

# INFRASTRUCTURE AND ENVIRONMENTAL MANAGEMENT COMMITTEE

Council of the County of Maui

## MINUTES

August 23, 2016

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

**CONVENE:** 1:33 p.m.

**PRESENT:** VOTING MEMBERS:

Councilmember Elle Cochran, Chair  
Councilmember Riki Hokama, Vice-Chair  
Councilmember Gladys C. Baisa  
Councilmember Robert Carroll (in 1:53 p.m.)  
Councilmember Don S. Guzman  
Councilmember Mike White (in 1:50 p.m.)

NON-VOTING MEMBERS:

Councilmember Don Couch (in 1:51 p.m.)

**EXCUSED:** VOTING MEMBERS:

Councilmember Stacy Crivello

**STAFF:**

Shelly Espeleta, Legislative Analyst  
Raynette Yap, Committee Secretary

**ADMIN.:**

David Goode, Director, Department of Public Works  
Ed Kushi, First Deputy Corporation Counsel, Department of the Corporation  
Counsel

*In the gallery:*

John Smith, Civil Engineer V, Department of Public Works  
Ty Takeno, Civil Engineer VI, Department of Public Works

**OTHERS:** Plus (4) Others

**PRESS:**

*Akaku Maui County Community Television, Inc.*

---

CHAIR COCHRAN: ...*(gavel)*... Aloha. Will the meeting of the Infrastructure and Environmental Management Committee please come to order? Today is August 23<sup>rd</sup> and the time is about 1:33 in the afternoon. And the Members that are here with me--I'm Elle Cochran, the Chair--we have Committee Vice-Chair, Mr. Riki Hokama.

VICE-CHAIR HOKAMA: Madam Chairman.

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

**August 23, 2016**

---

CHAIR COCHRAN: Aloha. And next to him is Vice-Chair of the Council, Don Guzman. Aloha.

COUNCILMEMBER GUZMAN: Good afternoon, Chair.

CHAIR COCHRAN: Good afternoon. And, also, Ms. Gladys Baisa.

COUNCILMEMBER BAISA: Good afternoon, Chair.

CHAIR COCHRAN: Good afternoon. Thank you, Members, for being here. And from the Administration that will be discussing IEM-69 and -73, Director of Public Works, David Goode.

MR. GOODE: Good afternoon, Chair.

CHAIR COCHRAN: Good afternoon. And First Deputy Corporation Counsel, Ed Kushi.

MR. KUSHI: Good afternoon.

CHAIR COCHRAN: Aloha. Surprising to have you here with us. Thank you so much. Staff, Legislative Analyst, Shelly Espeleta. And Committee Secretary...aloha. Committee Secretary, Rayna Yap, is running around, dropping papers on our desks. And let's check in with the District Offices. Hana...are we called in?

MS. ESPELETA: Yes.

CHAIR COCHRAN: Hana District, Ms. Lono, are you there?

MS. LONO: Yes. Good afternoon. This is Dawn Lono at the Hana Office.

CHAIR COCHRAN: Aloha. Thank you, Dawn. Over on Lanai, Denise Fernandez, are you there?

MS. FERNANDEZ: Good afternoon, Chair. This is Denise Fernandez on Lanai.

CHAIR COCHRAN: Aloha. And on Molokai, Ella Alcon, are you there?

MS. ALCON: Good afternoon, Chair. This is Ella Alcon on Molokai.

CHAIR COCHRAN: Thank you, ladies, for being there. And so, Members, today we have two items on our agenda, IEM-69, Amending Section 10.48.040, Maui County Code, Relating to Stopping, Standing, and Parking; and, also, IEM-73, Department of Health, Clean Water Branch Proposed Rule Changes to Water Pollution Control. At this time, Members, I will open up the floor for testimonies. And, real quickly, do we have anyone signed up for testimony, actually, here in the Chamber? No?

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

**August 23, 2016**

---

MS. ESPELETA: No, Madam Chair.

CHAIR COCHRAN: Oh, okay. Thank you. And in Hana, Ms. Lono, anyone there to testify?

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

CHAIR COCHRAN: Thank you. Over on Lanai, Ms. Fernandez, anyone to testify?

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

CHAIR COCHRAN: Thank you. And over on Molokai, Ms. Alcon, anyone there to testify?

MS. ALCON: There's no one here on Molokai waiting to testify.

CHAIR COCHRAN: Thank you, ladies. Well, Members, seeing no one here or out there wanting to testify, without objections, I shall now close public testimony.

COUNCILMEMBERS: No objections.

CHAIR COCHRAN: Thank you very much, so ordered. And thank you, ladies, for being there.

**ITEM NO. 69:            AMENDING SECTION 10.48.040, MAUI COUNTY CODE,**  
**RELATING TO STOPPING, STANDING, AND PARKING**  
**(WAILUKU) (CC 16-148)**

CHAIR COCHRAN: Let's start with IEM-69, and this is Amending Section 10.48.040, Maui County Code, Relating to Stopping, Standing, and Parking (Wailuku). And the Committee is in receipt of County Communication 16-148, from Director of Public Works, transmitting a proposed bill entitled A Bill for an Ordinance Amending Section 10.48.040, Maui County Code, Relating to Stopping, Standing, and Parking. And the purpose of this proposed bill is to delete from the list of streets where parking is prohibited in Wailuku District, Pili Street between Market Street and Church Street, since Pili Street has been consolidated into the Wailuku Municipal Parking Lot parcel. And, with that, I shall...this particular item, Members, is pretty much like a housekeeping-type matter. And, as you will see, Pili Street is included as part of the municipal parking lot. And I believe Ms. Yap gave you copies, some nice colored copies, of an aerial view and a more detailed view of the area. And the Department...and this was given by the Department, and that'll help us make our decision today. I might add that Public Works Commission voted unanimously to--in favor--of this proposed bill at its meeting on April 27, 2016. So this...we have a revised proposed bill incorporating nonsubstantive revisions which was distributed to you, also; and this is the version of the bill that we'll be working off of. With that, I shall turn the floor over to Director Goode to give us some comments about this. Director Goode?

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

**August 23, 2016**

---

MR. GOODE: Thank you, Madam Chair. And good afternoon, Members. David Goode here, Department of Public Works. As you mentioned, this is a housekeeping matter. We have been looking at other changes to this particular code for other roads. And, in going through the list, we noticed Pili Street was still mentioned. And we came to your Committee about, I think, within the last year. We had to clear up some, I think, some title issues on Pili Street; and, subsequent to that, being accomplished, we consolidated these little road remnants into the overall parking lot parcel. As a practical matter, it is still signed for no parking in those areas 'cause we can't accommodate parking in there and still get folks in and out safely. So, again, it is primarily a housekeeping-type measure and we look for the Committee's recommendation. Thank you.

