

MINUTES
PUBLIC WORKS COMMITTEE
October 10, 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, October 10, 2007, at 10:17 a.m., after which the following members answered the call of the roll:

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

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

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.]

MEL RAPOZO, PUBLIC WORKS COMMITTEE CHAIR: Any members of the public wishing to testify? Mr. Mickens?

There being no objections, the rules were suspended.

GLENN MICKENS: Thank you Mel and good morning again. You have a copy of my testimony. I am not sure whether you guys have a copy of this comprehensive exemption list for the State of Hawai'i, Department of Transportation met on November 15, 2000. I think I gave you a copy the last time. Also, whether you have a copy of the Office of the Environmental Quality Control, Hawai'i State Department of Health. Anyway, some of my information on this thing comes from these two (2) documents. First, the question was asked before, but never got an answer to. Why wasn't any study done over the entire island to find out how much usage this path will get. Predominantly, from bicyclists since the description to the Federal government was bicycle/pedestrian path and the TE guidelines state that this path shall be for transportation and not recreation unless the Secretary of Transportation gives permission otherwise. Even Doug told us that the Council told this Council that no study was done, but if we are spending \$50 million or more on a project, then shouldn't we know what kind of bang we are

getting for our millions of dollars. Second, let's carefully look at a copy of this comprehensive exemption list for the State of Hawai'i, Department of Transportation. Again, I don't know whether you have a copy of it or not, but, anyway, but Doug stated that the bikepath was exempt from an EA even though he said he did one. However, exemption clause it states, "operations, repairs, or maintenance of existing structures... facilities, equipment or topographical feature involving negligible or no expansion or change of use beyond that previously existing." Remember that no path previously existed, so I question about the no environmental assessment had to be done. Under "b", facilities, it states, resurfacing, ceiling and/or repairing of roadways... roadway shoulders, parking areas, taxiways, runways, walkways, bikeways, etc. Again, these critique existing facilities and not (inaudible). I would presume that even the bikepath along the highway would come under this category, but not a new one. And if we go to the booklet entitled, Office of Environmental Quality Control, Hawai'i State Department of Health and on page 1 of 6, Section 343-5, applicable and requirements. (a) Except as otherwise provided, an environmental assessment shall be required for actions that (3) propose any use within a shoreline area as defined in Section 205A-41. Now I presume that is very relevant. The path... this bikepath is basically going along the shoreline and on page 6 of 6, it says, the proper inquiry for determining the necessity of environmental impact statement (EIS) based on the language of subsection C is whether the proposed action will likely have a significant effect on the environment as defined in Section 343-2. Can there be any doubt that this proposed path will have serious impacts on the areas that is planned for, and thus requires an EIS.

Think of the two (2) new trip signals that will be installed along Kūhiō Highway down by Kūhiō Restaurant... I presume someplace up by Kawaihau to get these bicyclist pushing the trip signal to get back across Kūhiō Highway to get makai again. I mean, hey, we have a traffic problem now and we are just going to compound it. I am just about done Mel.

Mr. Rapozo: I have your testimony, so that is why I am letting you go because you only have one paragraph left.

Mr. Mickens: Thank you. Thank you Mel. And, finally, I have a map from DOT showing the final environmental assessment of the path from Lydgate Park to Kapa'a, but no other map showing the EA from Nāwiliwili to Anahola which, I believe that Doug told us was done. I believe my friend Doug... I believe he said that, that an EA was done for the entire path and even this map still shows the path going into the houselots, so it will still have to be changed as per the Mayor's statement that it will never go into that area. In fact, once the Kawaihau neighborhood finds out that it is programmed for that area, it will probably be stopped also. So, anyway, I raise some more issues. I don't know, again, whether you have copies of these documents that came from DOT that I have to get.

Mr. Rapozo: Thank you Glenn. Any questions for Glenn? If not, thank you.

Mr. Mickens: Thank you Mel.

Mr. Rapozo: Ken?

KEN TAYLOR: Chair and members of the Council, my name is Ken Taylor. As I have testified in the past, I think the importance of moving forward with the completion of the bikepath is of utmost importance to the community. I think that anything that we can do to expedite this activity under legal procedures is certainly an important thing to move, to do. It is important for you folks to work hand in hand with Public Works to see to it that the community will have this wonderful facility in place as quickly as possible. Thank you.

Mr. Rapozo: Thank you Ken. Any questions for Ken? Thank you. Anyone else? If not, Donald are you here? Okay. The rules are still suspended and we will, I guess, pick up where we left off at the last meeting.

SHAYLENE ISERI-CARVALHO: September 8, did we finish the questions Donald the last time? I think we are on the new questions, right? The September 18 letter that I had sent over. Was there written answers sent over for the September 18 questions?

DOUG HAIGH, PUBLIC WORKS, BUILDING DIVISION: Okay, Douglas Haigh, Department of Public Works. I need to apologize. We did not get to the September 18 letter. Staff worked on the September 26 letter and we do have a response to that.

Ms. Iseri-Carvalho: We are doing the 26th first?

Mr. Haigh: We finished last night and I am not certain whether or not a response got to the Council from the Mayor's Office yet, but I can go over the issues for you.

Mr. Rapozo: Did we get it staff?

Ms. Iseri-Carvalho: Okay, I am sorry. We don't have that set with us. Maybe you have to read the questions.

Mr. Haigh: This is the September 26, 2007 letter. Question number 1: Provide the expected completion date on the six (6) rest areas. The six (6) rest areas are scheduled to be completed by October 19, 2007.

Mr. Rapozo: You know what, it is dated October 5 on ours, so for us Council, use the October 5 transmittal. You are right. Thank you.

Mr. Haigh: Question number 2: What is the revised completion date of the contract? If there are delays attributed to the contractor that would have occurred irrespectively of the County's delays, is the contractor still responsible for the penalty for failure to complete the path in a timely manner. The revised completion date of the contract is Saturday, November 24, 2007. The delays that are attributed to the contractor are the contractor's responsibility.

Mr. Rapozo: Go ahead. If you have any questions, let's take the questions right after that item, so go ahead Councilmember Iseri-Carvalho.

Ms. Iseri-Carvalho: And is it... do we have an extra copy of those answers, so that our staff... because it hasn't come over, so that our staff can make copies at...

Mr. Haigh: If I don't have a copy signed by the Mayor, I am not comfortable giving it out. I think we have strict directives... I will defer to Donald on that.

DONALD FUJIMOTO, COUNTY ENGINEER: We are going to respond on this anyway based on... so we can give you an unsigned copy.

Ms. Iseri-Carvalho: Okay, because you are going to be discussing it anyway, that way it will be easier to follow.

Mr. Rapozo: Is the Mayor available? If we wait for the Mayor's copy, how long...

Mr. Fujimoto: It went over yesterday afternoon, so I am not sure if they got to it.

Mr. Rapozo: Okay, we will probably get it in three (3) weeks.

Ms. Iseri-Carvalho: Can we take the one after this while they are making the copies?

Mr. Rapozo: Okay.

Ms. Iseri-Carvalho: Just go into the next agenda item or we just wait five (5) minutes.

Mr. Rapozo: Was that a copy that you...

Mr. Haigh: It is just two (2) pages, so it should be fairly quickly.

Mr. Fujimoto: Our responses are fairly direct and straightforward. I think the next question regarding the... if any delays would incur additional cost. At this time, we don't foresee any significant delays that would impact cost, but there may be some, but if anything, it will be very minimal.

Mr. Haigh: And that was the question referring to the rock fall hazard study.

Mr. Rapozo: That is the next one. On number 2, going back to... you said November 24, 2007 is the completion date of the six (6) rest areas?

Mr. Haigh: Correct, that was number 1.

Mr. Rapozo: Okay, well, what is the revised completion date?

Mr. Haigh: I said November 20.

Ms. Iseri-Carvalho: Okay, so both of them. The completion date and the revised completion date of the entire contract is the same because that is the last thing that we have outstanding.

Mr. Fujimoto: Let me qualify that. That date just reflects the completion date as of today. It does not include the extension that we probably going to have to give them for this rock study.

Ms. Iseri-Carvalho: Okay, and whatever the delay like we have discussed about the extension, who would be responsible for that?

Mr. Fujimoto: The delay on the rock fall study would be our responsibility because we asked the contractor to hold off work within that area, but we don't foresee that significant of an impact because it does not span over a long period of time. We are talking about two (2) months.

