

MINUTES
PUBLIC WORKS COMMITTEE
October 24, 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 24, 2007, at 9:59 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 Bill "Kaipo" Asing, Ex-Officio Member
Honorable Jay Furfaro, Ex-Officio Member

EXCUSED: Honorable JoAnn A. Yukimura

Minutes of the September 25, 2007 Public Works Committee Meeting.

Upon motion duly made by Councilmember Bynum, seconded by Councilmember Iseri-Carvalho, and unanimously carried, Minutes of the September 25, 2007 Public Works Committee Meeting was approved.

Minutes of the October 8, 2007 Special Public Works Committee Meeting (Wastewater Revenue Requirements).

Upon motion duly made by Councilmember Bynum, seconded by Councilmember Iseri-Carvalho, and unanimously carried, Minutes of the October 8, 2007 Special Public Works Committee Meeting was approved.

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

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: It is the intent of the Chair to defer this because the County Engineer has submitted some responses and it hasn't reached us yet. It is still in transit, so we are not going to discuss this today. We will take public testimony, so I will suspend the rules.

There being no objections, the rules were suspended.

Mr. Rapozo:

Mr. Mickens.

GLENN MICKENS: Good morning Councilmembers and good morning Mel. Thank you very much. You know you hear several members testify from time to time. I hope you can appreciate that... the public tries to do as much as they can to be part of the system. You know, you guys that are elected keep on making that points, so I do hope you appreciate the... you know, we do put some time and effort in this. Anyway, you have a copy of my testimony and let me read it. I know it will come up again because it has been deferred, but it has been deferred now for eight (8), ten (10), nine (9), twelve (12) months, I don't know what it has been. First and huge mahalo to Councilman Rapozo for this determined leadership in getting this bikepath audit going. Thanks also to Councilmembers Iseri-Carvalho, Kouchi and Chair Asing for their votes to make this audit possible. What I can't understand is why the Administration and some members of this Council are reluctant to listen to Joe Rosa and Joe is here today about the wisdom he has to offer to regarding the construction of this bike pedestrian path. After 35 years of working as a State Inspector on Kaua'i and being involved with the original path along our highways as well as the path from Pono Kai to Otsuka's which is still there obviously. He certainly has as much expertise or more than the planners and consultants who are being paid huge sums of money. And it would seem to me that the other biggest reason to listen to Joe is that he has absolutely no dog in this fight. His opinions are factual and neutral. He has nothing to... absolutely nothing to gain, but to try and give the facts to the people. Now let's turn to the draft EA with Bill (inaudible) a lawyer (inaudible) July 2004 for a segment of this path along the coast. You all got copies of that and I don't know if you kept it or not, but, anyway, you do have copies of his 99 page thing. His 99 page EA which... you have copies... it points to a multitude of reasons that this path shouldn't be built in the area he was being paid to examine.

The case he made, did prevail as the path which was changed from its original course. His EA is just as relevant to the total path as it was to (inaudible). With all due respect to Councilman Bynum, I take exception to his statement at the 10/17 Council meeting where he said that most of the questions brought over and over have been answered. His draft EA of 2004, Mr. Sweeny makes the statement and asked the same questions that I have asked many times as has Councilwoman Iseri-Carvalho with no answer forthcoming. He says, "applicable Federal regulations clearly indicates that TE funds cannot be used to fund bike/pedestrian facilities that are solely for recreation use. The language under 23 USC 279 states that no bicycle project may be carried out under this section unless the secretary has determined that such bicycle project will be principally for transportation rather than recreation purposes... emphasis added." Mr. Sweeny then goes into detail how the Mayor, the newspapers, the County's draft EA and all other materials emphasize that this path will be predominantly for recreation purposes, so where is there any documentation from the Secretary of Transportation saying that she has determined that this path will be used principally for transportation.

Mr. Rapozo: You need to summarize, the bell just went off.

Mr. Mickens: You want me to come back. I have about...

Mr. Rapozo: Is there anybody else testifying on this matter? Just the two (2) of you? Okay, why don't you just finish up Glenn.

