

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

Held at Fire District Headquarters, 595 San Ysidro Road, January 19, 2010. The meeting was called to order by President Jensen at 8:35 am. Present were Chief Wallace, Director Jensen, Director Venable, and Director Newquist. District Counsel T. Amspoker, and E. Hvolbøll were also present.

1. There was no public comment.
2. On a motion made by Director Newquist, seconded by Director Jensen, the minutes of the December 21, 2009 regular meeting were approved.
3. Chief Wallace provided a brief explanation of payments made to Allstar Fire Equipment, and Price, Postel and Parma. On a motion made by Director Newquist and seconded by Director Venable, the warrants and claims for the month of December 2009 were unanimously approved with the exception of Price Postel and Parma. This invoice will be reviewed and approved after review by Director Newquist.
4. Chief Wallace advised that it would be easiest if Mr. Reisenweber's and Mr. Connelly's appeals were combined for Board consideration since they are both appealing the same standard. Director Venable asked for clarification on the construction of the foundation for Mr. Reisenweber's modular home. Chief Wallace advised that it is a legal foundation, Concrete Masonry Unity (CMU) stem wall, also referred to as a raised foundation.

Mr. Connelly advised that his initial letter was to appeal the District's access requirements; however, he has provided an additional letter asking to also appeal the District's sprinkler requirement. He explained that his intent is not to supersede the District's rules; however insurance issues and financial situations contribute to their need to complete the project timely. He asked the Board to allow them to continue working on the construction of their home while they continue to work on the access issues.

He explained that the District requires that his new home include the installation of fire sprinklers because access to a fire hydrant or water source is further than 500 feet from the structure. He proposed that the Board exclude the installation of sprinklers for his home, and use any money saved, which he felt would be significant, toward the installation of a new hydrant along the road.

Mr. Hvolboll explained that because Mr. Connelly's new request to appeal of the District's sprinklers ordinance was not an agenda item, the Board should not discuss or make decisions on that specific request.

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The Board had no questions for Mr. Connelly, and invited public comment on Mr. Reisenweber's and Mr. Connelly's appeals.

Claire Gottsdanker advised that she has rebuilt her home and met all District requirements. She asked the Board to consider the struggles of the 13 families in the Upper Hyde Road neighborhood who are trying to rebuild their homes. She advised that if Mr. Reisenweber doesn't get into his home by March 10, he will not be able to get insurance.

Director Newquist stated that he has reviewed the situation and has prepared a proposal.

Director Newquist made the following motion: that the Montecito Fire Protection District (MFPD) declare eminent domain to condemn the subject easement; and that the roadway be required to be 18 feet wide; and that MFPD to provide seed money to get project started; that liens to be placed on affected properties that cannot afford their portion; and that MFPD to approve Fire Protection Certificates (FPC)s once road construction is completed; and once the easement has been completed, it be declared a "county roadway" by the County of Santa Barbara; and said roadway be subject to include installation of a fire hydrant.

Mr. Hvolbøll suggested that the motion not be seconded, until the Board has had the opportunity to hear all of the public comment and read all of the letters provided by the public. The motion was not seconded.

Ms. Gottsdanker asked if MFPD has had discussions with Santa Barbara County, and if they are actually willing to take over the road. Chief Wallace advised that he has had discussions with Salud Carbajal about the conditions on Upper Hyde, but nothing regarding the road has been formally requested by MFPD or approved by Santa Barbara County.

Ms. DeSitter asked Director Newquist for clarification of the easement's location. He proposed that it would start at the bottom of Mountain Drive and go up from there, however he did not know the exact location or width necessary to provide an 18' wide road.

Ms. Collins advised that she has reviewed the access and easement conditions and has been working to resolve some of these issues with the affected neighbors. She advised that she and Mr. and Mrs. Hayum have a legal easements through the property at 202 E. Mountain Drive. These are "prescriptive" easements and were signed by the previous property owner. She stated that the easement is described to be measured from the center line which has not been honored by the current property owner at 202 E. Mountain Drive. Ms. Collins stated that Ms. DeSitter has impeded the easement by installing berms and plants within the existing 18 foot easement.

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Ms. Collins advised that the berms and plants have been taken into consideration as the neighbors continue working on a road agreement. Ms. Collins added that that once past Ms. DeSitter's property, all of the other property owners have agreed to be cooperative in conforming the road and providing the necessary easements.

Ms. DeSitter stated the west side of the easement has an extremely steep drop off which is why the plants and berm were installed. This was done to prevent flooding and mud slides into her property. Ms. Collins agreed that flood control was important and needed to be addressed.

Ms. Estes of Green Building America advised that although she doesn't live in the Upper Hyde neighborhood, her company was asked to review the road. She stated that her company will assist in installing fire resistant, earthquake resistant materials at cost.

