

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

January 21, 2012

**PRESENT**

Bill Michaels, President  
Ted Swanson, Treasurer  
Bob Dickinson, Director  
George Maciag, Vice President  
Jeff Schwartz, Director  
Tom Bugary, Secretary and General Manager

**ABSENT**

None

**WELCOME**

Bill Michaels, Board President, called the meeting of the board to order at 10:00 AM, January 21, 2012 at the Monterey Dunes Colony Clubhouse and established that there was a quorum.

**MINUTES**

The Board reviewed the draft minutes of the November 19, 2011 directors meeting. It was M/S/C to approve the minutes as written.

**TREASURER'S REPORT**

Ted Swanson, Treasurer, gave the Treasurer's Report for November and December 2011. Ted noted that the payments to the Capital Reserve Replacement Fund and to the Mutual Water Association were current. Ted also noted that we have two additional bank accounts called Internet Cash Sweep (ICS) accounts, one for the Colony and one for the Water Company. These ICS accounts are set up to allow us to keep up to \$1M of Association Funds in one account, but at the same time remain FDIC insured. Additionally, Ted stated that all of our account balances could be seen in the written report, which has been attached to and made part of these minutes.

**FINANCE COMMITTEE REPORT**

Bob Dickinson, Committee Chair, reported that the committee had met the previous day to review both the Water Company's and the Colony's finances for the first six months of the fiscal year (July-Dec). Bob noted that the Colony financials appear to be approximately \$40K under budget; however, there are several expenses that will be incurred later in the fiscal year and have not yet been reported.

In regards to the two new ICS accounts that had previously been reported, Bob pointed out that the interest rate was the same as the 52-week CD placement program (CDARS) offered by the bank; therefore, the investment strategy of the committee will be to max-out the million dollar limit per account and then invest in CDARS.

Bob further stated that he had done a little research in order to determine how fast the homeowner dues were rising in relation to the consumer price index (CPI). He compared homeowner dues for both the operating and reserve accounts with the CPI on a yearly and cumulative basis over the last 10 years. The results were that on a cumulative basis, reserve assessments increased 8.2% compared to a CPI of 27.8%; operating assessments increased 45.1% compared to a CPI of 27.8%; and a total of homeowner assessments (both reserve and operating) increased 26% compared to a CPI of 27.8%. It was also noted that a large portion of the operating increases were due to costs beyond our control such as insurance and energy.

Bob requested that the Board provide the Finance Committee with direction, asking if the committee should 1) be focused on maintaining the current services at the most cost efficient method(s) possible or 2) be focused on lowering monthly assessments by reducing or eliminating selected service(s). The response from the Board was that, at the current time, the Finance Committee should be focused on maintaining the current services using the most cost efficient method(s) possible.

In conclusion, the Finance Committee reviewed the attached insurance proposals beginning in February 2012 and recommend that the Board approve the various coverage's as presented. The Board made M/S/C the Finance Committee's recommendation.

### **ADHOC WAVE RUN-UP COMMITTEE**

Ted Swanson, Committee Chair, reported that there have been no committee meetings since the last Board meeting; however, a meeting is scheduled for February 10, 2012 at 3:00 p.m. Ted also stated that today is the peak of the high tides for this year and that tides start lowering from this point. Thus far, there has been no wave run-up action because the sand bar is taking the brunt of the weather and as our tide levels lower, even if there is a storm, there is less of a base to create wave run-up.

### **GENERAL MANAGERS REPORT**

#### ***MONTEREY DUNES COLONY ASSOCIATION***

This report covers work completed this fiscal year, July 1, 2011 to date.

#### **Deck, Fence and Sidewall Shingle Replacements**

Association carpenters have replaced 5 decks this fiscal year. Decks replaced: Unit 134 Entry, 134 Landside Bedroom, 176 Entry, 182 Entry, 256 O/S Ground, 312 Oceanside and 338 Entry. (Major Repairs to 122 O/S Deck).

Unit courtyard fences completed all or in part from July 1, 2011 to date were at units 176, 292 and 338. (Modification to the courtyard fence at unit 148, ECC approved).

Shingles were replaced on the north-face of unit 326 and on the Oceanside of 124.

### **Landside Boardwalk Replacement**

Landside boardwalks have been replaced near units 134, 172, 316, 322, 324, 332, 334, 336 and 338. Boardwalk is replaced as determined necessary and at times, ahead of the current reserve schedule. Our landside boardwalk system is deteriorating in some places to a point where once reported, immediate replacement is required to avoid homeowner/guest accidents.

### **Window and Entry Door Replacement**

Contractors have replaced the oceanside sliding glass door on unit 286 and a picture window.

