

**POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE**  
Council of the County of Maui

**MINUTES**

**January 14, 2014**

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

**CONVENE:** 9:04 a.m.

**PRESENT:** Councilmember G. Riki Hokama, Chair  
Councilmember Elle Cochran, Member  
Councilmember Stacy Crivello, Member  
Councilmember Don S. Guzman, Member  
Councilmember Mike White, Member

**EXCUSED:** Councilmember Donald G. Couch, Jr., Vice-Chair  
Councilmember Gladys C. Baisa, Member  
Councilmember Robert Carroll, Member  
Councilmember Michael P. Victorino, Member

**STAFF:** Carla Nakata, Legislative Attorney  
Jordan Molina, Legislative Analyst  
Tammy M. Frias, Committee Secretary  
  
Tina Thompson, Executive Assistant to Councilmember Crivello, assisting at 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.:** William J. Medeiros, Executive Assistant, Office of the Mayor (Item PIA-2(20))  
Kyle K. Ginoza, Director, Department of Environmental Management (Items PIA-1(3), -59,  
and -60)  
Richelle M. Thomson, Deputy Corporation Counsel, Department of the Corporation  
Counsel (Items PIA-1(3), -59, and -60)  
Patrick K. Wong, Corporation Counsel, Department of the Corporation Counsel

*Seated in the gallery:*

Michael M. Miyamoto, Deputy Director, Department of Environmental Management  
(Items PIA-1(3), -59, and -60)

**OTHERS:** Colleen Doyle, Esq., Hunton & Williams LLP (Item POL-1(3))

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

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CHAIR HOKAMA: . . .(*gavel*). . . The Council's Committee on Policy and Intergovernmental Affairs shall come to order. This is the Committee's regular meeting of Tuesday, January 14, 2014. First, the Chair would like to thank the Members in attendance. Committee members, Ms. Crivello.

COUNCILMEMBER CRIVELLO: Aloha, Chair.

CHAIR HOKAMA: Ms. Cochran.

COUNCILMEMBER COCHRAN: Aloha, Chair.

CHAIR HOKAMA: Mr. White.

COUNCILMEMBER WHITE: Good morning, Chair.

CHAIR HOKAMA: And Mr. Guzman.

COUNCILMEMBER GUZMAN: Good morning, Chair.

CHAIR HOKAMA: Thank you, Members, for this, your presence. Excused from today's meeting is Mr. Couch, our Vice-Chairman. Chair Baisa and Mr. Victorino are attending HSAC requirements at this time. And Mr. Carroll is also excused. At this time, the Committee by notice is open to taking public testimonies. So, Ms. Frias, is there anyone wishing to provide testimony before the Committee on any agenda item?

MS. FRIAS: No, Mr. Chair.

CHAIR HOKAMA: Okay, we'll go to our District Offices and check with Hana Office and Dawn. Dawn, is there anyone wishing to share testimony with the Committee this morning, please?

MS. LONO: The Hana Office has no one waiting to testify, Chair.

CHAIR HOKAMA: Thank you very much. Lanai, Denise, is there anyone wishing to provide testimony today?

MS. FERNANDEZ: The Lanai Office has no one waiting to testify.

CHAIR HOKAMA: Thank you. And, Tina, on Molokai, is there anyone wishing to provide testimony for today's meeting?

MS. THOMPSON: The Molokai Office has no one waiting to testify.

CHAIR HOKAMA: Okay, thank you, ladies. Members, no request for testimony so for today's portion testimony shall be closed.

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COUNCIL MEMBERS: No objections.

CHAIR HOKAMA: Okay, thank you, so ordered. And thank you, District Offices.

**ITEM PIA-2(20): NOMINATIONS TO BOARDS, COMMITTEES, AND COMMISSIONS**  
**(MAUI COUNTY COMMISSION ON PERSONS WITH DISABILITIES) (CC 13-42)**

CHAIR HOKAMA: Let me first direct you, Members, to Policy Item 2(20). 2(20) is under the heading of Nominations to Boards, Committees, and Commissions, more specifically with the Maui County Commission on Persons with Disabilities. This morning we have Mr. Medeiros representing the Office of the Mayor. We are in receipt of correspondence dated December 19<sup>th</sup> of 2013, from Mayor Arakawa, where he is nominating Mary-Doreen Alborano to the Maui County Commission on Persons with Disabilities, for a term expiring March 31, 2017, due to a resignation of a Commission member. Mr. Medeiros, thank you for being here. Any comments for the Committee, please?

