



November 2011

SURFSIDE III e-NEWSLETTER

Daniel Kessner – Editor



FROM THE BOARD OF DIRECTORS

October 1st 2011 Board of Directors Election

A total of 160 ballots were cast which easily made the quorum requirement for this election of five directors, which was 143. Of those ballots, one voted using the cumulative method and was illegal, and another six were blank, leaving 153 ballots to count. Of those, 135 voted for Bob Banfill, 131 for Ira Green, 129 for Skip Perry, 126 for Mike Madrigal, 116 for Bill Betts, and 54 for Linda Kaplan. Thus the incumbent Board was reelected.

VCWPD Presentation at Surfside III on Saturday, October 22, 2011.

There were about 35 very involved homeowners from Surfside III in attendance.

The following people attended the October 22, 2011, Surfside III meeting from the Ventura County Watershed Protection District:

Norma Camacho, District Director
Peter Sheydayi, Deputy Director
Kirk Norman, Project Engineer
Angela Bonfiglio Allen, Environmental Planner.

Kathy Long, Supervisor, District 3 Ventura County was also in attendance.

The agenda follows:

J Street Drain Surfside III Meeting
Saturday, October 22, 2011 – 10:00 a.m.

Topics for Discussion

1. Beach Elevation Management Plan (NEW) vs. Emergency Action Plan (OLD)
 - a. Lagoon and J St. Drain are the Same; "Backwater" = Lagoon
2. Surfside III Side Drains
 - a. Near South Corner of Building 6
 - b. Parking Area between Buildings 6 and 7
 - c. Between Buildings 7 and 17
3. Safety of SSIII Buildings Adjacent to J Street Drain during Construction – New Mitigation
4. Tree Replacement
5. Fence Replacement
 - a. October 4, 2011 Meeting with Oxnard Waste Water Treatment Plant Manager
 - b. Masonry Wall
 - c. Taller Chain Link Fence with Green Nylon Screen – SSIII Side or OWWTP Side?
6. Halaco Groundwater

- a. District Coordinating Directly with USEPA Halaco Project Manager on Sharing Unpublished Groundwater Data (Anticipated Release by December 2012)
- b. Constituent of Concern is a Metal (Aluminum)
- c. Sheetpile Barrier vs. Injected Groundwater Barrier
- d. Low Risk to SSIII Residents if they Drink or Bathe in the Water Only

To see the slide presentation, click on: [VCWPD Presentation To Surfside III](#)

The Surfside III attorney attended this meeting and is preparing a response to the RDEIR expressing our concerns. You may also send in your own comments on the J Street Drain Project, which is the expansion of the J Street canal. The expansion of the J Street Drain [canal] is a major construction project that will affect our community. Construction time is estimated at one year. We are very concerned about this project – including the effect of the construction activities on our buildings, because we are in a liquefaction zone on unstable soil.

The JSDP committee is trying to get the Ventura County Watershed Protection District [VCWPD] to reconsider an alternate outlet that will mitigate the permanent backwater in the canal. The U.S. Fish and Wildlife Service is protecting the fish and birds in the Ormond Lagoon. We are hoping to protect SSIII and its residents. The Revised Draft Environmental Impact Report public review period opened September 23 - and ends on November 07, 2011. The website is <http://www.jstreetdrain.com>. Look on the introductory page for: "You may submit written comments on the report electronically by clicking [here](#)." Alternatives are FAX: 805-654-3350 or MAIL: Ventura County Watershed Protection District, Attn: Angela Bonfiglio Allen, 800 South Victoria Avenue, Ventura, CA 93009-1600.

FROM THE ON-SITE OFFICE

- Balconies/Patios

As a result of the Building Envelope completion on Buildings 1, 2, 3 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.

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 surfsideiii.com and can be accessed by clicking on [Rules & Regulations](#).

Condo Heaters

Once again, there are more homeowners contacting the on-site office requesting vendor information for inspections of their heaters. In all cases, the heaters are the original ones installed when the complex was built. It was reported that the heaters either had a slow leak, burned wires, or other work which needed to be done. After some investigation, it was recommended by a vendor that if the heaters are 30 years or older they most likely would need to be replaced. We request that homeowners pay particular attention to this matter and consider an inspection of their heaters before the cooler weather sets in. It is inevitable that the older the heaters are, the more dangerous they become. Please consider a "Safety Inspection." The Gas Company will come out for a one-time free of charge

inspection to determine if there is a potential problem.

