

INFRASTRUCTURE AND ENVIRONMENTAL MANAGEMENT COMMITTEE

Council of the County of Maui

MINUTES

August 29, 2016

Council Chamber, 8th Floor

CONVENE: 1:34 p.m.

PRESENT: VOTING MEMBERS:

Councilmember Elle Cochran, Chair
Councilmember Riki Hokama, Vice-Chair
Councilmember Gladys C. Baisa (in 1:50 p.m.)
Councilmember Robert Carroll
Councilmember Stacy Crivello
Councilmember Don S. Guzman
Councilmember Mike White (in 2:08 p.m.)

STAFF:

Shelly Espeleta, 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.:

David Goode, Director, Department of Public Works
Richelle Thomson, Deputy Corporation Counsel, Department of the Corporation Counsel

OTHERS:

Blue Robinson
Colin Rodrigues, Deputy Clerk, Second Circuit Court
Plus (1) Other

PRESS:

Akaku Maui County Community Television, Inc.

CHAIR COCHRAN: . . .*(gavel)*. . . Aloha. Will the meeting of the Infrastructure and Environmental Management please come to order? Today is August 29, 2016. It's about 1:35 in the afternoon. Before we begin, please silence all cell phones or any noise-making devices. And joining us here today, of course, myself, I am the Chair of this Committee, Elle Cochran. Vice-Chair of this Committee is Mr. Riki Hokama.

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VICE-CHAIR HOKAMA: Madam Chairman.

CHAIR COCHRAN: Aloha. And here with us also is Ms. Stacy Crivello.

COUNCILMEMBER CRIVELLO: Aloha, Chair.

CHAIR COCHRAN: Aloha. And Vice-Chair of the Council--I just caught his mouth full--is Mr. Don Guzman.

COUNCILMEMBER GUZMAN: Good afternoon, Chair.

CHAIR COCHRAN: Moving quickly over to Mr. Bob Carroll of East Maui.

COUNCILMEMBER CARROLL: Good afternoon, Chair.

CHAIR COCHRAN: Good afternoon. Thank you, Members, for joining us. And joining us later will be Ms. Baisa and Chairman White. Today, we have from Administration, Director of Public Works, David Goode.

MR. GOODE: Good afternoon.

CHAIR COCHRAN: Aloha. From...Deputy Corporation Counsel, Richelle Thomson.

MS. THOMSON: Good afternoon, Chair.

CHAIR COCHRAN: Aloha. And from our Staff, we have Legislative Analyst, Shelly Espeleta and also Committee Secretary, Rayna Yap. Joining us on our last item of the day will be Colin Rodrigues, Deputy Clerk of the Second Circuit Court. So thank you very much for being here. We'll be calling you down in a bit. Members, we have three items on the agenda today. First one being IEM-70, Amending Section 10.60.042, Maui County Code, which relates to crosswalks established in Lahaina. Sorry, I forgot to check in with our outer offices. So, from Hana, Ms. Lono, are you there?

MS. LONO: Good afternoon, Chair. This is Dawn Lono in the Hana Office.

CHAIR COCHRAN: Thank you, Dawn. And from Lanai, Ms. Denise Fernandez, are you there?

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

CHAIR COCHRAN: Thank you, Denise. And from Molokai, Ms. Ella Alcon, are you there?

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

CHAIR COCHRAN: Thank you, Ms. Alcon. And our second item of the day will be IEM-71, Parking Restrictions on Nahono Place in Lahaina; and IEM-72, Hui Roads on Mailepai Partition Subdivision, also located in West Maui. So, members in the Chambers

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willing...wanting to testify, please sign up with the desk in the front lobby. And anyone in the District Office, please sign up with the office Staff there. Testimony will be limited to three minutes on the agenda items printed here today, and you will be allowed three minutes per item. When testifying, please state name, any organization you may be representing. And, at this time, Members, without objections, I'll open up the floor for public testimony. No objections?

COUNCILMEMBERS: No objections.

CHAIR COCHRAN: Thank you.

. . . BEGIN PUBLIC TESTIMONY . . .

CHAIR COCHRAN: And so, if anyone in the gallery signed up for testimony?

MS. ESPELETA: Yes. Madam Chair, we have --

CHAIR COCHRAN: Yes.

MS. ESPELETA: --one testifier signed up, Blue Robinson for IEM-72.

CHAIR COCHRAN: Thank you. Ms. Robinson, you may approach the podium here and --

MS. ROBINSON: Okay.

CHAIR COCHRAN: --state your --

MS. ROBINSON: This one here?

CHAIR COCHRAN: --testimony for us--yes--just come down the ramp, and go on up to the microphone and state your name or any organization you may be representing, and you'll have three minutes.

MS. ROBINSON: Thank you. My name is Blue Robinson. I live on Hui F Road. And I've been working for almost six years to try and get some relief on that road. It's very...if you look at the e-mail testimony from Ray Chin, it shows pictures, it has a very good rendering of what that road looks like now. It's very dangerous. Kids are walking to and from the school bus on it. And we're really looking to have it...have some relief on that road. So, basically, that's all I have to say. I did submit petitions from several residents on that road. There are also several e-mails that I was copied on as well that I know you have received. So we're really hoping that this road can be deeded soon and so that the County will take it over and maybe Mr. Goode there can help us out. Thank you very much.

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CHAIR COCHRAN: Thank you, Ms. Robinson. Members, any need for clarification from the testimony? Seeing none, thank you. Any...is that the last testifier in the Chambers? No one?

MS. ESPELETA: Madam Chair, there are no other testifiers in the Chamber at this time.

CHAIR COCHRAN: Thank you very much. I'll check in with the remote sites. In Hana, Ms. Lono, any testifiers?

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

CHAIR COCHRAN: Thank you. Over on Lanai, Ms. Fernandez, any testifiers?

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

CHAIR COCHRAN: Thank you for being there. And on Molokai, Ms. Alcon, do you have any testifiers?

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

CHAIR COCHRAN: Okay. Thank you very much, ladies, for being there. So, Members, it looks like we have no one wishing to testify at this time. Without objections, I will now close public testimony.

COUNCILMEMBERS: No objections.

CHAIR COCHRAN: Thank you very much, so ordered.

. . . END OF PUBLIC TESTIMONY . . .

**ITEM NO. 70: AMENDING SECTION 10.60.042, MAUI COUNTY CODE,
RELATING TO CROSSWALKS ESTABLISHED, LAHAINA
DISTRICT (CC 16-149)**

CHAIR COCHRAN: All right. Let's jump into our first item of the day, which is IEM-70--you all set? Okay--amending Section 10.60.042, Maui County Code, and this is relating to crosswalks established in the Lahaina District. We are in receipt of County Communication 16-149, from Director of Public Works, transmitting a proposed bill, A Bill for an Ordinance Amending Section 10.60.042, Maui County Code, Relating to Crosswalks Established. And the purpose of this proposed bill is to update the Code to include a mid-block crosswalk installed on Hanawai Street, Lahaina, Maui, Hawaii, as part of the Hanawai Street Curb Ramps project. And, Members, please take note that the mid-block crosswalk was installed on Hanawai Street, Lahaina, Maui, in 2013 as part of the Hanawai Street Curb Ramps project. And the proposed bill before us today is to update the Code to include this crosswalk. The Department has provided aerial and street views of the crosswalk to aid our discussion today. It should be

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handed out on your desk. I might also add that the Public Works Commission voted unanimously in favor of the proposed bill at its meeting on April 27, 2016. So with that, I will now open up the floor for discussion and receiving comments from Director Goode at this --

MR. GOODE: Okay.

CHAIR COCHRAN: --time. Thank you, Director. Floor is yours.