MR. MEDEIROS: Thank you, Committee Chair Hokama. And Committee members, good morning. I'm Bill Medeiros. I'm an Executive Assistant to Mayor Arakawa, and I'm here representing the Administration today, and also substituting for Mike Molina who's usually here in matters of Boards and Commissions. The Administration would like to ask for your support of Mary-Doreen Alborano to the Commission on Persons with Disabilities, for a term expiring on March 31, 2017. As mentioned on her application, Ms. Alborano was formerly employed at UH Maui College and now is retired. She is currently serving on the Liquor Commission and has informed the Administration that she does have the time to serve both Commissions until her Liquor Commission term expires on March 31, 2014. On behalf of the Mayor, we ask for your favorable support on this recommendation and nomination, and I thank you for your time.

CHAIR HOKAMA: Okay, so Mr. Medeiros, so the Committee is clear, Ms. Alborano is a current Liquor Commissioner and her term expires in approximately two months.

MR. MEDEIROS: That's correct, Mr. Chair.

CHAIR HOKAMA: Okay, well thank you for that update and status. We appreciate that. Members, any questions for Mr. Medeiros or comments? Mr. White?

COUNCILMEMBER WHITE: No, Chair.

CHAIR HOKAMA: Mr. Guzman?

COUNCILMEMBER GUZMAN: Do you happen to know, Mr. Medeiros, whether she had any background working with disability...disabled persons?

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MR. MEDEIROS: No, we don't. I believe all the Members have copies of her application.

COUNCILMEMBER GUZMAN: Yeah, I didn't see any.

MR. MEDEIROS: Yeah, and it doesn't mention anything like that. She has, you know, served on other Boards in the community. But I'm not sure about her background as far as persons with disabilities.

COUNCILMEMBER GUZMAN: And do you know why she wants to serve on this --

MR. MEDEIROS: I think as she stated...

COUNCILMEMBER GUZMAN: --aside from just wanting to --

MR. MEDEIROS: Right.

COUNCILMEMBER GUZMAN: --work in the community she stated?

MR. MEDEIROS: Yeah, I know Ms. Alborano personally. I've known her for 30 years...30 plus years. And she's always been a person that likes to give back to the community and, you know, she served an important position as the Secretary to the Chancellor of UH Maui College. She's also involved as a board member on the Teacher's Credit Union and also with the retirees with HGEA. She's a board member. She stays very active in the community. I've known her through the circles of tennis. We've played tennis for, you know, over 30 years together. So, she's very active in the community and, you know, just wants to give back and help those that she can provide time to do so.

COUNCILMEMBER GUZMAN: Thank you, Chair.

CHAIR HOKAMA: Okay, thank you very much. Ms. Crivello?

COUNCILMEMBER CRIVELLO: No comments.

CHAIR HOKAMA: Thank you. Ms. Cochran?

COUNCILMEMBER COCHRAN: Thank you, Chair. And, good morning --

MR. MEDEIROS: Good morning.

COUNCILMEMBER COCHRAN: --Happy New Year, Mr. Medeiros, nice to see you. It shows she's an MD and do you know what type of MD she is?

MR. MEDEIROS: Actually, yeah, when I first met her, I also thought the same thing. But actually it's the abbreviation for her name.

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COUNCILMEMBER COCHRAN: Oh, Mary-Doreen.

MR. MEDEIROS: Ms. Alborano, yeah, is Mary-Doreen.

COUNCILMEMBER COCHRAN: Okay.

MR. MEDEIROS: Yeah, I've never known her by her real name. I've always known her by MD and I thought she was a doctor too.

COUNCILMEMBER COCHRAN: Okay, good way to bring your status, no. So, okay, so that doesn't mean medical doctor. Okay, got it. I just wanted to know. Thank you.

CHAIR HOKAMA: Thank you. The Chair has no reservations about this nominee this morning. Mr. Medeiros, any final comments you wish to share with us regarding the nominee before Committee recommendation and action?

MR. MEDEIROS: I just would like to join the Mayor in this support of Ms. Alborano's application to be on a Board and Commission. And I'd like to recommend to the Members and to you, Chair, that is she is a worthy consideration for this position. Thank you.

CHAIR HOKAMA: Okay, thank you. Any questions from the Committee for the Chair or Mr. Medeiros? If none, the Chair would be open to a motion to recommend the name of Mary-Doreen Alborano to Exhibit B for approval, to recommend approval to the Council for placement on Maui County Commission on Persons with Disabilities, for a term expiring March 31, 2017.

COUNCILMEMBER COCHRAN: So moved.

COUNCILMEMBER WHITE: Second.

CHAIR HOKAMA: I have a motion made by Ms. Cochran, seconded by Mr. White. Any discussion, Members? Having none, all in favor of the motion, please say "aye".

COUNCIL MEMBERS: Aye.

CHAIR HOKAMA: Opposed, say "no"? Motion passes with five ayes, four excused. Thank you very much for your presence, Mr. Medeiros. We appreciate your assistance this morning.

MR. MEDEIROS: Thank you, Mr. Chair. And thank you, Members.

