

MINUTES

PUBLIC WORKS COMMITTEE

July 18, 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 Mel Rapozo, Chair, at the Historic County Building, Room 201, Līhu'e, Kaua'i, on Wednesday, July 18, 2007, at 9:41 a.m., after which the following members answered the call of the roll:

Honorable Mel Rapozo
Honorable Tim Bynum
Honorable JoAnn A. Yukimura
Honorable Bill "Kaipo" Asing, Ex-Officio Member
Honorable Jay Furfaro, Ex-Officio Member

EXCUSED: Honorable Shaylene Iseri-Carvalho
Honorable Ron Kouchi

Minutes of the May 30, 2007 Public Works Committee Meeting.

Upon motion duly made by Councilmember Bynum, seconded by Councilmember Yukimura, and unanimously carried, Minutes of the May 30, 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.

JOANN A. YUKIMURA: Mr. Chair, may I rise to personal privilege?

MEL RAPOZO, PUBLIC WORKS COMMITTEE CHAIR: Sure.

Ms. Yukimura: As Planning Committee Chair, I just want to announce to people who are here for the vacation rental bill that it is our intention to defer the matter. We are still expecting some opinions from the County Attorney just so you know that. There could be discussion on the floor and we certainly will open it up for input from the public when we get to that item, but we will not be doing any final Committee disposition of the matter or any vote at this point today. I just want to let you know that.

Mr. Rapozo: Thank you.

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.]

Mr. Rapozo: I will suspend the rules. I guess... let's take the public testimony. Glenn?

There being no objections, the rules were suspended.

GLENN MICKENS: Thank you Mel. I am not privy to know what the Administration's answers if there are answers are going to be... I would hope that the public does get a copy of whatever the response is to your 24 questions. Indulge me and let me please read my testimony for the record. I have reviewed my testimonies on C 2007-3 all the way back to July 25, 2006. Councilmembers Rapozo and Iseri-Carvalho have repeatedly asked this Administration for a laundry list of relatively simple questions about this path, but nary answers have been forthcoming. I, again, applaud Mel and Shaylene for keeping this before the public, so they can know what is going on. As I have said before, it is inconceivable that any issue could be taking the amount of time that the Council is spending on this bikepath just getting questions answered. This path will never be on a priority list with traffic, overdevelopment, our infrastructure, low income housing, drugs, homeless people and much more. So why are we taking so much of this Council's valuable time addressing it. The 10th question on the memo from Councilman Rapozo to our County Engineer on June 1, 2007 has been at the top of my priority list. Let me read just part of this question. What is the definition of temporary bridge? What is the definition of a permanent bridge? This Administration has consistently been uncouth about what a permanent bridge is and what a temporary one is. They have told this Council that Acrow type bridges are temporary and, thus, will not qualify for the 80/20 Federal match. Let me give you a quote from the FHWA which is the Federal Highway Works Administration Director of the Office of Bridge Technology in Washington, D.C., Myint Lwin. Permanent (inaudible) comes from the FHWA... permanent structures designed in accordance with the latest AASHTO specifications. AASHTO, that is American Association of State Highway Transportation Officials, LRFD which is Load and Resistant Factor Design, October 2007 or thereafter should qualify for HBP which is Highway Bridge Program funds. Get this now, this is underlined. Many Acrow or similar bridges have been designed and installed as permanent bridges emphasis added for your record. The main bridge member connections in the deck panel should be designed for fatigue and durable for the AASHTO (inaudible) loads. The deck panels and their connection to the floor system should be detailed for truck loading and speeds... galvanized... galvanizing should provide good long term performance. If much longer is desired, the galvanized surface can be given additional coating of paint of the color desired by the owner. This will slightly increase the cost, but buy a longer life in esthetics. This should once and for all answer the question about

whether the Acrow type bridge can be used as a permanent structure. The recipient of the bridge dictates whether or not they want to do temporary or a permanent bridge and what weight they want it to hold. The bridge maker is legally permitted by the FHWA. Thus, I hope that this permanent/temporary question is answered and in going forward, all our bridges, bikepath or otherwise will be built for durability, minimal cost, and quick installation time. Thank you Mel. Any questions?

Mr. Rapozo: Any questions for Glenn? If not, thank you. Anyone else in the public wants to testify on this matter? If not, Donald or Doug.

DOUGLAS HAIGH, DEPARTMENT OF PUBLIC WORKS: Douglas Haigh, Department of Public Works.

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

Mr. Rapozo: Thank you. We just got this, this morning, so I am trying to get through this as quick as I can, but were all the responses provided?

Mr. Haigh: No. The additional responses items are in bold, so item number 3, number 8, number 15, number 23, 25 are the additional responses in addition to the ones that we had submitted two (2) weeks ago.

Mr. Rapozo: So what are we awaiting? I guess aside from the County Attorneys...

Mr. Haigh: No, we did get a response from the County Attorney.

Mr. Rapozo: That is exhibit 3?

Mr. Haigh: Correct.

