



Kalapana Seaview Estates Community Association

2024 Newsletter

President's Report:

Another year cycles around and it is time to update our fellow landowners of Kalapana Seaview as to what has transpired over the last year. I am going to spare everyone my personal background because I did that in last years' report. I want to simply wish everyone a warm Aloha, because Aloha is much of what we all love about our unique Hawaii community. Seaview has continued to blossom with many new landowners moving into the area. We welcome all of you to our community.

The Kalapana Seaview Estates Community Association Board of Directors has been tasked with many challenges over the last couple of years. The Board during 2022-2023 had to get the functioning of the association up to date such as insurance policies, bank accounts and looking realistically at our budget. Due to our fiduciary duty to the landowners we enacted the raising of the dues from \$50 to \$100 annually. Continuing into this past year cycle (2023-2024) the Board has been faced with significant issues that have needed to be addressed. These are the closing of the bathroom in one of our three parks due to the septic system needing to be updated, amending our Bylaws so they are more specific on how the association is to be managed by future Board of Directors, and the upkeep of our three parks.

As in every community everyone does not feel the same about all issues. Our community is no different. We are still dealing with hundreds of people occupying our ocean front park every Sunday without the Association approval. This is the biggest issue being discussed within the community, some in support and some not, due to potential liability issues and the absence of facilities and adequate parking. Please respond to the survey on this matter.

As a Board member of multiply terms I have seen how difficult it is to keep a well-functioning Board in place. This coming AGM there will be 4 of the 7 Board members ending their 2 year term and 2 members resigning, leaving only 1 Board member remaining for another year. As someone who cares for our community I ask any landowner that has prior experience on Board procedure or anyone truly passionate about learning to consider serving on the Board for the good of the community.

If Kalapana Seaview is going to be the best it can be it is not up to a few but up to each of us doing our part. Please take time to be a part of the survey that is posted on our website kseca.org and attend the AGM or vote by proxy.

Mahalo, Robert Stearns, President, KSECA

AGM & ELECTIONS, SUNDAY, 4/28/2024:

Legal Identification Required

Proxy Form Deadline:

Completed and notarized Proxy Forms must be received by

Thursday, April 25th, 4:30pm

Sunday Park Issue

As was mentioned in the President's Report we, the landowners, of Kalapana Seaview need to establish if a majority of owners are for or against the gatherings in our front park on Sunday's. For those owners that don't live here we will provide a short description of what is happening.

For over a decade a group of drummers have met in our front park to do a drum circle. Originally it was pretty benign however currently it draws hundreds of people from outside our community along with a variety of vendors. There is not adequate parking and no bathroom facilities in the park. Lately there have been incidents of alcohol abuse and violence.

We as landowners own our three parks and are responsible for what goes on within them. Each lot owner owns 1/933 of each park making the landowners responsible and liable for anything that goes on in the park. The Board has created a letter that was sent out to our County and State representatives as well as other pertinent agencies, letting them know of the predicament we are in and requesting their assistance in helping us regain the control of our park on Sunday. This letter will be posted on our website for viewing.

The Board needs to have a clear idea of what percentage of landowners condone this activity and what percentage doesn't. We are asking each landowner to answer the short survey, the link on our website is <https://kseca.org/2024/survey/>, so we know for sure how the landowners feel about this event. We will allow only one vote per lot.

If you fill the survey out on your mobile phone, please scroll up to the "captcha" spam check window after you clicked on submit.

Mahalo, KSECA Board of Directors

KSECA Annual Dues:

\$100/year

Due April 28th, 2024

Payable by Check, Online, or at the AGM

If Paying at the AGM, Please Arrive Between 11am and Noon. Mahalo!

Pavilion Park Septic System

In the past year the Kalapana Seaview Estates Community Association was contacted by the Environmental Protection Agency informing us that large capacity cesspools in the State of Hawai'i are illegal since 2005, of which one is servicing our bathroom in the Pavilion Park. Facing the threat of significant fines the Board opted to close the bathroom and informed the EPA as well as the Hawaii Department of Health that the bathroom would remain closed until an appropriate septic system is installed.

Please note that providing a bathroom comes with Pros and Cons. While it provides a restroom for children playing in the park and for residents when having events at the pavilion it also is an invitation for the greater public to utilize it since it is the only, so to a say, "public" bathroom within several miles along the coast and along with the freebies available at the "Free box" unfortunately often invites rather unwanted individuals into our community.

