

BROAD BEACH GEOLOGIC HAZARD ABATEMENT DISTRICT

REGULAR SESSION MEETING

Sunday February 16, 2020; 9:00 a.m.

**Juan Cabrillo Elementary School-Room #3
30237 Morning View Drive
Malibu, CA 90265**

1. Call to Order

The Chair called the meeting to order at 9:12 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 Counsel Ehrlich, Project Engineer Boudreau, and Clerk/Treasurer Fuchs. Special Counsel Colantuono, and BBGHAD Manager Eliahu and Adams participated by phone.

3. Adoption of Agenda

The Chair recognized Project Counsel, who reported that the Agenda was posted on Thursday February 13, 2020 at 8:00 a.m. within the BBGHAD boundaries and concurrently posted on the BBGHAD website. The Chair recognized Vice Chair Grossman, who moved to adopt the Agenda as posted. Board Member Marine seconded the Motion, and the Motion passed 3-0.

CLOSED SESSION

At 9:12 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 10:15 a.m. The Chair recognized Project Counsel, who reported that no specific actions were taken in Closed Session.

8. Consider Summary of Actions from December 22, 2019 Meeting.

The Chair recognized Project Counsel, who reported on minor grammatical revisions received from the Chair. The Chair recognized the Vice Chair, who moved to approve the Summary of actions with the grammatical revisions as announced by Project Counsel. Board Member Marine 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

No update.

B. Army Corps

No update.

C. RWQCB

No update.

D. SLC

The Chair recognized Project Counsel, who reported that a pending matter exists with the SLC and concerns the amended lease and whether they will waive the insurance requirement until the Project will be implemented. Project Counsel further reported that staff solicited a variety of insurance proposals for a \$10 million liability policy- as required by the amended lease.

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

No update.

b. March 2020 Board Election Update

The Chair recognized Project Counsel, who reported that candidacy papers from only the 3 incumbents were submitted to renew their terms. According to the election official, it does not mean that the election is automatically waived. Staff is awaiting final approval from Supervisor Kuehl of the L.A County Board of Supervisors.

10. Public Hearing

a. Draft Engineer's Report

The Chair recognized Project Counsel, who provided an overview of the 2020 Draft Engineer's Report for the Board's consideration and adoption of Resolution No. 2020/01 declaring intention to order an assessment within the BBGHAD district, and setting a hearing date of April 26, 2020 to consider the proposed assessment and any protest against same. Project Counsel added that, if the Board adopts Resolution No. 2020/01 today, his office would mail out packages to each homeowner including Appendix 1 to the 2020 Engineer's Report, an Assessment Roll for all parcels within the BBGHAD, for a period of 12 years showing all the proposed assessment numbers. Project Counsel further summarized the Staff Report, stating Board direction to concurrently appeal Judge Beckloff's ruling and to move forward with a new Engineer's Report and assessment. Project Counsel added that the Board also opened Public Comment period at its last December 22, 2019 Board meeting. Project Counsel further stated that all comments relevant to the 2020 Engineer's Report have been considered by the BBGHAD Assessment Team. Project Counsel further reported, that the 2017 3-tiered Assessment has been discarded and a new multi-factor formula has been applied to each property individually.

Project Counsel pointed out that Appendix G.1. to the Draft 2020 Engineer's Report contains the budget based on the proposed assessment but eminent domain costs are not included. This Draft Engineer's Report explains the scenarios on how the Project could be implemented with opposition in order to accommodate the Judge's ruling.

Project Counsel further explained that, if the Board approves Resolution No. 2020/01 today, it would order his office to mail a notice, 2020 Engineer's Report, ballot, and other materials within 3 business days to each homeowner and it would set up the process for public comment. Project Counsel further added that Staff proposes an April 15, 2020 deadline for the Board to accept written comments on the proposed Engineer's Report.

