



Poipu Kai Association Fall Newsletter October 2014

2015 Operating Budget

Russ Moen (PKA Treasurer), with the support of Bob DeMichiel (past PKA Treasurer), Patrice Asuncion (PKA's Associa Hawaii Account Executive) and Carolyn Caylor (PKA General Manager) worked hard to prepare a draft 2015 PKA Operating Budget based upon prior year experiences and expected changes that will impact 2015 expenses. The PKA Board of Directors reviewed the draft budget in July, and again at its October 3, 2014 meeting. During the October meeting the proposed budget was approved. The result ... total 2015 PKA homeowner assessments will be \$178,337 which is \$5,751 (3.225%) *lower* than in 2014. Everyone can expect to pay lower assessments during 2015 than they did this year. One of the reasons this was made possible was that the 2015 sewer charges to PKA by the Poipu Kai Water Reclamation Corporation will remain the same as were charged in 2014. Much thanks to Russ, Bob, Patrice and Carolyn for their efforts on all of our behalves.

PKA Maintenance Fee Delinquencies

PKA maintenance fee assessment receipt delinquencies continue to remain low—they represent less than 1% of the yearly maintenance fees assessed through September 2014. Of the 453 PKA owners, five (5) are more than 90 days delinquent and owe a total of \$17,067 ... four (4) other owners have been delinquent between 31 and 90 days, and they owe a total of \$2,596. The PKA Board of Directors' Collections Committee continues to monitor receipts and manages actions taken against those members who are significantly late paying maintenance fees.

Hawaii Dairy Farm

The Hawai'i Dairy Farms (HDF) has not been allowed to begin operations. On July 14, 2014, HDF announced that they were "deeply disappointed that Kawailoa Development LLP, the owners of the Grand Hyatt and Poipu Bay Golf Course, has decided to sue for injunctive relief against Hawaii Dairy Farms." Much has been made of the problems that would be introduced to the Maha'ulepu Valley if the farm begins operations principally because of the number of cows involved—2,000—and the fact that the soil has been shown to be clay creating a runoff likelihood for the herd's manure and urine, a runoff that will at least partially run to the ocean. Kawailoa Development LLP is requesting in its legal suit that HDF be required to have an Environmental Assessment completed so the actual impact of operations can be better anticipated.

Recently Kawaihoa Development LLP asked whether or not Poipu Kai Association would endorse their legal goal. The PKA Board of Directors considered in the affirmative this request during its October 3, 2014 meeting, and a letter was sent to Kawaihoa Development, Kawaihoa's legal staff, and Hyatt management stating:

Poipu Kai Association ("PKA") is an organization of the owners of 453 living units in the Kōloa, Kaua'i, Hawai'i area commonly called the 'Poipu Kai Resort'. On behalf of these owners, the PKA Board of Directors recently approved a motion endorsing the legal action undertaken by Kawaihoa Development LLP ("Kawaihoa") against Hawai'i Dairy Farms ("HDF").

HDF proposes to operate a dairy farm on land's leased from Grove Farm in Kaua'i's Maha'u lepu Valley. The Kawaihoa action asserts that "HDF has not prepared an environmental assessment for its proposed wastewater treatment unit and its dairy farm and therefore [should] ... not proceed with its project" (Munger, L. W., 2014, p. 3). PKA fully supports this action taken by Kawaihoa and with the legal action's objective of disallowing HDF operations until HDF does have prepared the environmental assessment study and report.

Reference:

Munger, Lisa Woods; Goodsill Anderson Quinn & Stifel, Attorney for Kawaihoa Development LLP (August 11, 2014). *Comments re Hawaii Dairy Farms' Waste Management Plan, dated July 23, 2014.* Letter to Sina Pruder P.E., Wastewater Branch Chief, Environmental Management Division, [State of Hawai'i] Department of Health.

Kauai has many issues that come up from time-to-time with some possibly impacting the area around our resort (e.g., Hawaii Dairy Farm, Genetically Modified Organisms plant development and growth, 'Superferry' service, County of Kauai proposed 'South Kauai Community Plan' defining south shore development, zoning law changes, regional sewer plant, and property development/redevelopment requests). It is prudent for all PKA owners—whether they live on or off Kauai—to keep informed on the issues affecting Kauai to the best of their ability.

