karno, Vice Chair Grossman, and Board Member Marine.

ABSENT: Board Members Needleman and Kuba.

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

3. Adoption of Agenda

The Chair recognized Project Counsel, who reported that the Agenda was posted on Wednesday February 6, 2019 at approximately 6:00 p.m. within the BBGHAD boundaries and concurrently posted on the BBGHAD website. Project Counsel reported that, since the Agenda was published, an emergency had arisen regarding a flooding issue caused by recent rains affecting some houses at and around 31322 Broad Beach Road (Reisbord). Project Counsel further stated his concern for potential litigation and asked the Board for permission to add this matter to the Closed Session Agenda.

The Chair recognized Board Member Marine, who moved to adopt the Agenda as posted, including the litigation privileged discussion item added to the Closed Session Agenda as announced by Project Counsel in accordance with Cal. Gov. Code § 54956.9(d)(3). The Vice Chair seconded the Motion, and the Motion passed 3-0.

Closed Session

At 9:13 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 10:14 a.m. The Chair recognized Project Counsel, who reported on the agenda items discussed in Closed Session. No specific actions were taken.

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

8. Consider Summary of Actions from January 13, 2019 Meeting

The Chair recognized Project Counsel, who reported that he received minor grammatical edits from the Chair and an edit to page 3, paragraph 4 to accurately reflect Project Counsel's response to the License Agreement April 1, 2019 deadline, as follows: "...Project Counsel responded that the BBGHAD Board has set the April 1, 2019 deadline to receive signed and notarized License Agreements and, as far as the BBGHAD is concerned, that is a hard deadline, reiterating that the BBGHAD needs definitive information to resubmit the CDP amendment application.

The Chair recognized Board Member Marine, who moved to approve Summary of Actions from January 13, 2019, with minor grammatical edits and the modification announced by Project Counsel. The Vice Chair seconded the Motion, and the Motion passed 3-0.

9. 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 that the briefing with CCC Executive Director Jack Ainsworth and other senior CCC staff members on January 28, 2019 at the Elkins Kalt offices was a successful event. Project Counsel further reported that staff will send a letter summarizing the highlights of the January 28, 2019 meeting to all revetment property owners who have not yet signed the License Agreement. Project Counsel recommended that the Board Members contact the non-signers to follow up and/or facilitate a meeting with Project Counsel.

ii. Discussion of Coastal Frontiers Contract for 2018/19

The Chair recognized Project Counsel, who stated that Coastal Frontiers, a field biology firm that provides the BBGHAD with coastal surveying and mapping services, has been providing useful data for the Project by monitoring the beach for more than 9 (nine) years. Project counsel added that the CDP also requires additional biology field work, habitat surveying, and habitat mapping. Project Counsel stated that, in light of the delay of the beginning of the Project to Fall 2020, the Board may consider a more limited than usual scope of work for 2019 with Coastal Frontiers.

The Chair recognized Project Engineer and asked specifically for his recommendation on the 2019 spring beach profile monitoring. Project Engineer provided an overview of Coastal Frontiers' work for the BBGHAD and opined that the data has been very helpful in tracking sand movement and has aided understanding of beach dynamics. The Project Engineer stated that the spring 2019 beach survey is not necessary, but the CDP requires the BBGHAD to complete a Fall 2019 beach profile survey if the

BBGHAD chooses to start nourishment in Fall 2020. Project Engineer stated that skipping the 2019 spring survey would save the BBGHAD approximately \$25,000. The Chair asked about the exposure to the BBGHAD if the Board chooses to forego the spring survey. The Project Engineer opined that there would not be any exposure to the BBGHAD if it chooses to skip the spring 2019 survey.

MOTION: The Chair recognized Board Member Marine, who moved to forego the 2019 spring beach profile survey by Coastal Frontiers. The Vice Chair seconded the Motion. Hearing no further Board comments, the Chair called the question, and the Motion passed 3-0.

B. Army Corps

No report.

C. RWQCB

No report.

D. SLC

The Chair recognized Project Counsel, who reported that he would contact the SLC next month to finalize the SLC's position on extending the 12/31/19 deadline for revetment relocation.

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

The Chair recognized Project Counsel, who reported that staff had a series of meetings with CalTrans on the permitting of a temporary vs. permanent traffic signal at Guernsey and PCH. The Chair recognized Project Manager, who added that the cost for a permanent traffic signal amounts to approximately \$600,000. The Project Manager stated that a permanent traffic signal would be more cost effective over time than a temporary signal. The Project Manager added that, for the scheduled 2020 beach nourishment, a temporary traffic signal would be installed initially due to scheduling issues.

The Chair recognized Patt Healey, a representative for Malibu West, who stated that heavy duty trucks have been constantly traversing the Malibu West neighborhood since the Woolsey Fire and there have been no problems with traffic flow—all without an additional traffic signal. Ms. Healy stated her concern as to an additional traffic signal in western Malibu, and suggested avoiding a traffic signal Guernsey and PCH. Project Counsel responded that, in an emergency situation, such as a fire, there are different permit requirements. The Chair recognized Project Manager, who added that, if the Project goes forward, CalTrans will insist on a permanent signal at Guernsey and PCH due to public safety issues.