Mr. Haigh: Yea, I mean, the question for the answer further elaborated that we may have additional work associated with mitigating the rock fall hazard that will be identified in the study. So we may have significant cost associated with additional work, but we don't anticipate significant cost associated with the delay.

Mr. Rapozo: Right.

Ms. Iseri-Carvalho: I got that. Thank you.

Mr. Rapozo: When did they start doing the rock fall study?

Mr. Haigh: Actually, I believe it was several months ago and the latest yesterday afternoon, I talked to the contractor and he is expecting the end of this week. They had promised it the middle of September and they are late on it and they hopefully by the end of this week, we will get it.

Mr. Rapozo: And who is doing the study?

Mr. Haigh: It is the geo-technical engineer who is part of the design/build team. Geo Lab, I believe is the name of the firm.

Ms. Iseri-Carvalho: And they are not associated with Glover?

Mr. Haigh: Well, they are a sub-consultant part of the design/build team, so Glover is the lead contractor, Akinaka & Associates are the lead design firm and Geo Labs is a sub-consultant under Akinaka & Associates.

Mr. Rapozo: And when you said they were on the design team, what does that mean?

Mr. Haigh: It means that they were one of the consultants who have been involved in the project and have provided design services to the design/build team to prepare the design documents.

Mr. Rapozo: Any other questions regarding the rock fall study?

Mr. Haigh: Do you want to move to the next question, I can answer that.

Mr. Rapozo: Yea, and I just want to make sure that we are all... until we get the copies.

Mr. Haigh: It is really the last question that I had an attachment which explained funding for the future projects that we worked on.

Ms. Iseri-Carvalho: I have a question regarding the rock fall study. The rock study will be done, you said, by the end of October?

Mr. Haigh: Hopefully the end of this week.

Ms. Iseri-Carvalho: And do we have funding for whatever recommendations come as a result of the rock fall study?

Mr. Haigh: No, we do not. We will probably have to go back to Hawai'i Department of Transportation, Federal Highway Administration to ask for additional funds.

Ms. Iseri-Carvalho: And they have?

Mr. Haigh: There could be funds available, yes. We anticipate funds being available. They do have... the last I checked, they had TE funds available.

Ms. Iseri-Carvalho: Okay, and the responsibility for the payment of the contract extension would be the County? And you said that you don't expect that to be much. What kind of range are we talking about?

Mr. Fujimoto: I guess if anything, it would be attributable to escalation, price escalation or anything like that, but, again, because we are talking about a three (3) month period, I am not... I don't think it is going to kick in, but, again, we are obligated to ask the contractor to provide any increases and cost that was attributable to the delay and it is only for work within this area.

Ms. Iseri-Carvalho: Okay.

Mr. Rapozo: And one more question. Is land acquisition going to be something that we have to consider in that area?

Mr. Haigh: It is very possible. We already have preliminary maps of potential land acquisition associated with the equestrian trail and we have verbal commitment that the landowners plan on donating that land to the County. But we haven't moved forward on that until we complete this rock fall hazard study to see if it is still feasible to squeeze everything in. Whether or not... the key issue is whether or not we are going to have to do additional measures to mitigate rock fall hazard and if such measures will require use of the corridor which would further restrict the width of the corridor and that is the key issue we are waiting to be resolved.

Mr. Rapozo: I guess we are still pressing forward with the equestrian use of the path?

Mr. Haigh: That is the intention at this point. We are committed to getting this study done and if it still works out, we will have another community... another workshop to go over the equestrian issues and try to move forward on that. Could I get my copy please?

Ms. Iseri-Carvalho: No, we expect you to have committed it to memory.

Mr. Haigh: My memory is not as good as it used to be.

Mr. Rapozo: So the next workshop, when do you anticipate that being where we can discuss the... because I know that was the hot issue was the equestrian use.

Mr. Haigh: Hopefully this year.

Ms. Iseri-Carvalho: Did we have... Doug, you know the minutes from the last workshop. Was that ever forwarded to Council?

Mr. Haigh: I believe it was sent to all attendees. I am not sure.

Ms. Iseri-Carvalho: I don't recall what was in it, but if you have a copy, if you guys can send over the minutes from the one that we had at the Administration building at Planning.

Mr. Haigh: Okay.

Mr. Rapozo: Go ahead Councilmember Yukimura.

JOANN A. YUKIMURA: So I just wanted to further clarify this workshop because that was where the first workshop ended that there would be another one before any proceeding forward with equestrian trail, so that is still on the calendar.

Mr. Haigh: That is our commitment.

Ms. Yukimura: I mean, that is still on the timeline, right?

Mr. Haigh: That is correct. Now...

Ms. Yukimura: I can see how the rock fall study is relevant to it, but, okay, I am glad it wasn't forgotten. Okay, so we know that that is...

Mr. Haigh: I think regardless of what happens, we will have a workshop, so we can at least explain the issues in that type of environment.

Ms. Yukimura: Right.

Mr. Haigh: And bring everybody forward. I think that would be a very...

BILL "KAIPO" ASING, EX-OFFICIO MEMBER: Doug, it is not regardless. It is mandated as far as I am concerned because it is a commitment that you made at the meeting unless your commitment is not worth it. I am sure it is worth it, right?

Mr. Haigh: Thank you for your confidence in me. I will fulfill my commitment.

Chair Asing: Thank you.

Mr. Rapozo: Anymore questions on the rock fall study? If not, the next one. When is the Keālia/Kapa'a segment of the bikepath expected to open?

Mr. Haigh: The Kapa'a/Keālia bike/pedestrian path is expected to open within the construction completion date and when the County accepts the path as complete and safe for public use. So it is possible that we may open segments prior to the contract completion date. There have been some punch list walks and as soon as we are satisfied that it is complete and safe for public use, our intent is to open up segments of the path.

Mr. Rapozo: Councilmember Yukimura?

Ms. Yukimura: So, I mean, because that portion, let's see, mauka of the main bathroom is that portion that there is going to be a workshop on because that is the equestrian trail part. It is quite possible then that that part may be delayed in opening, but the rest may open before that?

Mr. Haigh: Absolutely. There is no chance that we would have that section done by that November date. I was talking to the contractor last night and he is figuring at least two (2) months and we have held off on that whole thing to minimize additional cost because if he had started paving, he would have to remobilize...

Ms. Yukimura: That would have been foolish.

Mr. Haigh: And remobilization of paving work is very expensive

Ms. Yukimura: Yes.

Mr. Haigh: So we held off all that.

Ms. Yukimura: Okay.

Mr. Haigh: Even though some of that work, he potentially could have done, but...

Ms. Yukimura: I think he was better to hold off.

Mr. Rapozo: Doug, so as far as the County is concerned, is the path open or closed?

Mr. Haigh: It is under the contractor's responsibility right now as far as we are concerned.

Mr. Rapozo: So if somebody gets hurt on that path today, it is not our responsibility?

Mr. Haigh: The contractor is still responsible for the path. He has not turned it over to the County of Kaua'i.

Mr. Rapozo: Well, I guess that question would probably be better for the County Attorney. I just... I see this being well used. In fact, just yesterday I received a complaint about the dogs on the path and I guess that is probably a better question for parks because I think, number 1, it is illegal to have the dog on the bikepath. I think it is illegal to be on the bikepath to begin with, but if it is the contractor's responsibility, that is fine. But the dog issue, I think we have to start clamping down on the dog issue because it is a violation of the law. It is just flagrant and... in fact, I believe I saw an ad in the newspaper where someone was soliciting bike tours on the bikepath and there was a cell number to call if you wanted to have a bike tour along the recently opened bikepath. You know, I think that is the things that bother me. We are here telling the public that is going to open on November 24, but yet, it is wide open now and dogs are there. Horses are on the Lydgate portion and I have seen that with my own eyes. In fact, the Park Ranger almost got kicked trying to tell the lady that horses are not allowed, so we will issue that concern with Parks.

Ms. Iseri-Carvalho: I have a question because I think there was a claim just two (2) weeks ago or maybe a month ago about, you know, one of the employees on the bikepath and that they were seeking reimbursement from the County which I believe we had... again, it was on the agenda as an item, so the question about liability is... I am sure if necessarily accurate because I believe that the time that the bikepath was totally within the control of Glover and that any incident that had occurred was within Glover's responsibility, but, yet, I recall a claim just a month ago. I don't know if you recall that Donald, but there was a claim that they were seeking... Glover's insurance company was seeking reimbursement and I will have staff pull the claim. If we can pull that claim where Glover's employee was seeking reimbursement from the County, so it cannot be a fully legal issue as far as the contractor being responsible because I know there is a claim... at least one claim that occurred on the bikepath that was being submitted and...

