

**INFRASTRUCTURE AND ENVIRONMENTAL  
MANAGEMENT COMMITTEE**

Council of the County of Maui

**MINUTES**

**November 19, 2013**

**Council Chamber, 8<sup>th</sup> floor**

**CONVENE:** 1:32 p.m.

**PRESENT: VOTING MEMBERS:**

Councilmember Elle Cochran, Chair  
Councilmember Stacy Crivello, Vice-Chair (in 1:33 p.m., out 2:52 p.m., in 2:53 p.m.)  
Councilmember Donald G. Couch, Jr.  
Councilmember Don S. Guzman  
Councilmember G. Riki Hokama  
Councilmember Mike White

**EXCUSED: VOTING MEMBERS:**

Councilmember Robert Carroll

**STAFF:**

Scott Jensen, Legislative Analyst  
Yvette Bouthillier, Committee Secretary

Ella Alcon, Council Aide, Molokai Council Office (via telephone conference bridge)  
Denise Fernandez, Council Aide, Lanai Council Office (via telephone conference bridge)  
Dawn Lono, Council Aide, Hana Council Office (via telephone conference bridge)

**ADMIN.:**

Kyle K. Ginoza, Director, Department of Environmental Management  
David Goode, Director, Department of Public Works (IEM-24)  
Michael J. Hopper, Deputy Corporation Counsel, Department of the Corporation Counsel  
(IEM-24)  
Richelle Mary Thomson, Deputy Corporation Counsel, Department of the Corporation  
Counsel

Seated in the gallery:

Edward S. Kushi, First Deputy C

**OTHERS:**

Dave Gleason, Partner, Maui Lani Partners (IEM-15, IEM-24, IEM-26, IEM-41)  
Steve Miller, Manager Commercial Development, Maui Lani Partners (IEM-15, IEM-24,  
IEM-26, IEM-41)  
Daren Suzuki, Development Manager, Maui Lani Partners (IEM-15, IEM-24, IEM-26, IEM-41)  
Darren Unemori, PE, Principal, Warren S. Unemori Engineering Inc. (IEM-15, IEM-24,  
IEM-26, IEM-41)  
Uncle Leslie Kuloloio, Cultural Consultant to Maui Lani Partners (IEM-15, IEM-24, IEM-26,  
IEM-41)

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**PRESS:** Akaku: Maui Community Television, Inc.

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CHAIR COCHRAN: . . .(gavel). . . Will the meeting of the Infrastructure and Environmental Management Committee please come to order. Aloha, I am Councilmember Elle Cochran, the Chair of this committee. It is November 19, 2013 about 1:32 in the afternoon. Thank you everyone for being here. And before we begin please silence or turn off any cellphones or noisemaking devices, please. Thank you very much. And let me introduce the Members that are here with us. Vice-Chair Crivello will be joining us shortly and Mr. Carroll is excused. So I have Don Couch.

COUNCILMEMBER COUCH: Good afternoon, Chair.

CHAIR COCHRAN: Aloha. And Mr. Riki Hokama.

COUNCILMEMBER HOKAMA: Chair.

CHAIR COCHRAN: And Mike White.

COUNCILMEMBER WHITE: Aloha, Chair.

CHAIR COCHRAN: And Mr. Don Guzman.

COUNCILMEMBER GUZMAN: Aloha, Chair.

CHAIR COCHRAN: Aloha. And from the Administration, Director of Public Works, David Goode.

MR. GOODE: Good afternoon.

CHAIR COCHRAN: And from Corporation Counsel, Michael Hopper.

MR. HOPPER: Good afternoon, Chair.

CHAIR COCHRAN: Aloha, and I have a slew of resource panels from Maui Lani Partners here in the gallery, also Unemori Engineering too, whom I guess I shall be introducing when they come down to the floor. And I'll just mention it looks like Dave Gleason, Partner with Maui Lani Partners. Steve Miller, Manager of Commercial Development with Maui Lani Partners. Daren Suzuki, Development Manager, Maui Lani Partners, and Darren Unemori, PE, Principal of Warren S. Unemori Engineering Incorporated. From my Committee Staff, I have Secretary Yvette Bouthillier, and Legislative Analyst, Scott Jensen. And aloha, Ms. Crivello has joined us. Hi.

VICE-CHAIR CRIVELLO: Aloha, Chair.

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CHAIR COCHRAN: Aloha, thank you for being here. So Members, in a moment we shall be accepting public testimony. Anyone willing to testify, please sign up at the table at the front door here at the eighth floor lobby. And anyone at our remote testimony sites, please sign up at your perspective areas with your representative there. The testimony will be limited to the items on the agenda today. And pursuant to Council Rules, each testifier is allowed three minutes to testify with one minute to conclude if requested. And when testifying, please state your name and any organization or group you may be representing. We do have connections to District Offices so residents from those areas will be, can able to testify. We shall be rotating through the different sites. At this point let me check in with the Hana Office, Ms. Lono, are you there?

MS. LONO: Good afternoon, Chair. This is Dawn Lono at the Hana Office and I have no one waiting to testify at this time.

CHAIR COCHRAN: Thank you, Ms. Lono. On Lanai, Ms. Fernandez, are you there?

MS. FERNANDEZ: Good afternoon, Chair. This is Denise Fernandez on Lanai and there is no one waiting to testify.

CHAIR COCHRAN: Thank you. And on Molokai, Ms. Alcon.

MS. ALCON: Good afternoon, Chair. This is Ella Alcon on Molokai and there is no one here waiting to testify.

CHAIR COCHRAN: Thank you, ladies. We'll be checking back with you just in case someone does show up for some testimony and at this point Mr., Mrs. . . . Staff, do we have anybody signed up in the Chambers? No. So Members, we have no one signed up in the Chambers to testify and I will go back to our District offices. Hana, Ms. Lono anyone show up?

MS. LONO: The Hana office has no one waiting to testify.

CHAIR COCHRAN: Thank you. And also Lanai, anyone?

MS. FERNANDEZ: There is no one waiting to testify on Lanai.

CHAIR COCHRAN: And Molokai. Anyone showed up for testimony?

MS. ALCON: There is no one on Molokai waiting to testify.

CHAIR COCHRAN: Thank you, ladies. I shall... Members, without...anyone in the gallery? I'll give one last callout there to the public if anyone would like to come. Seeing no one approaching, Members, without objections, I will now close the floor for public testimony.

COUNCIL MEMBERS: No objections.

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CHAIR COCHRAN: Thank you, Members, and thank you, ladies, for being there. Okay, moving on we are going to, to our five items that I have listed on the agenda today. And the first one relates to the proposed dedication of roadway lots in Maui Lani. The remaining four items involve the proposed dedication of sewer line easements in a variety of locations. If there are no objections, I would like to make a minor change to the order of the items on the agenda taking up Item IEM-41 before IEM-28 in order to discuss all Maui Lani related items consecutively. Any objections?

COUNCIL MEMBERS: No objections.

CHAIR COCHRAN: Thank you. Thank you very much. Oh, sorry, Mr. Hopper? Oh, okay, I guess we're going to...Ms. Thompson, you'll be coming to the floor instead and Mr. Ginoza then? Is that right? Sorry. A brief recess. . . .(gavel) . . .

RECESS: 1:38 p.m.  
RECONVENE: 1:40 p.m.

