

MINUTES FOR THE REGULAR MEETING OF THE BOARD OF DIRECTORS
MONTECITO FIRE PROTECTION DISTRICT

Held at Fire District Headquarters, 595 San Ysidro Road, October 27, 2014 at 2:00 p.m.

The meeting was called to order by Director Venable at 2:00 p.m.

Present: Director Venable, Director Sinser, Director Powell, Director Keller and Director Jensen. Chief Hickman and District Counsel M. Manion were also present.

- 1. Public comment: Any person may address the Board at this time on any non-agenda matter that is within the subject matter jurisdiction of the Montecito Fire Protection District. (30 minutes total time is allotted for this discussion.)**

Chief Hickman presented certificates to Bret Koepke, Aaron Briner for completing the Blue Card Training Program. He also acknowledged Eric Klemowicz, Rod Walkup and Scott Chapman who were not present, but also completed the program.

- 2. Community Facilities District No. 2011 (Upper Hyde Road) Approve the second reading by title only of Ordinance No. 2014-02 of the Montecito Fire Protection District dissolving Community Facilities District No. 2011 (Upper Hyde Road).**

Public Comment:

Roger Collis stated that the LLC has not been finalized, and is still being drafted. The construction documents were submitted to the County, are now being reviewed by MNS (District engineers) and the Upper Hyde Road engineering firm to review again. These plans are different than the original set previously reviewed, signed and approved by the District. The new engineer revised the plans to avoid the installation of a large and expensive retaining wall in the area of the DeSitter easement. There are now questions around the easement portion of the road and who should bear the costs of improvements to this area.

Martha Collins stated that when the DeSitter easement was negotiated, the UHR residents were not consulted, nor did they participate in negotiations. The location of the easement has created increased costs of the construction of the road. She also stated that a letter from their engineer, Mr. Robert Winslow, indicates the turnaround at the end of her driveway is equivalent to the hammerhead proposed at the cave.

Michael Collins stated that the rebuild process has been difficult for the residents. The primary goal should have been to treat all roads equally, yet there were other substandard roads that were not asked to widen. The DeSitter easement is too narrow, and the previous easement held by the Collins and the Hayams would not have needed a retaining wall. If a large retaining wall is necessary, he suggested that the District should be responsible for costs associated with that section of the road.

Mr. Manion explained that several owners did not have easements across the DeSitter property. The District acquired the easement through eminent domain. If the Board desires specifics about the negotiations to obtain the property, they should consider postponing the second reading and the engineers and Todd Amspoker should report back

to the Board.

Mr. Collis explained that the retaining wall is not a given, and the engineers are reviewing the options.

Mrs. Collins asked that the Board postpone the second reading of the Ordinance, because the previously approved plans are no longer valid.

Mr. Collis advised that he spoke with Mr. Knudson and Mr. Soto who suggested that they be creative with this section of the road. It turns out that the plans that the UHR engineers submitted to the County were different than the plans previously approved by the District. The property owners were not informed of this issue until this weekend. They will not be able to submit documents to contractors to bid until these issues are resolved. Without that, they will not know what the cost of the road will be.

Director Sinser asked if there are any actions or lack of action by the Board that are responsible for the delays. Mr Collis stated that he does not feel the delays are related to any Board actions or inaction.

Mr. Manion pointed out that the easement has been known since 2011. The additional costs may impact the UHR residents' desire to dissolve the CFD.

Chief Hickman explained that the District requested the new UHR plans that were submitted to the County for review when it was determined that they were different. Much of what was previously agreed to had been omitted. MNS found many issues with drivable width, curb issues, and grading outside of the District's easement. There has always been a concern with whether the material would support a 1 to 1 cut, but there was never any intent to allow the road surface to go off the easement. Their engineers have since been working closely with our engineers to address the challenges.

Chief Gregson explained that there was a breakdown in communication. Once the District realized the plans submitted by the UHR residents' engineers to the County were different than the plans the District had approved many months prior, we needed to review the new plans. There was always a possibility that there may be a need for a wall, but that could not be determined without a soils report. The District has worked diligently to help the residents bring the costs down on the road. He added that he does not believe that the 8' x 100' retaining wall is final, and they are still waiting for more information from the UHR engineers.

Director Powell stated that the District stamped a set of plans that had a specific road widths included in the DeSitter easement. The UHR residents went to a new engineering firm who made changes that were not acceptable to the concessions previously signed and approved by the District. The delay has developed in trying to get the two sets of plans harmonized and brought into alignment.

Mr. Manion explained that without the property owners taking possession of the easement, those owners would be forced to file their own prescriptive easement claim. Additionally the previous easements owned by the Collins and Hayams still exist.

