

SOUTH COAST HOMEOWNERS ASSOCIATION

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UPCOMING MEETINGS

Saturday, June 23, 2001 Reserve Studies and You

We are pleased to have Roy Helsing, PRA, CCAM, founder and CEO of The Helsing Group from Dublin, California will make a special presentation to South Coast members. Mr. Helsing is a founding member of the Association of Professional Reserve Analysts (APRA) And is considered a leading national expert in the field of reserve studies. Roy's firm provides consulting services in the areas of association start-up, budgets, reserve studies, reconstruction management, fraud investigation and training programs for managers and boards of directors. Roy wrote the article, "Who Maintains What" which appeared in the October 1999 ECHO Journal and was re-printed in the November 1999 South Coast newsletter.

We are privileged to have someone with Roy's expertise to come here and make a presentation to us. There is no charge to attend so make a point of attending. Space is limited to 50 attendees so please make your reservation by phone 964-7806 after 5 PM or email to gartzke@silcom.com.

Saturday, June 23, 2001

Holiday Inn – Goleta/Santa Barbara
5650 Calle Real, Goleta
Registration/Refreshments – 9:30 AM
Program start 10:00 AM

Thursday, July 26, 2001 – Legal Seminar with Beth Grimm

We are in the process of developing the subjects for Beth's annual summer law forum. Under consideration for this seminar are:

- Amending Governing Documents (It doesn't have to be painful – doing it efficiently and dealing with controversial changes)
- Attracting members to serve on the board and obtaining a quorum for the annual meeting
- Enforcement of CC&Rs between homeowners
- Implementing a fine policy – at any price?
- Should the association have a website? If so, what should be in it?
- Contracts – are 3 bids required? Are fixed price bids required?
- Finding resources to solve problems

Beth's programs have always been informative and well attended. Beth is a Bay Area attorney with over 12 years of legal experience with common interest developments. She has written two books along with a bimonthly newsletter, California Homeowner Association Legal Digest. Her most recent effort has been to establish a website for board members, homeowners, managers and realtors – www.californiacondoguru.com. A guru is a guide to enlightenment and her site contains a wealth of information.

Thursday, July 26, 2001
Holiday Inn – Goleta/Santa Barbara
5650 Calle Real, Goleta
7:00 PM

NEW ELECTRIC RATES EFFECTIVE JUNE 1, 2001 – MAJOR INCREASES ACROSS THE BOARD FOR ASSOCIATIONS AND THEIR MEMBERS

The California Public Utilities Commission adopted new rates in mid-May for customers of Southern California Edison and Pacific Gas and Electric. Rates are similar for both utilities. Here are some examples of how the new rates may impact your association.

SOUTHERN CALIFORNIA EDISON

GS-1 (General Service – Non-Demand) – This schedule is common for many association's with common area lighting/pool motors, etc. It is a business schedule, not a residential one and therefore, there are no "baseline" discounts as there are for residential customers. The main components of the bill are the customer charge (fixed each month) and the energy charge (per kilowatt hour - kwh)

The customer charge remains at 48 cents per day, per meter. For a 30-day cycle, that charge is \$14.40. The electric rate jumps from 11.76 cents per kwh to 21.044 cents in the summer (approx. June 3 – October 7) and 14.731 cents during the other months. What

follows are some examples of summer bills based upon 80kwh, 300kwh and 1200kwh per month:

OLD BILLS	<u>80</u>	<u>300</u>	<u>1200</u>
Customer Charge	14.40	14.40	14.40
Energy Charge	9.41	35.28	141.12
10% Offset	-2.38	-4.97	- 15.55
TOTAL OLD BILLS	21.43	44.71	139.97
NEW BILLS			
Customer Charge	14.40	14.40	14.40
Energy Charge	16.84	63.13	252.53
10% Offset	- 3.12	-7.75	-26.69
TOTAL NEW BILLS	28.12	69.78	240.24
RATE INCREASE	31%	56%	71%
“WINTER RATE INCREASE”	10%	18%	23%

So the “46%” increase that you heard about is really just an average. Associations will see a huge jump starting with their June bills (it is prorated starting June 3rd).

