

**COMBINED MEETING OF THE BOARDS OF DIRECTORS
MONTEREY DUNES COLONY ASSOCIATION
AND
MONTEREY DUNES COLONY MUTUAL WATER ASSOCIATION**
November 29, 2008

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 called the meeting to order at 10:00 AM, November 29, 2008 at the Monterey Dunes Colony Clubhouse.

MINUTES

The Board reviewed the minutes of both the September 20, 2008, Board meeting and the October 18, 2008, Annual Homeowners meeting. It was M/S/C to approve both minutes as written.

TREASURER'S REPORT

Mary Jansing Balgooyen, Treasurer, gave the Treasurer's Report for September and October 2008. 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

The Finance Committee met immediately prior to the Board meeting to review the first 4 months of the 2008-2009 fiscal year. John reported that all budgeted expenditures are at, or close to, their budgeted amounts; however, due to significant storm damage this year that left the southern end of our property unprotected, there will be considerable, (unbudgeted) expenses that we will have to deal with in this budget cycle.

The Board had tasked the Finance Committee to make a recommendation about whether we should continue our annual audits or reduce services and settle for annual reviews. After research and discussion, the committee feels that the most prudent thing to do is to continue the annual audits. The Board unanimously endorsed this recommendation.

ENVIRONMENTAL CONTROL COMMITTEE (ECC)

There have been no meetings of the ECC since the last report. There is one item pending and an ECC meeting will be scheduled in the near future to discuss approval.

GENERAL MANAGERS REPORT

Deck and Fence Replacements

This report covers the 2008-2009 fiscal year, July 1, 2008 to date. Association carpenters have completed 4 of the 15 scheduled decks this fiscal year. Decks were replaced at units 142, 202, 242, and 330. One owner modified his Oceanside deck and installed a hot tub.

There were no additional fences replaced since the September report. Courtyard fences completed all or in part, this year are at units 184, 202, 242, 272 and 330.

Window and Entry Door Replacement

The Association replaced 32 windows at units 142 and 232, four windows replaced were owner modified windows (remodel), circa 1993. In accordance with the Monterey Dunes Colony Statement of Policies Regarding the Maintenance of Structures dated 9-13-86, the Association will perform the replacement of these windows and the owner will receive a maintenance assessment for the cost for the replacement of these modified windows. We are scheduled to replace 113 additional, original aluminum windows, vinyl defective windows and block frame vinyl windows within the next 7 months. Units 174 and 208 are scheduled for window replacements starting in January 2009.

Association Carpenters have also replaced 6-entry doors and 1 garage door since July 1, 2008.

Re-siding

Siding has been replaced all, or in part at units 202, 224, 226, 228, 232, 234, 236, 280, 282, 268, 270, 272, 278, 282, 310 and 330. Two of these units will receive a maintenance assessment for portions of the sidewall which were extended due to recent remodels.

Fumigations

Units 324-326-328 and 132-134-136 were re-fumigated on 10-13-08 and units 336-338-340 on 10-27-08 by Terminix International with minimal impact on the structures.

Units 138-140-142 and 270-272-274 are scheduled for warranty fumigation on December 8, 2008.

Units 276-278-280 are pending refumigation subject to scheduling.

As of this date, the value of our 10 year \$35K warranty (paid in 1999), now exceeds \$145K in re-fumigations with another 3 buildings pending at \$7K per building.

Local treatments do not necessarily treat our termite problems because the buildings are connected; therefore, when you treat one unit with a local treatment, the termites simply move to the next unit.

Electric Panel / Water Heater Inspections

In June, 2008 management completed the inspection of all 120 units identifying the type of electric sub panels that are installed in each unit. Upon review of the results of the inspection, the board directed that management send letters to each owner of existing Federal Pacific Electric, (FPE) sub panels and again notify these homeowners of this necessary replacement. As of July 19, 2008 there were 39 FPE Electric Panels still installed in MDCA units. The Board directed that those panels still not replaced by the homeowner 6-months after date of the letter be replaced by the association and the cost of the replacement charged to the owner in the form of a reimbursable assessment. I will prepare a list of remaining FPE panels by unit for the board at the January Directors meeting.