MR. GOODE: Thank you, Chair. Good afternoon, Members. David Goode here, Director, DPW. As the Chair mentioned, this crosswalk has been installed when we did a curb ramp project for the area. Hanawai Street is located just makai in Napili Plaza, off of Napilihau Road or Street. It also serves as one of the entrances to the Napilihau Condominium project. On the mauka side of Hanawai is the Napili Plaza and also the fire station. There's a sidewalk on the makai side, the entire way, and there is a sidewalk on the mauka side fronting the fire station and the Napili Plaza. But there's no connection for accessibility. And we had a request from a resident. I believe their son or daughter uses a wheel chair and found it difficult to navigate the area. So based on that complaint, the issue was brought to our attention, and we did a curb ramp project, as part of some of our Countywide curb ramps efforts. So we apologize that it didn't come to you sooner, Chair, or get to the Public Works Commission. It might have been an oversight on our part. But we're here today, and the item has been reviewed by the Public Works Commission and they found it such they recommend approval. Thank you.

CHAIR COCHRAN: Thank you, Director. And, Ms. Corporation Counsel, do you have anything to add to the discussion?

MS. THOMSON: No, thank you, Chair. Not at this time.

CHAIR COCHRAN: Thank you very much, Richelle. And so, Members, floor is open for you folks to have questions and comments. Yes, Mr. Carroll?

COUNCILMEMBER CARROLL: Thank you, Chair. I know that area needs that crosswalk. But I'm concerned about any crosswalk in the middle of a block or that's not on a corner. If you look down here by the prison now, you see where they installed the...you press the button and you have the flashing lights, and I think that's really necessary. When you have something in the middle where it's not on the corner, people are really, really not queuing in on it. I don't care how nicely you paint it. I would hope that somehow we could...if we're going to put crosswalks that are not on a corner that we go over there and spend the extra money and put that light. Before they put that light over there, that flashing one, yeah, I saw guys really come close to get run over because people just aren't queuing in on it. So I'd hope we could consider that location to put that flashing light where they can press the button. Thank you, Chair.

CHAIR COCHRAN: Thank you, Mr. Carroll. Mr. Goode, did you have comments to that?

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MR. GOODE: Yes, Chair. For, Mr. Carroll, thank you for that observation. You know, since we've installed a number of these, they're called RRFBs, rectangular rapid flashing beacons, they prove very popular, so popular that we got inundated with requests. So our staff has been evaluating a kind of a threshold, you know, what's an appropriate threshold in terms of a number of factors. One would be, you know, how many vehicles are going through the area. Number two, how many pedestrians on a daily or hourly basis. Number three, what are the sight lines, you know, for drivers and pedestrians. So we wanna evaluate that first to see if it's something that meets that type of criteria. So far to date, since we have had it installed for a few years, I'm not aware of any request on this particular one, but we could certainly look at that. But I think in general, the RRFBs have proven very valuable. But they do come with a maintenance cost for us so we wanna make sure that they're placed in most needed areas first. Thanks.

CHAIR COCHRAN: Thank you, Director. And real quickly, Director, do you know what the cost is of those at all, off the top of your head if any?

MR. GOODE: If I recall correctly, it's somewhere around maybe \$7,000 all-in. We do install with our own forces. And they're photovoltaic-activated so we don't have ongoing electrical costs, but we do have, like in any electronic equipment, we have to maintain it from time to time.

CHAIR COCHRAN: Thank you very much. Members, any further need for discussion or questions of the Department at this time? Seeing none, I have...you answered a couple questions I had, Director, in regards to what prompted the installation of this to begin with and then how come it took three years to get here to us after. And this...are there...are you aware of others, I guess, crosswalks in the area that have the same predicament where it has been installed and you'll need to come back to us to just address the Code, to update it? Is...are you aware or can you look at a general, big overview so we don't have one by one by one coming to us?

MR. GOODE: Right. Well, I did ask our staff if there were some others. And typically, the only other instance of this...what happened is it was part of another project. And we may have one on South Kihei Road by the Mana Kai. We did that sidewalk project over there that went from Kilohana to Keonekai. And I think we did it in two phases. In the second phase, we noticed that there was a lot of pedestrian movement without there being a crosswalk. So clearly there was an existing demand. So I think we put one in there; so that one might need to be codified as well. But in general, we don't put in a lot of mid-block crosswalks. And that's why they're in the Code 'cause normally crosswalks are at intersections. But sometimes it's too far to the next intersection, and it's on a road that's, you know, it warrants the need to have a crosswalk. So it's about the only one I can think of at this...that our staff could think of at this time.

CHAIR COCHRAN: Okay. Thank you very much. And I believe our staff is doing a follow-up letter to your Department in order to sort of do some research. Perhaps --

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MR. GOODE: Yeah.

CHAIR COCHRAN: --did we...I'm trying to think with the Tiffany's 'cause we just did that. We just approved the Tiffany's crosswalk, and I believe we adjusted the Code at the same time. I'm just trying to recollect. Yes?

MR. GOODE: Right, right. So the Tiffany's one on Lower Main is a good example of --

CHAIR COCHRAN: Yeah.

MR. GOODE: --we went and got the...it's not installed. And I haven't driven --

CHAIR COCHRAN: Yeah.

MR. GOODE: --on Lower Main in the last week so I don't know. But the ordinance still needs to...I don't know if it's passed second and final, then the Mayor has to sign it then we need to get a copy of it and then we need to get the work order out. And so, that's the process normally.

CHAIR COCHRAN: Okay. And we'll update the Code.

MR. GOODE: That's happening. So I don't remember if it's passed second and final, may have.

CHAIR COCHRAN: Not yet. Okay --

MR. GOODE: May I ask from...

CHAIR COCHRAN: --very...

MR. GOODE: I'm seeing from staff that it has passed second and final.

MS. ESPELETA: I believe that was Bill 82 passed Council --

CHAIR COCHRAN: Oh, yeah.

MS. ESPELETA: --at the last --

CHAIR COCHRAN: Last --

MS. ESPELETA: --meeting.

CHAIR COCHRAN: --full Council.

MR. GOODE: Okay.

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CHAIR COCHRAN: Very good. Okay, excellent. And then I'm noticing the whole laundry list of all the areas in the district for Lahaina in particular, for this one, where there's places that are non-existent, names of buildings, names of restaurants, names of...and so, well I guess hopefully we can figure out a mechanism to go ahead and update and make it more accurate as to...like there's the Wong Store and Lahaina Broiler. I know Lahaina Broiler, I worked there, that was many years ago, it's no longer, it's now Bubba Gump's. And so there's just places where it...I know where they are but people that would have no clue what that meant or exactly where was that location. So looking to sift through and figure how we can update it to be, yeah, accurate, I guess at this day and age, so.

MR. GOODE: I agree. In fact, at one point we started this—in fact, we were working I think with your --

CHAIR COCHRAN: Yeah.

MR. GOODE: --former assistant, Jordan Molina --

CHAIR COCHRAN: Right.

MR. GOODE: --on this—and even Wong Store, like I don't know where Wong Store is, and ended up calling some old timers in Lahaina and they told me. So, you know, I think we need to clean that up, and make it more specific to intersections, and feet from intersections is just the best way.

CHAIR COCHRAN: Okay. Very good. All right. Well, thank you very much. So with that, if no further discussion, I'll make my recommendation.

COUNCILMEMBERS: Recommendation?

CHAIR COCHRAN: The Chair will entertain a motion to recommend passage on first reading of the proposed bill entitled A Bill for an Ordinance Amending Section 10.60.042, Maui County Code, Relating to Crosswalks Established; incorporating any nonsubstantive revisions; and the filing of County Communication 16-149.

VICE-CHAIR HOKAMA: I'll make the motion for you, Chair.

COUNCILMEMBER CRIVELLO: Second.

CHAIR COCHRAN: Thank you. It's been moved by Member Hokama, seconded by Member Crivello. And before I call for discussion, I wanna recognize that Ms. Baisa has joined us. Thank you, Ms. Baisa.

COUNCILMEMBER BAISA: Good afternoon, Chair. I apologize for my tardiness, you know, these family things happen.

CHAIR COCHRAN: Not a problem.

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COUNCILMEMBER BAISA: Thank you.

CHAIR COCHRAN: Not a problem. Thank you for being here. And so, Members, any need for further discussion before I call for the vote? Seeing none, all those in favor, say, "aye."

COUNCILMEMBERS: Aye.

CHAIR COCHRAN: Any opposed, say, "no." Seeing none opposed, motion passes with six "ayes," one excused, zero "noes."