The Chair opened agenda item 10.a. for public comment. The Chair recognized Jim Hornstein, a legal representative for the Reef Group, who asked if: a) the Appendix will specify the precise calculation for each parcel and, if not, Mr. Hornstein urged the Board to include transparent specifications of how the assessment for each parcel was calculated, and b) the BBGHAD has the power to move forward with the assessment. Mr Hornstein further opined that, as a result of the Judge's ruling, the Project can not be implemented and urged the BBGHAD not to move forward with the new assessment until the court's final ruling on the pending litigation.

The Chair recognized homeowner Michael Schwab, who stated that he does not have a shoreline protection in front of his home and argued that is not fair for him to be in the 100% assessment tier. Mr. Schwab inquired about a refund.

The Chair recognized homeowner Alex Haagen III, who stated that he would like to understand on which factors the assessment formula are based upon. Project Counsel, Special Counsel, and the Board responded in detail to Mr. Haagen's questions regarding the newly proposed assessment.

The Chair recognized Jim Hornstein who reiterated that, unless he sees how each of the 6 factors are weighted and how the calculation is formulated across the beach, he cannot determine if the factors are applied fairly.

The Chair recognized Max Factor III, who requested specific information about the proportionality of the formula. Mr. Factor asked staff to provide the 2010 mean high tide line and to place the line of the 2006 aerial photograph on a map so the proportionality of the newly proposed assessment can be evaluated.

The Chair recognized Alex Haagen III, who inquired about the lack of inclusion of eminent domain costs in Exhibit G2 of the assessment packet. The Chair recognized Project Counsel, who responded that, even though the Board signed a Resolution in 2017 stating that it would not use eminent domain, the methodology and costs for eminent domain are included in the appraisal report (Appendix G2) to comply with the Judge's ruling.

The Chair recognized Jim Hornstein, who urged the Board not to pass Resolution No. 2020/01.

The Chair recognized Project Counsel, who recommended to amend Paragraph 9.e. of Resolution No. 2020/01 to reflect that the Board has imposed a deadline for accepting written comments of April 15, 2020 and to revise the numbering of the paragraphs to accurately reflect consecutive numbering.

Hearing no further public comment, the Chair called the question and the Motion to adopt Resolution 2020/01.

MOTION: The Chair recognized Board Member Marine, who moved to adopt Resolution No. 2020/01 as modified to include a deadline for written comments of April 15, 2020 and to re-number the paragraphs. Vice Chair seconded the Motion. Hearing no further comments, the Chair called the question and the Motion passed 3-0.

11. New Business

None.

12. BBGHAD Officer Report

a. Treasurer's Report

The Treasurer reported that, as of February 10, 2020, the cash balance was \$2,753,462.00 in the regular checking account and the estimated unpaid bills amount to \$144,660.65. The Treasurer further reported that the total fees and costs incurred through January 2020 for the Reef Group litigation amount to \$547,222.40, \$274,498.42 for Arnault/Factor litigation, \$464,592.45 for Validation Action, and \$35,634.00 for the 2020 Assessment litigation.

13. BBGHAD Board Member Reports

The Chair recognized Vice Chair who extended his condolences to homeowner Alan Mark and his family for the passing of his wife Charlene Mark.

The Board directed staff to extend condolences to Alan Mark and his family on behalf of the board.

14. Public Comment - Non-Agenda Items

No comments received.

15. Future Meeting

The Chair stated that the next meetings are scheduled for March 15, 2020 (tentative) and April 26, 2020 (tentative). Both meetings to start at 9:00 a.m. Locations to be determined.

16. Adjournment

The Chair recognized Vice Chair, who moved to adjourn Regular Session. Board Member Marine seconded the Motion. The Chair called the question, and the Motion passed 3-0. The Chair adjourned Regular Session at 11:27 a.m.

Approved and adopted by the Broad Beach GHAD Board



Norton S. Karno, Chair

Attest:



Heike Fuchs, Clerk