



Colony Olivenhain



Newsletter of the Olivenhain Town Council

January 2004

From the President — Bob Campbell

How's your New Year so far? How many resolutions have you maintained faithfully this deep into 2004? So far, your President is batting 1.000--no resolutions made; no resolutions broken. This is a risk-free strategy that has served me well for many "new years." Okay, by now during your reading of this you have discovered that I have no earth-shattering news for you. Given the "relatively tumultuous" 2003 of the OTC, that's a really good way to start 2004, don't you think? But we all know that peace-lovers need to work at maintaining peace, so there will be challenges ahead for sure.



Whatever those challenges may be, though, I think your OTC is ready. Myself excluded, you are blessed with really smart people on the Board. Not a one of them needs to visit the Wizard for a brain, and each one is focused on doing what is right and fair for the OTC. And as you start your 2004--and ensure it is a Happy One for you and yours--I would like you to think about increasing your personal involvement and support for our organization. Board Elections will be a few months from now and "new blood" is valuable for this endeavor. And I mean really "new blood". We need to get some folks on the Board that live on streets which have not been represented in the past. How about you? Yes, you. You're living deep in Southern Olivenhain or way up in the Northeast Olivenhain desert. Or maybe you're trapped on the edge of "Carls-build" (but you can always enjoy sticking out your tongue and pointing out that your ! land will always be more valuable than anything in Carls-build!) Or maybe you're next to Rancho Santa Claus...er..Fe. (Geez, those folks take themselves so seriously they recall their representatives--sounds like a really fun neighborhood!!) But I digress. My point for all yee who live far away from the ole Town Hall: It is time for you to hitch your wagon up and come get involved with the OTC. Run for a Board Seat. Run a Committee. Run an event. Or just run around a little. More "preaching" on this later...bet you can't wait? But while you're waiting....Happy New Year! ... Prez Guy

Monthly Meetings

General Meeting

Wednesday, January 7, 2004, 7:30 PM

Olivenhain Meeting Hall

Olivenhain's Nan Sterman will be our guest speaker in January to talk about native plants and other drought-tolerant planting techniques. Please join us for what is sure to be a very informative and interesting topic. Spring will be here soon.

Dress warmly! The Meeting Hall can be quite cold in January.

Building and Grounds Committee

Tuesday, January 27, 2004, 6:30 PM

Olivenhain Meeting Hall

The Building and Grounds Committee is looking forward to delivery of a new picnic table for the grounds. Watch for delivery on January 5.

The Building and Grounds Committee meet on the fourth Tuesday of the month. All members are invited to attend and participate.

General Meeting

Wednesday, February 4, 2004, 7:30 PM

Olivenhain Meeting Hall

It hasn't been confirmed yet, but we're hoping to get a representative from City Hall to visit with us in February. We're going to try for our new Mayor, Maggie Houlihan or City Manager, Kerry Miller. Save the date now, and look for confirmation in the February newsletter.

Board Meeting

Tuesday, January 20, 2004, 7:00 PM

Olivenhain Meeting Hall

Board meetings are held on the third Tuesday of the month. All members are invited to attend and observe. Members will have an opportunity at the beginning of each meeting to comment and bring issues to the Board's attention.

Olivenhain Task Force News
A Committee of the Olivenhain Town Council
By Bruce Ehlers

8 LOT SUBDIVISION ALONG RSF ROAD DENIED ... In a unanimous 5-0 decision, the Encinitas Planning Commission voted to deny a proposed 8-lot subdivision located just northeast of the 7-11. The Planning Commission found the density was higher than permitted and grading plans were excessive. The project would have resulted in a 20 foot tall manufactured berm immediately west of RSF Rd. The denial was made "without prejudice" which means the applicant can reapply anytime. Normal denials by the Planning Commission preclude applicants from reapplying for one year.

