

Lake Oroville Boat Owners Association
17211 Winchester Club Drive
Meadow Vista, CA 95722
530-878-7843 phone
530-878-7848 fax
k9fuzz@usamedia.tv

December 10, 2006

RECEIVED BY
DEC 18 2006
REMM GROUP

Dear Boat Owner,

On September 22, 2006, the marina experienced a significant failure throughout the entire mooring system. Damages to our boats were significant and losses ranged between a few thousand dollars and tens of thousands of dollars per boat. It appears that over forty boats were damaged in the latest incident.

I was there that night and I would like to tell you what occurred. At approximately 5:00AM on Friday September 22, approximately four rows of cables broke from the shore line, allowing all the houseboats to blow into the first row of docks. Many of the houseboats stayed attached to the mooring buoys and some, after becoming entangled with other boats, broke loose and careened into other houseboats as they blew through the marina. These boats crashed into other houseboats with such force that the cleats were ripped from the docks, sending even more houseboats through the marina to damage other boats as well.

The emergency number was called at 5:00AM but no one from the marina showed up to assist until after 7:00AM. When help finally arrived, the marina crew was under-staffed and overwhelmed with the situation. There were several houseboats twisted together in the cable system and wrapped around the first rows of houseboats, causing severe damage to the tangled boats and the boats on the docks. Many other boats were damaged as the marina crew tried to move them from the tangled mess. Several boats were simply towed away from the docks and left to crash against each other and the shore line at the south end of the marina. In the situations where boats were hit and the cleats ripped from the docks, it was discovered that the cleats were just screwed into the wood dock decking instead of bolted through the decking and into the metal framework.

Winds at Lake Oroville are a common occurrence and there was nothing extraordinary or unusual about the winds that caused the failures on September 22nd. We can and should expect that our boats and families will be safe from damage or injury in anything other than the most extreme weather conditions. Had there been more people on their boats that day, there most certainly would have been people injured.

The worst part of this situation is that we feel the damage was caused as a result of negligent maintenance. The mooring and cable systems are old and in need of repair. In addition, these systems were designed for far fewer boats and are currently severely overloaded. For several years now, houseboat owners have requested the need for repairs and maintenance, but their requests have fallen on deaf ears and boats continue to get damaged.

It's important to add that the broken cables from this incident were not replaced with new cables. They were only spliced and will surely break again as the winter storms approach. Many of us feel that this entire incident could have been prevented if the mooring system was designed properly and maintained on a regular basis.

Repeated mooring failures have become a common occurrence at the marina and should come as no surprise to anyone. In April 2006, the American Pacific Group, Ltd (APG) conducted two damage surveys at the Bidwell Marina. APG's reports concluded that "...either the mooring system is in poor condition to the point of having repeated failures, or is of inadequate design and strength for the intended purpose...". Marina management is aware of the problem but has consistently failed to take adequate steps to mitigate the potential for future failures.

In addition to the sub-standard mooring systems, we would also like to address the issue of mooring fees. By now, most of you are aware that the annual fees have been increased again this year. In some cases, the fees have almost doubled even though there have been no improvements to the facilities or services to the boat owners.

For these reasons, several of us have decided to form a non-profit boat owners association whose purpose will be to protect the interests of all boat owners in the association. We will propose a one time membership fee of \$50.00 and annual dues of \$25.00. These fees will be used to pay for obtaining non-profit status from the State of California, any necessary attorney fees and all costs for printing and mailing related literature to our members. The directors of the association will be volunteers and will receive no compensation for their time.

The association would, as a group, be able to approach the marina owners to negotiate the interests of the association. The association could provide other benefits to members. As an association, we could most certainly attract a major insurance company to insure all our boats at a reduced rate. As an example, the benefit for our current situation might have been that one insurance company would be representing all our claims against the marina instead of each one of us handling our own. Claims would be settled much faster.

This letter is to evaluate your interest in participating in a Boat Owners Association. At this time we would like to hear from each of you so we can evaluate the number of you willing to join the association.

We would appreciate hearing from all of you, whether you are interested in joining the association or not. Please respond via e-mail or mail and provide us your phone numbers, e-mail addresses and identify your boat. We would like to use email address as much as possible. If you have sustained damage to your boat either last September or previously please let us know how and the dollar amount of the damage. Please know that your responses will be kept confidential.

I thank you for considering this proposal.