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

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmembers White.

MOTION CARRIED.

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

CHAIR COCHRAN: Thank you very much, Members. We've gone through our first item.

ITEM NO. 71: PARKING RESTRICTIONS ON NAHONO PLACE (LAHAINA) (CC 16-150)

CHAIR COCHRAN: So second item on the list is Parking Restrictions on Nahono Place, which is also in Lahaina. And Ms. Rayna Yap has just...is handing out photos, maps for you so you can get a better picture of where this is. And this here is County Communication 16-150, from, also, Director of Public Works, transmitting a proposed bill entitled A Bill for an Ordinance Amending Section 10.48.040, Maui County Code, Relating to Parking Prohibited on Certain Streets and Highways. And the purpose of this proposed bill is to prohibit parking at all times on the south side of Nahono Place from Lower Honoapiilani Highway...Road, as prohibited by signs in Lahaina, Maui, Hawaii. And, with that, this is...again, the Department has provided an aerial street view of the proposed no-parking zone located on the south side of Nahono. And the Public Works Commission also voted unanimously in favor of this

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proposed bill at its meeting of April 27, 2016. So with that, I will turn the floor over to Director Goode for some comments. Director?

MR. GOODE: Thank you, Chair. We received a request a while back regarding adding no-parking at any time along this south portion of Nahono. And our staff looked at it and thought it was a reasonable request. We, again as you mentioned, brought it to the Public Works Commission where they recommended approval as well. If I recall correctly, there's concerns related to safety in this area. As you can see, leaving Nahono, there's a separate right and left turn lanes. And when there's parking on the south side, it forces people that would be driving into Nahono from the lower road. It would force them into that left turn pocket. And evidently, that's caused some safety concerns in the past. And that's it.

CHAIR COCHRAN: Is that...okay. Thank you, Director. And so, Members, do you have any questions or comments in regards to the proposal? It's pretty straightforward.

COUNCILMEMBER BAISA: Straightforward.

CHAIR COCHRAN: I think.

COUNCILMEMBER BAISA: Yeah.

CHAIR COCHRAN: If anyone...

COUNCILMEMBER BAISA: Recommendation?

CHAIR COCHRAN: Okay. Yes, Mr. Hokama?

VICE-CHAIR HOKAMA: Did the Police Department have any comments, Chair?

CHAIR COCHRAN: No, I don't...Director Goode, do...does Public Works Commission consult with MPD at all on these types of subject matters?

MR. GOODE: Chair, Mr. Hokama, MPD does come to some of the meetings but not all. But if I recall correctly, our staff would normally check with all EMS folks, including Fire for their comments.

CHAIR COCHRAN: Okay. Thank you.

VICE-CHAIR HOKAMA: Madam Chair?

CHAIR COCHRAN: Yes, Mr. Hokama? I think, wait, sorry, Mr. Hokama, your microphone, yeah.

VICE-CHAIR HOKAMA: Thank you. I would ask you to consider in your Committee report to make note that we already have in the Code some already established County laws. And regarding the intersections, my understanding is there is no parking within

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15 feet of any stop sign. And I would like to have it noted that we...I am requesting the Police Department to start enforcing that law. 'Cause for me, some of the safety issues Director Goode brought up about the intersections, and the left or right options of turning, it's not only for this area, it is a Countywide issue for me. And the irresponsibility of many of our drivers parking directly in front of stop signs for parking purposes, it's not there for parking purposes, it's there to control traffic. And the safe emergence into oncoming or crossing traffic is of great concern to me. I would like Police to be put on notice that we expect enforcement. We pass a lot of laws, Chair, and it always comes down to what about enforcement. Whether it be a zoning inspector, real property tax assessor, it always comes back to us as what about the enforcement. You guys talk a good story, you pass a good law, but where's the follow-up? Well, I think part of good law is the need to follow up and have that enforcement. People need to know there's responsibility for decisions and actions that they do. And I would like that to be in the report because I think part of our current issue is the need for current enforcement of current laws. Thank you so much.

CHAIR COCHRAN: And thank you very much. So noted. I completely, completely agree with that, Mr. Hokama. Thank you very much. So, Ms. Thomson, Corporation Counsel, that law that Mr. Hokama mentioned, the 15-foot rule or not, is that in our Maui County Code? Somewhere offhand, do you have that?

MS. THOMSON: Thank you, Chair. I do. It's in Section 10.48.030, and it's Item A7. So no parking...it's basically no stopping, standing, or parking of the vehicle, and it's a 30-foot limit prior to the stop sign.

CHAIR COCHRAN: Okay.

VICE-CHAIR HOKAMA: Yeah, thank you.

CHAIR COCHRAN: Yes, Mr. Hokama?

VICE-CHAIR HOKAMA: And, Chairman, that's not part of our current applicant but within the scope of some of the discussion for me is also there is already in the books regarding overnight parking or no overnight parking allowed on public streets and right-of-ways. That needs to be reviewed and we need to help the community understand what is the existing law if they get cited for violating existing law.

CHAIR COCHRAN: Yes. Thank you for always reminding us of that one also. Perhaps, an item can be brought up to fully vet that and I guess, education of it. I know it's gonna be a huge hardship for many of our subdivisions 'cause no one has space for their vehicles. But a law is a law. Thank you very much, Mr. Hokama. Members, any need for further discussion or comments of Director? And, Department, it looks like your signs have already been erected in this area currently and the no-parking zone, for this no-parking zone? Is that correct in --

MR. GOODE: Chair...

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CHAIR COCHRAN: --the photo?

MR. GOODE: Oh, sorry.

CHAIR COCHRAN: Go ahead.

MR. GOODE: I'm not sure. I'd have to get back to you on that. I do see a sign in that one photograph. I'm not sure exactly what it says. It looks like a no-parking sign though. I'd have to double check it. It could be certain hours. I'm not --

CHAIR COCHRAN: Okay.

MR. GOODE: --positive.

CHAIR COCHRAN: Okay. Thank you. And I guess, is there a footage of how far it's to go? All the way to the...that...what is that? That's not a cul-de-sac, that little turn off, little jog in --

MR. GOODE: Yeah, I think --

CHAIR COCHRAN: --the area.

MR. GOODE: --the area they've outlined is from the lower road to approximately where the bulb of the cul-de-sac starts. The way the ordinance is written, it gives us the flexibility to...as long it's between marked...between the signs. So that gives our staff a little bit of flexibility to move it where they best see fit. Similar to what we did on Front Street, on the south end of Front Street, rather than trying to figure out exactly all the different areas where we did have some puka parking, we just said, as noted by signs. And evidently that was fine with the Police as being enforceable, rather than saying, you know, X number of feet. So in certain circumstances we like that flexibility. In other circumstances, it makes better sense to do it by feet.

CHAIR COCHRAN: Okay. Thank you very much. And, Members, any need for further discussion? Otherwise, I'll make my recommendation.

COUNCILMEMBER BAISA: Recommendation?

CHAIR COCHRAN: Okay. So I will entertain a motion to recommend passage on first reading of the proposed bill entitled A Bill for an Ordinance Amending Section 10.48.040, Maui County Code, Relating to Parking Prohibited on Certain Streets and Highways; and incorporating any nonsubstantive revisions; and filing of County Communication 16-150.

VICE-CHAIR HOKAMA: I make the motion for you.

COUNCILMEMBER CRIVELLO: Second.

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

COUNCILMEMBERS: Aye.

CHAIR COCHRAN: Any opposed, say, "no." Seeing no "noes," motion passes with six "ayes," one excused, and motion...what? Sorry? Oh. Oh, sorry. And let's see. Members, you'll recall from last week, Committee recommended amendment to the same section of the Code with the Pili Street in Wailuku? We discussed that. And so, if there's no objections at this time, I would like to recommend the Committee grant Staff the authority to incorporate as a nonsubstantive revision the proposed amendments into a single bill that would consolidate the amendments for parking prohibitions at this Nahono Place and Pili Street. So your Chair would then issue a single Committee report with Committee's recommendations attached to one bill. If that's --

COUNCILMEMBER BAISA: No objections.

CHAIR COCHRAN: --okay with you, folks.

