

**Hawaiian Paradise Park Owners Association  
Approved - Emergency Board of Directors Meeting  
September 25, 2014**

**Call to Order:** President, BJ Mullenix, called the meeting to order at 10:05 a.m. Quorum was established. The meeting took place in the Activity Center Library.

**Roll Call:**

- a) **Board of Directors:** B.J. Mullenix, District 9, President; Jo Maynard, District 5, Vice President; Janice Ashford, Treasurer, District 7; Bruce Derrick, District 2, Secretary; June Conant, District 6
- b) **Guests:** Ivan Van Leer, Attorney at Law; Jerry Carr, Chairman of Committee on Community Access Roads; Leilani Bronson-Crelly, Committee Member; Mayelin Stillwell, Committee Member

**Meeting was given to Jerry Carr in order to present a report regarding the issues with dealing with the county regarding the Emergency roads through HPP and establishing direct Board communication with county.**

**Jerry Carr's Access Roads Committee Report and Dialog/Questions with and by those present follow:**

The situation with the county has devolved from what they were initially led to believe and he feels the issues are coming to a head, where HPPOA needs direct communication between the Board and the county. He's gather as much info as possible and conducted two meetings with the community and the county, one less well publicized and attended.

Mr. Carr and the committee have dealt mainly with Mr. Warren Lee, Director of public works for County of Hawaii. Mr. Lee initially met with the committee about two weeks ago and at that time, the plan we saw was reasonable and offering some hope of protecting HPP's interests.

**Some perspective given to those in attendance, including the Attorney, Mr. Van Leer:**

**\*Primary concerns were of expense and liability of bringing, potentially, 5 to 7 thousand vehicles a day, onto HPP private and self-maintained roads. \*Wear, tear, damage to roads, liabilities in terms of accidents, et cetera.**

Initial discussion, with Mr. Lee, was to use Maku'u with Beach and Railroad primarily feeding into it. Beach has some issues that will preclude the volume much less that the volume on Railroad. From that meeting, at their suggestion, which we agreed to, as the only practical solution, was to keep the traffic from fanning out by having them mark an emergency evacuation route with signs stating detour, but, if the side roads are left open open, local drivers won't observe the signs of direction and will divert to the secondary streets. So then the agreed solution to that was to barricade those streets, which causes other problems in and of itself, but it does confine traffic to Maku'u, which they agreed to both indemnify and maintain Maku'u, for the duration of it's use, by the county, verbally, but no written indemnification language two weeks ago.

The committee was in the conundrum of how to block all the streets, yet still have the access. Transit, after working years for buses to come in here, we don't want to throw that away. You want emergency access and then there's all the people on the dead ends of Maku'u who end up "thrown under the bus," because they're going to have so much trouble getting out of their streets. They looked at the ideas of having check points and pass-through's. They looked at different locations, but couldn't find a practical way to require checkpoints for

residents without high cost, requiring expensive management, which HPP cannot afford, and there was no indicated inclination of help seeming to be offered or provided by the county. It's a big mess from the beginning just keeping traffic on Maku'u and the side effects of that.

The community affected by this has been loudly upset. We requested substantial barricades to make it impossible to push through like a Jersey barricade or water-filled. The conversation didn't get far. At the community meeting, the county showed them a barricade, which is basically a saw horse with a couple lights on it, along with the suggestion to use volunteers to monitor those. At the evening of the meeting, Mr. Carr agreed to look into it, but reports that it's not going to work after he looked into it – it just will not work.

The situation evolved to a conversation with Mr. Lee on Tuesday. Mr. Carr asked for substantial barricades and was told that after county talks with various agencies and since there's no shoulders on Maku'u, there's no way that a single access point would work and they no longer wanted the barricading of the side streets. Mr. Carr expressed for the 3<sup>rd</sup> time to them that if the roads are open, they are going to be driven on and there's children and people on those roads.

