

**COMBINED MEETING OF THE BOARD OF DIRECTORS  
MONTEREY DUNES COLONY ASSOCIATION  
AND  
MONTEREY DUNES COLONY MUTUAL WATER ASSOCIATION**

**March 18, 2017**

**Present**

Bill McGowan, Vice President  
John Steinhart, Treasurer  
Biff Jelavich, Director (via phone)  
Todd Davis, Director  
Tom Bugary, Secretary and General Manager

**Absent**

George Maciag, President

**WELCOME**

In George Maciag's absence, Bill McGowan called the meeting to order at 10:00 a.m. on March 18, 2017 at the Monterey Dunes Colony Clubhouse.

**MINUTES**

The Board reviewed the draft minutes of the 1-21-17 Board meeting. It was M/S/C to approve the minutes as presented.

**TREASURER REPORT**

John Steinhart gave a verbal report for January and February 2017. John noted that the payments to the Capital Reserve Replacement Fund and to the Mutual Water Association were current. Additionally, John stated that all our account balances could be seen in the written report, which has been attached to and made part of these minutes.

**FINANCE COMMITTEE REPORT**

Ted Adams, committee chair, gave a verbal report. He stated that the Finance Committee had met the previous day to review the FY 2017-18 budget, as well as the Colony's finances for the first eight months of the fiscal year (July-February). It was noted that there was no increase in the monthly or annual dues in the 2017-2018 budget. During discussion on the cost to maintain the colony, Tom noted that although our association is not a Condominium Project, but a Planned Unit Development, our budgets are similar to condominium budgets in that the Association is responsible for most of the exterior portions of the units as well as the common areas. The association collectively pays fees,

such as insurance policies, as well as plans and manages funds for all future repairs and replacements of the colony's infrastructure. With our ocean front location and the need for more expensive non-corrosive materials, expenses are quite a bit higher than an HOA located inland. Ted Adams, finance committee chair, encouraged all homeowners to review the FY 2017-2018 budget because it reflects everything that is happening at the Colony and will answer most questions members may have. Tom stated he is always willing to answer any homeowners questions.

Ted stated that he had a recommendation for a new member of the finance committee – Jason Nolet, (unit #212). Ted briefly introduced Mr. Nolet asking the board for his appointment. The Board M/S/C Ted's recommendation to appoint Jason to the committee.

### **ENVIRONMENTAL CONTROL COMMITTEE (ECC)**

Jeff Schwartz stated that there had been one ECC teleconference since the last board meeting where the committee discussed five requests:

- Unit #328, Request to install pavers in the courtyard, approved with stipulations
- Unit #328, Request to install a propane fire pit in the courtyard, approved with stipulations
- Unit #328, Request to install safety lights along the boardwalk to her unit entrance, approved with stipulations.
- Unit #328, Request to be able to use a temporary redwood gate on the O/S patio, denied.
- Unit #170, Request to replace his fireplace with a wood burning stove, approved with stipulations.

### **CC&R AMENDMENT COMMITTEE REPORT**

The committee chair, John Steinhart, gave a verbal report. He began his report by naming the five committee members – Frank Williams, Fran Gentry, Jeff Schwartz, Bill McGowan, and himself.

Prior to the CC&R Amendment Committee, the Strategic Planning Committee had presented a long-term vision of the Colony that included the preservation of the Colony as a predominantly residential community. This was approved by the previous Board. The chairman of the current Board appointed the CC&R Amendment Committee to address concerns that the growing number of rental units threaten to change the Colony from a retreat to a resort and the financial and neighborhood impacts of this change. In its early work the committee engaged 12 other homeowners representing a wide range of views and interests.

In February 2017, the Committee circulated a draft Amendment to the CC&R's. The key features of this amendment were:

1. Defined short-term rentals as less than 30 days
2. Proposed a cap of 30 units or 25% of the Colony.
3. Grandfathered all current owners and their heirs.
4. Set up a wait list for new buyers so that when the total number of units rented falls to 29, the person at the top of the waiting list can rent their unit for short-term rentals.
5. Offers a hardship case procedure for one-year of short term rentals outside the cap.
6. Defined long-term rentals (>30 days) as exempt from the rental cap,
7. Added a no subletting clause.

