

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

M I N U T E S

Council Chamber

June 19, 2018

CONVENE: 1:34 p.m.

PRESENT: Councilmember Elle Cochran, Chair
Councilmember Don S. Guzman, Vice-Chair
Councilmember Robert Carroll
Councilmember Yuki Lei K. Sugimura

EXCUSED: Councilmember Alika Atay
Councilmember Riki Hokama
Councilmember Mike White

STAFF: Maggie Clark, Legislative Analyst
Stacey Vinoray, Committee Secretary

Ella Alcon, Council Aide, Molokai Council Office (via telephone conference bridge)

Denise Fernandez, Council Aide, Lanai Council Office (via telephone conference bridge)

Dawn Lono, Council Aide, Hana Council Office (via telephone conference bridge)

ADMIN.: Richelle Thomson, Deputy Corporation Counsel, Department of the Corporation Counsel
Stewart Stant, Director, Department of Environmental Management
Michael Miyamoto, Deputy Director, Department of Environmental Management
Fred Redell, Energy Commissioner, Office of Economic Development (via teleconference from Molokai District Office)

OTHERS: Joy Balinbin, Intern, Office of Council Services
Plus (12) other people in the gallery

PRESS: *Akaku Maui Community Television, Inc.*
Chris Sugidono, The Maui News

CHAIR COCHRAN: ... *(gavel)* ... Aloha, will the Environmental...Infrastructure and Environmental Management Committee please come to order? I am Elle Cochran, the Chair of this Committee. It is June 19th and around 1:34 in the afternoon. At this time,

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

June 19, 2018

please silence any cell phones or noise-making devices. And attending the meeting we have Vice-Chair of the Committee, Mr. Don Guzman.

VICE-CHAIR GUZMAN: Good afternoon, Chair. Thank you.

CHAIR COCHRAN: Good afternoon. And Vice-Chair of the Council, Mr. Bob Carroll.

COUNCILMEMBER CARROLL: Good afternoon, Chair.

CHAIR COCHRAN: Good afternoon. Ms. Yuki Lei Sugimura.

COUNCILMEMBER SUGIMURA: Good afternoon.

CHAIR COCHRAN: Aloha. And non-voting member, Ms. Kelly King.

COUNCILMEMBER KING: Aloha.

CHAIR COCHRAN: Aloha. Thanks for being here, folks. And from our Administration it looks like we have from Department of Environmental Management, Director Stewart Stant.

MR. STANT: Good afternoon, Chair.

CHAIR COCHRAN: Aloha. And from Corporation Counsel, Ms. Richelle Thomson.

MS. THOMSON: Good afternoon, Chair.

CHAIR COCHRAN: Good afternoon. And from Council Services, Legislative Analyst Maggie Clark, and Committee Secretary Stacey Vinoray. So, Members, we have three...two items on our agenda...oh, and we also have Deputy Director, Mr. Michael Miyamoto, here with us from Environmental Management. Aloha. Today's agenda we have two items, we have IEM-14 which is West Maui Recycled Water Project. We have IEM-63 which is the Status Update on Anaergia Services LLC Projects. So, at this time, Members, without objections I am going to open up the floor for public testimony. No objections?

COUNCILMEMBER SUGIMURA: No objections.

CHAIR COCHRAN: Okay. And people who would like to testify please testify on the agenda items. You'll have three minutes, and with that, Ms. Clark, do we have anybody signed up?

MS. CLARK: Madam Chair, the first person signed up to testify in the Chamber is Doug McLeod testifying on IEM-63.

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

June 19, 2018

. . . **BEGIN PUBLIC TESTIMONY** . . .

MR. MCLEOD: Good afternoon, Chair Cochran --

CHAIR COCHRAN: Hi, Mr. McLeod.

MR. MCLEOD: --Committee members. My name is Doug McLeod and I'm offering testimony this afternoon on IEM-63. And I'm offering my testimony as an individual just as a consultant in the energy industry. But I really do appreciate, Chair, that you've brought these matters to a public hearing because people in the energy industry have been concerned for some time that this one company is being treated differently than other companies. And as you look at this at first, I know the complexity of these contracts can be a little overwhelming, and I would just encourage you to focus on the two amendments to this main contract. And if you focus on those two amendments, it will tell the story of what's happened since 2014. I only have three minutes so I'm gonna focus just on one of those amendments and explain my concerns. In the energy business, like a lot of businesses, time is money. And when the contract for the landfill waste-to-energy project went out to bid, it looked like a contract where the County cared about deadlines. It had liquidated damages provisions, you'll find those in Section 3.6. So, the idea was that the County was presenting this as a project where they're kinda serious about the deadlines, and if you didn't comply you'd faced liquidated damages provisions of \$750 a day. Amendment two to this contract is a situation where the County essentially gave a two-year extension on the project for free to Anaergia. And my point is that if other people had known that the County was really viewing some of the obligations as just options and that you'd actually have five years rather than three years to do anything, we might have seen very different bids. So, again, I'm...my concern is just that people in the energy industry they come up to me when we're in Honolulu and they say, we don't understand why the County keeps going back to this one company. And I am unable to give them a really logical, solid answer to that question. But I hope some of that can come out this afternoon and again I would focus you on these two amendments to the contract. Mahalo.

CHAIR COCHRAN: Thank you very much, Mr. McLeod. You have 30 more seconds, but if you still wanna speak more.

MR. MCLEOD: Yes, I do, very quickly.

CHAIR COCHRAN: Okay.

MR. MCLEOD: There was a cost to the taxpayers when the County gave these free two-year options. The cost was in methane. And it's important to understand what's going on here because the existing Central Maui Landfill every single day produces methane. And this is not a traditional renewable energy, in a sense that there is a predictable lifespan for this methane gas at the landfill, and when we waste two years of that lifespan we've given away a substantial taxpayer asset. Mahalo.

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

June 19, 2018

CHAIR COCHRAN: Thank you very much, Mr. McLeod, for your time today. Members, any need for clarification of our testifier? Seeing none...

COUNCILMEMBER KING: I have...

CHAIR COCHRAN: I see, Ms. Kelly King.

COUNCILMEMBER KING: Thank you, Chair. I appreciate being able to ask these questions even though I'm not a voting member, but thank you for being here, Mr. McLeod. I just want to clarify, you were our energy...County Energy Coordinator up to what date?

MR. MCLEOD: I believe through 2014.

COUNCILMEMBER KING: Okay, so 2014 was when you left the County? I thought it was...

MR. MCLEOD: End of 2014, I believe so.

COUNCILMEMBER KING: End of 2014.

MR. MCLEOD: Yeah. I served the full term, four years.

COUNCILMEMBER KING: Okay, yeah, I thought 'cause I know the RFP went out in 2016 and I thought you were still out our coordinator then, but I guess my dates are wrong on that. But can you just elaborate a little bit more on your statement that the cost to taxpayers for this two-year extension had to do with wasted methane and what, as a former County Energy Commissioner, what would you have seen the taxpayers realize out of that two years?

MR. MCLEOD: We did some calculations years ago and it looks like you could power two to three megawatts with the methane that's coming out of the landfill. And again that's for a fixed period of years, but that would be equal to the largest solar project that's been put in on Maui Island. So it's a substantial quantity of power. And yes, my point is that the original project, you know, the County looked at was landfill gas-to-energy and they decided not to proceed with that and instead went with this larger project with Anaergia. But this value of essentially free methane is being lost and squandered here because again we have a limited number of years to use it and we keep holding our landfill hostage to this one company instead of saying, hey, what are the solutions to the problem?

COUNCILMEMBER KING: Okay, so just to follow up if I may, Chair?

CHAIR COCHRAN: Sure.

COUNCILMEMBER KING: So, that methane is still being flashed off and not used?

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

June 19, 2018

MR. MCLEOD: Correct.

COUNCILMEMBER KING: It's just kinda wasted into the atmosphere?

MR. MCLEOD: Correct, and obviously in front of you is a proposal to go buy the same product from the same company at a different location.

COUNCILMEMBER KING: Right, okay. No, I understand that and I've been...it's been troubling me ever since they put that in, that it's never been used, that methane just goes into the atmosphere. So, Chair, is it possible, I mean I don't know if I can make this as a non-voting member, to have Mr. McLeod be a resource for this since he was our Energy Commissioner?

CHAIR COCHRAN: Members, anyone opposed having Mr. McLeod being here as a resource?

COUNCILMEMBER KING: If he's willing to stay.

CHAIR COCHRAN: Okay, that's fine. If Mr. McLeod has the time to hang out with us we'd appreciate that.

MR. MCLEOD: Within reason, Chair, if I can help, sure.

CHAIR COCHRAN: Okay, very good, thank you. Next testifier? Thank you.

MS. CLARK: The next person signed up to testify in the Chamber is Albert Perez testifying on IEM-63.

MR. PEREZ: Good afternoon, Chair --

CHAIR COCHRAN: Aloha, Mr. Perez.

MR. PEREZ: --Committee members. Albert Perez, Maui Tomorrow Foundation, testifying on IEM-63. I'm the Executive Director of Maui Tomorrow. We just have a couple of comments today regarding the Anaergia proposed sludge processing, energy generation and bio crop burning project at Wailuku-Kahului Wastewater Reclamation Facility. So, it's just the timing of the contract with regard to the RFP is such that I think Doug McLeod has a better handle on this. But the RFP was issued on March 16th of 2017, and this wastewater reclamation facility lease was pulled out of the IEM Committee and signed in Executive Session on December 16th of that year, so about six...nine months later. And then subsequent to that, the contract amendment to change the landfill contract so that sludge was no longer considered a resource that was signed in February of 2017. And a new contract to incorporate sludge drying in the so-called MANA project was signed on the same day. So, they took it...they took the sludge out of the landfill one and put it into the MANA project. And it appears, at least

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

June 19, 2018

to me, it appears that these amendments were intended to correct an oversight regarding the sludge. And as Mr. McLeod said, it's possible that other companies might have bid on the contract if it had been a little different. And so I question whether that procurement is valid at this point. The other one about, which I have on my number two here, the proposed Anaergia sludge drying lease at Wailuku-Kahului Wastewater Plant is in the tsunami zone. And my understanding is that the facility...the tsunami wall there is designed for 20 feet. There was a report in 2014 that says that there was a 30-foot tsunami that hit the Hawaiian Islands, and so given that plus our sea-level rise of three feet means that existing tsunami wall is probably inadequate. There are proven methods of moving these facilities inland instead of allowing more investment in a known tsunami zone. And it's just a matter of time before we have a tsunami that takes this wastewater plant out, filling Kanaha pond with contaminated water, and then we'd have a huge environmental disaster. And just one last item, Chair, when this project was made public we were told that it was, reduced the amount that was going into the injection wells. And after reading the EIS, that no longer appears to be true. They'll be using existing stream water and/or well water that HC&S was using previously. Thank you.

CHAIR COCHRAN: Okay, thank you, Mr. Perez. Members, any need for clarification of the testifier? Seeing none of the Members, I have Ms. King.

COUNCILMEMBER KING: Thank you, Chair. So, I just wanted to clarify some of the dates that you mentioned, Mr. Perez, because you mentioned that the RFP was issued in March of 2017 but I think it's 2016 that you meant to say. Because I actually have a copy of the RFP and it --

MR. PEREZ: Okay.

COUNCILMEMBER KING: --it's dated March 2016. And same thing for the 20-year lease being signed in Executive Session, I believe that was December 2016 and not 2017.

MR. PEREZ: Sorry, I got the dates wrong.

COUNCILMEMBER KING: Yeah, no, I just wanted to clarify that because...

MR. PEREZ: But the sequence is such that the RFP came before the contract amendments.

COUNCILMEMBER KING: Right, right, so...

MR. PEREZ: So, that's what I'm trying to raise as an issue.

COUNCILMEMBER KING: Yeah, and that's why I wanted to clarify that because --

MR. PEREZ: Okay.

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

June 19, 2018

COUNCILMEMBER KING: --if they came in...the RFP came in 2016 --

MR. PEREZ: Okay, thank you for that correction.

COUNCILMEMBER KING: --and amendments were in February 2017. Okay, thank you very much.

MR. PEREZ: Thank you.

CHAIR COCHRAN: Okay, thank you, Ms. King. Thank you, Mr. Perez. And let me...I'm gonna check in with our District Offices. Sorry, I forgot to see if they were there. Over in Hana, Ms. Lono, are you there with any testifiers?

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

CHAIR COCHRAN: Thank you, Ms. Lono. Over on Lanai, Ms. Fernandez, anyone there, do you have testifiers?

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

CHAIR COCHRAN: Thank you, Ms. Fernandez. Ms. Alcon on Molokai, anyone there to testify? Ms. Alcon, are you there? If not, we will check back. Okay, Ms. Clark, do we have other testifiers in the Chambers?

