

**REGULAR MEETING OF THE BOARD OF
THE BETHEL ISLAND MUNICIPAL IMPROVEMENT DISTRICT
BETHEL ISLAND, CALIFORNIA
3085 STONE ROAD
BETHEL ISLAND, CALIFORNIA**

DATE: FEBRUARY 11, 2021

The Bethel Island Municipal Improvement District met in a regular session located at 3085 Stone Road (via Zoom), Bethel Island, CA at 5:30 p.m. Upon roll call, the following were found to be present: Directors: Bruce Smith, Anthony Berzinas, Steve Lucas, Tom Knorr, Jr. and Lisa Kirk. Attorney Dave Larsen, District Engineer Jeff Twitchell from GEI and District Manager Regina Espinoza were also in attendance.

BOARD DISCLOSURE OF POTENTIAL APPEARANCES OF CONFLICTS OF INTEREST

Director Berzinas and President Smith stated they would recuse themselves if there was a vote on the Taylor Road Drainage Project. Directors Kirk, Lucas and Knorr, Jr. had no conflicts.

CLOSED SESSION

Potential Litigation – Per Government Code 54956.9(d)(4)
The Board went into Closed Session.

REPORT OUT OF CLOSED SESSION

The Board opened the Board Meeting to the public at approximately 6:40pm. Direction was given to staff.

CONSENT CALENDAR

A motion was made by Director Berzinas and seconded by Director Lucas to approve the minutes of the Regular Meeting of January 14, 2021. The vote showed five directors in favor. Motion carried.

ANNOUNCEMENTS

President Smith asked the public to be cordial during the meetings.

PUBLIC COMMENT

Public comment chats will be attached to the minutes.

District Clerk Bixby read public comments.

UNFINISHED BUSINESS

UPDATE ON BETHEL ISLAND CULVERT/DRAINAGE/STANDING WATER ISSUES

District Manager Espinoza gave an update on the Taylor Road issues. There has been County culvert work done on Taylor Road but she has not received any report or heard that they were completed. As to BIMID's culvert work, comments have been received from the County and GEI will be resubmitting the plans. At the next Board Meeting, hopefully staff will have the plans that will have the elevations, etc. District Manager Espinoza also stated the Piper Road culvert has been repaired as the County's priority has been moved up because of the culvert collapsing on the side of the road.

District Clerk Bixby read a public comment regarding the Taylor Road Culvert Project.

Director Berzinas stated the comment was already answered by the District Manager.

UPDATE ON ASSET MANAGEMENT SYSTEM

No update.

SHEETPILE PROJECT – FIVE YEAR PLAN

No update.

President Smith's internet connection was lost, Vice President Berzinas took over.

NEW BUSINESS

APPROVAL OF FISCAL YEAR ENDING JUNE 30, 2020 DISTRICT AUDIT BY MAZE AND ASSOCIATES

District Manager Espinoza introduced Mr. David Alvey of Maze and Associates.

Mr. David Alvey from Maze and Associates presented the District's audit. There was nothing to bring to the Board's attention on the Memorandum of Internal Controls. There were no difficulties except for working remotely, but they were able to come into the BIMID Office for one day. The other document was the Basic Financial Statement with the Audit Opinion. It was an unmodified (or a clean audit) and that is the highest that a CPA can give to an entity. He thanked staff for their assistance with the audit.

President Smith rejoined the meeting.

District Clerk Bixby read a public comment asking why it took so long to get the budget from the 6/30/20.

Director Kirk stated this was the audit report not a budget report.

Director Kirk asked about the revenues being down from the prior fiscal year.

Mr. David Alvey stated the reimbursements for the four projects for Department of Water Resources was down from the prior fiscal year. The property taxes and assessments were slightly higher than last year due to increased property values.

A motion was made by Director Berzinas and seconded by Director Kirk to approve the Fiscal Year Ending June 30, 2020 District Audit by Maze and Associates. The vote showed five directors in favor. Motion carried.

