

MINUTES of the 2016 KUAU BAYVIEW ANNUAL MEMBERSHIP MEETING
November 17, 2016

5 DIRECTORS PRESENT: Luba Reeves (President), Tom Atkins (Treasurer), George-ann Kealoha (Sec),
Chris Fortescue (Director), Shems Heartwell (Director)

16 LOT OWNERS PRESENT: 1,7,14,18,19,21,40,53,55,57,64,66,79,80,90,92

19 TOTAL IN ATTENDANCE: 19 people

INTRODUCTIONS & THANK YOU TO DEPARTING BOARD MEMBERS

President Luba Reeves introduced the Directors and welcomed new owners Chris Fortescue of 44 Lae St (Lot 18), and Shems Heartwell of 27 S Laelua Place (Lot 57).

We wish to extend a huge mahalo to **Dan Judson** for his wonderful contribution to the Board over the past six years. His calming influence as well as his ability to make us all laugh will be sorely missed.

We also wish to extend a huge mahalo to **Greg Aguera** for adding his level-headed perspective to the Board during the past two years.

DETERMINATION OF QUORUM & CALL TO ORDER

The requirement for a quorum has been met with 58 of the 92 Lots (64%) represented, 16 in person and 50 by proxy. This was the third year we were able to submit proxies online and it was a great success with 55 of the 62 proxies (91%) submitted online. Proxies are negated for owners who attend the meeting.

President Reeves called the 20th Annual Membership Meeting of Kuau Bayview HOA to order on Thursday, November 17th, 2016 at 6:30 pm at the Paia Community Center, 252 Hana Hwy in Paia. President Reeves explained the difference between Board meetings and Annual Meetings... at annual membership meetings members are allowed to make motions and vote along with the Board members.

PROOF OF NOTICE OF MEETING

Secretary George-ann Kealoha confirmed that notice of this Annual Meeting was emailed to all Green List owners of record on Oct 27, 2016 with accompanying proxy. The snail mail people were sent a printed notice of the meeting also on Oct 27, 2016. A copy of this notice is appended below.

APPROVAL OF MINUTES OF 2015 ANNUAL MEETING & EMAIL MOTIONS

MOTION: To approve the minutes of the Annual Meeting dated Jan 7, 2016, as circulated. Seconded and carried unanimously (Tom Atkins/Michael Baskin).

MOTION: For the Directors to ratify the minutes of the Board Actions by Unanimous Consent dated Mar 13, Mar 21, Sept 1, 2016 and the BOD meeting dated June 10, 2016. Seconded and carried unanimously (Luba Reeves/George-ann Kealoha).

PRESIDENT'S REPORT

Luba Reeves' President's Report is appended below.

FINANCIAL REPORT for 2016

Treasurer Tom Atkins reported that as of today the HOA is still in good financial shape with \$74,382.63 in the savings account and \$5,106.17 in checking for a total with petty cash (\$74.96) of **\$79,563.76**. However, we are down about \$4000 from last year, and we have \$2,325.19 in Accounts Receivable. The shortfall is due to the huge drainage on HOA resources over the past year caused by two recalcitrant owners who

refuse to live up to their responsibilities as members of the Association. This will be discussed later in the meeting so, for now, suffice it to say that we had unexpected legal costs and must now budget for similar costs anticipated in the near future; therefore, we must raise the annual dues.

As the Treasurer, I regularly examine the bank accounts and other records and can attest to the accuracy and total transparency of the bookkeeping. The finances are easily accessible online so that any owner can see where the Association's money comes from and how it is spent, all clearly displayed on the Kuau Bayview website 24/7/365.

DESIGN COMMITTEE REPORT

The purpose of the Design Committee is to maintain high architectural standards in Kuau Bayview in order to preserve property values and encourage pride of ownership. The Committee has approved of several houses installing new roofs, new solar PV systems, and new paint. One house has a new shed. Thank you to everyone for investing in your properties, as we all benefit as property values rise.