Mayelin Stillwell: Noted that they already have had a history of people speeding through the park from the mauka side of the highway, they go through the park, so the upper paved roads have had a history of speeders, so on some of those roads, they have put bumps, but now they don't know if they have a liability having them. This board and our committee are entrusted to take care of 12,000 people's concerns. If anything goes wrong, the residents think that we have a say on these decisions, which obviously we don't completely.

Jerry mentioned the speeders already present to Mr. Lee and he said they weren't giving any substantial barricades and that he didn't think the HPP should barricade the streets at all. Mr. Carr replied to Mr. Lee that the particularly large issue with the unpaved roads is that they deteriorate really quickly, especially under speedy type driving that's going to be happening with people driving through on the roads and that's going to create dust, which is a serious issue for HPP. That caused a small back-peddle from Mr. Lee to maybe consider an okay to barricade the unpaved roads.

Then Mr. Lee said they were interested in paving Railroad between the park boundary and Maku'u. Mr. Carr asked Mr. Lee if it was cheaper to pave it than to run water trucks every day and he stated that he didn't know the answer to that question, but that he wanted permission to pave it.

Mr. Carr replied that he had to get back to his Board President. Madam President told Mr. Carr to ask Mr. Lee and the country to submit a written proposal stating what they wanted to do and told him to tell Mr. Lee that he was going to have to wait for the Board to give it consideration on their next opportunity to do so at a BOD meeting on October 2, 2014. Up to that point, we were responding to being told to jump, with 'how high' and suddenly, Mr. Lee moved into a new world in dealing with HPP.

Mayelin Stillwell stated her thoughts that they want to pave Railroad because they realized a gravel road is not going to work, especially driving it at night because you can't strip or put down reflectors and it becomes an even more dangerous and bigger liability if people driving it can't see at night.

Mr. Carr stated that he asked Mr. Lee if they were planning to pave the whole thing. Mr. Lee said, no, but we could assume that he may mean, 'not at this time.' It was said from someone that they might chip-seal Railroad or do something. Mr. Carr, said, no, we have to do things via checking with Board first and Mr. Lee conceded to understanding this process required by HPP.

Lastly, during the conversation with Mr. Carr and Mr. Lee, the county representative, said, "of course, you know, the emergency decree let's us do what we need to do. That, to Mr. Carr, seemed to mean, 'ANYTHING' -

Bruce Derrick and Mayelin Stillwell have been on the ground, on site and visually volunteering noting that at Maku'u and railroad, it now has a right turn lane, which won't help us barricade the side streets. We can say they're private roads, but once private roads have been accessible for a while, it can become permanently public.

Mr. Van Leer asked if there was any consideration if HPP can get the county to widen Maku'u with another outbound lane. Bruce Derrick explained that it was considered, but now most of their resources are going to chain of craters instead. Mr. Carr stated that when they had the conversation about not barricading the streets, it was mentioned about there being no shoulder for emergency access on Maku'u, but Mr. Lee didn't mention building one. They don't want to build one, but we have to endure the nightmare. Mr. Lee gave a vague mention of some possible other improvements to Maku'u, but no detail.

Mr. Van Leer asked, "If it's private, why can't we improve?." When you have situations with no shoulders, there's liability and with 7k cars, darkened roads, et cetera, this type of influx may raise the park's insurance rates. The cost of barricades would be a claim against the county. They're imposing themselves on HPP. On one hand they say it's private and won't help with maintenance but want to have access to it and use it as they want. They can't have it both ways.

Mr. Carr stated that the county also floated the idea, at one point, which HPP didn't want, a plan b of one way circulation on Paradise and Maku'u, which just opens more venues to travel through our community and is not going to fly with our community. But we must not be surprised, if that suggestion returns.

The County is already getting blowback as seeing Maku'u as a nightmare bottleneck. Their own studies may tell them that until they have a handle on just how much traffic there might be, it's just not going to work. They're being disingenuous, at least, to putting up signs as a way to keep people off other side roads because that's realistically not going to work, at all.

