

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

September 20, 2014

**PRESENT**

Frank Williams, President  
Bob Dickinson, Vice President  
Bill Michaels, Director  
Jeff Schwartz, Director  
John Steinhart, Director  
Tom Bugary, Secretary and General Manager

**ABSENT**

None

**WELCOME**

Frank Williams called the meeting to order at 10:00 AM, September 20, 2014 at the Monterey Dunes Colony Clubhouse.

**SOLAR FIELD INITIATIVE VOTE TABULATION**

Frank announced that starting now, and continuing throughout the meeting until finished, the solar field initiative vote will be tabulated by the Inspector of Elections, Don Tenenbaum. During the meeting, the results of the vote tabulation were presented to Frank Williams who made the following announcement: There were 93 ballots received, zero votes were disqualified, 81 (87%) votes were in favor of the solar energy farm and 12 were against it. The solar field proposal was approved.

**MINUTES**

The Board reviewed the draft minutes of the 5-23-14 directors meeting via teleconference, the 7-19-14 directors meeting and the 8-15-14 directors meeting via teleconference. It was M/S/C to approve all minutes as presented.

**PRESENTATION ON SALINAS RIVER MANAGEMENT**

Frank Williams introduced a guest speaker, Brent Buche, the Assistant General Manager and Chief of Operations and Maintenance for the Monterey County Water Resources Agency. Brent

offered to give the homeowners an update on the water situation in the Salinas Valley and state of conditions of the Salinas River mouth and lagoon.

Brent began his presentation by displaying a U.S.G.S. topographical map of the Monterey County Salinas River System that, among other things, displays our watersheds. In order to fund their operations, the Water Resources Agency collects approximately \$3 million dollars from assessments from those homeowners who pay for zone 2c (that includes the Monterey Dunes Colony). In addition, the Water Resources Agency supplements their income with a small, five megawatt hydroelectric plant near the Nacimiento Reservoir. Currently, the plant is only generating slightly more than the cost to operate it.

The first reservoir that Brent spoke about was Nacimiento Reservoir and Dam; 50% of the watershed is in Monterey County and the other 50% is in San Luis Obispo (SLO) County. Because half of the Nacimiento watershed is in SLO, they are entitled to receive 17,500 acre feet per year; however, they have not yet taken their entire entitlement.

Another reservoir that Brent spoke about is the San Antonio Reservoir. San Antonio has a 3 – 3 ½ times slower fill rate than the Nacimiento Reservoir and is currently at 4% capacity. Monterey County is developing an inter-lake tunnel so that water from the faster-filling Nacimiento will be moved to San Antonio. The project is expected to help improve the reliability of the Salinas Valley's water supply and the effort to fight seawater intrusion.

Both the San Antonio and Nacimiento Reservoirs flow into the Salinas River; because the Monterey County Water Resource Agency owns and operates both facilities, we own the water rights of all the water. The Water Resource Agency represents everyone who pays assessments in zone 2c making it the assessee's water right, and we're sending water downstream; however the water is not making it as far as normal because there is not as much water to send.

In 1995, we began a channel maintenance program on the Salinas River, the "upside down river" (because there is a lot of water movement underground). It has recently been renamed to the Salinas River Stream Maintenance Program – a program to maintain the river itself, to remove the vegetation and to remove the sandbars. There is a lot of sediment in the system which causes huge sandbars underneath our bridges in this area (Hwy 1 bridge is the exception) which can be seen by looking upstream when you are crossing one of those bridges. Since the inception of this program we have had a few permits, they are 5-year permits we get from the Corp of Engineers, the last one was 2003-2008. After 4 years and \$750K to write the EIR (Environmental Impact Report), we finally received approval for a new permit to do stream maintenance in the Salinas River.

Even though we have a permit to do stream maintenance in the Salinas River, the Coastal Commission gets involved in activities west of Hwy 1. Additionally, when the Water Resources

Agency does Salinas River Lagoon Sandbar management activities there is another large agency to deal with – the U.S. Fish and Wildlife Service. The U.S. Fish and Wildlife Service is responsible for critical Snowy Plover habitat on the beach and a small fish called the Tidewater Goby in the lagoon.


