

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

Held at Fire District Headquarters, 595 San Ysidro Road, February 16, 2010. The meeting was called to order by President Jensen at 8:30 am. Present were Chief Wallace, Director Jensen, Director Venable, and Director Newquist. District Counsel T. Amspoker, and E. Hvolbøll, as well as approximately 20 members of the public 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 February 3, 2010 Special meeting were approved.
3. On a motion made by Director Newquist, seconded by Director Venable, the invoices from Price, Postel and Parma that were deferred from the January 19, 2010 regular board meeting were unanimously approved.
4. After an explanation of payments made to Cal Fire, the warrants and claims for the month of January 2010 were unanimously approved on a motion made by Director Venable and seconded by Director Newquist.
5. Chief Wallace introduced Chief Mingee who reviewed the Carpinteria /Summerland Fire Protection District RFP process for dispatch services. He explained that a selection will be completed at their April Board meeting. Director Newquist asked if Montecito Fire will have any difficulties fulfilling the contract if selected. Chief Wallace advised that the District would hire an additional dispatcher/supervisor and work on developing a dispatch cadre to provide extra staffing. He feels that if selected, this would benefit both agencies.

The Board took no action.

6. Mr. Hvolboll suggested that the Board consolidate consideration of all appeals and agenda item 8. He reminded the Board that they made a conceptual motion to approve Mr. Connelly's appeal subject to certain conditions, and deferred Mr. Reisenweber's appeal at their last meeting. Since that meeting, the District has received a new appeal from Ms. Katnic.

Chief Wallace advised the Board and appellants that he has been enforcing the 2007 California Fire Code along with the District's standards and ordinances, adding the code cycle takes time to react to tragedies. When a new discovery of safer or better building methods are found, it takes effect immediately in commercial assembly locations such as a theater. However, when new codes are created for private residences, these codes don't apply until the property owner rebuilds, remodels the home, or it is destroyed due to a disaster.

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Chief Wallace explained that it is common in California to have “urban interface” fires which have been very destructive. In October 1991, there was the Tunnel Fire, also known as the Oakland Hills Fire. Twenty five people died, including one fire fighter, and 150 people were injured. The major contributing factor for this was limited access (narrow roads) and heavy vegetation in the area causing the fire to spread quickly. Today, Oakland Hills looks the same as it did prior to the 1991 fire. The homes were rebuilt the same as they were prior to the fire. At that time, there were no codes to change the rebuilding process. The codes have since developed over time, being negotiated by stakeholders, including politicians, businesses and homeowners. The California Fire Code is now mandated for high and extra high fire hazard areas, including Montecito. These conditions are reasons behind his enforcement of the California Fire Code.

Ms. Collins advised that most of the Hyde Road property owners have signed and notarized four documents including, the petition to investigate the establishment of a special assessment district, agreement and statement of intent, easement agreements and a conforming agreement that reflects their intent to rebuild using the standards established for the community by the Montecito Fire District. She advised that they have not had an opportunity to thoroughly review Exhibit G included in the District’s draft proposed statement of decision and conditions of approval for Mr. Connelly’s appeal.

Ms. Friedman asked if these codes regarding the road are being enforced in other areas of the County or if their road is being singled out. She stated that she once received a letter from a former fire chief over 20 years ago stating that the Fire District would not respond if her home was on fire. Though she had saved the letter, it was lost in the Tea Fire. She advised that there were several fires that occurred after receiving that letter, and her home was saved by air resources. She asked if there are air resources ready to go, because they seemed to work in the past.

Mr. Hvolbøll explained that this Fire District only has jurisdictional authority in Montecito. Chief Wallace advised that it is the California Fire Code that is being enforced, and the County is mandated by the same codes.

Ms. Gottsdanker added that she recently met with County officials and verified that the same codes are being applied to the private roads affected by the Jesusita fire as are being enforced in Montecito.

Mr. Hvolbøll advised that his office has prepared a proposed statement of decision and findings that outline Mr. Connelly’s request, including all of the evidence presented to the Board. If the Board is prepared to approve Mr. Connelly’s request today, they would vote on Mr. Connelly’s appeal. At that point, he suggested that the Board consider making conceptual motions for Ms. Katnic’s and Mr. Reisenweber’s appeals.

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Mr. Amspoker advised that the requirement will be for all property owners to sign the proposed agreement (Exhibit G) in the Board Packet. He explained that the proposed agreement describes the conditions upon which the District will issue fire protection certificates for those who are rebuilding. Exhibit B outlines the road requirements that Chief Wallace has indicated are acceptable. This also includes the installation of a water system and fire hydrant. He added that Chief Wallace has allowed some variances to the road width in several instances which are specifically identified.