CHAIR COCHRAN: . . .(gavel) . . . Thank you for the brief recess, Members. Infrastructure and Environmental Management will now reconvene. So we are on IEM-24, and this is a resolution accepting dedication of road widening [*sic*] lots for both Maui Lani (Large-Lot) Subdivision No. 7 and Maui Lani VMX (C-R) Subdivision. This is a proposed resolution accepting the dedication of a roadway lot in the Maui Lani (Large-Lot) Subdivision 7, pursuant to Section 3.44.015, Maui County Code. And the purpose of the proposed resolution is to accept from Maui Lani Community Association a Roadway Lot 11-D-1-A-1-F-1, consisting of 13.594 acres, located within the Maui Lani (Large-Lot) Subdivision No. 7, identified as TMK: (2) 3-8-007:155, for public purposes. And a second proposed resolution entitled Accepting Dedication of Roadway Lots in the Maui Lani VMX (C-R) Subdivision, Pursuant to Section 3.44.015, Maui County Code. The purpose of the proposed resolution is to accept from Maui Lani Village Center, Inc., Roadway Lots 77 (1.256 acres), 78 (1.448 acres), 79 (39,192 square feet), 80 (3.501 acres), and 81 (14,747 square feet), located within the Maui Lani VMX (C-R) Subdivision, identified as TMK: (2) 3-8-097:077-081, for public purposes. And at this point, I shall turn the floor over to Director of Public Works for some opening comments and overview of the items just described. Mr. Goode.

**ITEM NO. 24: DEDICATION OF ROADWAY LOTS – MAUI LANI  
(LARGE-LOT) SUBDIVISION NO. 7, AND MAUI LANI VMX  
(C-R) SUBDIVISION (KAHULUI) (CC 13-301)**

MR. GOODE: Thank you, Chair for that preamble, getting everything on the record there, it's fitting that it's exhaustive because it's been an exhaustive process not only for us but I think for the applicant as well, and I think I want to start off by thanking Maui Lani Partners and their local team here in working through the various issues related to getting these road lots ready for

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dedication. And in any road lot dedication, especially those that have been open to the public for a while and being used, there was certain wear and tear that had happened that certain things need to be met so punch lists were accomplished and taken care of so that it meets our standards. But also of importance is that the deeds, which were extensive to review, Mr. Hopper can get in to that more if he'd like, but they are rather complicated, there are certain easements on it and they've worked with Maui Lani Partners to modify certain things so that it meets the standards of Corporation Counsel and of course ours and hopefully yours as well. So I want to thank them for their perseverance in getting it to this stage. The road lots that are, the one large lot, larger road lot that you're looking at is, to get the lay of the land, it's from Waiale Road going Makai at Kuikahi extension to where it hits Maui Lani Parkway and makes the right hand turn, continues on to the intersection of Kamehameha and Maui Lani. That's the road lot that's the subject of this resolution today. The second resolution is the VMX lots, all the road lots within the VMX project, and so it's important I think that they're all considered at the same time so we don't not have access to say the VMX lot. But anyway, we've gone through everything with Maui Lani for over, almost a couple years, and we're at a point now where we can say that they're ready and for your acceptance. I'd also like to note for the record that we do have an overall roadway master plan with Maui Lani, that's almost ten years old now, and so this is in conformance with that master plan. Also, when they got the VMX zoning from this Council, they had certain roadway conditions; it's consistent with that as well. And part of that roadway master agreement is that is when needed the intersection with Kamehameha and Maui Lani will be signalized or a roundabout. So, I see Mr. Couch perked up. So we've been working with them, it has been triggered to have something there besides a 4-way stop. We've all been through it; we know it doesn't work at certain times of the day. And so Maui Lani has already embarked on a design of a signal after they did the roundabout analysis which showed that because of the eventual four-laning of both Kamehameha and Maui Lani, it was not practical to put in the roundabout without, for one, taking out a bunch of homes. So again, we're working with them for that signalization, part of that project will include us, the County, needing to widen some lanes which is our kuleana under the agreement. But I can't commit our use of County funds until it becomes a County road. So what's before you today is the first leg of those four legs of that intersection to accept it as part of the County property. We'll continue to plug away on design, but at some point when we get close to actually constructing it, we're probably going to need to commit some County funds should you approve that in Budget Committee so we can get to the signalization. So this is an important first step in getting that intersection cleaned up for the betterment of everyone that goes through there. I think that's the basic background I'd like to provide at this time. I'd be happy to answer any questions the Members may have.

**CHAIR COCHRAN:** Thank you, Director Goode. Members, the floor is now open. Mr. Hokama.

**COUNCILMEMBER HOKAMA:** A couple of questions, so when you talked about the County need to get acquisition, ownership, control so that eventually when we do the four lanes, we're talking about the Kamehameha Avenue that is like from Kane Street all the way through and then in to and through Maui Lani, the four-lane? Because that's my understanding of the old part of Kahului town that that was geared for a four-lane highway and that's why it's that wide.

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MR. GOODE: Yeah, Kamehameha has the right-of-way width to be four lanes almost its entire length. But until there's the demand is there, obviously getting in to Puunene and those areas, it is four lanes, right now there's not enough traffic to require that. It's potentially, if you look at Waiale Development which is next to Maui Lani, Kamehameha is like the main road going in there. And so it's possible that those additional units may trigger some four-laning. But in any case, at the intersection now, we need to widen the intersection to accommodate an extra left turn and extra right-turn lane, that's where we would come in.

COUNCILMEMBER HOKAMA: Okay, so from taking your comments, my understanding is should we support your request to us today and move it to Council and Council agrees, everything is up to standards?

MR. GOODE: Correct.

COUNCILMEMBER HOKAMA: Okay. That pleases me a lot, Director, so that's good. Just for Corporation Counsel, it's kind of interesting, every document that the president signed for the association or the Village Center is undated at time of notarization and that's what the notary states, and you know for me it's kind of interesting, people willing to sign documents with blanks. Is this one, should this be a concern for the Committee that every copy of deed is undated at time of notarization?

MR. HOPPER: Thank you, Mr. Chair. Well, that's something that is permitted by the notary laws of the State of Hawaii, if the document isn't dated, if for example, other parties need to sign and in this case other bodies such as the Council need to take action before the deed can actually be accepted. So that does happen from time to time, particularly if other, there's other parties that are required to sign or further approval. So I have seen that before, I don't think it's a major concern in my opinion.

COUNCILMEMBER HOKAMA: Okay, so when you say, others to sign, who are the others besides eventually the County signing off?

MR. HOPPER: Well in this case, it would be me because the Deputy Corporation Counsel signs after Maui Lani Village Center would sign in this case. That's our normal form deed. In other cases it may be perhaps the Mayor, in a document, would have to sign or maybe there's other owners that would need to sign as well, and so when the notary would notarize the document, it might not be signed then and made effective only after the actual acceptance by the Council and the acceptance and recordation of the deed. But the County can't accept, really accept the deed until the Council, and unless the Council approves the acquisition.

COUNCILMEMBER HOKAMA: Okay, thank you for that explanation. I myself get nervous with blanks in executed documents. So I appreciate your response. Thank you, Chair.

CHAIR COCHRAN: Thank you, Mr. Hokama. Yes, Director Goode.

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MR. GOODE: If I may, I'd like to, Mr. Hokama triggered something I forgot to add was that the roadway lots in this case, the landscaping, and the irrigation will be handled by the Maui Lani Association. So it's much like the agreement we have with Wailea to maintain those roads, and so that's part of the package before you and that's what you're referencing in that document. So that's a big plus for us to not have to maintain it but also it's going to be maintained to a higher standard.

COUNCILMEMBER HOKAMA: Okay, thank you very much, Director.

CHAIR COCHRAN: Thank you, Director. Mr. Guzman.

COUNCILMEMBER GUZMAN: Thank you, Chair. Yeah, I'm very excited about this whole dedication. Every morning I travel on Kamehameha and I have to face that intersection to drop off my boys at Pomaikai, and we sit there for 20 minutes plus to get through that intersection. And just a follow-up on your statement regarding the roundabout. Is there, you stated there's the reason why they're not, the developer isn't considering it is because of the lack of area space or can you go in to further explanation as to why a roundabout would not be applicable there?