There is a conflict between the several regulatory agencies involved and when the Water Resources Agency breaches the Salinas River to the ocean via the lagoon. The Agency has been breaching the River since before there were several of the current regulations, so there has been a transition period where they continue to operate the way they always have but try to work with the regulatory agencies, such as the Corp of Engineers. The Water Resource Agency has also applied with the Coastal Commission for a Coastal Development Permit (CDP) but have not been able to get one - it either costs money they don't have and/or the Coastal Commission rejects the information we send them. Over the last eight years, the Water Resource Agency has breached the River five times and, since we have not been able to obtain a CDP, we have had to get an emergency proclamation from the CAO (County Administrative Office), who then takes it to the Board of Supervisor's office to get authorization because it is an emergency event.

### **TREASURER'S REPORT**

Bill Michaels, Board Treasurer, gave the Treasurer's Report for July and August 2014. Bill noted that the payments to the Capital Reserve Replacement Fund and to the Mutual Water Association were current. Additionally, Bill 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.

### **AD HOC FINANCE COMMITTEE REPORT**

Bob Dickinson, committee chair, stated that the committee had met the previous day to review the first two months of the FY (fiscal year) 2014-15 (July-June). Both operating accounts for the Association and the Water Company appear to be on-track with a few minor timing issues. The Association reserve account is currently has more expenses than income primarily due to boardwalk expenses – we're replacing all wooden boardwalks with Trex boardwalks due to termite issues. It's too early in the year to estimate how we'll end the year, but typically (in recent history) we end the fiscal year with a surplus in the reserve account. The Water Company reserve account is on par with expectations.


Bob presented a proposed investment policy and the committee recommends that the Board approve the policy. After discussion, the Board M/S/C the committee recommendation. To see a copy of the policy, click on the easy button .

Bob also stated that the committee had reviewed the draft audit report for FY 2013-14 and that the auditor, Joelyn Carr Fingerle, CPA, was present to give the report and answer pertinent questions. Joelyn began her report by stating that she was no longer a sole practitioner, but that she had joined Young, Craig, and Co. and that Fern Amaral, who was also here, would be assuming more of the duties related to the Colony. Joelyn continued her report, stating that there

were no particular issues of concern identified during the audit. The only issue was an internal peer review performed within the auditor's business every three years. The peer review was due in FY 2013-14 and it was focused on the Water Company. The review said that the auditor had used an inappropriate format, a CERA (common interest realty association), in the past because, since the Water Company is not a homeowners association, the fund accounting format cannot be used. The Water Company has a non-profit exemption under C-12 (a municipal utility) and needs to be reported similar to a government agency utilizing an enterprise accounting format. This format change means that instead of seeing 4 columns (fund accounting format) on our audit reports, we will now see two columns (enterprise accounting format); however, the auditors have included the four column format as a supplemental report in our FY 13-14 audit. At the conclusion of the report, it was M/S/C to accept the FY 13-14 audit report as presented.

Bob countered the auditor's statement that the changed format of the audit report is more than a simple formatting issue, but, rather, a presentation issue. For example, the Water operating account ended the fiscal year with a \$699 deficit and the Water reserve account ended the fiscal year with a \$99,558 deficit. The Water reserve account was intentionally drawn down due to transfers to the operating account to pay for repairs, primarily refurbishing the water tank. Using the enterprise format, it appears as though the Water Co. sustained an operating loss of \$100,257. The Finance committee does not believe this is an accurate portrayal of the financial picture and that homeowners shouldn't have to go to the last page of a multi-page document to see what's actually going on. The committee agreed to the audit presentation as it was for this year only because they didn't want to miss the 120 day window after the end of the fiscal year to have audited financials and they wanted a clean opinion. The committee expects to continue discussing this issue and ways to resolve it before the FY 2014-15 audit. The Board directed Bob to create a cover letter to the audit that will be sent to all homeowners explaining that the fund accounting format can be found on the last page of the supplemental pages.

### **ADHOC BROADBAND COMMITTEE REPORT**

Bob Dickinson presented the committee's report and recommendations, click on the easy button to see the written report . The Board M/S/C to implement the suggested recommendations which means that the Board will send homeowners a letter stating that they believe Red Shift is very competitive and that homeowners should evaluate Red Shift for themselves to see if they want to take advantage of it. In addition, the letter will state that the Board is withdrawing its recommendation that homeowners provide Surfnet with an indication of interest.

