

# Banyan Harbor

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**ADOPTED MEETING MINUTES**  
**REVISION DATE: September 8, 1998**  
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**BANYAN HARBOR ASSOCIATION OF APARTMENT OWNERS**  
**BOARD OF DIRECTORS MEETING**  
**APRIL 30, 1998, 10:30 A.M.**  
**GAYLORD'S RESTAURANT AT KILOHANA**

Meeting called to order by President, Shirley Akita at 10:50 a.m.

**I. ROLL CALL**

Board Members

Shirley Akita, President  
Dick Rentz, Secretary  
Carol Medeiros, Treasurer  
Jack Regan, Director  
Harry Baker, Director

Absent: Dick Reis, death in family and Loren Knott, illness.

Outrigger Lodging Services

Alan Baer, Vice-President, Administration, Outrigger Lodging Service  
Rick Ball, Director of Operations, Outrigger Lodging Service  
Chris Gampon, General Manager, Banyan Harbor  
Stephanie Nakamatsu, Accountant, Banyan Harbor (Recording Secretary)  
Tore Wistrom, Principal, Resort Consultant, Inc.

Owners

Betty Garner  
Linda Garcia  
Bob Martin  
Jim & Bonnie Solberg

The meeting does have a quorum.

**II. PROOF OF NOTICE** – Chris reported that notice of meetings was posted on April 17, 1998 at both entrances of the administration building.

**III. APPROVAL OF MINUTES**

**A. Board Meeting, October 22, 1997**

Jack Regan requested the minutes note the location of the meeting on the title page.  
Item 3b - To show that Jack Regan also abstained for the September 3, 1997 teleconference. Item 3a - To include that Jack will chair the audit committee.

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**MOTION:** *To approve the October 22, 1997 meeting minutes with additions.*

**MOVED BY:** Carol Medeiros, second by Harry Baker.  
**VOTE:** Unanimous, **PASSED.**

B. Organizational Meeting, February 21, 1998.

There is a correction required to the typographical error in the title (**Apartment**) at the top of the first page. At the bottom of the first page Jack Regan wanted the minutes to reflect his objection to the “manner” the proxy was sent out and not reflect an objection to the proxy itself.

**MOTION:** *To approve the February 21, 1998, Organizational Meeting Minutes as revised.*

**MOVED BY:** Carol Medeiros. Second by Jack Regan.  
**VOTE:** Unanimous, **PASSED.**

## IV. MANAGEMENT REPORT

- A. **President’s Report** - Following the annual meeting, Banyan Harbor was featured in a story in the Garden Island Newspaper. Auntie Sarah Ka’ilikea spoke at a County Council meeting on our Banyan Tree and was interviewed by the newspaper regarding her concerns. Her complaint at the council meeting was in regard to alterations made to the Banyan tree. On behalf of the Board, a letter was written to the County Council inviting them to the property for a tour of the Banyan tree and to see the improvements made to the property. No response was received from the Council. Chris contacted Nina Magoun of the Outdoor Circle to help clear the tree issues. We feel everything done was legal and done through the proper channels.
- B. **Manager’s Report** – Since our last meeting, we have had to contend with unwanted publicity regarding our Banyan Tree. As Shirley reported, our neighbor Auntie Sara has made an appearance at the County Council and in the local newspaper. I have since contacted the Council members and Outdoor Circle to clear the misconceptions. I was able to walk the tree with the Outdoor Circle (OC) members. We reviewed the entire area including the 2 banyans, fence area, and easements. The OC was pleased to see the tree thriving and was able to confirm we had called them during the original problem with the tree. The OC asked if a barrier could be put up to keep unwanted vehicles from accessing the path through the tree. We have installed a chain barrier for this purpose. The OC is looking into putting the second tree (located just above building F) into the register of exceptional trees.

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## V. FINANCIAL REPORTS

### A. March 1998 Financial – Alan Baer

Through March 31, 1998, total revenue is \$173,303 versus the budget of \$177,249 showing an approximate \$4,000 negative variance on revenue. This is for the most part, spread between the activity desk rent and telephone revenue. Expenses are down almost \$13,000 from budget. This gives us a net earning of \$6,956 versus the budget where we anticipated a loss of \$2,064. This reflects a positive variance of \$9,020.

Cash balance as of March 31 was \$103,098. This is broken down to [operating account - \$77,224], [payroll account - \$5,232], and the [special reserve of \$20,641].

Total accounts receivables are \$28,091 (with the inter-company transfers cleared on a seven day basis). There are various prepaids, giving us total assets of \$152,412.