Storm Damage

Previously reported:

Due to strong winter storms in January and February, the colony experienced damage to the fore-dunes, with tons of sand and debris thrown up onto the property, covering existing vegetation and damaging common area boardwalks and one of our 9 sewer systems.

During the week of March 17 through the 21st and on March 24th, management augmented the association staff with laborers from a local manpower agency and repositioned much of the debris back in the area of the washed out dunes. State Parks Rangers stopped our work on Tuesday, March 18th claiming that we were encroaching on state property. After reviewing the survey markers, it was determined that we were working on our own property and we continued to re-deposit the driftwood back in the washed out areas staying within our property lines. Repositioning the driftwood back to the foredunes was the recommended method of repairing the dunes by Dr. David Shonman, a coastal biologist the association had hired as a consultant in 1983 during a "50-year" storm that destroyed much of the foredunes on the southern half of the colony. Much of the dunes were restored after completing his recommended repairs.

On Tuesday, March 25th, management was given a stop-work order by the coastal commission. Officials from the State Parks had informed the San Francisco office of the Cal Coastal Commission that we were "re-developing the fore-dune area. After explaining to the investigator what we were actually doing, the officer said that she "needed to acquire more information" in order to determine if a permit was necessary to repair our fore-dune area.

Within a week of that stop work order, 90% of the state beach area adjacent to the fore-dunes was partitioned off and identified as a federally protected refuge for the western snowy plover nesting season. At this point, all work stopped.

At the direction of the Board, management solicited the assistance from a coastal biologist in an attempt to schedule some repairs to the fore-dunes, or at least try and re-vegetate some of the washed out areas, however, after consulting with the State Parks on our behalf, the biologist stated that the repair model for repositioning the driftwood in the washed out areas (made in 1983), was written before the snowy plovers were declared endangered. Therefore, any repositioning of wood back to the washed out areas had to be coordinated through the state parks system.

David Shonman contacted the Coastal Commission and explained our situation to the enforcement officer who had issued our stop order. The enforcement officer requested from David Shonman that I, as managing agent, discuss the circumstances surrounding the repairs to our foredunes directly with him rather than through the biologist. On March 23, 2008 I made contact with Mr. Sharif Traylor, from the Coastal Commission and had a lengthy discussion concerning our repairs to the fore-dunes. At the end of our conversation Mr. Traylor stated that he had been misinformed as to the scope of the dune repair and rather than conducting a re-development of the fore-dune area, we were enacting a "soft repair". He asked that MDCA work with the State Parks and with the Point Reyes Bird Observatory, (PRBO) biologists in an attempt to work out an agreement to repair our fore-dunes in future years keeping in context the federal protections placed on the snowy plover. He then asked that I come back to him with a plan that has been agreed upon by all players.

After developing a position paper, David Shonman coordinated a meeting on June 30, 2008 between the MDCA, State Parks District Ranger, PRBO, and State Parks Permits, (the Coastal Commission declined to participate). The meeting included a site visit of the fore-dune area, a

lengthy discussion of past repairs, right of access, and Western Snowy Plover protection issues. While the meeting was productive, it showed caution and concern on the part of the PRBO biologists to assist the colony with future repairs to our dunes outside of a very narrow window each year. At the end of the meeting all parties agreed that MDCA would develop and submit a proposal/plan (for staffing and comment) by all state agencies involved, as well as by the Federal Department of Fish and Wildlife.

