

Hawaiian Paradise Park Owners Association
Fugitive Dust Committee Meeting on January 20, 2013

MINUTES

1. **Call to Order:**

Chairperson Leilani Bronson-Crelly called the meeting to order at 3:05 p.m. at the Hawaiian Paradise Park Activity Center, 15-1570 Maku'u Drive, Kea'au. Quorum was confirmed.

Roll Call by Sign in Sheet :

Bertram Carvalho, Skip McAlister, Judy Sumter, Joan Galante, Joe Botticelli, June Conant, Tom Nickerson, Leilani Bronson-Crelly, Tap Titherington, Lawrence Bergner, William "Bill" Cesaletti, Dorcas "Dorie" Liu, Frank Pustka, Linnea Lindley, Bruce Derrick, Lawrence "Larry" Brennan, Verne Presnall, Craig Crelly, Kaniu Kinimaka-Stocksdale, Gregg Hummer, and Cindy Hisatake.

Guests present: Eddie Uratani and Rod Thompson.

2. **Review and Take Action on the Minutes of December 9, 2012 :**

The committee approved the minutes as presented, with one spelling correction: Lawrence Bergner not "Berger."

3. **Review the Results of the October 2012 Survey Sent by the Board of Directors to Lot Owners:**

June Conant passed out two letters to Nolan Hirai of DOH/CAB from (1) Ivan Van Leer, Esq., dated July 6, 2012 and (2) another letter from our hired engineer, Dennis Poma, P.E, of ACSI, dated August 8, 2012. Ms. Conant also handed out results of the two HPP Surveys (Survey 1 – Resident Concerns and Survey 2 – Special Assessment). She then reviewed their findings and tabulations explaining that she had counted approximately 1500 surveys and has 30 more still on her table to go over.

Regarding Survey 2 – Special Assessment:

Ms. Conant calculated that 1,165 of the surveys came from owners who live in Hawaii and 359 from mainland owners (as well as an additional 30 more at home to tabulate). Of those, 411 lived on paved roads and 982 lived on unpaved roads. Most were split about whether to keep paving roads or not. (Following is a replication and excerpt of Ms. Conant's hand out for Survey 2, without the percentages)

Lot owner from Hawaii	Lot owner from Mainland	Own On Paved Road	Own On Unpaved Road	Pave More Roads	Pay Special Assessment of \$500 Over 5 Years	Pay Special Assessment of \$300 Over 5 Years	Pay Special Assessment of \$300 Over 8 Years	Dust Mitigation	Legal Action
1,165 (76%)	359 (24%)	411 (30%)	982 (70%)	Yes – 775 (54%)	Yes – 185 (13%)	Yes – 170 (13%)	Yes – 265 (20%)	Yes – 754 (71%)	Yes - 403 (42%)
				No - 655 (46%)	No – 1,239 (87%)	No – 1,104 (87%)	No – 1,080 (80%)	No – 311 (29%)	No – 548 (58%)

- Notes:
 - 138 voted for 2 assessment options (over votes, not counted)
 - 620-138=482-16=466 (31%) net owners willing to agree to any assessment
 - 16 voted for assessments only if guaranteed their road would be paved
 - \$300 for 8 years was the most popular assessment choice.

Regarding Survey 1 – Resident Concerns:

This survey reflected lot owners’ concerns and their ranking: 1,114 lot owners responded from Hawaii, and 333 lot owners from the mainland – of that count, 374 owned on paved roads and 948 owned on unpaved roads. . **Ms. Conant** reported that “speeding cars” was the number one concern (849 votes). She added that quite a few people wrote comments on their survey that the reason they did not want their road paved was because they did not want speeding cars. Now the folks who live on newly paved roads want speed bumps. A section of the results is as follows:

Hawaii	Mainland	Own on Paved	Own on Unpaved	Speeding Cars	Finance	Pot Holes	Vegetation	Blind Intersection	Dust	Water on Road
1114	333	374	948	849	801	702	635	599	517	443

Is Dust and Issue?	More Dust in Recent Years?	No Change in Dust
Total Yes: 279 (22%)	Total Yes: 172 (27%)	Total: 267
Total No: 965 (78%)	Total No: 762 (73%)	

Ms. Conant continued to point out other concerns that are not noted in these charts, but will be made available in the future on the association’s web site.

