

Kalapana Seaview Estates Community Association
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BOARD MEETING MINUTES

December 14, 2011

- 1. OPENING CIRCLE** - President Richard Valdez opens the meeting at 5:02 P.M. at 12-7040 Kaiwa Street Kalapana Seaview Estates, Pahoa, Hawaii. Present were board members Treasurer Mark Wyatt, Scribe Linda Willaby, Director at Large Kevin Horton Also present were 18 community members. Meeting is being recorded.
- 2. MINUTES – November 9, 2011** minutes were read by board members. Mark Wyatt moves that we accept the minutes. Linda Willaby seconds. Christina Hazzard had a question about the minutes regarding Sabine turning off the lights during the November 9 meeting. She became loud and another member asked her to be quiet. Order had to be called by the president. Christina continued to be disruptive. Motion to accept the minutes passed by unanimous vote.
- 3. TREASURER'S REPORT**-Mark Wyatt gives the report. Total checks written were \$1107.26. Total equity is \$41,470.17 plus \$10,300 in mailbox deposits. See attached balance sheet and check detail. The treasurer's report was accepted.
- 4. PAVILION REPORT**-Mark Wyatt gave the pavilion report. Only half the people signed up for the work party showed up. The painting at the pavilion was done. Sheryle (Sativa)Sultan who did not show up, stated that there was confusion because of the rain. Richard Valdez moves for a quarterly work party. Linda Willaby seconds. S. Sultan thinks the work party is for paying off dues and wants a discussion or committee re the work party. Kevin Kalley suggests a work party every other month. David Currier asks if these work parties are for maintenance of the pavilion area. Richard Valdez said they used to be once a year then changed to once a month. Board members have to show up because the board sponsors the work party to allow members to discharge their debt. If no members show up then the board members present usually just go ahead and do some work anyway. Richard amends his motion to read a work party every other month with one board member present. Pat Rocco makes a friendly amendment to keep it on a monthly basis and having only one board member present. No second. S. Sultan wants to amend and make it monthly. No second. **VOTE:**Linda Willaby, Mark Wyatt, and Richard Valdes vote YES. Kevin Horton votes against. Motion to have work party every other month passes. Athena Peanut is not in favor and says it is not a board vote. Linda Willaby and Mark Wyatt say that it is a board vote because this is a **board** meeting. Athena Peanut makes a point of order. She quotes from Robert's Rules of Order on the conduct of a deliberative society. Al Melton asks how they define deliberative society in the language of the statute. Athena says it is not a statute; it's a paragraph and chapter. She thinks that Robert's Rules allow members to vote at monthly BOARD Meetings. Richard Valdez does not accept this. Linda Willaby stipulates that member means member of the board of directors. Richard Valdez said that the board is elected to vote and make decisions for the populace. If everybody was able to vote at a board meeting then there would be no reason to have a board. Pat Rocco suggests that Richard and Athena make a presentation at the next board meeting and for one time only allow the members to vote. Al Melton makes a point of parliamentary procedure saying that Robert's Rules prohibits that. The chair makes decisions about what is appropriate. Athena quoted two citations from Robert's Rules of order- Chapter 1 page 2 line 4 and Chapter 16 page 466 line 15. This issue of non board members voting at board meetings is a question that will be asked of the attorney in order to resolve this. The pavilion report was accepted.
- 5. OLD BUSINESS**