COUNCILMEMBER CRIVELLO: No objections.

COUNCILMEMBER BAISA: No objections.

CHAIR COCHRAN: No objections?

COUNCILMEMBERS: No objections.

CHAIR COCHRAN: Okay. Thank you. Mr. Hokama, is that okay? I know you look like you have a doubt.

VICE-CHAIR HOKAMA: I just don't want procedurally down the road that we screwed up two laws through one ordinance. Is this what Corp. Counsel is recommending to you, Chair, that we consolidate two different proposals into one? 'Cause --

CHAIR COCHRAN: Is...

VICE-CHAIR HOKAMA: --my thing is, we already pushed out the other one last meeting so that should be ready for posting to Council, and this one's gonna take another week to post, so.

MS. ESPELETA: Madam Chair, the Pili Street issue was discussed at our last meeting on August 23rd, and that will go to Council for first reading on September 16th. So with this new issue, we're planning this also to be on September 16th. So the two combined will be on the September 16th agenda, consolidated into one bill.

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VICE-CHAIR HOKAMA: Well, we understand what we're doing. I would hate the public to have one problem finding what happened to disposal of legislation after we do this combination and bury it under one item. I think we should make it as easy for the public to track and watch our actions instead of trying to find ways of...well, Chair, again, it's my issue, it's not the Committee's issue. So, you know, I'm happy for you to move forward. I just don't like it. Thank you.

CHAIR COCHRAN: And thank you very much for your comments, Mr. Hokama. I mean we'll take that into consideration, this should ever arise again, this situation. I know you had comments about Pili when we discussed it about having sign. I mean knowing that the history I guess that Pili exists and was and has been there, and now we're kinda taking, you know, as...the action we took on Pili. So with that, Members, I...so...I...yeah, and as Staff mentioned, I anticipate the consolidated bill to come as a...to be placed on the September 16th Council agenda for our consideration. So with that, Members, I believe the vote has been six or sorry, seven, six "ayes," one...or, Member Hokama?

VICE-CHAIR HOKAMA: I'm gonna vote "no" on the procedure portion, Chair.

CHAIR COCHRAN: Okay. So we have then five "ayes," one "no," and one excuse...one excused. Motion passes.

VOTE: AYES: Chair Cochran, Councilmembers Baisa, Carroll, Crivello, and Guzman.

NOES: Vice-Chair Hokama.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmembers White.

MOTION CARRIED.

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

CHAIR COCHRAN: Thank you very much. And I take in your comments, Mr. Hokama. Thank you very much.

ITEM NO. 72: HUI ROADS ON MAILEPAI PARTITION SUBDIVISION (WEST MAUI) (CC 16-172)

CHAIR COCHRAN: Next and final item is IEM-72, and this is in relation to the Hui Roads on Mailepai Partition Subdivision, West Maui. And this is County

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Communication 16-172, from myself, Elle Cochran, relating to Hui Roads in West Maui that were part of the Mailepai Partition Subdivision. Correspondence dated August 23, 2016, from the Chair of the Committee, transmitting the following: a. Map of Hui Road "F," Tax Map Key: (2) 2-4-003:016, Department of Taxation Property Technical Office, Tax Maps Branch, State of Hawaii; b. Copy of Findings of Fact and Conclusions of Law in Maui Land and Pineapple Company, Inc. versus Robert M. Monden, et. al., Civil 3828, Circuit Court of the Second Circuit, State of Hawaii, filed August 29, 1979; c. Copy of Judgment Quieting, Establishing and Confirming Title to Real Property in Civil 3828; and d. Copy of correspondence dated January 20, 1995, from the State Department of Attorney General regarding the authority to grant an easement to Hui Road "F." And the Committee, we're here to just discuss a lot about Hui "F." I know Director has a PowerPoint in regards to all Hui Roads, and we will not be taking any legislative action here today. This is definitely the start of a discussion of the Hui Roads in West Maui. And of course, this "F" one in particular, has been a huge sticking point and headache and concern and issue for many, many, many, many, many years in West Maui. So that is the reason why I brought this forward here today, I will...so I will be deferring this as you can tell. We have a lot more to talk about, but I will...I also have a resource person, Mr. Colin Rodrigues here from the Second Circuit Court. If you would like to come down and please join us here, you see your name plate here on the desk, and you can make yourself comfortable and come along for the ride with us here. And, Director Goode, I'd like to...I guess I'll turn the floor over to you to start your presentation with us. And I believe everyone should have copies of the PowerPoint in front of them. Okay, very good. And we have it on the screen here. So, Director...first of all, Mr. Colin, this is Colin Rodrigues of Second Circuit Court. Aloha. Thank you for being --

MR. RODRIGUES: Hi.

CHAIR COCHRAN: --here.

MR. RODRIGUES: Thanks --

CHAIR COCHRAN: Hi, I'm...

MR. RODRIGUES: --for inviting me.

CHAIR COCHRAN: Yes, thank you. I'm so short I can't see over my laptop. So, Mr. Goode, the floor is yours.

MR. GOODE: All right. Thank you, Chair. And thanks, Mr. Rodrigues, for coming. I can tell you that we met with Mr. Rodrigues and Ms. Kozaki, who's the Clerk. And as we go to the presentation, you'll understand why, but it's important that they're here. They will answer any questions you may have, and in terms of their role. But we're gonna talk about the Mailepai Partition. And there's been a number of partitions of land, most of them many years ago; Ulumalu is one; Peahi Hui is another one. But on the West Side, the Mailepai Partition is probably the largest and the one that is kinda

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still with us today. And this actually is a...took a picture of the actual judgment that was signed by the court back then. But essentially what they did is, they took an ahupuaa, a couple thousand acres, and at the time had a number of lineal descendants and other folks who had acquired property and they needed to partition that land accordingly. So, there's about like I said, about 60 claimants altogether. And in this case, the court, unlike Ulumalu or Peahi, they created road lots, which is a good thing. If you're gonna plan this area, make some road lots along the areas that have been probably historically traveled. And in the partition, they made 9 road lots and they titled them A through letter I. And the court ordered that the road lots be "for the use of everyone having interest in said lands." And then the most interesting part of the judgment as it relates to the title of these roads, unlike the Peahi ones or Ulumalu, they basically said, they shall for the time being be and it is hereby transferred to the person for the time being holding the office of the Clerk of this Court as Trustee, his successors and assigns with full power and authority in said Trustee to convey said roadways to a public body...but without any duty whatsoever to construct, build, maintain, or repair such roadways. So you can see why it's nice to have Mr. Rodrigues here because it looks like he's the owner of some of them but he has no power to do much of anything to them. The section does say...it talks about transferring to a public body. They talk about a public body having the authority to deal with roads. So this is what the map looks like inside the partition. Obviously, we're not gonna blow it up. But you can see in red on the right side of the map a little bit, those are the roads in the more makai section of this ahupuaa.

CHAIR COCHRAN: Sorry. Real quick, Mr. Goode, before you move on, I just want to recognize the presence of Chair White. Aloha. Thank you --

COUNCILMEMBER WHITE: Aloha, Chair.

CHAIR COCHRAN: --for joining us, Chair. Thank you. And go ahead. Thank you.

