

Hawaiian Paradise Park Owners Association
Fugitive Dust Committee Meeting on February 10, 2013

MINUTES

1. Call to Order:

Chairperson Leilani Bronson-Crelly called the meeting to order at 2:00 p.m. at the Hawaiian Paradise Park Activity Center, 15-1570 Maku'u Drive, Kea'au. She described it as the third and final meeting of the Fugitive Dust Committee. While attrition had taken its toll on the group, those present decided to meet all the same.

Roll Call by Sign in Sheet :

Bruce Derrick, Francis Ganon, Joe Botticelli, Joan Galante, Leilani Bronson-Crelly, Verne Presnall, and Craig Crelly.

2. Review and Take Action on Minutes of January 20, 2013:

Skip McAlister asked that the minutes be corrected to change the last sentence on the second paragraph on page three from: "In their view, this product 'did not work,' as well on two of the test roads and he determined it was not a valid study." He wanted it deleted and changed to read: "Skip McAlister, Bruce Derrick and Francis Gannon said the test was not done correctly." Once that was considered – it was agreed up by all present to accept the minutes as amended.

3. Review the Options Provided by Members' Completed Task Sheet:

Leilani Bronson-Crelly accepted two Task Sheets – one from Cindy Hisatake (who could not stay for the entire meeting) and a second one from Joe Botticelli.

Cindy Hisatake suggested the following options be considered to mitigate dust impacts: (1) Stop the present road work, stop using the current material on the road and return to ¾" aggregate. (2) Use speed bumps and signs to slow the speed of vehicles in the Park. (3) Seek legislative help from the state and county and ask for an exemption from the fugitive dust rule. (4) Change the current general manager – as there has been no improvement to the conditions in the past three years. The GM's salary could be better used on our roads.

Joe Botticelli admitted he could not find any more information or contact for the soap stone suppressant he suggested earlier – and now would like to suggest we consider Gorilla Snot, which is put out by Soilworks, LLC. "*Gorilla Snot is a soil stabilizer and dust control agent. It is an eco-safe, biodegradable, liquid copolymer used to stabilize and solidify any soil or aggregate as well as erosion control and dust suppressant.*" The cost per mile to spray this material is approximately \$9,269. This product can be made to last forever. He said the company would come out to HPP to do a test plot.

Bruce Derrick asked how the product would do in acid rain conditions and what the cost to ship the product to us would be. **Skip McAlister** wanted to know if applying the Gorilla Snot pollutes the water tank and asked what type of pump it would need to spray the solution. **Joe Botticelli** said it would take approximately 751 totes to cover the 88 miles of unpaved roads in the Park at a cost of \$815,672. **Francis Ganon** asked what type of guarantee Soilworks provided. **Leilani Bronson** asked if a representative of the company would come out on their own dime to apply a test spot; **Joe Botticelli** replied in the

affirmative.

Several members said it was like the Soil Sement representative who came out and did a test in HPP. **Francis Ganon and Joan Galante** expressed disappointment that the Soil Sement representatives came out unannounced and applied the product – for free, but without making an appointment for the Board members to be in attendance.

Joe Botticelli also shared a copy of a news article in the “Hawaii Tribune Herald,” (Jan. 30, 2013) - regarding the Fuel Tax Revenue – which might allow money to be used on private roads such as those in HPP.

4. Making the Presentation to the Lot Owners at the Next General Membership Meeting.

Leilani Bronson explained how the committee arrived at doing a Power Point presentation at the Feb. 24, 2013 General Membership meeting – instead of providing paper handouts of the options the committee members had presented. Ms. Bronson acknowledged Bruce Derrick for loading the Power Point program onto the Association’s lap top and providing the materials, as well as making the large screen on which to show the presentation. **Ms. Bronson** walked the members through the 30 plus slides of the Power Point presentation.

Joan Galante asked that the slide relating to October 2012 – be amended to reflect that it was the Deputy Attorney General who suggested the Board consider using a special assessment to raise enough money to pave all the roads in HPP. It was an element available in HPP Bylaws. The survey was sent out because “We had not even tried – and the survey would reflect our attempt to poll the lot owners.”

