

**COMBINED MEETING OF THE BOARDS OF DIRECTORS
MONTEREY DUNES COLONY ASSOCIATION
AND
MONTEREY DUNES COLONY MUTUAL WATER ASSOCIATION**
January 16, 2010

PRESENT

George Maciag, President
Bill Michaels, Vice President
Jim McFeeters, 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, January 16, 2010 at the Monterey Dunes Colony Clubhouse.

MINUTES

The Board reviewed the draft minutes of the November 21, 2009, Board meeting. It was M/S/C to approve the minutes as written.

TREASURER'S REPORT

Jim McFeeters, Board Treasurer, gave the Treasurer's Report for November and December 2009. Jim 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, Jim 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

John Gentry, Committee Chair, reported that the committee had met immediately prior to this meeting to discuss the Colony's financial reports for the first six months (July-Dec) of the fiscal year. The two largest issues of discussion were regarding the funding of the Wave Run-up Project and future bad debt expense.

John noted that the Wave Run-up Project would cost approximately \$350K, and, taking into account that at least two of our 120 units won't be paying, suggested that the emergency assessment be set at \$3000 per unit.

Homeowner bad debt is currently \$23,210.88 and represents two homeowners. Although both of these homes are currently in the foreclosure process, the remaining amount of bad debt for this fiscal year is unknown, however it is currently enough that bad debt will be budgeted for in the FY 2010-2011 budget.

ENVIRONMENTAL CONTROL COMMITTEE (ECC) REPORT

The ECC met via teleconference on December 4, 2009 at 10:00 a.m. to discuss two homeowner applications:

1. Unit #310 requested to have a motion detector in their courtyard. The committee approved this request as long as the motion detector was properly focused.
2. Unit #220 requested to place Deco Rock in the common area outside her gate. The committee did not approve this request because they felt her description was too vague.

GENERAL MANAGERS REPORT

Deck and Fence Replacements

This report covers the first four months of fiscal year 2009-2010, July 1, 2009 through June 30, 2010. Association carpenters have completed 4 of the 15 scheduled decks this fiscal year, and 2 partial decks as "charge to owner" projects. Decks were replaced at units 220 and 160, (2 ea) at 168, and a partial at unit 318.

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 fences at the 172 refuse area and the fence 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 four windows at unit 284 and completed the installation of 23 windows 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 three entry doors since July 1st with four more scheduled this year.

Contractors replaced one unit garage door at unit 246.

Built-up Roofs

Unit's 124 and 184 were reroofed this fiscal year. Units 270, 274 and 330 are scheduled to be reroofed by Carl Black Construction starting on Tuesday, January 19, 2010, weather permitting. 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, four on unit 190, four on unit 184 and four on unit 124. The Association also replaced one owner installed skylight on a charge-to-owner ticket. The three buildings scheduled for flat roof replacement will also receive new skylights.

Re-siding

Since the budget cycle started on July 1st, association carpenters have replaced sidewall shingles all, or in part at units: 138, 146, 160, 196, 198, 236, 238 and 284.

Fumigations

Units 196-198-200 and 236-238-240 are pending refumigation under our current warranty.

Coastal Projects

From last report:

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:

<i>Sunstone Construction</i>	<i>\$356,727.000.</i>
<i>Don Chapin Company</i>	<i>\$402,525.000.</i>
<i>Granite Construction Company</i>	<i>\$446,235.000.</i>

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.

David Shonman submitted the application for permit for the 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 paid up front at \$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 contract with Sunstone Construction. The board discussed possible modifications to the original contractor'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.

The Board met in an executive session on November 21, 2009 and reviewed additional contractor data, along with other information concerning the project and elected to enter into a contract agreement with Sunstone Construction Company to complete the Wave Run-up Project. Tom was instructed to work with the Association's attorney to ensure the contract was correctly formulated and to give proper notice to the members. Tom was also asked to work with the finance committee and provide options to the board as to how the association would finance the project.

