

Summary of Actions

BROAD BEACH GEOLOGIC HAZARD ABATEMENT DISTRICT

REGULAR SESSION MEETING

Sunday, March 13, 2016; 8:30 a.m.

Private Residence: 31030 Broad Beach Road, Malibu, CA 90265

1. CALL TO ORDER

The Vice Chair called the meeting to order at 8:32 a.m.

2. ROLL CALL

PRESENT: Vice Chair Marshall Grossman, Board Member Jeff Marine, and Board Member Bill Curtis.

ABSENT: Chair Norton Karno and Board Member Jeff Lotman.

BBGHAD STAFF ALSO PRESENT: Board Advisor Chris Spiros, Project Manager Mark Goss, Project Counsel Ken Ehrlich, BBHAD Engineers Russ Boudreau and Chris Webb, and Clerk/Treasurer Heike Fuchs.

3. ADOPTION OF AGENDA

The Vice Chair recognized the Project Manager, who reported that the Agenda was posted on March 10, 2016 at 8:30 a.m. within the BBGHAD boundaries and concurrently posted on the BBGHAD website. Board Member Marine moved to adopt the Agenda as presented. Board Member Curtis seconded the Motion, and the Motion passed 3-0.

The Vice Chair asked for, and received, a moment of silence in memory of Chair Karno's brother who passed away last week.

Closed Session

At 8:36 a.m. the Vice Chair announced, without objection, that the Board would move into Closed Session.

Resumption of Regular Session

The Vice Chair resumed Regular Session at approximately 10:11 a.m. Project Counsel summarized the subject matter of the Closed Session proceedings.

8. APPROVE SUMMARY OF ACTIONS FROM FEBRUARY 7, 2016 MEETING

The Vice Chair recognized Board Member Marine, who moved to approve the Summary of Actions from the February 7, 2016 Board Meeting. Board Member Curtis

seconded the Motion, and the Motion passed 3-0.

9. CEREMONIAL/PRESENTATIONS

None.

10. CONSENT CALENDAR

None.

11. PUBLIC HEARINGS

None.

12. OLD BUSINESS

a. Permitting and Regulatory Process Status.

(i) CCC, SLC, and Army Corps.

CCC

The Vice Chair recognized the Project Manager, who reported that SAP member Karina Nielsen has resigned due to personal issues and been replaced by Mark Page. The Project Manager further reported that the SAP has separated its responsibilities into Marine Habitat and Dune matters. Moffat & Nichol subcontractor, Keith Merkel of Merkel and Associates, has met with the SAP Chair to implement a framework for the overall beach measuring and habitat monitoring plan. The next SAP meeting is scheduled for the end of March.

The Vice Chair recognized the BBGHAD Engineer, who updated the Board on Moffatt & Nichol's progress on implementing the CCC's "Prior to Issuance" conditions. The Project Engineer reported that he has submitted a draft proposed scope of work and budget to Project Counsel and the Project Manager. The required tasks include preparation of revised final plans; preparing of an adaptive management and monitoring plan; preparation of the final revised dune habitat restoration plan; assembling a long term resource, monitoring and mitigation plan; sediment analysis; and public access management program.

The Vice Chair asked BBGHAD Engineer if he has considered every condition that must be met prior to issuance of the CDP and assigned responsibilities for meeting all of the CDP conditions and timelines. The BBGHAD Engineer stated that he submitted a separate schedule to Project Manager and Project Counsel for the completion of the Project and level of effort involved. The Vice Chair asked Project Counsel to distribute the schedule to all Members of the Board. Project Counsel added that, in his opinion, the BBGHAD Engineers' schedule is comprehensive and covers all of the CDP's "Prior to Issuance" conditions.

The Vice Chair recognized Project Counsel, who questioned the BBGHAD Engineer if all items on the schedule remain still on track for completion by the end of June 2016. The BBGHAD Engineer stated that he does not know, and will provide updated information on this point at the next Board meeting.

