

1 **MUIR BEACH COMMUNITY SERVICES DISTRICT**
2 Minutes of the Board of Directors' meeting held on
3 Wednesday, **December 9, 2020**

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6 **OFFICIAL MINUTES ONLY UPON APPROVAL**
7

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

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

14
15 Steve Shaffer called the meeting of the Muir Beach Community Services District Board
16 of Directors to order at approximately 7:05 pm.

17
18 Directors present: Steve Shaffer (Board President), Peter Lambert (Board Vice-
19 President), Leighton Hills (Director), Paul Jeschke (Director),
20 David Taylor (Director)

21
22
23 Staff present: Mary Halley, District Manager
24 Chris Gove, Fire Chief
25 Ernst Karel, Meeting Secretary
26

27
28 **Item 2: Welcome and Seat New Directors**

29 Welcome to newly elected Directors Paul Jeschke and David Taylor to the MBCSD
30 Board of Directors for 4-year terms. Both swear to the oath of office. Thank you to out-
31 going Directors Gary Friedman and Victoria Hamilton-Rivers for their dedicated service
32 to the community over the past five (or more) years.

33
34
35 **Item 3: Approval of Agenda**

36
37 Item(s) not included in this agenda: None
38 The only change will be to go to **Item 7** before **Item 6** so that **Item 7** can be completed
39 while the architect Laura Van Amburgh is present.

40
41 MOTION: To approve the agenda
42 Moved: Hills, seconded by Lambert
43 Vote: AYES: Unanimous

44
45
46 **Item 4: Consent Calendar**

1
2 1. Approval of Draft Minutes from Regular Board Meeting of 10/28/20.

3
4 MOTION: To approve the consent calendar
5 Moved: Hills, seconded by Lambert
6 Vote: AYES: Unanimous
7

8 **Item 5: Items Removed from Consent Calendar**

9
10 No items removed.

11
12
13 **Item 7: New Firehouse Plan Update** *[audio recording: 4:30 – 1:00:30]*

14
15 Fire Chief Chris Gove will present and give an overview of the plans for the new
16 firehouse and ask the Board for approval to submit a Coastal Permit application to
17 Marin County Planning Department.

18
19 Architect Laura Van Amburgh is present to share the current design of the proposed
20 firehouse on screen. She has a 3D model which she shows and talks about various
21 aspects of the design, including:

- 22
- 23 • 2083 sqft, with 488 sqft loft
 - 24 • 3-bay garage
 - 25 • painted cement board siding
 - 26 • wood from old redwood water tank as accents
 - 27 • aluminium garage doors
 - 28 • 25 ft height
 - 29 • ISO regulations require bathroom and hot and cold water, and the firehouse is
30 required by law to have shower and laundry

31
32 There is a lengthy conversation with questions from the public including ones about the
33 environmental impact of the building materials, and about landscaping, size, parking,
34 light at night, and noise.

35
36 The plans are not yet finalized, and there is yet no cost estimate.

37
38 The owner and applicant will be the CSD; the VFA is only a fundraising arm.
39 In discussing who would actually be listed as the applicant to the Coastal Commission
40 (with the suggestion that it could also be the architect Laura Van Amburgh), Hills points
41 out that it's important to know who is responsible to make changes – e.g., if the Coastal
42 Commission proposes a different colour or other change, it will come to the CSD.

43
44 MOTION: to sign as owner and possibly applicant for the application to the
45 Coastal Commission
46 Moved: Hills, seconded by Taylor

1 Vote: AYES: Unanimous

2
3 **Item 6: District Manager Report** [audio recording: 1:00:35]

4
5 Halley goes over the highlights from her 10/28/20 District Manager Report, a written
6 document which (as always) is included with the monthly meeting packet available
7 online at <http://www.muirbeachcsd.com/meetings>.

8
9 We had a 90% turnout for the vote in the November election. The next election for the
10 board will be November 2022.

