

MINUTES

ENERGY/PUBLIC SAFETY COMMITTEE September 3, 2008

A meeting of the Energy/Public Safety Committee of the Council of the County of Kaua'i, State of Hawai'i, was called to order by Council Chair Jay Furfaro, Chair, at the Historic County Building, Room 201, Lihu'e, Kaua'i, on Wednesday, September 3, 2008, at 9:08 a.m., after which the following members answered the call of the roll:

Honorable Mel Rapozo
Honorable Shaylene Iseri-Carvalho
Honorable Daryl W. Kaneshiro
Honorable JoAnn A. Yukimura
Honorable Tim Bynum, Ex-Officio Member

EXCUSED: Honorable Ronald Kouchi, Ex-Officio Member

There being no objections, the Committee was recessed at 9:08 a.m. The Committee reconvened at 8:26 p.m., and proceeded on its agenda item as follows:

EPS 2008-1 Communication (8/28/2008) from Councilmember Shaylene Iseri-Carvalho, requesting that the County Engineer provide an update on the condition of and the status of the repair and maintenance of the Ka Hale Makai O Kaua'i complex.
[This item was deferred.]

JAY FURFARO, ENERGY/PUBLIC SAFETY COMMITTEE CHAIR: I have two communications here on item EPS 2008-1, one signed off by the County Engineer saying that they will not have a prepared update report until early in 2009 and on the recommendation of the County Attorney that perhaps until that report is done, they would ask to be held on an update early in 2009. You know, I have to say I probably want to send over a separate communication. My question on this particular building will really deal with the fact that and we should make note that our concern is what we're doing with the kind of evidence that we're receiving now, how we are holding it, how are we making sure that it's not compromised in any way. I think that needs to be a separate communication and I will send that directly to the Mayor's Office. So, I have nothing else to say, other than I've just gotten these two and I can circulate them. Councilwoman Iseri.

Ms. Iseri-Carvalho: Is the County Attorney's Office available?

Council Chair Furfaro: It doesn't seem like they are, nor is Mr. Fujimoto, as recommended by, I guess, this request for a deferral, is not available in the building either.

Ms. Iseri-Carvalho: I guess for me, Chair of the Committee, I am totally disappointed. I can tell you that this matter was raised back on April 9 of 2008. During the budget sessions which began in early March, it was brought to our attention that for the past five years the building at the...especially the police evidence room, has been tainted with mold. We have had several site visits to that building as well as to O'ahu. They have been fully informed of our findings over on O'ahu as well as on Kaua'i. We had expressed our concern and in fact had demanded that money be put in so that this problem could be expeditiously

handled. We are now five months into the first communication and in fact that communication regarding the status report on the repair and maintenance of the Police, Prosecuting Attorney and Civil Defense Complex actually was done on April 3, and so it's more than five months. It's a shame that we handle the evidence this way. Cases are going to be dismissed because these types of evidence are being put in the same tainted room that exists and we have known about this problem for the past five years and have done absolutely nothing about it. We have people getting sick at that building and yet this does not appear to be a priority of the Administration at all. This...there will be a new Administration there in the Prosecutor's Office on December 1. This item cannot occur in 2009. It is totally ridiculous for the community...for defendants to get released because the evidence is being tainted...to not address this issue for the past five years. The Administration has known about this problem for five years. Cases are constantly getting dismissed in court. Evidence is not being handled properly. It is outrageous that this is occurring, especially since it's been brought to the County Attorney's Office regarding liability. It's been brought to the attention of everyone over at the Administration about the victims who are suffering because their cases are getting dismissed. It's outrageous. And so, we have Donald Fujimoto here. I'd like to get some update.

Council Chair Furfaro: Let me pose that question to Mr. Fujimoto.

There being no objections, the rules were suspended.

Council Chair Furfaro: Donald, we do have correspondence asking that we perhaps anticipate a report from the many consultants some time in early January on the work and repair at Ka Hale Makai O Kaua'i. My question to you, though, is, it is really a two-part process and in the meantime I'm wondering if we have made any contingency plans to care for the portion of the evidence room that perhaps is gonna be upgraded. Do we have any temporary solutions and are you able to come to the mike to answer that portion of the question?

DONALD FUJIMOTO, County Engineer: I'm sorry, but I'm not...I was not prepared to provide any information. In fact, I had deferred this to our Building Head, Doug Haigh, and my deputy, Ed Renaud, to actually handle this matter. And my understanding was that we asked for a deferral on this.

