

**INFRASTRUCTURE AND ENVIRONMENTAL
MANAGEMENT COMMITTEE**

Council of the County of Maui

MINUTES

September 28, 2015

Council Chamber, 8th Floor

CONVENE: 1:34 p.m.

PRESENT: VOTING MEMBERS:

Councilmember Riki Hokama, Vice-Chair (Temporary Chair)
Councilmember Gladys C. Baisa
Councilmember Robert Carroll
Councilmember Stacy Crivello
Councilmember Don S. Guzman
Councilmember Mike White

EXCUSED: VOTING MEMBERS:

Councilmember Elle Cochran, Chair

STAFF:

Scott Jensen, Legislative Analyst
Raynette Yap, Committee Secretary

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

ADMIN.:

Rowena Dagdag-Andaya, Deputy Director, Department of Public Works
Lance Nakamura, Assistant Development Services Administrator, DSA,
Department of Public Works
Michael Bush, Fiscal Analyst, Department of Public Works
Sananda Baz, Budget Director, Office of the Mayor
Michael Hopper, Deputy Corporation Counsel, Department of the Corporation
Counsel

PRESS:

Akaku Maui County Community Television, Inc.

VICE-CHAIR HOKAMA: *... (gavel) ...* The Council's Committee on Infrastructure and Environmental Management shall come to order. This is the Committee's regular meeting of September 28, 2015. I will be filling in for our Chair, Ms. Cochran, who has some medical issues she needs to address, and we wish her a very speedy return. Present in today's Committee meeting are Committee Members, Mr. Carroll.

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COUNCILMEMBER CARROLL: Good afternoon, Chair.

VICE-CHAIR HOKAMA: Good afternoon, sir. Ms. Baisa.

COUNCILMEMBER BAISA: Good afternoon, Chair.

VICE-CHAIR HOKAMA: Good afternoon. Ms. Crivello.

COUNCILMEMBER CRIVELLO: Good afternoon.

VICE-CHAIR HOKAMA: Mr. White.

COUNCILMEMBER WHITE: Good afternoon, Chair.

VICE-CHAIR HOKAMA: And Mr. Guzman.

COUNCILMEMBER GUZMAN: Good afternoon, Chair.

VICE-CHAIR HOKAMA: Six Members present out of seven. So we'll ask for public testimony, has anyone requested to provide testimony in the Chambers?

MS. YAP: No, Chair.

VICE-CHAIR HOKAMA: We have no requests to provide testimony in the Chambers, we shall ask our District Offices. Hana, Ms. Lono, anyone wishing to provide testimony please?

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

VICE-CHAIR HOKAMA: Thank you. Ms. Fernandez, anyone on Lanai wishing to provide testimony?

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

VICE-CHAIR HOKAMA: Thank you. Ms. Alcon from Molokai, anyone wishing to provide testimony?

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

VICE-CHAIR HOKAMA: Thank you so much, ladies, for your assistance. Members, with no objections, since there is no request for testimony, testimony shall be closed for today's meeting.

COUNCILMEMBERS: No objections.

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VICE-CHAIR HOKAMA: Thank you, so ordered.

ITEM NO. 24: CONSTRUCTION PLAN REVIEW REVOLVING FUND
(MISC)

VICE-CHAIR HOKAMA: May I direct you, please, to our first item of the day, IEM-24, under the heading of Construction Plan Review Revolving Fund. This item has been referred to Committee by a Communication dated May 28, 2015, regarding this revolving fund, and so we'll take some discussion and ask our Public Works Department if they have some opening comments they wish to share.

MS. DAGDAG-ANDAYA: Good afternoon, Chair, and good afternoon, Members of the Infrastructure and Environmental Management Committee. My name is Rowena Dagdag-Andaya and I'm the Deputy Director for Public Works. I also have with me, here to my right, Lance Nakamura, our Assistant Administrator of the Development Services Administration. And also, in the gallery, this morning, or I'm sorry, this afternoon, is Michael Bush, our Fiscal Analyst who joined our team in August of this year. So, he's been on the job for about a little over a month, maybe almost two months now, and he's been helping us with some of our fiscal analyzing. So, we'd like to thank him for all of his work in the last few...month and a half. I just have some comments regarding the Construction Plan Review Revolving Fund, our staff did some research on it and discovered that it was established in 1990, in Ordinance No. 1904, about three years after the Plan Review, Permit Processing, and Inspection Revolving Fund. In the Maui County Code, the Construction Plan Review Revolving Fund information is found in Section 8.24.010.E. The Plan Review Revolving Fund takes in fees from subdivision construction plans, so whenever there's a subdivision that requires or processes subdivision construction plans for reviews, that's where the monies come from. Whenever an applicant comes in and has construction plans, the fee is \$50 per lot. So, whenever they have improvements tied to their subdivision, that's when this fee is assessed. Over the years, the fund has accumulated about \$410,000 as of June 30, 2015. Annual revenues vary greatly in the last 10 years, so some years we went as high as \$37,950. This was back in Fiscal Year 2007 and then there was another year...it can go as low as \$1,150. And this is what we experienced in FY '13, so the annual revenues, they vary very greatly. Average revenue for that period has been 12,330 per year, so we took an average of the years since the Construction Plan Revolving Fund was established. Funds can be expended on the hiring of persons employed on a fee contract or a piecework basis. Or we can also hire independent contractors to assist us with our plan checking, permit processing and our inspections. The fees may also be expended for payment of overtime for plan checking, permit processing, and inspections of subdivision construction activities. Expenditures for the most part over the years have been very nil, only with, we've only been using the fund recently, and this was last year, Fiscal '15, where we used \$10,000 for outside consulting services. In looking ahead to possible uses of the fund, we see a really great opportunity to pretty much dissolve this fund since it hasn't been used until recently. While an increase of fees may be warranted as the cost to process these types of plans is certainly greater than \$50 per lot, the fact that we have not

