

**COST OF GOVERNMENT COMMISSION  
MINUTES  
Via BlueJeans Videoconference  
Friday, June 12, 2020**

**PRESENT:** Michael Williams, Chair  
Michelle Del Rosario, Vice Chair  
Noemi Barbadillo, Member  
Paula Heiskell, Member  
Lu Ann Lankford-Faborito, Member  
Barbara Mattson, Member  
Patrick O’Neil, Member  
Hannah Werth, Member

**EXCUSED:** None

**ABSENT:** Sarah Simmons, Member

**STAFF:** Gary Murai, Deputy Corporation Counsel  
Shelley Pellegrino, Technical Writer for the Commission

**ADMIN.** Gladys Baisa, Ex-Officio Member, Office of the Mayor

**OTHERS:** Travis Liggett, President, Reef Power LLC  
Dudley DePonte

**DOCUMENTS RECEIVED:**

Minutes

- Draft May 14, 2020 Minutes

Correspondence

- None

Annual Report 2019 – 2020

- Cost of Government Commission Final 2019 – 2020 Annual Report

Cost of Government Communication Procedures

- Revised Draft Investigation Guidelines

Investigation of Capital Improvement Project Budgets of Department of Water Supply and Department of Waste Management

- PowerPoint Presentation Slides Entitled, “Reef Power” (prepared by Travis Liggett, President, Reef Power LLC)
- Kalisi Mausio, Tomoaki Miura, Noa K. Lincoln, “Cultivation potential projections of breadfruit (*artocarpus altilis*) under climate change scenarios using an empirically

validated suitability model calibrated in Hawai'i," PloS ONE 15(5): e0228552, located at <https://doi.org/10.1371/journal.pone.0228552> (2020).

- Noa Lincoln, Thegn Ladefoged, "Agroecology of pre-contact Hawaiian dryland farming: the spatial extent, yield and social impact of Hawaiian breadfruit groves in Kona, Hawai'i," Journal of Archaeological Science 49: 192–202 (2014).
- Rupert J. Craggs, Walter H. Adey, Benjamin K. Jessup, William J. Oswald, "A controlled stream mesocosm for tertiary treatment of sewage," Ecological Engineering 6: 149–169 (1996).
- Alison R. Sherwood,, Amy L. Carlile, Jessica M. Neumann, "Freshwater algae associated with taro cultivation in the Hawaiian islands," Bishop Museum Occasional Papers 113: 81–85 (2012)

### Homelessness in Maui County

- COGC Study of Homelessness in Maui County—Proposed Scope and Parameters

### Informational Documents Related to COVID-19 and Open Meetings

- Governor's COVID-19 8<sup>th</sup> Supplemental Proclamation (May 18, 2020)

## **I. CALL MEETING TO ORDER**

Chair Williams called the meeting to order at 11:02 a.m.

## **II. ROLL CALL**

Chair Williams took roll. Commissioners Barbadillo, Heiskell, Lankford-Faborito, O'Neil, Werth, Vice-Chair Del Rosario, and Chair Williams were present. Commissioner Simmons was absent. The Commission has one vacancy.

## **III. PUBLIC TESTIMONY**

There was no public testimony.

## **IV. REVIEW AND APPROVE MAY 14, 2020 MEETING MINUTES**

*Vice-Chair Del Rosario moved to approve the May 14, 2020 meeting minutes, and Commissioner O'Neil seconded the motion. The motion was approved unanimously (7-0)*

**V. COUNTY AUDITOR'S UPDATE**

No update was provided.

**VI. UPDATE ON RESPONSE TO THE COMMISSION'S APRIL 2020 REPORT ON COUNTY'S GRANT TO THE MAUI VISITORS BUREAU**

No update was provided.

**VII. UPDATE ON 2019 – 2020 ANNUAL REPORT**

Chair Williams stated that he, Vice-Chair Del Rosario, and Ms. Pellegrino had worked through several drafts of the Annual Report and presented it to the commissioners for their review.

*Vice-Chair Del Rosario moved to approve the 2019 – 2020 Annual Report, and Commissioner Heiskell seconded the motion. The motion was approved unanimously (7-0).*

**X. UPDATE BY TIG INVESTIGATING CAPITAL IMPROVEMENT PROJECT BUDGETS OF DEPARTMENT OF WATER SUPPLY AND DEPARTMENT OF WASTE MANAGEMENT (CHAIR WILLIAMS, VICE-CHAIR DEL ROSARIO, COMMISSIONER O'NEIL)**

*NOTE: This section was taken out of order to allow Mr. Liggett and Mr. DePonte to make the presentations. For the discussion portion of this item, please see X continued below.*

**A. Presentation by Travis Liggett, President, Reef Power LLC, Regarding Biological Treatment of Wastewater**

Chair Williams introduced Travis Liggett, who prepared a presentation on one alternative to using injection wells for wastewater treatment.