A. BOARD VACANCIES- New directors were nominated and approved by the board to serve

out the remaining term of the officer they are replacing. Five people expressed interest to Richard Valdez about serving on the board. They were Cynthia Dallou, Sabine Jamieson, Lahi Lahi Verschurr, Kyou Gruber, and Al Melton. Linda Willaby nominated Cynthia Dallou to fill the position vacated by Frank Musacchio. Mark Wyatt seconds. S. Sultan objected and related an episode concerning a committee meeting in November where Cynthia Dallou told S. Sultan that she was not allowed to be at a meeting of a committee formed to look at changes to the website and that Cynthia accused her of stalking. S. Sultan had gone to Cynthia's house to find out where the committee meeting was. She stated that our bylaws say that committee meetings are open to all members. Linda Willaby said that that is **not** in our bylaws and produced a copy of the bylaws. Richard Valdez said that he had spoken to a retired attorney friend whose opinion it was that committees can be limited. A committee of 5 was appointed at the last board meeting with Cynthia as chairperson. Ray Dallou said "Do you want me to tell people what you said about wanting the gay men off the board." S. Sultan said "I don't know what he's talking about." Richard Valdez had to remind everyone that the present discussion is about board nominations. Kevin Horton said for five weeks it has been known that there were 3 board positions open and five people have stepped up. He proposes a straw poll even though it is not binding. Kevin Kally mentions that Robert's Rules does not allow this. The motion passed unanimously and Cynthia was welcomed to the board. Mark Wyatt nominated Al Melton. Linda Willaby seconded it. Linda spoke of her long friendship with Al Melton and his qualifications as having been on the board of directors of a bank for 25 years and the fact that he is well versed in parliamentary procedure. The vote was unanimous for his addition to the board. Mark Wyatt nominated Kyou Gruber. Linda Willaby seconds. Athena Peanut said that Kyou would make a wonderful addition to the board. Kyou could not be there in person and provided a letter to that effect. All voted in favor and Kyou was added to the board. Kevin Horton, Kyou Gruber, and Al Melton's terms will end at the next AGM in April, 2012. Cynthia Dallou's term will expire at the 2013 AGM.

Richard Valdez said to Athena's husband, Jim McRae, who was videotaping the meeting, that this is not to be distributed for any commercial purposes and is to be for your personal use only.

B. Ballot Voting-Cynthia Dallou made a motion that *we vote for a **bylaw change that would provide for ballot voting on issues**. After the bylaw change there would be no further voting by proxy or in person on issues. This vote would be conducted at the next AGM. An envelope would be provided in the annual newsletter mailout to return ballots and dues. The board of directors would receive the envelope which would remain sealed and be routed to a reputable third party as determined by the Board of Directors for counting and in coordination with the Treasurer for validation of members in good standing.* Linda Willaby seconded. Mark Wyatt questions the legality of ballot voting for directors. Richard Valdez spoke about a law that might restrict ballot voting for directors and this is one of the questions that we need to get an answer on from the attorney. Al moves that we table this discussion until the next meeting or until we have the legal answer. **Cynthia expanded** on the motion by saying *that the purposes of the bylaw change include privacy in voting, increased voter turnout, and opportunity for self-representation. At last year's AGM the voting was accomplished by 80 community members in attendance and 50 proxies, 42 of which were assigned to the board of directors. This total of 130 votes, while allowable according to our bylaws, does not seem to adequately represent the 900 total general membership and may not allow for what is in the best interest of the majority of the whole membership. The general membership would be informed by the President of the Board of Directors of this very important potential bylaw change via the annual board newsletter and the KSECA website. The membership would be strongly urged to participate in this year's vote, in person or by proxy. **If the vote for the bylaw change to allow for ballot voting on issues passes, a second mid-year mailout of ballots could be implemented after the AGM, if needed, as decided by the Board of Directors.***

Richard Valdez said the deadline for board members to submit an article for the newsletter will be the week after the next board meeting in case we could define **issues** (as it relates to ballot voting) before it goes into the newsletter. Al Melton calls the question **Vote: passes unanimously**

David Currier asks *is it legal to limit voters to members in good standing* (dues paid up). Graham Ellis, the 1st president of Seaview, said that that question was researched and the answer is YES. Richard Valdez also mentioned that that question has been researched and the Hawaii Statutes allow for different classes of voters. Athena Peanut said that she knew of no subdivision that allows one to vote without having paid their dues.

C. QUESTIONS FOR ATTORNEY

Richard Valdez has pared the questions submitted by A. Peanut down to the following:

1. Our bylaws state that a quorum consists of 12 members in good standing including at least 4 board members. Is this legal representation of 933 lots? If not, what is the legal quorum?
2. The Hawaii nonprofit act HRS 414D-111 states that unless 1/3 or more of voting members are present, the only matters that may be voted on at an annual meeting are those matters described in the meeting notice. Does that apply to us?
3. How does HRS 414D-115 apply to us? Does it allow or disallow ballot voting. What are the requirements for ballot voting? Can we discontinue proxies?
4. Does the statement "unless a majority of a quorum of the board of directors votes otherwise" pertain to executive session or to all meetings, committees and subcommittees?
5. HRS 421J-5 allows members to participate in any deliberation or discussion. Can they also make and second motions and vote at board meetings.
6. Please provide us with a list of any and all required dates for official posting of association business, including meeting requirements.
7. Does Condo law HRS514-144 apply to Planned communities? Is there a cap on the amount the Association can assess membership for late maintenance fees?
8. Do financial practice protocols mandate a yearly budget presentation to membership?
9. KSECA currently invests in a money market account with an online bank that has no office in Hawaii. Is this legal to have a bank account with an out of state bank as implied in Condo law 514B-149 and contradicted in Non-profit act law HRS414D-52?
10. Is it legal for two board members to live in the same household even if they are both members in good standing and each own property in their own names?