We have Accounts Payables in the amount of \$11,591. Other accrued expenses including payroll totaling \$25,323. Total liabilities \$36,914. Adding back the total equity, total liabilities equal the total assets of \$152,412.

All the bank accounts are set up on analysis, so any interest earned will offset the costs of the bank accounts. Alan will look into moving the special reserve account to a separate interest bearing account. Merrill Lynch, CMA is capable under the Hawaii statutes to be able to handle the reserves. The reserves are based on getting the best interest bearing amount possible.

Jack would like a journal entry reflecting the \$4,320.00 payback to the special reserve.

### B. Collections

**MOTION:** *To move the \$16,400 collected from delinquent dues for 1995 to 1997 from the operating account to the reserve account.*

**MOVED BY:** Jack Regan. Second by Dick Rentz.

**DISCUSSION:** At the end of 1997 the Association had \$70,000 in the operating account. Now the Association has \$90,000, a \$20,000 increase. Jack suggests to move that amount to the special reserve account since the Association's been operating on a \$58,000 to \$60,000 cash fund which he considers two months of expenses. Dick Rentz would consider the motion if the reserve funds can be moved into an interest bearing account and the money noted in the motion stay available for transfer to the operating account if required. Alan noted that if passed we should be able to move the reserve funds to an interest bearing account. Carol noted that the operating account does not have a full two months of cash. Carol reiterated that the Association should have two to three months of cash available for operation as a rule of thumb by accounting standards.

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**VOTE:** In Favor: Jack Regan,  
Opposed: Dick Rentz, Carol Medeiros, Harry Baker,  
Shirley Akita. **FAILED.**

## **C. Audit 1997**

**MOTION:** *To table the 1997 Audit to the next meeting to allow time for review by the Audit Committee.*

**MOVED BY:** Carol Medeiros. Second by Dick Rentz.

**Discussion:** Jack and Carol did not have enough time to look over the audit. Dick Rentz questioned if the 1997 audit reflects the changes suggested in 1996 audit report. Alan will check if the 1997 year-end financial to reflect the adjusted journal entries from the auditor.

**VOTE:** Unanimous. **PASSED.**

## **D. Audit 1996**

**MOTION:** *To approve the 1996 audit.*

**MOVED BY:** Jack Regan. Second by Dick Rentz.

**VOTE:** Unanimous. **PASSED.**

Dick Rentz requested an executive session after the Audit 1997 report to discuss Item 5b - Collections and Item 6a - Elections.

**RECESS AT:** *12:20p.m.*

**RECONVENED AT:** *1:35p.m.*

### **Executive Session Note:**

At the executive session, a motion was made that 10% of the delinquent monies collected be given to Tore in recognition for his personal attention for collecting these longstanding debts. It would retroactive to all the monies that had been collected \$16,400 and any other monies collected.

## **VI. OLD BUSINESS**

### **A. February 21, 1998 election**

It has been unanimously agreed that the Association would pay the attorney bills regarding the election. We do not want to set a precedence that Board Members cannot ask for legal opinions on a subject. The caveat on this matter is all requests for legal advice must go through the President.

Tore, Chris, and Dick reviewed every proxy. There were only three proxies questioned.

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Removing the three ballots would not change the results of the annual election. The legal opinion given by the AOA attorney is that Shirley Akita and Harry Baker have been duly and officially elected as of February 21, 1998.

**MOTION:** *That the AOA ask our President if it's okay to get legal opinion on the Timeshare proxy and voting during AOA election.*

**MOVED BY:** Dick Rentz. Second by Carol Medeiros.

**Discussion:** Shirley is against the motion. It would be best to check with the Timeshare President, Jim Solberg on their by-laws regarding Timeshare voting relating to AOA elections, instead of the AOA create an expense.

**REMOVED:** Based on Shirley's input, Dick removed his motion, and Carol removed her second.

## **B. Painting of Railings**

The painting of the railings as discussed in the October 1997 and February 1998 meetings, has been complete. Buildings B, L, and K are finished and looks great. 90% of the painting invoice has been paid, the other 10% held on retainage pending the final walk through. The walk through is now complete and the final 10% will be paid to the contractor. The residents and management is pleased with the work.