GRIEVANCE COMMITTEE REPORT

Lot 83: Multiple complaints have been received regarding two RVs at 18 Laenui Place which have been observed housing overnight renters while parked on the driveway and front lawn of Lot 83. This is a County zoning violation. On Halloween, the son was observed egging houses, vehicles, and people in Kuau Bayview. This resulted in more complaints from a different set of people.

Lot 49: A woman from a neighboring HOA across Hana Hwy on Kuau Beach Rd reported that she saw a man from Kuau Bayview cutting down all their trees between Hana Hwy and their houses, effectively removing the sound barrier against traffic noise. The residents were very upset. She pointed to the house at 28 N Laelua Place and said she saw the man go into that house after cutting the vegetation.

RETENTION BASIN REPORT

Tom Atkins reported that during the past year the [Retention Basin Maintenance Plan](#) has served as the guide for the oversight of the storm water drainage basin at the entrance to our subdivision. The infiltration gauge readings indicate that the basin is adequately functioning to disperse the storm water, and thereby, prevent any harmful impact on the nearby ocean and its living organisms. In the past year, there has been a great deal of effort by the Retention Basin Committee members to control the relentless growth of vegetation in the basin. We thank Dave Ingram for volunteering his skills in helping to control the animals and plants present in the basin. We continue to monitor one area of bank erosion along the driveway by the 24 inch inlet culvert. In time, we anticipate that a rock revetment will be needed to stabilize this area of the bank in order to preserve the driveway. This could be rather costly. The Board will be looking into this, and the committee members will continue their efforts throughout the new year.

LANDSCAPE REPORT

Landscaper Darlene Brothers gave the front entrance a new look in 2016 by cutting the Variegated Hibiscus behind the rock garden from 30 to 3 feet in height to reveal the Prince Kuhio vine on the fence behind. She also removed the Plumbago that had entirely taken over the Lae St hillside and replaced it with Agave & Hearts & Flowers. Winter Starburst was planted on both sides of the front entrance & on the Lae St hillside.

ELECTION OF DIRECTORS

As there were three candidates for three Director positions, the election was by acclamation. We welcome Luba Reeves, Chris Fortescue, and Shems Heartwell to two more years on the Board. There will be a brief organizational meeting for all Board members immediately after this meeting to elect officers.

MAHALOS: Owners expressed their appreciation once again to Flatbread in Paia for their donation of five delicious pizzas for our meeting. We are very grateful for their generosity.

OLD BUSINESS

MOTION: To approve the following written policy adopted by the Board on 2016-03-21 regarding delinquent accounts based upon Section 10.6 of HRS 421J for Planned Community Associations and posted under #4 on the [Policies & Procedures](#) page of the Kuau Bayview website...

If a delinquent lot owner uses the property as a rental, pursuant to HRS 421-J 10.6 (a), the Board may collect from the tenants' rent any amounts owed to the Association. Under section (c) of this law, the tenants have complete immunity from any retaliatory actions on the part of the landlord against the tenant for payments made to the HOA under this section.

(Dan Judson/George-ann Kealoha). All in favor, except Nancy Snow opposed.

NEW BUSINESS

2017 Budget: Oscar Boykin asked what the -\$5000 meant in the Allocation to Reserve column. In 2014 we had increased the Reserve Fund to \$70,000 by allocating \$10,000 of the money recouped from the insurance audit to Reserves. In 2015 and 2016 we undid that allocation and put \$5000 back in the checking account each year to cover expenses. Reserves is just a category label. The money never left the bank accounts. A minus sign in an expense account indicates a refund.

Oscar asked if there were any **future expense risks** and received the following answers:

- Due to erosion from storm water gushing out of the culvert and forming an eddy along the hillside, the driveway in the Retention Basin could require a costly rock revetement at some point.
- If the Board members & Darlene got tired of self-management, the HOA would have to hire a management company. Our dues would skyrocket. In Kehalani owners pay \$1,032 per year.
- Eventually the Retention Basin fence will need to be replaced & could cost over \$35,000.
- A disgruntled owner could sue the HOA for lots of money as we witnessed this year.