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

**NOES:**       **None.**

**EXC.:**       **Vice-Chair Couch and Councilmembers Baisa, Carroll, and Victorino.**

**ABSENT:**   **None.**

**ABSTAIN:**   **None.**

**MOTION CARRIED**

**ACTION:**    **Recommending ADOPTION of revised resolution approving the nomination.**

**ITEM PIA-1(3):**   **LITIGATION MATTERS (SETTLEMENT AUTHORIZATION: HAWAII WILDLIFE FUND, ET AL. V. COUNTY OF MAUI; CIVIL 12-00198 SOM BMK)**  
(CC 13-41)

CHAIR HOKAMA: Members, let us move on to our remaining items. The first is Policy Item 1(3) under the heading of Litigation Matters (Settlement Authorization). This is the Hawaii Wildlife Fund, et al. v. County of Maui, Civil No. 12-00198 SOM BMK. The Committee is in receipt of correspondence dated January 18, 2013, from our Department of Corporation Counsel, with their proposal to authorize settlement. We are also in receipt of a communication dated November 15, 2013, also from Department of Corporation Counsel, also with a request for a consideration of a proposed resolution authorizing settlement of the same case. We are in open session, Members, and we'll let Mr. Wong and Ms. Thomson, and we also have Mr. Ginoza, the Director of Environmental Management, present for comments in open session, and then we will decide on a request for executive session. Mr. Wong, if you would please?

MR. WONG: Sure, thank you, Chair. Committee members, if you recall, this case arises from allegations that by way of our injection wells in Lahaina, the Wastewater Treatment Plant out there. The allegations are that we are causing nearshore harm to the waters as presented in the Federal Court litigation. We have actively engaged the plaintiff's counsel for almost a year now in efforts to try to reach amicable terms. And currently we have that we want to present to you in executive session a proposal from the plaintiff's counsel, and the necessity of going into executive session is to consider those terms in relation to the litigation pending. And also the Federal Court has set a further status conference for January 30<sup>th</sup> of this month, in order for us to report back to the Court the status of whether we will pursue resolution of the overall claim or set it for further litigation. So, if there's any other...any question that you may have that I can answer in open session I'd be willing to do that, but essentially I would request that we move into executive session for any further discussion of this matter.

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CHAIR HOKAMA: Okay, thank you very much, Mr. Wong. Ms. Thomson, any comments you wish to share at this time?

MS. THOMSON: Nothing at this time.

CHAIR HOKAMA: Okay, Mr. Ginoza, any comments you wish to share with the Committee in open session at this time?

MR. GINOZA: Nothing at this time, thank you.

CHAIR HOKAMA: Okay, thank you. Members, questions for Mr. Wong or Ms. Thomson or Mr. Ginoza at this point in open session? Okay, he has a request for executive session. He has stated his reasons why. Okay, do we have anyone else, Mr. Wong, regarding this specific item present for?

MR. WONG: Yes, we do. We have Colleen Doyle, who is our special counsel that this body has authorized us to retain about a year ago.

CHAIR HOKAMA: Okay.

MR. WONG: She's in the gallery.

CHAIR HOKAMA: Okay, thank you very much for that and, the Chair, will also recognize Mr. Miyamoto, Deputy Director of the Department, also present at this time. Members, you have heard the request by Corporation Counsel. The Chair is in support and therefore, the Chair, is open to a motion to enter into executive session pursuant to Section 92-5(a)(4) of the Hawaii Revised Statutes, to consult with legal counsel on questions and issues pertaining to the powers, duties, privileges, immunities, and liabilities of the Council, the County, and this Committee.

COUNCILMEMBER WHITE: So moved.

CHAIR HOKAMA: Thank you.

COUNCILMEMBER COCHRAN: Second.

CHAIR HOKAMA: I have a motion made by Mr. White, seconded by Ms. Cochran. Members, any discussion on the motion to enter into executive session? Having none, all in favor of the motion, please say "aye".

COUNCIL MEMBERS: Aye.

CHAIR HOKAMA: Opposed, say "no"? Motion passes with five ayes, four excused.

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

**NOES:**        **None.**

**EXC.:**        **Vice-Chair Couch and Councilmembers Baisa, Carroll, and Victorino.**

**ABSENT:**     **None.**

**ABSTAIN:**    **None.**

**MOTION CARRIED**

**ACTION:**     **APPROVE; RECESS open meeting and CONVENE executive meeting.**

CHAIR HOKAMA: We shall take a recess and prepare for executive session on Policy Item 1(3).  
...*(gavel)*...

