

**Hawaiian Paradise Park Owners Association
General Membership Meeting
Minutes of February 22, 2009**

I. Call to Order. Vice President Frank Annin called the meeting to order at 3:00 pm.

II. Attendance.

Members. Bobbie Allicen, Frank Annin, Karen Annin, Erhart Atrata, JoAnne Backman, Kathleen Boyd, Debra Brimm, John Brimm, Jim Brown, Bill Carlson, Doris Carlson, Jerry Carr, Mary Cashman, June Conant, Kash Czernicki, Margaret Czernicki, David Fithian, Sue Hanson, Michelle Higgins, Robert Sunday Blanch Isashita, John Jones, June Jones, Barbara Kahn-Langer, Patricia Kayl, Kaniu Kinimaka-Stocksdale, Deborah Koval, Richard Koval, Ken Mayhew, Ken McGilvray, Inge Misajon, Carole Mullin, John Mullin, William Newman, Stanward Oshiro, Det Picher, Tom Picher, Frank Pustka, Robert Rainie, Roger Sanson, Joan Scanlon, John Scanlon, Karl Seebruch, Randy Settlege, Jeff Spaur, Roger Sund, Sherrie Taylor, Rod Thompson, Benny Velez, Dale Watson, Robin Wright.

Guest. Rep. Faye Hanohano.

III. Minutes. The minutes of the meeting of October 26, 2008, were reviewed.

It was moved and seconded that the minutes of the meeting of October 26, 2008, be approved. The motion was approved unanimously.

VI. Treasurer's Report.

Ken McGilvray presented the Treasurer's Report as of the end of January 2009. Ken reported that we have completed 9.5 miles of paving and next we will be considering bids for overlaying the lower parts of the main roads. We will also work to repair intersections from the top of the roads to the bottom for safety reasons. We are also putting approximately 4 miles of additional side roads to be paved.

V. General Manager's Report.

Suzanne Mayhew presented the General Manager's report. The first part of the report related to the annual road fees. She said that the Board decides each year if there is to be a fee increase. It can be not more than 10%, but it can be less than that. In the year 2013/2014, if we have been vigilant in the way we are handling our money, we may be in a position to have less than a 10% increase. But that continues to be a decision that has to be made by the Board of Directors in that year.

Rod Thompson asked for clarification about the Board decision-making process, specifically if the bond requires that there be a 10% increase every year. Ken McGilvray said that, in the indenture, we have an obligation to maintain a certain revenue to expense ratio. The assumption was that we would raise revenues up to a point where we meet the required ratio. We cannot raise the road fees any more than 10%. We have a certain amount of debt service that we have to maintain. Besides that, we have an obligation to maintain the unpaved roads. So far, the roads that have been paved have been high-maintenance roads. So that has caused our maintenance costs from escalating.

VI. Committee Reports.

A. Parks Committee. Carole Mullin, a member of the committee, reported on a Stimulus Watch website related to the creation of a Park in HPP. She said that anyone can vote on whether he or she believes that the project is needed.

- B. Bylaws Review Committee. June Conant reported on her committee, which is reviewing the entire Bylaws document. She said they have been through the entire document and hopes to get a first draft ready by the following month. Anyone is welcome to provide suggestions. Meetings are Friday mornings at 9:00 am.

Barbara Kahn-Langer suggested that the committee look at the problems of the small ATVs making circles on the roads.

- C. ENET. Karen Annin reported that the ENET team was asked to become part of the CERT program. The main role of the ENET team is to notify those near the ocean of a tsunami watch. The committee meets the second Tuesday of each month. For anyone who is interested, there is a bulletin regarding the CERT.

- D. Paving Update. Ken McGilvray had provided the paving update as part of the Treasurer's Report.

Roger Sund asked about the process for determining the order of the paving. Ken McGilvray said that the bottom portions of the mauka-makai need to be overlaid. The top parts were done a few years ago. We are trying to maintain the entire park. We had an engineer's report that we may lose Paradise within 6 months unless we fix it.

Jerry Carr has a concern about the report from the Piper Jaffray representative at a 2008 meeting who said it was critical that we pave the roads with the highest maintenance costs. He asked why 16th was going to be paved, if it is one of the road with the highest maintenance costs. Ken McGilvray reviewed the decision of the board. He said that criteria are not only high maintenance but high density and the need to have something of a grid through the park. The idea is to try to reduce the maintenance costs. We have done that with the paving of Paradise Ala Kai and the other roads paves so far.

Rod Thompson asked questions related to the decision to pave 16th street. He noted that the former chairman of the paving committee lived on 16th street and that 16th street did not seem to be a high-maintenance road. Dale Watson said that 16th street is being paved as a path across the park to enable to traverse the park at his position. Further it will be easier for the road maintenance equipment to move to areas throughout the park. He also noted that the road crew has been doing a much better job of repairing the roads to reduce continuing maintenance problems. Finally, he said that the Board is trying to give the most people in the part the most access and the most benefit.

Another member said that he was concerned that we may not be using our money in the best way.

Another member said that, if paving 16th street helps the maintenance staff to get across the park faster, that saves us money also.