- 1) **MOTION:** To ratify the proposed budget for 2017 which is available on the website 24/7 for owners' perusal (Oscar Boykin/Chris Fortescue). All in favor.
- 2) **MOTION:** To ratify the actions & decisions of the Board of Directors since the last Annual Meeting as listed in the March, June, & Sept 2016 Action Minutes (George-ann Kealoha/Dan Judson). All in favor except Oscar Boykin abstained as he had not yet read them.
- 3) **MOTION:** To ratify the Board [Policies & Procedures](#) as posted on the website (Luba Reeves/Lisa Thomas). All in favor.
- 4) **MOTION:** To ratify the updates to the Bylaws as listed in the [2016-03-21 Minutes](#). These updates are to facilitate the ongoing transition from paper-based processes to electronic processes and will be incorporated into the online [Bylaws](#) in red so that owners can see the updates easily (Tom Atkins/Darlene Brothers). All in favor. See additions below...

Article III: Members of the Corporation. Section 3. Meetings; Notice; Quorum; Electronic Transmission; Consent.

e. **Electronic transmission**, online web pages, digital filing, and other technologies may be used by the Association and its members as efficiency tools to serve the rights of members to notice of meetings, access to documents, proxy submission, and voting by members.

f. Whenever the **consent** or approval of the members of the Corporation is required or called for under these Bylaws, the Declaration, the Articles, or by law, or otherwise, votes may be cast via postal mail, hand-delivery, online forms, email, or other methods of electronic transmission, except for the election of Directors. The concurring vote by written consent of a voting interest equal to a quorum of the total of all

members in good standing, or as otherwise provided by law, the Articles, the Declaration, or these Bylaws, shall be valid and binding upon the Corporation.

Article IV, Section 2. Meetings; Notice; Quorum; Email.

e. In order to facilitate communication between the Board of Directors and the membership, the preferred mode of communication for all Association business shall be via electronic transmission (email), unless the member has opted, and paid for, paper delivery. Proficiency with email shall be a mandatory qualification for Directors. The Board may permit any or all Directors to participate in meetings by, or conduct the meeting through the use of, any means of communication by which all Directors may simultaneously hear each other during the meeting, thereby preserving the deliberative nature of the meeting as required by Robert's Rules of Order, Newly Revised. A Director participating in a meeting by this means is deemed to be present in person. [HRS 414D-143]

5) Why the Fees are Going Up: In a Planned Community such as Kuau Bayview, one of the duties of the Association is to enforce the Covenants, Conditions, & Restrictions (CC&R's) and make sure that a harmonious community attitude is maintained by creating a balance between the wishes of individuals and what is best for the community as a whole. In any given population statistics have shown that 4% of people tend to consider themselves above the law. As the enforcers, the Board members & Manager become targets for bullies who refuse to obey the rules or take responsibility for their actions. Such people can make life hell for any Board and, unfortunately, we lost two Board members this year due to their malicious actions and the resulting stress, time-waste, and unpleasantness. Those who attended the 2015 Annual Meeting witnessed some of this firsthand when Karen & Malama Chun tried to disrupt the meeting by distributing a flyer full of egregious lies urging the attendees to overthrow the Board and threatening to sue the Association for millions of dollars. When no one jumped on the bandwagon, they left. No one even mentioned these allegations during the meeting. At the same time Bruce & Susan Boucher were also threatening to sue after filing a failed TRO on our landscaper, Darlene, after they refused to remove the overgrowth that had caused a safety issue on the N Laelua sidewalk next to their house. When they refused to pay for the cleanup, we handed the case to ADAC for collection. The Bouchers then sent a libelous letter to ADAC which would have required the Board to file a \$40,000 libel suit against the Bouchers, so we decided to try a rent intercept instead. To make a long story short, the Board had to go to court four times in the past year over this debt. Karen Chun was at court helping the Bouchers avoid paying what they owe the Association. In February Karen Chun filed a 12 page lawsuit in Circuit Court suing the Association, the Manager, and each Board member individually for, among other things, cutting down & carrying off a Plumeria tree that you can see still stands at the entrance to the park strip. In court what matters is not the truth, but what you can convince the judge is true.

