

**Hawaiian Paradise Park Owners Association
Approved Minutes of the Board of Directors Meeting
October 13, 2004**

Call to Order: The meeting was called to order at 7:07 p.m. by Gerard Silva, Vice President.

Members Present: Gerard Silva, Vice President; Mark Cook, Secretary; Allan Deehr, Treasurer; Erhard Atrata, Rick Frazier, Barney Sheffield, Barbara Kahn-Langer, and Bill Carlson. (Frank Annin, President, was off-island.)

Lot Owners Present: Peter Frost, Patty McCarthy, Walter Bell, Ben Mead, and JoAnne Backman.

Owner Input: Peter Frost stated that bulldozers are depositing debris on neighboring lots and D-9s are being driven on the roads. When Allan asked whether any material was deposited on easements or right-of-ways, Peter said the debris is being left on the sides and at the back of lots and he had not noticed any in front. According to Section 20 of the Hawaii County Code, leaving refuse on a bulldozed lot is illegal. Allan said the code stipulates that debris cannot be put on *occupied* private property.

Gerard said HPPOA needs to contact the County to find out who can address this issue; the Board can only deal with bulldozers driving on Association roads.

Barbara said the Board sorts out which matters it has the jurisdiction to address and which it must coordinate with other agencies to resolve. She suggested that it is the responsibility of the Park Manager to contact the County and report to the Board who she spoke to and what she discovered.

Mark asked if there were evidence or names of drivers in violation. Peter said one is named Yada. Bobbi has pictures of road damage that Yada did while driving on 13th Avenue. She suggested sending a letter to new owners, notifying them that specific operators are having deleterious effects on the roads which could leave the owners liable for costs.

Mark suggested also contacting the Contractor's License Board.

Walter Bell recommended that the Board form an ad hoc committee of a couple of Board members plus a few members at large to take immediate action on this issue.

Ben Mead said his wife had called the Property Manager a month ago informing her that a dozer had driven on 13th and was told the operator had done the Park a favor by tearing the crest off the hill on the road. Bobbi said that she is the Property Manager and never made that statement.

He suggested that the money collected for eradication of coqui frogs be donated to the University of Hawaii to research biological controls.

He also suggested that the Board receive a minimum of two bids for every construction project, and that it consider ripping the roads instead of using drywells to control flooding.

He said unbridled development and speculation is a greater threat to the Park than coqui frogs. Real estate agents are not disclosing that the Park has undeveloped roads, catchment water, problems with coqui frogs and albezas, and unpermitted buildings. Barbara said any real estate purchase includes a coqui frog disclaimer. Bobbi said the website has information and the office has a handout about problems with the albezas. JoAnne Backman asked the Board's position on graffiti on signs. Bobbi said to call David Day at 966-4988. Gerard said they need to be caught in the act. Mark said the graffiti is a declaration of ownership of an area and needs to be dealt with.

Approval of Minutes: Rick Frazier moved to approve the minutes of September 8, 2004, as written. Allan Deehr seconded; the motion passed unanimously.

Treasurer's Report: Allan reported that the current total in checking and savings accounts is \$1,004,577.86, mostly in the road savings/capital equipment fund. The Activity Center account has \$36,244.83; the coqui frog account has \$33,026.45. The powerline reserve account was established some years ago to voluntarily challenge a plan of HELCO's to put in power lines. The donations had no provision for refund, so the money is being put in CD's to accrue interest. The waterline account is composed of deposits for persons running waterlines over easements, with a list of conditions which must be met. There is a record of owners who contributed to the account. Allan has instructed Bobbi to place this money into CD at this time. Bill Carlson asked whether these monies will be returned at some point. Allan responded that after expenses incurred are reimbursed, these monies will be returned. \$12,582.19 in past due fees was recovered in September, due in part to Morgan's efforts and in part to sales of delinquent properties. Also during the month of September, \$21,651.10 was collected in road income and \$1,682.07 in non-road income, for a total of \$23,333.17. Road expenses totaled \$41,328.76; \$7500 was spent on materials (cinders) spread during the month. Non-road expenses totaled \$1,134.92.

