



January 2012

SURFSIDE III e-NEWSLETTER

Daniel Kessner – Editor



FROM THE BOARD OF DIRECTORS

IMPORTANT NOTICE

Effective with the January operational monthly dues payment, payments for a \$2000 special assessment over 12 months will also be due. \$166.67, effective January 1, 2012 should be added to the dues of \$449, so that the payment for the 12 months of 2012 will be \$615.67.

Who is Surfside III's Legal Defense Team?

I am sure all the owners were painfully aware of the expense, time and inconvenience we all experienced as we worked through all the suits brought against us. Trials were the hard way to vindicate what we were doing. But fortunately we chose our legal defense team wisely.

William Slaughter and Gabriele M. Lashly have been named SuperLawyers for 2012. The selection is based upon peer review. Less than five percent of attorneys state-wide receive this honor. There are approximately 1,000 practicing lawyers in Ventura County. Only 12 have been accorded this honor.

William Slaughter was the senior attorney on the Lewow v. Surfside III, and the Salehi v. Surfside III cases. Gabriele is the attorney on our responses regarding the J Street Drain Project. Another attorney on this team, Bevin Berube, is handling a myriad of Surfside III issues dealing with backups, clutter, illegal construction, and other violations. We of course try very hard to solve these issues without calling Bevin, but she is called when all else fails.

Surfside III Volunteer Day

Please save February 4, 2012, approximately 9 A.M. until noon (in case of rain save February 18, 2012, same hours).

We are planning a clean-up, pick-up, painting, and more day for our complex. Plans are still developing but we do have a chairperson and would like some 'team leaders' to volunteer to help make this happen.

This volunteer work will start a 'Spring Cleaning' at the complex. It will also stretch our budget dollars and help make this a nicer place to live.

Plan to join your neighbors and other residents for a few hours to improve our home. Potential volunteers please send your name, email and phone to Bob Banfill at

robert.banfill@surfsideiii.com

Watch for flyers and the February Newsletter!

Proposed Changes to Rules and Regulations

The proposed changes to the Rules and Regulations included at the end of this issue are being submitted for a 30 day comment period, which is required by the Davis-Stirling Act, before the Board can adopt them. Please send Ira Green your comments at ira.green@surfsideiii.com. He will be assembling all the input for the committee responsible for these changes and the Board for the Rules & Regulations modifications.

FROM THE ON-SITE OFFICE

Architectural

With the increase of sales in the condo units, it is important that both new homeowners and existing homeowners who wish to improve their units are aware that an Architectural Application is required when putting in wood floors in the second and third floor units. Noise levels have become a very sensitive issue. There will be changes made in the Rules & Regulations regulating the floor requirements with appropriate underlayment.

A copy of the Architectural Application must be filled out and sent to the on-site office for review, where it will then be forwarded to the Architectural Committee, and if approved be forwarded to the Board of Directors for final approval.

According to the CC&Rs, Article VII - Section 5:

"No owner shall permit or suffer anything to be done or kept upon the project which shall increase the rate of insurance thereon, or which shall obstruct or interfere with the rights of other owners or annoy them by unreasonable noises or otherwise."

Condo Heaters

One of our homeowners was kind enough to contribute to our topic of Condo Heaters. Several years ago, they replaced their heater and are very happy with it. The name of the company is Madison A. Heating and AC, and the number is [\(805\) 488-2034](tel:8054882034). It's energy efficient too!!! PLEASE NOTE that this is an input from a homeowner and this firm is neither recommended nor endorsed by the Surfside III homeowner association.

Front Entry Gate

Periodically, the front entrance gate is left open as a result of the Port Hueneme Fire Department and Paramedics entering the complex. When you see this occur, please call the Fire Department and they will have someone come out to close the gate. Their number is [\(805\) 371-1111 ext. 53](tel:8053711111).

COMMITTEE BRIEFS

For more information visit: <http://www.surfsideiii.com/docs/committee/committee.htm>

Please contact the chair to volunteer.