DISCUSSION OF PUBLIC COMMENT REQUIREMENTS FOR BIMID ZOOM MEETINGS

District Manager Espinoza gave a background of the Board request for a specific public comment process during a virtual zoom meeting to meet Brown Act Requirements, and to efficiently discuss agenda items. District Manager Espinoza requested that BIMID Attorney Dave Larsen address these issues. Per BIMID Attorney Dave Larsen's recommended process, for each agenda item there would be a staff report, then open public comment, close public comment and then Board deliberations/discussion. Once the Board President (or Chair) calls for public comment, there should be a set amount of time (a two-minute pause) to allow the public to type their question or comment. Each member that is called on should receive the same three-minute time for their public comment. The public comment will be read by the District Clerk as called upon by the Board President. Once the public comment period is over and the Board begins to discuss the agenda item, any further "chat" should not be considered public comment other than in limited questions of clarification as needed or requested by the Board.

President Smith opened the public comment.

District Clerk Bixby read a comment stating two minutes is not enough time to type a public comment and how other districts or entities handle their public comments during Zoom meetings.

Director Knorr stated it was covered previously.

District Clerk Bixby read the next public comment of when the public listens to the Board's discussion of an item, there is no idea where the discussion will lead to, so there is no way that we would know what to say in the public comment and it is not enough time to type the public comment and seeing no public comment, let's move on.

Attorney Dave Larsen stated the idea of a public meeting is to have the elected officials represent the public in their deliberation. The public is allowed to make a public comment on each agenda item; the public does not deliberate along with the Board. The chat box is not intended to be a rolling cross talk or open discussion.

President Smith stated the process was outlined in the staff report and that is how it should be done.

District Clerk Bixby read a public comment on how the public made a comment and the ones that were able to speak in the meeting, those comments were included in the minutes. Censoring us is not the solution.

District Clerk Bixby stated the public comment are included in the minutes as an attachment to the minutes.

Director Berzinas stated the public comments attached to this item were supposed to be read at the beginning of agenda item 9C.

District Clerk Bixby read a public comment, also to note to the Board and District Clerk Bixby the chat box only allows a certain number of words and can't cut and paste. I can't type for three minutes in this chat box, maybe you did not know that.

District Clerk Bixby read a public comment; I am almost offended in reading the staff report from the District Manager and your Counsel Dave Larsen about the chat box and on pages 1-4 public comment was made but no public comment was mentioned. Yet on page 3 Mark Whitlock stated (blah, blah, blah) it appears that there is some kind of agreement that the chat box is a free for all for items discussed and you're not wanting to include the comments and questions in the chat box. Ignoring the chat box as it is overwhelming is censorship and denying the people of Bethel Island their right to comment is censorship.

After waiting for one minute, President Smith stated public comment was closed on this item.

Director Kirk stated she has not been to a Zoom meeting where the chat feature was available. She has had to submit her public comment prior to the meeting to be prepared for the three minutes of public comments. She guessed the chat option is acceptable. The public needs to understand that is really confusing. When she looks at an agenda for a meeting and she wants to make a comment, she doesn't know what the Board is going to say but she has an opinion and she would have her comment written out and when public comment becomes available, she can speak. She doesn't like the chatting because it is very distracting. She can't understand why it can't be submitted through email or some other way that is consistent. She has a phone and can speak at any meeting. She can't understand why the public can't give their public comment over the phone.

President Smith asked if there was the capability for the public to call in on Zoom meetings.

District Clerk Bixby stated yes there is a phone in option and the number to call in is on the agenda.

The Boardmembers agreed that the public can call in with their public comment instead of relying on the chat feature.

Director Kirk asked the public to type out there public comments, as that would be really helpful during the meeting.

A motion was made by Director Berzinas and seconded by Director Knorr, Jr. to adopt the recommendations from the District Manager's Staff Report for public comment for Zoom meetings. The recommended process is: 1)Staff Report; 2)Open Public Comment; 3)Close Public Comment; 4)Board Deliberations. The vote showed five directors in favor. Motion carried.

CONTINUED DISCUSSION OF CONDITIONS OF APPROVAL OF DELTA COVES RESOLUTION

Director Berzinas stated the public comment chat that was included in the previous agenda item should be included in this item. Director Berzinas read the comments.

Public comment 19:29:52: Jody: With your theory that DC can be gated because it is private property then the homeowners on Bethel Island may want to do gated roads and do the same thru litigation.

Another public comment: If Delta Coves can change their minds in the future, what's preventing them not living up to their previous agreement which they have already done.

There was a comment from Owen regarding gates on Stone Road, J.R stated there are a lot of property gates on Stone Road but there are no road gate on Stone Road. J.R also stated gated communities is a false sense of security and it sounds like there is no recourse.