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been using the funds until this year and the great variability in annual revenues tells us that we should probably eliminate this fund altogether and have the fees go into the General Fund. And I'll explain a little bit more as to why we think that. The Department supports that having this fund balance be used to help with the new, or the MS-4 program that we currently have in place. In the recent months, we've been coming before this Committee to talk about the MS-4, the Municipal Separate Storm Sewer Program, and one of the questions that is always raised is, how are we going to be able to fund this program? So we see an opportunity here with the Construction Plan Review Revolving Fund to maybe use the monies from this fund to help support the establishment of a MS-4 program. The MS-4 program will be looking to amend our Grading and Erosion Control Ordinance in terms of best management practices, and that type of activity is consistent with the intent of the Construction Plan Review Revolving Fund. This could be done over time or, I mean, I'm sorry, this could be done one time for the entire \$410,000 that we currently have in the fund, or even annually at approximately 105,000 to 115,000 per year for the next 4 years. So we could either dissolve the fund now, and what we're suggesting is if we dissolve the fund now and put everything into the General Fund, then we can use that 100 or that 410,000 for the MS-4 program. Or we can do it over time where each year we could take from the fund and use that to support the MS-4 program. So those are the notes that we have regarding the Construction Plan Review Revolving Fund. If you have any questions, both Lance and I are available to answer them.

VICE-CHAIR HOKAMA: Thank you for your comments and your recommendations regarding this particular fund, Director, it's much appreciated. I'm going to ask the Members if they have any questions on what you just have shared with us. Mr. Guzman, questions?

COUNCILMEMBER GUZMAN: Thank you, Chair. Yes, I'd like to ask the Department, so when you, if your plan is to dissolve the fund and then basically transfer the monies into the General Fund, what then will occur when you do need monies for the expenditures such as outside consulting and I guess, you listed a few other expenditures, will that also be coming from the General Fund?

MS. DAGDAG-ANDAYA: Chair?

VICE-CHAIR HOKAMA: Director?

MS. DAGDAG-ANDAYA: Yes, so what, I guess, what we'd do is create an index code for any MS-4 or within the subdivision program. And, I guess the monies would come from General Fund, correct. Because right now, I mean as I mentioned earlier with the Construction Plan Revolving Fund, I mean we do have the 410,000 now but we haven't been...I mean ever since it was established we haven't been really tapping into those monies for any overtime or processing of permits or inspections. So, moving forward, I guess, your question, going back to your question, if we needed any overtime or for plan checking, permit processing, yeah it would likely be through our General Fund program.

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COUNCILMEMBER GUZMAN: Okay. On the...you mentioned that it hadn't been used for quite some time. When was the last, I guess, substantial, I guess, data that would show it was being used?

MS. DAGDAG-ANDAYA: So, since the establishment of the Construction Plan Revolving Fund, my understanding is it's only been used just recently. A few months ago when we hired an outside consultant to help us with this really big project out in Lahaina, in terms of checking for BMPs and soil erosion control, and that was approximately \$10,000. So it was only used one time.

COUNCILMEMBER GUZMAN: And then from that, since that one time, what was the next, I guess, prior usage activity in it?

MS. DAGDAG-ANDAYA: That was it.

COUNCILMEMBER GUZMAN: That was it?

MS. DAGDAG-ANDAYA: It was just a few months ago that we used it. We started, yeah that we actually used monies from the Construction Plan Revolving Fund. But prior to that, since it was established in 1990 we...or I'm sorry, back in 2006. I have data here, I mean, we show zero expenses until FY '15.

COUNCILMEMBER GUZMAN: Chair, was this fund attached to a certain ordinance or something? Or was...

VICE-CHAIR HOKAMA: That was enabling legislation, I think the Director mentioned an ordinance in the '80s or '90s. Director?

MS. DAGDAG-ANDAYA: Chair, so we have, we went through Council reports and learned that it was established in 1990 and that after, three years after the Plan Review, Permit Processing, and Inspection Revolving Fund was established. So, on the building permit side, there was a Revolving Fund that was established and then a few years later in 1990, that's when this Construction Plan Revolving Fund was created. And, you can find it in our Subdivision Code under Section 18.24.010E.

COUNCILMEMBER GUZMAN: So it was basically created just specifically for subdivision processing?

MS. DAGDAG-ANDAYA: That's correct.

VICE-CHAIR HOKAMA: It is the bugaboo we've been dealing with for ages, which is expediting Building Permit processing and decision, whether it's an approval or a denial. This was part of Council's attempt after hearing the departments and parties that get impacted on how to address expediting approvals. And as you can hear, here we are 25 years later still talking about expediting permit approvals. But Council felt that money shouldn't be the issue and that is why the monies were for overtime and get the departments the support they needed to have a timely decision on this specific

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areas of concern. That the departments didn't utilize tools that Council gave, they need to explain why, but Council gave them the tools to expedite permit processing, and this is one of the attempts by Council to address it from a financial point of view. Director?

MS. DAGDAG-ANDAYA: Chair, I was just given information from the Budget Director that there was approximately 4,500 that was spent in 2000 for overtime. So, that was used for processing permits at that time. But, since then, our data shows that we have not been utilizing it. So, and the recent activity was late last, this past fiscal year.

VICE-CHAIR HOKAMA: So, for the Committee to understand, especially your recommendation that we consider sunset'ing this fund, Director, have we improved the length of time it's taken to process permits?

MS. DAGDAG-ANDAYA: Chair?

VICE-CHAIR HOKAMA: The intent, you know, I mean have we met the intent of the fund? And if the answer is yes, I guess your recommendations are very pertinent. And if the answer is no, then how would you have us consider assisting the Department in giving the public timely review and decisions on permits?