Mr. Mickens: Thank you. And what about other questions that have never been addressed such as: 1) Where will security come from to patrol this path 24/7? Our police are still 24 members short in their force, so will they ever find the time to patrol this path. Mr. Sweeny (inaudible)... he consistently states that the path is 23 miles long, so how did it get to the 16 miles we now talk about. I don't understand where did the other eight (8) miles go? 2) The total cost of maintaining this path has never been addressed except for a rough estimate by Jay of \$400,000, but hasn't it been officially brought up and answered by the Administration... the amount and where the funds will come from. Mel and Shaylene have a lot more very important unanswered questions that need addressing, so please, let's share the answers and stop hearing how these questions have already been answered. So, you know, I am pretty repetitious, I guess, in these things, but when I hear Tim say, you only ask these questions over and over and they have all been answered, I haven't heard answers to them. I try and listen. I don't think Mel and Shaylene have heard answers. I don't think they would continually bring them up. Anyway, that is my testimony and I appreciate your listening to it. Any questions?

Mr. Rapozo: Any questions?

Mr. Mickens: Thank you.

Mr. Rapozo: If it is a question, fine, if it is a comment, we can take it up in the discussion. I just don't want to debate here, but if you have any questions for Mr. Mickens.

TIM BYNUM: I will hold off.

Mr. Rapozo: Thank you Mr. Mickens. Next. Mr. Rosa, thank you.

JOE ROSA: Good morning members of the Council.

Mr. Rapozo: Please state your name for the record.

Mr. Rosa: Joe Rosa for the record. I am here because to the bikeway like I have always been here with some statements for the Administration to look into and don't have to spend big bucks seeking research analyst. Right now, as I said, the biggest concern I think and it hasn't been answered yet by Mr. Doug Haigh is that property from Nāwiliwili Lighthouse to Ahukini Road. There is a skimpy little road that runs along the edge off the airport boundary. Now the Marriott

owns only a segment at the end (inaudible) north... south boundary. The rest is airport territory. Now the fishermen (inaudible) existing there is to get to the favorite fishing spots. Now if you want to put a bikeway and they have to lose the alignment off the existing road, how can fishermen get their cars into there and go fishing? Secondly, how are they going to put laterals to get the fishermen to their favorite spot. Those are questions that I haven't heard been answered either by Dennis... by Mr. Fujimoto or by Doug Haigh. Another thing, as I said in my previous appearance here. In 1985, December 11, 1985 and I will never forget that date. They had a murder committed along the shoreline there and it wasn't found until the person did not show up to work where the fellow State workers like myself made an investigation and searched for that person that was murdered. If it wasn't for the workers of the fellow that got killed, he would probably be there for days before he would be found. So how are the police or the County is going to enforce the patrol over there. It is an isolated area. I, myself, now I don't go fishing around there because ever since all these kind of things came up in that area. It is fearful. (Inaudible) they get their tires flat. It is unsafe. This kind of stuff people don't hear. I hear it, I am in the public, I am the Līhu'e boy for 75 years, so I hear it among the people, but it goes unheard by you people. I want to close with two (2) statements more. One is the bikeways and it is nothing against the County, but from what I have seen being that I install a lot of the bikeways for the State of Hawai'i during my time of work, I've seen the highway come from 22 feet width to 24 feet where the highway system is encroaching into the bikeways because there is no cyclists on the highways. Also, the grass is growing, so what you see, a white line with about a one foot bikeway, so how is the County going to upkeep their bikeways when the State can build themselves? That is the big question. Money and finances and now there is upcoming audit... I have a little thing here that I found out, secrecy. Secrecy is the (inaudible) of democracy. If politicians are acted honorably, they can have their business with open doors and with lights on and no (inaudible) for any private sessions behind closed doors. Thank you very much.

Mr. Rapozo: Thank you Mr. Rosa. Any questions for Mr. Rosa?
Mr. Bynum?