Rental Prospects

Because we recently experienced an unfortunate set of circumstances, we urge all homeowners to conduct a complete Background Check on Prospective Tenants. Not only will it save you time and money, it protects the safety of Surfside III. A complete Criminal Background Check will deter anyone who may be a squatter, drug-dealer, or have a criminal background. During these tough economic times, potential tenants are becoming more savvy while the homeowner may be attempting to save some money upfront by not conducting the appropriate steps to have the tenant screened properly.

Even though the Crime-Free program requires changes to the CC&RS to be implemented, it is highly recommended that you get a complete financial and criminal background check by using one of the tenant screening services available, or you can go to the Surfside III website for more information by clicking on [Tenant Information](#). While a limited screening can be bought for \$25, the Crime Free Program will require a more thorough background check, and costs are approximately \$60. This could be made part of the cost to the tenant. Clearly telling the tenant that this will be done, and what the cost will be, is a screening in itself. In addition, if the tenant has previously rented at Surfside III, the on-site office will have a record of violations, if there are any. It is strongly recommended that you contact Carol Short in the on-site office to see if we have any experience with your prospect. The on-site office can also provide you with the appropriate paperwork.

Pool Temperature

The Board of Directors made a decision at the October monthly meeting to increase the pool temperature from 75° to 82° for a three-month period, at which time a re-evaluation of the costs will be conducted. A look at the use of the pool will also be made to determine if more homeowners/tenants are using the pool area because of the increased temperature.

Railings

Railing repair/replacement began on the condo buildings. The schedule will be as follows: Building 1 – Third Floor: week of 10/24; Second Floor: week of 10/31; First Floor: week of 11/7; Common Area Walkways: week of 11/14. Building 2 will begin the following week following the same pattern. Buildings 3, 4 and 5 will continue the same pattern.

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

The October meeting was so well attended that we ran out of chairs! Again, we were able to welcome several new residents, and introduce them to Sr. Officer Ryan Bates and our police volunteer, Delores Dyer. Officer Bates brought us up to date with the latest drug activity in Port Hueneme, and discussed new designer drugs which are not yet even classified as controlled substances under current law. He and other officers have increased suspected drug activity stakeouts and arrests. Surfside III remains a low problem area, and the police have increased their presence to assure it remains that way.

We asked about the release of 40,000 prisoners which was supposed to occur October 1 (the overcrowding problem in prisons). Officer Bates said that it had not happened yet. 400 of these are scheduled to be released in Ventura County, and Probation is trying to set up a program to handle the influx.

The next Neighborhood Watch Meeting will be Thursday, November 3, at 7 pm in the Clubhouse.

Questions and reports to Val 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."

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



Serving California's Community Associations

October 9 & 16, 2011

EMAIL BOARD MEETINGS

QUESTION: According to the new law, boards can no longer make decisions by email. Can we still discuss business by email but not vote by email?

ANSWER: Not anymore. Starting January 1, boards cannot discuss board business or make decisions via email unless it is an emergency.

No Discussions. Changes to the Open Meeting Act state that boards of directors "shall not conduct a meeting via a series of electronic transmissions, including, but not limited to, electronic mail." ([Civil Code §1363.05\(j\)\(2\)\(A\)](#)). A "meeting" is then defined to include hearing, discussing or deliberation by a majority of the board on any item of business within the authority of the board ([Civil Code §1363.05\(k\)\(2\)\(A\)](#)).

Emergency Meetings. Emergency meetings are exempted from the prohibition against email discussions and votes. An "emergency meeting" is defined as one where there are circumstances that could not have been reasonably foreseen which require immediate attention and possible action by the board, and which of necessity make it impracticable to provide notice as required by this section. ([Civil Code §1363.05\(g\)](#)).

Email. "Electronic transmissions may 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 . . ." ([Civil Code §1363.05\(j\)\(2\)\(B\)](#)).

Teleconference. If one or more directors refuses to consent to an action via email, the president or any two directors may convene an emergency meeting ([Civil Code §1363.05\(g\)](#)) where directors physically gather in a single location or meet via teleconference. ([Civil Code §1363.05\(k\)\(2\)\(B\)](#)). Once a quorum is present, the proposed emergency action can be approved by a majority of directors present. Assuming a five member board, if four directors attend, three must agree to the proposed action; if three directors attend, two must agree.

