

1 **MUIR BEACH COMMUNITY SERVICES DISTRICT**  
2 Minutes of the Board of Directors' meeting held on  
3 Wednesday, September 16, 2020  
4

5 **OFFICIAL MINUTES ONLY UPON APPROVAL**  
6

7 Prior to approval of these minutes by the Board of Directors in a public meeting, these  
8 minutes are draft only and subject to change. Upon approval by the Board, these  
9 minutes become the Official Minutes of the meeting.  
10

11  
12 **Item 1: Call to Order**  
13

14 Steve Shaffer called the meeting of the Muir Beach Community Services District Board  
15 of Directors to order at approximately 7:01 pm.  
16

17 Directors present: Gary Friedman, Victoria Hamilton-Rivers, Leighton Hills,  
18 Peter Lambert, Steve Shaffer  
19

20 Staff present: Mary Halley, District Manager  
21 Chris Gove, Fire Chief  
22 Ernst Karel, Meeting Secretary  
23

24  
25 **Item 2: Approval of Agenda**  
26

27 MOTION: To approve the agenda  
28 Moved: Hamilton-Rivers, seconded by Lambert  
29 Vote: AYES: Unanimous  
30

31  
32 **Item 3: Consent Calendar**  
33

34 Item(s) not included in this agenda: None  
35

36 A. Re-approval with corrections of Draft Minutes from Regular Board Meeting of 7/22/20  
37 with motion "*to approve the consent calendar with the removal of Item 5*".

38 [It was unclear in the motion whether the Board intend to refer to Item 13 from the 7/22  
39 meeting agenda, since they had just discussed and made a motion on Item 5 of current  
40 agenda.]  
41

42 B. Approval of Draft Minutes from Regular Board Meeting of 8/26/20.  
43

44 MOTION: To approve the consent calendar  
45 Moved: Hills, seconded by Friedman  
46 Vote: AYES: Unanimous

1  
2 **Item 4: Items Removed from Consent Calendar**

3  
4 No items removed.  
5  
6

7 **Item 5: Review of Board Motion from 8/26/20 Board Meeting Item 5**

8  
9 Based on new information received since the previous Board meeting, Director  
10 Hamilton-Rivers asks the Board to revisit its involvement in the racial restriction  
11 repudiation project from the 8/26/20 Board Meeting, Item 5: "Review of Board  
12 Motion from 7/22/20 Board Meeting Item 13" where the Board approved the  
13 following motion:

14 *"That the CSD support the repudiation of the restrictive racial covenants*  
15 *that are on all of our deeds who have them, wherever in Muir Beach, and*  
16 *to invite people who want to defray the cost of that to donate to the CSD.*  
17 *Director Friedman will manage the process. Any money the CSD would*  
18 *spend on this would be limited to donations it receives. The CSD*  
19 *recognizes the unorthodox nature of this action but are motivated by*  
20 *agreement that this action is morally just and are acting on behalf of the*  
21 *community."*

22 While there is support for the laudatory goal of individual owners scrubbing their  
23 deeds in their chain of title to remove offensive language, it is proposed that the  
24 Board acts to rescind or modify its previous resolution to eliminate donations and  
25 checks from being processed through the CSD. – Richard Kohn

26 The following new motion has been suggested as a replacement – *"that the CSD*  
27 *wholeheartedly endorses the effort by community residents to repudiate*  
28 *language in property deeds restricting occupancy to 'those of the Caucasian*  
29 *race,' but explicitly rejects previous Board actions authorizing contributions to the*  
30 *CSD and forwarding the funds to a third party on behalf of this effort as such*  
31 *actions are beyond the scope of CSD powers and are therefore impermissible."* –  
32 Paul Jeschke (with reference to the letter from County Counsel dated 8/24/20)  
33

34 Shaffer announces that they have put together a consortium of people to pay for this,  
35 and so there is nothing to discuss at all. All associated costs have been covered without  
36 the involvement of the CSD. Accordingly, no funds have been or will be passed through  
37 the CSD.  
38  
39

40 **Item 6: MBCSD Legal Counsel Policy Revision**

41  
42 Director Hamilton-Rivers proposes a revision to the MBCSD Access and Use of Legal  
43 Counsel Policy, Section a. County Counsel, paragraph 3, to state:

44 *Any member of the Board of Directors can use County Counsel, with or without*  
45 *prior Board permission, but any and all uses of County Counsel will be reported*  
46 *back in writing to the MBCSD Board and reviewed by the Board to determine if it*

1           *was necessary, required, and appropriately used for District purposes. If not, the*  
2           *Board member will be obligated to pay out-of-pocket for the cost of those legal*  
3           *services.*

4  
5 Hamilton-Rivers feels that any legal advice should be received in writing. Hills suggests  
6 that there are times when it may be preferable not to receive an opinion in writing. He  
7 further suggests that this also apply to the District Manager.

