



PEBBLE BEACH COMMUNITY SERVICES DISTRICT

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PEBBLE BEACH COMMUNITY SERVICES DISTRICT BOARD OF DIRECTORS Regular Meeting of July 25, 2008 MINUTES

CALL TO ORDER

A regular meeting of the Board of Directors of the Pebble Beach Community Services District ("PBCSD") was held in the District Boardroom on July 25, 2008. Board President Richard D. Verbanec called the meeting to order at 9:33 a.m.

ROLL CALL

Present: Directors Jeffrey B. Froke, Richard D. Verbanec, Gerald F. Verhasselt, and Gary D. Hornbuckle

Absent: Director Leo M. Laska

Others Present

Michael Niccum, General Manager/District Engineer
Suha Kilic, Deputy General Manager/CFO
Robert Wellington, Legal Counsel
Mike Marlow, Fire Prevention Chief, CAL FIRE, San Benito-Monterey Unit
Richard Lopez, Fire Operations Captain, CAL FIRE
Janet Hayslett, Director, Del Monte Forest Property Owners ("DMFPO")
John Tormey, Pebble Beach resident
Vinod Badani, Vice President, E2 Consulting Engineers
Mark Verbonich, Vice President Community Affairs, Pebble Beach Company ("PBCo")
Mark Stilwell, Executive Vice President, PBCo
Spencer Thompson, Traffic and Safety Committee, DMFPO
Sergeant Ray Faulk, California Highway Patrol ("CHP")
Laura Dadiw, Board Clerk, Dadiw Associates

APPEARANCES AND ORDER OF BUSINESS

There were no appearances and no requests for changes to the agenda.

MINUTES

MOTION 07-08-01

Moved by Director Hornbuckle, seconded by Director Verhasselt, and unanimously carried, to approve the minutes of the regular Board meeting held June 27, 2008.

FINANCIAL MATTERS

Statement of Receipts and Disbursements

The Board received and reviewed the *Statement of Receipts and Disbursements* for June 2008. Deputy General Manager/CFO, Suha Kilic noted to the Board that the cash balance as of June 30, 2008 was \$15,172,711 – nearly identical to cash balances exactly one year ago. He expected cash balances during the current fiscal year to be lower than last year due to significant one-time capital outlays and construction projects, in accordance with the PBCSD Long-term Financial Plan. Hayashi and Wayland Accounting and Consulting, LLP will perform the PBCSD financial audit; the firm, being the previous audit firm for the Reclamation Project, is familiar with the Reclamation Project element of the PBCSD financial activities.es.

Check Register

The Board received the *Check Register* for June 2008. The final payment of \$987,875 was made to the Department of Forestry and Fire Protection for third quarter fire protection services; this is the final large payment for the 2007-08 fiscal year as the fourth quarter payment was made in advance per contract requirements. In the next few months a small payment or refund would finalize the previous fiscal year costs. A \$120,076 payment was made to Carmel Marina Corporation for fourth quarter basic residential garbage collection services. Fees are collected on the property tax rolls and passed on to the franchise hauler in quarterly payments; this was the final payment for the previous fiscal year.

MOTION 07-08-02

Moved by Director Verhasselt, seconded by Director Froke, and unanimously carried, to approve the *Check Register* for June 2008.

Public Hearing regarding Proposed Services and Related Charges for FY 2008-09

Deputy General Manager/CFO, Suha Kilic gave a slide presentation and reviewed the proposed PBCSD Final Budget for fiscal year 2008-09. Mr. Kilic reviewed proposed fee levels and stated that the potential impact of the current downturn in the real estate market and potential delinquencies in property tax

payments was taken into consideration when budgeting a conservative increase in property tax revenues. Interest revenues are expected to decrease \$200,000 from \$600,000 to \$400,000 due to a low interest environment resulting from the series of reductions in federal funds rate and in anticipation of lower cash balances due to one-time capital outlays and construction projects planned in the current year.

