

1 **MUIR BEACH COMMUNITY SERVICES DISTRICT**
2 Minutes of the Board of Directors' meeting held on
3 Wednesday, June 24, 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: Closed Session**
13

14 No closed session was held.
15

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17 **Item 2: Call to Order**
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19 Leighton Hills called the meeting of the Muir Beach Community Services District Board
20 of Directors to order at approximately 7:10 pm.
21

22 Directors present: Gary Friedman, Victoria Hamilton-Rivers, Leighton Hills,
23 Peter Lambert, Steve Shaffer
24

25 Staff present: Mary Halley, District Manager
26 Chris Gove, Fire Chief
27 Ernst Karel, Meeting Secretary
28
29

30 **Item 3: Reconvene in Open Session**
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32 Because no closed session was held, the meeting was called to order in open session.
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34

35 **Item 4: Approval of Agenda**
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37

38 MOTION: To approve the agenda
39 Moved: Hamilton-Rivers, seconded by Friedman
40 Vote: AYES: Unanimous
41
42

43 **Item 5: Consent Calendar**
44

45 Item(s) not included in this agenda: None
46

1 MOTION: To approve the consent calendar
2 Moved: Shaffer, seconded by Hamilton-Rivers
3 Vote: AYES: Unanimous
4
5

6 **Item 6: Items Removed from Consent Calendar**
7

8 No items removed.
9

10
11 **Item 7: Possible Lease of Portion of Lower Water Tank Property to Adjacent**
12 **Neighbor**
13

14 Discuss for possible approval, preparation by a real estate attorney of a draft lease for a
15 portion of the lower water tank water system property owned by the CSD adjacent to 66
16 Starbuck, that has been encroached on with two parking spaces and an area used for
17 landscaping, to be detailed in the draft lease. Terms and conditions to be considered
18 could be either annual renewing or a 5-year renewing lease with 3% annual rent
19 adjustment, and all other relevant provisions. Notwithstanding, the 1-year or 5-year
20 lease term would reserve the right to cancel early if that area became needed for any
21 CSD or water system purpose. Note that this parcel is neither park land nor easement
22 property, rather a parcel owned fee simple by the District to house its lower water
23 storage tank.
24

25 Hamilton-Rivers worries that this is cart-before-horse given that we have just appointed
26 a committee to address such issues, and that the issue seems to be forced by the fact
27 that Greg Kidd wants to pave the driveway. The issue is clarified that it is part of the
28 CSD's property that he wants to pave. Hamilton-Rivers feels, and Shaffer concurs, that
29 we have no need to protect the time and money of Kidd in this scenario, that instead the
30 issue needs due consideration. Shaffer notes that we need to have Starbuck repaved
31 ASAP, and the board agrees that he will need to get the road paved within 2-3 weeks.
32 Friedman understood that we are requiring that the area be engineered. Halley says
33 that there were basic drawings submitted, and that it is ready to be paved.
34

35 Direct neighbor Paul Jeschke says that the project has changed repeatedly, and that it
36 probably should be looked at by an engineer. Kidd has taken out a storm drain, so
37 drainage could be a real problem when the rains come. The storm drain needs to be
38 addressed, and the road needs to be repaved. Halley reports on the status of the storm
39 drain. While the work was being done, he offered to have the water go down to
40 Seacape, and Halley recommended it follow the water line, which was then sketched
41 out, and then abandoned. She suggests the CSD resolve that issue more formally. Hills
42 suggests we ask Kidd to follow the original plan to take it to Seacape, and if he doesn't,
43 then we would call our geotechnical engineer to engineer what happens with the water.
44 Shaffer suggests that Halley sends Kidd a letter saying that we want the paving taken
45 care of by July 15 and follow through with a conversation with the commitment to take
46 the drainage down to Seacape. The request includes that he remove the new curb

1 framing on CSD property as well. After July 15, the district will pave it and send him the
2 bill. Lambert concurs that such a deadline is reasonable and concurs also with
3 Hamilton-Rivers that it's good to postpone this rather than put the cart before the horse.
4
5

6 **Item 8: 341 Sunset Way Fence Proposal**
7
8

9 The property owners at 341 Sunset Way would like to present their proposal for the
10 replacement of a previously existing fence needed for safety and privacy concerns.
11

12 Linda Lotriet reads a written statement, which is copied here:
13

14 Dear CSD Board and Community members:
15

16 Now that the project is completed at the turnaround by our house at end of Sunset, we have to solve privacy
17 and security needs. At this moment, we understand there are four facts about matter.
18

19 First, historically there was a wire fence with greenery growing in it for, we've been told, 40-50 years at that
20 location. It provided privacy and security for Janet Stump's family and a backdrop for her gardening. We
21 saw parts of her magical garden and only glimpses of a house behind the greenery.
22

23 Second, two legal opinions, including one by an independent attorney hired by the CSD , and one by our
24 land-use lawyer say that as long as what we put up does not interfere with the express stated purpose of the
25 easement, the CSD or the actual owners of the easement which are the original Bello Beach subdivision
26 owners have no right to make demands about it or anything in the unused portion of the easement.
27