MS. CLARK: Madam Chair, there is no one else signed to testify in the Chamber, and we've also received notice from the Molokai Office that they do not have any testifiers.

CHAIR COCHRAN: Okay, very good. Thank you, Ms. Alcon, and ladies for being there. Anyone in the gallery, if you'd like to come on up to the podium to testify please do so and you can sign up at the front table in the lobby. If not, I don't see anyone coming up. So, Members, without objections I shall now close public testimony.

COUNCILMEMBERS VOICED NO OBJECTIONS.

. . . END OF PUBLIC TESTIMONY . . .

CHAIR COCHRAN: Thank you. And...okay...thank you...let's see...what happened to my notes?

IEM-14 WEST MAUI RECYCLED WATER PROJECT (CC 16-188)

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

June 19, 2018

CHAIR COCHRAN: Alrighty, Members, and first item is IEM-14 and this is in reference to West Maui Recycled Water Project. Members, this Committee is in receipt of County Communication 16-188 which is relating to West Maui Recycled Water Project 1-million-gallon tank, pipeline and reuse pump station upgrade. This item was heard once during the previous Council term on November 28, 2016. At that time, the Committee received testimony from a number of individuals in the community who were dissatisfied with the plans for a location of a new tank on Puukoolii Road. Residents expressed concerns relating to the tank being an eyesore, impractical, and potentially having a negative impact on the resale value of their homes. And public testimony indicated that the proposed tank was to be located around the 200-foot...around 200 feet up the hillside and testifiers stated that they would like the Department to consider locating the tank at around the 400- or 500-foot elevation. Additionally, concerns were raised about nitrogen-rich recycled water reaching and contaminating the ocean. At this time, we will receive an update from our Department of Environmental Management regarding their plans for a tank in West Maui. So, Director Stant or Deputy Director? Deputy or okay, Mr. Stant.

MR. STANT: Thank you, Chair. Good afternoon, Members. So, just a quick update on this 1-million-gallon tank which is part of our West Maui Reuse Project. We just decided to not move ahead with this and this decision came after the injection well lawsuit. What we were looking at is to move towards 100 percent diversion like we're doing presently at the Kihei Wastewater Treatment Plant. So, we actually moved ahead looking for a way to get rid of all of the water instead of just having a 1-million-gallon tank with this project. In fact, if you guys remember in Budget, we budgeted for I believe it was 500,000 for the acquisition of the land to put this tank. I've already requested a posting consideration from the Budget Chair to get the appropriate revisions when we do submit an amendment to use this money for another project. What the project we're presently looking at with the wastewater, Chair, if I may --

CHAIR COCHRAN: Yes.

MR. STANT: --is it's now taking the water to the top of the hill in West Maui. In fact we have...there is a reservoir presently at the Maui Land and Pine that owns this reservoir that's at the 300-foot elevation. We know that works because the wastewater treatment plant been pumping there for years. So, we know the 20-inch force main that goes to that reservoir which is I believe a 6 million storage. The plan is to take the water there so we can still service the users in the west side with the R-1 water. And then from there taking the water up to the 700-foot elevation which we the County we do own a reservoir there that's, has an 8-million-gallon storage. The plan is to look at the pipe right now the 20-inch that's existing force main from the 300-foot elevation up to the 700-foot elevation. We're presently, our division we've actually met with Maui Land and Pine, Kaanapali Land Management, West Maui Land Company, Pacific Rim Land, Hope Builders, and the State of Hawaii where we're looking at acquiring land, leasing land. We also have an off-taker of 2 million gallons of that reuse water. So, Chair, as far as

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

June 19, 2018

the project for that 1-million-gallon tank, we've moved forward and are changing our direction and headed to this new project. Thank you, Chair.

CHAIR COCHRAN: Okay, thank you very much, Director. And, Members, the floor is open for any further questions or comments for our Director here. Ms. Sugimura?

COUNCILMEMBER SUGIMURA: I guess I just wanna thank you for hearing the, you know, the concerns of the community and taking action and trying to make it...find a better solution, I guess. Thank you.

MR. STANT: Thank you.

CHAIR COCHRAN: Thank you, Ms. Sugimura. Any other Members have questions or comments? Mr. Guzman?

VICE-CHAIR GUZMAN: Thank you, Chair. From, deviating from the original location, is that going to cost the County more or less or basically the same amount?

CHAIR COCHRAN: Mr. Miyamoto?

MR. MIYAMOTO: Thank you, Madam Chair. This facility that's the current CIP project was only a million-gallon tank. So, the change in plans is to try to reduce the dependency on injection wells. Obviously if it rained for 40 days we'd have to use the injection wells 'cause nobody's gonna want our water. So, the plan that we are moving forward with utilizes an existing infrastructure that Maui Land and Pine...that we were in the past we were feeding them about a half million gallon a day...we were providing them with a half million gallon to blend with their stream catchment and then irrigate their crops. So, that facility is still there, it's available. Our thought is if we can bring it to that elevation and then pump it to the 780-foot elevation of where the next pond is, we wouldn't need as big a pump because it's already going from 200...no 300 to 780 versus going from about 50 to 780. So, you can see the pump size would be greatly reduced. So, that was our plan and we're in discussions. We're trying to meet with the Department of Hawaiian Home Lands to see if can lease some land there to build this smaller pump station to get it to higher elevation. Then we're looking at other existing infrastructure to upgrade some existing infrastructure to allow us to take that water further towards the Kaanapali and beyond areas. So, it's gonna cost us more because we're gonna have more infrastructure. But it's gonna help us utilize more of that recycled water so we don't have to depend on the injection wells.

VICE-CHAIR GUZMAN: Is it dependent on the...Chair, if I may?

CHAIR COCHRAN: Yes.

VICE-CHAIR GUZMAN: Is Hawaiian Homes...are we dependent on their consent on that property 'cause I know we've had issues in the past with having...

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

June 19, 2018

MR. MIYAMOTO: Right now they're not utilizing that reservoir. Technically it's actually a dam because there's a stream that feeds into it and they dammed the area. But we've lined it when we did our project with them, we lined an area so it's kind of a reservoir. But they don't...they currently don't utilize that but I know they have some housing that it was in the long-term --

VICE-CHAIR GUZMAN: Yeah, right.

MR. MIYAMOTO: --that would be available for them. I mean if they needed to use...wanted to that water it would be available.

VICE-CHAIR GUZMAN: Okay, so we are somewhat dependent on whether they...what's your gauge? Are they...

MR. STANT: Chair?

CHAIR COCHRAN: Yes.

MR. STANT: Yeah, so they presently want some capacity.

VICE-CHAIR GUZMAN: Okay.

MR. STANT: So, we have room to work with them.

VICE-CHAIR GUZMAN: Okay.

MR. STANT: Yeah, definitely.

VICE-CHAIR GUZMAN: Thank you.

CHAIR COCHRAN: Thank you, Mr. Guzman and Director. So, I believe the proviso...there is a proviso attached to the 500,000 in the Budget. And the proviso is stating that you folks reach out to community before expending the funds. So, you folks are planning to do that? And how...that still carries through even though you folks are changing the plans on how to expend the monies? Was that your plan to reach out to the community?

MR. MIYAMOTO: Madam Chair?

CHAIR COCHRAN: Yes.

MR. MIYAMOTO: Yes, as we are going to be shelving that project and we're gonna go through a budget amendment to switch projects basically to utilize the funding elsewhere. And that this West Maui tank that we're looking to buy the land for is not going to move forward, we're not really sure that...you know, we'll see in Budget deliberations when

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

June 19, 2018

we come in for amendment, if that proviso will still apply because it will not impact the residents on Puukoolii anymore. The alternative is to go up through vacant land. So, as part of that project development, yes, we will be reaching out.

CHAIR COCHRAN: Okay, yeah, thank you. I think, well hopefully this being aired...and we have a lot of testimony as you can imagine from our Puukoolii residents in our Granicus. And just hopefully if they're watching they can see that there's a new plan and it'll be acceptable and they'll be amenable to it. So, you know, I think if there needs to be any further community public outreach, I mean I'd be more than happy to do such a, you know, a gathering of sorts and request if they wanted you folks to attend or do a presentation of any kind. But probably more like keep us all in the loop, you know, as we progress forward. So, thank you for that. And so, let me just kind of rethink this...there's a tank. So, you're mentioning reservoirs, but at the 300-foot elevation that's actually a tank, the old Maui Land and Pine tank?

MR. STANT: It's currently a reservoir, Chair.

CHAIR COCHRAN: It's a reservoir, okay. And then the seven...then the 20-inch pipe and force main. That's what pumps from the existing facility, the treatment facility, to that 300-foot level. But now you need to create like another pump or force main to pump it up to the 780-foot level or how does that work?

MR. STANT: Chair, so there's actually an existing, so there's an existing 20-inch line from the facility to the 300-foot reservoir. And also that line continues up to 700-foot elevation. So, what the Division is just looking at now is CCTV'ing that line because it hasn't been used for a while, but there's already an existing line.

CHAIR COCHRAN: Okay, and I know our water treatment plant is up there, our potable-type water treatment plant. So, you said there's 800-million-gallon [sic] storage at the 700-foot elevation. Is that...I know we just relined one, we created one. So, what is...is that...are there two tanks up there or two reservoirs up there? I'm trying picture—I've been up there that's why—so I'm trying to picture where...what...where this would be and what this is.

MR. MIYAMOTO: Yeah, Madam Chair, the reservoir that for the Wastewater Division is close to the gulch and then there is another existing one. And the wastewater reservoir is 8 million gallons. So, there's an adjacent reservoir--I think it was Maui Land and Pine that owns that--and I think they estimated somewhere between 16 and 20 million gallons. And then the Water Department which is further towards Napili side, has their own reservoir and tank.

CHAIR COCHRAN: Okay, okay, well I'm glad we're looking into alternatives and I know Department of Hawaiian Home Lands' lands are brought up. So if...I just learned the other day, I guess, our existing water treatment plant sits on their properties. So, we are now looking to purchase, rent, buy, or...cause I know they want to invest and

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

June 19, 2018

hopefully put houses on their lands, but utilize the Honokowai properties that they have. And of course they need water and they need wastewater, you know, amenities to assist with that. So, okay, Members, any other questions, comments, concerns we need to discuss for this item? If not, I will defer this item --

COUNCILMEMBER SUGIMURA: No objections.

CHAIR COCHRAN: --without objections.

COUNCILMEMBERS VOICED NO OBJECTIONS. (Excused AA, RH, MW)

ACTION: DEFER pending further discussion.

IEM-63 STATUS UPDATE ON ANAERGIA SERVICES LLC PROJECTS (CC 18-128)

CHAIR COCHRAN: And thank you, Department, for bringing us up to speed for this item and we can now move on to IEM-63, and this is the Status Update on Anaergia Services LLC Projects. And the Committee is in receipt of County Communication 18-128 which requests an update on Anaergia Projects. And additionally, the Committee is in receipt of a transmittal which is dated June 13th, 2018, from myself, transmitting two contracts and two contract amendments. Members, I believe you might have...oh sorry, Staff is asking for a very brief recess. So, we are now in recess briefly. . . . *(gavel)* . . .

RECESS: 1:59 p.m.

RECONVENE: 2:02 p.m.

CHAIR COCHRAN: . . . *(gavel)* . . . Thank you for that brief recess, and we are now back in order. So, the first contract...I've transmitted two contracts and two contract amendments back on June 13, 2018. And the first contract, M1016 dated June 8, 2014, is between the County and Maui Resource Recovery Facility, LLC, an entity created by Anaergia Services, LLC to operate an integrated waste conversion and energy project to be located at the Central Maui Landfill. There were also two contract amendments to M1016 for this project which extended the time of performance and amend the option to terminate for the County. The second contract, C6207 dated February 14, 2017 is between the County and Maui All Natural Alternative, LLC, another subsidiary of Anaergia Services, LLC for an electrical energy generation and sludge drying project at the Wailuku-Kahului Wastewater Reclamation Facility. The Maui All Natural Alternative, LLC project was not...has not been discussed in this Committee since the previous term. With this in mind and considering the Members, who were not Members of this Committee at the time, I would like to ask Department of Environmental Management and Corporation Counsel to provide an overview and an update of these projects. So, at this time, the floor is yours, Department and Corporation Counsel.

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

June 19, 2018

MR. MIYAMOTO: Madam Chair, which project would you like to take first, the MRRF --

CHAIR COCHRAN: Which...

MR. MIYAMOTO: --or the MANA?

CHAIR COCHRAN: Well, it's up to you. I...in my opening I think I started with the MRRF and then I went into MANA. So we can--

MR. MIYAMOTO: Perfect, will start with the MRRF.

CHAIR COCHRAN: --do it that way, okay.