On 3/11/17, there was a special public homeowners meeting to discuss the proposed CC&R Amendment. Below is a summary of what the committee heard:

1. The grandfathering rights wording in the amendment overlooked fractional ownership.
2. Homeowners questioned how the Amendment would impact the property values. This is hard to judge because there are two schools of thought: 1) the pool of potential buyers would be reduced because of an inability to immediately rent the unit after purchase, and 2) that limited rentals may increase the demand by prospective residential owner based on greater privacy and a limited number of transient occupants.
3. There was an assertion by some homeowners that rentals make no incremental demands/costs on infrastructure.
4. There was a waiting list concern that a 5-day rental minimum every 90 days to stay on the active rental list is not enough to prevent “blocking” behavior by owners who might not want others to rent.
5. There should be an exemption from the cap for new buyers who rent below a certain threshold (e.g. 90 days per year as is the case with Pacific Grove).
6. Long-term leases are not subject to permitting by the County, and our proposal to require a 6-month initial lease period is unnecessary with regard to an Amendment focused mainly on short-term rentals.
7. There were several objections to our suggestion that rentals are not as well maintained as non-rental units.

After this meeting, the following lists what the committee has done and are still working on:

1. Regarding fractional ownership, the attorneys have reworded the grandfathering section to accommodate these owners and to expand and clarify the definition of grandfathering rights.
2. Regarding property values, the committee has dropped this argument from the summary.
3. Regarding the incremental costs of rentals, the initial analysis of water use shows at least a 30% greater use of water by rental units and the same for sewage. The general manager has data showing there are more repairs (e.g. sliding

doors/screens) to rental units. It, therefore, stands to reason that since we have at least 2 to 3 times the number of transient occupants as we do residential owners on premises, rental units have more demands/costs than non-rental units.

4. Regarding the waiting list concern we propose to increase the minimum required rental days to remain in the active rental list from 5 days per quarter to 10 days per quarter (equivalent to 40 days per year).
5. Regarding an exemption for new buyers, the committee considered this but it defeats the underlying purpose of the Amendment by increasing the total number of rental units.
6. Regarding the long-term rentals' initial 6-month leasing period, the committee recommends dropping this provision.
7. Regarding the homeowner maintenance comparison of rental vs. non-rental units, the committee is deleting this from the summary arguments.

Several homeowners asked for a clarification of how new homeowners would know where they stand on the waiting list at any given moment. The Board agreed that we need to think through how the waiting list would work.

The committee will provide a final draft of the proposed Amendment and Summary of Arguments to the board in the next week and recommend that they set up a meeting for all homeowners for the sole purpose of passing a motion to move the Amendment to a vote by the Colony.

At the January 2017 Board meeting, the Board approved a motion to enforce Section 5.6.1 of the CC&Rs regarding the operation of a business by owners of multiple residences and that as the first step the board would seek advice on an enforcement process from the Colony's legal counsel. Legal counsel has recommended that the Board use the existing enforcement mechanisms starting with Internal Dispute Resolution, (IDR) between homeowners of multiple rental units and member(s) of the board of directors. If the association cannot find resolution under the IDR process, the next step would be Alternative Dispute Resolution (ADR), with a mediator. All of this would precede consideration of legal action to enforce the colony's CC&Rs.

## **GENERAL MANAGER'S REPORT**

### **MONTEREY DUNES COLONY ASSOCIATION**

This is a cumulative report covering reserve projects and other work as completed in fiscal year 2016-2017, (July 1, 2016 through June 30, 2017). It also includes management topics associated with the March 18, 2017 director's meeting.

### **Windows, Doors, Fences, Roofs, Decks and Skylights**

Association staff replaced 19 windows at unit 114 and are now completing the replacement of 12 windows and 2 sliding glass doors at unit 242. Unit 294 is pending window replacement in 2017. Window replacement was temporarily suspended at unit

242 in February, (now resumed), as crews were shifted to clear trees and debris and to clean-up/repair storm-damaged-roofs, fences and decks.

Courtyard fences were replaced at units 166, 294 and 300. The courtyard fence at unit 258 was repaired after a portion of it was destroyed by a fallen tree. The gate and partial courtyard fence at unit 132 was replaced due to storm damage and the gate at unit 178 was repaired.

