

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

July 21, 2012 (Revision)

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, July 21, 2012 at the Monterey Dunes Colony Clubhouse and established that there was a quorum.

MINUTES

The Board reviewed the draft minutes of the May 19, 2012 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 May and June 2012. Ted noted that the payments to the Capital Reserve Replacement Fund and to the Mutual Water Association were current. 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.

Bill Michaels asked how many homeowners were delinquent in paying their 2012 reserve assessment. Management advised the Board there were two outstanding annual reserve assessments unpaid at this time.

FINANCE COMMITTEE REPORT

Bob Dickinson, committee chair, reported that the committee had met the previous day to review the unaudited FY 2012-13 financial documents for both the Colony and the Water Company. The operating budget, (after some expected audit adjustments), is projected to end FY 2012-13 with a \$25-\$30K surplus. The committee also estimates that the reserve budget will end the fiscal year with an approximate \$70K surplus.

Bob noted that we were very fortunate that our worker's compensation insurance cost less than half of what was budgeted this year, due in part due to a \$3,483 refund from the previous year and a \$6K reduction for this year. In addition, Bob noted we are assigned a .77 modification factor on our worker's compensation premium; which means we only have to pay \$0.77 of every dollar that the policy would normally cost.

ENVIRONMENTAL CONTROL COMMITTEE (ECC) REPORT

Ellen Michaels, ECC Chair, gave a verbal report. She stated that the ECC had met via teleconference on June 20, 2012 to consider two requests.

- 1) To construct a gate closure on the patio by the back bedroom at unit 144 – approved with stipulations.
- 2) To remove some acacia bushes in the common area outside of unit's 118 and 120 – approved with stipulations.

ADHOC WAVE RUN-UP COMMITTEE

Ted Swanson, committee chair, reported that there has not been a formal meeting since the last Directors meeting. Ted stated that there is a meeting scheduled this coming week to meet with State Park representatives to begin, (again), the process of obtaining a right-of-access permit with the state so that we can work across the boundaries between us and the State Parks without fear of encroaching onto state property. The previous permit we had applied for was shelved in Sacramento for a few years and is now expired.

Ted completed his report with a comment that the Snowy Plover appear to be making a significant come-back and should be taken off of the threatened species list in the foreseeable future; but added that he wasn't counting on it.

NOMINATING COMMITTEE

George Maciag, committee chair, reported that the committee had their first meeting approximately four weeks ago and their last meeting was the day prior to the Board meeting. George stated that the committee decided that, rather than nominate five of the six candidates, they would simply state that all six candidates were eligible to run and let the election run its course.

POSTAL ADDRESS CHANGE COMMITTEE REPORT

Ted Swanson, committee chair, stated that we had received around 80 responses to the question of whether the Colony should change their mailing address to Moss Landing rather than Castroville. Seventy-seven of the 80 responses were positive. After discussion, the Board asked that Don Tenenbaum, committee member, (and the committee member doing most of the research for this project) to investigate the next step and to find out what exactly is required to change post offices.

GENERAL MANAGERS REPORT

This report covers work completed in fiscal year 2011-12.

Deck, Fence, Sidewall Shingles and Parking Lot Lights

Association carpenters have replaced 23 decks this fiscal year, 8 more than originally scheduled for replacement this year. Decks replaced include Units 134 Entry; 134 Landside Bedroom, 134 Oceanside Ground, 194 Landside Bedroom, 146 Landside Bedroom, 198 Entry, 198 Landside Bedroom, 248 Entry, 176 Entry, 176 Landside Bedroom, 182 Entry, 200 Entry, 216 Landside Bedroom, 226 Entry, 228 Landside Bedroom, 234 Entry, 256 Entry, 256 O/S Ground, 270 Entry, 298 Entry, 312 Oceanside, 316 Entry and 338 Entry. The Courtyard Trellis was replaced at Unit 270. Contractors replaced a previously modified deck at unit 122, fitting it around an existing hot tub.

Unit courtyard fences completed all or in part this fiscal year were at units 176, 216, 228, 236, 238, 292 and 338.

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

Light poles were moved up on the reserve schedule at the entrance gate and in the parking area near unit 340 and replaced.

Painting

Unit trim was repainted at units 122, 216, 234, 264, 266, 268, 270, 272, 274, 276, 278, 280, 290, 294, 312, 314, 316 and 328. Painting was an unfunded requirement this year.