Joe Botticelli: asked how to report all terrain vehicles (ATV) that damage the roads by driving fast and doing trick moves. **June Conant** responded that he should be calling the police to address the problem. **Cynthia Hisatake** added that she got positive results from making police reports on cases like this because, while the child may be driving the vehicle, it’s the parents that will get cited.

4. **Review the Options Provided by Members’ Completed Task Sheet:**

Judy Sumter looked over the hand out which had several member’s completed task sheet and

commented that all roads are different and as such they need to be assessed individually. “One answer cannot fit all roads,” she stated.

Skip McAlister pointed out that he and Bruce Derrick and Francis Ganon have been doing random tests on three roads in the park on which the Road Crew applied Soil Sement as a suppressant. Skip McAlister, Bruce Derrick, Francis Ganon said the test was not done correctly.

Judy Sumter added that we need to determine if correct preparation work is being done to enhance the Soil Sement process. Chip seal costs needs to be developed more thoroughly as well as it’s an idea of it length of endurance.

Leilani Bronson-Crelly clarified that the handout Ms. Sumter was referring to was the Task Sheet submitted by Tony Rua a former roads supervisor for Nevada County, California, who is very experienced in chip seal practice. He called and got a quote from Yamada & Sons for chip sealing our roads. His calculations show we are able to pave a lot more than asphalt paving, dollar for dollar. She repeated to Ms. Sumter that the committee is a clearing house and not an advisory group on dust mitigation. That phase will come later and most likely by another group – perhaps the Board of Directors.

Cindy Hisatake said this committee is trying to find the best solution to mitigate dust, but the problem is we don’t know if we have the money to solve the problem.

Joan Galante hoped to get proper interpretation of this statute that we are in potential violation of, because she does not agree that our subdivision is any way at fault. She added the County of Hawaii and other subdivisions without paved roads is in the same situation as we find ourselves today.

Kaniu Kinimaka-Stocksdale emphasized the point that this law was built around construction sites that cause fugitive dust to occur as they work. “We need a creative approach to this,” she said, working with our district legislators (Sen. Ruderman, and Rep. Hanohano) who can help us. She concluded that however way HPP solves this issue, will set the “mold” and be the vanguard of how other subdivisions address this problem in the future. “We need DOH to work with us!”

Joan Galante asked “How?” and **Leilani Bronson-Crelly** explained to her that Ms. Stocksdale’s point is a possible option that she hopes to pursue on her Task Sheet – that of legislative changes to the current law. Ms. Crelly reminded the group that individual options was one way to approach this solution, but that members could work together on developing an option as a small group – a “hui” as it were.

Joe Botticelli shared with the group that an effective dust control he’s heard of a soy bean derivative that is spread of the road ways as a suppressant once per year. He offered to do a Task Sheet on it, as he has contacts on the mainland that have used it effectively.

Cindy Hisatake reiterated the importance of this group is to address dust, but added that speeding cars is the greatest contributor to the problem. We need to stop these speeders as individuals since we can’t depend on the police to do so. We need to speak to our neighbors about speeding.

Kaniu Kinimaka-Stocksdale provided a brief report to approach the legislators to help us. She added that her family is one of the oldest in the community and back then, they took it upon themselves to chip seal the roadway fronting their homes to address the dust issue. She suggested that this should be an individual issue and not an association issue – to pave in front of your home to prevent dust. Also, she made clear that when

we were told our roads would be paved, it was a lie, pointing out that this statement was misleading and not true. Bottom line, the lot owners knew what they were buying into when they came to HPP, why be surprised now that dust comes off unpaved roadways?

Larry Brennan read **Joe Botticelli's Task Sheet** reporting that a soy bean oil product called “soap stop” can act as a protective shield on gravel roads. This product is reproduced in Minnesota. Costs \$0.25/gallon per square yard and does not negatively impact the water table, and lasts about three months. It is sold for \$0.15/pound and fluctuates with the rate of commodity. Use .25 gallons per square yard on prepared road surface.