### **AD HOC WAVE RUN-UP COMMITTEE**

Ted reported that he wanted to give a brief three point presentation.

- 1) The committee is being reconstructed to allow us to increase the number of times the committee meets, make the meetings more productive, and we are considering a 5 and 10 year strategic planning process in order to maximize our "survival" here.
- 2) In May 2014, Ted had drafted a letter to the Coastal Commission asking for their advice on how the Colony could protect itself from future damage caused by wave run-up and if

there was anything that could be done during “bird season”. The Board has agreed that there was no harm in sending a letter to the Coastal Commission asking for advice; however, it was noted by Bob that the letter Ted was referring to did more than just ask for advice and should not be sent. Ted agreed that, at this time (since we received a waiver to repair/restore our foredunes), it did not make sense to send a letter of any kind.

- 3) Ted stated that despite the comments about him having anger management issues, he is now certified as not being a "walking mental case". Therefore, in the future, he hopes that his comments and evaluations will be looked at more in a critique fashion as opposed to someone who has lost his “mentalness”.

## **GENERAL MANAGER’S REPORT**

### **MONTEREY DUNES COLONY ASSOCIATION**

This is a cumulative report covering projects and work as completed in fiscal year 2014-2015, (July 1, 2014 through June 30, 2015).

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

Units scheduled for windows and sliding glass doors in the new fiscal year are units 232, 290 and 298.

#### **Garage Door Replacement/Repairs**

During the weekend of 9-13/14, a vehicle caused extensive damage to the garage door and jamb of unit 166.

#### **Painting**

Association staff has completed painting the exterior trim on units 132, 134, 136 and 138.

#### **Archiving Project Update**

We are approximately 75% complete with archiving existing documents into the efilecabinet system. Association documents are saved on a personal storage drive in the association office as well as off-site storage, (cloud).

#### **Landside Boardwalk Replacement**

Landside boardwalks have been replaced near units 156, 158, 208, 210 and 212.

On 8-26-14 I purchased a truckload of Trex from the Nevada plant at a cost of approximately \$41K, or \$2.96 per linear foot.

#### **Comfort Dogs**

I received a letter from a rental agency informing us that a renter had a comfort dog and was checking in to the colony this past week. The renter has told the rental agency that she had a letter from a Psychiatrist which cited the ADA and the Federal Fair Housing Act and the agency was required to rent one of their units accommodating the disability. While the citations in the letter are very vague, the Psychiatrist made it clear that the mentally disabled person needed to have the dog with her during the rental. This requirement is in violation to item 1, Page 4, 1. Dogs & Pets which reads:

1. Pets are not permitted at the Colony except for those belonging to Members, their immediate family, and/or an Associate Member (any other adult who permanently resides in the unit or long term lessees of three months or longer). Renters of three months or more may maintain a pet, with written permission of the unit owner. Homeowners may invite guests to their unit, accompanied by a pet; however, the homeowner must be present at the unit for the duration of the visit and is responsible for the overall control of the animal. In all cases, the Association must be informed of any visits involving pets (in advance), as soon as possible, in order to allow management adequate time to notify security of the visit.

As written, this rule is currently unenforceable and needs to be adjusted to cover Service Dogs and Comfort dogs as appropriate.

### **Security Cameras on the Property**

I have researched several options and talked with a couple of install technicians, I am not yet ready to offer options to either the committee or the board on security systems. I will try and come up with workable solutions along with costs by the November board meeting.

### **Part Time Security Guard**

Management has hired a part time security guard to fill the two nights a week that our regular security guard is off duty. The new guard Isidro Garcia has an extensive security background with guard credentials. He will be filling the Tuesday and Thursday evening shifts and other coverage as needed.

### **LED Conversion of Common Area Lighting**

At the May 2014 Directors meeting, the board authorized the expenditure of up to \$22K to replace all existing lighting in the common area with LED equivalents. I contracted with an Organization called AMBAG Energy Watch to do an Energy Audit of the common area and to see how much energy we could save by converting to LED. This audit was paid for by dollars collected on the energy bills of PG&E customers in California and redistributed to help organizations such as ours reduce energy consumption.