CHAIR COCHRAN: Okay. Thank you very much, Director. And, Mr. Kushi, do you have any comments you need to present to the Committee?

MR. KUSHI: None, Madam Chair, except for the other changes are just housekeeping issues.

CHAIR COCHRAN: Okay. Thank you, Mr. Kushi. Members, the floor is now open for you folks, if you have any questions, comments for the item here. Yes, Mr. Hokama?

VICE-CHAIR HOKAMA: Just, for information, what are we going to refer to this in the future since it's no longer going to be Pili Street? We just going to call it entry, exit? I mean I just curious. Or does it maintain some kind of designation for departmental needs or Fire Department needs?

MR. GOODE: Madam Chair --

CHAIR COCHRAN: Yes.

MR. GOODE: --and Mr. Hokama, I think we'll just have the signs, you know, with the P, when the arrow pointing to a parking lot. So it would be kind of like an entrance to any parking lot. So it would probably just be referred to as the municipal parking lot entrance off Market or its entrance/exit off Church.

VICE-CHAIR HOKAMA: Would you know if the Department or Wailuku entity did any historic documentation of that area regarding this type of...since we doing changing of designations? I mean if this...maybe Mr. Kushi. I mean I thought this was where Varsity Theatre was in my much younger, younger days. But my memory does get foggy. I would say in the '50s. Do you recall that Varsity Theatre and whatnot?

CHAIR COCHRAN: Mr. Kushi?

MR. KUSHI: Madam Chair, Member Hokama, I kind of remember this area. It was like King Theatre used to be --

VICE-CHAIR HOKAMA: Right.

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

**August 23, 2016**

---

MR. KUSHI: --right there and this street used to come down and go all the way to Market Street. There was a connection at one point in time. It was probably dirt road though, you know. But once the parking lot became established, really, there's no need for the street.

VICE-CHAIR HOKAMA: Yeah, I understand what you're saying. Morisaki Radio, King Theatre.

MR. KUSHI: Yeah. And also, you know, alongside the...on Vineyard Street, towards the Kihei area, there was a whole slew of businesses, too.

VICE-CHAIR HOKAMA: Yeah, yeah. Madam Chairman --

CHAIR COCHRAN: Yes?

VICE-CHAIR HOKAMA: --I would just ask that maybe if in the Committee report, we might want to consider making a note that would be great if we could do some historical documentation of how this area is changing, especially if we move forward the County's municipal parking lot project. I think it might, it would be great to have some of that history documented and maybe part of some kind of photo mural for our public facility. Thank you.

CHAIR COCHRAN: Okay. Thank you. Good comments there, Mr. Hokama. We'll take note for our report. And I guess that was one of my...any Members...any other Members had questions or comments? So I guess that's one of...was my...one of my questions in regards to street signage for these two areas. We're moving the Pili Street and what would be in place of it, and I guess what Mr. Hokama's asking, you know, just like kind of the blue and white P for parking arrow, enter here kind of signage. Now, more than likely then, right, Mr. Goode?

MR. GOODE: That's correct. That's pretty much what we have now. I don't even think Pili Street is noted on either entrance.

CHAIR COCHRAN: Okay. And, also, will there be any type of traffic impacts at all with this change? I mean I guess it'll just be business as usual, the way it's operating. But so do you foresee any, I don't know, disruption, ingress/egress, or anything of that sort?

MR. GOODE: Madam Chair, no, we don't see any change at all. Although, we are quite happy that it's been paved; so it's a --

CHAIR COCHRAN: Yes.

MR. GOODE: --much more enjoyable even walking experience.

CHAIR COCHRAN: Okay. Very good. Yes, Mr. Hokama?

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

**August 23, 2016**

---

VICE-CHAIR HOKAMA: Chair, if you wouldn't, you don't mind, I would like to bring up another portion of the proposed ordinance, changes.

CHAIR COCHRAN: Sure.

VICE-CHAIR HOKAMA: On Page 6, Madam Chair, I've been asked by some residents on the island if...we finally did take care of signage and we had told families unaware that on Sixth Street on Lanai, which is one of the main streets that is used by...used to enter and exit the school properties, of a no-parking prohibition. And so I'm going to review that and ask Mr. Goode's people for their input and recommendations whether it's the Police Department on...see how we can make it fit and work for Lanai, little more neighborly and community based since it has always worked from the time they moved the school there in the '30s. So I just wanted to share that with you, Chair, that I'm hearing from our community and that I plan to do a review of this current prohibition of parking. Thank you.

CHAIR COCHRAN: Okay. And very good. I know it's not agendized, but thank you for bringing up that point, 'cause there is another section, too, I'll be bringing up...I spoke a little bit earlier, it's about in the Kahana area. We're putting in that public beach access, yet no parking. But there's a shoulder which we prohibit but hopefully we can look into lifting that so people can, you know, legally park on the shoulder way, which it's occurring but we'll make sure that we have it legal. So, yeah, we can bring those extra items up, which is currently on the list here. But we'll bring that topic up on another meeting. And, other than that, I think...are we --

COUNCILMEMBER BAISA: Recommendation?

CHAIR COCHRAN: --we thoroughly discussed? Okay. The Chair will entertain a motion to recommend passage on first reading and, of the revised proposed bill entitled, A Bill for an Ordinance Amending Section 10.48.040, Maui County Code, Relating to Stopping, Standing, and Parking on Pili Street, Wailuku, Hawaii; incorporating any nonsubstantive revisions; and the filing of County Communication 16-148.

VICE-CHAIR HOKAMA: I make the motion.

COUNCILMEMBER BAISA: Second.

CHAIR COCHRAN: Thank you. It's been moved by Member Hokama and seconded by Member Baisa to recommend passage of the proposed bill and filing of the County Communication. Members, any further need for discussion?

VICE-CHAIR HOKAMA: Just one quick, short comment, yeah.

CHAIR COCHRAN: Yes, Mr. Hokama?

VICE-CHAIR HOKAMA: I just find it interesting, through the years, how Corp. Counsel and style keeps changing, because this was all, at one time, all formatted and approved to

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

**August 23, 2016**

---

form and approval and now we changing what was approved to another form and approval. So I just find it interesting that as times change, we keep rewriting what we wrote before. Thank you, Chair.

CHAIR COCHRAN: Thank you, Mr. Hokama, always bringing that historical background knowledge to our decision-making process. And so, Members, without any further discussion, all those in favor, say, "aye."

COUNCILMEMBERS: Aye.

CHAIR COCHRAN: Any opposed? No "noes." So motion passes with four "ayes"--what do we have...three excused, and zero "noes." So motions passes.