Michael Collins stated that the easement should be given to the UHR residents after the road is built. Mr. Manion explained that it was clear that if the road was constructed by the CFD then the easement would remain with the CFD, however, if the CFD is dissolved and the road is to be constructed by the owners then the easement will need to be conveyed to the owners.

Given that the LLC was not finalized and that the engineering plans have not been approved, both of which were supposed to be finalized, Director Keller suggested postponing the second reading until next month.

The Board discussed reasons in support of completing the second reading and delaying the second reading.

Katherine Lane Collis stated that the owners have had some issues, but they have stood together to build a safe road. They have been approached by many suggesting litigation against the District, but they have not gone that way. They want to work together. There are questions about who had easements and who didn't, as her parents had easements in the 1960's. She was concerned about prejudices that might exist against the residents in their neighborhood.

Nathan Lane stated that the residents have always been united.

Michael Collins stated that they have always been 100% united; the only time there were issues were when costs came in at \$5 million.

Ivana Noell stated that this has been very difficult; each resident is struggling for a different set of circumstances, and asked the Board to move forward with the 2nd reading today.

The Board took a recess at 3:36 p.m. and reconvened at 3:47 pm

On a motion by Made by Director Sinser seconded by Director Venable, the Board approved the second reading by title only of Ordinance No. 2014-02 of the Montecito Fire Protection District dissolving Community Facilities District No. 2011 (Upper Hyde Road) by the following roll call vote: (The title was read by Director Powell.)

The Board discussed their reasons for delaying the second reading last month and why they feel the second reading should occur at this meeting.

Ayes:	G. Sinser, J.A. Powell, J. Venable, R.J. Jensen
Noes:	None
Abstain:	S. Keller
Absent:	None

- Upper Hyde Road Easement. Approve and authorize the Board President to execute an Easement Agreement granting designated Upper Hyde Road property owners a vehicular access and public utilities easement over certain real property designated as APN 013-030-022.**

Mr. Manion explained that this relates to the easement that the District condemned and obtained for those property owners who did not have easements over that property. Once the easement is transferred, the District Board should authorize the President to quit claim the deed to the UHR residents, and grant some limited authority that allows small changes to the easement document including changing of vesting information. The terms and conditions of the easement cannot be modified.

Public Comment:

Norm Krock asked for minor wording changes to the easement document, and distributed a letter to the board. He also proposed that the words "and Grantees" be added after "DeSitter" ...to read "DeSitter and Grantees will be remain subject to such..." on P2, item 10, second sentence.

His second request would be to attach a copy of final condemnation document as an amendment to prevent any future claims of non-disclosure.

Roger Collis advised that the proposed easement transfer document is currently being reviewed by the UHR resident's legal counsel.

The Board and counsel discussed the requests submitted by Mr. Krock, UHR residents' non exclusive right to use the easement, and that costs associated with future road improvements would belong to the property owners. Additionally, their cost share would be based on their own road agreement. Mr. Manion felt that Mr. Krock's request was acceptable and non substantive, and stated that any changes to the easement would be the owners' responsibility to re-negotiate. He also said any owner's who previously had prescriptive rights, still maintain those rights up to the point that they accept the easement from the District.

Mrs. Collins stated that there is another agreement that Mr. Manion is not aware of.

On a motion made by Director Powell seconded by Director Keller, the Board unanimously approved and authorized the Board President to execute an Easement Agreement granting designated Upper Hyde Road property owners a vehicular access and public utilities easement over certain real property designated as APN 013-030-and that the District issue a Quit Claim Deed of the easement to designated Upper Hyde Road property owners within a reasonable time after all property owners sign the Easement Agreement.

4. Verbal report from Jerry Gray on services provided by the District Chaplain.

Jerry Gray introduced himself and explained his involvement with the District including his interactions with Santa Barbara City Fire, Santa Barbara County Fire, and Santa Barbara Sheriff's Department. He often presides at weddings, invocations, promotions, and memorial services. In addition to availing himself to District employees, he is also available for the community, to help families if requested. He is also an Auxiliary employee, and assists in training MERRAG, and Critical Incident Stress Debriefings.

The Board took no action.

5. Presentation on worker's compensation insurance options by Bill Curtis, of Sullivan, Curtis, Monroe, the District's broker of record for worker's compensation insurance.

Mr. Curtis introduced himself as the District's Broker of Record. He reviewed the coverage, fees and cost differences between State Fund, FASIS and SDRMA, adding that he recommended changing to SDRMA.

The Board took no action.

6. Verbal update from Dan Gira of AMEC on Environmental Impact Report for Station 3 Site Acquisition and Construction.

Director Sinser stepped down from the dais.

Mr. Gira reported that they have made a lot of progress, and are waiting on the release of the report from Citygate, so that they can review the report for consistency. He hopes to target the end of this year and start of next year to present the Draft EIR.