Some associations that use a lot of electricity (Edison rate schedule GS-2) will also see a big increase. Demand and customer charges will not change. However, rates per kwh will increase from 7.692 to 11.942 cents per kwh. (Usage above 300kwh times demand charge will be at 13.481/kwh) Assuming 6000 kwh of electricity used in the summer, costs will increase from \$785 to \$1,040, an increase of 32%.

OTHER UTILITY NOTES

Natural Gas – Southern California Gas baseline rate has declined to 76 cents from a high of nearly \$1.00 per therm earlier this year. The rate is still 40% higher than it was in January 2000.

Trash – The City of Santa Barbara has increased trash rates retroactive to February 1, 2001. For multi-unit customers such as condominiums that use dumpsters, the increase was 24% to implement free weekly residential recycling programs. It’s not free and at no additional cost, each association will receive one 95-gallon cart for commingled recycling and 168-gallons (five cans) for green waste. How far will this go for a 50-unit association? The former GM of the Santa Barbara BFI office told me that condo users were being subsidized by other residential customers! Not when they have to make only one pickup and process only one invoice. Government doublespeak at its finest!

**PLEASE FEEL FREE TO MAKE COPIES FOR YOUR BOARD MEMBERS
SHARE THIS NEWSLETTER WITH YOUR ENTIRE BOARD OF DIRECTORS**

BOARD MEMBERS' RULES OF CONDUCT FOR ALL BOARD OF DIRECTORS AND MEMBERSHIP MEETINGS

By: Diane C. Doria, CCAM, AMS
Assistant Vice-President – First Bank & Trust Association Services

Editor's Note: Diane is the current President of the Channel Islands Chapter of Community Association's Institute. During CAI's ABCs for Community Association Leaders held in Goleta in May, Diane spoke of her "rules of conduct" during the session on running a board meeting. Several attendees requested a copy of these and I know of one association that adopted a version of these at their June meeting and met with success! You can use these as a guide to make your meetings run more efficiently and take less time. Thanks to Diane for allowing us to share these with all our members. Diane can be reached at First Bank's Westlake Village office – 888-539-9616.

(The following has been agreed to by a vote of the Board of Directors as of (date) and is to be used in conjunction with Roberts Rules of order).

PRIOR TO THE MEETING, WE AGREE TO:

- **Read all written material/agenda** (all items requiring board action shall be so marked.) Board material shall be delivered to each member of the board within three days of the planned meeting.
- **Obtain clarification of written material as needed** (contact the manager, treasurer or appropriate person in advance so that the necessary research can be done and ready for the board meeting)
- **Highlight areas of concern that are related to action items to help you remain focused during the board meeting, or make notes in the margins of your agenda to remind you to speak-up about your concern.**

DURING THE MEETING, WE AGREE TO:

- The chair can appoint a person to keep time or use an egg timer.
- Speakers from the membership will be allowed 3 minutes per household during the "open homeowners forum" (This rule shall be announced by the chair or secretary at the beginning of every meeting as well as noted on the agendas of all meetings.)
- All speakers and members of the board shall direct all conversation through the Chair. The chair and members of the board shall refrain from back and forth conversation with speakers from the membership.

- The chair will thank the speaker, and the board will either take the matter under advisement for the next meeting agenda or send the member a written response within 5 working days of the meeting.
- Items not agendized or fully read by the members of the board will be deferred to the next meeting unless the matter is an emergency issue Involving a safety or health hazard.
- No discussion of an action item without a motion and a second. Members of the board will keep their comment to 3 minutes per discussion item unless otherwise agreed to by a vote of the board.
- We will conduct a professional meeting by respecting each other's viewpoints while doing what's best for the community as a whole.
- We will start our meetings on time with a goal of completing all business within a two-hour period. It is expected that board members will contact the chair or manager at least 24 hours in advance of the meeting if unable to attend the meeting.
- **Executive Closed Session Meeting Content shall remain private to the members of the board.** Remember, closed session agenda items must be kept to the discussion and voting of third party contracts, personnel issues, member discipline if requested by the member and legal matters. We must report to the members that a closed session will be held and for what purpose.
- All first time members of the board will enroll in Community Associations Institute's ABCs course within ninety days of gaining a seat on the board The association shall pay the cost of this course.
- These Rules of Conduct may be amended upon a majority vote of the newly appointed board members after the annual meeting.