MDCA submitted a proposal to State Parks on June 30, 2008. As a courtesy, MDCA kept the Coastal Commission informed of the submittal. David Shonman, dealing directly with Mr. Ken Gray in the State Parks, (permits and records) informed me that the State would like to see a property line where they could determine any lost beach property due to erosion. At my request, David Shonman contacted Rogers E. Johnson and Associates and obtained an estimate to resurvey the 12 reference points on our beach, first surveyed in 1983 and again in 1995. These surveys show the historical changes in the beach and fore-dunes as compared to past records. In addition, David Shonman advised that we also hire a licensed surveyor to determine our actual "legal" north-south property line with the State. Rogers E. Johnson and Associates do not determine legal property lines, however their survey lines are very accurate. They survey reference points using geographical data as opposed to county recorded deeds.

With the Right of Access proposal submitted to the State for staffing, we can reasonably expect some sort of an answer within the next few months. The process is slow and I can only assume that the document submitted will be adjusted several times before an actual agreement is reached and a permit secured.

Recommendation: *To approve up to \$6,740 for Rogers E Johnson & Associates to survey the 12 beach reference points and prepare a report in accordance with the Cost Estimate provided.*

The Board M/S/C the above recommendation.

On September 5, 2008 management received a Notice of Exception from the Department of Parks and Recreation to the State Planning and Research Department in Sacramento. This document authorized the development of a Shoreline Maintenance Right of Entry Permit between the State Parks and the colony. Along with this authorization came the actual draft Right of Entry agreement/document for association review and Board signature. This document is currently in negotiation and with minor adjustments will allow the colony the necessary access to provide foredune maintenance and dune restoration.

Rogers Johnson & Associates completed the shoreline boundary survey the first week of September. David Shonman and I met with Mr. Johnson on Monday, September 15, 2008 and went over the preliminary findings of this survey and report. We also discussed soft as well as possible "hard fixes" to the damaged foredunes on the southern portion of the colony. Following that meeting, David discussed these repairs with members of the Coastal Commission Planning Department to include the possibility of emergency repairs if future storm seasons were to again pose a threat to any of the buildings on the property.

On Tuesday, September 16th, George Maciag, (Board Director), Tom Bugary, (GM), Carol Turley, (GM, Pajaro Dunes Association) and David Shonman, our Coastal Biologist met at the association clubhouse. The purpose of this meeting was:

- to discuss (from a historical perspective), emergency operations enacted to protect the houses at Pajaro Dunes Association during the winter storms of 1983.*
- to discuss the PDA manager's experiences in the formation and functionality of a Geologic Hazard Abatement District at Pajaro Dunes, formed in 1999. The district is a government entity composed of the Board of Directors and members chartered to react to maintenance and emergencies concerning their seawall. They are a state organization with powers to maintain and/or repair their seawall from any natural threat.*
- and to discuss the feasibility of other remedies the Coastal Commission may recommend if it became necessary to enact a "hard fix" to our foredune area.*

On October 1, 2008, David Shonman met with Ken Gray from State Parks to finalize the Right of Entry Permit which would allow us access out on the beach to perform dune restoration and maintenance. We are now waiting for a release from our *Stop Work* order from the Coastal Commission in order to enter into this special permit agreement with State Parks. With the winter storm season coming soon, a written answer from the Coastal Commission Enforcement Division is becoming the major focus of our efforts. While we have verbal clearance from the Coastal Commission, we are 2-months past due on a positive written response. We need this clearance from the Coastal Commission in order to finalize the permit process to protect the homes at the southern end of the property.

