



# Sierra Park Homeowners' Association



Newsletter

February 2012

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## From the President

Dear Homeowner:

### HISTORY

Some lot owners remain confused about their rights in the subdivision. If you are not an Odd Fellow or Rebekah, you cannot vote for board members serving on the Odd Fellow Sierra Recreation Association Board (OFSRA). This is the board that has been in charge of the subdivision for the last twenty-five years. Even though only Odd Fellows and Rebekahs can vote for the OFSRA Board, the OFSRA Board has collected assessments from all of the lot owners in the subdivision for at least the last twenty-five years, and the OFSRA Board was the decision maker as to how this money was spent. Therefore, lot owners who are not OFSRA members have paid assessments every year, but they have had no voice in how these assessments were utilized. The California courts have previously ruled that governing documents that restrict property owners' rights, based upon a requirement of membership in a religious or fraternal association, are unenforceable and unconstitutional.

All lot owners can vote for the members serving on the Odd Fellow Sierra Homeowners Association Board (OFSHA). The names of the two boards are somewhat confusing. Just remember, if it has HA at the end it is the Homeowner Board that all of you can vote for. If it has RA at the end, it is the board elected only by Odd Fellows and Rebekahs. The OFSHA Board held its first meeting in June 2011. It is providing the lot owners with the representation that they have been denied for the last twenty-five years. The OFSHA Board wants to represent a community that promotes the idea of "Justice for All". To me, this means that all of the lot owners in this subdivision should be able to elect the board spending their money and making the decisions concerning their property.

### LETTER OF INTENT (LOI)

A meeting between OFSHA and OFSRA became necessary because of the problems between the two boards. OFSRA compounded the problem by refusing to renew the Water Use Agreement with OFSHA. On January 9, 2012, six OFSHA Board members and Ann Rankin, the OFSHA attorney, met in Sonora with seven

*Continued on page 2...*

## OSFHA Calendar

OFSHA Board meetings are held in the Board Room at the lodge on the first or second Saturday of each month, beginning at 8:30 AM.

Board Meeting: March 3<sup>rd</sup>, April 7<sup>th</sup> and May 5<sup>th</sup>

Annual Meeting: May 27<sup>th</sup>



## Household Hazardous Waste Disposal

Laws adopted since 2000 created California's "Universal Waste Rule". This rule bans the placing the following items in our dumpster: Paint, motor oil and filters, antifreeze, consumer electronic devices, video display devices (televisions, computer monitors, and laptops), batteries, fluorescent light tubes including Compact fluorescent Lamps (CFLs), major appliances, mercury switches, and nonempty aerosol cans among others. The "Universal Waste Rule" went into effect on February 9, 2006.

Most of the items mentioned above except nonempty aerosol cans and major appliances and can be disposed of free of charge at the Cal Sierra Transfer Station, 19309 Industrial Dr, Sonora, CA 95370 (209) 536-1719. Hours of Operation: Everyday (except Christmas & New Years) 8:00 am - 4:45 pm. The County of Tuolumne charges a \$4.00 entrance fee. There is a fee for major appliances.

For details and other disposal options see:

[www.ofsha.org/trash](http://www.ofsha.org/trash)

## Did you know?

The Odd Fellows Sierra Camp Subdivision project, better known as Sierra Park began on November 11, 1948. Lots sales began on June 26, 1949.

## Newsletter & Website

**Newsletter** – Please consider receiving your Newsletter via e-mail, it saves money and will aid us in holding down the assessment. Please e-mail us to sign up.