10. New Business

None.

11. BBGHAD Officer Report

- a. Project Manager
 - 1. Updated 2019-25 Budget

The Chair recognized Project Manager, who presented an overview of the updated Project Budget extending through the end of 2025, the end of the current Coastal Development Permit. Project Manager stated that the updated 2019-2025 budget is based on the assumptions included in the 2019-2025 Planning Budget and Schedule. Project Manager further stated that he provided two alternative spreadsheets: Option #1 is based on the assumption that, in July 2019, the Board chooses to levy the full amount authorized in the 2017 assessment; and Option #2 is based on the assumption that the Board chooses to levy the fully authorized 2017 assessment in July 2020. The Project Manager opined that sufficient money would exist in the budget to start the Project in 2020 if the Board increases the levy to the full amount allowed by the 2017 assessment in July 2020.

The Chair stated the Board's appreciation and thanked Project Manager for providing the 2019-2025 budget. The Chair further acknowledged that the Board has received the budget subject to further analyses, comments, and modifications. The Chair then opened the budget (s) for discussions/questions to the Board and the public.

The Chair recognized Max Factor III, who suggested to add a balance sheet at the end of 2025 to reflect the TPOA loan and Fair Share repayment. The Chair responded in detail to Mr. Factor's suggestion in detail and asked Project Manager to prepare a pro forma projected 2025 balance sheet. Project Manager agreed to do so.

- b. Treasurer's Report

The Treasurer reported that, as of February 4, 2019, the BBGHAD cash balance was \$3,844,398.24 and the estimated unpaid bills amount to \$22,042.11. The Treasurer further reported that the total fees and costs incurred through January 2019 for the *Reef Group* litigation amounts to \$321,900.66, \$163,603.82 for the *Arnault/Factor* litigation, and \$ 351,876.04 for the Validation Action. The Treasurer further stated that the BBGHAD has received a total of \$288,752.16 in defense cost reimbursement for attorney's fees and costs for the *Arnault/Factor* and *Reef Group* litigation.

12. BBGHAD Board Member Reports

The Chair recognized the Vice Chair, who thanked Project Counsel for the professionally conducted and very constructive January 28, 2019 meeting with homeowners and the CCC staff at the Elkins Kalt offices.

13. Public Comment - Non-Agenda Items

The Chair recognized Max Factor III, who requested to make management notes associated with the BBGHAD audit publicly available. The Chair recognized Project Manager, who agreed to send the requested information to Mr. Factor.

The Chair recognized Mr. Bill Curtis, who asked if the January 28, 2019, meeting had any impact on the parties' (Reef Group, BBGHAD, etc.) respective litigation or settlement positions. The Chair responded that Mr. Ainsworth's presentation has reinforced the BBGHAD's message in connection with the consequences of potential Project/CDP failure. The Chair further stated that the BBGHAD Board could not comment on settlement discussions, but that the BBGHAD Board has not received any substantive communications from the Reef Group since the January 28th meeting.

The Chair recognized Bill Curtis, who asked if the possibility exists that the Arnault/Factor v. BBGHAD litigation could be resolved. Mr. Curtis further opined that Ms. Arnault has not received any alternative offer from the BBGHAD, and has not had substantive resolution conversations with the BBGHAD. The Chair recognized Project Counsel, who responded in detail to Mr. Curtis' question outlining the reasoning for the BBGHAD's desire to resolve all pending litigation in a global, and not piecemeal, manner if possible.

The Chair recognized Max Factor, who opined that the BBGHAD has spent more on legal fees to date than it would have cost to settle the litigation with Arnault/Factor/West End.

The Chair recognized Bill Curtis, who opined that this issue could be settled within five (5) minutes. The Chair asked if the parties would be available to stay and meet after the Board meeting to discuss. The parties agreed to participate.

The Chair recognized Bill Curtis, who opined that the January 28, 2019 meeting was outstanding and 100% corroborated Project Counsel's representations over the years of the CCC staff position on various issues and the consequences of the failure of the CDP.


14. Future Meeting

The Chair stated that the next meetings are scheduled for March 10, 2019, and tentatively April 28, 2019, both meetings to start at 9:00 a.m. at locations to be determined.

15. Adjournment

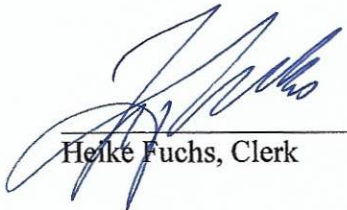
The Chair recognized Board Member Marine, who moved to adjourn Regular Session. The Vice Chair seconded the Motion. The Chair called the question, and the Motion passed 3-0. Regular Session was adjourned at 11:33 a.m.

Approved and adopted by the Broad Beach GHAD Board



Norton S. Karno, Chair

Attest:



Heike Fuchs, Clerk