

MINUTES

PUBLIC WORKS COMMITTEE

May 30, 2007

A meeting of the Public Works Committee of the Council of the County of Kaua'i, State of Hawai'i, was called to order by Councilmember Shaylene Iseri-Carvalho, Vice-Chair, at the Historic County Building, Room 201, Lihu'e, Kaua'i, on Wednesday, May 30, 2007, at 11:29 a.m., after which the following members answered the call of the roll:

Honorable Mel Rapozo (present at 2:57 p.m.)
Honorable Tim Bynum
Honorable Shaylene Iseri-Carvalho
Honorable Ron Kouchi
Honorable JoAnn A. Yukimura
Honorable Bill "Kaipo" Asing, Ex-Officio Member
Honorable Jay Furfaro, Ex-Officio Member

Minutes of the May 2, 2007 Public Works Committee Meeting.

Upon motion duly made by Councilmember Bynum, seconded by Councilmember Kouchi, and unanimously carried, Minutes of the May 2, 2007 Public Works Committee was approved.

The Committee proceeded on its agenda items as shown in the following Committee report which is incorporated herein by reference.

CR-PW 2007-16: on Bill No. 2227 AN ORDINANCE AMENDING
ORDINANCE NO. B-2006-646 AS
AMENDED, RELATING TO THE CAPITAL
BUDGET OF THE COUNTY OF KAUA'I,
STATE OF HAWAII, FOR THE FISCAL
YEAR JULY 1, 2006 THROUGH JUNE 30,
2007, BY REVISING THE SURPLUS AND
APPROPRIATIONS ESTIMATED IN THE
GENERAL FUND (Kilauea Bridge -
\$3,551,583)
[Approved.]

PW 2007-3 Communication (2/15/2007) from Mel Rapozo, Public Works Committee Chair, requesting that the Administration be present to give an update and status report on the County's bicycle/pedestrian pathway project which encompasses various segments from Ahukini to Anahola.
[This item was deferred.]

SHAYLENE ISERI-CARVALHO, PUBLIC WORKS COMMITTEE VICE-CHAIR: At this point, I will suspend the rules.

There being no objections, the rules were suspended.

Ms. Iseri-Carvalho: Is there any person who wishes to speak on this matter? Glenn Mickens?

GLENN MICKENS: For the record Glenn Mickens. I am not sure where you are going to go with this Shaylene since Mel isn't here, but I don't see anybody but Donald here to answer the questions.

Ms. Iseri-Carvalho: We have Doug Haigh here.

Mr. Mickens: Oh, Doug is in the back. I didn't even see Doug. Well, I have a list of like 12 questions that I have asked... in fact, this was at the Council meeting of May 1 and I have asked these question over and over. I think you got a list of them because I gave you guys the thing. I just wanted to see if we can get answers to them and if Doug is here, I would be very happy to listen.

Ms. Iseri-Carvalho: Thank you. Do you have anything else to add? If not, could we get a copy of Glenn Micken's questions and I will propose those questions to Mr. Haigh.

Mr. Mickens: Thank you.

Ms. Iseri-Carvalho: Anyone else who wishes to testify on this matter? If not, if we could have Donald and Doug.

DOUG HAIGH, DEPARTMENT OF PUBLIC WORKS: Doug Haigh, Department of Public Works.

DONALD FUJIMOTO, COUNTY ENGINEER: Donald Fujimoto, County Engineer.

Ms. Iseri-Carvalho: I guess what we will start with this morning is the questions that had been sent over... I guess it is dated May 15 I think it was sent. Actually, it was dated March 30, 2007. Do you have a copy of that correspondence?

Mr. Haigh: And that was the one that we responded to on May 15?

Ms. Iseri-Carvalho: Yes, the date that I have is May 15, so we will go question by question on this project. Basically, it starts with, please provide responses to the following questions in relation to the Kapa'a/Keālia bicycle/pedestrian pathway project. The first item is: Give a cost of each major bicycle/pedestrian pathway development component listed below and that would

include the bridges, bathrooms, culverts, rest stops and the concrete pathway. So if you could provide those figures.

Mr. Haigh: I provided a chart with all those figures and on that chart, I included the original bid price and then the final contract price which included value engineering to get to a lower contract price. It also included additional cost that had been added via change order number 1, change order number 2 and change order number 3. Rather than going over every specific... I can certainly do that if you want.

Ms. Iseri-Carvalho: Yes, I do. I would like to for the public's benefit if you could go through it. I guess it would have been preferable like on PowerPoint. Do you have this available?

Mr. Haigh: I did not prepare this as a PowerPoint.

Ms. Iseri-Carvalho: Maybe because there are questions that come up. This would probably be the only item that we would probably have, so what I think I would want to do, so that this information will be available to the public, I think I would like to take a lunch break at this time and we will have this available for the public that way when you are talking, people will have some concept of what you are talking about. So if there aren't any burning questions that need to be answered before lunch, what I will do then if you could come back and we will try to put this up on the board if we could blow it up or do something of that nature.

Mr. Haigh: Would you want me to e-mail the file?

Ms. Iseri-Carvalho: Yes, that would... thank you for that suggestion and, if not, we will take a recess and return back at 1:00 p.m.

There being no objections, the Committee recessed at 11:59 a.m.

The meeting was called back to order at 1:08 p.m., and proceeded as follows:

Ms. Iseri-Carvalho: At this time, I would like to get Doug and Donald back. Thank you.

There being no objections, the rules were suspended.

Ms. Iseri-Carvalho: We are working on getting the Excel spreadsheet up regarding the Kapa'a and Keālia bike/pedestrian path and the big, I guess, item that were developed and we will get the cost estimates. Maybe you can just start talking a little bit.

Mr. Haigh: Okay, for the first item that will be showed on the Excel spreadsheet is the path itself. The cost for that, the contractual cost for that is

\$760,000 and that is the embankment and excavation, and then the pavement for the path... concrete and asphalt work is \$1.5 million.

Ms. Iseri-Carvalho: And you have for that the length of the path from the Kapa'a/Keālia area that would involve this cost?

Mr. Haigh: This cost would include the entire path and this project was approximately 4.3 miles.

Ms. Iseri-Carvalho: Okay.

Mr. Haigh: There is a certain amount of concrete work and a certain amount of AC work. In value engineering, we changed some of the path to asphalt or concrete.

Ms. Iseri-Carvalho: Okay, I guess you can explain your numbers there Doug.

Mr. Haigh: Okay, the first two (2) items on this chart are the embankment and the concrete for the path itself. This column here, I have listed the original bid price from the contractor which was \$935,000 for the excavation embankment and \$1.7 million for the concrete. In value engineering, we reduced that to a total cost... well, a cost of \$760,000 for the excavation embankment and \$1.5 million for the pavement work. Also, right now, we are not getting the total cost, but for this part of the project, there were no change orders. No changes in change order 1, 2 or 3 affecting those cost.

The next item on the chart is the Waika'ea Canal.

Ms. Iseri-Carvalho: Before going on that, Doug, if you could explain those quantity amounts and what their significance there.

Mr. Haigh: There is... the quantities, I believe, is cubic yards (excavation and embankment). I would have to verify that, but that is my memory on that. I could be wrong, but it should be cubic yards and then the next item below it, that is square yards of material.

Ms. Iseri-Carvalho: Do you know why there is a difference between that... the first one on the bid \$6,465 and then \$4,086.

Mr. Haigh: Because when we made the change from, I believe where that number is and I would have to research to verify this, but I believe the changes when we went from concrete to asphalt, we didn't have to do as much excavation, so they saved money on the excavation by going with the asphalt for the trail from Keālia Beach north.

Ms. Iseri-Carvalho: And I am sorry, you mentioned that was cubic yards?

Mr. Haigh: Cubic yards.

Ms. Iseri-Carvalho: Okay, and then the number below that?

Mr. Haigh: Is square yards.

BILL "KAIPO" ASING, EX-OFFICIO MEMBER: I have a question. You said that you are doing a AC versus concrete in the Keālia area?

Mr. Haigh: Well, from the north end of Keālia Beach north to Kuna Bay.

Chair Asing: Is going to be asphalt?

Mr. Haigh: Asphalt, correct.

Chair Asing: And what was the rationale for that?

Mr. Haigh: It was a cost savings measure. A way for us to value engineer the project and also felt that it would be suitable in that area. Also, we were looking at going on from Kuna Bay to Anahola in our license to... it hasn't been finalized, but the preliminary license agreement with DHHL gave them the option to relocate the path if necessary, so our thoughts were, it would be easier for them to relocate an asphalt path than concrete path, so we would probably been using asphalt within the Hawaiian Home Lands anyhow, so those were the justifications.

Chair Asing: Why don't we use asphalt for the whole thing then?

Mr. Haigh: Because...

Chair Asing: I mean, if that is your reasoning, then why don't we use asphalt for the whole thing.

Mr. Haigh: Because your long term maintenance cost will be better with concrete.

Chair Asing: So with that answer that you just gave, is it just justified that we should do concrete in the Keālia area too, right? With the answer you gave.

Mr. Haigh: If we had adequate funds to do, yes.

Chair Asing: What? We don't have adequate funds? We had a bid and the bid called for that, right?

Mr. Haigh: What we had was a design/build procurement where we identified the preferred proposal. The preferred proposal was not within the project budget, so we proceeded with value engineering to get the project within available funds, so that is what we did.

Chair Asing: So what is the change difference then? You know, the change between what was bid and the available funds that we had and then the change in...

Mr. Haigh: Okay, I don't have those numbers at the top of my head.

Chair Asing: Could you get those numbers because I think those numbers are really important because you are talking about... I am going to guess, I don't know what the figure is, but I think it will be substantial.

Ms. Iseri-Carvalho: Council Chair, just to clarify your question. Your question was... so that staff can be assured to get the right question over to them in writing.

Chair Asing: We had a bid, we had money available and for some reason or other, due to the engineering change in design, the money difference between the two (2), am I correct?

Mr. Haigh: Basically, yes.

Chair Asing: So what are those dollar figures, thank you.

Ms. Iseri-Carvalho: Okay, questions?

TIM BYNUM: I thought that is what we have here. The one column is the bid amount, right?

Mr. Haigh: For that specific line item, not the total contract.

Chair Asing: We are talking about the total contract Tim. I believe the total contract was \$12.1 million?

Mr. Haigh: The total contract, I believe, was \$11.7... I would have to... little bit under 12.

Chair Asing: Okay.

Ms. Iseri-Carvalho: If you can continue then.

Mr. Haigh: The next item on this chart is the Waika'eā Canal Bridge. The

original bid price for this was \$1.1 million with value engineering. The contract price was \$810,000. Change order number 1, we added back approximately \$30,000 and that was for an enhancement to the railing design and the approaches to the bridge for esthetics and to... for more sense of place in the design. The next item.

Ms. Iseri-Carvalho: Questions with respect to the Waika'ea Canal Bridge? Again, if you could explain these numbers. The 60 and the 105 Doug.

Mr. Haigh: I would have to double check that because it doesn't seem to be making sense because it should be less cubic yards than before.

Ms. Iseri-Carvalho: It should be because we are reducing the price.

Mr. Haigh: Correct, so I would have to double check that. I apologize for that.

Ms. Iseri-Carvalho: We added in \$29,000 and you said for esthetic values for a sense of place on what...

Mr. Haigh: It was primarily railing enhancements to create rather than a standard just type of railing that you see everywhere in America. It is one that reflects the sense of place or areas where there was pineapple industry nearby. There was a pineapple motif in areas where there was more of sugar cane industry area. There is a sugar cane motif and those were the two (2) basic enhancements that we were looking at. And, also, on the approaches, we added some moss rock work to give it a more...

Ms. Iseri-Carvalho: And these changes were suggested by whom?

Mr. Haigh: I recommended the changes and was working with the community, Ke Ala Hele Makalai who have been involved in the process and they expressed interest in this in getting something that is more sense of place and then this change was approved... reviewed and approved by the County Engineer, Director of Finance, Department of Transportation and Federal Highway Administration.

Ms. Iseri-Carvalho: So the change approved by Donald?

Mr. Haigh: Correct.

Ms. Iseri-Carvalho: And then at that time was what, Mike Tresler?

Mr. Haigh: That would be correct.

Ms. Iseri-Carvalho: And I guess the question that I have and you said that you spoke to the community. Is the community that group or is the community

a larger group?

Mr. Haigh: We actually circulated... when finalizing the railing design, we circulated it to a broad number of people and at that point it may have gone beyond just members of the Ke Ala Hele Makalai, I am not sure, I would have to research that.

Ms. Iseri-Carvalho: Okay, so we will ask that question. So you don't know who that was circulated... were these put in a... so that the public would have input at a public informational meeting?

Mr. Haigh: I don't believe this was part of a public information meeting. It might have been, but I am not certain on that.

Ms. Iseri-Carvalho: I guess the question would be, Doug, is that we are talking about that we are running out of funds and yet we are adding in these additional costs that, you know, maybe wasn't necessary and one of the things was, could we have extended the bikepath with these additional funds or could we have saved money, so that we wouldn't be spending these kinds of additional bells and whistles which is the concerns for the questions. So we will be asking that question, you know, whether that was a necessity item and, you know...

Mr. Haigh: Clearly, it wasn't a necessity. It was bells and whistles for esthetics. Councilmember Bynum?

Mr. Bynum: The railings that we are talking about here, the fiberglass ones?

Mr. Haigh: That is correct.

Mr. Bynum: And before the change order, they were the same material?

Mr. Haigh: I believe they were the same material.

Mr. Bynum: Thank you.

Ms. Iseri-Carvalho: So what was the reason? Was it just in the design that we had to pay an additional \$30,000, almost \$30,000?

Mr. Haigh: No, it is a more difficult fabrication, plus design and fabrication.

Ms. Iseri-Carvalho: Alright, and then you will check on the numbers... we've sent over the question for that and you can go onto the next one.

Mr. Haigh: Okay, Mo'ikeha Canal Bridge is basically the same. The

same basic thing. We end up with a contract price of about \$700,000 and we reduced about \$80,000 during value engineering and then with the change order to enhance the railings, we end up at \$730,000 approximate total cost. That column is not shown on this chart.

Ms. Iseri-Carvalho: Again, Donald, there seems to be some discrepancy in the numbers. The quantities, 40 by 20, yes. Any questions with respect to the Mo'ikeha Canal Bridge? Again, what was the \$30,000 change order?

Mr. Haigh: For all these bridges, it will be the same item. It will be the railing enhancements.

Ms. Iseri-Carvalho: Wow, okay.

Mr. Haigh: Kumukumu Stream... that is why... Kapa'a Stream Bridge, this one is interesting that we are actually seeing that the price went up during value engineering and we may have to verify why that occurred. I cannot...

Ms. Iseri-Carvalho: And you have the change order for that \$40,000, that was for railings.

Mr. Haigh: That would be for railings and then on the Kumukumu Stream Bridge contract bid was \$600,000. The actual contract with value engineering was \$525,000 and we added \$23,000 which was for railing enhancements and also we added in approximately \$5,000 to change the color of the keystone rock from concrete grade to a more earth tone color.

Ms. Iseri-Carvalho: Just the color, but not the type of material.

Mr. Haigh: Not the type of material.

Ms. Iseri-Carvalho: From concrete color which would have been the whitish...

Mr. Haigh: It would have been the gray, the typical gray concrete color.

Ms. Iseri-Carvalho: To earth tone?

Mr. Haigh: Yes.

Ms. Iseri-Carvalho: Alright.

Mr. Haigh: Keālia Beach comfort station... the rest area is the next item. \$450,000 was the bid price, value engineering it was reduced to \$318,000. Change order number 2, we added by \$2,000 and I believe that was enhancement to the roofing material to get a higher hurricane resistance to the roofing material, but I

will have to verify that. That is my memory, but I could be wrong on that. I need to verify and I apologize for not having that answer.

Ms. Iseri-Carvalho: And this rest areas, this was the six (6)...

Mr. Haigh: These are the six (6) rest areas.

Ms. Iseri-Carvalho: The ones that are in a row, right?

Mr. Haigh: No, these are the ones scattered throughout the corridor.

Ms. Iseri-Carvalho: This is the ones that is currently before the Planning Commission?

Mr. Haigh: That is correct. Keālia Beach comfort station. The bid price was \$600,000. We reduced that \$273,000. Change order number 1, we increased the number of stalls. I believe it went up in price and then change order number 3, we relocated that comfort station. Originally, it was located in the middle of the beach right by the lifeguard tower. We did go to the Planning Commission on that issue as a site amendment and they felt very strongly that it would be not appropriate to have it as exposed to the public and they asked us to move it back where it had been originally and that is what we did and that is the additional cost to move it back. So the total cost for the Keālia Beach comfort station is a half a million dollars.

Ms. Iseri-Carvalho: So the \$39,000 was...

Mr. Haigh: I believe that was for increasing the size of the comfort station to add several stalls.

Ms. Iseri-Carvalho: And was the Planning Commission aware that it was going to cost us, basically, almost... two-thirds of the price or more just to move it? I mean, were they aware that we would have to pay almost \$200,000 when the initial cost was only \$273,000?

Mr. Haigh: No, they were not.

Ms. Iseri-Carvalho: Any questions?

Mr. Bynum: This comfort station also has storage for the lifeguards.

Mr. Haigh: That is correct. It has storage both for the lifeguards and for parks, so it is more than just a normal comfort station.

Mr. Bynum: So was there additional cost because of the location?

Mr. Haigh: Yes, because it is in a... we had to raise it with fill in

there and it was quite expensive to bring the fill in.

Mr. Bynum: So the original design had it there?

Mr. Haigh: Correct.

Mr. Bynum: And then there was a bid to move it and you went to the Planning Commission...

Mr. Haigh: In value engineering stage, we moved it to save money. We realized that we could save money.

Mr. Bynum: Closer to where the current lifeguard stand is?

Mr. Haigh: That is correct and then when we went to Planning, we acknowledged that this was a significant change, so we went for a site plan modification and then when we went before the Planning Commission, they were not happy and felt it was not... my memory is primarily view corridor, view plain corridor issues, so they asked us to move it back.