Bruce Derrick noted that nothing indemnifies HPP and Mr. Van Leer stated that is a PRIMARY CONCERN. He lives on 10<sup>th</sup> and he already leaves 1.5 hours early just to make it past the cut-off on 130 to get to work on time, so, now there's going to be even MORE time required and that will make everyone more inclined to use any road possible to shorten that grueling journey to Hilo.

Mayelin Stillwell noted that some are using Beach already because it's been found by the locals to be faster.

Mr. Carr noted that at this time, it's only intermittently open, but not during construction. Beach has been a secondary project, but Mr. Lee, from the county, noted that it will be finished by tomorrow. The TV news reported that Railroad will be completed today, but county promised to block it with a big boulder because they don't even have barricades available.

Mr. Van Leer questioned the Liability insurance cost now so it can be compared to what it is going up to because of all this happening to the roads in HPP. Bruce thought 4 or 6k premium and stated that somewhere along the line the county and State have to take over, but there's nothing in writing. If Board writes them a letter letting the county know that Liability Insurance is about to go up, as those roads open and a letter must be generated requiring them to give written reply of what their plan is.

There was an indemnification letter started, but part of the letter writing should include a written traffic management plan for Maku'u and HPP because they have planners and access to resources to give HPP some protection and something to tell the community. Mr. Carr stated that he needs to know what to answer to the community and the President, BJ Mullenix agreed that HPP needs to put something in writing.

Mr. Van Leer stated that the county is taking and there's no upside for them to generate a written promise. Anything they do, there's always a higher authority so as long as HPP's demands are rational and reasonable, civil emergency doesn't give the county carte blanche to run rough-shod over the community.

Mr. Carr asked for HPP to engage legal representation from this moment forward because HPP needs someone to go over the decrees with a fine tooth comb to see what the limits are to the county's authority using the Emergency Decree and if what they do causes loss, are they, the county, then liable for it? To ask them for a plan in writing. If they want to open the whole park then they need to maintain everything and that's now what HPP wants, but if that's what they're going to do, they need to pay for it, but the community strongly does not want it because children are using those side roads to get to the bus and people are LIVING on those roads.

Mayelin Stillwell noted that if we can stop them from doing the latest ideas. We want Maku'u barricaded.

Mr. Van Leer stated that it's going to require a strong response to make it clear that they cannot push HPP around. He noted that the county could pave Paradise all the way to Beach and then it's an outlook to permanence. Once people get accustomed, you can cut through shower and we've got to avoid that outlook of permanence.

Mr. Carr also noted that this is a great way to get PMAR in through the back door and puts the screws to HPP, even though they're saying it's just an emergency access. Everyone needs a second road out.

Mr. Van Leer stated that a letter needs constructing soon and this was why HPP needs a strong unified response stating HPP is not going to lie down, which the county will do, based on strong response.

**Unexpectedly during this meeting Legal council from County arrived at 10:41 asking or names and contact info for who to talk to in HPP – they were invited in.**

A County Deputy clerk council stated that the county is widening Railroad, and that Beach is somewhat completed.

Regarding indemnification: The Deputy Clerk got message on 16<sup>th</sup> and stated that on Sunday he wrote up and sent in an email to HPP general email a copy of their standard indemnification form, but he didn't hear anything or get a response, so he arrived today with Clifford, an investigator, to check what's been done and get some contact info to HPP, in regards to the county working with HPP.

Jerry Carr was introduced to him. He wanted to know who has authority and was told the Board has to vote on the situation. He stated that whatever discussions were had with Warren, were unknown in content to him and that he doesn't know and so he's not going to address anything previously discussed with Mr. Warren. Ivan Van Leer was to be added as a cc from the county drop-in visitor/Deputy council.

Nothing in writing nor the draft said to have been sent on Sunday by this visiting Deputy Council and classified as being a standard one they've been using for Beach road. He stated that Beach road is going to remain open because it's always been open, so it will be un-gated. For Railroad, gates were requested and will be installed.

The work continues there. He stated that questions can be directed to the command center and is always open 8 to 4. Stated the gates will be provided, but had no answer for barricades.

