



February 2012

SURFSIDE III e-NEWSLETTER

Daniel Kessner – Editor



FROM THE BOARD OF DIRECTORS

Surfside III Clean-Up Day & Plant Donation

The building upgrades are nearing completion, while the clubhouse repairs and paving are only a few months down the road. So now is a great time to polish up our community image with our Spring Cleaning, and to help promote the values of our properties.

With our tight budget and limited staff we have a lot of things to do, and this is your opportunity to help pick up, paint up, plant flowers, and meet some neighbors.

SATURDAY February 4th, 9:00 am until Noon (Feb 18th rain alternate)

Wear work clothes and bring work gloves if you have them.

If you have potted exterior plants that you would like to donate to our efforts, or if you would like to donate some purchased nursery stock begonias, pansies, snapdragons, geraniums or impatiens, please bring those to the picnic area behind the Clubhouse early Cleanup morning.

Help us plan with your RSVP, including your attendance and any planned donations, in an email to: [ssiiibob@gmail.com](mailto:ssiibob@gmail.com), or stop by the office and leave your information with Carol.

The event will have small teams cover our complex to:

- Pick-up paper and trash
- Paint hazard areas red or yellow
- Make the area poop-free for a few hours
- Plant some color plants in need areas
- Other suggestions will be considered

1. Pickup team(s) to pick up all non-vegetative trash (e.g. paper, cans, bottles, toys, etc.) and move to trash can. (We will get bags, gloves and perhaps pickup grabbers for each team.)

2. Pooper scooper team(s). Get a couple of the 'pooper' scooper shovels plus bags and cover all the lawn areas and sidewalks for dog feces. Also possibly rake the play area for cat bonuses.

3. Paint team YELLOW - to refresh all yellow painted sidewalk warning areas.

4. Paint team RED - to touch up all red painted areas not on the street.

5. Larger paint team for entrance - Get hazard cones and watch persons along with painters, and rollers and brushes to paint both sides of the Surfside Entry way the primary color of either Bldg. 1 or 2. This would also require power washing by staff or contractor in the week preceding the painting.

6. Annual/Perennial planting team(s) - Buy several flats of pansies, snapdragons, begonias, impatiens, geraniums, etc., to add some color to various spots, especially the entryway. Also need a few bags of planting soil, B1 vitamin, shovels, trowels, etc.

7. Also give each team a complex map and some sprinkler flags to mark for staff any unusual areas (broken glass, broken sprinklers, open electrical wires, and hazardous materials like oil, paint, drugs).

FROM THE ON-SITE OFFICE

This Newsletter Distribution

If a resident asks you about receiving this newsletter, please let them know that it is emailed to a distribution list and is also posted on our website. You can see all newsletters at <http://www.surfsideiii.com/docs/newsletter/newsletter.htm>. If they want to be added to the e-mail distribution list, please tell them to e-mail Ira Green ira.green@surfsideiii.com with their name, unit, and contact information including their e-mail address and put **Surfside III Distribution List** exactly this way in the subject of the e-mail and their e-mail will be routed to a special folder so that their e-mail will be added.

Seawind Way Exit Gate

Within the next few weeks, traffic spikes will be installed at the Seawind Way Exit Gate. As part of the process, laminated signs will be installed on both the outside gate and on the Industrial Way outside wall for safety and compliance purposes. Additionally, a sign will be posted to the right of the exit gate on the Surfside III property. During the installation, please use the main exit gate at Surfside Drive.

Pets

BE KIND AND DON'T BE FINED! The Doggie Walk Bags are specifically designed to be used for picking up after your dog. Please use them. It has been reported over the past several months that pet owners are not picking up, and particularly in the evenings when it is dark. YOU can help by reporting the owner, address, and type of dog to the on-site office. Let's all work together.

Lateral Clean-Outs

As part of the Preventive Maintenance Program, we've completed cleaning out the lateral lines in Buildings 2, 3, 5, 6, 7 and will begin Building 4 the week of January 23rd. After completing the work, letters were sent out to homeowners when our vendor discovered that some units need additional repair work on the part of the homeowner. If you have received a letter or a second notice and haven't responded, please get in touch with the on-site office and advise us if you will either be handling it on your own, with your plumber, or if you wish us to take care of it.