Mr. Bynum: I was at that Planning Commission meeting and it was kind of... because the Fire Department preferred it near the lifeguard stand, right?

Mr. Haigh: That is correct.

Mr. Bynum: And the Planning Commission heard testimony to that effect.

Mr. Haigh: I believe so. I don't remember exactly.

Mr. Bynum: They wanted the structure where it is presently being built?

Mr. Haigh: Correct.

Ms. Iseri-Carvalho: Well, that seems really strange. We were talking about view plain corridor, about one building when there is like four (4) of them right in a row. I mean, I guess I am confused, but we will pull the Planning Commission meetings. I guess what I am trying to... chronologically, during the... the site of this comfort station was initially at where the current lifeguard station tower is?

Mr. Haigh: No.

Ms. Iseri-Carvalho: Where was (inaudible).

Mr. Haigh: The original bid is where it is right now. That was where it was originally. During value engineering to save money, we relocated it and you can see that we went from a price of \$600,000 to \$273,000 and that was not just the relocation, it was also a reduction in size.

Ms. Iseri-Carvalho: Let's get all the changes, so we can actually track these prices. So we start with the original bid of \$600,000, what location was that at and what did...

Mr. Haigh: That is approximately where it is now. I did not...

Ms. Iseri-Carvalho: On that raised site, right?

Mr. Haigh: Correct.

Ms. Iseri-Carvalho: And what was part of that comfort station when it was bid at \$600,000? Did they have a maintenance room?

Mr. Haigh: A maintenance and the storage area for the fire and parks was part of that original plan.

Ms. Iseri-Carvalho: Okay, and then at what point did we move it?

Mr. Haigh: We moved it during value engineering and at that time, we greatly reduced the numbers of stalls, but still had the storage for fire and... for lifeguards and park maintenance.

Ms. Iseri-Carvalho: Okay, do you know how much stalls?

Mr. Haigh: I do not.

Ms. Iseri-Carvalho: Do you know how much the current... what the actual construction stalls are?

Mr. Haigh: I would have to double check that. I have not memorized that.

Ms. Iseri-Carvalho: Okay, we will check on that and then the change order was for the... change order 1 was for?

Mr. Haigh: Change order number 1, my memory was to increase the number of stalls.

Ms. Iseri-Carvalho: Wait. We decreased the stalls during value engineering and then we increased them back to what the original stalls were?

Mr. Haigh: I don't know the exact numbers of number of stalls.

Ms. Iseri-Carvalho: Okay, so we will ask the questions on how much stalls for how much price and at what location.

Mr. Haigh: Yes.

Ms. Iseri-Carvalho: And then the CO3 which is the change order 3 for almost \$200,000 is to move... to purely to move that back to the original location and increase the stalls, but you don't know how much from the...

Mr. Haigh: I don't think we added any stalls. I think there was some additional landscaping work involved in moving it back also. So moving it back and associated landscaping cost.

JAY FURFARO: So, Doug, the way you should have presented this to us is, originally it was \$600,000 to be at a specific location.

Mr. Haigh: Correct.

Mr. Furfaro: Okay, you had them refigure everything for a savings of what was now going to be \$273,000, but at some point in time, you moved everything back to where it was originally was?

Mr. Haigh: Correct.

Mr. Furfaro: And so what it was, you had \$600,000 budgeted and you spent... you saved \$94,000?

Mr. Haigh: That is one way to look at it. The original bid price was...

Mr. Furfaro: We budgeted \$600,000 and you actually ended up building it for \$505,000, right?

Mr. Haigh: Correct.

Mr. Furfaro: So we went through this whole process to be back where we wanted to be. Look, you took the toilets out, you put them back in, that is \$32,000. You moved the location, we gave you this savings, but you went back and, so we added \$193,000 back to the original piece. So you went through a pretty...

Mr. Haigh: We went through a torturous circle because all that involves negotiations and trying to make sure that we are getting the best deal for the County and it takes a lot of time and effort.

Ms. Iseri-Carvalho: I think...

Mr. Furfaro: I am sorry, it just seems like a very tedious process to get back to what the original number was.

Ms. Iseri-Carvalho: Well, I think we need to find out... did we lose some space as a result of the cost savings because I don't know if we would have wanted to sacrifice the loss of space in light of the amount of usage that we have in that area. I am trying to weigh the benefits and the costs and, you know, some of the places, for cost savings, we may not have actually saved in a sense because we would have preferred more amenities like more stalls at a beach where you are there the whole day, probably so, especially if it is only a couple of stalls versus...

Mr. Furfaro: That's a good question. For the \$94,000 savings, how many urinals and stalls did we lose, if any? That is a very good question.

Ms. Iseri-Carvalho: And that is a question that we will be sending over. Doug, we also need to know... I spoke to, I guess, the project manager there. We had gone down there to look probably two (2) weeks ago and he had mentioned some concern about burial... bones being uncovered as they were... when they built that...

Mr. Haigh: That was definitely an issue that we had to address when the facility was being built. We did discover some burials in the area and we worked very closely with the State Historic Preservation Division and I believe we actually...

Mr. Furfaro: And the burial Council.

Mr. Haigh: Well, we weren't re-inter... I don't know if we had to go to the burial Council because we left the bones in the place. We did not re-inter any, so I don't know if we had to go to the burial Council. I would have to research and find out if that was the case.

Ms. Iseri-Carvalho: (Inaudible) unsure if we went to our burial Council.

Mr. Haigh: It may not have. I know we worked with State Historic Preservation Division and we did not relocate any of the burials in that area. I believe we kind of adjusted our construction, so that we wouldn't have to.

Ms. Iseri-Carvalho: But you will check on that. We will send over the rest of the questions. Thank you Doug. Anything else with respect to the comfort station I guess.

Mr. Haigh: The next one would be Keālia Kai. Keālia Kai comfort station, the original bid price was \$350,000 for a value engineer and we got it down

to \$234,000. Change order number 2, we added about \$7,000 and these were in response to concerns from Keālia Kai. We did allow them to review the design since it is within their area and they were the neighbors next door and there were minor enhancements that we did in response to their request and that is what the \$7,000 was for.

Ms. Iseri-Carvalho: What were these items?

Mr. Haigh: I would have to get back to you on that. I don't remember exactly what they were.

Ms. Iseri-Carvalho: Okay, do you know how much stalls are here on this...

Mr. Haigh: I believe there is... I would have to double check. I think it is one each side with a urinal in the men's, but I am not sure, I would have to get back to you.

Ms. Iseri-Carvalho: So you need to check on the stalls and then this comfort station has stall showers too?

Mr. Haigh: It has an outside shower.

Ms. Iseri-Carvalho: Any other maintenance building or any type of that?

Mr. Haigh: No.

Ms. Iseri-Carvalho: And I guess we will ask for the physical size because this comfort station is a lot smaller than, I would assume, the Keālia one, right?

Mr. Haigh: Yes.

Ms. Iseri-Carvalho: Alright.

Mr. Haigh: And it is about the same size as the Lihi one too. The park comfort station, the next one, the bid price on this was \$450,000 and in value engineering, we ended up with a \$230,000 contract amount and that is the current contract amount. We have had no change orders for the Lihi comfort station. And the final item are the ADA picnic shelters at Keālia Beach. The original bid price on those were \$400,000 in value engineering and we got the price down to \$260,000 and that is the current contract amount.

Ms. Iseri-Carvalho: And these are completed already, right?

Mr. Haigh: They are completed already.

Ms. Iseri-Carvalho: So if we can just go through... if you start on the top, which items have been completed?

Mr. Haigh: Okay, the path is... it is pretty far along. The only item that is... the only items that are completed at today's date are the picnic shelters and everything else is still under construction.

Ms. Iseri-Carvalho: Do we have a timeline for each item?

Mr. Haigh: I do not have a specific timeline for each item. There was a question concerning the completion of the project and that is item number 4. Do you want me to jump to that now?

Ms. Iseri-Carvalho: We will come back. We will go in order since everybody can follow that.

Mr. Furfaro: I am not a Committee member and Mr. Bynum would have had his hand up first, but I want to ask a summary question of the sheet.

Ms. Iseri-Carvalho: Okay.

Mr. Furfaro: I know everybody has heard this from me before, but, here, at the Council, as Chair of the Finance Committee, I would really like to see these sheets dated, so that a month from now if we are comparing something, we know when this sheet was prepared, so I would like to date the work. This isn't just for you, I mean, it is everything that comes over. I think we also because our Finance Department is kind of spread out, it really would help to have somebody identify who prepared the sheet and I if we could have some sub-totals, so, you know, you have a good story to tell here Doug, but I don't know if you are portraying it appropriately. You have to date the sheet, who prepared it, what percentage of the work was completed, and then, of course here, as I read this sheet right now, this adds up to \$8,390,000 of budgeted project released. This is what this sheet adds up to. Okay, you have valued engineering worth \$1.4 million that you have saved us from the budget. You have change orders of adding \$364,000 back and most of that story is tied up in this one item called the comfort stations. We went through this whole exercise to move the building, they showed you what the savings are, the Councilwoman brings up a very good point. Did we lose some specific facilities, but, quite frankly, you have a pretty good story here to tell and you could help yourself a little bit here with some of the suggestions that I just made.

Mr. Haigh: Well, thank you for pointing it out. It has been a long process.

Mr. Furfaro: But we don't want to be looking at something a month

from now and, say, the last worksheet you gave us, we didn't know when it was prepared.

Mr. Haigh: Well, actually, I will make those changes in the future (change side of tape).

Ms. Iseri-Carvalho: ... than this bid, so take everything into consideration, you know, I am trying to look at what kind of other savings. We may have saved a million dollars here, but that wasn't the lowest bid, in fact, the lowest bid was a million dollars, so why didn't we go with the lowest bid then instead of having to do all this moving around, this contract, take them out and then add them back in and, in the end, it comes out to basically what, you know, the bid was, the lowest bid was.

Mr. Furfaro: Your point is well taken.

Chair Asing: I have a question on the last two (2) items only because they seem to be quite large. In the bottom of the page, the Lihi Park comfort station reduced from \$450,000 bid price to value engineering to 30 and a difference of \$220,000, that is huge amount of savings, so how in the world did you did that? What did you do to that comfort station that was bid at \$450,000 and you bring it down to \$230,000. That is \$220,000 savings. I don't know what kind of magic you did, Doug, maybe you can tell me what kind of magic you did you save \$220,000. On the next one on the shelters, you know, you save another \$140,000 out of \$400,000. You must have done some magic over there too.

Mr. Haigh: Well, it wasn't me. It was a value engineering process was a committee that worked...

Chair Asing: Well, I tell you what, your value engineering concerns me now because of the large amount and I feel like Councilmember Furfaro and Iseri-Carvalho that I hope we are not losing something and we are going down too small and we are losing a lot especially when we have budgeted money and that is what concerns me. The money is there and it was budgeted, so thank you.

Mr. Furfaro: You know, I might suggest that, Doug, take one of these items that are big like the Chair is pointing out like on the park comfort station. You had it in the project as \$450,000, but at the time that the number was there, you know, specifically, what were some of the examples. You know, did the contractor think it was Monier tile and we ended up with composition shake. Did we plan to have 12 men's and women's urinals and we ended up with eight (8). You know, maybe just take one item, do you kind of follow me Donald and kind of give us an idea because at the end of the day to... this is also how, you know, this process is supposed to work where as you get closer to developing the specs, you might have had a different specification as the Chair is pointing out in your expectations than what the contractor actually bid on that is why it is called design bid. But you

might want to take one of these items if I could suggest and look at some of the big items like Monier tile, toilets, plumbing, you know, and come back to us and say, you know, this specific item, these are where some of the savings are. It might be better for us to understand, you know, the overall story that you are telling here because I think it is a pretty good one.

Ms. Iseri-Carvalho: Councilmember Bynum?

Mr. Bynum: So just so I understand the process a little better. The bids went out to a number of people and a committee decided on the bid?

Mr. Haigh: Okay, it was a formal design build process with the procedures approved by the Director of Finance, Department of Transportation, Federal Highway... there was a committee... first we reviewed the design build teams on qualifications and then narrowed it down to, I believe, three (3) teams and then there was a committee who was responsible for evaluating the design build proposals. They also helped develop the criteria in order to evaluate the design build proposals and that criteria was given to the design build teams and then the design build teams submitted their proposals. We separated the design portion from the cost portion, so the evaluators, the committee that evaluated the design build proposals had no idea what the cost of those proposals were. The cost factor was applied mathematically, separate from the design review, so then we were done, we have a number one ranked team and the way the procedures were laid out that if the number 1 team exceeds the available funds, the current budget for the project, then there is an opportunity to do value engineering with them to try to get the project within budget, so that is basically how the process proceeded. After, and then there was a separate committee was formed to do the value engineering and appraise the value engineering.

Mr. Bynum: So in this process, there was a number of criteria and cost was one factor off here and there were other factors like the ability of the person to deliver maintenance or what were some of those factors?

Mr. Haigh: I don't remember those, that was quite a few years ago, I don't remember.

Mr. Bynum: So when the team selected was... did everybody agree on it?

Mr. Haigh: It was done as a scoring system and the team that won it scored the highest.

Ms. Iseri-Carvalho: Doug, who was on the committee?

Mr. Haigh: I don't remember exactly.

Ms. Iseri-Carvalho: Okay, we'll ask that, but did they consist of County employees or...

Mr. Haigh: Okay, there were... some of the names I remember. Pat Phung with Federal Highway, Steve Kyono with State Department of Transportation, I believe Mel Nishihara who was the Head of the Parks Division at the time was on the team. Mel Ventura, a private developer, Gregg Kingsley who is someone involved in construction and also an employee of Keālia Kai and I believe Laurie Ho was part of the committee and she was representing Ke Ala Hele Makalai... that was part of the community that (inaudible) involved in the project. Not necessarily everybody was there when we did the final evaluation because I think one or two (2) people may have been on vacation during that process. That is the best of my recollection and to give you an accurate, I would have to verify.

Mr. Bynum: So once the contractor selected a separate committee, looks at the whole project and says we... in an attempt to reduce cost.

Mr. Haigh: Yes, value engineer and that committee, my memory... myself, Steve Kyono, Mel Ventura and I believe Alex Pascual may have been involved in that, but I would have to double check that also.

Ms. Iseri-Carvalho: The value engineering team was different from the committee that decided the evaluation and developing of the design?

Mr. Haigh: Correct.

Mr. Bynum: So then in that process and as Councilmember Furfaro suggested, he will give us some examples, but, you know, various changes, it could be a reduced in the capacity or the size of things or change in materials or less esthetics or, you know, a combination of things and the committee decides that trying to find the right balance between a quality product and the best cost savings.

Mr. Haigh: Ultimately, the value engineering needed to be approved by the Director of Finance.

Mr. Bynum: Thank you for helping me understand the process better.

Ms. Iseri-Carvalho: Anymore questions?

Mr. Furfaro: Yes, I have one more.

Ms. Iseri-Carvalho: Okay.

Mr. Furfaro: You know, Doug, if you could take that specific item that Chairman Asing pointed out, it would be very helpful. I also noticed something that

is not on your summary sheet and might be contributing to, you know, some of this pretty significant savings for the project right now. Could you please look into the question because, I mean, you had a pretty good group of experts put together from some of the names you gave us, but I don't see anything that deals with final landscaping, signage, graphics for the project, were those in the scope?

Mr. Haigh: They are within the scope and I would have to...

Mr. Furfaro: Because some of those things that I just mentioned are not necessarily and my experience in managing projects, they are not necessarily left to the general contractor. Graphics are sometimes subbed out to a graphic design company, landscaping to a nursery and so forth. Could you look into that? I mean, I don't mean to put a tarnish on the good news that you delivered us, but I want to make sure that we got all the items that possibly were in because like I said, you had a fine group of experts, but signage, landscaping and graphics, it would be nice to know if it was part of the design build. Thank you Councilwoman.

Ms. Iseri-Carvalho: Thank you. I guess the question that I had Doug was this value engineering process, could that have been done in the initial stages as opposed to after we had selected a contractor. Did the other persons that bid have the opportunity to engage in a value engineering process where their bid might be even less than what we selected with Glover?

Mr. Haigh: Okay, they did not have an opportunity to participate in the value engineering and that is how the procurement process was set up. There could...

Ms. Iseri-Carvalho: In other contracts, is that one is used where you have value engineering as part of the initial process as opposed to after a contractor has been selected?

Mr. Haigh: Well, value engineering, it can happen beforehand. If we are working on a project and the designer comes up with the final plans and his final estimate and we see that his final estimate exceeds available funds, we do try sometimes go back and try to value engineer and see where we can reduce cost. That occurs. Now, when we actually go out to bid and we bid a project and this will be design bid build, not a design build project, but when we do that, when we receive the bids and if all bids exceed the available funds, we have an option. We can go back to the designer and do value engineering just with the designer and rebid the entire project or we have the option where we can do value engineering with the apparent low bidder and those are decisions made by the Director of Finance which way we go and those are all within the State procurement law. Now, this design build project is a Federally funded project was exempt from State procurement, but we tried to follow State procurement as closely as we could and we developed our procedures accordingly.

Ms. Iseri-Carvalho: So it was, I guess the County's choice to not have value engineering occur prior to with all the bids.

Mr. Haigh: It would have been very difficult in a design build environment because everybody saw everybody's proposal, so (inaudible) we did not.

Ms. Iseri-Carvalho: Alright. Okay, so I think we finished answering the first question. Let's go back to the front page. Any further questions of the summary sheet? There has been numerous questions that have been raised that we will send over in a written communication all of those that have been raised. So if we go back to the second item, it says, for each component, item 1 above, please provide a chart indicating the minimum requirements by Federal, State and or County regulations, the cost of producing the minimum requirement, the specifications that were actually built, the cost of the current specifications and whether or not payment has been made.

Mr. Haigh: Okay, what I provided in response to that, in the chart, I included the contract design criteria. I also sent a letter which you have a copy of to State Department of Transportation design engineer and also a letter to the contractor trying to verify if they exceeded the design criteria and if that design criteria was beyond what was required. The response that we got back from... a written response from the Department of Transportation which I believe you guys also sent a separate letter too and I have not seen the response that came to you folks on that. But I have the letter from the Department of Transportation where they are basically saying, no, they did not see where the specifications were in excess.