UNDERSTANDING FINANCIAL STATEMENTS AND BANK RECONCILIATIONS

Board members have a fiduciary duty under California law to review financial statements and bank reconciliations of their association on a periodic basis. As defined in California Civil Code Section 1365.5, board members are required to:

- Review a current reconciliation of the association's operating and reserve accounts at least quarterly
- Review the current year's actual reserve revenues and expenses compared to the current year's budget at least quarterly
- Review an income and expense statement for the association's operating and reserve funds at least quarterly
- Review the latest account statements prepared by the financial institutions where the association has its operating and reserve accounts

Accurate financial reporting is highly prized by all members, not just board members. A sample bank reconciliation follows along with notes as to how to analyze it.

BANK STATEMENTS AND RECONCILIATIONS: Cash and Investments are the #1 assets in nearly all associations. Most associations have an operating checking account, a reserve money market savings account and certificates of deposit (CDs). Some associations will have multiple CDs and may have a brokerage account (e.g. Dean Witter, Prudential, Schwab) for their investments. Some associations have invested in Treasury Notes and Bills through their bank, brokerage account or Treasury Direct. For most associations, Treasury interest is not taxable by California. A few associations have mutual fund investments.

HOW TO REVIEW: For checking accounts, obtain the bank statement and reconciliation from the manager or treasurer. A reconciliation will start with the ending balance on the bank statement. To that balance will be added any deposits made before the statement date that don't appear on the bank statement. (Association accounts should always have a month-end ending date to facilitate review with the month-end financial statements). Any checks written before the statement date which have not cleared are subtracted to reach the reconciled balance. This balance is then compared to the general ledger or check register balance. Interest paid by the bank or bank charges are posted to the register/ledger and the amounts from the reconciliation and general ledger should then agree.

IF IT RECONCILES, DOES THAT MEAN IT'S RIGHT?: Not necessarily. As noted above, the book balance from the register/ledger must agree with the bank reconciliation balance. Look for old items, more than 30 days, to see if they are legitimate or should be adjusted. See example following:

**SAN JOSE CREEK HOMEOWNERS ASSOCIATION – CHECKING ACCT RECON
JUNE 30, 2001**

General Ledger Summary:

Beginning Cash, June 1, 2001	\$1,812.44
Cash Received – June	6,300.00
Cash Disbursed – June	<u>7,122.44</u>
Ending Cash, June 30, 2001	\$ 990.00 ¹
Add: Interest Earned – Checking	1.25 ²
Subtract: Bank Charge – June	<u>10.00²</u>
Reconciled Balance – June 30, 2001	\$ 981.25

Bank Statement Reconciliation:

Ending Balance, Bank Statement	\$ 5,388.33
Deposit in Transit – 3/11/01	200.00 ³
Deposit in Transit - 6/29/01	<u>1,000.00</u>
Subtotal	6,588.33

Outstanding Checks	
2/9/01 #3284 – Bill Stoneman, Attorney	\$ 581.33 ⁴
2/9/01 #3287 - Southern Calif Edison	135.00 ⁴
6/23/01 # 3401 – GreenTree Landscape	2500.00

6/23/01 #3402 - State Farm Insurance	2090.75
6/30/01 #3403 - Bill's Plumbing	<u>300.00</u>
Total Outstanding Checks	<u>5,607.08</u>
Reconciled Balance, June 30, 2001	\$ 981.25

NOTES:

- 1) Low cash balance, investigate why. Has association incurred unusual expenses? Collecting all its assessments? Was the budget realistic? Reserve expenses paid from operations?
- 2) With low cash balance, association makes ½% interest on account and pays monthly service charge. If balance is to remain low, can association eliminate interest and eliminate monthly service charge?
- 3) \$200 in transit for over three months. Posting error, perhaps a duplicate posting?
- 4) Outstanding checks over 120 days. Maybe lost in transit or replaced with subsequent check. Investigate and adjust as needed.

