

BROAD BEACH GEOLOGIC HAZARD ABATEMENT DISTRICT

REGULAR MEETING AGENDA

Sunday September 29, 2013; 9:00 a.m.

**Private Residence-
31330 Broad Beach Road, Malibu, CA 90265**

Closed Sessions Matters

Under this item, the GHAD Board shall meet in a closed session to discuss matters pursuant to Government Code Sections 54956.8 and 54956.9 (a).

None.

Regular Session Matters

- 1) **Call to Order**
- 2) **Roll Call**
- 3) **Adoption of Agenda**
- 4) **Approve Summary of Actions from September 8, 2013 Meeting**

Recommendation: Chair to conduct vote on approving Summary of Actions from September 8, 2013 Meeting. If passed, Chair to sign Summary of Actions.

- 5) **Ceremonial/Presentations**

None.

- 6) **Consent Calendar**

None.

- 7) **Public Hearings**

None.

- 8) **New Business**

BBGHAD Credit Matters. Consideration of: a) extension of BBGHAD's existing Line of Credit with City National Bank, and b) \$187,000 Irrevocable Standby Letter of Credit to satisfy Condition 7 of ECDP 4-10-003-G (CCC-issued emergency permit allowing construction of revetment). Discussion of this item may include consideration of a Board motion and/or resolution. (Chair/Project Manager).

9) **Old Business**

- a. Permitting and Regulatory Process. (Project Manager, Project Counsel and Engineer). Report to include project regulatory status update, including:
 - (i) Sand Source: Update and discussion of revised permit application documents, budget, and financial issues.
 - (ii) CCC: Matters to consider include CDP Status.
 - (iii) SLC & APTR: Status update.
 - (iv) RWQCB and USACE: Permitting update.
- b. Proposed GHAD Contracting Policy. Discussion of potential adoption of contracting rules. (Project Counsel).

Recommendation: Monitor development of GHAD contracting rules and/or procedures.

10) **GHAD Officer Reports**

- a. Treasurer's Report. (GHAD Treasurer).
- b. GHAD Manager Report (GHAD Manager)

11) **GHAD Board Member Reports**

12) **Public Comment - Non-Agenda Items**

Communications from the public concerning matters that are not on the agenda but for which the GHAD Board has subject matter jurisdiction. The GHAD Board may not act on non-agendized matters except to refer the matters to staff or schedule the matters for a future agenda.

13) **Future Meeting**

Next Meeting: November 24, 2013; 9:00 a.m. Location: 31330 Broad Beach Road, Malibu, CA 90265

14) **Adjournment**

AGENDA ITEM NO. 4

Summary of Actions

BROAD BEACH GEOLOGICAL HAZARD ABATEMENT DISTRICT
REGULAR MEETING

September 8, 2013

31330 Broad Beach Road, Malibu, CA 90265

1. CALL TO ORDER

Chair Karno called the meeting to order at 9:21 a.m.

2. ROLL CALL

PRESENT: Chair Karno, Vice Chair Grossman, Board Member Levitan, Board Member Rosenbloom (arrived 9:28 a.m.), and Advisor Goss.

ABSENT: Board Member Lotman.

BBGHAD STAFF ALSO PRESENT (not Board Members and not subject to Roll Call): Clerk and Treasurer Bernadette O'Neill, and Project Counsel Ken Ehrlich.

3. ADOPTION OF AGENDA

Project Counsel reported that the meeting Agenda was posted at 8:35 a.m. on Thursday September 5, 2013 within the boundaries of the BBGHAD. Vice Chair Grossman moved, and Board Member Levitan seconded, the approval of the Agenda. The Motion approving the Agenda passed 4-0.

4. APPROVED SUMMARY OF ACTIONS FROM AUGUST 4, 2013 MEETING

Project Counsel noted certain corrections for the Summary of Actions from the August 4, 2013 meeting, and Vice Chair added an edit as well. Subject to Project Counsel's corrections and the Vice Chair's edits, Vice Chair Grossman moved, and Board Member Levitan seconded, the approval of the Summary of Actions from the August 4, 2013 meeting. The Motion passed 4-0.

5. CEREMONIAL PRESENTATIONS

None.

