

**COMBINED MEETING OF THE BOARDS OF DIRECTORS
MONTEREY DUNES COLONY ASSOCIATION
AND
MONTEREY DUNES COLONY MUTUAL WATER ASSOCIATION**
September 12, 2009

PRESENT

George Maciag, President
Bill Michaels, Vice President
Mary Jansing Balgooyen, Treasurer
Frank Williams, Director
Jeff Schwartz, Director
Tom Bugary, Secretary and General Manager

ABSENT

None

WELCOME

George Maciag, President, called the meeting to order at 10:00 AM, September 12, 2009 at the Monterey Dunes Colony Clubhouse.

MINUTES

The Board reviewed the draft minutes of the July 18, 2009, Board meeting. It was M/S/C to approve the minutes as written.

TREASURER'S REPORT

Mary Jansing Balgooyen, Treasurer, gave the Treasurer's Report for July and August 2009. Mary noted that the payments to the Capital Replacement Fund of \$16,320.00 per month and \$3,750.00 per month to the Mutual Water Association were current. Additionally, Mary stated that account balances could be seen in the written report, which has been attached to and made part of these minutes.

FINANCE COMMITTEE REPORT

George Maciag announced that the Finance committee was combined with the Directors Meeting in order to receive the annual report from the auditor, Joelyn Carr-Fingerle, present at the meeting. Joelyn reviewed the Monterey Dunes Colony Association (MDCA) audit first and the Water Company audit second. The opinion letter from the auditor was a "clean" opinion and no recommendation or shortcomings were noted in the report.

The 2008-2009 fiscal year-end expenses exceeded income by approximately \$13K. This was due, in large part, to the "Coastal Projects" budget line – a newly added expense line in the operating budget used to identify unforeseen costs for engineers, engineering reports, biological

studies, and Subject Matter Expert (SME) representation at meetings with Federal, State and County agencies concerning ongoing coastal projects. This operating account budget line exceeded \$55K in 2008-2009. By readjusting some expenditures in the operating budget, using existing contingency operating cash as well as suspending some work, we reduced this \$55K to a \$13K budget deficit by June 30th.

Joelyn noted that because the Colony's reserve income and expenses are budgeted to zero-out in most years, the reserve cash balance and the "percent-funded" can't grow at a substantial rate. Joelyn went on to state that it was her opinion that the Colony's reserve fund is woefully underfunded and needs to be increased.

After a lengthy discussion concerning the reserve balance and what would constitute an adequate percent-funded reserve account, Jeff Schwartz suggested that it might be time to send out another survey to the membership as to how they be assessed for reserve expenses, (monthly, annually, or a combination of both), and include a section in the survey as to what the members considered to be a correct percent-funded reserve account.

After discussing the MDCA audit, Joelyn reported on the water audit. She stated that the biggest expense in the Water Company was (and generally is) the well depreciation expense. The well depreciation expense is the initial cost of the wells distributed equally over the estimated useful life. When the Colony's well(s) have fully depreciated, the depreciation funds should be enough to buy a similar well(s).

ENVIRONMENTAL CONTROL COMMITTEE (ECC) REPORT

There were two ECC meetings via teleconference since the last Board meeting. The first teleconference was on 8/11/09 with a request from unit #210 to replace an existing hot tub with like and kind. The request was approved with stipulations. The second teleconference was on 9/8/09 where three ECC requests were reviewed:

- Unit #318 requested to have a hot tub installed through the oceanside deck. This request was approved with stipulations
- Unit #222 requested that three small trees be removed from the common property area adjacent her unit. This request was approved.
- Unit #160 requested that they remove existing concrete and install pavers in their courtyard. This request was approved with stipulations.

GENERAL MANAGERS REPORT

Deck and Fence Replacements

This report covers the first two months of fiscal year 2008-2009 - July and August 2009. Association carpenters have completed 4 of the 15 scheduled decks this fiscal year, and 1 partial deck as a charge to owner project. Decks were replaced at units 220, 160, 168, and 168.

Unit courtyard fences completed, all or in part since July 1, 2009 were at units; 220, 268, 266, 264, 168, 146 and 144.

Window and Entry Door Replacement

Contractors, working for the Association completed the installation of 16 Association assigned windows at unit 200 in conjunction with a major remodel. The association is scheduled to replace approximately 95 windows this fiscal year. We continue to identify and replace, (when necessary), vinyl block frame windows. There have been no new vinyl window replacements as yet this fiscal year.