Neighborhood Watch Committee: Val Lameka; 805-986-2855; v.lameka@yahoo.com

Most of the December Neighborhood Watch meeting was spent on discussing events involving Building 1 during the past month. Contrary to what you may have heard at the grocery store, the three officers who attended were at the meeting to cover for Senior Officer Bates' absence (bad traffic accident). All of this was discussed in detail at the open Board Meeting on December 10. Except for Building 1, there was nothing of significance in the remainder of Surfside III last month.

The next Neighborhood Watch meeting will be Thursday, January 5 at 7pm in the Clubhouse. Questions and reports to Val Lameka. Happy Holidays to all!

FROM THE EDITOR

Please send all newsletter submissions to me at dkessner@csun.edu. Please avoid any special formatting and use Arial 10-point font if you have it. The deadline is the 20th of each month for the following month's issue. Owners and renters should be aware that the Newsletter is always available on the website: www.surfsideiii.com. This includes back issues.

The **Owners' Corner** is a forum for all of you to voice your opinions on anything that might be of interest to everyone else. Please feel free to take advantage of this.

The City of Port Hueneme has a free electronic newsletter with information on various city-related matters and events. To sign up to receive it, visit the city website: www.ci.port-hueneme.ca.us, then in the column at the far left, click on "Sign Up for E-News."

Dan Kessner

CONTACT INFORMATION

MAINTENANCE/RESIDENT SUPPORT (PHONE NUMBERS AND E-MAILS BELOW):

Contact Lordon Management, Jennifer Critchfield; for e-mails always copy Donalea Bauer

Include your phone number(s) and/or e-mail for response before end of next business day. If you get her voice mail, but would like to speak with her directly, hit zero and talk to the operator.

If more urgent, call Donalea Bauer.

Surfside III On-site Property Manager's Office: 600 Sunfish Way, Port Hueneme, CA 93041

Phone: 805-488-8484

Please note that calls regarding maintenance or billing should be directed to Lordon Management.

Surfside III Direct Contact:

Surfside III COA
600 Sunfish Way
Port Hueneme, CA 93041
<http://www.surfsideiii.com>
manager@surfsideiii.com
Phone: 805-488-8484

Carol Short, On-site Property Manager

Management Company:

Lordon Property Management
1275 Center Court Drive
Covina, CA 91724
Phone: 800-729-5673
For after-hours emergencies, dial 5 or
626-771-1075

Donalea Bauer, Vice President, community manager

Email: donaleabauer@lordonmanagement.com
Phone: 800-729-5673 x 3342

Jennifer M. Critchfield, assistant community manager

Email: jcritchfield@lordonmanagement.com
Phone: 800-729-5673 x 3380

Our Board:

Bill Betts - President bill.betts@surfsideiii.com
Ira Green - Vice-president ira.green@surfsidediii.com
Skip Perry - Treasurer skip.perry@surfsideiii.com
Michael Madrigal - Secretary michael.madrigal@surfsideiii.com
Bob Banfill - Director bob.banfill@surfsideiii.com

LORDON MANAGEMENT: OTHER DEPARTMENT EXTENSIONS

All escrow matters: Nicole Castillo, ext. 3339; nicole@lordonmanagement.com
All insurance and collections: Mia Preciado, ext. 3337; mpreciado@lordonmanagement.com
Your account, billing address, etc: Liz Lopez, ext. 3319; llopez@lordonmanagement.com

RULES & REGULATIONS, PROPOSED REVISIONS
SUBMITTED FOR 30-DAY COMMENT PERIOD

PART I: FINES WITHOUT BENEFIT OF A WARNING

15. Sleeping in a vehicle anywhere on SSIII grounds is NOT allowed at any time. Any violation of this rule by an owner, a renter, or a guest of owner or renter, will result in a fine of \$100 per incident to the owner regardless of where they are parked. Animals may not be left unattended in any vehicle.

The rewrite below replaces paragraphs 1 through 20.

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PART II: GENERAL

1. All excessive noise, such as made by, but not limited to - stereos, musical instruments, TVs, loud voices, parties, barking dogs, car and motorcycle engines, construction, loud household appliances [use limited from 8 am to 9 pm], and any other noise which is so excessive as to disturb nearby neighbors - is prohibited.