VII. Unfinished Business.

- A. Bylaw Change Proposal. Robin Wright reviewed the appointment of a Bylaws Committee to address two ongoing road safety concerns. One item to be covered was an enforceable section prohibiting new driveways with access onto the main roads from corner lots. The other was a policy prohibiting business activity usage of road easements and right of way areas. The Bylaws committee's proposals have been reviewed by an attorney with expertise in the field. He advised the board that the proposals are line with the associations authority and duty to manage and protect road assets and address traffic and safety concerns on our roads. The next step is to present the committee's proposals at a membership meeting and ask for a vote of the attending members. If

two-thirds of the attending members vote to approve the change, then a ballot vote will be sent to all association members.

Robin then read the proposed language: Inserted after the existing Article 11, Assessments, and before existing Article 12, Administration, without changing either of these Articles except for renumbering. The proposed amendment contains three sections.:

It was moved and seconded that the following proposed Bylaw Amendment be approved by those in attendance.

Article 12: Roads Policies.

For the purpose of promoting road safety and protection of members' common road assets, certain roads policies are established herein.

Section 1. Government Adoption. *If a policy under this article or of substantially equivalent language is adopted into ordinance by Hawai'i County or into law by any other legislative body, the HPPOA Board of Directors shall make recommendations to the appropriate governmental administrative body regarding any request for variance, special permit, rezoning or deviation from these policies.*

Section 2. Roads Policies.

(a) Driveways on Corner Lots and Main Roads. *Due to safety and traffic flow concerns, driveways or vehicular access routes to or from lots onto Maku'u Drive, Paradise Drive, Kaloli Drive and Shower Drive are prohibited, with exceptions only allowed in the following cases: (1) Any existing permitted driveway at the time of adoption; (2) any previously and duly submitted application currently pending approval by the Hawai'i Planning Department or any other regulatory agency at the time of adoption; and (3) any parcel deemed land-locked.*

(b) Business usage of HPPOA Easements and Right of ways. *To preserve and protect the commonly-owned easements and right of way areas intended for roadway and utility purposes, all business owners and lot owners are prohibited from using these areas in conjunction with any business. All organizations, business, educational, political, religious and/or social are prohibited from using HPPOA road easements, right of ways for advertising and/or promotion. Exceptions may be allowed for Board-approved occasional functions or activities. HPPOA reserves the right to post any authorized information within any HPPOA easement and/or right of ways.*

Section 3. Enforcement. *Business owners, lot owners and other entities that are in violation of roads policies in Section 2, a or b, are subject to fees and reimbursement of costs and expenses associated with HPPOA enforcement of said policies including reasonable attorney's fees incurred by or on behalf of the association, recordation and release of liens on their respective properties and reasonable interest rates on said fees, costs and expenses. The Board may also pursue any other remedies provided by law including, but not limited to, attachment, execution on lien or closure in writ of possession.*

Ken Mayhew suggested that the Association coordinate with the county related to this because, without a policy force, we cannot enforce this. Robin Wright said that at present, with nothing in the Bylaws, the Association cannot attempt to control these issues. With this in the Bylaws, this is the first notification to a property owner. The Board should be working with the Planning Department to ensure that driveways that do not meet the criteria in the Bylaws are not approved by the Department.

Suzanne Mayhew said that she believes this is extra expense for the Association. She said that, if we work with the county proactively, we can achieve the same result.

Robin Wright said that the driveway concern has a long history. If the policies are put into the Bylaws that gives the Association some credibility and something for the County to pay attention to. We will have to continue to work with the county to ensure that they are aware of our policies.

Rod Thompson asked if there was going to be a motion for there to be a formal discussion.

JoAnne Backman asked about the steps that the committee has taken prior to this point, and also noted that this Bylaw amendment supports our Master Plan.

Robin Wright said that preparatory work included work by the former Roads Traffic Safety Policy Committee, which received advice from an attorney that, if we wanted to be able to enforce this kind of policy, we needed to include it in the Bylaws. The current proposal has been reviewed several times by the Board and the former RTSP Committee. We have obtained a legal opinion from an attorney with expertise in the field.

Bobbie Alicen urged an affirmative vote on this as she sees it as a safety concern. The traffic on the mauka-makai roads has increased considerably over the years, and driveways onto those roads creates a dangerous situation. If these are adopted into the Bylaws, then the Planning Department can be put on notice so that they can take steps to approve driveways only as the confirm with these policies.

Debra Brimm asked about the safety of the mail box access on the main roads. She asked if that will be addressed. She also asked about the problem with signs, such as yard sale signs, on the side of the road. Robin Wright said that, as long as it's not an ongoing business operation, there should not be a problem. For most other types of signs, they still may be placed on a person's own property.

Ken Mayhew asked that, if this is in the Master Plan, why did it need to be in the Bylaws. The response was that our attorney said that we need to have it in the Bylaws if we want to take enforcement actions.

Steve (no last name given) said that he believed that the title of Section 2(b) was incorrect as it stated "Business..." but there are organizations other than businesses named in the section. He said that the language needs to be cleaned up. Further he does not believe that signs damage right of ways or easements. Robin said that signage is only one form of activity. Other kinds of activity that have been observed is overflow parking, curbside vendor usage. The committee thought that this language would cover all those bases.