## **C. Neeley and Anderson Report**

**MOTION:** *To table this report until the next meeting since Loren was going to review and report.*

**MOVED BY:** Carol Medeiros. Second by Harry Baker.

**VOTE:** Unanimous. **PASSED.**

## **D. Air Conditioner Drainage – Chris Gampon**

Installation of a/c drains on the back-side of the buildings is complete except for buildings K & L. We will start hooking units up to the drainage before the last two buildings are complete. Owners with a/c's will be charged \$25 for each a/c hooked-up. The second part of this project involves the a/c's on the front side of the units (above the entry on the town homes). Testing is being done on these units using an evaporator with a built in thermostat. Results look promising. This looks like the best option to stop a/c's from dripping at the front end of the units.

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**MOTION:** *To allow OLS to determine applicability of the evaporator and to charge owners accordingly for the installation of the device.*

**MOVED BY:** Harry Baker. Second by Jack Regan.  
**VOTE:** Unanimous. **PASSED.**

## **E. Water Saving Devices – Dick Rentz**

Prior to the meeting a sample set of water saving devices and test tabs was provided to the property for testing. These devices will help the Association to reduce water cost. The devices include aeration tips for the kitchen & bath faucets, a low-flow shower head and test tabs to ensure toilet tanks are not leaking into the toilet bowls. The test for these devices went well. Rick Ball used them in his unit for the entire time he has been on property.

**MOTION:** *For the AOA to purchase water saving aerators for the kitchen & bathrooms, shower heads, and dye tabs for inspection of toilet leaks. And schedule the project to be completed within the next year.*

**MOVED BY:** Dick Rentz. Second by Harry Baker.  
**VOTE:** Unanimous. **PASSED.**

## **F. Retaining Wall /B-Building**

Reference points have been made and initial measurements taken. To track movement, if any, measurements will be taken monthly and logged for future reference. Drake and the Maintenance Staff will perform the measurements and maintain the log.

## **VII. NEW BUSINESS**

### **A. Concrete Lanai Refinishing**

Chris reported that two different procedures were looked into for covering the downstairs lanais. The first was a latex rubberized coating, the second a two step seal, and textured finish. Our investigation shows the second process will provide the protection and maintainability we will need. Two proposals for labor only are provided for the Board's review (materials will be purchased directly from the property). We recommend R. Hirano Painting's labor proposal be accepted. This is the lowest bid and through previous experience we expect them to provide quality results.

Dick Rentz gave a good review of H. Hirano Painting and the results he has seen through previous experience.

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**MOTION:** *To approve the bid from Hirano Painting for \$2,333, plus required materials cost and that the funds come from Reserve account.*

**MOVED BY:** Dick Rentz. Second by Harry Baker.

**VOTE:** Unanimous. **PASSED.**

## **B. Front Door Replacement**

**MOTION:** *That AOA replace 50 exterior doors as needed and repair whatever can and to be expended out of the Reserves.*

**MOVED BY:** Dick Rentz. Second by Carol Medeiros.

**VOTE:** Unanimous. **PASSED.**

## **C. Assigned Parking**

**MOTION:** *That the assigned parking plan be put on the ballot for voting by all owners at the next annual meeting.*

**MOVED BY:** Carol Medeiros. Second by Dick Rentz.

**Discussion:** It was suggested that OLS explore this plan and the affect it may have on full time residents.

**MOTION:** *To table this issue until management has the opportunity to look into the problem of people with more cars than rules allow and try to solve this first.*

**MOVED BY:** Harry Baker. Second by Jack Regan.

**VOTE:** In favor: Jack Regan, Dick Rentz, Harry Baker, Shirley Akita.  
Oppose: Carol Medeiros, **PASSED**  
**MOTION TABLED.**

## **D. Front Desk Hours**

At the last annual meeting OLS was asked to look into whether there are the right levels of staffing desk. It was reported that the extended hours at the desk came without increase labor hours. Where hours use to overlap, they are now spread out. The cost of covering the front desk has not changed but now there is better coverage to service all entities. AOA's allocation for the front desk is 20%.

**E. Floor Repair, Unit No. 93**

Jack Regan will be speaking not as a director but as an owner. Shirley noted that the decision on this issue has ramifications on current and future issues of this kind.

Chris reported that an issue came up in unit number 93 in regard to the bathroom floor where the elasto-seal sub-floor had lost its hard consistency and became powdered below the bath tub in unit 93. We were asked to review the problem and make repairs with AOA funds. After the review a letter was sent to the property manager of #93 indicating the damaged sub-floor was not an association responsibility and that repairs would be the responsibility of the owner. This was disputed, in that Jack felt this was an AOA expense. Later, an opinion was obtained from Jim Guerrero at Ocean Floors stating that the damage to the sub-floor was most likely due to water exposure. The source of the water could have been from the tub or toilet. The issue is, will the AOA consider this damage a common expense, or not.