Director Berzinas stated there were a lot of repetitive comments and those were the ones that he saw.

Attorney Dave Larsen stated this is a continuation of the item from last month's Board Meeting. Staff has spent time to put together Exhibits A through L. Attorney Dave Larsen gave a little history of Delta Coves regarding the rear-yard setbacks and the Resolution. It was noted that BIMAC and the County do not have the authority to undo BIMID's Board Resolutions. Staff was given direction in Closed Session to communicate with Delta Coves staff of concerns and/or issues and bring back to the Board within the next two Board Meetings or however long it takes for the issues to be resolved. The second part of this item is to discuss the CC&R's for Delta Coves. Attorney Dave Larsen asked the Board to give him their comments on the CC&R's to be incorporated into a final comment.

President Smith opened public comment.

District Clerk Bixby read a public comment regarding who is the authority having jurisdiction on Bethel Island? I do not believe BIMAC or the county for that matter when the matter involves the jurisdiction of BIMID.

Director Berzinas stated Attorney Dave Larsen already made that comment.

District Clerk Bixby read a public comment regarding when is your election take place?

District Clerk Bixby stated the next election will be in 2022.

Public comment was closed.

Director Berzinas asked about the assurances of the Resolution and stated on Exhibit G, 2(c) is the Resolution as it stands today and it states in the last sentence "including a provision saying the Project may not or become a gated community" in which it allowed the gating of Island Camp (Lot B),

and for allowing the setback reductions. He wants Delta Coves to live up to the obligation.

Attorney Dave Larsen stated staff is looking for comments on the CC&R's if the Board wishes to share now or wait to the next meeting.

Director Berzinas stated the Homeowner Association is now responsible for roads and drainage of those roads, that a proper funding mechanism in some sort of sinking fund to be put in place to ensure that the roads don't deteriorate and become a burden on the pumping system that eventually takes the stormwater off the island, that BIMID is responsible for.

President Smith stated on the CC&R's in Section 2.23.3(c), we agreed upon the removal of the setback, that BIMID would not be responsible for maintaining the rock faces in the areas on the peninsulas.

Director Berzinas stated that was not his understanding. His understanding was that they would be responsible for the funding of that and BIMID would still be granted all those accesses in order for us to do our inspections and then we would be able to instruct them on the necessary maintenance. There would be a fund set aside for the inspections.

Mr. Jeff Twitchell agreed with Director Berzinas.

President Smith stated BIMID would not be performing the maintenance of the rock face unless Delta Coves was unable to do the repair. He would like it to be clarified more.

Director Berzinas stated he couldn't find it, but there was supposed to be an emergency fund established with this association for the setback reduction because it was going to make the work much more difficult. If the work was not executed in thirty to 45 days, then BIMID would do the work and invoice that to the emergency fund to pay for it.

Ms. Mary Alexander stated it is located in Subsection (e) creating a budget.

Director Berzinas stated that is the maintenance fund but not an emergency fund that is to be separate from the HOA funding, which needs to be included. Another comment under Subsection (b) states on the outline of how they will receive instruction and how to execute, however it goes back to the general master maintenance fund and it's supposed to be a separate fund. It is the same for Subsection (d), it's supposed to go into a separate fund.

Director Kirk asked about Subsection (f).

Ms. Mary Alexander pointed out Section 2.23.2. This is so that the Master Association would be the main contact so that BIMID doesn't have to go to each property owner.

Mr. Jeff Twitchell stated his number one concern is that clarification under Section 2.8 where it has the excavation restrictions. The District is trying to keep the excavations to a minimum on the LVME perimeter lots. There are four lots that were included that should be excluded and to make sure the lots are correct. He has already made those changes and shared them with Attorney Dave Larsen and the District Manager. A lot of time was spent on the design review (Design Guidelines and Residential Guidelines) and he would hate to have to revisit those but noticed in the CC&R's that it would be reviewed on an annual basis. BIMID would like to review before the HOA adopts them. We don't want to lose sight of the Design Guidelines.

Director Berzinas asked about the piling support or the foundation support restrictions as it relates to the setback reductions that we gave on the perimeter lots.

Mr. Jeff Twitchell stated those are spelled out in great detail in the Residential and Design Guidelines. He is trying to get them replicated into the CC&R's as well.