**VOTE: AYES: Chair Cochran, Vice-Chair Hokama, Councilmembers Baisa and Guzman.**

**NOES: None.**

**ABSTAIN: None.**

**ABSENT: None.**

**EXC.: Councilmembers Carroll, Crivello, and White.**

**MOTION CARRIED.**

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

CHAIR COCHRAN: Thank you, Members; that's our first item completed.

**ITEM NO. 73: DEPARTMENT OF HEALTH, CLEAN WATER BRANCH PROPOSED RULE CHANGES TO WATER POLLUTION CONTROL (CC 16-171)**

CHAIR COCHRAN: We will now go to IEM-73, and this is Department of Health, Clean Water Branch Proposed Rule Changes to the Water Pollution Control. And this is County Communication 16-171, from Director of Public Works, relating to the State Department of Health's proposed changes to Hawaii Administrative Rules, Title 11, Chapter 55, entitled "Water Pollution Control." Correspondence dated July 13, 2016, from Director of Public Works, transmitting a request to the State Department of Health for a 60-day extension of the public comment deadline on the proposed administrative rule changes. And, with that, the Department requested that the Committee hear this item quickly in order to discuss with the Council the impacts of

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

**August 23, 2016**

---

the Department of Health's proposed changes to this administrative rules. And the public comment deadline was July 1, 2016. The Department requested an extension to respond to DOH's proposed changes by letters dated June 29, 2016 and July 8, 2016; copies of which we have on file. And the Department transmitted to this Committee, today, four additional documents via correspondence dated August 16, 2016. And so, Members, it's in Granicus, and I see Mr. Hokama has his binder. First, a response from Director of DOH dated July 8, 2016 responding to Department of Public Works July 1, 2016 request for an extension to the public comment period for proposed revisions to Hawaii Administrative Rules, Chapter 11-55. Second, there's an e-mail dated July 18, 2016 from Department of Health, Clean Water Branch regarding extension of the public comment period and second public hearing for Hawaii Administrative Rules, Chapter 11-55, Docket No. CWB-1-16. And then there's a third, a Notice of Public Hearing dated July 25, 2016 on changes to the HAR, Title 11, Chapter 55, entitled "Water Pollution Control." Then fourth, a letter dated August 16, 2016 from Director of Public Works to the Director of DOH submitting the Department's objections to Docket No. CWB-1-16 and related documents. Members, there's no legislation before us today. The Committee will discuss how the proposed changes may impact existing conditions to the County's National Pollutant Discharge Elimination System or NPDES, general permit and significantly increase the complexity and obligations for permit programs. And this item may require going into executive session pursuant to Section 92-5(a)(4), Hawaii Revised Statutes to consult with legal counsel on questions and issues pertaining to the powers, duties, privileges, immunities, liabilities of this County, the Council, and the Committee; and confidential information from Corporation Counsel pursuant to Section 92-5(a)(8). And if there is a need, then we will do...we will discuss the matter. We'll discuss what we can, open session, but if there is a need, we can go into executive if need be. So, with that, I will turn the floor over to the Department to Director Goode, and then we'll get some comments from Corporation Counsel if needed. So, Director, if you want to give us a little bit more insight to what all this...what this is all about.

MR. GOODE: Alright, well thank you, Madam Chair and Members. If you can indulge me a wee bit, I am going to condense our 30-plus page comment letter in about 5 pages typed up in font that's big enough that I can read. So it will take me a little bit of time to go through it because I think it's very important to kind of set the stage for the implications that these rule changes bring to the, potentially bring to the County. And I don't think it's often that the County Council looks in, at least in a committee setting about rule change from the DOH, although I do recall that there was a septic tank or cesspool conversion rules—I see Ms. Baisa nodding at me, that was in your Committee—that this Committee got involved with quite a bit. And due to the far-reaching implications of these rules, I'm very grateful, the original letters that we sent to the Department of Health, which were copied to the Chair, the Chair forwarded it to your Committee, Madam Chair, so that we could talk about them today; because I think, as our policymakers, it's very important that you folks be aware of what's being proposed and how the Department's at this time handling it.

CHAIR COCHRAN: And real quick, before you go on, Director, I want to just acknowledge

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

**August 23, 2016**

---

Member White in attendance and also non-voting Member, Mr. Don Couch is here. So thank you, gentlemen.

COUNCILMEMBER COUCH: Good afternoon, Chair.

CHAIR COCHRAN: And you may proceed, Director. Thank you.

MR. GOODE: Alright. Well, thank you. So our current MS4 permit, which we've talked about quite a few times in your Committee follows the State Department of Health's rules under Chapter 11-55 Appendix K, which also follows Federal law and related rules relating to small MS4s, which is what we're considered. And that compliance to these rules can be achieved by having our six MS4 program elements termed minimal control measures, which are public education and outreach, public participation and involvement, illicit discharge detection and elimination, construction site control...construction site runoff control, excuse me, post-construction runoff control, and pollution prevention/good housekeeping. So as an analogy, think of education in six key areas, say reading, writing, arithmetic, science, history, and social science. Instead of giving the schools or the districts the leeway to develop methods and programs to build students ready to move into society, an outside agency would start to dictate specific methods and programs to the schools and districts and compound that by adding new responsibilities that are outside the educational environment and expect you to pay for it all. That is not unlike what we'll be discussing today. So in complying with these six measures with the idea being, you know, if you work on these six measures and you work on them consistently and in a progressive manner that you get better at as each year goes by, you're going to effectively be the small MS4 and promote better and achieve better storm water quality results. That's the basic intent behind the EPA rules and the Department of Health's existing rules. So to do that, we submitted a storm water management plan--we've talked about that in your Committee, Chair—that outlined our goals, deliverables, and measures for these six areas about two years ago, and we submitted to the Department of Health annual compliance reports. Note that we've never received any acknowledgement back or any feedback on any of those submittals. And we've begun to work on all those six program areas. As you mentioned, Chair, new rules were published or draft rules were published by the Department of Health on a variety of appendices to Chapter 11-55, in particular Appendix K, in late May of this year as their general permit is set to expire in December. They did not notify us or any of the 18 other small MS4s in Hawaii, nor did they consult with us about the proposed changes and any impacts that we may have, nor did they explain how these changes may improve water quality or what other alternatives could be evaluated. So fortunately, by a stroke of luck, I would call it, we actually found out about it. I guess we did not read that back page of *The Maui News* those two days that it was published. But anyway, we found out about it a week in advance. We did get an extension, that's what you mentioned. We had high-level meetings with, we had the Mayor, Corp. Counsel, our Department along with the Department of Health Director and Deputy to explain to them some of our concerns about the proposed rules. Finally, through all of that, we did get another extension along with all the other permittees until August 31, which is the 60 days we originally requested; it took about 30 days of requesting to get it. So to