**RECESS:     9:18 a.m.**

**RECONVENE: 11:31 a.m.**

CHAIR HOKAMA: ...*(gavel)*... The Policy Committee shall return to open session after executive session on Policy Item 1(3). Members, with regards to Policy Item 1(3), Litigation Matters, this is in regarding to the Hawaii Wildlife Fund, et al. v . County of Maui. We will allow the Department of Corporation through our Chief Attorney, Mr. Wong, to continue to proceed in the manner as we've discussed in executive session and that he will return to Committee and Council with the changes in the judicial situation as in regards to this specific case. If there are no questions for Mr. Wong or the Chair and no objection, Members, this case shall be deferred.

COUNCIL MEMBERS: No objections.

**COUNCIL MEMBERS VOICED NO OBJECTIONS** (excused: DGC, GCB, RC, MPV).

CHAIR HOKAMA: Thank you, Members. Policy Item 1(3) is deferred.

**ACTION:**     **DEFER pending further discussion.**

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**ITEM PIA-59: INTERGOVERNMENTAL AGREEMENT WITH STATE DEPARTMENT OF HEALTH FOR SETTLEMENT OF ALLEGED VIOLATIONS AT THE CENTRAL MAUI MUNICIPAL SOLID WASTE LANDFILL (CC 13-384)**

CHAIR HOKAMA: On to Policy Item 59 and 60. Two different sites but very similar, Members, so I'm gonna let Corporation Counsel and Mr. Ginoza, if there's comments that can take care of both they can share it at the same time. If not, we'll just take it up with the Central Maui Municipal Solid Waste Landfill issue. We have Communication 13-384, from Department of Corporation Counsel, with a proposed bill for an ordinance that allows the Mayor to enter into an agreement with the State Department of Health for settlement of alleged violations at Central Maui Municipal Solid Waste Landfill through the payment of a \$50,000 cash penalty and performance of approved Supplemental Environmental Projects at a cost of at least \$70,000. And also we have a communication dated December 19, 2013, with a bill for an ordinance from Corporation Counsel, with revisions of nonsubstantive nature made to it. At this time, I'll ask either Mr. Wong, Ms. Thomson, for opening comments in open session, please. Or, Mr. Ginoza, any comments on the Central Maui Landfill?

MR. GINOZA: Sure, thank you, Chair. So, the reason why we're here before you today is in the first part of 2011, if you recall, we had a number of storm events that occurred which created a lot of landfill leachate. Leachate is when rain, water, or any type of liquid gets into contact with either exposed waste or landfill waste. That liquid then becomes leachate. And so because of the excessive storm events we had, our leachate levels at our landfill that we need to basically accommodate went above what we were able to accommodate. And in working with the DOH, we tried to get the levels down to the...at levels that were acceptable but it was to no avail. And what exacerbated the situation was that we had just completed another, the development of another landfill cell that hardly had any trash in it. And so that...the runoff from that ended up contributing to the leachate levels. And so that is the alleged violation is leachate levels above what is allowed in our Solid Waste permit with the Department of Health.

CHAIR HOKAMA: Ms. Thomson, any comments?

MS. THOMSON: So like Director Ginoza was saying, the events occurred in the first quarter of 2011 and there are various allegations that you can read within the NOV itself that's attached to your materials. The NOV was issued in February of this year and we filed an appeal. Oh, sorry, February of last year, 2013. And we filed an appeal and in the subsequent months and met several times with the Department of Health and negotiated the settlement that's before you, which includes payment of a \$50,000 fine and completion of a Supplemental Environmental Project worth at least 70,000. And Director Ginoza has some information on what the proposed Supplemental Environmental Project would be related to Household Hazardous Waste Collection. So, the payment of both the fine and the cost of the SEP up to 70,000 would be from the Self-Insurance Fund.

CHAIR HOKAMA: Okay, before I ask the Members for their questions and comments, the...let me get this right. The Supplemental Project is that...what is the status of that, Mr., Director Ginoza? Is

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that something...well maybe I should just let you respond? Where is it at? It's being reviewed by Budget Director or is that something that you and Mr. Wong is trying to work to see if the Health Department is going to be satisfied with the project's scope?

MR. GINOZA: It's something where we haven't yet agreed upon exactly what the Supplemental Environmental Project is. The first step is the authorization to settle this, and as part of the settlement there are, I think, within 90 days, we need to submit something to the Department of Health for their approval of a Supplemental Environmental Project. So, we're going to propose at least three, one of which is the Household Hazardous Waste Collection program for the Department of Health's approval. So, it's not set yet but as far as what the scope will be.

CHAIR HOKAMA: Okay, I guess, then you'll transmit the appropriate legislation to Mr. White's, I guess, Committee, right? 'Cause that project is gonna need to be recognized in the budget document or not?

MR. GINOZA: Yes, so I feel that it will start in Fiscal '15. So, it'll be during the Fiscal '15 deliberations that we would include that if it exceeds the amount that is...that 70,000.

CHAIR HOKAMA: Was there any other sister county that had similar issues with their landfills and the weather and the leachate issue, Mr. Ginoza?