MR. GOODE: Sure, Mr. Guzman, we did have the Maui Lani Partners, I had them perform a roundabout analysis first before we got in to any signalization, so that's usually the first step we do is to see what challenges and opportunities may be with a roundabout. And while it may work for today's scenario, given that it likely could go to four lanes both roads, if you have essentially four lanes coming in to a roundabout, you can imagine all four coming in at one time, it could be really a mess. So one way that's handled is to have the right-hand lane of every intersection just become just a through right-hand turn, and so you can imagine every right-hand lane coming in to the roundabout would just peel off and then the left lane would go in to the roundabout. Well, in order to do that you need kind of what we have in Kihei, but bigger, because now you've got to have these separate rights and accommodate for the pedestrians who go through and all that. So it can be done, and it has been done, but it would necessitate taking out a few of the homes that are existing at that intersection right where the, is it Na Hoku or the, I can't remember what the name of the subdivision that's there. So for those considerations, long term, we said that that's not feasible at this location and have proceeded with a signal design.

COUNCILMEMBER GUZMAN: That's disappointing because I really want a roundabout in Kahului somehow. I'm kind of jealous in regards to Mr. Couch over there. But my second question, Chair.

CHAIR COCHRAN: Yes, go ahead.

COUNCILMEMBER GUZMAN: In reviewing the deeds and I see something that kind of glares out at me in terms of I understand there's subdivision agreements, various types of subdivision agreements, I understand that hold harmless agreements, but there are two specific agreements that I need to be informed about or be educated in regards to and that is the deferral of subdivision requirements agreement. That's standing out in the inconsistencies of the other agreements, because I don't understand what that means, deferral of the requirements. I don't

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have a copy of that so I was wondering if you could explain what that agreement is or maybe Corporation Counsel. It would be on No. 16 on Exhibit A throughout on all the other Exhibit As in regards to the deeds.

MR. HOPPER: It says deferral of the requirements agreement.

COUNCILMEMBER GUZMAN: Number 16 Deferral of Subdivision Requirements Agreement. What's being deferred?

MR. HOPPER: Thank you, Mr. Chair, we can get a copy of that agreement if we need to. We don't have it with me. In conjunction with these deeds, we took a look at all of these and the vast majority of these are County agreements, meaning the developer made agreements with the County and they were recorded on the entire master parcel. So they would apply not only to what's now being dedicated as roadway lots, but also to all of the other homes throughout the development and all the other property throughout the development. On this particular agreement, I don't want to, we did review these but I don't want to speak without having another look at it if I want to be definite, but this is a type of, there are several types of subdivision deferral agreements that the Code allows for. Deferral of improvements and assessment of the improvement costs later on if the developer does something that would require them to go on and actually do the improvements, meaning some of them are large-lot agreements and although this doesn't say large-lot, that may be related to it and that there may be other reasons why someone would have to defer an agreement. But I have, I think we can generate copies of these agreements if you want to see them. But this was another one where because the County of Maui is the party that is requiring the agreement, accepting the lot subject to that agreement was not a problem for us, because it's the County owing itself an obligation which is typically those would merge and extinguish at that point. So we didn't have a problem accepting subject to that agreement, but if you want more detail on that agreement, I can get a copy of it, but we did not include every single one of these agreements in your agenda packet because it would have been very voluminous.

COUNCILMEMBER GUZMAN: No, no, I completely understand, but the reason why I asked that is because it's significantly different than the other agreements, at least in my mind. And when you stated previously, you mentioned cost assessments being deferred. That is a concern to me. What kind of cost assessment is being deferred? Things, I mean those are questions that I have in my mind because is it something that the developer should've done and now we're taking it over and later on we absorb the cost?

MR. HOPPER: No, Mr. Chair. I mean the County wouldn't owe itself the obligation to pay itself for the improvements or to do improvements and be enforced on by itself. These are agreements that encumber the entire property and wouldn't be assessed against a roadway lot in the property if there was a situation where, you know, the developer would need to continue on with development and would need to do certain improvements. It would have to do those improvements before it could get subsequent subdivision approvals to further develop the property. It wouldn't be something the County would be assessed, because the County would only own the roadway lot and not the rest of the land that would be developed. I mean, the

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purpose of these agreements are typically if you're deferring the improvements to record it, and then if that property is further developed, necessitating something that the agreement allowed deferral of, then the property that's being developed is required to put in those improvements. And it's not a case of the County having to do that improvement. Having said that, if the Council is not comfortable accepting property that's subject to these agreements, we could request releases from all of the agreements prior to accepting dedication. We would need to process them all through the departments though and have the appropriate parties sign them. So that is a possibility, but in my opinion, not a necessity. But if we need to get a copy of this agreement, I know that we can get a copy of it and see specifically what it says if we need to.

**COUNCILMEMBER GUZMAN:** Okay, just by the title itself, it concerns me because it's something that...probably a deferral, that term itself means that they're obligated to do something and now we are waiving that in a sense, or absorbing it, we're forgiving it, we're satisfying that agreement, and I'm just wondering if whatever is in that agreement has been satisfied or is it such a large cumbersome condition that we cannot absorb it later on. I don't know. I'm just going by the title, I have no idea what that document it says within it. But the deferral language causes red flags for me. But that's it. Just an inquiry, Chair. Thank you.

**CHAIR COCHRAN:** Thank you, Mr. Guzman. Yes, Mr. White, or did you have something to chime in, a comment?

**MR. GOODE:** Again, I mean I echo Mr. Hopper in that I don't have the agreement handy but almost in every case that there's some type of deferral whether it's large-lot, or we used to have the three-lots-or-less agreements, in especially 1995, you can imagine this was one big huge property so it went on everything. So that means the adjoining parcels, the developable parcels, still have this agreement on it. So that means if there's some responsibility for them to do improvements later, it's still there. But the road lot itself, you're not, we shouldn't be binding ourselves to do these improvements, and I know one of the reasons it took a while to get here is because you can see with all these encumbrances on it, they went, Corp. Counsel went through this with a fine-toothed comb to make sure that we weren't binding ourselves. But certainly, we can produce a document if needed. But I agree, judging by the title, it's different than the other ones.

**COUNCILMEMBER GUZMAN:** Right.

**MR. GOODE:** It doesn't say large-lot, it is a little bit different. In my experience, every time there's deferral of subdivision requirements, which is usually curb gutter sidewalk and all that stuff, it's still running on all the other adjoining properties.

**COUNCILMEMBER GUZMAN:** So it's running with the land, okay.

**MR. GOODE:** Yeah and that, in 1995 that was a big parcel.

**MR. HOPPER:** Yeah, and keeping in mind the large-lot agreements are the form of deferral agreement as well, it just says that as long as the lots are, qualify as large lots, they don't have to do

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improvements. But if they ever get further subdivided or anything that's when they're triggered. So that's the form of, that's in the form of a deferral agreement as well. And so normally with these agreements, it's recorded on the master parcel, and I believe if they requested a release only as to the roadway lot because the roadway lot wouldn't be property that's subject to further development or that agreement would apply. I don't see any reason why the County wouldn't release that as to the roadway lot only as long as the rest of the developable property is subject to the agreement. But again, if there's any of these agreements that you want to look at and that you are not comfortable accepting the roadway lot subject to, we can get, in most cases we can request a release and have it released before dedication if we need to do that. And we have done that with other agreements on the properties that I may have had an issue with, or that there's other roadways that we've looked at in the past and wanted adjustments to, and there were things on here that were originally on the title report that either merged or became released automatically upon dedication, that have been since released from the title report. So that's not unprecedented, but again I don't have a copy of that agreement. I'm sure we can get one if we need to and review it. I just don't happen to have one right now.

COUNCILMEMBER GUZMAN: Thank you, Chair.

CHAIR COCHRAN: Okay. Mr. White, you had your hand up.

COUNCILMEMBER WHITE: Thank you, Chair. I think the last exchange between the two gentlemen explained that, well and I was just going to suggest that the owner's representatives could come down and explain but I'm satisfied at this point.

