

**INFRASTRUCTURE AND ENVIRONMENTAL
MANAGEMENT COMMITTEE**
Council of the County of Maui

MINUTES

Council Chamber

August 11, 2014

CONVENE: 1:44 p.m.

PRESENT: VOTING MEMBERS:
Councilmember Elle Cochran, Chair
Councilmember Stacy Crivello, Vice-Chair
Councilmember Robert Carroll
Councilmember Donald G. Couch, Jr.
Councilmember Don S. Guzman
Councilmember Mike White

EXCUSED: VOTING MEMBERS:
Councilmember G. Riki Hokama

STAFF: Jordan Molina, Legislative Analyst
Raynette Yap, 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
Patrick Wong, Corporation Counsel, Department of the Corporation Counsel (Item 56)
Richelle Thomson, Deputy Corporation Counsel, Department of the Corporation Counsel

OTHERS: (3) Others

PRESS: *Akaku Maui Community Television, Inc.*

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CHAIR COCHRAN: ... (*gavel*) ... Aloha. Will the Infrastructure and Environmental Management Committee now come to order? It is about quarter to 1:00. Sorry, Members and the general public, we had some technical difficulties earlier in getting started on time, but here we are. I am Elle Cochran, the Chair of the Committee. And before we begin, please silence any noise-making devices. And let me introduce the Members that are here with us. I have Vice-Chair of the Committee, Stacy Crivello.

VICE-CHAIR CRIVELLO: Aloha, Chair.

CHAIR COCHRAN: Aloha. And Vice-Chair of the Council, Bob Carroll.

COUNCILMEMBER CARROLL: Good afternoon, Chair.

CHAIR COCHRAN: Good afternoon. And Councilmember Don Couch.

COUNCILMEMBER COUCH: Aloha and good afternoon, Chair.

CHAIR COCHRAN: Aloha. Councilmember Mike White.

COUNCILMEMBER WHITE: Aloha, Chair.

CHAIR COCHRAN: Councilmember Don Guzman.

COUNCILMEMBER GUZMAN: Good afternoon, Chair.

CHAIR COCHRAN: Aloha. And Mr. Riki Hokama will be joining us shortly. From the Administration, looks like I have Director of Environmental Management, Kyle Ginoza.

MR. GINOZA: Hi, Chair.

CHAIR COCHRAN: And Department...from Corporation Counsel, Richelle Thomson.

MS. THOMSON: Hello, Chair.

CHAIR COCHRAN: And, also, we have Mr. Pat Wong of Corporation Counsel here also to address us today. From the Committee Staff, Rayna Yap, Legislative [*sic*] Secretary; and Legislative Analyst, Jordan Molina. Thank you, everyone, for being here today. At this point, Members, anyone...or public who's willing to testify, please sign up at the front desk in our Chambers on the eighth floor. And please just testify on the items that are listed here today. You folks will be allowed three minutes to testify with one minute to conclude and please state name, organization that you may be representing, also. And we also have a connection to our district offices, so residents from those areas may participate and testify. To be fair, I shall rotate through the

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different sites. And, Members, please, let's speak clearly into our microphones so they can hear. I will now check in with our district offices. In Hana, Dawn Lono?

MS. LONO: Good afternoon, Chair. This is Dawn Lono at the Hana Office, and there is no one here waiting to testify.

CHAIR COCHRAN: Thank you, Dawn. And at our Lanai Office, Denise?

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

CHAIR COCHRAN: Thank you, Ms. Fernandez. 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, for being there. Please let us know if you do receive testifiers. So, at this point, I shall open up the public...our Chamber floors for public testimony. Is there anyone signed up to testify?

MR. MOLINA: Madam Chair, we have no one signed up to provide testimony today.

CHAIR COCHRAN: Thank you, Mr. Molina. So, Members, seeing no one here waiting to testify, with no objections, I shall now close public testimony.

COUNCIL MEMBERS: No objections.

CHAIR COCHRAN: Thank you, so ordered, Members. Thank you very much.

