

**MINUTES of the 2019 KUAU BAYVIEW ANNUAL MEMBERSHIP MEETING**  
**November 21, 2019**

**5 DIRECTORS PRESENT:** Shems Heartwell (VP), Tom Atkins (Treasurer), Bonnie McCrystal (Sec),  
Sydney Schneider (Director), Veronica Mendoza (Director)

**9 LOT OWNERS PRESENT:** 7,29,47,55,57,62,63,70,80

**13 TOTAL IN ATTENDANCE:** 13 people

**INTRODUCTIONS**

Vice President Shems Heartwell introduced the Directors and welcomed new Board member Veronica Mendoza of 40 Hoe St (Lot 70) and new owners Cynthia Allen and Seymour Applebaum of 6 Hoe Place (Lot 29) who had just that day returned from traveling in Peru and the Galapagos.

**DETERMINATION OF QUORUM & CALL TO ORDER**

The requirement for a quorum was met with 62 of the 92 Lots ( 68% ) represented, 9 in person and 53 by proxy. This was the first year that owners provided enough proxies for a quorum without having to be prompted, which was much appreciated. Proxies are negated for owners who attend the meeting.

Vice President Shems Heartwell called the 23rd Annual Membership Meeting of Kuau Bayview HOA to order on Thursday, November 21st, 2019 at 6:40 pm at the Paia Community Center, 252 Hana Hwy in Paia. VP Heartwell pointed out that this was a membership meeting where members can make motions and vote along with the Directors.

**PROOF OF NOTICE OF MEETING**

Secretary Bonnie McCrystal confirmed that the HOA Manager emailed notice of this Annual Meeting to all Green List owners on Oct 30, 2019 with accompanying proxy. A paper notice was mailed to the three snail mail owners the same day. A copy of this notice is appended below.

**APPROVAL OF MINUTES OF 2018 ANNUAL MEETING**

**MOTION:** To approve the minutes of the Annual Meeting dated November 15, 2018, as circulated.  
Seconded and carried unanimously ( Tom Atkins / Shems Heartwell ).

**2019 ANNUAL REPORT** [ appended below ]

**FINANCIAL REPORT for 2019**

Cash assets of the HOA currently total \$83,789. The only unusual expenses this year were due to the unexpected need to replace the HOA backflow valve, a few water leaks, and a security gate. While we had hoped to lower the fees for 2020 based on 7 house sales in 2018, we won't be able to do that because there have been no sales at all in 2019. All owners are paid in full except one delinquent owner.

**DESIGN COMMITTEE REPORT**

This year brought our neighborhood a new shed, some fences, two major house renovations, a gazebo, more rock walls, new roof shingles, new solar panels, new paint, and a few landscaping overhauls. KB now has its first standing seam metal roof and two beautiful glass garage doors. Mahalo to all owners who are investing in their homes thereby increasing property values for everyone.

**GRIEVANCE COMMITTEE REPORT**

Complaints included sleep disturbance caused by bright lights inadvertently left on all night, someone trimming a tree and throwing the waste into the Retention Basin, a fence installed inside out, and flooding

caused by unapproved alterations on a neighboring lot. The flooding led to the discovery of a number of violations and unpermitted construction which the County is handling. If approvals had been sought, these violations and fines could have been avoided. Another flood on Laenui resulted from irrigation valves blowing off due to high water pressure causing water to flow into the lot below. There were also complaints about feral chickens and a Bougainvillea that had overgrown into a neighbor's property. One longstanding problem with a rental on N Laelua that had been attracting drug-users was resolved when the tenant moved out.

## **RETENTION BASIN & LANDSCAPING REPORT**

Earlier this year we discovered that the Lot 27 owner had created a "sanctuary city" for chickens in the Retention Basin and we suspect that certain non-KB neighbors were dumping their chickens in our basin as well. There were at least 80 chickens with chicks and eggs everywhere. The chickens were getting out and destroyed landscaping at homes on Hoe St and along Lae St. The HOA bought a couple of traps and started trapping. A family with an egg farm in Pukalani came several times and trapped as well. And the Lot 27 owner relocated the rest. The chicken problem has subsided. Tom continues to cut the Haole Koa & Bestill and control erosion & fire hazard on the slopes. Expenses included a new backflow valve & parts, 2 shovels, and cedar planks to fence off the walkway along the mauka border of the Retention Basin.

In 2019 Maui County decided they would no longer be trimming trees along Hana Hwy and property owners would be responsible for doing it themselves. As a permanent solution, Tom removed the large Sea Grape trees between Lae St and the Paia Community Center because they were growing into the overhead wires and the grapes dropping onto the sidewalk made it dangerous for pedestrians. We plan to plant Plumeria and flowering shrubs along the rock wall instead. The owners of Lot 44 and 45 also had their Sea Grape trees removed from along Hana Hwy. The trees had grown too big and were blocking views.