Larry Brennan shared four options:

Task 1: Creation of a Road Dust Remediation Plan Outline (in-depth);

Task 2: Legislative Action to Amend Hawaii Administrative Rules (HAR) Title 11, Chapter 60.1, Air Pollution Control;

Task 3: Lower Speeds With Additional Signage on Dust Roads (unpaved); and

Task 4: Test Pilot Development

June Conant said she raised the issue of HPP being Agricultural zoned (AG-1), but both the DOH and Assistant Attorney General said it did not care, “Dust is dust.” **Linnea Lindley** opined that the attorney is wrong since we live on agricultural-zoned (AG-1) lands which are exempt.

Larry Brennan reviewed that in Task 1, that what we need to do is “baffle” DOH with a multitude of ways for HPPOA to address the dust issue, including defining test spots with various suppressants – we’d do all reasonable efforts to mitigate this issue and publicize it.

Task 3, is place a series of signs that indicate the dust level – as the weather dictates, that would lower the speed limit on dry days and raise it to normal speed when rain falls. When days are really dusty, we’d have a “code red” condition, and the speed throughout the Park would be 10 MPH.

Task 4, is the idea of test spots – with more of a scientific process attached to how it is developed. It would be reasonable and measurable between spots/sections. We would have a scientific basis to state why we might not be able to afford the options. It might also take years to come to any viable conclusion, but we’d still be in touch with DOH throughout that period.

Gregg Hummer agreed with Mr. Brennan that speed is the number one reason for dust coming off our roadways. While he dislikes speed humps, we need speed enforcement help from police. He raised the point that there are businesses in the Park that cause a lot of trip generation and he wondered if they have special use permits that account for their traffic impacts. Mr. Hummer agreed to contact the Police Department on whether they would be of assistance in traffic enforcement.

Frank Pustka shared his option on his Task Sheet which had to do with speed. He cited HAR 60.12, 60.15 and 60.133 as it relates to dust. He also pointed out that speeding vehicles driving over 15MPH typically cause dust during low-moisture periods. Mr. Pustka shared a dust study prepared by Tetra Tech EM Inc. (Honolulu) for State of Hawaii Department of Health – Solid and Hazard Waste Branch in November 2011 entitled, “NANAKULI DUST STUDY TECHNICAL EVALUATION AND RECOMMENDATIONS.” In addition, Mr. Pustka added that posting speed limit signs on unpaved roads as well as hiring police to monitor designated roads are both powerful options to our problem. Another idea was to create a program where residents can call in complaints of speeding cars to the office – thus increasing the awareness of “hot

spots” for police to follow up on. Also the Road Crew would be advised to limit the amount of total road surface grading and instead to focus on just filling in specific pot holes. This would eliminate dust and may reduce cost of overall maintenance. Mr. Pustka recommended Lisa Woods Munger, Attorney-at-Law who has experience in dust related cases in Hawaii to be unequalled. Lastly, he opined that HPPOA in some way allowed or permitted vehicles to release dust into the air, knowingly. Mr. Pustka felt we were being unjustly fined as an Association for individual violations caused by vehicles (and their irresponsible drivers).

(Break took place from 4:10 pm to 4:17 pm – several members left the meeting at this time)

Leilani Bronson-Crelly introduced the option by **Tony Rua** who was unable to attend today’s meeting, but who submitted a Task Sheet on chip sealing the roadways to mitigate dust in the Park. Mr. Rua wrote that in contacting Yamada & Sons, they estimated it would cost approximately \$105,600 per mile (based on a 20 foot width at \$9.00 per square yard). He listed a second vendor from whom to pursue another bid. Mr. Rua was a former road supervisor in California and is well-acquainted with the chip seal process.

Bill Cesaletti submitted a multi-prong report with several options rolled into one Task Sheet: (1) Discourage the practice of borrowing money to our roads in a substandard manner; (2) Avoid “bothering” DOH/CAB with any further complaints; (3) Develop a “relentless” education campaign to inform residents of the dust problem and suggest: (a) Slow driving speeds to 15MPH; (b) Water the area fronting your lot and take responsibility for yourself; and (c) Avoid crushing impacts to lot owners by not increasing road fees and maintenance 10% per year; (4) Put the correct material on the roads and grade the surface correctly with a crown on it – therefore avoid grading the surface flat; (5) Keep paving the roads one at a time until the County is willing to take them over; and (6) Educate the County with the fact that requiring lot owners to pay real property tax without any representation of service or care is behavior that must be stopped, changed and no longer accepted.

