

INFRASTRUCTURE MANAGEMENT COMMITTEE

Council of the County of Maui

MINUTES

February 27, 2012

Council Chamber, 8th Floor

CONVENE: 9:03 a.m.

PRESENT: VOTING MEMBERS:

Councilmember Elle Cochran, Chair
Councilmember Michael P. Victorino, Vice-Chair
Councilmember Robert Carroll
Councilmember G. Riki Hokama
Councilmember Danny A. Mateo
Councilmember Joseph Pontanilla

EXCUSED: VOTING MEMBERS:

Councilmember Donald G. Couch, Jr.

STAFF: Scott Jensen, Legislative Analyst
Yvette Bouthillier, Committee Secretary

ADMIN.: David C. Goode, Director, Department of Public Works
Michael J. Hopper, Deputy Corporation Counsel, Department of the Corporation Counsel

OTHERS: **Item 36:** Paul Korihito, Business Manager, St. Theresa Church

Item 40: Susie Thieman, Interim Executive Director, Lokahi Pacific

PRESS: Akaku: Maui Community Television, Inc.

CHAIR COCHRAN: ...*(gavel)*... Aloha, good morning. Will the Infrastructure Management Committee meeting please come to order? It is February 27...Monday, February 27, 2012 around 9:03 a.m. And before we begin, Members and public, please turn off or silence all cell phones and noise making devices, and I shall introduce who is in attendance. I have coming in and into his seat right now our Council Chair, Danny Mateo.

COUNCILMEMBER MATEO: Good morning, Chair.

CHAIR COCHRAN: Good morning. And Vice-Chair of the Committee, Michael Victorino.

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VICE-CHAIR VICTORINO: Good morning, Madam Chair.

CHAIR COCHRAN: Good morning. Vice-Chair of the Council, Joseph Pontanilla.

COUNCILMEMBER PONTANILLA: Good morning.

CHAIR COCHRAN: Good morning. And Riki Hokama.

COUNCILMEMBER HOKAMA: Chairman.

CHAIR COCHRAN: And also Bob Carroll.

COUNCILMEMBER CARROLL: Good morning.

CHAIR COCHRAN: Good morning. From our Administration we have Director, David Goode, of Public Works. Good morning. Michael Hopper, Deputy Corporation Counsel, and from my Committee Staff: Legislative Analyst, Scott Jensen; and Secretary, Yvette Bouthillier. Good morning, everyone. This morning we have three items on the agenda and the first two relate to proposed dedications of road widening lots. The third item relates to a report of utility pole placement approvals. And let me...at this moment, I shall open the floor for public testimony and it looks like from Yvette that there are no testimonies so Members without objection I shall now close the floor for testimonies.

COUNCIL MEMBERS: No objections.

CHAIR COCHRAN: Thank you.

**ITEM NO. 36: DEDICATION OF ROAD WIDENING LOT FOR THE
WAIOHULI-KEOKEA BEACH HOMESTEADS SUBDIVISION
(KIHEI) (CC 11-316)**

CHAIR COCHRAN: Getting to first item on the agenda which is IM-36, Dedication of Road Widening Lot for the Waiohuli-Keokea Beach Homesteads Subdivision in Kihei. The Committee is in receipt of County Communication 11-316, from the Director of Public Works, transmitting a proposed resolution entitled "Accepting Dedication of a Road Widening Lot for the Waiohuli-Keokea Beach Homesteads Subdivision, pursuant to Section 3.44.015, Maui County Code". The purpose of the proposed resolution is to accept the dedication from Roman Catholic Church in the State of Hawaii of road widening Lot 13-A-1-A-1, consisting of 2,912 square feet, along South Kihei Road, Kihei, Maui, Hawaii, identified as TMK: (2) 3-9-09:028 (portion), for public purposes. At this point I will turn the floor over to Director Goode for any comments on this item.

