

**ASSOCIATION OF HOMEOWNERS  
KU'AU BAYVIEW  
ANNUAL HOMEOWNERS MEETING**

**April 25, 2002**

**DIRECTORS PRESENT:** Don Varni, Lisa Daly, Jennifer Maskrey, Tania Goosby,  
Ann Pithcaithly.

**DIRECTORS ABSENT:** John Harrison, Makiko Murdock.

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

**SIDING:**

Ann Pithcaithly, Chairman of the Action Committee (George Ann Kealoha, Gary Blumenstein) updated the homeowners on the status of the siding issue.

Secretary's Note: Due to the legal issues associated with the siding, details of Ms. Pithcaithly's presentation will not be included in these minutes. Owners will be updated by the Committee, either by e-mail or written correspondence.

**CALL TO ORDER:**

President Don Varni called the Annual Homeowners Meeting of Ku'au Bayview to order on Thursday, April 25, 2002 at 6:50 P.M., in the Paia Community Center Meeting Hall, Paia, Maui, Hawaii.

**ESTABLISHMENT OF QUORUM:**

President Varni announced that 32.0868% of the ownership was represented in person, and 18.478253% by proxy, for a total of 51.086932%, to establish a quorum.

**CERTIFICATION OF MAILING:**

Cindy Mendes certified that Notice of the Annual Meeting was sent to all owners of record, with accompanying proxy, 30 days prior to the date of meeting per Hawaii State law.

**APPROVAL OF MINUTES:**

**MOTION:** To approve the minutes from the Annual Homeowners Meeting dated April 25, 2001 as circulated. Seconded and carried unanimously. (Maskrey/Morris)

**TREASURER'S REPORT:**

Lisa Daly reviewed the year-end Financial Statement dated December 31, 2001 and stated the Association completed the year in sound financial condition. As of that date, Total Income was \$29,592.83. Expenses that were over budget at year-end comprised of Supplies & Equipment - \$658.33, Tax Filing/Audit - \$16.58, and Legal - \$5,108.06. At year-end, the Association had \$4,200 in a savings account; \$8,818 in Reserves, \$1,200 in a Contingency Account, and \$4,769 in the Retention Basin Fund.

**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.

**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. (Gibbons/Burns)

**PRESIDENT'S REPORT:**

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

**DESIGN REVIEW COMMITTEE**

Lynn Wellner, Chairperson of the Design Review Committee, introduced the Committee members: Steve Rose and Dave Dalgetty and reviewed the scope of work of the Committee. Owners are requested to submit 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 review and approval, and, if necessary, by the Board of Directors, *prior to any work being done.*

**BY-LAWS:**

President Varni stated there were an insufficient number of votes received by homeowners to amend the By-laws. Jennifer Maskrey stated the Committee will be reinstated and will pursue the required number of votes to pass the proposed amendments. Owners interested in serving on this committee may sign up with Ms. Maskrey.

**ASSOCIATION/MANAGEMENT COMPANY:**

President Varni stated the Board has terminated the management services of Oihana Property Management, effective June 15, 2002. After a 2-week carry over period and beginning July 1, 2002, the new Managing Agent for the Association will be Lynn Erickson Bookkeeping Services located in Makawao. This change will result in a savings of approximately \$100 per month.

Homeowners will be advised in writing of the new address for payment of Maintenance Fees, which will be paid quarterly (\$75) versus monthly (\$25), also beginning July 1, 2002. Owners will receive new quarterly invoices reflecting this change. The grace period was also extended from 20 days to 30 days.

**PARK:**

President Varni stated the construction of the public park at Ku'au Bayview is currently underway. He acknowledged and thanked the time and effort of homeowner Debra Schonewill who was instrumental in the park development.

**ELECTION OF DIRECTORS**

President Varni announced there are 5 positions to be filled on the Board, for the expiring terms of Tania Goosby, Jennifer Maskrey, Makiko Murdock, John Harrison, and himself (Don Varni). Don Varni, Jennifer Maskrey have placed their names as candidates for re-election. George Ann Kealoha has also placed her name as a candidate.

President Varni opened nominations from the floor which included: Lynn Wellner, Sharon Morris, and Brian Ross.

**MOTION: To close nominations. Seconded and carried unanimously.  
(Wellner/Goulding)**

**APOINTMENT OF INSPECTORS:**

President Varni appointed Lisa Daly and Mary Sweeney as Inspectors to the Election to assist Oihana with the tabulation of ballots.

The meeting recessed for voting at 7:10 P.M. and reconvened at 7:32 P.M.

**ELECTION RESULTS:**

President Varni announced the new Directors to the Board. They are:

Jennifer Maskrey,  
George Ann Kealoha

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Lynn Wellner  
Sharon Morris  
Brian Ross

Lisa Daily acknowledged and thanked President Varni for his time and effort while serving on the Board of Directors, as well as Tania Goosby for her service on the Board. President Varni thanked Cindy Mendes at Oihana Property Management for her work as Managing Agent of the Association over the past 5 years.

**OWNER'S FORUM:**

Mary Sweeney encouraged homeowners to contact Jeff Faulkner at A&B and request a definitive time frame of when A&B will contact homeowners on the siding issue.