8  
9 Richard Kohn says that at the last meeting, two board members falsely insinuated that a  
10 member of the public, namely him, went to County Counsel to request a legal opinion.  
11 That is false. Furthermore, he thinks that the board should adopt a rule that if legal  
12 opinion is gained, and which is then not followed, that that board member reimburse the  
13 CSD for those expenses.

14  
15 Discussion continues on the various imaginable situations in which a legal opinion might  
16 be better kept private, or should be in writing.

17  
18 Friedman says that this is part of a much larger conversation about using lawyers, and  
19 how much weight is given to lawyers. Hamilton-Rivers says that a question and answer  
20 both in writing are key; it can then be up to the board what to do with that or with whom  
21 to share it. Hills wants to clarify a distinction between legal opinion and legal advice –  
22 usually it's the latter. This by-law should be reserved for instances when a board  
23 member, DM, or staff, goes to seek legal advice from anyone without the approval of  
24 the board. He still supports the idea of having it in writing.

25  
26 Halley adds that County Counsel thinks our current policy is very good, but warns  
27 against going too heavy with having everything in writing because it could compromise  
28 attorney-client privilege, and because it's not always necessary. Hills suggests adding  
29 "In writing unless there are extenuating circumstances"; Shaffer suggests "unless the  
30 board specifically requests it not be in writing".

31  
32 Lambert suggests considering this a bit more carefully and having a more carefully  
33 formulated motion at the next meeting. Hamilton-Rivers and others agree.

34  
35  
36 **Item 7: MBCSD Lands and Easements Management Committee (update)**

37  
38 1) Committee Chair Mary Halley (and fellow committee members) give an update on  
39 initial research and progress towards developing a set of land and easement policies.  
40 The committee has done in-depth research into land and easement ownership and  
41 prescriptive rights, along with beginning draft guidance language "Draft-Policy on  
42 Encroachments of Muir Beach CSD Lands and Easements" and "Draft-Policy on Uses  
43 and Encroachments on MBCSD Property" which still need further review and committee  
44 input.

1 Quick update: there have been five meetings now, recordings of which are all available  
2 on the website. Lots of research, some draft land policy that's still very much in  
3 progress, and the main thing that came out of the last meeting is a list of eleven  
4 questions that we're sending to legal counsel. A subcommittee consisting of Hills, Riehl,  
5 and Kohn is taking care of that.

6  
7 Hills adds that a package of documents has also gone with that, and we've asked that  
8 all replies be in writing. She expects to have something for us to discuss by next Friday.  
9 So we'll have more to discuss at the October 28 meeting.

10  
11 2) District Land Policy. The Lands and Easement Management Committee has asked  
12 the Board to discuss whether the CSD would ever sell, lease, or swap District non-Park  
13 lands. (*Park lands were clearly dedicated to the CSD for Park use only.*) These  
14 fundamental questions need to be answered before consideration in any draft-policy.

15  
16 The board discusses these options. Everyone agrees that selling land should basically  
17 not be considered by any board, while acknowledging that changing circumstances  
18 should be considered. The consensus of the conversation is that swapping is similar to  
19 selling in that it's a nonreversible act, and so if it is ever considered it too should pass a  
20 high hurdle by any current or future board. Leasing is a separate kind of consideration.  
21 Any of the three should be fully discussed before being approved by the board. The  
22 point of the current conversation, however, is not to set policy but simply to advise the  
23 Lands and Easements Committee about what the board's ideas are.

