

Bolinas Community Public Utility District

A Special Meeting Of The Board Of Directors

July 7, 2020 270 Elm Road, Bolinas

In compliance with local and state shelter-in-place orders, and as allowed by the Brown Act as currently in effect under the State Emergency Services Act, the Governor’s Emergency Declaration related to COVID-19, and the Governor’s Executive Order N-29-20 (March 17, 2020), the BCPUD did not offer an in-person meeting location for the public to attend this meeting. The meeting was limited to essential district business items and was conducted by the BCPUD Board, staff and public via teleconference.

1. Call to Order.

2:00 p.m.

2. Roll.

Directors Amoroso, Comstock, Godino, Siedman and Smith present via teleconference; director Siedman presiding.

3. Community Expression.

None.

4. BCPUD Letter to the California Coastal Commission (“CCC”) re: the CCC Staff Report (Findings and Special Conditions), Coastal Development Permit Application No. 2-17-0438 re: 100 Brighton Seawall Repair Project; California Coastal Commission (Virtual) Meeting, Agenda Item Th8a, July 9, 2020.

Staff reported that the California Coastal Commission (“CCC”) was scheduled to consider this permit at its June 2020 meeting, but the item was postponed for the ostensible purpose of allowing CCC staff and the permit applicants (AMJT Capital and BCPUD) to narrow their areas of disagreement with regard to the permit terms, specifically the “special conditions”. To that end, AMJT and BCPUD participated in a call with CCC staff on June 18th 2020. During the call, CCC staff was willing to discuss only a few issues – they were not willing to discuss their recommended requirements to narrow the width of the seawall, to remove nearly all riprap, to remove and relocate certain encroachments (a portion of a fence and a shed which surveys now reveal are not on AMJT property), nor was CCC staff willing to provide much flexibility regarding the required public access improvements. There was discussion about the new “upcoast” seawall which was resolved largely to AMJT’s satisfaction. There also was some discussion about the “Permittees” language of concern to the BCPUD because the language as drafted by CCC staff imposes co-equal responsibility on the BCPUD and AMJT regarding future responsibility for the seawall, which is not acceptable to the BCPUD. Staff thought some headway had been made, but the staff report was reissued on June 19th without most of the changes BCPUD requested. Most importantly, the CCC staff did not alter language in the Special Conditions 8 and 9 concerning future monitoring, maintenance and repair of the seawall, even though AMJT agrees to be solely responsible for those obligations. AMJT asked in this phone call to present its “case” for its other requested changes to the special conditions, but CCC staff was not willing to do so.

As noted, the CCC staff report on the project was re-issued on June 19, 2020. AMJT decided to make further concessions to the CCC in order to narrow the areas of disagreement before the July hearing. Most significantly, AMJT has agreed to remove the riprap outside the seawall rather than restack it; AMJT’s engineer has concluded the seawall can be designed to withstand wave action without the protective riprap and removing the riprap “returns” a significant amount of sandy beach (even though the riprap is covered in sand for much of the year). As such, there are five remaining areas of disagreement: (1) seawall width, (2) the location of a storage shed and perimeter fence along the Brighton Avenue side of the AMJT property; (3) the location of a perimeter fence on the landward side of the seawall, parallel to the beach; (4) the remnant wooden groin on the upcoast property, which the CCC staff wants removed; and (5) a technical issue regarding a requirement that the seawall must be removed if the home is “redeveloped”, which the CCC will determine as of January 1, 1977 (when the Coastal Act took effect), rather than as of the date of the permit issuance, which AMJT proposes.