CHAIR COCHRAN: Okay. Yeah, I just wanted to say that we do have the Maui Lani Partners and people in the gallery at this point. Members, if you had some questions and comments that you needed from those parties are here too. Mr. Hokama.

COUNCILMEMBER HOKAMA: I am sure that partners' representatives know who of...I was just going to ask Mr. Hopper is this also one of the conditions of zoning that gets complied with? Have you folks checked the conditions of zoning for this project and is this part of the compliance of conditions requirements? Are we getting either timing or the subject of deferral of certain things, is that all within the zoning conditions?

MR. HOPPER: Thank you, Mr. Chair. The actual dedication of the roadways, I don't believe there's anything in the conditions. What there were in some of the conditions and over various approvals, because this property has gone through several sets of approvals, there were Land Use Commission and zoning conditions regarding some of the traffic improvements, and that's part of the traffic light issue that we worked with, as well as some others. I don't recall seeing one that required dedication of the roadway within a certain period of time, I'm thinking, I could go back over it but not something that I can recall. But there were various traffic improvements required to be done at... and those were done. Some of them were required at a certain timeframe. Some of them were required, like the traffic light, to be monitored. And if there was in the monitoring there was a trigger that would require the improvements to be done, that's something that's happening now and as discussed with the Director, they are in the process of

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going forward with the traffic signalization of that roadway. But there's a lot of things. There's a master roadway agreement from 2003, there's I think two separate zoning approvals, and then there's a Land Use Commission approval, and we looked through them but primarily looking at the traffic conditions for those.

COUNCILMEMBER HOKAMA: Okay. And so, Chair, I'm happy to assist in moving this forward to Council, but I'd like to ask if you or, and your staff would verify if this is part of compliance requirements of zoning and whatnot that we at least be knowledgeable of those facts.

CHAIR COCHRAN: Sure.

COUNCILMEMBER HOKAMA: Because I have, I'm happy to commend property owners, developers, partners, who comply with conditions of approval, and I think that should at least be noted that they fulfilled what they've promised to perform.

CHAIR COCHRAN: Yes, I agree, Mr. Hokama. So Staff, if you can take note of what Mr. Hokama just said. Thank you very much.

COUNCILMEMBER HOKAMA: Thank you, Chair.

CHAIR COCHRAN: You're welcome. And Members, any, yes, Mr. Guzman.

COUNCILMEMBER GUZMAN: Yeah, Chair, I also would support moving this on to Council, but can I also request a copy of the deferral of subdivision requirements agreement. I've never seen one of those before. I also would like to see what it entails. Thank you.

CHAIR COCHRAN: Okay, sure. I'm sure we can get that. Staff and Corporation Counsel. Any further discussion needed here, Members? Or departments? Any more comments, Director? No?

MR. GOODE: No.

CHAIR COCHRAN: Mr. Hopper.

MR. HOPPER: No.

CHAIR COCHRAN: No? Okay. Well, then I shall make my recommendation. So, I'll entertain a motion to recommend adoption of the proposed resolutions and filing of County communication.

VICE-CHAIR CRIVELLO: So move, Chair.

COUNCILMEMBER COUCH: Second.

CHAIR COCHRAN: Thank you. It's been moved by Member Crivello, seconded by Mr. Couch. Members, any further discussion? Seeing none, all those in favor say aye.

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COUNCIL MEMBERS: Aye.

CHAIR COCHRAN: Any opposed, say no? Seeing none opposed, I have six ayes, one excused, is that right? Mr. Carroll. And motion passes.

<b>VOTE:</b>	<b>AYES:</b>	<b>Chair Cochran, Vice-Chair Crivello, and Councilmembers Couch, Guzman, Hokama, and White.</b>
	<b>NOES:</b>	<b>None.</b>
	<b>ABSTAIN:</b>	<b>None.</b>
	<b>ABSENT:</b>	<b>None.</b>
	<b>EXC.:</b>	<b>Councilmember Carroll.</b>

**MOTION CARRIED.**

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

CHAIR COCHRAN: Okay, moving on to item number two. Thank you, Director.

MR. GOODE: Thank you.

CHAIR COCHRAN: Thank you, Mr. Hopper. IEM-15, this is a resolution accepting dedication of sewer line easement for the Maui Lani Phase 6 Subdivision, also known as Parkways at Maui Lani. And this one in particular is a Communication 09-178 from Director of Environmental Management. Hello, Mr. Ginoza, he's just joining us.

MR. GINOZA: Good afternoon.

CHAIR COCHRAN: Good afternoon. It's a proposed resolution to accept the dedication from Maui Lani Phase 6, LLC of three sewer line easements over and across a portion of Lot 11-D-1-A-1-E-1 of Maui Lani (Large Lot) Subdivision No. 7, in Wailuku, Maui, Hawaii, identified as TMK: (2) 3-8-007:134, 154, and 155 to connect to County's existing 12-inch sewer line along Kamehameha Avenue. This correspondence was dated November 8, 2013, from Department of Corporation Counsel transmitting a revised proposed resolution entitled Accepting Dedication of Sewerline Easement for Maui Lani Phase 6 Subdivision (Also Known as the Parkways at Maui Lani), Pursuant to Section 3.44.015, Maui County Code. And this revised proposed resolution includes nonsubstantive revisions to the document. So, I have here

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joining us is Director Kyle Ginoza, of Environmental Management and also Richelle Thomson, Corporation Counsel. I will now turn the floor over to Director Ginoza. Mr. Ginoza.

**ITEM NO. 15: DEDICATION OF SEWERLINE EASEMENTS FOR MAUI  
LANI PHASE 6 SUBDIVISION (ALSO KNOWN AS  
PARKWAYS AT MAUI LANI) (CC 09-178)**

MR. GINOZA: Thank you. This item is to accept the sewerline easements for the Parkway Subdivision. It's best exhibited or shown on Pages 37, 38, 39, and 40. Forty shows the entire subdivision and pages 37 through 39 shows the three easements that we're looking to accept. It is a, they say a gravity line system that was constructed to the satisfaction of the Department.

CHAIR COCHRAN: Okay, is that good for your opening comments?

MR. GINOZA: Yes.

CHAIR COCHRAN: Alrighty, thank you, Director. And Members, do we have some questions or comments for Director Ginoza or our Corporation Counsel?

COUNCILMEMBER HOKAMA: I have a question please.

CHAIR COCHRAN: Yes, Mr. Hokama.

COUNCILMEMBER HOKAMA: Forgive me for forgetting, I guess through the decades you tend to forget certain things. The easement itself is the whole roadway? Cause if, you know, let's say I knew nothing, I looked at Exhibit B-1, I would assume everything that's black or darkened in the Subdivision Phase 6 is the easement. So, and I'm assuming that's the whole road, so is the whole road the easement? Is that an incorrect assumption from my perspective as I'm explaining it?

MR. GINOZA: I'm actually not sure. The developer's representative, engineer is here.

COUNCILMEMBER HOKAMA: Well, I'm happy to hear --

MR. GINOZA: Oh, okay.

COUNCILMEMBER HOKAMA: --you know someone from them, but what does our attorney say?

CHAIR COCHRAN: Does Maui Lani have a representative?

COUNCILMEMBER HOKAMA: What is our attorney's understanding of the easement?

CHAIR COCHRAN: Is it Mr. Unemori?

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COUNCILMEMBER HOKAMA: Can I have Ms. Thomson respond as what is Corporation Counsel's then understanding of the easement?

CHAIR COCHRAN: Okay.

MS. THOMSON: I did take a look, you know obviously at the legal descriptions and you know, verified that they match with the map, but the actual width of the easement I think, we should let the engineer explain.

CHAIR COCHRAN: Okay.

COUNCILMEMBER HOKAMA: Okay.

CHAIR COCHRAN: Thank you for being here. Please identify yourself.

COUNCILMEMBER HOKAMA: That was a good punt.

