

MINUTES

PARKS & RECREATION COMMITTEE
April 18, 2007

A meeting of the Parks & Recreation Committee of the Council of the County of Kaua'i, State of Hawai'i, was called to order by Councilmember Tim Bynum, Chair, at the Historic County Building, Room 201, Līhu'e, Kaua'i, on Wednesday, April 18, 2007, at 10:32 a.m., after which the following members answered the call of the roll:

Honorable Tim Bynum
Honorable Jay Furfaro
Honorable Shaylene Iseri-Carvalho
Honorable Mel Rapozo, Ex-Officio Member
Honorable Bill "Kaipo" Asing, Ex-Officio Member

EXCUSED: Honorable Ronald Kouchi
Honorable JoAnn A. Yukimura

The Committee proceeded on its agenda item as shown in the following:

P/REC 2007-2 Communication (3/15/2007) from Tim Bynum, Parks & Recreation Committee Chair, requesting that the Administration be present to provide the status on responses to the January 19, 2006 follow-up questions regarding Bill No. 2149, Relating to Camping at Lydgate Park.
[This item was deferred.]

TIM BYNUM, PARKS & RECREATION COMMITTEE CHAIR: I think we have a guest coming. We may have moved quickly here and I don't see the Administration here. Did you...

SHAYLENE ISERI-CARVALHO: I guess Bernard indicated that he was going to be present. We also have Francine Wai... she is not here yet, so we will have to wait until she gets here. Maybe you can take testimony from the public.

Mr. Bynum: Did you have a PowerPoint that you wanted to do?

Ms. Iseri-Carvalho: I do have a PowerPoint, but I think it is being prepared as of this time.

Mr. Bynum: Is there any members of the public here who would like... here is Bernard who is coming to the room. Bernard, you are up.

There being no objections, the rules were suspended.

Ms. Iseri-Carvalho: Do you want to take other testimony? Bernard is getting himself ready.

Mr. Bynum: Are there members of the public that wish to testify on this issue?

THOMAS NOYES: Good morning, my name is Thomas Noyes and I serve as the general coordinator for the Friends of Kamalani and Lydgate Park. I'd like to be available for any questions that Councilmembers might have regarding the camp site at Lydgate Park. I would just like to say that it is a pleasure to be working towards bringing these facilities online for the benefit of Kaua'i residents and visitors.

Mr. Bynum: Mr. Noyes, are you going to be able to stay during the testimony this morning because there may be questions for you later.

Mr. Noyes: I will be here.

Mr. Bynum: Anything else that you want to say now?

Mr. Noyes: No. Oh, yes, there is one item. I'd like to add my recognition and thanks to the YWCA of Kaua'i. We just spent some time hearing wonderful things about the YWCA of Kaua'i. I wanted to mention that they have been our fiscal partner since the construction of the Kamalani playground in 1994 and they had made it possible for the Friends of Kamalani and Lydgate Park to function as a charitable organization within the community and some... add my appreciation to the good work done by the YWCA of Kaua'i. Thank you.

Mr. Bynum: Thank you. Any questions from members of the Committee?

JAY FURFARO: Thomas, thank you first of all for the update and I guess this presentation came through you on the camp ground layout?

Mr. Noyes: That is something that I prepared some time ago. That is correct.

Mr. Furfaro: So you worked with the Administration on this plan?

MEL RAPOZO: I am sorry Jay. Is this from you or Mr. Noyes?

Mr. Furfaro: This is from Bernard, but I am trying to find out who worked on it.

Mr. Noyes: I prepared the graphic map on the cover some time ago. I haven't reviewed it recently, but...

Mr. Furfaro: So, you know, what is before us on the agenda today and, you know, I have a little bit of experience with the Americans Disability Act because it certainly complies to all types of accommodations whether they are campsite, (inaudible), hotels, inns and I guess the questions are really what we are asking to get resolved, so that we can move forward. Have you subsequently been part of any discussions on how we are modifying these particular campsites if necessary and/or, you know, have you been part of any discussions with the commissions on the American Disabilities Act, so that we can get these things corrected and move forward.

Mr. Noyes: I have submitted to Bernard Carvalho a timeline that addresses one of Councilmember Iseri-Carvalho's questions that were submitted a little over a year ago specifically pertaining the Kamalani pavilion. I would like to refer on questions about the pavilion to that timeline and it is rather specific. There has also been meetings, a site visit held in February with the Mayor's Advisory Council for equal access where we spend some time at the ADA campsites to see what actual use would be like and what kinds of concerns could be identified at that time. Yesterday, I attended the MACFEA meeting and we discussed further mitigation measures and concerns.

Mr. Furfaro: And the architect for the campground themselves, the architect was a paid consultant?

Mr. Noyes: That is correct.

Mr. Furfaro: So what has he come up with in his... at his skill level, what are some of the particulars that can be addressed on the modifications and the one big question that never got answered. For example, how many total campsites are there?

Mr. Noyes: 31.

Mr. Furfaro: There are 31 and as you have a hotel that has 310 rooms let's say, a percentage of them need to be compliant, 10%, so you end up with 31 guest rooms that are compliant to the Americans Disability Act. The big question for me that never got answered here is, with the architect's design expertise, how many of these campsites needed to meet the law, the compliance law? Is it three (3) of the 31 units?

Mr. Noyes: That is correct, and I believe there is data in Mr. Carvalho's report. I am not certain which tab specifically it is in your book, but it does address the guidelines for proportion of campsites that are to be accessible.

Mr. Furfaro: Okay, I will save those questions, Tom, for Bernard, but it seems to me for us to expedite this, if it is three (3) of the campsites that need to be fully compliant, that is where all of our energy should be going on those three (3) campsites with the concurrence of the architect that was retained. I have no more

questions. I am just trying to get a feeling of where we are at. Thank you Mr. Chair.

MEL RAPOZO: Mr. Chair, I believe Ms. Wai is here from O'ahu.

Mr. Bynum: So if there are no questions at this time, we may have other questions for you later Mr. Noyes. Just to put this in context for the... the Council looked at issues related to opening the campground. Last year, there were a number of questions that went over in January of 2006 to be resolved. There are 11 questions... Bernard Carvalho was here and gave us this material and to give follow up answers to those 11 questions. That is the intent of the meeting today is to see what the status of those 11 questions are and to try to resolve the issues that are outstanding. So if we could call up Ms. Wai who is here from... I will let her introduce herself and I appreciate her being able to be here today will help address some of the questions.

FRANCINE WAI, DCAB: I will do my best. My name is Francine Wai. I respond to a lot of things though. I am the Executive Director for the Disability and Communication Access Board. Our office is responsible for reviewing all plans and specifications for the construction of State and County building facilities for compliance to the Americans with Disabilities Act as well as any other guidelines adopted by the State. That is one of our functions and that is the one that is relevant for today's discussion.

Mr. Bynum: Questions?

Ms. Iseri-Carvalho: Ms. Wai, if you could just give us a historical background of your organization briefly.

Mr. Wai: Okay, prior... the disability and communication access board as it is currently composed was created in 2000. However, prior to that, there were three (3) organizations... the architectural access committee, the commission on persons with disabilities and the Hawai'i State Coordinating Council on deafness created at various times each with three (3) different boards. Those were then all disbanded and merged into one board. So our board has responsibility for not only facility design. We coordinate the State program for parking for persons with disabilities. We also have a communication access interest which focuses on the credentialing of sign language interpreters in the State of Hawai'i who do not seek national certification. We are the State ADA Coordinator. We have a policy analysis and legislative advocacy in a number of other areas ranges from fair housing to special education. That in a nu... and we have a 17 member board to whom I am accountable and we have two (2) representatives from our board who are from Kaua'i.

Ms. Iseri-Carvalho: Your position, I am sorry.

Ms. Wai: I am the Executive Director.

Ms. Iseri-Carvalho: So as Executive Director and given the mandates and that mandate was done by Hawai'i Revised Statute 103-50?

Ms. Wai: The mandate for the existence of our office is Hawai'i Revised Statutes 348F, but the mandate for construction is Hawai'i Revised Statute 103-50 which then cross references to our law. It references our agency.

Ms. Iseri-Carvalho: Okay, and basically, 103-50 allows you or requires any facilities or public facilities that are in the County and the State to go through your agency for review of their design?

Ms. Wai: Correct.

Ms. Iseri-Carvalho: So I am going to turn your attention now to the project that we have in hand which is the Lydgate Campground and I would like to know if this plan... if you have a history of this plan being submitted or any kind of communication between the architect or Mr. Haigh who is the County representative I believe with respect to the ADA campsites and campgrounds.

Ms. Wai: Yes, this is the project file, so I brought the whole file. The project has come into our office as far as back... basically, in 2001, we started discussions, but this is the file from everything from the bikepath to the campground.

Ms. Iseri-Carvalho: So everything, not just specifically the ADA component.

Ms. Wai: Well, the...

Ms. Iseri-Carvalho: I mean the ADA component, but not just the sites itself?

Ms. Wai: Not just the campground. My understanding is that the... while there was some discussions that the primary document review that was done on the campsites was in 2003. The first contact we had was in August 2001 where we had preliminary discussions on the site. From there, we have several interactions with the last formal transmittal to our office being in March 2003 with a document review that was provided with some responses, but not what we would call a final document review.

Ms. Iseri-Carvalho: And maybe you can just briefly touch on that subject. There are mandates that require all plans to go through your office for review to assure that it is in compliance with State, County, Federal laws?

Ms. Wai: It requires the plans to come to our office for compliance with H.R.S. 103-50. H.R.S. 103-50 references the Americans with Disabilities Act,

accessibility guidelines and any other guidelines that we choose to adopt or interpreted of opinions. There are accessibility provisions that may be included in a building code or in a plumbing code or a fire code that we don't look at, but those are the requirements that we look at. ADAAG, fair housing and our own parking standards.

Ms. Iseri-Carvalho: Can you just repeat that? The acronym is ADAAG, but it stands for...

Ms. Wai: It means the Americans with Disabilities Act Accessibility Guidelines.

Ms. Iseri-Carvalho: And those were published when?

Ms. Wai: Those were published in 1991 in its original form and they have been amended a number of times.

Ms. Iseri-Carvalho: Those are basically... those guidelines are what you are required to review the plans that are being submitted to you for review?

Ms. Wai: Correct.

Ms. Iseri-Carvalho: That would be the process. The consultant or architect would submit their plans to you and it also requires that those plans be submitted prior to commencing construction, right?

Ms. Wai: Yes.

Ms. Iseri-Carvalho: And that is contained in the H.R.S. 103-50?

Ms. Wai: I am not sure if the words prior to construction are in...

Ms. Iseri-Carvalho: I have the section 103-50 here and basically it says, all State and County agencies subject to this section shall seek advice and recommendations from the disability and communications access board on any construction plans prior to commencing with construction, so I will give you a copy. So can you tell me whether or not there was a final document review prior to commencing or do you know whether those sites have been constructed or not?

Ms. Wai: Yes, I have seen... I have not seen the constructed sites, but I have correspondence related to the fact that they have been constructed.

Ms. Iseri-Carvalho: Your testimony today that the last review was done on March 27, 2003.

Ms. Wai: Let me check that exact date, but I think it is... it is...

Ms. Iseri-Carvalho: March 7, 2003.

Ms. Wai: Yes.

Ms. Iseri-Carvalho: And then that was the last, so there were some recommendations by your agency to... I guess to amend certain of the plans, so that it was consistent with ADAAG?

Ms. Wai: Yes, but we need to qualify a few things because the campsites are an outdoor recreation area and the current ADAAG does not cover that, so we looked at those elements that comply with ADAAG as it currently exists. The bathrooms, the parking lot, a drinking fountain or whatever, but the outdoor recreation guidelines which are recommended, but not yet final, we looked at, so our document review for the purposes of this site looked at the recommendations of the outdoor recreation committee as well as recommendations. So when we talk about whether or not a site... an outdoor site complies with ADAAG, we have to be very careful because those guidelines are not yet final. What the Department of Justice looks at is the fact that since these are the best practices, if you do design to that, that becomes your good faith defense. That does not mean that something which is designed slightly differently wouldn't also be in compliance because the ADAAG also has a provision for equivalent facilitation, so it turns out that you, in your community, have developed a better mouse trap or a better campsite design and you feel that you can justify that that site works... provides equal or greater access, then that becomes the basis for what you use. But in the absence of that and if you did what was in the recommended guidelines, you would be within... you would call (inaudible) harbor.

Ms. Iseri-Carvalho: Alright, and then we have the specifics of what was submitted and I have a presentation that I will put on later, but basically, that was DCAB job number 2001-398. Is that the numbers that you have?

Ms. Wai: Let me look at it?

Ms. Iseri-Carvalho: Sure.

Ms. Wai: Yes.

Ms. Iseri-Carvalho: Okay, so when I guess your recommendations go over for any changes that need to be made, it says... what I noticed here that is says that a written reply and/or submittal of plans addressing the notice deficiencies as requested and the final document review will be provided upon submittal of the construction documents complying with the ADA... ADAAG I guess.

Ms. Wai: Yes.

Ms. Iseri-Carvalho: So to your knowledge and your records, there was never a final document review that was done by your agency?

Ms. Wai: Correct, we don't have anything on the log chart besides this which isn't to say that we haven't had conversations or dialogue with the Mayor's Advisory Committee, but we've had nothing submitted, yes.

Ms. Iseri-Carvalho: Thank you.

Mr. Bynum: For the... I have reviewed these documents and in 2003, you know, your office provided recommendations.

Ms. Wai: Yes.

Mr. Bynum: And then I look at the... we have in our possession now and in March 26, 2003 that the consultant who designed the thing responded, but for no reason at I understand, apparently, those weren't sent to you even though they were there in 2003. So at this point, MDG, Incorporated responded and they did... it looks to me from this bid, redesigned the campsites based on your recommendations. Are you in receipt of those documents now?

Ms. Wai: I have... I am not sure if I am looking at the same thing. I am looking at something that came from MDG, Inc. with a revised... but we got it yesterday.

Mr. Bynum: So I just want to just put that on the record that these documents were prepared in March 26, 2006 and for no reason that I understand, they weren't sent to you until just recently, but the campsites as a result of your input were redesigned and were built to different design standards. Now, you know, I can't think of any reason why they weren't sent to you and that is inappropriate.

Ms. Wai: I don't know and I did read the plans... I mean, their comments.

Mr. Bynum: Now, what we will need to happen is for you to do this review to see if they were built to the, you know, to your satisfaction, right?

Ms. Wai: Basically, yes, because, right now, we are already dealing with an as built situation. They are there. I also know that there are quite a few recommendations that came from or after a sight visit for MACFEA. The Mayor's Advisory Committee suggesting that some of the things that are there now be changed.

Mr. Bynum: Right, in fact, some of those things have been changed.

Ms. Wai: ... have been changed.

Mr. Bynum: So, you know, what the reason this is back on the Council agenda is to get this process moving, so we are anxious that the Administration

move forward and get the answers. We have the new Director of Parks & Recreation here to try and... so I really appreciate you being here today. There is kind of like no good reason that I understand why these documents were... because they were prepared and why they weren't sent to you, but that has happened. Now we have to say, okay, what do we do and I don't know you are prepared today to address the changes that were made because you just got these things barely.

Ms. Wai: Let me just... Christina, do you know who sent these?

Mr. Furfaro: You can't have that discussion. She needs to be up next to you and you can have that discussion.

Ms. Wai: I am sorry.

Ms. Iseri-Carvalho: Committee Chair, I have a question.

Mr. Bynum: Yes.

Ms. Iseri-Carvalho: Yes, I just want to make it for clarification that there is absolutely no evidence to indicate that that document was prepared anytime before we saw it. I mean, there may be a date on the letter. We had had no testimony, we had not seen the letter until, like I say, all of a sudden it appeared and April 13, I learned that Bernard had sent over that letter to DCAB. So from 2003, you know, there really isn't any evidence that there were changes. Committee Chair, when you say that there is evidence that that document was prepared back March 27, I have yet to see any information that indicates that that is correct. So I just want to make it expressly clear that, really, the only time we saw that document was basically April 12, 2007.

Mr. Bynum: Right, but, nonetheless, these documents exist. There were drawings that were revised on 3/25/2003 (at least that is when they are dated) and that... (inaudible) the drawings that were used for the construction, so...

Ms. Wai: We have re-logged this in as a receipt as of April 16 which we got them and I had a chance to look at the sketch. The sketch takes into account many of the considerations that were originally raised although what was submitted to us isn't detailed enough in some aspects to give a full review because we don't have elevations for the picnic tables. It is a... it is a conceptual... it is a fairly detailed conceptual drawing and it takes into account some of the issues about how and where the parking was located, but you can't tell from the drawing a few of the specifics, so one of our staff would be calling back to ask, for instance, can you give us elevations here, could you tell us specific information about the spigots.

Mr. Bynum: Right. Councilmember Furfaro?

Mr. Furfaro: First of all, thank you for being here and answering a number of these questions and putting things in order as we need to and I used it

earlier about the urgency to get some of these things completed. Now, what I am used to and I just want to have a comparison here because, you know, the guidelines are constantly changing and responding to... and I am not going to say guidelines, but the recommendations are constantly being reviewed by your Committee and so forth. At what point is there not like an inspection where someone would come out and let's say we have the very specific pieces on a picnic table for example that what is in the drawing is then verified and there is some certificate of occupancy that is issued. I mean, what actually happens next?

Ms. Wai: That responsibility is actually left with the department that oversees the project.

Mr. Furfaro: Okay.

Ms. Wai: We are not a building inspection department. We do plan review, so the system is premised on the fact that we would review final construction documents prior to construction and that, in fact, construction would mirror the final documents reviews. So the department, whether it be the County of Kaua'i or the Department of Education or the airports or harbors would then take those documents because they have to review for air conditioning, they have to review to ensure that there are... they have a punch list, so if the system works properly, then our review would show that the construction plans as designed meet the requirements for accessibility. The inspector in each department would look to see that what is built matches the plans. The inspector wouldn't really have to know that 18 inches is correct in ADAAG versus 16, but he or she would have to see that 18 inches in reality matches 18 on the plan and was our job to see that the 18 was the correct number.

Mr. Furfaro: I wanted to share with you why I wanted to revisit that and that it is really driven by the drawings. For example, there were at least in my recent experience, third parties that you could go to. People that are, you know, kind of experts in the area of compliance and so forth, but you could hire them as a third party to make sure that functionally doors work, you know, the plumbing fixtures are appropriate in the bath houses and so forth.

Ms. Wai: Correct.

Mr. Furfaro: And these were people that are very familiar with the guidelines, but could be used to consult with the Department Heads to see that the drawings are, in fact, appropriate and everything is in working order. May I say that?

Ms. Wai: Okay.

Mr. Furfaro: Is that something that your department would recommend that we do?

Ms. Wai: Well, those individuals do exist as do roofing consultants and others.

Mr. Furfaro: Sure.

Ms. Wai: Our office is funded by taxpayer money to review the plans. It is my opinion and just my opinion that since the taxpayers already pay for us once and we have a mandate to review plans that we are basically a free risk management for you. So if a department wishes to hire somebody to assist them in the drawings, so that the drawings come to us in better shape... if the department or County wishes to hire somebody to go out and survey something because they are really not sure what needs to be fixed in the first place or if they want to hire somebody to go out afterwards and do inspection because they don't have enough inspectors, then certainly that is their prerogative.

Mr. Furfaro: And I appreciate your...

Ms. Wai: It facilitates and...

Mr. Furfaro: And I appreciate you answering that question especially in your last comment. It facilitates the process, so that we can get this done and we can find ourselves responding to citizen's needs correctly. That is the other thing, when we are dealing with these... addressing these particulars, we want to be able to make sure that we are able to service all citizens with equal use and enjoyment. This might be a recommendation, but it is not something that necessarily comes out of your group?

Ms. Wai: No, it is not... it doesn't come out of our office and as I said, I believe that State and County government as public servants, you ought to take advantage of us rather than using your money where you don't need to. But if you need to, then that is your discretion.

Mr. Furfaro: And our discretion here is, we are sitting on questions that are now 13 months old and we haven't, perhaps, done the diligence we need to, to make sure that we can move forward. It might be something that we want to do to facilitate getting to a conclusion here. Thank you.

Mr. Bynum: So I am... over the last two (2) weeks since we (inaudible) these questions, I am discovering these things as well, so, you know, so I am clear that your department was given drawings, responded, apparently the consultant the camp pads, prepared the documents, but they were sent back.

Ms. Wai: Correct.