**MOTION:** *That the Board feel this is a homeowners expense.*

**MOVED BY:** Dick Rentz. Second by Harry Baker.

**VOTE:** In favor: Dick Rentz, Carol Medeiros, Shirley Akita, and Harry Baker.

[Abstain: Jack Regan], **PASSED.**

**F. Electronic Billing**

Chris Reported that in order to make payment of dues easier for homeowners electronic billing is now available. Owners can now authorize us to automatically transfer funds from their checking or savings account to pay for dues. The first of these transactions will take place on May 1, 1998.

Authorization forms for credit card payment will be sent to owners not participating with the savings/checking program. We will encourage owners to use the savings/checking method as credit card transactions require we pay the applicable commission. Because these transactions must be done manually at the front desk, credit card payment is only being offered to AOA owners (where the volume is manageable).

**G. Newsletter**

OLS has been discussing the necessity of doing the newsletter four times a year. Costs associated with production, and struggling for contents for the newsletter has given reason to suggest doing the newsletter twice a year. The Board feels twice yearly may not be enough to provide news to the owners. A schedule of three newsletters per year was agreed upon. The newsletter will be done every four months.

## **H. Water Damage**

Tore Wistrom spoke on behalf of Dick Reis, who feels strongly about this issue. Bill McNerny's unit 138 was damaged by water from unit 144 above owned by Peter and Vera Steiner. The owner Steiner's and their insurance agency is rejecting responsibility. Bill McNerny does not have homeowners insurance to cover the damage caused by unit 144. Both Chris and the OLS insurance representatives have made attempts to help settle the issue between Bill and the Steiner's. They have had no success.

Rick Ball advised that OLS' insurance company has continued to try and persuade the Steiner's insurance company that it is clearly their liability and their client needs to pay for the damages caused by their unit. Harry Baker noted that since the leak originated from the inside of unit 144 and not from a common pipe in the wall, it is clear that unit 144 is responsible for the damages. Per Tore, Dick Reis would've suggested that AOAO take care of expenses and pursue legal action against the insurance company representing the Steiner's.

The Board surmised that due to the nature of the damages they would give as much assistance without having to deal with any legal aspects. Homeowner's have the responsibility to get insurance. Another reminder of this should be put in the next newsletter. A good example would be that your guests or tenants are responsible if any flooding occurs. It should also be noted that owners should also ask their insurance agent about hurricane coverage. Chris was asked to speak with Bill McNerny and follow up with a letter with a copy to Dick Reis.

## **I. Pool Fence/Gate**

Chris reported that the pool fence and gate is old, rusted, and unsightly and has been for some time. An insurance review recommended that it should be changed to a sturdier fence and a better gate. We have obtained a bid of \$1,100 job to get the fence and gate replaced. Only the front side of pool fence and gate will be changed.

**MOTION:** *To replace fence and gate for \$1,100 and to expense out of reserve.*

**MOVED BY:** Dick Rentz. Second by Harry Baker.

**Discussion:** Will the existing lock be used so we don't have to re-key? Chris confirmed that the same tumbler would be used.

**VOTE:** Unanimous. **PASSED.**

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## VIII. 1998 MEETING DATES

The next meeting date should be corrected from September 10, 1998 at 9:00a.m. to September 9, 1998 at 1p.m. Harry Baker is unable to attend the September 9 meeting and Jack Regan will not be able to attend any meetings scheduled in September. The Board has agreed to change the September 9 meeting to a teleconference on Thursday, August 20, 1998 at 8:30a.m. Hawaii Standard Time.

The remaining meeting schedule for 1998 would be:

Thursday August 20, 1998 Teleconference	8:30A.M. Hawaii Time
Thursday December 3, 1998	1:00P.M.

## AGENDA ITEMS FOR AUGUST 20, 1998

1. Stairwell from Building E and up.
2. Activity contract
3. Neely and Anderson Report

If the Board would like any item to be on the agenda, please fax to Chris before the next meeting.

## 1999 POSSIBLE MEETING DATES

- February 27, 1999 - Annual Meeting
- May 20 or June 10
- September 15 or 16
- December 1 or 2 or December 8 or 9

Board to look at these dates for confirmation during August 20<sup>th</sup> meeting.

## IX. ADJOURNMENT

*MOTION:* To adjourn meeting.

**MOVED BY:** Harry Baker. Second by Carol Medeiros.  
**VOTE:** Unanimous. **PASSED.**

**Meeting adjourned at 3:40p.m.**