Parties in common areas shall continue no later than 9 pm on weekdays, 10 pm on weekends [Friday and Saturday], and 10 pm before weekday holidays, to avoid disturbing nearby neighbors.

2. Any person involved in an incident of physical violence, which results in a verified police report, gives the Board of Directors cause to issue a \$200 fine without a warning to the owner of the unit.
3. In any instance when a call to police is required to stop excessive noise or disturbance, a valid complaint and verification thereof will result in a warning to the owner. Subsequent violations will result in substantial fines. [See Part I: "Fines Without Warning" No.13.]
4. Alcohol (beer and wine, but no hard-alcohol) is allowed only in common area picnic locations [in and adjacent to covered areas with picnic tables and barbecues] during gatherings of owners, renters, and their guests only when such events have been pre-registered with on-site Office.
5. Balconies or patios are not to be used for open storage of any kind, or for the drying or airing of clothes, towels, blankets, wet suits, etc., except wetsuits may be dried [24 hours max.] on plastic chairs. A neat and orderly appearance must be maintained at all times.

Furniture and plant stands on balconies and patios shall be limited to the normal types of outdoor furniture - built for the purpose and maintained in good condition - that are normally made of bamboo, willow, cane, wickerwork, pine, spruce, redwood, plastic, wrought iron, aluminum or plastic-covered metal frames. Padding must be stuffed into a wind and rain-resistant cloth.

Storage units or cabinets should not extend above railing or wooden fences and not exceed 36" in depth. These must be maintained in good condition and without overflow of contents.

Standard garden-tool or utility boxes that extend above railings are permitted only if they are in neutral colors and they do not block neighbors' views. Only two are allowed per exclusive-use area.

Plants [other than located in natural ground] must be in containers with trays to retain water. Every container must drain into a tray that is sufficiently large to collect excess water and be slightly elevated above the floor to prevent containment of water under the saucer, resulting in deterioration of the floor surface.

- Plants must be watered at their base, not sprayed.
- No plants or containers may touch railings.
- Any new plants or trees planted in town home patios should be in pots so as not to interfere with patio or building structures.
- All plants must be maintained in good condition.

No pets shall be left unattended on balconies due to significant damage to walls and floors from urination, defecation and complaints from nearby units about odors.

No trash may be stored on balconies or discarded over railings. No cigarette butts may be discarded over railings.

Open-flame barbeques/smokers are prohibited on patios and balconies for health and safety reasons. Only gas/propane barbeques are allowed. A complaint filed will result in a warning. If two or more complaints [can be from same person] have been filed with the On-Site Office, a \$50 fine for each violation will be charged.

Smoking on patios and balconies is prohibited. Note: Courts have held that Associations can pass rules against smoking on balconies because they have good reason to regulate smoking -- it is a health hazard, a fire risk, and a nuisance. Restricting smoking is NOT a violation of a person's [civil or constitutional rights](#).

Due to structural damage caused by excess water to buildings and railings, balconies, patio decks [other than concrete] and furniture must not be washed down or cleaned using water. No water may be allowed to flow over balcony-floors.

Residents may hang decorative items from wood beams on balconies, framing structures or overhangs as long as the hanging objects are not unsightly, offensive, unsafe, deteriorated, noisy, or do not substantially obstruct neighbors' views - - and there is no damage to the wood. Installing any decorative item on any stucco surface exposed to wet weather is prohibited.

When any hanging or mounted object is removed, the perforation into the wood or other surface must be filled and the surface must be returned to its original condition. Damage to structural material caused by objects that have been attached to the structure is the responsibility of the owner and will be inspected by Surfside III Condominium Owners Association.

When a unit is vacated by a renter or sold, an inspection must be scheduled before re-occupancy or 15 days before close of escrow. All repairs to the structure required after inspection are to be performed by Surfside III contractors and billed back to unit owner.

The visual appearance of balconies, decks and patios is critical in maintaining the property-value of SSIII units. Any visible exclusive-use area that is in a consistent state of neglect, disrepair, clutter, disorder, or is unsightly due to a large number of objects in disarray, will be subject to a warning and subsequent fines.