One parking lot light pole was blown down by winter storms and replaced. An additional pole was installed near the entry concierge station for an added security camera.

Large skylights were replaced at unit 106 and also at the clubhouse meeting room.

The sloped reroofing of units 156-158-160 is complete. The work was signed off by our consultant and his final report submitted. The county permits were finalized on 1-13-17 by the building department. The association received the 25 year written warranty for the completed building on 1-20-17 from CertainTeed, the manufacturer of the roofing materials. The cost for reroofing the building was \$46,544.00. I have identified units 114-116-118 and 222-224-226 as next to be reroofed due to leaks in the copper roof flashing and severe termite damage. Three buildings and their associated garage complexes will be bid out in early May for replacement in the July-August timeframe.

Now that the rains have stopped, Berkleo Roofing is in the process of replacing the remaining 4 hot mopped small flat roofs on the property scheduled for completion this fiscal year. They have completed units 126, 236, 264 and 228. I have included the flat roof system on unit 118 to the list because it developed leaks during the winter storms this past year. Carl Black Construction is contracted to tear off and replace the trellis and the horizontal cantilevered support beams on unit 200 during the reroofing process of that unit.

Trellises have been replaced and painted at units 108, 124 and 168.

Unit 188 Oceanside deck is pending replacement and will be scheduled after the owner's contractor replaces Milgard sliding glass doors and windows under warranty.

MDCA Staff completed inspections of all roofs for termite damage including garages. Roofs were cleaned of debris which had accumulated from the Monterey Cypress Trees.

### **Meter Enclosures**

Meter Enclosures were replaced at units 234, 236 (garage), 276, 304, 310 (garage), 312, 324, 326, 330 and the guardhouse. Six additional enclosures are scheduled for replacement this fiscal year.

### **Concierge Position**

We are still interviewing candidates for the front gate concierge position. The position is very difficult to fill because of the needed skill sets, personality, ability to work on their own and computer skills. I am also looking for the person to have some office/bookkeeping skills to assist 1 day a week in the office. I have already hired a person for the combination guard/concierge position and he has been trained for both. The concierge will be physically located at the gate from 2:00PM to 10:30PM 7-days a week to assist homeowners and their guests who enter the property. I have written the initial version of standard operating procedures for the concierge to follow and he/she will work in concert with the guard who will be mobile on the property during most of the concierge's shift. Until the hiring process is completed, I am manning the front gate with a combination of our regular guard and the new hire and substituting staff to fill the guard position on the property.

### **Painting and Weatherproofing**

Association staff has completed painting the exterior trim on units 110, 112, 138, 140, 152, 154, 182, 186, 236, 238, 240, 242, 244, 246 and 294. Unit windows and doors were sealed and caulked at units 160, 174, 176, 188, 212, 214, 216, 296 and 298.

Association staff measured out and striped the parking areas throughout the colony. I only made the spaces 4' in length because I felt it looked better than 10-12 foot stripes. All parking spaces are now assigned/marked using a board approved parking scheme.

### **Storm Damage**

The colony sustained considerable damage during this year's winter storms. Several trees were blown down causing damage to homes, courtyard fences and landside decks. Four courtyard fences were blown over and the colony lost power several times, once for an extended period due to a snapped power pole on Molera Road and downed power lines. The King Tides and large swells in early January caused breaks in the sandbar resulting in a deep scouring of the beach and loss of foredunes, especially in front of units 322, 276 and 222. This continued through February with record rains, strong winds and widespread flooding. We have temporarily closed the beach access way in front of units 322 and 324 due to a large drop-off to the beach caused by this erosion. There was a little run-up this year but not enough to deploy the barriers.

