

**COMBINED MEETING OF THE BOARDS OF DIRECTORS
MONTEREY DUNES COLONY ASSOCIATION
AND
MONTEREY DUNES COLONY MUTUAL WATER ASSOCIATION
May 15, 2010**

PRESENT

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

ABSENT

Jim McFeeters, Treasurer

WELCOME

George Maciag, President, called the meeting to order at 10:00 AM, May 15, 2010 at the Monterey Dunes Colony Clubhouse.

MINUTES

The Board reviewed the draft minutes of the March 20, 2010, Board meeting. It was M/S/C to approve the minutes as written. In addition, the Board M/S/C an amendment to the approved minutes of the November 21, 2009 meeting to delete the word “emergency” when referring to a special assessment for the wave run-up project on pages 4 and 6.

TREASURER’S REPORT

In the absence of Jim McFeeters, Treasurer, Ted Swanson gave the Treasurer’s Report for March and April 2010. Ted 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, Ted stated that the account balances could be seen in the written report, which has been attached to and made part of these minutes.

FINANCE COMMITTEE REPORT

In the absence of John Gentry, Chair, Ted Swanson gave the Finance Committee report. Ted reported that at the committee met on March 19, 2010 and discussed the 2010-2011 annual budget. The result of that lengthy meeting was a unanimous recommendation from the committee that the annual reserve assessment remain the same as was last year at \$5K, due on July 1, 2010 and late as of July 15, 2010. After discussion, the Board M/S/C this recommendation. Additionally, Ted stated that there has been considerable correspondence between committee members and Tom on strategies for funding our reserve projects in the future. With the goal of a 50% funded reserve, the committee is working on scheduling,

maintenance and investment ideas with the hope of having recommendations for the board by this fall.

ECC REPORT

In the absence of Ellen Michaels, Chair, Ted Swanson gave the ECC report. Ted stated that unit 234 had expanded their courtyard by extending their courtyard fence out from its property line eastward, to their garage back in 1997 with ECC approval. This extended area covered some common area between their courtyard and their garage and made that common area exclusive to their use. The unit is now in escrow and the ECC has looked at the possibility of restoring the property line because of new laws regarding the use of common property in associations such as ours, or recommending that the property remain as exclusive use to the new owner. Our attorney has advised that given the circumstances for the exclusive use, the board has the option of conveying the right of the exclusive use if it desired to do so, or restoring the fence to the property line at association expense. After a discussion, the board elected to grant the new owners of unit 234 the right to the extended courtyard and use of the common property with the understanding that the association has the right to demand that the owner return the property to the original configuration when/if the property were to transfer ownership for any reason in the future. The owner has agreed to that stipulation.

GENERAL MANAGERS REPORT

Deck and Fence Replacements

This report covers work completed in this fiscal year 2009-2010, July 1, 2009 through June 30, 2010.

Association carpenters have completed 8 of the 15 scheduled decks this fiscal year, and 2 partial decks as “charge to owner” projects. Decks were replaced at units 236, 220, 178 and 160, (2 ea) at 168, and partial replacements at units 210 and 318.

Unit courtyard fences completed, all or in part since July 1, 2009 were at units; 110, 124, 126 (partial), 144, 146, 164, 168, 220, 244, 248, 264, 266, 268, 276, 312, 316 and 328. Also completed were fences at the 172 refuse enclosure, units 260-262 garage area and the fence along the walkway between 174 and 176.

Association carpenters replaced cul-de-sac signage at the entrance for units 102 – 130 and 300 – 316. We have also replaced courtyard trellises at units 130 and 236.

Window and Entry Door Replacement

The association has replaced 49 of a scheduled 95 window replacements this fiscal year. We continue to identify and replace defective vinyl block frame windows as necessary and have identified 24 of these defective windows as of the date of this report.

Association Carpenters have replaced six entry doors since July 1st with one more scheduled this year.

Contractors replaced the garage door at unit 246 for the homeowner. Association Carpenters are in the process of installing an approved door in the garage at unit 310. This installation will be a charge-to-owner.