MR. MIYAMOTO: We call it the MRRF because it's the Maui Resource Recovery Facility. So, the project current...the current status of that project is that they've secured land, they've secured off-takers for the methane gas that will be refined. And so, they've started the environmental permitting process for their project. The project basically...what the project will do is utilize the technology we call anaerobic digestion. They will utilize materials recovery facility at the front end of the process where all trash will go through their process so they can pull out the valuable recyclables. Currently we, at our landfill, basically we just go through residential trash to look for the recyclables. We have our residential recycling centers that we try to collect the recyclables. It's the commercial volume of trash that no one is going through right now for recycling. That's about 65 percent of all of the tonnage that comes to our landfill. So, with this MRRF, this materials recovery facility, yes it will be a dirty MRF, when we say dirty MRF, you know, there might be more contamination. But given the market, the world market on recyclables at this point, it's getting tougher to be a recycler in this world. Because it's...for example, glass. Sand is very easily available so to recycle glass we get between 7 and 9 cents a ton when we deliver it to a recycler. It may cost us over...I think it's, right now, it's 303 is what our Budget says. So, it costs us \$303 to get it to a recycler who give us...I take that back, 7 to \$8, I'm sorry I misstated, 7 to \$8 dollars per ton for glass. So, you can see, there's some things that need to change. So, as part of this MRRF project, we're looking at the possibility of trying to keep that glass here on Maui and have a process where we can utilize it, you know, refine it and utilize it. The challenge we have is with our recycling laws. For the HI-5, it clearly states that all HI-5 glass needs to be recycled. They define recycling as being put back into...you know, utilizing for the making of the containers. With our advanced disposal fee for our liquor glass, the same definition pretty much applies on that aspect. So, it's trying to get the laws changed so that, for example, this process we're looking at will take that glass, refine it to a point where it can be used for other things, such as, you can use it for filtration of water; you can use it for insulation; you can use it for pest control because that finely chopped glass, when you line it around your house, when the insects try to cross over it, as gruesome as it sounds, it will tear their limbs apart, the glass will cut their limbs. So, there's a lot of uses that we're looking at the possibility of glass, but

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

June 19, 2018

we need to, at first, secure a source. So, in any business, you know, there's two key components: the front end where you get your resources, and the back end where you have takers for your product. So, that's what they're working on and they would love to utilize our gas to power a facility. So, those are the kinds of people that we're talking to as part of that project to, you know, try and fully utilize the gas. The testifier said something about two years we haven't been able to use that...we haven't been using that gas. He's right. We tried using it back early when Director Ginoza put out that RFP. All the proposals for that project wanted zero liability on their side even though it...the possibility of any kind of, you know, unpredictable backfire, so to speak 'cause it could impact our landfill, 'cause our landfill has the gas. Even though they say it was unlikely that would happen, none of them would take that liabilities. They put out a 100 percent of the liability on the County. So, we worked with our Corporation Counsel to try and get them to understand we cannot accept, this body would not accept, a 100 percent of all liability. So, we terminated those contracts. No, well it wasn't a contract, those...we terminated the activity to try to contract someone to use our landfill gas. So, it was at that point we decided okay, let's put out a RFI, request for information. So, we requested some information about all possible technologies which included incineration to this anaerobic digestion through pyrolysis. And we evaluated, looked at all of those technologies, and the one thing that we came up with was, you know, we said, okay let's go forward with the RFP, we didn't want to be the guinea pig for new technology. So, we put in the RFP for the waste conversion that you have to have an established commercial size...you know, we wanted a commercial-size facility that was operational for three years. We figured two years there's a lot of bugs, third year you should be clearing your bugs out to...you should be clear sailing on that third year so we said three years. And so, you know, we also heard from the community that they didn't want an incinerator. So, we did...we, in the RFP we did not accept incineration even though people still proposed incineration. The other thing in the RFP, like I mentioned before, you know, having an offtake for all of the whatever end product these companies would generate, we said you cannot rely on the utility company 'cause in our conversations with the utility company before putting out the RFP, they said we don't want the power. So, we said, okay. So, we put it in the RFP, you had to have another use for your offtake, you needed to secure those offtakes. And the MRRF project has finally secured those offtakes. You may have recalled in the past, they've been to the PUC to try and get the utility company to take the gas so that, you know, it is considered renewable. They didn't see it as energy. They didn't think the gas was considered energy by State statute. So, that was their main reason they didn't wanna use it. So, then the consultant went on and got...secured other opportunities to utilize that gas. And so today that MRRF project is at a point where we're doing the EIS; we've secured the land, long-term lease for land, adjacent to our landfill so that the transporting of material and everything else can be controlled; we've had conversations with our current service provider as far as green waste; they're in conversations with the MRRF team to look at what can we possibly do in the future because anaerobic digestion has a waste material called digestate. That digestate can be utilized to make compost. The challenge with the digestate from an anaerobic digester with landfill material is that there may be some level of contamination in the liquids when you think about what people throw in their

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

June 19, 2018

trash, household chemicals, you know, those things can contaminate the digestate so that it may not be appropriate for compost development. So, it's one of the things that the MRRF project will be looking at, you know, how can they do...should they do two? That's some...it's an evaluation that they're going through at this point. But for the MRRF project, they're moving on; they've secured off-takers; they have started the EIS permitting process; and they have the land. Thank you, ma'am.

CHAIR COCHRAN: Okay, Members, any need for questions, comments, clarification? Members first. No? Okay, Ms. King?

COUNCILMEMBER KING: Yeah, just regarding the explanation that Mr. Miyamoto just gave. Just going back to your first comments about recycled glass. We were recycling glass, I think Aloha Recycling was doing that a couple of years ago or a few years ago. I believe from conversations I had with Tom Reed that the biggest issue was the requirement to use that in the paving material was not being followed. So, he was...there was a requirement, I think it was a State requirement to use 5 percent of recycled glass. So, do you know what happened with that? Why the paving companies were allowed to violate that law and basically put somebody out of business?

CHAIR COCHRAN: Mr. Miyamoto? But...we need to talk about...is this have to do with the Anaergia contract?

COUNCILMEMBER KING: Well, yeah --

CHAIR COCHRAN: And it's --

COUNCILMEMBER KING: --he brought up the idea --

CHAIR COCHRAN: --gonna tie in --

COUNCILMEMBER KING: --of recycling glass.

CHAIR COCHRAN: --to that? Yeah, but that's why I was like I need to focus on the --

COUNCILMEMBER KING: Okay.

CHAIR COCHRAN: --update status of this contract --

COUNCILMEMBER KING: Well, I...

CHAIR COCHRAN: --and where is the company, --

COUNCILMEMBER KING: Yeah.

CHAIR COCHRAN: --and what they're doing, and what have they done.

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

June 19, 2018

COUNCILMEMBER KING: But I think that's...its part of one of the things that's happened and put some local people out of business so that's why I just wondered why, you know, that would be continuing if he were supported. And apparently this is part of what's going over to Anaergia and, you know, local people are losing their businesses.

CHAIR COCHRAN: Mr. Miyamoto, you had a comment?

MR. MIYAMOTO: Thank you, Madam Chair. Yes, I see Roger Yamagata is here. He can probably talk to us about the challenges he had with DOH about crushing the glass and storage of the glass. I think storage became a real challenge for the Department of Health. And when you think about a roadway project, you need a large quantity of that glass. So, you know, for example, whether it's Aloha Glass [sic] or Maui Disposal, they would need a special facility to be able to store enough glass for one of those contracts. You're talking maybe hundreds of tons of crushed glass. So, they would need...the challenge was having the storage area. And the second challenge that came up with crushed glass was relative to when you put it in the asphalt, for example, you know, you look at our Maui Community College Residential Recycling Facility, we went ahead and put the glass in that asphalt, but glass has a hard time bonding with the asphalt. So, the glass tends to migrate, through time, the glass tends to migrate itself out of the asphalt. So, then it becomes loose impediments on the surface. So, it's hard for the glass to be utilize in asphalt because it doesn't...the asphalt cannot bond with it. Whereas with aggregate, you know, the aggregate has a...you know, can have a water content that's low enough so that when the water from asphalt it can bond really well, it bonds really well with aggregate. But glass you just have that smooth somewhat surface that's not porous like asphalt, and the asphalt...I mean like rocks, and it cannot bond, it has a difficult time bonding with glass.

COUNCILMEMBER KING: Okay, so that...did that State law change? Did they remove that requirement?

MR. MIYAMOTO: I think that's a question Public Works can answer.

COUNCILMEMBER KING: Oh okay, sorry, I just...I hadn't heard the storage issue. But I do have, you know, I don't know...are you gonna go over, Chair, is the Department gonna over this presentation?

CHAIR COCHRAN: Yeah, we're talking about the MRRF first though.

COUNCILMEMBER KING: Okay.

CHAIR COCHRAN: The Central Maui Landfill project and then we're gonna...when we're done through this, we'll go over to the Kahului treatment facility project.

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

June 19, 2018

COUNCILMEMBER KING: Okay, so just looking at this contract, you know, there's...when you get into the terms, there's statements in this contract or agreement, I guess it's called, that refer to MRRF as an entity, as somebody getting paid or having responsibilities. And so, it's a little confusing 'cause I know what a MRF is, but we're using it in this contract like it's an entity. So, is this some kind of a DBA that is being used by Anaergia so they're calling themselves MRRF and that's why it's referred to this way in this contract?

MS. THOMSON: Chair, can I take that?

CHAIR COCHRAN: Yes, Ms. Thomson.

MS. THOMSON: Thank you. And so, MRRF is just the acronym that we're using. So, it is both, it's the acronym for a materials recovery facility, in general, but it's also the acronym for the Maui Resource Recovery Facility which is an LLC.

COUNCILMEMBER KING: Okay, so that's the entity, that's what's confusing about this contract, I guess, is that's the entity that's...has...that's in this agreement. And then there's a reference to their responsibilities and to paying MRRF and to...you know, what's happens if they default on their responsibilities. And so, I guess, my biggest concern with this agreement is it doesn't really outline from what I can see the cost, you know, the annual cost to the County. And my recollection of the audit that was done a couple of years ago, when the previous Council authorized an audit, was that there was a huge expense in the tipping fee that Anaergia would be charging to the County for our garbage trucks coming in and out of the landfill with this agreement. And if it's...if we're talking about having to pay another entity that amount of money, then that should definitely have to come through the Council. So, I'm not understanding how this agreement was able to be made with these expenses and there's, on Page 18, there's a tipping fee schedule that is gonna be an expense on the County without having been reviewed by the Budget and Finance Committee and this Council, and approved by the Council. Maybe Corp. Counsel can answer that?

CHAIR COCHRAN: Ms. Thomson?

MS. THOMSON: Thank you. So, that chart that you're referring to on Page 18, those are the tipping fees that are going to be paid to MRRF to process those various types of material. And those fees were set in contract similar to any other services contract that the Department negotiates. So, there are literally hundreds of services contracts in the County for all types of, you know, where you have chemicals for wastewater treatment plants, or, you know, lawn equipment for Parks. And so they go from small goods and services contracts to larger goods and services contracts. The contract with EKO out at Central Maui Landfill is also a services contract and it similarly has tipping fees that we pay to EKO to process certain types of waste materials so it's very similar in nature to that contract.

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

June 19, 2018

COUNCILMEMBER KING: Right, I understand and that's part of my concern because I know that EKO contract has been approved by the Council.

MS. THOMSON: Chair, if I may?

CHAIR COCHRAN: Yes, Ms. Thomson.

MS. THOMSON: The contract was not approved by Council, those contracts don't require approval by Council. So, what Council does is appropriate the funding mechanisms. And then the contracts are negotiated and issued through the Department of Finance and with the affected departments.

COUNCILMEMBER KING: Right, but we...but the Council didn't approve funding for this. I mean I know that funding has approved for, specifically for the Maui EKO contract because I've been to some of the Council meetings where they've approved that funding. But I don't remember being to any Council meetings where this particular funding and this agreement was approved. And this is a separate and apart, it's a 20-year contract which obligates the County for 20 years when the EKO contract, I think was at the most five years. So that's one of my biggest concerns about this is how did that happen? I mean I've got the same concerns as some of the testifiers about the dates of the contract, and the amendments, and then the, you know, subsequent contract happening on the same day. But the fact that these are costs that could be up to a million dollars a year in these tipping fees, and there was no specific appropriation by this Council, or the previous Council, when this agreement happened.

CHAIR COCHRAN: Ms. Thomson, or I don't know if...Director?

MS. THOMSON: Sure, the...so like I was kind of getting back to, the Council controls the purse strings, but they don't necessary control them on a contract-by-contract basis. Some contracts are proviso'd, you know, for a certain entity or a certain particular purpose. But this would fall...this type of contract would fall under the general operations of a department and so those are operating budgets. If they needed to come back for additional funding for some reason, you know, like any department they would have to come back to Council for additional funding. This contract also in the reverse sets a spread between what the...we're paying a certain amount per ton for services. If any of those waste are returned to the landfill for landfilling, if they are not able to process them, they have to pay an increased fee to return them. And the reason that we did it that way was so that they could not cherry-pick certain types of waste that might be more valuable or more easy to process. So, there are a lot of safeguards within this contract as far as ensuring that we get a very fair deal that's protective of the County.