## **SECURITY REPORT**

2019 was the year that the growing crime wave on Maui spilled into our neighborhood. Lot 80 was burglarized twice by Tyler Wallett who absconded with thousands of dollars worth of tools. After he was tracked down and confronted by the HOA Manager, some of the tools were returned. Tyler was arrested and is now in MCCC. There were 12 vehicle break-ins, several reports of drug-dealing, one truck and one bicycle were stolen, and the cattle fence was cut by an owner's son in order to steal a solar battery from Kulolio Ranch. The battery was later returned after the father was shown a photo of his son with the stolen battery. Crime in the neighborhood seemed to subside after that.

## **ELECTION OF DIRECTORS**

As there were 2 candidates for 2 Director positions, the election was by acclamation. We welcome Tom Atkins and Sydney Schneider to two more years on the Board. Chris Fortescue resigned in October and the Board appointed Veronica Mendoza (Lot 70) to fulfill the remainder of Chris' term. We would like to express sincere mahalos to Chris for his four years on the Board.

## **MAHALOS**

We would like to thank Nick Rodrigues & Karen Rafferty at Flatbread for the 5 delicious pizzas they generously donated for our meeting. And, as always, special thanks to our volunteers, Tom Atkins & Darlene Brothers for their constant service on the Retention Basin & Landscaping Committees. Many thanks to our Design Committee members (Darlene Brothers, George-ann Kealoha, Michael Baskin) and our Grievance Committee (Darlene Brothers) for their ongoing service. The truth is that almost all the work is done by Committees and the Manager, not the Board members. We got quotes from several plumbers for replacing the HOA backflow prevention valve but Tom ended up doing it himself. Suffice it to say he probably saved us close to \$800. As a small token of our appreciation, Tom was gifted three pairs of leather work gloves. Cynthia Allen (Lot 29) also thanked Tom for improving their view by cutting the trees along Hana Hwy.

## **OLD BUSINESS**

At our last Annual Meeting we discussed the possibility of establishing view protections that would grandfather existing owners of one-story houses but restrict future buyers from raising their rooflines without permission from owners whose views would be impacted. Everyone who replied to the survey was in favor of view protections except three owners, but we did not get enough responses to meet the 66% requirement to change the DCCRs. So, as it stands now, there are no view protections.

## **NEW BUSINESS**

- 1) MOTION:** To ratify the proposed budget for 2020 which has been available on the website 24/7 for owners' perusal and is not much different from last year's budget ( Seymour Applebaum / Veronica Mendoza ). All in favor.
- 2) MOTION:** To ratify the actions & decisions of the Board of Directors since the last Annual Meeting as listed in the Jan 25, March 27, and Oct 7, 2019 Minutes. ( Tom Atkins / Veronica Mendoza ). All in favor.

## **ROCK RAMPART**

Landscaping Chair Darlene Brothers explained how, from the very beginning of Kuau Bayview there has been an ongoing problem with the hidden space behind the rock rampart to the right of the Retention Basin gate being used by thieves and homeless people as a private place to sleep and hide stolen goods. As recently as Oct 5th, thief Tyler Wallett was observed sleeping there. This rock rampart no longer serves any practical or aesthetic purpose. If the rampart were the same height as the rock walls in the main part of the garden, the tall bushes that currently crowd the sidewalk could be moved back toward the fence and shorter flowers planted in their stead. This would open up that corner and improve lighting and visibility for cars turning onto Hana Hwy while at the same time permanently eliminating this homeless hang-out.

Tom then made the case that there are many tons of rocks in the rampart which could be used as a revetment to shore up the side of the access road into the RB where there is severe erosion; the asphalt on the side of the road is starting to crack. The rocks would also protect the hillside from the chickens scratching which has probably caused as much damage over the years as the water. The rocks would be moved by wheelbarrow from the rampart area and rolled down the slope thereby solving two problems at once.

- 3) MOTION:** To reduce the height of the rock rampart at the front entrance (Paia side) and move the rocks and debris to the Retention Basin to halt erosion and shore up the side of the access road where storm water rushing out of the culvert has been undercutting the bank for years. A new garden area will be created where the rampart used to be. ( Shems Heartwell / Sydney Schneider ). All in favor.

## **OWNERS' FORUM**

It was mentioned that when few people attend the meetings, it means everyone is happy. Our goal is to make it so no one needs to attend the meetings to feel assured that their interests are being taken care of. Cynthia Allen (Lot 29) commented that they are the newest KB owners and they love this amazing neighborhood and they will do what they can to improve property values by upgrading their house.