**Website** – Protected documents password: **Call for PW**



**From the President** *(Continued from front page)*

OFSRA Board members, two of whom were participating by a conference call, and Tim Trujillo, their attorney, to try and resolve some of our difficulties. It seemed that both sides were in agreement on one item. We wanted a plan that would keep the California Public Utilities Commission (CPUC) out of our affairs and provide water to the lot owners with the lowest cost and least regulated system possible. We met for several hours to discuss what we could do to solve our various difficulties. One option discussed was for OFSRA to form a water company and fall under CPUC regulations. Since this was not an option that seemed to be in the best interest of the subdivision, it was dismissed. The idea of water meters and regulation did not seem optimum. The idea of a mutual water company was also discussed since OFSRA had explored that option. A third idea that we discussed was for OFSRA to turn the water system over to OFSHA. This third option was recommended to OFSRA twenty-five years ago by its attorney when the two corporations, OFSRA and OFSHA, were established. At that time, OFSRA was warned by its attorney about the possibility of CPUC intervention if it maintained control the water system. Since many lot owners in the subdivision have questioned why there is a need for two boards, we discussed at length a plan to have OFSHA take over the water system as well as the interior of the subdivision. This seemed logical since the OFSHA by-laws state that OFSHA shall be in charge of the maintenance, management and preservation of the subdivision. Our respective attorneys, Ann Rankin and Tim Trujillo agreed that Ann Rankin would start this process by generating an LOI. The LOI would outline the proposal without going into as much detail as a formal contract. This would avoid wasting money before the parties were in agreement on key issues. The offer in the LOI included OFSHA taking control of the roads, the water system, the equipment which was paid for by the lot owners but owned by OFSRA, all of the special funds paid for by the lot owners but controlled by the OFSRA, all of the land and buildings within the interior of the subdivision currently owned by OFSRA, all supplies, all parts and all equipment used for maintaining the interior of the subdivision and the water system. Our offer was to pay OFSRA \$1,000 for the items mentioned above. The offer was contingent upon the OFSRA board accepting the offer, the OFSRA shareholders approving the offer, the lot owners approving the plan and providing at least 70% of the lot owners put CC&R's on their property. The amount offered was small but acceptance of the plan would have benefited the whole subdivision by giving all of the lot owners control over what they have paid for over the last twenty-five years. It would also eliminate any possibility of CPUC intervention since OFSHA would own the water system and could sell water to its members, the lot owners. Remember, the lot owners have paid the taxes, the insurance and maintenance of the subdivision as well as for the care and development of the water system. This has been paid for by all of the lot owners for the last twenty-five years. Without the contributions from the lot owners, little would have taken place in our subdivision. OFSHA was not willing to pay hundreds of thousands of dollars for the interior of the subdivision, because OFSHA would not be building homes on the property and selling them, or undertaking other for-profit activities; instead OFSHA would be maintaining the subdivision, the roads and the water system for the benefit of all of the lot owners. Moreover, the water system is a liability. It is old and has some major flaws. It costs money to maintain it. OFSHA would not expect to make any profit on operating the water system. There was a water break on Old Jordan several months ago and OFSRA reported that it occurred because a connection had been made with a radiator hose and it broke. How many other connections are made with something similar to a radiator hose? Tim Trujillo, OFSRA's attorney, admitted to those at the meeting that the interior of the subdivision is a liability. The subdivision is costing OFSRA to maintain and generates little if any income.

According to Mr. Trujillo, OFSRA considered the LOI such an insult that OFSRA never made a counter offer or responded to our attorney. The LOI also included a proposal for resolving the issues related to OFSRA's demand that OFSHA turn over to it all the assessments that were collected for 2011-2012. OFSHA asked to see the back-up supporting costs of the services for which OFSRA wanted payment; OFSHA would pay all undisputed invoices and any remaining disagreements would be resolved by negotiation, mediation or arbitration. OFSHA made the offer in good faith in an effort to resolve the financial issues related to the assessments quickly and at a modest cost. OFSRA also failed to respond to that proposal.

**PROBLEM**

At the January meeting of the OFSRA Board, the members of that board seemed to think the LOI was insulting and went on for roughly twenty minutes denigrating OFSHA, OFSHA's attorney and the LOI. OFSHA did not intend the LOI to be an insult, but did not think it should pay hundreds of thousands of dollars for assets that will not generate any profits to OFSHA but will cost money to maintain. As a result, at the OFSHA Board meeting on February 4, 2012 a motion was approved to take the LOI off the table if the OFSRA did not responded to the LOI by February 8, 2012 at 5:00 p.m. That



time has now past and the LOI is off the table and OFSHA will seek other remedies for the lack of representation offered the lot owners who are not OFSRA members. The members of the OFSHA Board are quite aware that the OFSRA and their followers will blame the OFSHA Board for causing this problem just as they have blamed the OFSHA Board for all of the other problems in the subdivision for the last year. For the OFSHA Board to be accused of causing this problem, is totally unfair. None of the current OFSHA Board members were involved twenty-five years ago when OFSHA and OFSRA came into being.