COUNCILMEMBER KING: So, if I can follow up, Chair?

CHAIR COCHRAN: Yeah.

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

June 19, 2018

COUNCILMEMBER KING: So, you know, in the audit it talked about the tipping fees for our County garbage trucks coming into the landfill. We don't pay anything right now, and then we're gonna start paying tipping fees, and I believe the figure was somewhere around \$800,000 a year. And that's why I was kind of hoping that we would be looking at the audit as well, Chair, but I realize that that's not on the agenda. But, you know, I don't recall, and I went to a lot of those early meetings with a lot of other folks who were concerned about the landfill, and I don't recall the Council ever taking a vote on whether to first extend that obligation in the Budget or extend it to 20 years. And so, yeah, I have huge concerns about this. I think this is a huge burden on the community without being vetted through the Council for these, you know, this amount of money and obligated for 20 years. And I have the same concerns as the testifiers about why this particular company is being given all this privilege when other companies who bid on it, you know, had no idea there were gonna be...you know, maybe they would've bid differently had they known that they would've been...had a chance to change their model several times like Anaergia has had to do...has been able to do. And that the County would allow them to take the sludge out of the first contract and then contract for it separately.

CHAIR COCHRAN: Yeah. Ms. Thomson? Yeah.

MS. THOMSON: Thank you. If I miss any part of your questions or comments, please remind me. The...going back to the request for proposals, so as Mr. Miyamoto said this procurement started out with a request for information. So, really what the Department was trying to do at that point was flush out the playing field. What types of technology is available? You know, can we go out with an RFP for this broad a scope of services? You know, rather than just go with landfill gas, can we look at processing other waste or handling recyclables in a more holistic fashion? So, it was a very and is a very broad and complex procurement and also a broad and complex contract. As far as certain timelines or certain requirements, there were requirements in the request for proposals but as you can see if you take a look all of the entities, there were a good dozen solid-contender entities that proposed on this particular project. Some of them proposed technologies that were similar, others had very different technologies. So, the...in the process that was followed and that was envisioned is that once a proposer was selected you would go into lengthy contract negotiations and ultimately end up with a contract based on that proposal. So, it was not possible for it to fit into kind of a cookie-cutter contract because we didn't really know what project we were gonna end up with at the end day or what timeline that that project needed to come online. So, those are tailored in an individual fashion to this project.

COUNCILMEMBER KING: Okay, well, even though the requirements were a certain amount of experience that hadn't bore out, I mean there was a lot of things in the RFP that didn't...weren't in the final agreement with the one who was selected. And so, you know, I worry about that because now I know there's a lawsuit against the County because of the contract or the agreement. And I worry about, you know, how we're allowing...we're selecting a contractor and then we're allowing them to refashion their proposal after the

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

June 19, 2018

fact. When having known some of those flexibilities upfront, we might have had other proposals that were equal or similar or better.

CHAIR COCHRAN: Ms. Thomson, if you have comments?

MS. THOMSON: As far as the procurement itself on the contract that resulted with Maui Resources Recovery Facility, there were no protests received by any of the other proposers. So, that would have been the proper time to mount a challenge against the procurement, you know, to say that the contract didn't follow the procurement or didn't follow the proposal, you know, whatever the challenge might have been, we did not receive any challenges on that procurement. As far as fairness or unfairness to other bidders, I think that would've played out also in that context, in the procurement context several years ago. The lawsuit that you mentioned has...doesn't have anything to do with this Central Maui Landfill project. There's been a suit brought by the Sierra Club and Maui Tomorrow challenging the Environmental Impact Statement for the Maui All Natural Alternative project --

COUNCILMEMBER KING: Okay.

MS. THOMSON: --at the Kahului Wastewater Treatment Plant.

COUNCILMEMBER KING: Okay, that's a...and part of that concern is also the proximity to the ocean because of the climate change issues.

CHAIR COCHRAN: Yeah, we'll talk about that project here as soon as we wrap up this Central Maui Landfill project 'cause I have some...are you finished, Ms. King --

COUNCILMEMBER KING: Yeah, I'm...thank you. Yeah, thank you. You were very generous.

CHAIR COCHRAN: --for that one? And, Members, any other for the Central Maui Landfill project? So, Directors, this...I'm just trying to get a grasp on where we're at from the signing of the original contract agreement, whatever, you know; and then there's been amendments to it; and then, you know, where we're at today. So, kinda fill in where the...you know, the proposed timeline for this project, where they're at on this timeline, and what, you know, what's have...what has occurred? And your offices have, you know, followed it, tracked it, and things. So, where...can I get a little more detail and elaboration on that part of this?

MR. MIYAMOTO: Thank you, Madam Chair. As I mentioned in my introduction, they've started the EIS process, they have a secured land lease from an adjacent-property owner. So, right now they're in the environmental process. Usually we take somewhere between 6 to 12 months depending on what we find out about the areas that we're doing the document on. So, that's where they are at this point. They continue to work about securing off-takers for whatever their...what may come out of their process whether it be RDF, digestate, methane gas, they're working on the securing of the off-takers. And

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

June 19, 2018

so that's why like, for example, the MANA project is so accelerated because that project has a designated off-taker.

CHAIR COCHRAN: Okay, and so following up on that, Mr. Miyamoto, the byproduct is what you're talking about, the off-takers of the byproduct for this? Is that what you're referring to? And what is that? And so they do not have a particular a buyer or buyers for that? What is it and where...

MR. MIYAMOTO: Okay, so the first one I mentioned was...we'll talk about RDF, the refuse-derived fuel, that's like a little brick head, it carries about two-thirds, the BTU value as coal. So, the possibility that they're evaluating is their facility would have what they call parasitic load. Obviously their facility would need some kind of power. So, rather than burning the methane gas which has a market for it, why not utilize this RDF to generate their parasitic load so that way it's all contained within their facility. So, then you look at the digestate. I know they've been in contact with our current service provider to look at the possibility of using that digestate whether it be through composting or other possibilities so they've been in contact with that. The front end they have the materials recovery facility. I know they've been in contact with a local firm who does recycling and to see if they would be, you know, interested in being on the team that would market, collect, and...those types of products. And of course with the methane gas, the initial phase of this they have secured enough off-takers to utilize all of that. As the project moves forward, and we develop more and more methane from the actual anaerobic digestion process, they may not have enough gas for the people that want it right now to be honest. They do have off-takers in line for that gas.

CHAIR COCHRAN: Okay, and if I recall, when this first was spoken about, that RDF had an issue with...HC&S' was asked, MECO was asked, and both...and now we have no more HC&S. So what you're telling...am I hearing that the project itself wants to utilize it so they can convert it back and kinda do a, you know, a full circle use of it?

MR. MIYAMOTO: Yes, because, you know, like as you mentioned, it's been challenging finding off-takers for that gas. I mean they went as far as to go to Oahu, and there's a coal-burning facility on Oahu, and I think its Kalaeloa area. They even went as far as that to try and get it. And so they haven't been successful at getting that off-taker, but we mentioned to them, you have a parasitic load, why not utilize that RDF to generate your own parasitic load for your facility?

CHAIR COCHRAN: Is it...is there a DOH issue with that, burning of it, Department of Health issue?

MR. MIYAMOTO: That's what they'll find out through this EIS process.

CHAIR COCHRAN: Okay, so I guess what's puzzling to me, I think this has been going on for three-and-a-half years about now, and here we are still...we're in the EIS phase, we're figuring out how to deal with our offtake, we're trying...I'm just...I think I'm hearing that

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

June 19, 2018

frustration in the community with this whole timeline and project and the way, you know, the RFPs went out, and how the procurement happened, and how amendments occurred simultaneously with...I mean there's just so many moving parts here and I think it's really hard to encapsulate it all, you know, and because it's been drawn out for so long. And that's why I'm calling for this update, you know, and I think it's still sitting there sort of...yeah it's very...it's not even incomplete, it hasn't even started to be incomplete. So, I mean I don't know even know where we're going or what we're doing. I mean it...we signed on what we signed on with, and we'll just have to track this and, you know, hopefully urge it along to come out with things that are gonna be beneficial and productive for this community. The other thing is, you know, in regards to the sludge, what is the current status or do we still have a contract with EKO Compost? I see Mr. Ruben's here, but is there an update with that? And what happened there with that, taking out sludge, putting back sludge, I mean in these...in the contracts?

MR. MIYAMOTO: Thank you, Madam Chair. And I share your frustrations 'cause I know when I first started with this project I thought by 2017 we would have it, but then I got to learn about the business end of developing something like this. You know, like as I mentioned before products going in, you have to know where your source is going be from. And the product coming out of the backside you need to have someone that's gonna take it. Look at when HC&S develop their sugar cane pulp wood, they had the source, their sugar cane, but they didn't have that backend, the market for their wood. So, obviously they stopped making it. So for us, you know, this relative to sludge, you know, when we went to the MANA project, when Director Stant came in, you know, he looked at it and says, you know we have an opportunity to reduce our dependence on fossil-fuel electricity. So, he saw the opportunity, we developed the MANA project and as one of the benefits, you know, that came out the technology was a combined heat and power opportunity. When we had our public meeting with, about that project, Doug McLeod asked us, he said, why did you specify turbine? And, you know, basically I asked him, is it more flexible on the type of fuel it can utilize, and the answer was yes. So, that's why we specified a turbine. So, it was more flexible about the type of fuel that it could utilize. And one of the things about a turbine it generates high heat. So, why not dry that sludge instead of going to the landfill and creating a compost that the organic users can't utilize. Organic farmers cannot use compost that has sludge in it because it jeopardizes their certification as an organic farmer. So, that's why the sludge was taken out of that contract. The MANA project can move forward 'cause it's got the source and it's got a receiver of the...at the backend.

CHAIR COCHRAN: Okay, so but currently going back to the landfill portion of it though. EKO Compost, we still have the contract, but is it...so where's that? What's the status on that?

MR. MIYAMOTO: I think the contract has one year left? I'll see if Ruben shakes his head. Yes, the contract has one year left. Yes.

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

June 19, 2018

CHAIR COCHRAN: Okay, alright. Well, yeah, and that boggles, boggled my mind, too, when it was presented because we already have a company utilizing it, and works very well. Has off-takers, has, you know, customers, and users of the product. And does an awesome job, I've been there, I've toured it, I've seen the operation, it's wonderful. And, you know, now there's another contract that's taking away one of the sources. I mean I figure like...if I can see if it was something that's in excess and it's piling up and we don't know what to do with it, and oh my God, we gotta figure out something. But it's already being utilize in an operation and now we're taking that away. So, I not too much in favor of that, but, Members, are there any other questions for the MRRF and the landfill portion? Then we will jump into, well not literally, Kahului Wastewater Treatment Facility issue, project. Yes, Ms. King?

COUNCILMEMBER KING: Thank you, Chair. I just have a couple more comments on the landfill agreement and some comments that were made about not understanding the business end. Would've been good maybe to have that conversation with Maui EKO 'cause I think they understand the business end, they've been running this business for almost 25 years now. And I share your frustration, Chair, that there wasn't more support for our local company that's already doing this activity and was reducing our dependency on fossil fuel. So we're already that, you know, Pacific Biodiesel was part that, we were pushed out, but, you know, Maui EKO continued. But to hear that all didn't matter and now we're gonna try to reduce our dependence on fossil fuel is extremely frustrating I'm sure for the Maui EKO folks, as much as myself. And the statement that they're making a product that organic farmers cannot use. Well, organic farmers are not gonna use your dried sludge either. So, that's neither here nor there. I mean basically it feels like we're paying an entity to take the sludge and make a material that they can use to take the sludge and make the material. So, you know, what is coming out of that for the public other than we now have to pay tipping fees for our land...for our own garbage trucks? So, that's my biggest concern and I share the concerns about the way the contract happened and...you know, the sludge was a part of the original RFP and somehow the contractor was allowed to pull that out and then make a new contract for that the same day. That just doesn't sound right, that there's something sounds really wrong about that because if the sludge was a separate entity, it's already being taken care of, why was our current contractor not allowed to continue with that and why was that taken out of what they're doing and given to this other entity?

CHAIR COCHRAN: And before I recognize our Corporation Counsel to answer, it kinda feels like we were giving a...yeah, we're not giving, but we're allowing someone else to contract on something that we didn't have ownership of, per se, right? It was already in a contract for another entity. So anyhow, I'll have...if Ms. Thomson can chime in and comment on Ms. King's comments and mine?