Due to the cost of approximately \$15,000 to \$20,000 for an adequate system for the installation of a 1,500 gallon (large capacity) tank and 12'x30' drain field, the Board is bound by the Bylaws to have a membership vote on making such a large investment. The Board has met with a wastewater engineer and a contractor to discuss options and one option was to utilize the current cesspool as a drain field. After considering this approach, we realized it wouldn't be feasible due to large trees and the bathroom's close proximity to the cesspool. We currently have a waste water engineer who is willing to work with us as well as a knowledgeable contractor with experience with this type of work in our area. Decommissioning the cesspool would be included in the approximate cost, noting that it may entail the removal of several coconut trees.

The upgrade to septic system requires a permit; we will also need a plumber and an electrician to bring the solar system up to par, which will cost approximately another \$5,000.

We will be taking a vote at the Annual General Meeting to spend the money to either upgrade our septic system or to decommission the existing cesspool as is required by law.

Motion: The Board of Directors of KSECA moves to spend up to \$25,000 for the upgrade to a septic system in our Pavilion Park.

If the motion fails, the Board shall fulfill its legal obligation to decommission the existing cesspool and bathrooms for a cost up to \$7,000.

Financial Statement

BALANCE SHEET 12/31/2023

ASSETS

Current Assets	
Bank Accounts	
Cash in Bank	\$955.00
Undeposited Funds	\$1.17
Bank of Hawaii	\$46,611.57
ING Savings/Capital One	\$0
Total Bank Accounts	\$57,023.53
Accounts Receivable	
Accounts receivable	\$100.00
Total Accounts Receivable	\$100.00
Other Current Assets	
Undeposited Funds	\$-4,130.52
Total Other Current Assets	\$-4,130.52
Total Current Assets	\$43,537.22
Fixed Assets	
New Mailbox Structure	\$57,398.55
Total Fixed Assets	\$57,398.55
Other Assets	
Certificate of Deposit	\$0.00
Total Other Assets	\$0.00
TOTAL ASSETS	\$100,935.77

LIABILITIES AND EQUITY

Liabilities	
Current Liabilities	
Accounts Payable	\$1.17
Total Accounts Payable	\$1.17
Unearned/deferred rev	\$0
Total Current Liabilities	\$1.17
Long-Term Liabilities	
Mailbox Deposits	\$3,300.00
Total Long-Term Liabilities	\$3,300.00
Total Liabilities	\$3,301.17
Equity	
Opening Bal Equity	\$-6,366.51
Unrestrict	
(retained earnings)	\$84,568.55
Net Income	\$19,432.56
Total Equity	\$97,634.60
TOTAL LIABILITIES AND EQUITY	\$100,935.77

PROFIT & LOSS STATEMENT

Income

Park Maintenance Fees	\$59,041.34
Transfer Fees	\$7,024.02
Late Fee	\$1,523.86
Donation	\$100.00
Mailbox Fee	\$3,100.00
Earned Revenues	
Membership dues	\$2,850.00
Total Earned revenues	\$2,850.00
Services	\$300.01
Unapplied Cash Payment Income	\$-500.01
GROSS PROFIT	\$73,439.22

Expenses

Other Personal Expenses	
Accounting	\$6,356.30
Professional Fees	\$22.00
Temporary Help	\$618.75
Total Other Per. Expenses	\$6,997.05

PayPal Fees	\$95.47
Taxes	
Property Taxes	\$900.00
Total Taxes	\$900.00
Pavillion Supplies	\$1,081.41
Website	\$1,556.88
MAINTENANCE	
Park Maintenance	\$28,400.70
Park Improvements	\$736.21
Total MAINTENANCE	\$29,136.91
Non-personnel expenses	
Supplies	\$635.59
Telephone	\$1,326.77
Postage	\$540.5
Equipment Rental	\$76.02
Total Non-personnel expenses	\$2,578.88
Insurance	\$9,643.28
Annual General Meeting expenses	\$1,022.16
Unapplied Cash Bill Payment Ex.	\$1,000.00
TOTAL EXPENSES	\$54,012.04
NET OPERATING INCOME	\$19,427.18
Earned Interst	\$5.38

NET INCOME **\$19,432.56**

The amount of outstanding dues owed,
as of 12/31/23 is: \$123,339.38

Bylaw corrections:

1.

ARTICLE II: Membership and Voting Rights

SECTION 1: Membership

C. A MGS may authorize one other person to vote that MGS's ballot(s) in person at the AGM meeting by submitting to the KSEC Clerk a notarized document prior to the meeting provided that the notarized document contains All of the following:

Rationale: Deleted "meeting", AGM meeting is redundant.