SAVINGS ACCOUNTS, CDs AND INVESTMENTS: Savings accounts, CDs and Investments should be reconciled just like the checking account, except that these accounts usually have fewer transactions. Obtain copies of the bank statements and reconciliations as with the checking account. Most banks now issue periodic statements for CDs. Look for the following:

- 1) Interest Rate: Banks pay wide ranging rates on savings accounts. Passbook savings might pay 1.5-2% while money market accounts will pay 3.5% to 4.5% (June 2001). Look on the statement to see what rate you're receiving. You may be able to obtain a higher rate just by asking the bank to change the type of account. Many money market accounts allow 3 checks to be drawn on the account each month without a fee. You might also be able to transfer funds not immediately needed to CDs or Treasury investments which pay a higher rate of interest.
- 2) Change in Fair Market Value: Mutual funds will fluctuate in value. Fund or brokerage statements should disclose the current fair market value at the statement date. Compare to previous months' statements to determine unrealized gains or losses from investments.

ASSOCIATION MYTHOLOGY – ANOTHER CHAPTER

In the April 22, 2001 edition of the San Francisco Chronicle, an article appeared under the headline "Royalty has its privileges in condo associations; Board of Directors rules the realm with no regard to the rabble" (www.sfgate.com – archives)

The reporter wrote about her association (fictitious name – Creekside by the Woods) that has quarterly meetings and how she receives numerous calls, emails and postcards to attend. Do most associations have the time and inclination to send multiple notices about meetings?

"I never missed a meeting in two years", the reporter said. "I actually thought a homeowners association was for the good of the people. Now I too have joined the legions of homeowners who recognize it for what it really is: a collection of people born too late for the

Gestapo. On our board, 10 members of royalty rule the country of Creekside by the Woods and its 95 peasants.”

It is unusual for a board to have an even number of members. Especially a board of 10 for only 95 (or 105) units.

“At the last meeting I attended, the royal court announced that it had an opening and that a peasant could apply. I took a deep breath and bravely volunteered. The 10 ruling members smiled as if to say ‘Of course you can join the board, but first we must vote’. This is a democracy you know’.”

Is it a democracy? The laws governing elections of homeowner associations are contained in the Corporations Code. Homeowner associations are membership corporations, businesses. These associations are governed by their boards of directors. Elections are held at the annual meeting with a quorum of the members required. Unlike an election for public office where a simple majority of those voting will prevail. No quorum, no meeting.

“Ballots were handed out. We peasants scribbled in our candidate’s name and turned in the ballots. Then the royal accountant spoke. ‘Just by a show of hands, may I see how many of you voted for the new candidate?’”

It must have been an annual meeting. Member voting would not be done at a quarterly board meeting. Balloting should be done by secret ballot. If ballots were handed out, why would you ask for a show of hands?

“The 46 peasants raised their hands. ‘Well’, said the royal accountant, that leaves 49 homeowners who didn’t attend tonight’s meeting. Since they are not here, the board must act as their proxy. And on their behalf, the board declines this nomination. The position will not be filled. Meeting adjourned.”

Wow! Where to start? Did the board have absolutely no support in the audience? Even in the most contentious situations, the board will have support, probably a lot of support. Did the board have proxies from the other 49 members? In order for the board to act, the board must have a proxy from the member naming the board or a member of the board to act as their proxy for those issues that come before the meeting. I doubt that the board had proxies from everyone. Getting 70-75% between attendees and proxies is excellent.

Many boards have difficulty getting members to run for the board. Vacancies are common. Members will cite work and family obligations in not running. Others are incapable of serving on the board for a wide variety of reasons. There are provisions in the association bylaws and the Corporations Code to allow members to provide their proxy to others, to allow cumulative voting in some cases to permit minority viewpoints on the board, to secure nomination for running for the board, to send materials to all other members regarding a member’s candidacy and for secret ballots.

The moral of the story is as board members, you need to be fair even to the point of bending over backwards to address members' concerns and expectations or –

IT MUST BE TRUE – I READ IT IN THE NEWSPAPER!