An LOI is simply a letter, it is a starting point in opening negotiations concerning the sale of property. OFSRA chose to ignore this offer after meeting with OFSHA on January 9. If OFSRA was unwilling to negotiate and attempt to solve our problems in good faith, they should have told us prior to the meeting. The January 9 meeting that OFSRA had agreed to and then chose to ignore, ended up costing OFSHA about \$3,500 in legal fees. The OFSHA Board has made every attempt to work with the OFSRA Board but to no avail. Our fiduciary responsibility is to the lot owners, not OFSRA, its board and membership. The lot owners must have water and this issue cannot continue in a state of limbo. OFSHA and the lot owners must know what OFSRA's plan is to supply water to the lot owners. OFSRA's continued inactivity concerning this situation has forced OFSHA to take drastic action in order to insure you, the lot owner, of a constant supply of water. The fairest solution would have been to follow the advice of OFSRA's attorney of twenty-five years ago when he advised OFSRA to turn the water system over to OFSHA. Twenty-five years later that is still the best solution for all of the lot owners in the subdivision. Unfortunately, OFSRA once again chooses to ignore this advice in order to maintain its stranglehold over the subdivision.

#### **FUTURE**

I hope that OFSRA makes better decisions in the future than it has in the past concerning the subdivision and the water system. It was noted by those in attendance at the January meeting of the OFSRA Board that the OFSRA Board brought up the payment of a retainer to a water attorney. Under "Bills", the OFSRA Board approved a \$5,000 check as a retainer for a water attorney to represent them. It might have been wise on their part to have sought this advice prior to their December 3, 2011 meeting when they voted to not renew the Water Use Agreement. I hope they now come up with a fair plan concerning our water system.

#### **SOLUTION**

There is no reason why the difficulties our subdivision is experiencing could not have been worked out many months ago. The OFSRA Board does not respect the OFSHA Board or the lot owners it represents. If OFSRA did respect us, everything could have been resolved in the best interests of all concerned. One of the OFSRA Board members has said on several occasions that the OFSHA is and always has been only a paper corporation. If that is the case, why then did this same board member sign the papers establishing OFSHA twenty-five years ago? His signature is on all of those early documents. The only answer is that he, along with the Odd Fellows and Rebekahs, want to maintain control over the subdivision as they have since its inception in the 1940s even though the law has changed since then. The lot owners need to wake-up to the fact that the eighty some lot owners, who are also Odd Fellows and Rebekahs, want to maintain their control over the subdivision despite the fact that the community now has about 280 lot owners who are not members of an Odd Fellow or Rebekah lodge. The lot owners who are not Odd Fellows and Rebekahs are now the majority and must step forward and demand "Justice for All" in the subdivision. The lot owners who only hold membership in OFSHA have a right to elect the board that takes their money and spends it. Acceptance of the LOI by OFSRA would have been a step in that direction. The OFSRA Board is not elected by you. However, the OFSHA Board is. The future of the subdivision is in your hands. Do not allow our community to continue for another twenty-five years without the "Justice for All" that everyone in the subdivision deserves. Force the Odd Fellows and Rebekahs to follow their motto as represented on the sign at the entry gate, "In Friendship, Love and Truth". Let us see if that can once again be practiced in what was once called the Sierra Odd Fellows Park.

#### **NOTE**

OSHA has been advised that legal remedies might provide equality for all lot owners in the subdivision concerning the roads and water system as well as the interior of the subdivision. Our attorneys advise that OSHA could demand that OFSRA open its membership to OSHA members who are not Odd Fellows and Rebekahs. If OFSRA refuses, OSHA could initiate a lawsuit that would seek to dissolve the two associations based on violations of Civil Code 53, (See



Taormina Theosophical Community, Inc. v. Silver (1983) 140 Cal. App.3d964, 975). Our attorneys interpret Civil Code section 53 subdivision (b) as prohibiting all covenants on land that would discriminate on bases similar to those listed. For example, a person should not be required to belong to a certain religious or fraternal organization to have equal representation in a community.

Thank you,

Fred Coleman  
President  
OFSHA Board of Directors



**Odd Fellows Sierra Homeowners' Association  
Board of Directors Regular Meeting Interim Minutes  
February 4, 2012**

**Called to order:** 8:32 A.M. by President Fred Coleman.

**Invocation** by Al Orth.

**Board members present:** President – Fred Coleman, Treasurer – Ruth Dargitz, Vice President – Steve Wallace, Al Orth, Bill Ordwein, John Tenbrink and Larry Vaughn. Absent: Mike Ford. Excused: Jesse Worsham.