**ADJOURNMENT:**

**MOTION: To adjourn the meeting. Seconded and carried unanimously.  
(Morris)**

**The meeting adjourned at 7:45 P.M.**

Respectfully submitted,

  
Laurie "Lola" Ledbetter  
Recording Secretary



April 24, 2002

President's Report  
Ku'au Bayview Homeowners Association

This last year marks our sixth year as a community, and Ku'au Bayview has seen its share of "growing pains" over that time. In general we are looking very good, and Ku'au Bayview is a sought after place to live and buy a home. Our yards are maturing and the trees and plants are making most yards look very inviting. For the fourth year, I am again pleased to report that there has been no increase in maintenance fees and no increase is anticipated at this time. I and your Board are concerned about maintaining property values and in keeping Ku'au Bayview a desirable and pleasant place to live.

This past year we had to deal with, and refute, an attempt by a small, but noisy group of owners, who attacked the President and Treasurer, claiming that the Board was guilty of fiscal mismanagement among other things. Although it was eventually shown that there was no mismanagement and that all of the other charges were bogus as well, changes were made in how the expenditures of our funds are overseen. Unfortunately this attack resulted in two hard working members leaving the board because of the disruption of their personal lives.

It is disappointing that we still have some owners who are not keeping their yards up to the desired standards and it is frustrating that many homeowners refuse to co-operate 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 or violations are not cleared up the Board is forced to spend a lot of time and money on enforcement issues when we could be working on other priorities. We had a higher degree of violators this past year and it cost the Association money to resolve the issues with these owners.

The illegal Bed and Breakfast businesses continue to be a source of complaint. The Board was handicapped by the failure of enough owners to vote on the changes to the DCC&Rs which would have defined clearly what was a legal or illegal use. This would have made enforcement easier, but we did not get enough votes (either yes or no) and that killed the proposed amendment.

The issue of the deteriorating siding still plagues us. We began working on this problem in the fall of 2000, retaining the services of an attorney to investigate our options for remedy. When that failed, because the costs were going to be more than the association could bear, a citizens committee organized an attorney to set up a class action lawsuit. That too failed because of bickering over how any recovered money would be divided up.



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Ultimately a Board committee was formed to look into options, and we spent many months in talks with A&B Properties, in hopes that they would step up and take care of the construction problems that have become evident. That too, was a disappointment, as we did not get what we considered to be a satisfactory offer from them. Many thanks to Todd McFarlane and others who worked diligently on this committee. A&B has sent everyone letters that indicate they will deal with individual owners and make repairs to damaged areas, but it is unclear at this time what those repairs will be or how far they are willing to go. As a result of the failure of talks with A&B, a group of homeowners formed the Action Committee, and they are working with an attorney to form a class action lawsuit to represent interested owners against A&B Properties. You will hear more about this tonight.

In the past, one of my biggest concerns was the lack of interest and involvement by you, the owners. I am happy to report that this appears to have changed. We are getting homeowners to attend Board meetings and we have people who are willing to help direct our community. The rest of you, as owners have a responsibility to take an active part in the affairs of Ku'au Bayview. I continue to urge you to seek a Board position or to do volunteer work on one or more committees that you feel strongly about. Thanks to all the members of the Board and committees who have worked so hard the past year. I know it wasn't an easy year, but all of us have, as our goal, the betterment of Ku'au Bayview.

Thank you for your past support.

Respectfully,

djv

Donald Varni  
President



c/o OIHANA PROPERTY MANAGEMENT, INC. 840 ALUA ST. SUITE  
103, WAILUKU HAWAII 96793 244-7684

30 Laenui Place  
Paia, HI 96779

579-9444

July 20, 2002  
BY HAND

To: Ann Pitcaithley, President, KBV Homeowner's Association  
From: John Harrison (Lot 81)

c.c. George-Ann Kealoha, Jennifer Maskrey, Lynn Wellner, Sharon Morris, Brian Ross  
c.c. Don Varni, Mikiko Murdoch, Tania Goosby, Lisa Daly  
c.c. Cindy Mendez at Oihana Property Management

As previously discussed and proposed, today I moderated an independent committee of KBV homeowners with the remit of auditing the election ballot from the April 2002 KBV Annual Homeowners Association Meeting. This committee was composed of myself, Mike Gibbons, and Ken Maskrey. We met at Ken Maskrey's house. Our purpose was to resolve the uncertainty and confusion arising from that election regarding the composition of the current Board.

The saga of the last Federal Election in Florida and the hanging/pregnant chads paled in comparison with our task, which took over 2 hours to complete. We carefully reviewed and collated each and every ballot, including proxies. We worked with xerox copies of the originals (still held by Oihana), and began by confirming that the papers we had before us fully tallied with the records kept at the time of the election.

Our detailed review produced a result that differed somewhat from the original tally. The revised votes are as follows, in order of votes secured:

Brian Ross	36
Don Varni	35
George-Ann Kealoha	34
Jennifer Maskrey	28
Lynn Wellner	28
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Sharon Morris	26

Thus, the top five vote-winners, as above, should, in our unanimous view, be the duly elected 5 members of the KBV Board.

Respectfully,

John Harrison



Ken Maskrey



Mike Gibbons