**ADJOURNMENT:** The meeting was adjourned by unanimous consent at 7:13pm.  
( Cynthia Allen / Shems Heartwell ).

## Kuau Bayview Annual Report 2019

2019 noteworthy occurrences:

**Chickens:** An owner on Hoe Place had turned the Retention Basin into a "sanctuary city" for feral chickens. 55 eggs were collected without even trying. Chickens & chicks were everywhere. They were getting out of the basin and destroyed landscaping at homes on Hoe St and along Lae St. The HOA bought a couple of traps and started trapping. A family with an egg farm in Pukalani came several times and trapped as well. The owner relocated the rest. The chicken problem has subsided.

**Lot 27:** The Board and Design Committee were put through a lot of difficulty by an owner who made extensive alterations to his property without consulting the Design Committee. Most of the alterations would not have been approved as they were violations of County ordinances. One of the alterations caused water to drain onto the lot next door. The County is currently trying to bring the lot into compliance.

**Lot 61:** For over 3 years after the absentee owner died in 2016, the "manager" (John Dunbar) continued to rent the house posing as the landlord and had the tenants deposit the rent into his personal bank account. Let this serve as a warning to absentee owners to hire a licensed property manager.

**Thefts:** KB was troubled with an unprecedented wave of vehicle break-ins and thefts starting in April 2019. Please refer to the KB Crime Log on the website.

**Irrigation:** The HOA backflow prevention valve started leaking last January. As the irrigation system was reduced from 12 zones in 1996 to one zone since 2013, we decided to replace the old 1.25" valve with a new 1" Wilkins 975XL valve which is better and will be much easier and cheaper to maintain. Tom did the plumbing work himself thereby saving the HOA at least \$800. Mahalo, Tom!

**Annual Dues:** Although 2018 was a record year with 7 KB houses sold, there have been no sales at all in 2019. So there are no transfer fees that can be used to lower the annual dues for 2020... sorry.

**Upgrades:** As of October 2019 KB has its first standing-seam metal roof and two beautiful glass garage doors. We appreciate that the owners are bringing such high quality to our neighborhood.

**Cattle:** It is wonderful seeing the cows in the former cane fields around Kuau Bayview. They are beautiful, gentle animals.

**Trees:** When the County decided to stop trimming the trees along Hana Hwy, Tom & I decided to replace the overgrown Sea Grape trees with Plumeria and Winter Starburst bushes that will not drop grapes causing a hazard for pedestrians. Tom cut the trees; I still have to install drip hose and plant the new bushes.

**2019 KUAU BAYVIEW ANNUAL MEMBERSHIP MEETING  
MINUTES OF BOARD OF DIRECTORS ORGANIZATIONAL MEETING  
Nov 21, 2019**

**DIRECTORS PRESENT:** Shems Heartwell, Tom Atkins, Bonnie McCrystal, Sydney Schneider, Veronica Mendoza

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 during the 2019 Annual Meeting at 7:15 pm and organized as follows:

President: Bonnie McCrystal

Vice President: Shems Heartwell

Treasurer: Tom Atkins

Secretary: Sydney Schneider

Director: Veronica Mendoza

**MOTION:** To ratify the minutes of the Board Actions by Unanimous Consent dated January 25 and October 7, 2019. Seconded and carried unanimously. ( Tom Atkins / Bonnie McCrystal )

The DCCA Annual Corporate filing in April 2020 will reflect these changes to the Board.

**MOTION:** To adjourn the meeting at 7:13 pm. Seconded and carried unanimously.  
( Sydney Schneider / Veronica Mendoza )

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.

*/s/ Sydney Schneider*

Sydney Schneider  
Secretary  
Kuau Bayview at Paia HOA

**Notice of 2019 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 2019 Annual Meeting of the Ku'au Bayview at Paia Homeowners' Association will be held **Thursday, November 21, 2019 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 2 Directors to fill the term expirations of Treasurer Tom Atkins (Lot 55) & Director Sydney Schneider (Lot 80). Both incumbents are running for re-election. If there are other nominations received by Nov 14th, 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 election for the purpose of electing officers for the coming year.

Dated: Oct 23, 2019

By call of: Bonnie McCrystal, Secretary

**Agenda for Nov 21, 2019 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 2018 Annual Meeting
5. Annual HOA Status Report
6. Financial Report
7. Design Committee Report
8. Grievance Committee Report
9. Landscape & Retention Basin Report
10. Security/Crime Report
11. Election of 2 Directors
12. Organizational Meeting of Board of Directors
13. Mahalos
14. Old Business
15. New Business
16. Owners' Forum
17. Adjournment

The complete 2019 Annual Meeting packet is available on the [Kuau Bayview website](#).