Tap Titherington submitted two options for dust mitigation: (1) Place vinyl fencing in front of lot owners’ homes who have complained about dust; and (2) Plant fast growing and fragrant shrubs or trees that will act as dust filters, such as Oleander and variegated Hau.

Leilani Bronson-Crelly recapped a phone conversation she had in December with **State Representative Faye Hanohano** who suggested the following four points: (1) Notify the DOH/CAB in writing once a road fronting a complainer’s lot has been done; (2) Inform DOH that the Fugitive Dust Committee has been formed to consider solutions for our dust problem, which we take seriously; (3) Signage should be placed at the top of each main roadway into the Park stating “Drive 15MPH On All Dirt Roads Throughout HPP;” and (4) Directors should meet with their constituents and ask their concerns, compile data on them and encourage them to support viable solutions, in part to the dust issue.

Bertram Carvalho stated he wanted to encourage the association to slow speeders down and that he supports speed bumps on placed on paved roads and wants to see more speed signage placed throughout the Park.

Skip McAlister shared observations with the Board some time back (and shared several handouts with the committee members). He opined that the speeders can’t be fixed – they are going to drive fast, period. He then demonstrated to the group the quality of material used on various roadways – shaking up different samples held in a plastic mayonnaise jar to show how dusty and dirt-filled the gravel appears to be. Mr. McAlister pointed out that the material came from Puna Rock in Kea’au where the Association purchases its material. He added that he went to another rock quarry in Hilo and showed the rock samples and was told by them that they recognized where it came from and described it as sub-base, which they use for fill. This company said they do not use this material on the roadways. HPPOA currently pays \$12/ton for this very same material and places it on roadways as base course. The Hilo quarry charges \$6/ton for the same type of material and uses it as fill. Mr. McAlister brought this information to the Board months back, but the

Association continued thereafter to use the same material from Puna Rock and was later told by the general manager that it was used because it was cheaper. Mr. McAlister assured the group that he could take the samples in the jars to DOH and they would penalize us immediately. He concluded that we need: (1) To change the base course we are using on our roads immediately; (2) Use better quality and more quantity of base course needs on the roadways to allow for proper drainage and run-off; and, (3) Fill in pot holes correctly – with a 2” to 3” mound above the road surface, so as cars cross over, they pack and compress the material in the pot hole and secure it more tightly. Mr. McAlister requested that road activity logs be provided to determine what material is being used, its quantity and how often laid down, per roadway – so at any time, we would know the condition of each roadway. He concluded that every road is not the same, each is unique, but knowing it and documenting its maintenance is valuable information.

Larry Brennan pointed out that the Association needs to account for traffic impacts, which is why using traffic counters from time to time on roadways is also important. **Skip McAlister** agreed with him, and pointed out that the repair of the Metro Count Traffic counting devices got “pawnd off” to Bruce (Derrick) to repair.

Skip McAlister stressed that if a study is going to be done, it has to be done correctly and thoroughly. He shared that he and Bruce Derrick have done studies with photographs and analysis. They have also asked neighbors along various roadways to keep an eye out of the work done to their streets. He also pointed out that 18th Avenue is a good example of old material that still is holding up well and not dusty. Finally, opined that HPPOA has to manage better.

Tom Nickerson shared that a few members of the Board met with J.W. Glover, Ltd who gave them a spec sheet showing the silt content of road materials. He pointed out that it is the aggregate itself and that the samples from Glover is solid blue rock versus Puna Rock’s, which has shades of red and appears to be comprised of some surface rock – and more dust comes from the latter material than the former. **Skip McAlister** added that Glover’s spec sheet meets the Hawaii standard. He stated that Puna Rock does not provide the same quality. Blue rock is harder.

Bruce Derrick reviewed the timeline of materials used in HPP: (1) Prior to 2005, nearly all roads were nothing but (red or black) cinder. There were lots of problems with the upper roadways using this material because of both the high amount of traffic use and the fact that it tended to wash away with the higher rain fall in that region; (2) In 2006, they started putting ¾” base course to replace the cinder on the heavily-travelled roads. A test spot was recently set up on 18th Avenue between Kaloli and Paradise Drives, which has ¾” material still remaining on the surface, and which has minimal dust coming off it. Mr. Derrick pointed out that no additional material has been placed on this test site since 2009, or before, and it is in perfect condition. However, on the end closest to Kaloli, the Road Crew has slowly added 1 ½” base course which is considerably dustier than the balance of the roadway. (3) The best combination is of materials is a 2-inch layer of compacted ¾” base course – which was used up to 2008 and 2009. (4) In early 2010, the Road Crew was directed to switch to 1 ½” base course because it was cheaper and thought to retain its size better as it broke down from wear and tear by vehicles. At that point, the new material was applied to the upper road areas (29th Avenue and above) – and immediately dust became a problem raised by the lot owners in the area.

