

**BANYAN HARBOR ASSOCIATION OF APARTMENT OWNERS
BOARD OF DIRECTOR'S MEETING**

Thursday, November 30, 2000, 11:00 a.m.

Banyan Harbor, UNIT A1

President Shirley Akita called the meeting to order at 11:17 a.m.

1. ROLL CALL

Board Members

Shirley Akita, President
Loren Knott, Vice President
Carol Medeiros, Treasurer
Catherine Martin, Director
Dick Rentz, Director
Harry Baker, Director

Absent: Dick Reis, Director

NOTE: Motions noted as passing by unanimous decision do not include Director Dick Reis

Outrigger Lodging Service

Alan Baer, Sr. Vice President, Outrigger Lodging Services
Chris Gampon, General Manager, Banyan Harbor
Tore Wistrom, Resort Consultant

Donna Chu, Recording Secretary

Owners / Others

Linda Garcia, Owner, Unit 78/79
Gus & Gale Enderlin, Owner, Unit J114
Spencer Schmidt, Owner, Unit B15
Sharon Baker, Timeshare Owner

2. PROOF OF NOTICE

Chris reported that notice was posted on November 14, 2000.

3. APPROVAL OF MEETING MINUTES

- a. **Board Meeting, September 15, 2000** - Corrections were noted and completed. Minutes will be distributed.

MOTION: *To approve the minutes as corrected.*

MOVED BY: Dick Rentz, Second: Carol Medeiros

VOTED: Unanimous, **PASSED**

4. MANAGEMENT REPORTS

- a. **President's Report** - President Akita commented that it was a quiet quarter. When mail is the big issue for the meeting we know that operations are coming to a sense of normalcy. This is very nice. Shirley thanked Chris and Tore for the good work.
- b. **Manager's Report** - Chris reported that Staff continues to work well as a team. Chris had several items to review that are not covered in the agenda. They are as follows
 - i. **Liens** - The Board asked Chris to setup the documents that would allow him to sign liens and release liens on behalf of the Board of Directors. Per the Association's Attorney, Bruce Yoshida, all that is necessary, is a resolution by the Board giving those rights to Chris. A power of attorney is not required.

MOTION: *To authorize Chris Gampon to sign whatever documents recommended by the Associations legal council to allow the General Manager to sign liens and release liens and any related documents on behalf of the Association.*

MOVED BY: Loren Knott, Second: Harry Baker

VOTED: Unanimous, **PASSED**

- ii. **Gas Torches** - Chris reported that the torches for the properties front entrance that the Board asked for information on can be installed at no cost based on a minimum purchase agreement with the Gas Company. We can also purchase the torches with no minimum use requirement on gas. The purchase price is \$1,100 plus gas tank rental and the cost of gas used. The biggest problem with the proposed installation, is that the torches would have to be located in an area that will cause the smell from the liquid propane fuel to drift into the nearby units (#18 and #28). Due to this Chris is recommending against the installation. Dick Rentz asked about an alternative location such as the entrance of the office. Chris noted that if this was done, visual impact and sense of arrival is lost. Based on Chris' recommendations, the Board decided to drop this issue.
- iii. **Roll-up Shades** - President Akita asked if there were any questions for Chris. Dick Rentz asked about the existence of the roll-up shades he has noticed recently at "L" building. He asked if they have been approved. Chris indicated that there was no approval since he took over management and none that he knows of before that. Loren Knott noted that any shades do require the Board's approval. Dick Rentz noted that there should be a standard established for the installation of Blinds. Cathy Martin indicated that the blinds were up now for as much as 4 years.