At the recommendation of Rogers Johnson and Associates, David Shonman and I invited John Kasunich, a coastal engineer to MDCA to discuss methods of diverting storm run up and debris on the south end of the property this winter. John Kasunich had developed plans for repairs to the colony in 1983, as well as was the principal in designing the sea wall at the Pajaro Dunes Association during the same time period. Kasunich came highly recommended by most local coastal professionals and I had worked with him during the 1997 storms while a manager at

Pajaro Dunes. Our meeting was on October 15th, 2008 at the MDCA Clubhouse and consisted of a site visit, a discussion of different types of barriers, construction restraints due to existing facilities, codes, easements, coastal commission permit criteria and the general permit application process. At the end of the meeting, it was evident that the bureaucratic process would make it very difficult to obtain a permit for any type of semi-permanent barrier protection other than (possibly) something made of *natural* materials. Any *natural* barrier selected would have to be placed within the MDCA property lines and on top of the leaching fields that are servicing septic system #9. While in the event of an emergency, most reasonable requests for emergency revetments would be considered by the coastal commission, however, at the end of the emergency, most projects require re-engineering and the work redone, or adjusted to accommodate the guidelines and county and state agencies under non-emergent conditions. This practice usually costs more than twice what the project would have cost had the work been engineered and approved prior to the emergency. As of the date of this report, best estimates for the design of natural barriers, (geo-tubes filled with sand/slurry), could be as much as \$30K, survey and biologist fees aside, as well as materials, equipment and labor. At this point, I do not know what the scope of the work is. We are scheduled to meet with John Kasunich next week to discuss the project. I know the material used for these tubes will be a coarse fabric which holds the sand/slurry in and allows the water to filter in and out. These geo-tubes are filled mechanically and positioned such as to divert run up and debris similar to a sand dune barrier. There are several breaks in these inner dunes formations where water run up can filter back out after the waves breach the foredune area and come in contact with these man-made inner dunes.

On Friday, October 24, David Shonman and I met with Brent Buche, Chief of Operations and Maintenance for the Salinas River, and his Maintenance Superintendant, Richard Nason. The purpose of this meeting was to alert them of our concerns for the southern part of the property in the event that we experience severe winter storms again this winter, and to find out when they planned on opening the river through to the ocean.

During the course of the meeting, we were given an update on the Salinas Valley Water Project, (Proposition 50). We were informed that the National Oceanic and Atmospheric Administration, (NOAA) had added requirements and interjected changes to the project that may have a significant impact on the colony. Without our knowledge or input, NOAA implemented changes (as a condition of obtaining a federal permit) to the county project which included making the Salinas River steelhead trout-accessible. In order to allow steelhead to migrate inland from the ocean, NOAA directed that the river be breached different from the traditional process of breaking it open at the most direct (east-west) route to the ocean. One of the changes to the breaching of the river (starting this winter) is to break a channel in a northwestern direction, towards the colony and then as the river gets close to the ocean, the county will then break the channel westward, into the ocean. This type of breaching will slow the water flow out to the ocean and give the steelhead a chance to swim in/out. The fish will then sit in the (expanded) river mouth lagoon area in brackish water and adjust to the fresh/salt water. The fish would then travel upstream, past the new inflatable dam, (through special fish tunnels), and then on to the spawning beds, or back out to the ocean, (as the case may be). During the course of the meeting, the engineers agreed with our concerns that redirecting, and slowing the flow of the river would reduce the amount of sand that is released into the ocean from the river. The coastline in front of MDCA is protected with this infusion of sand which builds up our beaches and assists in the formation of the sandbar. The engineers also concurred that breaching the river in a north by northwest direction would slow the river probably expanding the size of the lagoon area.

Expanding the mouth of the river could cause flooding in the low areas north of the river mouth. This flooding could cause the river to redirect, (as it did in 1983), and possibly flood the pond area near unit 340 and cause the river to then break in front of unit 336-340 out to the ocean. This could potentially undermine the northern leaching field of septic system number 9 located on the property line and well as potentially destroy a significant section of the shoreline.

We have scheduled a meeting with Jacob Martin, a Coastal Biologist with the Department of Fish and Wildlife in charge of administering oversight on the protection of the Western Snowy Plover. David Shonman, George Maciag, Mary Balgooyen and I will meet with him on December 4th. This meeting will include a site visit, (to the river mouth), a follow-on briefing and discussion at the clubhouse. We will also seek clarification of the Biological Opinion on Issuance of Department of the Army Permits to the Monterey County Water Resources Agency for completion of the Salinas Valley Water Project where the Service did not recognize the area in front of the Monterey Dunes Colony as critical habitat for the Snowy Plover.