28 Third, it is said that the CSD has a "policy" that things like gardens, fences, garages, structures or sheds that
29 are currently on unused parts of easements are "grandfathered," but that new, man-made structures are
30 discouraged or not allowed. Actually, there are no such policies that were formally adopted anywhere on the
31 CSD website. And only if they were passed by the Board and appear on the website do they actually "exist."
32 The CSD has recently acknowledged that the lack of formal policies that are clear, consistent, fair and even
33 legal is a priority and have begun the process to address treatment of the easements.
34

35 Finally, then let us summarize the impact of this project on our available options to provide privacy screening
36 and security – two factors which face every Muir Beach homeowner. The project has left us with limited
37 options to accomplish feasible privacy screening and safety. The road is now closer to the house and has been
38 elevated by about 6 feet in the area closest to our home. That means for example, if any privacy screening is
39 placed even a few inches on the house side of the road / wall, the height of the wall that the road rests on
40 means a normal 6-foot fence won't even reach the level of the grade of the new road. Viewing from the road,
41 it is all open with a small curb. On our side, the view is of a rough, industrial wall with protruding bolts, with
42 the road looming down on the house and yard area. The contractors left a series of bolts on our side in the
43 cement wall for the purpose of installing posts that could hold a guardrail and privacy screening.
44

45 As of yesterday afternoon – and even before that -- there is an urgent need to erect something in that space.
46 The danger it poses to pedestrians, and especially children, is high. The contractor "formally" moved out of
47 the area last night. The road is now elevated to its final height, and there is nothing to indicate there is a
48 dangerous drop on the other side of a low 9" curb. I have requested Cuco to be on standby for Thursday.
49 And as the contractor provided, Cuco will use the bolts that the contractor installed for this purpose.
50

51 Thank you for the time to provide this explanation.
52

1 Hamilton-Rivers reports that the CSD has also received legal advice that concurs that
2 Lotriet is able to build whatever fence they feel is appropriate, and that
3 Halley says that right now there are the bolts that line the wall, which were put in for
4 some kind of guard rail structure, and understands that they want it to be a 6' fence from
5 the roadside. Discussion continues about the nature of the proposed fence (a
6 combination of light and opaque, but as open as possible in other areas, but something
7 aesthetically nice that people would like), and issues of safety and liability that arise
8 from the new height of the roadway and the steepness of the cliff down to the beach.
9 Sandmann has said that they have a right to have a fence there, and in addition Halley
10 feels that it would be good to have community support. Halley further feels that this is
11 not an issue for the new easement/roadway committee. Hills feels that the CSD should
12 be the ones building the fence on the CSD's wall, and that several months ago Lotriet
13 was offered the option to pick what the guardrail/fence would be, which was specified by
14 the engineers at 42". He is concerned that the proposal is to extend the fence into
15 Dusty's Path, and that is the kind of thing for the committee to consider. Halley agrees
16 that Dusty's Path is a pedestrian easement and that we definitely don't want anything to
17 block that path; also the Fire Department has said that they want 3' distance from the
18 hydrant. Lotriet and Lambert have honored that, and so a drawing/sketch/plan is called
19 for. Lotriet responds that the plans do take into account the 3' for the hydrant, and that
20 there had been a fence for decades along Dusty's Path, but that was partially taken
21 down by the CSD even though Sandman had said that the CSD only had the right to
22 take down a fence as needed for the construction, so this shouldn't have been taken
23 down. She suggests that going to the county for permitting could invite review of every
24 aspect of the road project, which has created several problems for their property, and
25 that permitting authorities would take into consideration all of these. They felt that the
26 CSD required more permits than they actually had gotten, and so there is the possibility
27 that the whole thing could be reopened for evaluation of the process.

28
29 Beth Nelson, who also lives on that side of Sunset, concurs that there are big privacy
30 issues there, having seen people crawl up the cliff to their house, and so on. In her
31 professional work dealing with easements elsewhere, she feels that surveys and
32 lawyers are what's required here. Hamilton-Rivers gets why they want a fence up there,
33 and does not want to hold them up. The only thing that concerns her is going beyond
34 county rules for nonpermitted fences. Would a compromise be that it could be 6' from
35 the surface of the road itself? Shaffer feels that we at least need to know if such a fence
36 would require a permit from the county. Discussion continues around how the proposal
37 relates to permitting issues, safety concerns, and so on.

38
39 Lotriet emphasizes that it's a current danger, that children have been running on the
40 wall and could fall. Shaffer repeats that he's just talking about asking anonymously
41 whether it's allowed. Friedman says that the CSD could approve the plan but only
42 contingent on whether the county would confirm it's lawful. Hamilton-Rivers agrees and
43 wants them to be able to proceed if the planning office approves in theory.