Mr. Rapozo: Yea, we will follow up. I think that is a good question for the County Attorney's Office because I don't know. I am not the lawyer and I am hoping that you are right Doug because then I can sleep better at night. But I think that if somebody gets hurt on that path, I think we will get it in the short, so we will definitely ask that of the County Attorney. Any other questions for number 4 regarding the status of the opening of the path? Number 5: Being that the Federal funding situation will be changed in the near future, how does the effect of the future funding of the proposed unpaved segments of the bikepath?

Mr. Haigh: Okay, I attached a copy of the August 13, 2007... financially constrained statewide transportation improvement program, fiscal year 2008 through fiscal year 2013. This is our best information to date. We do know one item that is going to change and that is our schedule for the design funds for the Lydgate/Kapa'a section has been delayed due to a pending completion of bridge inspections. County of Kaua'i, we have to complete our bridge inspection before Federal Highway Administration is going to allow us more Federal funds and that is in process. Donald can answer the questions concerning that.

Ms. Iseri-Carvalho: What was that number?

Mr. Haigh: Actually the design one didn't show up on the STIP because it had already been obligated, but what we are going to do is our intent is to use the construction money for the Lydgate/Kapa'a and that is KC number 9, you are correct. We had \$3 million scheduled for construction for fiscal year '08 and what we are going to have to do is we are going to have to use some of those funds for design and land acquisition because we were not able to obligate them within fiscal year '07. And we have confirmed with HDOT and Federal Highway Administration that administratively, they can do that change and then we will be reapplying for the construction funds in fiscal year '09 and that is our intent. That is the only change that we see here and then if you go down this attachment, KC1, Ahukini to Lydgate was showing right-of-way acquisition in 2010 and then construction in 2012.

Ms. Iseri-Carvalho: The 500?

Mr. Haigh: The \$500,000 is for land acquisition.

Ms. Iseri-Carvalho: That is the right-of-way, yea?

Mr. Haigh: Yes, it is the right-of-way acquisition and then currently it is... these projects were all originally planned as design build, so we have the construction money planned for fiscal year 2012 and if we decide to go design/bid/build, we could certainly use those funds to start design. I don't believe we can move it up, but we could use those funds and start design process at that time. It is probably the earliest that we could get those funds. And then the next one, KC-8, Puna Bay to Anahola, construction is showing up in fiscal year 2013. And then on Nāwiliwili to Ahukini, KC-11, we show land acquisition showing up in 2010.

Mr. Rapozo: When you say land acquisition, what does that entail?

Mr. Haigh: Well, during the environmental planning process, we will be identifying what lands need to be acquired in order to build the path, so we would start with the process of hiring expert help in doing appraisals and doing the design... the legal documents for land acquisition as far as plans, metes and bounds

and those issues clearly at the same time will be coming to the County Council for approval of acquisitions.

Mr. Rapozo: But I know you have \$500,000.

Mr. Haigh: That is correct.

Mr. Rapozo: What does that buy?

Mr. Haigh: That was just a... kind of a very general plug number. We really don't know what we need to buy until we complete the environmental planning process. I hope to come to you within the next month or two (2) and give you detailed information on the land acquisition for the Lydgate to Kapa'a project. I am just now finalizing getting all those numbers and documents sorted out, so I will be able to come to the Council with the complete report on the proposed land acquisition for the Lydgate to Kapa'a. So, really, we have to complete the environmental assessment stage and do some preliminary design work, conceptual design work to identify land acquisition and then we move forward with land acquisition.

Mr. Rapozo: Okay, and just from Ahukini to Lydgate, where are we looking at right now as far as acquiring land?

Mr. Haigh: Ahukini to Lydgate... um, well, the biggest... we've got Grove Farm property... we started from Ahukini, we have State land which hopefully we plan on acquiring by executive order, then we get into Grove Farm property and that will be an issue. At one point, they were talking about potentially donating to the County, but they have had a lot of change in personnel since that time, so we will be reopening that issue with Grove Farm and then we enter the... which is commonly referred to as the Moody property which that one will be interesting. That may require condemnation, I don't know, and then once we pass the Moody property, we get to Hilton Lane and that is owned by... my memory...

JAY FURFARO, EX-OFFICIO MEMBER: Pahio.

Mr. Haigh: Yea, Pahio Resorts and I believe there is a... it is kind of managing, but there is another company that actually owns it. We have been working with them finalizing conceptual designs and we believe that they will be donating those lands, but we still have to pay to get a consultant to help us get through the process of acquiring them.

Mr. Rapozo: Okay, so Grove Farm and Moody just on that stretch alone, we are talking quite a bit of funds.

Mr. Haigh: We will see how we go along. To Grove Farm, it may be greatly to their advantage to donate it to us. Now Moody will be interesting to go and those

lands are currently zoned as agriculture. He tried to come get 'em rezoned, he wasn't able to get it rezoned, so they still would be classified a agriculture and where we are going would be an area where he couldn't... very restrictive developments, so the actual value of that land, I am not sure where it is going to end up. It is possible... need more money than the \$500,000 and once we further define it, then we will be going back to Kaua'i Department of Transportation Federal Highway Administration and asking for additional funds.

Mr. Rapozo: So that was my next question, so the funding for land acquisition could be covered by State money or Federal money?

Mr. Haigh: We are not anticipating any County funds to be spent for land acquisition for this project. Our intent is to use all the Federal Highway funds for land acquisition.

Mr. Rapozo: Okay. Any other questions? Go ahead.

TIM BYNUM: Just real quick. Are we aware if Mr. Moody still owns that property or did it change?

Mr. Rapozo: He is still the owner.

Mr. Haigh: I have not been following that.

Mr. Rapozo: There was a deal that was in escrow that fell out, so he is still the owner as of a week ago.

Mr. Bynum: Okay, thank you.

Ms. Iseri-Carvalho: They are still negotiating though, the price, so it may be sold within the next couple months.

Mr. Rapozo: Go ahead Mr. Chair.

Chair Asing: Do we have a lease agreement with Hawaiian Homes on the Kuna Bay to Anahola segment?

Mr. Haigh: Okay, that we have not finalized and we needing to come to this body before we do. We are waiting... we had our initial meeting in Anahola and we realized at that time that we needed to fall back and let DHHL deal with their original planning issues. We are waiting for DHHL to complete and publish the regional plan and once they do that, then we will be able to move forward and we will work, you know, consistent with their plan and once we do that and we identify the corridor and community acceptance and a feeling that we can move forward with it, then we can be looking at coming back and finalizing the agreement, then we will be able to finalize the corridor because the agreement will

have specific metes and bounds to how the route will go.

Chair Asing: Do we have a tentative agreement?

Mr. Haigh: Yes, there was a draft agreement done several years ago and we got up to a certain point, but we had to wait to finalize the environmental process before we could move forward.

Chair Asing: Okay, did you give us a copy of that?

Mr. Haigh: I can do that.

Chair Asing: Thank you.

Ms. Iseri-Carvalho: At the public informational meeting, the initial one regarding that segment, was there approval for the plan as you guys had proposed or there wasn't approval?

Mr. Haigh: Well, there was both, but mainly... there was real concern on the process and that the public and people were not heard from DHHL and DHHL was moving forward without... and there were strong... there were people that were very strong and they didn't want anything on Hawaiian Home Lands.

Ms. Iseri-Carvalho: Because that was my understanding. I mean when I talked to some of the participants of that meeting, that the Hawaiian community overwhelming had indicated their opposition for that segment of DHHL land to be used for any purpose. And I mean I think they were talking about trying to preserve that area as it gets down to the beach and use it for cultural educational kind of programs for the Charter school, etc. So, definitely, I am thinking that you guys are going to have another public informational meeting.

Mr. Haigh: Oh, absolutely.

Ms. Iseri-Carvalho: And that nothing will move forward without consultation with the beneficiaries of DHHL.