MS. DAGDAG-ANDAYA: So, Chair, we have in our Subdivision Code a specified timeline for the review of subdivision plans. It's 45 days, so for preliminary plans the Department of Public Works Development Services Administration, we are...since...as the, I guess, the keeper of the process, we work with the other departments and get their comments in, and we provide feedback back to the applicant under preliminary plat within 45 days. So we've been meeting that timeline, or that requirement in that sense. And I think as we...we've also set up performance measures that, where we track how well we process these applications, and so we've been meeting those performance measures on a yearly basis. And so it has been, we've been able to meet timelines and be able to do plan checking, permit processing, and inspections within a timely period.

VICE-CHAIR HOKAMA: So when we hear complaints from the _____, it's, is it what, more about other departments' signoffs and reviews that is the issue and not necessarily your area of responsibility? Because we all hear it, how long it takes to get one subdivision approval.

MS. DAGDAG-ANDAYA: Chair, there are reviews by other agencies, so we would have Planning Department review, Water Department, Environmental Management. We also have State agencies that review, and there may be instances where review times are also, take a little bit longer, for specific items. And, in that sense, you know, we try to work with departments to make sure that the timelines are met, that 45-day time period is met. Some agencies we don't have any control over, especially with State agencies. And, but, we've been working with different administrators within the past few years to see where we can find efficiencies. With our new MAPPS program, in moving forward with that new system for, online system, we've also been asked to do process review of our different processes. So, for building permits, subdivision plan

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reviews, all those things, those, each individual department is now being asked to take a look at their process for reviewing applications and finding efficiencies. Seeing if we have any overlapping reviews that can be squeezed in, or, you know, that can be eliminated. So, we are moving forward with that, I think things are starting to get a little bit better, in terms of review. I can also, when we talk about building plan review, I can speak a little bit about that too, but, I think that's kind of where we are at this point.

VICE-CHAIR HOKAMA: Okay, I know Planning Departments have their annual Hawaii Congress of Planning Officials, where they talk about components that maybe they all share across the State. Do you have some kind of Public Works conference that also you folks all come together once a year and share ideas of mutual issues or updated best practices?

MS. DAGDAG-ANDAYA: Okay. Chair, so we do have an annual conference for building code officials. I'm not exactly sure if they talk about subdivision processing, but there is an annual conference that goes from island to island each year when...it relates to building code.

VICE-CHAIR HOKAMA: No, and my interest is, you know, all four counties deal with the same unions, we deal with the same collective bargaining agreements. And my thing is if Big Island County is doing something we should consider and it knocks off one week of review time or something, I'm hoping they're sharing some of their practices with you so you can say, well, let's see if it works for Maui then. Again, for me, I'm just trying to find ways of making it easier than harder. And, since we all deal with the same contracts, same unions, I guess my thing is what one county can do we all can consider duplicating if it makes sense. So, that's what I'm trying to lead up to, because again, I find it interesting the departments haven't made use of this financial resource either to authorize overtime, or to find ways to reduce length of processing, so can we take it from this Committee's standpoint that length of approval has nothing to do with financial resources that the Council gives to the departments? That doesn't impact your guys ability to perform? Because you're telling us that you don't need this money.

MS. DAGDAG-ANDAYA: Well, Chair, if I may, you know, another thing that we need to also factor into our review and processing times is the quality of the plans that come in. So, we can do an initial review within 30 to 45 days, but it's the back and forth between the applicant's consultant and the divisions, or the departments, the reviewing agencies that sometimes take a little bit longer. As for the Construction Plan Review Fund, I think there's opportunities in using these monies to assist us with inspections, best management practices, seeing that all of that is being done as it relates to subdivision construction plans. As we move forward with MS-4 we're looking at different erosion control measures and possible changes to our grading ordinance. I think we will be, we anticipate spending a lot more time in enforcement and reviewing and inspections. So, this would be an opportunity for us to tap into these monies, to be able to use that towards the MS-4. I think the language as it is right now, it says the fees may be expanded [sic] for payment of overtime for plan

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checking, permit processing, and inspection of subdivision construction activities. Perhaps, maybe what we can do is kind of relook at opportunities of maybe expanding the language or making it clear what is it that we really want to be able to do with this.

VICE-CHAIR HOKAMA: Again, Department, you know, Director, part of this is to have this discussion today. I didn't have any indication from Chair Cochran that, you know, she's anxious to push this out, so I would say we look forward at this as one step in multiple steps of trying to get some recommendations, what makes sense for you folks. If there's some revisions we look forward to your proposals. If you want expansion of parameters, that's something we can consider. You want it more tight, we can consider that. And again, you know, look at your sister counties' practices for this, because we're open to assisting you in making sure that we get, that this isn't the bottleneck. I mean we've heard about the bottlenecks for years, so, if this is one that we can approach the bottleneck, we look forward to your comments on this. Mr. White, any questions?

COUNCILMEMBER WHITE: Thank you, Chair. With the recommendation to eliminate the Fund or to put it back into the General Fund, are you also recommending the elimination of the fee?

MS. DAGDAG-ANDAYA: No, no, sir. I think the fee you still...we see the need for it, but as far as the, yeah, as far as the elimination of the fee, I think it's still pertinent. It's just being able to use the monies at this point, and like I had mentioned earlier, maybe expanding the language or revising that to meet our needs or any needs that we see in the future. I think that's something that we'd like to consider.

COUNCILMEMBER WHITE: It seems that the 45-day turnaround requirement in your Department has really been what drives the success. So, are you suggesting that the fee still goes into the fund or goes into the General Fund?

MS. DAGDAG-ANDAYA: We're suggesting that the fee goes into the General Fund.

COUNCILMEMBER WHITE: The new fees as well? I mean future fees.