IEM-56 OPERATIONS OF THE SOLID WASTE DIVISION, DEPARTMENT OF ENVIRONMENTAL MANAGEMENT (MISC/CC 14-186)

CHAIR COCHRAN: Members, I have two items on the agenda today. And I am going to, without objections, I'm going to call up IEM-50...oh, sorry, IEM-56. I believe IEM-57 is first on the agenda, but I'm going to pull it out of order, and we shall look at IEM-56. And this is something I have scheduled and it was an opportunity to continue our discussion where we kinda left off from the last time we had Department here in relation to the operations of Solid Waste, and I wanted to bring them back in order to just carry on our conversation. I had submitted a letter with some questions about a week ago, and I've just learned as of today a bit ago that it had not been received, and so it's very fresh to the Department's eyes to vet through and answer. But, in the meantime, other things have come up and that is why we have Director [sic] from

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Corporation Counsel here to join us, Mr. Patrick Wong. And we have Ms. Richelle Thomson. So I shall now have Mr. Wong give us a message in regards to this item that is on the agenda. Mr. Wong, thank you for being here.

MR. WONG: Thank you, Chair, Committee Members. With respect to Item 56, as it relates to operations of the Solid Waste Division of Environmental Management and the proposed questions submitted by the Committee Chair to the Department, I'm here today to respectfully request that the item be deferred for further discussion at a different time. And the basis for that deferral is new to our department and certainly new to Ms. Cochran, we've received a lawsuit filed against the County as of last week. It hasn't properly been served yet, but it was filed in Federal District Court as of July 25th in civil number 1400335 where Tracy Takamine files a suit against the County of Maui and Kyle Ginoza. I mention that because it's a open docket. It was filed and we received it last week. Some of the operational issues that you may want to get into an open discussion about may be problematic, for me, on the litigation side. What I would prefer is that you defer this matter in its entirety and that the litigated matter be posted with the other Committee, the Policy and Intergovernmental Affairs Committee, within which we can have a discussion which I would recommend to be done in executive session. You know, if there's any questions that I can answer in open session--I'm not asking for executive session at this point--but, you know, if there's any questions that you may have, I'd, you know, entertain those questions at this time.

CHAIR COCHRAN: Thank you, Director [*sic*] Wong. Members, I see...Mr. White, you have questions?

COUNCILMEMBER WHITE: Thank you, Madam Chair. Mr. Wong, does your...do your comments relate to all questions included in the transmittal or are there certain items that would be something that could be discussed?

MR. WONG: That's a very good question, Councilmember White. At this time, I would ask that we defer the entire matter, because we have not had the opportunity to properly evaluate the questions in the context of the litigation and I would not want there to be a risk that we jeopardize a position in the litigation by providing information that could be adverse. However, I can tell you, at first blush, there are questions that were propounded that we can, in the future, have an open and frank discussion on the floor about that I believe may not impact the litigation. But it's so fresh and so new that we haven't had the opportunity to properly vet that question.

COUNCILMEMBER WHITE: Yeah, no, I certainly appreciate that.

MR. WONG: Okay.

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COUNCILMEMBER WHITE: There are questions that I think all of us have regarding certain claims of budget cuts and so forth that we need at least to get a much better understanding of, as the policy makers and the providers of the funding, so...

MR. WONG: Sure. And to the extent that those answers can be provided without impacting the litigation, you know, that can be provided; but, right now, because it's so fresh and we haven't analyzed the responses and response...no, in the context of the litigation, I would prefer not to venture into that realm and open a door that we can't close or take back.

COUNCILMEMBER WHITE: No, I certainly understand that. I'm just interested in getting further information since we have a hard time getting information with the Mayor's new edict that we can't talk to anybody.

MR. WONG: Well, you can certainly talk to me; and to the extent that we can provide that information, we will.

COUNCILMEMBER WHITE: Okay, thank you. Thank you, Chair.