Landside Boardwalk Replacement

Landside boardwalks have been replaced near units 134, 172, 238, 224, 226, 228, 298, 300, 302, 316, 322, 324, 332, 334, 336 and 338. Boardwalk is replaced as determined necessary and in many cases, ahead of the current reserve schedule.

Window and Entry Door Replacement

Contractors have replaced the oceanside sliding glass door on unit 286 and unit 122 as well as a picture window in 286. In addition, the garage doors at units 316 and 340 were replaced and an

entry door at unit 168. Management has focused on deck and fencing replacement over windows this year and will continue to monitor the vinyl block frame and single pane aluminum windows which will require replacement in the near future.

Built-up Roof Replacements

The association contracted with Ross Roofing to replace 10 built-up roofs at units 130, 154, 160, 168, 170, 202, 204, 242, 244 and 340. While the project is completed, all inspections have not been signed off on by the County Building Inspectors. The contractor will receive his retention contingency upon completion of these inspections, release of any mechanic's liens and our acceptance of his work.

Coastal Projects

From last report:

Due to an inordinate amount of rain during the first part of April, the Monterey County Water Resources Agency, in collaboration with NOAA National Marine Fisheries Service, US Fish and Wildlife Service, California State Parks, and local landowners, initiated sandbar management activities at the Salinas River Lagoon on Friday April 13, 2012. The work consisted of lowering a section of the sandbar to allow potential flood waters to enter the Ocean. The goal was to minimize impacts to the environment, personal property, and wildlife. This was done even though objected to by the Department of Fish and Wildlife Service, (USDFWS) and the other Snowy Plover Protection Groups.

On Tuesday May 15, 2012 MDCA hosted a meeting with the regulatory agencies concerning the Salinas River and ongoing sandbar management requirements. The meeting was attended by California State Parks, Owners of Mulligan Hill, Ocean Mist and Scattini Farms, Department of Fish and Wildlife, NOAA Fisheries, Point Reyes Bird Observatory, California Fish and Game, Monterey County Water Resources Agency, and MDCA. The main topic was the probable need (under emergency proclamation) to breach the sandbar within the next few days for the second time this year and the impacts this would have on the nesting Snowy Plover. The Water Resources Agency reported the Lagoon at 4.8 feet and rising and the Old Salinas River, (OSR) could not handle accepting any more water through the diversion gates without flooding the farmland. With objection from the Plover groups, the Water Resources Agency made it clear that in the event they could not divert more water from the river and lower the lagoon, they would be breaching the river by emergency proclamation. This caused intense discussion as there are many Plover Nests in the area that would be affected by the Equipment and breaching process. On the other hand, the flooding and expanding of the lagoon area already claimed one Plover nest this season. After lengthy discussion, the DFWS agreed to a plan of breaching by hand (shovel), if absolutely necessary, and with the assistance of the PRBO, labor from the Landowners as well as from the Water Resources Agency. Brent Buche said he would keep all agencies advised as to the level of the lagoon, and when/if it would be necessary to breach the river.

To date, intense control of river levels and flows through additional pumping of the river to the farmer's fields, curtailing water from the Marina Reclamation Facility, and continued dumping of river water through the OSR diversion facility has kept the river at safe levels. We are still on standby to assist the Water Resources Agency if breaching the river becomes necessary.

After several attempts to convince State and Federal agencies that the use of snow fencing to capture wind-blown sand was not destructive to the environment, nor was it threatening to the snowy plovers nesting on the beach, Ted Swanson and I met with David Shonman on Tuesday June 25, 2012 to talk about alternatives. We agreed that it was probably a losing cause to push

these agencies any farther, as they had a predetermined but unproven mindset that the drift fencing was harmful. Absent from any expert's opinion stating otherwise, we refocused our efforts on alternatives we could get county and state approval on such as using drift wood in lieu of snow fencing, (positioning it during the winter in the foredunes) and piling sand on top of the prepositioned drift wood. David is drafting a letter to the Department of Fish and Wildlife asking for this change and for their support in obtaining a coastal development permit to do repairs to the foredunes this coming winter.