Mr. Bynum: Because I totally agree with you. We will need to (inaudible) on the risk management that you give us and because our intention is to make accessibility a priority. So it is unfortunate and, you know, I will use

Councilmember Iseri-Carvalho... it is outrageous that these things didn't go to you, but it was built and so now I hear you saying that you can look at these design and that is what you do as design review and it answers lots of the questions. In some instances like where it says, handicap accessible, picnic table, it needs to get specific about what those parameters are.

Ms. Wai: Correct, right.

Mr. Bynum: And then it is up to the County's Building Inspectors to see that this is followed. They are the ones that go out and do the measurements and say, does this table comply?

Ms. Wai: Correct.

Mr. Bynum: So now we are in the process where we want to make sure that what was built meets the guidelines and that is our desire, right?

Ms. Wai: Right.

Mr. Bynum: So these documents bring us a long ways...

Ms. Wai: They are not quite all the way.

Mr. Bynum: More specificity needed and that is one example of where that specificity is needed.

Ms. Wai: Yes, and let me also explain one other portion. Hawai'i Revised Statute 103-50 is actually two (2) parts. One, it says that all building facilities and sites shall comply, that is a requirement and it is the same requirement that is in the Americans with Disabilities Act, so there is an absolute requirement to insure that the site is accessible. The second portion says that all plans and specifications for the construction should come to us. We do realize that in many instances, there are no plans or specifications that are constructed because people may go in and do things in house, so those don't come to us because a significant amount of maintenance is done without creating drawings. So you may go out and even do some paving, you may go out and fix the handles, you may go out and fix broken fire pits and in that process, you still have an obligation to make the correct fix, but no drawings were generated to give to us. There is no requirement in the law that create an architectural drawing to do something.

Mr. Bynum: So in essence, now that you finally have these documents, you can review them, ask for clarification and get that and we can, at some point, come to what should have occurred prior which is a final document review.

Ms. Wai: Correct.

Mr. Bynum: Other questions for Ms. Wai?

Mr. Rapozo: Thank you for being here today. You know, the drawings that are submitted, though, and I heard you basically say that it is basically our responsibility to make sure that the project is built to what our drawing say...

Ms. Wai: Correct.

Mr. Rapozo: And I know in the original submittal, they talk about the firm and stable surface and that is also clearly dictated in the drawing, but it is sand and your office clearly says that sand is not a firm and stable surface.

Ms. Wai: Yes.

Mr. Rapozo: And the consultant basically says, well, you know, that they disagree and that this is not going to be used for wheelchair... people are not going to ride on that surface with a wheelchair, but that is not the issue. The issue is clear that the tent... the tent pad needs to be filled with a firm and stable surface, so I guess my concern is when we submit a plan and we are here today because we just did not submit the construction plans before we built it. So your office looks at it now as almost like an after-the-fact permit, but you are going to consider it as an "as built" now or do you look at it as a new construction?

Ms. Wai: No, this is new construction and so we will look at it as such.

Mr. Rapozo: As new construction?

Ms. Wai: Because otherwise you would submit it after-the-fact and...

Mr. Rapozo: But that is what they do here in the County that is why, so that is why... just go do it and get a permit later and I am seeing that happening here and it is almost dejavu and I am concerned. We laugh and chuckle, but it is the fact of life and that is why it cost this County so much money and I really appreciate you saying, use us as a risk manager because that is what you are. You know, no sense we just build it and then go to you and say, this is what we want to do.

Ms. Wai: I was just going to say that the purpose of that provision in the statute...

Mr. Rapozo: Aside from being a mandate...

Ms. Wai: A mandate is not to just create some paperwork that you put on the shelf. The purpose for coming to us is to ensure that you do it correctly. When the mandate was created and the review process, there were at least 27, 28 pending lawsuits and by coming to us, you know, while we are not guaranteeing that everything is going to be built 100% perfectly, at least what you are doing is getting the drawings to be reviewed by people who know the design standards.

Mr. Rapozo: Right, and if someone in the County decides to go and do something against what the drawings that were approved by your office, then that is their personal problem and they can deal with it and they pay for the change on their own dime.

Ms. Wai: Correct.

Mr. Rapozo: But we are here today looking at a cost that we are going to have to pay to bring this into compliance and that is a concern. My message is just real clear is, hey, you know, use your office and, again, I appreciate you reminding us that and if we... when we submit the drawings, number 1, make sure it is before construction, number 2 is when we submit drawings when we build it, make sure it is to what the drawings state.

Ms. Wai: Correct, and we will do change order reviews too, so if... we all know that things happen in construction. We decide that we are going to put something somewhere and as you start to level the ground, you run into something that you didn't anticipate. So we will do a change order if somebody decides that you have redesigned and moved the pathway because of whatever reason, we will look at that.

Mr. Rapozo: And as you went through the chronology, you know, I am looking at this file that Bernard has provided and in one of the tabs, I believe it is tab 7, there is the actual... one of the contract change orders and this is contract change order number 9.

Ms. Wai: I don't have...

Mr. Rapozo: And I am just saying that in this project, there were nine (9) change orders to the contract to the tune of \$243,000. I've asked for the change orders and I haven't gotten it yet, but I hope somebody is listening across the street and get it over here because I want it before we finish this meeting. But I want to see what in the world we pay \$243,000 for and if, in fact, the change orders were related to DCAB issues, then you should have gotten those as well. You should have gotten the plans for the change orders.

Ms. Wai: That is corr...

Mr. Rapozo: And, you know, we will be criticized for this, but I am telling you... not you, but you were there for us to use.

Ms. Wai: Correct.

Mr. Rapozo: And if we are going to do a change order and this change order here which is dated August 7, 2003 involves... what appears to be a construction of three (3) campsites with the tables, but none of these were sent to you. This was not sent to you, so you weren't even able to tell us, if, in fact, the picnic tables were ADA

compliant. I can tell you right now that I went out there and those are regular picnic tables that sit at every beach park where a wheelchair cannot get underneath, but we didn't even check that. So I think the message is real clear. We are going to do an accessible project that every part of the way, we need to utilize every part of the way. Why that never went, why the consultant's letter never got to... I don't know. It came to the County, it is here, it came to Department of Public Works, Building... (change side of tape).

Ms. Wai: ...us money.

Mr. Rapozo: That is right.

Mr. Bynum: Is there any other questions?

Chair Asing: I have a question. How are you connected and through what association are you with our local County ADA Coordinator? What kind of relationship do you have? Any at all?

Ms. Wai: Oh yes. We have a very good relationship. In the structure of things, there is a Mayor's committee or the equivalent on all the neighbor islands. We routinely do a monthly report to that Committee about some of our activities and we also let them know every month which of the projects from Kaua'i have come into our office. So attached to our monthly report, we might list the renovation of the courthouse, Kapa'a High School gymnasium... whatever it might be, so we will let them know what has come. The one thing we can really do is, we can't review anything that we don't know about. So, you know, we can't...

Ms. Iseri-Carvalho: But they don't send them to you.

Ms. Wai: That is right, so the Mayor's Advisory Committee is an example... might know, hey, something is happening, you know, at the library. I just noticed that they are repaving the Lihu'e Library parking lot, so they have the opportunity to look at our list and to say, did this come in, did this not come in or whatever. So that is the relationship at least with the Mayor's Advisory Committee. We have meetings with the County ADA Coordinators maybe three (3) to four (4) times a year where they come in and everybody goes over mutual concerns or issues. Not all of them are designed in construction issues. The County ADA Coordinator for Kaua'i happens at this time to be on our board, but that will cease within the next year because of term rotations.

Chair Asing: Thank you and the reason I ask that question is, you earlier mentioned that you made reference to perhaps a building inspector doing the inspection to, you know, be sure that ADA... those requirements were met and would it be advisable that the... our ADA Coordinator maybe participate in that adventure? It could help and that is my reason.

Ms. Wai: The ADA Coordinator do the inspection?

Chair Asing: No, not do the inspection. At least monitor or go along or review, would that be something that would be advisable?

Ms. Wai: I think, well, I do know that the ADA Coordinators have a lot on their plate, so I believe there should be, perhaps clearing house mechanism, so that, for instance, with the Department and Land & Natural Resources for the State of Hawai'i, we would send a notice to that department, ADA Coordinator, of every project that we have reviewed, so that that person can make sure that an inspection is done. But we don't necessarily encourage that person to be the one to go out on site to do the measurements because...

Chair Asing: No, I am not saying that. I am saying...

Ms. Wai: But to have a formal role and to be put in a position to be at the hub of knowing what is going on.

Chair Asing: Yes.

Ms. Wai: Yes, I think that is why you would want an ADA Coordinator.

Chair Asing: Thank you.

Ms. Iseri-Carvalho: Yes, and also just on a County level, I don't know if you were familiar with the suit that we had that was filed by Mr. Burkhalter back in 1996, so we are actually under a consent decree which created the ADA Coordinator position which also requires that that position provide... that it be posted quarterly in the newspaper that there is the existence of this person and this is what their job duties are and that really is the person in the beginning that the County should be consulting with especially if they have such a great relationship with the State level, so we can avoid being in these kinds of situations too.

Ms. Wai: Correct.

Ms. Iseri-Carvalho: So another question. Point of personal privilege Committee Chair. Thank you again for being here and we know we will be... I am going to ask that the Chair of the Public Works Committee to put on his agenda an update of our transition plan because we are, again, under a consent decree and we have, I believe under two (2) consent decrees. One by Mr. Burkhalter and also by the Department of Justice to make certain kinds of changes to our facilities, County facilities, public facilities, so that they are in compliance and my understanding is that we are still not in compliance and will need some direction there or even a request for an extension for us to become in compliance with that transition plan. So we just to let you know, we might be seeking your assistance to coming down here to give us an update on those projects because I would think that they would go to you as well.

Ms. Wai: Yes.

Ms. Iseri-Carvalho: You will have some overview of those changes?

Ms. Wai: Correct. We did look at the transition plan when it was first created and we did have a significant amount of input. We provided that to the ADA Coordinator. I am aware that the County did hire a consultant at the time that the transition plan was created. The idea behind the transition plan was that those buildings and facilities that were in existence prior to the transition plan needed to be brought into compliance and that the transition plan would then guide the County as to where to put its resources. In addition, the transition plan was really an existing facility assessment. When the County builds a new building or decides to undergo a renovation of a project, an alternation of a facility, that is not a transition plan project, those would come to our office as well for review and comment. So there is really three (3) levels of plans. There is new construction, there is alternation that is not transition plan and then there is a transition plan project.

Ms. Iseri-Carvalho: So we will definitely go through that. We are in budget time and I don't recall seeing a humongous budget for our ADA compliance, but do know that there are numerous outstanding compliance issues that we have yet to comply with, so that would be the time to get an update, so we would be able to at least allocate our resources accordingly to become in compliance. So we will definitely be calling you for your expertise in the matter. Again, thank you so much and I know that you have another meeting that you flew down here, so I appreciate because it was such on a short notice.

Ms. Wai: That is fine.

Ms. Iseri-Carvalho: You really educated all of us here.

Ms. Wai: If you would like me to answer any questions specifically about the outdoor recreation guideline recommendations, I can do that since I am here. Sort of take advantage of the fact that I am here. These are a Federal Committee from the U.S. Access Board and 27 individuals from across the United States put the recommendations together. I was one of the 27, so I do have the expertise to provide input on what was recommended for trails and campsites and picnic grounds. So if you have any questions, I am here.

Ms. Iseri-Carvalho: And I guess it just brings back, again, the irony and that we have somebody right in our back yard to consult regarding these outdoor campsites, etc. and we never took advantage of it, so now we've got these extremely high cost that we have to overcome in order to become in compliance. I did talk to Bill Botten and he was highly praised (inaudible) serving on that committee to do the upward guidelines and had given us some information to contact you. So definitely, we will get the commitment which I think I've already gotten from the Director of Parks & Recreations that any and all projects that come through the

County will have the proper review process especially by the expertise that you have in the outdoor area, so thank you.

Mr. Bynum: And other questions?

Mr. Rapozo: I have a couple specifics now that you... thank you for that. I do have just a couple that I have just learned in the last few days. Number 1 is that firm and stable, and in your office's opinion, sand is not a firm and stable surface?

Ms. Wai: Yes.

Mr. Rapozo: Okay, thank you. So regardless of what any other consultant says, when it comes to you...

Ms. Wai: We would not accept that.

Mr. Rapozo: Thank you. That is number one. The second is signage and I am sorry, I apologize, I had to walk out and I don't know if anybody discussed the signage as far as accessible parking, accessible sites, what is... is that something that you would...

Ms. Wai: Yes.

Mr. Rapozo: Okay, what is the requirement? Do we need to post accessible signs for both parking and sites?

Ms. Wai: Um...

Mr. Rapozo: And if you need time, that is fine. It is not fair for me to just pop these things on you.

Ms. Wai: Yes, but let me qualify that. If you are talking about, let's say, parking first of all, you have... I might as well use this as an example because I have the drawings in front of me. For the Lydgate parking area, you have a general parking area with unassigned parking and then you have individual campsites of which some of them, but not all of them have a parking stall that is... or a parking area that is adjacent to them. So for the purposes of signage, you have a requirement for parking and you have accessible stalls which are part of the general area. Those need to be appropriately signed with requirements for both ADAAG and Federal law. Excuse me, ADAAG and State law.

Mr. Rapozo: Alright.

Ms. Wai: Then you have some parking spaces that are with the individual sites, okay? You can treat those parking stalls, the parking areas not as a stall that anybody could park at, but you can treat it as an amenity to the campsite. So depending upon how you actually manage the park, that will dictate how you sign it

because there is a requirement to have a campsite be designated as an accessible campsite, but let's say that you have a picnic table there and you've a spigot and you got barbeque pits, all of those have to be accessible because they are attached to the campsite, but you don't have to put signage because the whole campsite is accessible.

Mr. Rapozo: Exactly.

Ms. Wai: So you can designate the campsite as accessible and then the parking area could be an amenity to the campsite provided that you are only allowed to go into that campsite by a permit system that controls or regulates who is there, otherwise, you might have the situation where a person thinking that they see an accessible parking sign if they have a permit, but they don't want to camp, but they just want to be there, they would park there, so a lot of it depends on how you operationalize it. So to some extent, my answer is, yes, but it depends. So in this situation, I know that there are a lot of concern and I read through all of the minutes from the last MACFEA meeting about people without disabilities parking because it is a nice place to park. There is the bridge and why not or you have even people with disabilities who aren't, who say, oh, there is reserved parking space, I'll park there. If you want to control that, one way of doing that would be to regulate the campsite, make sure that there is a sign that says, this parking area is reserved for individuals who have reserved this campsite, then you don't have to...

Mr. Furfaro: Quite frankly, we had that discussion a year ago because as you take a reservation for specific ADA compliant campsite, you need to make sure that it is disclosed that someone with a disability will actually be assigned to an ADA compliant facility. Therefore, we probably want to have an adjacent that meets the requirement and adjacent parking stall that needs to... that is assigned to that particular campsite. So the whole reservation is complete and then on the other side, we probably need additional ADA sites to meet the minimum requirement of the entire campsite area being in compliance.

Ms. Wai: Yes, because you want these three (3) campsites to be sort of a package deal. The Department of Justice ADA rules, not the design rules, would also permit you to set up a reservation system which, for instance, at a reasonable amount of time, 24 to 72 hours if the campsite is not reserved by a person with a disability, then you can then open up...

Mr. Furfaro: It could be open to others.

Ms. Wai: Right.

Mr. Furfaro: We had that discussion and I just wanted to share that with you.

Mr. Bynum: So in this instance, that reasonable amount of time, 72 hours...

Ms. Wai: I think that what you want to do is look at a pattern of how quickly the campsite fills up. Now, obviously, you don't have any real history about that because you are not being used yet, but if you find that you are letting the general public reserve five (5) months in advance, you might... that they are all booked up four (4) months and a half before every weekend because people will just adjust their behavior to reserve it as quickly as they can. Really, you have to allow a reasonable amount of time, but certainly, you would have to ensure that all the other campsites had been filled.

Mr. Bynum: Perhaps, I definitely want us to use the services that you are providing and perhaps you can review our current language because what it says now, I believe... we reserve one site period. The other two (2) sites, if they are not permitted by a person with a disability at a certain timeframe, they become available. I understand your answer about the parking that we have accessible sites available and so the signage at these particular sites can say, this site is reserved for the permit holder of the site and that way, we were in compliance because we want to make sure that when a person with a disability uses that site, they have that available. Because you asked... I want to ask about picnic tables because I looked at the design guidelines yesterday with Christina and there are various kinds apparently of picnic tables that are accessible and some of them have an overhang that hangs out, others have benches the full length, but they have accommodations on the ends, so there are different types that can be compliant, right?

Ms. Wai: Yes.

Mr. Bynum: So what is important is not which type of pick, but that it meets the guidelines, but I think some people were concerned... I don't see an overhang on that table because I know, in the past, when we purchased some tables, there were two (2) versions. One had the legs farther out to the end and one had the legs more in, so there was access from the ends.

Ms. Wai: Correct.

Mr. Bynum: So I know part of this process has to look specifically at those tables that are there and make sure that they are compliant. Other questions for Ms. Wai? I really want to thank you for coming here today.

Ms. Wai: You're welcome.

Mr. Bynum: And I want to say that it is our intention, I know, that the County submit their drawings in advance, get review prior to construction, that it didn't occur in this instance unacceptable and I appreciate your willingness to come here and work with us to try to resolve... to make sure that the sites that we've built meet... because our intent is to meet the guidelines. I thought of one other technical thing. Later today, I am going to show some pictures of campsites from

around the country that have the raised pads and we have been in long dialogue with MACFEA group about, you know, and understanding that people with disabilities have a number of different needs. We actually removed one of those sites, so we have accessible site that has, you know, that is at ground level and two (2) that have raised pads.

Ms. Wai: Correct.

Mr. Bynum: And our intention, I think, is to see how that goes and then make modifications based on usage. The raised sites are intended for transfers, so we don't require a ramp up that?

Ms. Wai: Correct. They don't require... as I said, there are various designs, but they do not require a ramp. They were intended so that a person could transfer. I think one thing that we recognized at the Federal level is that just as you have the general population recreating in different ways, people with disabilities don't all camp the same way. Some people have... prefer to take a tent that has... that can accommodate eight (8) people and some people have a pop tent and some people can get out of the chair to the ground, some people can transfer off their chair. It is probably impossible to come up with any one design that will meet everybody's need. Certainly, if you had only one accessible, you would be hard pressed to come up with one that works. Since you have three (3) sites, you have a little bit of flexibility in making them meet various needs and that really is the whole purpose of your Mayor's Advisory Committee to say that we'd like one raised, two (2) on the ground, we'd like... you know, because we have more people here who would prefer group camping or single camping... there is no one size fits all. There is not even one standard tent size that we could look at.

Mr. Bynum: Right, so I know that in the discussions in the past and then on the National Center for Accessibility website, it talks about some of these sites having sand or dirt or grass when they have a surface all the way around.

Ms. Wai: Correct.

Mr. Bynum: But our intent here as I understand it, is to put the appropriate surface on all three (3) campsites that is stable and (inaudible).

Ms. Iseri-Carvalho: No.

Ms. Wai: No, not... the ADAAG guidelines for a building are firm, stable and slip resistant, but for outdoor, you don't have to be slip resistant, just firm and stable because of the issue of weather.

Mr. Furfaro: You know, maybe we should have Bernard Carvalho from Parks answer that question Mr. Bynum.

Mr. Bynum: Thank you very much.

Ms. Iseri-Carvalho: Thank you again Francine. Also, Francine, thank your staff because I've talked to them several times and they have been more than helpful in providing all the information on the Kaua'i projects and have worked really hard and diligent to get that information to us. Thank you.

Ms. Wai: And we will log this in, I guess.

Mr. Furfaro: Are you giving us the copy of the outdoor recreational standards that you work on? Oh, we got it. Thank you very much. Someone got it. Thank you.

Mr. Bynum: Councilmember Iseri-Carvalho, did you want to do your presentation now or...

Ms. Iseri-Carvalho: No, we can take public testimony, that is fine. Peter is not finished with it yet.

Mr. Furfaro: Mr. Chair, are we not going to have Bernard come up? Wouldn't it be appropriate to have the Director of Parks & Recreation?

Mr. Bynum: Thanks for supplying lots of material.