MR. GOODE: Thank you. So what I'd like to do is I'll just go through each of the roads by letter, and kind of acquaint you with each of them. So starting with Hui Road "A," this is one that actually was adopted by the Council in the early 1970s whose resolution was passed, 72-114. And the primary purpose of this at that time, was to acquire Hui Road "A" which became Napilihau Street, coincidentally what we talked about earlier, in the development of the Napilihau Villages. But when it was acquired, they acquired the whole thing, which ran a fair ways up the mountain. Later Honoapiilani came along and bisected it. And the mauka side of Hui Road "A"--so from Honoapiilani Highway going mauka--does not have highway access, it's been access limited by the State. As I mentioned, the makai side became Napilihau Road, and the mauka side has been...had been maintained for Maui...by Maui Pine for many years because they farmed pineapple up there. There are residents on some of these original Mailepai Partition lots. There's six or seven. They're almost like ag properties up there. But Maui Pine maintained the road as they maintained...as they farmed pineapple. When they stopped farming, they stopped maintaining. And we have been maintaining this road ever since, which is basically a dirt and gravel road. It is probably...in Lahaina District we spend more man-hours on this road than any other road because it's dirt

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and gravel, and the nature of the weather up there is that it gets...it can get washed out rather easily. If you were to drive up there today, this is just one section of it. This is kinda what it generally looks like. Again, it's graveled, and we do our best to maintain it. We've...since we've been maintaining it the last four or five years or so, we've added areas where the water can get off the road quicker so as to keep it in better shape. But it is a challenge for us. We also believe that the road is not in its current alignment as shown on the map. And so we've been working with Maui Pine to do a survey and find out exactly where the road is relative to its alignment so that we can straighten it out, perhaps by doing a land swap with Maui Pine. So for the purposes of this presentation, Hui Road "A," actually of all the roads we're gonna go through, is really the only road that we own and maintain, and it's in one of the worst shape of all the roads. Hui Road "B" is probably the one that's in the worst shape. Hui Road "B" is a spur off of Hui Road "A" that goes around the old helicopter site. Who was that? Papillon Helicopters. It's a dirt road. Portions of it probably you can't even find if you were to stand on it. It's never been accepted by the County, and it serves just a couple of properties. These are some pictures of it where it spurs off of Hui Road "A." I'm not even sure which one it is. My hunch is that it's the one on the right. But it's a four-wheel drive track. Hui Road "C" is another interesting one. This one also is off of Hui Road "A," above Honoapiilani Highway. And so, it's mostly parallel to Honoapiilani Highway, and it now is being partially developed by the new Wailele Condominium project. It was granted an access and utility easement by the Clerk via a separate court order not too many years ago. And it's...the south end of this road is currently being built by the Wailele project. And the photo you see on the right is kind of what it looks like as of Friday. And they're in the process...they basically just started construction; they got a ways to go. And this is not owned or accepted by the County of Maui. Hui Road "D" is a small cul-de-sac off the lower road, it's on the mauka side of the road, and it serves a handful of residents. It's paved for about 150 feet, and then there's another of 100 feet or so that are kinda gravel-like, the pavement condition is poor. There's no curbs, gutters, or sidewalks. In 1982, Resolution 82-010 authorized County of Maui to acquire sewer easements. So as they were developing the sewer system on the West Side, they had to bring a sewer line down through this area; and so that was done. So we actually have...I believe we have the sewer easement. At least the resolution was passed. And this is what Hui Road "D" looks like currently. So the first one is looking mauka from the lower road, and then the second photo on the right is looking back down, looking makai. And you can see it's not that great of shape and only serves a handful of properties. Interestingly, going back here a little bit, if you were to continue mauka a little bit more on Hui Road "D" is...I've seen on some maps that they show the Mailepai Cemetery. So I believe some of the descendants, original descendants are in that cemetery. Okay, Hui Road "E" is another cul-de-sac off the lower road going makai. It's not been accepted by the County of Maui. It serves about 10 lots. And this one, there's curb and gutter throughout, in good shape. It's paved its entire length, about 350 feet, and is also in pretty good shape. Photo on the right shows you its current condition. There's a number of vehicles parked there, look like construction vehicles for a project that was ongoing in the area. Hui Road "F" has not been accepted by the County. It's another long cul-de-sac off of the lower road on the mauka side. It serves a lot of folks. It serves about 63 single-family lots, Napili Ridge. At least to the

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records on the Internet had 132 units. You got Coconut Inn Apartments with 44 units, and Kipa Village with 21 units. So there's what, 250-70 units served off this road. There's also 4 small cul-de-sacs that come off Hui Road "F," none of those have been accepted by the County. There's also been a number of road-widening lots as these projects have been developed over the years that also exist along Hui Road "F," and the County has not accepted any of those. Hui Road "F" is paved for its entire length, about 2,000 feet long. There's curb and gutter on about half of the road. There's some sidewalk here and there. There's a little bit of drainage infrastructure I've seen, but I'm not sure exactly where it goes. And again, that same Reso 82-010 authorized the County to acquire sewer easements, which I believe was done. The upper part of Hui Road "F"...so if you were to go up Hui Road "F" today and it would dead end in a cul-de-sac. There's another portion of it, it heads up towards the highway and that was declared by the court in 1979—referencing the case you mentioned, Chair—belonged or was decreed to belong to Maui Land and Pine; and that became part of another subdivision. And I think there's Napili Park up there and some homes, and it's Maiha Street off of Honoapiilani Highway. So there was a separate court action to declare. Maui Pine thought it was theirs and the court decreed that and it was only for...if you look at the court order, 433 feet. And so that's pretty clear that that's that the upper portion. So Hui Road "F" has a variety of state. Starting at the upper-left, you can see that the road doesn't have curb, gutter, sidewalk. The pavement's in so-so condition. Lower-middle, you can see some of the potholes have been fixed probably by residents like using concrete or cold patch. Upper-right photo, here's one of the cul-de-sacs that come off of the lower road, the pavement's in not very good shape, has some depressions here and there, and basically exhibits characteristics of something that hasn't been maintained very well for 30 years or so. In the lower-right, and this is an area that has some curb and gutter on one side, there's overhead utilities on the road, and like I said there's not much drainage infrastructure. So that's Hui Road "F." Hui Road "G" was accepted by the County and became a—although I'm not sure when, I'd have to look that up, do a little more research—it was basically a drainage way for a project we did mauka of that, and it was later discarded by Council Resolution 15-38. And that lot was sold to neighboring property, maybe Napili Kai, in 2015 for \$22,500. So that's one instance where we acquired the road and subsequently got rid of it, 'cause it didn't serve any public purpose for, at least for ownership or access. Hui Road "H" is actually shown in the Mailepai map to be a cul-de-sac off of Hui Road "G." Hui Road "G" doesn't exist anymore so "H" is now accessed via new road that was built to its south. I have to do some more research on this. I'm pretty sure it wasn't accepted by the County but parts of it appear to be private, it's like it's become part of the Mauian property. And again it had that same Reso 82-010 to acquire sewer easements. But we'd have to do a little bit more research on this to see what had transpired. But it's typical of trying to get access in Napili Bay. It's very crowded, hard to find parking, the road's not in great shape; and I guess that speaks for itself. Finally, Hui Road "I" is basically the access to the Alaeloa Condominium. It hasn't been accepted by the County. It's known as...also known as Alaeloa Place. We've seen that...I think it's actually on the street sign. It's about 200 feet long. No curbs, gutters, sidewalk; but its pavement is in good shape so it must be maintained by Alaeloa Condominium is my guess. And it serves 3 other single-family lots and the 43 units in the condominium. So moving

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forward, you know, one reason we can look at this, the Council now has the authority to recommend acquisition of road lots that do not meet County standards if "is deemed in the public interest," citing Maui County Code 18.40.010. Hui Roads "B," the unbuilt portion of "C" and "H" should not be considered for dedication at this time in our opinion. "B" and "C" is something we could, you know, possibly discuss later when we deal with Maui Pine, and the Hui Road "A" in where it meanders out of its alignment. Hui Roads "D," "E," "F," and "I" could be considered for dedication for the following reasons; they're essentially already...they're public roads. I mean they were decreed to be part of the court. They're held in trust by the court but they gave the power...no power to them to...or obligation to maintain the roads. The roads were likely constructed in accordance to our approved plans; so as projects came along, we process the plans, and they may have met applicable standards that...at that time. The County has not had to maintain them all these years. And finally, I'll mention that, you know, when we met with the Clerk, they were looking at getting title reports for our review; so I imagine they're contacting title companies to try to get an estimate on what that work might entail. And so, Chair, that concludes my presentation. But, you know, point today was really to get the general subject, at least for our Department because there are...there's 7 roads essentially that we're aware of that are owned by the Clerk that, you know, service from just a handful of vacant properties to 270-plus residents. And they're in a different state of limbo that makes it really difficult for those residents, and I'm sure they're looking for a solution from their local government. So that concludes my presentation. I'm happy to ask...try to answer any questions you may have or I may have to research further. Thank you.