Association Carpenters have replaced 1-entry door since July 1st with 6 more scheduled this year.

Built-up Roofs

Unit's 124 and 184 were reroofed this fiscal year. There will be 3 more built-up (flat) roofs scheduled before June of next year. This year we are seeing the first of the 50 built-up roofs start to fail as this reserve component moves into its replacement cycle.

The association replaced 8 flat-roof skylights this year, 4 on unit 190 and 4 on unit 184. The Association also replaced one owner installed skylight on a charge-to-owner ticket.

Re-siding

Since the budget cycle started on July 1st, association carpenters have replaced sidewall shingles all, or in part at units: 138, 160 and 146.

Mailbox Clusters

Mail box clusters for units 132 through 160 and 218 through 240 were replaced during this reporting period.

Fumigations

Units 144-146-148 are scheduled for re-fumigation on September 21-23, 2009.

Units 108-110-112 are scheduled for re-fumigation on October 20-22, 2009.

Units 120-122-124 were identified with live re-infestations of drywood termites and are pending re- fumigation.

The current warranty period for the Colony will expire November 23, 2010.

Voting by Acclamation

Tom stated that he recently attended a seminar where he was advised that directors could not be elected by acclamation even though the number of directors and number of nominees were the same on the date nominations closed. Since this contradicted what Tom believed to be the process, he contacted the Colony's attorney, Steve Weil and requested his opinion concerning the election process. Steve Weil responded by affirming the process of election by acclamation and cited current law defending his position. The opinion is on file in the association office.

Fireplace Inspections

Annual fireplace inspections and cleanings started in July and will continue through October. Cypress Sweeps has completed 109 of the units with a total of 11 red-tags, 2 of which remain outstanding for various reasons. Two units require a special inspection and certification by the homeowner due to sprinkler systems connected to the smoke/heat alarms.

Septic System Inspection

Every year the nine septic systems located on the property are inspected along with mandated state and county reports that measure the discharge of sewage into the leeching fields. During this year's inspection, inspectors noted that hydrogen sulfide gas has significantly eroded the upper portion of two tanks as well as early signs of deterioration noted in several of the other 8 systems. We have scheduled the damaged tank(s) for repair at the next maintenance cycle, and will be soliciting bids for that work in the near future. This is a sensitive project because of its proximity, out near the foredune area and the work has to be categorized as component repair rather than replacement. We will work the costs for these repairs into next years operating budget since the septic tanks and fields are "life of project" components and any major repairs to these system are unbudgeted.

It was noted that fresh vegetables do not completely decompose when put through the garbage disposal and flushed into the septic tanks. While this type of waste sits in the tank until pumping, it also creates a hydrogen-sulfide gas which destroys the inner lining for cement septic holding tanks. The Board directed that management include another reminder in the next Dunescape informing occupants to not flush fresh vegetable waste down the garbage disposals.

Coastal Projects

From last report:

Since our meeting with coastal engineers John Kasunich and Mark Fox on May 8, 2009, they have located 3 contractors, capable of installing the geotubes westward of the houses and are in the process of obtaining the necessary bids for the project. The contractors bidding are;

*Don Chapin Company, Salinas, CA.
Sunstone Construction Company, Campbell CA.
Granite Construction Company, Watsonville, CA.*

Preliminary numbers show the cost of this project could be as much as \$300K, however, final numbers are not yet available. John Kasunich is in the process of meeting with all three contractors and I should have hard numbers and specifications for board review within the next two weeks.

After several unsuccessful attempts to meet with Coastal Commission Planners in Santa Cruz to start the permit process for the wave run up barriers, we requested to meet with Monterey County Coastal Planners in an attempt to get the coastal permit process started at the local level. David Shonman and I met with John Ford, a Senior County Coastal Planner on 6-25 and went over the project with him. Mr. Ford agreed to assist MDCA in obtaining a coastal permit through the Coastal Commission, however, he advised that we also meet with County Health Department officials concerning the septic systems prior to them receiving the request for permit during the normal review process. The Health Department would be required to sign off on the project because of the proximity of the sand tubes to the tanks and leaching lines. I made contact with County Environmental Health Services and after a meeting and subsequent visit to the proposed work site here at MDCA, the Health Department has shown positive

interest in signing off on the project. Currently, David Shonman is finishing the request for permit and has submitted the paperwork to the County Planning Offices for processing.