BERNARD CARVALHO, JR., PARKS & RECREATION DIRECTOR: You're welcome. Good morning Councilmembers, Bernard Carvalho, Director of Parks & Recreation. I have provided a packet for all of you that answers the questions that originated from Councilmember Iseri-Carvalho and it is in the packet as well. It is dated January 20, 2006. There are 11 questions there that was handed to me from Councilmember Iseri-Carvalho. We attempted to answer the questions, however, through our discussions, we needed to make a determination or decision on whether to open up the campsite with all... with access to all facilities there. At that time, the actual pavilion area was not accessible, so I just wanted to clarify that. The reason for us wanting to address these questions were there. It just that we needed to address some other concerns that happened as well. So with the pavilion part, our Kamalani Group was going to address some of those accessibility issues, therefore, we held off and we are here today. I did... before we begin into the packet, I did, on my own, extensive research on this entire piece. It is obvious to me, as the Director of Parks & Recreation, the process was not followed in many of the areas. I have talked to the National Access Board, to ADAAG, people from ADAAG, I've talked to DCAB and so on. So I have had conversations with various levels of people who oversee this entire type of project. What you have before you is, first of all, a map that gives you the entire layout of the Wailua campsite. If you note, campsites 1, 2 and 3 are the sites that we are pretty much talking about right now. I wanted to have that for your review as we go through this presentation. Each of the questions have a tab, so you can follow along as we go through each of the 11 questions. The first question that we have is, the verification that the designation of one ADA compliant site out of the 31 campsite is legal. As you can see in that

first tab, number 1, it states that under the Federal Access Board's recreation and regulatory negotiation's committee's final report dated 1999. It states that 26 to 50 camp spaces would require three (3) accessible camping sites. We have a total of 31 campsites and we have three (3) ADA campsites, so we are in compliance with that piece for that particular question.

Ms. Iseri-Carvalho: With the amount?

Mr. Carvalho: With the amount.

Ms. Iseri-Carvalho: Yes, but the substance of what is there has is not in compliance.

Mr. Carvalho: No.

Ms. Iseri-Carvalho: Okay.

Mr. Carvalho: And I just want to go through each question if that is okay and you can reference and ask questions as we go along.

Chair Asing: Bernard, I noticed in one, on the very top of the page, you have surface and the surface of the clear space required to comply with 16.15.2 shall be stable and firm.

Mr. Carvalho: Yes.

Chair Asing: And I highlighted stable and firm, so it is not so it does comply?

Mr. Carvalho: No.

Chair Asing: Thank you.

Mr. Carvalho: Number 2: the list of ADA concerns raised by the Mayor's Advisory Council...

Mr. Rapozo: Mr. Chair, can I just get clarification on the map? This is the most current Bernard?

Mr. Carvalho: This is the most current map that we have, yes.

Mr. Rapozo: Like on tab 8, that drawing shows the original design, the original layout and I am just... DCAB is still here and I would assume that she has the current, accurate drawings.

Mr. Carvalho: Whatever was submitted as of April 12, 2007 is the most recent map that I have and that I have submitted to DCAB in follow up.

Mr. Rapozo: You did?

Mr. Carvalho: I did.

Mr. Rapozo: And this is the map that has been submitted to DCAB? This colored...

Mr. Carvalho: No, no, no. Not the colored map, but the plans.

Mr. Rapozo: I just want to make sure that the one went across because what we see in tab 8 is, you are showing the four (4).

Mr. Bynum: Those were revised.

Mr. Carvalho: Okay, let me go through the entire packet and then I can explain.

Mr. Rapozo: No, I got it now. Thank you. I just wanted to make sure this was the current...

Mr. Carvalho: Again, number 2 is a list of ADA concerns raised by the Mayor's Advisory Council and the actions taken by the Building Division to address these concerns. So in tab number 2, you see that there is a communication dated June 23, 2004 to our Mayor Baptiste from MACFEA which is the Mayor's Advisory For Equal Access. In this communication, the members met... I guess the Building Division actually went before the committee and in this particular communication, it states that they would prefer that one of the three (3) raised pads... one of them be removed from the particular... of the three (3) and that they would have a recreation agency monitor the remaining two (2) pads. There was discussion on the surface... there is a difference between the tent pad surface and the tent platform surface. So the tent pad surface needs to be 48" wide and firm and stable. There are also... the platform surface as well needed to be firm and stable, but what happened was when our division went into... before MACFEA, MACFEA... the pads were already done, so when they came in, they tried to work closely with MACFEA to see if they would allow those two (2) pads to remain as is. So the Recreation Agency and I am just going based upon what is written here. The Recreation Agency was to monitor those two (2) pads and that is where it left off with that piece.

Ms. Iseri-Carvalho: Bernard, I just wanted to update that that was a... well, that was a single recommendation that was discussed at that time at that meeting that those discussions took place after they had already been built, number 1. Number 2, was that subsequent to that, there was a site visit that was set with the MACFEA members and they had actually gone out to the site which we will be showing a video later on, but they actually went out to the site to actually experience the facilities that had been built without their consultation. There were

numerous other recommendations that the MACFEA board came up with and they were presented at their board meeting yesterday which we attended and accepted in their minutes at that time... they will come up for acceptance of their minutes, but we have been provided by MACFEA on the recommendation. The additional recommendations besides the one in 2004. So there are additional recommendations that will also be reviewed by DCAB to see if it is within the compliance of the State and Federal regulations.

Mr. Carvalho: So that is the communication that came from that particular meeting. In tab number 3, copies of the Mayor's Advisory Council meeting minutes regarding the concerns, and, again, see attached minutes dated May 18, 2004 for your review. I'm not going to read all the minutes, but it is there of that particular meeting. Again, I am just going over the questions that was asked of me. Number 4, the architects varied interpretation of the ADA rules relative to Ms. Pilkington's interpretation. Ms. Pilkington did make her recommendations and her interpretation and from what I got from Mr. Grimes who was the architect... his interpretation that there were no relevant rules for varied interpretations and that is basically what he said. But from my research that I did, there were numerous other types of interpretations out there and guidelines. Through the National Access Board down to that outdoor recreation committee, down to DCAB, there is a process in place that I've learned that needs to be followed. That would be the recommended route to go if you will if I had to do this particular project. There are other interpretations throughout the country. I talked to Mr. Bloomer who sat on the same committee as Ms. Wai. We had a lengthy discussion on what his interpretation was of this particular project that we discussed. So what I am saying is that although there are other types of recommendation, guidelines, interpretations, the process that I feel needed to be followed was directly from the National Board down to the outdoor recreation committee and so on because it is all there, it all follows in line and the bottom line is, in that particular process, there is the surface of platform should be firm and stable. That was one of the issues there.

In item number 5, the County Attorney's opinion in the interpretation of the ADA guidelines that are in dispute.

Ms. Iseri-Carvalho: With respect to 5, Bernard, I have since... because we have since gotten a new County Attorney and I spoke with him earlier this morning and he is requesting two (2) weeks to provide a written response, so we can move onto the next question.

Mr. Carvalho: Okay. Number 6, the name of the individuals or the organization who the architect consulted with and relied on in the building of the ADA campsites and here I have the two (2) people: Mr. Doug Matson who was the outdoor recreation planner and accessibility coordinator for Yellow Stone National Park. The information is there for your review. The other person is Mr. Ray Bloomer who I talked to myself from the National Center on Accessibility, the University of Indiana and he too sat on the committee, I believe, with Ms. Wai as

well as they addressed the outdoor guidelines that were set forth through the access board. So I spoke with only Mr. Bloomer and, again, in my conversations with him, pretty much in line with what Ms. Wai had said as far as tent size, the dimensions of the pad, the difference between the tent pad and the tent platform pad and the surface that needs to be firm and stable. Both areas need to be firm and stable and so on, so, he too, also provided me with information on the type of material that we will use to actually allow proper seepage, you know when you build these tent pads. It is just not a hard surface, but there is a seepage issues and, of course, firm and stable part as well. So Mr. Bloomer was really helpful in answering some of my questions. So those are the two (2) people that the architect worked with.

Ms. Iseri-Carvalho: Bernard, I have a question. Bernard, here, you have a statement that Mr. Bloomer encouraged the installation of raised tent platforms, but you also had subsequent to you preparing this, a conversation with Bill Botten.

Mr. Carvalho: Yes.

Ms. Iseri-Carvalho: From the Federal Access Board.

Mr. Carvalho: Yes, for the technical assistance office over at the National Board.

Ms. Iseri-Carvalho: In Washington D.C. and, in fact, his requirement was basically to... because of the maintenance issues, etc. and the type of material that you would need and the different type of topography or environment that we have here that the raised platforms are not necessary. If you just had a flat, that would suffice.

Mr. Carvalho: Correct. That was his... my discussion with him that the two (2) raised platforms... I mean, it is not a requirement. In his, he also is a person in a wheelchair that I found out. I am talking to him on the phone and, of course, he wants to visit as well, but he, too, and he gave me some good input on, you know, thinking about when you put up a tent... his thinking is, you cannot roll your wheelchair into the tent versus having it sit outside the tent platform. So there is that kinds of discussions that took place. He also said that, you know, it is good to provide the best variety of opportunities for persons with disabilities. To me, like I said at our MACFEA meeting, it is providing the best experience for everybody whether you have a disability or not. So with that, that was part of the discussion with Mr. Botten from Washington D.C. It was very helpful as far as getting the information from him.

Number 7 is the cost to build and remove the platform associated with the campsite that was not in compliance with ADA. I did attach in tab number 7, a copy of the change order and I know that Councilmember Rapozo is requesting the other 8... this is work order number 9, change order number 9 and it is there for your review. The numbers are there and we are researching it as we speak to see if

we can get those 8 other change order documents for your review here and I am hoping to get that soon.

Mr. Bynum: So Bernard, these... this particular change order that you provided is specific to the ADA campsites and the total change order cost is for the entire project (bikepath and...). Is that correct?

Mr. Furfaro: It is the \$243,000, plus the new change order.

Ms. Iseri-Carvalho: Do we know what those change orders are?

Mr. Carvalho: You know, I need to really... that is one of the areas that just came up.

Mr. Bynum: This was part of the Lydgate Park bike and pedestrian path. The same contractor built the whole path system.

Mr. Carvalho: Right.

Mr. Bynum: And part of that was the three (3) campsites.

Mr. Carvalho: The proposed work items (inaudible) funded by the County funds only. Again, I am trying to get the breakdown of the... maybe the other ones could help us get a better idea.

Mr. Rapozo: It is real interesting if you look at the next page which is the cost proposal.

Mr. Carvalho: And then the next page is the cost.

Mr. Rapozo: If you look on the bottom, hand written in there and I think it is by Doug Haigh. Okay, Doug Haigh, to be funded with County CIP, not bikepath money, not... this was CIP funds and I don't think it is an unreasonable request for the Finance Department, Purchasing, I don't care who, somebody should have a file with this contract. Somebody should have a file with 9 change orders in there and I haven't gotten it yet. I am not blaming you Bernard because it is out of your hands, this is not Parks & Rec, this is Finance, this is Fiscal, this is Purchasing, I don't know and I know they are listening. I am going to say it one more time, it better be here before we take a lunch break or there are going to be some issues. This is a huge project and I am asking for change orders which is public record. We have FAX machines all over the place, e-mail, high tech and I cannot get simple... like Jay always says, this is not an RSVP, send the thing. Thank you.

Mr. Carvalho: So are there any other questions on that?

Mr. Rapozo: I will have questions when we get the material that was asked for yesterday. Thank you.

Mr. Carvalho: Number 8. This is the one, the entire campsite plans that were sent to DCAB and their response including the clean document review. You have in tab number 8... I think Ms. Wai also referenced this. What happened was, on March 7, 2003, DCAB sent over to our Building Division per Mr. Ben Gorospe his recommendations or his changes that needed to be made on our end. What happened was, that document was sent to Mr. Merle Grimes who was the architect at that time. He reviewed the document, he responded back on March 26, 2003 with whatever revisions that needed to be made. This is the document that was not forwarded over to DCAB whether it be for the final review or conceptual review, I am not sure. All I know is that the first document that we go back was on a conceptual review, there was no final review, so when I got a hold of these documents in attempt to not just rush things through, but to follow through on where this left off. I did speak with Mona from DCAB both with... of course, Christina has been along the way as well working closely with Christina on some of the follow up questions. So this document is a document that we sent over, as you turn the next page. On April 12, 2007 which was last week, we sent this... a communication along with the plans. Now, with this submittal, if you look at... dated May 12, it does show that compacted fill for firm and stable surface. It is on the upper right corner.

Mr. Rapozo: Bernard, what tab are you on? I am on tab 8, but...

Mr. Carvalho: Go to tab 8 and if you go through your document, go to March 26, 2003 document, revised draft.

Mr. Rapozo: Did you just mention that you sent something over in April?

Mr. Carvalho: Yes, and then the next page right after that, H.R.S. 103-50, document transmittal form. It is attention Ben Gorospe, however, it is my understanding and Mr. Gorospe is no longer with DCAB, so that is why we are working with Ms. Mona. She is the person there now and that is why you have Ben Gorospe/Mona Higa. We weren't sure what the... So in this document, this is the face transmittal form that needs to be sent and to this you attach whatever documents to DCAB and they do the review. So we took that Merle Grime's review and I anticipated that we would get some kind of response... not anticipated, but I knew we were going to get responses from the MACFEA group, but we said, we will just go ahead and submit this and should there be any changes and this is per my communication with Christina and Mona that we could go back and submit whatever else we needed to do. So I am just saying that we did submit this on April 12. If any change was done on April 12 was to indicate that the platform surface be firm and stable and that is in this April 12 review. Now Ms. Wai folks are still reviewing obviously, so they need time and what we were going to do is also submit the recommendations from the MACFEA group and have them... DCAB review that as well. I am going to go over that shortly. So, again, that is in reference to number 8, question number 8.

Mr. Furfaro: Bernard, I am a little confused on a couple of items here if I could get some clarification. In tab 8, we are looking at some correspondence that came back from the disabilities communications access board.

Mr. Carvalho: Correct.

Mr. Furfaro: In their communication, they are telling us, of the 25 campsites are counted, only two (2) campsites are required to be accessible. First of all, if you take that paragraph and you identify that they put two (2), on the maps, we design four (4).

Mr. Carvalho: Three (3).

Mr. Furfaro: The map shows four (4).

Mr. Carvalho: The first one, yes, I am sorry.

Mr. Furfaro: And in that one, we are showing two (2) of them with a solid foundation and two (2) of them with the sand foundation. Was there any dialogue before we went to change, you know, why the numbers were different and, you know, it looks like at one point, they were only requiring two (2) to be a solid surface. We were going to add four (4) as the total. Was there any...

Mr. Carvalho: You have to remember now, the difference between the tent pad surface which is a four (4) foot pad around the platform. That is obvious that it needs to be firm and stable. When you talk platform surface, that is different and no matter what platform whether it be 4, 5, 6, or 2, it will still sand and that was the issue. The 3, if you go back to the original number 1 question, it shows the formula... I think it was...

Mr. Furfaro: Yes, I saw the formula, but what I am saying, in their mind, at one point, they were only requiring two (2) to have a firm foundation and that might be where some of the confusion came from. That is all that I want to point out.

Mr. Rapozo: On your map that you are looking at, I don't know, I am looking at that same four (4) pads and they are mentioning all four (4) sand filled unless I have a different one. The four (4) of them are showing on the map for sand filled tent pad.

Mr. Carvalho: I am sorry, are you looking at communication March 7 (change tape)...

Mr. Rapozo: But DCAB must have received something from us to generate this March 7 response.

Mr. Bynum: I don't know where the cover letter is, but they received these, the original design. We are going to need a caption break and a lunch break soon.

Mr. Furfaro: Maybe we should try and finish the last three (3) questions real quick.

Mr. Carvalho: So Councilmember Rapozo, so you are saying what was submitted prior to March 7?

Mr. Rapozo: Yes, what did we submit to DCAB that generated the March 7 response? We must have sent something over.

Mr. Carvalho: Well, I would think we would have sent these plans to be reviewed, but then...

Mr. Rapozo: I would hope, but I don't have... in this packet, there is no record of our initial request for DCAB to review our plans. I don't think you just FAX them these plans, right? There has to be a letter or something that... so is there any record of that in the file?

Mr. Carvalho: I do not have that. All I have is...

Mr. Rapozo: Maybe we can get it from DCAB.

Mr. Carvalho: Response from DCAB.

Mr. Rapozo: I can talk to her on the break.

Mr. Bynum: And I think we need a caption break and we may as well break for lunch and it will be until 1:10 p.m.

There being no objections, the Committee recessed at 12:05 p.m.

The meeting was called back to order at 1:11 p.m., and proceeded as follows:

Mr. Bynum: Bernard?

There being no objections, the rules were suspended.

Mr. Carvalho: Okay, once again, Bernard Carvalho, Director of Parks & Recreation. I believe we left off on number 9, question number 9. Again, I wanted to make mention that in this communication once again dated March 7, this is the communication that came back from DCAB. We, the County, submitted that over to the architect which is Merle Grimes and he submitted his responses to DCAB's request and you can see in your packet, we received that on March 26.

Then from March 26, we submitted from... I did, from myself here on April 12 and that is where we left off. So on the April 12 submittal as Ms. Wai said earlier and she was kind of going over it briefly and that included the firm and stable surface in this most recent submittal. Now, the following, our MACFEA meeting held yesterday, I did say that we were going to submit MACFEA's recommendation to DCAB as well, so they can look over that recommendation and see how it will fit into this particular review. Questions?

Mr. Bynum: Councilmember Iseri-Carvalho?

Ms. Iseri-Carvalho: Bernard, who was the initial architect on the project? The pavilions we talking about.

Mr. Carvalho: No, no, we are talking about question number 9.

Ms. Iseri-Carvalho: Yes, it says improvements to the pavilion.

Mr. Bynum: You were talking about number 8.

Mr. Carvalho: I am sorry.

Mr. Bynum: You haven't quite got to 9 yet.

Ms. Iseri-Carvalho: I know you said 9, so that is why I looked at, but you back on 8?

Mr. Carvalho: That is where we left off on number 8. So the final on that was that we did submit on April 12 the plans which included firm and stable surface for the tent platform, so that is where it left off. We can move onto number 9.

Ms. Iseri-Carvalho: Bernard, I will make a statement here, but I also have like a PowerPoint presentation to confirm that, in fact, there were representations made by Doug Haigh, your Buildings Division... you know what, I am not even sure what his title is. What is his title?

Mr. Carvalho: I believe he is Building Chief or Chief of Buildings.

Ms. Iseri-Carvalho: That represented to us and I will put that on a slide back at the minutes of January 19, 2006 that you may have been in the audience because you come up to testify at some point. He indicates that there was... the campsite plans were reviewed by DCAB, that DCAB did, in fact, give their approval and they also give their approval that there was a final document review. So that is contained in the minutes, but your response is different and, of course, and that differs from the testimony that was presented by Francine Wai of DCAB.

Mr. Carvalho: Correct.

Ms. Iseri-Carvalho: Who said that there was no review, final review that was given.

Mr. Carvalho: No final review.

Ms. Iseri-Carvalho: In fact, the last documents that had been submitted was in 2003 until the recent ones which you submitted after we had our discussion on April 12, 2007. Thank you.

Mr. Carvalho: Question number 9. The anticipated timeframe that improvements to the pavilion will be completed to become ADA compliant. The cost of the improvements and the source of payment for those costs. I did mention in my opening remarks that this particular pavilion as you all know, unfortunately, burned down for whatever reason and prior to that, there was... we did come before you, the Council, and they were working... the Kamalani group were going to work on doing the corrections that needed to be made for accessibility into the pavilion. So the plans that you have before you in tab number 9 dated June 7, 2006. Now we are talking specifically for the Kamalani pavilion, ADA improvements. In this particular document dated June 7 to the County of Kaua'i, Public Works from DCAB. This was their review of the plans that needed to be done for the pavilion. As you can see on page 2, it list the different findings from DCAB, so with that, the next letter of transmittal is dated October 17. So from this particular document dated June 7, we responded or Building Division responded and received the response back on October 17, the document review. And I need to clarify that from what I see here and what I read is not a final review, but a response that we received from DCAB on October 17.

Ms. Iseri-Carvalho: Okay, and I have a question Bernard. Who was the consultant prior to this plans being submitted because I have, on June 29, 2006...

Mr. Carvalho: June 29?

Ms. Iseri-Carvalho: Before, yes. That was the plans that were recently submitted?

Mr. Carvalho: Correct.

Ms. Iseri-Carvalho: Okay, so prior to that time and the reason why I bring up this question is that there is a statement made by Doug Haigh on January 19, on page 19 of the minutes, it says, Mr. Haigh... because we are asking, did you submit, eventually, to DCAB an amendment to be ADA compliant. And Mr. Haigh says, we did and that is where the problem has occurred in getting the architect who did the drawings to get a set that would be in a state ready to be approved by DCAB. So I am confused because the project had already been completed at this time, so I don't know why they would not have a set that, you know, they could review, but... and then it says, it has been a very frustrating chore to try to get that

done. We now have a commitment for another architect to do the work and finish it up. We did not have a contractual relationship with the first architect, so I don't know who this architect, so the County has no contractual leverage to force him to do what should be done. So, now, the Friends of Kamalani are looking at hiring another architect to clean up the documents enough to send it back to DCAB and make note of all the corrections that were identified. So, one, we need to find out who was the initial architect. Number 2, there is some concern... how is a person who is working on a County project that has insurance that is funded by the County, how is that person able to do work on a County facility without even entering into a contract with the County.