To stir the pot even more, suppose the association board has received a number of proxies naming the board as the proxy holder. If there is a split among board members as to how the proxies should be voted, then the majority of the board controls the vote of the proxies, if no one from the board is individually named.

CALIFORNIA LEGISLATION INTRODUCED – 2001

Even with all of the problems the state has with electricity prices and utility deregulation and the problems it will have balancing its budget for next year, there are a number of bills that have been introduced. We will have more on these later this summer and if any get signed and passed before the end of the year:

AB 555 – Community Association Manager Registration/Licensing Bill – Would require that those who manage HOAs be required to register with the state of California Common Interest Development Manager Registration Council. In addition to registration/licensing, an education requirement would be imposed upon all who manage CIDs including in-house managers. Costs to managers and their employers to comply with the registration and education requirements are not known. The bill passed the Assembly last month and is now in the State Senate.

SB 419 – Creation of a Common Interest Development Agency – Would require the California Research Bureau to conduct a study to determine whether a new state agency be created to oversee the activities of Common Interest Developments in California.

Construction Defect Bills (several) – Several bills have been introduced to create a home warranty program for builders (AB 600), Mediation of Construction Defect Litigation (SB 160/AB 739/AB 267), and overturning the Aas decision regarding construction defects (SB 355).

California Law Revision Commission – Has held several hearings and meetings on HOA governance since the first of the year. There efforts seem to be focusing on dispute resolution and mediation. No legislation has been recommended to date. The commission is supposed to review all of the Davis-Striling Act and make recommendations such as adopting the Uniform Common Interest Ownership Act (used in some states) or other legislation.

ATTENTION PROFESSIONAL MEMBERS: We are always looking for articles for the newsletter. Please call Mike Gartzke at 964-7806 with your ideas or email completed articles in Microsoft Word format to gartzke@silcom.com. Deadlines – August 1, October 1 and December 1.

MEMBERSHIP DIRECTORY SPONSORS

As a result of my delay in getting last fall's questionnaire results tabulated, the 2001 South Coast Membership Directory has not yet gone to press. (The results will appear in the directory). Since a number of professional members paid to place an ad in the directory, I am listing their names here and thank them for their support of South Coast HOA.

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CONSTRUCTION MANAGEMENT

Santa Barbara Building Associates
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Santa Barbara, CA 93103
800-844-9240; 805-965-4241

BANKING SERVICES

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Westlake Village, CA 91361
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INSURANCE

State Farm Insurance
Ed Attlesey
160 N. Fairview Avenue
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805-964-9988

ROOFING

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UPCOMING MEETING NOTICE

Thursday, July 26, 2001 – Legal Seminar with Beth Grimm

For the past 3 years, attorney Beth Grimm from Pleasant Hill, California has conducted a summer law forum for South Coast members.

This year is no exception. While we gave her enough topics to fill half a day or more, she has distilled the topics as follows:

ASSOCIATION GOVERNING DOCUMENTS:

- What are they?
- Why should they be enforced?
- Who is responsible for enforcing them?
- How can enforcement be done most efficiently and cost effectively? (with the least amount of pain)
- How about enforcement by owners (in what should be neighbor-to-neighbor disputes)
- How is enforcement of the governing documents affected by legislation

To the extent that time is available, we will explore other legal topics.

Beth's programs have always been informative and well attended. Beth is a Bay Area attorney with over 12 years of legal experience with common interest developments. She has written two books along with a bimonthly newsletter, California Homeowner Association Legal Digest. Her most recent effort has been to establish a web site for board members, homeowners, managers and realtors – www.californiacondoguru.com. A guru is a guide to enlightenment and her site contains a wealth of information.

Reservations – email to gartzke@silcom.com; fax to 805-967-9654 call 805-964-7806 (after 7/18/01) or call McKenna at Town'n Country Property Management 805-967-4741 (before 7/19/01)

Thursday, July 26, 2001
Holiday Inn – Goleta/Santa Barbara
5650 Calle Real, Goleta
(between Patterson and Fairview)
7:00 – 9:00 PM