Ms. Iseri-Carvalho: Okay, I think basically what the letter... we have one letter from Mark Nishida?

Mr. Haigh: You have a copy of an e-mail from Mark Nishida and you also have an April 12, 2007 letter from the Department of Transportation, Glenn M. Yasue.

Ms. Iseri-Carvalho: I guess it doesn't really answer the question. Basically, the response says, whether or not the minimum requirements were met and that, I guess, wasn't the question only. I mean, we wanted to know what the minimum requirements were and what kinds of specifications did we actually produce beyond the minimum requirements.

Mr. Haigh: That is where I gave them a copy of the design criteria that was part of the proposal which is what the requirement for the contractor to build and their response was that the necessary design requirements were listed or covered. I agree with you, they did not flat out say, it does not exceed the minimum. This is what they said, we are responding to your letter dated April 4, 2007

requesting to verify the minimum requirements by Federal, State and/or County regulations for the subject project. According to the project technical provisions and project comfort station design criteria attached to your letter, we believe all necessary design requirements were listed or covered under these documents.

Ms. Iseri-Carvalho: It doesn't answer the question, so I guess we will...

Mr. Haigh: My understanding is that Council sent a separate letter to the same... the Department of Transportation with the same question and maybe you got a better answer back, I don't know.

Ms. Iseri-Carvalho: I don't know, maybe the Chair did, but he is not here, but we will follow up with more...

Mr. Haigh: And then I sent a letter to Mark Nishida asking him, concerning the minimum and if he knows any (inaudible) where the final design exceeded the requirements known in the project technical provisions and he came back and said, the design meets the minimum standards and they did not intentionally over design for this project. That is what I tried to do to answer the question.

Ms. Iseri-Carvalho: Well, and I don't think that his response is appropriate. You know, we are not asking them if they intentionally over designed the project. We are basically asking, what were the minimum and what did we build and see the variance. If we had a cost on what the minimum was versus what was actually built, then we could have said, well, maybe we should have gone with a cheaper cost instead of spending, you know, the \$12 million. That was the purpose for that question, so I think we will prepare a question via you to get a more detailed response because I don't believe the questions have been answered. Now, we have... whether or not payment has been made, what was the answer...

Mr. Haigh: I attached a copy of the monthly (inaudible) 22 and that document (inaudible) and cost for each work item. Engineering provided that information and they also wrote in the date that construction started for each item and that was to answer...

Ms. Iseri-Carvalho: I am sorry Doug, the date... okay, so we have October 2006 when we... on the bottom of that chart for the bicycle path, is that what you are referring to?

Mr. Haigh: Payment number 22.

Ms. Iseri-Carvalho: And this one also has the date and contract number. I guess the information that Councilmember Furfaro was asking. It say estimated this month and that was 5%. When you say estimated, that is estimated... Okay, so when is it expected to finish?

Mr. Haigh: That is still question number 4?

Ms. Iseri-Carvalho: Did we do this chart as well?

Mr. Haigh: No, I don't believe so.

Ms. Iseri-Carvalho: We didn't do this chart. So when you are... maybe we can just summarize for the public's benefit. The bicycle path began on October 2006? It is about 45% completed? Currently, we have expanded \$1.5 million and I am sorry, how do you read that, that \$675,000?

Mr. Haigh: Okay, which item are you...

Ms. Iseri-Carvalho: The first item on the bicycle path.

Mr. Haigh: The multi-use path excavation embankment item?

Ms. Iseri-Carvalho: I am sorry. I guess I went all the way down because the dates don't begin until...

Mr. Haigh: The bikepath...

Ms. Iseri-Carvalho: I guess they are actually tied together, so maybe you can explain. So the multi-use path, that was the initial work that they had to do on the excavation and embankment?

Mr. Haigh: And it pretty much flows concurrently and you will notice that the... anyhow, yes, so the actual work on the bikepath started in 2006 and that is the information that they provided us and the bridge was December 2005.

Ms. Iseri-Carvalho: If you can just go across with the bicycle path...

Mr. Haigh: Estimate this period, that means that they did about 5% of the work during that month pay period. The previous total was 40%, so it is 40% done prior to that, so at that payment period time, they were 45% complete. The unit price was \$1.5 million, so the amount to date paid as of making this payment would be \$675,000 less retention.

Ms. Iseri-Carvalho: Okay, so you are saying that \$675,000 that was allocated for the entire bikepath which would be 100%, right?

Mr. Haigh: Well, the 100% for that line item is \$1.5 million, so 45% of \$1.5 million is \$675,000.

Ms. Iseri-Carvalho: And that is how much we've paid already?

Mr. Haigh: As of this payment, yes.

Ms. Iseri-Carvalho: And we have the date, April 30, 2007.

Mr. Haigh: Correct, that is the date of this document. It is not necessarily date of payment, date of payment is probably after that date.

Ms. Iseri-Carvalho: Right, okay, if you can go to the next one. Do we have a completion date?

Mr. Haigh: That would be question number 4.

Ms. Iseri-Carvalho: We will go back to the completion dates.

Mr. Haigh: The Waika'eā Canal bridge, December 2005 is when they started on it. They are 93.5% complete and we paid them \$757,350 less retention. We take a retention at the bottom of the payment, not each individual item.

Ms. Iseri-Carvalho: You said the retention is...

Mr. Haigh: The retention is at the bottom... it is actually on a separate sheet in the payment document where we take out the retention. These numbers don't include the retention.

Ms. Iseri-Carvalho: Go ahead.

Mr. Haigh: Or I could say they include the retention. We haven't taken it out yet. That would be another way to look at that. Mo'ikeha Bridge, very similar, started in December and 92.5% complete. The total unit price is \$700,000 and we paid approximately \$650,000. Kapa'a Stream Bridge started in November 2005 and they are 92.5% complete. Out of \$1.2 million, we paid out approximately \$1.1 million. Kumukumu Stream Bridge, they started in April 2006. They are 92.5% complete and the unit price of \$525,000 and we paid approximately \$490,000. For the rest areas in March, we are approximately 80% complete at a unit price of \$318,000, we paid out \$264,000. Keālia Park comfort station, all the comfort stations, we started around September 2006 and paid various amounts on each one. ADA picnic shelters, Keālia Beach, started in March 2006 and is 100% complete, so \$260,000... we paid out the \$260,000 less retention.

Ms. Iseri-Carvalho: Okay. Questions with respect to the figures that were provided? No, if not, we can go on. Councilmember Bynum?

Mr. Bynum: So the bridges are showing 92% complete.

Mr. Haigh: Correct.

Mr. Bynum: And it is my understanding it is the railings, basically, is the 8% that is left.

Mr. Haigh: That is correct and there are some work in the approaches that may not have been either.

Mr. Bynum: Approaches and railings, so they are close.

Mr. Haigh: They are very close. In fact, the railing material I was informed shipped last week and I thought it was shipping from Honolulu, but it was shipping from Houston, so hopefully, we will have the railing material here next week and hopefully we will start seeing railings going on.

Mr. Bynum: Unless it is on the slow boat, right?

Mr. Haigh: Well, you never know, things do get lost in the process.

Mr. Bynum: Okay, thank you.

Chair Asing: I have one question. Doug, the Kumukumu Stream Bridge, is that the one with the fancy tile?

Mr. Haigh: That is the one with the keystone block retaining wall system, headwall system, yes.

Chair Asing: Thank you.

Mr. Bynum: Regarding the Kumukumu Stream because that caught my attention. The fancy block and you supplied some information here that the keystone block, it was a cement concrete product that is used extensively all over the country. Actually, the literature I read said it reduces cost from pouring concrete and it is made out of cement block, right? It is not designer tile with inlays or... because it had been a concern that that was... use of that material was increasing cost and from what...

Ms. Iseri-Carvalho: I thought there was an increase in cost.

Mr. Haigh: Well, we increased approximately \$5,000 to change from gray to an earth tone color. I did provide you with manufacturer's information a case study that they had on a project similar where they are using the material for a headwall condition. They did make the statement that the decision to go for this material was both esthetics and economics and they stated that it was less expensive than the concrete alternative. Manufacturers say many things that I cannot absolutely verify that as correct, but it has been my impression that keystone block is not a high cost alternative, that it is used in similar conditions

and I cannot say absolutely that the manufacturer in instance is correct that we saved a lot of money by keystone block. At the same time, I couldn't say that we spent more money than we would have if we had gone with a poured in place concrete retaining wall. That would take cost, detailed cost studies to determine.

Ms. Iseri-Carvalho: The contractor would be able to provide... was that part of the contract?

Mr. Haigh: It was part of the original proposal included the keystone block, so he does not have a concrete headwall design to price to be able to tell me the difference between the two (2).

Mr. Bynum: The keystone block is used extensively all over the country for these kinds of projects. I cannot verify exactly how extensively it is used. I do know that keystone block was used by the Hawai'i Department of Transportation right across from us here. When they did the Kūhiō Highway, Rice Street intersection project, they used the keystone block retaining wall material for that project.

Mr. Bynum: And there was a decision to change it from gray to earth tone and the cost of that was \$5,000?

Mr. Haigh: Correct. For our project and not the Rice Street project.

Mr. Bynum: Thank you.

Ms. Iseri-Carvalho: And I guess the concern was that, who said it could be concrete? I mean, we had a planner say that the initial design was supposed to be just a wooden, small type bridge, I don't know. I mean, I don't know if we are really comparing apples to apples or apples to oranges here. We don't know what kind of bridge that you could have. I mean, we could have listed all of the different types of bridges and this may have been the highest one. It may have been used in other cities because they wanted that because of esthetic value, etc. I mean, to kind of hypothesize and say, oh, this is the cheapest one, I don't think that is being really accurate. The next question is, do we know how much that bridge cost on Kūhiō Highway and Rice Street intersection?

Mr. Haigh: No, I do not.

Ms. Iseri-Carvalho: You would be able to get that I am sure.

Mr. Haigh: I can get it from...

Ms. Iseri-Carvalho: Okay, we will ask for that.

Mr. Haigh: It wasn't a bridge actually, it was a retaining wall system

that they did there.

Ms. Iseri-Carvalho: Or maybe we will have a type of cost... when was that put in? Do you know?

Mr. Haigh: It was like eight (8) years ago or maybe five (5). Goodfellow did it.

Mr. Bynum: Has it been that long?

Mr. Haigh: You know, these things happen, you can't nail down when it happened. It was a big change.

Mr. Bynum: I hear about the major interchange or just beyond the round building.

Mr. Haigh: Correct. It happened during the Kusaka Administration, that I know because she worked deals with them to get nice landscaping done.

Ms. Yukimura: I have a question. I asked you this, but for the record, the bridge is built to allow for emergency vehicle?

Mr. Haigh: That is correct. That was one of the criteria for the Kumukumu Stream crossing to allow the fire brush truck. That was kind of the big design criteria for that one because we knew we had to get the firemen in for rescues and that, we worked with the Fire Chief at the time and that was the truck he felt was the one we needed to make sure we designed for.

Ms. Yukimura: Okay, thank you.

Mr. Haigh: We specifically, in the bid documents, put the load of that truck and the requirement to meet that.

Ms. Yukimura: Thank you.

Ms. Iseri-Carvalho: The next question would be number 3, so we have the date that work began, the status... When was work halted on all of these items if they were? I know they were because the bridges were halted because they haven't been in use because they were waiting for materials to come in.

Mr. Haigh: We did not have that information readily available.

Ms. Iseri-Carvalho: The question is there. It is just that... at this stage, right?

Mr. Haigh: The...

Ms. Iseri-Carvalho: The reason for... so the dates halted, the date that the work was halted, the reason for this stoppage, the date that work is anticipated to continue and the date that it is expected to be completed, so we will send that question over again Doug. And then the... I guess the other question besides... for each component, also indicate if there is a penalty that is assessed to the County for missed deadlines if any, so we would have a deadline, I guess, on all these others, right?

Mr. Haigh: No, we do not.

Ms. Iseri-Carvalho: Or is it just the entire project?

Mr. Haigh: There is a deadline for the entire project and I really want to apologize to the community for the long delay in the completion of these bridges because very early in the planning process, the community really emphasized to us... they want to get these bridges in and done as quickly as possible and, at that time, we had just finished that bridge in Kapa'a, the highway bridge that took forever and if I had put a specific time for each bridge, we wouldn't be in the situation where we are today where the contractor started early in the bridges and now there is a big gap of time when, you know, they are waiting for the railings to get it done and we could have structured the contract to have specific completion dates for each bridge in hindsight that would have been much better and better for the community because we would have the bridges available, so that is something in hindsight that we could have done better. As far as penalties, under the contract, failure by the design builder to complete the required work by the completion time specified in the contract documents or any extension of this contract, the design builder agrees to pay the County of Kaua'i, the sum of \$2,800 per calendar day of delay, so that is the penalty clause in the contract.

Ms. Iseri-Carvalho: But that would only apply to the final contract?

Mr. Haigh: Because we only put a completion date for the entire project. We did not put a completion date for individual items within the contract.

Ms. Iseri-Carvalho: But we do have the current contract completion date of May 6, 2007?

Mr. Haigh: That is correct.

Ms. Iseri-Carvalho: Now, this is the question that I have because there may have been some time period of suspension of the project regarding the shoreline certification issues and the pavilions, right?

Mr. Haigh: Uh huh.

Ms. Iseri-Carvalho: But that did not have any impact on the bridge at all because it was the contractor's error that the bridges were not completed, right? Because they did not have the materials.

Mr. Haigh: That is correct, but the contract time is for the entire project, so when you extend it... for part of that project, you extend it for the entire project and, really, it may be more appropriate for the County Attorney to give you a detailed analysis of such because I am not an attorney.

Ms. Iseri-Carvalho: What was the time period that the contract was suspended?

Mr. Haigh: It was suspended for approximately, I believe, three (3) weeks, but I believe we are still... we got the initial response from the contractor and we are reviewing his total time impact from that which is more than three (3) weeks because it is difficult to start back up and get concrete scheduled and all that.

Ms. Iseri-Carvalho: I am sorry, it is difficult to...

Mr. Haigh: It is difficult to start construction back up and to get concrete scheduled. Right now, construction on Kaua'i is very difficult to schedule concrete, so when they lost their concrete schedule... it is not like... we told them start work... on Friday, we say, hey, you can start work Monday, he can't get concrete that Monday, he has to wait and get back on the schedule, so that impacted their ability to start work up again.

Ms. Iseri-Carvalho: Doesn't Glover own his own concrete company?

Mr. Haigh: Glover is the owner, but they are separate divisions. I used to work for Hawaiian Dredging which is a big company and when you are in separate divisions, sometimes you don't get that special treatment. Just like within the County, when we are working projects, Planning doesn't treat us different, Department of Water doesn't treat us different... we are still customers of their following under the same rules of constraints.

Ms. Iseri-Carvalho: So at this time, we don't have a completion date of those bridges?

Mr. Haigh: No, we do not.

Ms. Iseri-Carvalho: Okay, but you will be able to get that information, right? Because some of them are, you know, 45%... weren't...

Mr. Haigh: The bridges were like 90.

Ms. Iseri-Carvalho: But there are other items on the project that were... well, the bicycle path, 45%, ADA parking 60%.

Mr. Haigh: And on the bikepath itself, we have suspended work on the section from Keālia north because we are waiting to resolve the equestrian issue which is being hung up on getting a rock fall hazard study because in our first workshop, we identified that the rock fall hazard study was relevant and important, so we need to get that completed, so there is going to be the issue, you know, there is going to be further impact to take care of the Keālia north part of the project.

Ms. Iseri-Carvalho: But, Doug, with this rock fall hazard study, wouldn't that have been something that the contractor would have included... I mean, that is part of their job to determine whether or not it is a hazard, right? Not the County? They are the ones who are building it, they are the ones who bid on the contract.

Mr. Haigh: I am not an attorney. I can't answer. It was not within their... it was not a specific requirement within their scope to do a rock fall hazard study.

Ms. Iseri-Carvalho: I guess I find this kind of interesting because when we toured the site and I believe Councilmember Yukimura had actually pointed it out on a video about the rock wall area. In fact, I just went there two (2) weeks ago and it still got like a construction thing around it or whatever or like a netting where the walls on the Keālia side were falling. They were falling, especially with the rain.

Mr. Haigh: Part of the issue is, that is outside of the project boundaries because that is not County land. The rocks are coming from private land, so that gives them a little less responsibility to answer for those specific issues, so it is a little bit complicated. But we are pursuing a rock fall hazard study.

Ms. Iseri-Carvalho: So the area that the County is responsible for is just the road where the cane haul...

Mr. Haigh: The cliff is part of Keālia Kai land.

Ms. Iseri-Carvalho: I mean, shouldn't Keālia Kai pay for that? Who is paying for this rock fall hazard study?

Mr. Haigh: We are in the process of getting a change order approved by Kaua'i Department of Transportation/Federal Highway to proceed with the rock fall hazard study.

Ms. Iseri-Carvalho: How much is this going to cost?

Mr. Haigh: I don't remember exactly, but it is under \$50,000.

Ms. Iseri-Carvalho: And I guess I am just confused that we don't even own it and we have to pay for it. I mean, we don't even own that piece of property where the rock is falling from and, yet, we have to pay to establish that it is dangerous? Why isn't Keālia Kai paying for this?

Mr. Haigh: We are making the decision for public safety to have the study done. You might be able to argue that it is their liability issue and they should do it, you could argue that I guess, but I am not qualified to make that type of argument, discussion.

Ms. Iseri-Carvalho: Well, I guess what we will do then is put this on... I will make a request to put it and get some advice from our County Attorney. I don't think we should be putting up \$50,000 if something doesn't... it doesn't seem to be the County's responsibility, but, you know, that is just one opinion. But I think that we do need to determine that because what if there needs to be additional work that has to be done if this study comes back?

Mr. Haigh: Absolutely.