CHAIR COCHRAN: Yeah, you're welcome, Mr. White. And yes, Ms. Crivello?

VICE-CHAIR CRIVELLO: Thank you. Thank you for being here. Mr. Wong, what was the date, again, that you received correspondence regarding this lawsuit?

MR. WONG: This was received in my office August 6 at 11:19 a.m.

VICE-CHAIR CRIVELLO: Okay. I don't think I can ask some questions. But I, too, am very much concerned about the, you know, we find out about the cutback of ours in the newspaper, you know, what's presented to the public is what...and the constituents that especially where I come from are not happy with the changes. So, you know, this sort of stifles us as far as trying to be responsive to our constituents and the actions that have been made by the Department. So how long will we be muzzled that we cannot ask these questions, do you have any idea?

MR. WONG: Thanks for the question. And, first of all, let me apologize for interrupting the Committee meeting today with this information. Quite frankly, you know, had we not been in the mix of active litigation, I would not be here asking you to defer the matter --

VICE-CHAIR CRIVELLO: I understand.

MR. WONG: --and I would not be muzzling, actually, both sides. 'Cause I've muzzled Kyle just the same, quite frankly, and he got muzzled before he even came in here today. And what I'll suggest to you is, you know, when internally within my office we've had an opportunity to go through the allegations...we haven't even prepared our answer yet, so I cannot give you a

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projection on when this matter can be reposted. More than likely, I would prefer that we have it posted on the Policy and Intergovernmental Affairs Committee and have the topics vetted in that Committee, majority of which may be in executive session. And you can, you know, certainly, on the topics that we can discuss in open session, I don't mind doing that. Again, but, you know, as it relates to the allegations and the complaint, I would not get into the details of it.

VICE-CHAIR CRIVELLO: Okay.

MR. WONG: Okay?

VICE-CHAIR CRIVELLO: Thank you.

CHAIR COCHRAN: Thank you, Ms. Crivello. Members, any further discussion? Yes, Mr. White?

COUNCILMEMBER WHITE: Correct me if I'm wrong, but we can go into executive session in this Committee, correct?

CHAIR COCHRAN: Yes.

COUNCILMEMBER WHITE: But your preference is just because Policy is where we handle other litigated matters, is that...

MR. WONG: Well, you can, except for the posting in this...for this matter, today, did not cite that you would be asking for executive session. So there's a posting deficiency. You know, whether or not we would have a Sunshine Law issue...

COUNCILMEMBER WHITE: Well, I guess I was referring to a subsequent meeting of this Committee as opposed to Policy.

MR. WONG: Well, typically, the Policy Committee will have, in my humble opinion, the jurisdiction for issues that relate to more than one Committee; and this is that topic. This is Environmental Management, which is this Committee; and litigation, which is the other Committee.

COUNCILMEMBER WHITE: Right.

MR. WONG: And so when you have topics of multiple, you know, areas, then usually that gets referred to the Policy Environmental...excuse me, Policy and Intergovernmental Affairs Committee, because it's a Committee of nine of you as opposed to a lesser number; and that's why I'm suggesting that. I'm not suggesting that the topic could not be dealt with in this Committee, because it certainly can be if it's posted and you properly identify the opportunity for executive session. I would feel uncomfortable, though, dealing with the topic of executive session for litigated matter in this Committee.

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COUNCILMEMBER WHITE: Yeah, no, I see that. Thank you. Thank you, Chair.

CHAIR COCHRAN: Thank you, Mr. White. Members, any further discussion for Mr. Wong? Well, I kind of, you know, I feel the frustration with Ms. Crivello and I know Mr. White with budgetary items and the whole getting information via, you know, press releases and what have you. And I think what this is gonna get to, but not only to, is the closures and the, you know, the comments in regards to Council-imposed spending restrictions and things of that nature. So I mean whether that's through Budget or whether we can go there today and discuss this a little bit without crossing that line that goes into this litigation issue, I don't know if Mr. Ginoza can respond or yourself, Mr. Wong, if there's anything that this Committee can discuss in relation to that, I think we would be a little, you know, more productive in a sense. So that's my comment to Administration right now. If there's some kind of answer to that, but I guess you can...Mr. White, you have something to chime in with?