Our first conversion figure coming from Electrical Distributors was for approximately \$84K replacing most fixtures with an Electrical Distributors recommended line of LED (Light Emitting Diode) products. After several months of working with AMBAG, (The Association of Monterey

Bay Area Governments), Energy Watch we decided to self-install, (acting as our own contractor) and to refurbish and convert most of our existing fixtures rather than buying new. We initially elected a two-phase program that would convert the colony to LED. We later expanded that with a third phase when other savings were discovered in the conversion process. After the completion of each phase of the project, the work is inspected by representatives of Energy Watch and rebate incentives are then processed.

**Phase 1** consisted of retrofitting the street lamps with LED modules purchased wholesale from LED Conversions in Santa Clara. These retrofit modules give off similar light as compared to our existing fixtures. The total cost of phase 1 was \$12,879.35. After completion and inspection, PG&E rebated the colony \$4,664.40 making the cost of phase 1 of the project \$7,623.78.

**Phase 2** of the project calls for bulb replacements for most-all fixtures on the property converting existing fixtures to LED equivalents. The association went through Royal Wholesale Electric to match our existing incandescent and fluorescent bulb outputs with LED equivalent's and sold them to us at wholesale. The cost of this phase was \$4,175.67 with an expected rebate of approximately \$969.00, making the cost of phase 2 of the project close to \$3,847.00.

**Phase 3** of the project consists of purchasing 120-60 watt LED screw in bulbs from a local distributor and installing them in the individual garages. The cost of the bulbs was \$1,298.09 with an expected rebate of \$2,200.00, netting the association a profit in Phase 3 of over \$900.00, (because of our election to self-install).

**As a footnote to Phase 3:** There are several garages that have multiple lights, fluorescent light conversion fixtures, ceiling fans and other devices hooked into the association power boxes. Most of these add-ons are not properly wired-in or installed. The association estimated replacing one 60 watt bulb, (LED replacement) per garage. Those homeowners using garages for game-rooms or activity centers consume a lot of power over and above what AMBAG, Energy Watch had estimated in the energy audit.

The total cost to the colony for the LED conversion will be approximately \$10,570.00. I have completed all three phases and am processing the administrative paperwork to collect the remaining rebates in phase 2 and 3.

### **Fumigation Update**

**Fumigations** July for drywood termites:      None this fiscal year

<b><u>Local Treatments</u></b> for drywood termites:	July 28, 2014	Unit 228
	July 28, 2014	Unit 298
	July 29, 2014	Unit 222
	August 14, 2014	Unit 160
	August 14, 2014	Unit 318
	August 25, 2014	Unit 240 - (garage)

Unit 146 (garage) is pending an inspection and treatment

### **Coastal Projects**

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*From previous report:*

*I had several meetings with David Shonman in June and July putting together the application for a coastal permit. I also sent a letter to the Planning Services Manager at the Monterey County Planning Department to bring her up to date on our proposed Sand Nourishment Project. The colony had applied for a permit at the Planning Department in 2011 to restore some of our foredunes in the southern section of the property. The permit was put on hold because the colony pursued a Memorandum of Understanding (MOU), with California State Parks as a quicker and more efficient way to restore the foredune area. This MOU ran into a lot of opposition from some of the regulatory agencies and while the MOU is not out of consideration, it took second seat to our current plan to seek a de minimis waiver to a coastal permit to at least start the process of putting sand out in the foredunes. We are following the same procedures as when we applied for a waiver to test the water barrier. The application was turned in on July 15, 2014. Our goal is to be ready to move sand out into two areas of the foredunes, (identified in the application), by the 1<sup>st</sup> of October 2014.*

Our application for a coastal development permit and waiver (#3-14-1180) was processed and completed by the Santa Cruz office on August 25, 2014 and placed on the docket to be heard in front of the Coastal Commission on September 11, 2014. Based on David Shonman's, (our Contracted Coastal Biologist), recommendation, the Central Coast District Manager, Susan Craig recommended to the commission that they grant a De minimis waiver for the Coastal Permit and allow the project to go forward. The commission agreed unanimously and approved the waiver. The next step is to decide when to take the 450 cubic yards of sand out to the foredunes and place it in the designated areas outlined in the waiver documents.

In preparation for the upcoming winter season, I am in the process of purchasing additional couplings and hoses to connect to our fire hydrant system in order to have two fill stations available if we are required to set up the Wave Run-Up barriers. I elected to purchase additional hoses and fill with our fresh water system rather than purchase a solid waste pump and fill from the ocean only after extensive discussions with the manufacturer of the solid waste pumping system. Filling the barriers from the ocean would draw a lot of sand into the barriers and emptying them would become difficult given the small drain holes in the barriers. For this and other reasons, I elected to stay with the fresh water fill process.

