

VHCA meeting
Oct. 1, 2017

Home of Jim and Sheri Lehner, [14-5049 Wai`Opae Road](#).

Board members present: Vivian Mark (president); Gary Banks (vice president); Tiffany Edwards Hunt (secretary); Tom Knott (secretary); Kirk Puuohau-Pummill and Janus Garramone (board directors). Chris Biltoft is absent and excused.

Members of the public present include Jim Lehner, Sheri Lehner, Rob Custer, Hart Phillips, Marlene Phillips, and Betty Oberman. Also, Puna Councilwoman Eileen O'Hara and community policing officers present include Officers Waipa and Officers Kamali'i.

11 a.m. the meeting is called to order. Quorum established.

In a discussion about the secretary's minutes V. Mark proposes that we table the discussion on the July 29 meeting minutes indefinitely.

V. Mark wants to stick to the agenda, and there is a discussion about the order of business, regarding the guests that are present at the meeting.

G. Banks suggests — and board members agree — that the board should take up matters on the agenda out of order, in order to accommodate the councilwoman and community policing officers.

E. O'Hara hands out the County of Hawai'i Planning Department's response to a request to amend the Special Management Area permit.

In 2006, the SMA permit was approved, she notes. In 2013, Chris Biltoft sent a communication noting there is a problem managing the public parking and proposed that another parking lot be created in the front of the subdivision. The planning department suggested that Chris work with Public Works to create no-parking signs. But Planning Department did not state that the SMA permit needed to be amended to note that there was no longer a public parking area. When Planning Department came down recently, they encountered police action, including people yelling at each other about parking. The Planning Department expressed concern that public access was being impeded. The councilwoman and Chris had a discussion with Planning Department to assure them that most of the police action requested is coming from residents, not tourists complaining about a lack of access. The councilwoman suggested a compromise: a half sheet of paper with a standardized note to share with people about parking. That note reads:

"Aloha! There is no tide pool parking within our subdivision. It is walk-in only from the parking we have provided for your sue at the entrance. Please read the signs and

*respect our wishes as we would prefer to continue allowing you access to the tide pools through our private road system. Mahalo for respecting our wishes!
Vacationland Hawai'i Community Association"*

An amendment suggested for the SMA permit would include a loading zone and an ADA parking place, along with a fisherman parking area, loading and unloading area, in this vicinity.

The officers are here because of a widespread misunderstanding that there is a sticker on the back of the sign that codifies the sign. In fact, what codifies signs is a notation in Chapter 24 of the Hawai'i County Code.

E. Ohara is hearing some dissent about the proposal to revise the SMA permit. If the board does not wish to revise the SMA permit, the board should be aware of the fact that this community is not in compliance with the existing SMA permit.

Officer Kamali'i, meanwhile, says that when he took over as community policing officer, he was told that police cannot cite within Vacationland. In order to assist with parking citations, VHCA needs to go through the proper chain of command. Officer Kamali'i notes that the councilwoman is pushing progress to improve the situation.

J. Lehner asks if this community implements something like this, how many times can the police come down to enforce this. Officer Kamali'i notes that this would not be a high priority call, and that there is no shortage of high-priority calls in the Puna area. Police will make it out here, but sometimes it can be five to six hours. But the dispatcher does have to ultimately clear it from the call list. Officer Kamali'i notes that that is the reality of the police presence in Puna.

H. Phillips notes that the revised statute is already posted on our no-parking signs. E. O'Hara points out that the signs have to be codified and listed in Chapter 24. Each individual sign must be codified.

K. Puuohau-Pummill notes that the board has been looking into video surveillance. He says there have been reports that officers aren't making cases because there isn't video surveillance to share with police. D. Kamali'i denies that that is generally the case, but he says that it is up to the officer's discretion whether there are enough elements to prove that there is a crime and to initiate a case.

T. Edwards Hunt inquires further as to whether there is an ethical issue related to police officers not making a case when they receive a call for service. Kamali'i and Officer Waipa clarify that police will always make a report, but there are three different types of reports, including a traffic, "mic," and a criminal complaint, the latter of which is what is typically referred to as "charges being filed."