Larry Brennan asked Mr. Derrick whether it was ¾” base course washed or unwashed.

Bruce Derrick continued his timeline stating that in early 2010, the 1 ½” base course was used exclusively, except for some of the roads in the lower elevation that (by Board approval) use red cinder instead. He added that the State of Hawaii obtains its dust standards from the federal government, who specifies the material that is to be used under asphalt. The quality of that material determines how long the asphalt is going to last. Mr. Derrick pointed to the samples Mr. McAlister had shown the group and stated that it is very soft rock. To give you an idea, the aggregate base course has a specification that allows for fine materials (which must pass through a #200 screen) – and the size of the holes through which it passes is measured at .0029. By federal

and state standards, only 3% to 9% by weight, of base course can be that fine material. He concluded that Puna Rock does not test, nor meet county, state or federal standard. **Joan Galante** asked if Yamada & Sons uses this material on HPP roads during paving. **Mr. Derrick** asked whether she knew where Loeffler got their (3/4" base) material for HPP paving projects in Phase III. **Joan Galante** added that per the requirements of the \$12M bond, an engineer must be on site during construction of the road ways to make sure that standards are met. **Mr. Derrick** responded that Yamada & Sons has its own quarry and bet that they meet state standards. He added that he requested information from HPP to know the roads where the dust complainers live along with which roads has the most number of dust complaints on it, as well as complaints on speeders. To date, he has not been provided this list. As a member on the HPP's Road Traffic Safety & Policy (RTSP) Committee he noted that almost all the roads in the Park do not have legal signs posting speed limits, and explained that it is illegal to post any other sign behind an existing sign – which he termed “trailer trash signs.” **Joe Botticelli** concurred that there were no speed limit signs in his neighborhood and as such, he never knew what the correct speed limit was.

Mr. Uratani encouraged HPP to use J W Glover, Ltd because they have spec standards in place, but added he understood why 3/4" base course may have been used. **Mr. Derrick** agreed but said that Glover's materials were three times more expensive than what HPP currently uses. **Mr. Nickerson** contested his point saying, “That's just not true.” He pointed out that he and a few Board members met with Tom Arnaut the sales manager for Glover who said they were not three times more expensive. **Mr. Uratani** said when he called the office; General Manager Scott Reilling said that 3/4" base course was no longer being made. **Mr. Derrick** explained that if a road is being made, even a non-dedicated road, you still have to put 3/4" base course under the asphalt, so Mr. Reilling's statement was incorrect. He said Puna Rock may not provide the best sample and described it as “filthy rock.” **Joan Galante** asked Mr. Derrick what stone had been used on his roadway that did not work. **Mr. Derrick** responded that in May 2012, he presented the county standard for paving and placing base course that seems to last 3 to 5 years of usage. He called five districts on the island and spoke with the road maintenance supervisors, and they each responded negatively when told what HPP uses on its unpaved roads and where they source it. In addition, it was suggested at that same Board meeting in May 2012 that the complainers of dusty roads should be “hunted down and made to pay for paving their roadways.” Bottom line: change the material back to 3/4" base course compacted properly 2" to do the roads well. However, if we are to use 1 1/2" base course it should be compacted 3" to 6" to be done properly.

Verne Presnall reported that he supports a grass roots approach with correct and informative usage of signage. He encouraged lot owners to place signs after the aprons to thank drivers for slowing down. He described these actions as guerrilla tactics that would save the Association money and foster neighborly behavior. **Mr. Presnall** said Malamalama School on 26th and Maku'u and Mrs. Greenlaw's School on 19th Maku'u dead end as examples of what he's talking about. Other signs could be posted on newspaper delivery boxes, bumper stickers, and Albizia trees.