Dryer Vents

Cleaning the lint trap is important for your safety. If not routinely cleaned, it can cause water damage, water condensation, possible fire hazard, health risk, higher electrical costs, and possibly damage to your dryer. We need everyone's cooperation to take responsibility in your unit to maintain the dryer properly. Although this notice will be distributed to each unit and townhome, if you are an owner who has a tenant living here, take a moment to contact them and remind them of their responsibility.

If your clothes take a long time to dry, or are hotter at the end of the drying cycle, the vent may be working with a reduced air flow. And when your duct becomes plugged, you are more likely to experience moisture or water damage. For vent cleaning, check the internet and get several estimates.

Thanks in advance for your cooperation!!

Balconies/Patios

As a result of the Building Envelope completion on Buildings 1, 2, 3, 4, 5 and 8, most of the balconies and patios have taken on a new look and we are happy to see it. We thank those who took the opportunity to throw out those few items that were simply taking up space and that you no longer had any need to store outside. Needless to say, the townhome back patios are being looked at more closely, and here again, now is a good time to begin the spring cleaning process and enjoy the outdoor patios that take on a favorable appearance.

As you all know when driving into the complex from Surfside Drive, Buildings 1 and 2 are the focal points and set the stage for what Surfside III represents. Building 8 is equally important because of its location on Bluewater Way. Thus the appearance of the patios and balconies is critical to the values of the property.

We are asking for everyone's cooperation to take a close look at what you have on your patio/balcony. Keep in mind that:

- No towels/rugs can hang over the railings
- No wetsuits can be hung up or over railings; set on chair near slider window
- Remove all bikes – bike room rental is a one-time charge of \$20
- Get rid of those potted plants filled with rags, brushes, collectibles, etc.
- Place that broom inside
- Remember not to use water to clean the deck and always use a "saucer" for your plants
- Do not leave your pet unattended on the balcony because of significant damage to walls and floors from urination and feces, not to mention complaints from your neighbors.
- Be especially careful about the number of plants you put outside; more doesn't necessarily mean that it looks better.

If you've got any questions, don't hesitate to contact the on-site office. You can also access the Rules & Regulations on the website, which is to be found at: surfsideiii.com

Dumpster/Pick-Up

There is a very large dumpster that has been following the building envelope work. This dumpster is for the exclusive use of the old railing. No trash or garbage should be thrown in it. If anyone is found doing so, there will be a violation issued.

If you wish to give away a BBQ, couch, table or bookcase, and since we no longer have a blue dumpster, please go to <http://groups.freecycle.org/VenturaFreecycle/description>. It is a website that matches givers with those seeking items, and at no cost.

Also, for a small fee, the City of Port Hueneme will pick up appliances and furniture. You can contact them at [\(805\) 986-6500](tel:8059866500) and they will schedule a pick-up. They may request that you leave your item in your carport space. If that is the case, please contact the on-site office and advise us that you are doing so, and put a note on the furniture with the scheduled pick-up date, preferably the evening before the pick-up date.

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

Police activity was relatively slow in January. The situation in Building 1 is being resolved through the courts.

There was a propane leak in a Winnebago motor home parked in the RV storage area, and the owner removed it from Surfside III.

Unusually, there was an accident (presumably auto related) on Sunfish way. We hope to get more details at the next meeting, because if two cars can collide, it could have just as easily been a car and a child or other pedestrian.

And finally, there were a few domestic disturbance calls.

The next Neighborhood Watch meeting will be Thursday, February 2, at 7:00 pm in the Clubhouse. All are welcome.

Valerie Lameka

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."

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

OFFICE OPEN:

Mondays & Fridays – 8 am-12 noon

Wednesdays – 1-5 pm

THERE WILL BE NO ON-SITE TELEPHONE SERVICE WHEN THE OFFICE IS CLOSED.

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
Liens, legal issues: Donalea Bauer (see above)

Davis-Stirling.com
Newsletter

by **AK** Adams Kessler

Serving California's Community Associations

January 29, 2012

OWNER CORRESPONDENCE IN THE MINUTES

QUESTION: I sent a letter to a board member questioning a major expense the association is undertaking. When the director tried to include this letter in the minutes, the board refused. Is this proper? I always thought a director could have letters from residents added to the minutes so they're part of the permanent record of the association.