Thirdly, you know, who had submitted the funds in order to hire the second architect to actually submit the plans. Is it coming out of CIP budget, is it coming out of Friends of Kamalani budget, is it coming out of the County budget because that does not appear to be clear here. Clearly, I think this is illegal, basically, for people to be entering into contracts (inaudible) build on County property... not entering into contracts, hiring people or doing the work and there is no contractual relationship with the party. So how do we certify that that person is even licensed, how do we even certify that that person knows what he is doing and in this case, we know he didn't know what he was doing because the thing wasn't even compliant. No wheelchair could even fit through the pavilion, so there is some concern as to how these people are selected to do the work and who is actually the Project Manager that is overseeing these facilities. Bernard, I am sorry, because it is not really you, it is Mr. Haigh, but Mr. Haigh is on vacation and it is not...

Mr. Carvalho: I mean, as far as any... the architect that I am aware of in my research in this project was Mr. Merle Grimes and that is the only...

Ms. Iseri-Carvalho: Yes, except Bernard, try look on the plans, the one that you gave us on 2007. It says, architect Rafal Cholodzinski which I...

Mr. Carvalho: Okay, so Rafal... Rafal was actually hired by the County.

Mr. Furfaro: Is he a County employee?

Mr. Carvalho: Yes.

Mr. Furfaro: So did the project use a County employee for...

Mr. Carvalho: Can I look into this part? I mean, I understand what you are saying, the response I have to the questions that were posed is here. If we have to do further research quickly I can.

Ms. Iseri-Carvalho: No, because, you know, right now, this renders everything moot because the pavilion burned down, so there is going to be a whole new plans and whole new process that we would have to go through anyway because it will be treated as a new construction as what was told to us by Francine

Wai. So that point is moot Bernard and the only reason why I bring it is because there were representations that were made back on the 19th that totally conflict with the answers that were provided today.

Mr. Carvalho: Okay.

Mr. Bynum: Councilmember Furfaro?

Mr. Furfaro: Yes, so Bernard, and I want to make myself really clear in this project for the pavilion. If you recall, it was one of the first questions that I asked of Tom. Was, in fact, the architect under contract to the County and I kind of heard he was, but that could be done in various ways. It is not impossible that somebody would offer their expertise, but, yet, have plans stamped by others. It is possible, but I want to just get back here in following... it looks like the plans of the pavilion if I am following this... on the ADA pavilion, back in June, there was some issues that had not been resolved and we did get from disabilities and communication access board, a communication saying that, you know, there... shortcomings, but then it is rather confusing because it indicates to me that this was corrected by October when you read the correspondence dated October 17. It says, as submitted, the documents review appear to meet the Americans with Disabilities Act Accessibility Guidelines, ta-da, ta-da, ta-da... meeting other applicable design standards as required by Hawai'i Revised Statutes. The above constitutes a review and recommendation on this project and then it goes onto say, but at the end of the day, it is the State or the County agency who oversee the project who make sure that things are built according to the standards. But it looks like on October 2006, these people basically, for the pavilion said, you know, the corrections you made from June are not accepted. They meet the minimum requirements. That is what this correspondence says.

Mr. Carvalho: Okay.

Mr. Furfaro: And it says, you know, now you really need to police your own (inaudible)... make sure that what we build conforms to what you said was corrected.

Mr. Carvalho: That was the review by DCAB.

Mr. Furfaro: Yes, by Curtis Motoyama.

Mr. Carvalho: And it is a document review and I am not sure... I would think that you need a final review as well.

Mr. Furfaro: It is not sure, that is the whole issue here. Mr. Doug says to us that there is a final process. I asked Ms. Wai here and she indicated, well, they don't send a final inspector, you know. What is the process? I mean...

Mr. Bynum: Can we qualify...

Mr. Furfaro: Could you let me finish this question of Bernard and then he can call up somebody. I am directing this at the Parks & Recreation people because what we have here is we have basically three (3) pavilions that don't make the standard. It has been 13 or 14 months that if we knew what needed to be corrected, we could send all of our energies there to correct these. The fact of the matter is, we can't open the park with it not being compliant for everyone, so everyone suffers. We have three (3) pavilions that require to meet the minimum requirements... the campsites and, yet, it looks like we have a clean bill of health on the pavilions. We know what needs to be done on the campsites and, yet, we are not focusing all our energy here and there is no final inspection.

Mr. Carvalho: Yes, and, you know Councilmember Furfaro, it has been challenging and tedious to go through this entire piece to find... the bottom line is that there has been many flaws along the way, okay. Rather it be for the legal part of it, the process part, but the bottom line is, at the end of the day, what is the best product that we can give to the people.

Mr. Furfaro: Absolutely. How do we meet this requirement?

Mr. Carvalho: What I am trying to do here is... taking on the responsibility now and trying to gather as much information as I can to make a good decision on how to proceed. It is obvious that there are many things happening and flowing all over the place and everybody has all these different recommendations or terminologies or whatever it is, but the bottom line is, I am hoping that after further... after reviewing everything that I did that we can come up with a good solid piece that we can move forward on. That is all that it is at the end of the day.

Mr. Furfaro: I just want to make sure that you understand where I am coming from and the Chair understands where I am coming from of this Committee. There is no final stamp of approval from what I understand right now. Do you understand anything different from that?

Mr. Bynum: In order to get clarity.

Mr. Furfaro: I would like to ask the Director of Parks & Recreation that question. Do you understand that there is a final inspection?

Mr. Carvalho: I would hope that there be a final inspection to give us the direction that we need to say, yes, we are in compliance, yes, we meet the standards and not that it is left up to myself or anybody else to do. We need to get the direction set and I believe with the communication...

Mr. Furfaro: Let me ask you this. Is there anyone on your staff that can answer that question? I know you are pointing there Mr. Bynum, but he has

been sworn in as the Head of the Department. Is there anyone on your staff that can tell us?

Mr. Carvalho: The person that I would defer to would be obviously our ADA Coordinator who can take the lead in that question.

Mr. Furfaro: Could she join you on answering this question?

Mr. Carvalho: Sure.

Mr. Bynum: Thank you.

Mr. Furfaro: Mr. Bynum, I just want to say that we have been spending four (4) hours on this and this is what it boils down to. Is there a final inspection?

Mr. Bynum: I think Christina can give us clarity on that.

Mr. Furfaro: Very good. Also, what is holding us back from meeting the compliance and revisiting the work on three (3) of these pavilions... campsites.

CHRISTINA PILKINGTON, ADA COORDINATOR: Aloha, my name is Christina Pilkington and I am the County of Kaua'i Americans with Disabilities Act Coordinator. Councilmember Furfaro, I would like to tell you that the October 17, 2006 document review for the Kamalani pavilion, ADA improvements, this is a final document review.

Mr. Furfaro: Very good. That is what I read it as.

Ms. Pilkington: This can be interpreted as a final document review based on the designs that we gave them.

Mr. Furfaro: And you are going to police yourself on the construction?

Ms. Pilkington: Exactly. I would... I am very happy to go out and I do for many of our different divisions to go out, to look and do a final inspection to make sure that we are in compliance when I am asked. I mean, I don't just automatically do it.

Mr. Furfaro: And, Christina, would you say at this point, it would be prudent of us to basically feel, okay, since we have this letter dated October 17, we would go out and document the particulars on this building, photo the work, make sure that it is in compliance with the specifications driven and write a letter to the disabilities board and say to them, look, we feel that we have everything in place on this pavilion as kind of our confirmation to them. Wouldn't it be prudent of us?

Ms. Pilkington: Well, I think what we are really required to do is only send in the design plans. If they are going to rebuild this pavilion to meet the same design that they have that we have gotten a final review on, I would think that that would be satisfactory. However, I personally would like to review those documents because, initially, this pavilion, for whatever reasons, there wasn't... as I understood it, there wasn't a project manager and that is how some things were built in non-compliance. Once that came to their attention, they made the changes. Obviously, they submitted those design plans and got a final review, so I did not go out there after the final review, so I don't know.

Mr. Furfaro: Okay, but that is the way that I interpreted this letter. So the point that I want to make is if the Kamalani people decide now to rebuild this pavilion different, better, than what was approved, the reality, it may cause an additional delay and that is the only point that I want to make sure. If you have in this book, this piece that says on October 17, we've now reviewed all of your changes from June to October and you've corrected them. If we actually go back to rebuild a pavilion different and maybe better, we basically could delay the approval of this.

Ms. Pilkington: Well, it would take two (2) weeks for them... it usually takes them a maximum of two (2) weeks for the facility access unit at DCAB to review plans, so if they are going to build it different to this plan, it would need to be submitted. It would be considered new construction and it would be required to be submitted at which time they would call out anything that they see that is in non-compliance. I would be happy to attach anything to that to review it.

Mr. Furfaro: Christina, my point is only this that you have an approval here.

Ms. Pilkington: Uh huh.

Mr. Furfaro: Okay, and I am hearing in the community, well, we are rethinking this and rethinking... all that I want to point out to the community is, you rethink it, you add time to it.

Ms. Pilkington: You bet.

Mr. Furfaro: That is the only point that I am trying to make.

Ms. Pilkington: I understand.

Mr. Furfaro: And I am also trying to... you folks at the same time to saying, hey, it looks like you got to a point where people were satisfied and we just had to police ourselves.

Ms. Pilkington: That is true.

Mr. Furfaro: That is what this looks like to me. I am sorry, but we have been going three (3) hours on this and there are three (3) campsites that we should focus on to make sure that we meet the compliance piece and if you rethink this pavilion, just be aware that you may be adding time because there is a whole new review process.

Ms. Pilkington: Yes, you bet.

Mr. Furfaro: Thank you Mr. Chair and thank you for having some patience with me to get my point across.

Mr. Bynum: Councilmember Rapozo?

Mr. Rapozo: Thank you. Bernard, let me ask a real simple question. Who is in charge of this project? A name, a person in the County that is in charge of this project?

Mr. Carvalho: Right now?

Mr. Rapozo: Well, at this point. When we...

Mr. Carvalho: Right now, I am in charge of this project.

Mr. Furfaro: Very good Bernard.

Mr. Carvalho: It is my project and if anybody wants to talk about this, you come see me.

Mr. Furfaro: Very good.

Mr. Rapozo: Bernard, I can tell you that I have heard many comments about the Friends of Kamalani, about different groups, but the bottom line, this is a County project.

Mr. Carvalho: Yes.

Mr. Rapozo: Today, the County is going to eat the cost to make this right. We have to do that. The taxpayers have to do that, so I just want to know, through all of this, who... how come Christina wasn't part of this? How come her suggestions weren't heard? How come we didn't wait for a final review from DCAB? Isn't there any oversight by the County? We have obviously paid money. I see some of these change orders, so we have obviously spent taxpayers money, but I hope we are not doing that allowing a citizen's group with good intentions to do a project, but, yet, outside of the scope of our County oversight, I think that is ridiculous. I just want to know who is the person and I heard you just say you and I am glad. So, Bernard, what you are saying is that from today forward, everything goes through you?

Mr. Carvalho: Right, and I will work closely with the Kamalani group, our ADA Coordinator, DCAB, National Access Board, ADAAG, all of those agencies and entities that can allow us to move our projects forward and making sure that the process is followed.

Mr. Rapozo: That the law is followed because I think it is the law more than a policy. It is a law and we have violated the law again and this time, I still haven't received the change orders by the way. I don't know what happened. The copy machine must have broke or the FAX machine is broken. I am running out of patience. I asked for it before lunch and it hasn't gotten here. The last I heard, they were making copies, so I don't know. Maybe it is still Flinstone... the kind bedrock, I don't know, but it is frustrating because somebody is responsible. Somebody in this County is responsible for not making sure that these things were done. The other question as you talk about the insurance, the fire, is this a County asset? Is the pavilion a County asset? Is it on our... registered on our assets in order to even qualify for insurance? What is our deductible? Are the taxpayers going to be taxed again because of something like... I don't know and I am asking the questions because I haven't heard that answer and I know you brought up the fact that it burned and was it insured? Is it covered? Was it booked as a County asset?

Mr. Carvalho: It is my understanding that it was insured by the County.

Mr. Rapozo: By the County or Friends of Kamalani?

Mr. Carvalho: My understanding is by the County.

Mr. Rapozo: So is there a deductible? Do we have to pay?

Mr. Carvalho: There is a deductible.

Mr. Rapozo: Which is?

Mr. Carvalho: I believe it is roughly \$100,000, \$150,000.

Mr. Rapozo: And was there estimates of how much it is going to cost to replace?

Mr. Carvalho: I do have a timeline that I just received yesterday in fact from the Friends of Kamalani who provided this particular timeline that you have in your packet right now.

Mr. Rapozo: So, okay, so Friends of Kamalani going to be... they are going to construct this? What happens next? We go out to bid? Do we make sure that we have contractors that are licensed?

Mr. Carvalho: So if you are talking specifically about the pavilion, I really need to sit down with the key people at the table to get it straight.

Mr. Rapozo: Okay.

Mr. Carvalho: This is what we are going to do? This is when it is going to happen? This is what I need to do, this is when you need to submit your plans or whatever you need to submit regarding the rebuilding of this pavilion. The campsites is another issue that we are trying to settle.

Mr. Rapozo: That is tab 8. We are on tab 9. Right now, I am just focusing on tab 9 which is this pavilion. I guess this will be deferred I would assume, so we can get a follow up on the next...

Mr. Carvalho: I will assemble whoever needs to be at the table to address this.

Mr. Rapozo: I don't know. I think, we will see. From what I hear already, the issues... we have several questions that haven't been answered and I don't know how much time you would need to respond. Will two (2) weeks be sufficient for something like that?

Mr. Carvalho: I think we can do it in two (2) weeks. We will definitely try and...

Mr. Rapozo: Just remember Bernard, you are the Director, so you drive the train. You tell them what you need if they want these things built. I saw in a newsletter just recently that the plan is to put up three (3) pavilions in Lydgate, so that is something that I have never heard and I have to remind the public that is a County park. I really appreciate what the community wants to do, but we have to remember that stuff has to go through the County, through the Administration. We have to get you guys to say, this is what we are going to do in this masterplan of this park because that park doesn't belong to anybody, it belongs to the people. So when I read that, I am thinking, where am I going to put that. Who is paying and this whole ADA thing comes into play because if we don't do it right, we will be here three (3) years from now fixing what we didn't do right. I just want to make sure that... I think it is just a courtesy to the Council that we understand what the plan is because, you know, as Shaylene talked earlier, we are going through budget right now and there was no real money in there for any ADA improvements other than the curb cuts. So it is a real issue. It is a real issue that we need to address and by not meeting the requirements or the agreements that we have made, we failed, so that is kinds of why I think we should be in the loop because it is a funding issue and it is a lot of funding. It is funding that we need to prioritize over tennis courts at the stadium and so forth. I mean, we have to make sure that we take care of our obligations up front. So I just wanted to find out, who is in charge because I need to know who to go to when I have a question.

Mr. Carvalho: So you come to me Councilmember Rapozo. Thank you for your comments.

Mr. Rapozo: Finally.

Mr. Furfaro: May I just summarize what I think the Council is expecting here? Number 1, Bernard, the question is, in this ADA compliant park, first of all, we need to remember if the plan is different than what is being rebuilt, then it could add time to the actual review again on the ADA requirements. Secondly, not knowing the specific plans other than what is in the packet here. Since it was put on the County as a County asset, you may want to have discussions with the Mayor and so forth where the Friends of Kamalani may be looking at us to provide the cost of the materials for the rebuild and they provide the labor, but I think there needs to be some kind of understanding. If we are going to step forward to put forth the money for this great community volunteer project, there needs to be that request for the moneys because it is pretty clear to me that, you know, there is not going to be any money coming from the deductible on the insurance. I just want to kind of summarize that, but two (2) parts. Addressing the campsites in eight (8) is where a lot of attention needs to be, but all of these questions now come up as they are related to the unfortunate incident with the pavilion being burned down and maybe the County wants to step forward on some moneys for material and this is the perfect time to do it because from now until May 8, you know, we are going to be doing pluses and minuses on the budget. Thank you.

Mr. Carvalho: I'd like to also say thank you Christina for confirming that it is a final document review. I was actually looking for those words, final document review.

Mr. Furfaro: Well, that is what the letter says.

Mr. Carvalho: That is the interpretation, so that is good and I am hoping that with the camp pad site, we can get that very soon, so we can move forward with both sides (the pavilion and the camping site).

Mr. Furfaro: I will thank Christina as well. Thank you for answering that question.

Mr. Bynum: Bernard, a lot of questions got answered in the last few minutes and some of them are answerable, so it is my understanding... the Kamalani pavilion was originally designed by architect Bob Leathers. It was built as a community project and there was oversight from the County. In the process of that and we went through this last year. When the pavilion was built, there were problems particularly with the slopes and that had related to having when it was built not meeting the slopes. There was one area in the design, one area where there was not a sufficient width in the design, so those... those issues needed to be addressed, so the Friends of Kamalani because they were... built the pavilion under a contract with the County of Kaua'i under a grant, were responsible to resolve

those issues, so they are following through with their responsibility by engaging Rafal Cholodzinski to interact with DCAB and they went through the first review and the second review and Mr. Noyes has provided us with a timeline where they intend to resolve those slope issues because those are on the ground starting I think this week. So, you know, most of the ADA issues now that they have the design and they provided us a timeline and I think it is their intention to proceed to resolve those issues because the issues are on the ground. They are in the... resolvable... then we put in a question to Mr. Rezendes about the... during the budget hearings about the insurance and we are waiting to hear back. There is a deductible is my understanding and we are waiting to hear back on whether, you know, what, if, any, the insurance company will reimburse the County because of the loss of the structure. And then decisions have to be made about how the cover part is put back, but regardless of the cover, the slope issues and the ADA issues on the ground part which is still there, need to be resolved and now we have the plan with the final document review in order to proceed with that. Is that...

Mr. Carvalho: I will sit and meet with the Kamalani team and to go over that document and to assure that we are following the right process and procedures.

Mr. Bynum: Thank you. Any other questions about tab number 9?

Mr. Carvalho: Okay, number 10. Number 10 is... the document you have before you, there was a question on the restroom facilities specifically... verification from the Department of Health that the amount of bathroom facilities are adequate and complies with the Hawai'i administrative rules, Title 11... Title II. DOH, Chapter 2, sanitation. As you can see in that e-mail communication from Mr. Gerald Takamura who is the Head of the Department of Water (I think meant Department of Health), the minimum sanitary facilities found in Title II, Hawai'i Revised Statutes sanitation does not apply to the campsites or other recreational facilities. We did provide you folks the last time we met on this, a chart or a diagram that states that... well, from my understanding, the architect, Mr. Grimes used this particular chart, table 1, which states amusement places. As you can see the top part and that is the recommendation that Mr. Grimes used in calculating the number of restroom stalls that would be required to this particular campsite. In my research talking to Mr. Takamura, he also confirmed that, yes, this particular table does not comply with campsites.

Mr. Bynum: Apply.

Mr. Carvalho: What did I say, comply, apply with campsites. However, he did say, maybe we can look at our own building codes which I did talk to Doug Haigh and that doesn't apply as well. So bottom line is, in asking the same question to National Access Board and some of the other people, Mr. Bloomer, there really is no formula that we have. I know there was something talked about from the Corp of Engineers, but that is another one that is not fall into the compliance part. So whatever is there is there right now and that is the information that I have in my research.

Mr. Bynum: Councilmember Iseri-Carvalho?

Ms. Iseri-Carvalho: Thank you. And Bernard, thank you for providing me the information. Again, I have a copy of the entire minutes, verbatim minutes of January 19, 2006 where there was a lengthy discussion between Council Chair and Councilmember Rapozo because they were aware that it was the inappropriate document that had been submitted and that the consultant, again, I am finding a lot of deficiencies here. The consultant, Merle Grimes, as well as our Building Engineer Doug Haigh provided answers at the last meeting stating that this is what the Department of Health standards are which was totally incorrect because you, yourself, actually called the Department of Health and was able to verify that, in fact, the Department of Health standards that were provided to us and were provided by the consultant were not even applicable and that is just the kind of short changing in the work. It is like, you know, why not call the source person himself. If you are saying that applies, why not talk to the Department of Health person themselves. Instead, you make a representation, you provide all this information that it is in compliance with Department of Health standards when they provide the wrong chart. It is totally inapplicable, so it just seems like there is not much oversight over this project that we are spending thousands of dollars for errors in the quality of the type of work that is performed and the fact that it is not even legally compliant. And, yet, we are provided information that is totally inaccurate.

