

MINUTES of the 2020 KUAU BAYVIEW ANNUAL MEMBERSHIP MEETING
November 19, 2020

2 DIRECTORS PRESENT: Darlene Brothers (Pres), Tom Atkins (Secretary)

1 DIRECTOR ABSENT: Samantha Spurgeon (Treasurer)

3 OWNERS PRESENT IN PERSON: Greg Mebel (Lot 62), 7, 55

9 LOT OWNERS PRESENT VIA ZOOM: 5,10,15,24 (both),44,45,70,80

12 TOTAL IN ATTENDANCE: 12 people

INTRODUCTIONS

President Darlene Brothers introduced the Directors and welcomed Greg Mebel (Lot 62) who was the only in-person attendee to our first Zoom Annual Meeting.

DETERMINATION OF QUORUM & CALL TO ORDER

The requirement for a quorum was met with 63 of the 92 Lots (69%) represented, 3 in person and 60 by proxy. Proxies are negated for owners who attend the meeting. This was the first year that owners could attend via Zoom so it was a bit of a learning experience.

President Darlene Brothers called the 24th Annual Membership Meeting of Kuau Bayview HOA to order on Thursday, November 19th, 2020 at 6:40 pm at 37 Kaiea Place in Paia. The President 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 Tom Atkins confirmed that notice of this Annual Meeting was emailed to all Green List owners on Oct 25th, 2020 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 2019 ANNUAL MEETING

MOTION: To approve the minutes of the Annual Meeting dated November 21, 2019, as circulated.
Seconded and carried unanimously (Bill Heck / Greg Mebel).

2020 ANNUAL REPORT

The noteworthy occurrences of 2020 that are not included in the other reports are:

Insurance Settlement: Extreme efforts over two years produced an insurance settlement of **\$11,198.02** to compensate the Association for the July 22, 2018 car crash into the KB front entrance garden. Some of this money will be distributed to the owners by lowering the 2021 annual dues to \$80 for all Green List owners whose accounts are in good standing. Snail mailers in good standing will pay \$126 instead of \$176. The rest of the money will stay in the bank and be used to upgrade the front entrance as needed over time.

KB House Sales: There have been 5 house sales so far in 2020: Lot 65 for \$975,000, Lot 57 for \$950,000, Lot 86 for \$770,545, and Lot 8 for \$975,000. Lot 57 sold a 2nd time 8 months later for \$977,000. Both sales for Lot 57 were record highs for a one-story home.

School: On August 17, 2020, a tenant started operating a school with 6-8 students in a garage at 42 N Laelua Place causing much disruption to the owners in that cul -de-sac. Intensive research was done to determine what laws governed such operations. Owner feedback indicated that a substantial number of owners wanted DCCR 10(a)(i) enforced which restricts the lot usage to "single-family residential purposes." As part of a formal Grievance Procedure a Notice of Violation letter was sent to the owners on Sept 16th resulting in an eviction notice being posted on Sept 18, 2020 by the Lot 45 property manager requiring the school to be relocated. This would have been the end of it but the former President unilaterally rescinded

the Letter of Violation enabling the school to continue. A second Notice of Violation letter was sent to the owners on October 5th. The County sent them a Notice of Warning letter on Oct 21 for violating County Ordinances and possibly running an unlicensed child care. The HOA will be fining them for the DCCR violation. The tenant hired two different law firms to send demand letters and threaten the Board. Our response to the latest demand letter from Terry Revere is available on the website for those who are interested.