Ms. Iseri-Carvalho: And not only that, the fact that this study is, I think, necessary... somebody would have to deem it necessary. I don't know if it is just the County, but if some State agency says, well, you know, we cannot open a bikepath there because the rocks are falling from the cliff, I mean, whose liability is that? Is it Keālia Kai or is it the County? It doesn't make sense to me that the County should pay for that, but we shall ask the County Attorney.

Mr. Bynum: I want to go back to the schedule or the completion date and delays that... so typically in a contract, you have a completion date and penalties for not meeting the completion date.

Mr. Haigh: That is correct.

Mr. Bynum: And then... but then there are provisions that change that based on if the County asked for delays, then we are responsible or is there weather related issues?

Mr. Haigh: There are also weather related delays.

Mr. Bynum: It seems like it is really intense, March, did that impact the completion date?

Mr. Haigh: I am not keeping track of those. The engineering is doing

the construction management. They keep track of all weather delays.

Mr. Bynum: So it is kind of like dealing with the issue if whether the delays are reasonable or not and if it is the responsibility of the contractor, then the contractor has potential penalties for that. If they are acts of nature or if there are delays that the County initiates, then the contractor is not responsible, is that correct?

Ms. Iseri-Carvalho: I think, Doug, you should have the County Attorney give an interpretation of the contract about what kinds of causes would be considered reasonable and what kinds that aren't. I don't think you would be the qualified person to answer that question.

Mr. Bynum: I am just asking about the process.

Ms. Iseri-Carvalho: Excuse me...

Mr. Bynum: I think I had the floor, you know and you interrupted me.

Ms. Iseri-Carvalho: Excuse me, Mr. Bynum, I am the Chair of this Committee.

Mr. Bynum: Well, do I get to ask my questions or not?

Ms. Iseri-Carvalho: Not at this time. Thank you.

Mr. Bynum: Not at this time? When do I get to finish asking my questions?

Ms. Iseri-Carvalho: Excuse me, point of order.

Mr. Bynum: Point of order, I had the floor.

Ms. Iseri-Carvalho: The Chair has the floor all the time. Maybe you need to review Robert Rules of Order.

Mr. Bynum: Well, if the Chair wants to just take it anytime she chooses.

Ms. Iseri-Carvalho: Excuse me.

Mr. Bynum: If every time I speak...

Mr. Furfaro: I am not a member of this Committee, but the prerogative of who gets the floor is determined by the Chair. I think there are some specific rules that we can all go revisit at the next caption break.

Ms. Yukimura: Point of order Madam Chair.

Ms. Iseri-Carvalho: Excuse me, what I will do, is there a caption break that is coming up? Alright, we shall take a caption break at this time, but we will revisit this issue when we return. Thank you.

There being no objections, the Committee recessed at 2:23 p.m.

The meeting was called back to order at 2:57 p.m., and proceeded as follows:

Ms. Iseri-Carvalho: May the record reflect that Mr. Kouchi is present as well as Mr. Rapozo. At this point, are there any further questions of Doug?

There being no objections, the rules were suspended.

Mr. Bynum: So in this project, you said that the completion date was May 6 or 7?

Mr. Haigh: The current contract completion date, yes.

Mr. Bynum: But that has already been extended for cause?

Mr. Haigh: It has not been formally extended, but we acknowledge that we certainly are expecting to extend it.

Mr. Bynum: And someone in engineering is keeping track of that?

Mr. Haigh: Well, it gets extended in several ways. One, if there are weather delays, engineering keeps track of weather delays, it gets extended for that and then if there are change orders that change the work and include contract time, construction manager, engineering in this case, keeps track of that process (inaudible) and then they go get approved through the process which they send it through me, I sign on it just as a project manager not doing a detailed review. It goes... for contractual construction issues, then the County Engineer submits it the Director of Finance who approves it and it also goes through the State Department of Transportation and Federal Highway Administration for their approval also. In the future, it appears, I believe, that Federal Highway will no longer be signatory on contract change orders. I don't know if that occurred yet, but that has changed. There is a special agreement between the State and Federal highway on project administration and they just recently gave more authority to the State. We may not have Federal Highway signing off on the contract change orders in the future. I don't know where that cutoff date is.

Mr. Bynum: So in this project, all of those situations that occurred at one point or another?

Mr. Haigh: Yes.

Mr. Bynum: And also you said that the project was shut down for three (3) weeks and perhaps more because of scheduling as a result of questions asked at Council regarding shoreline setback.

Mr. Haigh: I don't know all the exact details of that situation. That is a much bigger discussion.

Mr. Bynum: Thank you.

Ms. Iseri-Carvalho: Thank you. Committee Chair, I think at this point since you are present, I shall give you the floor as the Chair.

Mr. Rapozo: Thank you, I apologize for being late. I had some medical deals that I had to take care of in the morning. The doctor said that I could report back to work, so I am here.

Mr. Furfaro: So it was a good deal?

Mr. Rapozo: Yes.

Mr. Furfaro: Good, we are happy.

Mr. Rapozo: So am I. Any other questions? I understand that we are on item number 4 of the questions. Any other questions?

Mr. Furfaro: I have one. Thank you Mel and, again, it is nice to have you back at the table this afternoon. I don't need an answer to this, but it is something as a non-committee member that I raised in the past and it has to do with understanding and it is a question you should raise... probably raise with the County Attorney. If any delays were triggered that caused issue because of the potential of not having permits tied down, it is my understanding that the contractor was, in fact, and maybe you remember this discussion... the contractor was ultimately the person that was responsible for some of the permits and that is really the question that you should surface with the County Attorney. I just wanted to leave it at and make the statement again that if there are changes and charges related to permitting issues, we should make certain that we were not the applicant, the contractor was and, therefore, that should be taken into consideration if there are any penalties. Thank you Mr. Chair.

Chair Asing: Can I follow up on that question? Councilmember Furfaro, I just want to follow up on the question because I believe that you said that some of the permits... I am led to believe that all of the permits...

Mr. Furfaro: I was just being diplomatic.

Chair Asing: Then I will not say anything with that. Thank you.

Mr. Rapozo: Any more questions regarding number 4? Councilmember Iseri-Carvalho?

Ms. Iseri-Carvalho: Well, I just wanted to bring awareness to that issue that there is attorney related questions that we need to resolve after discussing it with Doug and Donald about completion dates, the impact of changes that have occurred with respect to the rock wall, as well as if there was impacts that was done as a result of the disputed issues on the pavilions or disputed issues with respect to shoreline... valid shoreline certification. I wanted to note that we still haven't received an opinion from the County Attorney on various shoreline issues that we are still awaiting. So those can all be put as an Executive Session to determine (change tape)... we have not received their responses. This actually, Committee Chair, were letters that we have requested I believe four (4) months ago about the return receipts. This is the concern that was raised especially with respect to the adjacent property by Otsuka store. I do note that there has been work that has been done that the concrete has been laid in that area which is some concern because in order for that to have occurred, we need to provide proof of these return receipts and we have asked for it many times and we still haven't received it, so I would ask that we get the...

Mr. Rapozo: Can we have somebody call Planning because I know the last time we had Ian here, he mentioned that he had it back at the office and it is not that far away. If we can have somebody from Planning... I will go get it. We will take a break and I will run across and get it if we need, but it has been a while and we have not received it.

Ms. Iseri-Carvalho: But of Donald and Doug, I don't have any questions?

Mr. Rapozo: Any other questions for Donald and Doug pertaining to this communication? If not, thank you.

Ms. Iseri-Carvalho: You know what, this is only a portion. I am sorry, we didn't get into anything else of the bikepath, so it was only of the questions, so if you wanted us to get to the other issues...

Mr. Rapozo: Any of the questions that we had that were not answered in the last few meetings?

M. Haigh: We did respond to your May 21 letter. My understanding, that came over this morning.

Mr. Rapozo: Okay, it is here. I see it. It is about half way through. Doug, you said that you submitted the responses?

Mr. Haigh: Yes, my understanding that it came from the Mayor's Office this morning. The response to your May 21 letter.

Mr. Rapozo: Did we get that staff? What I see is the communication. I don't see the response.

Ms. Iseri-Carvalho: Do you have those answers Doug?

Mr. Haigh: Well, I don't have one with the Mayor's signature on it. I could respond to it verbally, but...

Ms. Iseri-Carvalho: I guess you need to wait for approval, so let's wait to...

Mr. Rapozo: So we didn't get it?

Mr. Furfaro: May 21, I haven't seen it.

Mr. Rapozo: March 21.

Mr. Haigh: No, it was your May 21 letter.

Mr. Rapozo: May 21.

Mr. Haigh: Yes, it was the one concerning Federal Highway Administration guidance transportation enhancement activities.

Mr. Rapozo: March or May?

Mr. Haigh: It was May 21. I jumped on this one right away.

Mr. Bynum: I don't have that communication.

Chair Asing: Staff, make a copy please for Councilmembers.

Mr. Haigh: Wait, that does not have the Mayor's signature. I don't want to release it without the Mayor's signature, I am sorry.

Ms. Yukimura: Excuse me.

Mr. Rapozo: You know what, BC, let's take a five (5) minute recess, so we can get this squared away. I apologize. I don't have it in front of me, so let's just

take a real quick five (5) minute recess, thanks.

There being no objections, the Committee recessed at 3:09 p.m.

The meeting was called back to order at 3:17 p.m., and proceeded as follows:

Mr. Rapozo: Again, I apologize for that delay. We did have the response from the Administration. It did come over yesterday, thank you very much. Councilmembers, you have the response in front of you. Is there any questions for Doug or Donald pertaining to the response?

Ms. Yukimura: Is this the memo that was referred to by Councilmember Furfaro?

Mr. Furfaro: Yes.

Mr. Rapozo: Councilmember Furfaro did have some questions regarding the spurs.

Mr. Furfaro: The transportation, the spurs (inaudible).

Ms. Iseri-Carvalho: Chair Rapozo, is it possible for you to read the question and the response for the benefit of the public?

Mr. Rapozo: It is the May 21 memo. At the May 16 Public Works Committee meeting, the above mentioned agenda item was deferred. The question was: the alternative bike routes in the Wailua Houselots phase which obviously is no longer applicable are considered rural and would this be eligible to utilize surface transportation program funding which is the STIP funding. If so, did the County seek the approval from the Secretary of Transportation. The response, he quotes...is quoted Section 133C of the USC. It includes the general limitation that STIP projects not be funded on roads functionally... classified as local or rural minor collectors unless such roads are on a Federal aide highway system on January 1, 1991. With the secretary exempting TE's from the STIP location restriction of 133, the FHWA can now administer TE projects in a manner more consistent with the purpose of the TE's. Doug, you have a better definition that the people could understand?

Mr. Haigh: Actually, this quotation is from the Federal Highway guidance transportation enhancement activities document which I included attached to you. Basically, the question was, can you have a bikepath connector to a rural minor collector road? Because, typically, Federal Highway will not fund anything that is a rural minor collector road and what Federal Highway document clarified was that... and I will quote this: given the nature of many of the 12 TE categories, it is clear that the location limitations of Section 133C cannot apply to them, thus, on October 25, 1999, the secretary approved the Federal Highways

request for an exemption in the law, so that is the gist of it. Federal Highway acknowledged that this was a condition of the law that really didn't apply for TE projects, so they gave the exemption that the States have the flexibility to be able to manage the TE projects without having to go through a rigorous process to get specific exemption from a secretary each and every time. That is how I interpreted it and this was quoted directly from the Federal Highway...

Mr. Rapozo: Right, and this pretty much gives... is the enabling legislation basically saying now that the States can offer the exemptions? I guess the question was, was this project or was that spur exempt by the State or did we check?

Mr. Haigh: Well, they reviewed the environmental assessment, so within that, they are reviewing the project.

Mr. Rapozo: And it really is a moot issue because the house lot spur is no longer there, so any other questions?

Ms. Iseri-Carvalho: Chair Rapozo, you are basing your decision that the Wailua spur is no longer there based on what information you have?

Mr. Rapozo: Not the *Garden Island*. I actually was at the meeting where the Mayor said it was not going to occur.

Ms. Iseri-Carvalho: Can we get that from them because we did not discuss that section. The only sections that we discussed and that was one of my questions that we have a testimony from the Administration because we were at a meeting and I understand that and it appeared to be that was what he said that they will no longer be a Wailua House lot spur, but other people don't know that.

Mr. Rapozo: Okay, well, I apologize for that as well. I was under the impression that everybody was under that impression, so what was told at the meeting at the Kapa'a Middle School last week was that the Mayor had decided to remove the Wailua House lot spur from the project. If that is not the case, then I guess we should know about it, but, I mean, I heard it with my own ears and there were quite a few people there that heard it as well.

Mr. Haigh: I understand that he would not move forward with construction of that spur.

Ms. Iseri-Carvalho: That would be eliminated period from the bike path, is that your understanding? That it was eliminated period, that we were no longer have to revisit this issue, not that construction wouldn't start, but that it would be over. I mean, we would never ever have to revisit that?

Mr. Haigh: That is not my understanding.

Mr. Rapozo: Okay, well, that was my understanding and I don't know if anybody here was there at the meeting that night, but I think it was quite clear when the Mayor went up and said that he had heard from the residents and that he was satisfied that it was over and that would not occur.

Mr. Haigh: Right.

Mr. Rapozo: So if that is what it is, that is what it is. If not, I guess we would want to know about it. I think the people, the houselot's people should know if that is... if there is a plan to resurrect that spur, then I think the public should know.

Mr. Haigh: There is no plan to resurrect that spur at this time. Let me just clarify.

Mr. Rapozo: Help me Doug. Help me here, please, because that is what causes the problems. There are people that are out there that is going to be watching this now. I mean, it is either going to happen or not and I think...

Mr. Haigh: I want to be honest here.

Mr. Rapozo: Me too. I want you to be honest.

Mr. Haigh: The spur is included in the environmental assessment.

Mr. Rapozo: Correct, but that can be changed.

Mr. Haigh: And it could be... we already filed the FONSI for the State environmental assessment, so it will probably take an amendment to go back and change that. As far as moving forward in the project, clearly, it is not our intent to permit, design, or do land acquisition for that spur. That is the clear direction from the Mayor and we are not planning on that, but I don't believe we have made a decision to go back and amend the environmental assessment to take it out.

Mr. Rapozo: Okay, well, you know, it is what it is Doug. The houselot's people will watch this show and they will raise cane next week because that is, apparently, that is not what I heard, I know that, but let's move on. That is an issue and we will follow up because I think the people deserve a confirmation one way or the other. If it is something that may happen later, then I think they should know. If it is something that is just a temporary stop because he couldn't face the hundred people that were there, then I understand, but I think the people spoke loud and clear. The houselots people spoke loud and clear that night. We do not want it coming up the houselots. The reasons given were simple. To get the people up above down to the main track below. That is what was told. The people up

above says, we don't want that, so why would we even waste a penny of taxpayer's money if the people don't want it. We will follow up with that. I saw you had your hand up Mr. Chair.

Chair Asing: I just wanted to make it clear that when you say that this communication is moot, it is not moot in the sense that there is a spur going up to Kawaihau Road.

Mr. Rapozo: But the communication, the specific communication, May 21 that we are discussing today specifically is limited to Eggerking and Nonou that is why I said this is moot for the issue that we are talking about today. This is not moot for the issue as far as Kawaihau Road, but, again, in trying to keep in line with the Sunshine law, I don't want to deviate and I know that question will probably come up again as will, I think the community regarding the Kawaihau spur as well Mr. Chair. You are right.

Chair Asing: I would also like to add that, you know, this communication is coming to us signed by the County Engineer, the Chief Building Division and the Mayor, but it is merely a communication taken out of the, I guess, the Feds book, but, you know, it is not a communication that we are getting from the... to me, the right source. I mean, you take a book and you say, here it is, that is not what I am looking for. I would feel comfortable if you would get that from a source and the source should be from the Feds and not from a book. I don't want something from the book. This is a quote from the book and that is not what I want. I'd like to see information that is from an officer that is responsible for that program. Thank you.

Mr. Rapozo: Okay, thank you. Again, my comments were the same that this was really the enabling legislation that authorizes the State to exempt projects. What Doug is saying is because the State accepted the EA, that they basically accepted the fact that we were going to run the spur up through the houselots as well as Kawaihau Road. So I don't think we have ever gotten a response from the Federal government or the State Department of Transportation. We may have, I am not sure as to the specific approvals or exemptions as it was requested. I think we have a bigger problem with the houselot spur that I have to pursue. Anyway, go ahead Mr. Furfaro?

Mr. Furfaro: Yes, Mr. Rapozo, you are correct as this question was framed from me to you dealing with the houselots, but it was referencing a 1991 secretary of transportation guidelines on the transportation enhancements. Subsequently, the Chair is... the Chairman of the Council is right that we are now responding with the 1999 rule change where it is giving the State more flexibility, but I guess my question is, as the Mayor has announced that we will not be pursuing the spur in Wailua, Doug, do you know if, at this point, with that decision being made and the use of any FONSI moneys if we have any financial responsibility to refund any portion of money spent on the Wailua study?

Mr. Haigh: My understanding is that in the planning phase, you do not have a commitment. Once we step to design, then we have the commitment, that is why, for this project, the Lydgate to Kapa'a phase, our next action will be coming...

Mr. Furfaro: I got it. I don't want to know about the... my question was specifically the planning phase does not obligate us to any refund.

Mr. Haigh: That is correct.

Mr. Furfaro: With the Mayor's recent statement at the community meeting. Thank you Mr. Rapozo. Thank you Doug.

Mr. Rapozo: I guess if staff could take note of that question regarding the houselot spur because I think it is important that we get that. Go ahead Councilmember Iseri-Carvalho?

Ms. Iseri-Carvalho: I guess on the question about amendment to the EA on that Wailua spur, I think, you know, the concern that I have is that if we do not seek an amendment, then any Mayor who comes in later because it is already in the plan could decide, well, now I want a spur, so I think that the people should have it in actual documents that it is not part of that plan at all as opposed to, three (3) years later, well, this is a change of mind because it is already in there, we don't have to get an amendment and, thus, that could be built and I think that is kind of what you are saying. I know the Mayor said that, but it is only at this time, so I really would want to see...