DON'T RESURRECT 680 OR SON OF 680 ... An advisory panel of local elected officials advised SANDAG to not pursue resurrecting deleted North County highways. The panel was studying transportation alternatives as part of the \$142,000 SANDAG study investigating a third north-south transportation corridor either east or west of I-15. According to a recent NCTimes article, the study will be completed in 2005. The North County Times had a great article describing the recommendation. You can read more at

http://www.nctimes.com/articles/2003/12/13/news/top_stories/12_12_0323_08_36.txt

SUN VISTA DOG PARK ... The Encinitas City Council adopted an ordinance to permit unleashed dogs on the eastern portion of Sun Vista Park. The eastern part is the lower flat portion nearest Rancho Santa Fe Road. In the same ordinance, they also permitted unleashed dogs on the City portion of power line right-of-way located over in New Encinitas. The Council has committed in their 2003/2004 goals to open more parks for off leash dogs. A third dog park will be located on the new city park to be built on the Hall Property in Cardiff. Much of the credit for this progress should be given to a grass roots organization called People And Dog Zones (PADZ). If you're interested in learning more about PADZ, visit their website at <http://padz.org>.

RANCHO SANTA FE ASSOCIATION IS FIGHTING A CELL TOWER ... The RSF Association is appealing the approval of a wireless cell site along El Camino Del Norte. The appeal was recently continued for one month so the association could have time to review their council's legal advice. The County (not Encinitas) Planning Commission will hear the appeal at its January 23rd meeting. I only mention this since it is located at the eastern edge of Olivenhain.

ARE YOU ON THE OTC EMAIL LIST? ... Remember to let us know when you change your email address. Send all email address changes to bruce@ehlers-online.com.

**January Update Regarding the
Neighbor's Fence Encroaching on the Meeting Hall Property**

Our process for resolution ... This is the second newsletter update in a series that are planned to culminate in a general membership vote this spring. Bob Campbell provided a full-page article in last month's newsletter. The OTC Board has committed to publish at least three newsletters describing the "fence encroachment issue", its history, our options and recommendations before proceeding with any vote. The Board believes this is an important and sensitive issue that must be ultimately ratified by the general membership. Please bear with us as the process unfolds and we are able to provide the details via these newsletter articles. Making sure our membership understands the situation is a primary goal of these articles.

Your Board's goal is to expeditiously and amicably resolve this issue. We've held several meetings with the neighbors and will be meeting several more times as we move forward. The Board must balance the needs of the neighborhood with the responsible administration of the OTC's assets.

A bit of history ... We learned about the encroachment when the neighboring vacant lot to the northwest of the Meeting Hall was surveyed in preparation for its sale. One afternoon I noticed the corner survey marker on the vacant lot was 7 feet north of the neighbor's fence corner. I knew the lot line on the northern edge of the Meeting Hall property was a straight line, so I suspected something was amiss. The fence has been there for many years and owners, probably as many as 40 years. The neighbors who own the fence, Kirstin and James Lee, had recently replaced the original fence. Both the new fence and old fence were located in the same place. I subsequently emailed the Board to inform them about a "possible encroachment problem" on the Meeting Hall property. The date of that email was March 28, 2003.

The Board decided to get legal advice to understand our responsibilities and options. We were unsure how our status as a nonprofit might affect our options. As a nonprofit corporation, the Board has a fiduciary responsibility to protect the corporate assets and uphold the articles of incorporation. Our lawyer's advice was straightforward:

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1. We cannot ignore the situation.
 2. Since we are a nonprofit, we cannot give away or sell assets at a discount without violating the fiduciary responsibility.
 3. If we violate the fiduciary responsibility we (the Board members) could be held personally responsible.
 4. He recommended against leasing the land to the neighbors because it could weaken our ownership position.
 5. Initially he thought our grant deed would preclude selling off the strip of land since it states: "the real property ... shall be used solely for the specific and primary purpose of planning, effecting and conducting community events or establishments promoting cultural and civic endeavors for the benefit of the community of Olivenhain." He subsequently revised his opinion to allow the sale of the land at fair market price if we had a favorable vote of the general membership.