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MR. GOODE: Okay. Thank you, Madam Chair, and good morning, Members. This particular item is a road widening lot along St. Theresa's Church. And the road widening lot is along South Kihei Road and it varies from about four feet to eight feet in width, and we've completed everything that needs to get done for the subdivision...and the subdivision was just to carve out this lot. It's for no other creation of any other lots and meets our requirements and we're asking for your approval.

CHAIR COCHRAN: Okay. Thank you, Director. And Members, do we have any questions or comments for Director at this point? Seems pretty straight forward. Looking...

VICE-CHAIR VICTORINO: Recommendation, Chair?

CHAIR COCHRAN: I also forgot to mention, sorry, we do have a resource person here in relation to this item, Paul Korihito, who is the Business Manager of St. Theresa's Church in the audience. Members, if you feel the need to ask Mr. Korihito to come down for any discussion. Seeing none, Mr. Korihito, thank you for being here and yeah, it's...I guess we're, we're okay. At this point, Members, then I shall make my recommendation.

VICE-CHAIR VICTORINO: Recommendation, Chair?

CHAIR COCHRAN: Okay. Let's see, so I move to...I recommend that we adopt and recommend adoption of this revised proposed resolution and filing of County communication. You will notice that there was a revised copy sent to us and this is the motion on that.

VICE-CHAIR VICTORINO: So move, Madam Chair.

CHAIR COCHRAN: Thank you, Mr. Victorino.

COUNCILMEMBER PONTANILLA: Second.

CHAIR COCHRAN: Second. It's been moved by Mr. Victorino and seconded by Mr. Pontanilla. Members, any further discussion on the matter? Seeing none, all those in favor, say "aye".

COUNCIL MEMBERS: Aye.

CHAIR COCHRAN: Any opposed, say "no". Seeing none, motion passes with six ayes, zero noes and one excused, Mr. Couch, yes. Thank you, Members. So that was our first item on the agenda.

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VOTE: AYES: Chair Cochran, Vice-Chair Victorino, and Councilmembers Carroll, Hokama, Mateo and Pontanilla.

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmember Couch.

MOTION CARRIED.

ACTION: ADOPTION of revised resolution and FILING of communication by C.R.

ITEM NO. 40: DEDICATION OF ROAD WIDENING LOT FOR THE KENOLIO LEILANI SUBDIVISION (KIHEI) (CC 12-27)

CHAIR COCHRAN: Next item is IM-40. And IM-40...the Committee is in receipt of County Communication 12-27, from Director of Public Works, transmitting a proposed resolution entitled "Accepting Dedication of a Road Widening Lot for the Kenolio Leilani Subdivision, pursuant to Section 3.44.01, Maui County Code". The purpose of the proposed resolution is to accept the dedication from Lokahi Pacific of road widening Lot 9, consisting of 4,379 square feet, along Kenolio Road and Leilani Road in Kihei, Maui, Hawaii, identified as TMK: (2) 3-9-06:019, for public purposes. So let's see, Members, I shall turn the floor over again to Director Goode for any comments on this matter.

MR. GOODE: Thank you, Chair. This is for the...I forgot the name of the subdivision...affordable housing subdivision, Kenolio, Leilani. Yeah, I see a nod from Lokahi folks in the audience. And this road widening lot is about ten feet wide, runs the length of the project and then up a little bit of Leilani Street. Improvements have been made and meet our satisfactions, are satisfactory to us, and they're ready to dedicate it over to the County, and hence we're here and appreciate it getting passed out of Committee.

CHAIR COCHRAN: Thank you, Director. Members, any need for discussion? Mr. Pontanilla, then Mr. Hokama?

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COUNCILMEMBER PONTANILLA: Thank you, just a fast question. Mr. Goode, Kenolio Road...I know at one time we were talking about North-South Collector Road. Is Kenolio Road...was supposed to have been the part of the North-South Collector Road and the easement...or the road widening easements that we getting right now or right-of-ways are sufficient to...if we should go forward in the future, enough room to move forward?

