

**ASSOCIATION OF HOMEOWNERS
KU'AU BAYVIEW
ANNUAL HOMEOWNERS MEETING
April 25, 2001**

DIRECTORS PRESENT: Don Varni, Tania Goosby, Karen Chun, Talbot Shibley, Ben Bland.

DIRECTORS ABSENT: Lisa Paulson, Lisa Daly.

OTHERS PRESENT: Cindy Mendes, Account Manager, Oihana Property Management; Bobby Benjamin, Assisting Oihana; Lola Ledbetter, Recording Secretary.

MAUI ELECTRIC COMPANY/PRESENTATION:

President Varni introduced Herb Glassen and Chris Elvinia of Maui Electric Company (MECO), who reviewed the power outages, and associated problems, which have occurred at Ku'au Bayview over the past few months.

Mr. Glassen, Operations Superintendent, stated there are several factors which have contributed to the above problem, some of which are: 1) Several accidents at the corner by Mama's Fish House cause constant damage to the conductor, which, is consistently repaired and/or replaced; 2) Due to the increased electrical demand in Hana, the transformer in Pukalani will be replaced, scheduled for July 2001. MECO's Engineering Department is currently reviewing alternatives to correct the situation at Mama's Fish House including the relocation of power poles and realignment of the system.

Mr. Glassen stated MECO is currently in the process of inspecting the entire electrical system, to include the relay portion of the system, anticipated to be completed by the end of this year. Hawaiian Electric is also inspecting all circuit relays on the system. MECO is also in the process of researching equipment that will assist in displacing the energy from traveling down the conductors. The existing sub-station on Hana Hwy., is scheduled to be removed and replaced with a new underground sub-station by Sprecklesville for Ku'au and Paia. Two additional sub-stations are scheduled for installation, one on Baldwin Ave. (by the old bank), and where the existing Ku'au sub-station is located (this sub-station will be renovated). All existing electrical lines from Kahului to Hana will also be replaced (date for this work not yet known).

Owners reviewed their concerns and comments with respect to the power outages, including the fire hazard associated with the outages, and the electrical damage done to various items in owners residences during two specific power outages. Owners questioned when they will have a response from MECO on their claims. Mr. Glassen responded that MECO is currently investigating the incidents after which owners will be contacted regarding their claims. He suggested owners obtain quotes for repair or replacement of damaged items, retain all receipts, etc., which will be reviewed by MECO.

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Mr. Glassen also recommended at when a power outage occurs, that the main power supply to the residence be turned off immediately, and left off, until there is indication that the power has been restored, i.e., when the street lights are on, or, call MECO for an update.

CALL TO ORDER:

President Don Varni called the Annual Homeowners Meeting of Ku'au Bayview to order on Wednesday, April 25, 2001 at 6:13 P.M., in the Paia Community Center Meeting Hall, Paia, Maui, Hawaii.

President Varni welcomed homeowners and thanked them for their interest in the Association and attendance at the Annual Meeting.

CERTIFICATION OF MAILING:

Cindy Mendes certified that Notice of the Annual Meeting was sent to all owners of record, with accompanying proxy, on March 23, 2001.

ESTABLISHMENT OF QUORUM:

President Varni announced that 27.17% of the ownership was represented in person, and 31.52% by proxy, for a total of 58.69%, to establish a quorum.

APPROVAL OF MINUTES:

MOTION: To approve the minutes from the (Informational) Annual Homeowners Meeting dated May 3, 2000 as circulated. Seconded and carried unanimously. (Schonewill/Moore)

TREASURER'S REPORT:

Ben Bland reviewed the year-end Financial Report and Balance Sheet dated December 31, 2000. Legal fees totaled \$2,317, which consisted of costs associated with the building siding and legal review of the Association documents on short term rentals and bed/breakfast operations. President Varni clarified that the Board has discussed at length the siding issue and agreed that because the defective siding negatively affects the value of all homeowners, the Association should review all its legal options. Cindy Mendes clarified that under Hawaii State Law, the Board of Directors has the authority and fiduciary duty to make these types of decisions on behalf of the Association, versus the homeowners, which are required to approve any amendments to the Association By-laws and/or Declaration.

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Mr. Bland stated that all Financial records are available for review by any owner at Oihana, upon appointment.