11
12 She also gives an update on the Alliance of coastal Marin villages. Last meeting, Halley
13 asked Dennis Rodoni about the CCC eliminating any wording that had to do with
14 protecting coastal communities, and the letter we and other communities had submitted
15 to add that language. Since then, she has been in touch with Coastal Commissioner
16 Katie Rice with a subgroup. Halley made a short presentation, submitted another letter,
17 and the night before the Coastal Commission meeting, they had inserted our language
18 regarding the protection of small coastal community character into 3 essential parts of
19 the strategic plan and then at the meeting itself, Halley spoke on its behalf, and
20 Commissioner Rice also asked the commissioners for it to be included in the overall
21 Vision Statement and Goals. So, this was a success. Christian Riehl comments that this
22 is huge and will affect the community positively in a big way, and that Halley deserves a
23 lot of props for this.

24
25
26 **Item 8: MBCSD Lands and Easements Management Committee (update)**

27 [audio recording: 1:04:00]

28
29 Committee Chair Mary Halley and fellow committee members gives an update on the
30 legal research and progress towards developing land and easement draft-policies. The
31 Board will be asked to either 1) approve the public release of the legal CSD Rights-of-
32 way memorandum and supplemental memos (thus forfeiting their attorney-client
33 privilege) or 2) allow the LEMC committee to discuss legal findings in a non-public
34 meeting as it pertains to the development of land and easement policy.

35
36 Halley begins with the update that legal review is complete; the legal fees have spent
37 \$5010 of our \$5700 budget. The board has approved continuation through January.
38 Member Ernst Karel has resigned. Currently there is no draft policy; there is a sketch
39 that hasn't quite been dug into yet. From the legal decision, Kohn has written up a
40 summary of the legal opinion for the committee, but the committee has not yet
41 discussed it, being as the question is now before the Board. This question is based on
42 the fact that MB legal access policy says that only board members and admin staff have
43 access to legal briefs, and that therefore any confidential attorney-client privilege
44 documents and related information will not be publicly shared if in doing so it is deemed
45 to undermine or forfeit the district's right to attorney-client privilege confidentiality.

1 So, the committee has found itself in a pickle, because since the meetings are open for
2 the public to watch, we cannot discuss these legal findings until either the board makes
3 them public, thus giving up client confidentiality, or grants the committee at least one
4 meeting to discuss them in private.

5
6 Lambert asks why we would want attorney-client privilege. Kohn addresses this, saying
7 that the ruling deals with some complicated legal concepts, and the committee has not
8 yet discussed them amongst themselves, and it's not up to the committee to waive
9 confidentiality. So, it seems that it might be prudent to let the committee complete its
10 work before going public with it, since we have not had a chance to discuss it and that's
11 an issue for the board to decide. Also, there is almost \$700 left over, so in case we
12 needed to seek clarification on something, we might be able to go back to Epstein and
13 Holtzapple for that purpose. There is also work-product privilege here, which is the law
14 firm's privilege, so regardless of what the board does, the firm would have to waive their
15 work-product privilege. There would probably be no problem there from their standpoint,
16 but that is another step that has to be taken.

17
18 Shaffer clarifies that what is under discussion is the question of whether the committee
19 is allowed to have a single closed session. A lengthy discussion continues on this topic,
20 both pro and con.

21 *[through 01:38:00 on the audio recording.]*

22
23 MOTION: To allow the Lands and Easements Committee to discuss legal
24 findings in one non-public meeting as it pertains to the development
25 of Lands and Easement policy.

26 Moved: Hills, seconded Taylor

27 Vote: AYES: Shaffer, Hills, Jeschke, Taylor

28 NAY: Lambert

29 The motion passes.

30
31
32 **Item 9: Road Policy** *[audio recording 01:39:30]*

33
34 Former Director Hamilton would like to request that the Lands and Easement
35 Management Committee take up the issue of road maintenance policy as it relates to
36 easement use and maintenance given community concerns.

37
38 The consideration has to do with the idea that people who do damage to the roads
39 through excessive use would be called upon to repair that. For example, there would be
40 a road use fee, similar to what Peter Lambert contributed, in addition to repairing any
41 damage. This could be assessed by having a civil engineer examine the roads both
42 before and after significant work is done.

43
44 Shaffer postpones continued discussion to the next meeting.