6. CONSENT CALENDAR

None.

7. PUBLIC HEARINGS

None.

9. OLD BUSINESS

a. Permitting and Regulatory Process

The Chair recognized Project Counsel, who summarized the technical and legal work undertaken since the August 2013 BBGHAD Board Meeting, including the ongoing work regarding the Project Description, air analysis, traffic analysis, inland sand grain size study, Ensitu Report, Trancas Lagoon analysis, and other pending items. The Chair recognized Board Member Levitan, who suggested that the Board should exert additional oversight on BBGHAD technical staff and vendors to control costs and work product. The Chair recognized Board Member Rosenbloom, who requested a flow chart or matrix of BBGHAD personnel and their responsibilities.

The Chair asserted that CCC and, to a lesser extent, SLC staff continue to raise issues with the project and the BBGHAD should undertake whatever means possible to end this continual questioning of the project, and achieve complete applications to allow for final agency consideration of the project. In an effort to combat this paradigm, the Chair reiterated suggestions from earlier BBGHAD Board meetings that BBGHAD representatives meet with senior staff of both the CCC and SLC to determine their views of the project. The Board then discussed various strategies for achieving complete applications for the project with both the CCC and SLC, and the timing of such meetings.

The Board discussed concerns with the BBGHAD Engineer. The Chair recognized the Vice Chair, who asserted that a meeting with Moffatt & Nichol senior management would be prudent to ensure that the BBGHAD Engineer is devoting proper attention to the project and billing the BBGHAD in an appropriate manner.

MOTION: The Vice Chair moved that the Project Counsel shall organize a meeting with Moffat & Nichol, the Vice Chair, and the Project Manager (if one is appointed) as soon as possible to discuss: a) recent billings and whether it would be appropriate for the Engineer to grant the BBGHAD a credit for failure to meet application deadlines, b) assurances that the BBGHAD applications to the SLC and CCC will be complete by September 30, 2013, and c) finalizing the application submittal matrixes. There was no further discussion. Board Member Levitan seconded the Motion. The Motion passed 4-0.

b. Proposed GHAD Contracting Policy

No report.

8. NEW BUSINESS

Consideration of BBGHAD Project Manager/Project Supervisor.

The Chair recognized Project Counsel. Project Counsel explained that, while serving on the BBGHAD Board, Board Member Zan Marquis constituted a *de facto* Project Manager. Since his resignation in June 2014, Mr. Marquis has remained as a consultant to the BBGHAD, but has expressed his preference to spend less time on the project in light of the fact that his family sold its' property within the BBGHAD. Project Counsel stated that the need

exists for a fully engaged manager with the immediate goal of achieving complete project applications and a future goal of project approval and implementation. Project Counsel mentioned that Advisor Goss has been mentioned as a candidate for the position based on his business experience and familiarity with the project. Project Counsel then summarized Resolution No. 2013/04, which, if passed, would appoint Advisor Goss to the Project Manager position and grant the Chair the discretion to negotiate financial and other terms with Mr. Goss. The Chair offered edits to the Resolution.

The Chair recognized the Vice Chair, who asked if: a) the Project Manager position would conflict in any way with Mr. Goss' position as Malibu West's advisor to the Board and President of Malibu West's Board of Directors, and b) directors and officers insurance coverage would be available to cover Mr. Goss as Project Manager. The Chair stated that he is not aware of any conflict among Mr. Goss' position as President of Malibu West, his advisory position with the BBGHAD Board, and his potential service as Project Manager. Project Counsel agreed with this assertion. Project Counsel added that, in light of the insurer's agreement to add Zan Marquis as an insured in his consultancy position, it should not be a problem to add Mark Goss as Project Manager as an insured.

MOTION: The Vice Chair moved that the Board adopt Resolution No. 2013/04, as modified. The Chair opened discussion on the Motion. Board Member Levitan suggested that, if Mr. Goss is appointed Project Manager, he should prioritize meeting with BBGHAD property owners to determine their ability to assist with permitting of the project. Hearing no other comments, the Chair called for a vote. The Motion enacting Resolution No. 2013/04 passed 4-0.