The summary of user fees, special tax and the proposed budget were mailed to all property owners the first week in June, the budget hearing notice was published in the "Pine Cone," and a short article was placed in the latest issue of the DMFPO newsletter. There have been no comments received from the public.

TIMED BUSINESS

President Verbanec opened the public hearing at 9:54 a.m. Mark Stilwell, Executive Vice President, PBCo, requested clarification as to why the proposed budget amount for operations and maintenance for the CAWD/PBCSD Reclamation Project was \$150,000 over actual expenditures in the previous fiscal year. Mr. Niccum responded that project costs were reviewed by the Reclamation Management Committee and vary from year to year based on the weather determining water demand. The District chose to budget conservatively due to the unknown variables. Additionally, there was a carry-over of costs for equipment that was not purchased last fiscal year and costs for some items such as engineering consulting services may not be required, but were included if needed in the event of an emergency.

Mr. John Tormey stated the excellent quality of the budget document and other comments submitted at the preliminary budget meeting remain unchanged for the final budget.

Director Verhasselt acknowledged that the legal opinion and discussion on the issue during the June 27, 2008 Board meeting made it clear that the Special Fire Tax is a 'board policy issue' however now, instead of dealing with the resolution authorizing that tax, the board could deal with only the content or substance of it and evaluate whether to maintain the current rate, increase it, or reduce it to zero, while leaving the authorizing resolution in place for future use if necessary.

Director Verhasselt listed the reasons for requesting the Special Fire Tax rate be reduced to zero:

- 1) Fire Service itself is a 'general government service' properly and legally funded by property tax according to Proposition 218;
- 2) Because Fire Service is a 'general government service' versus an 'enterprise function,' such a special tax could be neither proposed nor passed today under current legislation;
- 3) The current Special Fire Tax is a 'double-tax' paid once through the Special Tax Assessment and secondly through real estate tax; both funding the same function;
- 4) Collecting duplicate taxes presumes that PBCSD knows better how to spend residents' money than residents themselves can, a very socialistic viewpoint;
- 5) Lastly and importantly, PBCSD does not need the Special Fire Tax revenue of \$195,000 annually. PBCSD has an annually increasing revenue base from real estate valuation appreciation exceeding that of the Special Fire Tax. During the past two fiscal years, PBCSD real estate tax revenue has increased from \$8.6 million to this year's \$9.8 million, a 14% increase, or \$1.2 million in two years. During the past four years, real estate tax revenue has increased 40% from \$6.9 million in FY 2004-05 to \$9.8 million this year, an increase of \$2.9 million.

MOTION 07-08-03

Moved by Director Verhasselt, seconded by Director Hornbuckle to adopt *Resolution 08-09* approving service charges and special assessments for sewer treatment and disposal and garbage collection and disposal services with the amendment that the special tax for fire protection services within the District be set at zero, for the fiscal year 2008-09. Discussion ensued.

Director Verbanec did not feel the special tax was a double tax since services are not being paid for twice. He felt that reducing the assessment to zero was in effect eliminating a contingency option if a significant decrease in District funds occurred. Director Verhasselt pointed out that reducing the assessment to zero left the authorizing resolution in place and the assessment mechanism available if needed. Director Froke stated that fire protection services are fundamental to what the District is and what it does and should be regarded as more than a general government service.

Mr. Kilic addressed the Board, stating the economy was in a period of unknowns:

- 1) There is potential for a high inflationary period and costs may rise at a higher rate than revenues;
- 2) The District's major revenue source, property tax, is not controlled by the District. Currently, property tax is under the threat of State takeover. Even without the State takeover, due to the current slump in the housing market, property tax revenue may increase at a much lower rate than it did in the past;
- 3) District policy has been keeping the sewer user service fees, which is the second largest revenue source, unchanged for the last 10 years;
- 4) Interest revenues are expected to decline due to expected reduction in fund balances and low interest rate environment.