The proposed agreement also states that at the appropriate time, and if necessary, the Board will consider adopting a resolution of necessity in order to authorize an eminent domain proceeding to obtain an easement that will allow for a wide enough road. Staff has hired an appraiser. However, the report has not been completed. He stressed that it is the Board's decision to exercise eminent domain, and if so, the cost would be borne by the District.

Mr. Amspoker also advised that the proposed agreement states that (if the owners request) the District will conduct future meetings to consider a special assessment district or Mello Roos District that would allow the property owners to pay for the road improvements over time. The proposed agreement also states that it is the property owners' responsibility to build the road according to the standards outlined, at no expense to the District; additionally that the property owners will pursue acquiring the funds to improve the road diligently and complete the road prior to occupancy. The proposed agreement also provides that property owners will convey to each other the necessary easements through their properties to allow for the road to be built. This will provide for apportioning the costs appropriately. Additionally the proposed agreement states that the property owners agree to maintain and repair the road at their expense after the improvements have been completed.

Mr. Amspoker specifically noted that Page 6 of the proposed agreement clearly states that no occupancy certificates will be issued from the District until the road improvements have been made, and hydrant and water systems are installed.

Mr. Hvolbøll stated that if the Board approves the proposed agreement and any errors are found in the document, there would be no need for the Board's approval to correct them. However if there are any substantive changes, the Board will need to reconsider. Mr. Hvolbøll clarified that the conditions of approval for Mr. Connelly's appeal are based on the staff report included in the packet; not on the agreements that were provided by the property owners. Mr. Amspoker recognized that their documents exemplify the property owners' efforts to develop a plan to meet the requirements established by the District.

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Mr. Amspoker advised that the property owners' documents were signed and notarized today. Their documents include a petition to begin a special assessment district, which does not include a Mello Roos District, but the document could be revised in the future to address this. They have also included a document they refer to as the "Upper Hyde Conforming and Cost Sharing Agreement" which provides that they will build the road and share the costs associated with that, but it does not reference any future maintenance of the road.

Director Venable asked if the District would have to pay for repairs if the road comes into disrepair later. Mr. Amspoker advised that the proposed agreement states that the property owners are responsible for all maintenance and repairs whether public or private funds are used to finance it. Director Venable also asked how the proposed agreement would be assignable to future owners. Mr. Amspoker advised that the agreement would be binding on the property owner successors and the proposed agreement would be recorded. Mr. Hvolbøll stated that the responsibility would belong to the legal entity owning the parcel, whether it is an individual, a trustee or a trust.

Ms. Collins advised that they do have a draft of a repair and maintenance agreement, but it has not been completed.

Mr. Amspoker stated that the property owners' "Upper Hyde Road Agreement and Statement of Intent" document is similar to Exhibit G in the proposed staff agreement, but Exhibit G provides more detail regarding the District's responsibilities and the property owners' responsibilities.

He stated that the property owners have also signed an "Upper Hyde Road Grant Easement Agreement", where all of the owners have conveyed easements to each other for the necessary widths to allow for the required road improvements. He added that while their documents need to be reviewed in detail he feels it is important to acknowledge all of the property owners' efforts in working on these documents and almost all of them signing at this point.

Ms. Collins advised that Exhibit G is not signed by the property owners because they did not have time to review it. However, all but two property owners have signed their documents and will be meeting with their attorneys prior to their final agreement.

Director Newquist stated that the Board appreciates their efforts and cooperation and feels that Exhibit G parallels their documents. He suggested that the property owners be given time to review the proposed agreement and defer the Board's decision to a special meeting in one week.

Mr. Connelly suggested that the document be revised to allow occupancy if the road is repaired up to the entrance of any affected driveway.

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Director Newquist asked that all appeals be deferred to next week. Director Venable stated that he feels it is important for the property owners to be given time to review the proposed agreements and agreed with Director Newquist.

Mr. Hvolboll suggested that the Board make a motion to continue Mr. Connelly's appeal to February 23, 2010 at 8:30 am and also bring forward Mr. Reisenweber's and Ms. Katnic's appeal and give staff and counsel separate directions so that the Board is able to make a final decision on all three appeals at the next meeting. The motion was then made by Director Newquist and seconded by Director Venable and approved unanimously.

Mr. Hvolbøll explained that the Board should also give staff directions on how to handle Mr. Reisenweber's appeal, as his is different than Mr. Connelly's and Ms. Katnic's, in that he is asking for occupancy prior to the road being completed. He added that it is important to treat like cases alike, pointing out that all appeals are in the Upper Hyde Road neighborhood. Mr. Hvolboll suggested that all three appeals should be handled the same way with the same set of conditions and agreements. In Mr. Reisenweber's case, this would not be approving everything he has asked for, whereas with Mr. Connelly and Ms. Katnic's appeals, the Board would be agreeing with their requests.

Director Newquist stated that he agreed; all appeals with like instances should be treated alike.