MR. GOODE: Madam Chair, Mr. Pontanilla, that's correct. This is considered part of that North-South Collector. And this helps us get a 60-foot right-of-way, which is consistent with the type of right-of-way we're trying to get, which will allow us flexibility in the future to have bike lanes to have more significant pedestrian facilities, et cetera.

COUNCILMEMBER PONTANILLA: Okay, good. Thank you. Thank you, Chairman.

CHAIR COCHRAN: Okay. Thank you, Mr. Pontanilla. Mr. Hokama?

COUNCILMEMBER HOKAMA: For the Director, Chair, so Lot 8 on the exhibit for us is the roadway lot, Director? It's kind of good size, 2,200 square feet. Is that the roadway lot for the subdivision?

MR. GOODE: I think it's 9. No, the roadway...Lot 8 is a...will be a privately owned roadway lot. Lot 9 is the long strip along Kenolio Road.

COUNCILMEMBER HOKAMA: Okay. So Lot 9 is the one that is being considered for dedication?

MR. GOODE: Correct.

COUNCILMEMBER HOKAMA: No. 8 is just a private access roadway for the interior lots, that's it?

MR. GOODE: Correct.

COUNCILMEMBER HOKAMA: Okay. Okay, thank you, Chair. I'm clear.

CHAIR COCHRAN: Okay, you're welcome, Mr. Hokama. Members, any further questions or comments for Director, for the Department? Seeing none.

VICE-CHAIR VICTORINO: Recommendation, Chair?

CHAIR COCHRAN: Okay. Yeah, my recommendation then is a motion to recommend adoption of the proposed resolution and filing of this County communication.

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VICE-CHAIR VICTORINO: Madam Chair, I make the motion.

COUNCILMEMBER PONTANILLA: Second.

CHAIR COCHRAN: Thank you, Mr. Victorino. Moved by Victorino, seconded by Mr. Pontanilla. Members, yes, discussion?

COUNCILMEMBER HOKAMA: Just. . .

CHAIR COCHRAN: Mr. Hokama?

COUNCILMEMBER HOKAMA: Just one quick question, since I noticed it. This is, this came under, you know, we have...what I'm trying to figure out is the County zoning is R-2 but all the lots is under 6,000 square feet. So, do we have a legal nonconforming issue here? I just want to be clear.

MR. GOODE: Madam Chair. Mr. Hokama, my recollection is that they did a R-0 overlay, which allows for between our Department and the Planning Department to review a site plan which shows a positioning of the homes on the, on the lots. But the underlying zoning is R-2.

COUNCILMEMBER HOKAMA: So, in plain man's language, if the zoning is for 7,500 square feet minimum but because of the zero overlay option they chose, they can go below R-1, 6,000 square feet minimums?

MR. GOODE: Yeah. Mr. Hokama, I don't recall the exact minimum square footage on the R-0 overlay, but it's, it's probably around four or five thousand. And yeah, to put it in layman's terms we have another ordinance that says if you want to do R-0, which is a zero lot line, there's two ways to do it. One is by having the entire land zoned R-0. There are certain benefits with that. Or you can do what is called an overlay which is done administratively between our Department and the Planning Department, which is what they chose. So they were able to probably get in an extra lot to keep the affordability where they need it...need it to be.

COUNCILMEMBER HOKAMA: So again we consider them legal nonconforming lots even if the zoning is R-2?

MR. GOODE: I'd probably defer that to Corporation Counsel but it seems to me it's all legal. I don't know if it's nonconforming or not.

COUNCILMEMBER HOKAMA: Or the...I only bring up the word nonconforming again, Chair, is because the zoning is R-2, which for the general understand of us, it's 7,500 square feet minimum. Okay. We're approving 5,000 square foot lots. So I just wanted to make clear that down the road this, that there's no

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misunderstanding of what the County agreed to and what the property owners have, that it's not an issue later. Maybe I can have Ms. Thieman, if you'd be so nice to just give us some background on this zero overlay, please, Chair, if no one would object.