**Minutes** January 7, 2012: Revised to show Members before the Board: Barbara Engvall, Karen Schultz, Friedhelm & Yvonne Peter, Ron Hawk, Richard & Joy Price, Shaun Velayas, John Coate, and Susie & Michael Lechner. Also revised to include comments by:

- Susie Lechner: 1) Comments regarding the roads, water and fishing derby. 2) The Boards have had a long practice of doing things that may or may not be OK and commended this Board for trying to put issues to rest. 3) Comments on the gate policy.
- Yvonne Peter: 1) Presented a petition for the recall of the OFSHA Board Members. 1) Asked about cost of Attorneys.
- Michael Lechner: Questions about General Liability Insurance.

Motion by Bill Ordwein, to approve the minutes as revised. Seconded by Steve Wallace, carried.

**Correspondence:**

The following communications were received: Barbra Engvall thanking the OFSHA board members for the generous gift • Letter of Engagement from Carlson, Haff & Associates • CAI: Miscellaneous information • David Martin – Change of email address • Garren San Julian – Gate Card request • Doug & Susan Kelly Merged Lot Fee Request • Robert A. Huckaby – General Liability quote • Roger Stevens Jr. – General Liability quote • Dambacher, Trujillo & Wright – Registered letter – Past Due • John Brasil – Inquiring “Is there a general meeting coming up?” • Toni Ann Gatzke – New mailing address • Randi Gross – Notifying us 25490 Wheeler is in escrow • Demand Request for 25461 Wheeler • Thomas Guidice – Directory information update • Larry Giacomino – Letter supporting OFSHA • John Brasil – Inquiring about extending the temporary contractors Gate Code • Tuolumne County Escrow, Inc. Telephone – Complaint, OFSRA not responding to information requests • Beverly Woodland – Complaint, OFSRA not responding to requests to repair her water connection.

**Committee Reports:**

**Gate – Secretary Varvayanis / Bill Ordwein:**

1. Routine gate sales: \$260.00.
2. Gate was open on Sunday 1/15/2012 for an unknown reason.
3. Gate policy to be read at next meeting.

**Recreation:**

1. Fishing Derby – Waiting to speak to Mike Ford for status.

**Finance – Treasurer, Ruth Dargitz:**

1. Total bills presented: \$7,637.66. Motion by Steve Wallace to approve as presented. Seconded by Larry Vaughn, carried.
2. Collection efforts are underway.

**Unfinished (Old) Business:**

1. General liability insurance discussed. Motion by Larry Vaughn to purchase from Robert A. Huckaby. Seconded by Ruth Dargitz, carried.

**New Business:**

1. Letter of Engagement from Carlson, Haff & Associates. Ruth Dargitz to ask why not sent to us until now and sign.



2. Doug & Susan Kelly – Merged Lot Fee Request. Will follow-up in one or two months.
3. Dambacher, Trujillo & Wright – Registered letter – Past Due Statement received from OFSHA demanding the entire amount OFSHA is collecting from the OFSHA membership. Similar or same as the statement delivered before the January Board Meeting.
4. Letter of Intent:
  - a. To be modified to include: Gate & Road Reserve.
  - b. Motion by Ruth Dargitz to approve. Seconded by Steve Wallace, carried, one No vote: Bill Ordwein.
  - c. Motion by Larry Vaughn to cancel Letter of Intent if not accepted by OFSHA by Wednesday February 8<sup>th</sup> at 5:00 PM. Seconded by Al Orth, carried.
  - d. Motion by Steve Wallace to instruct the Attorney to notify the California Public Utilities Commission of OFSRA's illegal operation of the water system if the letter of Intent if not accepted by OFSHA by Wednesday February 8<sup>th</sup> at 5:00 PM and to further instruct the Attorney to request an accounting of the approximately \$2,000,000 OFSRA collected for water, but only expended about \$500,000 of on water over the last 25 years. Seconded by Larry Vaughn, one No vote: Bill Ordwein.

**Other Business:**

1. Six Gant Deeds not received by OFSHA during the period 2007 through 2011 and therefore missing from the records. Chares Varvayanis instructed to obtain and add to the records.
2. Redundant record removed from the Record of Members.
3. The number of records in the Record of Members is one less that the calculated number of members. Research to be performed by Charles Varvayanis in a effort to correct.
4. Second USB disk drive to be purchased to store park data.