2.

ARTICLE II: Membership and Voting Rights

SECTION 1: Membership

C. A MGS may authorize one other person to vote that MGS's ballot(s) in person at the AGM meeting by submitting to the KSEC ~~KSEC~~ Clerk a notarized document prior to the meeting provided that the notarized document contains All of the following:

Rationale: Misprint. KSEC changed to KSECA to match the organization's name.

3.

ARTICLE II: Membership and Voting Rights

SECTION 1: There shall be two classes of eligible voters:

MGS Owners(s) of Record and MGS authorized agent(s)

C. MGS may authorize one other person to vote that MGS's ballot(s) in person at the AGM meeting by submitting to the KSEC Clerk a notarized document prior to the meeting provided that the notarized document contains All of the following:

1. Owner of Record's printed name; and signature ~~and contact information~~.
2. Tax Map Key (TMK) number of KSE parcel verified by the County of Hawaii Real Property Tax Office records.
3. Name of designated agent ~~and contact information~~.
4. Length of time and purpose for which the authorization is given

Rationale: Deleted "Contact information". That information is not required under HRS 421J. This now gives parity and brings equity to Notarized Documents and Proxy forms administered through association funds.

4.

ARTICLE VI: Resignation, Removal and Vacancy

D. ~~I~~ In order to meet Quorum at a Regularly Monthly Board Meeting should the President and Vice President office be vacated, MGS shall be nominated and elected as Director(s) Pro Term by the KSECA MGS in attendance for such meeting only.

Rationale: Misprint. "I order" amended to "In order".

5.

Article I: Association

SECTION 4: Duties and Powers of the Board of Director

G. To provide an annual newsletter to the Association along with the annual maintenance statement and voting information at least ~~30~~ 35 days before the scheduled date of the AGM.

Rationale: Misprint. 30 days changed to 35 days to match Article III Section 1, B.

6.

ARTICLE IV: Directors, Officers and Job Descriptions

SECTION 1: Board of Directors

E. Notice of Annual Fees and Membership Dues

On behalf of the Association, the Board shall send a statement with the annual newsletter to each owner of record. Mailing will be made to owners at their last address as shown on the records of the Association, and said statement will be mailed to each member at least ~~thirty 30~~ 35 days before the date of the annual membership meeting. If any parcel is held jointly or in common, the owners of such parcel shall, at the time of purchase, designate to the Association one address to which all notices shall be sent.

Rationale: Misprint. 30 days changed to 35 days to match Article III, Section 1, B.

7.

ARTICLE V: Nominations and Elections

SECTION 4: Proxies – The Association will provide official proxy forms to the membership in accordance with HRS Ch.421J-4. All proxy forms shall be notarized.

Rationale: The requirement of proxy notarization has been inserted to match KSECA Bylaws ARTICLE II SECTION 1. C. which requires proxy notarization.

8.

Article I: Association

Section 4: Duties and Powers of the Board - A. To accept, operate and maintain in good repair and condition all property, equipment, supplies and improvements of the Association, including maintenance of the three KSE commonly owned park properties and any donated properties, and to contract such work and services as provided for in Article VI VIII, Section 2.

Rationale: The correct reference is Article VIII, Section 2.

9.

Article III: Meetings

Section 1: The Annual General Meeting (AGM) - F. Quorum - Quorum for any AGM meeting shall consist of twelve (12) MGS.

Rationale: Deleted "meeting", AGM meeting is redundant.

Bylaw amendments:

The KSECA 2023-2024 Standing Bylaw Review Committee (BRC) meetings ran from May 28th, 2023 through November 20th, 2023. Members of the BRC included: John DuBois (Chair), Sheryle Sultan (Secretary/Vice-Chair), Kevin Sulgit, Lisa LaGrange, Elizabeth Boychuk, Steven Burns, Jack D. Hash and Ronaldo Newton

KSECA 2024 Newsletter Editor Bylaw Review Committee Motion: The 2023-'24 Bylaw Review Committee moves; the KSECA 2024 annual newsletter editor print for mailing to Kalapana Seaview Estates lot owners of record these BRC proposed KSECA Bylaw amendments as a unit vote for ratification at the 2024 KSECA AGM. Further to include in print of the same the 2023-'24 KSECA Board of Directors' endorsement of this amendments package; stipulating it's benefit for the protection of the entire association. Additionally, the rationale shall be published along each proposed Bylaw amendment accordingly.