In the effort to upgrade and preserve the good appearance of the SSIII community, complaints by neighbors and periodic inspections by management staff regarding non-compliant appearance will generate warnings to owners of units in violation. This will allow residents a reasonable time to remedy any non-compliant conditions. Decisions regarding violations and fines shall be determined by management and the Board.

Ten days after warning, fines will be issued to owners who allow private-use areas (balconies, driveways, front or back patios) to become so offensive that a complaint is lodged with the On-Site Office or Board, and is verified by management staff. Also, if inspection of a site by management staff indicates that the condition is a clear violation of reasonable standards of appearance and/or maintenance (including either non-compliant items, an excess of items, and/or excessive vegetation), and which therefore may constitute a threat to the property value of neighboring units and/or the complex as a whole, a fine of \$100/month will be charged.

An exception shall be made for units which are in the process of construction or remodeling, but only for a reasonable amount of time to be approved in writing by the On-Site Office.

6. Bicycle storage rooms are for the storage of bicycles only. No gasoline driven cycles of any type may be parked in these rooms or on any sidewalk or walkway or on the balconies. No furniture storage is permitted in the bicycle storage rooms.
7. Garage sales will not be permitted at any time.
8. Only employees of Surfside III, members of the Board of Directors, or other authorized personnel assigned to do so are allowed access or entry to restricted areas, such as electrical or other control boxes, timers, filter rooms, storage or shop areas, or to climb onto walls or roofs. This includes making adjustments to irrigation system devices, sprinkler heads, or gate valves. Any individual observed violating this rule will be subject to a fine.
9. All trash must be placed in the trash bins; recycling material must be placed in the recycling containers. Nothing should be placed outside the bins. No trash, garbage, or debris shall be left in common area view at any time. Dumpster diving is strictly prohibited. Any person violating this rule will be given one warning - and subsequent incidents will result in a \$50 fine for each violation.
10. Construction and homeowner repairs are allowed Monday thru Saturday from 8 am to 8 pm and 10 am to 6 pm on Sundays.
11. Exclusive use items in townhomes, such as water heaters, are the responsibility of the owner.
12. In conformance with California Corporation Code, it is no longer the policy of Surfside III COA to give out association members' name and address lists for reasons other than election campaigns. The code specifies, para 8330 (b) (1) "Where the corporation...provides a reasonable alternative pursuant to subdivision (c) it may deny the member access to the list." Subdivision (c) states that an alternative to reaching the owners must be provided within 10 business days. The Newsletter is offered as an alternative, as it is mailed to all owners.
13. Flyers may not be posted by owners or renters anywhere on the common area unless sponsored by Board members or approved by Surfside III committees and the Board.
14. Residents are not to rake or sweep debris, feces, etc., from exclusive areas to any common area. This debris is to be collected and disposed of in the appropriate dumpsters.
15. Any owner/renter/resident must refer to special Ace Duraflo procedures regarding plumbing repairs that are available on a flyer in the on-site office and on the SSIII website before starting any plumbing work.

PART II: RENTAL UNITS

4. All owners must insure that a unit registration form has been completed and is on file in the On-Site Office, in order to allow usage of the Common Area and/or recreational facilities and/or parking spaces. They must also insure that the tenant has received and acknowledged the receipt of the Rules and Regulations. Upon completion of the registration, use of the common areas, recreational facilities, and parking spaces will be allowed.
5. Owners and/or their agents are responsible to make certain that their tenants register with the office/on-site manager and/or Property Management Corporation within five (5) working days after occupancy and receive and acknowledge receipt of the Rules and Regulations. Failure of the tenants to register within ten (10) days will result in a \$200 fine, which is in addition to the \$100 new tenant move-in fee assessed to the owner.

PART II: ARCHITECTURAL ALTERATIONS, ADDITIONS, OR MODIFICATIONS

13. Soundproofing on second and third floor condo units is required when hard floor surfaces are installed. Sound heard in the room below – conducted through hard floors such as tiles, wood, laminate, hardwood timber, parquet, bamboo, vinyl etc. is impact sound transmission. Soundproofing flooring, using an underlay, absorbs the energy of the sound waves

and reduces the intensity of impact sound heard below.