Sincerely,

A handwritten signature in black ink, appearing to read "Jerry Johnson", written over a horizontal line.

Jerry Johnson

Mayberry H2O D-Dock

Please remember to provide us with the following information:

1. Phone number
2. Email address
3. Boat info, type, dock ball or slip number and boat name



"Jerry Johnson"
<k9fuzz@usamedia.tv>
12/19/2006 08:15 PM

To "Wendy Wood" <wmtkwood@sbcglobal.net>, "Tom and
Linda" <goirishgo@mindspring.com>, "Tom & Cathy
Teachout" <tct@fctnet.net>, "Steve Garcia"

cc

bcc

Subject LOBOA

History:  This message has been replied to and forwarded.

Thank you everyone. This is my second letter this week. Many of you got the first. I want to keep you all as informed as I can.

I appreciate all the stories as well. Some of you have expressed concerns about joining. Let me assure you that I have enough people that have committed to join and are sending the \$50.00 that we are going ahead with the formation of the association with the State as provided by law. I understand that there have been some paybacks in the past for complaining. That is only preventable through a strong joint effort. I encourage all of you now to get on board.

As I compile all of your issues I will send them out in a future email for your comments. We will then address them with the State and Frank at the Marina. Below are some mentioned in your emails:

1. Failing mooring system due to age and overloading.
2. Failing condition of the docks, cleats, structure breaks etc.
3. limited days and hours to pump out.
4. Lack of notification when damage occurs.
5. Failure to accept responsibility for damage.
6. Poor condition of the covered slips
7. Extreme bug infestation of covered docks
8. Unsafe power or extension cords on covered docks.
9. Unbelievable and unjustified rate increases

I know the Marina's policy has been if you boat is damaged that they are not responsible. We should not have to claim damage on our own policies. The law is clear. The marina is responsible to design their mooring system to the conditions that exist on the lake. When their system fails they are legally responsible.

Please forward your money. I will open a bank account at Placer Sierra Bank in Auburn. I will not reimburse myself the aprox. \$500. I spent on the mailings until the State has approved our filing. The books will remain open to all of you upon request.

Please bare with me as I am a bit overwhelmed with adding all of you to the database. Thank you to those who have volunteered to be on the Board of Directors and to assist with the other tasks. I will stay in contact.

Thank You

email to trade info on services. That is another good thing about the association. We will start a web page allowing you to do that again and still protect the privacy of those that do not want email addresses listed.

Thank you I will send another email after the meeting with the State.

Jerry Johnson

I may send this more then once as some have said they did not get other emails the first time.



LOBD Ltr. 03-14-07.doc Moothart Letter From XXXXXX.doc



"Jerry Johnson"
<k9fuzz@usamedia.tv>
03/23/2007 08:54 PM

To "Jim Stowe" <manzanitacars@sbcglobal.net>, "Tim Coito"
<tcoito2@yahoo.com>, "Jer" <jrjohnson@auburn.ca.gov>
cc
bcc

Subject Update letter

History:  This message has been forwarded.

Hello

Jim Stowe, Tim Coito and I met with Frank Moothart at the Marina. The meeting did not go very well. Frank wants things to remain the way they are and does not want to accept any responsibility at all. The only area we made progress is that he did agree to allow boats to pump out on Sundays but that was about it.

Attached is a letter I am sending to him. He was adamant that we not send him a letter. I am sure because he does not want the meeting documented. If we are to effect change we need to document the problems. He will get a copy this week.

Also attached is a copy of a letter sent to Frank by one of our members several weeks ago. I have removed his name to protect his privacy. To date Frank has not responded. This letter was written by a Southern California Law Firm that specializes in marina law. I met with them and am considering having them do our filing with the State. They are to give me a price Monday. As promised I have not cashed your checks until we have a legal organization. But I don't want to delay the work we need to do any longer. The attached letter certainly buttresses our position.

I will be meeting with the State next week to see what support we can expect from them. As you will see my letter to Frank states the issues and I believe if he makes any changes they will only come from keeping up the pressure.

I need each of you to send me a damage reports for the last two years. Please include when the damage was sustained and how it happened. What the repair cost were and who paid it, you or your insurance company. I need your insurance company and contact information for them. I will be working to have the marina pay all those costs.

I have found that some insurance companies are unaware of the true cause of the damage and once informed they will be happy to join us in recovering claims they have paid.

Thank you all again. Sorry this has taken so long to get started but we are moving along now. I am still getting new members each week. Now that people are starting to use their boats again we will get many more members.