We have a scheduled meeting with Jill Poudrette, Steve Bachman and Amy Palkovic, current State Parks representatives who are responsible for entering into a right of access agreement between us to work out in the foredune area. Jill Poudrette is the designated responsible person by State Parks to resubmit and track our Right of Access Agreement through the approval process. Our original permit was signed in late 2008 by MDCA and State Parks and sent to Sacramento for approval by the Coastal Commission and Corp of Engineers, but instead, it sat in Sacramento at the State Clearinghouse without further action. The responsible person at that time was Ken Grey, (now retired), who did not follow up on the progress of the agreement. According to Jill, now that we know it is not in the system, the agreement needs to be reviewed and redone. She stated to us in a letter ***"The Right of Entry permit for this project was never finalized and since conditions may have changed and the work the Colony is performing is different than what is described in the Notice of Exemption, we will have to start this process again. We should start with a site visit to discuss the proposed project."*** This will be the topic of the meeting on July 26 at 10:00 AM at the colony clubhouse. Representing MDCA will be Ted Swanson, Tom Bugary and David Shonman.

Electrical Brownout 318 through 340 (update)

On Friday May 11, 2012 there was a major electrical power failure where PG&E equipment caused extensive damage to power appliances from units 318 through 340. More specifically the garage door openers between 318 and 340 were burned out, street lights and many appliances were damaged inside units 330-332 and 334. The association replaced the garage door openers on behalf of the homeowners and submitted the claim forms to PG&E for reimbursement. Garage door openers were replaced by MDCA upon an agreement with the unit owners to pay the costs and to wait for reimbursement from PG&E if/when they pay for the damages. Claims for appliances inside the individual homes were submitted by the homeowners themselves. Claims are still pending.

Front Gate Replacement

Management has accepted a bid from American Door and Gate for the replacement of the front entrance gate, (exit and entrance). The cost of the front gate and wheels is approximately \$3,500.

There was a discussion concerning vehicles gaining access to the colony by driving in the exit gate while the gate is still open (after a vehicle exits). The Board requested that Tom reduce the timing on the exit gate so that it closes sooner than it does now.

Smoke Alarm Inspections/Testing and Battery Replacement 2012

The association has completed this year's smoke alarm inspections and battery replacements with the exception of 3 units: 116 and 174 with scheduling issues and 328 with a logistics issue.

Chimney Inspections/Cleaning 2012

Management solicited bids for this year's fireplace inspection and cleaning in order to get the best possible bulk-rate price for services rendered. We will be retaining the services of Cypress Sweeps.

	<u>Inspection</u>	<u>with Cleaning</u>	<u>Other Types of Stoves</u>
American Chimney Sweeps	\$60	\$120	\$65 hr.
Morrill & Forbes	\$105	\$125	No-Bid
Keystone Chimney Sweeps	\$45	\$110	No Bid
**Cypress Sweeps	\$45	\$80	\$115

MONTEREY DUNES COLONY MUTUAL WATER ASSOCIATION

Water Conservation – Oriented Billing

During the May billing period, there were eight units that exceeded the Tier 1 water conservation zone, five were under the \$5.00 billing limit. There were no units that exceeded Tier 2.

During the June billing period, there were eleven units that exceeded the Tier 1 conservation zone. Two were under the \$5.00 billing limit and therefore not billed. There was one unit that 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.

Water Storage Tank

We are still working on repair strategies for the 212,000 gallon water storage tank. I am planning site visits with Carlson Storage Tanks to visit areas where the company has installed the liner material in tanks of various ages and sizes. These trips are to both Northern California as well as down near the Los Angeles area so they need to be timed when I can make the trip. I should have some preliminary recommendations for liners to repair to our tank in the next couple of months.

OLD BUSINESS

Homeowner Survey Update

George Maciag reported that he had posted the survey on “Survey Monkey” (a web-based survey) and it will be available for homeowner access on July 30, 2012. The average time to take the survey is 16 minutes. Susie will notify all homeowners how to access the survey. Results of the survey will be made available to all homeowners.

