

KAPOHO BEACH COMMUNITY ASSOCIATION
Annual Membership Meeting Minutes, February 21, 2010
at the Pahoehoe Neighborhood Center

Present: KBCA Board members: Harry Samelson as President, Joy Dillon as Vice President, Roger Meeker as Treasurer, Gladys Christenson as Secretary, Fran Chang-Thomas, Barbara Bell. Non-members: Arjuna McGowen as Recording Secretary.

Absent: KBCA Board member Merrill Schreiber.

1. Call To Order:

The meeting was called to order at 1:16PM by Harry Samelson.

2. Election committee report and introduction of officers – Harry Samelson

- Everyone who was on the ballot was elected: Joy Dillon, Gladys Christenson, Rose Foggia Clarke and Merrill Schreiber. The board subsequent to the election appointed Merrill to fill Rose's vacated 2-year position and elected Barbara Bell to fill the 1-year position remaining on Richard Thompson's resigned position.

***Action:** Board introduced themselves and described their duties

- Board recognized Chris Rand, Dan Rokovitz, Teri Meeker, and John & Sandi Barsell for volunteering their time to help the community.

3. Approval of the Minutes of 12/19/09 Annual Meeting – Gladys Christenson

***Action: Motion** by Stuart Oles to forego the reading of last year's annual meeting minutes; Seconded by Serge King; **Motion passed unanimously.**

***Action: Motion** by Stuart Oles to approve 2009 annual meeting minutes; **Seconded** by Serge King; **Motion passed unanimously.**

4. Treasurer's Report – Roger Meeker

***Action:** Roger Meeker reviewed the 2009 year-end fiscal report, and introduced the projected budget for 2010. Due primarily to large expenditures approved during the 2008 annual meeting, but not accommodated for within the approved 2009 budget, and also to unusual, unanticipated, 1-time expenditures, the 2009 budget year closed at a considerable operating loss.

2010 BUDGET

A) Legal:

- Anticipated legal fees are to cover defending KBCA's position that allowing public access through its members' private property is not legal.

B) Gate repairs and Maintenance:

- About \$10,000 was spent on gate upkeep and repair last year. This included replacing the gate when it was damaged beyond repair.

C) Gate Guard:

Stuart Oles advised the membership that we have a judge's ruling that the cost of a gate guard is a legal expenditure of association road assessments.

***Action:** Harry proposed a procedural adjustment to allow discussion of New Business Agenda Item 7.e) at this time. No objection was raised.

***Action:** Larry Leach presented the results of a survey sent to 162 members of the community asking for an opinion on eliminating the guard at the gate.

- 56 surveys were returned, 12 of which were determined to be fraudulent and not counted, with the results that more preferred to do away with the guard than keep the guard.

- Roger Meeker read a letter from Frank Clohan. Frank believes the gate serves to assert the

community's property rights and the gate guard is a redundancy.

***Action: Motion** by Serge King to reduce the guard's presence to 12 hours per weekend; **Seconded** by Terri Meeker.

***Action:** Harry proposed to table the motion until after it is decided whether to keep or do away with the guard.

***Action:** Serge King withdrew his motion.

***Action: Motion** by Serge King to keep the guard; **Seconded** by Terri Meeker.

***Discussion:**

- Jim Morlock proposed to amend the motion to require a special assessment to fund the guard.

- Harry confirms monies are already designated in the proposed budget to cover the guard.

- Failure to vote on Serge's motion.

***Action: Motion** by John Hendricks to get rid of the gate guard and allocate those monies for savings; **Seconded** by Jim Morlock/Dana Clohan.

***Discussion:**

-Thea Shapiro proposes to amend motion to fund guard only for special necessity.

***Action:** John Hendricks amends his motion to eliminate the guard with the understanding that a guard may be used when special circumstances warrant, such as when the gate is broken, and to move all monies for the gate guard into the Road Reserve fund; **Motion passed.**

D) Liability insurance:

- Insurance company stated that some gated communities have lost their liability insurance as a result of making numerous claims for damage.