Mr. Haigh: That is absolutely correct and that is why we are following DHHL's regional planning in which they did have a lot of community meetings, community... further community input. And one of the key things that seem to have fallen out is that the community does not want to connect to Anahola Beach Park. And so it looks like the preferred route may stop short of Anahola Beach Park and actually come in on... what I heard and I still need to get the final regional plan, but what I heard was, they were hoping that we would stop south of the new subdivision and that would be our trail head at that point and provide access through Department of Hawaiian Home Lands to the trail head on the southside of their current subdivision because that would also provide additional

access to that subdivision since that subdivision currently has only one access point. But, really, it is a community process and I am clueless on what the end results are going to be because we have to move forward with that and I am just really grateful that Department of Hawaiian Home Lands took the extra step and did the regional planning work at least to lay the ground work and then who knows where we will end up, but we will try.

Ms. Iseri-Carvalho: I guess as a follow up, just for your awareness, there has been a lot of times where DHHL may have some vision that does not coincide with the beneficiaries in that area, so despite the fact that you may be working with DHHL, doesn't necessarily mean that the community which is part of the larger community of Kaua'i want what DHHL is selling. So I would hope that you would go beyond not just meeting with DHHL and getting their perspective on what they want to see in their community, but more importantly what the people who actually live there want to see in their community.

Mr. Haigh: And that is the way that we set up the process to have our separate meetings with the community and as you pointed out, the first meeting, we heard very strongly from the community that they had great concerns. And so we backed off totally and waited to kind of... as I have stated and then we will have at least two (2) more public meetings on the project and there is probably going to be more smaller meetings with smaller groups of people within the community to try to get a consensus and get a feeling for what the community wants.

Ms. Iseri-Carvalho: As far as the notification to the community members, we had discussed at the last Lydgate... not Lydgate, Wailua Houselots meeting that, I believe, the Chair had... the committee had mentioned about the radius to notify people via mail within a 500 feet radius and there was acceptance by the Mayor of that process of notification. Have you guys done that at your meetings that were held subsequent to that Wailua Houselots meeting?

Mr. Haigh: At the last meeting for the Nāwiliwili to Anahola meeting, we did do mail outs. I believe it was 500 feet and it may have been 300 feet. I don't remember exactly, but we did actually do a contract amendment with the consultant to add that additional service and I believe I have an amendment in place doing the same for the Anahola project. It is our intent to do mail outs to the communities. We realize the benefits for making sure that we get all input as soon as possible and giving full disclosure in trying to get as many people to the meetings as we can.

Ms. Iseri-Carvalho: Okay, and then my next point would be that there is a 181 lot subdivision that is scheduled to be built right at that Anahola area prior to Anahola Beach. Currently, of course, they are not residents there, but it should be completed within the next two (2) years, so I know that those list of beneficiaries are with DHHL, so I would want to suggest that you contact DHHL to see that those new homeowners will get notification and will have the opportunity to

participate in that process in light of the fact that it will be going through their neighborhood.

Mr. Haigh: Absolutely.

Mr. Rapozo: Thank you. Anymore questions? Thank you very much gentlemen.

Ms. Iseri-Carvalho: So...

Mr. Rapozo: Did we finish the last...

Ms. Iseri-Carvalho: No, we didn't, they don't have the answers.

Mr. Rapozo: Oh, okay. I will call the meeting back to order.

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

Mr. Rapozo: Any discussion on this matter?

Ms. Iseri-Carvalho: Committee Chair, I guess the September 18 answers we are still awaiting, so I am just going to ask that this matter be deferred pending receipt. We've got, I believe, it has 13 questions that hasn't been answered yet and we will add up the request for the minutes of the rock wall study and about when the actual rock wall study request was made. That would be my only two (2) other questions.

Councilmember Bynum moved to defer PW 2007-3, seconded by Councilmember Yukimura.

Councilmember Bynum withdrew his motion to defer. Councilmember Yukimura withdrew her second to the motion.

Mr. Rapozo: I am not done yet.

Mr. Bynum: Sorry.

Mr. Rapozo: No, no problem. I just have some comments. The first comment was... Donald... Doug left already. No, that is fine. You can stay right there. I just wanted to say thank you. Last week, we had a crisis, another crisis. A tenth pavilion grew out of the ground and caused some problems. I had been... I was at the football game Friday night and approached by some angry people because, of course, Batman and Robin caused the pavilion to be torn down. Batman being Shaylene and Robin being myself.

Ms. Iseri-Carvalho: Really.

Mr. Rapozo: And simply because the public had no idea of what was going on, you know. The reason I wanted to bring this up today was that when it did come up... when the pavilion came up... Now, again, Batman and Robin doesn't keep 24-hour, seven (7) days a week surveillance on the bikepath contrary to popular belief. Many people called Councilmembers for various reasons and somebody did call and said, hey, you know, they are building another pavilion. Many people actually follow this. Councilmember Iseri-Carvalho made some calls, spoke to Donald and everyone and within hours... I would say within 48-hours, I guess, the matter had been resolved and had been fixed. I just wanted to say thank you for the quick response because regardless of what anybody says, the permits are for nine (9) structures and you build a tenth one and you are in violation. And forever the reason is, that was done and, again, when it was brought to the Administration's attention, it was fixed quickly, and I just wanted to say thank you for that. Historically, that has not occurred. It became a fighting match here, who is right, who is wrong. Well, you know, and I just appreciate the fact that the right thing was done. I just wanted to make that publicly known because I thought that was extremely positive for that to occur. Anything else? Go ahead.

Ms. Iseri-Carvalho: Yes, and, again, much thanks to Mr. Fujimoto. We were at a conference over on the Big Island when the phone call came in. Mr. Fujimoto was unaware that this had occurred, but as soon as he learned that these were the facts that had occurred and that there was a permit for nine (9) pavilions and not for 10 that he immediately took steps to assure that that situation had been resolved. So thank you Donald for working as quickly as possible to resolve that issue. There are a lot of issues besides the ones that are brought here that we do communicate quite often with the County Engineer, so there has been a lot of other issues that the County Engineer has taken upon himself to assure that this project runs as smoothly as possible and that it gets done in the proper and legal way and I really appreciate that of our County Engineer and appreciate the fact that he has taken so much interest in assuring that these legal issues are resolved and that they do not necessarily... all of them come on the floor, but they are resolved to the satisfaction of all the parties that are affected.

Aside from that issue, the claim that we do have was one that was filed July 30 and I don't know if you are aware of it Donald or if Mr. Haigh was aware of it, but there was a claim filed by a Glover employee that requested reimbursement for... and the circumstances were that the incident happened on December 8, 2006. The incident was at Keālia bikepath and that the employer, Glover, was laying a bikepath and they were laying dirt in preparation for the pouring of the concrete and its employee stepped into a drain box apparently that was adjacent to the bikepath area and then claimed for damages against the County. So this is a real important issue that the County Attorney or an attorney needs to resolve as to whose responsibility it is. This one was for several thousand dollars. I don't think we should be paying if that is something on private property in the sense that the bikepath is being, at this point, coming out of the jurisdiction of Glover, but it seems

quite unfair that we are being sued for their employee's (what I feel) responsibility. I don't know how much more is going to come of this, but I... we can't come up here and make statements that we are not responsible when we know that there are these claims that have already been filed against the County dating back to July 30. Like I said, it is the contractor that is filing the claim against the County, so maybe we can follow up on that again with resolving the legal issue as to the responsibility when a person or user that we know is illegal, the County knows that that is not a path that is open to the public that we are assured that we will be immune from liability if there is any causes of action whether it be tort liability or dog bite or, you know, rocks falling because the landscaping hasn't been completed... any of those issues is of concern I think to the County at this point prior to we actually accepting it for an asset for the County.

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

Ms. Yukimura: Yes, I agree with Councilmember Iseri-Carvalho. This is, to me, a strange complaint, but just to note that, you know, it is at its inception or at the beginning of the complaint process and I expect that the County Attorney will... if it is, in fact, the case that Glover is responsible until it is turned over to the County, deny this claim. But just technically, it is not Glover itself, but it is the workers comp insurance company that is actually suing or actually filing this complaint.

Ms. Iseri-Carvalho: On behalf of the employee of Glover.

Ms. Yukimura: Well, I guess they want reimbursement of what they have paid out to the Glover employee.

Mr. Rapozo: Right.

Ms. Iseri-Carvalho: It is obvious that the insurance company believes that we are liable, so anybody else who gets hurt, I believe their insurance company will be seeking reimbursement or, if not, an actual claim against the County.

