

**COMBINED MEETING OF THE BOARDS OF DIRECTORS
MONTEREY DUNES COLONY ASSOCIATION
AND
MONTEREY DUNES COLONY MUTUAL WATER ASSOCIATION**
November 21, 2009 (Amended May 15, 2010)

PRESENT

George Maciag, President
Bill Michaels, Vice President
Mary Jansing, Treasurer
Ted Swanson, 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, November 21, 2009 at the Monterey Dunes Colony Clubhouse.

MINUTES

The Board reviewed the draft minutes of the September 12, 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 September and October 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

Ted Swanson reported that the committee had met immediately prior to this meeting to discuss the Colony's financial reports for the first four months (July-Oct) of the fiscal year. The two largest issues of discussion were regarding the funding of the emergency wave run-up project and future bad debt expense.

Bill Michaels asked Tom how much bad debt the Colony currently had. Tom answered that there were two homeowners currently in Board-approved foreclosure proceedings for non-payment totaling approximately \$20K.

ENVIRONMENTAL CONTROL COMMITTEE (ECC) REPORT

Tom reported that the ECC had not met since the last Board meeting.

GENERAL MANAGERS REPORT

Deck and Fence Replacements

This report covers the first four months of fiscal year 2009-2010. 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 and 160, and (2 ea) at unit 168.

Unit courtyard fences completed, all or in part since July 1, 2009 were at units; 124, 164, 168, 220, 248, 268, 266, 264, 276, 146, 144 and 316. Also completed were the fence surround for the 172 refuse area and along the walkway between 174 and 176.

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. In addition, Association carpenters replaced 4 windows at unit 284 and are nearing the completion of 23 window replacements at unit 198. The association is scheduled to replace a total of 95 windows this fiscal year. We continue to identify and replace defective vinyl block frame windows as necessary and have identified over 20 of these defective windows as of the date of this report.

Association Carpenters have replaced 3-entry doors since July 1st with 4 more scheduled this year.

Contractors replaced 1 unit garage door at unit 246 with extensive “frame” work on several other units.

Built-up Roofs

Unit's 124 and 184 were reroofed this fiscal year. Units 270, 274 and 330 are currently pending bids from local contractors, and subsequent scheduling. These roofs are the most recent of the 50 built-up roofs scheduled for replacement in the reserve schedule. We will continue to replace these roofs on a case by case basis as they fail over the next few years.

The association replaced 12 flat-roof skylights this year, 4 on unit 190, 4 on unit 184 and 4 on unit 124. The Association also replaced one owner installed skylight on a charge-to-owner ticket. Three more buildings will receive replacements as their Built up Roof, (BUR) systems are replaced.

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, 198 and 284.

Management estimates 217 square remaining to be replaced in the residential buildings. (Approximately 27 pallets are needed to complete the project). There are 5 bundles of shingles per square, 40 bundles per packed pallet.

Fumigations

Units 144-146-148 were re-fumigated on September 21-23, 2009.

Units 108-110-112 were re-fumigated on October 20-22, 2009.

Units 120-122-124 were re-fumigated on October 5-7, 2009.

Units 196-198-200 and 318-320-322 are pending refumigation under our current warranty.

Fireplace Inspections

Annual fireplace inspections and cleanings for the fiscal year 2009-10 are complete with the exception of 2 units that are connected to security and fire systems. These units are completed separate from the association contract.

Coastal Projects

From last report:

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 that, 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 breaching 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 breaching 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 leaching 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.

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.

The funds for the Archeological Report were authorized by the Board at the September 12th directors meeting and the study was completed on September 25, 2009. The report was positive in that it affirmed that the project did not disturb any ancient remains or protected burial sites. The report was attached to the application for permit.

On September 25th John Kasunich sent (via email), two of the three solicited bids for the wave run-up project. The third bidder had not responded as of the suspense date in the bidding letter. The Directors were sent the two valid proposals o/a September 29th after these bids were “scrubbed” and differences or anomalies noted. The Board discussed the contract via teleconference on October 5th and “tabled” the decision to select a contractor for several reasons, one being the absence of the third bid. The board requested that the late bidder, Granite Construction Company be given the opportunity to bid the process even though they were late in the process. The submitted bids (adjusted to compete, like-in-kind as best as possible), were as follows:

Sunstone Construction	\$356,727
Don Chapin Company	\$402,525
Granite Construction Company	\$446,235

Some significant reason(s) the three bids were so far apart:

One bidder failed to follow the specification sheet and proposed his bid based on a different engineering plan. The other two differed in the costs of labor, and the quantity of (imported) sand that will be needed to complete the project.

As of the date of this report, the board favors the Sunstone Construction bid, but has again delayed the selection of the contractor until after additional information/data was received from our contract engineers concerning possible height and length modification of the berms. There is an Executive Session of the Board today (November 21, 2009) in order to evaluate the data submitted by the engineers and subsequently select a contractor for the wave run-up project.

In an executive session of the Board on 11-21-2009, the Directors selected Sunstone Construction as the General Contractor for the Wave Run-up Project. Tom was instructed to work with our attorney to draw up the contract, as well as to send out a preliminary notice to the members concerning the special assessment needed to pay for this project.

David Shonman submitted the application for permit for the emergency wave run-up project on October 9, 2009 to the coastal planning department. The application was accepted and staffed to the 9 agencies that needed to sign off on the project. The cost for the permit was \$8,507.16.