Mr. Liggett introduced himself. He stated that he has lived in Hawaii for ten years. He is the sole proprietor of Reef Power LLC, and the goal of his company is to fix the reef problem as it relates to injection wells. Reef cover in Ma'alea has declined about 90% since the 1990s. There are municipal wastewater facilities on Maui Island in Kahului, Kihei, and Lahaina. They discharge approximately 10 million gallons per day. He displayed images of the plume in Kihei (centered above Kalama Park), which is about one mile wide. Mr. Liggett explained that the problem with wastewater is the nutrients (dissolved solids), and that approximately 316,000 pounds of nutrients — which is the equivalent of about four pounds per person or 14 dump truck loads — go into the ocean yearly. One of the solutions being proposed by Mr. Liggett is the use of freshwater algae (limu) found along streams. Mr. Liggett shared images and information on some common stream algae found in Hawaii.

Mr. Liggett then explained that the algae is placed into an algal turf scrubber, which is like a man-made stream, where the water flows over the limu, and with each pass, it reduces the nutrients and other pollutants. Mr. Liggett displayed an image of a scrubber system, with a mesh where the limu will attach. He explained that these scrubbers can be scaled up to a couple of acres, which can hold large volumes of wastewater. He then showed some data from a recirculating system (a single-pass

system gets about a 5 – 30% removal), where water is passed over the algae many times over the course of the day, which leads to better removal. The data showed less than 1 milligram/liter of total nitrogen, as compared to an average of more than 5 mg/l currently. Mr. Liggett noted that this is only in the experimental stages and that it has never been demonstrated at scale for secondary wastewater. Another graph for phosphorus reduction showed similar results.

Mr. Liggett explained that in addition to clean water, there are hundreds of tons of algal biomass per year. This biomass can be composted and made into soil. Mr. Liggett then suggested that the composted soil could then be used to grow 'ulu (breadfruit), noting that Native Hawaiians planted 'ulu orchards on the Big Island in an area known as "Kalu'ulu," also known as the South Kona breadfruit belt — a 20-mile stretch of 'ulu forest. The belt produced upwards of 50,000 of 'ulu annually. Mr. Liggett referred to a study of optimal 'ulu growing conditions and concluded that 'ulu can receive huge amounts of water — up to 120 inches per year. He proposed that the clean wastewater could be used to water the 'ulu. Mr. Liggett provided a preliminary scaled 'ulu irrigation design of about 49 trees (spaced 30 feet apart) per acre. On a larger scale, two acres of algal turf scrubber (ATS) and 100 acres of forest would be needed to process about 1/2 million gallons per day. In Kihei, approximately 2 million gallons of wastewater is produced, so there could be 4 modules for a total of eight (8) acres of ATS and 400 acres of forest. Consequently, the wastewater could be converted to food.

Mr. Liggett stated that he has been considering certain parcels, but that he has made no agreements to date. One possible parcel of interest is 2,153 acres designated agricultural mauka of the Maui Research and Technology Park and owned by Haleakalā Ranch. A second parcel of interest is 1,435 acres designated agricultural mauka of the Kapalua Airport and owned by Maui Land and Pineapple. A third parcel of interest in Kahului is 2,153 acres designated agricultural adjacent to the intersection of Hana Highway and Haleakala Highway, and owned by Alexander and Baldwin.

Mr. Liggett stated that he received a \$100,000 grant from Born and Raised Earth to do a small pilot project to demonstrate that the nutrients can be scrubbed with a small turf scrubber and then test the clean water to grow a forest. In the pilot project, the water will go into a reservoir, which will then flow through the ATS for 24 hours and clean the water, at which time the forest is irrigated. Mr. Liggett explained that this algorithm is how the process would work at small or large scale. He added that his pilot project will take place in Kihei at an old algae farm behind Maui Nui Golf Course, and he hopes to break ground in a few months. It is approximately 100' x 100' and will have about 100 trees.

Converting wastewater into a natural food resource that could passively generate enough food to feed Maui residents. Mr. Liggett provided a brief summary of installation costs, and estimated that converting to the ATS system would cost approximately \$129 million Countywide, but would also include 1,900 acres of food.

Chair Williams asked Mr. Liggett whether he had any interaction with County wastewater representatives. Mr. Liggett responded that he has been working with Albert Han, who has been supportive of the pilot project.