Mr. Hvolbøll clarified that his understanding of the Board's direction is to have staff prepare a proposed statement of decision with all appeals having a decision that is consistent with Mr. Connelly's and that all of the appeals be continued to a Special Board Meeting, Tuesday, February 23 at 8:30 am. Director Newquist so moved, and the motion was seconded by Director Venable. The motion was unanimously approved.

Ms. Ventura advised that the agenda would be posted at the front of Station One and on the District's website at 8:30 on Friday February 19, 2010 and she would email the packets to the residents on Friday afternoon.

Mr. Hvolbøll advised that Item #9 on the agenda for a closed session relating to negotiating real property can be skipped because there was no appraisal.

Ms. Collins asked if eminent domain is used that the Board consider the consequences of the easement location in relationship to the existing two granted easements that exist for Hayum and Collins at 202 E Mountain Dr. Utilizing the existing location can help reduce the costs of retaining walls on the east side of the road.

Ms. Friedman brought pictures of the road (prior to the Tea Fire) for the Board to review. Director Newquist advised that all of the Board members have

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personally seen the conditions on Upper Hyde Road, which is why they are concerned.

Ms. Lane asked for clarification about what will occur at next week's meeting. Mr. Hvolbøll advised that the Board appears to be on the verge of approving the appeals, based on the condition of all property owners' signing the proposed agreement. He suggested that the property owners meet to discuss the proposed agreement before the next meeting so that any input or suggestions, be provided prior to the Board packet being distributed. If they have comments or suggestions, they should be forwarded to Geri Ventura at gventura@montecitofire.com. She will ensure that any comments are forwarded to Chief Wallace and District Counsel.

Ms. Collins asked if the District will provide a notary at the next meeting. Mr. Hvolbøll suggested that the District not provide the notary services.

Ms. DeSitter asked how public funding can be used on a private road. Mr. Amspoker advised that it would be used for a public purpose by enhancing fire safety for the community.

The Board took a break at 9:32 a.m.

The Board reconvened at 9:45 a.m..

7. At 9:45 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: J. Venable and Fire Chief Kevin Wallace, Unrepresented Employees: Fire Marshal/Battalion Chief and Hourly Employees. Present were Director Jensen, Director Newquist, J. Venable, E. Hvolbøll and K. Wallace.

At 9:55 am the Board reconvened in open session. Mr. Hvolbøll reported that the Board took no action during the closed session.

8. Director Venable made a motion directing the Fire Chief to bring back a proposal for the Fire Marshal and hourly wage employees for the Board to consider. Director Jensen seconded the motion and it was approved unanimously.

9. Chief Wallace advised that the District has conducted Officer and Staff Workshops for over 15 years. One of the motivations of the event is that it allows the officers and staff an opportunity to get away from station to work on strategic planning for District as well as work on team building.

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He advised that Ms. Ventura researched several venues, including the Holiday Inn in Ventura, La Casa De Maria, The Biltmore, Fess Parker's and the Circle Bar B, where the past 4-5 workshops have been held.

He advised that the Circle Bar B is far enough to get away from the District to feel removed, yet close enough to respond back if there are any emergencies. Employees are also able to work on issues and team build during dinner and into the evening.

Chief Wallace acknowledged that La Casa De Maria was a lower overall cost, however, and would understand if the Board were to choose that location because they were concerned with cost. However, he added that if the workshop were held this close to the station, most employees would not be motivated to stay overnight and it would be better to hold a one day workshop at the station.

Director Venable stated that he recognized the value in going to the Circle Bar B as it allows personnel the ability to get refreshed and get work accomplished.

Director Jensen asked that Board interaction with staff be put on the agenda of the next meeting for further discussion, citing the workshop location as an example.

Director Newquist said that he had asked Chief Wallace to research local vendors after last year's workshop in hopes of potentially reducing costs and stimulating local business. He added that he does see the value of getting out of the District, and the costs are relatively comparable.

On a motion made by Director Jensen, seconded by Director Newquist the Board unanimously approved holding the annual Officer and Staff workshop at the Circle Bar B. Chief Wallace advised that the workshop will be held March 24-25, and reminded the Board that none of them could be present at the same time if they wanted to attend.

10. Chief Wallace advised that the Statement of Economic Interest Forms need to be turned in no later than April 1. Ms. Ventura added that the Elections office will now charge fees if the forms are turned in late.

The Board took no action.

11. Fire Chief's Report

Chief Wallace reported on several issues including the following: County Chief's meeting at Chumash Casino and their potential agenda topics;

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

12. Chief Wallace advised that as requested by Director Newquist at a previous meeting, Santa Barbara County Fire Chief Dyer and Supervisor Salud Carbajal will be at the March regular meeting. Director Venable asked for Station 3 update and a discussion about funding options for easements issues on Upper Hyde Road at the March regular meeting. Director Jensen asked to discuss protocols for Board interaction with staff at the next meeting.

Director Jensen adjourned the meeting at 10:15 am.