MOTION: Resolved, that any excess of membership income over membership expenses for the past year be applied against the subsequent tax year member assessments as provided by IRS Revenue Ruling 70-604. Seconded and carried unanimously. (Burns/Schonewill)

MOTION: Resolved, that any amounts collected by or paid to the Association in excess of operating expenses for the past year be set aside for future major repairs and replacements and allocated to capital components as provided by the guidelines established by Revenue Ruling 70-604, 75-370 and 75-371. Such amounts shall be deposited into insured interest bearing accounts. Any amounts so added to replacement funds shall be allocated to the various components at the discretion of the Board of Directors. Seconded and carried unanimously. (Shires)

COMMITTEE REPORTS:

PARK:

Debra Schonewill updated the owners on the status of the park. Ms. Schonewill reported that as of the last meeting with the County, the following items are included in the park: 1) One baseball diamond for small children; 2) all irrigation; 3) green grass on the flat portion of the park; 4) a 5 ft. paved walking path which will go around the entire park; 5) 2 pads for picnic structures (does not include picnic tables); 6) back stop; 7) soccer field; 8) 20-24 paved parking spaces as well as grass parking. The park is open to the public and will be considered a "passive" park with not a lot of planned activities such as baseball, soccer games, etc. The park will not have lights and will only be accessible in the morning until sunset. Ms. Schonewill will work towards having more picnic table pads included in the plan, as well as ground cover for the berm's and additional shade trees. She stated owners will need to raise money for picnic tables and may also be asked to assist in the planting of the berm's. The County of Maui will mow and water the grass.

On behalf of the Association, President Varni thanked and commended Debra Schonewill for her time and efforts on the park.

SIDING:

Ann Pitcaithley, Chairperson of the Siding Committee, updated owners on the status of the siding issue. Ms. Pitcaithley stated the questionnaire sent to all homeowners from attorney Joy Yanagida, should have, but did not include a statement that all homeowners are eligible for compensation,

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regardless of whether or not their siding showed any signs of deterioration, and, this information must be disclosed (whether there is evidence of deterioration or not), in the event a residence is sold. She stated that to date, a law suit has not been filed by the Association. The Board has agreed to work with another attorney on this matter and whom specializes in condominium defect construction issues. Owners will be updated as necessary on this issue.

DESIGN REVIEW:

President Varni stressed the importance of owners complying with the Association documents. Any exterior modifications and/or additions, to include a change to the exterior color of the residence, must be submitted in writing to the Design Review Committee for approval, and, if necessary, by the Board of Directors, *prior to any work being done.*

PRESIDENT'S REPORT:

A copy of President Varni's report, is attached hereto these minutes.

ELECTION OF DIRECTORS

President Varni announced there are 5 positions to be filled on the Board, for the expiring terms of Karen Chun, Lisa Daly, Lisa Paulson, Tab Shibley, and to fill the position of Ben Bland who has submitted his resignation, effective at the conclusion of this meeting. Lisa Daly, Lisa Paulson and Karen Chun have submitted their names as candidates for re-election. Homeowner Ann Pitcaithley has also volunteered to place her name as a candidate for the election.

President Varni opened nominations from the floor. Mike Gibbons nominated himself.

MOTION: To close nominations and elect by acclamation to the Board of Directors: Lisa Daly, Lisa Paulson, Karen Chun, Ann Pitcaithley, and Mike Gibbons. Seconded and carried unanimously. (Burns/Kornreich)

DOOR PRIZES:

President Varni drew homeowners names and awarded several door prizes. Door prizes were only available for those homeowners in attendance at the Annual Meeting.

OWNER'S FORUM:

The following items were discussed in the Owner's Forum portion of the meeting:

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- 1) Siding - The Board will notify homeowners if a special assessment is required with respect to the siding issue. An owner suggested that a special meeting of the owners be held to discuss any major decisions on the siding. Ms. Schonewill suggested that the Board advise owners that their siding should be maintained as best as possible until this issue is resolved, specifically, to caulk, seal, paint.
- 2) Proposed By-law Amendment/Bed & Breakfast Operations, Short Term Vacation Rentals - President Varni stated the Board is still working to obtain 65% approval from the homeowners to pass this amendment. There was discussion on having owners volunteer to go door-to-door to obtain the required number of votes, and enforcement of the amendment if it is approved. Oihana will send a third notice to those owners who have not yet voted.
- 3) It was suggested that the Owners List include both the mailing and street address of each residence, as well as e-mail addresses and/or phone numbers on the owners list.
- 4) In the future, change the process for amending the By-laws, i.e., send homeowners the draft language of a proposed amendment, along with a survey for their comments, before proceeding with the vote.
- 5) Oihana was directed to send the Annual Meeting minutes, as well as the Organizational Meeting (where Officers are elected by the Board), to the ownership shortly after the meeting, versus waiting until the next year. Any homeowner may attend the Board of Directors meetings. Please call Oihana to obtain the dates.
- 6) General discussion on the County of Maui's proposal to change the garbage collection to an automated system, including recycle bins. President Varni stated that owners with concerns on this matter should contact the County directly.
- 7) Park/Play Structure - Ms. Schonewill stated she will research and work to obtain grants for a play structure for the park. Any owner who is interested in assisting Ms. Schonewill on this, should contact her directly.
- 8) Newsletter - It was suggested that a newsletter be published. Mr. Gibbons stated he will establish a website for the Association, wherein, owners may access information on issues before the Association, as well as other items of interest.