Craig Creilly questioned her point further. **Ms. Galante** explained that June Conant had pointed out during her meeting with the Deputy Attorney General and DOH representatives that HPP lot owners most likely did not have enough money to pave all the roads. **Ms. Galante** reiterated it would be best to put out the survey because the Board would then have it in writing what the lot owners truly thought about raising that kind of money through a special assessment. She concluded that the Board was taking its direction from the DOH to consider the special assessment mechanism – “Since you haven’t even tried it.” **Leilani Bronson** encouraged Ms. Galante to re-phrase the Power Point slide to meet her needs. **Bruce Derrick** reminded Ms. Galante that the Board never went on record approving sending out the survey; Ms. Galante concurred. **Ms. Galante** concluded that she wanted the top bullet on the slide to read: “October 2012, at the suggestion of the Deputy Attorney General, the Board sends out two surveys, one which proposes raising \$23M to pave roads with a special assessment.”

Leilani Bronson reviewed the slide that listed the participating members of the committee. She pointed out that to make it on the list, a person had to attend at least one meeting – otherwise their name did not appear on the slide. For example the Board representative for District 9 never attended a meeting, so her name did not appear on the slide as a participating member. Those present at the meeting, agreed it was reasonable.

Verne Presnall asked that his option be amended to read “Create a grassroots signage campaign – that is owner-generated to post speed limit signs on your own property.”

Discussion ensued on whether businesses in the Park should be required to: (1) have special use permits; and (2) pay impact fees for the traffic their business has on roadways – above what a standard lot owners has. **Joan Galante** said she had information on the number of lots that hold a special use permit now. She pointed out that she had three businesses she planned to turn into the County for not having special use permits in place. She encouraged others to file complaints on behalf of the Park – not as an individual. So, if you question whether businesses are operating

without a special use permit – go ahead and file a complaint. All you need is their address to file with the County (Planning Department).

Leilani Bronson continued reviewing the Power Point presentation.

Bruce Derrick pointed out that dust can also come off of paved, as well as unpaved roadways. “We have to be careful, period,” he concluded.

Once the Power Point presentation was completed, **Joan Galante** complimented it, but added that, “We are low on funds and with our current bond that needs to be paid off – it takes over 50% of our revenue, so any kind of suggestion to purchase signs (estimate \$1200/150 signs) or pay for other options – takes more money than we now have.” We have about \$300,000/year for road materials. She cautioned that whichever option is considered, it would have to come out of that \$300K budget.

Leilani Bronson asked why the Association would allot \$1.6M for just 6 miles of road paving, if we were so financially restricted. **Ms. Galante** explained, “That’s the last bond money we have, it’s not reflective of the revenue coming into the budget. They are separate.” **Ms. Bronson** asked if chip sealing on an unpaved road would be considered “paving.” **Verne Presnall** responded in the negative, “That would be like maintenance.” **Ms. Bronson** pointed out that in Phase III of the bond, the Association accepted doing “overlay” work on existing roads, instead of paving new roads – which went against the spirit of the bond. **Ms. Galante** explained that had been the decision of the past Board. **Craig Crelly** reminded the group that lot owners are so upset with the way things have been run – “It’s no wonder they filed complaints with the DOH.” He questioned why the past Board could deviate – but not the current Board. **Ms. Galante** pointed out that during that phase, the Board elected to include putting in an apron and radii on the roads – so that cars could exit onto the four main roads safely. She felt that was a positive outcome of that phase (III). **Ms. Galante** continued, “The \$1.6M remaining in the bond – when that money is gone, it’s gone. All we will have coming in after that will be the annual road fees to run our Association.”

Leilani Bronson asked Ms. Galante if she wanted to add another slide stating her concern in the Power Point presentation. Ms. Galante did not seem to want to do so; stressing that “There is no money to address all the options the committee came up with, because our only revenue source is from the annual road fees.” **Ms. Bronson** restated that the Fugitive Dust Committee was empaneled to only provide a list of viable options – not select or advise which option to consider as a final solution. **Ms. Galante** pointed out that the committee stated costs of the options – so “You were concerned about the price and cost impacts, too.” She stressed that “We can’t do everything with our limited budget.” **Ms. Bronson** explained that the next phase – on how to solve the dust problem would be left up to either the Board of Directors or an advisory group – or a combination of the two. But the Fugitive Dust Committee had completed its task and would disband following this meeting.