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

**August 23, 2016**

---

comply with the need to comment on the proposed rules and risk not having our future rights to challenge the rule implementation, we submitted a 30-page-plus comment letter dated August 16<sup>th</sup>, a copy of which is before you. So our goal today is to really make the Council aware of the proposed changes, the fiscal and operational impact those changes will have and potential liabilities the County may be exposed to should a rule be implemented. And to start off with, we're asking DOH to extend their current rule for two more years. As we understand, they have the authority to do that. During this two-year period, we would expect that they would consult vigorously with their permittees, such as us, and so as to educate us what they're trying to achieve and what may be required by the EPA and how the small MS4s can reasonably assist in these goals while minimizing the wasting of precious resources. And when I mention resources here, I mean financial and personnel primarily for us. I'll let you know that while we haven't done a cost analysis of the proposed changes, because some of it's really hard to pinpoint, the State Department of Transportation, which also has a small MS4 permit here for Maui, they've done an analysis of that and they estimate, the estimate is in the eight figures. Eight. Eleven million dollars per year. Our current effort is around \$500,000 per year. The proposed rules hit counties or municipalities much harder than they would an agency such as DOT, hence we have an extreme concern with the proposed rules. So what I'd like to do is hit some of the highlights, or lowlights, of the proposed rule changes beyond the lack of notice or working with the permittees. First, number one, in many cases, DOH requires new actions be taken, new programs be established and deliverables to be submitted within 18 months. The majority of the actions, programs, and deliverables are copied from the individual permit language that DOH has reasonably proposed on Phase 1 permit holders. These are the large MS4s, of which there's two, mainly the City and County of Honolulu and DOT on Oahu. These Phase 1 programs have been developed and negotiated over 20 years of program implementation. To require the County and small MS4 permittees with very limited resources to accomplish these actions, programs, and deliverables within 18 months is patently ridiculous and sets us up for failure. Two, we note the DOH's utter disregard of the EPA's establishment of the small MS4 program for dischargers that are unlikely to have significant discharges of pollutants from their small MS4 system. The DOH proposes to dramatically increase the requirements for all general permit holders making them subject to basically the same as the Phase 1 large permit holders. The proposed revisions will drastically and unfairly increase the permit program management expenses the County and other permittees that have been able to obtain coverage under the general permit because they do not discharge in these sensitive waters. Three, we object to DOH's disregard for the economic considerations of the proposed general permit revisions. Through a FOIA request, we found that their fact sheets, the administrative directive that they basically use to justify rule changes to either the Governor or the department head and their small business impact statement, which accompany the proposed permit revisions, the DOH provides no analysis of the actual cost of their changes to the permittees, to the small MS4s, the contractors, small businesses and the general public. Without identifying the relationship between the cost of any particular control and the pollution control benefits to be achieved by implementing that control, the DOH has failed to evaluate the cost-benefit analysis applicable to establishing these new rules. So essentially they're saying do this whatever it costs and maybe

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

**August 23, 2016**

---

something will happen but we don't, we're not sure what. Number four, the County objects to the DOH's imposition of an unfunded mandate. The Constitution of the State of Hawaii, Article 8, Section 5 entitled Transfer of Mandated Programs states that "if any new program or increase in the level of service under an existing program shall be mandated to any of the political subdivisions by the Legislature, it shall provide the State's share in the cost." So the County, we contend that the DOH's proposed changes to the general permit constitute both a new program and a higher level of service that are mandated by the State to the County and therefore require State funding; no funding is proposed. The existing permit set to expire in December, as I mentioned, is 16 pages long and tracks precisely those 6 measures that the EPA determined is what you need to do to reduce the discharge of pollutants to the maximum extent practicable. In contrast, the proposed permit is 53 pages long and includes multiple programs or requirements that are not addressed in EPA's Phase 2 regs at all, are greatly increased, the requirement, under the six minimum measures in a manner that goes far beyond the intention of the EPA. Five, we object to the prescriptive demand set forth in the new rules, including but not limited to the following new requirements. I'm going to kind of breeze through these but for construction site runoff control, they want us to provide specifications for tracking a variety of sites in a comprehensive program and 18 months to do that; requirement for the County to confirm the construction project is compliant with the State's NPDES construction permits; under pollution prevention/good housekeeping, a requirement to develop a debris control program, including five separate onerous and separate subprograms within 18 months; to develop a chemical applications BNP program within 18 months; require a...to develop an erosion control BNP program within 18 months; in the industrial and commercial activities discharge program, develop a comprehensive program that's actually completely outside the general permit requirements; requiring the County to verify and accept industrial facilities, which is a State responsibility; and so on and so forth. Number six, the DOH has added a discretionary designation to add more area to the MS4 based on one of several factors; and, assuming this rule were to pass, it would automatically add Kihei and Lahaina based on population factors of 10,000 people and greater than 1,000 people per square mile. Remember, the original MS4 area was here in Central because it met 50,000 people in that urban area even though a lot of the programs we're doing are Countywide but some of the specific work will certainly be just in the Central area. So now they want to add Kihei and Lahaina. However, they acknowledge Kapaa on Kauai meets the same designation but they would not require Kauai to get an MS4 permit. Don't know why. And they would ignore Hilo altogether even though some of the drainage systems in Hilo actually go to a Class 1 water system. So the County of Maui is clearly being targeted in this rule change unfairly. In Appendix F, DOH greatly increases the monitoring, testing, and report writing of hydro testing or dewatering permits to include sampling not just at the discharge, where you're discharging water out of a pipe, but at the receiving water, which could be a bay, even if the receiving water is miles away and never receives any water from the discharge. This would affect the Department of Water Supply operations as well as contractors doing work on public and private projects, greatly increasing costs without any documented cost beneficial improvements in water quality. DOH wants us to take over enforcement of some State permits, such as the NPDES permits for construction projects, grading

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

**August 23, 2016**

---

over one acre, or chemical applications such as pesticides, which is currently regulated primarily by the Department of Ag. We simply do not have the legal authority to do any of these State requirements. So in summary, under DOH's current general permit, we have the latitude to customize a program in these six areas that work best for Maui County and its citizenry. We've only just begun. We're probably graduating from kindergarten. We're on our way to first grade in our quest to be as good as we can be. But under the proposed new general permit, we'll have to discard some of our current activities, switch a lot of the partnering activities that are already taking place. We're basically going to become bureaucratic compliance managers and enforcers and spend millions of dollars with no beneficial outcome for cleaner storm water on the horizon. So, Madam Chair, that summarizes my comments. I wish I had better news to share this afternoon but I think it's really important that the Council, through your Committee, is made aware of these proposed changes and our response to date. Thank you.