### **Coastal Projects**

*From Last Report:*

*Recent heavy rains produced over 15 inches of rain up in the watershed, less but still considerable in the lower elevations. On 1-9-17, Brent Buche, assistant general manager for the Monterey County Water Resources Agency (MCWRA) stated that the agency was prepositioning equipment to break the river under an emergency permit process. This emergency breaching process is approved at the county, however, the California Coastal Commission claims breaching the river without a Coastal Development Permit is illegal. This disagreement has festered for many years between the two agencies and the MCWRA continues to breach the river under emergency conditions before river flows flood the farm lands or endanger the infrastructure of the colony. On 1-10-17, the MCWRA began operations channeling the sand*

*dunes between the lagoon and the ocean. At approximately 9 PM on 1-12-17, (at low tide), the force of the river broke through the lagoon out to the ocean. There was a lot of sand and debris pushed out with the force of the water and the coastal waters of the colony were brown with sand and silt deposits.*

*There is ongoing dialogue between the Department of Fish and Wildlife Services, (DFWS), NOAA Fisheries, California State Parks and the Coastal Commission concerning the permit process, lack of advance notice and possible “take” of endangered species during the breeching process.*

During the heavy rains in February and early March, the Monterey County Water Resources Agency monitored the water flowing through Spreckels, (a flow data collection point along the Salinas River), out to the ocean. At last count the river dumped over 100 billion gallons of fresh water out to the ocean. This accounts for the brown colored water off the beaches at MDCA as the silt and sand from the river is settling to the ocean floor. The river is still open and the river mouth is very pronounced at this point with strong flows. MCWRA also reports that Lake San Antonio Reservoir remains only half full because of the rain patterns which normally favors lake Nacimiento causing it to be at capacity, over-flowing it's spillway into the Salinas River and out to the sea. MCWRA states that an interlake tunnel system, connecting the two reservoirs, was finally put on the schedule and project planning started in 2014. Environmental Impact Statements, (EIRs) are complete and the permit process should be completed by the summer of this year. The Interlake Tunnel engineering process and the Lake San Antonio spillway design process are almost completed and next year (2018) the voters will have a chance to fund the project by voting for or against the Proposition, (Prop218). If passed, the construction of the Interlake Tunnel will begin in late 2018. “The proposed Interlake Tunnel is a gravity flow water conveyance tunnel approximately 10 feet in diameter and 11,000 feet long connecting Nacimiento and San Antonio reservoirs. The Spillway Modification project proposes modifying the existing spillway at San Antonio with a crest control device to provide an effective 10 foot increase in the maximum lake elevation increasing the storage capacity of the reservoir by approximately 60,000 acre feet” or 19.5 billion gallons of additional water storage in Lake San Antonio.

David Shonman, our coastal biologist, assisted me in monitoring the storm season this year and after much discussion, we decided to seek the cooperation of State Parks environmentalist Amy Palkovic hoping to set up sections of snow fencing to help rebuild the dunes this spring. Ms. Palkovic allowed us to put out a sample section of snow fence last year to see if it had any effect on the plovers so we thought she might be receptive to several sections of fencing this year. David Shonman highly suggested we go one step further and start the process to repair the foredunes by importing sand purchased from the Marina Sand Plant and conducting a project such as we did a few years ago at the southern end of the property. Due to the expense of the sand, the size of the proposed project and expected opposition from the Department of Fish and wildlife, I elected to push for putting up 10' sections of snow fencing on the ocean side of the foredunes in the damaged areas. David Shonman drafted a detailed report to Ms. Palkovic and we forwarded it to State Parks Services on February 16, 2017. We received a return email the same day stating, “Do you know if the entire project (drift fence) area is within Dunes Colony property at all 3 sites? Or would portions of the drift fences potentially be on State Parks property? Either way, it would be helpful to get some guidance from Jacob Martin at the US Fish and Wildlife Service to be sure that all actions are consistent with

the Endangered Species Act.” With Fish and Wildlife, (DFWS), involved in the proposal, history tells us that DFWS will not allow this project due to the presence of snowy plovers on the beach and the possibility that the snow fencing might in some way hinder the birds. I will be recommending that MDCA property be surveyed in the near future so that we have marker pins as reference points when discussing property use with the regulatory agencies.

### **Terminix Maintenance Program Update**

#### **Local Treatments Completed**

Jul 20, 2016: 318 garage, 236 garage, 124 garage, 296 garage, 328 garage, 160 deck, 334 deck, 118 fences, 296 fences, 118 unit and 296 unit.

November 14, 2016: 196 unit, 246 unit, 216 unit, 140 roof, 106 unit, 148 garage, 222 unit, 282 unit, MDCA clubhouse, 146 garage, 148 garage.