MR. UNEMORI: Certainly. Good afternoon, madam Chair, and Members of the Committee. My name is Darren Unemori, I'm with Warren Unemori Engineering and I'm a Civil Engineer and Consultant to Maui Lani. In answer your question about the width of the easement, yes, the width of the easement coincides entirely with the roadway lots. Because in addition to the sewerline running down the middle of the road, the wastewater folks need to maintain the sewer laterals that go out to the house lots on the other side as well, so the simple practical way to do it was give them an easement over the entire roadway lot.

COUNCILMEMBER HOKAMA: Okay, so Mr. Unemori, would this, from our perspective, be more of a utility easement since I'm assuming there's also water transmission lines?

MR. UNEMORI: That's correct. Because there's a water distribution system and it is in fact a utility easement to access and maintain the sewer line that is under the road.

COUNCILMEMBER HOKAMA: And it's also used for underground wiring purposes, whether for cable, other digital needs, or electrical needs. Is that also part of that same, you know excuse me for just saying it as a utility easement.

MR. UNEMORI: Yes. No, that's essentially correct. Each public utility and the Department of Water Supply receives an easement covering the same area.

COUNCILMEMBER HOKAMA: Okay, so... did we accept this as a roadway already from your understanding Mr. Unemori?

MR. UNEMORI: No, you did not accept it as a roadway.

COUNCILMEMBER HOKAMA: So...

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MR. GINOZA: It's a private road.

COUNCILMEMBER HOKAMA: And it's going to stay private. We're just going to accept the utility easement per se.

MS. THOMSON: Yes, correct.

COUNCILMEMBER HOKAMA: Okay, so if we, and when we do dig it up, we'll be digging up a private road.

MS. THOMSON: Correct.

COUNCILMEMBER HOKAMA: Okay.

MS. THOMSON: Chair, may I say something?

COUNCILMEMBER HOKAMA: Sure, yes go head, Ms. Thomson.

MS. THOMSON: Something that we need to deal with either, we have a couple of ways of dealing with this. We're also going to need to accept the improvements, the actual sewer lines from Maui Lani. So we can accept those by way of it's going to be a donation and we'll accept that. Or a bill of sale for, you know a nominal consideration. We can either make, you know take action on these easements today and come back at a later date to accept the improvements, the gift of the improvements. Or we could defer these items and take up both the easement, the land right, and the dedication of the infrastructure at a later date.

COUNCILMEMBER HOKAMA: I don't have a problem, you know, if the Chair would like us to move it forward, but what's the advantage to do it this way as we're moving forward with today's, the way we appear to be moving today, taking the easement first, and then potentially making a decision later to accept the construction, built-out improvements?

CHAIR COCHRAN: Go ahead, Ms. Thomson.

MS. THOMSON: This matter just really came to our attention just prior to the meeting that the actual improvements were not specifically listed as being donated under the same agreement. So, normally you would do it together.

COUNCILMEMBER HOKAMA: Okay. So Mr. Unemori, your client is happy to come back again for the built-out improvements later? I'm just asking.

MR. UNEMORI: Well, let me ask my client.

MR. GLEASON: We prefer to get it done in one fell swoop.

COUNCILMEMBER HOKAMA: I understand, Mr. Gleason.

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CHAIR COCHRAN: Sir, wait hang on, hang on. Sir. If you don't mind, can you come down to the podium and answer the question or...

COUNCILMEMBER HOKAMA: If Mr. Gleason is willing to, Chair, I am happy to have him share some thoughts with us if he desires, or Mr. Unemori can continue to represent the client.

CHAIR COCHRAN: Right, Mr. Hokama, and Mr. Unemori, and the clients as Corporation Counsel just stated what's been said is new to this body. It's new to this Chair, and so, if you folks are comfortable in addressing and explaining exactly what this is that we're talking about at this moment, it would be nice to have more clarity and have more light shed on the situation and what's being talked about at this point, if you're free to do so, thank you.

MR. GLEASON: I'm Dave Gleason, with Maui Lani Partners, good afternoon. We would prefer again to move this forward as quickly as we can which I'm sure you would like to do as well with the proper information in front of you. So if we defer the actual...move forward with the easement and then come back at a separate time, if that's probably the easiest way to take care of this, we'd be happy to do that as well. That's what's in front of you today as I understand it, just the easement, is that correct? So that would be fine, we can come back at another time and go through the ownership and actually we would be dedicating the water lines at that time as well. So, we still have that to do.

COUNCILMEMBER HOKAMA: Okay, so may I ask a question please?

CHAIR COCHRAN: Yes, please, Mr. Hokama.

COUNCILMEMBER HOKAMA: So Mr. Gleason, thank you for that response. I understand your desire to have this all completed in a timely manner. So I guess in your discussions with your engineer and whatnot, no matter what, we got to do another meeting though. Because we cannot accept the so-called donation or the built-out improvements yet, and that's not an, and why I'm saying it's not an issue for you today to allow us to move forward and take care of the easement component, is that correct?

MR. GLEASON: Yes, that's fine. That's correct.

COUNCILMEMBER HOKAMA: Okay, and just to us, as our Chair and ourselves with our scheduling, when do you believe your entity will be ready to return with the, I guess the second request of the acceptance of the improvements, in a month, in three months?

MR. GLEASON: Some of it is going to be ready soon. But the entire subdivision could take at least a year, so.

COUNCILMEMBER HOKAMA: And the intent would be to come after the subdivision is completed, Mr. Unemori? It would be easier for your client to come after the subdivision work is completed?

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MR. UNEMORI: It would either be after the entire subdivision is completed and the entire sewer system is functional. There is one large main that is already in the ground that runs from Maui Lani Parkway to Kamehameha Avenue. If I guess practical reasons prove it necessary, that particular main line which serves properties outside of the Phase 6 Subdivision may need to be dedicated sooner. But that would be the, I guess the only possible other direction coming in after everything is in.

COUNCILMEMBER HOKAMA: And the driver for that component which is that station you just mentioned, that would be driven by our Director and his Department, not necessarily you and your client, outside of the project area?

MR. UNEMORI: The practical necessity behind that would be Wastewater Division would be unable to maintain that large main until it is dedicated to the County.

COUNCILMEMBER HOKAMA: Okay, so thank you for at least making us aware that there's another moving part to this consideration. I appreciate, at least now I kind of understand there's different moving parts. But thank you very much, gentlemen, I'm done, Chair. So thank you very much, I'm satisfied with the responses from the two gentlemen.

CHAIR COCHRAN: Thank you, Mr. Hokama. Members, any further, oh hang on Mr. Gleason and Mr. Unemori, Members, any need for further questioning or comments by the, okay, thank you for coming down.

COUNCILMEMBER HOKAMA: I have one for Director please.

CHAIR COCHRAN: Yes, Mr. Hokama.

COUNCILMEMBER HOKAMA: So this force main that Mr. Unemori was bringing up, is that something you're going to need to have us consider sooner than later, Director, because of I guess it's impact on your system?

MR. GINOZA: It's actually just the gravity line that serves their subdivision, so anything mauka of Waiale is going along a different gravity system and so I don't think it'll impact, I mean it's a new line. I mean if we wait years then we'd want a CCTV to check the integrity of it but I don't see any...

COUNCILMEMBER HOKAMA: So there's nothing pressing immediately that we need to be aware of to, prior to us making a decision then, Director?

MR. GINOZA: It was something that just waited until we got, they got the roadway dedication going.

COUNCILMEMBER HOKAMA: Okay, okay.

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MR. GINOZA: And so we'd like to get it, I'm sure they would like to get it done sooner rather than later because to ensure that the line is still in quite new condition.

COUNCILMEMBER HOKAMA: Okay. Yeah sure, no I understand that too. Okay, thank you very much, Director. Thank you, I'm done.