MS. THOMSON: Thank you for the opportunity. So, the MRRF contract obligates the County to deliver to this entity, MRRF, this...we're calling it acceptable waste. It includes municipal solid waste; it included originally, sewage sludge, green waste, all types of

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

June 19, 2018

waste, basically every type of waste that's received at the Central Maui Landfill. As far as ownership of waste, it's statutory, believe it or not. But once the County receives, for instance, commercial waste, once it's received at the Central Maui Landfill that becomes County property. The sludge from the wastewater treatment plants is already County property because it's housed and collected there at the wastewater treatment plants. We set in the MRRF contract minimum tonnage so it's basically a put-or-pay. So we, in order to, you know, let the contractor, any contractor, know that there is a waste stream that they can count on, we obligated those waste streams that are actually received at Central Maui Landfill. So, once the Department made the decision that there was a better way of processing sewage sludge using waste heat in this other concept, we didn't...the contractor for MRRF did not have to agree to execute amendment one which removed...it didn't remove sewage sludge from the deliverable. If it goes to the Central Maui Landfill, it still needs to go to the MRRF entity. If it doesn't ever go to the Central Maui Landfill, there's no obligation to deliver it to that entity. And so what that amendment did was acknowledge that the County no longer anticipated delivering the sludge to the landfill and instead was going to route it to Kahului Treatment Plant to be processed all at one different, separate facility. What we did is also reduce that put-or-pay by the amount of tonnage associated with sewage sludge. So, we're memorializing really for the benefit of the County. This is not for the benefit of that contractor. They didn't have to execute that. It was for the benefit of the County to have a lower put-or-pay. And that's what amendment one did. And it was really at...it was, you know, my working with the Department, you know, that we identified that as one of the things that was gonna be resulted doing something different with the sewage sludge.

CHAIR COCHRAN: Ms. King, did you have any follow up with that?

COUNCILMEMBER KING: Yeah, well I...yeah I do. But I guess, you know, my other major concern is it's a 20-year contract and we have all kinds of concerns about Kahului Treatment Plant...Wastewater Treatment Plant because of where it's situated within the climate change, sea-level rise inundation zone. So, is there also a plan for moving it somewhere else as soon as possible or are we continuing to add on to the obligations of that wastewater treatment plant even though we know that it's in that danger zone?

CHAIR COCHRAN: Yeah, sorry, before...thank you, Ms. King, but we'll jump...I have one final and then we can jump over to the Kahului treatment and the MANA project and all that.

COUNCILMEMBER KING: Okay, but that as far as...

CHAIR COCHRAN: But my follow up...

COUNCILMEMBER KING: Because they're taking about moving the sludge over there from the landfill so that, you know, that's --

CHAIR COCHRAN: Yeah, so...

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

June 19, 2018

COUNCILMEMBER KING: --increasing the burden on that.

CHAIR COCHRAN: Right.

COUNCILMEMBER KING: Yeah.

CHAIR COCHRAN: So, I think going back to my frustration is...and you state I think 25 years a company has been dealing with the sludge out of our landfill and now this contract. So what I heard you say, Ms. Thomson, was you took the sludge out of the contract for the MRRF because you wanted it to be utilized over at the Kahului Treatment Facility. All the while there's an existing contract from this company though utilizing that sludge. So, I don't understand how...I don't understand that concept. How was that okay to be doing to some...to a bona fide company who has done nothing but take care of something that we didn't know what to do with or had no other way of dealing with it and they created a product for us all? And now out from under them, we're taking their main product and contracting it out to other people. I mean I just I don't understand that. If you can elaborate and explain that a little bit more as to why this County feels that's okay and, you know, the right way of doing business here. Ms. Thomson?

MS. THOMSON: Thank you, Chair. I'll take a stab at some parts of that, the question and the comment. So, the EKO contract is a publicly procured contract. They did happen to be the only bidder on the last go-around. That's not to say that EKO could or would be the only bidder for those services. Those services are combined, it's processing of green waste, sewage sludge, and fats, oils, and grease that are received at the Central Maui Landfill. That contract, similar to the MRRF contract, doesn't obligate the County to deliver those materials. If they're diverted from Central Maui Landfill, they don't end up being delivered to EKO. As far as the Department's decision to move away from what they had been doing within the Central Maui Landfill, I understand that there were a few different reasons for making that choice, and I'm getting...straying a little bit more into the management side of things so the Director or Deputy can correct me if I've gotten anything wrong. The cost of processing sewage sludge and the other components over the course of time have increased dramatically. So, the cost to process sewage sludge through the EKO contract, I believe is \$103 per ton currently versus...and we're getting into the MANA contract now, but versus 80, so there was a cost savings. From the legal side, we had had some issues with the facility, with the EKO facility, being located within an on-County property at the Central Maui Landfill. There have been some fires and there were some other DOH citations that I think have been resolved. But I believe that that did play into the Director's decision at that time to look at what the other alternatives were. So, I'm sorry for being longwinded, it's not necessarily a legal answer, but since I've been involved in the procurement I've been privy to some of the decision making.

CHAIR COCHRAN: Thank you, Ms. Thomson. Looks like Mr. Miyamoto has some comments.

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

June 19, 2018

MR. MIYAMOTO: Yeah, I wanted to get it out there, you know, we can't blame EKO for the \$103. It's not their fault that we stuck them with a short contract so they couldn't amortize their equipment that they needed for the contract. So, you know, yes it is 103. So when we did the RFP for the waste conversion we limited, you know, the fees to what the current contract was so that's why it was 80. The 103, yes it does look high and everything, but, you know, as I'm sure Member King is ready to pounce on me about is, is to say, that's your fault because we created the short contract, and she's right. But we limited it to what it was at the time which was 83. For example, the tipping fee is limited at the time to start at \$68 'cause that's what, that is what the tipping fee was at the time. So now we're at 90, \$95 a ton and so, you know, Member King is saying that, you know, we're gonna be paying for the additional amount for the County refuse, and that's correct. Back then we were paying...the residents were paying \$24 a month per account, now it's up to \$32. So, they're starting to pay their fair share of what it costs to do residential recycling...curbside trash collection. Thank you, ma'am.

CHAIR COCHRAN: Thank you. We have...we kept Mr. McLeod here for a resource and I do know that he's familiar with the contract. I think he was around at the time on behalf of this County. So, if Members have any questions or anything to ask of Mr. McLeod for that perspective as our past Energy Commissioner and...of this County and having to do...work directly with this particular item, we can bring Mr. McLeod down. Mr. McLeod, did you want to come down and share with us or field questions that we might have?

MR. MCLEOD: I'm sorry were there any questions that specifically you wanted me to answer?

CHAIR COCHRAN: Yeah. First off, Mr. McLeod, do you have anything to disclose to us in reference to your affiliations with any boards or non-profits?

MR. MCLEOD: Yeah, I mean I certainly am involved with Maui Tomorrow, you know, Albert speaking on behalf of the group today. But yeah, I am involved with Maui Tomorrow as well.

CHAIR COCHRAN: Okay, you're on the board of Maui Tomorrow?

MR. MCLEOD: I am, yeah, I am the Vice-President of Maui Tomorrow, the board, yes.

CHAIR COCHRAN: And Sierra Club?

MR. MCLEOD: No, I'm not an officer of Sierra Club, yeah.

CHAIR COCHRAN: Not Sierra Club, okay. Okay, alright. I just wanted to make sure everyone is aware of that connection. Okay, thank you. No, if...am I correct that you were here as our Energy Commissioner at the time when these contracts were being done with this project?

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

June 19, 2018

MR. MCLEOD: Actually, no, I had really left by the time that this was getting done in 2016 as far as finished. So, you know, I was involved in some of the earlier go-arounds, but I probably can't contribute to anything, you know, specific on that.

CHAIR COCHRAN: Okay, but anything specific on the whole concept of this project?

MR. MCLEOD: Well, just...yeah, real quickly, I think that what Councilmember King was talking about as far as EKO Compost. I mean it's kind of ironic we're saying that, you know, the problem with EKO Compost is that it was a one-bid thing, but of course, you know, you're about to start talking about something else that was a one-bid thing for Anaergia. And the basic problem we have is, you know, we don't have an agreed-upon plan on the island on how we're gonna use these resources. And so, we do have people competing for the same resources and that's what this is all about. We don't have a holistic way of kinda looking at our resources and looking at where there are markets for recycling, where there aren't, and how we make energy out of it. So, that's my only general comment, Chair.

CHAIR COCHRAN: Okay, well thank you. Any...Ms. King, you have some questions for Mr. McLeod?

COUNCILMEMBER KING: Yeah, I guess I would defer, if Ms. Sugimura has a question. I see her light on --

CHAIR COCHRAN: Ms. Sugimura, you have some questions for Mr. McLeod?

COUNCILMEMBER KING: --so I know she's a member of the...

COUNCILMEMBER SUGIMURA: No. I'm okay with Department.

CHAIR COCHRAN: Oh not for...okay quickly for Mr. McLeod --

COUNCILMEMBER KING: Okay, sorry, yeah.

CHAIR COCHRAN: --you had something and then we can release him.

COUNCILMEMBER KING: Okay, yeah, I do. And just based on your experience as a, you know, County Energy Commissioner in these types of contracts, I'm just curious on, and what...your take on, why, you know, Maui EKO would have to go through negotiations and approval on the Budget for its contract and its initial contracts. And I know in the early days would have to come back just to get paid and ask this Council for emergency...to pass an emergency measure to get paid because, you know, we were, Pacific Biodiesel, was subcontracting to Maui EKO and we would go six months without getting paid what we were supposed to be getting paid for managing all that grease trap material and stuff. And so, I know the Council was heavily involved in those contracts and approving that money in the past, and I just wonder how something this long, this

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

June 19, 2018

20 year and this expensive, it's going to change the...I understand we all a pay a fee, but it doesn't cover the amount of the tipping fees that's the County will be charged once this entity takes over. So, how can we...how can the County allow something like to go forward with no vetting and no approval from the Council --

MR. MCLEOD: Yeah.

COUNCILMEMBER KING: --when even a shorter contract that was for less material had to be vetted by the Council and approved initially?

MR. MCLEOD: I'll give you a short answer to a long question, Councilmember, and that is I probably take some blame. I think what happened is that when we did these solar contracts, you know, we did them on the basis that it was so simple that, you know, basically it was just your electric bill, we always had an electric bill, you know, we paid less. And so the way we handled the Council review of that, even though we came to Council and gave the Councilmembers briefings, I don't think there was an official Council approval of the contract. So, we probably pushed the door open a crack, and what's happened since is that it's just been too tempting for various departments, not just DEM, to fund capital projects with these outside PPAs rather than try and get the capital projects through the Budget in the Budget Session. So, that's I think enough of an answer to that question.

COUNCILMEMBER KING: Okay, but do you agree that, I mean what you were working on was actually going to save the Council or the County money, this one's going to cost us money so isn't that like a major difference?

MR. MCLEOD: I share the same conclusion that you've just mentioned about this, but I just want to say that in fairness when you have these 20-year deals, we can't actually know with certainty, you know, what the financial outcome is gonna be, it depends on interest rates, it depends on all these things down the road. But yeah I have the same, you know, concern looking at this that this looks like it could end up costing quite a bit of money. But again I think we started down this path and we've ended up taking it too far. The big difference to me is the solar contracts there's one variable, it was just the price of electricity. These contracts are very complicated, you can see that, they're multi-variable. And there's all these ways that you could either have a good outcome or a bad outcome, but it's kind of...someone told me once they analyzed this Anaergia contract and said there were 13 outcomes and he thought the County lost money in 11 of 13. Now, I'm not saying that's scientific but it just gives you an idea of the complexity.

COUNCILMEMBER KING: Okay, so can I just make --

CHAIR COCHRAN: Yeah.

COUNCILMEMBER KING: --follow up with one more question? So in your opinion, as a former County official, if does end up costing us an extra \$800,000 a year, which I think was

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

June 19, 2018

the figure that was in the audit, where would that come from it that wasn't appropriated by the Council in the Budget, where would that money come from?

MR. MCLEOD: Tough, tough to answer how that would work. I'm afraid that's probably too much of a legal question for me --

COUNCILMEMBER KING: Okay, sorry.

MR. MCLEOD: --to give you a real answer to, but it's a conundrum. And you can see the problem here, you know, you have a contract that someone assumes will save money, but if it doesn't in fact, it looks like a very different animal.

COUNCILMEMBER KING: Okay, thank you.

CHAIR COCHRAN: Okay, thank you, Ms. King. Anyone else had questions for Mr. McLeod? No? And, sir, thank you so much for being with us here today --

MR. MCLEOD: Thank you, Chair.

CHAIR COCHRAN: --and sharing. You're welcome. Okay, sorry, Ms. Sugimura, you did have questions though for --

COUNCILMEMBER SUGIMURA: Yes.

CHAIR COCHRAN: --is it Department or yeah?