Board Changes: Since 2012 the KB Association has been successfully self-managed. Our annual dues are probably the lowest in the country and all aspects of the HOA have been run more efficiently and more transparently than ever before. In September 2020, an internal Board conflict arose, whereby the apparent intent of the three newest Board members was to scrap our great system and return Kuau Bayview to the same "professional" property management which had failed KB in the past, cost more than three times as much, and rendered the Association dysfunctional. Original owners refer to that period as the "Lord of the Flies" era. The two minority board members felt that the annual dues should be lowered for 2021, and resisted the majority's proposal to use the insurance settlement money to pay an "assessor" friend of the president \$4000 to evaluate the state of the Retention Basin. The Retention Basin committee felt that this proposal was a total waste of money. The newer Board members seemed to think that being "the Board majority" meant they could do whatever they wanted, disregarding state law, Board Mission Statement, KB Policies & Procedures, DCCRs, Bylaws, and at times neglecting to even inform the older and more experienced Board members of the actions they were taking. A negative and defining moment occurred when the president unilaterally rescinded the Grievance Committee's legitimate action that would have forced the school to relocate. This rescission favored the tenant against the grieved KB homeowners and was not in the best interests of the community as a whole. The three rogue Directors were asked to step down which they did on Sept 29, 2020, but filled their "resignation" letter with malicious, false allegations blaming the other Board members. This letter was given to the tenant's lawyers to use against the HOA. If these ladies had not resigned, a special meeting was being planned to remove them from the Board as their illegal and bad faith actions were putting the HOA at risk. The remaining Board members were threatened in an attempt to scare them into allowing the school to continue. Since the threats scared off two of the three new Board members, the Board will operate with three Directors until the attorney issues are resolved.

FINANCIAL REPORT for 2020

Cash assets of the HOA as of Nov 19, 2020 total \$95,881. The insurance settlement for the 2018 car crash added \$11,198.02 to our funds which enables us to reduce the 2021 annual dues to only \$80. We are in very good shape financially. The only unusual expenses this year were \$100 for two cubic yards of compost for the new garden area and \$50 for Naki to finish off the end of the rock wall where the rampart was removed. Six KB houses have sold in 2020 (Lots 8, 27, 65, 86, & 57 twice). All owners are paid in full except one delinquent owner.

DESIGN COMMITTEE REPORT

This year brought our neighborhood two pergolas, several new paint jobs & new roofs, new garage doors, a rock wall, a rock County strip, and a few landscaping overhauls. Mahalo to all owners who are investing in their homes thereby increasing property values for everyone.

GRIEVANCE COMMITTEE REPORT

Since August the school at 42 N Laelua has disrupted more owners than any grievance we have ever had in Kuau Bayview. Although the Lot 45 owners claim they would never allow a school to operate on their property, nevertheless they were not helpful in getting it relocated & left the Board to deal with the tenants.

Grievances are often just reports of minor issues that need attention in the neighborhood. I investigate all reports and usually just fix the problem myself rather than bothering owners. For example, someone reported Arecas blocking the sidewalk at Lots 17 & 36 so I trimmed them back. Someone else complained about unsightly sidewalks & curbs so I drove around KB and found that Lots 55, 56, and 20 were the worst, so I dug out the weeds and cleaned the curbs myself. Instant results. While I was doing Lot 20, the Lot 24

owner came over and asked me to look at the pathway from Hoe Place to Paia Community Center. I had spent weeks clearing that pathway in 2014 and the County had promised to remove the tripping hazards (a water meter box & sewer pipe), but now I saw that they had not. So I dug down around both, sawed off the pipe, put the cap back on, removed the empty meter box, and buried what was left. The next day I dug the Haole Koa and Plumbago out by the roots and leveled the ground along the path. Gladys said she & Bill would take care of the path going forward and they have done a great job... mahalo!

Someone complained about a pile of fishing net in front of Lot 33 until she found out that Campbell Farrell uses his jet ski to recover ocean plastic and ghost nets from inaccessible coastal areas around Maui. His non-profit, **Love The Sea**, inspires the recovery of ocean plastic from coastal areas around the entire world. Kudos to Campbell!

RETENTION BASIN & LANDSCAPING REPORT

As the Retention Basin Committee Chair, Tom continued clearing the basin slopes of Haole Koa and other invasive plants. He arranged the tree trunks in steps on the slopes to mitigate erosion. We are working toward creating a firebreak zone across the upper portion of the south slope to protect the 4 homes which border the Retention Basin. Routine maintenance of the basin and fence was performed following the guidelines in the Maintenance Policies & Procedures Manual.