Clearly, the solution was a choice between moving the fence or selling the land to the Lees at fair market value. The Lees hosted one subcommittee meeting at their home and we walked the property line. The true property line runs within about 3 feet of the side of their house. Moving the fence to this line would require removal of a portion of their rear patio, removal of a significant amount of mature landscaping and would seriously impact the value of their home. Visiting their backyard convinced the OTC subcommittee that selling the land at fair market value was the most sensible and sensitive approach.

Additionally, their house appears to violate the city's ten-foot side-yard setback requirement, although the city would not require any changes. Typically, the only mandate imposed by the city is that the nonconformance cannot be intensified during future remodeling. This restriction is limited only to that portion within the 10 foot setback. Remodeling, such as new siding or cosmetic improvements are typically allowed even within the nonconforming portion. I mention this because selling the land would permanently resolve this issue too.

A Process for Resolution ... Originally, the Board envisioned a sale process whereby both parties would get appraisals and if those appraisals were within 25% of one another, we would split the difference on the sale price. In September 2003, we proposed a memo of understanding to the Lees describing this process. Unfortunately, we could not come to an agreement about who would bear the cost of the transaction (lawyer's fees, escrow, city fees, engineering fees for the lot line adjustment). Since the transaction costs are likely to be between \$2,500 and \$5,000, members of your Board felt this was significant. As a result, we do not have a signed MOU. The MOU also proposed a process for handling appraisals that were greater than 25% different.

Today's Status ... We continue to work through the issue learning more each month. Over the past couple of months we received the first two appraisals. One appraisal was commissioned by the OTC and the other by the Lees. The appraiser chosen by the OTC appraised the value of the land at \$14,000. (approximately \$14 per square foot) The Lee's appraiser reviewed the OTC appraisal and determined the land was worth \$5,000. (approximately \$5 per square foot.) The Lees have proposed splitting the difference and splitting the transaction costs. The Board had time to only briefly discuss this and is currently undecided on a resolution. It should be noted that this is the land value and does not address the cost of the transaction. Since these appraisals are more than 25% apart, the Board will need to determine how to proceed next. We will be working on this over the next couple of months and you can count on another update in coming newsletters.

As a comparison, the Board also discussed what similar land sold for in Olivenhain. The Board looked at two data points to determine a range for raw land. The City of Encinitas, 2002 budget allocated \$400,000 per acre (or about \$9.20 per square foot) for purchase of land. The vacant lot next adjacent to Rancho Santa Fe Road and the Meeting Hall recently sold for \$425,000 for approximately 0.59 acres. (or \$16.54 per acre.) In our discussions several Board members thought this likely described a fair market value range. These two "back of the envelope" calculations result in a range of \$9 to \$17 per square foot. When we received our appraisal the \$14 per square foot valuation was in line with our expectations. The Lee's appraiser looked at 17 local properties and since the strip of land was otherwise unusable he appraised it at the lower end of his range of properties.

What is next? ... Ultimately, the Board will put the matter before the general membership for a vote. Undoubtedly, the Board will provide a recommendation and in an ideal world the Board and the Lees would both support the recommendation. We have been working closely with the Lees to gain a consensus but as of yet have been unable to reach it. We will continue to work towards this goal and we plan to keep you abreast of the situation in the next couple of newsletters. If in the event, we cannot reach a consensus, the Lees will be invited to write articles for the newsletter enabling them to directly communicate their position.

In next month's news letter we hope to have a better estimate of the transaction costs and be able to report more progress on understanding the appraisal differences.

Written by Bruce Ehlers with review by the OTC Board of Directors and James and Kirstin Lee. Note: The strip of land is 7 feet x 144 feet or 1,008 square feet and there are 43,560 square feet per acre.

Community Events

Cindy Brandenburg
Community Events Coordinator

The Holiday Party was a sweet success, with treats, hot cider, and a beautiful Christmas tree trimmed with red ribbon and pine cones. Not to mention the horse-drawn wagon rides, pulled around the neighborhood for two hours by two beautiful Clydesdales provided by Alden Townsend of Valley Center. The children and families enjoyed relaxing on a lazy ride through the village. And we can't forget... Santa paid us a visit about halfway through and sailed into the Meeting Hall grounds on the wagon, greeting children and enjoying the caroling. The Grauer School's Music Department was kind enough to bring a group of students to sing a full repertoire of Christmas carols. We enjoyed their enthusiastic and talented singing the entire time. Thank you!