General Manager's Report: Bobbi is waiting on a call from First Hawaiian regarding CD rates; the best rate she has found is 2.5% at CU Hawaii. The CD would be available by September of next year. Repaying the waterline reserve requires a careful accounting of who paid what amount. She will have a synopsis of the Malamalama lease hopefully within two weeks. David Day has created two signs for 28th St. and is waiting for Bobbi to determine where to put them. They say "Danger: Hill/ Slow Down." Gerard said the stop sign on 28th is obstructed from view by the telephone post. Allan suggested putting up a "Stop sign ahead" sign. Erhard said at 23rd St. and Kaloli a bush obstructs the stop sign. Also, he suggested putting dome buttons (raised ceramic markers, alternatively called "Bot's Dots" or rumble strips) as a warning device on 28th St. He said 100 cost \$220 and can be put in places where people need to slow down. Gerard said they can be used to warn of an approaching intersection, since the Park does not have street lights. He suggested they be put on paved crossroads—28th, 31st, etc.

Mark suggested testing them out in a few locations. Allan suggested asking the General Manager and Road Supervisor to select three possible test locations and conferring with the County on how they should be placed.

Mark Cook moved to instruct David Day and Bobbi Stutsman to identify three possible locations for placement of dome buttons by the November Board meeting, so that the Board can select a test site and confer with the County on proper placement. Barbara Kahn-Langer seconded; the motion passed unanimously.

Using the County to remove abandoned vehicles is saving the Association \$48.96 per vehicle. The police have been responding when the HPPOA office calls Dispatch. Ron Nichols sent a letter of recommendations for 30th St. He charges \$200 per hour for engineering consultation. She has not yet obtained a second bid.

The safe room permit came through; contractor Michael Lynch was helpful in signing off on the project to facilitate the permit. He will look at the project at various stages before the inspectors come and his bill will be about \$200. Erhard has gotten price estimates on materials and laid out the perimeters of the room.

Bobbi has not yet sent letters to the residents of 28th St. asking for their input on possible safety solutions, but plans to do so. She will mention dome buttons in the letter.

The coqui frog account statement has been reconciled; once Bobbi prepares a history of transactions, the account will be transferred to the frog committee. No checks are being written on the account until the transfer is completed.

David Day has prepared a time frame for road recovery; it is being placed as a cover sheet for the Bylaws to be sent to all the lot owners in a couple of weeks. Walter Bell had *The Conch* ready to go, but they were delayed because Bobbi was still working on organizing the Bylaws.

A Verizon spokesperson said they will repair broken phone lines, but will not prune trees which threaten lines. The Association needs to remove branches on Paradise Dr.; she plans to send both HELCO and Verizon letters warning them that it will not accept responsibility if lines are damaged during the process.

Erhard asked whether the lot owners were responsible for pruning their own trees and shrubs which obstruct visibility. Allan said if they are planted in the easement, that is the responsibility of both HPPOA and the lot owner. If the plants are on private lots and hanging over the easement or road, that is the owners' responsibility. He suggested wording the policy carefully and including it in the notice of the annual meeting to generate beneficial public input on the topic.

Bobbi said it is the lot owners' responsibility not to allow trees under power lines to exceed thirty feet. Gerard said HELCO used to cut trees under power lines, but has stopped. Barbara said a utility company has responsibility to provide service. Bobbi said perhaps the office has not spoken to the right person. Bill Carlson said HELCO has to maintain the lines, because they are in the easements. He said in the past, owners complained to HELCO about using poison. Perhaps a recent owner complaint has made them stop maintaining the line.

Malamalama School: Patty McCarthy is a homeowner in HPP and also a new member of the Board of Malamalama School. She reported that Malamalama School has been in

the community for 26 years. It has 93 students, kindergarten through eighth grade. Tuition is \$4,000/year per student and offers a number of scholarships. She estimated that the school is currently using about five acres of the twenty it leases. It has two staff and six teachers fulltime, plus four part-time teachers.