Linnea Lindley also said her option to mitigate dust had to do with ways to lower speeding vehicles on roadways. She suggested one way to do this would be to constrict the flow of traffic using large boulders painted white and placed in the roadway, or to use the same boulders in such a way that it requires drivers to slow down and drive around them as an obstacle course. **Ms. Lindley** calculated that we would need approximately 500 boulders at a possible cost of \$1,000 to \$2,000. **Craig Crelly** reminded the group that while we pay for our private road maintenance, we must still follow county laws on proper road development. **Bruce Derrick** also pointed out that Ms. Lindley's suggestion might delay emergency responders getting through the Park efficiently. He added that the general manager had once suggested using Jersey Barriers to stop the flow of through traffic on roadways – so that you could only go half way down a road, then return and take another parallel road up and over to access the other half of the first roadway you were traversing. Both **Joe Botticelli** and **Bruce Derrick** agreed that speed humps/bumps slow down drivers.

Tom Nickerson explained that he met with our counsel, Mr. Van Leer about the dust issue. He said that while he strictly adheres to the speed limit he has seen our attorney driving fast through the Park. **Mr.**

Nickerson said he does not want to spend his energy trying to make change that won't be adhered to, adding, "Be part of the solution, not the problem."

Mr. Nickerson emphasized to the group that he has a lot of asphalt experience both in Hawaii and on the mainland, and pointed out that the strength of any road starts with the materials itself. He used Skip McAlister's materials samples to show that using a spit test, the aggregate from Puna Rock has holes and is not solid like blue rock from J W Glover. We need to establish reasonable precautions. Mr. Nickerson added that the spec sheet Glover provides is a huge step from where we are now. He also said the price that Mr. Derrick quoted is not accurate – the cost is not 3 times higher than what we are currently paying. He said the Department of Health works on complaints and what they want to see is that HPP has taken action towards reasonably mitigating the dust problem; our reasonable precautions should make them happy.

Mr. Nickerson informed the group that HPP currently spends over \$275,000 per year on road surfacing materials. He explained that chip seal is a three-part process while asphalt emulsion, and while chip seal is half the price, it has half the life of asphalt emulsion. Once you have put down asphalt, you can never go back and put down aggregate on top of it later. "We spent over a million dollars resurfacing the main roads in Phase III." He added he was not really concerned about the Department of Health fining HPP, he reiterated they just want to be able to hang their hats on a reasonable plan to mitigate the dust. **Linnea Lindley** added, "They just don't want to hear any more complaints coming from the lot owners in the Park." Mr. Nickerson agreed they were a complaint-driven agency.

Lawrence Bergner said he does not own a home in the Park, but rents here and agrees dust is an issue. He suggested that when homes are bought or sold in HPP, the realtor should provide a disclosure exhibit that the new owner is aware that they are buying into a subdivision with unpaved roads that might, from time to time, cause dust to rise off the surface of the roads. **Mr. Bergner** added that substandard subdivisions should be exempt from the state law regarding fugitive dust. **Mr. Bruce Derrick** responded that there is no way to seek exemption from a federal Environmental Protection Agency (EPA) law that defines clean air standards and which the state must abide, in kind. **Mr. Derrick** reminded the group that dust is a world-wide problem. **Frank Pustka** also suggested that lot owners should include a similar disclosure in their rental agreements. However, **Mr. Derrick** said that in writing that into the rental agreement, the owner would expose himself to having to solve the dust problem. **Mr. Nickerson** said lot owners could ask renters to indemnify them, and added that the disclosure was still a powerful tool to use.

Mr. Craig Crelly opined that the most important solution was to change material immediately to mitigate the fugitive dust problem.

Larry Brennan suggested that to win with the Board of Directors – we should ask for a test spot to be identified and proceed in a scientific process to solve this problem. "It's the only way!"

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

Leilani Bronson-Crelly asked for the group's input on the type of format that should be used to make the committee's presentation at the February 24th General Membership meeting: (1) Pass out hard copy handouts; (2) Power Point presentation; or a (3) Verbal presentation.

6. **Set Date of Next Meeting:**

The next meeting date is Sunday, February 10, 2013 at 2:00 p.m.

7. **Adjournment of Committee Meeting Number # 2:**

The committee meeting adjourned at 5:30 p.m.