Minutes. If a [paper document](#) is prepared, circulated and signed, it must be made part of the minutes of the next open meeting of the board. If the consent was done by email, the email describing the emergency action together with the email approvals by each of the directors must be printed and filed with the meeting minutes. ([Civil Code §1363.05\(j\)\(2\)\(B\)](#)). Only the signed consent needs to be filed with the minutes--not the discussion. As with regular meeting minutes, the minutes should reflect the [action taken](#) by the board, not a transcript of the discussion.

MEMBER ATTENDANCE AT VIRTUAL MEETINGS

Starting January 1, 2012, a majority of the members of the board, in different locations, may attend board meetings electronically. For open meetings of the board, notice of the electronic conference must identify at least one physical location so that members of the association may attend. At least one member of the board must be present at that location. Participation by board members in an electronic conference constitutes presence at that meeting as long as all board members participating in the meeting are able to hear one another as well as members of the association who wish to speak on matters before the board (i.e., [Open Forum](#)). [Civil Code §1363.05\(k\)\(2\)\(B\)](#).

MINUTES TO RENTERS

QUESTION: Is there anything prohibiting an association from giving meeting minutes to renters? Is it a good or bad idea?

ANSWER: There is nothing in the Davis-Stirling Act that either prohibits renters from or entitles them to receiving minutes (or any other HOA records). I see no harm in providing minutes to renters. As residents, renters may have an interest in participating in the affairs of the association (I'm referring to business affairs) and want to contribute by joining a committee.

If a renter becomes disruptive, the courtesy of providing minutes can be withdrawn. One caveat--some associations have no requirement that directors be members of the association. In those situations, renters can be elected to the board of directors. Once elected, they would be entitled to the minutes, books and records of the association as would any other director.

FEEDBACK

Robert's Rules. Thanks for mentioning the new 11th edition of RONR. My wife and I, both members of the National Association of Parliamentarians, just returned from the biennial convention in Florida, where the new edition was officially released. There is an "In Brief" edition of RONR, with an 11th edition updating. It is much more suitable for persons who just want to know and use good parliamentary procedure, without getting into the nitty-gritty details that seldom come up. It is available, along with the full version, through this link to the [NAP Online Store](#). -Bob Hall, NAP Webmaster, just retired.

Speed Bumps. We're in a 55+ community and considered speed bumps about 10 years ago. We wound up with humps which are gentler but serve the same purpose. We didn't think that the bumps used in shopping centers were appropriate here and the humps have worked out very well. -Steve K.

Speed Bumps. Speed bumps are silent policemen for communities. Good bad or indifferent, they work. You slow down or risk tearing up your car, jarring your kidneys and cracking your teeth. Speed humps with a gradual rise and fall that slow vehicles are easier on everyone and do the job just fine. I feel the speed bumps are a necessary evil in some communities and it is fitting they be used, especially if the community has young kids that use the streets. -Jack S.

Plumbing Repairs. Because our building is 35 years old, we assume a plumbing drain problem inside a unit extends to the entire line. So instead of repairing the immediate problem, we replace the line serving the unit and the units above and below. We allocate \$8,000 per year for unidentified plumbing work in the Reserve Study. We attack the problem from the outside of the building wherever possible to minimize the inconvenience of repairs inside units. This almost always requires removal and replacement of stucco, but it is no worse than cabinet, drywall, painting inside the unit. It is much easier to coordinate work on the outside which means it gets done sooner. This policy has virtually eliminated weekend plumbing emergencies. -Mike G.

RENTER FEES

An interesting ruling was issued on Friday. It is a lower court decision so it cannot be cited for authority but it addresses the issue of whether owners can be charged a fee related to their renters. In the case of *Ken Watts v. Oak Shores Community Association*, the five-week bench trial resulted in a well-reasoned decision that members who rent-out their properties can be charged a fee for the burden their renters put on the association. As was noted in the [court's decision](#), Oak Shores fully justified its fees.

RECOMMENDATION: As long as an HOA can show that fees related to renters are reasonable and merited (and not pulled out of thin air) this case demonstrates that such fees can survive a legal challenge. Boards should be cautioned not to levy fees on renters "just because." They should consult with legal counsel to evaluate if the association has a legitimate basis for such fees.