CHAIR COCHRAN: Thank you, Mr. Hokama. Members, any further discussion? So Director, and Mr. Hokama asked and engineer's mentioned, I'm just trying to figure out you know this has been in the books for many years and now it's in front of us, and as Mr. Hokama put it, there's all these different moving parts happening, so you know, it's almost like does this really need to happen right now, and you just stated I think well it's gravity fed, it's, it'd be nice but it's not really necessary, necessary on behalf of us the County right now. I mean it's all part of their whole bigger picture for their subdivision and now they're saying maybe in a year. So I don't see why this is now something that we got to push out right here, right now. So I don't know if you have any comments about that.

MR. GINOZA: Definitely it's something that we'd have to come back for the line. It was something that as we, you know this was originally submitted in 2009 I believe, and we in essence looked at what was submitted and updated that, and just as we were sitting here, we looked at what about the line, and so it is something that if it were to break right now, we don't have any authority to go and fix. But there's nothing pressing per se for the County to get it because it's all within their subdivision. But it is something that it is quite imperative for them, for the developer to dedicate over to the County and that was their intention all along.

CHAIR COCHRAN: Right and I understand. So you know I mean I'm sort of taken aback that my understanding and bringing this up and forward today was to move it out, you know and file, and now with this other moving part it, the applicants are willing to come back which is fine, you know, but at this point I just kind of have a feeling just to wait till it's all in a nice little package and a done deal and then just push it out then. And if that's in a year then that's in a year, but you know, I don't want to hinder our progress as the County and our sewer situation if something were to arise at this point so...

MR. GINOZA: Can I comment?

CHAIR COCHRAN: Yeah, you can comment.

MR. GINOZA: Sorry I apologize. So if we do get the easement right now, it would give us the ability to repair, and so you know the lots that they did sell in like their VMX and such I mean those private landowners would expect timely repair and the County could repair that with the passage of this easement.

CHAIR COCHRAN: Okay.

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MR. GINOZA: It's for kind of buttoning it up for the future. We should secure the donation of the actual infrastructure as well. But the easement itself does allow, afford us the ability to repair and replace at a future date. That would help if we got the easement passed today.

CHAIR COCHRAN: Thank you, Director. Mr. Hokama.

COUNCILMEMBER HOKAMA: So help me understand. You can be supportive of us moving the acceptance of the easement which allows us to respond if there's a break or a need to repair even if we didn't accept the donation as County property?

MR. GINOZA: That's more of a legal question.

COUNCILMEMBER HOKAMA: I'm just going off the response you gave to the Chair on the previous question.

CHAIR COCHRAN: Yeah...Ms. Thomson.

MS. THOMSON: Yes, that would be my understanding that we, this easement, the easement agreements would allow us to enter on to the property and repair or replace as necessary.

COUNCILMEMBER HOKAMA: But it's still technically a private system?

MS. THOMSON: Yes, the pipelines until they're dedicated are the personal, they're the property of Maui Lani, and so I know that it is their intent to dedicate the improvements to the County.

COUNCILMEMBER HOKAMA: So accepting the easement already, we are saying we are accepting liability, even without the formal acceptance of the dedication or donation of the improvements.

MS. THOMSON: I think that would be accurate, yes.

COUNCILMEMBER HOKAMA: And if we don't accept the easement and there's a situation that arises it is not the County's responsibility to perform yet?

MS. THOMSON: Correct.

COUNCILMEMBER HOKAMA: Okay, well I know how I'm going to vote then, Chair. Thank you.

CHAIR COCHRAN: Mr. Guzman.

COUNCILMEMBER GUZMAN: No, I see the legal argument here that there's, we've got some issues you know if you're, yeah, we have the right to access it via the easement. But then the line itself is not County property, we damage the line, then whoever can sue us for that can do that because that's not our line. There's some issues you know, we've opened up a can of worms here I think. Thank you, Chair.

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CHAIR COCHRAN: Ms. Thomson, did you, did you wanna, did you have a comment?

MS. THOMSON: No, not necessarily, thank you.

CHAIR COCHRAN: Okay. So, Members, I put this on the agenda thinking that it was pretty a simple matter and it's been around for many, many years. And as the discussion has rolled on this afternoon, it's become, it's kind of unsettling for me at this point to want to push this out the way I intended to, to begin with. So for me, I'm probably good to just file this communication at this point and have it come back in another form, however that needs to be. Cause I don't want to be put in to a predicament that we the County have to face maybe Mr. Hokama's Committee or something or rather, so...

COUNCILMEMBER HOKAMA: Chair, if I can make a suggestion for your consideration please.

CHAIR COCHRAN: Sure.

COUNCILMEMBER HOKAMA: I would ask you to consider deferring it instead of filing it. We still have more than one, slightly more than one calendar year left in the term. Maui Lani may be able to return back to this Committee within the term with a finalized proposal to us. This item will still allow you to work, and the partners to work with Corp Counsel to come up with a second revised resolution that takes care of the concerns that was raised in today's meeting and still allow you the opportunity to consider posting and having the Committee pick up the issue within the term at a later date. So I would ask you to consider that please. Thank you.

CHAIR COCHRAN: Thank you, Mr. Hokama. Yeah, I've been tossing that around also and so I can take your recommendation, suggestion and defer it at this point, and as you said there is still opportunity to bring closure to this in a palatable manner. But right now, that doesn't seem to be, so I'll take your suggestion, Mr. Hokama, thank you and Members, without objections I will defer this item.

COUNCIL MEMBERS: No objections.

CHAIR COCHRAN: Thank you.

**ACTION: DEFER pending further discussion.**

CHAIR COCHRAN: Okay, moving on to IEM-26, this is a resolution authorizing dedication of a sewerline easement for the Kehalani Shopping Center. And this one is a County Communication 13-302, from Director of Environmental Management, transmitting a proposed resolution entitling, Accepting Dedication of Sewerline Easement for the Kehalani Shopping Center, Pursuant to Section 3.44.015, Maui County Code. And the purpose of this proposed reso is to accept the dedication from RCFC Kehalani, LLC, of a perpetual, non-exclusive Sewerline Easement (G), consisting of 724 square feet, along Waiale Road located within a portion of

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TMK: (2) 3-5-001:063 for sewerline purposes. And at this point I guess I shall turn the floor over to Director Ginoza once again to give us some opening comments.

**ITEM NO. 26: DEDICATION OF SEWERLINE EASEMENT FOR KEHALANI SHOPPING CENTER (WAILUKU) (CC 13-302)**

MR. GINOZA: Sure, the best page to kind of look at as I give my comments is on page 11 of 14 which is a map, Exhibit A of the existing easement that has been cancelled and a new Easement G for sewerline purposes. So what had happened was this sewerline coming down from Honoapiilani Highway toward Waiale Road was realigned to be in Kuikahi Drive, and so that made it where the existing sewerline and waterline Easement E was no longer necessary, and as that line went along Waiale Road, and we no longer had that area as part of that old Easement E, it necessitated the new Easement G. So it's an existing sewerline within Waiale Road that kind of just jogged out of the Waiale Road right-of-way. So it's just to accept that area, that triangular area below.

CHAIR COCHRAN: Okay, is that your explanation, Director Ginoza?

MR. GINOZA: Yes, I'm sorry, thank you.

CHAIR COCHRAN: Okay, thank you very much. Members, yes, Mr. Hokama.

COUNCILMEMBER HOKAMA: Just so I'm kind of clear about the location, Director, is this as you're going toward South Maui on Waiale, this is the, that, it's that one-lane entry in to the Longs Drugs area, or is this the one that has both the exit and entry area of the Longs Drug area. And if I'm in the wrong locale, please correct me, that's what I'm assuming from looking at the map.

MR. GINOZA: I believe it's more toward Lower Main side than where that Longs entrance is.

COUNCILMEMBER HOKAMA: So that's the one that has, I guess a divided, a divider lane? Right across of the housing, or Ka Hale A Ke Ola housing entrance, is that the general area?