Approved Products for Wood & Tile Floors are:

- Option 1 - QT 4010 Underlayment, 10 mm
 - Option 2 - Regupol 6010, 10mm
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- a) Owner must submit application for architectural committee approval.
 - b) Owner must obtain permits from the City once their application is approved by the Board.
 - c) Copies of permits to be submitted to the On-site office for SSIII files
 - d) The Surfside III On-site office must be notified to confirm product before and after installation.
 - e) Cost of on-site inspections by office shall be \$150.
 - f) Cost of inspection shall be paid prior to construction.
 - g) Soundproofing shall be installed as per manufacturer's recommendations by a licensed contractor,

PART II: PARKING

15. NO large vehicle [larger than 229 inches long or 80 inches wide] **or** any open-bed vehicle that is consistently over-loaded [beyond the edge(s) of the bed] with goods or materials, may be parked within the Surfside III complex - except in the designated "oversize" Parking Spaces near the RV Parking Area [no "parallel" parking allowed] or in the RV Parking Area. Residents in townhomes with adequate driveway space may park larger vehicles but not RVs, overloaded vehicles or large vehicles with permanently painted commercial signs. The measurement is from the front bumper, guard, or similar to the back bumper, trailer hitch or other object.

Both Oversize Spaces and RV areas require a reservation and payment of monthly fee of \$75.

Owners will be fined \$200 for each instance of violation by their owner's, renter's or guest's vehicles. Short-term (active) loading or unloading activities will not be cited.

16. Vehicles that are parked in visitor spaces and not currently registered shall be towed at the expense of the Condominium Association, which expense may be recovered upon the recovery of the vehicle by the owner.
17. Vehicles that are parked in privately assigned spaces may be towed or ticketed at the behest of the owner of that space.
18. Police will issue a ticket for an illegally parked car if an officer of the Board or the Association Office manager requests it as a favor to the owner of that space.
19. The owner of the space may call the police to ticket a car for illegally parking in their space, or may tow it away at their own expense. If the car is registered and not missing any parts, there may be no fee to the carport owner for towing the vehicle if the towing company is willing to do this.
20. In any instance when illegal parking in a privately-assigned space has resulted in a trip charge from the towing company, that fee will be billed back to the owner who parked illegally – including instances when a renter of a unit or a guest of a renter, has committed the illegal parking violation. A verified payment of a trip charge by the owner of the assigned space will be reimbursed and the violating owner will be fined.
21. Vehicles parked in a red curb zone areas are required to be ticketed and towed as soon as possible by request of an officer of the Board or Association Office manager.
22. Office Management routinely inspects all vehicles parked in Visitor and Private spaces for operability and current registration in accordance with Surfside III Rules and Regulations. A notice to tow after 96 hours will be issued to violating vehicles found in visitor spaces, while automatic \$50 fines will be issued to the owners of the private spaces containing violating vehicles.



COMPLYING WITH SENATE BILL 563:

A Guide to Proper "Board Action" Under the New Board Meeting Requirements

Jeffrey A. Beaumont, Esq.

Senate Bill 563 (effective January 1, 2012) dramatically modifies Board meeting requirements under the Davis-Stirling Common Interest Development Act, affecting Board action outside of meetings, action on agenda items, notice and agenda requirements, and, perhaps most of all, conducting business by email. The following is a guide for Boards and management to ensure legal compliance for Board action under this new law.

What are the Board meeting requirements under SB 563?

First and foremost, the general rule is that a Board *must* hold a meeting in order to make decisions or take actions on association business. Decisions or actions made outside of a meeting are generally unlawful, and expose the association and Board to liability claims. A good rule of thumb is that a meeting is required for any action or decision that requires official action (i.e., majority vote).