The Board asked that Cathy Martin work with Chris to write a procedure and permission form for owners to use. The form should indicate acceptable colors and styles. Shirley asked that this be completed expeditiously so that the owners affected will not be unduly affected. *Cathy asked that this be placed on the next agenda for further discussion.*

5. FINANCIAL REPORTS

- a. **October 2000 Financial** - Alan Baer reported that the financial reports were distributed previously and offered to answer any questions on them. Loren Knott asked for an accounting of the donations given through the year. He feels that the Board should give their input into where any donation is directed. Dick Rentz wanted to bring to the Board's attention the \$8,400 profit made by the Association in telephone revenues. Dick suggested that the telephone charges should be the same for both Timeshare and Vacation Rental. Dick would like to start charging Timeshare for local calls. Chris noted that the likely response from the Timeshare Association would be that, as part of the AOA, Timeshare owners are contributing to the purchase/maintenance of the phone system and should not be subject to additional local fees. Chris noted that the same is true with rental units. No local calls are charged to owners when they stay in their unit. Dick also asked about the base rate of \$22 per month. Should this be increased? Chris reported that a telephone from Verizon would cost from \$30 - \$40 per month. Loren Knott noted that Timeshare also considered the purchase of the phone switch. After some negotiation, the AOA made the purchase. The \$22 monthly fee is a result of some compromises since the Timeshare could have installed the equipment and captured any revenue as a result. Those considerations need to be looked at if a change in the base fee is proposed. Loren feels the charges are proper at this time. *Dick Rentz asked that the replacement of the telephone system be added to the Reserve Account.*

Harry Baker asked that the forecasted projects for the reserve be added to the financial report for later comparison.

Dick Rentz asked that the possibility of installing a solar heater for the administration building be looked into. Dick suggested Solarhart a company on Maui. Their installation has the tank on the roof and guarantees a 12-year life for a 100-gallon system. Chris warned against having so much weight on the roof of a building that was not designed for it. Dick advised that Solarhart would evaluate the roof to see if it will withstand the installation. Dick estimates a 5-year payback on the purchase price. Chris will look into programs offered.

- b. **Collection** - Tore reported that very few owners were delinquent. There are currently six units on the list. Of those only two have been a problem. Anthony Chan has indicated he is sending in his full payment. Chris reported that he called Mr. Chan and advised him that if he did not pay his outstanding debt that we were prepared to file a lien against his property. Mr. Chan wrote a check and faxed the copy of the check to our accounting office. He should have already mailed the check to us. Until the check is received he will remain on the delinquency list. Shirley Akita asked for an update on

Milton Ozaki. Chris reported that Milton has not responded with any backup information on payment he claims were made by his bank. Chris noted that Mr. Ozaki's bank payment service continues to send his payments to OLS, the wrong address. This is an on going problem. Chris has tried to have him convert his payment service to our in-house electronic funds transfer. Mr. Ozaki has not responded to those offers. Once the revised Declaration and By-Laws are recorded we would like to pursue collection of rents from Mr. Ozaki's tenant.

MOTION:	<i>To authorize the collection of rent from Milton Ozaki's tenant once the restated Declaration and By-Laws are recorded</i>
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MOVED BY: Loren Knott, Second: Carol Medeiros

VOTE: Unanimous, **PASSED**

Tore reported that Robert Thuss' unit was foreclosed on and now has a new owner. Chris reported that Mrs. Edwards came to the property and paid in full for the outstanding dues. Chris also reported that the Greip's are routinely late and are regularly assessed a late fee.

6. UNFINISHED BUSINESS

- a. **Declaration & By-Laws** – Chris reported that the Declaration and By-Laws were submitted for recording. The Land Court review process and recording is expected to be completed in mid-December. We have accrued funds for the cost of the mailing and will proceed with the duplication process and mailing as soon as the recorded document is provided to us.
- b. **ADA – Executive Session** – President Akita reported that during the executive session no action was taken in relation to ADA.
- c. **Land Purchase** - Tore reported that the offer submitted to Grove Farm was not responded to. The assessed value of the land is over \$100,000. It is apparent that Grove Farm has no interest in further conversations on this matter. The Board would like to remove this issue from the agenda.
- d. **Sewage Treatment Plant- Generator** – Chris reported that the generator approved for purchase during the September Board meeting was put on hold pending further investigation. After looking into the necessary power capacity required to operate the pumps at the plant, Chris found that the cost estimate by the site-supervisor was significantly lower than the actual cost for an appropriate generator.