24  
25  
26 **Item 8: Lower Tank Property – Protective fencing**

27  
28 The Board is being asked to take proactive measures to protect the Lower Tank  
29 property against the possible impacts from the neighboring property becoming a  
30 wedding venue with terms and conditions yet to be determined. There has been a  
31 history of unauthorized parking of various types of vehicles and equipment on the  
32 property for which treads and tires can tear up the moisture laden soils leaving it  
33 vulnerable to damage and invasive weed growth. An open split rail running fence has  
34 been suggested. – Victoria Hamilton-Rivers

35  
36 Emily Castelli is present on behalf of Greg Kidd as his personal assistant, since he is  
37 currently in a different time zone. She reports that no weddings are scheduled at  
38 present, and we're happy to comply with any rules the CSD comes up with. The idea is  
39 not to rent the property but to offer it as a donation to people with limited means, for  
40 small events with between 5-15 people. As for parking, there is no request to use lower  
41 tank property; nobody will park on the lower tank area. Finally, Kidd has said that the  
42 last thing he'd want to see is another fence going up in this community, or this country  
43 really.

44  
45 There has been a separate meeting between Greg and proximate neighbors, including  
46 Paul Jeschke, Mary Halley, and Scott and Suzanne Bender who kept minutes, about

1 normal commercial restrictions. There is no CSD jurisdiction about how the property is  
2 used; the county has its rules which are separate.

3  
4 The CSD property area adjacent to Kidd's house which had been made into parking and  
5 was previously to be paved is being returned to a grassy area.

6  
7 Jeschke comments that under coastal zone regulations, a permit is required for a  
8 wedding venue in the coastal zone. Also, while the board doesn't have to do that, he  
9 would personally make sure that a permit is applied for. Second, he discusses the past  
10 stewardship of that property. 2-3 years ago, the board granted Kidd the right to maintain  
11 the lot that surrounds the lower tank, and he has taken responsibility for clearing weeds  
12 and doing some planting; however he also has abused it; his workers have repeatedly  
13 parked on it and damaged it; he shows photos of a pile of asphalt debris, a hose, PVC,  
14 plastic construction debris, and so on. He's been asked repeatedly to get rid of these  
15 things and has not. So he has not been a good steward of that property, and I think we  
16 should do everything we can to prevent him from having any ability to control anything  
17 on that property.

18  
19 Emily responds that they've been speaking to the contractor who will be picking that up  
20 in the next two days, and everything will be buttoned up in the next day or two, and they  
21 are sorry to cause any distress.

22  
23 Lambert is concerned about the expense of a fence. Friedman explains to Emily that  
24 there's a history here, which needs to be addressed more directly; it's not just this latest  
25 thing but that some trust needs to be built. Emily assures us that Greg does want to be  
26 a good neighbor. She and Jennifer Legge (another personal assistant; Emily is the  
27 corporate personal assistant) will be on it. It's distressing to be a source of pain for the  
28 neighbors and that's not what they want.

29  
30 Hills says that Jeschke raises an interesting point about rights to landscape or maintain.  
31 He understands that there had been an earlier informal agreement, but generally Hills  
32 feels that's not a good idea for individual property owners to landscape CSD property.  
33 At a future meeting we should revisit this, with the proposal that it would be fine for  
34 people to contribute money for that purpose, but that in general the CSD should be  
35 doing the work, rather than taking it on themselves.

36  
37 Hamilton-Rivers agrees with Hills. Furthermore, she'd say to Greg, prove you can be a  
38 good neighbor, and if you can be decent and consider others and not just your own  
39 plans, people will come around. Until then she feels the property should be fenced.  
40 Halley adds that he should be put on notice that he should stay off the lower tank  
41 property; with the farm stand, she's been called many times that a car's parked there,  
42 construction workers are there, workers are driving over the curb; it's been ongoing and  
43 surprising. Emily will pass this info on. This is not about money; he's not taking money,  
44 but it's in a spirit of inclusion to allow people to be married in Muir Beach.

1 **Item 9: District Manager Report**

2  
3 Halley goes over the highlights from her 8/26/20 District Manager Report, a written  
4 document which (as always) is included with the monthly meeting packet available  
5 online at <http://www.muirbeachcsd.com/meetings>.

6  
7 There will not be a polling place in Muir Beach. But we are having a special ballot with  
8 items specific to Muir Beach, so you'll have to find out what polling place you can go to:  
9 <http://marinvotes.org> , or you can mail in your ballot.

10  
11 Halley goes into detail on the insurance issue with the person who drove into Redwood  
12 Creek, which she has pursued every possibility, and seeks the advice of the board  
13 about how to continue. The board agrees that the best course of action is to submit a  
14 claim to our insurance company and pay the deductible, as long as it won't terribly affect  
15 our rates.

16  
17 Back to the lower tank property, since our survey monuments have disappeared twice,  
18 she has gotten heavy-duty markers which she displays, and which will be installed and  
19 cannot be removed.