ANSWER: The board's refusal was proper. Neither members nor directors have a right to include their letters in the minutes. The purpose of minutes is to record the [official business](#) of the board, not act as an outlet for grievances. If letters were included in the minutes, I can only imagine the flood of correspondence from owners with axes to grind and personal agendas. Those potentially inflammatory, inaccurate and [defamatory](#) letters would then be published to the membership and included in escrow demands for buyers to read. I shudder at the thought.

ARCHITECTURAL REVIEW OF SOLAR PANELS

A new case from the Court of Appeals provides some guidance on architectural review of solar energy systems.

Facts. A homeowner in the Tesoro del Valle Master Homeowners Association installed solar panels on a slope adjacent to his property without HOA approval. For aesthetic reasons and because of slope structure restrictions, the HOA wanted the panels on the owner's roof. The owner refused and the association sued.

Aesthetic Considerations. The homeowner argued that "aesthetic considerations" were an improper part of the review process and violated [Civil Code §714](#). The court disagreed. It ruled that "an evaluation of a proposed solar energy system--just as any other proposed improvement--would involve consideration of aesthetics."

Cost Considerations. Expert testimony by the association showed that the cost of installing the solar panels on the owner's roof was actually cheaper than installing them on the slope. Based on the testimony, the court ruled that the HOA's guidelines were not unduly burdensome and, therefore, reasonable.

Duty to Redesign. The owner then argued that once the architectural committee disapproved his original application, it had a duty to redesign his solar energy system to meet their guidelines. Again the court disagreed. The court found that the law imposed no such burden on associations. Per statute, the only obligation by the committee was to inform the owner of the [basis for its denial](#) of his application. The court ruled that "the burden is on the homeowner to submit an application that is complete and sufficient to generate [architectural committee] approval." ([Tesoro del Valle v. Griffen](#)).

RECOMMENDATION: The court's ruling does not give associations license to deny any and all applications for solar energy systems. It does, however, demonstrate that if an association's architectural guidelines are reasonable, they are enforceable. If boards are unsure about their guidelines, they should have an architect and legal counsel review them. For more information, see [Solar Panels](#).

EMAIL APPROVAL OF MINUTES

QUESTION: Our board sometimes approves meeting minutes by email (ex: annual meeting minutes for prompt notification of election results; monthly meeting minutes where there will be no meeting the following month). Does the amended Open Meeting Act allow such approval, since minutes are only reports of actions and don't constitute actions in themselves?

ANSWER: Good question. I like your practical approach to the issue but I suspect a court would be less practical in its ruling. Judges have an odd predisposition toward following the law. Even though minutes are only reports, approval of minutes (motion, second, all in favor) is itself a board action. For more information see [board decisions by email](#).

COMMITTEE CHAIR ON BOARD

QUESTION: I have been the chair of a committee for four years. I am considering running for the board. Does my chairmanship of the committee create a conflict if I am elected to the board?

ANSWER: There is no [conflict of interest](#). In fact, chairing a committee is good experience for serving on the board. Unless your bylaws provide otherwise, boards may [appoint](#) anyone they believe would be helpful (whether owner, renter or otherwise) on the committee. Moreover, the board president often serves as an *ex officio* member of all committees of the board. If so, the president has the right but not the obligation to participate in the committees. ([Robert's Rules](#), 11th ed., p. 456, 497.)

CORPORATE RECORDS AND FIDUCIARY DUTIES

QUESTION: We are a small HOA and self-managed. Directors kept most HOA records on their personal computers. No longer on the board, the former directors now refuse to make information including prior minutes available to the current board. What are the rules about passing records from one board to the next?

ANSWER: Most of the documents in question are probably corporate records and [belong to the association](#), not the former directors. Minutes are clearly corporate records. Your former directors had a [fiduciary duty](#) preserve corporate records on behalf of the association and then pass them to the incoming board. It sounds like your ex-directors are in breach of their fiduciary duties. If they are worried about the records being altered or destroyed by the incoming board, they can make copies (at their own expense) and then turn over the originals to the new board.