In light of the public interest in preserving the seawall in its current footprint (width) to maximize its public access and recreational uses, staff noted the BCPUD letter to the CCC states that the district joins AMJT’s letter on this point. In addition, the BCPUD’s letter underscores that the permit language must be revised to eliminate future obligations CCC staff seeks to impose on the district (and therefore its customers) concerning monitoring, maintenance and repair of the seawall. CCC staff has inserted language in the permit to provide that the applicants may allocate that responsibility between them in an agreement to be approved by the CCC’s Executive Director, but that is not reassuring because CCC staff is not accepting the allocation of responsibility BCPUD and AMJT already have proposed. As such, staff

recommends that the BCPUD insist that the allocation of responsibility be set out clearly in the permit terms, not left to future discussion. Staff said it is possible that the CCC Commissioners and CCC staff may not understand why this issue is so important to the BCPUD; as such, the letter makes clear that the BCPUD is a tiny utility district that receives revenues from its customers for the purpose of providing specific utility services to its customers. The BCPUD cannot accept ongoing future and unknown monitoring, maintenance and repair obligations – rather, AMJT has agreed to accept those obligations and the permit terms should reflect that.

Discussion ensued about whether the BCPUD should withdraw as a co-applicant and/or decline to grant an easement over its property to stop the project if the CCC will not revise the permit language. Director Amoroso questioned whether the seawall even needs repair at this time; director Smith said it does according to AMJT’s engineer. Director Comstock said the district should not allow the CCC to impose unacceptable obligations on the district; he said he agrees with director Amoroso that the community is better off with the existing seawall than it would be with the project as recommended by CCC staff. That said, director Comstock said the district should wait to see what the Commissioners themselves decide at the hearing on July 10th before deciding whether to remain in the project. Staff said AMJT’s planners have advised that the BCPUD does not have to withdraw as co-applicant; it can decline to proceed with permit issuance after the hearing if is not willing to accept the ultimate permit terms. Director Siedman urged the district to stay the course at this time, allow the process to proceed and wait to make a final decision about its participation until after the CCC hearing.

Staff noted that one revision is needed to the draft letter to reference the BCPUD’s redline of CCC staff’s special conditions; in addition, staff noted that an additional provision the BCPUD cannot accept is CCC staff’s language about providing additional on-street parking as this is not possible.

D. Smith/G. Godino all in favor to approve the BCPUD Letter re: the CCC Staff Report (Findings and Special Conditions), with the revision noted by staff to reference the BCPUD’s redline of the CCC staff’s special conditions.

Staff noted the CCC “virtual” hearing on the permit application is Thursday, July 10th. Interested parties can watch the hearing live on the CCC website but in order to provide testimony on the permit application, a request must be submitted to the CCC by no later than 5:00 p.m. on Wednesday, July 9th. Director Siedman is registered as the BCPUD’s spokesperson and staff is registered as available for questions; a video of director Siedman’s testimony has been submitted as it is important to carefully manage testimonial time, which is limited to 15 minutes for the applicants. Staff said the permit is the first item of business for the CCC on the meeting agenda after public comment.

5. Manager’s Report: *Update on Water Consumption and Status of Heightened Water Conservation Alert.*

Staff noted that the district issued a “heightened water conservation alert” on June 18, 2020 in an effort to halt a trend of rising water consumption in town that began over the Memorial Day weekend. Staff published the alert on its website, on Nextdoor, in the Hearsay News and in flyers distributed around town. Staff also sent out letters to 122 customers (approximately 20% of the customer base) who used an average of more than 250 gallons of water per day in May. The district now is starting to see a response from the community. At the end of May, consumption in the district was approaching 130,000 – 140,000 gallons per day, or 220 – 240 gallons per day per property. Since the alert was issued, consumption has declined to approximately 105,000 – 115,000 gallons per day, or 179 – 196 gallons per day per property. Staff reported that July 4th was a record low day of water consumption in town – 105,000 gallons – no doubt due to the effect of the Coronavirus pandemic-related cancellation of holiday events. The crew is reading all of the water meters in town again to obtain individual consumption data for June and staff anticipates sending out letters again to the highest users. Many of the customers who received the “high user” letter for their May usage have called in to express their shock and mortification about their water use. As a result of the letters, two customers identified major leaks on their property (each over 1,000 gallons a day in water losses) which have now been repaired. Staff cautioned that it probably will not be until the end of July before additional reductions in consumption are achieved as it takes time for the information to get to people; that said, the district is making good progress. In response to a question from director Comstock, staff said the district currently is running the water treatment plant exclusively on Arroyo Hondo Creek water (and not drawing on the reservoirs).

6. Adjournment.

2:33 p.m.