Commissioner O'Neil asked Mr. Liggett when he thought he might be able to get the pilot project off the ground. Mr. Liggett responded that it is on hold for the moment

because of issues accessing the site due to the COVID-19 pandemic. There are some people with health issues who live on the site. He anticipates breaking ground in 3-6 months.

Commissioner O'Neil asked how long the pilot project would have to run to show viability. Mr. Liggett responded that he hoped to have some results within about one year.

Commissioner Werth asked whether Mr. Liggett had spoken to Haleakalā Ranch. Mr. Liggett responded that he has been focused on his pilot project and had not spoken to anyone yet. He hopes to find collaborators when he gets to that point. Commissioner Werth also asked whether Mr. Liggett had spoken to the Breadfruit Institute in Hana, and Mr. Liggett responded that he had and that the Institute would be providing the "starts" for the project.

Commissioner Lankford-Faborito asked whether this type of project had been done on any other island. Mr. Liggett responded that Sandia National Lab is doing a pilot project on a missile range on Kauai, but that project has been on hold because of nene nesting on the site.

Chair Williams thanked Mr. Liggett for his presentation.

B. Presentation by Sherman Dudley DePonte on CIP Appropriations Unspent by Department of Water Supply

Vice-Chair Del Rosario introduced Mr. DePonte, whom she invited to speak regarding his interactions with the Department of Water Supply (DWS) about a capital improvement project that was funded by the County Council, but not executed by DWS.

Mr. DePonte provided a lengthy explanation of his concerns regarding the Fiscal Year 2017 – 2018 budget appropriation in the amount of \$860,965 for Upcountry fire protection improvements. Mr. DePonte stated that he met with DWS as early as 1992 because he wanted to purchase a parcel in Haleakalā Acres and then subdivide it. Mr. DePonte stated that he was told there was a 2.5" galvanized waterline that ran 600 feet that would need to be improved to a 6-inch line, which would then allow him to receive three water meters. Mr. DePonte stated that he purchased the property based on the information he was given.

Between 1999 and 2002, Mr. DePonte appeared before the Board of Water Supply, where he was told he would need an 8-inch line for fire protection, but the County would pay for the difference between the 6-inch and 8-inch line. Since then, Mr. DePonte has been appearing before the County Council to ask that the improvements be done. The Council sent letters to DWS asking what Mr. DePonte would need to do, but Mr. DePonte received no directive from DWS. Mr. DePonte stated that in 2014, he received a letter stating that he had moved up on the water meter list and to start doing the improvements. He was also told that he needed 3,000 feet of 8-inch line improved (from the original 600 feet of 6-inch line), a larger tank, and a booster pump, resulting in an increase in cost from \$600,000 to approximately \$2.7 million, which he does not have.

Mr. DePonte stated that he met with former Water Director David Taylor, who informed Mr. DePonte that he was not on the Capital Improvement Project (CIP) list.

Mr. DePonte appealed in 2016. At the same time, in the Fiscal Year 2018 budget, \$860,965 was appropriated to install the 8-inch line, pump, and tank. Mr. DePonte explained that he was running out of time (extensions) to complete the work, so he entered into an agreement in September 2017 with the County whereby he would appear before the Board of Variances and Appeals to reduce the fire protection requirement and the County would not object. In November 2017, Mr. DePonte applied for the variance, but the Board of Variances and Appeals has still not reviewed Mr. DePonte's request.

In February 2018, Mr. DePonte contacted DWS for an update on the CIP budget, but he was informed that the Department of Corporation Counsel advised DWS not to move forward until the matter before the Board of Variances and Appeals was resolved. In February 2019, Mr. DePonte appeared before the Board of Water Supply to explain the situation. He stated that DWS Deputy Director Helene Kau explained that things could not move forward until County litigation with Mr. DePonte was resolved. Mr. DePonte contends that there is no lawsuit, but an agreement for fire protection.

Mr. DePonte explained that he met with Mayor Victorino in March 2019, who stated that the fire protection should be taken care of and the money should be in the budget. According to Mr. DePonte, DWS Director Jeff Pearson explained that it would appear as favoritism, to which Mayor Victorino replied that the money was appropriated by the Council and the Department should spend it accordingly so Mr. DePonte could get his variance approved. Mr. DePonte stated that he met with Mayor Victorino again and Mr. Pearson reiterated his position. Mr. DePonte stated that in November 2019, he wrote a letter to Mayor Victorino summarizing the issue. He has been told that he is unable to discuss the issue with the County because he is in litigation with the County.