President Smith stated staff should review the CC&R's and continue this item to the next agenda.

CONSENT ITEMS – STAFF REPORTS
Reports were available to the public.

District Clerk Bixby stated Form 700's will be due April 1st.

A motion was made by Director Berzinas and seconded by Director Kirk to receive and file the Staff Reports. The vote showed five directors in favor. Motion carried.

TREASURER REPORT

Balances as of 1/31/21:

Checking Account: \$49,249.59

Park Account: \$4,400.07

House Number Account: \$336.02

Delta Coves First Deposit: \$155,754.06

Delta Coves Contingency Funds: \$1,797,439.70

Delta Coves O & M Funds: \$788,918.33
LFCF Repairs and Improvements: \$138,105.84
LFCF Maintenance: \$70,021.14

Advance Funding from DWR

Money Market is \$611,224.79

(NWS Project)

SHEETPILE PROJECTS/NON-CONFORMING STRUCTURES (AD-HOC)

Nothing to report.

BETHEL ISLAND PARK COMMITTEE (AD-HOC)

Director Berzinas stated this is relevant with Delta Coves discussion as to the connectivity to the Delta Coves walkway.

DELTA INTERGOVERNMENTAL WATCHDOG COMMITTEE (AD-HOC)

No report.

WEB SITE

Nothing to report.

BIMAC/FIRE DISTRICT UPDATE

No report.

SUGGESTION FOR FUTURE AGENDA

Continuation of discussion regarding Delta Coves CC&R's changes.

CORRESPONDENCE

None was discussed.

A motion was made by Director Berzinas and seconded by Director Lucas to adjourn the meeting. The vote showed five directors in favor. Motion carried.

The meeting adjourned at 8:25pm.

Submitted by Denece Bixby, District Clerk

2-11-21 Regular Board Meeting Public Comment

18:46:57 From jody : 7. When we were able to have the meetings at BIMID, there were name plaques for those at the front. And there were introduction for presenters. Now we do not know who is who when some people speak up. Currently there is no name or what position they hold and some show up as a phone number. Add all presenters, anyone with an agenda item on the agenda, anyone BIMID pays or requested to be there and all BIMID staff and Board to sign in with their full name and title. So we know who is who

18:47:06 From jody : Board I am trying to do that.

18:48:18 From jody : The chat box does not let me cut and past my question. Some time the chat does not paste my whole questions so you are only getting half.

18:48:26 From jody : Sorry this is confusing.

18:48:30 From jody : Yes.

18:49:12 From Island Patriot : people are waiting to be let into meeting

18:49:44 From jody : Denece I am hearing that people can not zoom in. But #7 is not on the agenda.

18:50:49 From jody : 7. When we were able to have the meetings at BIMID, there were name plaques for those at the front. And there were introduction for presenters. Now we do not know who is who when some people speak up. Currently there is no name or what position they hold and some show up as a phone number. Add all presenters, anyone with an agenda item on the agenda, anyone BIMID pays or requested to be there and all BIMID staff and Board to sign in with their full name and title. So we know who is who

18:51:07 From Mel Bolton. : I'm in. thx

18:52:16 From jody : Lisa I asked #7 above is not on the agenda.

18:53:12 From jody : WAIT. My #7 question above. YES Lisa

18:54:00 From jody : Denece can you please read:7. When we were able to have the meetings at BIMID, there were name plaques for those at the front. And there were introduction for presenters. Now we do not know who is who when some people speak up. Currently there is no name or what position they hold and some show up as a phone number. Add all presenters, anyone with an agenda item on the agenda, anyone BIMID pays or requested to be there and all BIMID staff and Board to sign in with their full name and title. So we know who is who. I did not get an answer.

18:56:12 From jody : Item 8a ii:Taylor Rd project:

This question never got answered last month and is about the project on Taylor Rd. "Do you have a final grade elevation of the pipe at the inlet and upstream to the drain"? And what are those elevations at the pipe at the inlet and on the upstream to the drain?

18:58:08 From jody : Okay

19:00:23 From jody : I can only say this, you do not know how to drive a semi if you only ride a bike. If you had to type you would understand how hard this is.

19:04:31 From jody : Why did it take so long to get the budget back for 6 30 2020? It is almost the end of the year of the next budget?