CHAIR COCHRAN: Members, any objection?

COUNCIL MEMBERS: No objection.

CHAIR COCHRAN: No objection. Okay. Fine, Ms. Thieman.

COUNCILMEMBER HOKAMA: Ms. Thieman, I hope you were listening to the discussion and if you could help educate me so I can, kind of understand this R-2 zoning with the subdivision proposal you have.

MS. THIEMAN: Okay, as you know I'm fairly new to this project.

COUNCILMEMBER HOKAMA: Yes, yes, I do, so whatever you can do to help us understand it better, it'd be appreciated.

MS THIEMAN: Okay. The lots average 5,300 square feet.

COUNCILMEMBER HOKAMA: Okay.

MS. THIEMAN: Okay. There originally were seven lots but because Hawaiians' remains were found on one of the lots, we've had to turn that into an open space. That would be Lot 5.

COUNCILMEMBER HOKAMA: Okay. Got it. Okay, so with that then you came in with the zero overlay concept at request for approval?

MS. THIEMAN: Right.

COUNCILMEMBER HOKAMA: Okay. So I see you just have now six house lots.

MS. THIEMAN: Correct.

COUNCILMEMBER HOKAMA: One for open space and one for a private driveway access.

MS. THIEMAN: Correct.

COUNCILMEMBER HOKAMA: Okay. Did the Department ever talk to you about changing the R-2 designation --

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MS. THIEMAN: Not to my knowledge.

COUNCILMEMBER HOKAMA: --that it would fit more, more closely to what you developing?

MS. THIEMAN: No.

COUNCILMEMBER HOKAMA: Okay. Is there any disadvantages for Lokahi Pacific, potential disadvantages that you are aware of that maybe we should be aware of?

MS. THIEMAN: To changing it? Or to leaving it like it is?

COUNCILMEMBER HOKAMA: You know for me who helps set standards, you know, then I see all these things that come in below standards, so I'm just curious why we have standards then, you know, why do we make 6,000 square foot for R-1, when we're going to grant 5,300 for R-2 exemptions, so I'm just curious on how you see it.

MS THIEMAN: Well, these are all discussions that took place long before I came on board. I apologize for not knowing some of that background. But this is the way...is my understanding it's the way it's been for like the three years we've been working on the project.

COUNCILMEMBER HOKAMA: Okay. Are all your lots sold and being developed for construction, Ms. Thieman?

MS. THIEMAN: We have two houses that are completed on lots 6 and 7. We have the infrastructure for the other four lots, 1, 2, 3, and 4, and construction is supposed to start on those April 1st.

COUNCILMEMBER HOKAMA: And what's the plans for that open space lot number --

MS. THIEMAN: Five.

COUNCILMEMBER HOKAMA: --that you mentioned about?

MS. THIEMAN: Lot No. 5, part of it has to be preserved because that's where the remains are buried. And so, we were waiting for the Historic Preservation folks to tell us what they wanted there. And so they...they've now given us the description and the rest of that will be open green space. We cannot build anything on that space...on that lot.

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COUNCILMEMBER HOKAMA: Okay. And that's going to be maintained by the remaining property owners?

MS. THIEMAN: The four properties right there that, that butt up against it.

COUNCILMEMBER HOKAMA: Right.

MS. THIEMAN: Actually not...well 3, 4, 6, and 7 will be maintaining that space.

COUNCILMEMBER HOKAMA: At their cost?

MS THIEMAN: At their cost, yeah.

COUNCILMEMBER HOKAMA: Okay, okay. Okay, Chair, thank you so much for letting Ms. Thieman respond.

CHAIR COCHRAN: Yeah.