Further, he stated that the \$195,000 annual assessment at a 5% interest rate adds up to approximately \$10.5 million from 1982-2008, more than half of what has been spent on water system improvements within the District; if not for the special tax, it would not have been possible for the District to accomplish these special discretionary projects. Mr. Kilic stated his understanding that the assessment is completely legal; even a new special tax could currently be approved by a 2/3 vote of the constituency and be established completely within the legal limits of Proposition 218. He said he did not recall any negative comments or objections to the special tax in the last 26 years. Mr. Kilic said in light of the unknown economic conditions occurring outside the District's control, as well as the potential for flat or declining revenues and increasing costs, the Board may wish to seriously consider implications of such an important decision.

Director Verhasselt felt that a catastrophic economic hardship could warrant reinstatement of the assessment when most likely many other agencies would establish fees throughout the State. Director Froke noted that since the constituency was not requesting a review of the issue, the Board was not compelled to make any adjustment. Director Hornbuckle was in favor of targeting assessment funds for fire fuel abatement services.

MOTION 07-08-03 (Continued)

Motion declined with Director Verhasselt voting yes and Directors Verbanec, Froke, and Hornbuckle voting no.

MOTION 07-08-04

Moved by Director Froke, seconded by Director Hornbuckle, and carried, with Director Verhasselt voting no, to adopt *Resolution 08-09* approving service charges for sewer treatment and disposal and garbage collection

and disposal services; and a special tax for fire protection services within the District for the fiscal year 2008-09.

MOTION 07-08-05

Moved by Director Hornbuckle, seconded by Director Froke, and carried, with Director Verhasselt voting no, to adopt *Resolution 08-10* certifying compliance with State law with respect to the levying of general and special taxes, assessments, and property-related fees and charges for the fiscal year 2008-09.

MOTION 07-08-06

Moved by Director Froke, seconded by Director Hornbuckle, and carried, with Director Verhasselt voting no, to adopt *Resolution 08-11* adopting the Final Budget for fiscal year 2008-09.

MOTION 07-08-07

Moved by Director Verhasselt, seconded by Director Froke, and unanimously carried, to adopt *Resolution 08-12* approving positions, classifications, and pay schedule for fiscal year 2008-09.

Mr. Kilic reviewed his report on the PBCSD Fiscal Year 2008-09 sewer connection fee.

MOTION 07-08-08

Moved by Director Verhasselt, seconded by Director Hornbuckle, and unanimously carried, to adopt *Resolution 08-13* establishing the fiscal year 2008-09 sewer connection fee as \$4,071.

President Verbanec closed the hearing at 10:25 A.M.

END OF TIMED BUSINESS

FIRE PROTECTION

Fire Chief's Monthly Report

The Board received and reviewed the monthly fire department activity report for June 15th – July 14th, 2008. Fire Prevention Chief Marlow for Chief Haines reported on the status of the Basin Complex fire in Big Sur as 149,924 acres burned and the fire being 79% contained. Chief Marlow stated that overtime pay for emergency firefighters comes from a special State fund. PBCSD staff filling in for firefighters assigned to emergencies is also paid overtime from that special State fund. The Office of Emergency Services covers the cost of sending PBCSD equipment to fires in an emergency. There is no net cost to the District for response to the Basin Complex or other remote fire emergencies.

Chief Marlow introduced Captain Lopez, a PBCSD/CAL FIRE firefighter with peace officer status who patrolled the District for a week over July 4th. Captain Lopez presented illegal fireworks confiscated during his patrol. His aim is to educate residents to the fact that fireworks sold locally cannot legally be ignited in the Forest. The fine for possession of illegal fireworks is \$500-\$5,000 and up to one year in jail.

Law Enforcement Program Status

The Board received and reviewed the report on traffic enforcement statistics. Director Verbanec requested that the report be forwarded to the DMFPO Traffic and Safety Committee for review. Sergeant Faulk, CHP, stated that patrol in the Forest was essentially suspended for the month of July due to staff being assigned to several summer events. Two shifts of patrols were reinstated this week and staff is enthusiastic to be back. Fewer citations are being issued as time passes and the public becomes aware of the CHP presence. Mr. Kilic stated that CHP and the District have a good relationship; CHP is very responsive to District requests. Director Verhasselt suggested that the radar detection units be moved to different locations from where they are presently installed. Mr. Niccum would contact the DMFPO Traffic and Safety Committee to see if they had other locations determined for the units. Director Froke requested to receive the Traffic and Safety Committee meeting packets from DMFPO each month.