Under SB 563, a "meeting" now includes the following: (a) any gathering of a majority of the Board at the same time and place to hear, discuss, or deliberate upon any "item of business;" or (b) a teleconference in which a majority of the Board, in different locations, are connected by electronic means (audio or video or both) for a meeting. "Item of business" means any action within the authority of the Board, except actions the Board has validly delegated to any other person or persons, managing agent, officer of the association, or committee of the Board comprising less than a majority of the directors.

Therefore, a meeting is *not* required for the following:

- actions *delegated* by the Board to an officer, agent, committee, or manager;
- actions that consist solely of *providing information* to the Board, for the Board's consideration or action at a later meeting; or
- actions done solely by individual Board members, on their own initiative, that *do not require a majority* of the Board to consent and do not result in a decision, action, or otherwise.

To perform association functions outside a meeting, Boards should expressly and formally delegate the functions to an officer, agent, employee, or committee. This should be done in a Board meeting and recorded in the minutes. However, Boards must first determine what actions may be lawfully delegated, and to whom, and should adopt formal procedures for delegating those functions, in order to conduct official business in compliance with the law.

Notice and Agenda Required for ALL Meetings

All Board meetings, including those in executive session, now require a notice and an agenda of all "items of business" to be addressed at that meeting. Notice and agenda must be posted in a prominent place within the common area, or sent to all owners by mail, facsimile, personal delivery, news letter or by email (if the owner consents). Open meetings continue to require **four days'** notice, and SB 563 requires **two days'** notice for executive session meetings (again, with the agenda).

The only meeting that does *not* require a published notice and agenda is an "emergency meeting," which is a meeting called under circumstances that: (a) could not have been reasonably foreseen; and (b) require immediate attention or action by the Board, such that giving prior notice is impracticable.

Access to Executive Session Agenda

SB 563 now entitles owners to inspect and copy executive session meeting agenda. Prior law did not provide such; however, upon written request Boards must allow owners to inspect and copy executive session agenda. Because of this, we strongly recommend that executive session agenda be prepared in a general format without reference to sensitive information that will be addressed in the meeting, such as discipline, delinquencies, etc.

Teleconferences - Meetings by Video or Telephone

Boards may meet remotely, by video or telephone conferencing. However, such meetings still require notice and an agenda, except for emergency meetings. If a Board meets by teleconference (except solely in executive session) the notice must *identify a physical location* where owners may attend, and at least one Board member must be present at that location (at all times) with a speakerphone allowing owners to hear all proceedings and participate in the required open homeowner forum. Simultaneously, all Board members participating remotely must be able to hear any director and owner speaking at that location.

Email – Emergency Meetings Only!

Under SB 563, it is now clear that anytime a majority of Board members communicate via email about association business, *this constitutes a "meeting."* Email meetings are only allowed on an "emergency" basis, so in order to lawfully meet by email, Boards must now: (a) unanimously agree that the issue constitutes an "emergency" under the law; and (b) unanimously consent in writing to meeting via email before the meeting takes place. Only then may an emergency email meeting proceed. The written consents (which may be transmitted by email) are recorded and filed with the minutes of the meeting.

What matters can the Board discuss or act upon during a meeting?

Even during a properly noticed meeting, Boards cannot take action on any item of business that is not on the published agenda, with some exceptions. A Board member (or manager, agent, or employee) may do any of the following:

- (i) *Briefly respond* to statements made or questions posed at a meeting;
- (ii) *Ask a question* for clarification, or make a *brief announcement* or *brief report* on his or her own activities, whether in response to questions or on his or her own initiative;
- (iii) *Provide a reference* for factual information to agents or staff;
- (iv) *Request a future report* from agents or staff concerning any matter, to be given to the Board at a future meeting, or direct staff to place a matter on a future agenda; and
- (v) Direct staff to perform *administrative tasks* to carry out any of the above.

Finally, Boards may act on matters not on the agenda at a meeting if: (a) the Board determines that an *emergency* exists; or (2) at least 2/3 of the Board decides that immediate action is needed and this came to their attention after the agenda was posted (note: if 2/3 of the Board are not present at the meeting, then all Board members present must agree); or (3) the item was on the agenda for a prior meeting no more than 30 days previously and, at that meeting, the Board continued the item to the current meeting.