CHAIR COCHRAN: And yeah, I thank you, Director, for bringing this to us so we are aware and kept in the loop about, you know, what's coming down the pipeline that's going to affect all of us and budgetary concerns and what have you. But before we jump into it, I want to acknowledge Mr. Bob Carroll came to join us, thank you. And we have a full crowd here today so thank you, Members. At this time I open the floor to all of you for some discussion, questions, comments to Director. And if there is a need for any type of concerns we need to discuss in executive, then that is agendaized for us to go into executive session. So yes, Mr. Hokama?

VICE-CHAIR HOKAMA: Chair, thank you. Part of my confusion at this time, Chair, is I'm not sure what the Department of Health is looking at us as. I don't know whether I'm a permittee or I'm a regulator? Or do they see us as a hybrid of being a regulator and a permittee? Do you know what their thoughts are, Mr. Goode?

CHAIR COCHRAN: Go ahead, Director.

MR. GOODE: Thank you, Madam Chair and Mr. Hokama. You know, we're currently a regulator. They want us to be partly their regulator, too, moving forward as near as I can tell through the rules. Clearly we're a permittee. And that's one of our, one of the things we brought up with the Director of the Department of Health and the Deputy Director is that they need to really engage us. They need to tell us why, you know, why are they doing this and what are the alternatives. You know, if something is mandated on them, perhaps, and we need to sit down with the EPA, too--they're the 800-pound gorilla in the room--and let's work together and see what's going on. Right now, we're pretty much in the dark. So that's where we're really asking for their assistance.

VICE-CHAIR HOKAMA: I find it interesting you've been able to get some unique alliances. You have the Pearl Harbor Shipyard people agreeing regarding notification and ability to provide proper comments on a proposal. You have other governmental entities citing some concerns. You mentioned sister department of transportation citing some concerns with applicability and impact on their area of jurisdiction. So I appreciate

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

**August 23, 2016**

---

your comments. One of your responses or one of the points you're addressing concerns me, is this a Region 9 consideration for application? Is this a national thing or is this just a Hawaii thing?

MR. GOODE: Madam Chair and Mr. Hokama, we think there might be some things on a national level or a Region 9 level but we haven't been able to really pinpoint it. We do know that nationally or in other, perhaps other districts, there are of course court cases, you know, that come up from time to time on the Clean Water Act and often times Federal agencies have to react to those court cases. EPA does have a proposed rule amendment that was published back in January. It didn't receive a lot of comments and we've had some indication that they're pointing towards this rule change; but, in reviewing the rule change, we don't see the nexus that drive some of the proposed rule changes. So we've also looked at California, which is part of Region 9, certainly the largest player in Region 9. We saw that there were changes to some of their general permits after a two-year, roll-up-your-sleeves discussions with all the permittees. And even then there was still lawsuits when it was done on some areas, I guess, where they couldn't agree. None of it seems to look, well I would say 90 percent of it doesn't look like our rules. I would add that in one of the justifications the Department of Health noted they wanted to move some individual permittees into the general permit because it would be easier for them. So we can surmise that, you know, some of the changes have to do with ease of processing for them.

VICE-CHAIR HOKAMA: I think they're just trying to run away from their responsibility myself. I mean, I look at their current track record and recent past track record, State Health Department, I think they're just trying to...with this type of proposal, to me, it's like why do we need them? Let's just write them out of the whole equation then. Let's just deal with the EPA and the County of Maui. Why are we doing their job? We don't get their resources. I understand what you were saying and maybe for me this is just another, because the EPA is being taken to court by counties across the country, by states on the Waters of the US rule proposal. So I would say what little I know, this may be a roundabout way of dealing with the court telling the agencies that they are not able to enforce and operate the new rule. So I guess maybe EPA says maybe then we'll make the locals then operate and make, do the rule, operational, which again still doesn't make sense to me since are we going to regulate ourselves because we're a permittee and we gotta deal with our own drainage issues and whatnot? I just find it too bizarre. Plus, you and I know, there's no position in the County of Maui that can do the job. We would have to create positions with the job description, with the requirements to perform State jobs. I find that more bizarre. Can you tell us whether or not there is any impact of this proposed rule on existing compliance requirements?

MR. GOODE: Can you cite an example of what you think is a compliance requirement?

VICE-CHAIR HOKAMA: I'm asking you if there are any because I'm not aware of and I'm hoping you'll say you have nothing to worry about, Councilor. I would be more than thrilled. But if there is something you know that is going to be impacted by this proposal, I would wish you would share it so that we can support a smart position for this County on this proposed rule.

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

**August 23, 2016**

---

MR. GOODE: Madam Chair, Mr. Hokama, I would say that, you know, as far as the existing permit goes, we're in compliance. Under these proposed rules, unless we're given the resources and it seems to me the State's trying to force us, or force you folks to give us the resources, we would be, it would be impossible for us to comply without a lot of resources in this proposed rule change.

VICE-CHAIR HOKAMA: Okay, I appreciate your comments, Director. And, Chair, if and when you're ready, I'm happy to talk legal options, including going to court on this one. Thank you.

CHAIR COCHRAN: Thank you, Mr. Hokama. And yeah, Mr. White?

COUNCILMEMBER WHITE: Thank you, Chair. First of all, I'd like to thank the Director and Corp Counsel for being on top of this, especially with us learning less than a week, or I guess about a week before the deadline for comments. I'm just astounded at the audacity that the Department of Health has in how they're dealing with this. And, you know, we all know that they've somewhat left us out to dry on the injection well issue, not allowing us to get permitted under the old system or the new, supposed new system. But it appears, as Mr. Hokama said, that we are now the permittee and the regulator all in one and I'm just wondering if there are significant fines that are built into the rules as well that we would be subject to if we don't meet every letter of these new rules. I don't know if the Director has an answer for that at this point but...

CHAIR COCHRAN: Yeah. Director, would you know if that's built into this program? And I think your mic's off. There.

MR. GOODE: Thank you. Madam Chair, Mr. White, I know in mostly NPDES, they often cite a \$25,000-a-day fine or per violation so I don't know if that would be applicable here. But I think in general they'd look straight to the consent decree if we're in non-compliance.

COUNCILMEMBER WHITE: Once again, if they don't give us the TAT or if they do give us, what TAT they do give us they're going to try to get it back through the fines and consent decrees. But this is just an outrageous overreach by the State, and I think Mr. Hokama has it exactly right. The State is asking us to do their work rather than them rolling up their sleeves and doing it themselves. So I just want to thank you again for being a great watchdog and catching this before it's all solidified and irreversible. So and as Mr. Hokama said, he would be more than willing to consider court options. I believe I heard Ms. Baisa whisper yes. I think we all, we're all getting a little fed up with this and I think it's maybe time we do go to court. So thank you, Director, and we're all behind you.