MS. DAGDAG-ANDAYA: Any future fees.

COUNCILMEMBER WHITE: Okay, so the fund would be eliminated in its entirety? Are there any other departments that are involved in the review process that are subject to the same 45-day limitation on review time?

MS. DAGDAG-ANDAYA: We do have other departments that take part in the subdivision plan review as well, there's a number of them. Yes.

COUNCILMEMBER WHITE: And you mentioned that Water, Health Department, and others are out of your control. Could you give us a list of the departments that are under, that are respecting the 45-day turnaround time that you guys have imposed upon yourselves?

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MS. DAGDAG-ANDAYA: I was just conferring with Lance, you know, we do have...we've been tracking our review times for the Building Permit review. But as far as subdivision plan review within the first, for the 45 days, that's something that maybe we could track that and see which agencies are not meeting the deadlines or the timeline. And that...oh, but at this moment I don't think we have any, yeah we don't have any data. But we can look into...

COUNCILMEMBER WHITE: No, that's fine.

MS. DAGDAG-ANDAYA: Yeah, we can look into KIVA and see.

COUNCILMEMBER WHITE: The reason that I bring that up, Chair, is that if the 45-day target is working well for them, and I know that they've been doing this for a while, maybe that's something that we impose on the other departments that are under our control. Because it seems that it's not necessarily the money that drives it. Of course I'm sure this probably came about when there was heavy pressure because there was heavy, you know, heavy desire to construct. Maybe someday we'll get back to that level of construction, but I don't see it happening in the near term.

VICE-CHAIR HOKAMA: What we'll do though, Mr. White, is we'll send a letter to the Department asking for the information. What other agencies or departments are part of the process review approval.

COUNCILMEMBER WHITE: And if you could also ask the Department to provide which agencies seem to take the longest. Because if we have this fund for the purpose of expediting subdivision approvals, then it seems to me that that fund could be used by the Department to help other departments expedite by providing an outside consultant to help expedite or possibly covering overtime for reviewers in other departments. But that's, I think that was all I had. Thank you.

VICE-CHAIR HOKAMA: One thing though, if we can, from Staff, send a letter to Corp. Counsel too. I want to see if our monies can also be considered as one way to help our County departments use that money to hire a, or promote the State for their approval. And I'm talking more about SHPD, you know, we've heard about their vacancies, and therefore, it is now six months we're waiting because they haven't filled...

COUNCILMEMBER WHITE: No, six months is short.

VICE-CHAIR HOKAMA: Well I was trying to be nice about it, so...

COUNCILMEMBER WHITE: You're blessed if you get six months. I had a project in SHPD, we had an archeological survey done, where we dug eight plots, eight feet square, five feet deep, found absolutely nothing. Two years to get approval from SHPD.

VICE-CHAIR HOKAMA: So yeah, we'll see if there's limitations on the use of the revolving funds, whether or not it's part of the overtime or a third party. We could look at

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having consideration that we, for certain key State agencies, hire a licensed historian or archeologist to be able to sign off on our permits.

COUNCILMEMBER WHITE: Chair, I, if you don't mind adding to that, if Corp. Counsel is going to look into aiding State agencies with expediting, it might also be worth looking into whether or not it's possible in some way to allow projects to move forward if SHPD doesn't meet a certain deadline within which to respond. Whether, if the archeological survey finds no significant concerns that that project will be allowed to move forward into future steps on a provisional basis. And I'm not sure if that's possible, but SHPD holds up a lot of, you know, a lot of very okay projects.

VICE-CHAIR HOKAMA: No, I understand. Mr. Hopper?

MR. HOPPER: Okay to hopefully deal with some of these issues now because I think we do have some experience with those issues. A couple of things, one is that the review, at least in my experience which is not a huge amount but a bit with this fund, I think the intention in addition to overtime for County staff members is for outside parties to review plans that maybe the County would not have the expertise to review. To assist the County in reviewing the plans for compliance with the County Subdivision Code. Not with the, with compliance with other State or other, even other departmental codes. It's for compliance with the County Subdivision Code, and, you know, State law and case law specify that the responsibility for compliance with the County Code rests with the developer. Meaning that the developer is responsible for hiring the qualified other consultants, consultants, engineers and architects to provide the County with the information that complies with the requirements of the Code. And, so that responsibility would rest with the applicant. The County's sole responsibility, at least with respect to the Subdivision Code, is to review compliance with the Subdivision Code. It is not the County's responsibility to determine compliance with other State laws. Now, a lot of times the Subdivision Ordinance gets used for that because in a lot of cases, subdivisions, the developer is required to comply with a variety of laws, and so the subdivision is used as sort of a starting point to provide that to the other agencies. But, the Department of Public Works itself, it may send information to the other agencies and ask for a response from those agencies. But the Department itself is going to be reviewing the compliance with the Subdivision Code, which is Title 18 and the subdivision requirements therein. The Department itself will not be reviewing State Historic Preservation Division compliance or compliance from any other State agency. So, using money from this fund to do that I don't think would be possible. The County would use this money as it's listed in the Code, to either give overtime to its own employees to review compliance with the Subdivision Code or to hire an outside consultant to kind of give a second check, having your own consultant to review plans prepared by another engineer to say if the County employee might not have the level of expertise required to give a thorough review of that particular issue because it may involve, you know, some maybe highly specialized issues. It could be used for an outside engineering firm to consult, provide review for that and say, yes, this is in compliance with the County Code, including subdivision, and there's other County ordinances involved, like grading ordinances usually and maybe Building Code as well. So that's generally what those funds are used for, and I think using that fund

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to give assistance to the State Historic Preservation Division is something that's most likely outside of the scope, certainly of the wording of this, I think, ordinance, and, yeah, normally this would be for the County to hire its own consultants to do, to assist the County reviewing personnel with their review of the Subdivision Code. So, that's, just to give some of that background. Because certainly some of this was, I think with the overtime provisions it was most likely intended to assist with, you know, a thorough review of these plans, but not necessarily the main purpose being to expedite the plans. Because certainly going to an outside agency for review would probably, wouldn't necessarily expedite review of the plans. It could actually be a more thorough review, that it may take a bit more time to contract with the outside agency, get that contract executed, wait for their review. I mean that's generally going to probably take a bit longer than it would take for the County itself to do that review. I think it's there because of the expertise required in certain cases to do that type of review. So, just some background and kind of my limited experience with that. But again, it is the owner, the property owner that is, has the primary responsibility for compliance here, and from hiring outside consultants to comply with the Code.