Olivenhain Cookbook

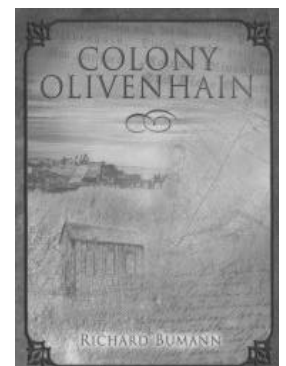
The Colony Olivenhain Cookbook Debbie McCauley compiled is absolutely beautiful — gorgeous padded cover, notebook style binder, lots of historical tidbits and photos, and over 500 recipes collected from members of the community! All the proceeds from the sales of this cookbook will go to renovate the Germania Hotel on the Meeting Hall grounds. They also make great gifts!

The cost is \$25 (including tax), and well worth every penny. You can pick them up at Coldwell Banker in the Harvest Ranch shopping center (next to Meritage), at the Postal Corner, and at Olson's Car Wash on El Camino Real.

“Colony Olivenhain” History Book

In 1981, Richard Bumann, descendent of one of the original colonists, published a local history book titled Colony Olivenhain. The original printing sold out long ago, but thanks to a very generous donation by publishers Kristina and Reid Tracy, the Olivenhain Town Council has made this book available once again, and will be able to use all the proceeds from the sale for renovation and repair of the Germania Hotel.

We have books for sale at each General Meeting and other OTC events, but if you can't make it to the meeting, you can order using the order form on the cover sheet, or stop by and pick one up at the Postal Corner. Buy several ... they make great gifts!





Fallout from Recent Fires

Except for the smoke and ash blanketing the area, Olivenhain seemed to be pretty much untouched by the recent fires in San Diego County. Not so!

We were sorry to hear that one of our members, Andy Kean whose principal residence is in Poway, lost his home in the fires. Andy, our hearts and thoughts are with you.

License Plate Frames

The OTC Board is working with Postal Corner to get more license plate frames ordered and available at Postal Corner. Standby for an update next month!

Grand Marshall ... Harley Denk!!

That's right ... Olivenhain's very own Harley Denk was Grand Marshall of the Encinitas Holiday Parade on December 8. Didn't he look great?

No Santa Story

The embers glowed softly, and in their dim light, I gazed round the room and I cherished the sight. My wife was asleep, her head on my chest, my daughter beside me, angelic in rest. Outside the snow fell, a blanket of white, Transforming the yard to a winter delight. The sparkling lights in the tree, I believe, Completed the magic that was Christmas Eve.

My eyelids were heavy, my breathing was deep, Secure and surrounded by love I would sleep in perfect contentment, or so it would seem. So I slumbered, perhaps I started to dream. The sound wasn't loud, and it wasn't too near, But I opened my eye when it tickled my ear. Perhaps just a cough, I didn't quite know, Then the sure sound of footsteps outside in the snow. My soul gave a tremble, I struggled to hear, and I crept to the door just to see who was near. Standing out in the cold and the dark of the night, A lone figure stood, his face weary and tight.

A soldier, I puzzled, some twenty years old Perhaps a Marine, huddled here in the cold. Alone in the dark, he looked up and smiled, Standing watch over me, and my wife and my child.

"What are you doing?" I asked without fear "Come in this moment, it's freezing out here! Put down your pack, brush the snow from your sleeve, You should be at home on a cold Christmas Eve!"