20  
21 The project of finding someone to take care of Community Center rentals is shelved  
22 until 2021.

23  
24  
25 **Item 10: MERA**

26  
27 To approve that "Directors Hills and Board President Shaffer will speak with an outside  
28 consultant who has previous experience in successful MERA tower negotiations at a fee  
29 \$150 p/hour." – Leighton Hills/Victoria Hamilton-Rivers

30  
31 This was raised at the last meeting. Hills and Shaffer will be meeting with someone from  
32 MERA as well. At issue is whether other revenue could be gained from the use of the  
33 antenna. There's also the possibility of a monthly payment for having the antenna. Hills  
34 adds that there are other little nuances, such as annual adjustment of any lease. He's  
35 gotten copies of all the leases MERA has signed, and they're all redacted as to the  
36 amounts, so that's part of the reason to consult with this person from Bodega Bay.

37  
38 Chris Gove says that he is a stakeholder in this, that this is a public safety issue, and he  
39 would like to be included as necessary in any such negotiations and discussions. There  
40 is general agreement.

41  
42 Hills gives background on MERA. The MBCSD is not a member of MERA, so we'd like  
43 to get compensation for this large tower going up on our property. Second, how do you  
44 handle when there are new participants on this tower (e.g. cellular); who gets  
45 compensated; is the foundation strong enough; etc. So these are questions to be  
46 addressed.

1  
2 The board informally approves.  
3

4 MOTION: To give Hills and Shaffer, and also including Gove as needed,  
5 approval to move forward with a \$1,000 cap, and that  
6 recommendations from the consultant also be in writing.

7 Moved: Lambert, seconded by Friedman

8 Vote: AYES: Unanimous  
9

10  
11 **Item 11: Feasibility of a County Ordinance Regarding Fires on Little Beach**  
12

13 Leighton Hills will provide an update on discussions he has had with Supervisor Dennis  
14 Rodoni regarding the feasibility of a possible ordinance regulating fires on Little Beach.  
15 If it turns out to be feasible and if wanted, the County would then move forward after  
16 receipt of a letter from the CSD requesting such an ordinance.  
17

18 The question is feasibility as to if the community wants something like this. It's not a  
19 grey area, because although the property is not managed by the CSD, the CSD has the  
20 power of fire protection. That would be much better done by the county, so the idea is to  
21 ask the county to pass a resolution, if it is wanted by the residents. Rodoni has not  
22 gotten word back from his legal people.  
23

24 Lambert feels strongly that the county does not get involved, that it would be better to  
25 start with signs; that it's a community beach, and that the county might overreach.  
26

27 Gove encourages land-owners to make sure the fire danger on their personal property  
28 is minimal, for those rare evenings which conditions could lead to fire jumping from the  
29 beach (which is unlikely 99% of the time). But we also want to protect the community's  
30 ability to enjoy beach bonfires.  
31

32 Further discussion ensues. The result is to recommend that private property owners  
33 should work amongst themselves to come up with a proposal, put up signs, or  
34 whatever. The board will not take any action at this point.  
35  
36

37 **Item 12: Public Open Time**  
38

39 Hamilton-Rivers reports that Kevin the mail carrier is fed up with the open mailboxes  
40 and the number of raids that have happened. Could we do anything to get people to  
41 lock their mailboxes? It's decided that Halley can send a note to the community asking  
42 people to get lockable mailboxes. In addition, Hills will ask Kevin whether the package  
43 lockboxes can be changed to simpler/easier combination locks, to be provided by us.  
44

45 Gove asks people to participate in Firewise Community – if we show a commitment as a  
46 community, then it could help keep our homes insurable.

1  
2 Chipper day was a big success, and it's likely we'll be getting funding for a second  
3 chipper day in October and moving forward.  
4

5

6 **Item 13: Recognitions & Board Member Items**

7

8 Shaffer recognizes the wonderful and hard work Halley has been doing. Hamilton-  
9 Rivers amplifies that, and also recognizes Chris Gove for passing his EMT training.

10

11 Lambert thanks Shaffer for his contributions to the deed changing business.

12

13

14 **Item 14: Adjournment**

15

16 Next Agenda Meeting Date: Wednesday, October 21, 2020

17 Next Board Meeting Date: Wednesday, October 28, 2020 (Speaker Supervisor Dennis Rodoni)

18

19 There being no further business to come before the board, the meeting is adjourned.

20

21 Meeting adjourned at 9:48 pm.