Mr. Bynum: Hello Mr. Rosa. Thanks for coming here today. It is interesting that you bring up the Ahukini to Ninini Point because last night at the convention center was the second public meeting regarding that segment of the bikepath and this issue about that area was discussed at length. There were fishermen present, there were members of the community and so you are accurate that the County does have a right-of-way along the road there for public access. There is private property in that area and there is airport property, so the consultant who is doing the environmental assessment for that has to engage all of those people, so there was discussion just last night of how you accommodate the fishermen who fish there for years and a path in that area. There is actually a committee of the fishermen that they are reaching out to that you could join by talking to R.W. Towill or the County to get your input to address just that issue what it should be. The consensus of the group last night was that from that area

from Ahukini to Nāwiliwili, there shouldn't be any amenities or shelters or... but a simple path and accommodation for the fishermen, so that is exactly and then the private landowners in that area are cooperative. That is now the Marriott and the Marriott representative was there, you know, and is fully engaged in that discussion about how we meet these. Everyone of these things goes through a public process which the public is invited to come to and it just so happens that this issue you brought up was discussed last night at length, so I encourage you to talk to the County or to the person if you wanted to provide input on just those questions.

Mr. Rosa: Well let me pose you with this question Mr. Bynum.

Mr. Rapozo: Hang on. That is why I limited to questions, so it doesn't get into a debate on the floor. Is there any questions for Mr. Rosa?

JAY FURFARO, EX-OFFICIO MEMBER: I have a few answers to his questions.

Mr. Rapozo: Okay, and we can do that in the discussion otherwise it would just end up going back and forth. Anymore questions? No questions. Mr. Rosa?

Mr. Rosa: Just one thing. Like I just said, this is the bikeway, right Mel?

Mr. Rapozo: Bike/pedestrian, multi-use.

Mr. Rosa: Yea, okay. Now, if it is going to be as such, how can the fishermen get in with their cars because no vehicles will be allowed on your bikeway path. That is the question. We can talk, say, yea, are you going build an adjacent...

Mr. Rapozo: Unfortunately, I did not attend that meeting last night, but that is a question more...

Mr. Rosa: Those are the two (2) questions Mel because I work with Planning, I do drafting and stuff with the State Highways Division. They were going to change the (inaudible)... so we ended up doing as constructed or as built changes, so those are the kinds of things. Like, you know, sometimes I question Mr. Bynum, ah, Doug Haigh because (inaudible) knowledge of (inaudible) or things involved.

Mr. Rapozo: I am going to end it there. Thank you. Thank you very much.

Mr. Rosa: What about Furfaro?

Mr. Furfaro: I have the answers for your question and as the Chairman has suggested it, I should answer the particular question you have in your statement when we reconvene as a body for our discussion.

Mr. Rapozo: And I appreciate that. Thank you. Thank you Mr. Rosa.

Mr. Rosa: Just like as I said, it is an opinion of secrecy.

Mr. Rapozo: And we will definitely share your concerns with the Administration.

Mr. Rosa: Yup, because there is an upcoming audit, so let your conscience be your guide. Thank you.

Mr. Rapozo: Mr. Taylor?

KEN TAYLOR: Chair and members of the Council, my name is Ken Taylor. I am certainly supportive of the bikepath. As you know, I have testified in the past. I do believe there are some problems out there. I believe that the audit should be done and I just hope that the audit is not going to slow down the activities and moving forward with the bikepath.

Mr. Rapozo: Mr. Taylor, the item on the agenda is not the audit.

Mr. Taylor: But it was raised by other speakers.

Mr. Rapozo: The other speakers... they don't testify all the time and they are not familiar with the rules. I know that you are, so please stick to the agenda. Just stick to the bikepath as far as the agenda is concerned.

Mr. Taylor: The bikepath is going to be a wonderful thing for the community and very beneficial to everybody. I see... even though people aren't supposed to be out there yet, people in wheelchairs, young mothers with strollers, families with children of all ages, bicyclists and so on and I can't overemphasize how important this is going to be for the community. I just want to keep seeing it move forward as well as resolve the problems that do exist. I know you are working in that direction and I applaud that and let's just keep it moving, so we can get it completed properly and following all the rules and regulations. Thank you.

