

June 7, 2010

Meeting Summary

Meeting Date: 6/1/10, 3:00 PM

Location: HPP Office

Present: Buddy and Carolyn Loeffler, Bob Rainie, Kanu Stocksdaie, Tommy Spenser, Paul Nash

At the meeting, Loeffler Construction was reminded that the contract time had expired and that the contract allowed for liquidated damages of \$1,000/day. Kanu expressed that while imposing the damages was undesirable, some accounting of the time overage needed to be made. The *Report on Overage of Working Days for Phase III*, which was submitted on Thursday, June 3, 2010, summarizes the explanation by Loeffler along with input from other at the meeting.

It was emphasized that the Association was generally pleased with Loeffler's work and appreciated the working relationship the association had with Loeffler. It was recognized that Loeffler had been pursuing completion of the project diligently. Buddy said that the project was the company's main focus.

The original scope of the contract was discussed, and it became clear that Loeffler did not completely understand the contract the way it was written. In particular, the area of previous overlay wasn't adequately described for their understanding.

Report on Overage of Working Days for Phase III

Loeffler Construction is approximately 45 days over the allotted construction time for Phase III, and they still have approximately 60 days of work left. The total contract time was 80 working days.

There are several reasons for the overage of working days. The primary reason is that the number of working days in the contract was unrealistic to begin with. Loeffler has worked on Phase III diligently and could not have progressed much faster without sacrificing quality.

Although they entered into the contract that specified 80 working days, it is not reasonable to assume they properly understood the contract. The chart specifying the work on the radii and approaches is extremely confusing. The total scope of the contract work was not clear.

Also, the length of the working day has been shorter than typical construction working days in order to accommodate the morning and afternoon traffic patterns in the park. This contributes to less productivity in any given day. Although Loeffler loses financially by the shorter day, they have abided by the condition.

In addition to the unrealistic number of contract working days, the scope of the project was increased. For instance, additional intersections were added to the project. Other additional work, such as hammering out rock outcroppings, was performed by Loeffler without charge to HPP. The extra work warrants an increase in contract working days.

It is also important to keep in mind that most of the delays in the project have been due to rainy weather and problems with the asphalt plant. When overlaying asphalt, the existing asphalt must be very dry to ensure adhesion.

I recommend negotiating with Loeffler to come up with a realistic number of remaining working days. I do not think that charging Loeffler with liquidated damages is fair or necessarily in the best interest of Hawaiian Paradise Park Owners Association.