I am sending this out without showing all your email addresses at the request of some to protect your privacy. I had to break up the last few emails into several parts because for some reason the number of members exceeded the capacity that I could send. Some of you have used pervious



See what's free at AOL.com. LOBO Ltr. 03-14-07.doc



"Jerry Johnson"
<k9fuzz@usamedia.tv>
04/05/2007 08:52 AM

To "Jer" <jrjohnson@auburn.ca.gov>, "Jerry Johnson"
<k9fuzz@usamedia.tv>

cc

bcc

Subject Fw: broken cable

History:  This message has been forwarded.

----- Original Message -----

From: Jerry Johnson

To: Jerry Johnson

Sent: Thursday, April 05, 2007 8:16 AM

Subject: Fw: broken cable

Good morning Lake Boat Owners.

I believe all of you got a copy of my letter to Frank Moothart following the meeting a few weeks ago. If not it is attached again. Frank has not responded to us yet. In that meeting the condition of the mooring system was discussed. Frank insisted the cables were all in good shape and maintained regularly. The picture below were taken just last week when one of our members boat was hit in the middle of the night by a boat attached to one of the cables Frank was insisted was one of the best in the State. As you can see the buoy is still attached to the houseboat. The break is clearly part of the mooring system.

You can clearly see the cable just rusted until it broke. That process takes years, and is clear proof cables are not replaced on any regular schedule. We have been very lucky this winter as it was a record breaking mild season. I want to urge each of you to inspect the cables under your boats and forward their condition and photos if possible to me.

I will be speaking to attorneys this week about what can be done to protect our boats. Additionally, I need, as soon as possible a survey of any damages you have sustained to your boats in the last two years.

Thank you

Jerry Johnson

It has been a while since my last letter to all of you. I wasted a lot of time trying to find an attorney to draft by-laws and articles of incorporation to file with the State. They all have wanted thousands of dollars. I seemed a waste of our money. I am just about finished drafting them myself from other lake associations.

I have also been delayed with a homicide case I have been working on for Auburn PD. I have more time now as we wait for the defense attorneys to agree on a trial date. I will be out of town the next two weeks and will file our papers the following week.

I have not deposited any of your checks as I do not want to do so until the association is a legal entity. Below is a list of the issues that have been raised in your letters to me. If any of you have additions please let me know.

1. Condition of the mooring infrastructure.
 - a. Overloaded and old cables.
 - b. Docks breaking and cleats pulling out.
 - c. Mooring balls breaking loose.
2. Increasing mooring fees.
3. Lack of notification when boats break loose or sustain damage
4. Marina not taking responsibility when damage occurs.
5. Limited pump out days. This is a very serious issue as some have told me that people are now dumping black water into the lake. For those that work all week and find they are not allowed to pump on weekends it seems there is no other option. However this is a serious health issue for all of us and we need to take quick action and have a solution before the summer season starts. I have personally witnessed such dumping on two occasions last summer between the marina and the bridge. The pump out boat is not the answer because it is both unavailable and much too expensive.
6. Bug infestation on covered docks.
7. Debris in the water
8. Lack of an honest response to any complaints.

Rest assured we will start meeting with the Marina soon and report back to all of you. We will also be asking the State for assistance.

Sincerely,

Jerry Johnson

cc: Markus Self esq.

On page two of the letter I raised the issue of boat insurance. I informed you of our inability to buy group insurance for our members because of the insurance company's knowledge of the continued deteriorating condition of your marinas mooring system. I also addressed my fear that the current insurance carriers would refuse to renew policies as they became due.

I received an email from one of our association members yesterday informing me that his insurance company has now refused to renew his insurance policy. His boat was severely damaged on September 22, 2006 when your mooring system failed, allowing over forty boats to drift into other boats. Many boats are financed and as you know a condition of the loan is a requirement of insurance. The inability to purchase insurance will cause a default on the loan. This is a problem the boat owner can not solve. The liability lies squarely with you.

Additionally, several boats have either been out of the water or unusable for months now. Due to the number of boats damaged on September 22, 2006 the repair shops are overwhelmed. Repairing boats and returning those that had to come off the lake for repair has been a slow process and some will still not be usable this summer. Boaters have suffered the loss of the use of their boats. Adding insult to that, you have not offered any compensation. Worse yet you have continued to increase your mooring fees during this time. This situation is completely unacceptable.