Vice-Chair Del Rosario explained that she invited Mr. DePonte to speak to the Commission as part of the Commission's investigation into the budgets of DWS and the Department of Environmental Management (DEM). She expressed her concern that DWS has identified needed projects in the community, brought them to the County Council for funding, the Council funded the projects, and then the DWS failed to execute the project. Vice-Chair Del Rosario stated that this is just one example, but that there are more across both departments.

Chair Williams stated that the TIG consisting of him, Vice-Chair Del Rosario, and Commissioner O'Neil had just started communicating with the DWS and DEM directors and they have been sending materials and conducting Zoom meetings with the TIG. Chair Williams explained that the unspent CIP funds was one part of the TIG's investigation.

## **VIII. DISCUSS COST OF GOVERNMENT COMMISSION COMMUNICATION PROCEDURES**

- A. Review and Possibly Approve Revised Draft Investigation Guidelines (prepared by Commissioners Simmons and Werth)

Commissioner Werth explained that the only change that was made since the last meeting was to have letters approved by the Chair rather than by the full Commission.

Deputy Corporation Counsel Murai asked for clarification as to whether the Chair's approval was just for letters regarding investigations or for all Commission matters. He recommended that the scope of authority only be for investigations.

Chair Williams responded that the Commission has written formal letters when they have not received responses to informal communications with County representatives during the investigative process. He thought formal communications would be used as a last resort.

Commissioner Werth added that her intention when writing the guidelines was that they would only apply to investigations and not, for example, to communications to the County Council.

Mr. Murai also commented that the communication guidelines should be limited to investigations and temporary investigative groups, but if the guidelines were to extend beyond the investigative process, then they might need to become part of the administrative rules of the Commission and go through the rulemaking process.

Chair Williams asked Mr. Murai and Ms. Pellegrino where the Commission should store documents gathered in the investigative process. Ms. Pellegrino responded that the storage varies depending on whether the document is used for a Commission meeting (i.e., board packet) or whether it is part of the investigative process. The board packet documents are currently made accessible to the public via DropBox, but Ms. Pellegrino preferred that an alternative means of storing meeting documents be found. Ms. Pellegrino stated that records retention is a larger issue because it includes all Commission documents, whether or not they are part of a Commission meeting. Chair Williams asked whether there is an alternative to DropBox for the board packet. Ms. Pellegrino responded that ideally the Commission would be able to link documents to the agenda, but the process needs to be worked out. Mr. Murai followed up with the records retention question regarding the official repository for Commission records.

Mr. Murai opined that because the Commission is administratively attached to the County Auditor's Office, that the Auditor's Office should provide a location to store Commission materials, but that the County Auditor has explained that his office has limited staff to manage records retention.

Mr. Murai added that the County has records retention policies that requires the Commission to retain documents for a prescribed period of time, and although he believes the Commission is compliant, the process is not ideal.

Chair Williams suggested that the Commission consider budgeting money to create some electronic records storage system.

*Commissioner Werth moved to approve the Cost of Government Investigation Guidelines, and Commissioner O'Neil seconded the motion. The motion was approved unanimously (7-0).*

**IX. UPDATE BY TIG INVESTIGATING ENFORCEMENT OF SHORT-TERM RENTAL LAWS (CHAIR WILLIAMS AND COMMISSIONER BARBADILLO)**

Chair Williams stated that the Planning Commission took up a bill earlier in the week to reduce the number of permitted short-term rentals, but deferred the matter to June 23. He said he might have a draft report at the next Commission meeting.

**X. UPDATE BY TIG INVESTIGATING CAPITAL IMPROVEMENT PROJECT BUDGETS OF DEPARTMENT OF WATER SUPPLY AND DEPARTMENT OF WASTE MANAGEMENT (CHAIR WILLIAMS, VICE-CHAIR DEL ROSARIO, COMMISSIONER O'NEIL)**

*NOTE: Summaries of presentations by Travis Liggett and Sherman Dudley DePonte appear earlier in the minutes.*

- A. Presentation by Travis Liggett, President, Reef Power LLC, Regarding Biological Treatment of Wastewater
- B. Presentation by Sherman Dudley DePonte on CIP Appropriations Unspent by Department of Water Supply

During the discussion portion of this item, Chair Williams stated that the TIG had met with DEM Director Eric Nakagawa and DEM Director Jeff Pearson. Both directors recently sent materials to the TIG, which have not yet been reviewed.

**XI. UPDATE ON INVESTIGATION INTO WILDFIRE COSTS AND RESPONSIBILITY OF PRIVATE LANDOWNERS (COMMISSIONER HEISKELL, COMMISSIONER O'NEIL)**

Commissioner O'Neil stated that he has begun his investigation and is waiting for some responses.

