

**MINUTES of the 2021 KUAU BAYVIEW ANNUAL MEMBERSHIP MEETING  
December 2, 2021**

**2 DIRECTORS PRESENT:** Darlene Aaron Brothers (President), Tom Atkins (Secretary)

**1 DIRECTOR ABSENT:** Samantha Spurgeon (Treasurer)

**2 OWNERS PRESENT IN PERSON:** 7, 55

**10 LOT OWNERS PRESENT VIA ZOOM:** 3,5,7,19,24,26,28,55,62,64

**INTRODUCTIONS**

President Darlene Brothers introduced Secretary Tom Atkins and explained that Treasurer Samantha Spurgeon was in Europe. New owner of 26 Hoe Place (Lot 26), James Munninghoff, was welcomed and invited to introduce himself.

**DETERMINATION OF QUORUM & CALL TO ORDER**

The requirement for a quorum was met with 55 of the 92 Lots ( 60% ) represented, 10 in person/Zoom and 45 by proxy. Proxies are negated for owners who attend the meeting.

President Darlene Brothers called the 25th Annual Membership Meeting of Kuau Bayview HOA to order on Thursday, December 2nd, 2021 at 6:31 pm at 37 Kaiea Place in Paia. The President pointed out that Membership meetings are more formal as there are a number of mandatory agenda items that are required to satisfy state law pertaining to Kuau Bayview as a non-profit corporation. Also the topics covered are more general in that they affect the entire membership as opposed to specific issues between neighbors. At membership meetings, 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 Nov 12th, 2021 with accompanying proxy. A paper notice was mailed to the three snail mail owners the next day. A copy of this notice is appended below.

**APPROVAL OF MINUTES OF 2020 ANNUAL MEETING**

**MOTION:** To approve the minutes of the Annual Meeting dated November 19, 2020, as circulated. Seconded and carried unanimously ( Shawn Ewing / Tom Atkins ).

**2021 ANNUAL REPORT** [ now on website under the Meetings menu ]

**FINANCIAL REPORT for 2021**

We are in very good shape financially. Cash assets of the HOA as of Nov 1st total \$94,125.60 which is amazing considering we reduced the revenue for 2021 by giving \$4600 back to the owners. The only unusual expenses this year were for a new DIG irrigation timer that succumbed to ants, \$357 for a pressure washer & surface cleaner for cleaning the sidewalks and driveways of KB (I haven't had a chance to even try it yet), and \$24 for 3 solar spotlights for the KB sign. Only two KB houses have sold in 2021 (Lots 26 and 74) compared to 7 last year. Lot 43 has just been listed. All owners are paid in full except one delinquent owner.

**DESIGN COMMITTEE REPORT**

This year brought our neighborhood another pergola, several beautiful new paint jobs & new roofs, new garage doors, three rock walls, new fences, a large retaining wall, and a few landscaping overhauls. The Lot 14 owner's request to erect a 6' privacy fence across her front yard led to much debate among neighbors but was finally approved when she suggested setting it back 9 feet from the sidewalk and planting Ti plants & shrubs to hide the fence. Mahalo to all owners who are investing in their homes thereby increasing property values for everyone.

## **GRIEVANCE COMMITTEE REPORT**

We are happy that the Lot 45 school that disrupted so many people on N Laelua for the past year moved to Skill Village as of August 1/21. Peace has returned to that street. There were some issues with barking dogs and wandering chickens (I caught 6 but there are 4 more), an issue with surveillance cameras, and a fence leaning into the adjacent lot, all of which are being addressed. The biggest problem of 2021 was caused by a new owner refusing to follow the Design Rules and causing considerable damage to both adjacent lots with a bulldozer while building a 6 foot retaining wall along the edge of the Retention Basin. Insufficient effort was made to repair the damage to Lot 26 and they claim not to have touched Lot 28 despite the 4 foot deep by 16" wide trench bulldozed on Lot 28. They refuse to cover the CMU wall with a veneer as required by the Design Rules. We had agreed to remove a section of the chain link fence at their request under the agreement that the 6' wall would serve as the boundary of the HOA property. But they did not honor the boundary. In October they trespassed into the Retention Basin and, without permission, cut all the Bestill on the slope to improve their view. They left a huge mess which Darlene is still cleaning up. Now the HOA has to pay to replace the fence to keep them out, which is why the fees for 2022 had to be higher than we had planned.