Ms. Yukimura: It is important to clear that up right away.

Mr. Rapozo: And, again, it is not because the guy slipped and fell on the path, he stepped into a hole that wasn't covered. So whether it is an employee or an unauthorized user of the bikepath, we are still liable. So whether they step off the path, the path gives them access to an area that may be dangerous and I think that is my concern. So it is not just the path, it is not just the people walking and riding if somebody should fall on their bicycle... if somebody should get off that path and get hurt, we would become liable.

Ms. Iseri-Carvalho: May be liable.

Mr. Rapozo: And regardless if we are right or wrong, at the end of the day, we spend hundreds and hundreds of thousands of dollars to defend these things and I think... I am not trying to stop the people from using the path, but what I am saying is that if we are going to allow them on the path, then let's open up the path and take the liability. If not, then we need to shut down the path. That is just, I think, common sense. Go ahead JoAnn.

Ms. Yukimura: I think the things that have been raised this morning show that as we transition from construction to use, there is going to be a lot of issues that the Parks Department has to be prepared for in terms of liability issues, management... whether it is, you know, dogs or conflicts or whatever (change side of tape)... it now moves into the arena of management and the Parks Department should be really preparing for this before we actually open it.

Mr. Rapozo: And it is uncharted territory. I mean if you talk to the bicyclists that are active bicyclists, I think many of you... I know that Barbara has brought this up several times. They are not going to want to ride five (5) miles, eight (8) miles an hour. They are going to want to go at 30 m.p.h. I think, Ken, you brought this up as well. I think if you look in the mainland bikepath, there is some delineation between bike and pedestrian and so forth, so we are a long way from making it a safe path for multi use, I think, in my opinion. I am not the engineer, but I think we are. I did want to say and I know, Glenn, every week you have a lot of questions, every two (2) weeks, you have a lot of questions and many of them are valid questions. You know, they always say, there is never a dumb question and I share your concerns of many of these things and I just wanted to let the public know that next week on the agenda, there will be a communication from myself asking this Council to support a request to the Office of the State Audit to take a look at this project, the entire project. I mean construction, financing, permitting and so forth because then it will end it all. All the speculation, all the accusations and the allegations will be once and for all... I did talk to Ms. Marion Higa and she has offered her services. The beautiful thing about it is it costs us nothing. It costs us nothing, so that will be on the agenda next week at the full Council level and I am hoping that we can get the necessary four (4) votes to move that out, so that Ms. Higa can come down and actually take a look at the entire project from the beginning until now. Anything else? If not, I will entertain a motion to defer.

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

CR-PW 2007-24: on PW 2007-10

Communication (9/19/2007) from Shaylene Iseri-Carvalho, Public Works Committee Vice Chair, requesting that the Administration be present to discuss an action plan, timeline and cost proposal for the repair, removal, and/or maintenance of 'Aliomanu Seawall and 'Aliomanu Road.

[Received for the record.]

PW 2007-11

Communication (9/19/2007) from Shaylene Iseri-Carvalho, Public Works Committee Vice Chair, requesting that the Administration be present to discuss an action plan, timeline and cost proposal for the repair, removal, and/or maintenance of Kapa'a Beach Revetment; and

PW 2007-12

Communication (9/19/2007) from Shaylene Iseri-Carvalho, Public Works Committee Vice Chair, requesting that the Administration be present to discuss an action plan, timeline and cost proposal for the repair and/or maintenance of Moanakai Road alignment/Fujii Beach Revetment.
[These items were deferred and there was no discussion.]

Mr. Rapozo: Donald, are you going to be coming up for that as well? What I would like to do is take the two (2) items (PW 2007-11 and PW 2007-12) and this is my plan. We have a caption break that we have to take a 12:15 because of the late start and, of course, we have to take our lunch break at 12:30. So what I want to do is get through everything and when we are done with this, take the lunch break if, in fact, it takes us to 12:15 because we have a 1:30 requested time slot for KIUC briefing and then a 2:30 requested time slot for the affordable housing policy. So I don't anticipate this taking that long, but if, in fact, it starts to go that way, just keep in mind that my intent is to take care of these matters before 12:15. With that, I suspend the rules. Donald? For your information, we will be taking PW 2007-11 which was what the staff has just read (the Kapa'a Beach Revetment) as well as PW 2007-12 which is the Moanakai Road alignment and the Fujii Beach Revetment.

There being no objections, the rules were suspended.

Mr. Fujimoto: Okay, thank you. I put together a real fast PowerPoint just to go over both projects. You know, in the Kapa'a Beach Revetment, I guess a picture is worth a million words. So, basically, I will give you a brief overview, show you some pictures of the existing condition, go over Oceanit assessment and then cover our action plan and timeline. Okay, the overview... nobody really knows when this revetment was placed and if it is natural, if, you know, if it was placed, but we do have some pictures that go back to just after Hurricane Iniki and it shows the wall there. So, you know, I am saying maybe probably before Hurricane Iniki. We show some topo maps predating Iniki in '78 that does not show any rocks, but that doesn't mean that the rock wasn't under there. I mean, because it is kind of interesting, but as we look at the pictures, you decide for yourself.

There are no recorded permits... either DLNR, Army Corps, SMA, County Planning, so right now, nobody knows about this wall. This picture is dated September 18, 1992 and if you look at the arrow and I apologize for the picture, but you can see where the wall is, so it is showing up on this picture. This is right after Hurricane Iniki, so there is no way they put in this in six (6) days after the

hurricane. This picture is... was dated in '94 I believe and if you look real good, I mean, you know, right here, you can see the wall, so the wall is there in this picture and this was two (2) years after Hurricane Iniki.

This is, again, a picture in '95 and, again, if you look at the wall, you can see that the rocks are covered. Okay, this is pictures of the wall today. You can see that it spans in this area. The parking lot is right behind it and this is a view looking in shoreward. Okay, um, this is, again, coming from the access going towards the library and it shows the existing wall. You can see that this... people believe that this is a slab of the old shower according to Mel Nishihara anyway.

This is looking back the other way from the library looking back towards Līhu'e. You can see that... this picture shows how well this wall is actually holding up. I went out there and I stood right by this tree and I got wet because of the actions from the wave, so that wall definitely is breaking the force of the waves. Okay, Oceanit was consulted by the Parks with issue of Pono Kai and they did the assessment and they had three (3) sentences actually that addressed this Kapa'a Beach Park issue. One is that they said that the beach at Kapa'a Beach Park is eroding. I mean, so...

Ms. Iseri-Carvalho: Wow.

Mr. Fujimoto: The second sentence was adding sand to this beach could be beneficial, but the coastal processes should be studied first and your statement was that the existing rocks at the park should not be removed until a replacement system is designed. And it, you know, the Administration's position that we concur and also with Parks. We sat down together and we discussed this and we both believe that right now, it is in the best interest to leave those rocks there until we do have a long range study on the recommendations of whether we should leave it there, take it out or do anything else.

Our action plan, again, is to consult with the attorney on signage and any other recommendation to address the liability of that area right now and to schedule the work as a CIP project (funds to be determined). Again, it is hard to come up with a budget without knowing what the solution is, but at least put in money for design permit and we are expecting about \$200,000.

Ms. Yukimura: Including the study.

Mr. Fujimoto: Yes, study and permits. And the reason why we said schedule the work as CIP is that, right now, it is hard to determine that it is, again, an emergency situation. Emergency is immediate threat to safety, health and property, so in this case, it is kind of borderline, but we are saying that maybe we should put it as a CIP project.

The timeline, approximately three (3) years. Again, little bit frustrating, but assuming that we go under the CIP project and we wait for funding to fiscal year '08-'09, you know, we are talking eight (8) months. Our next fiscal year is July of '08, so now you secure the consultant and that takes four (4) to six (6) months. The design permitting is 12 months if we go through the EA process and really do what we are supposed to. The construction procurement is another four (4) to six (6) months and construction is, let's say six (6) months. So, again, we are looking at about a three (3) year timetable. With that, any questions?

Mr. Rapozo: Do you have one for Moanakai as well? Why don't you run through... you have some questions on this specific one?

Mr. Bynum: I sure do.

Mr. Rapozo: You know what, let's run through Moanakai and then we will just hit all of the questions at once.