Mr. Rapozo: Yes, but exhibit 3 says that they were unable to respond. It says, please be advised that this office is unable to respond to the request as the request requires responses relating specific agency knowledge and any proposed legal opinion would be based upon all relevant facts and circumstances that are not included. So I don't consider that a response. It is a response saying that they are not going to respond and I see that is for couple of the questions. I know, number 3...

Mr. Haigh: And 15.

Mr. Rapozo: Yes and that is fine. You know, my concern is, if you need more time, we will give you more time, unless anyone has any other specific questions to the correspondence. I guess the one question Doug is this. The rock

wall study, we are waiting for the response as well, right?

Mr. Haigh: Well, we partially responded that the status of the rock wall study... the change order was recently approved and it will be funded under the project funding, the Federal Highway funding and we hope to be done with the study by late September.

Mr. Rapozo: Anybody have questions? If not, I am just going to ask for a deferral and we can... it is pretty difficult to try to go through this thing right now. Any questions? Okay, thank you.

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

Mr. Rapozo: Any discussion before I ask for a motion to defer? Can I have to motion to defer?

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

PW 2007-8 Communication (6/21/2007) from Mel Rapozo, Public Works Committee Chair, requesting that the Administration be present to discuss the Seawall fronting the Pono Kai Condominium Project.
[This item was deferred.]

Mr. Rapozo: I will suspend the rules.

There being no objections, the rules were suspended.

Mr. Rapozo: Anyone wanting to testify on the Pono Kai seawall matter? Barbara?

BARBARA ELMORE: I know it is a complicated matter. Barbara Elmore, but in the process of looking at this, I would hope the Committee and the Council would look at maybe a new law outlawing any seawalls and removal of any seawalls that the County is responsible for. I know you can't retroactively, I guess, a private owner, but since the beaches are not private, I don't see how a private owner could have a seawall anyway. I think it would be very important to preserving our sandy beaches to not have any seawalls period (change side of tape).

Mr. Rapozo: Thank you Barbara. Any questions for Barbara? Go ahead JoAnn.

Ms. Yukimura: I just wanted to say that the shoreline setback bill which is before the Planning Committee essentially does that. New seawalls can't be built, but to... you don't need a law telling the County to remove the seawalls

because it really is a... the County can decide to remove any seawalls it is responsible for. It is just that they would have to be ready to be liable for any destruction that might happen to structures or anything because of a receding shoreline.

Mr. Elmore: (Inaudible).

Ms. Yukimura: And that could be like in the instance of Pono Kai and if we remove the seawall and a beach came back, it might come back to pretty much wash away the structures.

Ms. Elmore: Well, you know, there are certain risk you take when you build right on the shoreline, but I think there seem to be a mindset, well, it is there, so we have to keep it there and I would just like for you to consider removing it.

Ms. Yukimura: I don't think... well, and Dr. Fletcher did mention that, but you would have to, probably in all likelihood condemn the Pono Kai and remove those buildings to... I mean, it is not an inexpensive decision either way.

Ms. Elmore: But isn't there a possibility that if the seawall were removed, the beach would return to some of its former glory maybe. Maybe sand would be deposited there and the tenants at Pono Kai and everybody else would have a... because I have seen the photos of the beach before and it was...

Ms. Yukimura: Right, and if you see the photos of the... the beach keeps receding, but the sand is there. The walls keep... they stop the ocean from receding or not receding, but making incursions onto the land.

Ms. Elmore: At that point, but then the neighboring beaches are...

Ms. Yukimura: Well, that is correct, but there is still... if you don't put a wall there, there is going to be a beach and it could keep going inland.

Mr. Rapozo: And none of us here have that expertise to figure out what would happen and that is what I think we are asking is, to know, to get some experience, expertise in here and I guess it would entail a study, but... because, obviously, if taking that wall out would destroy Pono Kai, then this County would have to make a business decision, but we don't know that. We have no idea what would happen.

Ms. Elmore: Is the County liable to property owners on the coastline to replace their property if something happens to it?

Mr. Rapozo: Well, if our actions caused the damage and, you know, that wall, I don't know if that wall should have been put there to begin with, but we don't know that and we... go ahead Mr. Bynum.

TIM BYNUM: I just say, Barbara, I understand your sentiment and I think everyone here agrees with it and the good news on this is things are changing and that we know a lot more... we have seen examples here over the last few months where, in the past, they are mining coral right offshore that is not that many years ago that is causing us all kinds of grief now.

Ms. Elmore: I know of a new vacation rental that has a coral driveway they brag about on their website too, so, you know, we are learning, but I am not...

Mr. Bynum: We are moving in the right direction and we have the... we are going to be discussing the shoreline setback bill today and I think it is clear that no new seawalls are going to be built without, you know, a very specific site specific reason. You know, it is not like the old days like let's just build the wall, protect the road, or protect the park and you will see some seawalls come down where the site specific rationale tells us that we should let natural beach processes go.

Ms. Elmore: That is all that I am saying. I am not pretending to be an expert and I know...

Mr. Bynum: And I just want to think that your sentiment is understood and I think shared by, I think, all of us, so thank you Barbara.

Mr. Rapozo: Thank you. Mr. Mickens?