COUNCILMEMBER WHITE: Mr. Hopper makes a very good point. It may not apply to this ordinance, but it is one of the great frustrations of the process and maybe it'll apply to the next ordinance. The Plan Review, Permit Processing, and Inspection Revolving Fund. I understand his concern about the, trying to get the State to comply with County funds, but again, this is a home rule issue. If they want in on our process then they should be held to some level of timeliness, and maybe we can ask Corp. Counsel for some perspective on how that might be best achieved. So, thank you, Chair.

VICE-CHAIR HOKAMA: Thank you, Mr. White. And before I ask the other Members, I would just say that, one, I think Mr. Hopper is right as the ordinance is currently written. It doesn't mean that we cannot revise the ordinance and the Code through Council action. Second, I would say, please, if you can recall, to back to the '90s and how County was processing then. Okay, because if I recall, there was no DSA, there was LUCA, Land Use and Codes Administration, for those that was around long enough. Planning and was mostly Public Works, I mean I don't think Planning had much to do with permitting in the past under the old structure. I'm trying to remember because I was, I did a lot of things under the old structure. But again, when you look at the ordinances, look at the time and what the County was practicing in doing it's a review and approvals. Because it's definitely not what we do today, back in 1990. So I would say this was one approach of Council at that point in time to what they perceived the issue to be. And again, so, it's timely, I think as your comments showed that, you know, we may need to review what is more appropriate for this time, 2015. Director, so we're very open to your comments and suggestions. Ms. Crivello...yes, Director?

MS. DAGDAG-ANDAYA: Chair, like I mentioned earlier, we're going through this process review of all of our processes. So, it's very timely that this matter comes before the Committee. So, as we do that process review, we can kind of hone in on maybe some recommendations and changes. And you're correct, back in 1990 it was a different way we processed permits and applications. I mean, just as a side note, I mean both

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Lance and I were still, like I was still in high school and Lance was in college I think, so, but times have changed, technology has changed and ordinances changed. So but we do welcome the opportunity to help make change, positive change.

VICE-CHAIR HOKAMA: Yes, we look forward to your active participation. Ms. Crivello, questions or comments?

COUNCILMEMBER CRIVELLO: No, thank you.

VICE-CHAIR HOKAMA: Thank you. Ms. Baisa?

COUNCILMEMBER BAISA: This is a fascinating discussion. You know, when you think about it, we're talking about 1990 this was established and this is 25 years later. So, I'm glad we're taking a look at it. I like when we find pots of money, you know, it's always nice to find pots of money, and apparently you have a recommendation about, you know, where you would like to see the money go. It brings up a question for me that I probably shouldn't ask but I'm going to anyway, I can't resist. You know, when you have a pot of money and one of the things that we could use it for was OT, apparently we didn't need to use it for OT. Is it because we chose not to do OT or do we have enough money to do OT and so we don't have to touch this money?

VICE-CHAIR HOKAMA: That's a great question and more than likely my answer to you without double checking the books is that they found another way of paying for the overtime.

COUNCILMEMBER BAISA: Do we have a lot of OT in this Department? I'm sorry but I'm not, I can't remember. Budget was a long time ago.

VICE-CHAIR HOKAMA: I'll ask our Director or Mr. Nakamura, or our Fiscal Officer, if he has, you folks have some response or if Mr. Baz would care to respond, we're open to it. And if you guys need time so we can get accurate information, we're happy to await submittal of that information. So, Director, you know, you can either respond now or if you want time to verify figures, anything, we're happy to give you time also.

MS. DAGDAG-ANDAYA: Sure, just real quickly though, in that brief conversation that I had with Lance and Sandy, we did spend about 3,000 in overtime last year. And the reason why we did some overtime was because of the vacancies that we were experiencing. So, in order for us to catch up with the work that was, that would've been typically done by another employee, we used overtime. But we do, I mean if you have any, if you would like to ask us that question in a letter, we can research it more fully.

COUNCILMEMBER BAISA: Mr. Chair, I just think it's important that the Department have money to take care of OT, because obviously there will be times when there's something that we really want to get through you guys. And, if it requires OT then I want to make sure we have the money. I don't want to take it away and then you don't have.

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MS. DAGDAG-ANDAYA: Yeah. Oh, and, Chair, I just also wanted to point out, OT is something that I know a lot of departments have been asking. In fact today, Mike and I were just working on some numbers and looking at our historicals, and...the historical actual numbers and trying to, you know, see where we can make it more efficient.

VICE-CHAIR HOKAMA: Okay.

COUNCILMEMBER BAISA: Good.

VICE-CHAIR HOKAMA: Yeah, and this is one fund if again, we in our authorization gave appropriation authority in advance. So once the money goes in this pot, if the Department needs it for the specific purpose of the ordinance, they can draw the money out of that since we pre-appropriated our approval from that fund.

COUNCILMEMBER BAISA: That's good. It seems to me that this is perfectly in line with what we're trying to do, you know, we're all talking about how can we move things, how can we make it faster, whatever, and that makes perfect sense. Thank you.