I notified our attorney on 12-7-09 of the board's decision and asked that he draft the contract documents. I received the initial "first cut" of the contract from our attorney on 12-21-09, forwarded the documents and discussed the project with the contractor on 12-23-09. The contract was returned by the contractor on 1-7-10 and is currently being ironed out by the

attorneys for both parties. The completed contract should be ready for signature in the next week to 10 days.

Upon a recommendation of a board member, and a general concern of the Board as to what type of pipe was used in the construction of the leaching fields in the early 1970's, John Kasunich and Mark Foxx recommended that the association excavate a section of the leaching fields and ascertain the condition of the lines after over 30 years of use and determine if they could withstand the combined weight of the new artificial dunes. I had Mark Foxx research with an engineer in Watsonville who worked on the northern leaching field of septic system #9 when, in the early 1990's, the northern field was operationally reduced by 50% to eliminate the possibility of foredune erosion uncovering the two most westward leaching lines. After contacting Mike Freitas, the engineer who did the work to modify the leach field in 1991, he remembered the composition of the pipe as an "Orangeburg style" pipe, but any official records documenting this had been purged several years ago. Current codes do not permit use of Orangeburg pipe which is essentially made of coal tar impregnated with wood fibers. Research shows this pipe is subject to softening and deformation with age, and is not compatible with some modern-day cleaning practices. Proper installation of the Orangeburg pipe was essential to support the pipe, in the form of "bedding", with specific compacted soils or gravel. As a general gauge from our engineers, the pipe is said to have a crushing resistance of approximately 2100 lbs/lineal foot. This is for "new Orangeburg type pipe" as opposed to the earlier, thinner pipe produced in the early 1900's. After excavating a section of leaching field #9, on 12-4-09, and inspecting the pipe as well as the "bedding" of the pipe, our engineers have estimated that the weight of the proposed artificial dunes should not effect the operation of the leaching field. As an additional precaution, the Board directed that Tom work with our engineers and determine what the impact would be if the project was adjusted to stop short of the Septic Tank, and the southern leaching field, eliminating approximately 50 feet of artificial dune at the southern end of the project. This would allow for the southern leaching field of septic system #9 to remain intact and not subject it to any additional weight. John Kasunich is drafting the adjustments for board review. According to the preliminary calculations of our engineers, the existing sand with the proposed artificial dunes would impose a load of 1250 lbs/lineal foot on the existing septic leaching lines.

Director Ted Swanson expressed concern about the leaching bed (below the gravel) of the northern field of the southern septic system and the current rate-of-percolation. He feels that putting weight on the leaching bed (sand on sand) could lead to excessive compression that could cause the Orangeburg perforated pipe to collapse or the leaching field to degrade from its current rate-of-percolation.

The association was directed on 12-23-2009 to post a "Notice of Public Hearing" on three locations near or close to the project. This requirement was completed and documented. We also were instructed to fill out the "Affidavit of Posting" and return the document to the Monterey County Planning Department. Subsequently, we were advised of a public hearing scheduled by the Monterey County Zoning Administrator to approve/disapprove the Wave Run-up Project to be held on January 14, 2010, at 1:30 PM, at the County Supervisor's Meeting Room.

Paralleling the Wave Run-up Project, members of the Water Resources Agency, NOAA Fisheries, and I met out at the river mouth on 12-13-09 to stake the proposed river channel for breaching the river to the ocean. This channel was based on predetermined setbacks and the work was supervised by NOAA Fisheries biologist Bill Stevens. Bill Stevens introduced his