Mr. Mickens: Yes, just one other comment. You are always quoting Dr. Fletcher. As I remember his saying about the channel out there was one of the major reason for that erosion at Pono Kai. Now, you know, if you are going to investigate this, you can go back all the way and say, who put that channel in there for the boating, is that legitimate? And I guess the biggest example that you can look at is 'Aliomanu. Remember that seawall that they built down there and the one property is completely washed away. Again, we are hardening the shoreline and whether Dr. Fletcher is... you know, he made this statement that, well, if the bikepath falls in the ocean, we can go ahead and replace it, but I am not so sure that his testimony is that expertise, but you find examples of this all over and I agree with you guys... Barbara, that I think any hardening of the shoreline is going to create this. I think the ocean will solve its own problems by making beaches or taking the beaches away. Thank you.

Mr. Rapozo: Hang on Glenn. Mr. Bynum?

Mr. Bynum: I just want to comment that, again, each instance is site specific and these issues are complex and many of us have spent a lot of time over the last 10 or 15 years trying to understand these complex issues, but if you look at what the general ideas that hardening the shoreline is going to cause you erosion

problems and you should avoid it, hence, we are looking at changing our setback bill, so we don't come up with those circumstances in the future. But in the case you are... you know, the channel where the boat launches was built to drain wetlands behind Kapa'a originally, so are we going to actually... in some cases, we are going to restore those wetlands because private landowners have agreed to do that, but there are some decisions and some things that we did in the past that we are not going to re-flood all of Kapa'a town as the consequence is so great. We have to live with the mistakes of the past to some extent and mitigate them wherever we can. So each one of these is very complex and I think Dr. Fletcher's testimony here was very enlightening, very on point, and, you know, he shouldn't be quoted out of context because he gave very specific answers to specific site questions and that is what we need to continue to do going forward as we continue to educate ourselves, so we make wise decisions. Again, to echo my comments with Barbara, we are moving pretty rapidly in the right direction, so thanks for your comments.

Mr. Mickens: As you said Tim, draining the wetlands, you got two (2) alternatives there. You drain the wetlands for a reason, so there is not flooding. Now, you are going to hurt the shoreline by having that channel put out there as I presume Dr. Fletcher did make that statement. That is possibly one of the causes of the erosion there in front of Pono Kai, so you are going to have to weigh those, right, and say, which is the worst.

Mr. Bynum: And, obviously, those decisions about changing wetland into buildable land were made many, many years ago and I doubt that in our current state of understanding, we would choose to destroy wetlands to make buildable land in the future. You know, our sophistication is much greater. We are not going to harvest coral right off shore of our beach parks in the future. I think we've learned those lessons, but some of the decisions that were made with good intentions many years ago, we have to live with the consequences and mitigate them the best we can.

Mr. Mickens: Thanks Tim.

Mr. Bynum: Thank you.

Mr. Rapozo: Anyone else from the public? Mr. Taylor?

KEN TAYLOR: Chair and members of the Council, my name is Ken Taylor. I have some problems with the rebuilding of this seawall. I think the fact that these walls are in place is one thing, but as they start to fail, they should be removed. Unfortunately, man in its short life span doesn't seem to understand what happens with river mouths and these low lying areas that have been part of flood areas in the past and those flood areas tend to move, they tend to wash out quicker than the harder outcroppings that stick out from other areas. So you take the Wailua River for instance, it probably over the years, many years, has meandered from down there where the beach hut is all the way over to where it

exist today, but man can't live with that. They have to channel that and when the floods come, oh my, this area is flooded and reality is that this river maintained itself within this area moving back and forth over the years. As you move down the coast, you find these low lying areas that have filled in silt and so on and now we have built on them and now we have created the problems. We don't know... I mean, we have approximately a mile of hardened sea lying right there from Kapa'a Swimming Pool up to where this seawall is falling apart and we don't know what kind of damage that is doing further down the coastline and how far that is affecting. Does that mile of hardened area affect a mile further down the beach or is it two (2) miles or five (5) miles down the beach. I don't know that those kinds of questions have been answered, so my feeling is since we have created these problems, we should eliminate the problems as they fail and the sooner this happens and things go back to a more normal situation, then the better off we will be because there is no way with what we are being told with the climate changes going on throughout the world and the potential of sea water rising. There is nothing in the world in any of these walls that is going to eliminate a problem as the water level comes up. Thank you.

Mr. Rapozo: Thank you. Any questions for Mr. Taylor? If not, thank you. Anyone else? If not, I guess Donald or who, I don't know, somebody that can answer the questions.

JAY FURFARO, EX-OFFICIO MEMBER: Mr. Chair, before you bring up the two (2) gentlemen and since I did an internal report, I'd like to make a few small corrections if I can.

Mr. Rapozo: Sure.