Upon notification of the newly adopted breaching process, the board sent a letter to Curtis Weeks, General Manager of the Monterey County Water Resources requesting a meeting. Mr. Weeks responded and the meeting is set for Monday, December 1st. David Shonman, George Maciag, Mary Balgooyen and I will attend. The board also sent a letter to Supervisor Calcagno, 3rd District Supervisor for Monterey County expressing our concerns with the changes to the water project. The board offered him a site visit and a briefing on both the Salinas River breaching issue as well as barrier emplacements to protect the homes in the southern part of the colony. The Supervisor accepted and the meeting has been scheduled for Tuesday, December 2d. David Shonman, George Maciag, Mary Balgooyen and I will attend.

I received the final report from Rogers Johnson and Associates. From that report we can compare the changing coastline, (erosional scarp) and lost foredunes especially in the southern area of the property. This study also included beach profiles in elevation that showed grade changes and the repositioning of the sandbar that protects our beaches from breaking wave actions during a storm.

Based on the positioning of 12 property profiles surveyed, as well as timeline photographs from the California Coastal Records Project, we were able to superimpose the property lines on actual aerial photographs. These photographs will be used in determining the best placement for any barrier material we may use to protect the southern portion of the colony from wave run up this winter.

MONTEREY DUNES COLONY MUTUAL WATER ASSOCIATION

Water Conservation – Oriented Billing

During the September billing period, there were 18 units that exceeded the Tier 1 conservation zone and 5 that exceeded Tier 2. Four units in excess of Tier 1 allocations were not billed as they were under the \$5.00 billing limit. Unit owners were notified of their monthly and gallon-per-day consumption.

During the October billing period, there were 14 units that exceeded the Tier 1 conservation zone and 4 that exceeded Tier 2. Four units in excess of Tier 1 allocations were not billed as they were under the \$5.00 billing limit. Unit owners were notified of their monthly and gallon-per-day consumption.

Owners who exceeded Tier 1 and Tier 2 water use limits were billed for their usage in accordance with Association Policy. All homeowners were notified of their monthly and gallon-per-day consumption.

OLD BUSINESS

NEW BUSINESS

Resignations and Appointments

George announced that we have two committees, the Finance Committee and the Environmental Control Committee (ECC), that have had member resignations. As Board President, George has appointed new members to the committees. The following is a list of who resigned and who was appointed:

Finance Committee – Marty Deggeller and Bill Michaels resigned; Mary Jansing Balgooyen and Ted Swanson were appointed.

ECC – Mary Jansing Balgooyen, Chair, resigned and Ellen Michaels was appointed as Chair.

Revised Calendar for Board Meetings 2008-2009 Term

It was decided that the tentative schedule of meetings for the 2008-2009 terms would be as follows:

1/17/08
3/21/08
5/16/08
7/18/08
9/19/08

WATER COMPANY BUSINESS

Addressed in Manager's Report.

ADJOURNMENT

There being no further business, the meeting was adjourned at 12:00 p.m. The next meeting will be on January 17, 2008 at 10:00 AM.

EXECUTIVE SESSION

An update on #116 was discussed

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 October 31, 2008.

Account Balances as of September 30 and October 31, 2008 are:

	<u>Sept</u>	<u>Oct</u>
Union Bank Reserve	\$703,624.19	\$627,749.36
Union Bank Operating	\$ 79,914.62	\$137,077.47
Union Bank Investment Acct	\$ 7,953.17	\$ 7,956.52
Community Bank Petty Cash	\$ 732.87	\$ 994.48
Union Bank Water Operating	\$ 20,262.76	\$ 21,854.82
Union Bank Water Reserve	\$ 77,801.14	\$ 79,194.06

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