replacement as the new head biologist for the Steelhead project, Devin Best, and notified all present that he was being transferred. After considerable time and discussion, the project was staked and excavating was set to start around December 16. After waiting a week, I called my Water Resources Agency contact Brent Buche to find out why the project had not yet started and found that the “other” federal agency, Fish and Wildlife Services, (representing the Plover, among other endangered species) had issued a stop to the excavating. For the next few weeks NMFS and DFWS were in collaboration as to which agency would trump the other. and as of last Monday 1-11-10, I was informed that the Resources Agency would cut a 50’ wide x 900’ long channel, in a north by northwest direction from a point at the lagoon out to the crest of the foredune sometime in the next week ahead of the rains. The two agencies had come to the decision that the channel would be a test this year and any needed modifications from lessons learned would be made to the breaching protocols for the 2010-2011 winter season. We are still monitoring the river mouth, expecting this mechanical breaching to start in the next few days. The Water Resources Agency has agreed to accommodate the association’s request to pile any excavated sand on the eastern side of the length of the excavated channel, creating a large artificial dune, adding some protection against the channel migrating further north or to the east into the low pond area near the south end of the colony.

On January 14, 2010 the Monterey County Zoning Administrator heard PLN090261, (our Wave Run-up Project) in the County Supervisors Meeting Room in Salinas. Representing MDCA were George Maciag, Board President, Ted Swanson, Director, and myself as Managing Agent. Elizabeth Gonzales, Coastal Planner, briefed the Zoning Administrator, Mike Novo on the project. Mr. Novo then questioned responsible agencies as to different aspects of the plan and then directed questions to the Association as to the purpose of the artificial dunes. The Zoning Administrator made two minor changes to the plan concerning the timetable for work being restricted to September 30th through March 1st, (around the Snowy Plover season) and eliminating a reference to State Parks and Recreation as being part of the reviewing process of the plan.

As of this date, the contract for the Wave Run-up Project continues to be negotiated between the attorneys for MDCA and Sunstone Construction Company.

Water System Outages and Repairs

On 12-12-09 the colony experienced several power outages along with a main power transformer failure. During power transfers from PG&E to our own emergency power, several circuit boards on our main power panel were damaged and the colony was on manual operations for approximately 10 days. PG&E also repaired a burned and severed main power line to well number 4. During the same period, our emergency diesel fire pump also experienced malfunctions and the association went to standby operations with the North County Fire Department on alert for tanker services until we repaired the diesel pump. Parts for the diesel pump had to be fabricated due to the age of the pump and it is scheduled for repair within the next week.

MONTEREY DUNES COLONY MUTUAL WATER ASSOCIATION

Water Conservation – Oriented Billing

During the November billing period, there were 13 units that exceeded the Tier 1 conservation zone, five of which were under the \$5.00 billing limit and not billed. One unit was identified as being in the Tier 3 billing zone. Unit owners were notified of their monthly and gallon-per-day consumption.

During the December billing period, there were five units that exceeded the Tier 1 conservation zone, two of which were under the \$5.00 billing limit and not billed. Two 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

Emergency Special Assessment for Wave Run-up Project

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

WATER COMPANY BUSINESS

Addressed in Manager's Report.

ADJOURNMENT

There being no further business, the meeting was adjourned at 12:25 p.m. The next meeting date will be March 20, 2010 at 10:00 AM.

EXECUTIVE SESSION

- 1) Homeowner request for waiver to Tier III water use charges.
- 2) Wave Run-up Project contract with Sunstone Construction.
- 3) Hearing to determine membership status of units 236 and 242 and foreclosure update.

FOR THE BOARD OF DIRECTORS:

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

Treasurer's Report November and December

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

Account Balances as of November 30 and December 31, 2009 are:

	<u>Nov</u>	<u>Dec</u>
Union Bank Reserve	\$ 918,512.41	\$953,364.48
Union Bank Operating	\$ 124,175.05	\$ 71,383.20
Union Bank Investment Acct	\$ 7,999.18	\$ 7,996.13
Community Bank Petty Cash	\$ 1,039.63	\$ 1,254.34
Union Bank Water Operating	\$ 25,609.31	\$ 24,279.23
Union Bank Water Reserve	\$ 95,400.33	\$ 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,

Jim McFeeters

Jim McFeeters, Treasurer