Two septic tanks will be installed by next July as required by an EPA mandate upgrading cesspools to septic tanks. The school is sponsoring fundraisers and hoping to receive a loan from the national Waldorf organization to help finance this project, which will cost \$30,000. Malamalama now charges a capital improvement fee and hopes to build a new festival hall; the old hall will be turned into a classroom. The Medieval Faire will be held on October 23.

Paulette Smith, office manager, is looking into the lease agreement which is up for renewal this year. The lease requires the school to offer two 50% tuition scholarships to HPPOA residents, plus a voting seat on the Malamalama Board to a representative of HPPOA's Board of Directors. Mark has temporarily filled this position since Walter Bell's term ended. Mark said Frank had suggested that ideally the HPPOA representative would be a parent of a Malamalama student who owns land and lives in the Park and is on the school's Board. Patty fulfills all the requirements; he would like for her to represent the Association on the Malamalama Board. Rick suggested that the representative should be someone who is not already on the Malamalama Board. Walt said their Board is supposed to consist of 7-9 members, including two faculty, two parents, two community-at-large members, and one HPPOA representative. Patty and Bobbi both said the school would like for the Association's delegate to be someone not presently associated with the school. The Board agreed to table the issue until Bobbi has had a chance to review the lease agreement and Frank can be present.

Neighborhood Watch: Walter Bell read the *Conch* article on Trunk or Treat. He said last year's Halloween event was small but terrific; the community response was very positive and a larger turn-out is expected this year.

Coqui Frog Squad: JoAnne Backman reported that the USDA funding has ended effective September 30, and the spraying has stopped at this time. She has received a bill for approximately \$15,000 from the USDA, which she is currently discussing with them because it is for a period of time longer than what the project actually covered. The USDA is also compiling a report on the data they collected and their opinion of how the project went.

One obstacle was a lack of permission to spray large areas. The numbers can be lowered by spraying, but unless large contiguous areas are sprayed, the frogs recede into the sprayed lots. She said all-in-all, it was a good project because it built momentum at the County and State levels.

The \$3 million funding awaiting approval at the federal level has been disapproved by the Office of Budget and Management because the frogs "do not affect agriculture because they are not harmful to plants." This decision is under repeal; however, the administrator who denied the funding is the same person who reviews the repeal.

She said the committee's next step is a formal letter-writing campaign on all levels—County, State and Federal—asking them to address the issue.

Allan suggested that as part of the letter-writing campaign, the Board adopt and sign a resolution at the appropriate time.

The committee now owns the spraying equipment which was purchased for the project, plus other equipment it bought which can be loaned to lot owners. They will be trained in the proper use of the equipment before they will be allowed to borrow it.

The State does have research projects searching for a biological control. Gerard asked whether the federal government is doing research; she said the USDA is involved, also. Barney said the coqui problem is the State's responsibility for not properly inspecting incoming plants.

The bank account has been renamed "Hawaiian Paradise Park Owners Association, Coqui Frog Committee." She received a Board signature for the account's signature card.

Mark said owners in his district ask who to contact about spraying. She suggested that they may call the squad, who has a list of businesses who spray. Also, they can contact the Big Island Invasive Species Committee. She said coffee will probably never be approved as an antidote because of its affect on people.

Unfinished Business

Amended 2004-2005 Roads Budget: As a result of a committee meeting, Rick and Allan prepared an amended Roads budget to replace the one adopted by the Board on March 10. They broke the items into categories, with Bobbi providing written descriptions of each category. The budget was based on actual income, using last year's figures. He believes monies were used in 03-04 which actually belonged to 04-05 for payments on the roller, monthly lease on the grader, etc., totaling approximately \$50,000. Annual expenses were extrapolated from the actual road expenses for the first quarter of this fiscal year. Cinder costs were computed by loads of cinders required to accomplish stage 1 and stage 2 of the road plan at costs per load. Also, twice a year brush-cutting and tree removal at \$65 per hour by Ryan's Mowing were added to the budget.

The abandoned vehicle removal was reduced because the County is now doing this. Security costs presently run \$2500 annually; however, they added \$5000 in both the roads and non-roads budgets for fencing and/or surveillance cameras.

Also, the liability insurance currently costs \$94,000, half of which is for coverage on the 8800 private lots. This policy is under examination for possible revision.