10. GHAD OFFICER REPORTS

a. Treasurer Report

The BBGHAD Treasurer reported that the BBGHAD received approximately \$77,000 in assessment funds in August 2013. The Treasurer reported that she continues to work with ENGEIO to determine: a) if Barry Smolev has paid any of his property taxes owing, and b) why an approximate \$3,000 variance exists between the amount of assessment funds the BBGHAD believes it should have received and the amount the County believes is due to the BBGHAD.

b. BBGHAD Manager Report

None.

11. BBGHAD BOARD MEMBER REPORTS

Vice Chair: Vice Chair Grossman reported on recent developments regarding the proposed Trancas Field project.

No other reports were presented.

12. PUBLIC COMMENT: NON-AGENDA ITEMS

None.

13. FUTURE MEETING

The next BBGHAD Board Meeting will be on September 29, 2013 or October 6, 2013 at 9:00 a.m. at a private residence located at 31330 Broad Beach Road. The Chair also mentioned that the following BBGHAD Board Meeting may occur on November 11, 2013, subject to Board Member availability.

14. ADJOURNMENT

Board Member Rosenbloom moved for adjournment, with a second from Board Member Levitan. The Motion passed 4-0. The meeting adjourned at 12:22 p.m.

Approved and adopted by the Broad Beach GHAD
Board on September ____, 2013.

NORTON KARNO, Chair

ATTEST:

BERNADETTE O'NEILL, Clerk

AGENDA ITEM NO. 8

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 585-1800

**EMERGENCY PERMIT**

January 25, 2010

Permit No.: 4-10-003-G

Applicant: Trancas Property Owners Association

Agent: Ken Ehrlich

Project Location: 31340 - 30760 Broad Beach, Malibu, Los Angeles County

Work Proposed: Placement of approximately 4,100 linear ft. temporary rock revetment consisting of 33,000 tons of rip rap on the sand beach seaward of 77 existing beachfront residences at Broad Beach. A temporary sand berm approximately 10 feet high by 25 feet wide is also proposed for interim protection of structures during the construction of the emergency revetment. All construction to occur during low tidal periods.

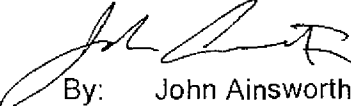
This letter constitutes approval of the emergency work you or your representative has requested to be done at the location listed above. I understand from the information submitted that an unexpected occurrence in the form of shoreline erosion endangering existing septic systems and structures. This occurrence requires immediate action to prevent or mitigate loss or damage to life, health, property or essential public services. 14 Cal. Admin. Code Section 13009. The Executive Director hereby finds that:

- (a) An emergency exists which requires action more quickly than permitted by the procedures for administrative or ordinary permits and the development can and will be completed within 30 days unless otherwise specified by the terms of the permit; and
- (b) Public comment on the proposed emergency action has been reviewed if time allows.

The work is hereby approved, subject to the conditions listed on the reverse.

Sincerely,

Peter M. Douglas
Executive Director


By: John Ainsworth
Title: Deputy Director

CONDITIONS OF APPROVAL

1. The enclosed form must be signed by the applicant and returned to our office within fifteen (15) days, though the work may begin in advance of that submittal.
2. Only that work specifically described above and for the specific property listed above is authorized. Any additional work at the location of the proposed project requires separate authorization from the Executive Director.
3. The work authorized by this emergency permit must be completed within 120 days of the date of this permit. The Executive Director may grant additional time for good cause.
4. In exercising this emergency permit, the applicant agrees to hold the California Coastal Commission (Commission) harmless from any liabilities for damage to public or private properties or personal injury that may result from the project and to indemnify the Commission, which includes its officers, agents, and employees, against any and all liability, related claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any such damage or personal injury.
5. The authorization provided by this emergency permit is for the creation of a temporary structure. Authorization for permanent retention of the structure would require the issuance of a regular Coastal Development Permit from the Commission. Within eighteen (18) months of the date of this emergency permit, the permittee shall either: (a) submit a **COMPLETE** application for a regular coastal development permit to have the emergency structure be considered permanent or (b) remove the emergency structure in its entirety. The Executive Director may grant additional time for good cause. Failure to comply with this deadline will result in a violation of the subject emergency permit and the commencement of enforcement action. If the permittee pursues option (a), it shall not withdraw the application, shall allow the application to proceed through the Commission permitting process according to applicable laws and regulations and the standard permitting procedures, shall cooperate in the permitting process, shall take any necessary steps to comply with the conditions of any permit that is issued and accepted, and shall comply with any such conditions of any such permit granted.
6. If, within 36 months (3 years) of the date of this emergency permit, a regular coastal development permit authorizing retention of the structure authorized by this emergency permit or alternative development has not been issued, or such a permit has been issued but work required by such a permit (1) to modify the structure authorized by this permit to make it a permitted permanent shoreline protective work and/or (2) for a sand nourishment program has not commenced, the applicant shall, by that date, have the entire emergency structure (including approximately 4,100 linear ft. of rock revetment & sand bags (between 31340 – 30760 Broad Beach) and all related materials removed and the beach restored to its approximate natural elevation. The Executive Director may grant an additional two years to remove the emergency structure and related materials for good cause.