Built-up Roofs

Unit's 124, 184, 270, 274, 330 and 304 were re-roofed this year by Carl Black Construction. These roofs are the most recent of the 50 built-up roofs scheduled for replacement in our reserve schedule. We will continue to replace these roofs on a case by case basis as they fail over the next few years.

Bad Debt and Foreclosures

One Association unit remains in foreclosure; another has defaulted and has been taken over by the bank to accumulate over \$28K in bad debt expense. We are currently seeking to recover some of this money through a collections attorney, as well as foreclose on the remaining unit. The process is lockstep, slow and time-consuming, but collection agents feel good about the association's chances to collect a good portion of what is owed. The board has an agenda item to discuss this matter under New Business later on in the meeting.

Re-siding

Since the budget cycle started on 7-1-09, association staff have replaced sidewall shingles all, or in part at units: 110, 112, 130, 138, 146, 160, 178, 196, 198, 236, 238, 240, 260, 262 and 284.

Fumigations

During this reporting period, units 196 and 260 were treated locally for drywood termites under our warranty with Terminix International.

Smoke Alarm Inspection

The 2010 CY Smoke Alarm and Battery Replacement Project started in April and is about half way complete. Management will coordinate with homeowners as to times/dates for access to their units.

Graham Baker Compliance

The association was required by law to retrofit the circulation systems of both the swimming pool and hot tub with devices designed to prevent the possible drowning of young children due to the suction capabilities of the circulating system. The cost of this retrofit was \$3,300 and was not budgeted in last years expense lines.

Coastal Projects

From last report:

As an agenda item at the January 16, 2010 director's meeting, the board discussed both the physical aspects of the Wave Run-up Project as well as funding options/issues. With input from the floor, the finance committee, the association attorney, and given limitation concerning time, (because of permit restrictions), the board voted on a

resolution imposing an emergency special assessment, charged equally among the homeowners for the total amount of the contract price of the Wave Run-up Project. The resolution was M/S/C by a vote of 4 yeas and 1 abstention. Since the emergency resolution was necessary to immediately fund the project scheduled to start on February 4, 2010 and complete no-later-than March 1, 2010, at the recommendation of Bill Hoisington, the resolution would contain an addendum that if, for any reason, work on the project does not commence as anticipated, any assessments already collected will be returned to the homeowner(s) until such time that work on the project would begin in the fall at the amended cost of the project at that time. Bill Michaels was appointed to coordinate all assessment issues including present and if necessary future assessments concerning this project in accordance with our governing documents. The notice for the emergency special assessment in the amount of \$3,000 per unit was sent out to the members on January 22, 2010.

The notice of approval for our Coastal Permit was received on January 20th via fax and followed up in hardcopy on February 1, 2010. The County Planners established a start date of February 4, 2010, after allowing for a 10 (work-day) moratorium for comment to the Coastal Commission. While waiting for this period to end, I set up an appointment with the County Health Department as per instructions in the coastal permit and met with Pat Treffry, an Environmental Health Specialist to discuss the project and pull the health permit for the work over septic number 9. The permit cost \$282.00 and is good for one year. I then recorded the Coastal Permit on January 26, 2010 as document 2011004739 at the county courthouse. This permit is good for three years at a cost to the association of \$8,054.

On February 24th, MDCA hosted a meeting concerning the future management of the Salinas River, Lagoon, and more specifically, to discuss breaching methodologies with the different agencies. In attendance were; Jim McFeeters and George Maciag, Directors, MDCA, myself as the colony's managing agent, US Fish and Wildlife Service – (Plovers), The Coastal Conservatory – (Endangered Species, Property South of the Lagoon), Monterey County Water Resources Agency – (Responsible for the physical management of the river, lakes and dams), California State Parks – (Beach Property and Plover advocates), Tim Martin, Doug and Greg Scattini, Ron Lundquist, Tony Leonardini – (all surrounding farmers and property owners), NOAA Fisheries – (Steelhead), David Shonman – (Consulting Biologist), John Kasunich and Mark Foxx – (Consulting Geotechnical Engineers), and members of independent conservatory groups, (several). Topics discussed were:

- Impacts of breaching the Salinas River, (when, how, affected entities/species)
- How can the river and lagoon area be better managed to help all concerned.
- Natural Breaching and Management vs. Levee Improvements, or other improvements.
- Funding.
- Establish project lead and executive committee for regular meetings, coordination/distribution of information to all participants.

