

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

Held at Fire District Headquarters, 595 San Ysidro Road, December 21, 2009. The meeting was called to order by President Jensen at 8:35 am. Present were Director Jensen, Director Venable, and Director Newquist. Others present at the meeting: K. Hickman, E. Hvolbøll, E. Klemowicz, C. Lim, G. McLeod, G. Ventura, and K. Wallace, G. Reisenweber.

1. There was no public comment.
2. On a motion made by Director Newquist, seconded by Director Jensen, the minutes of the October 26, 2009 special meeting were approved. Director Venable abstained.
3. On a motion made by Director Newquist, seconded by Director Jensen, the minutes of the November 16, 2009 regular meeting were unanimously approved.
4. On a motion made by Director Venable, seconded by Director Jensen, the minutes of the November 30, 2009 special meeting were unanimously approved.
5. After a brief explanation of payments made for uniform beanies and Browning and Associates, the warrants and claims for the month of November 2009 were unanimously approved on a motion made by Director Venable and seconded by Director Newquist.
6. Mr. Hvolbøll explained that an appeal can be made by anyone who feels that a decision has been made by the Fire Chief that they do not agree with. Mr. Reisenweber has brought an appeal for the Board to consider for appeal of the District's building requirements – specifically access to his property at 212 East Mountain Dr.

Chief Wallace advised the process in which building permits are issued and stated that a Fire Protection Certificate (FPC) is required prior to a permit being issued by the County. The certificate includes any special requirements or restrictions that must be met prior to the start of construction and occupancy.

He explained that Mr. Reisenweber's project is a modular home that has been installed on a permanent foundation. The conditions included on his FPC are based on CA fire Code and Montecito Fire Standards. These are very common and typical for all construction. Specifically, the applicant is appealing the paved width road requirement.

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Chief Wallace explained that we allow 5 inches compact base with fog seal to prevent erosion during construction, but asphalt is required at final approval.

Mr. Reisenweber advised that his modular home is actually on stilts, not a foundation. He advised the Board that he currently has gas and water hooked up, but is unable to have electricity turned on because he has not met the access requirements. He stated that he is desperate to move in so that he can refinance the mortgage at a lower rate; He is unable refinance unless he is physically living in the home.

Mr. Reisenweber advised that he tried to widen the road to his property, but was stopped by a property owner at the bottom of the road who threatened a lawsuit. He advised that this property owner has since planted shrubs and lawn in the area of the easement further restricting his ability to meet the Fire District's requirement.

Mr. Reisenweber advised that the adjoining neighbors above him have been working together to resolve the road width issue, and assured the Board that they plan to continue working on getting the road to meet District standards. Supervisor Carbajal has also been contacted by the residents in the Hyde Tract community to consider changing the road from a private road to a county road.

Mr. Reisenweber stated that he has road base ready for use to widen the road when they are able to do so.

Director Venable asked if there was an easement established and identified when the property was purchased. Mr. Reisenweber stated that the property deed had a written description of the easement, but there was no visual description included. Mr. Reisenweber closed his presentation by stating that it was important to remember that people's lives are being affected by this.

Chief Wallace advised that in 1964, the Coyote Fire burned through the same area as the Tea Fire. When the rebuild began, no standards were applied to improve the infrastructure. In 1977, the Sycamore Canyon Fire had a similar burn footprint, and the District then required Class A roofing materials be installed on all new construction. No infrastructure modifications were enforced.

Since those two fires, the District has improved our standards to include road access and water access. Many homes were burned in all three fires because we couldn't get to them safely and/or, there wasn't water available.

Chief Wallace stated that he produced a white paper after the Tea Fire outlining our building requirements. The white paper was published on our website and mailed to all affected property owners.

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Claire Gottstanker contacted him very early on after the fire to get her project moving. He also met with other Hyde Tract homeowners on June 2 to work with them on the rebuild process. At that time, they didn't have any road agreements, but they have since begun to work together to establish road agreements and improvement plans.

Chief Wallace advised that at the time Mr. Reisenweber's FPC was initiated, he provided a document indicating that he had a 20 foot prescriptive easement; however that easement is being challenged by the property owner at 202 E. Mountain Drive.