MAINTENANCE, ENGINEERING, AND CONSTRUCTION

Wastewater Collection, Treatment and Disposal System

The Board received and reviewed the *District Engineer's Report of Utilities Operations and Maintenance for 6/20/08 – 7/17/08* prepared by Assistant Engineer, J.T. Rethke. Mr. Niccum reported two employees' graduation from the Management Excellence Series for supervisors and managers. He highlighted relief from the July weather for Forest Lake Reservoir with the current level being at approximately 35 million gallons. It is expected that the reservoir would not be completely drained by the end of the year, even if hot months occurred. CAWD is

through the testing period of the micro-filtration/ reverse osmosis ("MF/RO") units and is getting more consistent production. The District is continuing to flush the system while CAWD calibrates the filtration process, using California American potable water purchased by the project for this year's emergency needs; no potable water is allowed next year for the project. The golf courses are aware of the importance of reducing the water use.

PBCSD Capital Improvement Projects

Mr. Niccum reviewed the monthly status report for capital improvement projects and responded to questions from the Board. Mr. Stilwell stated that the MF/RO facility is in a 30-day start up period and producing approximately 1.1 million gallons per day. Mr. Niccum stated that CAWD General Manager, Ray von Dohren is receptive to a tour by District directors.

Fifth Priority Fire Protection Water Pipeline Project

Mr. Niccum reviewed the staff report requesting the construction contract for the fifth priority water project be increased to install a section of pipeline located in an easement by a trenchless method to avoid disturbing underground utilities and tree roots.

MOTION 07-08-09

Moved by Director Hornbuckle, seconded by Director Verhasselt, and unanimously carried, to authorize the General Manager to increase the construction contract with Monterey Peninsula Engineering, Inc. for the Fifth Priority Fire Protection Water Pipeline Replacement Project by up to \$150,000.

CAWD Board Meeting

Director Hornbuckle is scheduled to attend the July 31, 2008 meeting, delayed by CAWD one week from July 24th. Director Froke will attend the CAWD Board meeting on August 28, 2008. Mr. Niccum will email the directors to arrange a tour of the CAWD MF/RO facility.

SOLID WASTE MANAGEMENT

The Board received and reviewed a report from Director Laska on the highlights of the meeting of the Monterey Regional Waste Management District held on July 18, 2008. There were no questions or comments from directors.

GENERAL GOVERNMENT

Ballot for Election of LAFCO Commissioners

Per Board consensus, President Verbanec, on behalf of the Board, would fill out the ballot to vote for Don Champion for regular special district representative to LAFCO.

MISCELLANEOUS INFORMATION AND COMMUNICATIONS

Oral reports from General Manager

Mr. Niccum informed the Board that the District would be placing an ad in the newspaper for recruitment of a District assistant engineer.

Questions from Directors or staff seeking clarification of matters within the purview of the District

There were no questions from Directors or Staff.

Oral reports or announcements from Board President, directors or staff

Director Verhasselt submitted a written report on his attendance at the meeting of the Special District Association of Monterey County on Tuesday, July 15, 2008.

Mr. Kilic reported to the board that he and Director Verbanec would be researching an acceptable type chair for boardroom use.

Director Verbanec noted that a Special District Institute conference on finance is coming up in September.

CLOSED SESSION

It was determined that no closed session was in order.

ADJOURNMENT

There being no further business at 11:27 a.m. a motion was made to adjourn.

MOTION 07-08-10

M/S/C (unanimous) to adjourn to the next regular Board meeting to be held on Friday, August 29, 2008 at 9:30 a.m. in the District Board Room at Forest Lake and Lopez Roads.