In our meeting you insisted that you regularly maintain and replace cables. I received the attached picture of one of your cables just last week. This cable is clearly so old that it rusted until it broke in a very mild breeze. The fact remains that you fail to maintain your mooring system. The indisputable proof is in the picture. I once again ask that you forward to me a report from a qualified engineer stating a plan and time frame for the replacement of cables and repair of docks, balls and other items related to the mooring system under your control.

We also need to address personal safety. When a boat breaks loose due to your system failure, it usually drifts into another boat. If people are on their boats, their natural reaction is to fend off the approaching boat to avoid damage. These boats are very heavy. We fear it is only a matter of time until someone is seriously injured trying to protect their boat or someone swimming alongside their boat. We most certainly want to avoid that.

This is a serious situation that needs your immediate attention. I know that all the boat owners want to work with you to solve the problems outlined in my last two letters to our mutual benefit. None of us wants a conflict. We want boating to be a fun time with family and friends. However, your lack of immediate attention would only leave us with the unfortunate option of legal action against you. Please do not force us to that option.

I request your prompt attention and response to us. If you have any questions you can reach me at 530-888-0400



"Jerry Johnson"
<k9fuzz@usamedia.tv>
04/07/2007 02:07 PM

To "Alysa Johnson" <alysa@usamedia.tv>
cc
bcc

Subject Fw: Update letter

History:  This message has been forwarded.

----- Original Message -----

From: Jerry Johnson
To: Jer
Cc: Alysa Johnson
Sent: Saturday, April 07, 2007 2:05 PM
Subject: Update letter

LOBO members

Below, is my latest letter to Frank. Unfortunately the situation I predicted happened sooner than I thought. I will keep you informed.

The Southern California Law Firm I mentioned earlier has agreed to finish the State filing for \$3500.00. I have agreed to that. Our association will be a mutual benefit corporation. As soon as that happens I will be depositing you checks in the association account. For those of you that have not paid please do so.

LAKE OROVILLE BOAT OWNERS

Saturday, April 08, 2007

Frank Moothart
Bidwell Canyon Marina
801 Bidwell Canyon Rd.
Oroville, CA. 95966

Dear Frank,

Last month you and I had a meeting where we discussed several issues important to the boat owners in your marina. I then sent you a letter which summarized those issues and asked for a written response from you. To date you have not responded.

The Lake Oroville Boat Owners appreciate your willingness to meet with us and review our situation. Given the above information, we request that you rescind your approval of the rental increase granted for the last two years.

Thank you

Jerry Johnson
17211 Winchester Club Dr.
Meadow Vista, CA. 95722
530-888-0400
530-878-7843

rents above the CPI, the Marina must offer additional services above those now included in the current rents. There have been no additional services offered at Bidwell Marina despite the fact that many new boats have been added in the past years. In fact, the pump out service has been changed to cut back both days and hours of operation

The Marina operator listed several other Marina rental rates as justification for the increases requested. I was astounded as I did the research on those Marinas. Many of them are very upscale Marinas along the San Francisco Coast. These Marinas have club houses, expensive restaurants and laundry rooms. Their docks are in excellent condition with full services including, electricity, cable TV, telephone, internet and water. Bidwell offers none of these.

The Marina on Lake Englebright was also used as a comparable. I am personally familiar with Englebright as I had a houseboat there for 12 years from 1989 to 2001. In the mid 1990's the owner replaced most of the docks adding electricity and side walkways. The dock surfaces were all Trex Decking material which increased safety and eliminated problems from wood. This was a major investment yet annual fees did not increase above the normal CPI. Additionally Englebright is limited by the number of boats allowed, making it necessary to work within their existing income budget. As long as I was there, I never remember a mooring system failure.

In reviewing every comparable offered, I found all were in excellent repair and offered more services than Bidwell Marina. In addition, their renters did not experience system failures wherein their boats were damaged. The attempt to justify a fee increase by these comparisons is not reasonable. None of the marinas listed were comparable to Bidwell. Most importantly, as born out in the States inspection reports, Bidwell Marina is substandard and that substandard condition has been extremely costly to renters in property damage.

In summary, we believe maintaining the marina facilities, docks, balls and mooring system is an obligation mandated by the lease with the State of California and does not justify any rental increase above the CPI. Fees may be increased if new services are added, however no new services have been added. I believe one of the reasons the lease requires the States approval of rent increases is that the State recognized that boat owners are limited in their mooring options. Many of the boats on Lake Oroville exceed the size limit for any other California lake, making them impossible to move. Even the smaller boats are difficult and costly to move. We must rely on you for a review of rental increases to insure that any increase is fair.