Pat Rocco puts his trust in the board to have the common sense to ask the right questions.

D. RESERVE STUDY-Mark Wyatt suggests that we have a reserve study done because people don't want to take the opinion of the board and the treasurer that the dues needed to be raised since they have never been raised to reflect the rising costs of everything. It will cost \$1300 to have a professional reserve study done to see if we need to lower the dues or raise them in order to have enough money to maintain our three parks, pay property tax, and insurance. Mark Wyatt moves to take a straw vote. Linda Willaby seconds. Athena points out that the board has the knowhow about finances. Kevin Horton mentions that it is important to have an outside professional opinion to stop all the dissent about the dues being raised. Hopefully it will put the dues issue to rest. Consider it the price of peace of mind. Richard Valdez mentions that Mark Hinshaw volunteered to take care of the mailboxes which no one else will be willing to do and is not in the job description. Mark Wyatt learned

quikbooks to do the accounting. If a new person comes in without the knowledge to do these jobs then they will have to be trained or hired out. Linda Willaby states that a reserve is not only for operating expenses, but also to replace our existing fixed assets. The vote from the membership is 4 for and the rest against. Al Melton moves that we spend \$1300 for a reserve study. Linda Willaby seconds. **VOTE:** Linda Willaby, Al Melton, Mark Wyatt, Cynthia Dallou vote for. Richard Valdez abstains. Kevin Horton votes against. The **motion passes**. Jackie Symonds says that dues of **\$50 a year is a bargain**. Richard calls for order and for the members to have respect for each other even though we don't agree with each other.

The board had an action without a meeting to allow the board to provide a copy of the membership list for 19 cents a page or free by e-mail. All board members signed to accept a membership access policy.

Linda Willaby moves to adjourn the meeting. Mark Wyatt seconds.

Graham Ellis brings up old business. In January Graham asked the board for a letter of endorsement for the S.P.A.C.E. application process for a lease of state lands. *They want to build a performing arts center, additional parking, additional intern housing, music studio and whatever buildings they will need in the future.* In January 2011 the board voted to endorse. Then the board withdrew their letter of endorsement because they received an e-mail from Scott Wills threatening legal action to include them in ongoing legal action that he had against SPACE. Graham said that his attorney met with Mr. Wills attorney who said there was no ongoing legal action. He wants the board to issue the original endorsement letter. Graham Ellis moves that we approve the original endorsement letter. There is no second and the motion dies. Al Melton states that a motion needs a second in order to have discussion. Linda Willaby states that she heard from someone that there was an ongoing lawsuit. Scott Wills did contact Richard Valdez. It is suggested that we get a letter from the attorney or from Scott Wills himself. Pat Rocco asks us to follow up. Athena states that S.P.A.C.E. should give another presentation. It started out as 6 acres and now it is 60 acres. David Currier said that this community cannot support a lot of development at SPACE due to noise and other issues. Al Melton brings a point of parliamentary procedure that we should not be having this discussion on a motion that did not get a second. Cynthia Dallou said it would be useful to see a plan. Cynthia McKinley mentions a letter of support from the board, but with reservations about sound and traffic. S. Sultan said that the community is divided on support for the SPACE special use permit. Terry Way moves the previous letter. Al Melton seconds **VOTE:** Al Melton for, Linda Willaby and Cynthia Dallou against, Mark Wyatt, Richard Valdez, Kevin Horton abstain. Motion to approve the original endorsement letter **fails**.

Pat Rocco moves to rewrite the letter and resend to the board for approval. Al Melton seconds. **VOTE:** Al Melton, Linda Willaby, Mark Wyatt, Kevin Horton for. Cynthia Dallou against. Motion passes. Pat Rocco brings up a petition regarding a crosswalk and speedbumps at the front intersection into Seaview

8. NEW BUSINESS - NONE

9. ADJOURNMENT –Mark Wyatt moves that we adjourn. Linda Willaby seconds. Meeting adjourned at 7: 05 p.m by unanimous vote.

The January 11, 2012 meeting will be held at Mark Wyatt's house at 3:00 pm.
Minutes are also on our Website at Kalapanaseaviewhawaii.org