MR. GOODE: Thank you.

CHAIR COCHRAN: Thank you, Mr. White.

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

**August 23, 2016**

---

COUNCILMEMBER WHITE: Thank you, Chair.

CHAIR COCHRAN: You're welcome. And, Ms. Baisa?

COUNCILMEMBER BAISA: Thank you very much, Chair. You know, I'm just really annoyed with this. And that's, I'm using, I'm trying to find a nice word. It's really upsetting that we can't seem to figure out how to work with our big brother. You know, it shows little respect when people do this, very little respect. And this idea of giving us so little notice and expecting so much in return and setting all these deadlines and threats and whatever, it's just really annoying. You know, I went through this a few years ago when we got into the cesspool thing where they decided that they were going to ask us to get rid of all the cesspools and didn't tell us anything about it and by the, through the grapevine fortunately somebody alerted us and we were able to get a large consortium of people together and we raised hell and we got them to back off and kind of change what they were trying to do. Of course, in the end, we agreed that, you know, we didn't want any more cesspools. But they wanted us to go dig out every one we had, which was totally crazy, and paid no attention to where they were or whether they were a problem. And so we came up with a compromise, but it took a lot of work. And when you don't have time, you know, to organize and present testimony and meet with the right people and whatever, it's just not fair. It's really not fair, and I totally agree with Mr. Hokama that if this requires some kind of legal action then that's what it's going to take. But I think we've got to make a stand. This is not fair and the Department of Health is famous for doing this. Thank you.

CHAIR COCHRAN: Thank you, Ms. Baisa. Members...yes, Mr. Couch?

COUNCILMEMBER COUCH: Thank you, Madam Chair. Couple of questions, one is what did you do to piss off the Department of Health? This looks...I mean, as you said, it's directed to Maui County. It excuses Kauai. It doesn't even talk about the Big Island. So it's just amazing that they've done this and I agree with my colleagues that I'm fine with, you know, taking this as far as we can go with that. One of the things here, you know, in reading all the stuff that they're proposing and all your suggested changes, since we're the regulator and the permittee, what happens if we don't pay our own fines? Or if we pay our fines, do we pay it to ourselves or does that go to the State? Or what if we don't, you tell yourself to whatever and you say yeah, right, okay, sue me. So we sue ourselves? It doesn't make sense. I mean just legal sense, it doesn't make any legal sense. So I'm just curious if Corp. Counsel has taken a look at this and found out if there's any legal way that this can really happen? Thank you.

CHAIR COCHRAN: Is that, Mr. Couch, is that a question to --

COUNCILMEMBER COUCH: Yeah to somebody.

CHAIR COCHRAN: --Corporation Counsel?

COUNCILMEMBER COUCH: How can we tell ourselves that, enforce on ourselves and then if we do we just say, yeah, pound sand. Go ahead. I don't know. It just doesn't make

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

**August 23, 2016**

---

sense.

CHAIR COCHRAN: Director?

MR. GOODE: I'll try.

CHAIR COCHRAN: Yeah, and, Director?

MR. GOODE: Yeah, thank you, Madam Chair and Mr. Couch. Actually, I want to start my comments by saying, you know, I didn't find this. Our consultant who has been working with us, Janice Marsters of Hart Crowser and along with our staff, Ty Takeno and John Smith up here. I mean they wrote the lion's share of this thing. They did all the analysis. I read every word and revised some things, but it's a big effort. Mike Hopper, Corp. Counsel, been working on this. It's a big effort. We've spent hundreds of hours where we could have been spending hundreds of hours on doing something way better for the citizens; but sometimes you get hit from backside, you gotta take care of it. So it's interesting. Let's say the NPDES construction permit, when we get, we get those for our own projects so if we do, like Hansen Road, we had to get an NPDES permit. So we went to the State. We got the permit. Under this proposed thing, the State would issue permit and then we would become the enforcer on our own project. I have no idea what that would look like.

MR. KUSHI: Madam Chair?

CHAIR COCHRAN: Yes, Mr. Kushi?

MR. KUSHI: Obviously, I'm not involved in this. Mike Hopper should have been here but he's on his way to the attorney's conference, county municipal attorney's conference. Which they probably will be discussing this because the State is not there; which is a good conference basically. But again, if, what is, Director is saying doesn't make sense and it's part of an administrative rule, maybe the first line of attack if you cannot convince the maker or proposer of the rule itself, which should be the Department Director, is to appeal to the Governor not to sign this. Because any administrative rule is not effective until the Mayor, in the case of the County, or the State, governing, case that the State signs off on it. So I think I would suggest that's your first line of attack. Who's close to the Governor? I don't know, not our office obviously. So but again, aside from that, then there are other probably maybe possible legal remedies. Petition for judicial, a declaratory judgment on the unfunded mandate issues. And again, if it involves the Feds, by all means, bring them in because in the injection well case, we should have brought them in initially. But again, that's just my...

CHAIR COCHRAN: Thank you, Mr. Kushi. And, yes, Mr. Hokama?

VICE-CHAIR HOKAMA: Madam Chairman, thank you. I am unclear so maybe Director Goode can help the Committee. The original initiation of this whole process is the Federal EPA agency itself or you're understanding this is something from the State

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

**August 23, 2016**

---

Health Department?

CHAIR COCHRAN: Director?

MR. GOODE: Sorry, old school here. Madam Chair, Mr. Hokama, the, when we...we were actually notified by the Department of Health because we met an automatic trigger under, I guess, Federal law, that that urban area here in Central Maui had reached over 50,000 in population. So we were notified by the Department of Health, I guess, upon receipt of the Census information from Census Bureau.

VICE-CHAIR HOKAMA: That's interesting because as Secretary Fox has indicated to me, this is a transportation designation. I didn't know this applied to your storm water issue and that urban designation. I was told it would have no other impact on this County except for transportation.

MR. GOODE: If I could, I think there's numerous places where Federal codes reference this Census data and so in the case of the Clean Water Act it references it and then in the Federal transportation acts it also references it. It just happens to reference the same source.