MR. GINOZA: I know the Big Island has leachate issues, especially with their Hilo landfill, which is why as their Hilo landfill is now kind of reaching capacity, they're trying to decide what to do, whether or not to keep it in a rainy area where they have these kinds of leachate issues or to have it in a drier area like they have in Kona. But it's something that it is just a consequence of operating a landfill that when you have quite a large area where rain can go on, that we just have to deal with the leachate.

CHAIR HOKAMA: Okay, my last concern is have you done some operational adjustments 'cause until we can minimize and reduce similar considerations coming before the Committee in the future? So, have you made some adjustments, Director?

MR. GINOZA: Yes, particularly in this situation we constructed a berm and a rain flap to try to keep the area separate. And we also worked out trying to be able to get...well basically being able to take more of this leachate to our Wastewater Treatment Plant in the Wailuku-Kahului Wastewater Treatment Plant to, you know, have our two sister divisions work together to just deal with that leachate rather than have it build up at the landfill. So, we have much more established protocol now to ensure that this type of situation would not occur again.

CHAIR HOKAMA: Terrific, very good. Ms. Cochran, questions for the Director on this issue?

COUNCILMEMBER COCHRAN: Chair, you addressed, I wanted to make sure that we were taking preventive measures in order to not be here with the same infraction again. So, you pretty much touched on what my questions were. Thank you, Chair.

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CHAIR HOKAMA: Okay. Ms. Crivello?

COUNCILMEMBER CRIVELLO: Thank you, Chair. I know you mentioned that you folks are looking into the Supplemental or the SEP, exactly what do you have planned?

CHAIR HOKAMA: Director.

MR. GINOZA: So, the three things we're looking at currently is one is a Household Hazardous Waste program where...so it's stuff like pesticides or corrosives of that nature. Right now when there's at household quantities, we are allowed to take it at the landfill. And so, a lot of times what we do is we have people just...it's not the best way to deal with these types of materials, and so absent having a program like this, we are actually the only County that does not have one. We've discussed with the Department of Health that hey, would that be appropriate for a Supplemental Environmental Project. It would be an ongoing service whereby what the two neighbor island counties do, Kauai and Big Island, they do quarterly events or on that type of frequency. So, that's what we're looking into. City and County of Honolulu has a more frequent event based system, but we're looking at quarterly events. And so, right now we're developing the scope and the specs. We try to bid it on and get an actual framework of how much it would cost. So, that's, that's kind of our priority SEP project. Two other ones we're looking at is greater collection at the Central Maui Landfill. Right now what happens is if you bring in white goods or like tires, batteries, et cetera, we tell you we don't accept it here, go somewhere else. And as you can imagine, there are some people who are good stewards of the community and would go to the appropriate location to dispose of these items. And there are others that simply do not. And so, we want to afford them that ability to have the collection at our Central Maui Landfill. So, that's another program we're looking at. And thirdly, a greater public education program in deciding how to dispose of different types of materials. So, one thing that we've been looking at is to have something where you can query a database on the web to say if I have something, how do I adequately dispose of it. So, that's just things that the SEPs cannot directly remediate the violation that occurred. So, we can do something with leachate removal. And so one of the things we initially propose is we do want to do a leachate recirculation program whereby right now we have these leachate tanks at the landfill and we have to fill up tankers and then take the leachate either to spray at the landfill or to the Wastewater Treatment Plant. But we do have the opportunity to do a recirculation program where it would just be piped to areas that could be disposed of at the landfill. But they felt that the nexus between the violation and the SEP project was too close. So that's something that would help remediate in the future, but in absence of that we have discussed these other programs that they were amenable to. So, it's just a matter of trying to flesh it out once we settle on this settlement to fully determine what these Supplemental Environmental Projects will be.

COUNCILMEMBER CRIVELLO: Thank you. Chair, may I ask another?

CHAIR HOKAMA: Sure.

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COUNCILMEMBER CRIVELLO: So, that being said and the findings are the Central Landfill, would your SEP or your projects for your environmental be Countywide or now it's just to respond to the findings at the Central?

MR. GINOZA: This one has to benefit the area and so when you have the Supplemental Environmental Project. So, in this case these would be for Maui, you know, for Maui and mainly Central Maui. But we're looking at the Household Hazardous Waste program trying to get more than just Central Maui. You know, Upcountry, West, and South Maui, as well as part of the collection and to try to do, expand it throughout the County.

COUNCILMEMBER CRIVELLO: With that being said where, you know, this is request or requiring us to do such, will you require additional manpower 'cause it sounds like you already have shortage with your Solid Waste management landfill?

MR. GINOZA: For these programs, it would be done, we'd put it out to bid because it would be event based and particularly with the Household Hazardous Waste. They have to be quite trained in how to deal with these types of chemicals and how to identify them. So, I wouldn't want to put the risk on any employees of ours to try to determine that. So, in these instances we wouldn't be taxing our employees further than they're being taxed or further than being worked.