K. Puuohau-Pummill inquires what the board can help with that. Officer Waipa notes that what helps police is the citizens' active deterrence in Hawaiian Paradise Park. There are a lot of retirees. The neighborhood watch is very visible and people drive around and take pictures and are very proactive. E. O'Hara points out that we have the worst police-citizen ratio in the state and that the administration would not improve the situation, but actually cut the police budget in this year's County of Hawai'i budget.

V. Mark clarifies regarding the codification of the signs issue. Eileen notes that we have a bill for the no-parking signs and that the SMA permit amendment is not contingent upon that.

G. Banks notes that three years ago the board had a meeting with a few officers and the police chief approved the signs. But now we are being told that police cannot write tickets without the signs being codified. G. Banks asks if E. O'Hara understands why we are trying to prevent parking down here. He notes that UH Hilo has been looking at the coral and that 15 percent of the coral have died due to engine oil. He and his wife count cars and they estimate that 600 cars a week come down here.

J. Lehner asks if a photo is taken of a vehicle illegally parked, can the police issue a ticket after the fact... Officer Kamali'i says that is up to the officer's discretion.

T. Edwards Hunt asks E. O'Hara if she will pursue the bill with the two no-parking signs, or will she amend that bill to include other no-parking signs for the neighborhood. She will be seeking the board's help in identifying areas where additional no-parking signs should be erected and codified.

M. Phillips inquires about police not issuing citations in other communities that are private. Officer Kamali'i notes that they do not issue citations in any community that does not have codified signs, including Kapoho Beach Community.

Officer Kamalii notes that police try their best to respond to police calls, but a majority are in other areas of Puna.

V. Mark asks when criminal activity is suspected or seen, the procedure should be for people to call. Officer Kamali'i says that if it is an active theft or burglary, there is a good chance that police will immediately respond. Vivian asks how does the public follow up. Officer Kamali'i notes that people can follow up with the dispatcher.

G. Banks asks how come there is two police vehicles and very rarely is there a police officer by himself. Officer Kamali'i notes that this is Puna and the protocol is to have a couple police officers respond.

T. Edwards Hunt asks if police can work closely with our neighborhood watch to share stats regarding Vacationland. Officer Kamali'i responds affirmatively.

Guests leave and the board is back to the agenda at 11:45 a.m. V. Mark calls for committee reports.

K. Puuohau-Pummill, Waterfront Committee, regarding kiosk and signage (tabled)

J. Garramone clarifies that the board had not gone over the treasurer's report, before moving into committee reports.

Treasurer's report is as follows:

\$126,05.83 in FHB checking

\$50,775.51 Houseloads road funds

\$11,430.19 for Farm Lots road funds

\$56,299.82 for Waterfront donations

\$7,580.31 for mailboxes

\$70,149.50 for unpaid lien accounts (24)

\$100,358.25 for waterfront donations deposited

12 property transfers for the year.

M. Phillips inquires about the liens and whether anything can be done to foreclose upon them. J. Garramone notes that the bylaws state that the foreclosure cannot be pursued unless there is a transfer of ownership.

J. Lehner notes that the board has been down this road and tried to work with a collection agency. The board will get the money eventually, but that it is a long and costly process.

T. Knott notes that one thing to add is that if the property is inherited, does that qualify as a transfer. But J. Lehner notes that it is a transfer, it just needs to go through escrow for the board to receive the outstanding debt.

T. Knott notes that the majority of the liens are in Farm Lots. Janus seeks a list of them.

There is no report from the president and the vice president.

Back to the unfinished business related to the Waterfront Committee and the SMA permit issue...

V. Mark notes that this is a signed permit that was contingent upon several things.

M. Phillips says we can make those things contingent upon getting more police.

V. Mark doesn't think that the board should necessarily make a decision today, but we should be aware of the history of the SMA permit. Chris has composed a suggested letter and Vivian imagines that we will likely work with what he has created.

T. Knott suggests that we set a time limit for this discussion.

J. Lehner suggests that this is a big thing and notes that Eileen said that the Planning Department "suggests" that we do this. J. Lehner says that this is "b.s." and that we have more control over our neighborhood. He is very upset by this, particularly since all we are trying to do is codify a couple of no-parking signs. G. Banks seconds what J. Lehner is saying.