Website Committee Report

At the last Board meeting, Bill Michaels distributed the committee report to all Board members and asked that they discuss it at this meeting. The committee made some significant recommendations:

- 1) Regarding a social aspect, the committee recommends a social network where only community members can join. This social network, nextdoor.com, has been set-up and already has approximately 26 members. To join the network, visit duneviews.nextdoor.com/login/ and click on “Don't have an account? [Sign up](#)” and enter your address here at the Dunes. If you are already a member, once you have signed in, feel free to “invite” as many neighbors as you would like by clicking on the [Invite More Neighbors](#) link.
- 2) To post safety information to the public face of our existing website, montereydunescolony.com, that would be useful to any person staying at one of the units. Examples are the nearest hospital, fire department, 24 hour drugstore, cautions about ocean dangers, and reminders of the Colony rules.
- 3) Improve communication with homeowners when new information is posted on the existing website.
- 4) Make the existing website more attractive by adding pictures of the MDC homes, the beach, and the scenery.
- 5) Add links for FAQ's on both the public and private pages of our existing website.

After discussion, the Board asked management to implement item 2) (posting safety information) and there was no conclusion on the other items, but will be discussed at the September meeting.

Homeowner Request for Telephone Participation at Board Meetings

At the Board meeting in May, the Board had asked the manager to look into the cost of a listen-only conference call so that members could call and listen-in to the Board meetings. Management answered that the cost is equivalent to a long distance call from whomever calls in. Because Tom did not have the name of a specific company, Tom Nolan volunteered to refer a list of companies to management who do the listen-only conference calls.

Homeowner Request to Analyze an Attorney-Client Privileged Document

A request was made by Tom Nolan that the Board allow him to read a letter written to the Board from the Colony's counsel in September 2011. Mr. Nolan stated that he believes the attorney-

client privilege allowing privacy to this document was waived when a portion of the letter (Mr. Nolan believes it was a significant portion) was disclosed in the September 2011 minutes. Bill Michaels responded that the Board has an opinion from the association's attorney regarding his request and it states that a significant portion of the document in question was not stated in the minutes and it was the opinion of the association's counsel that the Board did not have to release the document if they chose not to. Bill felt that it would set a terrible precedent were they to release a privileged document. Bill asked if there was a motion to release the document from counsel to Mr. Nolan. Without a motion, Bill stated he felt the issue was closed and he hoped it did not go to litigation as all owners pay for that.

Mr. Nolan stated he did not want to go to litigation but couldn't leave it at this as the board was not being well advised by their counsel and something should be done. He stated there needs to be a process where homeowners who disagree can be heard. George Maciag agreed there probably needs "some sort of process" without resorting to attorneys. Mr. Nolan offered the association could appoint a judge to oversee the process, saying it should take no more than 20 to 30 minutes to determine who is right. The floor discussed the makeup of a legal advisory committee and during the discussion; Frank Williams volunteered to provide information to the Board as to how the HOA, (where his other residence is located), deals with homeowner/board disputes. Bill asked him to provide that information for input and instructed Tom to run the process of establishing a legal advisory committee by Steve Weil, the association's counsel. Tom asked that he be allowed to send the tape to counsel because he did not want to get something wrong in the translation to the attorney. The board agreed with his suggestion.

Mr. Nolan further stated that most of the problems he is having is with this unknown lawyer that he cannot seem to talk to or negotiate with. Bill commented that Mr. Nolan had talked to the association's attorney in the past and Mr. Nolan acknowledged he had, but for other issues. It was Mr. Nolan's assessment that rather than turn things over to an arbitrator to resolve the wave run-up issue, (in a dispute between he and the association a couple of years ago), Mr. Weil told Mr. Nolan that he wouldn't, because Mr. Nolan would win, (in arbitration). He continued by telling the board that this is not what counsel was supposed to be doing, he was supposed to be a problem solver, not a litigator. This subject generated additional discussion.

Tom Bugary spoke on behalf of Mr. Weil's qualifications, his work ethic and dedication to the association as its counsel.

George Maciag asked Mr. Nolan if he was satisfied with the process the board was taking (of establishing a committee) and in the end Bill stated he would formulate the committee at the next meeting.

NEW BUSINESS

Approve Election Company to Outsource Election

Since there are six candidates for five Board seats for the 2012-2013 term, the Association will have an election and will need to outsource this election to a contractor. After discussion concerning costs, the Board M/S/C that the Inspectors of Election, (the election company we used last year), be contracted to run this year's election.

Homeowner Requests for Additional Signage Lights

A homeowner made a request that we put lights on the “Monterey Dunes Colony” sign on Molera Road. After discussion, the Board requested Tom to research the feasibility and the cost.