Mr. Furfaro: If you recall at the last Committee meeting, I offered my assistance to, in fact, you know, look into the particular project release. At the time, I wanted to thank Bernard first of all for giving us some initial information that was quite satisfying, but it did leave the opportunity to visit other audit options. And I also wanted to thank Clint in the Fiscal Office from Public Works in letting me review some of his accounts payable as well as his journal entries. I do want to make a correction and I have no problem making my internal e-mail available on the work that I am going to comment on here. But first and foremost, last Friday when I reported check number 72112 which showed a journal entry in June of 1995 reimbursing the County for \$580,000. We had the check number to trace. I would like to correct my initial report on the reimbursement. That check subsequently has been determined to be the State reimbursing us, Mr. Rapozo. It looks like because the State was involved with the river mouth at some point as well with their breakwaters, the reimbursement did go through there. It was entered on the 27th of June as a journal entry signed off by a Mr. Bert Lyons who represented the FEMA delegation here on the projects, and the transfer was actually account 201 and when I typed my e-mail, I transposed account 251 and I am a two (2) finger typer, so that has been brought to my attention by our efficient staff that has helped

me summarize this piece. It is account 201 rather than 251 in typed. But I also do want to say that in that audit file, as you know, Bernard reported to us that the fact of the matter is the FEMA reimbursement accounts went back to Washington and I was puzzled how I was able to find this account with the rock wall specifications, the work contracted, the bond issued to Okada Trucking and the notice to proceed on their own... taking risk that the contract would not be approved either from the State or the Federal government. Subsequently, this file didn't go back obviously because the reimbursement came from the State, so it was available to us. So I found most things in order regarding the activities handled in response to the bikepath revetment wall that was put in and the project was, in fact, known as the Pono Kai Bikepath and Revetment Wall in that effort. So I wanted to thank you Mr. Chair for giving me some time just to take a second look on the particulars and I did want to correct those two (2) notes that I had. I transposed the account number wrong, it is 201 and not 251, and the check as we actually pursued the check number that was on the journal entry, it was a State check and not a Federal check. Thank you for letting me clarify that.

Mr. Rapozo: Thank you and thank you for that diligent investigation. It is amazing... we were... you know, it was the last meeting, Bernard was here and, you know, I know Bernard tried his best to get the information, all the information that he could and yet he was told that we don't have records after six (6) years. Mr. Furfaro went across the street and I don't know, you had your magic wand, your little sniffer and all of sudden, they produced all of this stuff. It is frustrating because I think that is what should have been given to us in the beginning when we asked. And, no, six (6) years, policy, you know, Bernard, I know you tried, so it is frustrating. When I got this from Mr. Furfaro and I appreciate it because it is quite detailed and it is funny how all of a sudden these things showed up, so anyway, thank you Jay. With that, anything to add to that Bernard or Donald?

BERNARD CARVARLHO, JR, DIRECTOR OF PARKS & RECREATION: I am ready to respond to the questions and the update on the communication dated July 3.

Mr. Rapozo: Okay, go ahead.

Mr. Carvalho, Jr.: Bernard Carvalho, Department of Parks and Recreation.

Mr. Rapozo: Congratulations, your son was all over the newspaper today.

Mr. Carvalho, Jr.: Yes, thank you. So in reference to this communication dated July 3 to myself and Donald Fujimoto, I just wanted to say that questions 1, 2 and 3 is referencing to what Councilmember Furfaro just had said and his additional follow up to those 1, 2 and 3 questions. I am ready to prepare to answer question number 4. You have your information packet with you and I did give you a

copy of the communication and we are talking specifically right now on the signage and the question was a copy of the administrative signage plan for the Pono Kai area and the approval by the County Attorney and/or the Department of Land & Natural Resources (DLNR). So in follow up to the last presentation we did to Councilmembers, we provided you a copy of the actual posting of the signage at the Pono Kai seawall site and the verbiage that you see there, we did make the corrections... if you can refer to: Danger, sink holes, do not go beyond this point and you have a copy of that in your packet. That sign or that verbiage was approved by our County Attorney's Office in us talking closely with them on what would be the appropriate verbiage to use for this particular area. Again, we are talking specifically the Pono Kai seawall area that is barricaded off at this time. As you can see right below that: Warning, waves break on ledge. Yes, it may not make sense to some of us, but in speaking closely with Mr. Dan Quinn and I have a copy of the task force on beach water safety and this is the Act 190 that Councilmember asked me to follow up, Councilmember Rapozo and I do have a copy of the actual report that was made and the signs that were approved by the State. So in my communication with Mr. Dan Quinn who was and is the Chairperson of this task force, I have an e-mail in there of my communication with him as well confirming that the signage that you see before you on the State side is the approved signage that they recommended. I worked closely with our Water Safety Agency specifically Kalani Vierra and he provided us the signs. Larry Saito and his team up there posted the sign, so I just wanted to make sure that the Councilmembers have a copy of that actual posting.