Mr. Carvalho: So that is question number 10 and the final question. The County Attorney's position on the legality of allowing outside private personnel to provide security functions for the County.

Ms. Iseri-Carvalho: Again, Bernard, I did talk to the new County Attorney, Judge Pyun who has indicated that he needs two (2) weeks in order to respond in writing and provide us an opinion, so we will defer that. That is not for you.

Mr. Bynum: Any other questions for Bernard?

Mr. Furfaro: I have a question for Bernard. So Bernard, you are ready to take this kuleana here and just run with it and take full responsibility to see that our energies are going in the right place, so that we can get these campsites open in a very reasonable time and hopefully for the citizens to enjoy. You will be the point person?

Mr. Carvalho: Yes.

Mr. Furfaro: Thank you very much.

Ms. Iseri-Carvalho: Thank you again Bernard for a person being in such a short period of time in a job, Bernard did an excellent budget overview

process of the new department. He also provided these fine looking books here within a matter of a week or so after we have been asking for these questions for a year and a half ago. So thank you so much for expediting the process and we appreciate it very much.

Mr. Bynum: Councilmember Iseri-Carvalho, you had a...

Ms. Iseri-Carvalho: There are people here who need to leave. Glenn Mickens has to be an arbitrator at a baseball game. Peter is still working on the item, so I would suggest that you continue with public testimony. Where did Glenn Mickens go? He was just...

Mr. Rapozo: Did he leave? Is that his bag? I think he left.

Mr. Bynum: Is there any other members of the public who like to testify on this matter?

Ms. Iseri-Carvalho: There is Bruce Pleas there if you can't see him.

Mr. Rapozo: As Bruce comes up, I just want to say that I got the change order copies, so thank you.

Mr. Furfaro: There are 11 of them.

Ms. Iseri-Carvalho: 11 now? Oh.

BRUCE PLEAS: Bruce Pleas for the record. This is the same stuff that I covered. The last time we (inaudible) at Lydgate, ample parking for 300 plus campers and hopefully that is... you are satisfied for that and (inaudible). Bathrooms, personal hygiene area for 300 campers. There is going to be a rush every morning. The present facilities will not cover 300 people going to do what they do in the morning. So there needs to be additional areas for that. You say that there is no formula that you can find. What about National park, other State park bathroom requirements for their parks? I am sure that is on the Internet. It almost has to be. You are saying that there is no... you can't find any information on it, so when I go home I will punch that in and what I find, I will send to you as a websites. There has to be that information out there, there has to be guidelines. This isn't something that is just space technology or whatever. It has to be already figured out for this many campers and the bathroom facilities, septic sewage. I hope they are on the sewage system, but the R-2 effluent from the sewage system is being used at the golf course, but are you aware that the NPDES permit for pumping the effluent into the ocean is being renewed. You need to look into this because what goes into the sewage system and if it goes out, the NPDES permit is deposited 600 feet out in front of the campgrounds. When it is onshore, it comes back into where they are camping, so this NPDES permit needs to be denied. The County doesn't... the County is going forward with it. It needs to be stopped. We can't put our effluent into the ocean, we need to reuse it. Also, we need, at this

park, if it is going to be a five (5) star park, it is going to be a draw for people to come over. We need 24-hour ranger at this facility for the entire park. This is what I've asked before and this needs to be in the budget and it needs to be prepared for. We cannot have the understaffed rangers at this point. They were here and testified last time, stretched thin and our police force only has three (3) patrolmen on the beat at night time responsible for this area. It needs to be written into this proposal. It needs to have, we need to start on a County area like this, a 24-hour presence to check the maintenance. Make sure the bathrooms are working, to supply information to the campers and to make sure that everything is there and to call back up if it is needed. These are the same points I brought up before and the same points I'll remember everybody of again. Thank you.

Mr. Bynum: Any questions for Mr. Pleas?

Mr. Furfaro: Bruce, thank you for bringing up the points again. I do want you to know that during our budget process when we got to wastewater, we talked about those particulars, certain types of upgrades, the use of R-2 water, what it will take us to get to R-1. We also have several pieces of commentary in the book that Christina and Bernard put together to us that covered different calculations by different agencies on the volume for campsites, the volumes for parks related to parking stalls. So we do have some of that information. Thank you for the offer, but your comments last time did not go unheard. I just wanted to reassure that people in the Administration had looked at some of those conclusions. Thank you Mr. Bynum.

Mr. Bynum: Any other questions? If not, thanks Bruce. Is there anyone in the public that would like to comment on this? John?

JOHN LYDGATE: I am John Lydgate and I am a volunteer, member of Friends of Kamalani. I really want to thank you all Councilmembers for your patience and perseverance over the years on very complex to do with our parks. The word compliance, I am interested in the very word compliance. As they say, I am decisive, but I am not really sure. The word compliance can be so interpreted and I have to just say and I want to thank all the other people who have testified (Christina, Bernard). We are building a community partnership of a park that is 83 years old and that partnership started with the destruction by the plantations of our heiaus, of the heiau, Hikinaakala, hauola, and petroglyphs... one of the most degraded sites in the whole State and then territory of the kingdom. In 1914, historical societies tried to address some of the issues to preserve our heiaus. In 1922, my grandfather passed away and before he did so, he petitioned the territorial Governor Farrington to try and set aside a park, so that heiaus wouldn't be destroyed by the plantations (all the rocks were being removed, etc.). In 1964, Albert Morgan built ponds and those ponds were built because he had five (5) daughters and there was no safe place to swim. In 1994, Kamalani playground, the Friends of Kamalani playground and I just have to say, without of the leadership of Tim Bynum and the leadership of all of you and the Council in subsequent years, that park wouldn't be the way it is today.

In 2004, the pavilion was built. Yes, it was jerry built in the sense that the, again, a community partnership came together to try and build a campsite. People wanted it for years, they have been asking us. Can't we have a place where we could camp? It is safe, it is accessible, it is sparkling, it is on the coast and that came out of the (change side of tape)... open aloha to have a community build, to... there is a saying in the book of Romans, it is a spirit of aloha and not the letter of the law that counts. The letter of the law (inaudible), the spirit gives us life, so we are trying to build a community partnership or relationship and we are struggling. It is frustrating. I am really here to thank you for having the park the way it is. I think it has been \$5.5 million in the last 12 to 15 years. Yes, it cost money and you are absolutely right to monitor the cost. A quarter of a million more to do this/that to make it what it could be, so the process is frustrating. It takes time. A lot of the aloha has to be built into, we can do it and I am simply here to thank you all to testify that I am so proud of what everyone is doing. There is an old saying, if we seem far, it is because... if we seem far, it is because we stand on the shoulders of others. The lady from the YWCA, the YMCA, all the churches, the schools, the kids, everyone has made this park what it is. I hope you will keep that in mind and keep that process open and flowing and expedite it as appropriate.

Mr. Bynum: Thank you John. Any questions for John? Councilmember Furfaro?

Mr. Furfaro: Mr. Lydgate, John, thanks for coming up and giving us the history of the park, the facilities, the stewardship that comes along with those things that are part of the host culture there, but what is on the agenda here today are items that deal with compliance to the ADA rules. There are others of us here that are advocates for the park myself included. I remember cooking many meals in the early days to feed the volunteers, but I just want to remind you that when we are all here on the Council, we have to put our objectivities on... that are related to our oath of this office about managing the responsibility and the finances of the County so that, in fact, we get the best possible product and we are in compliance to the rules. Simply said, I think you have a number of people here that are very interested in this Public Works project, the benefits that it has, but at the same time, I really appreciate you acknowledging that for all of us.

Mr. Lydgate: Thank you.

Mr. Furfaro: And we appreciate all your volunteerism and (inaudible). We have to have a point person and we have that now in Bernard.

Mr. Lydgate: I think the idea of a trail ranger is terrific. I think that is a wonderful suggestion. I hope...

Mr. Furfaro: I just hope you understand what I am saying. We can't sit at the table and just wear our advocacy hat for Lydgate. We have to sit on the

table and wear our objectivity on cost and value as it relates to County business. Thank you John. Thank you very much.

Mr. Bynum: Other questions? John, I just want to thank you and acknowledge that you are at Lydgate Park probably every single day of your life raking, you know, caring for and giving your caring for the park and thank you so much for your stewardship over these many years now.

Mr. Lydgate: Tim, a gentleman came up to me recently and said, you must be part of the work release program for the local (inaudible). I said no.

Mr. Furfaro: Just don't wear a Department of Correction shirt.

Mr. Bynum: Other members of the public? Ken?

KEN TAYLOR: Chair and members of the Commission, my name is Ken Taylor. First, I would have to agree with the comments that Bruce said earlier. Second of all, I would like to, again, reiterate my comments from the last time we talked about this item. I am very concerned with what is going to be happening to the island with the arrival of the Superferry. This is unknown at this point in time and I think it would be very foolish to open up a new campground with this big unknown out there. I see no reason for not delaying... get everything in compliance, get everything ready to go, but hold off on making a final decision until after we see what the impacts of the ferry is going to be. I think one of the options that is going to be before us down the road is to have maybe a two (2) tier fee structure, so that the local people pay a lower fee and people from off-island pay a higher fee for the uses of this facility, but I do believe that with the new soccer fields and things going in down there, that we really need to look at additional bathroom facilities along with the camping and everything that will be happening. So there is still some issues out there, I believe, that have to be addressed and hopefully I know you all... I know everybody has been working hard on coming to a final decision on this. Staff has stepped up to the plate and, I believe, have done a good job and you folks are asking the tough questions and slowly getting the answers and I think this is the way we get down to finalizing the whole process and that is a win/win thing for the whole community. But because of this big unknown out there, I think it would be very foolish at least in the short term to open up a new campground until we see the impacts of the Superferry. Thank you.

Mr. Bynum: Any questions for Mr. Taylor?

Mr. Furfaro: Ken, as I referenced to Bruce earlier, those points that you just mentioned were part of a discussion this Council had. In fact, we asked a question of our legal department seeing if we couldn't tier the campsite fees as a Kaua'i resident, a kama'aina to the State of Hawai'i and an outsider. Basically, the message that we got were kind of getting into some discriminatory areas with people that are residents of the State of Hawai'i as Kaua'i as a political subdivision is a member of the State of Hawai'i. We are part of the State of Hawai'i, so it was a

concern and it was directly related to the question of advanced reservations to the Superferry, so we are aware of it. I just want to let you know that we have asked for a definition. Thank you.

Mr. Bynum: Any other questions for Mr. Taylor? Thank you Mr. Taylor. Anyone else? We are going to take a short recess for a change of tape. 10 minutes and we will back at 2:15 p.m.

There being no objections, the Committee recessed at 2:05 p.m.

The meeting was called back to order at 2:20 p.m., and proceeded as follows:

Mr. Bynum: Councilmember Iseri-Carvalho?

Ms. Iseri-Carvalho: Yes, thank you Committee Chair. I have prepared a PowerPoint presentation. Before I begin my PowerPoint presentation, I think it would be very helpful and informative to the public if they actually saw those campsites for one. Secondly, the use of those ADA campsites by the MACFEA participants. So they had a video prepared on the accessibility or the ease of accessibility at these ADA campsites and that is what we will be presenting first and then I will go on into my presentation.

Mr. Bynum: Thank you.

Ms. Iseri-Carvalho: Thank you. We have my excellent assistant here, Mr. Darling, putting together this... my darling here. Christina, if you can narrate since you were present at the scene.

Ms. Pilkington: Well, these are two (2) Mayor's Advisory Committee persons that sit on the Committee and they are being instructed to try to put the tent together. One of the concerns about the platform was, how do you reach around the entire platform to peg a tent. There was some discussion about platforms being smaller in radius, so that a person in a wheelchair could reach over and put in the tent pegs. Now, Alana(sp.?) is, as you may have just seen, transferred from her wheelchair to the platform and she really liked the platform. It worked really well for her and she was quite excited about it. She has a lot of upper body strength and was able to move around pretty easily on the sand. However, she did complain about the sand getting all over her and thought another surface would be better just because sand is hard to deal with. So that is everybody just trying to figure out how to put the darn tent together. Of course, Thomas Noyes, I don't know if he still here, but he came in and he saved the day. He was like, do we really have to try to figure this out. Let's just do it.

I am sorry, is this the long version of the video? Again, Alana making her transfer back to the wheelchair. Now, the other individual next to Alana who just made it back into her wheelchair has a different kind of disability and her... one

side of her body is more affected than the other side, so it is more difficult for her to get her balance for a transfer. We are having trouble with the caption here.

Mr. Bynum: Waiting for the captioner. How are you doing captioner? We really appreciate the good work that you do closed captioner making our Council meetings available to everyone.

Ms. Pilkington: Today especially because today somebody has requested captioning, so we really shouldn't conduct the meeting if it is not accessible.

Mr. Bynum: We have an individual in the audience today who is using the real time captioning.

There being no objections, the Committee recessed at 2:29 p.m.

The meeting was called back to order at 2:30 p.m., and proceeded as follows:

There being no objections, the rules were suspended.

Ms. Pilkington: Here we are with a person who has a different type of disability who has now transferred using a walker type support apparatus. She is trying to figure out how to get onto the platform.

ALFRED DARLING, AMERICAN RED CROSS: Also, what you can't see here, we are asking Rhoda some questions and we know that we are not going to have the campsites built to everybody's needs. The reason why we had these two (2) individuals is because they have two (2) separate disabilities and two (2) separate mobility issues. What we want to do is prove like, how simple or hard it would be and whether these things would work or not, but if an individual wanted to go camping on their own. You know, we are all individuals and so are those that have disabilities and they want to be on their own and work on it. (Inaudible) is up here just doing what she has to do. She is happy with it or Rhoda with this platform, she was not able to lift her legs up and she felt very uncomfortable about falling over and then she was really trying her best to get on there. For her, a ramp or something up there to it might have been something that she could use. At this point, we are asking her questions like what was her accessibilities, what were her difficulties and we asked Rhoda the same thing. She was indicating that it was very hard for her to... because she can't lift her leg up like you and I and her arms have limited mobility issues. So she wants to be in there and she wants to go ahead and go camping and she is not able to do this at this point. Alana, what a star she was. She is just jumping in and out of there, so that was her exercise for the week.

Rhoda is really... she is frustrated because of the fact that she wanted to do this concept. In the background, we were... as we were taping this, we had people taking showers at the spigot which was one of the issues we were talking about. Right now, they are moving the mobile tent over to the flat. What was not demonstrated here is when Christina and Rhoda were going to get into the tent. I

was on the other side and I came around when they already had flopped into the tent. I think Christina acted as a cushion or a barrier, so that Rhoda didn't fall down flat, but she prepared the one of the ground. She said it was easier to get in than it was to get out which proves to us that no matter what we do, there is still going to be some difficulties and, of course, we can't tell the people, well, you should go camping with somebody, but we want to see what it would take to put that tent up on a platform with someone that is wheelchair bound and if they can get around it all the way.

Ms. Pilkington: I don't like the term wheelchair. People who use wheelchairs, their wheelchairs give them the mobility they need to get around. So I hate to use the word wheelchair bound. I am sorry. I just had to correct that. I just don't think it is... wheelchairs are freedom and mobility for people who need to use them.

Mr. Darling: Like cars are to us. Well, the interpretation could be a little misunderstanding, but at this point, that was the end of the...

Ms. Pilkington: You did a great job, I want to say, Alfred, in filming it.

Mr. Darling: We compressed a two (2) hour docket to eight (8) minutes. This whole concept was devised... okay, we have a visit and then we would have went down there and just seen it for ourselves, but we wanted to share the concept with everyone else. For Alana and Rhoda to get out there and perform in this thing in this particular environment was very brave of them. You know, they are exposing themselves, so they want to work on issues, they want to be able to make it happen too, so there is everyone working into this. I wanted to thank you for taking the time out to view it and I know many of you have seen the hour and a half or the hour and forty-five minute one, but you also heard the dialogue, the questions, so you know what they feel like.

Ms. Pilkington: You should thank Tom too because he was such a help.

Mr. Darling: Thomas is in there and Bernard for helping out. I think the original idea came from Larry where he said, let's go visit and I said, well, hey, you know, why don't we video tape it because we can share our experience because you can't deny a video. Well, thank you for your time and if you have any questions for any of us, feel free.

Mr. Bynum: Thank you Alfred. I appreciate it. We will get going again here in a minute as the computer boots up.

Ms. Iseri-Carvalho: So we will begin some background and maybe summarizing what a lot of the expert has testified to today as well as on other meetings. So we begin by looking at the process and what kind of legal process is in place, so that we do not run into these situations again. That, we can, in fact, have a legal facility that is open and then can be enjoyed as quickly as possible for the

entire community. This ADA requirements stem, at least on three (3) different levels. We have the County level, we have the State level and we have the Federal level. The Federal level are the minimum standards that the requirements need to be complied with and then there are the State rules as well as the County. In this case, we will begin with the higher up which is the County. The County, on November 6, 1996 became subjected to a consent decree based upon a lawsuit that was filed by Mr. Dick Burkhalter. He filed a lawsuit claiming that his rights were being violated. So, we, the County, entered into a consent decree to assure that we would meet certain kinds of requirements, that there would be a plan in place and one of two (2)... in fact, two (2) of the organizations that we had earlier today give testimony was created as a result of this consent decree and one was the ADA Coordinator which was Christina Pilkington who was set up again in response this consent decree and she was one that was made there to provide for some guidance on the County in getting into compliance with ADA requirements. Also, there was the Mayor's... next slide please.

Mayor's Advisory Committee for Equal Access and we have seen the video of the members earlier. Basically, this advisory committee for equal access was set up to assist the County of Kaua'i in its compliance with the Federal, State and County laws mandating equal access. Basically, it is what it is. It is an advisory committee only. It does not have the power to legislate. It has the power, of course, to argue for certain kinds of legislation, but, basically, to provide some kind of guidance as to what its members would prefer to use public facilities. Again, no real enforcement powers, simply advisory to the Mayor. Next.

We also, after the County level, have State regulations or State Hawai'i Revised Statutes and it is contained in Chapter 103-50. What this statutes says as was stated earlier is that when we are talking about public facilities or new construction of facilities or even ones that are being amended. It says all plans and specifications for the construction of public buildings, facilities and size shall... it is a mandatory language, be prepared, so the building's facilities and sites are accessible and usable by persons with disabilities. These buildings, facilities and sites shall conform, again, the mandatory language, to the Americans with Disabilities Act Accessibility guidelines which we have referred to as ADAAG. A second part of this law says that all State and County agencies subject to this section shall seek advice and recommendations from the DCAB Board that was Francine Wai who testified earlier. The Disability and Communications Access Board on any construction plans and I would like to highlight prior to... it is significant that they have inserted specifically this language prior to commencing, prior to beginning with any construction. Of course, the reasons are obvious. I mean it would be ludicrous to have people build things and then come back and ask for advice and find that they are not in compliant and need to change which is what occurred here. So this process has been set up for many years. If you look on the bottom, basically, this started back in 1965. There has been some minimal amendments in 1969 and then 1989, 1993, 1996, 1999 and 2002, but basically, its mission is to assure that all of the facilities are made equally accessible to this people with disabilities as well as people who are not. Next slide please.

And then there is the Federal oversight board. These are the agencies or the agency that provides the minimum standards for Federal parks or use whenever you use Federal funds and this is called the United States Access Board. It is an independent Federal agency that is devoted to accessibility for people with disabilities. It was created more than three (3) decades ago to assure that when there are funds that are being Federally used, that they are designed for the community to be able to use like anyone else. So they provide, they provide guidelines on certain kinds of projects that the County or the governments engage in. It also provides technical assistance. They are very amenable. We spoke to a William Botten who is on the committee that was mentioned by Councilmember Rapozo earlier... very, very helpful. In fact, we ended up sending him some of the slides which I will get to later where he was able to comment on the deficiencies and how to improve those services and also comment on the non-compliance of our current facilities that exist. Next please.

Here is the Department of Justice letter, so I was talking about the various hierarchy's of rules that we need to follow. The County has an advisory commission and it is also mandated by State law and we also have Federal law which we talked about the United State Access Board. We are also under the jurisdiction of the U.S. Department of Justice and our ADA Coordinator, Christina Pilkington, works very closely with this department because we are also under a settlement agreement between the County of Kaua'i and the Department of Justice to become compliant with the ADA regulations. This date that we signed this settlement agreement was effective from November 16, 2001. There are various kinds of requirements that we need to provide reports, etc. that we are in compliant. We need to provide policies, etc. on how we are dealing with the compliance and as we had discussed earlier, we will be having an update in the Public Works Committee as to all of the projects that were subjected to this Department of Justice settlement agreement. Next.