H. Phillips suggests that the parking for people who don't belong permanently in the place, people working on houses, the residents and their guests, those are the people who should be parking in here. We should handle the parking issue holistically, not just along the waterfront. H. Phillips suggests we withdraw the SMA application and recognize that their response is "presumptuous." He believes that the County doesn't have any say in this matter. We can decide if we want to have fisherman parking, or disabled parking, or drop-off parking, but that's our decision. They cannot make that decision for us.

K. Puuohau-Pummill says he talked with his daughter about this. The County has no standing whatsoever, in their opinion. State law says we have to provide shoreline access. Pedestrian. The County keeps pushing to have more and more control for things that they are not willing to service. G. Banks attempts to comment, but V. Mark interrupts.

G. Banks objects to V. Mark "cutting (him) off."

G. Bank says he went to Hilo a couple of weeks ago and noted how the HELCO and the Police Department have signs that are codified. "If they can do it, we can do it."

V. Mark says that the County doesn't have the responsibility to tell us where to put what. It's merely a matter of do they approve or not?

T. Edwards Hunt suggests that we draft correspondence to E. O'Hara saying we would like to pursue the no-parking sign codification and not pursue the SMA permit amendment at this time.

K. Puuohau-Pummill notes that they have to count the signs and you legally cannot call the police for parking in our subdivision. On that point about the signs and the SMA, K. Puuohau-Pummill read through the guidelines. He suggests that we consult with an attorney to make sure that we are not liable for not doing anything about the SMA permit.

J. Lehner notes what a big issue this is and that we should not pursue the SMA permit issue at this time. J. Lehner actually believes that the Council Bill 57 is flawed and that we should not even pursue the sign codification issue.

T. Knott makes a motion to email E. O'Hara to come Nov. 4 to discuss the implications of withdrawing our no-parking sign codification and SMA permit amendment application. (T. Edwards Hunt seconds) It sounds like the Puna police are dealing with much bigger problems than this, he says. G. Banks suggests that these matters be dealt with at committee level. J. Lehner suggests that the board write a letter asking Eileen about the implications and that she respond via email. T. Knott withdraws his motion and then T. Knott makes another motion based on J. Lehner's advice, which K. Puuohau-Pummill then seconds.

In the discussion, M. Phillips inquires as to whether we should hire a lawyer. Janus disagrees with the board writing an email. She believes that we should send an email saying that the board is not prepared to move forward with the no-parking codification and the SMA permit amendment and that the issues are going to be hashed out at committee level.

B. Oberman says if we pursue a lawyer that the lawyer can tell us the implications.

H. Phillips states that he is confused about where we stand with the SMA. All the wording in the SMA was created by the people in this subdivision. We have been "blasted" by a hurricane and we had to create a new road and we are merely trying to update the SMA. The SMA application is a creation by the people here. Their response is if we do something that is illegal or that prevents public access. They are not there to go into details, and we shouldn't go into details on our response. Vivian suggests that we split those two things. She suggests we not follow through on Bill 57. She also suggests that we are not prepared to respond to the SMA permit amendment yet, because we do need time for discussion. Vivian notes that we are granted the permit but that these are things we have to do.

J. Lehner says, first, with attorneys, VHCA in 2006 went to BJ's office, Lim and Yeh suggesting that we go along with it. Sandra Song countered the other attorneys'

suggestions. We need to remember that the SMA is just a permit. J. Lehner's opinion, and what lawyer Richard Shea says too, "I built a house and I got a building permit and an SMA permit. But if I didn't build a house would the County come forward and say you have to build a house here. "

H. Phillips believes we need to clearly say that we are rejecting the County of Hawai'i's suggested changes to the SMA permit.

V. Mark reads into the record board member Chris Biltoft's proposed response to the County of Hawai'i's Sept. 28 letter approving the SMA permit amendment.

Kirk suggests an amendment to the letter because you cannot limit pedestrian access. T. Edwards Hunt disagrees with sending the letter, although she appreciates the sentiment. She suggests that VHCA might be "pulling the tail of the dragon" by sending the letter, and she points out that, according to the letter from the planning director, the SMA permit has already been amended. J. Lehner notes that "if we give an inch to the County," we will have a number of issues that need to be addressed.