7. Within 90 days of the date of this permit, the applicant shall post a performance bond, in a form and amount acceptable to the Executive Director, equal to the value of the cost for the complete removal of emergency structure and related materials from the eastern portion of the beach (approximately 1300 linear ft. of rock revetment & sand bags between 30928 Broad Beach Road and 30760 Broad Beach Road) and restoration of the beach to its approximate natural elevations. The bond shall be structured such that, and it shall be the case that, if the applicant fails to remove the materials within the specified timeframe outlined in Special Condition 6, the Commission may collect the security and remove the emergency development.
8. The applicant shall be responsible for the cost, construction, and maintenance of all improvements within the two existing vertical public access rights-of-way necessary to maintain safe public pedestrian access from Broad Beach Road to the sandy beach as required by the Executive Director and Los Angeles County Department of Beaches substantially similar to the public access that currently exists for the period of time that the temporary rock revetment authorized by this emergency permit exists on site. If any such improvements, or changes over time, are necessary to maintain safe and adequate public pedestrian access, then the applicant shall submit a detailed construction plan for the review and approval of both the Executive Director and Los Angeles County Department of Beaches and Harbors and comply with any requirements imposed by those entities. It is understood that during the course of the emergency permit work, it may be necessary temporarily to limit access to the two access points for the safety of the public.
9. This permit does not obviate the need to obtain necessary authorizations and/or permits from other local, state and federal agencies including, but not limited to, Army Corp of Engineers, Regional Water Quality Control Board, and the State Lands Commission, as applicable.
10. No overnight storage of equipment or materials shall occur on sandy beach. Construction materials or debris shall not be stored where it will be or could potentially be subject to wave erosion and dispersion. In addition, no machinery shall be placed, stored or otherwise located in the intertidal zone at any time.
11. The proposed staging area and access road through the dunes located at 30732 Pacific Coast Highway/APN 4469-026-005 (Malibu Bay Company Property) shall be delineated by staking to avoid and minimize disturbance to the environmentally sensitive dunes that front the property. The staking of the staging area and road through the dunes shall be done under the supervision of a qualified biologist, resources specialist, or City of Malibu biologist.
12. The applicant, Trancas Property Owners Association, is responsible for ensuring compliance with these conditions. The TPOA will not be held responsible for separate actions performed or authorized by individual homeowners that go beyond the work authorized by this emergency permit and do not involve the TPOA.

IMPORTANT

The emergency work is considered to be temporary work done in an emergency situation. If the applicant wishes to have the emergency work become a permanent development, a coastal permit must be obtained. A regular permit would be subject to all of the provisions of the California Coastal Act and may be conditioned accordingly.

If you have any questions about the provisions of this emergency permit, please call Barbara Carey at the Commission Area office.

Enclosures: 1) Acceptance Form

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
99 SOUTH CALIFORNIA ST., SUITE 200
TURANA, CA 93001
(5) 585-1800



EMERGENCY PERMIT ACCEPTANCE FORM

Emergency Permit No. _____

Instructions: After reading the attached Emergency Permit, please sign this form and return within 15 days from the Permit's date.