COUNCILMEMBER WHITE: Well, I think, you know, we all have similar questions, but I think based on Mr. Wong's comments that this is, you know, freshly dropped in their laps, I think it's probably more appropriate to let them go through the document and get a much better handle on what's in it before we go down this road. And I would hope that Mr. Wong could come back to us with an analysis of what, you know, what subjects are okay to discuss and which ones they feel we need to stay away from.

CHAIR COCHRAN: Right.

COUNCILMEMBER WHITE: 'Cause I –

CHAIR COCHRAN: No...

COUNCILMEMBER WHITE: --I mean I'm relatively comfortable that, you know, that there are items that we should be able to discuss because we can keep them—for lack of a better word—sanitized. And so I'd...it's up to you, Chair, but I think I would be comfortable letting them have the review, first, before we decide which items need to be done in Policy and which items can be discussed in this Committee.

CHAIR COCHRAN: Thank you, Mr. White. And I agree, but also it's been an issue since Budget that we've been trying to vet things through and, you know, this is the reason why it's here today.

COUNCILMEMBER WHITE: Right.

CHAIR COCHRAN: And Mr. Victorino, you know, proposed this communication into my Committee to bring up and here we are, but then, you know, we get this new light shed on the subject. So, with that, you know, I think it is only fair--I don't want us to cross a line that's gonna put us in a

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predicament that we can't get ourselves out of--and so I think it is best, at this point, to defer and to allow Corporation Counsel to vet through their new documents that they have; and, thereby, we can take appropriate action in whichever Committee it deems most appropriate to go to. So we shall have our day to get our questions answered and everything vetted through, but it's just unfortunate, I guess, at this point, that we have to go through it this way. So, Members, with IEM-56 then I shall, without objections, defer.

COUNCILMEMBER WHITE: Just --

CHAIR COCHRAN: Mr. White?

COUNCILMEMBER WHITE: --before you do that, if we could request that Mr. Wong give us a, you know, take this list and separate it, if it's possible, to separate the issues that can be discussed in this Committee and which need to go to Policy, I think that would be helpful for a start.

CHAIR COCHRAN: Okay. Yeah, thank you, Mr. White. And I guess, Committee Staff, if we can get that separated out or discuss with Department, I guess, with Corporation Counsel to see which questions would be appropriate for which Committee.

MR. MOLINA: Yeah, Madam Chair, we'll make a note to do a follow-up --

CHAIR COCHRAN: Okay.

MR. MOLINA: --in regards to that letter.

CHAIR COCHRAN: Thank you. Thank you very much, Jordan. Okay, Members, so without objections then, at this point, this shall be deferred.

COUNCIL MEMBERS: No objections.

COUNCIL MEMBERS VOICED NO OBJECTIONS (excused: GRH).

ACTION: DEFER pending further discussion.

CHAIR COCHRAN: Thank you.

MR. WONG: Thank you.

CHAIR COCHRAN: Thank you, Mr. Wong --

MR. WONG: Thank you, Chair; thank you, Committee Members.

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CHAIR COCHRAN: --Richelle, Mr. Ginoza and the other Departments that are here in the gallery.

**IEM-57 DEDICATION OF SEWERLINE EASEMENT FOR THE LAHAINA NO. 4 FORCE
MAIN REPLACEMENT PROJECT (CC 14-174)**

CHAIR COCHRAN: So, Members, next item then we shall jump into is IEM-57. And this one is a dedication...it's a proposed resolution entitled Accepting Dedication of Sewerline Easement for the Lahaina No. 4 Force Main Replacement Project, Pursuant to Section 3.44.015, Maui County Code. And the purpose of this proposed resolution is to accept from Harry and Jeanette Weinberg Foundation, Incorporated the dedication of a sewerline easement affecting Front Street, Kenui Street, and Tax Map Key (2) 4-5-008:001 in Lahaina, Maui, Hawaii, for the Lahaina No. 4 Force Main Replacement project. I'll open up the floor now for Mr. Ginoza to explain what this is. Mr. Ginoza?