Ms. Iseri-Carvalho: The other issue is that if we defer one and not defer, the minutes are all together. Remember we had that problem, so maybe we should take it separately.

Mr. Rapozo: Right. Okay, let's do that. We will take it one at a time, sorry. Thank you very much. Councilmember Bynum?

Mr. Bynum: I have some concerns because this has been addressed here on the Council floor several times and if you look at those pictures... I frequent this park. I took pictures just a few months ago that showed that slab sticking out about this far and now a few months later, it is sticking out this far. The water is coming behind the rocks increasingly and I see that as a safety issue. In one of your pictures, there is a cable of some sort that is exposed coming out of the sand that I am uncomfortable with from a safety standpoint. And then there was a report on November 7, 2006 from DLNR that we have discussed here on the floor before has the exact opposite recommendation that says, since the falling revetment is no longer protecting any structures and appears to be having adverse environmental effects on the beach and it is the OCCI recommendation for removal of the revetment simultaneous with the demolition of the pavilion, this may be most cost effective. It goes on to say and I won't read the whole thing, but that this presents an opportunity for a managed retreat because it is not protecting anything any longer. It also concurs with Oceanit that adding additional sand to the area would be beneficial, but it recommends removal of the wall and when the Oceanit folks were here, I asked them questions. They said if the ocean was coming behind the wall, they may have a different recommendation and when Dolan Eversole was here, we also had discussion about the beach park. I think the situation right now makes me uncomfortable. I have seen kids playing down there. They can get between the rocks and the ocean and get right underneath that slab, you know, and I thought this recommendation was to remove the, you know... the recommendation

in 2006 from DLNR is signed by Sam Lemmo was to remove it when we remove the pavilion and that didn't occur at that time. So I would really like to keep having dialogue with this including speaking with Oceanit again because I am kind of in... and the other thing that was part of this discussion was that... related to the Pono Kai seawall and that there is a plan to do beach nourishment there in the not too distant future with the dredging from the canal. That sand is likely to migrate into this area and... but if you look at those pictures, you back up the ones that slab and that cable... that slab is a lot more exposed than it was just a few months ago. You know, in essence, the ocean wants to release that sand there, so I just would like us to continue... maybe put the... our heads together with our different Oceanit and DLNR and continue this dialogue. That cable right there... if you back up one, that concerns me. I don't know what that cable is and it is just kind of coming out of the ground and going back into the sand. There is another part nearby there where there is some exposed pipes and I would really like to... you know, what Dolan indicated was that if we remove those rocks, the ocean will reclaim some of that sand that is trapped behind there and would stabilize at some point. It might continue to retreat, but there is no major structure behind there that we are protecting, right? And we wisely, eventually, move the bikepath further... 120 feet or more from this area. Those are my concerns and I just would like us to continue the dialogue.

Mr. Fujimoto: I appreciate you pointing those out. Again, in the pros and cons and considering what we do and our recommendations. The pros is that if we leave this here, at least we will be buying time. The downside is that if we remove this rocks, we do not know how far back this area will erode before it is stabilized. I was hoping to find a picture because I actually had some pictures, but I did not include it in here. We are talking about from the edge of this bank to the edge of the parking lot. Maybe lucky if it is one feet. My guess is if you look at this pictures because you can see how much land, you know, that these rocks are protecting. So assuming we take this out and this thing matches with this and if we look all the way to the back of looking at from the other side, you can also see right here. There is quite a significant... so this is protecting a lot of this area and the parking lot edge is right here, so you are talking about possibly losing that parking lot, we are talking about shoreline certification issues. Now does that mean we no longer can put back the land because we have taken it out and we have lost it forever? So those are some of the issues that we are kind of wrestling with. So it is not as simple as just saying, okay, let's pull it out and, you know, let's see where it goes because if this really keeps eroding, we may even lose the park and nobody really knows.

Mr. Rapozo: Sam Lemmo, what is he?

Ms. Iseri-Carvalho: DLNR.

Mr. Rapozo: Yea, I know, but what (change tape)... and question that when we were looking... before the pavilion went into the water.

Mr. Fujimoto: Again, it was just a recommendation. You know...

Mr. Rapozo: Yea, I know, but what is behind his recommendation is my question because that same analogy or that same philosophy could be used for Pono Kai.

Mr. Fujimoto: Yes.

Mr. Rapozo: Pull that out too because that was... when we spoke the day we went down with Oceanit...

Mr. Fujimoto: Right.

Mr. Rapozo: The day we did the site visit when they did their inspection, one of those doctors said that the wall should go. The other one said, no, it should stay and then at the end of the day I guess when they evaluated all the data, they made the determination that no other rock wall should stay. So my question is I guess for Sam Lemmo, what is his background? Is he... should I even pay attention to Sam because I can make a recommendation on that wall too, but it is meaningless because I am not a scientist. So I don't know this guy and, I mean, I have heard his name twice today and two (2) times I am not impressed, so what is his credentials aside from an administrator? Do we know?

Mr. Fujimoto: I don't know exactly what his title is. My understanding is that he is...

Mr. Rapozo: If he can make those things, then I would suggest that we get him here with Oceanit and then we discuss this. But if he is just an administrator of an organization and has no background in studies of the coastline and events of the surf, then, you know, I think I will stick with Oceanit.

Mr. Fujimoto: If you look at the date of that recommendation and you look at subsequent conversations, he has conceded. In fact, Chip Fletcher himself who was an advocate against any kind of shoreline hardening has changed his perspective. He himself has recommended shoreline hardening in the case of Pono Kai and stuff like that. So they have looked at, you know, depending on their perspective and what you are trying to accomplish, he understands the situation. So in this case, yea, assuming you don't care about your shoreline and you have all the land in the world, yea, the natural thing to do is take it out. But in retrospect, he is saying, yea, I think maybe you should leave the rocks there until you guys decide what you guys want to do.

Mr. Bynum: Who is saying that?

Mr. Fujimoto: Sam Lemmo. He saying if you guys are now saying that you want to hold this coastline as your property, then maybe you want to leave that there and then come in for a permit to repair that wall.

Mr. Rapozo: Councilmember Yukimura?

Ms. Yukimura: I don't know Sam Leemo very well, but I have become aware of the work that they have been doing and I think Councilmember Iseri-Carvalho has been to couple of their workshops where they have appeared to be very professional and science based. I am talking about both Sam Lemmo and Dolan Eversole, but I don't think that means necessarily that this opinion is right. I am thinking that Councilmember Bynum's thought that... and I think Councilmember Rapozo, you also touched on it and bringing those experts together to actually have a discussion and then understanding the values of the client if you will or the, you know, basically the County in terms of our facilities... that all has to be factored into a conclusion. Like you mentioned Councilmember Rapozo, you know, when the two (2) Oceanit people went, they had at first two (2) diametrically different first impression/conclusions, but after they discussed it, they came to a consensus I guess you could call it and I think...

Mr. Rapozo: Once all the data had been obtained, that was just one site and that is my point. How much effort does Sam Lemmo...

Ms. Yukimura: I think probably preliminary comments, so getting together and letting them see... they may all come to the same conclusion or, you know, fairly similar conclusion, so... and I think given the nature of this problem, we could use all the expertise we can get and if they are professionals, they will be able to talk to each other and probably come to some good ideas together.

Mr. Rapozo: I know one thing, we have a brand new asset that runs along there which is the bikepath that, right now, I think we need to make sure that we are not doing anything that is going to eat it away. We just spent a lot of money on that and I think... Mr. Bynum?

Mr. Bynum: Yea, and that is all that I am saying is that I would like to continue the dialogue because, you know, there are a number of factors there and I have heard... as I said, when Oceanit was here, he said that they weren't solid on that recommendation and it also depends on, you know, as they are saying here, what is it you are trying to protect? What is the value of what you are trying to protect? And whether the client, in this case, the County of Kaua'i and what are our values about whether we want to continue to harden the shoreline or let natural beach processes occur and what are the implications that... I don't know all the answers, but I know that I see enough diversity of opinion and I think that Kapa'a Beach Park is such a wonderful asset for our community that we want to make sure we make good decisions. So I am not being critical at all, I am just saying that I'd like to... and I have already made some calls to say, hey, can we put our heads

together on this one, so we are in dialogue about it again. Because the other factor is removing the wall while it still can be reached from a land based, you know, equipment might be an (inaudible) either if we decide in the future to remove it and it is out in the ocean would be more difficult environmentally and practically. So those are some of my concerns and I would just like to follow up.