I hereby understand all of the conditions of the emergency permit being issued to me and agree to abide by them. I understand that the emergency work is temporary and a regular Coastal Permit is necessary to make it a permanent installation.

Ken Ehrlich, Attorney in fact

Signature of property owner or Authorized representative

KENNETH EHRLICH, attorney in fact

Name

1900 Avenue

Address

Date of Signing

AGENDA ITEM NO. 10a

Broad Beach GHAD**Cash Flow**

Cash in Bank : 8/31/13 934,349.59

Sources of Cash:

GHAD Assessment funds

Invoices Paid thru 9/26/13**Paid**

ENSITU	5,591.00	
ENGEO	810.00	
State Lands Comm-Staff Costs	864.67	
Linscott, Law & Greenspan Engineers	5,539.00	
Administration	498.28	
Total checks paid out		(13,302.95)
Cash Balance as of 9/26/13		921,046.64

Sources of Cash:

GHAD Assessment funds

Current Payables in hand:

AON	7,947.00	
ENGEO	327.15	
Moffatt & Nichol	151,612.56	
JMBM	94,823.86	
Linscott, Law & Greenspan Engineers	13,394.26	
Administration	6,000.00	
Bank charges	7.00	
Total Invoices Due		<u>(274,111.83)</u>
Estimated Cash on Hand -10/01/13		646,934.81

Broad Beach GHAD

Projection thru 12/31/13

AS of: 6/26/13

These budget numbers have not been adjusted yet	Actuals Paid	Projection	Projection	Totals
	Nov 2011-Aug 2013	Sep-13	2013	
<u>Uses:</u>				
M&N Preliminary Planning/Support/booklet/aerial	426,411			891,802
M&N 2.0 Field Investigation/Sand Survey	663,538	7,174	79,994	1,335,760
M&N 3.0 Project Entitlement	678,897	144,438	206,807	1,245,227
M&N 4.0 Preliminary Engr & Schematic Design	32,000	-	-	336,000
M&N 5.0 Final Engineering & Constr Documents	189,119		51,207	240,326
Jeffer Mangels-GHAD Admin & Assessments	351,266	25,713	23,200	644,336
Jeffer Mangels-Beach Restoration Permitting & Entitlements	685,810	69,111	135,274	992,097
ENGEO	60,358	327	12,855	123,408
ENSITU	56,745	-		56,745
Quality Mapping	1,176			16,110
Topanga Underground	7,000			10,000
Morgan, Miller & Blair	13,189			66,779
Bell,McAndrews & Hiltachk/Kindel Gagan	10,265			10,265
Wendel Rosen	39,798			41,492
Colantuono & Levin, PC	7,648		9,885	17,532
<i>Fee-City of Malibu</i>			-	17,584
Fee- Coastal Commission	40,000		25,000	65,000
Fee-Water Board	58,340		-	58,340
Fee-Fish & Game			9,172	9,172
Fee-Army Corp of Engr ?			-	-
Fee- State Lands Commission additional Permit fees			-	-
State Lands Comm-Staff Costs	206,945		86,641	372,930
EIR Consultant- AMEC Earth & Environ	469,840	13,394	160,209	833,767
GHAD Bond Legal/Underwriting			30,000	30,000
Tax Exempt Opinion			25,000	25,000
Line of Credit-fee/costs/Interest	15,411		589	16,000
AON-E&O Insurance	7,509	7,947	57	21,799
Office / Phone/Web Site/Coping/Transcripts	5,983	-	167	6,150
Accounting Administration	19,452	6,000	1,548	27,000
Soft Cost Contingency			33,476	33,476
Total Uses	4,046,698.13	274,105	891,081	7,544,096
<u>Sources of Cash:</u>				
Advances from Individual Homeowners (Actuals)	1,436,750			3,017,028
Addtl Advances from Individual Revetment Homeowners				261,579
Advances from TPOA General Fund	200,000			750,000
GHAD ASSESSMENTS	3,271,342		16,332	3,287,674
Total Sources	4,908,092	-	16,332	7,316,281
Cummulative Running Balance:	921,039	646,935	(227,815)	(227,815)