For barely a moment I saw his eyes shift, away from the cold and the snow blown in drifts, to the window that danced with a warm fire's light then he sighed and he said "Its really all right, I'm out here by choice. I'm here every night" "Its my duty to stand at the front of the line, that separates you from the darkest of times. No one had to ask or beg or implore me, I'm proud to stand here like my fathers before me. My Gramps died at 'Pearl on a day in December," then he sighed, "That's a Christmas 'Gram always remembers." My dad stood his watch in the jungles of 'Nam And now it is my turn and so, here I am. I've not seen my own son in more than a while, But my wife sends me pictures, he's sure got her smile. Then he bent and he carefully pulled from his bag, The red white and blue... an American flag.

"I can live through the cold and the being alone, Away from my family, my house and my home, I can stand at my post through the rain and the sleet, I can sleep in a foxhole with little to eat, I can carry the weight of killing another or lay down my life with my sisters and brothers who stand at the front against any and all, to insure for all time that this flag will not fall." "So go back inside," he said, "harbor no fright Your family is waiting and I'll be all right."

"But isn't there something I can do, at the least, "Give you money," I asked, "or prepare you a feast? It seems all too little for all that you've done, For being away from your wife and your son." Then his eye welled a tear that held no regret, "Just tell us you love us, and never forget To fight for our rights back at home while we're gone. To stand your own watch, no matter how long. For when we come home, either standing or dead, to know you remember we fought and we bled is payment enough, and with that we will trust that we mattered to you as you mattered to us.

WE ALL NEED TO PRAY FOR OUR MILITARY PERSONNEL EVERY NIGHT, THEY ARE IN SOME VERY, VERY TIGHT PLACES.

City Council and Commission Schedules

Council/Commission

Encinitas City Council
Planning Commission
Traffic Commission
Parks and Recreation Commission
Senior Citizen Commission
Commission for the Arts
Youth Commission

Regular Schedule

2nd, 3rd, and 4th Wednesday at 6:00 PM, Council Chambers
1st and 3rd Thursdays at 6:00 PM, Council Chambers
2nd Monday, 4th Monday optional at 5:30 PM, Council Chambers
3rd Tuesday at 5:00 PM, Council Chambers
3rd Friday at 1:00 PM, Council Chambers
1st Monday at 5:30 PM, Council Chambers
1st Wednesday at 4:30 PM, Council Chambers

City of Encinitas Contact Information

Maggie Houlihan, Mayor	760-633-2621	mhoulihan@ci.encinitas.ca.us
Dan Dalager, Deputy Mayor	760-633-2624	ddalager@ci.encinitas.ca.us
James Bond, Council Member	760-633-2623	jbond@ci.encinitas.ca.us
Christy Guerin, Council Member	760-633-2620	cguerin@ci.encinitas.ca.us
Jerome Stocks, Council Member	760-633-2622	jstocks@ci.encinitas.ca.us
Kerry Miller, City Manager	760-633-2600	kmiller@ci.encinitas.ca.us
Bruce Ehlers Olivenhain Planning Commissioner	760-944-9482	bruce@ehlers-online.com
Pat Klaus, Olivenhain Traffic Commissioner	858-756-8247	pat@klausfamily.com
Doug Goad, Parks and Recreation Commissioner	760-942-4052	thegoads@aol.com
Steve Fitch, Parks and Recreation Commissioner	858-759-9236	steve360fitch@yahoo.com

Olivenhain Meetings & Events

January 7	(First Wednesday)	OTC General Meeting, 7:30 pm, Olivenhain Meeting Hall
January 20	(Third Tuesday)	OTC Board Meeting, 7:00 pm, Olivenhain Meeting Hall
January 27	(Fourth Tuesday)	Building and Grounds Committee Meeting, 6:30 pm, Olivenhain Meeting Hall

Advertising?

Would you be interested in advertising in the newsletter?

We are considering accepting business card size advertisements for \$10 per month.

Send email to newsletter@colonyolivenhain.org if you are interested or have comments.

**Your Business Card
or Advertisement
could be here.**

Visit our web site at www.colonyolivenhain.org!

Many thanks to **Olivenhain Self Storage**
for their continued donation of a storage unit
for the Olivenhain Town Council.

Many thanks to **Van Slyke Landscape, Inc.**
for their donation of monthly grounds
maintenance for the Olivenhain Meeting Hall.
