

MONTECITO FIRE PROTECTION DISTRICT  
AGENDA FOR THE SPECIAL MEETING  
OF THE BOARD OF DIRECTORS  
Montecito Fire Protection District Headquarters  
**June 6, 2014 at 2:00 p.m.**

NOTICE IS HEREBY GIVEN that pursuant to the provisions of Section 54956 of the Government Code, a SPECIAL MEETING of the Governing Board of the Montecito Fire Protection District is hereby called for the 6<sup>th</sup> day of June, 2014 at 2:00 p.m.


Said meeting will be held at  
Montecito Fire District Headquarters,  
595 San Ysidro Road.

1. Public comment: Any person may address the Board at this time on any agenda matter or 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.
2. Consider request from Upper Hyde Road residents that the Montecito Fire Protection District fund a portion of the Upper Hyde Road repair expenses necessary to meet District's rebuild requirements and provide direction to Fire Chief regarding District's response.
3. Fire Chief's Report.

Adjournment

This agenda is posted pursuant to the provisions of the Government Code commencing at Section 54950. The date of the posting is June 2, 2014.

MONTECITO FIRE PROTECTION DISTRICT

By   
John Venable, President

Note: In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the District office at 969-7762. Notification at least 48 hours prior to the meeting will enable the District to make reasonable arrangements.

Materials related to an item on this agenda submitted to the Board of Directors after distribution of the agenda packet are available for public inspection in the Montecito Fire Protection District's office located at 595 San Ysidro Road during normal business hours.



~~Row~~ Road - important

6/23 2.  
Special meet

**FORMAL REQUEST TO THE MFPD BOARD OF DIRECTORS BY  
THE COLLECTIVE PROPERTY OWNERS OF UPPER HYDE ROAD**

STW  
2/13

The collective property owners of Upper Hyde Road (OWNERS) who are signatories hereto hereby formally request that the MONTECITO FIRE PROTECTION DISTRICT (MFPD) agree to bear the financial burden of conforming Section I of Upper Hyde Road (UHR) to MFPD standards, subject to the limits stated below.

Section I is that section of Upper Hyde Road from East Mountain Drive to the junction of the Connelly and Reisenweber driveways, including but not limited to the road section through the DeSitter property over which the MFPD has declared Eminent Domain.

The reasons for this request are numerous and complicated, and as such, are included separately as a "Historical Summary". In order to finally actuate the conforming of the road in a timely manner, the OWNERS would seek to dissolve the Mello-Roos Special Tax Assessment District and finance the conforming of the UHR privately. In order to achieve this, financial assistance is required of the MFPD.

The cost of conforming Section I of UHR is approximately \$85,000 based on the attached estimate by Lapidus Construction. Because an actual amount is impossible to accurately predict because of soil and rock conditions in that area, that the UHR owners request that, should the MFPD agree to this request, \$50,000 be deposited into a MFPD-designated escrow fund to provide the funding necessary to complete the work necessary to conform Section I of UHR to MFPD standards. It is also hereby understood and agreed upon by the OWNERS that the MFPD's monetary obligation for conforming Section I shall not exceed \$90,000. Any expense in excess of the \$90,000 shall be spread equally among the OWNERS. In addition and attached hereto, is an agreement signed by each of the OWNERS pledging to privately fund their burden of UHR (including but not limited to their share of any cost of conforming Section I that exceeds the \$90,000 figure described above) or sign a voluntary lien to be recorded for their burden of UHR, thereby giving assurance to the MFPD that UHR will be conformed in a timely manner.

Upon agreement of this request by the MFPD, OWNERS will immediately and formally request the dissolution of the Mello-Roos District. Once the dissolution is completed, the MFPD shall transfer the easement through Section I to each individual parcel on UHR and as such be released from any liability related to or arising out of the Tea Fire and related to or arising out of past restrictions, efforts, and delays in completing the work of conforming UHR to MFPD standards.

In consideration of the MFPD's agreement to this request, the OWNERS, and each of them, do agree to waive and to indemnify and hold the MFPD harmless from and against any claims or actions, past and future, associated with the conforming of UHR as per the pending approved plans by the County of Santa Barbara Dept. of Building and Safety. In exchange, the MFPD agrees in perpetuity not to seek reimbursement from the OWNERS, or any of them, for any costs associated with the Eminent Domain or formulation, operation, and dissolution of the Mello-Roos District.