The second signage that is there or sign is: Danger, falling rocks, do not walk, stand or lie next to seawall and right below that you can see, slippery rocks and, again, it may not fit, but it is approved in my communication to Mr. Dan Quinn who was and is the Chairperson of the task force. So we have been in communication to assure that the verbiage posting as we speak is correct, so that is what you have in your packet right there regarding the signage. And we continue to monitor that site along with working closely with the maintenance team from Pono Kai. As we stated earlier, should sink holes occur, our plan is to continue to replenish with sand until we can come up with what we are going to do which leads into my next communication dated July 12. In our previous presentation, we did say that Oceanit and I did provide for you the background of the two (2) people that I spoke with over at Oceanit which is, again, Mr. Dayan Vithanage and Mr. Warren Bucher and both of them work for Oceanit who is a very qualified and reputable engineering firm dealing with coastal design. These two (2) men, in talking to them and asked them if they could provide us with documentation or something that we can actually go forth with in providing an assessment because we did say the three (3) R's, Councilmember Rapozo, was to repair, replace, or remove. So in this communication dated July 12 from Mr. Warren Bucher, Senior Ocean Engineer from Oceanit, he submitted a scope of work to do an assessment of the wall. Our discussion at that time was it would cost around \$5,000. Right now, as you can see before you, the cost to do an assessment which will include... I just want to say this... they will obtain and review available background information including

reports, maps and existing photographs. The task force will require access to the site, property plans or maps and copies of any pertinent documents such as design plans, surveys, permits, studies, etc. The bottom line, at the end of the day, Oceanit will submit an evaluation report that includes a recommendation... recommended course of action to repair or replace the damaged seawall. So this is per the communication dated July 12 from Oceanit who is willing and able to do this assessment. In my conversations with Mr. Bucher, we also talked about maybe possibly looking at some other areas, why not, that is adjacent to the Pono Kai seawall. So there was discussion on that and he also is willing to do a quick look at the Fuji Beach area and maybe even down by Kapa'a Beach and I wanted to share that with Councilmembers, but for now, black and white. This is specifically for the assessment of the Pono Kai seawall which comes out to \$6,500. In a previous presentation, it was \$5,000, so Councilmember Rapozo, this is what we have right now. We also did a follow up to your request to speak to Corp of Engineers and Kylan did that and I wanted Kylan to come up, who is my new Deputy of Parks & Recreation, for your information if you don't know, and he can give you a briefing on our discussions with the Corp of Engineers if that is okay.

Mr. Rapozo: Before Kylan comes up or before Kylan speaks, when are you looking at this Oceanit...

Mr. Carvalho, Jr.: What is happening now, as you can see, it is July 12 which is really recent, so I said, well, let's wait until we get to Council first, inform the Council what we are planning to do and working with Wally at Finance in doing an emergency...

Mr. Rapozo: I guess the real question is, you are not waiting for the '08-'09...

Mr. Carvalho, Jr.: Oh no, we are going to move... because we feel that this is an important piece...

Mr. Rapozo: Well, so do we and that is why it is here.

Mr. Carvalho, Jr.: Now what is interesting is that once we get the information together, that can be shared with... now it is Kylan's lead going there.

Mr. Rapozo: Okay, perfect, thank you.

KYLAN DELA CRUZ, DEPUTY DIRECTOR OF PARKS & RECREATION:
Kylan Dela Cruz, Deputy Director of Parks & Rec.

Mr. Rapozo: Congratulations on your promotion.

Mr. Dela Cruz: Thank you. Currently, the Army Corp of Engineers is doing a preliminary assessment. We provided the TMK, the tax map key, the

photos of the before, during and after and also just information as far as what our intended plans are as far as our repair, replace or remove the Pono Kai seawall. Fortunately, I am speaking to a Joy Anamizu and she is the representative of the Army Corp of Engineers and George Young who is the Chief Engineer over there. Fortunately, they are coming late next month sometime to do an assessment, so that is where we stand as far as that.

Mr. Rapozo: Thank you very much.

Mr. Furfaro: First of all, congratulations to your new position and congratulations to Mr. Carvalho. I, too, was very interested in the article on your son in today's paper, congratulations to your family. What would be the timing because you are going to get this review from the Army Corp of Engineer. Do we have an idea of time and action on Oceanit if you move forward on the emergency repair? I mean, will we have their report to give to the Army Corp when they come to make their assessment? Is there a link up to that possibility?

Mr. Dela Cruz: We haven't made that link, but we can certainly...

Mr. Furfaro: It probably would be since they are doing this assessment and they are going to make some recommended course of action as an emergency response. It probably would be timely to be able to have that report, an assessment available for the Corp as well. Just food for thought. Thank you Mr. Chair.

Mr. Rapozo: Anyone else?

Mr. Carvalho, Jr.: I also wanted to say that, you know, we are working closely with Donald and his team too, so we work together in trying to address this and whatever issues come about and Donald has been a great help and resource to us as well, so I want to make that clear.

Mr. Rapozo: Councilmember Yukimura?

Ms. Yukimura: Mr. Dela Cruz, congratulations and also Bernard for your son. Regarding the Army of Corp of Engineers, they are doing an assessment that would lead toward what?

Mr. Dela Cruz: What they are going to do, they are going to do an assessment and see the condition of the seawall. We didn't go too much in detail as far as what is the courses of action or what is recommend... what will be the recommended course of action; however, based on the information that we provide them, they will be better be able to make a recommendation as far as...