IRS NOW CHASING HOMEOWNER ASSOCIATIONS

The IRS has taken an unhealthy interest in the reserve accounts of homeowner associations. Boards should read the attached article about the [Sun City Summerlin Association](#) and then talk to their association's tax preparer.



[Adrian J. Adams, Esq.](#)

2011 California Legislative Update

By: David A. Loewenthal, Esq.

AB771 (Butler): Request for Documents/Fees: This law will amend Civil Code Section 1368 and add Section 1368.2. Currently, the Davis-Stirling Common Interest Development Act requires that an owner of a separate interest in a Common Interest Development provide specific documents to prospective purchasers of that property. In addition, homeowners associations are to provide those documents to the owner of the separate interest within ten (10) days of the mailing or delivery of the requests, as well as limiting the amount of fees that may be charged by the Association for providing those documents. Such fees are to be limited to the Association's actual costs to produce, prepare and reproduce the requested documents.

AB771 will now require that the seller of a separate interest provide a copy of specified minutes of the meetings of the Association's Board of Directors, if requested by the prospective purchaser, including 12 months of non-executive session board meeting minutes. Also, if the Association has a rental restriction in their governing documents, the owner must also include a statement identifying the restriction. In addition, the bill requires that an Association provide to the seller a written or electronic estimate of the fees to be assessed to provide the specific documents. The Association will be allowed to collect reasonable fees based upon the Association's actual costs for procuring, preparing, reproducing and delivering the documents; however, it would preclude the charging of additional fees for electronic delivery of said documents. The Association will be allowed to contract with any person or entity to provide the documents on its behalf. Further, AB771 will require the current owner to provide a form for billing disclosures to a prospective purchaser and also require the Association to provide this form to a recipient authorized by the owner of the separate interest. It is important to note that there will not be any cap on third party provider fees. The law will also allow the owner to designate someone other than themselves to be the recipient of the documents issued by the Association. Thus, the owner/member could direct the Association to send the documents to the prospective purchaser, realtor, lender, etc.

SB150: Rental Restrictions and Requirements: One of the most discussed bills signed into law in 2011 is SB150 pertaining to rental restrictions and requirements. This law, which goes into effect on January 1, 2012, will prohibit the owner of a separate interest in a Common Interest Development from being subject to a provision in their governing documents or an amendment to the governing documents prohibiting the rental or leasing of all or any of the separate interest in that Common Interest Development to a renter, lessee, or tenant unless the governing documents/amendment was effective prior to the date the owner acquired title to his or her separate interest. SB150 does authorize that owner to expressly consent to be subject to a governing document provision/amendment with that specified prohibition.

As a result of SB150, numerous homeowners associations have rushed to attempt to amend their governing documents to add a rental restriction so that it is in effect prior to January 1, 2012, thus making it enforceable as to all owners. For those associations who do not have rental restrictions in place prior to January 1, 2012, the potential benefit of such a restriction will likely be lost since there will be now 2 classes of homeowners, i.e., those homeowners that a rental restriction will be applicable to, i.e., they purchased after the rental restriction was in place and those who it is not applicable to, i.e., those members who owned prior to the effective date of such an amendment.

SB183: Carbon Monoxide Devices: Commencing on July 1, 2011, SB183 will require all single family homes with an attached garage or a fossil fuel source to install carbon monoxide alarms within their homes. Owners of multifamily leased or rental dwellings, such as apartment buildings, hotels, motels, condominiums are also subject to this new legislation. As such, by January 1, 2013, condominiums will be required to have carbon monoxide alarms installed in each unit. Pursuant to SB183, a carbon monoxide device is to be installed outside of each sleeping area. The remedy for failing

to install a carbon monoxide device is actual damages not to exceed \$100, exclusive of any court costs and attorneys fees.

It is our general impression that the individual owners will be responsible for installing the carbon monoxide devices in either their single family home or in their own condominium unit and that it will not be an association responsibility to so install.