I volunteered to be part of the executive committee in order to keep the board informed of issues concerning the Salinas River management protocols and was accepted as one of the 5 members.

The Board met in executive session on January 29, 2009 to discuss the Sunstone Wave Run-up contract, and to evaluate the contractor-proposed schedule of work. It was recommended by our Engineers that the timeline of February 4, 2010 through February 28, 2010 was not sufficient to complete even a significant portion of the project before the Snowy Plover Season begins on March 1st. Our engineers felt with the current elevation of the beach and the positive weather outlook, rushing the project at this point was counter productive, and if conditions hold, we might get by this storm season with little or no damage to the property. The board instructed me to ask the county to allow MDCA to sandbag in front of the houses in the event we encounter high waves and debris for the duration of this years storm season. Liz Gonzales, Monterey County Coastal Planner agreed with this request and allowed us to sandbag in front of units 318, 320, 322, and 324 and 326 without permits, but with stipulations. A notice explaining these actions and postponing the Wave Run-up Project and emergency assessment was sent out to the members on January 29, 2010.

On February 8 and 9, 2010, I received email notices from a homeowner challenging the legality of the emergency assessment asking the board for a "meet and confer" to discuss the assessment. The request was such that the board decided to have the associations counsel interact with the member. Steve Weil, the associations attorney made contact with the member and discussed the assessment. Steve has also sent the board an opinion letter regarding the board's options in dealing with the member's challenge.

At the board's direction, I have contacted sources from the Water Resources Agency and private land owners to solicit any excess sand these agencies might have. If we can obtain any excess sand from our coastal neighbors, the

plan is to store it on association property and use it for the project in hopes of reducing the cost somewhat. As of this date I have several leads but no solid commitment on acquiring the 1500+ yards of sand we will need to complete the project.

After the director's meeting on 3-20-10, the Board met in executive session to discuss the wave run-up project and changes to the contract. They also discussed the challenges from a homeowner (at the directors meeting, earlier that day), to the wave run up project. The board decided to refer to counsel and allow him to advise them of their options regarding the challenge. On 3-27-10 the Board reviewed Steve Weil's opinion letter concerning the challenges to the project and subsequently decided to meet with him the following week in San Jose to discuss this pending legal challenge. Due to bad weather and other scheduling conflicts, this meeting didn't occur until 4-19-10 in San Jose.

On 4-30-10 the board again met with our Engineers to go over the specifications of the wave run up plan and to look at the modified plans showing changes to the project. The discussion ended up being centered on the possibility of using water (water bladders) inside the geo-tubes, rather than costly sand. This recommendation later evolved into the possibility of using polyurethane vertical barriers and prepositioning these vertical barriers where necessary in the event of an emergency as part of the MDCA Emergency Action Plan. These polyurethane barriers are used on roads as impact barriers, they are less costly than their cement counterparts and are easily set up and taken down. The board is working with our engineers to determine the feasibility of using these barriers in the event of storm surges during the winter season.

On 5-10-10, the colony took possession of approximately 400+ yards of beach sand from a governmental agency to assist in the wave run up project. The sand is being stored near the south well in the southern portion of the colony. I have leads on additional beach sand and hope to increase this stockpile, further reducing the cost of materials with any project we might end up completing.

MONTEREY DUNES COLONY MUTUAL WATER ASSOCIATION

Water Conservation – Oriented Billing

During the May billing period, there were 11 units that exceeded the Tier 1 conservation zone, 4 of which were under the \$5.00 billing limit and not billed. One unit was noted to be in the Tier 3 billing zone. Unit owners were notified of their monthly and gallon-per-day consumption.