## **RETENTION BASIN & LANDSCAPING REPORT**

Probably the most noticeable change is that the strip running from Lae St to the PCC inside the rock wall along Hana Hwy has been totally cleared of Haole Koa and weeds. Darlene installed drip hose and planted Hau Bush and Bestill which should look beautiful in a few months. Every day is spent working to beautify the Retention Basin by trying to totally eliminate Haole Koa & Guinea Grass from the basin slopes and replace it with Agaves, Bestill, Hau, and groundcover to stabilize the soil. This is a huge job but it will eventually reduce maintenance on the basin by not having to remove Haole Koa every few months. Darlene has also engineered drainage channels to handle the runoff from three of the lots next to the basin (27-28-29). Tom spent a week in January permanently removing a huge Ficus stump behind Lot 28 and more recently the Foxtail Palm at the front entrance that was supposed to be a dwarf but became a giant. Thank you, Tom! Big mahalos to John Thelen (Lot 57) for donating the beautiful Trumpet Tree that now graces the new garden area at the front entrance, and also to Jeff Lackey (Lot 49) for donating a large PVC pipe for the drainage project behind Lot 27.

## **SECURITY REPORT**

I am happy to say that there were no reports of vehicle or house break-ins in 2021. I think we have finally scared off Tyler Wallett who was the source of most of the crime.

## **ELECTION OF DIRECTORS**

As there is one candidate for 1 Director position, the election is by acclamation. We welcome Tom to 2 more years of service on the Board.

## **OLD BUSINESS**

The lawyers who attacked the Board last December and tried to extort money out of the HOA insurance backed off when an ethics complaint was filed with the Office of Disciplinary Counsel. Based on feedback from owners at the last Annual Meeting, we added an Addendum to the DCCRs which eased certain restrictions on building materials to allow for modern materials that didn't exist in 1996. The Board also adopted two new policies regarding realtors and home businesses. We would like to thank all owners who removed tall trees that were blocking views.

## **NEW BUSINESS**

- 1) MOTION:** To ratify the proposed budget for 2022 which has been available on the website 24/7 for owners' perusal. Of note for 2022 is the \$145 increase in the insurance premium and \$2580 allocated for repair of the Retention Basin fence behind Lot 27. Revenue will be reduced by \$2760 given back to

the owners as a \$30 Christmas Bonus which will be offset by the remaining surplus profit from the 2020 insurance settlement. (George-ann Kealoha / Leah Reeves ). All in favor.

**2) MOTION:** To ratify the actions & decisions of the Board of Directors since the last Annual Meeting as listed in the Oct 28, 2021 Minutes. This action added two KB Rules related to protection of the Retention Basin. ( Greg Mebel / George-ann Kealoha ). All in favor.

**3) Design Rules Update:** After much discussion, it was agreed that the Design Rules would be updated to reflect the current digital system that replaced the old paper method, and changes would be made to clarify, make the process easier & less time consuming, and to ease some restrictions to enable owners to make better use of their front yards. The majority of owners who offered feedback over the past month indicated that they definitely wanted the Board to continue enforcing the DCCRs and the Design Rules.

**MOTION:** To change the title of the Design Rules to Design Rules & Guidelines. All in favor.  
( Shawn Ewing / James Munninghoff ). All in favor.

**4) Abusive Behavior:** In all communities there are always a few people who refuse to follow the rules and may show signs of oppositional defiant disorder (ODD). This makes things very difficult for those owners who are tasked with enforcing HOA rules. Unfortunately, the new owners of Lot 27 have exhibited extremely rude and abusive behavior toward hired workers, other owners, and the Board President in her role of trying to protect workers, communicate reported grievances, and request compliance with Design Rules. They have created a hostile work environment for unpaid volunteers who are working very hard for the good of the community. We have fought for over twenty years to achieve the safe and peaceful environment that is Kuau Bayview. Rudeness and profane language toward other owners is simply unacceptable behavior. The amount of the Board's time that has been consumed dealing with Lot 27's refusal to follow the rules is staggering. Nothing burns out Board members faster than this type of abuse. It is toxic to a community.

**5) County Strips, Sidewalks, Curbs, and Streets in KB:** It was decided back in 1996 that all owners would be responsible for maintaining the sidewalks and County Strips abutting their lots. Back then the street trees were 3' high and not capable of generating green waste. These days the trees fill the curbs with an endless supply of leaves, seed pods, and fruit. The Autograph trees in the first block of Lae St are the worst because the fruits fall into the street, not just the curb. Tom & Darlene have volunteered to be responsible for Lae St up to the north property line of Lot 29 and Lot 30. They often do next to Lot 29 & 30 as a favor only. Owners must keep clean the area fronting their lots to the middle of the road. Corner lots must clean the curbs on the front and side of their lots. We are asking owners to please get their landscapers to include the curbs and sidewalks to preserve the curb appeal of Kuau Bayview. Mahalo!