Skip McAlister felt that both Ms. Bronson and Ms. Galante were correct on their points – they were just coming at it from different directions.

Francis Ganon thought the signs would be helpful – but asked what steps could the Association take to cut down its spending – “So that there would be more money for road way improvements.” He agreed with fellow – Board member – Tom Nickerson who is advocating privatization of the staff and road crew to save money.

Skip McAlister emphasized that the Association needs to be more cost effective, but not necessarily choose the cheaper path – “Because cheap does not always last – it is not always the best solution, because it does not always last long.” He added that the Association has more times been reactive, than proactive. As such, he suggested that we work with a priority list and set guidelines – with the

understanding that we can't get what we want – all at once. “We just have to use our money more wisely.” As it related to the dust on roads specifically, he advised that a few of the suggested options be tested on unpaved roads with sound scientific basis.

Joan Galante responded to the slide that addressed leaving it up to the Board. She admitted she wanted to solve all the issues, but truly, “With our bond, which has us handcuffed, and our annual revenue – it is a monkey on our backs, which we can't get rid of for the next eight years.” **Ms.**

Bronson highlighted the point that if the DOH ever wanted to “kick in the violation into reality” – they'd be able to fine us up to \$27M/year for the three violations currently in place – and if it were retroactive to 2010, it could go to \$54M. “This is a staggering possibility!”

Ms. Galante felt Ms. Bronson's statement was “fear mongering.” **Ms. Galante** encouraged lot owners to consider bringing their complaint *first* to the Association to solve and not to the DOH.

Craig Crelly asked what the Board would have done if the results of the survey returned favorable for the special assessment. **Ms. Galante** explained it would have then had to go to an election of the members for final approval. She doubted that the members would ever go down that path since they regularly object to annual road maintenance increases, now.

Joe Botticelli asked Ms. Galante about delinquencies for annual payments – “Are they collectible?”

Ms. Galante explained that the Association billed for 8,700 lots – in the year 2012, 7,168 paid their road fees, which left us short 1,532 who did not pay. She added that the Association tries to collect on these unpaid fees, but it costs money. She concluded, “We not only have a dust problem, we have a collection problem.” She made another important point: “We try to budget based on 8,000 lots paying.” **Mr. Botticelli** stated “There appears to be no incentive to pay.”

Bruce Derrick reminded the group that he stood before the Board many times and informed them of the health hazards of dust to humans – and he felt that his information fell on deaf ears.

In **Ms. Galante's** personal opinion “If, and when we are fined - we should take it to litigation and name everybody involved in creating a subdivision like ours – because that is the only action we would have – because this is not our fault – after all, the County of Hawaii approved our substandard subdivision in the first place.” “The County allowed us to be in this situation, in the first place – they should be responsible for that decision.” “Our only recourse is to file a suit.” She concluded by saying, “They (DOH) don't care what we do here – just as long as they get no more complaints from HPP lot owners.” **Bruce Derrick** pointed out that when (David) Watumull quitclaim deed the right-of-ways and easements over to the Association, the Association accepted the responsibility as the developer. He added we were “sunk” because of this. **Ms. Galante** was not certain Mr. Derrick's point was correct. She concluded that an environmental attorney would take our case – which has been considered a “good case.”

5. Please Attend and Participate at the General Membership Meeting on Sunday, February 24, 2013.

Leilani Bronson encouraged the Fugitive Dust Committee members to attend and participate at the upcoming General Membership meeting. **Joan Galante** advised that following the presentation – a motion should be sought from the General Membership to end and disband the committee. “After all, it was the General Membership that initiated the committee – so it should be up to them to end the committee.”

6. Adjournment of Meeting # 3, and Disbandment of the Fugitive Dust Committee.

The last meeting of the committee adjourned at 3:45 p.m.

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