- The insurance is meant to cover members of the community who are injured as a result of the gate.

- There would be no impact to the cost of insurance as a result of having no guard.

E) Road Maintenance:

- In 2009 contractors were hired for \$8,200 to clear vegetation. This was a one-time expense that will not have to be repeated for several years.

- HELCO will clear vegetation from their lines, Hawaiian Telcom will not.

***Action: Motion** by Jim Morlock to remove \$8,500 currently proposed for permits to raise Alapaki and move those funds to road reserves; **Seconded** by Stuart Oles.

***Discussion:**

-Terri Meeker stressed that Alapaki Lane residents deserve the same road conditions as other residents.

***Action:** Harry Samelson gave up chair to Joy Dillon to speak as a community member.

Harry Samelson, with input from legal council, advised the community that not paving Alapaki opens the board up to a lawsuit. Passable roads are a basic service that the KBCA should provide.

***Action:** Joy Dillon returned the gavel to Harry Samelson.

Motion failed.

***Action: Motion** to approve the amended budget; **Seconded; Motion Passed.**

F) Special Assessment:

- The board recommended saving money for road reserves via a \$25,000 special assessment.

- Any motion would be to send a ballot to the community at large to vote on a special assessment.

***Action: Motion** by Dean Witt to send out a special assessment ballot totaling \$7000.

Seconded.

***Discussion:**

***Action:** Harry Samelson gave up chair to Joy Dillon to speak as a community member.

- Harry Samelson thought a mailing of a ballot for a mere \$16 assessment would not be worth it and recommended assessing each property at least \$30.

***Action:** Joy Dillon returned gavel to Harry Samelson.

- Pat Kelly suggested an assessment per TMK rather than per unit.

- Harry confirms assessments would have to be per unit as per the current By-Laws.

- Roger suggested an amendment to Dean's motion to an amount of \$25 per unit

***Action:** Dean amends his **Motion** to send out a special assessment ballot for \$25 per unit.

Seconded by Ann Ricard; **Motion passed.**

5. Reports of Officers:

A) Road Repair and Maintenance – Harry Samelson for Merrill Schreiber

- Committee will shoot for a \$400 per month allotment for regular monthly road maintenance.

- The board's position is that recouping any of the monies paid for the raising of Alapaki during the last resurfacing will never be recouped as it is simply too long ago and no one recalls the specifics involved.

B) Gate – Harry Samelson

- The board has been unable to recoup \$4,200 for replacement of the damaged gate last year.

- A new electrical surge suppression system has been installed.

- Board proposed removing the rock wall at the exit gate to straighten the exit to enable long trucks to exit the community without exiting through the entry gate. Work and materials will be primarily donated to accomplish this.

C) Gate Openers – Glady Christenson

- Brittle gate opener hangtags, which have broken, will be replaced at no cost to the owner.

- Glady asked members to call her if they have a problem with gate openers.

D) Gate Guard – Glady Christenson

***Action:** Sandi Barsell agreed to call Aloha Security and let them know their services are no longer needed.

E) Video surveillance system – Glady Christenson

- Video files are in one half hour segments. Members wishing to look into events at the gate can get the video player software and video files from Glady.

- The board has been unsuccessfully attempting to get a DSL line that would allow property owners to view video files from the Internet.

F) Coqui Committee – Joy Dillon

- Coqui committee has been phased out due to lack of funds.

- The sprayer is still available for personal use. Speak to Joy to schedule it.

G) Neighborhood Watch – Fran Chang-Thomas

- A block captain program was resurrected in 2009, with different sectors filled by Fran, Sandi Barsell, Glorious Schreiber, Joy Dillon, John Tancheff, and Dan Rokovitz.

- 15 burglaries, 37 thefts, 40 trespasses, and 20 suspicious activities were reported.

- A roster has been created listing all properties with contact information. Neighborhood Watch can be more effective if informed on when houses are inhabited.

- Two people have signed up to have Neighborhood Watch act on their behalf in the case of problems on their property. Contact Fran to authorize NW to act on your behalf.