Mr. Haigh: Of course to build this spur, you would have to acquire land, so it wouldn't just be just an administrative decision, it would also be a Council decision, but I hear exactly what you are saying and that is something that... actually, at the end of the meeting, we talked with the consultant, what do we need to do, what is the next step and that is an issue. Do we need to go back and amend the EA to take it out or can we just simply proceed with the project and the Mayor clearly is not going to include design, land acquisition, so for it to be (inaudible) it may be in the EA. It would need both administrative and Council action to start it up again.

Ms. Iseri-Carvalho: But you saying that, it is the consultant's assessment that we do not need to go back to amend the EA?

Mr. Haigh: We have not thoroughly analyzed that. We also need to review the situation. It is a unique situation which we are also planning to review Federal Highway how we want to manage... how best to manage this, how it needs to be managed. Clearly, one alternative is, you could go back and amend the EA. If it is necessary or not, I don't know and I can't answer that today.

Ms. Iseri-Carvalho: Who would know that?

Mr. Haigh: I don't know who knows that. I mean, we would go to OEQC for opinions. Our consultant needs to review it and we would also go to State Highway and Federal Highway administration for their opinions and that is, you know, that decision isn't being made at the County administrative level. How to best handle it, we are going to other levels.

Mr. Rapozo: And I guess, Doug, one of the concerns... I am sorry, one of the concerns is that and I am sorry to interrupt, but the fact that we don't comply with the EA or with the plan is what Honolulu found out with their transit system. They ended up paying three (3) times the amount of the construction because they failed to follow the plan, so I guess my question would be for whoever is the one to answer. What is the process if we are not going to fulfill the plan, number 1, yes, the community doesn't want it. Number 2, if we don't build the spur and it is in the plan, do we get penalized by the Federal government if we don't complete that spur. If, in fact, we do, then we may as well go forward and amend the plan. Again, I don't know who is the right person to ask, the State, the Feds, I am not sure, but I think that needs to be answered right away.

Mr. Haigh: The verbal answers I have gotten.

Mr. Rapozo: Verbal is not good Doug.

Mr. Haigh: Yes, I know. What we are going to want is an indication from you folks and we will follow up and we can go and, you know, get the right answer, get a complete answer.

Mr. Rapozo: Councilmember Iseri-Carvalho?

Ms. Iseri-Carvalho: And then, I guess, the question comes up regarding the EA with the golf course issue because we changed the alignment that was initially proposed, right? Because we are like now, within four (4) feet of the highway in some places and did we not have to amend the EA at that point. Now you are saying that...

Mr. Haigh: That EA has never been finalized.

Ms. Iseri-Carvalho: So right now, that portion that we had discussed before on the golf course, that alignment, that hasn't gone through the EA process? The final?

Mr. Haigh: No, we have not.

Ms. Iseri-Carvalho: And when is that going to be set?

Mr. Haigh: We are still reviewing the draft final and I can't tell you exactly when it will be done. Federal highway is now putting a top priority to reviewing it, so I can't make a commitment for them when they will be done.

Ms. Iseri-Carvalho: But you had your last public informational meeting regarding that segment, right?

Mr. Haigh: That is correct.

Ms. Iseri-Carvalho: And at that public informational meeting, what was the plan that was proposed? The one that was along Kūhiō Highway?

Mr. Haigh: Correct.

Ms. Iseri-Carvalho: And that was just a proposal. You would need to get approval within the final EA.

Mr. Haigh: We would document the decision in the final EA.

Ms. Iseri-Carvalho: You hadn't made a decision yet?

Mr. Haigh: As we are finalizing the EA, we are documenting the decision.

Ms. Iseri-Carvalho: But that is the alignment that you guys are proposing?

Mr. Haigh: That is my understanding, yes.

Ms. Iseri-Carvalho: And that is the alignment that the community wanted?

Mr. Haigh: That is my understanding.

Ms. Iseri-Carvalho: And you have that documented. I guess because there were a lot of concerns raised about that location and about like the design, about whether you are going to get that eight (8) foot concrete wall to block the golf course view.

Mr. Haigh: There are a lot of those issues that would be resolved in the design stage of the project and they are certain (inaudible) that are resolved during the planning stage of the project.

Ms. Iseri-Carvalho: Well, I guess I will follow up with more questions with respect to that. Thank you.

Mr. Rapozo: Anymore questions regarding the alignment, the communication from Councilmember Furfaro? If not, any other questions? We are still awaiting planning and I am not sure where they are at. Really, my concern for Planning is, more importantly that one homeowner that has written to us and said that they never received the information and Planning assured us that they did and we have yet to see the proof. So I don't know where they are at, maybe you can give them another call. Any other questions pertaining to the agenda item? Councilmember Iseri-Carvalho?

Ms. Iseri-Carvalho: Doug, I don't know if you received a copy of this memo. It was addressed to Merle Grimes from Mimi Olry who is the Kaua'i Marine Conservation Coordinator, Division of Aquatic Resources, DLNR, it is dated May 17.

Mr. Haigh: It is an e-mail. I think I glanced at it and reviewed it briefly.

Ms. Iseri-Carvalho: So the concern that was brought up was that she... I guess she had requested signage that would be... there were signs to be installed that would be interruptive and regulatory for environment, wildlife, culture and history. She was told that the contract had already been made for the Keālia section and that the budget did not include signs, so she is concerned now because she feels that it is important especially in that area to have these types of signs. Have you guys incorporated signage and I guess a lot of what she was concerned with was about the monk seals and there are other endangered flora and fauna I guess she is talking about.

Mr. Haigh: We are awaiting the change proposal from the contractor (Bob Keālia) to enhance the signage for the project and we are including... I expect, in that proposal to be signage that includes taking care of many of her concerns. I have talked with Merle Grimes and he confirmed that he knew it was my direction that we should definitely include... actually, he includes signage as much as we can for those issues and that is an important part of the interpreted signage for the project. Also, the Lydgate to Kapa'a, the Wailua Bridge project. They are looking at... we are looking at a proposal from the designer for the interpreted signage on that my understanding is that it has been clearly communicated that they are to work with her and try to get the best signage that is appropriate for her needs.

Ms. Iseri-Carvalho: Did people respond because she is saying that nobody is responding, that she is confused and (inaudible) as to why the signs are not part of the contract with DOT.

Mr. Haigh: Her e-mail was not directed to me, so I did not respond. Actually, I talked with Merle this morning and he said that he has been talking with her and that he has reassured her that he is working on that.

Ms. Iseri-Carvalho: Would it be Merle that would put the signs in or is that something that you would have to get respect to a change order?

Ms. Haigh: Well, as I mentioned, for the Lydgate... both Kapa'a/Keālia, there is change order. Lydgate to Kapa'a as far as the bridge project and actually the whole project, we are looking at a change order to the design contract to include interpreted signage. We (inaudible) pick up her signage also.

Ms. Iseri-Carvalho: So the Kapa'a/Keālia, the change order was not in the presentation that you gave?

Mr. Haigh: No, it was not. It is a change proposal. We are waiting for a design build change proposal.

Ms. Iseri-Carvalho: Okay, and who is going to prepare that?

Mr. Haigh: The contractor is working on that.

Ms. Iseri-Carvalho: So that would be Glover?

Mr. Haigh: Correct.

Ms. Iseri-Carvalho: Okay, we will propose a question and if you can give us something in writing, so that we can forward to her to assure that her concerns are being met.

Mr. Haigh: And I take her concerns very seriously. I think we have to do everything we can to educate and help protect the monk seals.

Ms. Iseri-Carvalho: And I agree Doug. That is just not what she says in her letter.

Mr. Haigh: I know. I was surprised.

Ms. Iseri-Carvalho: She says that you were not actually responsive to her, so...

Mr. Haigh: I was surprised. Actually, I had talked to her personally about it last week.

Ms. Iseri-Carvalho: Okay, I mean, this was dated May 23, so went 17 and then May 23 was another.

Mr. Haigh: I think I talked to her on Tuesday or Wednesday of last week. I forget what the date was.

Ms. Iseri-Carvalho: This was Wednesday, May 23. The next question that I have is that at the Wailua Houselots... well, the public informational meeting at the middle school regarding the Wailua Houselots spur, it was brought up with respect to all of the projects that are outstanding that notice be given to residents that are within a 500 feet radius, so that they would be able to communicate their input if they do not participate in the public informational meetings or unable to participate in those meetings. Have you changed your policy to incorporate that in every other aspect that is upcoming on that bikepath?

Mr. Haigh: Councilmember Rapozo had made that suggestion at the meeting. Since that time, I have requested a proposal from the planner for the Kuna Bay to Anahola phase to include a mailing to all residents in Anahola for every future public meeting. For the Nāwiliwili to Ahukini Landing phase of the project, we have asked the consultant to provide a proposal to include mailing to all residents within 500 feet of the proposed alignments for his project for all public meetings. That one, we may have a problem on... we have not yet conducted the first public meeting which was scheduling for the last Tuesday in June and the first public meeting, we really won't have preferred alignments identified and we don't have time to execute a... contract amendment to include this change, so the first public meeting for this phase of the project, we may not have the public notification, but, clearly, for the second and third public meetings, we are committed to get that notification. And we are hoping that we will have support from (inaudible) DOT and Federal Highway in funding that contract... those contractor changes.

Ms. Yukimura: May I have a follow up question on that? When you say that you won't have time for public notification, you mean the mail outs, but you will do press releases and that other process for the first one, right?

Mr. Haigh: Absolutely.

Ms. Iseri-Carvalho: Okay, and that is great. I think that would alleviate some of the problems that we have been experiencing with the bikepath issues.

Mr. Haigh: Absolutely. That is a great idea and it is going an extra step because these really aren't formal public hearings, they are just public informational meetings, but it takes an extra step and anything we can do to flush out issues early is better for the project.

Ms. Iseri-Carvalho: Cheaper too.

Mr. Haigh: Yes.

Ms. Iseri-Carvalho: And my other question is, with respect to the illegal roofs on the six (6) other pavilions or rest stations, what is the status on that?

Mr. Haigh: We are scheduling... well, Planning is scheduling the meeting with the Planning Commission... is it on the 12th or the 13th... June 12.

Ms. Iseri-Carvalho: That is a Tuesday?

Mr. Haigh: Yes.

Ms. Iseri-Carvalho: Okay, June 12.

Mr. Haigh: Yes.

Ms. Iseri-Carvalho: It is on the agenda?

Mr. Haigh: Correct.

Ms. Iseri-Carvalho: And what is the position of the County with respect to removal of these illegal roofs?

Mr. Haigh: Well, you use the term illegal, but that is okay. The Administration is requesting approval for an SMA modification to allow routes on...

Ms. Iseri-Carvalho: Is it the Administration though Doug or is it the contract... I mean, who actually is the applicant?

Mr. Haigh: The Administration is making the application because the permit is in our name. We are the owners, so we need to be the applicant. When we worked with Planning in working this out, they said, yes, you have to be the applicant, so the County of Kaua'i is the applicant. The contractors prepared the application and the Administration has made the decision to ask for the roofs for rest areas number 2, 4, 5 and 6. We are not asking to add the roofs to rest area number 1 or rest area number 3. Rest area number 1 is located by the Kapa'a Neighborhood Center and rest area number 3 is the one located halfway between Kapa'a Town and Keālia Beach. It is not... it is the Administration's position that we will have the contractor remove those roofs.

Ms. Iseri-Carvalho: I guess I find that kind of interesting because I think initially, wasn't it your request that you guys would be seeking amendments for all of the structures? I mean that was in the letter that was sent to us, right?

Mr. Haigh: That was in the initial application that all six (6), but our reapplication has only four (4).

Ms. Iseri-Carvalho: So there was another amendment that... I mean, amended application that was made subsequent to your answer to our correspondence here?

Mr. Haigh: That is correct.

Ms. Iseri-Carvalho: And the midway one is the one in front of the Friendship House or the one that is by the graveyard?

Mr. Haigh: Friendship House.

Ms. Iseri-Carvalho: Okay, and the reason for that?

Mr. Haigh: That was an administrative decision.

Ms. Iseri-Carvalho: Did that go out for public input prior to changing?

Mr. Haigh: No, it did not.

Ms. Iseri-Carvalho: Did we resolve the cost issue?

Mr. Haigh: No. I mean, the issue hasn't been finalized, so, no, cost issues have not been resolved.

Ms. Iseri-Carvalho: And we haven't paid out the money yet, right?

Mr. Haigh: Correct.

Ms. Iseri-Carvalho: For any of the structures on the...

Mr. Haigh: You had the April billing which showed the percentage that we paid for the rest areas. We paid 80% on the rest areas.

Ms. Iseri-Carvalho: And the 20% was the roofs?

Mr. Haigh: The 20% is the balance of work to complete.

Ms. Iseri-Carvalho: Is that the only thing left?

Mr. Haigh: Pretty much except for rest area number 6. That one, we didn't even pour the concrete slab.

Ms. Iseri-Carvalho: Rest area number 6 is by Kumukumu?

Mr. Haigh: No, rest area number 6 is by Kuna Bay.

Ms. Iseri-Carvalho: Kuna Bay is the furthest one in?

Mr. Haigh: The furthest one.

Ms. Iseri-Carvalho: Wasn't there a question... we received a letter from Lemmo I think dated April 17 or somewhere around there regarding the CDU permits and the fact that one of the rest stops was not on... one of the rest stops that had been built or whatever was not in the plans. Did you see that copy of that communication from DLNR?

Mr. Haigh: I did not receive a communication of that...

Ms. Iseri-Carvalho: There was like a whole list, that was one of them, but there were several things...

Mr. Haigh: I have the communication where they approved the extension of the permit and there was a question on the location of something and I forget exactly what it was.

Ms. Iseri-Carvalho: Right and I believe that was the rest station. I mean the...

Mr. Haigh: I don't remember exactly.

Ms. Iseri-Carvalho: I believe this item will get deferred. I mean, prior to your arrival, Committee Chair, there were numerous questions that were documented that weren't provided, so I will have that in a follow up question.

Mr. Rapozo: Thank you. Any other questions. I am informed that Planning is on their way over and I know we have to change the tape in a couple of minutes. What role does Merle Grimes play in this?

Mr. Haigh: Okay, Merle Grimes has been a consultant on various projects.

Mr. Rapozo: But he is not a consultant on the bikepath, right?

Mr. Haigh: Not in the Kapa'a/Keālia phase, no.

Mr. Rapozo: Okay. Any other questions?

Ms. Iseri-Carvalho: I guess I would follow up. Can you tell me who are all the consultants on the six (6) segments that we paid?

Mr. Haigh: The lead consultants, okay. The lead consultant on the Lydgate Park was Merle Grimes. The lead consultant on Kapa'a/Keālia was SSFM.

Ms. Iseri-Carvalho: Hold on. I am writing it down, so can you hold on? The Lydgate Park which included the campgrounds, that was Grimes?

Mr. Haigh: Correct, but the campgrounds were not part of this contract.

Ms. Iseri-Carvalho: Oh, they weren't?

Mr. Haigh: Well, we will address that later when we get into that.

Ms. Iseri-Carvalho: Okay.

Mr. Haigh: So Lydgate Park, Merle Grimes.

Ms. Iseri-Carvalho: Hold on. Which part of Lydgate Park?

Mr. Haigh: He did the bikepath.

Ms. Iseri-Carvalho: Okay, and the bikepath that goes from where to where?

Mr. Haigh: Within Lydgate Park.

Ms. Iseri-Carvalho: That is within the park itself?

Mr. Haigh: Yes.

Ms. Iseri-Carvalho: Okay.

Mr. Haigh: SSFM is the consultant for the Kapa'a/Keālia. Merle Grimes is the consultant from Ahukini to Lydgate. SSFM is the consultant from Kuna Bay to Anahola and R.M. Towill is a consultant for Nāwiliwili to Ahukini.

Ms. Iseri-Carvalho: I am sorry, was the Tower or Towill and that was for what phase?

Mr. Haigh: Nāwiliwili to Ahukini Landing.

Ms. Iseri-Carvalho: Okay, and do you know the fees that we paid to these consultants?

Mr. Haigh: Not at the top of my head, no.

Ms. Iseri-Carvalho: And some of them we paid fees and some of them we haven't or we...

Mr. Haigh: Well, they all have contracts and some of them we paid 100%, others we paid partial.

Ms. Iseri-Carvalho: Okay, we will ask that in the next letter. Thank you.

Mr. Rapozo: Well, you know, Tim, you had your hand up?

Mr. Bynum: (Inaudible).

Mr. Rapozo: Turn on your mike.

Mr. Bynum: Kapa'a to Keālia consultant is...

Mr. Haigh: SSFM (inaudible).

Mr. Bynum: So I see, but we just had a presentation from Kimura, so he is a sub-contractor?

Mr. Haigh: Okay, the presentation from Kimura... I am sorry, I missed one phase. Lydgate to Kapa'a is Kimura International. I am sorry, I missed one place. Thank you.

Mr. Rapozo: With that, B.C., we are going to take a real in seat break for the tape change. Thank you.

There being no objections, the Committee recessed at 3:50 p.m.

The meeting was called back to order at 3:53 p.m., and proceeded as follows:

Mr. Rapozo: Any other questions for Donald or Doug? Going once, going twice...

Mr. Furfaro: I have a statement.

Mr. Rapozo: Okay.

Mr. Furfaro: Thank you. Donald and Doug, I just wanted to thank you again for the sub-ledger report on the project that you did. I thought it was a very good piece to give us exactly where we are on the dollars that are allocated. I think you have a better story there to tell than you put on paper. But, also, please take in consideration the Council Chair's comments and mine as well. If you can take one of those large project's savings, then give us some detail as to where the savings might have specifically come from when we agreed on the valued engineering. That would be greatly appreciated, but also please look into the issue with landscaping, graphics and signage because I don't see it anywhere in the project and I just wanted to revisit that and thank you gentlemen. Thank you Mr. Chair.

Mr. Rapozo: Thank you. No more questions? Thank you very much

gentlemen. I guess we will see you later. Any further discussion on the matter? Go ahead Mr. Bynum.

