

Special Meeting Minutes
Embarcadero Municipal Improvement District

March 30, 2022

CALL TO ORDER

The Special Meeting of the Board of Directors of the Embarcadero Municipal Improvement District was called to order by President Taylor at 7:03 pm.

ROLL CALL

The following Directors were present: Directors Taylor, Bohley, Duncan, and Menna. Director Langle was absent. The Clerk of the Board/District Manager was also present.

PUBLIC COMMENT: Residents Shirley Bowman and Phil LaForte were present. There was no comment on matters not on the Agenda.

INFORMATION CALENDAR:

UNDERGROUND UTILITIES: Retired SCE Designer/Consultant, Tom Wagner, was present to discuss the potential for a new underground utilities project for the District, as follows:

Electric Rule 20 defines policies and procedures for electric utilities to convert overhead power lines and other equipment to underground facilities at the request of a city, unincorporated county, or private applicant. Sub programs' Rule 20 A, B, and C define project eligibility criteria, rules and oversight.

An Embarcadero Municipal Improvement District undergrounding project would be governed by Rule 20 B. Under Rule 20 B, EMID would be responsible for installation of conduit, substructures and boxes, and pays for the cost to complete installation of the underground electric system, less a credit for an equivalent overhead system, plus taxes and fees. Such a project must be a minimum of 600 ft.

The District would incur 4 major costs, including from Edison, Frontier, and Cox Cable. Each utility will provide a map and invoice, Civil engineering costs, and a Utility Survey.

Construction costs are estimated to be \$300 ft and conduit cost at \$40-\$50 ft. The approximate size of the project is 3 ½ miles.

Timeline: Such a project could be implemented through formation of an Assessment District, whereby all residents pay a portion of the entire project on their Property Tax bill, depending on their individual circumstances (view shed, pole placement, proximity to the street). This requires a Special

Election. In addition, all residences would be responsible for paying for running the utility from the street to the home. SCE requires a letter from all affected property owners stating they will pay that portion regardless of how the entire project is funded. A District wide project would require 100% approval of residents.

The project could also be funded privately. In that case, EMID would play a supporting advisory role, contributing limited public funds.

The Board suggested that, as EMID is located in a high fire area, the Public Utility (SCE) might subsidize such a project. Mr. Wagner suggested we investigate that possibility, but believes SCE would see this project as aesthetic rather than emergent.

The Board further suggested a Pilot Program that could lead to a phased-in project. Using EMID's reserved property tax funds to pay for a small Pilot Program, Under Rule 20 C (Customer pays for the entire project), or EMID could take out a loan for the entire project and bill the affected property owners.

PROPOSED THIRD AMENDED AND RESTATED CC&Rs: Legal Counsel, Rick Battles, presented his opinion on the question of EMID's ability to amend the current CC&Rs to protect EMID from AB-9, legislation allowing lot splits with four ancillary buildings on each parcel, creating density and potentially the loss of our rural environment.

Mr. Battles stated that AB-9 is "silent" on Home Owners Association CC&Rs, and by extension EMID's CC&Rs. The author of AB-9 wrote a letter to the legislature stating that AB-9 does not over ride private Covenants, Codes, and Restrictions. However, that wording is not within the AB-9 itself and may not hold weight. Further, this legislation could be amended to over ride private CC&Rs at some point. The pertinent point in AB-9 prohibits unreasonably restricting construction of ADUs. EMID's CC&Rs do not unreasonable restrict such construction approvals.

As to Lot Splitting, Mr. Battles believes that the Third Amended and Restated CC&Rs is enforceable, as is the included prohibition of splitting lots within the District, covered by the CC&Rs.

The new document will be discussed and reviewed in public meetings.

The next meeting is scheduled for April 13, 2022 at which time these two items will be on the Agenda for discussion and possible Action.

The meeting was adjourned at 8:36 pm.

President

Clerk of the Board

(seal)