MOTION:	<i>To no longer consider the purchase of a generator for the STP.</i>
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MOVED BY: Loren Knott, Second: Dick Rentz

VOTED: Unanimous, **PASSED**

Revised House Rules & Auto Storage – Chris spoke with Association’s Attorney, Bruce Yoshida, after his review of the Association’s documentation and he indicated that the Board could, within its power, limit parking in the common area, unassigned, parking stalls. He explained the situation where we have owners who are using the parking area for storage purposes. Bruce advised that the Board could make rules in favor of safety, ease of operation, and the reduction of traffic difficulties. Bruce noted that the implementation of a maximum number of days a motor vehicle can remain unused could be viewed as a safety issue and an ease of traffic difficulty. He noted that vehicles in storage (in common areas) that are involved in any type of accident could become a liability to the Association because it allowed the vehicle to be stored, and unused. Bruce also noted that if a vehicle is towed, the towing fee could be a lien against the unit owner. Dick Rentz suggested asking owners who are going on vacation to park their car near the pool area when they are gone.

MOTION: *For Chris to develop a rule for parking that management can enforce relating to prohibiting use of the parking area for auto storage.*

MOVED BY: Dick Rentz, Second: Loren Knott
VOTED: Unanimous, **PASSED**

- e. **Cable TV- In Room Channel** - Chris reported that after investigating the proposed system further, he does not recommend that the Board consider the installation of the equipment. The system would run on a digital videodisk. It is Chris’ understanding that the ads would include direct numbers for tour vendors. This would circumvent our commitment to the activity desk.

MOTION: *To deny the request to install the system based on Chris’ recommendation.*

MOVED BY: Loren Knott, Second: Carol Medeiros
VOTED: Unanimous, **PASSED**

- f. **Mail** - President Akita introduced Spencer Schmidt to the Board and permitted Mr. Schmidt to make his presentation regarding his opposition to not have his mail accepted at Banyan Harbor.

Mr. Schmidt reported his concern that his mail would not be stored for him. He felt that there were no options given to owners who do not live at the Banyan Harbor. He requested the Board reconsider their previous action. The Board asked Mr. Schmidt why he would like to receive mail at the Banyan Harbor if it is not his primary residence. Spencer responded that this is his only mailing address. President Akita asked if the service of providing mail to Mr. Schmidt’s guests or himself while he is residing here, was offered. Chris reported that this service is available to all homeowners. Loren Knott asked if Mr. Schmidt if this is his voting address. Loren felt that this is an exception in that Mr. Schmidt’s “legal” residence is Banyan Harbor. The rule is aimed primarily at owners who have another legal residence. Harry Baker indicated that the rule was intended for homeowners who do not live on property and

for convenience sake, have mail sent to the Banyan Harbor. Cathy Martin asked that if an exception were made, could Mr. Schmidt come to the property at least three times a week to pick up his mail. Mr. Schmidt indicated this would not be a problem. During extended periods, such as vacations, Mr. Schmidt will advise the Front Desk and notify the Post Office in Lihue to hold his mail.

The Board will send Spencer a letter in response to his appeal.

g. **Other Unfinished Business -**

- a. **Insurance settlement** - Linda Garcia received letter and a check in the mail from her insurance agent, in relation to water damages in her unit. She thanked Chris and the Board for providing information required to settle her claim.
- b. **Walkway resurfacing** – Harry Baker asked about the status of the walkway resurfacing. Chris reported that the project was started and his staff is completing individual buildings based on weather and schedules. Not all of the buildings are complete.

7. NEW BUSINESS

- a. **Budget 2001** – Alan Baer distributed revised 2001 Budget packets. He advised the Board that the initial budget should be discarded. Alan reported that the new version addressed the projected increase in insurance premiums. Alan reported that insurance rates have dramatically increased nationally. Alan will be going to Denver in December to negotiate rates for the 2001 calendar year. Alan noted that due to the projected increases, OLS is asking the Board to approve a budget with an operating deficit of \$12,543. Alan reported that there are two reasons why he feels comfortable with presenting this budget. First it is projected that in the year 2000 there will be a surplus of about \$14,000; and secondly the insurance renewal will hopefully come in lower than the forecasted budget.