**6) Escrow Letter:** Buyers of property in Kuau Bayview will now have to sign and notarize an acknowledgement during escrow that they have read and agree to abide by the governing documents in order for the HOA to sign off on the sale. Property deeds used to require both Buyers' and Sellers' signatures, as they still do on Oahu; however, over the last ten years lawyers on Maui decided to no longer require Buyers' signatures on the deed. We need buyers to read the governing documents before they become owners so that the Board does not have all their time wasted on owners who refuse to follow the rules, as happened this year with Lot 27. If Buyers don't like the rules, don't buy.

**7) Pet Registry:** Owners are encouraged to send photos of their pets to the Board so that, if the pet is ever lost, Darlene will be able to contact the owner as soon as someone reports that they have found a lost pet. There have been too many instances of well-meaning neighbors taking in a lost animal overnight and no one knowing whom to call. We want to help pet owners avoid this needless torture.

## **OWNERS' FORUM**

- James Munninghoff (Lot 26) expressed his displeasure with the damage Gary & Robyn Petersen (Lot 27) caused to his rock wall and the lawn in his backyard. A vociferous argument ensued with Robyn's mother, Gladys Heck (Lot 24).
- Gladys Heck (Lot 24) demanded that Darlene call a private meeting so the residents of Hoe Place, specifically Lots 26-27-28-19-20, could air their grievances. As it did not involve the Board, Tom suggested that Gladys form a committee so she could arrange the meeting herself. Gladys insisted Darlene do it. Darlene agreed to arrange the meeting.
- James Munninghoff (Lot 26) wanted Bestill planted on the PCC slope to block his view of the PCC trash bins before the Haole Koa was removed, but that turned out not to be possible. The slope must be totally cleared before anything can be planted. Also, as there is no irrigation in the Retention Basin, nothing will grow without rain. Darlene assured James that eventually Bestill will improve his view over time.
- Owners are supposed to be limited to 3 minutes so that everyone can get a chance to speak. This was the second Zoom meeting that was hijacked by one owner, forcing all attendees to listen to her family's squabbles with their neighbors. For future meetings, in order to keep the meeting on track, the Board will keep everyone muted until the Owners' Forum. Out of consideration for all attendees, the Board reserves the right to eject any owner who continues to disrupt a meeting with non-membership issues.

**ADJOURNMENT:** The meeting was adjourned at 8:06pm. (Tom Atkins / Gladys Heck).

### **2021 KUAU BAYVIEW ANNUAL MEMBERSHIP MEETING MINUTES OF BOARD OF DIRECTORS ORGANIZATIONAL MEETING Dec 2, 2021**

**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 following the 2021 Annual Meeting at 8:07 pm and organized as follows:

President: Darlene Brothers

Secretary: Tom Atkins

Treasurer: Samantha Spurgeon

**MOTION:** To ratify the minutes of the Board Action by Unanimous Consent dated Oct 28, 2021. Seconded and carried unanimously. ( Tom Atkins / Darlene Brothers )

**MOTION:** To adjourn the meeting at 8:08 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 2021 Annual Meeting  
Kua Bayview at Paia Homeowners' Association**

In accordance with Article III, Section 3(c) of the Association Bylaws, NOTICE IS HEREBY GIVEN that the 2021 Annual Meeting of the Ku'au Bayview at Paia Homeowners' Association will be held **Thursday, December 2, 2021 at 6:30 pm** via Zoom. Apparently we are not required to provide a physical location due to Covid, so this will be a purely Zoom meeting. **Registration will begin at 6:15 pm.** The invitation to the Zoom meeting will be emailed to owners on Dec 2nd with instructions on how to attend.

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 one Director to fill the term expiration of Tom Atkins (Lot 55). Tom is running for re-election. If there are other nominations received by Nov 25th, 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.

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 28, 2021

By call of: Tom Atkins, Secretary

**Agenda for Dec 2, 2021 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 2020 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 one Director
12. Old Business
13. New Business
14. Owners' Forum
15. Adjournment
16. Organizational Meeting of Board of Directors

The complete 2021 Annual Meeting packet is available on the [Kua Bayview website](#).