Any attack on the Board is an attack on all owners. The Board & the Manager are owners just like you and, if you want us to continue to represent your interests, we need to know you have our backs. The average person cannot imagine what it feels like to have someone spreading horrible lies about you to all your neighbors and threatening to sue you over & over again. In the past, the Board members suffered in silence so as not to expose other owners to the toxic energy. But we have learned that keeping silent merely enables these people to get away with their unacceptable behavior because nobody but the victims are aware of what they were doing. And so the Board has decided that the best way to deal with perceived harassment is to post the facts on the website in full transparency in order to let the HOA members know of such activity and who's doing it. In short, the fees are going up because of all the legal drama caused by Karen Chun and Bruce Boucher, and because the Bouchers refuse to pay their share of the common expenses even though they collect \$2800 per month in rent. They still owe about \$1900 as of this meeting. When one owner doesn't pay their fair share, the rest of the owners must foot the bill.

6) The Board requested feedback from the members on a proposed policy regarding **realtor 'For Sale' signs at the front entrance. Rather than being placed in the garden in front of the KB sign, it was suggested that the signs be hung along the rock wall on the Paia side of Lae St. That way, even if there were more than one house for sale at the same time, For Sale signs would not detract from the curb appeal of the front entrance.**

OWNERS' FORUM

- **Nancy Snow Complaint #1:** "Things just aren't the same as back in 1996-1997... There is not the same continuity, the same feeling... everyone was happy... the meetings used to be pot luck." Members reminded her that back in 1996-7 half the houses hadn't been built yet. A&B ran the Board, catered the meetings, and paid for everything. None of the owners knew each other because they had just bought their houses.
- **Nancy Snow Complaint #2:** "The Board members need to ask themselves why people don't come to the meetings." Luba pointed out that when owners are happy, they don't come to meetings. They give the Board their vote because they trust them & like the way things are being run.
- **Nancy Snow Complaint #3:** "Karen Chun is being victimized... I know everyone thinks she is horrible but she is not a sociopath... She is a good lady who has done a lot of good for this Board." Nancy was unable to give one example of anything good. Luba pointed out that Karen was on the Board when Luba first became President in 2012. Karen insisted on doing something that was against State law & when Luba refused to allow it, Karen walked out of the house and abandoned her post. Ever since then she has been on the war path against this Board and would have sued us all for \$millions this very year if she had had a case. This kind of hatred is not good for the Board, not good for the neighborhood, not good.
- **Nancy Snow Complaint #4:** "There is so much infighting between Bouchers & Karen Chun & Darlene." It was pointed out that Darlene has never done anything to the Bouchers or Karen except to do her job as HOA Manager. This is a case of blaming the messenger. If Darlene moved away, it wouldn't change the fact that Bruce Boucher owes money to the Association which he refuses to pay, and Karen Chun is still usurping public land and claiming it belongs to her. Without Darlene, the Bouchers & Karen Chun would just be blaming someone else for their transgressions.
- **Oscar Boykin** stated that his "interactions with Karen Chun have created an enormous amount of anxiety about the Board." Luba assured Oscar that the Board treats everyone equitably and does not persecute anyone. Why would we? Karen Chun has a well-established history of spreading misinformation in KB. Karen claims to be victimized yet she is the attacker every time. The truth is that the Board's help was enlisted by several owners who wished to have their right to use the walking access to the park restored. Karen & Malama Chun refused to relinquish the park land they had usurped and chose to attack the Board instead, just as they did in 2003. Any other version of the story is simply not true.
- **Oscar Boykin** wondered why the Board gave Easement 19 along Hana Hwy to the owners of Lots 43-49 but didn't give the park strip to the owners of Lots 78-79-93. The Board explained that Easement 19 lies within the property pins of Lots 43-49 and those owners pay property taxes on that land. It has always been their land. All the Board did was transfer the responsibility for landscaping Easement 19 from the HOA to the owners so that they could take care of it. It had grown wildly out of control but now looks much better. On the other hand, the park strip behind Lots 78-79-93 is publicly-owned park land. The HOA has no power to "give" it to anyone and the Chuns have no right to claim public land as their own.
- **Dan Judson** urged the Board to pursue the Grievance regarding the Lot 83 RV problem. The County must obtain hard evidence of vacation rental activity before they can act.
- As a recent Board member, **Dan Judson** said he felt the Board was doing a good job and should keep their eye on the prize. He agreed that fewer owners showing up at the meetings is a sign that people are in agreement with what the Board is doing. Owners generally don't feel a need to attend unless there is an issue that directly concerns them.
- **Luba Reeves** pointed out that being on the Board "is a thankless job but we do our best to be as impartial as possible & save money the best we can, and we make sure that everything is according to the law... We don't want to be sued."
- **Shems Heartwell** added, "It is a lot easier to complain than to participate." Amen to that!