COUNCILMEMBER SUGIMURA: Yeah, so just kind of in general, the Anaergia contract is it gonna expire soon for the landfill?

CHAIR COCHRAN: Is that for Corp. Counsel or Directors?

MS. THOMSON: Chair, I can take that.

CHAIR COCHRAN: Okay.

MS. THOMSON: The...so there are a few different deadlines in the Central Maui Project, Central Maui Landfill Project. The next deadline is January of the coming year of 2019. And that is...it's basically a predevelopment deadline and we inserted that deadline to make sure that the County had the ability to get out of the contract if the contractor wasn't diligently pursuing permits, environmental approvals, and things like that. There are other deadlines in the contract, operations deadlines, and things like that upon which time they will have to pay us some money to stay in the contract. So, the next immediate deadline is January 2019.

COUNCILMEMBER SUGIMURA: So, another question.

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

June 19, 2018

CHAIR COCHRAN: Yeah, go ahead, Ms. Sugimura.

COUNCILMEMBER SUGIMURA: So, have we...have they applied permits or are they on course according to what the Department needs or the County needs?

MR. MIYAMOTO: Yes, the original RFP, you know, we were gonna have them on our property, we were gonna make our land available. Since then, the MRRF contractor basically had secured their own land. So, now they need to do their own environmental and permitting process for their facility so they've started that process. So, they're in that process. As I mentioned before, it can take six months to a year. When you think, you know, sugar cane land should there be significant cultural finds in that area, probably not, archeological finds, probably not. It's been...ground that's been disturbed for decades maybe centuries, but...so it just depends on what happens, what they find. Thank you.

COUNCILMEMBER SUGIMURA: Okay, thank you.

CHAIR COCHRAN: Okay, thank you. And lastly, Department or Ms. Thomson, have they...have any deadlines or benchmarks been missed? Are they on schedule then? Has there had to be extensions? Any...so where's the...from the initial, original contract?

MS. THOMSON: Thank you, Chair, I'll take that question. The original contract had a three-year period for these pre-production tasks. That pre-production deadline has been extended twice, and the current deadline is, as I said, January of 2019. One other thing I just wanted to correct what Mr. McLeod was suggesting, there are no County capital improvements associated with this contract so there are no buildings or facilities that are being obligated on the County side. So, it's a services contract, and that is currently being implemented on private property. So, if it was on County property, the County Council would have to approve a lease or license some other land approval. Thank you.

CHAIR COCHRAN: Okay, Ms. King, you have a real puzzled look on your face.

COUNCILMEMBER KING: Well, I guess one of my concerns is 'cause I was watching intently the last Council when the Mayor came forward and said he was \$700,000 short for employee wages, and a lot of that money went to contracts. And so, and Mr. Hokama wrote a Viewpoint in the paper saying, I'm sorry that money was allocated for employees and you put that money...you pay those employees and you cancel those contracts if you have to. So, I see us like, you know, possibly moving into that arena again with this \$800,000 a year in tipping fees for the garbage trucks, is where is that money...the Council has not appropriated that money for that purpose so where is it coming from? If the Mayor has found it in his purse somewhere, where is it coming from? And hopefully we don't have that issue where it's, you know, coming out of operations and

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

June 19, 2018

then he has come back and ask for money for operations so people don't lose their jobs. But I remember that issue pretty clearly from three years ago and I don't want to see us in that situation again. So, where...I guess, Mr. Stant or Mr. Miyamoto, where is that money coming from? Where have you allocated that from?

MR. MIYAMOTO: Thank you, Madam Chair.

CHAIR COCHRAN: Mr. Deputy Director.

COUNCILMEMBER KING: 'Cause I don't think that \$32 a month per person is gonna cover that total amount.

MR. MIYAMOTO: Right, so when you look our...when you look at the contract which you have, you've done, you see that our tipping fee to the service provider is \$68, initially starting at 68 and there's escalation, growth and everything. If you look at our current tipping fees, what is it, 95? I think the Budget that starts in July 1st is 95 per ton so there is differential in that. So, that's additional revenue that's coming into the Department to pay salaries and everything and service providers. So, you're talking about the additional amount for the County's refuse collection, that is all part of the B Account for service providers. So, you know, when...it may not have been in the FY '19 Budget because we were uncertain if that project is gonna start, be commercially operational in FY '19. So, you may see it in the future, in FY '20, in under services contract...sub-object code in the B for Central Maui Landfill so it'll be services. Very similar to like how we do for other things in there like, for example, we have initially we had additional contract services to help us with the three-can residential trash collection fees. We didn't have staff, we didn't get any additional staffing so we had to contract some services out with the understanding that they will be terminated as soon as we could make an adjustment, that went to union consultation. So, those kinds of things is what we plan on, and so 2020 you'll probably see contract services, there might be a dollar amount in there, but that will be assuming that, you know, to meet our revenue that we're gonna be generating. So, we'll look at all our obligations and what revenues we have and then that'll have to balance out before we propose to this...to the Budget Committee.

COUNCILMEMBER KING: Okay, so do we have an out if it doesn't balance out or if the Council doesn't approve that? Is there an out or are we gonna get sued again by the contractor?

MR. MIYAMOTO: No, go ahead.

CHAIR COCHRAN: Ms. Thomson?

COUNCILMEMBER KING: I mean there's usually there's something in there that says if funds are available so do we have that in the agreement?

MS. THOMSON: Chair?

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

June 19, 2018

CHAIR COCHRAN: Yeah, go ahead, Ms. Thomson?

MS. THOMSON: Yes, we do have kind of the standard non-appropriations clause in this contract.

COUNCILMEMBER KING: Okay, so then that will be the Council's approval at the point that you come back before the Council and ask for funding?

MS. THOMSON: So, if funds are not approved for the bulk of the...this isn't...it would fall under the operating budget of the Department. And so, you know, if for some reason funds were not appropriated, then this or other contracts could be canceled using that clause.

COUNCILMEMBER KING: Okay.

CHAIR COCHRAN: Okay, yeah, I was looking for the opt-out here. I guess on Page 27, the Defaults; and one of them, fails to meet the Commercial Operation Date Milestones. But we gave them two extensions, so I guess, you know, we just kinda overrode (a) of this Article. And Offtake Agreements, they are yet to get that, you know; and one of them is RFD, and the DOH won't let you burn that so I don't know how that's ever gonna be taken care of; and I know that was in the audit, too. So there's a lot of unanswered issues and concerns here with this entire project still, but, you know, we're not gonna solve it here before our midday break. So, I...without further discussion or questions, comments to Department or Corporation Counsel, I shall defer this item with no objections.

COUNCILMEMBER SUGIMURA: No objections.

CHAIR COCHRAN: Thank you, Members, and we'll take our midday break. We'll come back please at 3:15, and we can start back up on the next...our last item of the day. Oh wait, sorry...no but, we didn't...oh sorry, I wanted get into the Kahului Treatment Facility discussion, the next discussion of this item. Okay, ten-minute break, thank you.
... (gavel) ...

RECESS: 3:04 p.m.

RECONVENE: 3:16 p.m.

CHAIR COCHRAN: ... (gavel) ... Aloha, will the Infrastructure and Environmental Management meeting please come back to order? And, Members, I meant to say we are just recessing the item and not so much deferring 'cause that...this last item of our agenda has two components to it. The Central Maui Landfill which we finished discussion for now and now we're gonna do the Kahului Treatment Facility discussion. So, with that, I shall open the floor up for our Department and Corporation Counsel, if

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

June 19, 2018

they have some added comments for that part of this item. Looks like Deputy Director Miyamoto?

MR. MIYAMOTO: Thank you, Madam Chair. The project, the MANA project, which is basically this Maui All Natural Alternative, utilizes the anaerobic digester process which was previously utilized for the MRRF project. And uses some kind of a bio crop to feed the source and to generate methane gas. And we...they'll refine the methane gas and put it through a turbine. And that the one good thing about the turbine is it's very flexible about fuel types and it generates a lot of heat which we're utilizing to then dry the sludge. So, in the original presentation that Director Stant had done in October of 2016, our initial thoughts were, you know, let's make it easy for the trucks to get in and out, so we put it at the front of plant, next to the roadway going to Kanaha Park. The team, consultant team, did a preliminary work investigation and everything, and they found they needed to modify that design because we wanted to make sure we address the tsunami inundation zone, the 100-year tsunami inundation zone so that meant their utility building needed to be elevated significantly. So, we didn't want that building right next to the roadway with the tank. So, what we did was we worked with the contractor, finding a space we can move them to, further in the back of the treatment plant, their building will be next to our building which is the building that contains all the electrical connections. So, it actually is...works better because their building will be at the same height as our electrical connections. And so it also moves it out of...it's not right next to the roadway in clear view, it's a little bit offset. The concern about trees from the ocean side, there are trees, we recently did the revetment wall project that this body approved. So we removed a lot of trees so a lot of the trees are growing back. We're required to put these trees back, so that will shield them from view from the ocean side. Relative to odors, you know, we all very sensitive about wastewater odors. I mean having been in the business long enough, we say we go dead to it, but we can recognize it, we recognize it really, really well. And so we, as part of the design, the preliminary design, we asked them to include some kind of a negative air pressure. So, what it does is rather than just leaving it open, the air can, the foul air, can just dissipate into the atmosphere. We had them create almost like a vacuum, so there's a negative air pressure is what we call it, so air is sucked into the system and goes through air-cleaning systems. So, we had them include that in their design because we didn't want the complaints about odor. And so when the sludge gets disposed of in that area, they have negative air pressure, so all the odor should go into the air-cleaning system so we shouldn't...and the air-cleaning system can also handle any potential odors from the anaerobic digester process also. So, that project moved there. They did complete the EIS, that's being challenged. So, they've continued on with the permitting process, it hasn't stopped the permitting process. They need other permits in which they've already started the application process for that. Thank you, Madam Chair.

CHAIR COCHRAN: Okay, thank you. And, Members, any questions, comments for the Department, from the Members? Ms. Sugimura?

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

June 19, 2018

COUNCILMEMBER SUGIMURA: Yeah, so I just...Department, is this the illustration that has the MANA project, right?

MR. MIYAMOTO: That's correct, and if you look at the original drawing it's right up against...very close to the roadway. So, you need to look at the sketch before that, the slide before that slide—try go back the other way—that shows the entire plant. And you see that nice little turquoise blue building that's in the upper left in the plant?

COUNCILMEMBER SUGIMURA: Yeah.

MR. MIYAMOTO: That's our electrical building that has our backup generator, all of our electronic switchgear where the MECO system ties in so that if for some reason MECO shuts off we can switch it over to our backup generator. So, it's in that building. So, the MANA building will be right next to it, it'll be...I don't think it's, be quite as big, but it's gonna be right there at the same elevation so whatever tsunami comes in. And you saw the big round silver anaerobic digester that will be to the left of the building. And then the sludge receiving will be along that back, the road in the back, so that they can receive the sludge, have the negative air pressure, have their filtration system adjacent to it. And all of the electronics and everything, the turbine system, the sludge drying system, will be up at, upper elevation equal to ours. They will be having a small area sort of in front of that blue area where they will be storing the bio crop, so they don't want to run out of bio crop, they want to make sure this thing can work 24/7. So, there's gonna be a small amount of containment area for the bio crop that they can utilize to keep feeding this process. Thank you, Chair.

CHAIR COCHRAN: Okay, thank you. Ms. Sugimura, you had other questions?

COUNCILMEMBER SUGIMURA: Thank you, that's it.

CHAIR COCHRAN: That's good. Miss...or Mr. Guzman?

VICE-CHAIR GUZMAN: Thank you, Chair. You know, I have on a Charter amendment to create the climate change and resiliency office and when we had that item in my Committee, they spoke about FEMA and having plans for post-catastrophes. And that FEMA was now looking at whether or not to fund certain, I guess, inundation zones and things like that. And what currently is going on right now is they would just replace what is there. And if we had a long-range plan that would say we're going to relocate the facility, the treatment plant, someplace else on some type of plan, then if in fact we're hit with a tsunami incident, FEMA would pay for this relocation, would pay for rebuilding it at a different location as long as we had this long-range plan. But currently if we don't have one, then it's gonna be rebuilt with FEMA money in the exact location that we have it right now. So, I would suggest that we try to at least go further into creating some kind of plan or at least passing the resiliency climate change Charter to create that plan. Thank you.

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

June 19, 2018

MR. STANT: Chair?

CHAIR COCHRAN: Director Stant?