December 9, 2016: 312-314-316 garages, 296 unit and garage, 310 garage, 196 unit, 188 garage and 298 unit.

#### **Fumigation**

Sept 13-15 2016: 156-158-160 and 300-302-304

#### **Pending Fumigation**

No Date Set: 156-158-160 garages and 324-326-328 garages

### **MONTEREY DUNES COLONY MUTUAL WATER ASSOCIATION**

#### **Water Conservation – Oriented Billing**

During the January 2017 billing period, there were 5 units that exceeded the Tier 1 water conservation limit. One unit was under the \$5.00 billing limit. There was 1 unit in Tier 2 and 3 units in Tier 3.

During the February 2017 billing period, there were 6 units that exceeded the Tier 1 water conservation limit. Four units were under the \$5.00 billing limit. There were 0 units in Tier 2 and 2 units in Tier 3.

Owners who are in the Tier 2 or 3 water use zones are billed for their usage in accordance with Association Policy.

### **NEW BUSINESS**



There was no new business

### **OWNER'S STATEMENTS**

A homeowner asked to know who is fined on the property and for what. In an effort to be more transparent, management will see what information we are allowed to share and in what forum.

### **WATER COMPANY BUSINESS**

#### **Water Conservation reports for January and February 2017**

Addressed in Managers Report.

### **ADJOURNMENT**

The meeting was adjourned at 11:30 a.m. The next meeting is scheduled for May 20, 2017 at 10:00 a.m.

### **Respectfully Submitted**

//s//

Thomas J. Bugary CMCA, CCAM  
General Manager and Secretary

### **EXECUTIVE SESSION**

There were five hearings for violations to association rules:

- 1 violation section "Pets" paragraph 1. Imposed \$150 fine.
- 1 violation section "Renters and Guests of Owners" paragraph 1. Hearing continued to 5-20-17 meeting.
- 1 violation section "Vehicle and Parking Rules" paragraph 10. Imposed \$150 fine.
- 1 violation section "Vehicle and Parking Rules" paragraphs 3 and 6. imposed \$150 fine.
- 1 violation section "The Sand Dunes and Beach" paragraph 1. Waived citation.

## Treasurer's Report January and February 2017

This report covers our fiscal year budget status through February 28, 2017.

Account Balances as of January 31, 2017 and February 28, 2017 are:

	<u>Jan</u>	<u>Feb</u>
Total MDCA Reserve Funds	\$3,004,454.06	\$ 2,955,871.64
+ <i>Comm Assoc Banc (CAB) Reserve</i>	\$ ---	\$ 5,000.00
+ <i>ICS Reserve (Bank Acct)</i>	\$1,177,655.31	\$1,127,904.86
+ <i>CDARS (CD Due 3/30/17)</i>	\$ 303,494.58	\$ 303,641.28
+ <i>CDARS (CD Due 3/29/18)</i>	\$ 305,790.71	\$ 306,034.77
+ <i>CDARS (CD Due 1/31/19)</i>	\$ 605,216.03	\$ 605,564.32
+ <i>CDARS (CD Due 3/26/20)</i>	\$ 310,092.90	\$ 310,521.37
+ <i>Wealth Mgmt Trust Acct</i>	\$ 2,204.53	\$ 2,205.04
+ <i>WM CD (Due 7/7/21)</i>	\$ 150,000.00	\$ 150,000.00
+ <i>WM CD (Due 7/8/21)</i>	\$ 150,000.00	\$ 150,000.00
 CAB Operating	 \$ 32,770.83	 \$ 44,909.43
RABOBANK Petty Cash	\$ 414.85	\$ 404.85
CAB Water Operating	\$ 13,652.23	\$ 13,997.61
Total Water Reserve Funds	\$ 145,403.66	\$ 146,740.83
+ <i>CAB Water Reserve</i>	\$ ---	\$ ---
+ <i>ICS Water Reserve (Bank Acct)</i>	\$ 145,403.66	\$ 146,740.83

Payments to the Capital Replacement Fund (\$16,320.00 per month) are current.

Payments to the Mutual Water Association (\$3,750.00 per month) are current.

Respectfully Submitted,

*John Steinhart*

John Steinhart