H) Mailbox Committee – Roger Meeker for Merrill Schreiber

- Fewer than 10 mailboxes are still available.

-12 homeowners have still not paid their \$125 one-time mailbox fee.

- In the future, owners who have not paid for the mailboxes, may have them removed.

I) Green Committee – Fran Chang

- A test strip has been established to test not using chemicals for roadside maintenance; efforts continue, and will take time to prove the process.

J) By-Laws Committee – Roger Meeker

***Action:** Harry proposed a procedural adjustment to allow discussion of New Business Agenda Item 7.c) at this time. No objection was raised.

- Concerns from last years annual meeting regarding inadequate representation of owners who have assigned proxies but were unaware of items that would come up for vote at the annual meeting brought forth a motion to amend the By-Laws as noted in Agenda Item 7.c).

- The motion would be to send a ballot to the full community to vote for a By-Laws change requiring that only those items listed on the agenda may be voted on at the annual meeting.

***Action: Motion** by Larry Leach to amend bylaws per agenda item 7.b); **Seconded** by Thea Shapiro

***Discussion:**

- Serge King felt this was an unnecessary restriction and that the quorum represents the community.

- Stuart Oles questioned if this was a violation of the corporate laws of the State of Hawaii.

- By-Laws committee supported letting any appropriate motion go to a vote at the annual meeting.

***Action: Motion Failed.**

OLD BUSINESS:

A) Waste Water Treatment Plant Update – Barbara Bell instead of Harry Samelson

- The county has finished their feasibility report. The report recommended a low-pressure treatment system. Report will be posted on-line shortly.

- Puna Community Development Plan has identified one of their priorities as wastewater treatment in Kapoho.

- Residents can contact Barbara Bell with questions

NEW BUSINESS:

A) Community to discuss and vote on a moratorium on new speed bumps

***Action: Motion** by Patrick Kelly to table this item, **Seconded** by Roger Meeker; **Motion Passed.**

B) Agenda Item 7.d) – Thea Shapiro

- With concerns of large expenditures in mind this motion would be to send a ballot to the community for a vote to amend the By-Laws to limit annual expenditures.

- The motion would be to send a ballot to the full community to vote for a By-Laws change requiring ballot votes for expenditures over \$10,000, with identification of funding source and financial impact.

***Action:** Motion by Thea Shapiro to amend By-Laws as per Agenda Item 7.d). **Seconded** by Larry Leach.

***Discussion:**

- Jack Christenson thought this would seriously limit the board's ability to make decisions.

***Action:** Harry Samelson gave up chair to Joy Dillon to speak as a community member.

- Harry Samelson expressed serious concerns over the wording of this proposed By-Laws change. It is too subjective and would lead to creative budgeting.

***Action:** Joy Dillon returned gavel to Harry Samelson.

***Action: Motion** to appoint a committee to rewrite this proposed By-laws amendment wording.

***Action:** Thea Shapiro withdraws the motion.

C) Added agenda item for transparency in the KBCA

***Action: Motion** by John Barsell that the board shall in the future have no right to secrecy when discussing and voting on community affairs; **Seconded** by Jim Morlock, for discussion.

***Discussion:**

- Roger Meeker stated that the Sunshine Law applies only to governmental agencies and has no bearing on private organizations.

***Action:** Harry Samelson gave up chair to Joy Dillon to speak as a community member.

- Harry Samelson stated there was probably concern over board discussions regarding Alapaki and the board's decision to appoint new members to fill vacant positions by secret ballot, just as the general membership elects board members by secret ballot, but that the board has been open in all matters that are not likely to cause embarrassment to individual members.

***Action:** Joy Dillon returned gavel to Harry Samelson.

***Action: Motion failed.**

D) Reinstalling the Swing

- Jim Morlock would like to see the swing reinstalled on the monkey pod tree on Kapoho Beach Road.

***Action:** This item will be put into New Business for the next board meeting.

ADJOURNMENT:

Meeting was adjourned at 4:13PM by Harry Samelson, President.

Respectfully submitted,
Glady Christenson, Secretary

Approved by: _____

Date: _____