And so we go back to this project itself, so we focus on the campsite. The three (3) ADA potentially were supposed to have been built to be compliant with the mandates of the State and Federal regulations. We mentioned about the DCAB board that we needed to send these review plans prior to commencement. Of course, we know now that it was not sent. What we do know is that we do have a DCAB number. All the projects that are sent to this State agency are recorded in such fashion, so it is very easy to find out all of the history of the project just by knowing the DCAB number. On March 7, 2003, Public Works, under the guidance of Doug Haigh sent the conceptual plans to DCAB and Ben Gorospe was the person who reviewed these plans. As you can see, they were very minimal because they were only made of four (4) pages. Next.

What happened in the review that was returned back to Doug Haigh was on March 7, 2003 which they indicated that these comments identify the areas of the project and we will get into the comments which do not meet the minimum design requirements set forth in H.R.S. 103-50 which is the section that mandates that buildings need to be in compliance with ADA rules. It also says, a written reply

and/or submittal of plans addressing the notice deficiencies is requested. The final document review sometimes refers to clean document review will be provided upon submittal of the construction documents. Remember, they only provided conceptual documents, so there was various things that were missing like specific heights and other kinds of measurements complying with the ADAAG regulations or guidelines. Next.

And so we go to... and I use the word error which basically was the deficiencies and it was shorter to fit in. Basically, the problems that they found in reviewing just the plans not the actual site as Councilmember Furfaro was referring to, but just on the plans itself. One, was again, the sand filled platform which was clearly, I think, shown by the video about how difficult that was with the sand. There was a requirement on all levels that there needed to be a firm and stable surface. Next.

The second deficiency or error was about the parking that the parking at the double campsites which were flat did not provide sufficient space for a person in a wheelchair to transfer out of the vehicle. The rules provide that one out of eight (8) stalls shall be served by an access aisle of eight (8) feet minimum and designated van accessible. There was a third error that was mentioned there. A separate accessible pedestrian route from the campsites to access common use areas needed to be in place and was not in the plans as is required. There was other areas for the camping areas A and B and I lumped them together as 4 and 5. Again, there was a recommendation that they reconfigure the parking to be perpendicular to the driveway, so that it would create an area large enough for that 16 feet which is the eight (8) feet for the access aisle and the eight (8) feet for the vehicle space and it also needed to contain a slope of 2% which was 1 to 50 in all directions. The sixth area that was noted in that document was that the reviewer of DCAB were unable to provide any type of review because of the insufficiency of the documents that had been provided. There was no representations of the mounting heights, there was no accessible bench details or any details regarding the barbeque pits, the location, the accessibility to those, the charcoal disposal, sinks, accessible parking details, elevation, accessible route details, restroom facilities... all of those had not been submitted which is required in order to get a final document review. So this, in addition, to the five (5) prior that had been mentioned. Also, they mentioned that there has to be some reference regarding H.R.S. 11-219 which has additional rules in Hawai'i. In Hawai'i, we have additional rules regarding parking design and signage requirements. So the reviewer made these comments to have the Building Division as well as the consultant review these deficiencies and correct the deficiencies before building and send them, again, construction plans that incorporated the comments that were made. Next.

This is just Ben Gorospe just to show that this was the DCAB number and he was the person, the Facility Access Coordinator that reviewed this project. Next.

I am sorry, but it is barely legible, but there was some discussion from this distance anyway. There was some discussion earlier and the gallery heard it as

well people who are currently listening about the cost and the change orders and Councilmember Rapozo mentioned that he did get the change order. There is a small line there that shows that they were actually... this was the ninth change order and what I wanted to bring forth here is that there was a problem and I don't know and I need to find out why the ADA campsites were not funded with bikepath money. That they were, in fact, funded with the CIP money and only by County funds which means, of course, it was subjected to State rules and not only the Federal rules. But they indicated that the cost of these sites were almost \$50,000 and, again, it shows that this was a change order that was put in afterwards. Again, we don't have the history as to why this was put in later and had to be paid by only County funds in the CIP budget. Next slide please.

This shows the non-compliance. There was a statement made that, basically, the cost of removing or the cost of building these platforms were about \$8,000. I don't know if it was \$8,000 for three (3) sites or \$8,000 in total. And then, there were additional cost that had to be incurred for the removal of these platforms. So this basically shows some of the cost of the labor that was put into it with the operator, journeyman, laborer... some of the material, I guess they need a backhoe and some other destructive kind of machine to do, I guess, demolish a platform. The amount of labor that it cost, etc. So, again, just to show that there was a cost proposal that they were... had they consulted with the DCAB experts, we would not have incurred a lot of these costs that we did in fact incur. Next.

These are the questions... before this, I will go into it. I am sorry, I better go into this one right now. There were some change in the slides. What I wanted to point out here is that there were so many, I think, statements that were made earlier that really contradicted the statements that were provided by Bernard and provided with references from Bernard and it is unfortunate because we will get to some news articles as well. But here is the meeting on January 19, 2006 and the reason why it is quite offensive is because these seems to be... there seems to be a pattern of statements that are made that are simply not true and are inaccurate and they reach the paper. I am going to take the advice of Councilmember Furfaro who says that when there are inaccuracies that are made, that they need to be corrected immediately and provided with documentation which I have here. These are the minutes of January 19, 2006 and if you can go to the next slide.

We had talked about... first of all, the documents that were presented, the final document review and there is a process in place. Bernard testified today that, in fact, that did not occur and provided documents. We had Francine Wai testify that they, in fact, did not receive... the County did not receive a clean document review, but we have questions and these are like I said verbatim minutes on page 13 where Councilmember Furfaro talks about the document. If this County ends up in review of a violation, what kinds of documents... we are referring to an ADA violation. What document do we have to hang on our hat on that says that we meet the minimum qualifications? And we have Mr. Haigh saying, well, we have a review by DCAB which is our one document. Then he goes on to say, if I saw something for ADA, I would comply with everything I possibly could to minimize a

fine and the exposure. That would be the prudent thing to do and Mr. Furfaro asked us to provide a letter that protects us from liability. Doug says, you know, the role of the DCAB is not to review design plans, but, in fact, it is, as we have heard Francine Wai say, but he is saying here that, really, the consultants that we hire should have the knowledge of State law, of Federal law, of County laws to assure that the project that they have planned are in compliance. So he is saying that, you know, they don't send the plans to the Mayor's Advisory Council or basically even informs them of what is happening when there is an ADA project that is being constructed. Next.

So we have, again, Mr. Haigh from the County saying that now he recognizes that we are required to submit our plans to DCAB and sometimes we miss a few which is the concern that I have because we cannot miss any. I mean as far as liability is, we have to be assured that every project we are sending to DCAB as is required under the law under H.R.S. 103-50. And then he says, we have... I admit that, but really work to get them all there and it is a standard requirement in our contracts with design consultants that they submit the plans to DCAB and respond to DCAB's concerns. Of course, in this case, there was no response to DCAB's concerns until we had talked to Bernard on April 13 of last week. He reiterates, we have a requirement in there that they submit to DCAB, so that there is a standard process that they do. And then we have Councilmember Yukimura asking, well, I am curious, how are we missing this? You know, in terms of the campgrounds that we went through DCAB and then Mr. Haigh comes back and says, it did go through DCAB. Okay, and then Yukimura says, then did they come back with an okay? And Doug Haigh says, that is my memory. I remember going through them and I remember the process and I am 99% sure we had the approval from them. So Councilmember Yukimura asked for the proof of documentation, again, like Councilmember Furfaro, a letter of approval, yes. Okay, thank you. And in this case, again, you heard the testimony of Francine Wai that, in fact, they never ever got an approval at all and that there is a standard letter that shows whether or not one gets approved, but, of course, as we know from the Executive Director of DCAB, that was never provided. Next.

So we also had the testimony of Ms. Pilkington who assisted us as the ADA Coordinator. In her job description, she is required to advise on these kinds of projects, so that the County is in compliance. She, again, reiterates that we did not... if we don't send our plans to DCAB, we would be in so much trouble. They actually review plans and let us know when we are not in compliance. What happens many times is that they will let us know when we are not in compliance. We, as the County, may or may not make those changes. She is saying as a matter of what has been happening, we don't send our plans back to DCAB and we end up building things that are not in compliance which, of course, is what happened here. It is troubling and disturbing that our ADA Coordinator was quite frustrated if you look at this statement. And then says, that happens quite a bit that we don't send our plans back to DCAB and that is the concern that it is not only on this project and that there are many, many more projects that we need to back to assure that we are in compliance. If we go back to Councilmember Yukimura... so, again, she is

reiterating, so there is feedback that will help you approach compliance with the ADA requirements. Of course, Ms. Pilkington says, you are required to send it... meaning to keep on sending the documents until you get a clean document review or a final document review. But that is not always the County's practice and meaning this County's practice and, of course, that confirms her statement earlier saying, that happens quite a bit that we neglect to use the risk management division that we have... that we pay with our taxpayers dollars to give us assistance with DCAB. So... and this is what I am asking, again, trying to get Doug Haigh to at least admit that it didn't go over. He did not have a final document review and I said, is that the form Doug that you say you have... I believe that we have that document. This is, again, the final document review that Mr. Haigh insists numerous times throughout the meeting that we have on January 19, 2006 which is was just not true. That is why it is so important for our Executive Director from DCAB to be here to advise the Council and tell the Council that this, in fact, is not true. Next.

On page 24 of the minutes of January 19, I am trying to get Mr. Haigh to be... to come clean and say that we don't have that. So DCAB, you are claiming sent back with the original design of having the three (3) raised platform and they sent you back a clean document review basically confirming that it appeared okay, that it was in compliance. Mr. Haigh, that is my memory, yes. Page 25, Mr. Haigh, my understanding is that having the approval of the local... and this... the reason why I put this statement by Mr. Haigh on page 25 is that, initially, there was a statement by Mr. Haigh saying, the Mayor's Council, we don't send anything there. We now realize... we really don't send anything to DCAB or there... a lot of times we don't and then we have Doug Haigh who is the Chief of our Buildings Division saying, my understanding is that having the approval of the local Mayor's Advisory Council has more weight than DCAB to defend the County in their decisions and that is his understanding. Again, this is very, very troublesome because the Mayor's Advisory Council is just that. It is an advisory council and it does not give legal advice, it does not have any attorney that advises them at all. Basically, DCAB is the agency that we need to go through by law, not the Mayor's Advisory Council. It is important to get input from the Mayor's Advisory Council because it was established as a result of violations that the County had been engaged in and they have very, very knowledgeable people. In fact, people that will use the facilities and they are much better informed and much better aware of what kinds of facilities they need. But, clearly, Mr. Haigh, in all his wisdom is not very aware of what the process is because now he is saying that as long as we get the Mayor's Advisory Council, that is it, we don't have to do anything else. That, again, is very, very disturbing. Next slide please.

So after that, I prepared a list of questions to obtain documentation from Doug Haigh as well as Bernard Carvalho regarding the statements that had been made throughout that meeting. And this is the result of today's meeting. They did not return back and I did not hear from Doug Haigh at all from January 20, 2006. I did hear... we've had conversations back and forth with Bernard Carvalho who was aggressively trying to obtain the information from Public Works as well as from the consultants and, finally, when he became Parks & Recreation Director, really was

when things began to look up and he were actually able to provide a lot of the documents that we have today. Next.

As a result of Bernard Carvalho being the Parks & Recreation Director, he had set up this as in collaboration with the MACFEA and ADA Coordinator on setting up this site excursion to Lydgate Beach Park and to actually see and really visualize how the facilities that were built were really going to be of assistance to the persons who would be in need of accessibility. Next.

And then the MACFEA Advisory Council came up with a list of recommendations and their... it is amazing. It is as if they know what is the law because a lot of their recommendations are exactly what the requirements are on the Federal level as well as the State. You know, accessible parking stalls... well, we saw that as a comment that was done by the DCAB Review Officer. There was problems with the maintenance. We will see as you watch the slides of the deficiencies that there is a dropping off of the cement or the concrete versus the sandy area. That was also noted that that would be unacceptable and unsafe. That was also noted by the Federal, U.S. Access Board that also said that that clearly needs to be a leveling off and he was also able to look at that and say, that needs to be solved. There needs to be some correction. There were the camp pads that we had talked about as far as the raised platforms and how that did not work. Restrooms, many other suggestions that were made by MACFEA, again, these are only suggestions and they did not carry the weight of law, but it is very, very important to get their input and if they comply with the law, try to implement these in designing our facilities. Next.

We get a letter on June 23, 2004 where the ADA Coordinator is sending it to the Mayor. Again, quite concerned that the Building Division did not consult with MACFEA prior to construction of the campsites and that there was an interpretation about the guidelines and about stable surface and how you needed a ramp to get onto the platform. It is concerning that the ADA Coordinator is saying that they did not consult with MACFEA prior to construction of the campsites because we will see other statements that other people claim that they did, but will also see that, in fact, Doug Haigh statement... we heard him testify earlier at the June 19, 2006 meeting that, in fact, MACFEA was the group to contact in his opinion because they basically carried the weight of law. So there is a lot of discrepancies between the statements that are being stated within our County government (change tape)... millions on the entire project... at least \$2.5 million just on the Lydgate camping site areas and, yet, there is a statement like this and that just carries, really, no weight at all because we know for the past three (3) years or four (4) years, MACFEA had not even been consulted. We also get a statement by Chair Bynum saying that... he said the guidelines are the same ones that have been used to build ADA campsites and National parks and that Mr. Grimes was trying... Mr. Grimes who is the architect was trying to be proactive and propose something that was above and beyond what was required. These statements are just not true. We know that the guidelines may have been the same ones... used to build ADA campsites and National parks, but it also shows that

there is some lack of awareness that the National park rules do not dictate what happens on State property. In fact, the State can dictate more rules to provide for accessibility for people who are disabled. So whether you built something at National parks, really, what you need to look, is what is in your own jurisdiction. Again, your own organization has set up... your own State Legislature have set up an organization which is DCAB that is there to protect us and review all of the plans. I will reiterate again, Risk Managers. I mean, that is what they are there for. So the statement about Mr. Grimes being proactive as we know with all of the deficiencies listed by MACFEA, which all the deficiencies listed by DCAB that, in fact, this was not something that was above and beyond what was required. In fact, we do not even meet the minimum requirements in order to have a legal facility. Next.

This is another article that appeared... and these are recent articles and that is why it is disturbing because the information is just not accurate. It says, Mayor Bryan Baptiste initially introduced and that may be true, but in language due to what Bynum said were questions about security for the project and compliance with ADA requirements. But Bynum said, he hopes the Council will now move forward because we have sufficiently answered those questions. That is just not accurate. We saw today the numerous amounts of questions that have not been answered. In fact, we haven't even gotten an opinion from the County Attorneys for legality. And we haven't even complied. I mean, we heard even the Administration, the Parks and Recreation Director state today that it is not legal, it is not ready to be opened and he said that numerous times. He had said that back in 2006. The reason why the campsites were never open was because the Administration which was represented by Bernard... He, at that time, the OCA, he, in fact, said that we have not yet... we are not in compliant. I will not open those campsites until the security issues have been resolved and that we are compliant with County, Federal and State laws. Next.

So we look at some of the sites. We saw a brief visual with the video that we had... the MACFEA group tried to access these sites, so this is one of the sites with the platforms. Next.

These are the problems. When we don't build according to specifications and we don't build as is required... from what we have used, the products that we have used and we have spoken, again, to... and Bernard can confirm this with the U.S. Board, the access board, the Federal Access Board which was able to review these pictures and this is totally unsafe and, of course, he recommended that these platforms cannot be open in the state that it is at. What has happened is because it was not a firm and stable surface and used sand, there wasn't, I believe, enough porousness for the water, so we started bulging out. So, you see, a lot of the plastic that is being used uneven which is a very hazardous situation. Next.

This is another problem that was raised and also reviewed by Bill Botten about the nails that were used. They were not stainless steel. They rust, of course,

and what happened is, they didn't provide a special kind of drilling... I am sorry, I am not an engineer, but what happened, it started to...

Mr. Furfaro: We got a call for a caption break.

Ms. Iseri-Carvalho: Okay, I guess I was on a role. Ten minutes? I guess we will come back at 3:10 p.m. Oh, sorry, 3:25 p.m.

There being no objections, the Committee recessed at 3:12 p.m.

The meeting was called back to order at 3:27 p.m., and proceeded as follows:

There being no objections, the rules were suspended.

Ms. Iseri-Carvalho: If I could just continue then. So these deficiencies, again, were noted by the Federal Access Board that this was an unsafe condition and that, in fact, it appears that the surface that was used could have contributed to that, but also the type of nail material that was used and the type of form that was used. He recommended there is some interior that you can put in to hold the form or even concrete or even not to do platforms at all. That is something that needs to be discussed, but clearly what was designed and how it was built was not how he would have recommended that it be built. Again, thus, we are here with all these problems and, really, the solution at this point, it is irreparable. I mean, we are not going to be able to save these structures. I mean, they would have to be removed in total and left that way or if there is a plan to rebuild them, that they have to be done with at least stainless nose or even concrete that would hold in and then change the surface. Again, that would be something that would be decided later. Again, these are unusable and we would have to get rid of them in their dilapidated condition.

Mr. Furfaro: Councilwoman, may I share something with you.

Ms. Iseri-Carvalho: Yes.

Mr. Furfaro: This particular deterioration, you are absolutely correct, is related to the fact that the nails should have been of a stainless steel nature, but it is referred to as actually a (inaudible) problem where the moisture that is retained in the cement gets into the nail head and expands which causes this cracking. But there are a number of products today that could address that without... I mean, it needs to be addressed, but could be addressed in a repair and maintenance fashion. It is something that many hotels look at when it comes to the railings along the cement structure that they have this problem. It can be addressed in a very aggressive maintenance program.

Ms. Iseri-Carvalho: Yes, and that was the concern too, you know, how much maintenance are we really going to get at this facility or do we want one that is of least maintenance as possible. Again, weighing the benefits and the cost of

replacing or repairing these platforms was something that he had raised. I also said, like he would not open up this facility at all in light of these conditions especially because this facility had not been opened at all and even with it not being open at all, the kind of deterioration, rapid deterioration that had occurred was to him an indication that there needs to be other kinds of products or other kinds of solutions that we need to consider. Next.

This was the flat surface that they had removed. This is what it looks like without the platform. There was a platform there that was where some of the cost came in a prior communication from Public Works in about \$8,000 I guess. I can't still figure out if it was per platform... if we actually took out three (3) or for this one because we really just removed this site, but that is how it would look. The Federal U.S... I mean the access board representative Bill Botten, you know, this could appear fine. Once it is maintained and cleared and, of course, assuming that the widths and all of that of the concrete are to standard. Next.

This was another part of that slide. There was also a question whether or not if there was sufficient space for the wheelchairs to go around and also, again, the issue about the ramping that needed to be discussed or reviewed by DCAB. Next.

This, again, the parking stall whether it was adjacent to the structure or not. Whether the tables were sufficient to allow for the wheelchairs to get under or if there was some other manner that the wheelchairs would be made to be accessible to the bench and the table. Also, the concern with these platforms was, where would the wheelchair go if it was not going to go into a tent. Would a person with a disability have to carry their wheelchair on that soft surface and put it in a tent or how would that work? Would it have to be outside? That was the reason for this photo. Next.

Again, the breaking off the forms... clearly, it appeared that because of the type of natural elements that we have and the fact that it is so close to the beach, there was a question as to why these kinds of materials would have been used as opposed to other materials that would have been of more lasting quality. Next.

This is my own personal opinion and, you know, judging by all of the testimony and considering the totality of the circumstances meaning that the testimony was provided by Bernard as well as MACFEA as well as Francine Wai. The numerous amount of communications and exhibits that we have... I have reviewed hundreds of documents just on this one item on the agenda. I mean hundreds of them. I have reviewed hundreds of pages of case law, you know, regulations, just a lot of things, but things that we need to know because we will have other County projects. So these are very expensive lessons and hopefully we learn from our mistakes. First of all, what I find most valuable out of this whole process is that we got the commitment from Mr. Carvalho that he will follow the legal process and it needs to be strictly followed. So we have that commitment from the Administration that for all projects, Bernard is the person to go through with respect to Parks & Recreation, but hopefully they will implement and I intend to

pass a resolution urging the Administration on every project whether it comes under Parks & Recreation or Public Works or any other division. Economic Development... that these rules need to be followed strictly and they need to go through the appropriate experts that we actually pay big money for to provide us guidance. On the County level, of course, we have Christina Pilkington who is the ADA Coordinator. We had the MACFEA which is the advisory group to the Mayor. We also have the consent decrees, the Department of Justice consent decrees as well. We have the State, the DCAB organization that follows the ADAAG guidelines. We also have the Federal, the State, what is most interesting is that Francine Wai actually sat on the Federal board that actually drafted the rules for outdoor recreation areas and, yet, she was right in our backyard and we, at no time, decided to consult with her. It is embarrassing State especially too, it is a costly one.