Ms. Hayum stated that when they purchased their property, they made sure that there was an easement to the property from the bottom of Mountain Drive.

Mr. Van Dynwick, president of Montecito Association, announced that he supports the residents on Upper Hyde. He advised that he sees this issue as a humanitarian effort; one in which the Board should review the laws, codes and ordinances and find a solution.

Mr. Childs advised that the issues that need to be addressed are not the specifics of easements and road widths, but how the codes are applied. He advised that he feels that there is a problem with the concept of putting liens on their properties to pay for the improvements. He reminded the Board that their decision on these appeals will also affect other homes in the community.

He questioned why the District did not inform the property owners that their homes were unsafe prior to the Tea Fire. He also questioned how these property owner's risks changed after the Tea Fire, and asked why the District is now imposing improvements upon these property owners that were not imposed on them in the past.

Mr Childs asked the Board to direct staff to provide consistency, leniency and compassion when addressing Tea Fire rebuild issues.

Mr. Collins advised the Board that Mr. Childs does not represent his opinion or the Upper Hyde neighborhood.

Arthur Von Wiesenberger advised that he lost his residence in the Tea Fire and appreciates the attention that has been given to helping his neighbors deal with the access issues. He advised that he will lose his FAIR Plan insurance

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payment if progress isn't made by March 2010. He advised that he supports the installation of water main and hydrant, and plans to rebuild with fire resistant materials when he is able to begin construction.

Ms. Toms advised that she is supportive of District's desire to have better access and water infrastructure, and is working very hard with the neighbors to create a road share agreement. Unfortunately, she feels that they are at the mercy of the neighbors.

Ms. Collins stated that Susan Petrivich volunteered to develop the road agreement pro bono. The agreement identifies each section of the road, and which homes are serviced so that every property bears its fair share of conforming the road to current standards.

Ms. Collins stated that because the road is owned by no one, and is not insured by anyone, there are no rebuild proceeds that can be applied. Having Santa Barbara County take over the road would be a huge help. Mr. Scott, who owns property with a road to the east of Upper Hyde, had stated that he would support the installation of a Knox box to allow access between the two roads to improve emergency access.

Director Newquist advised that it was previously pointed out that the Coyote, the Sycamore Canyon and Tea fires all had similar burn footprints. After the Sycamore Canyon fire, the District changed its codes to require Class A roofing. Since then, the District has improved water and access requirements. Unfortunately, many homes burned during the Tea fire because we couldn't get to them safely or there was no water. He advised his previous motion addresses these public safety issues.

Ms. Noel advised that they need more time to reflect on how Director Newquist's motion affects them. She advised that although it sounds like it opens up opportunities they didn't have previously, she is not sure what the long term implications would be.

Ms. Collis advised that she and her brother Nathan are representing their step mother. They are willing to participate in the road agreement and are glad to see the community working together. Like the others, they are hoping that they do not have to put all of their insurance payments into the infrastructure, as they have limited resources to rebuild their structure.

Director Newquist asked if the community has formed a homeowner's association. Ms. Gottsdanker advised that they are part of the Mountain Drive Community Association (MDCA). MDCA is a non-profit organization and was formed originally in 1976 to support their volunteer fire department.

Director Newquist asked for a break at 9:50 am.

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The Board reconvened at 10:05 am.

Ms. Gottsdanker advised that she wanted to clarify that this group is not asking to change the District's requirements. She stated that the District has two opportunities to issue a Fire Protection Certificate (FPC): at time the permit is requested, or at the time of occupancy. This group is asking that FPC's be linked to occupancy so that property owners can begin rebuilding while they continue to work on the access and water issues.

Director Newquist stated that he understands the urgency that the property owners have, but suggested that the Board continue this meeting and revisit the subject in one week to allow the District to request more information from District Counsel.

Mr. Childs stated that this is a complicated situation, and the Board is charged with doing what is in the best interest of the community.

Ms. Gottsdanker advised that she was available throughout the week prior to the next meeting to support the District as necessary.

Director Jensen asked for clarification about why this has become a Fire District issue.

Ms. Gottsdanker explained that the building process for these property owners is currently stalled by the Fire District, because the Fire District requires an FPC to be issued prior to obtaining a permit. The FPC requires that certain conditions must be met prior to issuance, including access, and the property owners are now asking for leeway regarding when these standards are met. They also are asking the Fire District to help them meet District standards by providing financial assistance and partnering with them in rebuilding their community.

Ms. DeSitter advised that this specific request currently deals with 13 families, but other fire victims will consider it favoritism if this group gets financial assistance and they don't.