44
45 Halley asks if it would be okay with Lotriet and Lambert to leave the fence along Dusty's
46 Path for later. Lotriet says the fence has been replaced that the fence was taken down

1 without their permission and against the advice of the CSD's own lawyer. She goes into
2 other aspects of the history of problems the CSD has caused for them at that site.
3 Friedman apologizes to Lotriet for those problems, and asks if the two aspects can be
4 separated, that the fence along the roadway proceed, and a temporary fence be put
5 along Dusty's Path. Lotriet says that there was a fence there historically, and much of it
6 is still there. Discussion continues along these lines.
7

8 Chris Gove says that the proposed fence will be no problem with the county. Gove adds
9 that the CSD should not be involved with the aesthetics of people's fences.
10

11 MOTION: To approve the fence to be 6' above the level of the pavement, per
12 the drawing Lotriet showed, physically connected to the back of the
13 wall, subject to confirmation with the county.
14 Moved: Friedman, seconded by Shaffer
15 Vote: AYES: Unanimous, but for abstention by Lambert
16
17

18 **Item 9: Committee to Develop Policies for CSD Management of Lands and** 19 **Easements (preliminary update)** 20

21 Committee Chair Mary Halley announces the formation of the committee:
22

23 **Committee Goal:** to research and develop a MBCSD Land and Easement
24 Management Policy.
25

26 **Committee Members:**

27 Mary Halley (MBCSD DM and Committee Chair)
28 Victoria Hamilton-Rivers (MBCSD Board member)
29 Leighton Hills (MBCSD Board Member)
30 Christian Riehl (MBag)
31 David Taylor (MBVFD)
32 Kasey Corbit (MB resident with legal background in easements)
33

34 The question is whether the Board should define and approve a legal expense budget
35 for this committee. Hills says that early on there was an allotment of \$2500 for this
36 effort; Halley had understood there was a \$2000 allocation for legal fees. Although this
37 had been previously approved, there is a confirmation with an additional vote.
38

39 MOTION: That the board consider a budget for the Lands and Easement
40 Management committee that has a legal budget of \$2500 maximum
41 Moved: Hamilton-Rivers, seconded by Shaffer
42 Vote: AYES: Unanimous
43
44

45 **Item 10: District Manager Report** 46

1 Halley goes over the highlights from her 6/24/20 District Manager Report, a written
2 document which (as always) is included with the monthly meeting packet available
3 online at <http://www.muirbeachcsd.com/meetings>.

4
5 Additionally, Halley found out today that the Muir Beach CSD was approved for a Per
6 Capita Grant from the state, for recreation projects, for \$177,952.

7
8 Cuco has asked for a few pieces of the redwood from the old upper tank, not the nicely
9 stacked wood but the other less prime wood. The board says that's fine.

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11
12 **Item 11: FY20-21 Draft-Budget**

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14 The second reading of the proposed FY20-21 Draft-Budget will be presented by the
15 District Manager for further discussion and preliminary approval. (See *FY20-21 Draft-*
16 *Budget attached*) Approval of the Final FY20-21 Budget to be held on July 22, 2020.

17
18 MOTION: To grant a preliminary approval for the Draft-Budget
19 Moved: Shaffer, seconded by Hamilton-Rivers
20 Vote: AYES: Unanimous

21
22
23 **District Public Service Announcement: Board Elections November 3, 2020**

24
25 The filing period for those wanting to run for the November 3, 2020 Board elections
26 begins July 13th thru August 7th. Two positions are ending, those of Hamilton-Rivers
27 and Friedman. If incumbents do not file by the 7th the period extends to the 12th for
28 everyone other than incumbents.

29
30 Hamilton-Rivers announces that she will be stepping down from the board and is
31 grateful for the support and confidence of the community. She would like to encourage
32 anyone who might consider it to run, as it is hugely rewarding to be of service to the
33 community. She personally has learned a great deal about governance, about herself,
34 and about the community, and in addition has become comfortable with public
35 speaking.

36
37 Beth Nelson thanks Hamilton-Rivers for her very measured and valuable contributions,
38 which is echoed by Laurie Piel. Paul Jeschke would like to see Hamilton-Rivers
39 continue, but if she does not, then the board should publicize the election, the details of
40 which should be published on the CSD website, Nextdoor, and Piel's newsletter.

41
42
43 **Item 12: Public Open Time**

44
45 Gary Friedman reads a statement about BLACK LIVES MATTER and encourages
46 people to participate in this crucially important movement.

1
2 Halley thanks Hills and Gove and Cuco and Karel for responding to the water main
3 break when a car went into the creek on a Friday night.

4
5 Gove announces that Tuesday September 8 will be a big chipper day for the
6 community.

7
8 Shaffer asks about whether the driver has been identified; Halley is making progress,
9 has the insurance information, and we will be making a claim. Shaffer thinks we should
10 add \$4500 to reimburse the nine people \$500 for the inconvenience they faced for
11 going days without water.

12
13

14 **Item 18: Recognitions & Board Member Items**

15

16 Shaffer also thanks everyone who responded to the water main break.

17

18 Next meeting is scheduled for July 22.

19

20

21 **Item 19: Adjournment**

22

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

24

25 Meeting adjourned at 9:11 pm.