I gave you copies of letters that the Association has sent to Frank Moothart over the last several months. The letters asked him to respond to our concerns about the condition of the marina and other issues addressed in this letter. When I met with Mr. Moothart, he told me he would not respond and would not deal with any association of boat owners. To date he has not responded to any of the requests.

LAKE OROVILLE BOAT OWNERS

Tuesday, May 15, 2007

California State Parks
Northern Buttes District
400 Glen Drive
Oroville, CA. 95966

Dear Chief Steve Feazel,

Thank you for forwarding the information submitted by Bidwell Marina as justification for the rent increases. I have reviewed the justification used and the comparable marinas and have the following comments for your consideration.

Bidwell states they have replaced seven miles of cable and reinforced the mooring system. Replacement of cables and reinforcing the mooring system should be part of an ongoing general maintenance program of all marinas. The Bidwell lease requires that the mooring system be maintained in a "first class basis". Funds to maintain the mooring system should be budgeted on an annual basis as part of good business practices by the marina owner. The marina should never be allowed to deteriorate to a point that cables and docks are breaking during normal and expected weather conditions.

I justify my comment by referring to the catastrophic failure last September when four rows of cables broke, sending some forty boats through the marina and causing still uncalculated hundreds of thousands of dollars in damage to houseboats. During one cable failure, a boat sustained over \$260,000.00 in damages. Many of our members had to take their boats off the lake to have them repaired. I am also informed some of the boats can't be repaired for this summer season, yet the marina insists they continue to pay rent for a space they can not use. Bidwell marina boasts of "seven miles" of new cable, yet we continued to suffer mooring failures this winter as documented by the picture I left with you when we met last month. The mooring system and marina are still in a serious state of disrepair. Mooring balls are still breaking free and many docks and walkways are in very bad condition.

The responsibility for the above mentioned damage clearly belongs to the Marina operator as it was a result of the failed mooring system, yet he has refused to accept any responsibility at all. Simply doing part of the maintenance required by the lease is not justification for a rental increase. Rental increases should be governed by CPI just as most other businesses are. This is the accepted standard across the nation. To increase



"Jerry Johnson"
<k9fuzz@usamedia.tv>
05/22/2007 06:27 PM

To "Jerry Johnson" <k9fuzz@usamedia.tv>
cc
bcc

Subject FW: Bidwell launch parking lot

History:  This message has been forwarded.

Info to you all
Jerry

Hi Jerry,

We were at the lake this past weekend and were told that there have been over 30 cars broken into in the past 2 weeks at the Bidwell launch parking lot. Yep, 30 cars in two weeks.

One guy told us that one week they broke into his truck and took a lot of valuables, the next week they stole his truck.

Maybe you can pass the word to the group, "be carefull not to leave anything in sight"....

Thanks for your updates,

Dave and Loretta Cochrane



"Jerry Johnson"
<k9fuzz@usamedia.tv>
06/04/2007 07:38 PM

To "Jer" <jrjohnson@auburn.ca.gov>
cc
bcc
Subject FW:

From: Jerry Johnson [mailto:k9fuzz@usamedia.tv]
Sent: Monday, June 04, 2007 7:38 PM
To: 'k9fuzz@usamedia.tv'
Subject:

Some of you could not open the attachment so I am sending it as a paste below

Jerry

LAKE OROVILLE BOAT OWNERS

Saturday, June 2, 2007

Frank Moothart

With this letter is my rent payment as requested by you. I am paying this rent under protest but want to be timely.

As you are aware the Boat Owners Association has asked the State to review your the rent increases. As we believe they are not justified. We are awaiting their decision currently. If we are successful our members will be requesting a refund.

We also have some questions:

1. The statement you sent states " Mooring fees are due in advance; significant discounts may be earned by paying in advance quarterly, semi-annually or annually". Many of our members have paid annually for years yet have never received any discounts. Attached is the bill you sent me showing the amount due, yet there is no discount for my advanced payment. Please respond with and explanation that I can pass on to our membership.
2. You mention there will be a new contract. Please send me a copy (preferably by email) as we would like time to review and comment on it before the proposed December 1, 2007 effective date.

Thank you

Jerry Johnson