COUNCILMEMBER CRIVELLO: Thank you.

CHAIR HOKAMA: Thank you. Mr. White.

COUNCILMEMBER WHITE: Thank you, Chair. In your estimation, do you feel that this is a fine that is fair and a resolution that's appropriate?

MR. GINOZA: I do and fortunately they have agreed to let us use a big portion of what was originally gonna just be a cash payment requirement. They allowed us to do a \$70,000 SEP, which will really benefit the community.

COUNCILMEMBER WHITE: And the violation that we were cited for, was there an actual overflow of leachate or was there any damage to the environment as a result of our violation or was this?

MR. GINOZA: There was no overflow per se of our liner. It was still contained within the landfill, which is why actually the fine is quite low compared to what it could be if we actually had some fugitive leachate leave the facility. And so, the fine is really a result of not meeting our permit conditions and failing to basically just spend all we could to try to get that level down, you know, as quickly as possible.

COUNCILMEMBER WHITE: Can you give us an idea of how much the...how much over? I mean, what is the normal level of leachate versus what it was when we were cited? I'm just trying to get a sense of whether the Department of Health is being fair with us.

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MR. GINOZA: I think we're allowed to be one foot of leachate and we're at like three to six feet of leachate in our sump and at the liner...something on that order. So we had to, I mean, and you can imagine how...

COUNCILMEMBER WHITE: How much further would it have to have risen in order to actually have leaked?

MR. GINOZA: It would have been another probably 50 feet or something. I mean, we were just, you know, at the bottom of our cells.

COUNCILMEMBER WHITE: You know, Chair, my concern is that this...I understand the violation. But at the same time if we're 50 feet from having any actual environmental challenge, we're at 6 feet instead of 50 feet, I'm a little concerned that the State is being a little bit overstepping of their bounds but I understand it but...I see Ms. Thomson's got something to add, so be happy to let her do so.

MS. THOMSON: Yeah. Chair? Actually, this and the leachate levels and the permit and the permit compliance levels and feet over the limit, those are based on Federal regulations and they are very stringent. So you're right it does appear to be stringent, but they're not overstepping, you know, what the Federal regulations require.

COUNCILMEMBER WHITE: Thank you for that.

MR. WONG: Chair, if I may add just this one more component. I understand our early meetings with the Department of Health on this topic that they're, there are other areas that we could've been cited for that we were not. And that, I think, they chose this one, this area for the citation because it was the most maybe flagrant and it was over an extended period of time.

COUNCILMEMBER WHITE: Thank you. Thank you, Chair.

CHAIR HOKAMA: Thank you. Mr. Guzman.

COUNCILMEMBER GUZMAN: Thank you, Chair. On...how did that...does the DOH randomly make these checks or do they annually check? I'm just trying to figure out how the violation occurred. Did they come onsite and make these evaluations?

MR. GINOZA: Yes, they do random inspections of our various facilities. They do notify us that they'll be there but not months in advance. They say, oh, we're coming next week or tomorrow or of that nature, but they are required to inspect their various facilities to ensure that we're in compliance with our solid waste permit.

COUNCILMEMBER GUZMAN: Okay, and how often do you, as the Department, do internal checks of the, I guess, the levels and making sure that you're in compliance with your permits?

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MR. GINOZA: So, I believe, for the leachates, we're supposed to do daily checks when after stormy events to ensure that the levels do come back into compliance. So, we do have individuals at the landfill who do that type of monitoring. But we don't have an environmental compliance officer per se that like an internal auditor type --

COUNCILMEMBER GUZMAN: Right.

MR. GINOZA: --that does that kind of checks.

COUNCILMEMBER GUZMAN: Is that something that you would be looking into?

MR. GINOZA: That is something that the Department has tried to get resource for...a body for, because we are so highly regulated, not only with Solid Waste, but also with Wastewater to ensure that there is some level of internal checks that do not present itself to the regulating agencies. And so that's something that we can discuss further as we get to the Fiscal '15 Budget.

COUNCILMEMBER GUZMAN: Okay, very good. I hope to see that. Thank you.

CHAIR HOKAMA: Thank you. Any other questions, Members? Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you. After hearing that, this particular environmental auditor per se, internally, I guess, in your Department, is there such a field, I mean, that a person is able to be, you know, a monitor of say the leachate landfill stuff, also wastewater, also, you know, is there such a person title, whatever?

MR. WONG: The answer is yes and I'll address it, and what I'll suggest to you is that on this particular topic, and working with Kyle's Department, my Department will be making a future recommendation before this body in the Council level in the coming months. So, I'll be able to get into the dirty details, so to speak, and what the position entails, what the scope entails and how it would be managed.

COUNCILMEMBER COCHRAN: Okay.