1 **Item 10: Lower Tank Property – Protective fencing** [audio recording: 01:53:10]
2

3 This is a roll-over from a previous meeting. There has been a history of unauthorized
4 parking of various types of vehicles and equipment on the CSD Lower Water Tank
5 property for which treads and tires can tear up the moisture laden soils leaving it
6 vulnerable to damage and invasive weed growth. Installing a section of open split-rail
7 fencing placed on the street-side of the property that borders the 66 Starbuck driveway
8 has been suggested as a means to protect the land from vehicle access. Following
9 discussions at the 9/16/20 Board meeting on the issue of taking proactive measures to
10 protect the Lower Tank property against any possible impacts from the 66 Starbuck
11 property becoming a wedding venue, the Board requested to revisit this topic again at
12 the next Board meeting to see what progress may result from the neighborhood
13 negotiations as to any terms and conditions on the new commercial activity and then
14 see if further action would be necessary to protect the property. The neighborhood
15 group has verified with Marin County Planning that a commercial wedding venue is not
16 an allowed/legal use on residential property, but the Board may still wish to discuss
17 protection of the property from other types of parking uses where a light running fence
18 may still be recommended for general protection of the native grasses and existing
19 drainage rock.
20

21 Shaffer notes that an estimate for a split-rail fence would be around \$1200.
22

23 Jeschke feels that the suggestion for a low-profile rustic fence is a good one. There is
24 also a separate potential water-dispersal problem because of the drain under the
25 Starbuck Extension and onto CSD property.
26

27 Many neighbors speak in favor of split-rail fence, that it would be attractive and low-
28 maintenance. Greg Kidd is against it but in favor of some plantings. A point against
29 planting (even of native species) is the irrigation required to start them, given current
30 drought/megadrought conditions.
31

32 MOTION: that \$1400 be allotted to build a split-rail fence along that property,
33 just along the driveway.

34 Moved: Jeschke, no second

35 Vote: no vote
36

37 Because there was no second to the motion, Halley will meet with Kidd and landscaper
38 Brad Eigsti to discuss ways forward, and then in the next meeting the board will vote on
39 a solution, which will be either a split-rail fence or some kind of planting.
40
41

42 **Item 11: MBCSD Legal Counsel Policy Review** [audio recording: 2:08:40]
43

44 The Board requested at the 9/16/20 Board meeting to review the MBCSD Access and
45 Use of Legal Counsel Policy. (See attached MBCSD Access and Use of Legal Counsel
46 Policy-2018)

1
2 Board President Shaffer and now former Director Hamilton-Rivers would like to request
3 modification to the MBCSD Access and Use of Legal Counsel Policy - 2018, third
4 paragraph, section a. County Counsel, to read:

5
6 Any member of the Board of Directors can only use County Counsel with prior
7 Board permission and the question must be written out and submitted to the
8 District Manager for submittal to County Counsel. All responses by County
9 Counsel to the submitted question must be in writing and reported back to the
10 MBCSD Board for review.

11
12 General consensus is that the wording is fine the way it is, and no change will be made.
13

14
15 **Item 12: Suggestion for fundraising** *[audio recording 2:12:10]*

16
17 Muir Beach homeowner Gerry Pearlman will present his idea for raising matching grant
18 funds.

19
20 He comments that the point is moot now because of the volunteer contributions, but for
21 possible future reference, ideas would have included:

- 22
23 1. the reserve fund
24 2. a surcharge on water bills
25 3. a special assessment
26

27
28 **Item 13: Public Open Time** *[audio recording 2:13:50]*

29
30 Halley asks if there is progress with MERA radio negotiations. Shaffer reports that there
31 is progress and feels that there will be a happy outcome. Next month we will have
32 hopefully good news.
33

34
35 **Item 15: Recognitions & Board Member Items**

36
37 On the occasion of the changing board, Richard Kohn highlights the many
38 accomplishments of the current board, including paving Sunset and Charlotte's Way,
39 creating a legal water rate structure, and others; and Victoria Hamilton-Rivers was a key
40 part of that, with grace and with humor. Congratulations to the board on everything
41 they've accomplished, and in particular to Victoria. Tayeko Kaufman agrees that the
42 board has accomplished a lot, and much of that is due to Victoria's energy after she
43 became a US citizen. It was a blessing to the community. Many other expressions of
44 gratitude to Victoria.
45
46

1 **Item 14: Adjournment**

2

3 Next Agenda Meeting Date: Wednesday, January 20, 2021

4 Next Board Meeting Date: Wednesday, January 27, 2021

5

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

7

8 Meeting adjourned at 21:24 pm.