Mr. Fujimoto: And just for information, your information, in checking in what we would need just to remove this right now, we probably have to go through an SMA permit. So we would have to get the shoreline certification, the whole...

Mr. Rapozo: If we did one for the bikepath, we would have had it done.

Ms. Iseri-Carvalho: Isn't that what we recommended two (2) years ago and we are back at the same...

Mr. Rapozo: Councilmember Iseri-Carvalho?

Ms. Iseri-Carvalho: You know, it is just, again, brings back all of those memories of what we should have done back then, so that we could have put that bikepath as far back as possible. Now, we are worrying about, you know, preserving an asset that we wouldn't even have had to worry about. I am glad, again, in this situation Donald, you guys finally listened to Councilmember Rapozo and myself about moving that bikepath a hundred feet up because now, at least, we have some room to work with, but we still now have to protect that parking lot as well as opposed to having to protect the bikepath before the parking structure which was only 10 feet away from the actual shoreline. So it shows, really, again, and just illustrates how ridiculous sometimes these decisions are made and the cost that are involved, you know, when people don't look out for the best interest of sustainability and that something will last for many, many years. You know, these opinions, like I said, you know, we had an opinion just on this floor between Dr. Fletcher and Dolan Eversole that conflicted. You know, and they both looked at the structure at the same time, so, you know, I think there are a lot of factors that go into one's decision. One was, again, you know, cost, and we were talking about, you know, the beauty of that area and how much land it is worth. There was a suggestion, oh, well, you know, let's just buy a condo... I mean just some ridiculous points and these were some of the experts that were saying these kinds of things. Never mind if the bikepath is in the ocean in two (2) years, you know, at least we had it for two (2) years.

So I personally, Donald, do not want to see the battle of the experts on the Council floor here. I mean, first of all, we are not qualified to determine which expert is correct or not because we are not experts ourselves. I mean it is going to be so hypocritical for us to bring experts here and we decide which expert is correct. You know, us, the non-experts deciding which of the experts are smarter. I think that is not a good way to do business. We put out the RFP's, people bid for it, you guys make a decision based on what is proposed and then you come in with the

money bill, but I don't see any benefit of having the battle of the experts here at all. Again, I don't think we are qualified to make a decision on which expert is correct or not. I do think though, that there needs to be a study by an expert whichever one comes up with the proposal that the County does. That is, again, an administrative function that should be done by the Administration and not by us. So, you know, I would hope, Donald, that, you know, that you guys would be evaluating all of the circumstances and it appears that you are because you are looking at, you know, what different opinions have been made and that opinions may have been dated. There may have been people who have gotten more updated information and that is what you are relying... I mean, you are our expert to look at, you know, these factors. It is not for us to tell you which expert is correct and that is basically all I wanted to say with respect to that. I know, Donald, with the Kapa'a Beach Revetment because there are no permits, there is a law that says that you need to have a permitted structure in order to do a certified shoreline. This is, you know, again, the report that we got back from Oceanit, so we are going to have to go back and, you know, start getting the permits for that regardless of what we do. We know that we are going to do something whether we leave it there and do some maintenance or whether we remove it entirely and create something new. So I would start trying to do that process already because that is something that the County can do. And what about the cost efficiency of having, you know, all of these done because they are so interrelated with each other and they are along the one coastline. I mean, you know, done by a person who is going to do a comprehensive approach as opposed to having these all set out separately aside from 'Aliomanu, of course, that is a separate issue, but the Pono Kai, the Kapa'a Beach and the Moanakai.

Mr. Fujimoto: We actually spent a lot of time considering that and based on the amount of funds that we have right now, it was our decision that the recommendation is to do Pono Kai and 'Aliomanu right now because they did pose immediately threats to safety. This one is more long term we feel and that it can be accommodated through the CIP process and also Fujii Beach as I will go into next. But, yes, they definitely... we looked at the economies of scale and how we can do it now rather than later, but it is... Again, this is a real complicated issue because nobody can really substantiate when this was... if this is manmade, natural, or whatever. If you look at this, the height of the sand is here, so your topo would not reveal this if this was buried. You know, the shoreline was originally way out here and at some point if you look at the pictures prior to this... you see, you see the stones here. How did the stones get in almost buried, I mean, unless they dug it out and actually put it in which is possible too. I am not saying it is not, again, nobody really can remember when this was done which is interesting. People remember Pono Kai, people remember Fujii Beach. This area is like more of a question like, but it is obvious and if you look at this picture, you know, again, it is weird that it only spanned right in here, right in this area, right in front of the shower and the restroom. So, yes, it is weird.

Mr. Rapozo: What kind of rock is that?

Mr. Fujimoto: Excuse me?

Mr. Rapozo: What kind of rock is that?

Mr. Fujimoto: It looks like armored stones. I mean, you know...

Mr. Rapozo: Where does those stones come from?

Ms. Iseri-Carvalho: From the ocean.

Mr. Fujimoto: It could come from the ocean.

Mr. Rapozo: Really.

Mr. Fujimoto: I don't know.

Mr. Rapozo: Donald, let me tell you, let me help you solve the mystery. Somebody put those rocks there. Let me just solve the mystery, trust me, that is not pacific ocean rock.

Mr. Fujimoto: But, anyway, when I checked with the Planning Department... because there is no purpose, it actually poses a different problem now to remove that.

Mr. Rapozo: That is right.

Mr. Fujimoto: You have to assume that this is part of a natural process, so you have to go through the SMA process and all that. That you cannot just...

Mr. Rapozo: That is why it is so important, Donald, to follow the law. That is why we do what we do and get criticized for it because 20 years from now when Batman, Robin and all the cape crusaders here are gone, somebody else is going to be here beating somebody else up over there because they never do their job and that is all that it is. If we followed the law, if we get permits, then (inaudible) don't have these problems and that is why. You know, I know Lester Chang is in here some place writing for the newspaper, write that Lester. We do this so that somebody doesn't have to worry about this 20 years from now and not to beat up Donald Fujimoto or Doug Haigh or Bryan Baptiste, it is because it is the law. As JoAnn Yukimura said yesterday when we were talking off the record or the other day, the law is the law and we need to follow that. So that is why we do what we do and let me just tell you that rock... that is not from the ocean, okay. I can promise you that, in fact, I think I know who put it there, but let me go confirm that. Councilmember Iseri-Carvalho?

Ms. Iseri-Carvalho: I realize that you did look at the economies of scale knowing I think in the back of your mind that the funding issue... you only had so much funding to deal with. There is some concern here it appears that we may believe that this is more of an emergency situation than you might otherwise believe and that we might be willing to invest upfront the money if it is going to result in the kind of cost savings... again, you know, we have to measure the risks, the cost on doing it all at one time versus the cost of not doing it all one time, but I think those proposals are still something that we should keep open simply because we know, especially in this area, that there has been recorded five (5) foot erosion per year. So we are talking about three (3) years waiting and that is another loss of 15 feet. We are going to be in trouble. We are going to be... how close are we going to be to that parking lot if we wait for three (3) years before we start moving on this revetment? We are going to be right at that parking lot. We are going to have a parking lot in the beach, in the ocean, so if you can re-evaluate that Donald and then if there is a cost proposal and it is astronomical, I mean, at least try to propose it and then we can have some options available and trying to take care of it upfront all at one time.

Mr. Fujimoto: Okay, thank you.

Mr. Bynum: So just to reiterate one thing. I do have some safety concerns about (inaudible) even if the revetment doesn't stay. I don't know that exposed pipes and cables and exposed cement slabs, you know, should stay and I am not interested in having a grueling experts because I found that the experts that have been here... a remarkable amount of consensus in just a few areas that... where there might have been disagreement and that probably would be resolved if they were in the same room together. They work from the same science and the same... so I am not suggesting we bring up, you know, question them here, but that off-line we speak with them and that we, you know, proceed to discuss what our values and plans are for Kapa'a Beach Park because that is ours, right? You know, and so I am fine with that now and just continue the dialogue because I don't think there was a lot of difference of opinion.

Mr. Rapozo: Councilmember Yukimura?