The Vice Chair reiterated to the BBGHAD staff the importance of meeting all deadlines associated with Project permitting. The Vice Chair recognized Project Counsel, who explained that the end of June 2016 deadline was implemented by BBGHAD staff and the BBGHAD Engineer, and further explained that the CCC has put a deadline of two (2) years for completing the prior to issuance conditions in the CDP.

The Vice Chair inquired about the status and intent of the CCC "side letter". The Vice Chair recognized Project Counsel, who gave a brief overview of the side letter. Project Counsel reported that, in his opinion, the letter clarifies the items requested by the BBGHAD in connection with the CDP conditions. Project Counsel reported that he revised and shortened the License Agreement as requested by the Board. The next step is to finalize the agreement, then take it with the side letter and the CDP to the homeowners to sign. The Vice Chair asked Project Counsel to provide the Board with a copy of the side letter and any BBGHAD response to the letter.

SLC

The Vice Chair recognized the Project Manager, who reported that he expects shortly a letter from the SLC regarding the ongoing lease negotiations. Project Manager and Project Counsel intend to contact the three (3) SLC commissioners before they meet with the staff.

The Vice Chair asked the Project Manager to reach out to the predecessor of SLC Commissioner Betty Yee to help advance the permitting process. The Project Manager agreed to do so.

Army Corps

The Vice Chair recognized the Project Manager, who informed the Board that the meeting with Congressman Lieu originally scheduled for March 4 was rescheduled for March 18, 2016. The Vice Chair recognized Project Counsel, who expressed confidence in the strategy of BBGHAD consultant Richard Beck in connection with finalizing mitigation issues raised by the agency. Project Counsel added that Mr. Beck has proposed to divide federal mitigation into two (2) components: a) the revetment and its impact, and b) the remainder of the Project. The consultant estimates approximately \$50,000.00- \$100,000.00 would be due for revetment mitigation. The consultant further hopes that, for the remainder of the Project, the Army Corps will be receptive to and accept the SAP monitoring and adaptive management concept.

- (ii) Responsible & Consulting Agency update: RWQCB, NMFS, Cal. DFW, CalTrans, etc.

The Vice Chair recognized Project Manager, who updated the Board on the Trancas Bridge repair issue. The Project Manager reported that Caltrans does not foresee a problem with Project sand transport trucks passing over the bridge and entering into the Zuma parking lot. The Project Manager stated that he asked Caltrans to provide its position in writing.

The Vice Chair recognized Project Counsel. Project Counsel reported that, in Closed Session, the Board discussed BBGHAD strategy in connection with the Moorpark/Fillmore threatened litigation. Project Counsel added that the Board Packet include press clippings on this issue.

The Vice Chair questioned the Project's status with the Regional Water Quality Control Board. The Vice Chair recognized Project Manager, who stated that RWQCB permitting should occur following the Army Corps permitting process, and that BBGHAD consultant has submitted a draft 404 Project analysis to RWQCB staff.

The Vice Chair informed the Board that Marlene Grossman recently met with a RWQCB Board Member and inquired about the agency's progress on the Project. The Vice Chair reported that Mrs. Grossman will transmit any news received from the RWQCB Board Member.

b. Permitting Outreach & Strategy Update.

No separate report.

13. NEW BUSINESS

a. Insurance

The Vice Chair recognized Board Member Curtis, who updated and summarized his findings on researching a more comprehensive Director & Officers' insurance policy for the BBGHAD. Board Member Curtis stated that, due the nature of the Project, it remains quite difficult to obtain broad D&O coverage. As a means of controlling BBGHAD risk into the future, Board Member Curtis recommended that the BBGHAD: a) obtain express indemnity coverage from those with whom the BBGHAD contracts in connection with the Project, b) become an "additional insured" or "additional named insured" on insurance policies issued to BBGHAD vendors or service providers, and c) obtain sufficient underlying and umbrella insurance coverage reflective of the Project and the community within which the Project is being built. In addition, Board Member Curtis urged each Board Member to have their own individual umbrella insurance policy.