VICE-CHAIR HOKAMA: Thank you. Mr. Carroll, any questions or comments, sir? Anything else, Mr. White?

COUNCILMEMBER WHITE: Yeah, you know, the purpose of the fund is to make sure that what's coming in is getting processed on a timely basis. So, I think the big question in my mind is what was the volume back then versus what the volume is now? And what tools have the departments been afforded that are making the review much more, much easier or at least a little easier? Is it, are we being more timely because of improvements in the system plus, you know, a lower level of applications? Or is it, are we able to produce more reviews now because we've got better tools? And I think that would be an important thing for us to consider if we were to continue to keep this fund in place.

VICE-CHAIR HOKAMA: We'll send a letter. I would like to give the Department ample time to research the data and respond properly.

COUNCILMEMBER WHITE: Yeah, no, I wouldn't expect them to have an answer right off the top of their heads. Thank you, Chair.

VICE-CHAIR HOKAMA: So we'll send a letter to the Department. Yes, Ms. Baisa, anything?

COUNCILMEMBER BAISA: No, just one more question that I have if we're through with this. I wanted to ask the Budget Director who's here, we didn't hear from him. I'm curious to know if he has any comments on this proposal.

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VICE-CHAIR HOKAMA: Mr. Baz, why don't you please join us? And you can even sit here so that you don't have to go back and forth, back and forth, please. Please join us and share your thoughts with us.

MR. BAZ: Thank you Mr. Chair and Member Baisa. Sandy Baz, Budget Director, nice to see you this afternoon. So, from my understanding, the proposal would be to move or either revise the ordinance to allow this money to be paid into a fund that would be then utilized for the MS-4 project. Or take the money, get rid of the fund completely, and put it into the General Fund, which is what's paying for the MS-4 project right now. Either one, you know. I guess my question would probably be to Corp. Counsel about the collection of the fees under the auspices of what, you know, the current ordinance and then disposal of those fees, you know, it would take Council action to do that. And I'm not sure, you know, or if we would have to go refund all those, I have no idea. But, I'm not sure if Mr. Hopper could look at that or need further review, but that would be my only concern about the current funds and use of the current funds for other than what the Code was created that allows us to charge that fee.

COUNCILMEMBER BAISA: Thank you very much because I know you have a unique perspective, because you deal with the actually doing it. You know, we can talk about a lot of stuff but you deal with the mechanics of making things happen, so I was interested in your thoughts. Thank you.

MR. BAZ: Yeah, I'm positive that there's no way that this fee could cover the costs of an, the MS-4 project in its entirety, so I think the Director's or Deputy Director's recommendation of it going to the General Fund is probably the best.

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

VICE-CHAIR HOKAMA: Okay, thank you. Mr. White?

COUNCILMEMBER WHITE: Yeah, I would agree with that because there's, MS-4 doesn't deal just with subdivisions. So, it would be real tough to use this fee on an ongoing basis for MS-4 without looking at how we charge some other fee to people who are going to benefit or need the improvements that are going to be outlined in MS-4.

VICE-CHAIR HOKAMA: Well, I would just say from the Committee's standpoint, more than likely we would look at the existing fees collected because it was paid for under certain conditions of the Code parameters. So I would say they could make a great argument if we're using the fees for things outside of what they paid for, the purpose of why they paid the fees. I can see us getting into some legal arguments over that potentially. Anything else under Construction Plan Review Revolving Fund under IEM-24, Members? Anything else you would like to add, Director or Mr. Nakamura, on this item?

MS. DAGDAG-ANDAYA: No, Chair.

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VICE-CHAIR HOKAMA: Okay, having none, Members, with no objection, we shall defer this item.

COUNCILMEMBERS: No objections.

COUNCILMEMBERS VOICED NO OBJECTIONS. (excused: EC)

ACTION: DEFER pending further discussion.

VICE-CHAIR HOKAMA: Okay. Thank you.

**ITEM NO. 26: PLAN REVIEW, PERMIT PROCESSING, AND INSPECTION
REVOLVING FUND (MISC)**

VICE-CHAIR HOKAMA: Let us just move to IEM-26, which is very similar, a little broader. Plan Review, Permit Processing, and Inspection Revolving Fund. This is also through a Communication of May 28th to this Committee. And this is also a special fund that is enacted into the Maui County Code, and we'll ask the Department through our Deputy Director for her opening comments please.

MS. DAGDAG-ANDAYA: Okay. Thank you, Chair. The Plan Review, Permit Processing, and Inspection Revolving Fund was initiated in 1987 under Ordinance 1613 and amended what was then Maui County Code 1624, that's our Building Code. The bill was intended to make efficient building plan reviews, as recommended by a permit process or permit improvement process committee, back at that time. Essentially what the bill did was to make sure that a plan review fee was collected upon the submittal of the permit in an amount estimated to be 25 percent of the final Building Permit fee. That upfront fee would then go into the fund and then could be used for overtime and any outside consultants to assist when plan reviews got backed up. Over the years, this provision has been amended many times, and we actually did some research by looking into Committee Reports through the County Clerk's Office. Sometimes the Code was amended on its own, sometimes it was in conjunction with the new Building Code requirements and most times it was part of the annual budget process. Today, the Permit Processing, Plan Review, and Inspection Revolving Fund falls under a specific number, it's Maui County Code 16.26B.108.2.1 and may be expended for a number of things. This includes salaries, training, contracts, most recently there was language put in for rent payments, fixtures, materials, supplies and equipment that facilitate plan review. And also for payment of any overtime of plan checking, permit processing, and inspections. Looking at our ability to process building permits under the Building Code provisions, our performance measures indicate that the fund is doing its job in DSA as the building plan review time always meets the 30-day review limit, and average a fraction of that. What we've done recently was track Building Permit reviews of all agencies that are involved in the Building Permit review process. And we have some data, about a little over a year's worth of data, so we can identify where we need some additional help, but so far we have been meeting our performance