Third, of course, the U.S. Access Board which I had contact with Mr. Botten, but clearly they have officials on every level in every kind of expertise (technical advice). They are very easy to get. They have websites and they are also easily accessible by phone. I mean, we just made the call on the phone and the person was there and we were transferred immediately and we spoke for at least an hour (myself with Bernard and Councilmember Rapozo). We also need to look at the County project managers and the consultants because they really need to be knowledgeable in all of the rules. We make reference to the representations by our Building Director or Building Division Head stating and also by Committee Chair Bynum about how the consultants are very well qualified. Well, it was very evident from the testimonies they gave after we had spoken to the real experts that they were not very knowledgeable in what the County, State or Federal rules were. Even after they had built these facilities, we even have the MACFEA that is even only an advisory committee come up with a single list... I mean, single page, single space... there must have been 20 or so recommendations for the County to review. So look at the people that have the most knowledge and if they are not qualified which I find, in this project at least, there is some major deficiencies then they should not be hired. There has to be a higher level of qualification. Third, when there are errors that are made that could have been avoided, the County cannot always be the bank. We see this time and time again where the County is the big pockets that we end up paying for mistakes of what individuals do. And we cannot do that anymore. We see time and time on the agenda numerous amounts... millions of dollars that we are paying in litigation not only on Public Works issue, with the Police Department, with every agency in the County because there are rules in place and it has been, as Christina Pilkington has said, it has been the County's basically policy and practice to not follow them. That, in effect, was the statement that was made. I mean, these statements are made by people that have the expertise and have knowledge of what is going on in the County and, yet, you know, we consistently do it. Again, very troublesome and that we cannot expect the County to be the bank that we will pay for all mistakes and let's look forward, but pay, again, for mistakes that could have been avoided. Because of that, I am going to suggest that any wasteful spending and necessary corrections that need to be paid, that they be paid by the persons responsible and not by the innocent

taxpayers. Why should the taxpayers who have rules in place to protect them have to make up for all deficiency and inadequacies of the consultants or of the Building Division. This is, again, time and time again happening over and over again when we have wasteful spending. I, as a taxpayer, know what the rules are and I intend to follow those rules. The rules have been in place for decades and, yet, we choose purposely not to follow them or to not have the kind of expertise to know that you need to follow them. It is very difficult to make the assumption that we did not know these rules when they have been on the books for decades, but also because we have in our own backyard people, the resource people that we can go to. You can just go on the Internet and get all these resources, so, again, if you are responsible, then you should pay and that has a sense of accountability. That is what we intend to do during the budget that when there is litigation, the department that is responsible for that litigation will have it taken out of that person's budget. It will not be taken out as it has been all of these decades out of a special account that pays for litigation because then there is no accountability and there is no incentive for change. There is no deterrence factor, so in this case, I cannot use innocent taxpayer's money to pay for the mistakes that were made in light of the kind of resource people that were available that could have avoided the mistakes that were present.

Five, inaccurate or incomplete information must be corrected as soon as possible. Again, time and time again, we have testimonies and this takes so much time and hours to go back on the testimony and provide the documentation, but the public needs to be provided objective information. They need to be provided information that is documented in writing, it is not my information, it is testimony that we got verbatim minutes, it is news articles, it is letters that are signed by people. It is testimony here. Clearly, when there are these information, it is unfortunate because people may believe in the newspaper what is stated when it is entirely inaccurate. I have shown this time and time again, why is it inaccurate, it is not my words. I have said that I believe what was correct and, yet, people choose to not give the full information and it needs to be corrected as soon as possible. I hope those persons would stand up after today's testimony and really look at the kind of misinformation that has been provided. Because of that, the impression by the public is wrong and there is an impression that is unfair because if people watch these Hō'ike meetings instead of reading the newspaper, they would get a clear and accurate information. Hopefully, that will be standard that this Council can follow.

Six, persons with disability are entitled to equal access. Their rights are very important and should be zealously upheld. There were many times that, in other cases, why we had to comply with these rules was because there was that brave person, called Mr. Burkhalter who decided to sue the County because he wasn't able to get access as he wanted. There were many other heroes of that time who made us change the laws and, yet, we change the laws and we give, as Councilmember Yukimura had mentioned, lip service to it. It is on the books and yet we choose to not follow them, us, the County. I mean, what kind of mentors are we setting? What kind of examples are we setting for other people? Clearly, they should not have to resort to a lawsuit to have their rights recognized and protected and it

should be the objective of everyone here at the table to ensure that every person has equal access including persons with disabilities, especially, those that are most vulnerable.

So, at this time, I am going to close and like to, again, thank Bernard Carvalho for the excellent presentation and the ability to be candor and truthful and come forward and provide information even though it did not benefit necessarily his department, but it was the truth and that, you know, we have to recognize these errors and not just sweep them under the table. Recognize them, have the persons who do these errors be held accountable and have them pay for it because that is really the true value of accountability. Thank you. That concludes my presentation.

Mr. Bynum: Thank you Peter. I also have a presentation and if... as soon as it gets up, we will do it.

Mr. Furfaro: May I take a personal moment of privilege while we are waiting for the set up. The two (2) Committees that I will be chairing today, Finance/Economic Development as well as the Planning Committee... I will be filling in for Chairwoman Yukimura and there is a very good chance that the work on the vacation rental piece will be deferred. For those of you in the audience, I wanted to share that with you as we get ready to complete this agenda item that is in Mr. Bynum's Committee. Thank you for the moment of expressing to the audience the upcoming schedule.

Mr. Bynum: I want to thank everybody's patience today as we spend a good portion of the day talking about the various 12 questions that went over in January 2006. I asked for this to be on the Parks Committee agenda because I felt (as I said to the newspaper) that many of the questions could now be answered and I think many of them were. I didn't say all of the questions are prepared to be answered, but I wanted the process to move forward because the community has put a lot of time and effort into having the camping facility and I want to appreciate Bernard Carvalho for his diligence since this was put on the agenda to put together a comprehensive response has led us a long way down the path towards resolving the various issues that have been discussed at length here today.

You know, the intent is to answer the question to try to finalize an ordinance that will allow camping at Lydgate Park. The ADA compliance issues were a critical piece that needs to be answered and the campgrounds cannot open until the... until they are open for everyone and that the campsites meet the guidelines as was the intent from the beginning to meet the guidelines that were set for accessible campsites. So as soon as you are ready, is that clicker something I can use and pointer?

The campground at Lydgate Park is part of a long effort on behalf of the community. I am going to do some... I am going to give some background. The Friends of Kamalani and Lydgate Park was formed in 1993 and came together to

build the Kamalani playground in 1994 and that is the group that exist to this day. After building a playground, we are inspired to continue to nurture the Lydgate Park area and really look at the land around there and found out that a large part of it was Lydgate Park or was available for park land and sought input from the community about what could be a masterplan for the Lydgate Park area seeing that as a central and regional park opportunity. So there were numerous community meetings and planning that led to a Lydgate Park masterplan in 1999. In that long discussion of the community, several priorities were set out for the masterplan. The biggest one was expand the park. The park, at the time, as we will see had really little usable area and had fallen into disrepair. It was a State park, part of the Wailua River State park, but the County had taken dominion.

So the first was just for additional picnic and day use space. Then Amy Awtry came to the community with work that she had done during Councilmember Yukimura's Administration. She was Mayor with a vision for a bicycle/pedestrian path to go from Nāwiliwili to Anahola which obviously goes through the middle of Lydgate Park. So she brought us that and we went through a lot of discussion to include a bicycle and pedestrian path that honored that vision for a coastal path and also provided a recreational amenity for the campground. There had been a history of camping at Lydgate Park and many people expressed the desire for camping and there was a dire need for sports fields, so those became major elements of the draft environmental assessment for Lydgate Park, bike/pedestrian trail, bridge, so all of that community work ended up with an environmental assessment that was completed on February 26, 2001. So that resulted in this masterplan map for Lydgate Park. The map...what did I do? Help? The masterplan map... there is a pointer on here somewhere? Right in the middle? Okay, at the time that this masterplan was completed, the usable area of the park really was this wonderful swim area. The area along the oceanfront, the big large pavilion and a lawn behind it, but the rest of the park really had fallen in disrepair or wasn't identified as a park area.

2001 was a very busy year because now with the masterplan in hand and the environmental assessment done, there was lots of work in 2001 to bring awareness, fundraising and to do a community build. We have a picture of Tom Awong here in the booth that the Friends of Kamalani had at the Farm Bureau to celebrate that masterplan, to show the map, to get community... further community input and to sign up volunteers to work on the Kamalani Bridge project. So you see some pictures here of their volunteers at the booth, the map, the masterplan was in the booth and it really was a matter of engaging the community and saying, here is the plan, what do you think? How should we proceed? What are your ideas? There is a picture here in the left hand corner of one of the many meetings that happened at schools where kids were asked to put their input as we did with the playground into the building of the Kamalani Kai Bridge. There was fundraising... you see on the right hand corner here, a picture of kids who collected pennies for the park and brought them into the bank. These bags are full of pennies as part of the fundraising effort because Lydgate Park has been accomplished with combination of grants, fundraising and Federal and County money. That year ended with the

building of the Kamalani Kai Bridge which involved thousands of workers. It was a pretty exciting time and it turned out quite nicely in the long run. Part of the master planning... in that area was the campground and we say this map that you heard mentioned in Bernard's presentation and the campground consist of 31 campsites. Three (3) of which are meant to be accessible. Those three (3) are in this area right here near the path. They were built along with the Federal funds for the bikepath, the restroom facility with showers, so this is the campground area. We are here focusing on the campground today, but there was a lot of community concerns and ideas. As I mentioned during the planning process, we were seeking information from every opportunity including pulling people into the booth at the farm fair. Some of the concerns were security that if camping be done, it would be done securely, that the community ask for facilities that were maybe a step above what we had at other commun... in other parks, particularly was... we heard over and over again for a vision with restrooms that had showers that were private where our current campgrounds have outdoor showers and there are people who don't have a very good comfort level with showering outdoors and wood boundaries and wanted them incorporated as part of the restroom facilities.

At that campsites, when people came, we heard lots of people who said, they camped around the country and other islands... campsites that had amenities there... when they got a permit for camping, they got a permit for a particular site where they knew there would be a place to place their tent, a table, a barbecue and that the amenities would be there. You know, I mentioned the masterplan map because, initially, because to address this first area of security. There has always been ongoing security issues at Lydgate Park. As I mentioned initially, if you went to the park before the hurricane, say in 1990, you would have seen this big grass lawn and the nice pavilion where lots of community events happen in the oceanfront and a great swim area. But the area where the campground... where the playground is built and all of this area was overgrown and neglected. There were weeds 10 to 15 feet tall and in this one comfort station that is near the playground, you couldn't see from the parking lot into that comfort station. That comfort station was an area where there were security and problems. It was a kind of drug hangout and a place where you were uncomfortable. So prior to building the playground, volunteers who were starting to take ownership of the park and working together with the County cleared all... first, security level is to have vision or view plains into the park, open it up, keep the bushes trimmed, so there is not places to hide and places to feel uncomfortable. So the hurricane kind of helped us by doing a big pruning and suddenly it could see into the park and the County topped all the ironwood trees in there and many people were surprised that there was a comfort station there because it had been so lost in the wood so to speak. So volunteers planted all of the milos and ironwood trees that bound the sewage treatment plant there as a visual shield. Volunteers planted grass in this area once it was leveled and cleared. We have (inaudible) from the golf course and literally people on their hands and knees and watering, planted the grass to expand the usable park area around the playground. As we opened those view plains and we brought healthy family use, the intended use for a park is for families and kids and the security concerns and the issues greatly diminished in that area. So then we had a period

where the usable area of the park now was bigger, there was more day use space as people had asked for, more picnic tables that were built by volunteers and the park started to have new life. You know, then there was the area south of the comfort station and this is an example of what it looked like before with weeds and grass overgrown. The tree line there... you can't see through it and it is dark, that is on the south side as you enter the park on the right hand side. This is what it looked like in 1998, not that long ago, and that is our park area and what it looked like before the community... this was Lydgate Park that the State had not maintained it. In fact, this is a restroom facility there which had fallen into total disrepair and, again, was a problem area. If you were a resident at Kaha Lani in those days, you had to pass through this area to get to the swim area and you were told, hey, go over there and swim, but make sure you get back before dark because this was not a safe area, it was not a place you would want to be... this restroom was a site of many drug parties and when volunteers cleaned this up, we literally went through three (3) feet of debris and drug paraphernalia, but volunteers working together, did (inaudible) this area and it looks now something like that.

That is the same area where now you can see into the park, the tree line and 15 years, Friends of Kamalani along with volunteers... I remember when we first cleaned up that tree line with Kapa'a rotary and Cliff Bailey, at the time, was the president and organized a workday... one of the many community groups that have given kōkua to the park. So now in that area, that is the same restroom resurrected by volunteers. Councilmember Furfaro, did you want to interject?

Mr. Furfaro: Yes, I just want to share something. I mean this is wonderful that we are getting the history of the park and so forth. As a Committee member, I recognize a lot of the old photos and how far we had come, but I just want to point out to you as well as Councilwoman Iseri-Carvalho that, you know, the agenda item is the disability act compliance.

Mr. Bynum: Right.

Mr. Furfaro: And I think between Bernard which you have recognized I think along with Tom and the group, we have come to a place today where we know what we have to address. That there is going to be a coming together to work on the common problems to meet the expectations of treating everybody with equal access. I just wanted to point that out because these are our rules and our rules is, we try to focus on the agenda item. I know it has been difficult for you as well as Councilwoman Iseri-Carvalho in getting us to this point, but we have been on this from 10:00 this morning and it is now 4:00 p.m. and I think the agenda items we resolved today... I know we can work out the differences here to get to a common place, but I just wanted to point that out. I know it is your first Committee as Chairman and I just wanted to share that as a Committee member. The park has wonderful history because of the public input and the process and everything from the weeding to the kids, but the agenda item is, in fact, how are we going to resolve the ADA items. Thank you for letting me interject.

Mr. Bynum: Thank you Councilmember Furfaro. The agenda item is to answer the 12 questions that were posed... 11 questions including concerns about security and I have about 10 more minutes and I will be done. What I am trying to address right now is the security issues that by opening up the park to public usage to having people use it as it was intended by keeping the view plains open, we help diminish those security concerns and take an area that has been a problem in terms of security and turning it into a healthy use. So I will move forward with the rest of this. So the area that we just addressed was this area of the park which got reclaimed in 2000.

Chair Asing: Councilmember Bynum, if I may, I also agree with Councilmember Furfaro. I think we are straying from the agenda item and I don't think it is necessary to go through the history of what has transpired. I think we should stay focused on the issues and I think this going back into history on when it started and the progress made, these are not agenda items. We have to stay on track and make sure that we follow our own rules and stay as close as possible to agenda item. I just agree with Councilmember Furfaro that we are really straying too far off the agenda item, so that is my comment also. Thank you.

Mr. Bynum: I appreciate that input Council Chair. I am addressing right now question number 11 relating to security and you will see as I proceed... I am done with the history and we are going to be talking about current issues that are on the agenda item.

Chair Asing: Thank you.

Mr. Bynum: Again, back to the campground which is the agenda item. The campground has design, so how do we address security issues was the point. The first is to allow the intended use to occur which reduces and diminishes security (inaudible). It doesn't eliminate them... wherever human beings congregate, there will be security concerns. The campground design, however, helps address those security concerns by having site camping with a permit where the tents are intended to be on pads with names on the permit. Again, the design was with open view plains, so you can see through the area and the community norm is to establish quiet times after 9:30 p.m. to have an expectation that appropriate intended uses work. Another significant area where security has been addressed is in the Park Caretakers. Park Caretakers in the past have always been involved in maintenance in maintaining the restrooms, cleaning the restrooms, but the County went through a laborious process of redefining the Park Caretakers job description to include their presence in the park and to include their job description in checking permits and interacting with park users. So something new at this campsite that is proposed is to have County workers in the campground until 8:00 in the evening and part of their job description is to interact with park users, to check permits, and to let them know about the intended use. They still continued to do maintenance, but they are available and in the park providing that level of security. They are backing them up... our current Park Rangers that we have and doing what they would do in every campground to provide security. Also, whenever there is an

incident, the Kaua'i Police Department... the neighbors, these projects have been consulted along the way... the Kaha Lani Condominium folks, the Aloha Beach Resort and the Wailua Golf Course have all been consulted. The maintenance issues... right now, the parks are in great shape. We have good caretakers that do a good job there and, right now, there are three (3) full-time caretakers and these are the folks whose jobs and times would be staggered and reallocated into a timeframe where they are available in the park into the evening. So we have new staggered schedule in our budget submittal this year that is an increase of these caretakers to four (4) full-time people dedicated to Lydgate Park. They can be supplemented for... covered for vacation as illness requires and then after six (6) months of the campground being open, we can re-evaluate whether that is an appropriate level.

The campsite proposal that is before us, as I said, proposes campsite fees. That is something different. That was an idea that came from the public who said, if we have good amenities and a better controlled campsite, we would be willing to pay fees. Those fees have not been established and that is the purpose of the ordinance that is before us. One proposal and a proposal that I think is reasonable is that the campsite fee be \$15 per night for kama'aina and \$30 per night for visitors. You know, that would be per site, so up to five (5) or ten (10) people depending on the site could use that site. In all campgrounds, we said administratively, a total number of people that are issued permits or issued to and the maximum number of people for family campsites there could be approximately 150 people. There is also a group campsite at Lydgate Park. The purpose was for Boy Scouts, Girl Scouts, church groups, family gatherings, and the campsite proposed fee for that is \$70 per night for... this is for a large group for a minimum of 20 people, but it could be a hundred or more. Again, the idea of a different set. The Kamalani pavilion was constructed as an amenity for the group campsite. Its intended use was these group in doing traditional campsite kind of programs that they do. So, you know, the vision was to see the Boy Scouts there telling stories, singing around the campfire and doing things that groups do during group outings.

You know, one of the issues when you have... one of the questions was, what kind of revenue could be generated. If you did a conservation estimate that family campsites... if only half of them were occupied for an average of four (4) nights a week over a 52 week period could generate \$46,000 in revenue. The intent isn't to generate revenue, but we were looking for a higher level of amenities and maintenance and it is nice is we can do that. The group campsite if it was used only on weekends would generate about \$7,800. Parking is an issue that was brought up and is one of the concerns that was addressed in today's meeting and the campground was designed with parking adjacent to most campsites. There is a paved lot near the restrooms that have the required ADA camp parking sites. There is a large parking area near the group camp area. There is a parking area near the Kamalani Kai Bridge and the campground area was designed with an overflow lot near the campground entrance. There is also a fishing access point where parking could be provided for people having day use or using the campground area. We heard a lot of discussion today about accessible camping sites. That was always the intention to meet the guidelines that were set out and to have three (3) sites with

paved parking, with access lanes and currently, two (2) of them have raised pads and we saw testimony today that people with disabilities have different varying needs and varying abilities and having a variety of opportunities for them is a good idea and that is the reason these sites were developed. They were developed with guidelines and they are similar to other sites around the country with raised platforms or without raised platforms. These are just a few other sites that... from other parts of the country similar in design that are currently in use by citizens of other parts of the country. Some similar design campsites are also available in Hawai'i at Volcano's National Park. So this was a presentation to give a sense of history and to address some of the concerns that are in the agenda today regarding security, parking, restroom facilities (inaudible). As you note from this thing, the restroom facility here was designed with an office to be a station for the campground takers to have the physical presence in the park into the evening hours as part of the... to address part of the security concerns. That is the end of my presentation.

The purpose of... as I mentioned earlier, the reason to put this back on the agenda is because over a year has passed since the questions were sent over. Many of the questions are now at a position where they can be answered and several others clearly are going to take more time, but we have a better sense and status of where these questions are than we once did. The appropriate move now is to move to receive this item and there is another agenda item that can be brought up at a future Council meetings as we receive more answers.