Kirk Johnson met in June with Mr. Reisenweber's contractor and showed him where the road needs to be widened. We did make accommodations in some areas of the road that couldn't be widened, and approved the FPC with conditions that the road could have these physically pre-identified areas that were less than 20' wide. In addition, the FPC was issued with the agreement from Mr. Reisenweber that the access road would be installed prior to the delivery of the manufactured home.

Chief Wallace pointed out that first Mr. Reisenweber violated our conditional FPC by moving his modular home onto the property prior to the road conditions being met, and now he wants the Board to consider allowing him to occupy the residence prior to the road conditions being met. If the Board approves his request, the District has no other legal recourse to enforce that he meet our safety standards.

Chief Wallace advised the Board that there are additional projects above Mr. Reisenweber's property, but only one other was allowed to proceed, and that was only for their footings to be installed until the road meets district standards. None of the rebuild projects in the upper Hyde Tract have certificates of occupancy,

Chief Wallace advised that Martha Collins, who is one of the property owners in the upper Hyde Tract neighborhood, is working with the neighbors to move forward with improving the road, and has established a road share agreement with all those involved. Ms. Collins is currently in the process of working with the courts to clear the easement issue with the property owners at 202 E. Mountain Rd.

Chief Wallace reminded the Board that this road was the very road that the two burn victims were forced to run down during the Tea Fire because they couldn't drive their own vehicle to their structure due to access restrictions; a fire engine would have never been able to get to them. Their tragedy demonstrates the obvious importance of adequate access.

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Mr. Hvolbøll stated that it appears that the applicant has not complied with the District's requirements, not because he doesn't want to, but because he hasn't been able to. The applicant is asking the Board to change the conditions of his permit because of his situation.

He advised that the Board that whatever decision they make, they must treat like cases alike.

Mr. Hvolbøll advised the Board that another option they have is that they have the right to declare eminent domain and condemn the easement if they felt it was in the public's interest. If necessary they have the authority to force a wide enough easement, and also to require those that use the road to pay for it.

Chief Wallace pointed out that there are two other roads in the District that have access and easement issues; any decision they make could also impact the other situations.

Mr. Hvolbøll, pointed out that if the Board were to grant Mr. Reisenweber's appeal, others in similar situations would have to be treated the same.

He advised that it is the Board's duty is to consider everyone in the district. If substandard items are approved that affect people's lives, the view of the appeal would be very wide.

Mr. Hvolbøll pointed out that Ms. Collins is currently working to address the easement and may be successful; however, if the District does decide to move forward with condemnation procedures, the property taken in the easement area would ultimately have to be purchased.

Mr. Reisenweber stated that the property owner challenging the easement has not been cooperative, and he is concerned that this could drag on for years, becoming a larger hardship to him and all of the property owners along the road.

Director Newquist asked if Mr. Reisenweber's mortgage company would accept occupancy with conditions. Mr. Hvolbøll advised that they could potentially, however, the challenge to the District would be to find an enforcement mechanism that could be used if the conditions aren't met after the property owner moves in. He advised that he would probably recommend against a conditional occupancy permit.

Director Newquist advised that he would like to hear from the other neighbors about this issue and invite them to next meeting.

Director Venable asked to specifically invite Ms. Collins to the meeting to see what work has done to address the problems.

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On a motion by Director Venable, seconded by Director Newquist, the Board approved keeping the Reisenweber appeal hearing open and to continue the hearing at the next regular meeting.

Mr. Hvolbøll suggested that the District invite all affected property owners utilizing Ms. Collins contact list and for the District to send letters to all affected parcel owners utilizing mailing addresses on the tax rolls in case Ms. Collins list does not include everyone.

7. On a motion made by Director Newquist, seconded by Director Venable, the Board appointed Roland J. Jensen as President, and John Venable as Secretary for 2010.

8. On a motion made by Director Jensen, seconded by Director Newquist, the Board appointed Director Venable as Board Negotiator for 2010.