MR. WONG: It is certainly an area of oversight that, I believe, would be prudent to explore, but we're not quite there yet to be able to provide all the details of that at this time.

COUNCILMEMBER COCHRAN: Okay, well, thank you for the comments and looking forward to future discussions on it. Thank you, Chair.

CHAIR HOKAMA: Thank you. Okay, Members, I am ready to give you my recommendation. My recommendation is to move to full Council the revised Bill for an Ordinance Authorizing the Mayor of the County of Maui to enter into an Intergovernmental Agreement with the State of Hawaii for the Settlement of Alleged Violations at the Central Maui Municipal Solid Waste Landfill Relating to Notice and Finding of Violation and Order, State of Hawaii, Department of

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Health, Docket No. 13-SHW-SWS-002, filing of all County communications associated with Policy 59.

COUNCILMEMBER COCHRAN: Chair, so moved.

COUNCILMEMBER WHITE: Second.

CHAIR HOKAMA: I have a motion made by Ms. Cochran, seconded by Mr. White. Members, any further discussion on the motion? If not, all in favor of the motion, please say "aye".

COUNCIL MEMBERS: Aye.

CHAIR HOKAMA: Opposed, say "no"? Motion passes with five ayes, four excused.

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

**NOES:       None.**

**EXC.:       Vice-Chair Couch and Councilmembers Baisa, Carroll, and Victorino.**

**ABSENT:   None.**

**ABSTAIN:   None.**

**MOTION CARRIED**

**ACTION:    Recommending FIRST READING of revised bill and FILING of communication.**

**ITEM PIA-60:    INTERGOVERNMENTAL AGREEMENT WITH STATE DEPARTMENT OF HEALTH FOR SETTLEMENT OF ALLEGED VIOLATIONS AT THE MOLOKAI INTEGRATED SOLID WASTE MANAGEMENT FACILITY (CC 13-385)**

CHAIR HOKAMA: Final item, Members, is the very next docket number 60. This is also about an Intergovernmental Agreement with State Department of Health. This is for settlement of alleged violations at the Molokai Integrated Solid Waste Management Facility. We have a Communication 13-385, through Department of Corporation Counsel, with a proposed bill for an ordinance that is basically a payment of \$20,000 cash penalty. And on December 19, 2013, we received a revised proposed bill that incorporated nonsubstantive revisions. Unless something comes up, Members, the Chair did post for executive session but, I believe, we can do this in

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open unless something comes up that surprises us. So, Mr. Ginoza, Director, or Ms. Thomson, if you would please start our discussion.

MR. GINOZA: Sure, this is somewhat related to the other one in that there was this excessive weather in the beginning of 2011. And whenever there is this type of storm events, like at Central Maui Landfill, we had leachate issue. At Molokai, we had an issue where in both the active and closed portions of the landfill with the excessive rains there was soil erosion in the covered areas, which resulted in some of the trash being exposed which is called flagging, and other areas where we needed remediation. And what we had done in the past is, you know, we tried to just keep our landfill open, you know, and in our just community service...just kept trying to accept trash even if areas weren't necessarily...or areas needed remediation. And so, this is one of those instances where we needed to remediate certain areas and possibly not collect trash or operate the landfill, but in this case the Department of Health found the violation in that instance. And so, what we do now as you may have seen over the last year or so, year or year-and-a-half, is that you're seeing more closures of these landfills for a short period of time when we don't have adequate staffing to remain open and remediate areas that are possible violations. And so that's the kind of remediation we're doing right now is if we don't have staffing to do both, we are trying to at somewhat of an inconvenience to the public, remediate the areas to not get a violation and then open back up the landfill. But it was because of these kinds of events that or kind of out of the ordinary in terms of operating a landfill that our staff cannot accommodate both the acceptance of waste and patching up or remediating areas which we don't actively landfill at or monitor. Thank you.

CHAIR HOKAMA: Okay, thank you. Ms. Crivello, questions for the Director?

COUNCILMEMBER CRIVELLO: Yes, I do. Thank you, Chair. So, the litter control according to some of the findings also and this goes back to February of last year, right? So, have you folks addressed all like the screens and whatever else kind of the measures that was identified and sort of in violation?

MR. GINOZA: Yeah, so that's where sometimes when we have staffing issues where we can only accommodate certain things. In this case, kind of the low-hanging fruit is we close the landfill for a little while or close early to try to accommodate the litter control and that kinds of measures.

COUNCILMEMBER CRIVELLO: So, that being said, Mr. Ginoza, because of your manpower shortage or what have you, and even when you have your regular...your staff filled, does it involve overtime with your working staff to collect litter and do such?

MR. GINOZA: Yes.

COUNCILMEMBER CRIVELLO: My understanding there is lots of overtime involved. So, does that involve closure of the landfill as well as manpower overtime hours?