A company's Board of Directors hires top executives, sets policy and company direction, and monitors results of operations. A company stockholder must keep abreast of things that might impact the value of the stockholder's investment ... and this must be done without relying on the company's Board of Directors and management input and notifications. In this same manner, PKA owners need to keep up to date regarding issues that might impact the value of their investments or enjoyment of use ... they should not expect the PKA office staff or Board of Directors to keep owners informed on all the issues, meetings, etc. as that would be a full time job in itself. PKA does not maintain an email address listing that can be used to send information to all owners; further, for PKA to take a position in the name of the organization, a vote of owners is required which is accomplished using the USPS.

We strongly recommend that PKA owners at least peruse *The Garden Island* newspaper daily to keep abreast of what is being discussed in headlines, main articles, editorials, and letters to the

editor. This can be done online at www.thegardenisland.com. Another source is <http://kauai.hawaiiensnow.com>. With regards to the HDF issue, please refer to the website www.friendsofmahaulepu.org and/or contact Bridget Hammerquist who is a principal in the effort to see that HDF is not allowed to begin operations—she can provide you with all sorts of information as well as put you on her email distribution list for new information about HDF. Bridget’s email address is bridgethammerquist@hawaiiantel.net. For more information about Maha`ulepu, refer to the Malama Maha`ulepu website at <http://malama-mahaulepu.org/> or the organization’s Facebook entry at <https://www.facebook.com/pages/Malama-Mahaulepu/236259125045>.

The PKA Board of Directors stated at the last annual meeting that input on issues from 453 sets of owners to those considering various issues is far superior to one input from an organization ... and at that meeting we provided addresses for inputs regarding the Hawaii Dairy Farm. If you would like to learn more about the County’s proposed South Kauai Community Plan currently being considered for implementation, refer to <http://www.southkauaicp.com/>.

Lawsuit Settlement

A trip and fall incident on AOA Regency property in 2011 resulted in a legal suit being filed against defendants AOA Regency and Suite Paradise (plaintiff’s rental agent). Poipu Kai Association was added as a defendant after plaintiff’s investigations learned that Poipu Kai Association, under contract with AOA Regency, maintains Regency property. The amount sought by plaintiff was \$1.6 million.

Carolyn Caylor (PKA General Manager currently and at the time of the incident), Sue Sucher (PKA president at the time of the incident), Gary Rubenstein (PKA president at the time the suit was filed), and myself were all deposed by plaintiff’s lawyer in late November, early December 2013. Carolyn Caylor did an exemplary job of meeting plaintiff’s court-approved demands for all types of correspondences having anything to do with Regency maintenance and PKA management philosophy, spending many unpaid overtime hours pulling together all of the demanded items.

Carolyn and I attended a settlement conference held in Honolulu during late June 2014. Settlement conferences are principally driven by defendant’s insurance company(s), and this conference was managed by a Federal Judge. At the end of the day, a settlement was reached which provided plaintiff with \$125,000 ... \$75,000 paid by State Farm who is the insurer for AOA Regency and Suite Paradise, and \$50,000 was paid by PKA’s insurer. PKA’s insurer was very satisfied with this agreement because PKA’s lawyer expected to spend about \$100,000 preparing for, and participating in, what was expected to be a one-to-two week trial that was slated to start in mid-September.

AOA Kahala Property Support

After many years of self-management and considerable consideration, the AOA Kahala Board of Directors decided to enter into a 2015 property service agreement with PKA through which Kahala will receive grounds maintenance, pool maintenance, general building maintenance, and

management services from PKA. Kahala becomes the fifth condominium property supported by PKA ... the other condominiums are Makanui, Manualoha, Poipu Sands and Regency. In addition PKA has a Property Service Agreement with PKWRC (Sewage Treatment Plant) and Racquet Club (Commercial AOA).

Tennis Court Repairs

During the April 2014 PKA annual meeting, an owner questioned what was being done regarding cracks in several of the PKA tennis courts. At that time crack-repair had started and it was promised that the repairs would be completed in a few months. This project is almost complete, and the repairs are now being painted.

Poipu Kai Water Reclamation Sludge Removal

A concern was recently voiced by the organized opponents of the Hawaii Dairy Farm that they had discovered PKA has been land applying sewer sludge on Grove Farms lands in the Mahaulepu Valley. The issue was publicized to raise additional opposition to the proposed Hawaii Dairy Farm ... but in doing so some PKA owners have become concerned about what "PKA" is doing. First, let me assure you what we do is legal, not a problem and is supportive of productive agriculture ... and PKA owners should not be concerned. Second, let me tell you why this is true!