ADJOURNMENT: The meeting was adjourned by unanimous consent at 8:10 pm (Atkins/Heartwell).

PRESIDENT'S REPORT 2016

Aloha everybody and welcome.

Thank you for caring enough to attend this annual meeting of the Kuau Bayview Association. I know how busy we all are with our day-to-day obligations, so we appreciate your coming to be part of the decision-making process that affects everyone in this neighborhood.

Another year has passed so incredibly fast. This board has been in charge of this neighborhood now for over 4 years. Somehow it does not seem as long, but it was. For most of our reign we were able to balance the work we had to do with our private lives. Most of the time had been peaceful, except for the last year, which we hope was an exception and not the rule here.

As you probably know, when we started this new board I wrote a mission statement on our website which we have adhered to, especially the one to treat all owners equally and with respect. We so much appreciate your putting your faith in us and supporting our efforts.

So now for the bad news.....

This year has been the most difficult year for the board since we started 4 years ago. The reason is, we had two owners who felt things were going too smoothly here and wanted to stir the pot, as the saying goes. First it was lot #35, the Bouchers. And then lot #93, Ms Karen Chun.

Both of these owners felt that none of the laws and bylaws applied to them and that they could ignore the board's rulings. To be frank.... Mr Boucher still owes the association a substantial amount of money he refuses to pay, and Ms. Karen Chun threatened and finally filed a lawsuit for a huge amount of money all to intimidate the Board into allowing her to continue usurping public land and depriving other owners of their rights. Some people just cannot live in peace and enjoy this slice of paradise.

In the past year because of these two owners, the board had to go to court FOUR times and we were intensely harassed through mail and emails by these two owners. The stress of it was the reason two of the board members resigned from the board and the reason for the increase in the dues.

While some of it was happening I was in San Francisco visiting my brother. In a way I was glad that I did not have to attend the court proceedings; however, personal tragedy struck and I had to come back on the next flight to Maui. My husband of 35 years went looking for dolphins at La Perouse Bay. He fell off the paddle board into the ocean, had a heart attack, and passed away on the way to the hospital. It was not easy for me. The world as I knew it fell apart for me. So it was not a good year for me personally either. And now on top of this I had to attend court just a few days after his passing to show support for the board members.

Some of you may remember Fred. He used to come to our meetings to give us moral support and to be our "Sergeant at Arms" if need be. Fred was a fearless soul and lots of people remember him as "Safari Man" because of the khaki outfits he wore and his signature hats.

If you do not mind, I would like to have one minute of quiet respect dedicated to Fred right now. [a minute of silence was observed] Fred is always with me even if he is no longer here.

Fred's favorite quote was, "He who kisses a joy as it flies, lives in eternity's sunrise." - William Blake

We have been self-managing for the last 4 years and our dues are still lower than when we started 4 years ago when they were \$300 per year. Once again we are greatly indebted to our manager Darlene & Retention Basin Tom for their huge amounts of volunteer labor, without which our fees would be at least triple. We hope to lower the fees again for 2018 if Karen Chun would back off with the needless lawsuits.

We have business we need to cover at this meeting, so I just want to remind all owners that we are not here to discuss individual issues one might have as a homeowner. We will have an "owners forum" at the end of the meeting and at that time you may bring up issues not covered here. Each owner will be limited to 3

minutes. If there are issues you would like to go deeper into we recommend you email us so we as a board can consider the issue and answer your particular problem.