CHAIR COCHRAN: And thank you very much, Director Goode. At this time, our, Corporation Counsel, just wondering if you had anything to add to the presentation?

MS. THOMSON: Thank you, Chair. Just general comments that would relate to acquisition of any other easements or real property that is in condition that's not...that doesn't meet Title 18. We would look...recommend of course, a title report to make sure that title is clear. And also, would recommend that the Council consider the funding necessary to bring those roads up to standard in short order. So those would be the...just the general recommendations. Thanks.

CHAIR COCHRAN: Thank you, Ms. Thomson. And, Members, let's not forget we have Mr. Colin Rodrigues from the Second Circuit Court here with us as our resource. And if anyone has any questions from the court's here, and open for discussion. Mr. Hokama?

VICE-CHAIR HOKAMA: Thank you, Chairman. Since we do have Mr. Rodrigues, what I find interesting is we have copies of the court decision in the '70s, which made you the trustee; and yet, we have a letter from 20 years later from Ms. Dawn Chang, Deputy Attorney General, that says you don't have any more responsibilities by the statute of uses and that it has been transferred to Maui Land and Pine. I'm looking at a January 20, 1995 letter from the Deputy Attorney General, and that according to this attorney's point of view, the sole beneficiary of this decision of and designated as a passive trust is Maui Land and Pine. It also further notes once again that Hui "F"

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Road is not a public highway in this letter. So part of the Committee's dilemma right now is trying to figure who actually owns the land. Is it the...still the court? Is it Maui Land and Pine? And again, we're just going through what records we have and copies of records that we have before us. What is your understanding, Mr. Rodrigues, of this issue, please?

MR. RODRIGUES: I haven't seen that letter that you're...

CHAIR COCHRAN: Sorry, and, Mr. Rodrigues, if you can speak directly --

MR. RODRIGUES: Oh.

CHAIR COCHRAN: --your microphone's there.

MR. RODRIGUES: But --

CHAIR COCHRAN: If the green's light on, then it's on.

MR. RODRIGUES: --yeah --

CHAIR COCHRAN: Yeah.

MR. RODRIGUES: --the light's on. I haven't seen that letter. But as far as my understanding is, the court is still the trustee for all the roads except those that have already been transferred. And my understanding is just "A" and "G" have been conveyed to the County. And as Director Goode said, there's a easement on "C" that went to Maui Land and Pine, and then that portion of Hui Road "F" that was conveyed to Maui Land and Pine. So my understanding is, I'm still the trustee of the roads. I mean when we get complaints sent into the Public Works where every...I guess every time there's a storm or something, residents call me or write me. But I don't have any authority to do anything. So we're more than willing to sign it off, but the think with a vehicle of, you know, getting it, I always advise people if they could contact the County to do some motion to get it transferred. I mean, but I mean, we're just the holder of title with any...without any responsibility as far as I know.

VICE-CHAIR HOKAMA: And again, Mr. Rodrigues, we appreciate your response. Again, we're just dealing with the records that our Chair and our Committee Staff helped obtain for our review in taking up this item. So I'm just going through what is the court's finding of fact and conclusion of law that mister...Director Goode refers to. But even in that document, the court's ruling has always been, from what I can read again, is that there's only one beneficiary, Maui Land and Pine, that's the plaintiff. The plaintiff has had full control, and upon that time under point six, has been in the actual open—and this is the court's word—notorious, continuous, and exclusive possession of the subject property against the world. Interesting language from the court.

CHAIR COCHRAN: I know.

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VICE-CHAIR HOKAMA: And also in this, the court's, as I read the court's intent, if any governance should have authority of this land in the future should be the State of Hawaii, because it always goes and reference the new Honoapiilani Highway or Honoapiilani bypass road which is State projects, and State roads. So it confuses me that tying to a State project, they asking the County to consider ownership of the land when the court has already stated its intent that it should be part of this new State highway project. So I, you know, I just share that with you. Again, I know what is your role as the trustee from the court's perspective. But trying to understand the court's understanding on their ruling, again, they made a ruling and now we have a State Attorney General that's opining on the ruling of the State court. I'm just trying to figure out what is the reality, Chair. Because Attorney General is saying, this is not a public benefit, this is not a public road, from his letter in 1995. And I have yet to see...and again, that was written under that time the head attorney was Margery Bronster, as the State Attorney General. And we have not received anything that would rescind that opinion from the State's Attorney General's or another court decision that says that is incorrect, and this is the court's position or finding. So I appreciate you trying to have this due diligence because there's some...a lot of confusion out there. And I would say what has changed from the past when the County was asked previously to take ownership, and the County denied it for its own reasons. What has changed that now we're being asked to consider it without those improvements? And how did it pass subdivision to get all these new lots, all these new construction without the roadway system and easements and access for ingress/egress, set...already set aside and corrected for, whether it be for public purpose or development of property ownerships purpose? I find it intriguing how we've kinda made it more complicated when we shouldn't have by allowing more administrative decisions until this court decision has satisfied and we know exactly where we stand with this Hui "F" Road. So I'm befuddled because this is...you're right, this is a project with long history. And it keeps interesting that more decisions are being made, and we haven't still yet corrected the first question regarding Hui "F." Thank you, Chair.

CHAIR COCHRAN: Thank you very much, Mr. Hokama. Yes, befuddling is a good word for all this. And, Members, do you have any questions? And sorry, yeah, I would if possible, I wanna thank Director Goode for going through all the Hui Roads. But today, I wanted to start with the biggy "H"... "F," and kinda focus more on our subject matter with that and also having our resource from Second Circuit Court here too, to get answers and clarifications from hopefully. So at this time, yes, Ms. Baisa?

COUNCILMEMBER BAISA: Thank you very much, Chair. And I wanna thank you for having this today. You know, I've been hearing about this Hui Road, in particular, Hui Road "F," in so many issues that have been discussed on this floor for many, many years. And so I'm really happy that we're finally, you know, really taking a good look at it. And I hope we can solve it because it's time. Thank you.

CHAIR COCHRAN: Thank you very much, Ms. Baisa. And, Mr. Hokama, you...so yes, the paperwork that I've submitted into our Committee was hoping to just shed a little bit

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more insight as to the historical background of this road. And I'm noticing...and it does...it...I don't know, befuddles me too that all this...the existing projects and users along the road were built but this main thoroughfare for all the residents and properties there were in the hands of the court. But I believe originally, and, Director Goode, Maui Land and Pine had to have built it to begin with. And yet, they sort of wrote off themselves from having to maintain and take care, and wrote and gave it to Second Circuit Court, telling them you can be the owner, title, have title and be a passive dry partner of sorts, so you also don't have kuleana. But in the meantime, all these people are living on this road, accessing their daily lives in and out throughout the ages with no one having kuleana. And so, I don't understand. And, Mr. Hokama, I saw the Attorney General's letters, and you have William Crockett's on behalf of Maui Land and Pine, saying that letter is addressing just that mauka portion where they continue to do pine and the actual resident section of the road that we're all talking about here today, they kinda gave to the courts because it was housing, and they weren't doing pine so they didn't want any part of that. So I don't understand. I just...yes, I'm perplexed too at the thought of how this all came about this way. And now, everyone's like, take it over County. But I just feel like the original people who built it to begin with, should have some type of play. So I don't know. Some kinda, you know, responsibility here, but it sounds like they wiped their hands clean of it and here it sits. So now we have to make the decision on taking care of it. And by all means, we want the best for all of our residents, and to have safe passage to and from their homes. And this one is just a real...it's in this predicament. But I'm dating William Crockett's letter at 1979 and the...it was a pre...which is prior to the Attorney General's letter of 1995. So I think you're right, Mr. Hokama, the last ruling is Ms. Chang's Attorney General letter. And we don't have any follow-up from the company or anybody after that. So I'm not sure, Mr. Goode, do you have a little more clarification to add to this or...