MR. GINOZA: Thank you, Chair. This easement request is for our Lahaina 4 Force Main Replacement which runs from the pump station right by Mala Wharf and goes up toward Honoapiilani Highway. The original alignment was along Kahoma Stream by that Army Corps project, but we weren't able to put it back in there. They didn't allow us to. And the Weinberg owners wanted us to go along Kenui Street instead of having an easement on the northern portion of their property. So this is a replacement of a mid-1970s ductile iron force main that is in need of replacement to a PVC force main. Thank you.

CHAIR COCHRAN: Thank you, Mr. Ginoza. Members, any question for Department in regards to the easement? And so, Mr. Ginoza, we're purchasing this or...

MR. GINOZA: No, it's for free just to put in our line for the force main.

CHAIR COCHRAN: Oh, okay. So I mean it doesn't have any bearing with the Kahoma Village project in --

MR. GINOZA: No.

CHAIR COCHRAN: --in a sense? But it is to help the, you know, the amount that will be projected off of that site?

MR. GINOZA: Yes, we can accommodate that. So this will ensure that the line would not be compromised because it's old.

CHAIR COCHRAN: Okay. And so it has no bearing that this project had some type of requirement in order to do this?

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MR. GINOZA: No.

CHAIR COCHRAN: Is this part of their...

MR. GINOZA: No.

CHAIR COCHRAN: No, okay, alright. Members, that's...Mr. Couch?

COUNCILMEMBER COUCH: Thank you, Madam Chair. Thank you, Mr. Ginoza. So I'm assuming you're gonna kinda coordinate with those guys, so when they're diggin' up, you can dig up or vice versa so we're not diggin' up the street a couple different times?

MR. GINOZA: We're actually gonna proceed soon to just do the force main replacement. I don't know if they will necessarily be accessing the same areas for their construction. But we kind of have a construction timeline and I don't think theirs is as eminent as ours is, so we expect to be done within the year, hopefully within the next nine months or so.

COUNCILMEMBER COUCH: Okay. Thank you, Chair.

CHAIR COCHRAN: Thank you, Mr. Couch. So, Mr. Ginoza, we appropriated money this year for this particular project?

MR. GINOZA: I believe it was Fiscal '14 construction money. And so we finished the design, we went out to bid and we're going forward with...this is a existing CIP project --

CHAIR COCHRAN: Right, okay.

MR. GINOZA: --in our budget, yeah.

CHAIR COCHRAN: Okay, yeah, I do recall it on the list. Okay, Members, any further discussion needed? Seeing none then, I shall make my recommendation.

COUNCILMEMBER COUCH: Recommendation?

CHAIR COCHRAN: Thank you. I will entertain a motion to recommend adoption of the proposed resolution entitled Accepting Dedication of Sewerline Easement for the Lahaina No. 4 Force Main Replacement Project, Pursuant to Section 3.44.015, Maui County Code incorporating any non-substantive revisions and filing of County Communication 14-14 [*sic*].

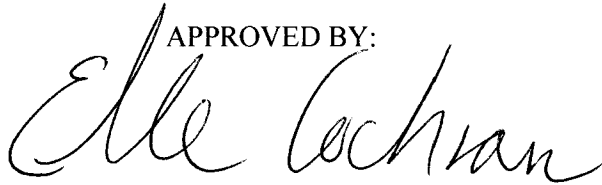
COUNCILMEMBER WHITE: So moved.

COUNCILMEMBER GUZMAN: Second.

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ADJOURN: 2:08 p.m.

APPROVED BY:


ELLE COCHRAN, Chair
Infrastructure and Environmental
Management Committee

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Transcribed by: Raynette Yap