VICE-CHAIR HOKAMA: And I thank you for that because again, Chair, as we recalled earlier, one of the issues about the designation was impact of CDBG and HUD for that region. And what did HUD say, "no impact." Now we're being told there is impact with this other agency now and why I was adamant to get that in writing because look at the circle we're going to go through now off their verbal comment to this County, again. And I ask that question, Madam Chair, because I think if need be, we should use our membership as part of NACo, as part of the western region, to get our sister states and our sister counties in our region, at least, to see if it makes sense to rally around and fight this rule as a region. You know, I can see this impacting more sister counties than just this county so I don't have a problem to go out and see if we can get the might of a consortium of our regions, including LA County, 10-plus-million people in one county, the largest in the country in California, to join us and support our position if need be. But I appreciate Mr. Kushi because I think he's right. We need to be prepared to at least be able to tell the Governor we went through the various administrative options, including asking him not to execute the proposed rule. So I thank Corporation Counsel for that good advice, Chair. Thank you.

CHAIR COCHRAN: Yeah. I appreciate Mr. Kushi bringing that perspective to the table as an option for us to move forward with. And, Members, any other Members have questions or comments? I know we have concerns, and does anyone feel the need that we want to go in to talk about any closed-session aspect of this at this time? It was mainly just to bring forward to share, you know, what Department has given my Committee with you, and the, I guess, we are the only county being put into this predicament, right? Kauai, no, Hawaii County...is that correct?

MR. GOODE: Yeah. Yes, Madam Chair, you know, the City and County is under that Phase 1 large MS4 already. Big Island and Kauai are currently not MS4 permittees.

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

**August 23, 2016**

---

But the way these rules are reaching down to smaller population areas, it's conceivable that they could be next; so it wouldn't surprise me. But, right now, we're the only small MS4 county.

CHAIR COCHRAN: And so having said that, have those other counties been kept in the loop on this situation we're in so they can maybe get ahead of what we're going through of sorts or do they feel like nothing to worry about or do you have any inkling or have discussions with the other counties?

MR. GOODE: You know, Madam Chair, I haven't had time to talk to them about this issue. We've really been working a lot just to get to this point. I can certainly make them aware of it and see what their desires may be, but it's, we're all a little bit different at this time.

CHAIR COCHRAN: Right. Because I guess if it was a collective issue across the State, maybe an HSAC item or, you know, we could band together as a team to say hey, this is affecting us all and, you know, something needs to be done, so to speak. And, Mr. Hokama, then Mr. Couch.

VICE-CHAIR HOKAMA: Madam Chair, I was going to ask you and Director Goode, is this something maybe the MPO might have discussions on also with the MS4 component?

CHAIR COCHRAN: Mr. Couch is also part of the MPO. We're more in for transportation, per se. I mean, we have State entity for, is there, but yeah it doesn't really fly.

VICE-CHAIR HOKAMA: I'm just wondering. Anytime you talk about roads, there's a surface-flow or drainage issue someplace, so.

CHAIR COCHRAN: True. True, I mean, we can see if it merges in with.

VICE-CHAIR HOKAMA: It's just a question.

CHAIR COCHRAN: Yeah. No, no. Yeah, it's a good train of thought, though, to see; but yeah, thank you, Mr. Hokama.

VICE-CHAIR HOKAMA: And I would say in my second consideration for you is if the Members of this Committee has no objection, I would ask that maybe you consider writing a letter on our behalf to the Health Department and copy the Governor and state that we do not support this rule proposal at this time. That we would support the Department's recommendation of extension of two years and allow the appropriate communication discussion with all parties, interested parties, to come to a table and have that talks.

CHAIR COCHRAN: Okay, very good.

VICE-CHAIR HOKAMA: Thank you.

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

**August 23, 2016**

---

CHAIR COCHRAN: Yeah, Director, I think that was partly the intent, too, to bring this forward is to get comments from this body for you to push forward to the Department, their, you know, the origination of this to us to say listen, County Council. So I think where Mr. Hokama's comments play in, I think. Do you have comments to that, Director?

MR. GOODE: Yeah, I think it's actually a really good idea, especially given the August 31 deadline. So if we were to take any other action, like a reso or something, it would be way past that deadline; so I think that would be wonderful and we could work with your office or staff to help craft the letter.

CHAIR COCHRAN: Okay, yeah. Alright, very good. Yes, Mr. Couch, then Mr. White.

COUNCILMEMBER COUCH: Thank you, Madam Chair. And just to answer the MPO question, the only thing that the MPO has in common with this is they both got triggered by the same Census thing.

CHAIR COCHRAN: That's right.

COUNCILMEMBER COUCH: But they're two separate tracts unfortunately. Oh, I wanted to ask the Director if he had any concerns of liabilities that he wanted to discuss with us in executive session? I know, I think we're pretty much satisfied here, but if he had some concerns that he needed to take us into executive session. If not, I agree with the rest of the Members, it's, we're already sufficiently aware of what we need to do. Thank you.

CHAIR COCHRAN: Yeah. Okay, thank you, Mr. Couch. If you want to comment on that, Director?

MR. GOODE: Yeah, Madam Chair, Mr. Couch, no, I don't see any at this point. I think I got a really good flavor for your intent should we go forward in that manner.

CHAIR COCHRAN: Thank you.

MR. GOODE: Thanks.

CHAIR COCHRAN: Okay. Thank you. Thank you, Director. And, Mr. White, you had some comments, questions?

COUNCILMEMBER WHITE: Thank you, Madam Chair. I think we would all agree that we want to discuss as much of this in open session as we possibly can because I think this is like this morning's issue that we had a fairly lengthy discussion on, these are issues that our public needs to be aware of and our Legislators in particular need to be aware of. Because we're being put under a significant amount of stress to perform on things that are not necessarily our responsibility. And then to be, to have the assets that we generate for the State to be withheld from us, is just further lack of fairness and further outrage from my perspective. And as far as writing a letter is

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

**August 23, 2016**

---

concerned, I'm assuming that the Administration would be sending a letter as well so I think it should come from both branches of government since it's Maui that's being attacked, so.

CHAIR COCHRAN: Okay. Yes, Director?

MR. GOODE: Yeah, Madam Chair, Mr. White. We've sent our letter, a 30-page letter. I think we may have called it preliminary so that we have an opportunity, if you think of more things by the 31<sup>st</sup>. So they've received that. So they've...and I think that should help them come to the conclusion of having a significant extension and then entering into dialogue. A subsequent letter from you folks having been briefed on it, you know, admittedly a one-sided brief but it still has enough cause for concern that, you know, if you go with this idea of the letter, I think it would go, and we can get it in by the 31<sup>st</sup>, it'll be part of the record.

COUNCILMEMBER WHITE: Then, Madam Chair, I would suggest that we reference the administration's letter and focus on the request to be given the two-year extension, because I think it's appropriate to ask for that rather than us getting into all the details that they already have. I think, to simply piggyback on the Administration's letter and request the extension and do as much as we can to be convincing, would be really good. Thank you.