Ms. Yukimura: I was just wondering what possibilities there were for their involvement in terms of... I mean, we have heard of Army of Corp of Engineer

projects, so, you know, whether they actually still get involved in construction/reconstruction or demolition or whatever the...

Mr. Dela Cruz: Because of the history of this, it was a little bit fuzzy, we tried... and based on Councilmember Rapozo's inquiry two (2) Council sessions ago, we tried to follow up and tried to cover all the avenues to make sure that each, you know, that we cover each approach.

Ms. Yukimura: Right. Okay, I guess I was asking the question of what are they authorized to do and they may not even be the right word. What kind of assistance do they offer to local governments, maybe is the question, and maybe that will come out as, you know, as they do their site visit, so you folks may know that a little later in the process.

Mr. Furfaro: See, that is my whole point. You are going to spend \$6,500 to get an assessment and an evaluation from an engineering firm and you need to time it with the guys that are going to come back and they are going to say, here is my blessing on it or, you know, we got some concerns about this recommendation. I am just sharing that you probably want to have the engineering study by Oceanit done, so when the Corp comes here, you can say, hey, this is the assessment and the recommendations, what is your feeling on what they are suggesting to us of the 3Rs. That was my point. It might be to our benefit to, you know, have them look at the Oceanit report.

Mr. Carvalho, Jr.: And I think from the information that they were requesting, that would be helpful to them once Oceanit does their report; it will be helpful to the Corp of Engineers to kind of put everything together and come up with some kind of comprehensive...

Mr. Rapozo: And vice versa. I mean, who is the higher authority. Who is better? Who has an interest in this? I mean, that is always a concern, so Oceanit is a private firm and they are very credible, very qualified and so is the Corp. Go ahead JoAnn.

Ms. Yukimura: Yes, I mean, the issue does come up. If the Corp is capable of doing the assessment as a voluntary service for another government agency, then we should do that first. I mean, we shouldn't go to Oceanit if we can get... if the Corp is capable of doing the kind of assessment that Oceanit has quoted us on, but I don't know. Okay, Donald is shaking his head.

Mr. Rapozo: We will leave that up to you.

Mr. Carvalho, Jr.: We will work closely with the two (2) entities.

Mr. Rapozo: They pay you the big bucks and you make that call.

Mr. Carvalho, Jr.: Alright Councilmember.

Mr. Rapozo: Any other questions for Bernard or Kylan? Bernard, you know on the signage, I know I have the e-mail from Dan Quinn and that is the extent of his approval?

Mr. Carvalho, Jr.: That is it, so what happened was, we went back to meet with Kalani Vierra from our ocean because he is on the committee as well.

Mr. Rapozo: Yes, and I guess my concern and I have asked Steph to go get Act 190 because I know there is a process. There is actually a process to follow that, at the end, you get the approval... this one, all he is saying right here is Act 190 signs look like the current versions, but I don't know how much evaluation has been done. You know, we had this discussion before and I know maybe he told you on the phone that these will work, but we know that there are no slippery rocks there and we know that there are no crashing waves on the wall, but that is what the signs depict. Again, I don't know what the process is. I forgot what it is already, but I know there is a definite process with an application, it goes through the task force, they look at it, they review it and once they hit the stamp of approval, then you are provided with the immunity offered by the law. I mean, that is fine. If he did verbal okay, that is cool and we put the signs up.

Mr. Carvalho, Jr.: Councilmember, you are correct that there is a process, but given the nature of the situation at hand, he was willing to step forward and...

Mr. Rapozo: And that is fine.

Mr. Carvalho, Jr.: And then we will follow through.

Mr. Rapozo: And that is what I am asking is if we can follow through with the official process.

Mr. Carvalho, Jr.: I will get something in...

Mr. Rapozo: I am glad he put those. Those signs are good. I mean, at least it is a warning because the tourist don't know if they are crashing on the rocks, they may think there are, but I am concerned is when somebody does get hurt for a reason that is not stated on the sign, on the DLNR sign, then I don't know how much immunity we are protected by because it never went through the process. So that is all that I am asking and I appreciate your attempts to get with them on the phone and get that verbal okay. Any other questions? I don't have anymore questions. Thank you.

Mr. Carvalho, Jr.: Okay, thank you.

Mr. Furfaro: Bernard, I just want to one more time thank you and

Clint Saiki for the assistance that was given and the ability to have an audit trail. Thank you and thank Mr. Saiki too. Thank you.

Mr. Rapozo: Thank you all and I know Councilmember Furfaro has... I am going to hire him as an investigator I think. He got the audit trail, but the question still remains about the permits and there is no permit. That structure never was permitted and today it sits as an unpermitted structure, so there are some concerns there and I know that is not your kuleana. You guys are parks and I know that Planning is not here, but that is still a concern of mine because what happens now. What effect does that unpermitted structure have and it has always been my concern on the shoreline certification that was done anywhere along that area and that is a problem and that was pointed out to me by Mr. Dolan Eversole.