Dale Watson said that the County frequently disregards the wishes of the Board. We need to have this in our Bylaws to force the County to work in our favor.

Bill Carlson asked whether real estate brokers can put out signs for example for open houses. He said that one-day signage should be an exception to the rule. Robin said that this is a good suggestion to consider. The Board could take this under advisement without adding clutter to this language.

Barbara Kahn-Langer said that there is a general plan in the County of Hawai'i. There is a Master Plan for HPP. Both of those documents are general documents, not specific. They refer to land usage, recreation, where schools go, in broad terms. It is up to individual subdivisions such as

HPP to develop the best, clear policies, Bylaws and procedures so that when we engage with the County, we have good relationships. That has been happening recently, but it is an educational process that has to result in a continuing relationship with the County, both the Planning Department and the Planning Commission.

Suzanne Mayhew asked about the practicality of enforcing this, given the small size of the staff. Robin Wright said that it would be her suggestion that, if something comes to the attention of the staff, the staff would need to determine what the next step should be.

Rod Thompson said that this amendment would prevent any signs from being in the right of way.

Jim Brown asked if anything in this amendment would prevent anyone from placing a sign on his or her own property. Robin Wright said that there is nothing about signs on private property in this amendment.

John Jones asked about the decision-making process. Robin Wright said that, if the group here today approved this by a two-thirds vote, then the amendment has to go to the whole membership for a vote. At least 600 members must respond to the request for a vote, and at least two-thirds of them must approved the amendment.

It was moved and seconded that the motion be amended to strike the language in the amendment related to the placement of signs. The motion was seconded.

Discussion included that this is an unenforceable part of the amendment. Further, the word “business” hasn’t been properly defined.

The presence of a quorum was confirmed.

The motion to amend the main motion was approved.

The main motion was approved with more than a two-thirds majority voting in favor.

- B. Nominating Committee. Frank Annin asked for volunteers to be on the Nominating Committee. The districts to be covered in this year’s election are Districts 2, 3, 4 and 8. Five people are needed to participate on this committee. We have to have the nominees identified by March 20th. A sign-up sheet was passed throughout the room.

It was moved and seconded that the following members be appointed to the Nominating Committee: Kaniu Kinimaka-Stocksdale, Roger Sund, Blanch Iwashita, Rod Thompson, and Bill Newman. The motion was approved unanimously.

VIII. New Business.

- A. Coqui Frog Committee. Suzanne Mayhew said that the Board has made this a Board Committee so this is a moot point.

IX. Owner Input.

JoAnne Backman read a statement that owners offering information or asking questions during owner input often do not know what if anything has been done about their suggestions or question. She asked that a new process be adopted whereby all items of owner input are reported and followed up with a response by the appropriate persons, and that, within 60 days of the membership meeting, the questions or suggestions with the outcomes be posted on the website. In the case of suggestions, she’d like to see them

acknowledged and whether or not the suggestion will be adopted. Further, if it wasn't adopted, what is the reasoning behind that. She also asked that the period for owner input be extended, with a time limit of two minutes per owner and also provide a forum for written owner input. JoAnne also expressed a concern that meeting minutes are not posted timely. She requested that drafts of the minutes be posted within 10 days of the date of both the General Membership and the Board meetings. Also, resolutions and HPPOA policies are missing from the website. She requested that resolutions and policies be posted to the website.

An unidentified member supported that all minutes should be reported to the membership as quickly as is reasonable.

Suzanne Mayhew said that the minutes used to be posted in draft form and people used to read the drafts and then not go back and read the final, corrected minutes.

David Fithian did an amortization of the 10% road fee increases. He said that we have a road grader that is getting older. He said that he hoped that the Board will start putting money aside for replacement of the equipment.

Barbara Kahn-Langer said that she is concerned about children and young adults using ATVs on our streets. They are digging holes in the unpaved streets. She proposed that, when anyone sees this occurring, contact the office. The office can keep a tally of the incidents. After six months goes by and there are some data, the Board can put this on an agenda for consideration of actions that might be taken. Suzanne Mayhew said that 911 should be called when actions like this happen. The dispatch line does not record calls.

An unidentified member said that each of us can try to find out where these ATVs belong. If we can provide the policy with an address of an owner, that will help.

Bill (?) has tenants who drive to downtown Hilo each day to get their mail. There are no post office boxes in the park or in Kea'au or Pahoia. He would like to see HPPOA adopt a resolution that all residents of HPP be afforded curbside mail delivery. He said that it is his opinion that to force low-income people to drive 45 miles round trip a day to get their mail is absurd. Frank Annin said that Ken McGilvray has been working hard to make this happen.

X. Announcements.

The next General Membership Meeting is June 28, 2009, at 3:00 pm at the HPP Activity Center.

XI. Adjournment.

The Chairman adjourned the meeting at 5:00 pm

Respectfully Submitted:

Kaniu Kinimaka-Stocksdale, Board Secretary

Motions Log

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