On October 27, 2009, members of the colony participated in a meeting sponsored by the Monterey County Water Resources Agency (MCWRA) between the NOAA Marine Fisheries Services (NMFS) and the Water Resources Agency. The Association was represented by George Maciag, Director and President of the Board, Ted Swanson, Director, Bill Michaels, Vice President of the Board, Tom Bugary, GM, John Kasunich and Mark Fox, Coastal Engineers, and David Shonman, Coastal Biologist. While Congressman Farr's office was instrumental in setting up this meeting for the purpose of allowing the colony to become more active in the plans to manipulate the river opening to the ocean, he, (Congressman Farr), was not represented at the meeting as the colony had hoped. The meeting was productive in that it:

- Allowed the colony to voice their concerns about the 2009 NMFS biological opinion and how their proposed breaching techniques might affect the southern section of the colony.
- Established acceptable limits based on engineering data for directional (mechanical) breaching.
- Promoted the Water Resources Agency's "adaptive management" position of mechanically breaching the river due to projected flows, verses breaching the river under emergency flood conditions.
- Established an environment where there is a free-flowing exchange of information concerning the future of the Salinas River mouth management practices and, where possible, cooperation between the multi-level governmental agencies and the colony concerning these practices. (The colony's position is that we are a permanent and integral part of the management process and a factor that can not be left out of any decision regarding the management of the Salinas River mouth and lagoon area).

Since the meeting, the colony has been included in establishing setback limits for river breaching and allowed input in modifications to the NMFS biological report concerning future "adaptive management" practices in breaching the river mouth.

The colony was noticed on October 21, 2009 of an open meeting on November 2, 2009 sponsored by the North County Coastal Land Use Advisory Committee. The purpose of this meeting was to evaluate our proposed wave run-up project that had been submitted to the county and to advise the coastal planners of any concerns they may have as to the proposed project. I have yet to determine what was accomplished as many questions were revisited and no new ground covered. The committee voted 3 to 1 in favor of the project. The colony was represented By Ted Swanson, Director, Mary Jansing Balgooyen, Director and Treasurer, Tom Bugary, GM, and David Shonman, Coastal Biologist.

The MDCA Board met in Executive Session on November 14, 2009 to discuss the proposed wave run-up contract. The board discussed possible modifications to our engineer's specification sheet that might lead to reducing the weight of the berms on the septic fields as well as reduce the cost of the project.

On November 18, 2009 management received notice from the Monterey County Planning Department that our Application for a Coastal Development Permit for the wave run-up project was complete. The final step in the process is a public meeting conducted by the Planning Department to approve the permit. This meeting is scheduled for January 7, 2009. I have asked the county for a copy of any comments the staffing agencies may have submitted as soon as

possible so that I will be prepared to address any of their concerns at this meeting. The Planning Department will approve/disapprove the permit at the time of this meeting; however, as explained by the planner in charge of our project, this meeting is a required formality to approve projects that are complete and have successfully navigated the staffing process. Subsequent to this approval, there is a 10 day period for the Coastal Commission to review the permit and at the end of that period, the permit is issued and the work can begin. As this process unfolds and the permit becomes a reality, I intend to coordinate any contract negotiations with the selected contractor, work through the logistics of the project and be ready to commence on January 17, 2010. The weather not becoming a factor, I believe we can complete this project in January 2010.

In an executive session of the Board on 11-21-2009, the Directors selected Sunstone Construction as the General Contractor for the Wave Run-up Project. Tom was instructed to work with our attorney to draw up the contract, as well as to send out a preliminary notice to the members concerning the special assessment needed to pay for this project.

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. Over the past few months, the tank has again started to leak at an increased rate.

Management contracted with a firm called Liquivision Technology to have our main tank cleaned and inspected, leak tested and repaired. The service took place on 9/3/09 with divers working in the tank throughout the day. Total cost of the service was \$3,175 with pictures and videos of the tank linings for archive. These documents will also serve to assist in next years reserve component study.

Water Conservation – Oriented Billing

During the September billing period, there were 15 units that exceeded the Tier 1 conservation zone, 7 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 October billing period, there were 9 units that exceeded the Tier 1 conservation zone, 3 of which were under the \$5.00 billing limit and not billed. Three 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

Accept resignation of Director and appoint interim Director

George Maciag announced that the Board Treasurer, Mary Jansing, sold her house and will be moving from the dunes to be closer to her family; therefore, effective this date, she has resigned from the Board. George appointed Jim McFeeters as an interim Director to replace Mary as a Director and to hold the office of Treasurer.

WATER COMPANY BUSINESS

Addressed in Manager's Report.

ADJOURNMENT

There being no further business, the meeting was adjourned at 11:25 p.m. The next meeting date will be January 16, 2010 at 10:00 AM.

EXECUTIVE SESSION

- 1) Homeowner requested a hearing to have Tier 3 water charges waived.
- 2) Review the contractor bids for the emergency wave run-up project for the third time and to officially select a contractor. Discuss aspects of the proposed contract and to direct the GM on how to proceed with the project.

FOR THE BOARD OF DIRECTORS:

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

Treasurer's Report September and October

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

Account Balances as of September 30 and October 31, 2009 are:

	<u>Sept</u>	<u>Oct</u>
Union Bank Reserve	\$ 963,875.58	\$953,364.48
Union Bank Operating	\$ 98,092.83	\$ 71,383.20
Union Bank Investment Acct	\$ 7,992.86	\$ 7,996.13
Community Bank Petty Cash	\$ 684.69	\$ 1,254.34
Union Bank Water Operating	\$ 25,326.09	\$ 24,279.23
Union Bank Water Reserve	\$ 91,235.16	\$ 94,019.84

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

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