T. Knott's email motion essentially dies in discussion.

V. Mark moves that VHCA have a special committee specifically to discuss Council Bill 57 and the proposed SMA permit amendment. The meeting would take place at 9 a.m. on Oct. 7 at the Lehner residence. J. Lehner will share the special committee. T Knott seconds. All vote unanimously in favor.

At 1 p.m. the board takes up the neighborhood watch committee report. B. Oberman raises the issue of the standardized note that will go on vehicles. B. Oberman has looked up the surveillance camera issue. She shares an article detailing how wifi cameras do not work. "Bottom line is, there isn't a camera out there that we can afford." As for neighborhood watch, it is a volunteer group, she says. We could possibly look into paying for private security. H. Phillips has hired security when we have needed security. Aloha Security wants \$48 per hour. The board doesn't have the funds or manpower for what we need. B. Oberman says she had an opportunity to buy dummy cameras, but they got stolen. G. Banks speaks of the virtue of license plate cameras. B. Oberman notes that Harry Pomerleau came and asks for people to ID individuals. K. Puuohau-Pummill spent many years as a commercial photographer and the wider view the smaller the images. He also notes that there are also issues with recording and being able to recall the footage. As for the monthly police report that comes to B. Oberman, most of the time there is nothing with regard to Kapoho. T. Edwards Hunt recalls an attempted burglary in the last couple of months that resulted in the altercation of individuals and that case may be related to the Pomerleau case. She encourages vigilance and also suggests that there may be people scouting the neighborhood for empty houses. Thus, the board should work to communicate with absentee landowners to ascertain the cleaning people and landscapers and other

people that they hire to maintain their unoccupied homes, T. Edwards Hunt says. G. Banks recalls the turtle sticker and the need to resurrect those stickers for residents' vehicles.

V. Mark recalls the issue of becoming a non-profit charitable organization. T. Knott notes that this has nothing to do with VHCA. V. Mark says she has been trying to find out what VHCA's charter says and what our bylaws says. She has learned, in the process, that the charter on the website, from 1994, and the charter that is current, from 2003, states that the organization will be a 501 © 3.

Vivian wonders if we want to 1. apply for 501 © 3 status, 2. allow other people to pursue 501 © 3 status, or 3. drop the issue entirely.

The original intent of the association was to be a homeowner association in charge of roads. The most recent charter states that:

“The corporation is organized as a nonprofit corporation for the purpose of engaging in any lawful activity for which a nonprofit corporation may be organized under Chapter 414D of the Hawai`i Revised Statutes, and to exercise all rights, powers and privileges now or hereafter granted to a nonprofit corporation by law to encourage, promote and aid in developing, improving and maintaining the area as a desirable community, to cooperate with civic and public organization for the general welfare of the people of the County and State of Hawai`i.”

Vivian asks:

1. Should VHCA apply for 501 c 4 status to obtain contracts/ grants / monies to help us support the complexities of maintaining the MLCD and all that goes with it (road signs, parking, porta potties, ground maintenance)?
2. What are the benefits of the non profit status?
3. What are the drawbacks / disadvantages?
4. How much more in dollars will it cost us in accountant fees?
5. Are there enough monies out there for us to apply for?
6. Is there someone in the community who would be willing and capable of doing the write-ups and “managing” the project(s) from beginning to end?

She states that these are questions the board needs to pursue before presenting a formal proposal.

G. Banks' plan for road Right-of-Way is to create a 5-year plan, which in part involves having Adon create internal maintenance; he hoped to have a meeting to discuss that and try to plan out this whole thing.

M. Phillips says she is hearing from landowners who are frustrated to be driving through the water in the cul-de-sacs. J. Lehner agrees with M. Phillips that there is a need to raise the road level in the cul-de-sac area. He suggests that if we pave that area we should do it all at once, because paving may be the most viable option for the cul-de-sac area.

Regarding the Wai 'Opae rocks on either side of the road, it is going to be a slow painful removal process, but it is moving forward with Rick Edwards. J. Lehner inquires about the rocks at the end of Kaheka. T. Knott and G. Banks note the rocks aren't big enough and R. Edwards need to bring in more. The Handy Jim Dandy family that owns the property next to the Kaheka beach trail does not object to people using their property and they do not want to have anything to do with VHCA.