**Members before the Board:**

Beverly Woodland, Maynard & Judy Wallin, Mike Van Gundy, Friedhelm & Yvonne Peter, John Coate, and Kirk Knudsen.  
Comments by:

- Beverly Woodland: 1) Observing 2) OFSRA not responding to requests to repair her water connection. 3) OFSRA phone tree has a selection for OFSHA, but does not work.
- Yvonne Peter: 1) Question about the letter from the Board Members. Paid for by the Board Members. 2) Question about the \$2,000,000 OFSRA charged OFSHA for water over past \$25 years. Most of the collected money was not applied to the water system.
- Maynard Wallin: The problems began as long ago as 1975.
- Judy Wallin: Commended OFSHA for what it is doing.
- Joe Nelson: 1) Odd Fellows Sierra Park is not recognized by the International Order of Odd Fellows. 2) Thanked the OFSHA Board for what they are doing. 3) Gate was open for Mike Rainwater's Open House. 4) People complain to Joe about the Caretaker not working or doing his job. Joe commented the Caretaker is not paid for by OFSHA, therefore OFSHA has no jurisdiction over the Caretaker.
- Kirk Knudsen: 1) Will there be social events going forward? Answer: Yes. If home homeowners step forward to take on the responsibility. 2) Question about the agenda after Wednesday at 5:00 PM. Answer: OFSHA has a duty to the Homeowners. In the absence of a License agreement and no cooperation form OFSRA, steps need to be taken to ensure the water supply.
- Friedhelm Peter: Where did the \$1,500,000 collected from the homeowners by OFSRA for water and not used for water go? Answer: No one seems to know. OFSRA Director Friedhelm Peter could not explain what happened the \$69,350 collected this year.

Motion by Steve Wallace to adjourn to Executive Session to discuss Director Fiduciary Responsibility and the old 5 acre lot. Seconded by Larry Vaughn, carried.

**Adjourned to executive session: 10:25 P.M.**

**Returned to regular session: 11:00 P.M.**

**Report and activity resulting from the Executive Session:**

1. Motion by Steve Wallace to contact the owner of the 5 acre lot concerning water for that lot. Seconded by Larry Vaughn, carried.

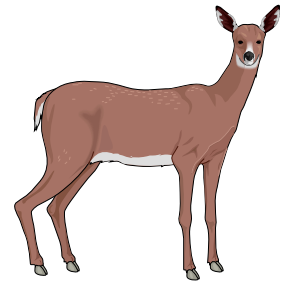


The next regular meeting is on Saturday March 3, 2012 at 8:30 A.M.

Meeting adjourned: 11:03 P.M.

Respectfully submitted,

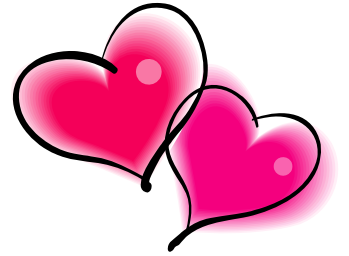
Charles Varvayanis



Checks Disbursed 1/12/2012 - 2/11/2012

Date	Number	Payee	Memo	Amount
2/6/2012	133	Huckaby Insurance Services – General Liability Insurance	744 · Insurance Expense	\$2,480.00
2/7/2012	134	AT&T – Telephone – (209) 586-3733	787 · Telephone Expense	\$22.66
2/7/2012	135	Ann Rankin – Attorney – HOA	755 · Professional Services	\$5,864.72
2/7/2012	136	Carlson, Haff & Associate – Accounting Services	756 · Accounting	\$362.04
2/7/2012	137	Fred Coleman – Postage – 12/2011 Newsletter	758 · Member communications	\$55.20
2/7/2012	138	DMS Consulting – 2011 & 2012	755 · Professional Services	\$560.00
2/7/2012	139	Charles Varvayanis – Clerical Support, Postage 1/12, Supplies	767/758/766/737 · Outside serv./ Member comm./Office Supp./ Gate	\$650.36
2/7/2012	140	Village Mail & Print Stop – Newsletter Printing	758 · Member communications	\$122.68

Total Disbursements \$10,117.66



Odd Fellows Sierra Homeowner's Association  
P.O. 236  
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**Return Service Requested**

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