MR. STANT: Thank you, Member Guzman, great question. So, we have discussed that many of times. So, I'm probably one of the few County workers that's been in the County longer than this contract for EKO with the sludge. I also worked at the Kahului for years, Kihei and Lahaina, but I'm agreeing with everyone. I don't think that the facility should be there, I think it should be moved. When I...we started to look at this project, I did look at the history. And in 2004 to 2006, a study was done to move the treatment plant, before we even decided to go the MANA way. In that study, it was gonna be about, I think it was 350 to 470 million to move the facility. So when I met with the division, I came up with this is, is we can move the facility, even if we could find a good deal of 200 million. Say we move this facility and a tsunami comes through, all of your pump stations in Kahului are shoreline, they'll be the first things wiped out. And what goes to the facility is from the pumping station so you'd have a brand new facility with no sewage coming into it. So, what we looked at is, I took a look at a study they had done for the Wailuku pumping stations 'cause that would be the first one we'd wanna move, you know, the one that's down by the Quonset huts, I looked at that pumping station. The Wastewater had done a study to do a sort of scalping plant where they would use the water at Keopuolani Park. When I looked at it, I said, hey why don't we work on a design to actually moving that pump station, since we gotta move it anyway, moving that pump station out of the tsunami zone and being able to use the water there. But this is what the plan right now is what we're discussing along the lines what you're saying having a long-term plan was this, the Wailuku Pump Station has an average flow of 3.5 million gallons. The Kahului plant itself has an average flow of 5 million gallons which tells you what, most of the flow right now is going to the Wailuku Pumping Station. So with technology nowadays, there's modular technology where you can...you don't have to design this massive facility like the Pukalani...Upcountry facility, it was modular. So I'm having the division look at this . . .(inaudible). . . we move this Wailuku Pump Station, make a modular to take in this 3.5 million gallons. So, maybe you design a modular to four MGDs, whatever it might be, we'd be able to use 1 million gallons of that for the Keopuolani Park. And then we would have to just find where we would...we could move the 2.6 million gallons of water that's still left over, either to a tank, take it up to Maui Lani through that Maui . . .(inaudible). . . well, but, my point being is this, the Kahului facility now would only be a...would only have about 1.5 million gallons. Now you and I know, you taking a capacity plant of nine MGDs and trying to moving it, the cost of moving a facility that's only taking in 1.5...and even if in the long run if we decided to move our second pump station, which is the Kahului Pump Station, which is about one MGD, you're looking at the Kahului facility being only to take in less than one MGD of flow. So, that is the direction of plan so to let this body know that's why it's a great question. All that being said, I even looked at...because we didn't...I know that the treatment plant should be moved, especially with the sea-level rise, we all know that. So, this was all in negotiated or we thought about this is in the contract when preparing this contract for MANA because we didn't wanna get stuck so everything's in

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

June 19, 2018

there, if, you know, a tsunami went through or if we decided to move this County facility, we wanted to make sure that we're not responsible of moving the dryer, this tank, it would be all on the contractor. So, that was all figured in the contract. But at the end, when people are bringing up tsunami zone, we understand. So, we're looking at the long term, but no matter what it's gonna take time so in the meanwhile we're doing this design for Wailuku pumping stations. We're still gonna be processing 24,000 tons of sludge, we're still gonna be paying, running one of our largest facilities on fossil fuel, which makes no sense. So, I think in the direction of moving with this MANA project is a great project because at the same time we're creating...we're gonna be moving a Wailuku pump station out of the tsunami zone, creating a modular plant, and my hopes at the end was to actually maybe even completely get away from Kahului facility and just creating, you know, a pump station out at...you can take Kaa and all Paia side. Where I think the value too also is we have an issue like you can see we're experiencing in Lahaina where we can't get the water, we got to pump it to somewhere. Kahului has always had that problem, and we've been looking into it from the Maui Land and Pine, been working with the airport, to try and have somebody take the water. If we can move that Wailuku Pump Station out, we already know we got an off-taker which is us with the Park of 1 million gallons. So, it'd be so much...it'd be cost effective what I figure, and if we did expand we could add modulars to the plant in Wailuku. So, I hope that answered the great question. Thank you. Thank you, Chair.

CHAIR COCHRAN: Thank you, Director.

VICE-CHAIR GUZMAN: Thank you, Chair.

CHAIR COCHRAN: Ms. King?

COUNCILMEMBER KING: Chair, that was a great question. It was my question and I guess I asked it too early, but yeah there's, you know, some grave concerns and we're hoping to in Committee pass a resolution, you know, just saying that we believe in and adopt the climate change, sea-level rise adaptation report. And then I also have a question about this MANA project. Is this the same...basically the same project that was sole sourced for Lahaina that didn't meet the deadline? 'Cause I know there was a sole-source project to grow bio crops up there, and it was...you got exemption from the State, the County got exemption, but there was a deadline on it, when it had to start by, and it didn't start so it didn't get going.

CHAIR COCHRAN: Anyone here know the answer? Director Miyamoto?

MR. MIYAMOTO: Thank you, Madam Chair. I recall that project under Director Ginoza at the time. We had looked at, you know, because of the lawsuit relative to injection wells, we had looked at the possibility of doing something similar to MANA but this obviously was done, was evaluated before the MANA project. But, you know, looking some kind of bio crop to utilize all of our recycled water at the time and everything, and the one thing that really killed it was the cost of the water to the project. You know, it...they could

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

June 19, 2018

use the water but in order for them to use the water, we would literally have to do exactly what Director Stant is now looking at, pumping that water all the way up to the 780-foot elevation. And at the time, we didn't have the thought to utilize the 300-foot elevation as a pumping station, use that as a source to pump water up to the top. So, when we evaluated that option with them, the cost to get the water, pump it up to the hill, the cost to get an easement or rights to get it into the ditch system that goes down the gulch and siphons up on the other side, and for the Anaergia project to utilize that, you know, the...it just didn't make sense for them at the time. The cost for everything was just...you know, it would've been better if they had a bigger off-taker because as, you know, Mr. McLeod had mentioned, he had put the PVs in, so the PV, I think the PV is about 500 kW. So, the amount that we'd really need at the plant was really small so basically the solar panels basically killed that project because now we didn't have that big of demand, the electricity for that plant.

COUNCILMEMBER KING: Okay, no I just remember hearing about and hearing that it was sole sourced and that it didn't meet the deadline. But I just wanted to comment, Chair, that I have grave concerns about any biofuel crop project that grows...that's growing a crop just to make into energy because many people have tried that model and if you don't have high-value co-products off of that same crop, the economics of it just don't work. And, you know, regardless of the cost of the water. But, you know, our industry many people have looked at that and failed, and we've actually been offered a lot of equipment from companies that have tried that especially for algae. So, I just wanted to put that caution out there that we...make sure that we have outs, the County has an out of that contract if it doesn't work because to me this is one of the reasons why HC&S failed because they didn't look for a high-value...you know, they were looking at things like hemp for energy. They didn't look for a high-value product out of that crop and then use the residue for energy. It was just growing something to make energy out of and at the low cost of energy, relatively low cost compared to the rest of the world that Americans expect, it's really hard to make the economics come out. So, I just wanna make sure that the County's not being obligated to support something that has a high probability of not being economically feasible.

CHAIR COCHRAN: Yes...oh is it Ms. Thomson or...yes.

MS. THOMSON: Thank you, that's also a great topic. And that was one of our concerns also in negotiating the contract. So, all of the risk for the farming activity is on the contractor side, the County would not pay a higher price depending on, you know, the fuel source or any problems that they might experience on the farming side. So, it is up to them to do their due diligence as far as, you know, setting that up so that it does make sense in the context of the whole contract.

COUNCILMEMBER KING: Okay, and then we don't have any obligation to...for any kind of reimbursement for a loss or anything?

MS. THOMSON: No, we do not.

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

June 19, 2018

COUNCILMEMBER KING: Okay, great, thank you.

CHAIR COCHRAN: Thank you. And I'm looking back at a memo we received October 7, 2016, and it has bunch of questions I had put forward to the Department. And just backtracking to see if the answers that were given back then still stand today, such as, all costs associated with the electricity generating system and sludge drying system are the responsibility of the contractor other than electricity and cost to dry the sludge. Is that still the case today being this is a couple years, you know? Would that be Mr. Miyamoto?

MR. MIYAMOTO: Madam Chair, which question are you referring to?

CHAIR COCHRAN: Let's see, what number is that? Where did I read...

MR. MIYAMOTO: Is it 7c where your...the concern is raised about what the cost it is for the County?

CHAIR COCHRAN: Seven C. Well, no, that one too that was the cost of transporting the sludge and if this was going to cut that back, the transport of sludge. Well, wait hang on, oh it's at...okay item number two, that question, it's kind of a large paragraph answer and it's like the last...wait, is it in there...and will be...oh no that's the commodity that will be generated out it. Okay, I just did read it, sorry. What number? What is that?

MR. MIYAMOTO: Three B.

CHAIR COCHRAN: Okay, 3b, projected annual cost to the County, including but not limited to costs associated with installation, operation, maintenance, repair, improvement and replacement of system. And you state only cost to County are cost of electricity to dry the sludge.

MR. MIYAMOTO: Yes, as they are a service provider those are the only services that we're paying for: electricity and sludge drying; everything else is borne by the contractor.

CHAIR COCHRAN: Okay, and then I think number two on this list is in reference to what is created in the backend which it states at the last sentence of that large paragraph answer, end product from the drying process will be a Class A commodity that can be used either as landfill cover or fertilizer which I think that's what's kind of being done of it now by in a different place, by a different entity so how's that, I don't know--

MR. MIYAMOTO: Yeah.

CHAIR COCHRAN: --different or...how...

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

June 19, 2018

MR. MIYAMOTO: In heated conversation with our Solid Waste staff, they don't wanna use it as landfill cover because when it gets wet it gets to be...it becomes a slippery mess.

CHAIR COCHRAN: Goes back to sludge.

MR. MIYAMOTO: It becomes a slippery mess for them so they don't wanna deal with it so we're looking at marketing how we can market this product whether we do it like, you know, I think our existing service provider does have some agreement where he can send his compost to get it bagged and marketed. So, we're looking at things like that versus coordination with our County departments, maybe with our nonprofits who may want to utilize that and we can make that available.

CHAIR COCHRAN: Okay, but therein lies my issue from day one that we're...anyway, okay. So, I'm just trying to picture, too, this is a tall, like physically this new sludge dryer, whatever, the digester itself is like 60 feet tall, right, is that right? I mean it's hard to see 'cause we're looking at this bird's-eye view, looking down on the system, so we're not kinda getting that side angle, like if you're driving, you know, to go down to Kanaha. And it's like, whoa, what's that 60-foot-tall thing with an additional 57-foot-tall emission stack? Is that not what it's...isn't that it's gonna look like down there on that, you know, blue-water horizon, and it's gonna look kinda ugly?

MR. MIYAMOTO: I think in the EIS there is a rendering that shows views from different locations, and one of them was from I think the Hana Highway looking at the treatment plant. So, and they utilize the existing electrical building that we have there as a reference so it may be it's gonna be a little bit taller than the existing building that's there. So, basically it would fill the space to the left of the existing, that turquoise-color, blue-color building so it's gonna be a little bit taller than that building. As you mentioned, the digester will go from the ground to somewhere in the 60-foot range and then the exhaust for the, you know, for the air-handling system will be about 57 feet. So, it's...that's why it was really good that we did make this change and move it next to the existing building so people can have a...we're already back there with that tall building, so that is tsunami...100-year tsunami inundation zone prepared.

CHAIR COCHRAN: Okay, and as you mentioned I mean the tsunami zone, I've always from day one since I ever got to this Council been wanting to move this whole entire facility 'cause one of the conditions with A&B and their business park plan, business park, is to give us ten, some acres in order to move this and so that's yet to be seen or really talked about. And so being where it's located this is gonna need, it's in the SMA zone, conditional use permits, all of the, you know, all of the above--

MR. MIYAMOTO: Yes.

CHAIR COCHRAN: --which is time-consuming, and...

MR. MIYAMOTO: And they've already applied for all of those.

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

June 19, 2018

CHAIR COCHRAN: Okay.

MR. MIYAMOTO: As a matter of fact, they just got their complete and conformance agreement with the . . . *(inaudible)*. . . people, and the SMA is being scheduled with the Department of Planning and the Maui Planning Commission.

CHAIR COCHRAN: Okay, and so at those points there'll be opportunities for public to come and chime in and share their thoughts and comments about the project, obviously, right?

MR. MIYAMOTO: Oh yes.

CHAIR COCHRAN: Okay, very good. The sludge, so I think one of questions in the memo, too, is about the transportation of the sludge, and if this is gonna cut any of that cost down at all. But the answer is it's gonna stay the same because you're transporting sludge from Kihei and Lahaina here to Central, but now it'll be down to the Kahului treatment versus Central Maui Landfill so there is no cost savings there. Has it ever been looked at to rather than transport the sludge to create...I don't know if they do it on this scale, but to do the drying at respective facilities: Lahaina has one, Kihei has one. So, you don't need to truck it all the way over kinda thing or...and then utilize it as Ms. King brought up that project that was slated...I recall it, too, up in I think it was some Maui Land and Pine properties, perhaps up above where the coffee farms are and up in the Mahinahina area, you know, and you could use...utilize that fertilizer-type, you know, product there. Kihei, I not sure where, but so was that ever looked at?