Building improvements now include \$10,000 for the safe room.

Another item delineates the 3% transfer to non-roads per Board resolution. [*See minutes of 9-8-04.*]

The contingency fund was included to provide a cushion and prevent depletion of the account.

Road improvement—to include paving, drainage and other improvements—was budgeted at \$245,398, the remainder after subtracting all other road maintenance costs from the projected income. Allan said that in the past, paving costs were often subtracted off the top of the budget. He said they chose not to make paving a priority for this fiscal year; he and Rick estimated the cost of providing quality roads to all lot owners first, budgeting the remainder for road improvements such as paving. Bobbi commented that paving is dependent on a good road base, so improving all the roads is never a waste of money.

Erhard stated that depositing materials without rolling is inefficient use of funds. He suggested that someone else should run other errands, freeing David to operate equipment on the roads.

Allan said there is merit in the suggestion to hire someone at a lower rate of pay to fix signs, haul rubbish, and perhaps follow the grader on the roller. He said this was not budgeted, but could be included in the budget.

Erhard suggested skimming easements with the grader to reduce mowing costs. Gerard said using the grader as a bulldozer busts the blade on the grader. It can be done in some, but not all, areas. He suggested using a sickle bar to clear bushes that obstruct intersections. He agreed that perhaps another employee would be advisable.

Bobbi said David takes Wednesdays to run errands and haul rubbish by her direction. He has requested the Association hire another employee to drive the roller, also.

Allan stated that the budget is to give the General Manager guidelines as to how the Board wants the monies to be spent.

Allan Deehr moved to adopt the Amended 2004-2005 Roads Budget. Mark Cook seconded; the motion passed unanimously.

Interest on Delinquent Assessments: Allan explained that 440 lots have liens; 207 were recently added. All lots owing more than \$350 at this time (except for four for which he cannot account) are now liened.

He said the statement on the road maintenance bill that "interests will be assessed on all delinquent accounts outstanding beyond the due date at 1% per month per annum" is higher than the 10% rate allowed by the State. Prior to June, 1982, the limit was 6%. Also, when the \$75 fee to place a lien is charged, the computer program has been computing interest on that amount. The computer compounds the interest monthly, which is allowable in Hawaii only with: 1) a written contract agreement, 2) a consumer credit transaction, or 3) a credit card purchase.

He stated that all the delinquent accounts must be recalculated. March 16 was the date Morgan computed interests each year, reducing it to the legal 10%. However, it has compounded, raising it back to 11%. He and Morgan will recalculate them by the end of this year. He intends to contact a licensed attorney on possible options.

The books show \$207,000 in interest; he is surprised the accountant during the annual audit has not picked up the accounts receivable as an asset without questioning their origin.

The Bylaws provide that the rate of interest be determined by the Board. Barbara asked whether this could be retroactive; Allan said he thinks so, but is not sure.

Bobbi said since the amount owed will decrease, it may increase compliance.

JoAnne Backman asked whether the bills will be changed and notice given to lot owners. Allan said yes, the bills will be changed; no, no notice will be given.

Allan Deehr moved that the Board pass a resolution stating that the rate of interest to be applied to all delinquent accounts as of this date, if no other rate has previously been stated, shall be 10% since June 1982, and 6% prior to that date. Barbara Kahn-Langer seconded the motion for purposes of discussion. The motion passed unanimously.

Rick said the excel program can be used to correctly calculate interest.

Allan said foreclosure as a policy cannot be pursued until determination of monies owed is completed.

District Improvement Proposal: Gerard said he has received Les Pedersen's estimate of the cost of bringing roads to County standards. The estimate totaled \$1.3 million, bringing the project total to \$13.3 million. Gerard projected the total at \$16 million to allow for rising costs and unforeseen expenses. The estimate was forwarded to Skip Bufay. The next step is a meeting with Gary Safarik, Galen Cooper, Engineering Division chief, and Mayor Kim.

Barbara questioned whether the asphalt should not be increased from two inches to three, especially considering the increase in traffic. Gerard said a new material is being used; also, the asphalt will be laid over the existing roadway. He expects the two-inch paving to last twenty to thirty years. The old paving lasted twenty-seven years laid on bare rock. Erhard said Pedersen recommended two-and-a-half inches on 30th St.