SB209: Electric Vehicle Charging Stations: Another controversial bill is SB209 pertaining to electric vehicle charging stations. This bill will be codified as Civil Code Section 1353.9. SB209 will void and deem unenforceable any provision of an association's governing documents of a Common Interest Development that effectively prohibits or restricts the installation or use of an electric vehicle charging station. The Bill will authorize an association to impose reasonable restrictions on the placement of such stations, as well as requirements with respect to an association's approval process for same as long as the restrictions do not significantly increase the costs or reduce its efficiency. The Association must respond to an owner's application regarding an electric vehicle charging station within sixty (60) days; otherwise, it will be deemed automatically approved.

In those instances where an electric vehicle charging station is to be placed on common area or exclusive use common area, the homeowner would be responsible for the costs associated with maintaining and repairing the station, as well as the cost for any damage to the common area and adjacent units resulting from the installation and maintenance of the station. The Bill also places additional duties and responsibilities on an owner including maintaining an umbrella liability insurance policy of no less than \$1,000,000 (one million dollars) that names the association as an additional insured. It should be noted that an association that violates these provisions would be liable for damages and a civil penalty not to exceed \$1,000 (one thousand dollars), as well as reasonable attorney's fees. The electric bills must be paid by the member and the member must also disclose these conditions to any purchasers.

This controversial bill has many problems including a potential issue that if the electric vehicle charging station is to be placed on common area or exclusive use common area, whether such construction would constitute a "taking" of real property since generally two-thirds vote of the membership of an association must vote in favor of granting an exclusive use common area for such installations. Though signed, issues still remain with this statute that will likely be dealt with over the ensuing months.

SB563: Notice/Meetings: SB563, which will be codified into Civil Code Section 1363.05, will likely be the new law that affects Board of Directors, managers and the overall operation of an association the most going into 2012. As we are all aware, current law sets forth requirements for meetings of the Board of Directors of the Association and requires notice of the time and place of a meeting of the Board of Directors to be given to the membership of the association at least 4 days prior to the meeting, except under very specific circumstances, i.e., an emergency meeting. SB563 will require a notice of the time and location for a meeting that will be held solely in executive session to be given to members of the association at least 2 days prior to the meeting, except for emergency meetings (1360.05(g)). The executive session board meeting must have an agenda; however, we would recommend that the agenda be very general, i.e., use the language of Section 1363.05 regarding executive session, i.e., litigation, contracts, member discipline, personnel matters, member assessment payments. Executive session board agendas will now be available to a member for inspection and copying if requested. The Bill also provides that if a member consents, notice may be given to the member electronically. The Bill also deletes provisions that would generally allow the Board of Directors to consider any proper matter at a meeting even if it had not been noticed as an action item for the meeting.

This Bill is also being viewed as the end of Boards conducting business via the use of emails. Since the inception of emails, many boards have operated and made decisions without a meeting via unanimous written consent of the entire board. As has been the case over the last decade, many statutes that are now signed into law pertain to the issue of transparency with respect to the information available to the member as to the governance of the association, obtainment of documentation, books, records, etc. SB563 is a progression of these earlier transparency laws.

SB563 does not necessarily preclude Board members from limited communication via email; however, the bills' clear intent is to prohibit decision making through the use of email meetings, with the exception of emergency meetings. Thus, it confirms that Boards may not take action outside of a duly noticed Board meeting, except as to those actions that have been delegated to the manager, officers or board committee (less than a majority of the Board).

Emails may still be used as a method of conducting an emergency meeting if all members of the Board, individually or collectively, consent in writing to that action, and if the written consent or consents were filed with the minutes of the meeting of the Board. Written consent to conduct an emergency meeting may be transmitted electronically.

Interestingly, SB563 will allow meetings to be conducted by the Board via a teleconference as long as it is an open meeting and would allow owners to attend the meeting via telephone or video conference. As such, in the event that a meeting will be conducted via a teleconference, there must be a minimum of one physical location that members may go to in order to listen and participate in the meeting and at least one member of the Board of Directors must be physically present at that teleconference site. (Civil Code Section 1363.05(b)).

Violation of any of these provisions could allow a civil claim by an owner. If an owner prevails, he would be entitled to reasonable attorney's fees and costs and up to a \$500 per violation penalty. An Association is not entitled to attorney's fees and costs if it prevails, unless it can show that the lawsuit was frivolous.