COUNCILMEMBER HOKAMA: I appreciate it. Thank you so much.

CHAIR COCHRAN: Thank you for the questions, Mr. Hokama. Members, any further questions? Seeing none, thank you, Ms. Thieman for being here.

MS. THIEMAN: Thank you.

CHAIR COCHRAN: Members, further discussion on the motion? Okay. I'll call for the vote then. All those in favor, say "aye".

COUNCIL MEMBERS: Aye.

CHAIR COCHRAN: Any opposed? No opposed. Motion carries with six ayes and one excused, Mr. Couch. Thank you, Members.

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VOTE: **AYES:** **Chair Cochran, Vice-Chair Victorino, and Councilmembers Carroll, Hokama, Mateo and Pontanilla.**

NOES: **None.**

ABSTAIN: **None.**

ABSENT: **None.**

EXC.: **Councilmember Couch.**

MOTION CARRIED.

ACTION: **ADOPTION of resolution; and FILING of communication by C.R.**

ITEM NO. 42: ANNUAL REPORT ON NEW UTILITY POLES FOR CALENDAR YEAR 2011 (CC 12-43)

CHAIR COCHRAN: And last item, IM-42 is an Annual Report on New Utility Poles for Calendar Year 2011, and the Committee is in receipt of County Communication 12-43, from Director of Public Works, transmitting this annual report on new utility poles approved for installation by the Director of Public Works for calendar year 2011. Mr. Goode, please fill us in on this matter. Thank you.

MR. GOODE: Okay. Thank you, Madam Chair. Pursuant to County Code, an annual update of the additional power poles that we approved administratively under the ordinance, and then we give an annual report and the...there were four projects. And they each put in one pole and they're listed here. The basic...the way the ordinance works is that if someone is installing less than six poles or changing out a pole that would be within five feet of the height of the existing pole, then we can do it administratively. If they are putting in a taller pole than five feet or more than six, we come to this body for approval. So then last year we only had a handful of, of these, on Lanai, looks like one Upcountry, one in Central, and one in Kihei, so we spread them out.

CHAIR COCHRAN: Thank you, Director. Members, any need for questions, comments for Director? Seeing none. My question, Director Goode, is if you'll be submitting any additional reports related to utility poles of this sort, because that would determine whether I defer this to leave it open so you can submit, you know, continuous reports to this item or I can file it.

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MR. GOODE: Well, under the ordinance what...we would submit another one next year about the same timeframe, so it's up to you how you want to keep the Committee or not.

CHAIR COCHRAN: Okay. Yes, Mr. Hokama?

COUNCILMEMBER HOKAMA: We only get reports on poles that are placed on County easements and County highways. Is that...if the pole is placed, let's say on a State DLNR conservation land, we wouldn't be involved then, we wouldn't be, it wouldn't be part of a report or would it, Director?

MR. GOODE: Mr. Hokama, it would not because we wouldn't be issuing a permit for it.

COUNCILMEMBER HOKAMA: So only what goes through the County and your Department?

MR. GOODE: Correct. And this would also not include, you know, when one gets hit by a car, Maui Electric replaces the pole. So, when they are out doing replacement work, they do it under their franchise agreement.

COUNCILMEMBER HOKAMA: And so everybody's clear, the pole is owned by the utility or is it owned by the County?

MR. GOODE: It's owned by the utility.

COUNCILMEMBER HOKAMA: It's owned by the utility. Okay. Remember that, public service can be in ...(inaudible)...

VICE-CHAIR VICTORINO: Madam Chair?

CHAIR COCHRAN: Yes, Mr. Victorino?

VICE-CHAIR VICTORINO: I do have one quick question, you know, you said that as long as it's on State land or private land we don't get, we're not involved. My question is, I see replaced, not replacement, additional poles that are being placed along Honoapiilani Highway which I believe come...some of them come in to...it may be County property, I'm not sure. But this is from, and I give you the area, right here from the Maui Tropical Plantation, Maalaea way. Yeah, you see them doing that.