### **Utility Light Pole Replacement**

Light poles were replaced near units 106, 202, 300 and 306, and on the walkway between the Clubhouse and the Pool, all are out-of-cycle ahead of the reserve schedule.

### **Bad Debt and Unit 242**

The association continues to rent unit 242 (month-to-month) for a reduced rate in order to realize some income rather than let the unit sit empty until it is foreclosed on. The lease stipulates that the tenants may have to vacate the unit in as little as 60 days after the unit sells.

On August 18, 2010, after over 18 months of Lockstep Foreclosure proceedings, the colony became the legal owner of unit 242; however, while the colony owns the unit, Bank of America retains foreclosure rights on its secured loan. Although no cash was exchanged for the unit, the Association effectively bought the unit for \$29,934.11, (the amount owed the Association for unpaid assessments, late fees, interest, legal costs and other miscellaneous charges). After taking over the unit, it became an asset on our balance sheet and effectively absorbed the unit's bad debt. Management tried to contact Bank of America several times regarding foreclosure schedules, bank rights and association caretaker responsibilities and after several months without a response, decided to rent the property on a specialized lease agreement. The property was rented in June 2011 for \$1,800 a month. By expensing the entire \$1,800, the Association applies \$416 to the annual reserve assessment; \$831 to the monthly assessment and \$553, (or the remainder of the monthly rent plus expenses) is applied towards recapturing the bad debt. As we recapture the previously owed amounts, we reduce the value of our asset by the same amount until the debt is paid in full.

### **Fumigations**

We are still researching claims from Terminix that a second contract exists concerning the fumigation of the 41 residential buildings, commercial facilities and associated garages. One contract was completed in 1997-98, the other 1998-99. I have yet received a copy of the contract from Terminix and will make a report to the board at the next board meeting as to my findings. I have asked our attorney to search his records for any fumigation contracts prior to my time as the GM and have asked Terminix International for copies of their files. I haven't received a response from Terminix and, as of this date have not been successful with a copy being at our attorney's office.

Units 190 and 194 have received local treatments for infestations of drywood termites under our extended contract with Terminix. Units 230, 232 and 234 were tented and fumigated on November 30 - December 2, 2011, under our extended warranty agreement.

Unit 176 was treated for subterranean termites by Wheeler Termite Company as this type of infestation is not under our extended contract with Terminix. The Wheeler Termite Company submitted a competitive bid to Terminix's proposal and did the work for considerably less money.

## **Coastal Projects**

### **From last report:**

*On September 19, 2011 we received an email from County Planner Liz Gonzales as to the status of our sand nourishment permit. Rather than give MDCA administrative approval to move forward with the project as anticipated, the email stated that "The proposed project requires a Coastal Development Permit for development within 100 feet of Environmentally Sensitive Habitat Areas (ESHA); which will be heard by the Zoning Administrator." She went on to state that our original permit could not be amended because 1) The dunes we proposed to nourish with additional sand had not been previously disturbed (she explained that our original permitted project had a septic system under it, and therefore was a previously disturbed area) and 2) the proposed area for repair is much further out toward the ocean. While she conceded that there will probably not be direct disturbance to the ESHA, there is the issue with the additional placement of sand that was not presented in the previous project. With that explanation and additional requirements for information and studies, the committee decided to table this plan and to move forward with getting the re-routed boardwalk in before the winter storms.*

*Monterey County Planner Lucy Bernal made an impromptu visit to the colony on November 4, 2011 to look over the proposed Sand Nourishment Project area. She had recently taken over the project for Liz Gonzales and was familiarizing herself with the area. Upon arrival to the colony she observed MDCA crews working on rerouting the boardwalk and assumed this as part of the project. She questioned the project and at my request, David Shonman, Ted Swanson and I met with her, (Lucy Bernal) on November 16, 2011 at the Monterey County Planning Office and discussed the two separate projects. We were joined by Liz Gonzalez and upon completion of the meeting had an understanding of how we would move forward with both. The boardwalk project will move forward and Liz required a copy of the Biologist's report, clearing the route of the boardwalk of sensitive vegetation. The Sand Nourishment Project is on hold until next year as the additional requirements added by the county will not give us enough time to comply before the winter storm season.*

Association carpenters and staff completed rerouting the boardwalk on the southern portion of the property between units 312 and 322. The boardwalk was positioned as identified by a written report prepared by coastal biologist (Joey Canepa), detailing the new route of the boardwalk and certifying that there would be no damage to sensitive habitat. David Shonman submitted a report on behalf of the colony to the Monterey County Coastal Planning Division detailing the project as promised in our meeting with the planners on November 16, 2011.