The right hand turn was built without any discussion with the park. Van Leer asked who to address his letter to – to say the concerns. All must go to public works. All he knows is there’s going to be a gate and only certain people will be able to open it like public works, the state, County Emergency fire, et cetera will have a combination lock. The time frame for the gates is that they will be coming this Saturday. There’s three welders who got the okay to do that. All concerns go to public works. It’s not a legal issue yet, so this gentleman isn’t who to be contacted.

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**Jo Maynard Left the meeting at approximately 11:11 due to work requirements, so quorum was lost with her departure.**

Jerry Carr noted that the letter needs to state that we need to be notified of all changes because two days ago they were told big rocks would be placed and now it’s a gate. HPP seems to be the last to know about what’s going on in our community.

Mr. Van Leer noted that one of the points should include Jerry Carr in the decision making process in civil defense to participate in their strategies, but Jerry declined.  
BJ Mullenix was concerned they had contacted on Sunday, but no one has the email sent to [info@hppo.com](mailto:info@hppo.com)  
He’s a deputy, he can’t make decisions, it has to go through city council.

Jerry Carr noted that the Next step is to have a lawyer issue a letter. Mr. Van Leer suggested preparing a letter and coming to his home office to generate something this weekend and hand delivered on Monday. He can deliver it because he has to go to court. All need to participate in the process this weekend to help Mr. Van Leer create the letter.

Janice Ashford note that the county said that they were going to make Maku’u as good or better when they were done.

Jerry Carr noted that maintenance of impacted roads needs to be added to the letter.

Mr. Van Leer as all to email their concerns and he’ll put something together on Saturday.

- \*Written traffic management plan**
- \*Indemnification plan for all impacted roads**
- \*Agree to pay increase in insure premiums to use it all the time. That’s our concern.**
- \*Notify us of changes and decisions**
- \*Maintenance of impacted roads**
- \*\*\*get letter to Mr. Warren Lee and a copy to the Deputy Council who came today, with a formal list of HPP’s demands, what is required and if we don’t have our demands met that we’re prepared to fight to get it.**
- \*Understand concerning permanency re: beach and railroad-if I lived in Hawaiian beaches I’d want (they can’t decommission it, but they can just not maintain it, but until then it’ll impact people living down there.**

**\*Mayelin Stillwell: noted a subset of traffic plan needed** – mentioned closing off the side streets, but it brings up certain issues because if you live on one of them and you want out of your own street. Wondered if the idea of blocking Maku’u past railroad was still on the table? This would leave the five roads unpaved off Maku’u are desired to be barricaded e.g. railroad on up, barricaded. Jerry Carr stated that by building that right turn lane, they’ve already answered that.

Bruce Derrick noted that the right turn is on the TMK maps and it existed at one point. The actual TMK maps give a 20’radius right there.

Mr. Van Leer stated that someone should be a contact person to get access to immediate info in anything new and different that impacts the park. Bruce Derrick was recommended as that person.

A nice strong letter with teeth in it will be generated by Mr. Van Leer.

**Ivan Van Leer left the meeting@ 11:19a.m.**

Jerry wanted to retire as go-between. Negotiating by proxy, so he wants to call them to inform who the new primary contact person is to be. He will be available in an advisory capacity, but he feels a Board member needs to be a point person above and beyond the committee. The committee needs to move into a new phase now. He wants to let Warren know.

The whole board wasn’t there, so, as noted, they lost quorum for voting on an appointed Board liaison, once Jo Maynard left, so the Board needs to decide who the point person on the Board is to be. For now, they will be given BJ Mullenix’s email to contact regarding facts on the ground because they are needed in writing.

**Adjournment of Meeting:**

The meeting adjourned at 11:25 a.m.

Respectfully Submitted and Approved:

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Susan Bambara, Recording Secretary of Minutes

\_\_\_\_\_  
Date

\_\_\_\_\_  
Bruce Derrick, Secretary

\_\_\_\_\_  
Date