During the June billing period, there were 21 units that exceeded the Tier 1 conservation zone, 9 of which were under the \$5.00 billing limit and not billed. 5 units were noted to be 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

Wave Run-up Project

As reported at the last Board meeting, the Wave Run-up Project has been postponed until the 2010 Snowy Plover season is over (approximately 9-30-10). The postponement afforded management and the Board more time to research new approaches made possible by new technology. The Board president, George Maciag, created an ad-hoc committee to make recommendations on the following:

1. The most cost-effective and efficient method of approaching the project.
2. An Emergency Action Plan that creates emergency provisions to repair or replace sand dunes when needed in any area of the Colony.
3. The most acceptable financial plan to pay for the project and to fund the Emergency Action Plan.

George appointed Ted Swanson as the chair of the ad-hoc committee and Bob Dickinson volunteered to be a committee member.

It was M/S/C to rescind the Wave Run-up Special Assessment that was imposed at the 1-16-10 Board meeting with the understanding that another special assessment may be imposed as the final cost of the project is realized.

NEW BUSINESS

Approve 2010-11 Proforma Budget and Disclosure Packet

The Board M/S/C a motion to approve the FY 2010-2011 Proforma Operating Budget Reserve Documents and Related Disclosures packet. This packet will be emailed or sent via snail mail to all homeowners before the end of the month and will be posted on our website.

Approve hiring collection attorney to recover past due assessments for unit #236

A motion was made to approve the collection attorney contract with two minor revisions: 1) to remove the word “reasonable” when referring to cancellation of the contract by either side with “reasonable” notice and to quantify the same clause with a specified number (15) of days; 2) Some limits of authority, i.e. reduce the \$5000 carte blanche amount available to the attorney to \$3000.

Appoint Nominating Committee

George Maciag, Board president, appointed Bill Michaels to serve as the committee chair. George announced that anyone interested in serving on the board or committee should contact Bill Michaels at 408-264-0215 Ext. 124.

George also noted that he has authored a letter titled “Call for Volunteers” that will be sent to all homeowners in the next few days. The letter gives information about the various Board positions and the standing committees at the Colony and invites homeowners to volunteer.

Engage Joelyn Carr Fingerle, CPA to Conduct FY 2009-2010 Audit

It was M/S/C by a unanimous vote to engage the services of Joelyn Carr Fingerle, CPA to conduct the FY 2009-2010 audit of Monterey Dunes Colony.

WATER COMPANY BUSINESS

Repairs to Water Well #3

We have completed repairs to well #3. This includes replacing the pump and motor as well as changing all the galvanized supply lines. We have had issues recently with air in the feed system from well 3 to the tank and are trying to isolate the issue.

Water Conservation Reports for March and April 2010

Addressed in Manager's Report.

ADJOURNMENT

There being no further business, the meeting was adjourned at 11:20 a.m. The next meeting date will be July 17, 2010 at 10:00 AM.

EXECUTIVE SESSION

The Board discussed a homeowner request for a waiver of excessive water use during the month of April. The request was approved.

FOR THE BOARD OF DIRECTORS:

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

Treasurer's Report March and April

This report covers our fiscal year budget status through April 30, 2010.

Account Balances as of March 31 and April 30, 2010 are:

	<u>Mar</u>	<u>Apr</u>
Union Bank Reserve	\$ 590,672.65	\$571,018.34
Mutual of Omaha Reserve	\$ 250,082.96	\$250,438.80
Union Bank Operating	\$ 53,469.74	\$ 72,555.24
Union Bank Investment Acct	\$ 8,004.30	\$ 8,004.93
Community Bank Petty Cash	\$ 590.06	\$ 101.76
Union Bank Water Operating	\$ 28,676.76	\$ 25,579.23
Union Bank Water Reserve	\$ 100,819.73	\$102,166.60

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,

Jim McFeeters

Jim McFeeters, Treasurer