MR. GOODE: I saw them, yeah.

VICE-CHAIR VICTORINO: Yeah, you, you seen that and so, and I know that comes along most of that's private property but I'm not sure if there is any. But when

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they do things of that nature, they don't have to come to us even though they're not replacement, now, they are new poles being put in as additional. I guess they've, they've told me it's more for support purposes that in case of high winds, you know, they have more poles not so many...they, they're down spacing so that wind resistance is a lot better. Because they have learned in Oahu, especially Waianae and all that, sometimes when you have poles, poles spaced too far apart the wind, just that wind alone can crack the poles and once one falls, it's a domino effect. But anyhow so...they don't have to come to us to any okay or any approval process, right?

MR. GOODE: That's, that's my understanding because they're on, these are probably within the State right-of-way --

VICE-CHAIR VICTORINO: Okay.

MR. GOODE: --and we don't regulate that activity.

VICE CHAIR VICTORINO: Okay. I was just curious because I see them coming and especially along that part of the highway I see some new ones, also seen some out on Haiku side. So I'm, I just was kind of curious how this all works. Thank you. Thank you, thank you, Madam Chair.

CHAIR COCHRAN: Okay, thank you. Mr. Jensen, did you have. . .

MR. JENSEN (spoke away from the microphone): No.

CHAIR COCHRAN: Oh, okay. Members, any further comments or discussion? Seeing none. My recommendation then is to file this County Communication 12-43.

COUNCILMEMBER HOKAMA: So move.

COUNCILMEMBER PONTANILLA: Second.

CHAIR COCHRAN: It's been moved by Mr. Hokama, seconded by Mr. Pontanilla. Members, any discussion?

VICE-CHAIR VICTORINO: Madam Chair?

CHARI COCHRAN: Yes.

VICE-CHAIR VICTORINO: You know, and filing is not a problem because every year they can bring it back and they're gonna... 'cause this is an annual report. You know, so I think in the past, the reason it just stayed there was for the fact that, you know, that was a place to put it every year, and then if we want it to come out

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then fine, we brought it out, if not, because as a former Infrastructure Chair or Co-Chair that was one of the rationale we had. So, but it doesn't make a difference in my mind one way or the other because they can bring it out every year and it has to, it's an annual report so it's something that will come out every year. So it, it's just one of those, you know, half a dozen this way and half a dozen that way. It don't make no big a difference. Thank you, Chair.

CHAIR COCHRAN: Okay. Thank you. Any...so I will call for the vote then. All those in favor, say "aye".

COUNCIL MEMBERS: Aye.

CHAIR COCHRAN: Any opposed? Seeing none, motion passes with six ayes, one excused, and zero noes.

VOTE: AYES: Chair Cochran, Vice-Chair Victorino, and Councilmembers Carroll, Hokama, Mateo and Pontanilla.

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmember Couch.

MOTION CARRIED.

ACTION: FILING of communication by C.R.

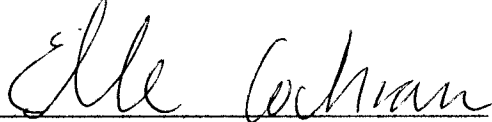
CHAIR COCHRAN: Thank you, Members. It looks like that was pretty quick and to the point, and at that point I shall adjourn the meeting. . . .(gavel). . .

ADJOURN: 9:23 a.m.

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APPROVED:



ELLE COCHRAN, Chair
Infrastructure Management Committee

im:min:120227

Transcribed by: Michelle Balala

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CERTIFICATE

I, Michelle Balala, hereby certify that the foregoing represents to the best of my ability, a true and correct transcript of the proceedings. I further certify that I am not in any way concerned with the cause.

DATED the 15th day of March, 2012, in Kahului, Hawaii

Michelle Balala

Michelle Balala