### **Easement Issues with State Parks**

I have requested to meet with State Parks concerning easement issues on Monterey Dunes Way. Part of Monterey Dunes Way is maintained by the Public Works, Monterey County while another section is considered a private road with an easement through State Parks property. The last part of Monterey Dunes Way is private but located on a scenic easement. According to the Public Works Supervisor at the County, they do not make repairs or otherwise service Monterey Dunes Way after it turns to the left and enters the property. It does service and maintain 0.4



miles of the road that services the access to Salinas State Beach parking. While Tract Number 685 shows Monterey Dunes Way all the way up to the front gate, it also identifies that stretch of road crossing State Parks property as “private”, which indicates an easement as it crosses State Park land prior to reaching the front gate area. I plan on asking State Parks to research their archives and determine what type of agreement we have for maintenance and easement rights to this stretch of road.

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

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

During the July 2014 billing period, there were 32 units that exceeded the Tier 1 water conservation zone. Eleven were under the \$5.00 billing limit and therefore not billed. There were 10 units in Tier 2 and 11 units in Tier 3.

During the August 2014 billing period, there were 23 units that exceeded the Tier 1 conservation zone. Eleven units were under the \$5.00 billing limit and therefore not billed. There were 10 units in Tier 2 and 2 units in Tier 3.

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.

### **Water System Update**

The water tank project was completed in September 2013 but showed a small leak in the liner as we were filling the tank. The contractor returned many times over the last year attempting to find the pin-hole leak and making repairs. He ended up patching and redoing so many areas of the lining that he finally decided that there was a defect in the material that he could not find and committed to tearing out the existing material and replacing it under warranty.

From August 19<sup>th</sup> through August 23<sup>rd</sup>, Carson Manufacturing removed the existing liner from the tank, reinforced the existing padding and replaced the liner in the tank. This replacement included refurbishing all the stainless rings and any surface that was sealed with adhesive. We started refilling the tank the following week and are at capacity at this time with no leaks detected.

Ed Downie has submitted the necessary water samples for testing and we are scheduling to re-plumb the tank and to bring it back on-line as soon as possible.

We still have synchronization issues between wells 3 and 4. Contractors have ordered the necessary conversion materials and will reprogram the control panels once well 3 is retrofitted with a new backflow prevention valve and the storage tank is back on line.

The emergency backup fire pump continues to have issues with the high pressure governor. Once the water system is back on line, technicians from HyDEC Corporation will repair and adjust the pressure valve on the fire pump.

END OF REPORT

### **NEW BUSINESS**

#### **Decision to impose a lien on unit 116 for nonpayment of dues**

After discussion, the Board unanimously voted to impose a lien on unit #116 for unpaid assessments – currently \$8,812.54, however, the amount owed will continue accruing assessments, late fees, interest, and maintenance fees until paid.

#### **Permit status on restoring the foredunes**

Addressed in the Managers Report.

### **OLD BUSINESS**

#### **Governing documents revision**

Tom was directed to have the Finance Committee changed from being an ad hoc committee to a standing committee (similar to the ECC) with members being named by the Board and at least one member being a Board director. After this change, ballots will be emailed/sent to homeowners with a copy of the draft governing documents to be opened and counted at the November 15, 2014 meeting by the Inspector of Elections, Don Tenenbaum.

#### **Camera/security for front gate, maintenance yard and proposed solar fields**

Addressed in the Managers Report.

### **OWNER'S STATEMENTS**

There were no owner's statements.

### **WATER COMPANY BUSINESS**

Addressed in the Managers Report.

### **ADJOURNMENT**

There being no further business, the meeting was adjourned at 12:06 p.m. The next Board meeting will be on November 15, 2014 at 10:00 a.m. The annual homeowner's meeting and barbecue will be on October 18, 2014 at 10:00 a.m. and 12:00 p.m., respectively.

**EXECUTIVE SESSION**

A homeowner request for a late fee waiver and a homeowner request for a water bill waiver were discussed and approved.

FOR THE BOARD OF DIRECTORS:

//s//

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

DRAFT