At no cost to the Association, the 'rock rampart' was dismantled, dug out, and replaced with an addition to the garden area. This was done to solve an ongoing problem whereby the hidden space behind the rock rampart had been used for years by thieves and homeless people as a private place to sleep and hide stolen goods. The structure no longer served a practical or aesthetic purpose. Removing it opened up that corner and created a safer situation by improving the visibility of cars turning onto Lae Street from Hana Hwy, while at the same time permanently eliminating this homeless hang-out. Some of the salvaged rocks were used as a revetment to shore up the side of the access road into the Retention Basin where there had been a severe erosion problem due to storm water rushing out of the inlet culvert and undercutting the bank. Other rocks were used by Darlene (Aaron) as a border for the gardens.

SECURITY REPORT

There were no reports of car or house break-ins in 2020. Tyler Wallett was seen in KB in August heading up Lae St from Hana Hwy to the park carrying a no-doubt-stolen chain saw. He is currently in MCCC. Crime in KB seems to rise and fall based on whether Tyler is locked up or not.

ELECTION OF DIRECTORS

As there were 2 candidates for 2 Director positions, the election was by acclamation. We welcome Darlene Brothers and Samantha Spurgeon to two more years on the Board. Shems Heartwell resigned in January when his house sold. We would like to express sincere mahalos to Shems for his four years on the Board. We recently went to a 3 person Board because of attacks on the Board by the Lot 45 tenant and the previous President who was asked to resign.

MAHALOS

We would like to thank all the owners who stepped up to defend the community and gave support to Tom & myself in our efforts to stop the attempted takeover of our neighborhood by people with personal agendas.

OLD BUSINESS

At the 2019 Annual Meeting we proposed removing the rock rampart at the front entrance and repurposing the rocks. This was done and the new garden area has greatly improved the security and aesthetics of the front entrance.

NEW BUSINESS

- 1) MOTION:** To ratify the proposed budget for 2021 which has been available on the website 24/7 for owners' perusal. The big change for 2021 is the reduction in income due to the 2021 fee discount which will be offset by the surplus profit from 2020 due to the insurance settlement. (Tom Atkins / Greg Mebel). All in favor.
- 2) MOTION:** To ratify the actions & decisions of the Board of Directors since the last Annual Meeting as listed in the June 16, Oct 2, and Oct 22, 2020 Minutes. These actions related primarily to changes in Directors to protect the HOA from people who did not have the best interests of the Association at heart. All actions by the rogue Board members in Aug and Sept were illegal and will not be ratified. (Tom Atkins / Bill Heck). All in favor.
- 3) Home Businesses:** After the experience with the school at Lot 45, the Board adopted a policy that requires any home business that brings customers into Kuau Bayview to be approved by the Board first. This could include child care facilities, yoga classes, meditation groups, and the like. The HOA needs to be aware of such operations in advance so that there are agreements in place and protections for the community so that, if there are any abuses or adverse effects on other owners, the Board can send a cease and desist letter. Of course home businesses that don't bring customers, or very seldom, would not be affected. We just cannot afford to have another situation like the Lot 45 school. We suggest that landlords add a clause in their lease agreements that stipulates that tenants cannot use the premises for anything other than single family residential purposes.
- 4) Landscaper Noise:** In the interest of preserving quiet mornings, based on appeals from several owners, it was requested that landscapers schedule their work with loud power tools in KB to after 10am Monday to Friday, and not on weekends. Mahalo.
- 5) Trees:** Now that Kuau Bayview is 24 years old, trees and bushes that were planted over 20 years ago in many cases have grown larger than most owners anticipated. Owners were asked to please inspect their landscaping to see if there were any trees or large bushes that may need trimming or removing. The DCCRs set a height limit of 30 feet for trees and 7 feet for hedges used as fences. Some vegetation may be blocking views for neighbors without adding any benefit to the owner. Mahalo.
- 6) Proposed Rock Wall on Lae St:** Darlene proposed the idea of replacing the 138' chain link fence along Lae St between the RB gate and the utility box area with a 3 foot rock wall with 3 feet of chain link fence on top. The wall would match the wall on the other side of Lae St and would prevent erosion into the basin. The chain link fence surrounding the Retention Basin will need to be replaced in the next few years anyway, so upgrading this section would be part of that ongoing maintenance responsibility while at the same time upgrading the look of the front entrance. A quote of \$10,000 was obtained on Oct 26, 2020. By way of comparison, the 198' rock wall that was built on the east side of Lae St in Sept 2012 cost \$10,000. [this idea was postponed to another year]
- 7) Realtors:** The Board will be adopting a policy that excludes realtors from holding Board positions unless they sign an affidavit agreeing not to market to owners or to seek to buy or sell properties in the Association. Realtor-Directors have unfair advantage over other realtors in the neighborhood, and the obvious conflicts of interest contributed greatly to the attempted coup in 2020 by a realtor seeking personal financial gain. Other Boards across the country have had similar problems with realtors on Boards.
- 8) Building Materials:** As it is almost impossible to change the DCCRs, the Board applied feedback from owners to add an Addendum to the DCCRs which removes some outdated prohibitions on building materials that currently exist in the DCCRs. Building materials have vastly improved since 1996 so it will benefit owners to be able to use modern materials that may not have existed in 1996. The Design Committee had felt uncomfortable approving materials that were expressly prohibited in the DCCRs.