Shirley Akita noted that even with the proposed increase in insurance premiums, there is no increase in maintenance fees. Dick Rentz felt it would be a good to share with the homeowners how long it has been since any increase in fees was required. Carol Medeiros noted that the owners paid a special assessment in 1995. Other than that the regular maintenance fees have remained the same for some time now. The owners have seen no increases or assessments from 1996 – 2001, a six-year period.

Alan Bear noted that keeping the fees level in the face of rising costs for essential services such as electricity, labor, gas, and sewage, has been incredible.

Carol Medeiros requested that the labor burden for maintenance reserve labor be broken out so the Board can see what those expenses are. Chris noted that the procedure currently is to take the entire labor and burden and post one fee to the reserve account. *The Board felt that it would be a good idea to start detailing that information.*

Dick Rentz asked Chris to refresh his memory on the arrangement with the activity desk. Chris reported that Kauai Vacation Helpers agreement is to remit 10% of gross commissions or \$1,000 whichever is greater. Subsequent to the original agreement the Board agreed to support the vacation rental program by assigning any remittance over the \$1,000 base rent to that program. Dick suggested that the AOA's financial statements show the gross revenue then the distributed amount. After further discussion, the Board agreed that showing the net amount on the AOA financials was best for general excise tax considerations. *Alan Bear suggested putting the gross amount in the GM letter that is distributed each month.* The Board agreed that this was a good idea. *Loren added that Gale should cut two checks. One for AOA and the other for Rental.*

MOTION: *To approve the revised 2001 budget.*

MOVED BY: Dick Rentz, Second: Loren Knott
VOTED: Unanimous, **PASSED**

- b. **Plaque by Banyan Tree** - Chris reported that a copy of a letter from the Kauai Museum Banyan Tree Committee was provided to each Board member. They are proposing the installation of a plaque near the Banyan Tree giving a short history of its life and care. The museum group is also proposing coming onto the property and cleaning debris around the tree and undertaking a beautification project in that area. This would be at their expense. The Museum will also provide insurance for the volunteers. Chris feels it is a good gesture to our neighbors, the Kailikea's, who have a long history in the Kalapaki area.

MOTION: *As a good faith gesture, to accept the proposal from the Kauai Museum to place a plaque and allow for ongoing maintenance.*

MOVED BY: Harry Baker, Second: Dick Rentz
VOTED: Unanimous, **PASSED**

Dick Rentz asked that the record reflect the Board's appreciation for Chris' handling this situation. This has been a long and not always easy issue and Chris' work has been a great help.

- c. **Storage Closet, Garage G-82** - Chris reported the owners of unit G-82 have asked for the Board's approval to construct a storage unit in their assigned garage. The storage would be 6' deep x 8' wide and based on our review of the area would not interfere with the ingress or egress through the garage area. It also would not cause any complications for parking. The owners have committed to construct the storage according to current standards.

Carol Medeiros asked if Chris notified the owners that they would be limiting the parking to only one vehicle by constructing the storage unit. Chris reported that the owners are Board Directors Dick Rentz and Loren Knott and they were advised.

MOTION: <i>To approve the request to build a storage unit in the garage assigned to unit G-82.</i>

MOVED BY: Harry Baker, Second: Cathy Martin
VOTED: For: Shirley Akita, Carol Medeiros, Cathy Martin, Harry Baker
 Abstained: Loren Knott, Dick Rentz, **PASSED**

- d. Other New Business - The following additional topics were discussed.
 - i. **Annual Meeting Material** – Chris reported that official notifications for the Annual Meeting and solicitations for Board members was posted on the property bulletin board and a notice will be mailed to all AOA members.
 - ii. **Executive Session** - President Akita adjourned the meeting to go into executive session.

REPORT FROM EXECUTIVE SESSION:

President Akita reported that during Executive Session the Board discussed matters relating to personnel and a merit increase that was authorized at their last Board meeting. The Board also discussed matters related to ADA.

8. ADJOURNMENT

Meeting adjourned @ 1.56 p.m.