Mr. Furfaro: Well, again, I want to add, though, my piece was only on the Pono Kai wall, but quite honestly, I think that gives you an opportunity to say, under the emergency process, we were reimbursed for that work and obviously, we must have met some criteria to get that reimbursement, so it is, like I said, made contact with Mr. Gayagas from the Army Corp of Engineer to do some research on that part and you might want to follow it from there. Thank you Mr. Rapozo.

Mr. Rapozo: Thank you and we were reimbursed based on a claim. They file a claim and we agreed to pay and that is how it got... so that is fine. One of my bigger concerns, again, and not for you folks, but if you look at the contract scope of work, A4, it is quite clear that the scope of work was to reconstruct rock revetment using minimum four (4) to five (5) ton rock. Again, that was not a reconstruction, so that is a major concern for me because it is not what it is stated in the file. Again, yes, we paid, yes, and everything is okay. The fact remains is really, did we have to put a rock wall there and why did we lead everybody to believe that it was a reconstruction and not a construction. You know, the scope is really what determines your job and when you do the contract, that is what determines the job and it is real clear. There were six (6) items and part of it is doing the bikepath, but it is quite clear that number 4 was to reconstruct and that simply was not the case, so thank you. Barbara?

BARBARA ELMORE: Thank you for letting me have a little time. Again, I am at a disadvantage because I don't have what you have, but it seems to me that there is some duplication and if the Corp of Engineers are willing to come and assess the wall, I don't know why we would have to even spend \$6,500 for a private company to assess it. It just sounds like a duplication and I don't think it would cost... I don't think it would cost... it wouldn't cost anything for the Corp of Engineers to do it. And also on the signs, I haven't seen the signs, but apparently the first word is danger and Mel, you had asked if it covers everything, but if... under danger, if you put no trespassing beyond this point or whatever it seems to me, that would cover everything. I haven't seen the signs, but it seems to me that would cover everything and that is all. Thank you. Oh, the contract... if there is a contract that has been entered into, why didn't they wait until your committee

finished its hearings. I don't understand why they didn't at least wait. If the scope of the work is to reconstruct the wall, it seems like they have already eliminating the other two (2) possibilities.

Mr. Rapozo: Barbara, that contract was the original contract back in... after the hurricane, so this was the scope of...

Ms. Elmore: The Oceanit?

Mr. Rapozo: The Oceanit, this was just a proposal and it wasn't a contract.

Ms. Elmore: It hasn't been signed?

Mr. Rapozo: No, it hasn't even been...

Ms. Elmore: It seems to me that is unnecessary if the Corp of Engineers are willing to come in.

Mr. Rapozo: I think Councilmember Furfaro and Yukimura brought up that too and I don't know what their true assessment capability is in the Corp. If, in fact, it is the same as what Oceanit will provide, then, obviously...

Mr. Furfaro: That is the value to your question. For example, the original project references the bikepath reconstruction and revetment for that wall. My point, although we don't have the document, is that some point, what was built was subject to a review by the...

Ms. Elmore: I am not talking about that original contract.

Mr. Furfaro: No, now follow the thinking here for a minute that if the Corp approved what we have there and it failed and another company can come out and point out to us through their assessment what might have been wrong there, that leaves an opportunity for us to also look toward the State to have some... a reasonable participation depending on what we do for the breakwater because we have an outside independent assessment. What I am saying is, let's not do the assessment and not include the Corp in evaluating what Oceanit has said. Remember the Corp was probably involved in the original breakwater, so that...

Ms. Elmore: It just seems backwards to me. It seems that you should get the Corp assessment first and then... but I trust the Corp of Engineers. I mean, they knew ahead of time about the levees in New Orleans and they handled the situation there.

Mr. Furfaro: Barbara, that is my whole point.

Mr. Rapozo: And they did an assessment in 2003 and according to Eversole and Fletcher, when they did the assessment, the Corp of Engineer said that it was probably not repairable at that time, so we will see. It will be interesting.

Ms. Elmore: And another thing, the Corp of Engineers may not be up to speed on the things that Dr. Fletcher is an expert in as far as... I mean, they may just be technically the experts about structures, but not the overall picture whether a wall is even necessary.

Mr. Rapozo: And that is where Oceanit would be valuable. Thank you Barbara.

Mr. Furfaro: Thank you for your feedback.

Mr. Rapozo: Donald?

DONALD FUJIMOTO, COUNTY ENGINEER: I would just like to I guess clarify the role of the Army Corp. They really moved a lot from the helpful side to more regulators and commend Kylan for getting in touch with Joy even because we have been trying to contact her on another issue that is an emergency situation that she has not responded to us because they are so busy just doing regulatory issues. So I would be really surprised if they could provide any kind of assistance to us on the design side, but they would definitely be involved in the regulatory process.

Mr. Furfaro: Donald, therefore, we would like to have the Oceanit report done, so that from a regulatory standpoint and the history that they have with the revetment, they could make commentary on the engineering assessment.

Mr. Fujimoto: I would like to say one more thing. A special thanks to Councilman Furfaro for writing up the report. You know, when you read the report, it seems so obvious, but I have to say that a lot of effort in... a sign of a brilliant mind is someone who can turn something complicated into something that people can understand and I think he did a terrific job in your assessment. The bullets the way you had it put in, I think... without the logic and looking at it from a real, you know, intelligent position, I mean, I don't think we would have had half of the information put in, in such a logical position, so I thank you for that.