OWNERS' FORUM

- An owner made a motion to include in these Minutes a letter from the three owners who were removed from the Board on Sept 29, 2020. It was seconded but never went to a vote and would have been defeated in any case. The letter will eventually be available on the website.
- The very long letter was read then many of the false allegations were refuted. The three were against reducing the annual dues and wanted to use the insurance settlement to hire a management company, claiming that they got a bid for \$229 per month. This bid was requested several times but was never produced.
- Owners are supposed to be limited to 3 minutes so that everyone can get a chance to speak. What we learned is that we'll need to set guidelines for future Zoom meetings as follows: (1) To enter the meeting, attendees must identify themselves with their real name and address/lot number, and (2) the Board will need to control the muting to prevent one owner from hijacking the meeting for a captive audience as happened here.

ADJOURNMENT: The meeting was adjourned at 7:50pm. Shortly thereafter the laptop battery died closing out the Zoom meeting. Next year we won't rely on battery power.

**2020 KUAU BAYVIEW ANNUAL MEMBERSHIP MEETING
MINUTES OF BOARD OF DIRECTORS ORGANIZATIONAL MEETING
Nov 19, 2020**

DIRECTORS PRESENT: Darlene Brothers, Tom Atkins

DIRECTORS ABSENT: Samantha Spurgeon

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 2020 Annual Meeting at 7:50 pm and organized as follows:

President: Darlene Brothers

Secretary: Tom Atkins

Treasurer: Samantha Spurgeon

MOTION: To ratify the minutes of the Board Actions by Unanimous Consent dated June 16, Oct 2, and Oct 22, 2020. Seconded and carried unanimously. (Tom Atkins / Darlene Brothers)

The DCCA Annual Corporate filing in April 2021 will reflect these changes to the Board.

MOTION: To adjourn the meeting at 7:55 pm. Seconded and carried unanimously.
(Tom Atkins / Darlene Brothers)

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/ Tom Atkins

Tom Atkins
Secretary
Kuau Bayview at Paia HOA

**Notice of 2020 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 2020 Annual Meeting of the Ku'au Bayview at Paia Homeowners' Association will be held **Thursday, November 19, 2020 at 6:30 pm** via Zoom outside at 37 Kaiea Place in Kuau Bayview, Maui, Hawaii. **Registration will begin at 6:00 pm.** Please bring a mask & chair and follow current social distancing guidelines. Due to Covid-19, please bring your own refreshments.

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 Darlene Brothers (Lot 7) and Samantha Spurgeon (Lot 37). Both incumbents are running for re-election. If there are other nominations received by Nov 12th, 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 membership meeting for the purpose of electing officers for the coming year.

Dated: Oct 23, 2020
By call of: Tom Atkins, Secretary

Agenda for Nov 19, 2020 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 2019 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 Network/Crime Report
11. Election of 2 Directors
12. Old Business
13. New Business
14. Owners' Forum
15. Adjournment
16. Organizational Meeting of Board of Directors

The complete 2020 Annual Meeting packet is available on the [Kuau Bayview website](#).