Salinas River Mouth Management (breaching): At this point, we have been unsuccessful in securing a meeting with NOAA MFS in Santa Rosa. David Shonman feels that the MFS environmentalists have little interest in dealing with our concerns. The most current MFS-written Biological Impact Study concerning MFS-directed changes to the management of the Salinas River is currently at the Army Corps of Engineer Office in San Francisco for signature. To the best of our knowledge, information concerning artificial breaching of the river to the north, and any subsequent changes to the impact statement by the MFS biologists have not been made available for public review and comment. Upon contact with the Corps of Engineers, they were willing to meet with us but only after we discussed the river management plan with the MFS. David Shonman then made contact with the MFS in Santa Rosa to again try and solidify a meeting with them to discuss alternatives to their directed river mouth breaching plans. Bill Stevens, Resource Management Specialist MFS took the call and commented that the project was a "County Project", and not a NOAA MFS project. This temporarily closed the door to dealing with the MFS biologists at this time. At this point, we hosted a meeting on Friday, July 10, 2009 at the MDCA clubhouse concerning the River Mouth Management Plan. Participants were Monterey County River Management Specialists, a county contract engineer out of San Francisco, John Kasunich, our contract coastal engineer, David Shonman, our contract coastal biologist, myself and Mary Jansing, representing MDCA as a Board Director. The purpose of the meeting was to discuss the River Mouth Management Plan, alternatives to the MFS breaching directives, and a general discussion on all agencies involved or affected by the MFS mandated breaching policies. It was an extensive meeting ending in the consensus from all that (1). a better management schedule of breaching the river would optimize and control the flow of the river to the ocean, (2). would prevent flooding of the neighboring farms, (3). would offer a conducive environment for steelhead access to and from the river, (4). would preserve existing snowy plover habitat, and (5). would protect the colony from the dangers of damage to property and lives if the river were to flood the colony after artificial breaching to the north. After the meeting, we drafted a letter to Bill Stevens, NOAA MFS, informing him of our meeting, our discussion, and again requesting a meeting with him either in Santa Rosa at his office or here at MDCA. A copy of this letter was sent to all agencies concerned as well as to our County Supervisor on Wednesday, 7-15.

Subsequent to sending this letter to Bill Stevens, David Shonman attempted via telephone to lock down a meeting-date with all parties involved. After several attempts to secure a date, NOAA MFS representative Bill Stevens informed David that this project was a County project and that we should take any river-breeching issue up with them. At that point, it was the consensus that NOAA MFS was stalling and not wanting to meet while their biological impact report and permits continue to move forward for signature and project approval.

At the directors meeting on 7-18-09, the board voted to send our local Representative, (Congressman Sam Farr), a letter outlining our concerns and asking him to help us deal with NOAA MFS. A copy of the letter to Congressman Farr will be attached, and made part of the minutes of this meeting. In addition, NOAA MFS made it clear to us that this project, as a whole, is really a County Project, (part of the Salinas Valley Water Project), and we should deal with them, (the county Water Resources Agency), concerning changes to the flow of the river. This was clearly a shift of responsibility back down to a local entity who, in reality, has very little control on how the river would be manipulated to appease a federally mandated project. At this point, we sent a letter to Mr. Curtis Weeks, the General Manager of the Monterey County Water Resources Board informing him of the NOAA MFS position and asked him to delay any changes to the breeching process until after we could conduct a better study as to the affects of manipulating the river flows. A copy of this letter is available at the office for member review.

On 9-8-09 I received notification from David Shonman that he had received a phone call from Alec Arago, one of Sam Farr's District Directors. Mr. Arago discussed the history of the project with David before informing him that his office has had several contacts with NOAA MFS biologists over the years on several projects in the past. Mr. Arago offered that his experiences

with some of the MFS staff were not always pleasant as MFS has not always interacted well with the public. He offered to secure a meeting between the colony and the principals at NOAA MFS in the near future and Mr. Arago understands that we need quick resolution on stopping any change to the river breeching protocol until we have a better understanding of the consequences of these changes.

Our application for a coastal permit for the wave run up project is now pending the completion of a new requirement, an archeological report from an expert in the field concerning, among other things, any possible burial sites in the proposed location of the proposed run up barriers. We have voiced strong opposition as to the necessity of this report as the proposed work site is almost entirely on top of existing septic systems or on leeching fields and this new requirement will set the application process back another few weeks. At this point, the county has not granted us an exemption from the study. A local anthropologist/archeologist, familiar to the area and highly recommended by one of our project engineers is Dr. Gary Breschini. We have contacted his office and briefly discussed the project with his staff. They have quoted us a price of \$750.00 to perform a Preliminary Archaeological Reconnaissance Report for the common property parcel that will be acceptable to the County Coastal Planners. The scope of work includes records research, any work accomplished on adjacent properties, an on site inspection of the common property, and the report both in hard copy and on CD. I do not believe that this is a service we can "shop" as the local expert would certainly have more credibility than an outsider. However, it is a board decision to either accept this service or advise me to put this service out for bid.