Mr. Bynum: This agenda item has basically been a fixture on the Council for the last few months and the questions and answers today I think illustrate that it is a big project like \$11 million or something. But, you know, we got a sense today, I think, from some of the process that, you know, a bid goes out, there are a team of people. It is not one person that makes a decision, but a team of people including experts in our community who make a choice of the contractor and then a team of people who review that selected person to, you know, make decisions about a balance between how much amenity, esthetics, what kind of product, what kinds of material should be used in order to get the best value for the community and to... so I was encouraged to hear that there were quality people who have long history in our community involved in that process and there was that attempt being made and we know that is ongoing. It is typical in a project like this that there are change orders that instances come up where minds think and make decisions about, again, trying to save money or perhaps, maybe our initial sense of what was best in this area could be different, so we have that process in place. Again, not one person making that decision, but a group of people in the County has to go through reviews and processes and everybody seeking the balance there of what is the best bang for the buck for the County. A lot of people have interest in that including community members that like to put their 2 cents in, but we have designated decision makers, the Director of Finance, the Administration. The Council's role is to be... to review that, to look at that which we have been doing in infinite detail for months now and looking at decision. But many of these decisions on this project that is underway now went through all of that community process over a long period and, you know, I certainly followed that process by attending all the meetings that I could because I have an interest in this and I put my 2 cents in and in that decision making process, I'll use my judgment that ruled the day. You know, sometimes I could influence it, other times I could not as a citizen from the outside, so as I look at each element of that question, it is like, oh, should we have used asphalt here? That is a decision, for example, that I disagreed with. I thought it was worth spending some more money for the durability and the long term maintenance value of cement, but, you know, that is part of the process. You make decisions and some go and some don't, so, you know, I am encouraged by that process. The more I learn about it and as I observe it that a lot of minds get put together to make those decisions and balance. You know, I am a bit uncomfortable after five (5) or six (6) years of that process. Now we go back as the Council and look at each minute detail and say, you know, our judgment was better. You know, at some point, it becomes a micromanagement that is above and beyond, I think, oversight. If we find errors, if we find liabilities, we need to pursue those because that is our responsibility and oversight. But questioning the judgments that were made some time ago on these details is taking a lot of time and, you know, that is why I try to understand the process best, but try not to get too much into those details, so that is the comments that I wanted to make.

Mr. Rapozo: Thank you. Councilmember Yukimura?

Ms. Yukimura: Yes, first the question about process and there were several questions surfaced today, so is it the intention of the Chair to create a communication with those questions and then have them ask for the answers and to defer this matter until we get those answers back?

Mr. Rapozo: Yes.

Ms. Yukimura: And can you circulate those questions to other Councilmembers as they go out? Would that be possible?

Mr. Rapozo: Meaning?

Ms. Yukimura: The questions when they go out to the Administration, can you circulate them to us, so we just get to see the questions? The official communication.

Mr. Rapozo: What is more important is getting the questions from the Councilmembers.

Ms. Yukimura: Right, that too.

Mr. Rapozo: As you can see, the last one we had at the last meeting, we received one question from Councilmember Furfaro.

Ms. Yukimura: And if you didn't receive them from anybody else, the presumption is that there weren't other questions. That, you know, I think is a fair rule. We don't get them to you in time or...

Mr. Rapozo: My point is, we want the questions to come in, so we can get it on a piece of paper and send it out because, often, I will sign every one that goes out, but it is not all my questions.

Ms. Yukimura: Right, and same thing when I am Planning Committee Chair. I am just requesting that when it does go out, if we can get a copy just so we can see the questions that go out.

Mr. Rapozo: I don't have a problem.

Ms. Yukimura: Okay. I guess I have a comment as well. In the development of these questions, I think it would be good for us to be aware of the lines between administrative and legislative. We clearly have an oversight function in terms of, you know, bringing up issues when laws aren't followed or when there is liability incurred. I think it behooves us to recognize that we don't have the power to determine colors, materials, even routes, you know, officially because I

think... I mean, we can give input, but those are administrative decisions and, you know, if the urge is so great, that the need is so great to make those decisions, we need to run for Mayor.

Mr. Rapozo: Maybe we should.

Ms. Yukimura: Well, that is why I did.

Mr. Rapozo: That is why I may.

Ms. Yukimura: Yes, but it still... while we are on the Council, I think we do have to really have to acknowledge those lines and, so I guess one of the questions is, what is the purpose of our question and what result are we wanting to achieve by those questions. So I just ask that we have those things in mind as we develop the questions because we can generate questions forever.

Mr. Rapozo: That is right and let me just say as the Committee Chair, I get all the questions and it is my responsibility or I determine what questions go across and what doesn't. I mean, I can easily say no. Your question is not appropriate because I think we've answered that a ton of times, so I take full responsibility for any question that goes across to the Administration as the Committee Chair. The reason it is still on the agenda is, I think we can all agree, we just have never gotten the answers. If, in fact, and I agree with what you are saying as far as oversight and micromanaging, but when we get a petition of several hundred people that claim that they were not part of the process and we get complaints from the public that, in fact, these parts of the project wasn't permitted... when we get parts of the project that are, I think, and this is totally my opinion. If I feel that it is in violation of some law, then I think it is our prerogative and I think it is our obligation and duty to bring it here on the floor. I can tell you right now, as long as I am not satisfied with the responses, it will be on this agenda and that is what will happen. I mean, it all ends up in a vote for the deferral, so if you folks as a Committee could say, we've heard enough, end it, that is everybody's prerogative, but I will be honest with you. Just today, just the fact what I heard today about the Wailua Houselots discussion was disturbing. It was because that is not what I heard in Wailua Houselots, so that just sparks a whole nother round of questions because why can't we just honor what we say and follow the process and the legal process. I think that is why this is here. You know, every time I review the agenda, I see that bikepath is still on and it is frustrating, but I can tell you that I am not satisfied with that answer. I know Mr. Bynum mentioned... alluded to the Council stopping the project. This Council never stopped any project. We showed our concern (change side of tape)... more specific to the shoreline certification and I respect him for that. I think that is the right thing to do, but it is not because we said, hey, stop the project, we cannot. I mean, we cannot and that is not what we did. It was a decision made by the Administration, so as long as there are... I get e-mails from the public saying we have some concerns and why is this happening and we still have not received the notification from the landowner by Otsukas. How

long is that? Four (4), five (5), six (6) months, I don't even know what it is, but, you know, it just hasn't been answered. I don't see why it is so difficult to bring over a little card that says, on this date, because then I can go back to the landowner and say, you are lying because, in fact, on this date, you did get notified. I cannot even get that, so as long as that occurs, as long as we are here and as long as the questions aren't answered, I can rest assure you that it will remain on the agenda. Again, at any given time, somebody can vote to receive it and count the votes and it may go away, but that is just not my intention.

Ms. Yukimura: Mr. Chair, just so I can finish what I was starting. Are we not getting Planning here?

Mr. Rapozo: I was just told that they were making copies of something. Maybe they have the old purple machine that you had to crank.

Ms. Yukimura: So I think your points are well taken and if I didn't... if I felt that we were already finished, I would be making a motion to defer, but I am not, but I am asking us to self scrutinize the questions that we do ask, you know, just so we can... so we can really focus on the ones that are key to our oversight powers and I do appreciate the process change that the Council's inquiries have made in terms of notification because I think that is a real improvement. You know, the issue came up with the adolescent drug treatment center and the Ka Leo meetings and the big community issues and the communities like Kilauea have kind of set the example of what is a better process. So I do want to acknowledge and commend that portion and as I said, I am not saying that we don't have a role, I am just saying, let's sort of be cognizant of what our role is.

Mr. Rapozo: And that role is major when we talk about a \$50 million project, it is huge and I will take that seriously. You know, and shame on me, I thought the notification process was... I was so ignorant. You think that you would let everybody know within 500 feet. I just assumed. We learned that a long time ago, don't ever assume, but I just assume that anytime you do a major project, you would notify within 500 feet of the project and it was surprising to find out that we don't do that. We rely on the newspaper and the t.v. or the radio and many people just don't have the time to do that, so it is funny when you go to a...when the grass roots efforts got together for the spur, Lord have mercy, that place was covered with Houselots residents. They had no idea of the first, second, third or fourth meeting. It was interesting. It was a revelation, so, anyway. Anymore comments before we wrap this up for the day? If not...

Ms. Iseri-Carvalho: I will make some comments.

Mr. Rapozo: Okay.

Ms. Iseri-Carvalho: I think the major flaw that I have seen with having so much time being spent on this project here at the Council level, at the Planning

level, at the administrative level has been because this is a design/build project and I think that had it not been... we have not had any real, what I would consider successes when it has a design/build project because it happens at the same time, so the input and the compression of time and the contractor's contracts that we have, I mean, it is all time sensitive because it is occurring at the same time. I have already sent over a communication and have actually publicly stated that I would not support another project that involves design/build. There has to be more input and more time. Do the design phase and it should occur consecutively as opposed to occurring simultaneously. I think that has resulted in a lot of problems that the bikepath issue has brought up. I have concerns when there is a question raised about asking people to self scrutinize which means, in essence, the opposite of that is that it is not happening and I totally disagree. I think that there is a lot more questions that I would have sent over had I not exercised if that question was directed to me (self scrutiny). I have read thousands of pages on this document. I don't appreciate the fact when people say, you know, we had plenty of informational meetings and people didn't show up and the time that you guys say should have been discussed at that time. I showed up three (3) years ago, I showed up four (4) years ago. I totally disagree with that. I think the public forum is an ongoing process. We should listen to the people all of the time. We should not be shirking our responsibility and say, well, you didn't show up at that meeting and it is over and why are you raising all of these concerns now? I think the public has a right to speak at any point of time and they have a right to speak not only as a forum here on the chair, but they also can speak, again, I mentioned it many times at the baseball games, at the soccer games, at the supermarkets and that is an ongoing 24/7 opportunity to get input from the public. And all of those verbal communications, e-mails that come in... we even get letters that people actually put postage and mail it in. There is... it comes in different kinds of format on the kind of information and I value every single one of those just as important because we know that we cannot get all the testimony at public informational meetings. We cannot get all of the flavor of what that community or that heartbeat of what that community wants from the testimony that was presented here. You need to go to the people. We cannot expect to set up meetings and expect people to come to us. So I find that process, that ongoing process very important. I think participation is very important. Ever since we raised this bikepath issue, our e-mails have probably have quadrupled. I mean, we receive hundreds... we now have a lot of interaction between our State agencies. Prior to this issue coming on the agenda, I mean, the Council was not really aware of all of what the Federal Highway Transportation laws are. Who are the directors in charge? Who is the State? How is the money allocated? How do we put in and get reimbursed? How do we do change orders? The public is so thankful, at least people that I have spoken to are so thankful that we have raised those kinds of issues because people wonder, there is this expensive project and how does it happen. I think it is a great opportunity for the public to understand how government works and this is the forum to do it. When people come in and say, I want to know why they have the path going along the highway (inaudible). I want to know why there is a consideration of putting on a fence on one side and on the other side is open. I want to know why we have eight (8) foot

concrete walls that will be proposed to block the view of the bikepath, I mean, the golf course. I want to know why when I went to the public informational meeting, you know, they proposed the bikepath over at Papaloa and now all of a sudden, I didn't go to other meetings, but now I see on t.v. that it is not even going through Papaloa. It is actually going to jump across the highway and going to create this Wailua Houselet spur. I want to know why there is a bikepath that is going down... what I learned... I mean I didn't know this, but I learned it at the meeting at Kapa'a Middle School that there is also a Kawaihau spur that is intended to be connected from the residential neighborhood of Kawaihau all the way to Keālia Beach. I don't know if...

I know my in-laws live in Kawaihau and they didn't know that either, so there are people that and she watches these meetings religiously and she didn't know about this bikepath that is going all the way up to where she lives. So, you know, whatever input that we get, we need to make sure that we cover a cross section of the community and not only those that are interested in that issue, not only those that show up on the scheduled meetings that they even set where we cannot go because they set them on Wednesday nights. It was fortunate that our meeting ended early on Wednesday and we were able to witness what occurred because I saw history in the making when I went to that meeting and what I learned was that a lot of residents have taken the power onto themselves by knocking on every single door in that neighborhood and encouraging them to come to the meeting because it impacted their neighborhood. That was a great working and that had not occurred ever. I had spoken to many people that had attended the bikepath meeting. There was not as much people there at any of some of them combined. I mean, there was about 100 local people, residents, that took time off from work. We had ex-Police Officers there, we had ex-golf pros, we had a lot of retirees and yet we had young people there. That, I think, would not have happened had it not raised awareness that was raised here on the Council level and for that, you know, when we come into, when people actually start to watch the chronological history of how this saga plays out, there is a lot of different information that is presented. It is presented in a piecemeal fashion and there is a lot in the beginning especially when there was a lot of inaccurate information that was being presented. There is incomplete information and the information is very fluid. We had a change and that never came up that all of a sudden now on those illegal pavilions, the roofs of the pavilions, the last I had ever heard was that they were going to ask for an amendment and it was testified to by the Planning Director, by also Donald Fujimoto or a representative, Public Works, that there was an application... we have a letter/communication that went out that says in that communication that they are requesting an amendment to allow all of those structures to be put on every single one of those rest stations and that was the last we heard.

Now all of a sudden today, it is like, well, we changed our mind, now when did that happen? You know, did we ever receive a communication? Did the people ever know that all of a sudden now, the Administration had made an administrative

decision that they were now going to find only four (4) of those illegal... I mean, four (4) of those legal and ask for permission to get an amendment on those four (4) and then all of sudden, two (2) of those are not going to be asked. For what reason, administrative decision. I mean, is that being accountable to the people when you give them information of one nature and then you come here and say something totally different and this happens consistently at least when I am here. It seems like we have to ask the same questions over because we hear rumors in the community that says one thing and I even have to question and go back and pull all of the minutes and read through all of the minutes of the meetings because I am not going to take my recollection as sufficient verification, so I go back and I read the entire minutes all over again. It takes a chore, I think, for our persons to write it verbatim, type it verbatim and, yet, I have to read it all the way through and we have to highlight and put it out because I want to make sure if I am going to make a statement, that it is documented, that it is in writing and then we can support the kinds of changes or the kinds of allegations that we make.

So I find this process quite fascinating especially with this project. It is a humongous project, but we still have the same responsibility whether it is a \$100 project or a \$1,000 or whether it is a \$51 million project. We cannot justify our own and say, well, it is cheap and let's not pay attention to it. Every project because every project is important and I think when you are spending taxpayer's money, they should be held accountable or physically responsible to the people that elect you here to ask the right questions to assure them that they are getting their money's worth for our project. So that is the question Committee Chair of why we have these kinds of intensive dialogue that goes back and forth between the administrative officials as well as us. I think we all agree that the bikepath is a great project. Again, we are still concerned about location. There has been numerous changes that have been made on that bikepath by the input of the people at this late stage and I welcome that. I think that is a great opportunity. If we can make that project better than what it was on the books, then we should all participate to do that. We have made significant strides in having the bikepath moved a 100 feet back where it was within 15 feet of the shoreline that would be in the ocean within 20 years or so. There is another section that we are going to be discussing, but, really, what drives me here in asking all these questions is, we need to protect the beaches and we need to protect the rural nature of our residential community. And if we can do that by having the bikepath as well, that is great, but we have to incorporate those two (2) priorities when we consider a project like this. I guess I will close at this time with this issue, but it is one that I have a lot of passion for and will continue to work on behalf of the community and the public to raise these kinds of questions because we have generated so much... I mean so much concern and awareness. I mean, hundreds of petitions that we received and because of that, we have had the ability to make some changes and have the community feel like they have been a part of this project.

In the end, hopefully, we all will be together, you know, blessing this project as something that is a great thing and also protecting our beaches and our rural

character of neighborhoods. Thank you Committee Chair.

Mr. Rapozo: Thank you. Well, I guess Planning is not going to come, so we will offer the same opportunity to Planning as we did to Public Works, that we will defer this and if they are not here the next time, we will recess the Committee until they show up. Apparently, that works.

Ms. Iseri-Carvalho: I am sorry. I guess, again, I have some serious concerns because I believe the communication that I sent over requesting confirmation... those two (2) questions were questions that had gone over, over five (5) months ago.

Mr. Rapozo: Correct.

Ms. Iseri-Carvalho: And we had not received any response. Those questions deal with the specific shoreline issues and the SMA amendments because they are in that area and we are supposed to have that documents readily available and what happened over the week was that the bikepath... maybe two (2) weeks ago, I am not sure, the bikepath was actually laid in that area that we had raised concerns on and we are still waiting proof of verification of those issues that would make it valid. At this point, they haven't provided us the verification, yet they went out and laid the bikepath there without even providing it to us despite our request five (5) months before the bikepath was even laid. That is very distressing.

Mr. Rapozo: Thank you. So I look at the shadow and I think maybe it is them coming, but that would just be wishful thinking. That is Bernard, big shadow. Well, then I would ask for a motion to defer this. We will, again, we will be asking for all the questions from all members and we will defer this to the next Committee meeting and we will specifically request the presence of Planning here with those documents because I think that is critical. It is concerning that it is not here. It is making me believe maybe they don't exist and that is concerning. Like I said, we will offer the same offer--be here, or it is recessed until they are, and hopefully they will be here.

Mr. Bynum: Mr. Chair, the document we are seeking from Planning is the notification to the landowner near Otsukas, is that...

Mr. Rapozo: Yes.

Mr. Bynum: As I recall, the name was on the list and he was to have been sent.

Mr. Rapozo: The affidavit from the attorney that basically, all the affidavit says, is yes, we sent out all these notifications. What I am looking for because the landowner said, I never got it, so we want to see...

Mr. Bynum: The return receipt?

Mr. Rapozo: Exactly.

Mr. Bynum: Okay, thank you.

Mr. Rapozo: Councilmember Yukimura?

Ms. Yukimura: Yes, can we also ask them at the same time to respond to the applicable questions from the April 5 memo that you sent to them. They are included in the executive session memo because that April 5 memo included questions of the County Attorney, but they actually ask for, you know, rules and procedures and copies of applications.