**XII. UPDATE ON INVESTIGATION INTO PRIVATE FINANCING OF THE WAILUKU PARKING GARAGE VIA OPPORTUNITY ZONES (CHAIR WILLIAMS)**

Chair Williams stated that he had not received a response to an earlier email to the Managing Director or Finance Director, so he sent follow-up formal letters to them. Managing Director Sandy Baz stated that he would respond in two weeks, but four weeks have passed and Chair Williams has not received a response. He will continue to press for an answer.

**XIII. UPDATE ON INVESTIGATION OF INFORMATION TECHNOLOGY ISSUES (COMMISSIONER SIMMONS)**

Commissioner Simmons was absent, so there was no discussion.

**XIV. UPDATE ON INVESTIGATION INTO PROPOSED CHARTER AMENDMENT TO ESTABLISH AN OFFICE OF THE MANAGING DIRECTOR AND PROVIDE FOR THE APPOINTMENT OF THE MANAGING DIRECTOR AS THE COUNTY'S CHIEF OPERATING OFFICER (CHAIR WILLIAMS)**

Chair Williams explained that he was initially interested in leading the investigation, but he has since become involved with the ballot committee that is supporting the measure, so thought it would not be appropriate to lead the investigation. Commissioner O'Neil also stated that he supports the proposed Charter amendment. Vice-Chair Del Rosario requested that the Commission defer the item to the next meeting. She volunteered to discuss the issue with Chair Williams and consider taking it up. Chair Williams responded that he was interested in looking at the issue because the Cost of Government Commission had previously issued a report on a previous Charter amendment, but when he reviewed the report, he realized that the previous amendment was very different than what is currently being proposed. Vice-Chair Del Rosario volunteered to put some information together and be prepared to speak to it at the next meeting.

**XV. DISCUSS OTHER POTENTIAL TOPICS TO REVIEW AND ESTABLISHMENT OF TEMPORARY INVESTIGATIVE GROUPS (TIGS)**

*Discussion and possible action regarding the establishment of Temporary Investigative Groups (TIGs) to review and investigate the below listed subjects, appointment of members, and setting of the parameters and scope of the investigation and review.*

A. Homelessness Issues in Maui County

1. Review Proposed Parameters and Scope of Investigation into Homelessness Issues in Maui County

Chair Williams stated that Commissioners Werth and Lankford-Faborito have volunteered to look into the issue with his help. They presented a proposed parameters and scope of investigation for consideration by the Commission.

*Vice-Chair Del Rosario moved to form a temporary investigative group into homelessness and to approve the scope and parameters of the TIG. Commissioner Werth seconded the motion. The motion was approved unanimously (7-0).*

B. Residential Trash Service in Maui County

Chair Williams stated that the County Council has taken up the issue and it will be referred to the Water, Infrastructure, and Transportation Committee chaired by Councilmember Yuki Lei Sugimura. The Commission decided to defer discussion of the issue.

C. Access to Public Documents Filed in County Civil Litigation

Chair Williams stated that he would like public civil litigation documents that are filed in Court to be made available in an easily-accessible format. Chair Williams added that court filings are done electronically in PDF format, so it should be relatively easy to store and make these documents available.

*Vice-Chair Del Rosario moved to authorize Chair Williams to request Corporation Counsel to provide public access to all documents filed in County civil litigation. Commissioner O'Neil seconded the motion. The motion was approved unanimously (7-0).*

D. Review of County Real Property Tax Policies Regarding Agricultural Land

Chair Williams stated that he has been working with Marcy Martin, who is the head of the County's Real Property Tax Assessment Division, and she is willing to appear before the Commission to present information regarding taxing agricultural land. Chair Williams explained that the issue arose when he was assisting Travis Liggett with locating a potential site. The land he located is owned by Maui Land & Pineapple Company; its market value was \$27 million, but it was only assessed \$12,000 in property taxes.

Vice-Chair Del Rosario stated that she has seen similar situations with parcels on Lāna'i and the problem is systemic.

*Vice-Chair Del Rosario moved to authorize Chair Williams to investigate County real property tax policies regarding agricultural land holdings on all three islands within Maui County. Vice-Chair O'Neil seconded the motion. The motion was approved unanimously (7-0).*

E. Other Potential Topics

There were no additional topics discussed.

**XVI. DETERMINE NEXT MEETING DATE AND AGENDA**

The Commission's next meeting is scheduled for Thursday, July 23, 2020, at 10:00 a.m. via BlueJeans teleconference.

**XVII. ADJOURNMENT**

The meeting adjourned at 12:30 p.m.