G. Banks wants to have a road meeting.

T. Edwards Hunt inquires as to how this Oct. 1 meeting became a board meeting. She thought that it was going to be a committee meeting, and then it turned in to a board meeting, she mistakenly thought, replacing the Nov. 4 meeting. V. Mark explains that there are members of the community that are seeking more frequent meetings. T. Edwards Hunt would like to know if we are going to continually respond to the public's requests for more frequent meetings, because she would like to calendar these additional meetings if there are going to be any more.

G. Banks responds by setting up committee meeting dates for road / right-of-way, with the first meeting being Oct. 14, at 9 a.m. at the Lehner residence.

Meanwhile, J. Garramone prepared a report on a recent Farm Lots Road Committee meeting. She circulated a writing of that report. Since J. Garramone's last report, there are number of properties in which trees were trimmed and debris was removed. One landowner actually paid for the trimming of coconut trees that impede on the VHCA right of way. She also noted that all roads were graded to center for water run—off and the work was completed and paid by VHCA. The cost for grading roads and chip sealing a 12-foot-by-800-feet section of Ililani Road (which is part of five-year plan) was \$12,000. There was a landowner that damaged the chip seal on Ililani by jackhammering for a water line. The landowner has since repaired that damaged section.

The Farm Lots Road Committee is being very careful about doing prioritized projects, Garramone says. Mowing was completed on Sept. 29. She adds that there were complaints of vending along Kapoho Kai Road across from parking area. J. Garramone also notes that she has created a Farm Lots group on the Nextdoor app. She was trying

to include the House Lots in this social media app, but someone has already created a House Lots group and is not maintaining it. B. Oberman notes that Kathy Dumond created a House Lots group several years ago. M. Phillips says that K. Dumond is “long gone.” Nevertheless, another House Lots group cannot be created on Next Door, according to J. Garramone.

Issues in Farm Lots: Man harvesting nuts on gated, private property without permission. This is the same man who is selling coconuts at the entrance to House Lots. There was also a theft on La Malo’o Road, and the victim is a builder living in a container on the property with his 6-year-old son. The builder admitted to hosting some undesirables onto the property. The owner has contacted the builder about the activity on that property. Also, there are squatters in a house on Kikiao Road. The Kikiao house is in escrow after Nationstar Mortgage put it up for auction. The escrow for that house closes on Oct. 13.

At 2 p.m. V. Mark reads Waterfront Report written by Chris Biltoft. Regarding Right-of-Way vending, in which C. Biltoft suggests that we add verbiage to our ROW policy. The ROW policy will be taken up at committee level.

V. Mark notes that C. Biltoft would like old concrete parking curbs with protruding rebar be moved to the mauka side of the new road and covered with rock. He is concerned about the parking at the Kaheka stubout and also notes a pending PONC legacy land purchase for the Wai`Opae waterfront area. He suggests that the area may someday be converted to a park.

He recalled a shoreline cleanup that resulted in 100 pounds of trash, on Sept. 23. He also noted that Tom Knott and he had a meeting with David Tarnas of MCS International and his team. This meeting was about the State Coastal Zone Management (CZM) program to survey areas likely to be inundated during sea level rise. Tarnas visited Puako, House Lots, and Beach Lots, followed by an afternoon “focus group” meeting that included county Planning Officials to discuss “managed retreat” from vulnerable low lying areas. Lono Lyman represented Beach Lots at this meeting. There was much discussion about how to proceed in light of lack of resources, consensus, policy consistency, consistency among sea level rise models, and political will to deal with these issues. T. Knott added water and wastewater treatment to the issues in need of consideration. Some things that could be done now include removal of derelict structures (Fletcher property included) and installation of a tide gauge at Pohoiki as a baseline / ground truth measurement. A report should be presented to the Legislature in January.

B. Oberman notes the need to monitor and ensure that people pump their systems, because there are properties with distinct septic problems. J. Lehner concurs. G. Banks maintains that he doesn’t have a problem with his septic system. V. Mark marvels at the stats about the sea level rising.

She notes that the next board meeting is scheduled for Nov. 4 at the Lehner residence. The meeting time is changed to 11 a.m. in order to accommodate board member J. Garramone.

The meeting adjourned at 2:10 p.m.