The Vice Chair reiterated the importance of adequate insurance coverage and asked Board Member Curtis to remain the point person for this subject area and instructed staff to prioritize insurance issues into the future.

The Vice Chair recognized Project Counsel and asked Project Counsel about the contract language with vendors regarding indemnification and insurance. Project Counsel responded that nothing prevents the BBGHAD from obtaining indemnities and "additional insured" coverage in future contracts with vendors and service providers.

MOTION: The Vice Chair recognized Board Member Curtis, who moved, and Board Member Marine seconded, to direct staff to provide the Board with a resolution recommending that the BBGHAD obtain indemnities and "additional insured" status, where applicable, in third-party contracts. Hearing no further debate, the Vice Chair called the question and the Motion passed 3-0.

14. BBGHAD OFFICER REPORTS

a. Project Manager Report

The Vice Chair recognized the Project Manager, who asked the BBGHAD Engineer to present certain issues to the Board. The BBGHAD Engineer stated that his firm recently resolved a claim asserted by a property owner adjacent to the SANDAG II project in the San Diego area and such resolution has caused his firm to consider future contractual protections from beach nourishment clients, such as the BBGHAD. The Vice Chair asked the BBGHAD Engineer to provide the Board with a proposal at the next Board Meeting.

b. Treasurer's Report

The Treasurer reported, that in addition to Chair Karno, Vice Chair Grossman and Board Member Lotman, Board Member Marine is now an authorized signor on the BBGHAD's City National bank account.

The Treasurer reported that, as of March 2, 2016, the cash balance was \$ 3,159,718.38 and the estimated unpaid bills amount to \$37,461.84.

15. BBGHAD BOARD MEMBER REPORTS

No Reports.

16. PUBLIC COMMENT - NON-AGENDA ITEMS

The Vice Chair recognized Advisor Spiros. Advisor Spiros reported that he spoke with Project Counsel to discuss the BBGHAD funding additional Lifeguard protection for Malibu West and stated that Malibu West is satisfied with the progress made. The Vice Chair reminded Advisor Spiros that the Board must approve all such decisions.

The Vice Chair recognized Alan Mark. Mr. Mark asked why no revetment repair has occurred from 31000 Broad Beach Road to Malibu West Beach Club. The Vice Chair recognized Project Counsel, who outlined the CCC's rationale for rejecting the TPOA's request for revetment repair at that portion of the beach. Specifically, the CCC has

asserted that: a) that portion of the revetment will move landward at the beginning of Project construction and no need exists for two (2) mobilizations at this area, and b) a significant distance exists between the revetment and the homes within this area of the beach.

The Vice Chair recognized Project Counsel, who informed the Board that the TPOA revetment repair project will be completed next week. Project Counsel thanked the BBGHAD Engineer for his personal attention to the repair and his presence at the beach to ensure the work was completed properly. The Vice Chair asked the BBGHAD Engineer his opinion about the protection added to the revetment. The BBGHAD Engineer responded that the revetment has been restored to its original, 2010 strength and it will provide protection for a long time.

The Vice Chair recognized Board Member Marine, who inquired about the status of the beach nourishment timeline. The Project Manager reported that there are three (3) more major permitting agencies, but hope remains that the project will start by the end of this year.

17. FUTURE MEETING

The Vice Chair stated that the next BBGHAD Board meeting is scheduled for April 10, 2016, 9:00 a.m.


18. ADJOURNMENT

Board Member Marine moved, and Board Member Curtis seconded, to adjourn the meeting. The Motion passed 3-0, and the meeting adjourned at 11:16 a.m.

Approved and adopted by the Broad Beach GHAD
Board on April 10, 2016


NORTON KARNO, Chair

ATTEST:


HEIKE FUCHS, Clerk