Recommendation to Extend Repayment of Reserve Loan

On September 11, 2010, the Board signed a resolution to borrow \$80,000 from the reserve account to fund the purchase of a wave run-up barrier system. The resolution stipulates that the funds are to be repaid within one year unless the repayment period is extended at a duly noticed Board meeting. On May 28, 2011 the Board voted to extend the repayment of the loan until September 2012. After going over the options for repayment, the finance committee is recommending to the board that \$30,000 of the loan be repaid by September 2012 from anticipated year-end revenue over expenses in the operating account and that the repayment period for the balance be extended for one year since it would not be practical to assess homeowners for the \$50,000 during the current economic climate. *After discussion, the board M/S/C the recommendation to extend the repayment of a \$50,000 loan balance made from the reserve account for a period of one year.* The new date for repayment of these funds to the reserves is September 2013.

OWNER’S STATEMENTS

Mary Ann Hoisington stated that a former original homeowner, Marshall Moran, has passed away.

Parm Williams requested that the Board notify the homeowners via these minutes that John Magee, homeowner unit 152, has passed away. John worked for the original developer, Trans America, was the first Board president, and served on the Finance Committee from its inception to January 2005. Parm suggested that we have some kind of permanent remembrance for him since he was an instrumental part of the Colony. This suggestion was discussed and tabled until the next Board meeting to give members time to think about the suggestion.

Bill Michaels stated that based on information from Frank Williams, made an announcement that he had been informed that today was the 25th birthday and open house of the Monterey Bay Aquarium Research Institute (MBARI).

Tom Nolan asked if he was on the legal advisory committee, re-stating that he was volunteering. Bill stated that he would select a chair and the chair would recommend the members of the committee to the board. Mr. Nolan stated he would withdraw his request to run for the board if they finalized the committee today and he were on it. Bill stated he hadn’t yet selected a chair or established a committee. Mr. Nolan told Bill his resignation as a candidate was contingent on the board establishing a committee and he being on it. He further stated he didn’t care who else was on it or who the chair was. After discussion, the board agreed to establishing an adhoc legal advisory committee and that when formed, Tom Nolan would be a member. The board and floor

discussed the role of the proposed committee and Mr. Nolan stated that this committee would not be the means to resolve his issue but a means to resolve homeowner disagreements with the board. After further discussion, a motion was made to form a temporary [adhoc] advisory committee that will include Mr. Nolan to recommend to the Board mechanisms to resolve conflicts between homeowners and the Board without resorting to litigation and with minimal legal expense. The motion was M/S/C. Subsequently, Mr. Nolan withdrew his nomination as a potential director for the board.

In lieu of Mr. Nolan's withdrawal, George Maciag, Nominating Committee chair, announced that the remaining five nominees are elected by acclamation. These nominees are: Bill Michaels, Ted Swanson, Bob Dickinson, Jeff Schwartz, and Frank Williams. In addition, it was M/S/C to rescind the previous motion to contract with The Inspectors of Election for the 2012-13 election year.

WATER COMPANY BUSINESS

Addressed in the managers report.

ADJOURNMENT

There being no further business, the meeting was adjourned at 2:15 p.m. The next meeting will be on September 15, 2012 at 10:00 a.m.

EXECUTIVE SESSION

A homeowner requested a monthly assessment late fee be waived due to unusual circumstances.

FOR THE BOARD OF DIRECTORS:

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

Treasurer's Report May and June 2012

This report covers our fiscal year budget status through April 30, 2012.

Account Balances as of May 31 and June 30, 2012 are:

	<u>May</u>	<u>June</u>
Comm Assoc Banc (CAB) Reserve	\$ --	\$ ---
ICS Reserve (CDARS Acct)	\$ 836,312.60	\$ 414,060.91
CDARS (CD Placement)	\$ 503,251.55	\$ 503,251.55
CAB Operating	\$ 133,133.53	\$ 114,688.94
RABOBANK Petty Cash	\$ 1,180.27	\$ 543.45
CAB Water Operating	\$ 16,648.69	\$ 16,183.15
CAB Water Reserve	\$ ---	\$ ---
ICS Water Reserve (CDARS Acct)	\$ 114,850.19	\$ 712,164.17

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