MR. GINOZA: Roughly. I don't know exactly where it comes down as far as if it's right on the entrance or further down along the Waiale Road.

COUNCILMEMBER HOKAMA: So that is on the mauka side of the road?

MR. GINOZA: Yes.

COUNCILMEMBER HOKAMA: That 725 feet?

MR. GINOZA: Yes.

COUNCILMEMBER HOKAMA: And that's already part of the pavement area currently?

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MR. GINOZA: I don't think it's in the pavement area of Waiale Road. It's not as part of Waiale Road but it's outside of the road right-of-way on the mauka side.

COUNCILMEMBER HOKAMA: Okay. But that might be on that private paved area? Or this is not even on the paved area, this is on the side of that roadways? It's not a big deal, I'm just trying to understand --

MR. GINOZA: I'm not certain exactly where --

COUNCILMEMBER HOKAMA: --where it is by the Longs Drugs.

MR. GINOZA: --where it is. But it's not within the roadway front edge of the actual roadway that would be already part of that roadway lot, or even the part of the roadway lot from the Longs improvements. So it's still outside of the County right-of-way, or County roadway lot.

COUNCILMEMBER HOKAMA: Okay, okay. I mean I know the general locale and I understand what is being proposed so thank you very much, Director.

CHAIR COCHRAN: Thank you, Mr. Hokama. Members, any further need for questions or clarifications or...yeah, it's kind of hard to decipher in the map, yeah, Mr. Hokama? Okay, so any further discussions from Department?

MR. GINOZA: No.

CHAIR COCHRAN: Or Ms. Thomson, any need for...

MS. THOMSON: No.

CHAIR COCHRAN: Okay. Recommendation then.

COUNCILMEMBER HOKAMA: Chair, what are you recommending?

CHAIR COCHRAN: I am, I shall entertain a motion to recommend adoption of the proposed resolution and filing of this County Communication.

VICE-CHAIR CRIVELLO: So moved, Chair.

COUNCILMEMBER COUCH: Second.

CHAIR COCHRAN: Thank you. It's been moved by Ms. Crivello, seconded by Mr. Couch. Members, any need for further discussion on the motion? Seeing none, all those in favor, say "aye".

COUNCIL MEMBERS: Aye.

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**CHAIR COCHRAN:** Any opposed, say no. Seeing no opposition, motion passes with six ayes, and one excused.

**VOTE:       AYES:       Chair Cochran, Vice-Chair Crivello, and Councilmembers Couch, Guzman, Hokama, and White.**

**NOES:       None.**

**ABSTAIN:   None.**

**ABSENT:    None.**

**EXC.:       Councilmember Carroll.**

**MOTION CARRIED.**

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

**CHAIR COCHRAN:** Thank you, Members. Moving on to IEM-41, and this is a dedication of sewerline easement for Maui Lani Phase 8 Subdivision and this is County Communication 10-116 from Director of Environmental Management, transmitting a proposed resolution to accept the dedication from Maui Lani Village Center, Inc. of a sewerline easement over and across a portion of Lot 11-D-1-A-1-B-1-A, of the Maui Lani Phase 8 Subdivision in Kahului, Maui, for a 12-inch sewerline outside the Maui Lani Parkway. The correspondence is dated November 8, 2013, from Department of Corporation Counsel, transmitting a revised proposed resolution entitled Accepting Dedication of Sewerline Easement for the Maui Lani Phase 8 Subdivision, Pursuant to Section 3.44.015, Maui County Code, and this revised proposed reso includes nonsubstantive revisions to the document. At this point the floor is now back to Director Ginoza to give us some opening comments. Mr. Ginoza.

**ITEM NO. 41:   DEDICATION OF SEWERLINE EASEMENT FOR MAUI LANI PHASE 8 SUBDIVISION (KAHULUI) (CC 10-116)**

**MR. GINOZA:** Thank you. The best page to kind of look at is page 11 of 12 in your binder which shows that, basically what happened was when the developer installed the, before they installed the gravity sewerline, they had found some burials, and in order to comply with the burial plan and the preservation plan, it necessitated that kind of jog in the sewerline which requires that easement S-1. Thank you.

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CHAIR COCHRAN: Thank you, Mr. Ginoza. Members, the floor is now open for questions, comments, inquires. And I believe we have Uncle Les Kuloloio in the gallery too as I believe I guess cultural advisor, Uncle, to the applicants here. If there's any questions, we could have Uncle Les here as a resource I believe. Thank you. Mr. Hokama?

COUNCILMEMBER HOKAMA: Just one simple question, any concerns like the previous item that we just discussed regarding the Maui Lani easement?

MR. GINOZA: This one actually mirrors the previous one, so I'm glad you, I meant to add that at the end of my comment. But it's the same thing where the County does not own that sewerline. So we'd have to get the donation to occur.

COUNCILMEMBER HOKAMA: And we are not, that is not part of the consideration this afternoon?

MR. GINOZA: That is correct.

COUNCILMEMBER HOKAMA: Okay. Thank you very much.

CHAIR COCHRAN: Thank you for the question Mr. Hokama. Members, any further need for questions or concerns at this point? Mr. Guzman?

COUNCILMEMBER GUZMAN: Thank you, Chair. In the deed itself under the clause of the indemnity clause, that doesn't cover the, if we were to damage the sewerline? Would that cover, that indemnity clause in there? Corp. Counsel?

MS. THOMSON: Chair?

CHAIR COCHRAN: Go ahead, Ms. Thomson.

MS. THOMSON: So you're asking if the County did work within the easement area and damaged the existing sewer lines or other types of lines, the County, if it were doing work, would be obligated to repair damage to those lines if it didn't own them. It would also of course repair its own lines.

COUNCILMEMBER GUZMAN: So, in a sense we could go ahead and rely on this indemnity clause that the grantor would indemnify the County for any damage, on property damage there, all claims for property damage?

CHAIR COCHRAN: Ms. Thomson?

MS. THOMSON: Chair, I believe that the County would be responsible for repairing the damage, but the indemnity would be for other types of claims, that may prevent the landowner from bringing other types of claims.

COUNCILMEMBER GUZMAN: Okay, other types of claims, okay, thank you.

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CHAIR COCHRAN: Thank you, Mr. Guzman. Members, any other questions or concerns? So, Ms. Thomson, in regards to Mr. Hokama's question about this being, or I guess to Mr. Ginoza, in direct relation to the last item that I had deferred, we're in sort of the same predicament. But what Mr. Guzman just brought up in the indemnification clause or whatever the legalese term is, that applies also to the Item 15?

MS. THOMSON: Yes, that's correct. The agreements are written very similarly. So the easement agreements require the County to repair damage that the County is responsible for and also requires the landowner or anybody else working on it to repair damage to the County systems at a later date.

CHAIR COCHRAN: Okay. And maybe for the applicant, in regard, if, I don't know, Mr. Gleason, if you want to come down to the podium? Thank you.

MR. GLEASON: Yes, Dave Gleason. Again thank you, Chair. I just wanted to let you know that we felt as we wrote this up and had it examined that it was covering all those things that we've been discussing. We thought that the easement was going to cover in fact the ownership or the responsibility to maintain. The way that in this agreement just a short paragraph of the easement, granted hereunder shall be for underground sewerline purposes, including the right to construct, reconstruct, install, maintain, operate, repair, replace, and remove underground sewer pipelines and related facilities, collected in the sewer system improvements, including manholes and other equipment and appurtenances necessary for, to expedite the proper maintenance operating repair such as underground pipelines. So there was...wrong to assume anything obviously. But there was an assumption on our case that we covered ourselves in regard to the ownership for the transfer of this responsibility to the County. If we haven't done that, we certainly want to, and we can come back and do it appropriately or properly. But we felt we were obviously there already and again, we apologize for the confusion and the delay in making these kinds of decisions. We know your time is very valuable.