Mr. Rapozo: If you look at the... they were also sent that question as well.

Ms. Yukimura: They were and I do recognize that. The thing is, they don't appear to be of an executive session nature and so it seems like we could take them up.

Mr. Rapozo: If you could just send your questions, the specific ones that you have, the numbers and then we can incorporate that in.

Ms. Yukimura: Okay, it is 1, 8, 9, and 10 of your memo.

Mr. Rapozo: Of which date, I am sorry. We sent so many.

Ms. Yukimura: April 5, 2007 and it is from you to the County Attorney and to Ian Costa Planning Director, but in reviewing the questions, the ones to Planning don't seem to need executive session, so if they are coming...

Mr. Rapozo: They will be here or it will be a long day.

Ms. Yukimura: Then these others... if we could explicitly, so they also take care of this instead of us waiting and waiting. Thank you.

Mr. Rapozo: Alright, with that...

Ms. Iseri-Carvalho: On the return receipt, I would note that the reason why this question was quite important. I think you raised it was that there has been allegation by the landowner that they did not receive the proper notification and we had sent over that letter numerous times and the landowner keeps contacting us as to why this bikepath has been laid, why this is still continuing when we haven't received proof. You know, we have to waste our time writing numerous times to different departments as well as to the landowner that we have

the receipt... they said they have the receipt, it is just a matter of providing a copy. We are really not doing our public service especially since it is a requirement and, yet, we go out and lay the bikepath without providing the proof. So I have concerns about that number 1, but number 2 is that the executive session, would that be scheduled as well regarding the contractual issues that was raised, I think, before you came.

Mr. Rapozo: I am not aware... again, whatever is the desire of the Committee will be addressed and sent over.

Ms. Yukimura: What are the contractual... I am not clear what Councilmember Iseri-Carvalho is referring to.

Mr. Rapozo: Let's just do this because I don't want to get into a whole nother debate about the contractual issues. Send me the questions that you have whether it is contractual or whatever it is... contractual or what, just send me the questions and we will put together a communication and if it warrants an executive session, we will definitely request one.

Ms. Yukimura: Okay.

Mr. Rapozo: With that, could I have a motion to defer?

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

Upon motion duly made by Councilmember Kouchi, seconded by Councilmember Yukimura, and unanimously carried, PW 2007-3 was deferred.

PW 2007-6 Communication (5/7/2007) from Mel Rapozo, Public Works Committee Chair, requesting agenda time to have experts brief the Committee members on issues regarding the seawall fronting the Pono Kai development in Kapa'a as it relates to the impact of the seawall on the shoreline and the proposed Kapa'a-Keālia bicycle/pedestrian pathway project.

[This item was deferred.]

There being no objections, the rules were suspended.

Mr. Rapozo: Donald or Doug or whoever is here. This item although related is specific to the seawall in front of Pono Kai. I think, Donald, you were here the last meeting with Dolan and Dr. Fletcher and their concerns about seawall and their recommendations. The purpose of the communication was really to find out what is the plan for the Administration to deal with the seawall that apparently needs to be removed or rebuilt and are you prepared to answer that today or give us an update on what...

DONALD FUJIMOTO, COUNTY ENGINEER: I guess after hearing the testimony by both Dolan and Dr. Fletcher, I guess it is... we are looking at possibly putting us or appropriating moneys in the next fiscal year, not 2009, possibly for design moneys to redesign that seawall and possibly rebuild that. But it is the Administration's position right now to take whatever necessary measures to ensure that area is safe and I think the recommendation was to just keep filling the sink holes.

Mr. Rapozo: That is what you guys have decided?

Mr. Fujimoto: Yes.

Mr. Rapozo: Okay, well, go ahead. Councilmember Iseri-Carvalho?

Ms. Iseri-Carvalho: I think the question that was asked as the last meeting was before we even decide what we are going to do, we need to determine the chronological history of that seawall and we need to have that as starting point, number 1. Number 2, we would have to deal with the shoreline certification issue, so even before we get to the appropriation of the moneys, we still have other issues that need to be decided before that Donald.

Mr. Fujimoto: We did some research and we found that in November of 2002, I think there was a bid to repair the seawall and it was handled under a DSR project.

Mr. Rapozo: Repair or construct?

Mr. Fujimoto: Actually, the scope of work was to reconstruct a rock revetment wall.

Mr. Rapozo: So the wall was there prior?

Ms. Iseri-Carvalho: When was the initial...

Mr. Fujimoto: And that is the gray area that we... the assumption is that the wall was there because it was a repair project under a DSR and FEMA did... the project work and scope of work was deemed eligible for FEMA funding on DSR No. 89390.

Ms. Iseri-Carvalho: So there was a bid to... I don't know this acronym, what is acronym DSR?

Mr. Fujimoto: Damaged Survey Report. It is normally after Hurricane Iniki in 1992.

Ms. Iseri-Carvalho: Okay, there was a bid and how much was the cost of that?

Mr. Fujimoto: The cost of the project was \$580,000. It was kind of a unique situation where, I guess, the contractor just proceeded at his own risk.

Ms. Iseri-Carvalho: Okay, so there was a bid, so the initial process would be that there was a bid to repair the seawall?

Mr. Fujimoto: Yes, the low bidder was Okada Trucking.

Ms. Iseri-Carvalho: Okay.

Mr. Fujimoto: And the contractor, again, at his own risk decided to do the work and I guess after performing the work, he actually claimed for a payment in the County Attorney's Office and ruled that it was entitled to payment.

Ms. Iseri-Carvalho: I am sorry. When you say the contractor decided to build this at his own risk, what does that mean?

Mr. Fujimoto: Well, actually, what happened was... I think what happened was, he proceeded before we had gotten all the necessary funding in place under the DSR and I think there was that clause because, you know, if you perform the work during the period right after the hurricane, you actually fall within that area where you don't need to get the permits.

Ms. Iseri-Carvalho: But then the liability would be upon the contractor if he chose to seek that route?

Mr. Fujimoto: Right, but normally during a hurricane or right after, my understanding is that there is this period where you can go in and you can actually put back what was there.

Ms. Iseri-Carvalho: Okay.

Ms. Yukimura: Can we just verify the date because you said 2002 and I think you meant 1992.

Mr. Fujimoto: 94.

Ms. Iseri-Carvalho: You said November 2002.

Mr. Fujimoto: Excuse me, bids in 1992. November 20, 1992 was when the bid was open. It says, contractor proceeded the reconstruction at their own risk

without County's consent and completed the scope of work on February 2, 1993.

Mr. Rapozo: Without County's consent? Is that what you said?

Mr. Fujimoto: Proceeded at their own risk, so normally...

Mr. Rapozo: Without County's consent is what I heard.

Mr. Fujimoto: Well, without the notice to proceed.

Mr. Rapozo: What is that you are reading? Where is your source?

Mr. Fujimoto: This is just a synopsis that I asked our staff to put together.

Mr. Rapozo: So this is from County records that you are getting all of this?

Mr. Fujimoto: Yes.

Mr. Rapozo: Or from somebody's memory?

Mr. Fujimoto: It is from County records.

Mr. Rapozo: Go ahead.

Mr. Fujimoto: Anyway, in essence, the project was really a repair. It was actually a repair of the bikepath and they tied in the seawall as part of the work.

Ms. Iseri-Carvalho: Okay, so now, after they performed the work, there was an opinion by the County Attorney because they proceeded without the notice to proceed.

Mr. Fujimoto: Yes.

Ms. Iseri-Carvalho: Which would be required under the contract?

Mr. Fujimoto: Right.

Ms. Iseri-Carvalho: So they were in breach of the contract.

Mr. Fujimoto: It says here, the contractor assumed the current following Iniki, enactment of Iniki ordinance allowing restoration of existing structures to the pre-existing condition.

Ms. Iseri-Carvalho: And so after they performed the work, what happened?

Mr. Fujimoto: Then the contractor filed a claim for the work performed and then a ruling from the County Attorney's Office dated June 22...

Ms. Iseri-Carvalho: And that would be '93, Donald?

Mr. Fujimoto: '94 actually.

Ms. Iseri-Carvalho: So February 2 was 1993 when they finished the wall?

Mr. Fujimoto: Correct.

Ms. Iseri-Carvalho: Then on June 22 of 1994, County Attorney gave an opinion that... what happened?

Mr. Fujimoto: That the scope of work has been performed satisfactorily and a voucher payment be made to the contractor for a reasonable claim.

Ms. Iseri-Carvalho: So is there a document that you have that states this?

Mr. Fujimoto: Apparently we do.

Ms. Iseri-Carvalho: You have, okay, so...

Mr. Fujimoto: I guess we can provide that information.

Mr. Rapozo: That would be helpful.

Ms. Iseri-Carvalho: So after the County deemed that the scope of work performed despite the fact that there was a breach of contract because they hadn't...

Mr. Fujimoto: There is not a breach of contract. It is normal procedure that contractors are allowed to proceed at their own risk if they do not have the notice to proceed, but if for some reason, the contract is cancelled, then the contractor really proceeded at their own risk. In this particular instance, I guess the attorney's felt that the contractor did the work according to the contract and they were entitled to full payment.

Ms. Iseri-Carvalho: So we paid \$580,000?

Mr. Fujimoto: I guess that is what they paid.

Ms. Iseri-Carvalho: Do they have any inspections that were done on this seawall?

Mr. Fujimoto: I am not sure.

Ms. Iseri-Carvalho: We wouldn't have records?

Mr. Fujimoto: Well, the file that we had was more from the administrative and of the DSR side. We don't have the construction files.

Ms. Iseri-Carvalho: Where would that be?

Mr. Fujimoto: Well, I am not sure if we still have it. I don't think... I think we purged... I was told that the files were purged.

Mr. Rapozo: About a week ago?

Mr. Fujimoto: Honestly, they went through a series of file... I am not sure. Anyway, this was kept because of the fact that it was a hurricane issue and it was kept for reference, so that the next time when an event happens that we have this as reference, so we know how to file it and claim for these kinds of projects again. So it was more an administrative...

Ms. Iseri-Carvalho: Paper work type as opposed to substantive?

Mr. Fujimoto: Right, exactly, for the funding side, FEMA funding.

Ms. Iseri-Carvalho: After this occurred in 1994, what was the next time that we revisited this seawall?

Mr. Fujimoto: We don't have any records thereafter.

Ms. Iseri-Carvalho: Well, we do. I mean, the County did, in that article that I have...

Mr. Fujimoto: And I...

Ms. Iseri-Carvalho: You guys don't have any record of the 2003 I believe when the County called the... the Mayor had called the Army Corp of Engineers and...

Mr. Fujimoto: And, again, I am not sure who went over with that inspection. I believe it was Mel Nishihara, but apparently, there was some disconnect.

Ms. Iseri-Carvalho: What you mean?

Mr. Fujimoto: I mean, well, the information that was... I mean, I don't know who is supposed to run with this so-called information at the time. I came in (inaudible).

Ms. Iseri-Carvalho: So Mel Nishihara was...

Mr. Fujimoto: Well, I believe Mel was in charge of the shoreline issues, the erosion and I think, at the time, Russell Sugano.

Ms. Iseri-Carvalho: So then how is the County now paying for maintenance of that (inaudible). What else kind of maintenance? You don't have any other records from 1994 to indicate that the County has been going out there maintaining that area?

Mr. Fujimoto: No. I personally have directed our guys to go out and put some sand on couple occasions within the two (2) years that I...

Ms. Iseri-Carvalho: Are we documenting this like in a file?

Mr. Fujimoto: I am sure that they keep records.

Ms. Iseri-Carvalho: Who keep records?

Mr. Fujimoto: Again, Parks, the Parks section.

Ms. Iseri-Carvalho: So is this a Parks issue or is this a Public Works issue?

Mr. Fujimoto: There was a joint... I believe they worked together, but Mel, I think, is really the guy that was kind of keeping track of what needed to be done and Ryan provided support, the Roads section.

Ms. Iseri-Carvalho: Ryan in 2003? Ryan wasn't here. Was he here?

Mr. Fujimoto: Ryan was before me actually.

Ms. Iseri-Carvalho: So you are saying that we should... that you are not the person to talk to, it should be Ryan and Mel for 2003?

Mr. Fujimoto: Well, we can get the information. I can get you the information.

Mr. Rapozo: You know what we will do, we will request the complete file from every department in the County because I think and I know that Ron has

his hand up and I think he may be able to assist us on the process of DSR's because I think he was here. I cannot read his mind, but the way he raises his hand, it seems like, let me help you folks on the process of DSR's because you weren't here I know. I don't think Doug was here during the hurricane, after the hurricane... oh, you were here, okay. So Mr. Kouchi, why don't you give us a quick DSR 101?

Mr. Kouchi: I am just saying that if you look at this project singularly, you know, people are in the audience kind of smirking and this sounds fishy and everything else. The simple fact of the matter is, at that time, it was the second worst natural disaster in the history of the United States of America. Not Kaua'i, not Hawai'i, not the west coast, in the whole history of the United States and Kaipo knows this. We literally had the County Engineer standing out on the Public Works Annex Building because that is where Public Works were... we had contractors with heavy equipment that were on the steps and the sidewalk and literally handing out bids right there and telling them proceed, the disaster money is coming, we filing the DSR's, but the severity of the damage was so great that we didn't even have offices that we could work out of and get the job done and that is how the job was done. And it was only several months later by applying for a DSR that we could create the Office of Emergency permitting, so that we would be able to get all of these records. And then the Planning Department was at the old Hale Kaua'i Building where TSA is now, that was wiped out and all of the records were gone. Maps and permits and everything else and, you know, I mean, we were simply for a County of our size overwhelmed with the task and trying to do the best we could that we got out. You know, to think that you got all this paperwork and that all of these things existed that when we sit in here calmly talking about it now that seems so logical. That simply wasn't the case in those first couple of months to just try and open up roads and get everything else done and the law as Donald has read was the law that said that you could restore what you had because we were just trying to get back to a level of normalcy, but it wasn't until the Office of Emergency Permitting was created and we had the money to bring in additional contract staff and ensure people who were trying to rebuild to get back into their houses. Because we are not... you know, (inaudible) seawall, but we are trying to help people go back in their house because they were living in the yard and nobody wanted to... we had a big problem and nobody wanted to leave Kilauea... they were devastated to go to the tents at Princeville... they wanted to protect their property and that was why that rebuild law was there and I make no apologies for doing what we did. You know, I don't know how else we could have done it until we got the DSR OEP and it is unfortunate that this wall is caught up within everything else, but in the magnitude of what happened, I couldn't figure out any other way to do it. JoAnn as the Mayor couldn't figure out any other way and, you know, Kaipo was there, so that's... just to tell you what Donald did and what is in that file and we have it, I mean, that was just what happened back then.

Mr. Rapozo: Thank you Ron. That clears it up. Councilmember Iseri-Carvalho?

Ms. Iseri-Carvalho: You know, I am just trying to understand where we are at here. In order to understand where we are at, we need to know where we came from, so that is a good history lesson on where we were at 2002 and 2003, but we still haven't reached up to 2007. So, you know, in fact that was in 1992, I guess that was the hurricane and we need to get up to 2003 where we had these personal that were involved. Now, after 2003, do we have documents that record our activities in that area?

Mr. Fujimoto: We may have, but I am not directly...

Ms. Iseri-Carvalho: So you will go find out from these parties (Mel Nishihara, Russell Sugano and Ryan) and then your efforts started when?

Mr. Fujimoto: Well, I started in April 2004 and I believe one of the... I think during the Winter of that year, the Mayor asked us to replenish sand along the wall because the sink holes were starting to develop again.

Ms. Iseri-Carvalho: The Mayor. Was there any request at that time after you went out to look at that area because I have been there last week and there is like a ton of sink holes.

Mr. Fujimoto: Mel is working on a permit to replenish the sand I believe.

Ms. Iseri-Carvalho: And then you heard the testimony from Dolan Eversole that said that the replenishment of sand really isn't going to do it.

Mr. Fujimoto: Yes, so I guess we need to maintain and backfill the sink holes at least to mitigate the immediate safety issues.

Ms. Iseri-Carvalho: Are we getting advice from experts as to how we are going to proceed? I mean, I guess I have some concern that we are going to wait until 2009 to actually try to start rebuilding the bridge... not the bridge, but the seawall. What is your timeline?

Mr. Fujimoto: We just sent you the budget, there are a lot of issues. I think 'Aliomanu is first on the list and that is an immediate... the erosion is actually eroding the road and we do have a barrier there, so that is going to be our first task and even that project might be a million dollars just trying to save 'Aliomanu.

Ms. Iseri-Carvalho: We cannot work on the two (2) projects at the same time?

Mr. Fujimoto: That would be logical to look at both projects at the same time because the design would be pretty much the same I would think.

Ms. Iseri-Carvalho: Maybe it is premature to discuss these issues with you Donald because you need to get more fact finding information, but it was also relayed to us that time is of the essence and that we need to address this. One of the immediate concerns that I have is that the signage that was placed there, was that placed by the County?

Mr. Fujimoto: I am not sure what signage.

Ms. Iseri-Carvalho: That says, dangerous, do not pass this point. Actually, it just says not even dangerous... I think it just says, do not pass this point.

Mr. Fujimoto: I am not sure that is part of the contractor's signage to... I am not sure who put that sign up. We can check with Mel.

Ms. Iseri-Carvalho: If you look at... because... and this is the immediate concern that I think the County can address before doing all of this historical background in trying to determine your timeline and how you are going to repair or remove. I think whatever the experts decide as far as getting a consultant to decide what is going to be best in trying to protect that area... the bikepath because it was 12 foot wide, basically, there is... Council Chair put on 10 feet to the seawall and if you go there and there is about two (2) feet extension where they were going to go some landscaping on the makai side of the bikepath... I would say about two (2) feet... they got that black netting that...

Mr. Fujimoto: The silt fence?

Ms. Iseri-Carvalho: So now it is okay because then the people aren't crossing over because it doesn't look safe, but there were plans, my understanding was to do landscaping there, right?

Mr. Haigh: (Inaudible).