Council Chair Furfaro: I understand. I want to pose my question again, Donald, and it's a very important one. There is the actual work that is being proposed from several experts that deal with this kind of, you know, mold/spore problem, you know, encapsulating some of this stuff, addressing the ventilation, the air conditioning, the circulation and so forth. My question is the second part of this. Are we working on any options to secure evidence going forward until such time this problem in the evidence room and the circulation is resolved based on the consultant's work? Are there any contingency plans for evidence that you know of right now?

Mr. Fujimoto: Again, I apologize, but I have not been intimately involved in this project and so I can get back to you.

Council Chair Furfaro: Okay, Donald, this has been since the budget process. I'm going to ask in writing if it's something you can put on your list. I'll be writing over to the Mayor's Office, copying you and Mr. Haigh. I think we all recognize the problem and you're implying that because it involves design issues, possible construction change orders and so forth, we understand you need the time

to evaluate. But in the meantime, going forward, what are we doing to assist the Prosecutor's Office, the Police Office to secure evidence appropriately going forward? And I will be writing that communiqué. Councilwoman.

Ms. Iseri-Carvalho: Yes. So, Donald, I guess I want to know from the discussions that had taken place back early this year, is it your testimony today that nothing has happened?

Mr. Fujimoto: No, I'm not saying that. I'm just saying that I was not involved in that. I had deferred this to our Building Head, Doug Haigh, and my deputy.

Ms. Iseri-Carvalho: And then my question would be that knowing that this agenda was posted six days earlier and knowing that these discussions took place from January, we've been waiting from January for a response from your department from January.

Mr. Fujimoto: And again, there was a meeting with the County Attorney before, I think it was yesterday, and again, I did not go to that meeting.

Ms. Iseri-Carvalho: You know, it's a shame how the Administration treats victims of crime like this and how evidence like this is being put out in tainted rooms and we know it and we still continually put evidence in the room that we know that has mold and mildew. There was, I don't know, maybe 30-, 40-, 50-some pictures that were taken. I mean, your office has known about it. There were approximately 140 work orders for that building because it's not only that area, but it's like the entire building. The flooding, the keys not working in the cellblocks, the drainage...I mean multiple issues. I mean, we cannot even get the prisoners out of the cellblocks because the keys don't even work in the cellblock. We have evidence and ammunition that are totally exposed because the locks on the door don't work. We have spaces in-between where the evidence is and where the ammunitions are that are so large that rain comes in and destroys all the items in there.

Council Chair Furfaro: You know what, Donald?

Ms. Iseri-Carvalho: It's just outrageous that this is allowed to continue for five years. I mean, and I know you haven't been here five years, but you've at least known about it for the past three years since you've been here. And, you know, these things have not been addressed. You know, there's no drainage, there's no exhaust system under that police building, the interlocking floors are worker's comp issues waiting to happen, you know, they're all exposed - the wires are all exposed down in the dispatch room. It's, it's horrific.

Mr. Fujimoto: Yes.

Council Chair Furfaro: Donald. This is my Committee and I would like to say to you that the frustration expressed here is something that you need to get, as you said, "intimately involved" in what's happening there. And the first step is a duty we have to our citizens, as the Councilwoman put on, is to see if we can find some alternatives to securing a new temporary evidence room.

Mr. Fujimoto: Right and I'd just like to acknowledge that yes, there was this issue about a lot of punch-list items and things like that and the last report that I got which was yesterday, they said that right now the work order list is less than 20.

Council Chair Furfaro: Okay. Be prepared to come back and maybe share that communication with us.

Mr. Fujimoto: Okay.

Council Chair Furfaro: Okay. Thank you very much. Councilwoman Yukimura.

Ms. Yukimura: In terms of a timeline on this issue, are we setting a timeline for coming back?

Council Chair Furfaro: I will be sending that communication in my letter and I will be copying Councilwoman Iseri. So, I can copy all of the Council if you'd like and if you have any suggestions you'd like put in there, please share it with me. Councilman Rapozo.

Mr. Rapozo: So, Donald, you don't know if anything is being done in the meantime to secure another evidence room?

Mr. Fujimoto: As I mentioned, I have not been intimately involved with that issue and so I cannot respond.

Council Chair Furfaro: We're hoping that you will be prepared to see if there's any alternatives when you come back.

Mr. Fujimoto: Yes, and again, right, and again, my understanding is that we have been advised to defer this matter by the County Attorney.

Council Chair Furfaro: I understand that. I read the communication, Donald. And I'm asking you to think of this as a two-part question. One is the response to what might be a building that needs attention, follow-up on the work orders, and so forth to fix the construction issues. The second part and to me the more important part is are we giving our people the right tools temporarily so that they can perform their jobs with the highest possible regard for the integrity of the evidence room? That's what I'm asking you, okay? And I thank you for being here. Thank you, Donald.