MR. GOODE: Thank you, Chair. And I don't know of how much clarification, but I do recall seeing a letter which I could get to your Committee from Maui Pine after the Dawn Chang 1995 letter basically saying, no, that's not ours. Oh, here it is, 2007, right. In 2007, their argument is that the...twofold, one is that the partition decree from 1931 says it's held by the Clerk. In 1979, their position is that, that the...they took the mauka portion. And if you look at the description, the property description in the 1979 case, it just says the top 433 feet. That road is over a half-mile long. And so the court decision is only on 433 feet. So, somebody is wrong. I don't know who. Maybe we think we can try to sort that out. But it appears if I was to read Ms. Chang's letter, she doesn't mention anything about the area being 433 feet or the whole thing. I think she's referencing parts of that decision where it says, hey, this Road "F" was originally for these two allotments, and Maui Pine ended up with them. They were successors and assigns to Baldwin Packers. And so since it was only for you guys, and you had this open and notorious use for all these years, it's yours. But the judgment is only on 433 feet. So, I don't know. It's...

CHAIR COCHRAN: Right. . . .(inaudible). . .

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MR. GOODE: They're still arguing. And they ended up with that 433 feet, it ended up being a subdivision that I think it's an affordable housing and then the park. And we may own it now on the mauka portion. All right. Sorry. I don't know if I cleared it up or made it more confusing, but...

CHAIR COCHRAN: And...okay, I mean I'm kinda following you there, Director. And, Director, so that current...where Napili Park is, and that subdivision, that road is...was to connect to this? Is that that northern portion you're saying the 440, whatever amount of feet that Maui Land and Pine claimed in this ruling that's now our County affordable housing subdivision?

MR. GOODE: Yeah. So essentially, Maui Pine got clear title to that in 1979 via this action. They then folded it into their upper property, and then eventually did this, the park and the subdivision. I can't remember all that's up there exactly. But the two don't connect. Hui Road "F," existing, you know, ends in a cul-de-sac, the other road that was the formerly upper portion of Hui Road "F" now comes from Honoapiilani Highway down, and ends in a cul-de-sac as well. I'm pretty sure.

CHAIR COCHRAN: But do you know if it was supposed to? Because this also references the General Plan of I think 1968, they're saying. Whereas, Mr. Hokama said was supposed to connect to Honoapiilani Highway, which is a State road as we all know, so shouldn't State be involved here? Do you recall any Public Works, I guess back in the day, documenting? 'Cause if you look at that original map that you had on your PowerPoint, there is a road of sorts, yellow where Napili Park is now. Well, I'm not sure if you have this one. And then blue line is this existing Hui "F" that we're all talking about that ends at Coconut Inn and a cul-de-sac. So it looks like at one time on--what is this map--that it was supposed to connect just as the language we're reading in the paperwork that I submitted via my Committee shows. So I'm not sure if you have what I'm referring to.

MR. GOODE: I can find it. But I have up here on the screen, this is from the original Mailepai Partition map that was part of the judgment. You can see Hui Road "F" goes from the lower road and it goes up, goes a little bit to the left and then ends. You know, and where it ends I believe was the...actually the old railway, not Honoapiilani Highway 'cause it didn't exist in 1931. So Honoapiilani Highway is somewhere in the vicinity of the railway. I think above it, I'm not sure. But this is the original partition from 1931. And my understanding of that judgment from 1979 only dealt with the 433 feet, basically from the railroad down. So whether it went to the highway or not, I don't know.

CHAIR COCHRAN: Okay. And so, I don't know if Second Circuit Court, the Dawn Chang letter is only referring to that more northern portion?

MR. RODRIGUES: I think so --

CHAIR COCHRAN: The small...

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MR. RODRIGUES: --and that that's my understanding.

CHAIR COCHRAN: That's what I don't get is why the brunt of this Hui "F" Road wasn't discussed or addressed. It's...and so obviously and then Maui Land and Pine is gonna send...write letters all day saying they don't...they're not affiliated with the broader portion of Hui "F," only the mauka. And so they...I don't know. So...

MR. RODRIGUES: It looks like in that action that Maui Land and Pine was only trying to get title to that certain portion, and they weren't concerned with the rest. So that the decision is only, you know, relating to that portion.

CHAIR COCHRAN: Right. So I don't know if our attorney, I mean I just feel like the focus was always not on this...the longer portion of Hui "F." It was only the mauka, mauka, mauka portion, which obviously that's the only part the company really wanted. They were producing pine and what have you. The rest, they just wanted to wipe their hands clean and so it never really, I guess, you know, settled on anything. And that's why we're here today. So I don't know where the...where is it that they should still have any type of responsibility in all this is...I don't know. And I think that's why we never accepted, it was never built to County...or I guess, Mr. Goode, you said that it was perhaps built to standards back in the day but currently today it's not. So we can legally say we're not accepting because it's not built to County standards?

MR. GOODE: Chair, I think...again, we'd have to do the research and see if we could pull the construction plans. But our standards have changed over the years.

CHAIR COCHRAN: Right.

MR. GOODE: I mean you go way back and, you know, no...there is no curb and gutter. And then as we got more modern subdivision codes, we added curb, gutter and sidewalk. And I think as you go up the road, you can see all the...it's like walking through our Code book. You'll see from no curb and gutter to curb, gutter and sidewalk up there. You kind of get a...it's a good education of our subdivision Code to walk up Hui Road "F." So it changed over the years.

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

VICE-CHAIR HOKAMA: Chairman, I was just going to bring up that perspective that Director Goode brought up. I mean it depends what snapshot of time, you know, we're looking at. The way I read what the court has put in their document on Page 2, and as far as what I can recall at that point in time, you know, their description regarding that the lands or the roads be and the same are hereby set aside for the use of everyone having any interest in the said lands, and that the title thereto shall for the time being of course, transferred to the Clerk. By that time, how many people had access to that land? It was only those that Maui Land and Pine agreed to either lease or allowed to be on the land. So for me, it was more about private use and their tenants on their private road to have full access and privileges for that private road to those lots. Because as the court had found, there was only one beneficiary, Maui Land and Pine.

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So for me, I can see how that option or that point of view was taken regarding this at that point in time, knowing how the plantations operated and where this County was with the Code and with that form of the board of supervisors that was running the County at that time, Chairman. But I think what has been brought up today is something we cannot settle today. I think we might, you...we would...I would ask you to consider whether it's...we should...you should or not consider writing a letter and asking the current AG, can we still rely on your letter of 1979 as the current position of how the State looks at this as well as State DOT. Why wouldn't they be an option of governance to take control of this area if it's gonna be part of the State project to tie in and maybe be part of the mauka road option for relief to West Maui. But I don't...I see it more as a State benefit than a County benefit at this time, Chair.

CHAIR COCHRAN: Thank you very much, Mr. Hokama. And I...when you pointed out the last correspondence via Attorney General was so back in the day, and there hasn't been a reply since then that...as you're stating, you know, to move forward, to get a more updated correspondence from them, I'm very, very open to. So we shall take that route and see what comes out from them. In the meantime, I believe there's a letter from Director, and it's a December 5, 2007 correspondence from Maui Land and Pine to Milton Arakawa in regards to Hui "F." And it does just condense and summarizes the paperwork that I've submitted into our Committee. So it of course, kinda like, you know, clear that Hui "F" is not owned by Maui Land and Pine, that's their ending comment. So I mean, I'll put this into the record, this two-page document from Director. I mean it's telling...saying everything that we've just been talking about, which really doesn't get us, personally I feel, anywhere. In the meantime, we were not gonna solve this today. I am just, you know, I...but, mister, Director Goode, you did breakdown and summarize which roads you felt we could take kuleana of and others you said for sure not. Was that in your second to last PowerPoint? And it looks like your bullet point three, Hui Roads "D," "E," and "F," oh, and "I" for...could be considered for dedication, as in it could be considered for acceptance [sic] from the County? Is that what you're saying?

MR. GOODE: Yeah, that's --

CHAIR COCHRAN: And these --

MR. GOODE: --correct.

CHAIR COCHRAN: --are the points of why you feel it's okay or possible to accept?

MR. GOODE: Yeah, I think I tried to summarize, you know, where the public interest may lie. Clearly, it's a Council decision. And I think also, you know, the comments from Ms. Thomson regarding, you know, cost to get up to standards is something we ought to consider. Similar to what we did to on Eha Street, so when we accepted Eha Street, we recognized the parts that were not up to current standards and some funds were appropriated accordingly to make it more up to standard.