Barney asked if the estimate included the proposal on 30th St. Gerard said no.

After the engineer's reports and bids are received, a road committee meeting will be held.

New Business

Poni Moi (29th) Request: A lot owner has requested to pave in front of her lot and put in a speed bump. Bobbi said she needs to confirm that she is the owner, since the name is not yet in the system and she does not have the TMK. She asked the Board to be prepared to consider the request at the next meeting, since it may set a precedence.

Bill said that the Board policy in the past has been that unless they pave all the way from the main road to their lot, lot owners may not pave just in front of their property.

Water Lines: Gerard said a committee needs to investigate the water line problem. Les Pedersen wrote a list of suggestions for setting policy for the future.

Barney asked whether Board policies can be enforced.

Rick said the Association is in the road business, not the water business.

Bill said the spaghetti lines started because the Water Department did not allow meters at the lots, and the Water Department needs to correct their mistake.

Allan suggested bringing the information to the Board before determining whether a committee is needed.

Bulldozers on Road: Bobbi said that D-9's on the road are in violation of Chapter 24; she needs to ask the County what documentation is needed for them to act.

Rick suggested looking at other entities damaging roads, also, including ATV's. Bobbi said she has heard that there is a new law making ATV's illegal on the roads, but asked who will enforce it.

Gerard said a letter from Casey Yanagihara of the Traffic Division stated that to place the Park under Chapter 24, the Association must first:

- 1) Determine traffic regulations desired for Council approval.
- 2) Conduct appropriate traffic studies for desired traffic regulation.
- 3) Submit their results to the department with a statement that 51% of the owners support the request.

Rick asked how to do the first two steps before the next mailing.

Gerard said engineers may have to conduct the study. He suggested asking if, since the Board members are elected representatives of the owners, they could vote for their constituents.

Rick suggested that the County's radar trailer be placed in the Park to indicate that speed limits and other regulations will be enforced.

Adjournment: The meeting was adjourned at 9:28 p.m.

Respectfully submitted by:

Kirstie Goin

Kirstie Goin, Recording Secretary

Mark Cook

Mark Cook, Corporate Secretary



Motions Log 10-13-04

Approval of Minutes: Rick Frazier moved to approve the minutes of September 8, 2004, as written. Allan Deehr seconded; the motion passed unanimously.

Mark Cook moved to instruct David Day and Bobbi Stutsman to identify three possible locations for placement of dome buttons by the November Board meeting, so that the Board can select a test site and confer with the County on proper placement. Barbara Kahn-Langer seconded; the motion passed unanimously.

Allan Deehr moved to adopt the Amended 2004-2005 Roads Budget. Mark Cook seconded; the motion passed unanimously.

Allan Deehr moved that the Board pass a resolution stating that the rate of interest to be applied to all delinquent accounts as of this date, if no other rate has previously been stated, shall be 10% since June 1982, and 6% prior to that date. Barbara Kahn-Langer seconded the motion for purposes of discussion. The motion passed unanimously.

**ESTABLISHMENT OF INTEREST RATES
ON
DELINQUENT ROAD FEES**

WHEREAS, no record of Board of Director action can be found establishing an annual rate of interest on delinquent road assessment payments since the imposition of road assessments in 1977; and

WHEREAS, it has been brought to the attention of the Board of Directors the Hawaiian Paradise Park Owners Association has been imposing compound interest of 12% per annum on all delinquent road assessments in violation of Hawaii law and the bylaws of the Association;

THEREFORE, BE IT RESOLVED THAT:

The Treasurer of the Hawaiian Paradise Park Owners Association is authorized to recalculate all delinquent road assessments and send out corrected billings with the 2005 road assessment reflecting interest at the rate of 6% per annum on delinquent assessments prior to June, 1982, and 10% per annum on all delinquent assessments thereafter; and

IT IS FURTHER RESOLVED THAT:

All interest imposed on delinquent assessments shall be computed as simple interest.

DATED: October 13, 2004



Frank Annin, President

Mark Cook, Secretary