I discussed the Salinas River initiatives for this year with Brent Buche, Assistant General Manager of the Monterey County Water Resources Agency on 1-19-12 who stated that even with rain in the forecast; there will probably not be enough flow to require the river be broken through to the ocean. Brent didn't know at what point they will make the decision to breach the river but stated the only action being taken at this point is to release water through the OSR, (Old Salinas River) keeping the river below flood level.

The Monterey Water Resources Agency continues to monitor the river for Steelhead Trout by using a “River Watcher” system. This system is a plastic blockade stretched across the width of the river that funnels the fish through a narrow channel where any movement activates a motion sensor camera. As of this date, the camera has observed many ducks passing through the gate and other local river dwellers, but no Steelhead. Brent did say that upon direction of NOAA Fisheries, they did dragnet the entire lagoon and found 1 Steelhead in the lagoon. These environmental programs are charged directly to the local farmers as a condition for allowing them to pull off the river for watering their crops. Brent Buche disclosed that these programs cost about \$650K per year. There have, however, been about 150 Steelhead Trout located up in the Arroyo Seca River, (which connects to the Salinas River), but little is known about their migration routes. When suggested by the farmers that they “stock” the river with sufficient fingerling Steelhead to “jump start” the population, NOAA fisheries stated that they desire a pure DNA stamp on fish in the Arroyo Seca and Salinas Rivers, therefore, they have not considered stocking the rivers.

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

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

During the November billing period, there were 8 units that exceeded the Tier 1 water conservation zone, 1 was under the \$5.00 billing limit and therefore not billed. Three units were fumigated and not billed. There were no units exceeded Tier 2.

During the December billing period, there were 5 units that exceeded the Tier 1 conservation zone. Two units exceeded Tier 2.

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.

#### **Water Storage Tank**

The 212,000 gallon water tank was recently moved up on the Reserve Schedule and identified as a component for early replacement due to leaks caused by deterioration in many of the bolted seams of the tank. As of the date of this report, we have discovered another section of the tank, (the 4<sup>th</sup> area), that has started to leak and we have again solicited the services of LiquiVision Technology to inspect and repair the leaking seams. LiquiVision attempted to repair the tank on November 28, 2011 with putty inserted in the areas of the leak, however, the tank continues to leak even after putting the putty in place. After a review of the video, (taken while the divers were in the tank) and talking to several consultants concerning our options for repair, Inserting a 45 Mil Reinforced Polypropylene Tank Liner seems one of our stronger options. I have solicited several bids for such work and found these liners have warranties of up to 20 years and are made to increase the life of water tanks such as ours. Replacing the tank with a new welded steel tank verses the existing bolted model will cost \$150 to \$180K, a new foundation, another \$35K+, Permits, Fees and/or conditions for being in a coastal zone, (cost unknown).

The first two quotes that have come in for the Polypropylene Tank Liner are in the \$40-50K range and with the 20 year warranty, an option that requires further research and consideration. I plan on having other bidding companies on site and evaluating the tank in the near future. Some bidders will be coming from out of area and I will need a little time to acquire these bids for comparison. Ted Swanson has offered to help me with the technical evaluation of the bids and I hope to have 4 bids for review and discussion by the next Board Meeting.

The 2011 Water Conservation Report was completed on January 4, 2012. The colony drew 19.022 Acre Feet of water during the calendar year. This equates to approximately 6.2 Million Gallons of water drawn from our wells.

## **OLD BUSINESS**

### **Recommendation to change the WLAN password**

Bob Dickinson reported that Tom had only recently found out about a router that could support two connections, each with their own passwords. Tom will research exactly how the setup would work and report back at the next meeting.

### **Request from homeowner to replace O/S skylight with dual pane glass versus existing single pane glass**

There are nine units in the Colony that were constructed with large skylights made of single pane glass. The current window policy of the Colony is to replace original windows with dual pane glass. After discussion, it was M/S/C that skylights are a window and would be treated the same as the other original windows in our policy. Therefore, the nine units in question would have their skylights replaced with dual pane glass as they need replacement.

### **Recommendation by homeowner to set term limits for director positions**

After discussion, it was decided to table this issue until after the survey results. It was noted that in any event, we will continue to make a concerted effort for the recruitment of volunteers for the expansion of committees.

### **Should the Colony address be in Moss Landing or Castroville**

One of our permanent residents at the Colony, Don Tenenbaum, unit #118, is a practicing attorney and volunteered to check into the feasibility of changing our address from Castroville to Moss Landing. Mr. Tenenbaum reported that it is a fairly simple process if the homeowners choose to change the address. This question will be addressed in the survey.