ADJOURNMENT:

**MOTION: To adjourn the meeting. Seconded and carried unanimously.
(Burns/Schonewill)**

The meeting adjourned at 8:07 P.M.

Respectfully submitted,


Laurie "Lola" Ledbetter
Recording Secretary



April 24, 2001

President's Report
Ku'au Bayview Homeowners Association

This past year, our fifth year as a community, has seen Ku'au Bayview develop into an "adolescent" neighborhood. Our trees and plants are filling in and we look for the most part, very good. For the third year, I am pleased to report that there has been no increase in fees and no increase is anticipated for the coming year. We as your Board are concerned about maintaining property values and in keeping Ku'au Bayview a desirable and pleasant place to live. If you have looked into it, you will find that property values are way up. To this end we continue to pursue those owners who have not completed their landscaping, those who have not completed construction projects and those who are not maintaining their yards to the standards required. It is extremely frustrating that many homeowners refuse to cooperate with the requirements of the Declaration of Covenants, Conditions and Restrictions (DCC&Rs) that each of you signed when you purchased your home. When projects are started without proper approvals the Board is forced to spend a lot of time and money on enforcement issues when we could be working on other priorities. We have sent out numerous reminders that changes of paint colors, new structures and exterior modifications *all* require Design Review approval. As a means to remedy this, the Board last year, approved a new penalty schedule with much higher penalties for violations of the DCC&Rs.

We are currently working on revisions to the parking regulations, to limit the vehicles parked on the streets. This has been the source of many complaints to the Board. Enforcement is the biggest problem, as we will have to hire a private security firm to see that the regulations are impartially, fairly and regularly enforced. This is not something that can be done by the Board or members of the community. Hiring a security company, of course, will require the expenditure of more money, money that is not currently in the budget.

The illegal Bed and Breakfast businesses continue to be another source of complaints. In an attempt to resolve this problem, the Board first determined that the definitions contained in the DCC&Rs do not clearly define what is a legal or illegal use. You have before you now, an amendment to the DCC&Rs that will clarify the various types of uses, and state exactly what each is. With these definitions we will have a basis to go after the illegal uses. It is particularly important then, that each of you cast your vote on the changes to the DCC&Rs.

There is a concern about loose dogs and cats, as well as noisy animals and birds. Owners are required to keep their animals contained or leashed, and the Board has no specific enforcement powers. We will, however, write the offender a letter if we receive a direct complaint with the offender's name and address. If the problem persists, then it must be taken up with the Animal Control/Humane Society.



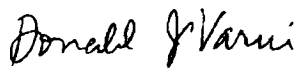
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Lastly, there is the issue of the deteriorating siding. We began working on this problem last fall, retaining the services of an attorney to investigate our options for remedy. Although the Board had previously this attorney, it recently became evident that they lacked the experience for this type of case and have since been dismissed. We are now in the process of switching to another law firm that has handled many such cases. Once they are on board, all owners can expect communication and updates on the progress.

As president, one of my biggest concerns is the lack of interest and involvement by you, the owners. We welcome and get your suggestions and comments, but we *need* your participation. As an example, at the last annual meeting there was not enough representation in person or by proxy to conduct business. You as owners have a responsibility to take an active part in the affairs of Ku'au Bayview. The Board would welcome new members. All of us have full time careers or jobs, but each of us feels dedicated to making Ku'au Bayview a great place to live and we make the time available. I urge you to seek a Board position or to volunteer work on one or more committee that you feel strongly about. This will give you the opportunity to directly influence policy and have your say in the way things are run.

Thank you for your support.

Respectfully,


Donald Varni
President