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MR. GINOZA: Yeah, that is something that we have to manage and balance out is how much people are willing to work the overtime to try to remediate situations or, you know, work after or, you know, looking at additional staffing at some of these areas which is something that, again, we'll contemplate in the Fiscal '15 Budget. Because, you know, we have to balance out the regulatory compliance side of operating a landfill with accommodating the public's need in running a landfill. And what we're finding is, and as a result in large part of, some potential violations or this violation is that it's difficult to do both adequately, or adequately in both the lawmaker's eyes and the public's eyes, and still meet both the conditions for both. So that's why we're looking at the possibility of possibly adding another person there to not only handle these type of litter issues or remediation issues at either the closed portions of the landfill or another closed landfill but that kind of issues that may arise.

COUNCILMEMBER CRIVELLO: So, for Molokai, in particular, for instance, for today there was...before the actual discovery of the ordnance, there wasn't...the public was notified --

MR. GINOZA: Yes.

COUNCILMEMBER CRIVELLO: --that because of shortage of manpower that there was going to be closure until a later time. Is that closure because they have to respond to things like this, to remediate, or just shortage of manpower?

MR. GINOZA: In today's instance and in the instances where we close, it's more often because of staff shortages. And so if you look at it at our remote landfills, we have three personnel at the landfill and we have to have at least two. And as you can you imagine with the amount of vacation everybody has and, you know, unforeseen illnesses, we don't necessarily have the appropriate number of people. So, we try to borrow from other departments but in instances where we cannot get appropriate staff or relief from other departments we just cannot open the landfill. And we risk violations of operating the landfill and the health and safety of not only our workers as well as the public if we try to open absent having adequate staff. And so that's a conscious decision we made to in a temporary basis inconvenience the public, but in a long-term health of the community it's more beneficial to close.

COUNCILMEMBER CRIVELLO: Thank you.

CHAIR HOKAMA: Thank you. Mr. Guzman, questions?

COUNCILMEMBER GUZMAN: No, not at this time.

CHAIR HOKAMA: Thank you. Mr. White?

COUNCILMEMBER WHITE: No.

CHAIR HOKAMA: Ms. Cochran?

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COUNCILMEMBER COCHRAN: No, Chair, thank you.

CHAIR HOKAMA: If there's no further questions, the Chair's recommendation is to put forward to full Council the revised bill for an ordinance that would authorize the Mayor of the County of Maui to enter into an Intergovernmental Agreement with the State of Hawaii for the Settlement of Alleged Violations at the Molokai Integrated Solid Waste Management Facility Related to Notice of Finding and Violation and Order, State of Hawaii, Department of Health, Docket No. 13-SHW-SWS-003, filing of all communications attached to Policy 60, is the motion I'm open for.

COUNCILMEMBER COCHRAN: So moved, Chair.

CHAIR HOKAMA: Thank you.

COUNCILMEMBER WHITE: Second.

CHAIR HOKAMA: I have a motion made by Ms. Cochran, and seconded by Mr. White. Is there any further discussion, Members, on this motion? If not, all in favor of the motion, please say "aye".

COUNCIL MEMBERS: Aye.

CHAIR HOKAMA: Opposed, say "no"? Motion passes with five ayes, four excused.

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

**NOES:           None.**

**EXC.:           Vice-Chair Couch and Councilmembers Baisa, Carroll, and Victorino.**

**ABSENT:       None.**

**ABSTAIN:      None.**

**MOTION CARRIED**

**ACTION:       Recommending FIRST READING of revised bill and FILING of communication.**

CHAIR HOKAMA: And that is all we have for today. So, thank you very much for making the time for this Tuesday's meeting, Members. And, I believe, Mr. Guzman, has his own meeting this afternoon. So, we'll wrap up at this time. Mr. Wong, any final words for the Committee?

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MR. WONG: No, thank you very much.

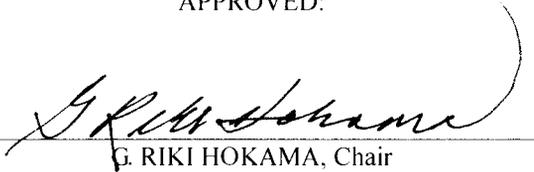
CHAIR HOKAMA: Thank you. Mr. Ginoza, is there any final comments for...Director?

MR. GINOZA: No, thank you very much for your time.

CHAIR HOKAMA: Ms. Thomson? Okay, this meeting is adjourned. . . .(gavel). . .

**ADJOURN:** 12:05 p.m.

APPROVED:



G. RIKI HOKAMA, Chair

Policy and Intergovernmental Affairs Committee

pia:min:140114

Transcribed by: Delfey Fernandez

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CERTIFICATE

I, Delfey Fernandez, 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 this 3rd day of February 2014, in Wailuku, Hawaii.

  
Delfey Fernandez