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

Council Chair Furfaro: Okay, there is no further business on Energy and Public Safety...

Ms. Iseri-Carvalho: I have discussion. I don't know if there's anybody else who wants to speak.

There being no objections, the rules were suspended.

Council Chair Furfaro: Let's ask anyone else in the public.

There being no one wishing to speak, the meeting was called back to order, and proceeded as follows:

Council Chair Furfaro: For today this is the last item on Energy and Public Safety Committee and ask if there's any dialogue on the table here that would incorporate in my memorandum over to the Administration and convey the urgency any greater than what I just said? Mr. Rapozo.

Mr. Rapozo: I'm assuming this is going to be deferred?

Council Chair Furfaro: I have no other choice at this point.

Mr. Rapozo: Okay, I just want to make sure that it's deferred and not received and waiting for another communication.

Council Chair Furfaro: No.

Mr. Rapozo: The other thing is I want to make sure, at the next meeting, that we have...you know, I've said this many times, you know, that we have the people here that are able to answer the questions and if it's Doug Haigh, then it should be Doug here; if it's Ed Renaud, then it should be Ed here. You know, we've, I guess, wasted Donald's evening making him wait for him to come to tell us that he didn't really have the answers. This has been an issue. I think Councilmember Iseri-Carvalho has expressed the frustration. I myself did tour that facility and there's a lot of work to do, but more importantly and I think the frustration is that, you know, in the morning I can probably call a few storage companies and in a matter of a half an hour, I could probably secure a warehouse space to act as a temporary storage facility for the evidence. I know, I'm almost convinced I can do that within half an hour or an hour. And if money was an issue, you know, to secure a money bill to get this done, it wouldn't take more than three weeks, four weeks, something like that, five weeks. But what we're looking at now is an issue that is months and months and months old as far as the evidence when it became evident that the evidence room was a problem. And, you know, I guess as a former police officer, understanding the importance of having evidence that is good and unquestionable is vital. And I am not as intimate with the cases that have been dismissed as Councilmember Iseri-Carvalho, but I have heard of many, and I think it's unacceptable to have to release a defendant, dismiss a case because we failed at the very basic part of police work is evidence collection and maintenance. And it's not at the fault of the police officers, not at the fault of the Prosecutor, it's us, the leaders that cannot even provide the police officers, the Police Department a safe place to store their evidence, a stable environment so that the evidence doesn't get contaminated. It's...I'm just too exhausted to get mad, but, you know, this has to be done and I would expect nothing less than at the next Committee Meeting to be told that we have since secured space at a storage facility here in Lihue or Puhi or wherever it is and the storage space is probably 6,000 square feet and it's secured and that is where we are now maintaining our evidence because it's water-free and it doesn't leak and we have some humidifiers or whatever the case is. But I would expect nothing less than to have that in place by the next time this matter hits the agenda.

The building repairs understandably, you know, that's fine. I can tell you that I will not wait until early 2009 for an update. That's also not acceptable. You know, we can have an update as to what the plans are, what the anticipated cost is, and there's got to be somebody that can answer this question within our County. And I would look towards Doug Haigh as the Building Division's Chief to be the one

to answer those questions and not necessarily Donald. But Mr. Chair, I just want to, and I appreciate your offer to write the communication, I would stress the fact that...I will ask that you stress the fact that a temporary storage facility be secured ASAP, I mean like tomorrow.

Council Chair Furfaro: That's my intent. Any other dialogue? Go ahead, Councilwoman Yukimura.

Ms. Yukimura: Yes, I appreciate Councilmember Iseri-Carvalho bringing this to our attention as well as to the public's attention. The circumstances sound dire and I would agree that a temporary solution needs to be found immediately. I can see where the analysis of these building problems may take awhile and certainly the improvements or corrections also, but it does seem intolerable to have evidence spoiled or made/rendered useless and so a temporary solution needs to be found immediately.

Council Chair Furfaro: Thank you and that's why I separated the two problems that are there, and it is with great urgency that be communicated. Any further discussion? Councilwoman Iseri.