Ms. Yukimura: Yea, first on that matter, I totally agree with Councilmember Iseri-Carvalho that we don't need a battle of experts or that the Council should decide who is the right expert. But I do think that bringing them together might be useful because... and off line is fine because especially if some of them are free like I think DLNR guys are because if you get consensus, then you kind of have a better probability that you are on the right track in this very complex issue. And then it also helps to look at the problem more comprehensively to get a variety of perspectives, so I think we are kind of in agreement here. The other thing that I wanted to ask is I am looking at this memo from DLNR (November 7, 2006) about this place. I have a question. In '59, a burrowed pit was excavated in the fringing reef just north of Mo'ikeha Canal at Kapa'a Beach Park and 180,000 cubic

yards of material were removed causing serious erosion. The burrowed pit was 1,200 feet long and only a 100 feet off shore. This pit may be acting as a local sink for sand and could be one source of local erosion for the region. It says that in 1964, the State constructed a 900 foot long revetment fronting this pit to prevent further erosion of the lands since... and since then, there has been no beach fronting the revetment. Now, so this is suggesting that some of that past action might be responsible for this rapid erosion right now and my question is, is this the 900 foot revetment that they are talking about? It is another one? Okay, so it says, since the failing revetment is no longer protecting any structures and appears to be having adverse environmental effects on the beach, it is the OCCI which is his office I guess... recommendation for removal of the revetment simultaneously with demolition of the pavilion. So which revetment are we talking about?

Mr. Fujimoto: This one.

Ms. Yukimura: Okay, so it is this? I thought you said, no, it is not.

Mr. Fujimoto: I am assuming that is what he is talking about.

Ms. Yukimura: Well, it is not clear to me and I am just assuming that this issue has to be part of the study, right? I would guess.

Mr. Fujimoto: Well, he is talking about the (inaudible) of the pavilion.

Ms. Yukimura: No, I am talking about the burrowed pit, the 1,200 foot long burrowed pit.

Mr. Fujimoto: No, the last paragraph.

Ms. Yukimura: And the 900 foot long revetment because the paragraph that I just read refers back to this revetment.

Mr. Fujimoto: Oh, no, if...

Ms. Yukimura: It says in 1964, the State constructed a 900 foot long revetment fronting this pit. Since the failing revetment no longer is protecting any structure...

Mr. Fujimoto: Let me clarify. Okay, back in September of last year, the pavilion was being undermined and there was this question of whether we should remove it or do whatever we needed to do to protect. So we asked Sam Lemmo at that time to come out and that is when we realized that they had come out before and they had made suggestions. Prior to that, again, I might... my excuse is ignorance and maybe in time I cannot use that as an excuse, but at that time, I did not know about that study. So whoever was involved with that study did not share that information with me, so I did not know. But they came out and their

recommendation was, you know what, I think you should just yank this pavilion now just like what you are saying because you guys can reach it. Right now, you don't need any permits because you can do everything from shore. Once this falls in the ocean, then you are going to have to get all these special permits to go in to take it out and that is why we did the recommendation. He also said, well, if you want to take out the rocks now too, maybe you should do that and I just said, at that time, it was my call that I made... I said I don't think we should touch the rocks right now because we are talking with clean water issues, all that special permits, and I just said, for the time being, let's just address the pavilion.

Ms. Yukimura: Okay, so that is the revetment that they are talking about?

Mr. Fujimoto: Yes.

Ms. Yukimura: That is the 1,200 foot...

Mr. Fujimoto: No, no, no. Okay, if you...

Mr. Bynum: That is a different one.

Mr. Yukimura: Then all I am saying is, it sounds like this burrowed pit could be a major problem or cause of erosion. Am I wrong in supposing that?

Mr. Fujimoto: No, their guess... I mean everybody has to have theories, yea. Their theory is that, you know, right in front the Kapa'a Swimming Pool, that reef, they actually dredged out part of that reef actually to... for materials to get lime stone to do road work, base course, lime stone base.

Ms. Yukimura: It showed how ignorant we were back then, but, yea, okay.

Mr. Fujimoto: Resourceful, ignorant, or whatever you want to call it.

Ms. Yukimura: No, we were and we were very ignorant today about things that we are doing.

Mr. Fujimoto: So, again, somebody made the call to try to get some resources off shore and they actually dredged the reef.

Ms. Yukimura: I guess in their thinking because the dredging was within the reef itself and they felt they left enough (inaudible) that there would not be impact. Again, this is truly conjectured that that hole is creating the sink. I mean, it makes sense, I mean, whatever is new. Since that time, they have noticed, you know, more rapid erosion, so it could be that. So, you know, even Chip Fletcher himself could not say that was the cause of that...

Ms. Yukimura: But that will be included as part of the study, so they look at all that, right?

Mr. Fujimoto: Well, no, not in our plan, not in our... my understanding is Chip is supposed to do that as part of the coastal study that he is supposed to do.

Mr. Rapozo: Hang on, time out.

Ms. Yukimura: He is not talking about cause and effect. He is just looking at the erosion rate.

Mr. Rapozo: Time out because it is 12:15. We have to take a caption break. Donald, let me just ask you, in the Moanakai presentation, is there anything else, is there any difference? Is there anything besides the photos that will...

Mr. Fujimoto: No, again, the recommendation is that we actually go through the CIP process. The picture... I just wanted to show that it is hard for us to say that there is an immediate need or immediate pending issue on safety.

Mr. Rapozo: Okay.

Mr. Fujimoto: Because, you know, it is hard for us to determine that based on what we see today.

Mr. Rapozo: Okay, well, because of the agenda today and because we have, I think some issues after lunch that is going to take a while, I am just going to ask that we defer these items.

Mr. Fujimoto: Okay.

Mr. Rapozo: I think you heard some questions today that applies to both, to Moanakai as well, so if you could... and we will talk offline as well and if any Councilmembers have any question, feel free to send them to me or, you know, we can get them across for the next presentation, but I appreciate what you have done. The photos help and I know one concern that Mr. Bynum has about that cement whatever that is, is a concern and maybe you can take a look at that and maybe have Larry guys go take a look and I don't know what you can do with that. I am afraid... make sure if you do anything to that natural process, that it doesn't affect the process of the ocean. You know, it is so delicate over there that is why I think we should rely on experts and not, you know, people that don't know. So anything else real quick that we can wrap up in about eight (8) seconds? Go ahead Mr. Bynum.

Mr. Bynum: Thank you Mr. Chair and I agree with deferring this and having further discussions, but I think the burrowed pit, you know, that point is

like it could be trapping sand that nature would move back under the shoreline there and exasperating the erosion. It also points out that engineers weren't always environmentally conscious. It was the Army Corps who said that we contain the ocean, we can build anything and now we know... and know the Army Corps has changed. They are saying, oh, we made mistakes in the past. You know, at the planning conference, we had people talking about old school engineers and enlightened engineers, so thanks for becoming an enlightened engineer.

Mr. Rapozo: Thank you very much.

Chair Asing: Yes, can I have two (2) seconds?

Mr. Rapozo: Sure.

Chair Asing: Mine too is just a comment. Nothing is black and white. I was in Honolulu when they built the Ala Moana Shopping Center. I lived in Honolulu at that particular time. Ala Moana Beach Park is a dredged park, facility, and there is a wall there, there is a beach there, and fronting Ala Moana... that actual beach is nothing more than a channel. It is cut reef and all of that reef was taken and put into the construction of the Ala Moana Center. I was there at that time when it was built, so as a matter of fact, I lived on Kapi'olani Boulevard and I passed there everyday to work, so I know what was going on. It is never black and white.

Ms. Yukimura: And Nāwiliwili Park is also totally dredged.

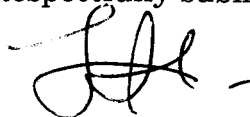
The meeting was called back to order, and proceeded as follows:

Mr. Rapozo: And the reef runway and our lunch break is here, so can I have a motion to defer items PW 2007-11 and PW 2007-12?

Upon motion duly made by Councilmember Yukimura, seconded by Councilmember Iseri-Carvalho, and unanimously carried, PW 2007-11 and PW 2007-12 were deferred.

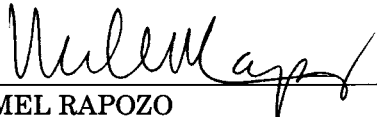
There being no further business, the meeting was adjourned at 12:17 p.m.

Respectfully submitted,



Lisa Ishibashi
Council Services Assistant

APPROVED at the Committee Meeting held on November 14, 2007:



MEL RAPOZO
Chair, Public Works Committee