Mr. Furfaro: Thanks for the compliment. From Waianae High School, public education, just get to the basics. Thanks Donald.

Mr. Rapozo: Thanks Donald. Any other questions? If not, I will call the meeting back to order.

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

Mr. Rapozo: Discussion? Go ahead Mr. Bynum.

Mr. Bynum: I just think it has been a very revealing couple of weeks and this is an issue where I have seen like team work. Like Council working with the Parks Director, the Parks Director working with the Director of Finance, and the Public Works Director to respond to this. It started with, you know, really appropriate questions from our Public Works Chair, Councilmember Rapozo, about why we move forward with doing improvements in the area and not addressing the seawall issue which was identified before and clearly should have been addressed, but the response now has been, I think real timely and (inaudible) and clear and we have a direction to go. You know, it was responsive to the questions that Council asked in terms of Council... I mean, Chair Rapozo saying, hey, Oceanit is a private firm and how can we kind of get an independent evaluation, so thus the involvement of the Army Corp which gives that objective kind of an overview of how to proceed, you know, kind of moving it in as an emergency item and then Councilmember Rapozo's... I mean, Councilmember Furfaro assisting with finding out what happened back in the old days. And if the public recalls a dramatic pictures of, you know, what the hurricane did in that area literally overnight and I think it is a good story about how our County responded in an emergency situation with the leadership in those days to address what looked to me to be a pretty frightening situation and follow through. So I feel good about the direction we are taking to move forward with this. One final comment about the signs. Councilmember Rapozo, you know, the State, I have been in a lot of discussions about these signs because the State, in essence, set up a liability protection for the County by saying if you use certain approved signs and go through a process, it helps provide protection, but those signs because they are standardized in nature, sometimes the public gets used to seeing the same signs at every beach and they lose some of their impact. So there also was a decision that there are... on other times appropriate to put signage above and beyond those standard signs to talk about specific circumstances at specific (inaudible) and specific beaches. So the community was involved in placing signs, for instance, at Queen's Bath which is not the appropriate name, but... and, you know, were site specific that said, hey, let's bring some special attention to the coastal hazard here, so we need to put those signs, so we have the liability protection and go through the process. But in this instance, we put some additional signage that is specific to that site to really let the public know, so I applaud the teamwork that I saw in this instance happening between the Council and several departments of the County.

Mr. Rapozo: Thank you. JoAnn?

Ms. Yukimura: Yes, I just want to say that I, too, am really pleased with the progress on this issue and I want to thank the Committee Chair in his leadership in it and also really want to acknowledge Councilmember Furfaro for his documentations sleuthing. I think it really helped clear up a lot of issues and help move this thing forward and then the Administration has been very forthcoming in

also following up, so I am glad that we are looking... first, you know, getting a good analysis of the situation and that will give us some guidance as to what the County's next steps will be in a situation that is very important to the people in the area and the people who use the bikepath and the people who use the beach, so thank you all for this.

Mr. Rapozo: Thank you. Councilmember Furfaro?

Mr. Furfaro: Chairman, thank you for your leadership on this as well, but I do also want to compliment Bernard and Donald and all of the people coming to this conclusion of using and spending some emergency money to have an outside group make an evaluation and recognizing that over the 15 years, the Corp's responsibility from helping design projects to actually inspecting and regulating them is kind of where they are at right now and certainly it is appropriate to have this emer... (change tape)...

Mr. Rapozo: I understand, Donald, that you are probably... the emergency procurement or whatever contracting, that doesn't take that long, right? So we would be able to get a report back of kind of what you guys are going to do in the next couple of weeks? You can just nod. Yes, okay. So with that, I would ask to defer this just for the next Committee meeting, so that we can get the final plan of what Public Works is going to do.

Upon motion duly made by Councilmember Bynum, seconded by Councilmember Yukimura, and unanimously carried, PW 2007-8 was deferred.

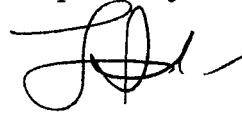
CR-PW 2007-19: on C 2007-256

Communication (06/07/2007) from the Solid Waste Program Administrative Officer, requesting Council approval of a \$30,000 payment (using unexpended funds in the Solid Waste operating budget account) to the State of Hawai'i Department of Health as a settlement for alleged violations in managing residential used oil collection sites and related violations that occurred in October 2005, and that have been corrected through various program improvement measures.

[Approved.]

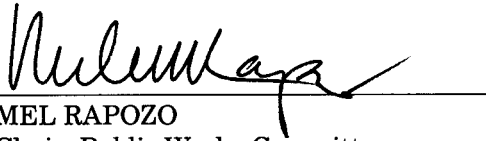
There being no further business, the meeting was adjourned at 12:25 p.m.

Respectfully submitted,



Lisa Ishibashi
Council Services Assistant

APPROVED at the Committee Meeting held on August 15, 2007:



MEL RAPOZO
Chair, Public Works Committee