Ms. Iseri-Carvalho: Right, but the sink holes are probably less than five (5) feet from the bikepath. The actual sink holes and you can tell the sink holes because they are inundated. I mean, you can tell, so you put sand and the concern is, somebody is going to walk on that because that is another five (5) feet until you get to the end of the seawall, right? And I think just out of curiosity, people will go all the way to the seawall and look out... they are probably going to put their chair to watch the sunset, but they need to cross over the sink hole section before they get to the seawall and that is going to be County liability if anybody gets hurt because we are the ones who is doing the sand right now and the signs, I think, are totally inadequate to just say, dangerous from this point, when the sink holes are actually before that point.

Mr. Fujimoto: We can have... well, I guess now that we have a Parks

Department... I guess Bernard can look at...

Ms. Iseri-Carvalho: And we need to know... I mean, I guess need to know whose jurisdiction is that because there is some concern that, well, you may not have been the right person in 2003 and who is going to take control of this issue.

Mr. Fujimoto: I guess the reason why Mel got involved is because it is a beach park and he kind of took care of all of the maintenance issues along the beach park. It is sort of like debris at Lydgate. Every time the debris comes in, Mel is really the point of contact and he is the head guy that oversees all of that work (inaudible).

Ms. Iseri-Carvalho: And I don't know what the qualifications are for Mel in doing a park, but it seems like it is more of an engineering type issue when you got these dangerous sink holes. I don't know. Is that his job to determine, you know...

Mr. Fujimoto: Again, the whole idea is that... well, again, there is a project that is going to happen like shortly. The State is going to dredge the Waiakea Canal. There is going to be about 3,000 yards of surplus sand that will be at our disposal.

Ms. Iseri-Carvalho: Right.

Mr. Fujimoto: And we were hoping to use that as just a means of replenishing the sink hole until we do something more permanently.

Ms. Iseri-Carvalho: And we were told by the geological ecologist or... that is insufficient at the last hearing.

Mr. Fujimoto: That is right. It is really temporary in nature, but it addresses the immediate needs and at some point, we will have to do something more permanent, that is true, but I am hoping and I am trying to be an optimist. I think Dr. Fletcher mentioned that if we were real lucky that might last us longer than shorter and let's put it that way.

Ms. Iseri-Carvalho: Donald, there was also testimony that that bikepath could be in the ocean in two (2) to three (3) years, so, I mean...

Mr. Rapozo: Three (3) weeks is actually what he said depending on the wave event.

Mr. Fujimoto: Nobody can predict the...

Ms. Iseri-Carvalho: And that is... well, I don't know, I mean if somebody gave me the odds that that could be in two (2) to three (3) days and

maybe, lucky, you know that we should try thinking of purchasing Pono Kai... that kind of gives me an indication that the erosion there is occurring a lot quicker than maybe he wanted to even admit because that was a suggestion, let's just buy Pono Kai.

Mr. Fujimoto: What is interesting is that you would think that 'Aliomanu is... could be border line on emergency, but the erosion has kind of stopped, so they have not declared that as an emergency, but if for some reason, we actually start losing 'Aliomanu Road in Anahola, then DLNR can claim an emergency situation and at that time, we can actually go back and actually fix it and then go for an after-the-fact permit.

Ms. Iseri-Carvalho: After-the-fact permit.

Mr. Fujimoto: I am not saying that this is the right way to do it. I am just saying what is interesting is that we have to do the design, getting all the permits, the shoreline permits, Army Corp stuff, but if there is an emergency, we could actually fix the road and then go back for a permit.

Ms. Iseri-Carvalho: That is 'Aliomanu.

Mr. Fujimoto: Well, that is the situation.

Ms. Iseri-Carvalho: Not the road, but the bikepath you mean?

Mr. Fujimoto: The road.

Ms. Iseri-Carvalho: By Pono Kai?

Mr. Fujimoto: The revetment, putting back a seawall revetment and my understanding is that is the same with this Pono Kai. If we actually get into an emergency situation where we actually lose some of the rocks, if we could possibly apply for an emergency repair permit.

Ms. Iseri-Carvalho: Who declared... can we apply... how do we know that it is not an emergency situation now?

Mr. Fujimoto: Well, the people that make the decision is Dolan. I mean Sam Lemmo, excuse me.

Ms. Iseri-Carvalho: But have we applied?

Mr. Fujimoto: Yes, we have. I have met with them and they are saying it is not an emergency yet.

Mr. Rapozo: 'Aliomanu? Okay, try keep it to Pono Kai because...

Mr. Fujimoto: So if 'Aliomanu is not an emergency, I don't see how...

Mr. Rapozo: Not you Donald, you don't make that call. They have to make the call. I can tell you that I don't really care what Lemmo says, I can tell you that when one tourist falls in that sink hole and falls off the rock 10 feet high face, Lemmo is not going to pay the bill. I mean, I went down there and I tell you, that sink hole... Bernard, please do not walk on that area. The sink holes, the ones that you can see are okay, it is not the ones that you cannot see and it is a pretty dangerous situation over there right now. I think that is my concern and it is the legal side, the liability that concerns me. The replenishing of the sand is just not going to do it. What they talked about all that tonnage of sand that is going to be pulled out of the canal, I forget what the numbers were, I wrote it down and it is in my notes, but only some of that sand will be useful. Most of that stuff is rubbish and you have to throw it away because it is whatever and I forget what term he used (change tape)... those signs are not even the color it is supposed to be. I don't know who put those signs up, but if we did, then we are even putting ourselves deeper in a hole should somebody get hurt because that sign do not even fit the legal requirement.

Mr. Fujimoto: I am not sure. I need to look at the signs.

Mr. Rapozo: It is nice signs. It is really nice signs, it is just that those signs, I don't think fit the requirement to protect the County. I don't know, again, I don't know who put it up, but you have been out there. I know the Chair has been out there and it is just... that conditions right now is very, very dangerous. The tide changes, so at some parts of the day, it may only be a four (4) foot drop from the top of the seawall. The day that I went there was about 10 feet from the sand. If somebody walks on there at night, falls down, hits their head on the rock, we just say what happened in Honolulu at that lovely beach where the lady got badly hurt. I watched the news this morning and the State says it is the Feds, the Feds says it is the State, the State says it is the County and everybody is pointing fingers and nobody had the decency or common sense to go up there and fix that when it was a threat. That is what I look at. When I see those news stories, I think, my gosh, that is Pono Kai and somebody is going to fall off that wall and we are going to say, darn, we should have done something, son of a gun, but we chose to wait to 2009 because we don't have money. That is a sorry excuse. Donald, I know it is not your choice, it is not your call, but I would just highly suggest that we re-evaluate the liability to this County, the exposure with that place. Now, the other part of it is, is when we go into repair... we have to take a caption break. Five (5) more minutes. When we go into repair this wall whenever this may occur, we are going to damage or destroy really the bikepath that we just laid. Why don't we take a caption break on that point right now, so we don't get into a middle of a discussion. 10 minute caption break and be back at 5:05 p.m.

There being no objections, the Committee recessed at 4:55 p.m.

The meeting was called back to order at 5:07 p.m., and proceeded as follows:

There being no objections, the rules were suspended.

Mr. Rapozo: Anyway, we are discussing the Pono Kai seawall and as it relates to the bikepath. There are some concerns because of the seawall that is in such terrible shape and we have heard from the experts that we should probably take some action soon and I am hoping that at the very minimum and, again, I am just burning clock while we wait for Donald to come back hoping that maybe we can put up some kind of protective barrier there, a fence, something, to keep the people off of that wall and off of that area where the sink holes are occurring. Hi Donald, sorry... Thank you Glenn. Donald, we are just talking about that Pono Kai seawall and what I said before you came in was, I am hopeful that... I think 2009 is kind of late. Obviously, that is the Administration's call, but is there some kind of way that we can somehow protect the people with a barrier, a chain link fence, something that will keep the people off of that area, something to consider I guess. I would much rather see us expedite the repair of the seawall also because of the bikepath itself. We invested quite a bit of money on that path and I know and maybe you know otherwise, but to restore or reconstruct that seawall will require some heavy equipment to come in there for a long period of time. I would assume that that is going to probably damage or destroy that bikepath, so what is our plan or do we have one yet? I am not sure if we even have one yet, but what is the plan? I heard you already say that you are going to wait for next fiscal year and until then just keeping filling the sink holes, but I think the problem is much more than sink holes. Is that something that you guys could consider and look at or... (inaudible) where we can protect the people from getting hurt out there. That is my main concern right now.

Mr. Fujimoto: Yes, I guess we can definitely put a safety barrier, those orange net fences or something.

Mr. Rapozo: That doesn't work. That orange net don't work. I am talking... it is going to have to be something that these people... we saw the orange barrier at the swinging bridge and that just does not work. They just take it down. Something more permanent... I don't want to say permanent, but something more permanent that...

Mr. Fujimoto: I am pretty sure the Parks Department can come up with something. Mel is pretty resourceful and he is aware of the situation.

Mr. Rapozo: He has to act under the direction of someone and I just don't know who that someone is. Is it something that our County Attorney... you see, my concern right now is... not only the signage because the signage... we are basically taking liability... taking on the liability because we know about the issue enough that we put a sign up, so...

Mr. Fujimoto: Anyway, I was just looking for Bernard. If he was here, I am pretty sure he would also agree that we need to do something.

Mr. Rapozo: Okay, and I don't know all the legal requirements of putting up a barrier. That is something I guess maybe the County Attorney has to look at. I don't know because I know when counties act in certain ways, we incur more liability for doing something. Even more liability if we didn't do something, so I think that is my concern... making sure that whatever we do is what is right and protects from lawsuits because we were joking that some people will watch this telecast and go out there and trip on the rock and file and claim and we have to protect our taxpayers from that kind of accidents. Any other questions for Donald as it pertains to the seawall? Councilmember Iseri-Carvalho?

Ms. Iseri-Carvalho: Yes, and Donald, I guess it is the intent to defer this item, so that we can get some more response in your fact finding mission of trying to figure out the chronological history, but that area... have we even consulted with Pono Kai and maybe like doing some joint partnership out there to try to assure that their guest do not cross over. I mean, we have seen the pictures where they actually carry their chairs out there and sit on the seawall.

Mr. Fujimoto: I am not aware of it. I know that the maintenance person called me about trimming the pine trees, but not about the issue on the sand.

Ms. Iseri-Carvalho: So are we doing like scheduled maintenance in a sense that we actually go out and monitor to assure that these sink holes are taken cared of or is that something that we rely on somebody else to tell us and then we go out?

Mr. Fujimoto: I am not sure. I believe it is complaint driven. I believe that the Pono Kai people themselves call us when it gets real bad.

Ms. Iseri-Carvalho: Okay, I don't know if we should rely on them because, again, I think the County... in this case, it appears clear that that liability would be on the County should there be an incident or accident and... okay, so we will check with Mel.

Mr. Rapozo: Nishihara, okay.

Ms. Iseri-Carvalho: Bernard left...

Ms. Yukimura: Forgive me if I missed this. Did you also speak of posting signs?

Mr. Fujimoto: Yes, there are signs out there.

Ms. Iseri-Carvalho: Posting different signs.

Mr. Fujimoto: Well, I am not sure what is out there. We need to see what is out there, but we can put danger, no trespassing and fence off the area.

Ms. Yukimura: Okay, thank you.

Ms. Iseri-Carvalho: And try to, again, consult with the County Attorney to minimize our liability because it may be that we need to explicitly state the condition that exist like sink holes, so people have that sort of awareness instead of just saying, no trespassing. No trespassing, I see so much people cross over walls to take pictures, you know, at different sites. You know, here, we know that the sink holes occur before that actual place where they take pictures.

Mr. Rapozo: Thank you. Go ahead Councilmember Yukimura.

Ms. Yukimura: I think the State of Hawai'i, DLNR has developed some real expertise on signs because of some law suits that have occurred, you know, out of... anyway, out of accidents that have happened on park property, so they would be someone good to consult with.

Mr. Rapozo: As I stated earlier, there is a Committee that must approve the sign. That is in the H.R.S. and if they don't approve the sign, you don't get the immunity, so...

Ms. Yukimura: Okay.

Mr. Rapozo: But it is the DLNR. Anything else JoAnn?

Ms. Yukimura: No.

Mr. Rapozo: Okay, thank you. Any other questions? Donald, I just have a couple questions. I guess my information is that the wall was built in 1993 and not reconstructed and mine is not validated or verified. That is from somebody's personal information or personal recollection of what they remember seeing, so it could very well been reconstructed. The question is, do we know when that wall was originally constructed and by who? And, if, in fact, it was constructed prior to 1993 or even in 1993? Were any permits ever taken out for that wall?

Mr. Fujimoto: We are looking for that information. We are still waiting. I think I put an inquiry to Dolan to double check that, DLNR.

Mr. Rapozo: I know Dolan made the check and reported that there was nothing in their data base. Is there anything in ours?

Mr. Fujimoto: The Planning Department is also checking.

Mr. Rapozo: And you know how long because I know they were checking last week or last meeting. It is either there or it is not and I don't know because that just opens up a whole nother...

Mr. Fujimoto: Nobody can remember when... if it is a County project, when it was constructed.

Mr. Rapozo: When it was originally constructed?

Mr. Fujimoto: Yes.

Mr. Rapozo: But the reconstruction project was definitely a County project.

Mr. Fujimoto: It is 1993, right?

Mr. Rapozo: And, that, you don't know if that was permitted or not?

Mr. Fujimoto: Well, again, I think under the Iniki ordinance at that time, it was...

Mr. Rapozo: I realize it was... the construction or reconstruction was done without a permit at the contractor's risk, but I would assume that the law and I don't know this for a fact, but I would assume that... it was referenced in one of the prior meetings that once the job was done, you go back and get the permits and was that ever done? I guess the question is, is that a permitted structure today?

Mr. Fujimoto: I do not know. I think that is more a legal issue. Again, under the Iniki ordinance, if it was there, the assumption was it was permitted or grandfathered and it was just really a rebuilding of what was there.

Mr. Rapozo: Right, but that would also require a permit.

Mr. Fujimoto: No, not under that ordinance.

Mr. Rapozo: No, Donald, cannot be.

Mr. Fujimoto: Well, we can look... I mean, there was a brief period that...

Mr. Rapozo: No permits were required?

Mr. Fujimoto: As long as you are putting back what was there.

Mr. Rapozo: Okay, well, I don't know the answer to that, so that is why I asked the question. JoAnn, maybe you...

Ms. Yukimura: There were thousands of DSR's, but...

Mr. Rapozo: I can't imagine how anything could be built without a...

Ms. Yukimura: But you are saying that there wasn't something there.

Mr. Fujimoto: There was. I am saying that it is a repair, reconstruction.

Ms. Yukimura: Then it may have been at a point that we passed an ordinance requiring permits unlike Hurricane Iwa which required no permits for a long time after the event itself (the hurricane itself).

Mr. Fujimoto: Yes, so I am not sure how these walls (inaudible) issue was handled.

Mr. Rapozo: Is there any way of finding out?

Mr. Fujimoto: Well, I am digging.

Mr. Rapozo: Okay, so am I. Any other questions for Donald? Thank you Donald and I have to apologize. Again, I failed to take the public testimony, so is there anyone here that wants to testify on this issue? If not, I will call the meeting back to order.

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

Ms. Iseri-Carvalho: Are we going to be sending over specific questions with respect to this item?

Mr. Rapozo: Yes.

Ms. Iseri-Carvalho: Alright.

Upon motion duly made by Councilmember Yukimura, seconded by Councilmember Iseri-Carvalho, and unanimously carried, PW 2007-6 was deferred.

PW 2007-7 Communication (5/1/2007) from Councilmember Shaylene Iseri-Carvalho, requesting that the Administration respond to questions regarding the construction of Lydgate Beach Park Campgrounds.
[This item was deferred.]

Mr. Rapozo: It was my intent to receive PW 2007-7 and take up the discussion in the Parks Committee if that is... it is duplicative and the reason I entertained a motion to defer it at the last meeting was so that we could get verbatim minutes versus Committee reports.

Ms. Yukimura: So are you moving this to the Parks and...

Ms. Iseri-Carvalho: I am not going to be...

Ms. Yukimura: Just receiving it and then bringing up the questions under Parks Committee? Is that the item P/REC 2007-2?

Mr. Rapozo: I am offering that as a possibility rather than to have two (2) items on the... She was the person that requested in the communication.

Ms. Yukimura: Whichever way we dispose of this, I was wondering if we might recess the Committee and just take the vacation rentals.

Mr. Rapozo: Councilmember Iseri-Carvalho, do you want to...

Ms. Yukimura: I just wanted to let her know what the purpose of my request was.

Mr. Rapozo: And that is fine and I have no problem with that as well.

Ms. Iseri-Carvalho: I think those are two (2) totally different items. One deals with construction and one deals with actual camping (inaudible) permits as well as prices we are charging.

Mr. Rapozo: Okay, that is fine and as the Vice-Chair of the Committee and the request of that information, we will do that. We will just keep it and we will bring it back up and we will recess for the vacation rental bill.

There being no objections, the Committee recessed at 5:20 p.m.

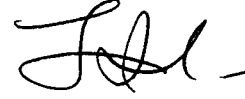
The meeting was called back to order at 7:03 p.m., and proceeded as follows:

Mr. Rapozo: If Bernard is not here, then I am going to ask that we defer PW 2007-7 which would... I would assume the same would happen with the Parks & Recreation item, then we don't have to deal with a dinner break.

Upon motion duly made by Councilmember Yukimura, seconded by Councilmember Kouchi, and carried by a vote of 4:1 (Councilmember Iseri-Carvalho), PW 2007-7 was deferred.

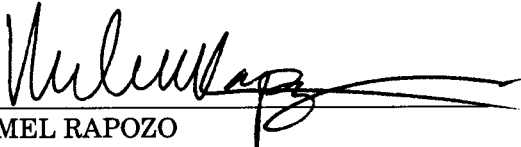
There being no further business, the meeting was adjourned at 7:05 p.m.

Respectfully submitted,



Lisa Ishibashi
Council Services Assistant

APPROVED at the Committee Meeting held on July 18, 2007:



MEL RAPOZO
Chair, Public Works Committee