



MONARCH BAY ASSOCIATION

# BAY BANTER

FEBRUARY 2010



## DANA POINT COMMUNITY EVENTS

### **39<sup>TH</sup> Annual Festival of the Whales -March 6<sup>th</sup>**

*This winter a different type of tourist will be traveling along the West Coast and heading to Baja during its annual migration: the majestic California Gray Whale. The whales will begin their migration in late November, but from March 6 through 14, thousands of these 35-ton leviathans will splash through the seaside community of Dana Point, California – the West Coast's premier location to meet and greet these incredible creatures during the 39th Annual Dana Point Festival of Whales.*

*Festival highlights include an opening day parade, street faire and farmers market, art exhibits, classic car exhibits, concerts on land and water, environmental activities, educational opportunities, interpretive crafts, kids activities and of course, whale watching excursions that will allure even the most steadfast landlubber out to sea. For background information on the Festival and Dana Point, as well as a detailed Calendar of Events visit [www.festivalofwhales.com](http://www.festivalofwhales.com).*

### **BOARD MEETING TO BE HELD MARCH 8<sup>TH</sup>**

*The next Board of Directors meeting will be held on Monday, March 8, 2010 at the Rayfield residence, 419 Monarch Bay Drive. The homeowner forum will be held at 7:30 p.m.*

*The Meeting Agendas will be available at least 4 days prior to the meeting and will be posted at the guardhouse. Please note that items that are not listed on the agenda cannot be acted upon by the Board of Directors unless the items are of an emergency or urgent nature.*

### **MONARCH BAY COMMUNITY CLUB**

*Please join our monthly Ladies Luncheon at the Beach Club on the first Thursday of each month at 11:30 a.m. This is a social gathering and all are welcome.*

*The Community Club is also proposing a monthly movie matinee at the Rancho Niguel theatre, with a coffee gathering either before or after the meeting. Any suggestions or questions, please contact Margi Rawi at [margi.rawi@gmail.com](mailto:margi.rawi@gmail.com).*

### **2010 CENSUS**

*The Census Bureau has requested the cooperation and assistance in allowing census takers access to our community to perform the federally mandated task. The guards will ask for their identification when entering the community. We appreciate everyone's cooperation in this process.*

## **SAFETY CONCERNS**

*At the January Board Meeting, representatives of the Sheriffs Department were present to discuss their "Hide It, Lock It, or Lose It" campaign. In recent months, Monarch Bay owners have experienced thefts from unlocked cars parked in front of their homes. One of the additional dangers that was raised during that meeting was that thieves may have access to your garage and your home, by entering your unlocked vehicle and using your own remote opening device. Be safe, lock your cars!*

*\* Parents, please do not allow your unlicensed drivers to operate golf carts on our community streets, for their safety and everyone elses. The guards have been directed to stop golf carts from going through the gates if they are unlicensed.*

*\* One more reminder, the speed limit in Monarch Bay is a maximum of 15 m.p.h. but slower is safer, especially when kids are out and about.*

## **TRANSFERS OF TITLE NEED COMPLETE PAPERWORK**

*If you intend to transfer your property ownership into a trust or a different vesting, you must complete the appropriate paperwork with the Association to transfer your leasehold interest and membership in the Monarch Bay Land Association. All transactions require documentation, consent and execution by the Monarch Bay Association and the Monarch Bay Land Association. We believe that all transactions that involved a proper escrow have completed this process correctly.*

*If you have recently made a change to your ownership and did not notify the Association, we can assist you with this process after the fact. Please contact Shelley Logan at Progressive Community Management via e-mail at [shelleyl@progressivecm.com](mailto:shelleyl@progressivecm.com) or by phone at (949) 582-7770 to obtain further information.*

**MONARCH BAY ASSOCIATION**  
**c/o Progressive Community Management**  
**27405 Puerta Real, Suite 300, Mission Viejo, CA 92691**  
**(949) 582-7770 FAX (949) 582-7796**  
**or by e-mail to: [lisak@progressivecm.com](mailto:lisak@progressivecm.com)**  
**[www.progressivecm.com/mba](http://www.progressivecm.com/mba)**

*The offices of Progressive Community Management will be closed on Monday, February 15<sup>th</sup> for the Presidents Day Holiday. As always, emergency service is available by calling the regular business line at 582-7770 and following the emergency paging instructions.*

# MONARCH BAY LAND ASSOCIATION/MOULTON UPDATE

## FEBRUARY 2010

Our negotiations with representatives of MMB (Moulton Family LLC) have stalled, and we want to provide you with an explanation.