## **NEW BUSINESS**

### **Homeowner request for exclusive use of the clubhouse**

There was a homeowner request from unit #206 for exclusive use of the clubhouse. This request was approved.

## **Committees**

The only standing committee of the Board is the Environmental Control Committee (ECC). Bill announced the members of the ECC were the same members that we had the previous year, these are: Ellen Michaels, chair; Ted Swanson, member; and, Jeff Schwartz, member. Bill stated that the make-up of the committee is consistent with our bylaws that states this is a 3-member committee and 2 of those members are Board members.

All committees, other than the ECC, are adhoc committees. We currently have three adhoc committees; they are the Finance Committee, the Wave Run-up Committee, and the Survey Committee. The members of the Finance Committee are: Bob Dickinson, (unit 214), chair; Ted Swanson, (unit 114), member; Frank Williams, (unit 190), member; Jim McFeeters, (unit 158), member; and, Ted Adams, (unit 162), member. The members of the Wave Run-up Committee are Ted Swanson, chair; Bob Dickinson, member; Tom Nolan, member and Tom Bugary, non-voting member. The members of the Survey Committee are Bill Michaels, chair; Tom Nolan, member; Mary Ellen Maciag, member; Harley McAdams, member; and Art Testani, member.

Bill Michaels announced a new adhoc Website Committee being formed. Bill has appointed Harley McAdams (unit 156), as chair of this committee and Harley has recommended Allen Rudolph, (unit 232) Tom Nolan, (unit 148), Dennis Abraham, (unit 208) and John Steinhart (unit 160) as members of the committee.

Mr. Nolan (unit 148) stated that he believes that our bylaws state that committee members need to be appointed annually at a Board meeting that is open to all homeowners and that such appointments need to be recorded in the minutes of the meeting. *Our adhoc committees are elected by the board and the charter and membership is recorded in the minutes of the board meeting when they are elected. Management could find no requirement (in our governing documents) for the committees to be renewed annually.* It was further clarified that the purpose of ad hoc committee(s) is to make recommendations to the Board and then the Board either approves or disapproves these recommendation.

Bill stated that while the Organizational Meeting held after the Annual Meeting lasted about 5 minutes as the directors agreed to serve in the various offices, in the interest of increased transparency, the next organizational meeting will be a formal meeting immediately following the annual homeowners meeting in which homeowners will be invited to attend.

## **New Board laws**

There are a number of new laws concerning Homeowner Associations that took effect January 1, 2012. George Maciag proposed that a Board meeting be held to highlight and discuss these new laws. During discussion, it was also proposed that written information relating to these new laws be published on our website.

## **OWNER'S STATEMENTS**

Tom Nolan (unit 148) stated that he had seen a set of minutes that stated Tom Bugary was elected a member of the Board, non-voting. Bill Michaels responded that Tom is not an elected member of the Board; however, he is an appointed non-voting officer and the Secretary of the Board.

Mary Ann Hoisington, (unit 200) stated that she is concerned that drillers in Monterey County are using a method known as “hydro-fracking”, a method of drilling whereby oil and gas companies inject a highly-pressurized fracking fluid into rock formations to create new channels in the rock which can increase the extraction rates and ultimate recovery of fossil fuels. There is an increased potential for toxicity and there are several environmental impacts of the drilling: surface and subterranean damage including forestland loss, multiple well sites, groundwater and surface water contamination, habitat and species disturbance, and likely an increased number of access roads to the well sites.

### **WATER COMPANY BUSINESS**

Addressed in the managers report.

### **ADJOURNMENT**

There being no further business, the meeting was adjourned at 12:25 p.m. The next meeting will be on March 17, 2012 at 10:00 a.m.

FOR THE BOARD OF DIRECTORS:

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



## **Treasurer's Report November and December 2011**

This report covers our fiscal year budget status through December 31, 2011.

Account Balances as of November 30 and December 31, 2011 are:

	<u>Nov</u>	<u>Dec</u>
Comm Assoc Banc (CAB) Reserve	\$ 108,144.66	\$ 19,930.15
ICS Reserve (CDARS Acct)		\$ 325,558.87
CDARS (CD Placement)	\$1,246,394.61	\$1,002,830.22
CAB Operating	\$ 87,730.40	\$ 213,414.75
RABOBANK Petty Cash	\$ 512.39	\$ 1,561.53
CAB Water Operating	\$ 29,582.81	\$ 16,251.64
CAB Water Reserve	\$ 206,637.28	\$ 25.83
ICS Water Reserve (CDARS Acct)		\$ 208,006.87

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,

*Ted Swanson*

Ted Swanson