Thank you again for attending this meeting. Please enjoy the pizzas graciously donated to us by Flatbread, as well as other great pupus.

Sincerely,
Luba Reeves
President
Kuau Bayview at Paia HOA

**2016 KUAU BAYVIEW ANNUAL MEMBERSHIP MEETING
MINUTES OF BOARD OF DIRECTORS ORGANIZATIONAL MEETING
Nov 17, 2016**

DIRECTORS PRESENT: Luba Reeves, Tom Atkins, George-ann Kealoha, Chris Fortescue, Shems Heartwell

The purpose of the Kuau Bayview at Paia Homeowners' Association domestic non-profit corporation is to provide for the management, maintenance, landscaping, protection, preservation, aesthetic and architectural control and development of the subdivision.

The Board of Directors met following the 2016 Annual Meeting at 8:11 pm and organized as follows:

President: Luba Reeves
Vice President: Shems Heartwell
Treasurer: Tom Atkins
Secretary: George-ann Kealoha
Directors: Chris Fortescue

The DCCA Annual Corporate filing in April 2017 will reflect these changes to the Board.

No changes were made to the signers on the checking account..

MOTION: To adjourn the meeting at 8:12 pm. Seconded and carried unanimously. (Reeves/Atkins)

In the capacity stated above and on behalf of the named entity, I certify that the statements and representations made herein as indicated above are true and correct.

George-ann Kealoha
/s/ George-ann Kealoha
Secretary
Kuau Bayview at Paia HOA

**Notice of 2016 Annual Meeting
Kuau Bayview at Paia Homeowners' Association**

In accordance with Article III, Section 3(c) of the Association Bylaws, NOTICE IS HEREBY GIVEN that the 2016 Annual Meeting of the Ku'au Bayview at Paia Homeowners' Association will be held **Thursday, November 17, 2016 at 6:30 pm** in the smaller Conference Room of the **Paia Community Center** located at 252 Hana Highway in Paia, Maui, Hawaii. **Registration & pupus will begin at 6:00 pm.**

The purpose of this meeting is as follows:

1. To receive the annual reports of Officers, Directors, and Committees of the Association;
2. To elect 3 Directors to fill the term expirations of President Luba Reeves (Lot 19), Chris Fortescue (Lot 18), & Shems Heartwell (Lot 57). All three incumbents are running for re-election. If there are other nominations received by Nov 10th, they will be added to the ballot.
3. To transact other such business as may properly come before the meeting or any adjournment thereof.

In order to conduct the business of the Association, there must be a quorum. Owners representing more than fifty percent (50%) of the total authorized votes (92) must be present either in person or by proxy. In other words, at least 47 Lots must be represented. PLEASE SUBMIT YOUR PROXY EVEN IF YOU PLAN TO ATTEND to ensure the meeting can take place. If you attend, your proxy will be negated. We are once again offering [on-line proxy submission](#) to make the process less time consuming for all.

If you would like to run for the Board, please submit a nomination form. If you are interested in serving on the Design Committee or the Grievance Committee, please contact the Board prior to the meeting, or at the meeting. Light refreshments will be provided by the Association.

There will be a short organizational meeting of the Board of Directors immediately following the meeting for the purpose of electing officers for the coming year.

Dated: Oct 20, 2016
By call of: George-ann Kealoha, Secretary

Agenda for Nov 17, 2016 Annual Homeowners' Meeting

1. Introductions of Directors & New Owners
2. Determination of Quorum & Call to Order
3. Proof of Notice of Meeting
4. Approval of Minutes of 2015 Annual Meeting
5. President's Annual Overview
6. Financial Report
7. Design Committee Report
8. Grievance Committee Report
9. Landscape & Retention Basin Report
10. Security Network/Crime Report
11. Election of 3 Directors
12. Old Business
13. New Business
14. Owners' Forum
15. Announcements
16. Adjournment
17. Organizational Meeting of Board of Directors

The complete 2016 Annual Meeting packet is available on the [Kuau Bayview website](#).