MR. MIYAMOTO: Thank you, Chair. You know, the project that Member King had mentioned, you know, at the time we...the turbine technology really wasn't, you know, something that we were really focused on. The methane gas was gonna use an internal combustion engine and that doesn't generate as much heat as the turbine. So, the benefit of a, you know, combined heat-and-power-type system wasn't really available at the time to dry the sludge. You know, so we really didn't have it to evaluate at that time. But now that we have this MANA project that has a turbine in it, and we're gonna have the very big beneficial of the heat, rather than just wasting that heat, we saw the opportunity. And, you know, we wanted to know how much sludge could we dry, and basically the response was, all that you got, so 24,000 tons a year. You know, the waste heat from the turbine can dry it so we said, well why don't we just go ahead and take it and do it at the Kahului plant where we have the turbine. And, you know, three of the plants all take their sludge to the landfill. So, the Kahului driver will be tasked with other duties because he won't have to take his sludge 'cause it's gonna be right there at the plant, his drive will be less than 100 feet. So we'll have other tasks for the driver to do. Thank you.

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

June 19, 2018

CHAIR COCHRAN: Okay, and the bio-energy crops, who is slated to be doing that and where? In one of your, item 8b at the time the answer was, HC&S, but is that still the case, they're gonna utilize...

MR. MIYAMOTO: Yes, Madam Chair, they have another name that they go by and I'm sorry I don't remember, quite the name right now, but they are working with Anaergia to come up with a...I think they have an agreement as to the amount of acreage and crops, and how much they would feed, and how much of that digestate that they would take back. And in...for them working with the Department of Health, land application of digestate in the State of Hawaii is not something that's been done before so the Department of Health didn't know how to handle that. So, we met with them, you know, to find out what kind of regulations are required. So, they came up with monitoring and testing process that they would be happy with. It's very similar to what's being done on the mainland so obviously they can reach out to Region 9 which includes the West Coast of the mainland. And they come up with these criteria for land application of the digestate, which is very similar to when you think about it like a cow's stomach. What comes out of a cow, when you think about it 'cause that's basically what a cow is doing. It's eating grass, there's no air in the stomach so it's going through some anaerobic digester, cows are one of the biggest sources of methane in our country, and then what comes out the backend is basically digestate that gets land applied for the bio crops. Thank you, Madam Chair.

CHAIR COCHRAN: Okay, and I think...what is the timeline on this whole thing? We're...like when would...is that in our slide, did we talk about that? I don't recall.

MS. THOMSON: Madam Chair, I can answer --

CHAIR COCHRAN: Yes.

MS. THOMSON: --some of that. So, the, similar to the other contract there are pre-development deadlines. The initial deadline was to have the biofuels contract, the source contract, within 12 months. And then there are several other deadlines that are tied to a 24-month time period. Those include interconnection agreement with Maui Electric and a few other deadlines...I'm sorry, a few other milestones associated with that 24-month period. And I'm trying to find the commercial operations date. It's a fairly aggressive timeline. I can find the commercial operations date, I just haven't keyed on it quite yet. So 24 months would be the initial period of pre-development.

CHAIR COCHRAN: So, two years of what? Is that what you're saying, two years of the start date of the...I'm looking at Page 12 of...what is this thing, oh this is the RFP of March 16th and...in November?

MS. THOMSON: If you're looking at the contract, the contract itself, so it's Section 3.4.3, Guaranteed Facility Milestones. So the construction start date shall occur within 180 days of the conclusions of the Conditions Precedent Period in Section 2. And the

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

June 19, 2018

conditions precedent period is the time period I was referring to, the 2 years, 24 months, for a series of tasks that have to happen by that date and then construction needs to start within 180 days from then. And then the operations commencement date is tied to 30 months from the construction start date. So, these are a series of rolling deadlines that were negotiated. Like I said we from the County side, we wanted a more aggressive timeline so we built in some fairly aggressive yet we felt the deadlines were reasonable and could be met.

CHAIR COCHRAN: Okay, I think lastly, so the power generated from this project is believed to be able to handle an entire facility, it will power it all, was that correct? This project, or is it just gonna offset a portion, but I think isn't that what it's supposed to do?

MR. STANT: Chair, yes, the entire facility.

CHAIR COCHRAN: Okay, that's aggressive. And I think that's kind of all I have at this time, but we're gonna definitely defer this. But, yes, Ms. Sugimura?

COUNCILMEMBER SUGIMURA: So, before you defer, I just have a question because I'm curious Pacific Biodiesel's relationship with EKO? I mean I hear Kelly talking about it and I think it's sort of related to this agenda item and if it's not you can defer it. But I just...I'm just curious because she references that and...

CHAIR COCHRAN: I mean if Ms. King's open for discussion?

COUNCILMEMBER KING: I'll be happy to answer that.

CHAIR COCHRAN: Yeah.

COUNCILMEMBER KING: It's Pacific Biodiesel has always been a subcontractor to Maui EKO, and for the purposes of removing used cooking oil and grease-trap material from our systems. So, since the year 1996, we've been keeping the used cooking oil out of the landfill, and since...and then in '99 the County asked us to start collecting grease-trap material. And so we stopped...that stopped having to go into wastewater treatment facility which we greatly reduced the amount of spills, wastewater spills, every month from like eight or ten to like one maybe or zero. So, we were...the Maui EKO had the contract to...for the green waste and for the sludge and for the waste oils. And then they subcontracted with Pacific Biodiesel so that there was a place to put the waste oil so that we could make it into biodiesel, and then recycle and dewater the grease trap. And when the County made us leave, close down the biodiesel plant and leave the landfill, we were still obligated to EKO by subcontract to keep processing the used cooking...to keep collecting the used cooking oil and the grease-trap material so that didn't into the landfill and the wastewater treatment center. So, we were then relegated to collecting it and shipping it off-island because this Administration wouldn't allow us to keep processing biodiesel in the landfill. And not only were we instructed to remove the biodiesel processing facility, we were also told we couldn't have any buildings or any

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

June 19, 2018

even temporary like container-type thing on the ground. And it was a pretty egregious order that Pacific Biodiesel...so but, you know, because of the obligation to Maui EKO we have continued to honor our contract with them to...so that...because they don't know what they would do the cooking oil or the grease-trap material if we didn't continue to collect it. So, that's been a huge benefit to the County and we're, you know, we're happy to provide that service to our County even if we aren't getting recognized for it or appreciated for it. So, that's our...been our relationship with Maui EKO from the beginning, it's never been directly contracted with the County, it's been subcontracted as a way to help EKO meet its contract.

CHAIR COCHRAN: Okay.

COUNCILMEMBER SUGIMURA: So, just kinda curious then, it's for free or do you charge? Do you make money off of that or is it...

COUNCILMEMBER KING: No, actually what happens was our trucks would come through the scale with the grease-trap material and have to pay a tipping fee. And then the County...when it first started, the County paid us back the tipping fee minus 10 percent so the County was actually making money off of that in the early years. And I actually did a webinar with Hana Steel when she was our Recycling Coordinator with the SWANA. The Solid Waste Association of North America asked us to do a webinar, talking about our model and our landfill because it was unique and we won gold awards and everything. And the title of the webinar was, Show Me the Money because it was always the model was created to alleviate all this waste and be neutral. And what happened was the County was actually making money off of it for the first few years. The confusion at the Council level came because the money that we were paying to the County went to one division, the money that was coming to us to repay a portion of that came from another division. And so for some reason the Department never understood that those two offset each other and they...one division would say, well why are we paying you money, then the other division would never step up and say, because they're paying us money, you know. So, it's been a kind of a confusing relationship, we've done it because we have a great relationship with Maui EKO and because we believe in recycling and we wanna help our...we've done a lot of environmental mitigation with keeping the, with recycling grease-trap material, but it hasn't been easy.

COUNCILMEMBER SUGIMURA: So do you make money off of it or not?

COUNCILMEMBER KING: Not off of the collection because we collect all the used cooking oil from the restaurants for free, and --

COUNCILMEMBER SUGIMURA: Do you charge them?

COUNCILMEMBER KING: --we have a fleet of trucks that we have to maintain and we have drivers that we pay and so...but it's material for, you know, making into biodiesel. So, but we've never, I think the County's always profited more off of that model than we

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

June 19, 2018

have as far as the waste removal. It was a symbiotic relationship up to a certain point. Now it's just really us doing a service for the County.

CHAIR COCHRAN: Is that...your question's answered?

COUNCILMEMBER SUGIMURA: Maybe Department you can answer that?

MR. MIYAMOTO: Thank you, Chair. Yes we appreciate our contract services. Obviously our contract with...is with Maui EKO, and Pacific Biodiesel is a subcontractor for them who takes care of our fats, oils, and grease, which was clogging our sewer lines in the '90s. We were...and we had big fines and we ended up with that consent decree, which we finally were able to remove in probably the early 2010-2011 time period, we were able to get rid of that consent decree. Relative to what happened with Pacific Biodiesel, and I'm sure Ruben can attest to this, we don't have a...the County does not have a direct relationship with Pacific Biodiesel. So, our relationship with...is with...our contract is with Maui EKO. And unfortunately we had a landfill fire with the...EKO composting had a fire and so as a result of that, the Fire Department was out there, they had their fire inspector out there, Development Services had their inspector out there, and they pointed out something to us that violated our contract with EKO. So, we contacted EKO and said, your contract says you need to be properly permitted. And so the Fire Department and DSA were the ones that were pushing it, telling us, you know, we didn't have permits for certain things. So, we had to enforce on Maui EKO the requirement of...permits for facilities that were on their...the land that they were using. So, that's basically what happened.

CHAIR COCHRAN: Okay, so I guess we're getting kinda off topic here about EKO and Pacific Biodiesel. I think lastly the \$80 cost for the sludge, is that per ton, is that still the going rate or what it's gonna top-out at or what's the dollar amount?

MR. MIYAMOTO: Yes, that's...once they start, become operational, that is the cost. So, right now, there would be a benefit of differential between that and the current cost. Very similar to like we had the MRRF project about landfill tipping fees, it doesn't start until they become commercialized and they can operate so the fees are locked in.

CHAIR COCHRAN: Okay, alright. Members, any other questions, comments for this project?
Ms. King?

COUNCILMEMBER KING: I guess my...and this question actually comes from the community, 'cause people are wondering who is actually going to buy the dried human waste and use it as a fertilizer. And so I just...my only request is, you know, can we get that if, you know, if they do identify where that market is because we went through this in the early days of the RFP with this RDF and they kept saying Maui EKO...or MECO was gonna buy it, MECO wouldn't buy it, they tried to sue MECO and make them buy it, and that got thrown out of court. And then they said HC&S was gonna buy it, HC&S said no we don't burn RDF, we don't burn any...we burn only our own bagasse. So, I'm

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

June 19, 2018

a little skeptical about a market for this material. I personally would not wanna see that being put on a park where my children were playing because, you know, it's more direct than...it's a lot more direct than the EKO compost which, you know, cooked all that...the bacteria and everything out of it. So, I would just like to ask the Department that, you know, when you do have identified certain markets for that that we know where that material is going especially if it's a public, you know, site.

CHAIR COCHRAN: Yeah, thank you for that. And we'll be getting periodic updates, let's hope, you know, from the Department, and I'll...we can...I can put in some official memos or questions via my office to the Department through this Committee. And we can just stay abreast of what's going on. Alright, well thank you, Members, and, Departments, for making time today with us.

COUNCILMEMBERS VOICED NO OBJECTIONS. (Excused AA, RH, MW)

ACTION: DEFER pending further discussion.

CHAIR COCHRAN: And with no further discussion on the items, this meeting is adjourned.
... (gavel) ...

ADJOURN: 4:00 p.m.

APPROVED BY:



ELLE COCHRAN, Chair
Infrastructure and Environmental
Management Committee

iem:min:180619:nk

Transcribed by: Nicole Kahinu

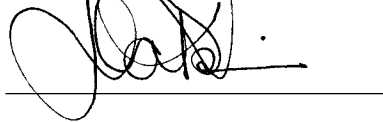
**INFRASTRUCTURE AND ENVIRONMENTAL
MANAGEMENT COMMITTEE**
Council of the County of Maui

June 19, 2018

CERTIFICATE

I, Nicole Kahinu, hereby certify that the foregoing represents to the best of my ability, a true and correct transcript of the proceedings. I further certify that I am not in any way concerned with the cause.

DATED the 12th day of July, 2018, in Wailuku, Hawaii

A handwritten signature in black ink, appearing to be 'Nicole Kahinu', is written over a horizontal line. The signature is stylized and cursive.

Nicole Kahinu