CHAIR COCHRAN: Yes, I agree. And I believe Staff is taking notes, and we shall move forward on those recommendations. And I think there is a question, too, about DEM being involved or why are they not or this should be in their purview to have oversight on or at least, you know, partnering in of some kind. So if you have comments in regards to DEM involvement, if any.

MR. GOODE: Sure, yeah. Madam Chair, when we first became permittees or are about to become permittees we really look closely at well what's the best department to put this in? And there are really three choices: the Department of Public Works, Department of Management, and DEM. Because a lot of the reasons Management was considered is that a lot of the activities have to take place are on County property; so it's not all Public Works property. It's Parks, for instance. Even the police station, fire stations, Kaunoa. So Department of Public Works doesn't have authority over those; so we looked at possibly Department of Management. So for DEM or us we had that issue, but that's overcome through doing a Memorandum of Agreement between the various departments, which is in the works. But in the end because Public Works is mentioned in the Charter as being responsible for storm water, it was that Charter provision. And given that 80 percent, we felt like about 80 percent of the activities are related to our Department, especially construction BMPs, post-construction BMPs, these kinds of things, that it made sense to be in our Department. So we accepted the duty and here we are.

CHAIR COCHRAN: Okay.

MR. GOODE: Thanks.

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

**August 23, 2016**

---

CHAIR COCHRAN: Alright, thank you for those comments. And, Members...yes, Mr. Couch?

VICE-CHAIR COUCH: Thank you, Madam Chair. And, Mr. Goode, I noticed you mentioned the public hearing is on August 31<sup>st</sup> at 1:30. Would it be prudent for some of us to testify as well or...I don't know. You deal with those folks more often so I would say that if you would like for some of us to testify, that might be something that we can do. I don't know how that would work, Sunshine Law, you know, wise or anything but I think that's something that we, at least I would consider absolutely going and testifying.

CHAIR COCHRAN: Director?

MR. GOODE: Yes, Madam Chair. So the deadline, the August 31<sup>st</sup> includes written comments and then they're having a public hearing via video conference, which he says at 1:30, right? So I think we had it over at the State Building. So I went last time. They had one on, in the end of June. It was very sparsely attended; however, the Department of Health, of course, had a number of folks there. There was folks from the Navy, DOT, maybe some other MS4s. So it is another opportunity; so I'd be pleased, you know, if anybody attended. We haven't decided if we're going to attend or not at this point, whether we just stick to our testimony. If we had something additional to add. But what we found in that first one is that we found a lot of new friends. So, and that's worked well from that standpoint.

VICE-CHAIR COUCH: Well, Madam Chair?

CHAIR COCHRAN: Yes, yes.

VICE-CHAIR COUCH: Just, Mr. Goode, just so you know, at least, you have a very good letter that you've written and response. At least in this Chamber, it always helps, too, to have somebody physically come and show or go on video just to reinforce. So coming from the side that listens to testimony and sees written testimony, while we give it all weight, the fact that somebody could take the time and come and discuss it and be available for questions adds a lot of weight, at least for me and I'm sure for most of my colleagues here. So if you need any kind of impetus to do that, I would suggest that we go in there and show some force, anyway.

CHAIR COCHRAN: Thank you, Mr. Couch. And, Director Goode, you have some people from your office. I wasn't sure if you wanted to acknowledge that you have Mr. Smith and Ty here in the audience that have been very instrumental as you said, did a lot of the work on the responses and what have you. So I wasn't sure if you wanted, needed them to come and add any more information to our discussion?

MR. GOODE: Sure, well the, Ty Takeno and John Smith are from our Engineering Division and Design Section. They're overseeing the permit. John is, specifically one of his projects. He's been working extensively with a lot of our, you know, potential partners and actually establishing partners primarily on the West Side where we already have

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

**August 23, 2016**

---

existing community groups that organize for storm water activities and, like Ridge to Reef. Ty does a good job of managing John's time because John has other projects. And so like this one's really taken on, you know, like I said, it's like a fire, like we have to deal with this. I did, they did want to attend. They wanted to of course hear where the Committee, you know, was leaning if you will. But also I brought them because if you had questions about our existing program, like in our six areas, and, you know, any particular and some of the activities that are going on, they're better suited to answer those questions than I am. So that's primarily what they're here for.

CHAIR COCHRAN: Okay. Very good. So, Members, is there any need to have the Director's resource people come down to explain anything? And I also saw you had some of your Highways Division earlier. I think they came in just to see what was going on and if they needed to participate, too. But I thank them for attending. I think Division Chief Otani and Mike Tihada were here earlier. But anyways, Members, with that, if we don't have any further need for discussion or...I'll entertain a motion to just recommend filing of this County Communication 16-171.

VICE-CHAIR HOKAMA: Chair?

CHAIR COCHRAN: Yeah, oh, Mr. Hokama?

VICE-CHAIR HOKAMA: Madam Chairman, I would ask you to consider deferring because I would like a status back from Mr. Goode on what happens with this proposed rule.

CHAIR COCHRAN: Okay.

VICE-CHAIR HOKAMA: If you don't mind, Chair, to consider that. Thank you.

CHAIR COCHRAN: Okay. That's fine. Is that, Mr. Couch, you had your hand up? Your same recommendation? Okay, that's fine. Either way. We can do that, sure. So without objections, we shall defer this item.

COUNCILMEMBERS: No objections.

CHAIR COCHRAN: And, thank you very much. So ordered.

**ACTION: DEFER pending further discussion.**

CHAIR COCHRAN: And looking forward to further dialogue with this and for some favorable outcomes to us. And at that time...with that, we have completed our agenda for today and this meeting is adjourned. . . .*(gavel)*. . .

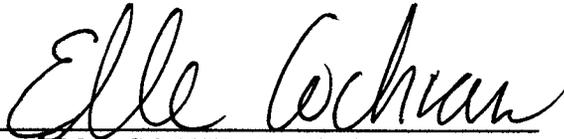
**INFRASTRUCTURE AND ENVIRONMENTAL MANAGEMENT COMMITTEE**  
**Council of the County of Maui**

**August 23, 2016**

---

**ADJOURN:** 2:43 p.m.

APPROVED:



---

**ELLE COCHRAN, Chair**  
**Infrastructure and Environmental**  
**Management Committee**

iem:min:160823:krr

Transcribed by: Kekai R. Robinson

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

**August 23, 2016**

---

CERTIFICATE

I, Kekai R. Robinson, 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 15<sup>th</sup> day of September, 2016, in Kou, Maui, Hawai'i



A handwritten signature in black ink, appearing to read 'Kekai R. Robinson', is written over a horizontal line. The signature is stylized and cursive.

Kekai R. Robinson