19:05:25 From jody : Okay

19:14:14 From jody : ITEM 9B

1. Your Zoom meetings still do not allow the people who want to comment enough time, if they have to type the comment/questions. I have been to a lot of zoom meetings and other virtual meetings and there is always someone in charge of reading the chat box to the presenter. Even BIMAC has someone in charge of the chat box who reads the comments to the Board. So after the presenters/Board has their say, the presenter/Board asks the in charge of the chat box to please read the questions or comments in the chat box. No one does that in your meetings, Why? Why not change your current operating basis to include someone in charge of reading the chat box? Just like other virtual meetings do?

2. When we listen to the boards discussion about an item in the meeting, we have no idea where this may lead to, so there is no way we can know what we will say before the board discusses the item. And anyone who is listening to the discussion, like the public, has no idea when you will be finished discussing the item

19:15:24 From jody : Then you say any comment? And there is not enough time to type the comment/question or idea and what we hear is you guys say "seeing no public comment let's move on".

3. In the last meeting anyone who typed a comment in the chat box, was consider "public made a comment". And the ones that had the ability to speak in the meeting, those comments were put in the minutes. Censoring us is not the solution.

19:17:23 From jody : Also to note to the board and Denece, the chat box only allows a certain number of words so I can not cut and paste.

19:19:14 From jody : I can not type 3 minutes in this chat box. Maybe you do not know that. The chat box will not let me type that many words.

19:20:00 From jody : Thank You Tony

19:21:49 From jody : Yes

19:21:57 From jody : Yes

19:22:31 From jody : Item 9B:

I am almost offended in reading both the staff report from your District Manager and your counsel, Dave Larsen about the chat box. On the minutes, pages 1, 2, 3 and 4 "public made a comment" yet no comment was mentioned. Yet page 3 "Mr. Mark Whitlock stated... blablabla (whatever he said)..." It appears that there might be some agreement that you feel the "chat box" is a "free for all" when the items being discussed and you're not wanting to include the comments/questions from the chat box. Ignoring the chat box because you feel it is "overwhelming" is censorship and denying the people of Bethel Island the right to comment is censorship. Some members of the public that comment, only get a "public made a comment" while others that have the technology to speak at the meeting, their statement is printed with their name. The chat box might be the public's only way to communicate. Tony made a statement close to "to swear in testimony of presenters" from making false claims. Public should not be forced to sig

19:23:31 From jody : Tony made a statement close to "to swear in testimony of presenters" from making false claims. Public should not be forced to sign in to make a comment, however, presenters should be held accountable. While Mark was making his public comment, he was not telling the Board the truth. If the chat box is closed and

then the public hears someone not telling the truth, how will the board know that? By allowing the chat box throughout the meeting the board can read the chat box and get all the information. By not allowing the chat during the whole meeting is not allowing the Board to have ALL the facts or ideas from its members. The public will not know what to comment about if they have to talk before the Board discusses the item. Allowing the public to comment during the discussion is the right thing to do if you have to type it. Allowing the chat box to remain on at all times is the right thing to do. Otherwise it is censorship.

19:24:27 From jody : sign in

19:25:44 From jody : You welcome.

19:29:01 From jody : Zoom makes this way hard on both our sides.

19:30:34 From jody : I can only type about 50 words in the chat box. can NOT TYPE 3 MINUTES. Zoom is hard on both of us.

19:32:51 From jody : CAN NOT TYPE 3 MINUTES. CHAT WILL NOT ALLOW THAT MANY WORDS. PLEASE HEAR ME.

19:33:30 From jody : WHAT IS THE PHONE #???????

19:36:00 From jody : Someone is not listening..... can't type a 3 minute chat.

19:37:01 From jody : If the public only had this via it can not type 3 min.

19:40:16 From jody : Who is the authority having jurisdiction on Bethel Island? I do not believe BIMAC or the county for that matter when the matter involves the jurisdiction of BIMID.

19:47:25 From jody : 9c:Who is the authority having jurisdiction on Bethel Island? I do not believe BIMAC or the county for that matter when the matter involves the jurisdiction of BIMID.

19:49:33 From Matthew Desotel : when is your election take place?

19:51:43 From jody : Not on the agenda

19:56:25 From jody : I do not see CCR on the agenda???

19:58:37 From jody : Where are you guys at????

20:21:57 From jody : The boat is in contra costa county fire

20:22:18 From jody : Gwet your chat to be longer