Ms. Iseri-Carvalho: This is frustrating, you know. You rely on the people who you spoke to that they would take care of the problem and you wait and you wait and you wait and you get zero response until you finally have to put it on the agenda. This is not the kind of items that you want the public to know. This is an extreme failure on behalf of the Administration. It's been five years that these problems have existed. This was a design build project. This was clearly a failure, clearly, on a design build project on public safety, where public safety was compromised in every aspect of the word that you could ever think of. That cases have been jeopardized not simply only because of the evidence room, but also our Civil Defense has been affected, also the Prosecuting Attorney's Office. You walk in that building and there's no roof that they've...all the ceilings have caved in. You don't have...all the wires are exposed. You see...it's just horrific. You should go look at it. And they have known about this for five years and it has been brought to their attention. We asked, actually in the last budget, that it be funded because even despite myself going over to the Administration and speaking with the Mayor about this issue, zero moneys came over in a CIP project to fund that, even though we knew that that building and its fixtures would take over multi-million dollars to fix. It's just horrendous that nothing has been done despite that. It's been over a year that I've been raising this issue. It's, you know, it finally hit the agenda after not getting any response from the Administration in April and it was finally in May when the supplemental came in that they put a mere \$500,000, even though we knew that the money was going to cost multi-million dollars. We knew we short-funded it, and I was told don't worry, Shay, we're going to get all the pieces together, we're going to get the consultant, we're going to have all of these things in place and I've waited from April, May, June, July, August, September. We compromise people's safety because of that. It's just unbelievable. I mean, I'm just totally outraged and shocked that this has happened. I mean, we basically treat dogs better. We hire three park caretakers, we address those issues and yet, we know all about these issues; we know about...it's fortunate that those prisoners several times have gone locked in the cellblock. There's no drainage on the bottom. We couldn't even do interviews on felony cases in the room because they didn't even have padding that was built in the interview room, which we finally put in this year's budget of \$14,000. We don't even have awnings outside because the rain comes in and drenches and floods the whole area in the outer room as well as the Prosecutor's Office, as well as Civil Defense. It's just horrific that this is what we do

at public safety and how much, you know, the Administration has thought of public safety. It has been their last priority, in my opinion, because I've been fighting this issue or asking for money to be put in for the last several years. So, you know, I'm hoping that we can have this item, I don't know as far as having it on next week, but, you know, two weeks is way more than enough time, especially when you've known about the issue for at least the last year and a half since I've been raising it, and we finally get it funded and nothing happens. It's an outrage because I hear all the complaints from the victims in the public, complaints by police officers because, you know, they invest all of their time in doing their investigation. We pay hundreds of thousands of dollars in overtime for what? For cases to get dismissed because at the end of the day, all the evidence that they put in the room, a lot of it is tainted, and the poor prosecutor has to make this decision on whether he's going to reduce the charge to get any kind of conviction at all or dismiss it outright. And this has been happening year after year. It's just, it's just horrific that these kinds of things and that they compromise public safety this way. Totally unacceptable, especially given the time frame that they've been given and then to come here and have the head say I don't know anything about it; I haven't been privy; I haven't attended, even though I have stressed that this was the number one priority that should have been taken care of out of every item that was on the agenda.

Council Chair Furfaro: Councilwoman, I will pledge to...

Ms. Iseri-Carvalho: I'm saying, let me correct that, not the agenda, but on the budget, when we had raised that, you know, we had agreed at the Council level that we would appropriate whatever funding that was necessary in order to fix this problem immediately and yet again we fund projects and it just sits and nothing gets done.

Council Chair Furfaro: I want to say now that this is my Committee and my plan is to defer today which means it will come up in two weeks. I will send a communiqué over and the first portion of this, I just want to make sure for the benefit of the County Engineer, that my concern is getting something/alternative resolved for an evidence room, extremely important. And I hope you can deliver that kind of message to us in two weeks. Okay? On that note, may I ask or did we have a motion to defer? I would ask for a motion to defer.

Upon motion duly made by Councilmember Rapozo, seconded by Councilmember Yukimura, and unanimously carried, EPS 2008-1 was deferred.

Ms. Iseri-Carvalho: Is it my understanding that you are going to post a second communication that deals with the temporary solution as opposed to the overall repair and maintenance?

Council Chair Furfaro: Yes, that is correct.

Ms. Iseri-Carvalho: So there will be a different communication.

Council Chair Furfaro: There is going to be a different communication to the...

Ms. Iseri-Carvalho: In addition to this.

Council Chair Furfaro: Right.

Ms. Iseri-Carvalho: All right.

Council Chair Furfaro: Okay?

There being no further business, the meeting was adjourned at 8:49 p.m.

Respectfully submitted,

Wilma Akiona

Wilma Akiona
Secretary

APPROVED at the Committee Meeting held on October 1, 2008:



JAY FURFARO
Chair, Energy/Public Safety Committee