9. On a motion made by Director Newquist, seconded by Director Venable, the Board voted to approve Resolution 2009 - 08 in the matter of setting the time and place for holding regular Board meetings. The motion was adopted by the following roll call vote:

Ayes:	R.J. Jensen, J. Venable, D. Newquist
Noes:	None
Absent:	None

10. Chief Wallace explained that we must annually account for district property including lands and airspace. We must assess what we own, and verify that we do not own any property that is in excess of our needs.

On a motion made by Director Newquist, seconded by Director Venable, the Board approved Resolution 2009 – 09 concerning inventory of District lands and air space. The motion was adopted by the following roll call vote:

Ayes:	R.J. Jensen, J. Venable, D. Newquist
Noes:	None
Absent:	None

11. On a motion made by Director Jensen, seconded by Director Venable, the Board approved Resolution 2009 - 10 revising compensation for its Board of Directors. The motion was adopted by the following roll call vote:

Ayes:	R.J. Jensen, J. Venable, D. Newquist
Noes:	None
Absent:	None

12. Chief Wallace recommended hiring a dispatcher right now.

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Director Venable advised that he felt this would benefit the District and alleviate the work load currently in dispatch.

On a motion made by Director Newquist, seconded by Director Jensen, the Board unanimously approved hiring a new dispatcher.

13. Chief Wallace advised that Fire Marshal position was changed to a Battalion Chief when the Board approved the Prevention Bureau reorganization in October; this caused a ripple effect to the positions being supervised by the Fire Marshal. He advised that he will present revisions for all of the jobs supervised by the Fire Marshal, beginning with the Captain/Assistant Fire Marshal.

Some of the job duties of the Captain/Assistant Fire Marshal were increased, including the addition of public information, public education, and CUPA inspections. The job requirements were also modified, and include a 2 year minimum commitment.

He advised that he did meet and confer with the Montecito Fireman's Association regarding the proposed changes.

On a motion by Director Newquist seconded by Director Jensen, the Board unanimously approved the revised job description to adopt the changes for the Captain/Assistant Fire Marshal.

14. At 10:06 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: Fire Chief Kevin Wallace, Employee Organization: Montecito Firemen's Association, Unrepresented Employees: Members of Staff. Present were Director Jensen, Director Newquist, E. Hvolbøll and K. Wallace.

At 10:20 am the Board reconvened in open session. Mr. Hvolbøll reported that the Board met and reviewed the district's position, and gave instructions regarding salaries and compensation to the negotiator; the Board voted that there be no change in Chief Wallace's salary, pursuant to his request.

15. On a motion made by Director Newquist, seconded by Director Jensen the Board unanimously accepted the \$5,000 donation by Mr. Figge.

16. On a motion made by Director Newquist, seconded by Director Venable the Board unanimously accepted the \$25,182 grant from Fireman's Fund for vegetation mitigation.

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17. Mr. Hvolbøll explained that Proposition 4 overrides the limits on the expenditures that can be appropriated. In order to utilize this, it must go to the voters, and needs approval by a majority vote. He suggests that the District hold a special election in July as it has done in the past. He explained that it would cost the District less if it were consolidated with the June elections, but if the vote is before June 30 it would not be in effect for an entire 4 fiscal years.

In the past, the Board has determined that it be an all mailed ballot. Mr. Hvolbøll advised that District Counsel will prepare a series of resolutions that will be brought to the January regular meeting for approval.

He added that in the past District Counsel has prepared the impartial analysis of the election this, and will again this year, however, during the last election, the County felt that they should write it. Mr. Hvolbøll has written to the County regarding this issue, but they have not replied to his letters.

The Board took no action.

18. Chief Wallace advised that the Board packet includes an explanation of how the Prop 1A securitization will be accounted.

The Board took no action

19. Fire Chief's Report

Chief Wallace reported on several issues including the following: Chief Langhorne's retirement on Dec 15; letters of interest for new Battalion Chief Fire Marshal position are due Dec 22; Chief Dyer was elected to be the Operational Area Coordinator, Chief Wallace is primary back up, and Chief Mingee is secondary back up; and reviewed the Carpinteria Dispatch Request For Proposal process.

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

20. No additional agenda items were requested for the January meeting.

Director Jensen adjourned the meeting at 10:35 am.