By way of a recap, one of the early alternatives we explored was a "bulk sale" of the entirety of Monarch Bay by MMB to MBLA. Our Confidentiality Agreement with MMB provided that since MMB had an appraisal of Monarch Bay (performed on January 1, 2007), MBLA would do likewise, which we did. It became apparent that a bulk sale would not work for two reasons, each of which alone was fatal. The only way a bulk sale to the MBLA would be feasible would be if there was seller financing provided. The Moulton family indicated that it had no interest in providing seller financing. The second reason was that our appraisers were significantly apart in value and valuation methodology. The Moulton appraiser took certain positions which could not be supported by any financially sophisticated person that we approached, including people entirely independent of Monarch Bay. For example, their appraiser appreciated today's property value by 6% per annum to 2020 but discounted that 2020 value to a present value at only a 3% per annum discount factor.

We had numerous meetings and spent numerous hours discussing another approach among our Board and with the Moultons. That approach was what we referred to as an "open auction" program. Individual homeowners could decide to wait until 2020 to buy their homes or go to the Moultons now or any time in between and negotiate a purchase price directly with them. Both sides agreed that this program had merit, and we set about assembling a list of things that needed to be accomplished to set this program in motion. Because of our current complicated title structure and the numerous consents and amendments that would be required, we concluded that our cost of setting up an "open auction" program would involve an expenditure of several hundred thousand dollars for professional/consultants fees and costs.

Since we anticipated that there would be a number of our residents who would not participate in early exercise, your Board concluded that there had to be an inducement to justify these transactional expenses which would be shared by the non-participating residents. What we came up with was the requirement that MMB waive the "All or Nothing" provision in the Option Agreement, meaning that in 2020 any individual homeowner could elect to exercise the right to purchase independent of his/her neighbor's decision. As you will recall, the current Option Agreement is structured to provide that there must be 100% participation in 2020 or no member may exercise. The benefit to non early exercisers is that future financability and salability of individual lots would be enhanced by eliminating the All or Nothing provision.

The Moultons seemed to be receptive to this waiver but countered by demanding a condition that there be a minimum number of early exercisers for this waiver to be effective.

Your Board deliberated intensely on the merits of agreeing to this condition and unanimously concluded that it was inadvisable for the simple reason that in the proposed "open auction" program, the Moultons would ultimately control the price of the homes, and by setting a high or low price they also would ultimately control the number of early exercisers. Correspondingly, the MBLA would have no control over price or the number of early exercisers. Our feeling was that it was inadvisable to impose hundreds of thousands of dollars of expenses on the community where a failure to meet the requirement for a minimum number of exercisers could result in those dollars being wasted. We

conveyed this position to MMB representatives at our November 9, 2009 meeting. No further meetings were scheduled. Recently, we had a phone conversation with a MMB representative who indicated that a family meeting will occur in early March to review the entire Monarch Bay situation and the MBLA was invited to propose possible solutions to our impasse. If and when negotiations commence with MMB, we will provide you with further reports.

Recently John Miles met with Edward Machoskie of U.S. Trust. Mr. Machoskie informed John that U.S. Trust has and will consider financing sales of Monarch Bay homes on the following basis: 30 year amortization, 7 year term and loan to value will be variable depending on the property. U.S. Trust is an affiliate of Bank of America. Many of you may know that Bank of America, until recently, was a very active lender in Monarch Bay but now refuses to consider such financing. Fortunately, U.S. Trust has a different perspective and this is a positive development for the community. If you have interest, you should call Ed Machoskie at (949) 760-2973.

Respectfully,

THE MONARCH BAY LAND ASSOCIATION  
BOARD OF DIRECTORS

Mailed to all owners- February 2010