The Board M/S/C that \$750 be spent on an archeological report.

I continue to press our coastal engineer, John Kasunich for updates on the wave-run up-contract-process. I know John Kasunich is still working with Don Chapin and Granite Construction on the scope of work as both groups have been on the property surveying the proposed work area on several occasions. I have also discussed parts of the proposal with the Don Chapin Company especially concerning the logistics around the project. I have also asked John Kasunich for calculations on weight tolerances for the area above the septic systems as well as above the embedded leeching lines so that we can prepare and emergency permit in the event we need to put up temporary barriers out in front of the houses this winter. This process is also progressing at a much slower rate than I had hoped for.

MONTEREY DUNES COLONY MUTUAL WATER ASSOCIATION

Water Tank Repair

I reported approximately a year ago that we had noticed a small leak in our main 212,000 gallon water storage tank. At that time I scheduled the repairs and attempted to get the necessary inspectors/repair specialists on site and coordinate for the repairs in an attempt to minimize the down time for the system. The scheduling was difficult and during that process, the seam on the tank that was leaking corrected itself. The tank has since started to show signs of leaking again. I am bringing in an inspection team inclusive of divers and equipment to clean, inspect, and repair the tank as necessary. I also plan on working with the engineers on the installation of a cathode protection system on the tank that was never installed when it was constructed on-site in 1993. I will be sending out notices to homeowners, as far in advance as possible as to any down

time the water system may experience. I am, however, planning on several contingency setups to keep the system up throughout most of the maintenance effort.

Water Conservation – Oriented Billing

During the July billing period, there were 26 units that exceeded the Tier 1 conservation zone, 6 of which were under the \$5.00 billing limit and not billed. Six units were identified as being in the Tier 3 billing zone. Unit owners were notified of their monthly and gallon-per-day consumption.

During the August billing period, there were 19 units that exceeded the Tier 1 conservation zone, 3 of which were under the \$5.00 billing limit and not billed. Five units were identified as being in the Tier 3 billing zone. Unit owners were notified of their monthly and gallon-per-day consumption.

Owners who exceeded Tier 1, or are in Tier 2 or 3 water use zone are billed for their usage in accordance with Association Policy. All homeowners are notified of their monthly and gallon-per-day consumption rates.

OLD BUSINESS

.There was no old business.

NEW BUSINESS

Approve/Disapprove Lien and Foreclosure Proceedings on unit #242

After discussion, the Board M/S/C to file a lien and commence foreclosure proceedings for nonpayment of association dues and charges in accordance with §1367.1(c)(2) and §1363.05(i)(1). (\$8,512.81).

Approve/Disapprove Lien and Foreclosure Proceedings on unit #236

After discussion, the Board M/S/C to file a lien and commence foreclosure proceedings for nonpayment of association dues and charges in accordance with §1367.1(c)(2) and §1363.05(i)(1). (\$7,865.56).

WATER COMPANY BUSINESS

Addressed in Manager's Report.

ADJOURNMENT

There being no further business, the meeting was adjourned at 12:25 p.m. The next meeting date will be the annual homeowner's meeting on October 17, 2009 at 10:00 AM to be followed by the annual barbecue at 12:30 p.m.

FOR THE BOARD OF DIRECTORS:

//s//

Thomas J. Bugary, CMCA, CCAM
General Manager and Secretary

Treasurer's Report July and August

This report covers our fiscal year budget status through August 31, 2009.

Account Balances as of July 31 and August 31, 2009 are:

	<u>July</u>	<u>Aug</u>
Union Bank Reserve	\$1,029,358.22	\$983,826.70
Union Bank Operating	\$ 56,477.27	\$ 80,029.17
Union Bank Investment Acct	\$ 7,986.21	\$ 7,989.59
Community Bank Petty Cash	\$ 126.45	\$ 1,008.71
Union Bank Water Operating	\$ 27,245.95	\$ 25,326.09
Union Bank Water Reserve	\$ 89,832.11	\$ 91,235.16

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,

Mary Jansing Balgooyen

Mary Jansing Balgooyen