It is understood that the MFPD will approve such plans and work with the OWNERS during the construction phase of the project to minimize costs and increase construction efficiencies.

Finally, the OWNERS request that a special board meeting be called to take action on this motion within the next two weeks. In order to successfully conform UHR by the end of 2014 it is critical that we move forward in the most expeditious manner possible.

Sincerely,

The Owners of Upper Hyde Road

SIGNATURE:

DATE:

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Historical Summary of Events  
In the aftermath of the Tea Fire  
On Upper Hyde Road

After the terrible destruction of the Tea Fire on November 13<sup>th</sup> 2008, the MFPD determined it would be in the best interest of all to create a 'loop' between East Mountain Drive, UHR and the 350 Mtn. Dr. Road to the east. This was an excellent goal with the clear objective of a safe exit route for residents as well as fire fighters.

Unfortunately, the 'loop' could not be realized for reasons outside the control of the MFPD, but the goal set into motion a series of events that have proved to be paralyzing to the owners of UHR.

First, it caused the MFPD to hold UHR owners to more stringent road conforming standards; standards that were not applied to other private roads affected by the Tea Fire such as Banana Road and the 'Gottsdanker Road'.

These higher standards resulted in the first set of engineered road plans, prepared at substantial expense, including a road design with an estimated construction cost of \$1.2 Million. This extremely high cost, coupled with the unviability of the road 'loop' concept, caused tremendous delays, all while UHR owners continued to pay mortgages for homes that no longer existed as well as pay rent for temporary homes.

In the meantime, the owners of UHR accepted responsibility for meeting the District's quoted standards and committed to making improvements as required by the District without the knowledge that the standards being imposed upon UHR were greater than those legally required in a like-for-like standard.

The MFPD used the over-engineered plans, with a project valued at \$1.2 Million, to formulate the terms and conditions of a Mello-Roos Special Tax Assessment District because MFPD determined that an assessment district was the only feasible way to finance such an expensive road for this neighborhood. Initially, the UHR owners concurred with this approach because they were unaware that MFPD was offering to other private road owners who had suffered Tea Fire destruction less expensive road design options in order to rebuild houses in their neighborhoods. The the UHR project value was inflated to twice the estimated cost as a "safety" measure to ensure the road could actually be built taking into account possible contingencies.

The result of this "safety" measure inflation was that liens were placed on each property, which in turn overburdened the value of the unimproved parcels and thereby placed the inflated lien burden in "first" position ahead of mortgages. This effectively nullified any chance of using the property as equity to stake financing for rebuilding homes or financing the conforming of the Road.

For 5 ½ years, the owners of UHR have been paying mortgages on homes that did not exist and could not refinance without a Certificate of Final Occupancy, or a conformed road, or because of the inflated Mello Roos lien burden. The cost of this delay to date is estimated at over \$500,000 paid out of pocket.

As required by the MFPD the UHR owners consistently reached 100% consensus and created and recorded multiple documents establishing the financial responsibilities of conforming and maintaining the Road in perpetuity as well as being required to finance a portion of the creation of the Mello Ross prior to the activation of the bond funding.

The MFPD agreed to help the owners by declaring Eminent Domain over the DeSitter Property since only two out of the thirteen Owners had legal road easements over that property. This agreement was reached in exchange for the Owners agreeing not to sue MFPD for the loss of property from, or any actions or inactions during, the Tea Fire.

The Owners gratefully agreed to the Eminent Domain Declaration with the belief that a financially buildable road was possible. What the owners did not know, as there was no UHR Owner Representation present at the ED negotiations, was that Dr. DeSitter had built a garage within the road setback that was encroaching upon the legal easement held by Hayum and Collins.

As part of the negotiations, the MFPD agreed to pay DeSitter \$70,000 and move the Road Easement away from the DeSitter garage per her request and further into the hillside.

As a result, Section I of the Road will cost considerably more to conform, and future repairs and maintenance will be more costly over the long term.

After 5 ½ years of extreme loss, constant struggles to find solutions to engineering problems and demands, good faith in agreeing to MFPD desires and standards, and exhaustive efforts to finance the conforming of UHR, the owners have determined that they need the help of the MFPD to pay for Section I of UHR in order to allow the UHR owners to avoid the untenable financial burden of the Mello-Roos Assessment District and, instead, to privately finance the rest of the UHR construction.