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CHAIR COCHRAN: Okay. All right, very good. And so do you think there'll be a way to sort of suss out what kind of costs we'd be looking at in regards to "F" in particular though? We'll have to talk about "D," "E" and "I's."

MR. GOODE: Yeah, I think for "F," we would need some time certainly to look at that. I think we'd also have to figure out what standard we're looking at. I think a lot of these roads were laid out like 30-foot wide right-of-ways. So depending on how much right-of-ways available, sidewalks may not be an option without private property acquisition. So it could take us a while to figure that out, Chair. If we just look at it from the pavement perspective, we could come up with the number fairly quickly.

CHAIR COCHRAN: Okay. Very good. And also, Director, you mentioned about title reports, was your Department looking into receiving those?

MR. GOODE: Yeah, we had asked the Clerk to see if they could procure those so I guess we'd have to ask Mr. -

CHAIR COCHRAN: And --

MR. GOODE: --Rodrigues.

CHAIR COCHRAN: --did...so, but yeah.

MR. RODRIGUES: We're currently trying to get cost estimates to do those title reports.

CHAIR COCHRAN: Okay. Any timeline for us to figure when possibly that --

MR. RODRIGUES: I'm --

CHAIR COCHRAN: --could happen?

MR. RODRIGUES: --still waiting for them to get back to me. In fact, I just called this morning. So, I don't...they didn't give me a date when they would get it to me.

CHAIR COCHRAN: Okay. All right. I'm...

MR. RODRIGUES: Hopefully within the next couple of weeks at the least.

CHAIR COCHRAN: Okay. All right. Well, I think that'd be helpful. I'd like to see those also. So we'll keep on that if you don't mind to please be in correspondence with us in regards to that. Members, any further discussion, questions, comments? Yes, Mr. Hokama?

VICE-CHAIR HOKAMA: The one thing that...and again, I would hate to put Mr. Rodrigues in a uncomfortable position, but again I'm gonna refer back to that Attorney General letter. That State attorney is...in its last paragraph to Mr. Ito, 'cause it's addressed to Mr. Ito, Office of the Administrative Director, the Judiciary State of Hawaii, the

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attorney, Ms. Chang, states in her correspondence, the Circuit Court Administrator should direct all inquiries regarding Hui "F" Road to Maui Land and Pine for appropriate action, which is kinda interesting. She's already directing that the clerk of another branch of the State government disregard the court and by her opinion, the statute regarding...statute of uses was the tool that now has transferred Mr. Rodrigues' so-called responsibilities back to the sole plaintiff, who has the sole benefits of this consideration. So, you know, I know we're asking Mr. Rodrigues to do certain things and yet, by the correspondence in black and white, he's going contrary to what his own attorneys are telling him not to do. So I just --

CHAIR COCHRAN: Mister...

VICE-CHAIR HOKAMA: --bring up that it's a hard situation for --

MR. RODRIGUES: I don't even know what to say to that.

VICE-CHAIR HOKAMA: --the Clerk of the Second Circuit. And so, maybe he needs to have his branch of government give him some guidance because he reports to the Chief Justice.

MR. RODRIGUES: Well, actually as part of when we had that meeting with Director Goode, we did request assistance from the AG's Office. And we have somebody representing us, but she wasn't able to be here today. But that has never come up in our discussion, you know, what you mentioned. Like for me, right now, I'm just looking at it, I'm just the trustee of the thing with no responsibility. So when people inquire, I tell 'em I don't have any authority over the road, you know. I mean that's basically what is still the law, I mean according to that partition in 1931.

CHAIR COCHRAN: Thank...

MR. RODRIGUES: I mean that's the way I've been taking it.

CHAIR COCHRAN: And yeah, and that's what's maddening to me is that the people who partitioned it wrote them out from being responsible for it and then giving it to the courts who said, no just be dry, passive people with it, and don't take responsibility. Well, here we are, somebody needs to take responsibility. So, thank you though for being here and doing what you're charged to do. But definitely there's more to come, more information that we need to seek out for this. But in the meantime, you know, Director, if you hear our sentiments, and by all means we did Eha. You know, we took ownership of Eha. And so, but we really as budget people having to know what things are gonna cost us, we have to look into and see what cost of things are. But we wanna truly know...I wanna truly know whose sole responsibility it is for this. And our documents are sort of perplexing right now. So I would like further correspondence from current AG and to take a look, reopen this file or whatever this is and figure out where did it start, which hands did it move to and why are we in this predicament here today. And I know that we're...I'm here to seek a remedy and to figure out what we can do for the betterment of this community. But again, if that truly should fall

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into State, then so be it. But we wanna make sure that, you know, we cover all bases and figure out whose true responsibility it is to take care of this. But, Members and community, not to fear, this isn't something that's just gonna be wiped away. I will continue to be on this as fast as we can get information to move forward and to get clear direction, that's what I aim to do. So at this time, Members, if any further discussion or need for...okay. My recommendation is to defer this matter obviously so we can continue the discussion as I stated. And it looks like with...at a future date, if people feel we can go ahead and do site inspections of these wonderful Hui Roads, and just to get a better look at them, it's one thing to look at pictures but to physically be there on-site is a whole different story. So I'd like to recommend that if people are into that...yes, Mr. Hokama?

VICE-CHAIR HOKAMA: I would appreciate, Chairman, if you would consider for the Committee some kind of timeline and information regarding the history of this road. Because I understand it's a court's ruling at a point of time when the only beneficiary was Maui Land and Pine. I can understand that. So what assurances did they give on those sales of whether by lease or fee, of those surrounding lands now that is being impacted by Hui "F" Road, and what was the so-called promises or guarantees given to those interested parties for those lots on who has responsibility and who is supposed to pay for the maintenance and improvement of such roadway. That would be interesting, especially if they had to come to the County for additional subdivision approvals for additional lots in that area. I don't know how they got through those areas of review without having a settlement regarding the roadway. Thank you.

CHAIR COCHRAN: Yeah, very interesting points, Mr. Hokama. And we'll follow up on those comments. And we have a thick document here from Mr. Ray Chin from the area that shows a lot of photos and things and lists all the ownership properties on that road. My question is how do you sell something when you have a road like this that's sitting in limbo and it's a main...it's hundreds of people on this road. So that's an interesting concept too that you're able to sell properties on your main driveway to your lot that you're buying --

VICE-CHAIR HOKAMA: And if part --

CHAIR COCHRAN: --with no --

VICE-CHAIR HOKAMA: --of the information --

CHAIR COCHRAN: --maintenance.

VICE-CHAIR HOKAMA: --Chairman, you would consider since it is part of the record that Maui Land and Pine took this by adverse possession, who was then the party involved in that adverse possession case? Was it an old kuleana consideration? I don't know. Was it just old royal lands? I don't know. But I think it would be interesting to find out who they did adverse possession on to get those titles squared away. Thank you.

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CHAIR COCHRAN: Thank you very much. And we got that noted. And I also see in the court documentation that the Clerk of this court has not conveyed title to Hui Road "F" to the County of Maui or to any other public body. So it doesn't...it mentions us, yes, but it also says that another form, public body, could also take maintenance and kuleana of this area such as owners along said road. So anyhow, with that, it leaves us with more questions than answers today, I'm sorry. But again, with that, Members, no further discussion, questions or comments, I will defer this matter.

ACTION: DEFER pending further discussion.

CHAIR COCHRAN: And we shall continue this. And with no further business scheduled today, this meeting is adjourned. . . .(gavel). . .

ADJOURN: 3:00 p.m.

APPROVED:



ELLE COCHRAN, Chair
Infrastructure and Environmental
Management Committee

iem:min:160829:acqp

Transcribed by: Ann Carmel Q. Pugh

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CERTIFICATE

I, Ann Carmel Q. Pugh, 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 16th day of September, 2016, in Kula, Hawaii

A handwritten signature in cursive script, appearing to read "Ann Carmel Q. Pugh", is written over a horizontal line.

Ann Carmel Q. Pugh