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measures. Inspections again that I mentioned, they're generally going very well. There's also a lot of back and forth with applicants on making changes and so we have to take that into consideration as well. But, in looking what we currently have, we feel that we're right sized for the current permit application levels that we experience each year. To date today, the fund has approximately 3.66 million. That's the balance that we show as of June 30, 2015. Revenues for the last 10 years have varied from a high of 1.27 million in Fiscal '07 to as low as just only \$600,000 in Fiscal Year 2010. Expenditures varied from 407,000 in FY 2006 to 900,000 in FY, Fiscal Year 2013. We wanted to note that in Fiscal Year '11 expenditures did increase about 250,000 per year going forward because we moved into our building on Kamehameha Avenue, Kamehameha and Lono. So we've been using the fund to pay for rent for the building at that location. I was looking at some of the historical, the Committee Reports from back then and there was language that was put in, I think it was in I want to say 2006 but I might be mistaken, where rent and different kinds of fixtures or fixtures were included into that section of the Ordinance for the Plan Review, Permit Processing, and Inspection Revolving Fund. Since Fiscal Year 2010 with the rent payments, the fund has only grown by \$144,000 meaning that it's been largely a break. So we kind of break even at the end of the year in terms of any revenues that come in and our expenditures. And this has been so for the last five fiscal years. The fund currently pays for the salaries of 14 employees in DSA that review, process and inspect on permits. This number of employees has however grown over the years. So for example, in Fiscal Year 1993 it jumped from 5 positions to 8, so now we're at 14. While there is some significant volatility in annual revenues because the numbers aren't always consistent, you know, the fund relies on private sector construction activity. We feel with the current balance, we feel that another position in DSA could be funded or moved from the General Fund, what we use in our General Fund. We can take that position and have it be paid through by the Building Permit Review or Revolving Fund. And that we hope could free up a General Fund position that we could use towards the MS-4 program. So that's one recommendation that we have for this fund, and but we are very welcome to any other recommendations that the Committee and the rest of the Council would have.

VICE-CHAIR HOKAMA: Thank you for your comments. Mr. Nakamura, anything you wish to add?

MR. NAKAMURA: No, Chair.

VICE-CHAIR HOKAMA: Okay, thank you. Members...Mr. Carroll, questions, sir? Ms. Baisa?

COUNCILMEMBER BAISA: No, no thank you. That was a very good introduction. Thank you.

VICE-CHAIR HOKAMA: Thank you. Ms. Crivello?

COUNCILMEMBER CRIVELLO: No, thank you.

VICE-CHAIR HOKAMA: Mr. White?

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COUNCILMEMBER WHITE: Thank you, Chair. Thank you for those numbers. The question that occurs to me is if we are in a position where the fund is growing by \$144,000 a year on a base that's already at about four or five times what we spend every year, at what point do we adjust the fee to match the need?

MS. DAGDAG-ANDAYA: Chair?

VICE-CHAIR HOKAMA: Director?

MS. DAGDAG-ANDAYA: Yeah. That's something that we've started kind of looking into for this fiscal year. You know, once this item came before the Committee and was placed on the master agenda, that's, I mean we started kind of thinking, okay, you know what kind of changes can we make? And that's again, yeah, that's something that we, we're continuously reviewing or we're starting to review.

COUNCILMEMBER WHITE: Have we ever adjusted the fee downward?

MS. DAGDAG-ANDAYA: No, not...yeah to our understanding, we haven't been adjusting it downwards. I think that it's been flat for some time now.

COUNCILMEMBER WHITE: And what is the fee for a homeowner coming in for, I don't know what the construction cost would be for somebody who's building a three-bedroom, two-bath house in Kahului be?

MS. DAGDAG-ANDAYA: In the ordinance it's 25 percent of the permit fee. So, we take the valuation. So it can vary. Like a three-bedroom home, I mean it varies from location to location.

COUNCILMEMBER WHITE: Yeah, based on price.

MS. DAGDAG-ANDAYA: Yeah, based on the price. But we do have the structure, I mean in our rates and fees. So, but as far as the permit review fee, yeah, it's 25 percent of the building permit valuation.

COUNCILMEMBER WHITE: Is that 25 percent on top of the Building Permit cost?

MR. NAKAMURA: Yeah, so it's 25 percent of whatever the Building Permit fee is. And the Building Permit fee is based on a schedule in the Budget Ordinance, based on the valuation of the structure.

COUNCILMEMBER WHITE: Can you give us an example of what the fee is?

MR. NAKAMURA: It's a sliding scale, so it's...so for 100,000 to 500,000 it's 795 for the first 100,000, plus \$4 for each additional \$1,000.

COUNCILMEMBER WHITE: Okay. So then the...

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MR. NAKAMURA: That's the permit fee and then the plan review fee is 25 percent of that.

COUNCILMEMBER WHITE: So that would be 25 percent. Yeah. So it's another \$200. So it's roughly \$1,000 for a \$100,000 house. So it's not peanuts. I know my kids would love to see a little reduction if they were able to build a house. Mr. Baz had his hand up --

MR. BAZ: Yeah.

COUNCILMEMBER WHITE: --Mr. Chair. I know you're not used to looking over here for comments.

VICE-CHAIR HOKAMA: Well, I was very intently listening to the Director. Because she and Mr. Nakamura have, well together they have years of experience, and before I let Mr. Baz speak, historically, the County approached it this way, Mr. White. The bigger the pot or...then they ask for more positions to be funded, EPs through the fund. So you look historically what the fund has been paying for, continues to grow as the fund grow. And that's why we never did reduce the fund or the fees, because it kept paying for more positions from that component than the General Fund.