When the Poipu Kai Resort (PKR) began to be developed a sewer processing plant was built at the east end of what became the Lanai Villas home development, and next to Poipu Sands. The plant was built by the Poipu Kai Water Reclamation Corporation (PKWRC) which was wholly-owned by the Poipu Kai Association. The plant has processed all sewage waste developed in the resort since its construction. In the late 1970s The Point at Poipu purchased a minority ownership in the PKWRC so as to connect to the plant for the processing of waste from that project. The plant has for many years been operated by Aqua Engineers personnel through a contract relationship with PKWRC. Operating the PKWRC requires numerous licenses and permits issued by many government agencies (e.g., County of Kauai, State of Hawaii Department of Health), a volume of reports being researched, written and submitted by PKWRC and Aqua Engineers annually, and an annual State Department of Health inspection.

The sewer processing process results in two principal products ... wastewater (often called 'gray water') and a residue called sludge or biosolids. Periodically the sludge has to be removed from the plant to maintain plant efficiency. For many years the PKWRC has had a County of Kauai, Department of Public Works, Division of Wastewater Management "Permit to Dispose of Activated Sludge". This permit allows PKWRC to haul its sludge to the County final processing facility where the sludge is eventually taken to the Kauai landfill for disposition. But hauling to the County facility and having the facility implement additional processing is very costly, so other alternatives used in Hawaii and on the mainland were investigated to see if some of these additional expenses could be avoided.

One opportunity to reduce hauling expenditures was to haul the treated biosolids to nearby land where it would be spread out thinly allowing for the sludge to dry, then being covered with soil

within six (6) hours of being applied to the land ... a process that supports the growth of grasses used as feed or just to keep erosion to a minimum. This process is commonly used and in Hawaii is authorized and overseen by the State's Department of Health, Wastewater Branch. PKWRC has for many years been authorized to use this approach as approved and authorized by Wastewater Management (WWM) Permit Number H107WWIP424 issued by the State's Department of Health. Wastewater sludge that is land-applied is controlled by Title 40 Code of Federal Regulations (CFR) Part 503 and Chapter 11-62, Hawaii Administrative Rules (HAR).

Very significantly-contaminated waters have recently been found in the Waiopili Stream which carries water from the Waita Reservoir through Mahaulepu valley to the ocean. Watson Okubo is the monitoring and analysis section chief of the State of Hawaii's Department of Health's Clean Water Branch. Okubo stated "we know it's high" when asked about large amounts of bacteria that is ending up in Waiopili Stream (D'Angelo, 2014, para. 2). In addition, "Okubo said there are no cesspools along the stream path, that **a sludge application to grow cattle grass on the property is not an issue**, that there are no cattle on the proposed dairy property thus far and no known homeless people camping on Grove Farm land." (D'Angelo, 2014, para. 15) (highlights added).

Reference: D'Angelo, C. (2014). Pollution in Mahaulepu. *The Garden Island*. October 21, 2014, page A4.

PKWRC's land application permit just expired on October 17, 2014 and in order for it to be renewed Department of Health is requiring two public hearings. Currently PKWRC is hauling sludge to the County Wastewater Treatment Plant as allowed by our County "Permit to Dispose of Activated Sludge" which does not expire until the end of 2015.

Homeowners' Design Committee

As a reminder ... any work planned for fencing, landscaping, or external remodeling, roofing and/or painting, that may change the 'look' of a home or condominium property and structure(s), must be approved by the PKA Homeowner's Design Committee (HODC) prior to project commencement. There are forms that must be completed and submitted to request HODC approval of anticipated work. The forms are available through the PKA Executive Office and on the PKA website at www.poipukai.org.

Poipu Kai Association Website

As a reminder, almost everything you might be interested in that relates to PKA can be found on our website at www.poipukai.org.

2015 PKA Annual Homeowners Meeting

April 25th ... that is the date for the 2015 PKA Annual Meeting. The meeting will be held at the Grand Hyatt Kauai Resort, and will start at 11:00 a.m.; check-in will begin at 10:00 a.m. If you have ever considered providing support to the PKA Board of Directors, why not run for a position on the Board during the 2015 meeting. If you would like to be a candidate, take a little

time to develop a paragraph about your background and beliefs ... and send it to Patrice Asuncion, Associa Hawaii, 4-1579 Kuhio Hwy Suite 102A, Kapaa, HI 96746. Note: by state law the paragraph must not exceed 100 words.

Aloha,

A handwritten signature in black ink, appearing to read "Vince Jones". The signature is fluid and cursive, with the first name "Vince" written in a larger, more prominent script than the last name "Jones".

Vince Jones, PKA President