Public comment:

Sylvia Easton stated that it makes sense for the District to move forward with this regardless of who owns the designated property as AMEC offered to complete the EIR for free.

The Board took no action.

7. Report from the Finance Committee (copy of Agenda for Finance Committee Meeting attached).

a. Consider Committee's recommendation to change insurance providers for Worker's Compensation.

On a motion made by Director Keller, seconded by Director Powell, the Board unanimously approved cancelling the District's current insurance provider and purchasing coverage through SDRMA.

b. Consider Committee's recommendation to approve District's warrants and claims for September.

After clarification by Ms. Gil on some of the information in the financial reports, the Board unanimously approved the District's warrants and claims for September on a motion made by Director Powell, seconded by Director Keller.

c. Consider Committee's recommendation to approve Resolution 2014-13, Fixing the Employer's Contribution Under the Public Employees' Medical and Hospital Care Act.

On a motion by made by Director Keller seconded by Director Sinser, the Board approved Resolution 2014-13, Fixing the Employer's Contribution Under the Public Employees' Medical and Hospital Care Act by the following roll call vote:

Ayes:	G. Sinser, J.A. Powell, J. Venable, S. Keller, R.J. Jensen
Noes:	None
Abstain:	None
Absent:	None

d. Consider Committee's recommendation to approve purchase of hardware and software necessary to upgrade District's IT infrastructure per Resolution 2013-18. (Line item approved in FY 2014/15 Budget.)

Ms. Ventura reviewed the staff report presented to the Board, and recommend that the purchase be made through the lowest bidder, Gov Connection.

On a motion made by Director Sinser, seconded by Director Keller, the Board unanimously approved purchasing the hardware and software necessary to upgrade District's IT infrastructure from Gov Connection.

Public Comment: Warner Owens pointed out that this was already an approved line item in the final budget.

8. Report from the Community Outreach Committee (copy of Agenda for Community Committee Meeting attached).

Director Keller reviewed their last meeting with Ameravant, adding that the committee is disappointed in the delays in getting the website online.

She also reported that they discussed the possibility of developing a policy to include additional advertising for District Board vacancies during election years. They will come back with a recommendation and budget estimates at a future meeting.

The Board took no action.

9. Approval of Minutes of September 22, 2014 Regular Meeting.

On a motion made by Director Venable, seconded Director Powell, the Board unanimously approved the Minutes of September 22, 2014 Regular Meeting.

10. Staff presentation on proposed changes to State Responsibility Area.

Chief Hickman explained that we met with Cal Fire and Santa Barbara County, and it was determined that it would be best to hold off on sending a letter as suggested at the last meeting.

Chief McElwee reported we had good collaboration with Cal Fire and Santa Barbara County, and ultimately came to agreement on three specific changes. They want to continue the current evaluation with proposed changes that could have the greatest

success, and perform a larger review at a later date of the entire District. This will benefit some residents by removing them from the SRA designated area, in that they will no longer be subject to the SRA fee. This should have little impact in cost share, as the areas removed border the SRA areas, and we will still be in unified command.

Director Sinser asked for a short staff report on items like these for future Board packets.

The Board took no action.

11. Fire Chief's report.

The Chief reported that Chief McLeod and Chief McElwee will be retiring at the end of this December; Fire Prevention Week allowed the District to reach over 1,000 children and we utilized our new inflatable house; final draft from Citygate is expected to arrive early November; California Shakeout on October 16th; portable water tank recently placed and availed at Mr. McCaw's property on East Valley Road; request for Measure Q support; and Active Shooter summit with local schools.

12. Board of Director's report.

Director Sinser reported that he attended the Montecito Association meeting on October 7, 2014.

13. Consider moving November regular meeting to November 17, 2014 at 2:00 p.m.

On a motion made by Director Keller, seconded by Director Venable, the Board unanimously approved moving the November regular meeting to November 17, 2014 as early as we can get Citygate to attend.

14. Consider holding special meeting in December to initiate oath of office for Peter van Duinwyk.

On a motion by Director Powell, seconded Director Keller, the Board unanimously agreed to initiate the oath of office for Peter van Duinwyk, and to honor the retirement of Director Jensen at the December 22, 2014.

15. Suggestions from Directors for items other than regular agenda items to be included for the November Regular Board meeting.

The Board had no additional items for the next meeting.

16 CLOSED SESSION – Conference with Legal Counsel - Pending Litigation (Government Code Section 54956.9.)

Claimant: The Ivana Noell Family Trust and Ivana Noell

Agency claimed against: Montecito Fire Protection District

Ms. Noell asked the District to consider a tolling agreement to a 6 month extension on

her Government tort claim so that she can formally request mediation.

The Board entered into closed session at 6:22 p.m. and came back into open session at 6:30 p.m. Mr. Manion announced that there was no action taken in the closed session.

The meeting was adjourned at 6:30 p.m.