COUNCILMEMBER WHITE: No and I understand --

VICE-CHAIR HOKAMA: So that was the approach. That was the approach.

COUNCILMEMBER WHITE: --the desire to keep moving in that direction, but at the same time, this is a cost that our new homebuyers are being burdened with, you know, I don't, as someone who already has a home, I'm okay paying a little bit more in property tax as opposed to making them pay it as part of their mortgage. So, it's just a difference in philosophy and I think a lot of our Building Code reviews and...

VICE-CHAIR HOKAMA: I need 60,000 more people thinking like you.

COUNCILMEMBER WHITE: Well, you know, the, but we had this discussion last year with respect to the Planning Department's review fees, and for me, it's a question of where does the public's, because the public is who benefits from having Planning involved in the decision making process, in the review process. It's the public that benefits by having the Department review building plans and subdivision plans to make sure that the codes are being followed so that the subsequent buyer is not going to get burned. So to me it's a question of how much does the public pay for it versus how much that new homeowner is going to be saddled with. I don't know, we may have it right, but I think it's important that we keep looking at it. If we're going to, if we're sitting here with a \$3.6 million or \$3.7 million fund that's grown by 720,000 in the last 5 years, so, anyway.

VICE-CHAIR HOKAMA: No, I think you have very appropriate questions and comments, and that is why the Budget Committee referred to all the standing committees the review of

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revolving fund since, I think my 20 years around this building as a sitting councilor, Council again fights time to do its appropriate reviews outside of budget. But revolving funds, as you...we all found out, there's a lot of them with a lot of money in various pots intended to meet a specific goal or mission. And my thing is, if we're not doing it then we need to ask why, and if we've done it, is it time to reallocate those funds to another priority? Mr. Baz, we'd be open to your comments, sir.

MR. BAZ: No, I was just...thank you, Chair. I was just going to add actually to Mr. White's, not only is this fee, you know, 25 percent of the building permit fee, there's an additional 12½ percent that goes to the Fire Department for their plan review of building permits. So it's an additional tacked on to that as well. That was just my comment.

VICE-CHAIR HOKAMA: No, and thank you for bringing it up, because in the same chapter of the Code, this is 16.04B, Members, it is also under the same title, Plan Review, Permit Processing, Inspection Revolving Fund but it's specifically Fire Department. And that is what Mr. Baz was referring to.

COUNCILMEMBER WHITE: Right.

VICE-CHAIR HOKAMA: And so yeah, I mean, Members, we've got a lot of pots out there with various amounts of monies, and I thank the Deputy for her comments that they are reviewing and going through a process of seeing what's pertinent and not pertinent, and making recommendations. So, hearing that, Members, questions specifically on this part, 16.26B? Okay, Ms. Baisa? No.

COUNCILMEMBER BAISA: No.

VICE-CHAIR HOKAMA: Mr. Carroll? No. Mr. Guzman, any questions you might have?

COUNCILMEMBER GUZMAN: No, none. Thank you.

VICE-CHAIR HOKAMA: Mr. White, additional?

COUNCILMEMBER WHITE: No, sir. Thanks.

VICE-CHAIR HOKAMA: Ms. Crivello? Anything, Mr. Nakamura or Deputy Director? Does your Fiscal Analyst have anything he wants to share? If you do, Mr. Bush, I mean, you know, you're here, we're open to hearing your comments.

MR. BUSH (*from the gallery*): I don't have the numbers . . . (*inaudible*). . .

VICE-CHAIR HOKAMA: Yeah you're going to need to put that on the record since, either that or the Deputy can state what you just shared.

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MS. DAGDAG-ANDAYA: Okay. So, Mike, Michael has been working on his spreadsheets and doing an excellent analysis of our fund from 2006 on. I think what we'll do is look those numbers again and see where, I mean continue to analyze them, so.

VICE-CHAIR HOKAMA: And if the log neck has changed location in the process then help us identify it and let us know what you need from us to clear it, and make sure that things get processed either timely or more efficiently. I would look to you as our professionals that deal with it on a day-to-day basis to give us some recommendations, Director. So, we look forward to that. As well as, if you feel there's a fund that we should consider that doesn't exist to deal with a specific issue that hasn't been addressed, would look forward to those comments as well.

MS. DAGDAG-ANDAYA: Thank you, Chair.

VICE-CHAIR HOKAMA: Okay, Members, anything else before we adjourn? Mr. Baz, anything else you would wish to share? Okay, Members, if there's no further questions, we thank the Department for their presence, and with no objections, Members, item IEM-26 will be deferred.

COUNCILMEMBERS: No objections.

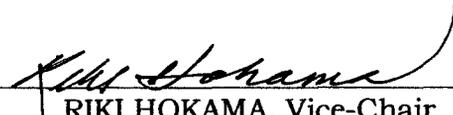
COUNCILMEMBERS VOICED NO OBJECTIONS. (excused: EC)

ACTION: DEFER pending further discussion.

VICE-CHAIR HOKAMA: Thank you, item is deferred. There is no further business before this Committee, this meeting is adjourned. . . .(gavel). . .

ADJOURN: 2:39 p.m.

APPROVED:



RIKI HOKAMA, Vice-Chair
Infrastructure and Environmental
Management Committee

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Transcribed by: Kisha Tam

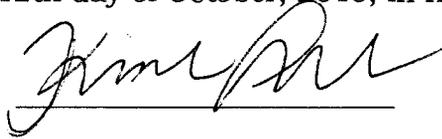
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CERTIFICATE

I, Kisha Tam, 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 12th day of October, 2015, in Kahului, Hawaii

A handwritten signature in black ink, appearing to read "Kisha Tam", is written over a horizontal line.

Kisha Tam