1.

Article III: Meetings

SECTION 2: Regular Monthly Board Meetings

C. Minutes of the meetings of the BOD shall include the recorded vote of each BOD member present on all motions except motions voted upon in executive session.

Rationale: The language of §421J-5 (g) is included for transparency.

2.

Article III: Meetings

SECTION 2: The Annual General Meeting (AGM)

D. No BOD member shall vote by proxy at board meetings.

Rationale: The language of §421J-5 (d) Meetings of the BOD; committee or subcommittee is being added to clarify proxy use.

3.

ARTICLE III: Meetings

SECTION 2: Regular Monthly Board Meetings

E. The BOD, with the approval of a majority of a quorum of its members, may adjourn any meeting and reconvene in executive session to discuss and vote upon matters concerning personnel, litigation in which the KSECA is or may become involved, or as may be necessary to protect the attorney-client privilege of the KSECA. The general nature of any business to be considered in executive session shall be first announced in the regular session.

Rationale: The existing KSECA Bylaw language as to Executive session is vague, Hawaii Revised Statutes §421J-5 's exact comprehensive language has been added to clarify the three lawful restrictions regarding Executive session.

4.

ARTICLE I: Association

SECTION 3: Definitions

Hawaii Revised Statute (HRS): Means Chapter 421J Hawaii State Law applying to all Planned Community Associations existing from June 16, 1997 and any created thereafter.

Rationale: KSECA must comply with HRS 421J in accordance with Roberts Rules of Order newly revised. To be Inserted after Green Space; before Member.

5.

ARTICLE XII: Bylaw Review Committee, Amendments and Corrections

SECTION 3: Corrections

D. Corrections for this section are limited to typographical or grammatical error(s), omission(s), additions(s), and/or deletion(s) inconsistent with or contrary to any higher law, (in particular HRS 421J, or to any other concurrent related Bylaw text or language.

Rationale: Inserting D. into SECTION 3: Corrections. The language is more comprehensive than what is currently written. This was expressly suggested by the KSECA BOD.

6.

ARTICLE XII: Bylaw Review Committee, Amendments and Corrections

SECTION 2: Amendments

A. The change must be read at one meeting and voted on at the next, be it a regular or special meeting unless it is proposed in advance and notice given to all members at least 30 days in advance of the membership meeting. Unless a Bylaw Amendment is proposed in advance and written notice is given to all KSECA owners at least 14 days in advance of a KSECA membership meeting any proposed change to the KSECA bylaw amendment(s) must be introduced first at a previous BOD meeting or at a previous AGM or Special Meeting. The proposed text shall be then voted by the membership at the following KSECA AGM or at the next KSECA Special Meeting called for that purpose, whichever may happen first.

Rationale: The language is more comprehensive than what is currently written. This was expressly suggested by the KSECA BOD.

7.

ARTICLE XII: Bylaw Review Committee, Amendments and Corrections

SECTION 2: Amendments

B. All bylaw amendments recommended by the BRC shall be submitted to the Board and to the Association, at their respective monthly meetings, for approval to be published in the annual newsletter. Any newly proposed bylaw or proposed bylaw amendment(s) recommended by the Bylaw Review Committee (BRC) shall initiate publication of such text only after submitting the proposal to the BOD at the respective monthly meeting for the BOD approval. The BOD shall then provide the required written notice of the same proposal, not less than fourteen days in advance of an AGM or Special Meeting of the membership, delivered to each KSECA owner of record.

Rationale: The language is more comprehensive than what is currently written. This was expressly suggested by the KSECA BOD.

8.

Article VIII: Committees and Contracting Services

SECTION 2: Contracting

A. The Board shall have the power to contract with contractors and/or persons as it determines qualified to provide materials, services, etc. to the Association, but any such contract shall be an independent contractor agreement and not a contract of employment. Contracts shall not extend beyond the term of the Board that was in office when such contract was awarded. Members of the Board may not bid for contracts.

B. Standard contract(s) shall be awarded for a period running from July 1 to June 30 of the following year for maintenance, repairs, clerical and labor services. Specialized professional service contract(s) will be executed for each required length of the time as needed.

C. Any contract shall include an early termination clause on behalf of KSECA, specifying "without cause" language included.

Rationale: Inserted letter "A". to create subsections that are needed. Inserted letter "B." This language was suggested by the KSECA BOD to facilitate future boards. There are too many initial responsibilities for incoming directors. Inserted letter "C." with language keeps KSECA protected under any circumstance.