Mr. Novak, who is a contactor working at 238 East Mountain Dr., advised that he has been working for over a year to design and engineer the project at that location. They have met all county planning and zoning requirements and are ready to begin, however, the only thing holding them back is permission from MFPD.

Director Newquist advised that the District is not trying to be obstructionists; the District is trying to put together a solution that everyone can live with. He

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advised that this will take some time to accomplish, but understands the urgency.

Ms. Collis advised that they understand the District's requirements, and have patiently gone through the process. They have surveyed the road, and are currently working on a road share agreement with all of the affected property owners. She wanted to clarify that they are not asking for handouts, and are willing to pay for a reasonable solution. She advised that they are willing to give up a portion of their property as an easement to make it safer. Ms. Collis also invited Ms. DeSitter to participate in their quest for solutions.

Director Newquist made a motion that the Board continue Mr. Reisenweber's and Mr. Connelly's appeals to a Special Board Meeting to be held on Tuesday, January 26, 2010 at 8:30 am. Director Newquist asked that Supervisor Carbajal be asked to attend the meeting as well. The motion was seconded by Director Venable and approved unanimously.

The Board took a break at 10:40 am, and reconvened at 10:47 am.

6. On a motion made by Director Newquist, seconded by Director Venable, the Board unanimously accepted the anonymous donation of \$10,000 to be used to purchase life saving equipment.

7. Chief Wallace advised the Board that there would be a Special District representative opening on the LAFCO Board, and asked if any Board member would be interested in running for the vacant position. Larry Wilson, who currently represents Special Districts on LAFCO Board, will be stepping down.

Director Newquist asked how this would benefit the District and if Board members are compensated. Chief Wallace advised LAFCO is involved in annexation decisions, and sphere of influence among other things, however, the position is tasked with addressing the whole county, not just Montecito Fire. Chief Wallace did not know what, if any compensation was made to LAFCO Board members.

Chief Wallace also advised that the Board would need to appoint a representative to vote on the Special District LAFCO representative if Director Jensen could not attend. Director Jensen advised that he would be able to attend the meeting and no additional appointment would be necessary.

The Board took no action.

8. On a motion made by Director Newquist, seconded by Director Venable, the Board approved Resolution 2010 -1 pursuant to section 12001 of the Elections Code ordering, calling, providing for and giving notice of a special election to be held in the Montecito Fire Protection District on July 13, 2010 for

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the purpose of submitting to the voters of said district a proposition pursuant to Article XIII B of the constitution of the State of California to retain the Districts increased limits of appropriations. The motion was adopted by the following roll call vote:

Ayes: R.J. Jensen, J. Venable, D. Newquist  
Noes: None  
Absent: None

9. On a motion made by Director Newquist, seconded by Director Venable, the Board approved Resolution 2010 -2 declaring that the special election to be held in the District on July 13, 2010 shall be conducted by all-mailed ballots pursuant to section 4108 of the Elections Code. The motion was adopted by the following roll call vote:

Ayes: R.J. Jensen, J. Venable, D. Newquist  
Noes: None  
Absent: None

10. On a motion made by Director Newquist, seconded by Director Venable, the Board approved Resolution 2010 - 3 requesting the Board of Supervisors of the County of Santa Barbara to authorize the elections official of the County Clerk-Recorder-Assessor's office of said County to render specified services to the district relating to the conduct of a special election of said District to be held on July 13, 2010, pursuant to Section 10002 of the Elections Code. The motion was adopted by the following roll call vote:

Ayes: R.J. Jensen, J. Venable, D. Newquist  
Noes: None  
Absent: None

14. At 11:00 am the Board went into Closed Session pursuant to Government Code Section 54957.6, conference with labor negotiator to review the District's position and instruct the District's designated representative regarding salaries, salary schedules, and compensation. District negotiator: Fire Chief Kevin Wallace, Employee Organization: Montecito Firemen's Association, Unrepresented Employees: Members of Staff. Present were Director Jensen, Director Newquist, E. Hvolbøll and K. Wallace.

At 11:25 am the Board reconvened in open session. Mr. Hvolbøll reported that the Board met and reviewed the district's position, and gave instructions regarding salaries and compensation to the negotiator.

15. Director Venable made a motion to approve the negotiations that began in March and that the package be approved for represented and non

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represented employees. The motion was seconded by Director Jensen and approved unanimously.

### 19. Fire Chief's Report

Chief Wallace reported on several issues including the following: the Carpinteria Dispatch Request For Proposal process; PARS financial investment process;

The Directors did not discuss or take action on any items in the Fire Chief's Report.

20. Director Newquist asked to invite a Carpinteria Summerland Fire District representative to the February meeting, and to invite Salud Carbajal and the new County Fire Chief to January 26 Special meeting.

Director Jensen adjourned the meeting at 11:34 am.