COLLECTION NOTICE

QUESTION: [Civil Code 1367.1\(k\)](#) states "upon written request by an owner identifying a secondary address for purposes of collection notices, the association shall send additional copies of any notices required by this section to the secondary address provided." Would this include billing statements and or late statements?

ANSWER: Some may argue that billing statements and late statements do not qualify as "collection notices" but why take the chance? Which is less expensive, a postage stamp or a year of litigation? Whenever in doubt, give notice. (Thank you to [Richard Witkin, Esq.](#) for feedback on this question.)

FEEDBACK

I'm sorry I could not print all the emails I received on this issue. Following is a sampling. -Adrian

Director Emails #1. Surely [SB 563](#) must be one of the most ludicrous pieces of bureaucratic legislation produced. In this day and age and its modern means of communication, boards are now no longer permitted to use one of the more efficient means of communication in a busy world. This is absurd. If a member wishes to make some urgent alteration to their property, the email system is a wonderfully quick answer to their problem, rather than waiting for a formal board meeting. In Mr Bumble's immortal words, "The law is an ass." -Peter A.

RESPONSE: I agree, at times it can be. It points up the importance of supporting CAI's [Legislative Action Committee](#). Community associations need a strong lobby to counteract corrosive legislation pushed by the California Association of Realtors and proposed legislation by hostile "consumer advocates" wanting to cripple collection efforts HOAs need to stay financially afloat.

Director Emails #2. I have to honestly say, the restriction on board discussions by email is absolutely anal. We are currently undergoing replacement of a large hot tub. It had been a 3-month ordeal as we must deal with our city's Health & Building Departments. This project, as with our recent window replacement project and reroofing project, requires massive email communications between the board, contractors, the project manager & our property manager to make decisions. If we can no longer do this, we will be posting meeting notices daily. -Joseph L.

RESPONSE: Administrative and oversight tasks can still be handled via emails if delegated to the president and/or manager. Once delegated, the president and manager can make decisions and retain the right of email consultation with directors. The new statute specifically exempts delegated matters from meeting requirements:
"Item of business" means any action within the authority of the board, **except those actions that 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. ([Civil Code §1363.05\(k\)\(1\)](#))

Director Emails #3. Changes to the Open Meeting Act underscore the need for policy governance in every common interest development so work can get done between board meetings. Every community manager makes daily decisions that affect the association(s) they serve, but there are certain limits to our levels of authority, and there should be. That being said, it appears that with these changes to the law boards will need to either wait to conduct business at scheduled meetings or expand the decision making authority of their managers. Since the former may not always be possible, the best way to accomplish the latter is for boards to develop policies for managers to follow when they need to ask the board but can't. -Dirk F., Manager

RESPONSE: I agree. The unintended consequence of [SB 563](#) is that boards will have no choice but to delegate more authority to their president, manager, officers and committees so as to keep business flowing between meetings. Boards will need to work with management and legal counsel to develop policies that describe the parameters of the delegated decision-making authority.

Director Emails #4. If the president, vice president and treasurer were to discuss via email a financial matter in their roles as officers, would this constitute an illegal board meeting? -Jenson C.

RESPONSE: Matters delegated to officers can be discussed without violating the Act. [Civil Code §1363.05\(k\)\(1\)](#).

Director Emails #5. What does this new law mean regarding maintenance situations? Our board meets once a month. Can we vote to allow board members to conduct business electronically in an emergency situation. -Jean S.

RESPONSE: You can't vote to bypass the new restrictions. However, you have the following options: (i) delegate authority to the president and/or manager to handle maintenance issues between meetings, (ii) address emergency issues via email unanimous written consent, and (iii) call special meetings of the board.

Director Emails #6. I am stunned and angered by the new legislation. All of us work. We don't have time for phone calls, letter writing and additional meetings to conduct our business in a timely manner. This is so dictatorial that I find it offensive that HOAs have to endure so many restrictions that it becomes almost impossible to be responsible and pro-active board members. Whoever churns out this stuff has no idea what havoc and frustrations they are thrusting on HOAs. This is wrong, unjust and just plain unacceptable. If you think I am angry, you are correct. -Dawn B.

RESPONSE: For some reason, the Legislature thinks that volunteer board members are equivalent to full-time paid city council members with a bevy of staff at their beck and call and large budgets.

RECOMMENDATION: Other law firms may have a different interpretation of what boards can and cannot do once the new restrictions take effect January 1, 2012. Boards should consult with legal counsel on how best to implement the changes.