CHAIR COCHRAN: Thank you, Mr. Gleason. Members, any questions or comments for Mr. Gleason? And so, real quick, the I guess gifting or donation you know, for the final end product and you folks are saying at the end of subdivision buildout which could be in a year, for item 15?

MR. GLEASON: I think it, excuse me, as was mentioned by Darren Unemori, we can do it in phases so the main line that comes through the easement that was discussed previously, the main line is, could be separated out and we could do that first. As you progress with this subdivision, which we've recently sold to Towne Properties, that will come in segments. So we can do it in segments as well, so we could transfer the ownership of the main line that goes through the section that we're talking about now, that would satisfy the County's concern in regards to getting the sewer water from the Village Center up above to Kamehameha Avenue. So we can do it, we could expedite that and get it done in months rather than in a year and we certainly could expedite this one as quickly as possible.

CHAIR COCHRAN: Okay. Thank you very much for those comments. Okay. Members, any need for further discussion or I shall make my recommendation on this one also.

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COUNCILMEMBER HOKAMA: Your recommendation?

CHAIR COCHRAN: Thank you. So for this one also, I shall be in, I will defer this item. As Mr. Gleason had mentioned along with the other item that we deferred earlier, I will have it there for posting as soon as the applicant is good to go, and we can solidify this all in, you know, one fell swoop, so at this point you know it's not dead in the water or anything, it is here, it is in my Committee. I understand the process of where you're headed and I am in very much support and would like to have all the ducks in a row and then we, we're good to go to move it out, but for today, Members, without objection, I shall defer this particular item also.

COUNCIL MEMBERS: No objections.

**ACTION: DEFER pending further discussion.**

CHAIR COCHRAN: Thank you, Members. Okay, so last but not least we are now to IEM-28 and this one here is also from Director Ginoza of Environmental Management, County Communication 13-313, it's Accepting Grant of Easement for Sewerline Purposes for the Wailuku Force Main Project, Pursuant to Section 3.44.015, Maui County Code. The purpose of this proposed resolution is to accept the dedication from Alexander & Baldwin, LLC, as a perpetual, non-exclusive Grant of Easement for Sewerline Purposes, within property situated in Kahului, Maui, Hawaii, and identified as TMK: (2) 3-7-001:005, and (2) 3-7-001:016, and (2) 3-7-003:003, and (2) 3-7-003:027, and (2) 3-7-008:008. That is a mouthful but at this point I'll turn the floor over to Director Ginoza again to give us some opening comments. Mr. Ginoza.

**ITEM NO. 28: GRANT OF EASEMENT FOR SEWERLINE PURPOSES FOR  
WAILUKU FORCE MAIN PROJECT (KAHULUI) (CC 13-313)**

MR. GINOZA: Thank you. The need for this easement results from a Capital Improvement Project that we did which was the replacement of the Wailuku Force Main that we completed. As is our practice, we got a right-of-entry, installed the line, and now the line is fully installed and functional, and we're requesting the easement for that installation. Thank you.

CHAIR COCHRAN: Okay. Thank you, Mr. Ginoza. Members, did we have any questions or any comments for Mr. Ginoza?

COUNCILMEMBER HOKAMA: One question please.

CHAIR COCHRAN: Yes, Mr. Hokama.

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COUNCILMEMBER HOKAMA: So what I've read in the document, Director, help me, is that there's actually two lines, one on Exhibit A-4 and one on Exhibit A-5? Are they both on the Wailuku side of the Kahului First Hawaiian Bank building which is the Puunene and Kaahumanu Avenue intersection? So I guess for some that's what, Hoaloha Park, which is in front of and between the County's Canoe Hales and the harbor? It is my understanding the location so on A-4 it's the one of more or less the frontage of Kaahumanu, and then A-5 is the one that kind of goes back toward the County's property and skirts that small roadway as this second line on A-5, so are we talking about those two components, Director Ginoza, please? I'm going on page, I'm looking at Pages 23 of 23 which is the A5 and I believe it's Page 20 of 23 that shows Exhibit A-4, Director.

MR. GINOZA: Yes, as well as the...

COUNCILMEMBER HOKAMA: And then there's the one on A3, yeah...

MR. GINOZA: Yeah.

COUNCILMEMBER HOKAMA: Which is by the old...

MR. GINOZA: By Y. Hata area.

COUNCILMEMBER HOKAMA: It says Maui Hukilau so I must, oh wait, that's on A-3, the A-3 is the old Hukilau, and the other one of course is by the Y. Hata component.

MR. GINOZA: Yup.

COUNCILMEMBER HOKAMA: Yeah, so it's all of these bunches of --

MR. GINOZA: Yes.

COUNCILMEMBER HOKAMA: --easements, right?

MR. GINOZA: It's where basically the new alignment kind of went outside the existing easement or roadway right-of-way.

COUNCILMEMBER HOKAMA: Okay, and the, I'm assuming that you know in your discussions with people who could make a difference later and you know, impact our improvements is of course State Harbors, State Highways, and how they're looking at making those potential adjustments at Kahului Harbor. So you've been in consultation I guess with them as far as how they may or may not make those adjustments regarding Puunene, State Harbors, Harbor improvements and whatnot?

MR. GINOZA: I haven't personally, but I'm sure Wastewater staff did --

COUNCILMEMBER HOKAMA: Yeah, okay.

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MR. GINOZA: --as far as making sure that the alignment was in concert with their objectives.

COUNCILMEMBER HOKAMA: Okay, 'cause I know when, once we, you know the State was talking about improvements for the ferry, they forgot that they had to come and visit your Department because a lot of the work would've entered A&B's as well as the County's property.

MR. GINOZA: Yes.

COUNCILMEMBER HOKAMA: And so, I just brought that up because I would hate for them to... as we've seen in the past, dig up a brand-new finished improvement.

MR. GINOZA: Sure.

COUNCILMEMBER HOKAMA: And then we've got to put more money back to the project. So other than that you know I'm very supportive of your Department's request, it makes sense to me. So thank you, Director.

MR. GINOZA: Thank you.

CHAIR COCHRAN: Thank you, Mr. Hokama. Members, any further questioning or comments for Department? Seeing none then, I shall make my recommendation.

COUNCILMEMBER HOKAMA: Please.

CHAIR COCHRAN: Thank you. I will entertain a motion to recommend adoption of the proposed resolution and filing of the County Communication.

VICE-CHAIR CRIVELLO: So moved, Chair.

COUNCILMEMBER COUCH: Second.

CHAIR COCHRAN: Thank you, it's been moved by Member Crivello, seconded by Member Couch. And, Members, any need for further discussion on the motion? Seeing none, all those in favor, say "aye".

COUNCIL MEMBERS: Aye.

CHAIR COCHRAN: Any opposed, say no. The ayes have it. The motion passes with six ayes, one excused.

**VOTE:       AYES:       Chair Cochran, Vice-Chair Crivello, and Councilmembers Couch, Guzman, Hokama, and White.**

**NOES:       None.**

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**ABSTAIN:       None.**

**ABSENT:       None.**

**EXC.:         Councilmember Carroll.**

**MOTION CARRIED.**

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

CHAIR COCHRAN: And that concludes I believe our meeting today, and I want to thank Director and Corporation Counsel for being here. Hello. Goodbye. And of course my trusty Staff and all of you, Members, thank you for being here. And without further business scheduled, this meeting is now adjourned. Mahalo.

ADJOURN: 2:57 p.m.

APPROVED:



ELLE COCHRAN, Chair

Infrastructure and Environmental Management Committee

iem:min:131119:mt

Transcribed by: Marie Tesoro

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CERTIFICATE

I, Marie Tesoro, 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 9<sup>th</sup> of December 2013, in Wailuku, Hawaii

A handwritten signature in cursive script, reading "Marie Tesoro", is written over a horizontal line.

Marie Tesoro