Mr. Furfaro: Mr. Chair, I guess I need to call. We don't have a quorum for any discussion here. If we can... I have some things that I would like to share as well. First of all, Mr. Bynum, I really appreciate the presentation you made, but it is not something that many of us are not aware of. You know, today, I want to make sure that we acknowledge all the support from the Friends of Kamalani and, you know, there are many, many advocates here on the Council for the park and so forth, but as we have opportunities to express for people to write in on the (change side of tape)... for the park as it will offset operating cost. It is not the Council's role to determine the operating and staffing requirements. What is the Council's role is to make sure that these particular features are available and the facilities as they were designed as we approach the funding of such... whether it is a place for the security officers and so forth. So there is much here that I am very, very supportive of. My point earlier was the fact that there has to be accountability within the County and the oversight from the County which I have to compliment Mr. Carvalho for stepping forward and taking care of that today and I am sure we are going to see those other parts as they relate to projections, revenues, as well as the fact that we will have a better idea from the Administration in the staffing of the particulars. But to all the supporters of the Friends of Kamalani, I want to point out that none of the infractions that were discussed today on the agenda item regarding the 11 questions and the ADA compliance is any reflection on them. It is basically something that we need to take care of from the administrative standpoints of this new Parks & Recreation Department which only, again, goes to re-emphasize how the voters decided to amend the Charter to make sure that we

value our parks, we value our places where we can entertain ourselves and have the benefits of outdoor activities. Therefore, in their wisdom, they pursued having a separate Parks & Recreation Department and I was quite satisfied today with the plans from Mr. Carvalho, but there always needs to be a set of accountability and it is very difficult to hold volunteers accountable because you can't fire a volunteer. A volunteer just quits because they don't have the motivation to continue to do the good work that they are doing, but somebody in the County has to make sure that we are following through on these pieces. So, again, I just wanted to say how very proud I am to be part of a community with an advocate group such as the volunteers of the Friends of Kamalani. From a business standpoint, we have to hold someone accountable to meet the codes and the operating structure. Thank you very much.

Mr. Bynum: Comments from other Councilmembers?

Mr. Rapozo: I have a few comments. Thank you and it is kind of along the same lines of Councilmember Furfaro. First of all, the Friends of Kamalani, you know, and I've said this before should be commended for what they have done. This is... you know, a community group that has really... I know because I used to camp at Lydgate when you could. I used to be one of the football players that used to carouse down at the old Lydgate and harass the tourist... I mean, you know, that is just what Lydgate used to be and has been done down there has really been a good thing and the Friends of Kamalani should be commended. My issue is not with the Friends of Kamalani at all. I think what we say today, again, was revealing. It is almost embarrassing when you sit here and you watch a presentation, comments that were made that were totally not true. This Council was led to believe certain things that was not true. We act on information that we get provided and if that information is bad information, then we can make some bad choices, make some bad decisions or the worst thing is when we don't act. The inaction because we are led to believe that everything is all good. What I saw today was disturbing. What I saw today was another representation of no oversight by this County, by this Administration. None, zero, just, eh, turn and burn, let it rip. You know, it is frustrating to sit here, it is frustrating to read articles in the newspaper about the Council holding up campgrounds, the Council holding up bikepaths, the Council holding up this, the Council holding up that. It is frustrating, but if we do things right at the administrative level... if we follow the process, if we follow the law... in this case, if we had made that simple... we had completed the process, we wouldn't be here today. The campgrounds would be open today. The campgrounds would be open today if, in fact, we had followed the law. Not policy, not the Mayor's prerogative, but the law. But, no, we choose to go and do it our own way without any kind of County oversight or with oversight that was inadequate and it is frustrating. I don't know if the... I know Mr. Chair you stepped out to take care of some business, but I don't know if you got a chance to see that presentation. It is frustrating when we have Department Heads come up here and outright just tell inaccurate statements or making inaccurate statements sending this County on a path that is in the wrong direction because we were lying on that information. When we pay our Department Heads so much money, we expect... I, anyway, for me, I expect a lot more quality. I can tell you right now, if I was in any position to

take disciplinary action, I would. But what I am going to be doing and staff, I guess you could note. I want to send a formal request over to the Public Works Director, Donald Fujimoto and I want him... I want him and I am going to ask that he take a look at this matter. I am hoping Councilmember Iseri-Carvalho can turn over whatever she has done and get it over to Donald because I think what has occurred is very disturbing and I think borderline... warrant some kind of disciplinary action. I am not going to get into the specifics and I will leave that up to Public Works to do what they feel they should do to do an internal inquiry. I am so frustrated, I am shaking, but I am also going to draft a resolution. I am going to ask staff to help me draft a resolution requesting that our legislative delegation suggest that we... that Marion Higa's office do an audit of this project because I am tired of sitting here week after week, month after month, year after year, hearing the same old nonsense and just pretending or believing and hoping that it will get better. You know, sanity is doing everything over and over and over again expecting different results and I am beginning to feel like we are a bunch of insane people on this Council because we just expect so much more than we are getting. So I agree that the Department Head should have that first authority to do an inquiry and I think they can more than adequately do that, but I am prepared... whether I can get the support from my colleagues, I am prepared to float another resolution to ask Marion Higa to come to take a look at this because this is... what we are doing is we are wasting taxpayer's money. We sit through a budget process for two (2) weeks and we see all this money flying here and there and it may seem trivial, \$48,000, \$8,000, \$10,000, whatever the case may be, but it is our job as Councilmembers to make sure that this doesn't happen. If the Administration cannot do it, then it is our duty to do it. And rather than going through the hassle of trying to do a 3.17 investigation or try to procure an auditor for the Council to... speaking with Marianne Higa, she is more than willing to do it if we can get the legislature... our legislative delegates to request one and I think it is their duty to do so. High level employees should not be doing these kinds of mistakes. This is a simple one, but as you could tell on the presentation, it was just an intentional disregard of the law. Intentional, we just, nah, we don't have to go to DCAB. We don't, as long as we send one application, we are covered and that is not what the law says. Again, we choose to go and proceed with the construction. This is almost dejavu. Only a few weeks ago talking about the same thing with another project. It is something that happens all the time, so, you know, it is an issue that bothers me and it is an issue that, really, I feel so helpless because, really, there is nothing much we can do, but bring them up here and humiliate them and embarrass them and that does nothing though because we will be here again asking the same questions, getting the same answers. I have to say Bernard, I appreciate you standing up and saying, this is my.... I am in charge now because I tell you, every time you ask one department, the finger goes to somebody else or somebody else or somebody else. It is, no, we did it, no, they did it, and it is frustrating to sit here and do that.

Another thing and I was hoping that Christina would still be here. Apparently she left, but, you know, over the years that I have been here, we've had discussions, we've had accessibility issues with Hō'ike, we've had issues with different projects and Christina has tried to do her job. Christina has offered

suggestions, she has offered requirements that have gone ignored, not just by Department Heads, but the Mayor himself. I just wanted to assure Christina that she has a job to do because of a consent decree that created that position and not just because, but because that is a serious issue in the courts. So we have Christina here as a resource and whether we agree or disagree with what her view is, she is part of the process. I just want to say that Christina needs to know that her job is important and her job is mandatory. We need to run things through her and if we don't like what she says, tough. She is the ADA Coordinator for the County. We need to give that support that, if, in fact, she says we have to do something, we have to do it. We run it through MACFEA, we run it through DCAB and now if DCAB overrides it, then fine, but, if not, sorry. I just wanted to give Christina the assurance that if, in fact, she gets any kind of problems while trying to do her job to cater and take care of the disabled community, then we want to know about it. This Council wants to know about it because I don't want to be here six (6) months from now, a year from now, because now, we do something, undo something because we failed to listen. It is frustrating Mr. Committee Chair. I know this is your first term and it is frustrating because of what has occurred over the last few years. I know you are passionate about the campsite and like I said, if, in fact, the policy and the process and the law, the State law was followed, those campsites would be operational today. The Council had nothing to do with the stalling of the campgrounds. If the process was followed, other projects on this island would be operational today, but this County continues to ignore law, continues to ignore best practices because, in my opinion, this County feels that the ends justify the means. You know what, in government, and we are dealing with taxpayer's money, that is simply not true. It is our job here as Councilmembers to make sure that that doesn't happen. So Mr. Chair, I appreciate you allowing me time to speak although I am not a voting member of the Committee, we are ex-officios. I just want to see this thing get through. I want it to get done, but not at the expense of taxpayers, not expense of the disabled community, it is something that we just have to do right. Like I said, in closing, we will just have Public Works and I am going to ask that they pursue an internal inquiry on this matter because I think some serious problems have occurred and I don't know how much time we can give them. I guess a month, six (6) weeks to conduct what they need to conduct with a report back to us. I think that would be sufficient, if not, we will proceed with the resolution. Thank you.

Mr. Bynum: Anyone else? Councilmember Iseri-Carvalho?

Ms. Iseri-Carvalho: You know, I would like to make reference again to the minutes, the verbatim minutes of January 19, 2006 where Committee Chair, you came forward and testified because there was a lot of issues and, in fact, these issues resulted from that meeting that we have today. Just a short quote where you say, local families go, say, hey, I want to bring the kids down and camp at our new campgrounds that we helped build and they are being told, no, you can't come, we are not ready for you. And then you make a statement, well, I think we are ready. The campgrounds are ready, the changes have been made... just the way bureaucracy moves, it is going to take a very long time if we consider all these

issues and the campgrounds will not be open. You know, it just saddens me that these statements had been made back in January 19, 2006, but people who have some leadership qualities, that have taken courses like Kaua'i Leadership, Leadership Kaua'i that have led many non-profit boards and, yet, statements are being made like this when it is just not true. That the campgrounds were just not ready, that they were not ADA compliant... we know that they were not ADA compliant and we asked all of the questions, we did all of our research, all of us members here, I am sure, have talked to DCAB, have talked to MACFEA, had talked to the ADA Coordinator and spent hours... we spent here six (6) hours and I probably spent at least 40 plus hours just within the last week just reviewing the documents that I spent on for the past 2 ½ years. Why, because I think it is important to assure that there is some integrity in the process that we are doing things right for a reason and we are making things right. That is the reason why we spend time. It just saddens me that so many times, people have the qualifications behind them of being volunteers or being leaders in the community, and yet statements like these are made and then they are echoed in the community and then we receive mails and we receive editorials that are printed in the paper that are just not accurate. And at no time do I see these leaders, Friends of Kamalani, Mr. Doug Haigh, Councilmember Tim Bynum... after all of the evidence that was presented, it is absolutely undisputed that those campsites were not complied. It is absolutely undisputed that it was the Administration that had not opened up those sites because of the liability issues, because of the safety issues, because we were not compliant.

We have a commitment from the Administration still that they will not open these campsites and will not seek to open them until they are legal. So it is unfortunate when we have statements saying that it is ready because then there is the perception that it is the Council who has been the ones who have done all the research in getting all the information to assure that we are not sued. Every week, I encourage all of you to look at the amount of millions of dollars we spend in litigation. That is one of the foremost reasons why I ran for County Council because I was wondering why my taxpayer's money was being spent. You know, I had worked... came from the Prosecutor's Office, I had worked as a Public Defender, spent money very frugally and, yet, I see week after week after week sitting on the Council... millions, millions of dollars are being spent on litigation and it is because of reasons like this that in almost all of those cases, it could have been avoided. It is heartbreaking that people have to work hard on Kaua'i in order to make a living, that they cannot come here and testify because they have to work two (2) to three (3) jobs, that they are not able... a lot of them that I speak to don't even own a computer, so I catch them at the ball field or I catch them at the supermarket or they come up to me and give their statements and they raise a lot of things that are not true. It is just simply unfair that we have the kind of leadership that can make it right in the community, that can go out and tell them, I was wrong. When will people come here and say, that they are wrong. This is probably at least the third time that I have referred to about honesty, about people being dishonest with the community for their own personal agendas. It is amazing how that had turned into an article saying that I had a personal agenda. I can tell you that I am probably the

poorest that sits here. I don't even own property on this island, but, you know, it is other people that work hard for their money and it is unfortunate that we have these kinds of leaders on projects. There are common denominators in all the projects. When you get statements and it is great that we have verbatim minutes because a lot of times, people make statements that are simply not confirmed by the written record. When you look at the written record, you know that those statements are lies and, you know, people don't want to hear that those statements that were made by our Building Director are lies, but they are and it is heartbreaking that that happens because I have been able to show by the presentation that they're basically lies and this has happened over and over again and I will not allow County taxpayer's money to pay anymore for people's mistakes. If I will vote alone, I will, but I will definitely be assured that... I feel strongly that we cannot be week after week paying for people's mistakes when there is a correct process in place that they have the agencies, that, we, in fact, the government pays for these people to give us advice, pays for these people to assure that we do the right thing and yet we choose not to do it. It just saddens me that this is the way that people choose to operate because truth, to me, is that all that matters and that as long as... people make mistakes, but when you choose to not admit to your mistakes and try to hide your mistakes it is then that it is very disturbing for everybody else who feels that there has to be some strength and integrity. There has to be some value system that people, as leaders, uphold. I just want to say that because this is... again, this is hours and hours and hours of hearing testimony and researching and gathering all the information just to correct something that it shouldn't have been my job to correct. If people had that kind of character that we hope people had, they would correct those mistakes themselves and they would not utilize the media to forward or convey their false sense of what exists or their delusion of what exist. So Committee Chair, I hope that people would take the lead... that as leaders and we will spread the right message that, in fact, we are very proud of what has been accomplished, that was legally accomplished by the Friends of Kamalani as well as any other volunteers that have participated in the project.

We all want to give back to the community. We all work very hard, but we are also working under leadership and that leadership has to be held accountable. We cannot continue... the County, again, is not a bank. It cannot continue to fund mistakes over and over again. That is, again, another issue that will come out about the County always stepping in to fund people's mistakes. I make mistakes all the time, but, you know, I pay for my mistakes and it is unfortunate that that kind of simple logic doesn't apply sometimes when we have to deal with these kinds of issues. I hope that the camping site will be available someday. I hope that we will work expeditiously in assuring that the proper agencies received the documentation in order to make those sites the best that it can be. They have that potential, you know, and it is unfortunate that we have already spent millions of dollars on something that we... thousands, where we are going to have to redo as if it shouldn't have been spent at all. I would ask that we look into the contracts, again, one of my main points is that if the contractor or the consultant was required under contract to know what the rules were and that the requirements was such that

those documents had to be submitted to DCAB and they were not, in fact, submitted to DCAB, then I am going to inquire of the County Attorney's Office to seek litigation against that contractor for his failure to be competent in his work and for his failure to follow the rules and regs as in the contract. That would be considered a breach of contract and it should not be our taxpayer dollars that pays for that mistake. Whether it be the contractor or it be the Buildings Division, clearly, according to the Buildings Division, it was the contractor that should have known all the rules and that if it is true, again, questionable... if it is true, then let us take the right action and make the persons who make the mistakes be held accountable. Again, because we cannot afford to keep paying for these mistakes. Thank you Committee Chair, you know, I hope, again, the right message gets out to the media and the right message gets out to the community that it was not, in fact, the Council and, in fact, the Council is very supportive of those campsites as long as they are legal and it does not incur any kind of viability. Thank you.

Mr. Bynum: Anyone else? I would to entertain a motion to defer... I mean, move to receive.

Ms. Iseri-Carvalho: There is a problem in receiving this item as there are outstanding issues that we have not... unless...

Mr. Bynum: Can I ask for clarification from the County Clerk? There are two (2) communications. One was a communication from me asking for an update on the questions. There is also a deferred one, so we can go back to that deferred one.

Mr. Furfaro: I believe there are two (2) that are pending some input from the County Attorney.

Ms. Iseri-Carvalho: At least two (2) and then there was another question on the pavilion, but you are saying that there is another communication besides the one on the agenda?

Mr. Bynum: Yes.

Ms. Iseri-Carvalho: County Clerk, are you aware of that?

PETER A. NAKAMURA, COUNTY CLERK: I think what Councilmember Bynum is referring to is... you are looking for a motion to receive the communication that is on the current agenda.

Ms. Iseri-Carvalho: Right, but they have not answered all of the questions.

Mr. Nakamura: I think the January 19, 2006 communication still remains an outstanding communication at this stage.

Ms. Iseri-Carvalho: And what was the substance of the January 19?

Mr. Nakamura: That was the January 19... would have been the communication with all the 11 questions on there.

Ms. Iseri-Carvalho: Right, so that is the one that is on the table today.

Mr. Nakamura: I think that is still on the table.

Ms. Iseri-Carvalho: So unless it is the intent of the Committee Chair to consolidate or to bring them back independently, but we do need to get those questions answered before we can proceed. Those involve legal questions by the County Attorney's Office.

Mr. Bynum: Right, so if we receive this communication, there is still one out there.

Ms. Iseri-Carvalho: But it won't contain all of these questions. What questions are contained on the January 19 communication?

Mr. Nakamura: The January 19 communication, just for clarification Mr. Chair, it was never on the Committee's agenda.

Mr. Rapozo: So where is it? I am looking at the pending stuff and I don't see it.

Mr. Nakamura: That is right. It was never put on the Committee's agenda.

Mr. Rapozo: So it is not deferred.

Mr. Nakamura: No, it is not deferred. The bill itself is deferred, but the motion on the deferral was to defer the bill pending responses to questions which are contained in the January 19, 2006 communication with the 11 questions. So, that, remains...

Ms. Iseri-Carvalho: Right, and we cannot reach that second step until these questions are answered and we have still question 9 where we had to add in, as far as where they are going to get the funding for the pavilion because this question now refers to the old pavilion as opposed to the new and the insurance issues that arise out of that. And then we have the County Attorney's opinion on number 5 on the interpretation of the ADA guidelines as well as on the legality of hiring outside private personnel. So that is totally independent of what is deferred on the bill, so I would suggest that these questions be deferred until we get answers to them.

Mr. Nakamura: Committee Chair, I think to receive this communication... because the January 19, 2006 communication was never on the agenda, that

remains an outstanding item in terms of the bill being deferred. So I think it is the... at this stage, it will be the will of the Committee in terms of whether to defer this matter or receive this matter and put the January 19, 2006 questions themselves on the Committee's agenda.

Mr. Rapozo: The bill was deferred pending which... the January 19 memo? This one?

Mr. Nakamura: The bill was deferred pending questions that were raised during the Committee proceedings at that point in time. The memorandum with the questions were generated after the Committee meeting, so it never was part of an agenda item. So, that, in a defacto way became the questions that needed to be addressed prior to the bill being put back on the agenda although that communication itself never appeared on the Committee's agenda except as an attachment to Councilmember Bynum's communication.

Mr. Bynum: So we should defer this?

Mr. Nakamura: I would think...

Mr. Rapozo: You could resurrect the January one as well.

Mr. Nakamura: Yes, it would be... I think at this point, it is the Committee's call in terms of how to work it.

Mr. Rapozo: What is the most efficient for the staff?

Mr. Furfaro: Well, the most efficient is to defer this and get a second and the fact of the matter is that there is no further discussion. End of story and move onto some other business, come back on a separate agenda item for the January 19 piece. I would hope that would be what the clerk is recommending.

Mr. Rapozo: And that is why I am asking. I know that as far as staff's obligations with time of minutes, there is a difference between deferring and that is why I am asking. What is the most efficient way because, in this case, it really doesn't matter as far as you resurrect the January 19 memo or not, the result is the same. I am just wondering for staff's purposes as far as getting these minutes done. What is more efficient?

Mr. Nakamura: A deferral would mean that we generate minutes for this meeting. A receipt would mean that we would generate a Committee report and far as...

Mr. Rapozo: I am just wondering, does that other January 19 communication serve the same purpose. Will we get the responses or do we have to redo a communication?

Mr. Nakamura: I think if you put that memo itself on the agenda which it hasn't appeared on the agenda, yet, and if that is the understanding of the Committee, then you can receive this matter with the understanding as part of the motion that the January 19, 2006 memo be put on the agenda.

Mr. Furfaro: I think Chairman Asing has a question.

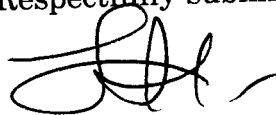
Chair Asing: I don't have a question, I have a suggestion. I think that you should defer this matter pending response from the Administration. You have questions that need responses, so why don't you just defer it pending the responses from the Administration because you need that anyway.

The meeting was called back to order, and proceeded as follows:

Upon motion duly made by Councilmember Iseri-Carvalho, seconded by Councilmember Furfaro, and unanimously carried, P/REC 2007-2 was deferred.


There being no further business, the meeting was adjourned at 4:39 p.m.

Respectfully submitted,



Lisa Ishibashi
Council Services Assistant

APPROVED at the Committee Meeting held on May 16, 2007:



TIM BYNUM
Chair, Parks & Recreation Committee