Mr. Rapozo: Thank you. Any questions for Mr. Taylor? If not, thank you very much. Anybody else wishing to testify? If not, thank you. I will call the meeting back to order.

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

Mr. Rapozo: Discussion before we entertain the motion to defer?
Mr. Furfaro and I appreciate your patience.

Mr. Furfaro: No problem. I guess, you know, it is important when people make statements that you will imply secretness and so forth that is rather concerning if you don't address that. But I think one of the things that everybody should get involved with is this new group as it is developing the sustainability 2050 plan. In the 2050 plan, they have set very, very key objectives for the State of Hawai'i and they hope to get the draft sustainability to a point that it could be accepted at the State Legislature. And in there, it talks in terms of items that deal with energy, it talks with public safety, wellness of the community. It also talks of multi-modal transportation plans. In fact, the plan... I think the second objective there really promotes the long term benefits of bike/walkpath... whether they are for transportation and/or for the purpose of recreation is not really a segment there, but it really deals with the future question of what do we do... I mean oil is \$99 a barrel today, 10 years from now we could, in fact, be \$200 a barrel and nobody knows, but it will have an impact on how we (inaudible) in the future, our transportation efforts to get to different places whether it is for business, recreation or work. So I would say that, you know, that is the piece that really ties into the future of bikepaths in a statewide perspective. I also, you know, my observation on the upcoming issues, I have to say Mr. Rapozo, I think we are in an excellent place right now as we look at the next phase to really learn from the past issues with the previous phase. You know, I kind of compare it to like being an old bus at night coming down Kolekole (inaudible)... you are not familiar with the downhill incline, but you do reach the bottom safely, so what you do is you actually learn and for those of you that don't know Kolekole is in the Waianae mountain range, you might refer to it better as the Pali, but you do get to the bottom. And because we haven't caught up in the way we do business for large projects like this, maybe some of the bus parts are actually different parts from different buses, but we learn and we learn as we go. So I think the approach to this next leg, we have an opportunity as you pointed out to learn, to do things a little bit more proficient for managing the project to the best possible price and as well as Mr. Bynum has pointed out, having the opportunity with these public meetings to get feedback from the public. So, you know, in my opinion, this statement of secrecy is not what the issues are. It is a statement about, unfortunately, kind of learning as we go, so thank you.

Mr. Rapozo: Thank you Mr. Furfaro.

Mr. Bynum: I just would echo some of what Councilmember Furfaro is saying and encourage the public who is interested in the bikepath to attend the public meetings. The bikepath doesn't get planned here at Council. It gets planned by the Administration along with consultants, you know. There is an opportunity because we have one segment of the path completed and another segment under construction to learn and apply that learning into the future, so last night, there were 25 or 30 community members who came to the Convention Hall and asked lots of questions, gave their opinions, stood around the maps of the potential routes.

One of the questions that Glenn has repeatedly asked is what is the exact width of the bikepath. Well, in the public process, that is determined through a series of meetings where people give their ideas, long term residents who know the area better than anyone else, give their opinions and put it forward and it goes through... here is the potential (inaudible) and then there is a final selection of the preferred route and that happens in each case. I usually don't respond to every question Glenn asked because he asks the same questions over and over again.

In my opinion, most of those questions have been adequately answered. Today, he refers back to a question he has brought up many times regarding whether it is principally transportation rather than recreation. That question has been brought to the appropriate people to make that determination which is Federal Highways and State DOT. They have answered that question that they are more than satisfied that the project that (inaudible)... meets those requirements. So I was hopeful that this... my agenda indicates that we might receive this item today because we voted for an audit, we have had this particular item deferred repeatedly since February 15, 2007. You know, we are... I feel like I've had my questions... I attend the meetings, I go and ask questions and not only here on the Council floor... other places and, you know, I don't feel the need to continue to use hours of Council time to go over this when we voted to have an audit to look at the entire bikepath. So I was hopeful that we would receive this item today.

Mr. Rapozo: Thank you. Councilmember Iseri-Carvalho?

Ms. Iseri-Carvalho: Yes, I will respond to Councilmember Bynum simply because the Council voted for an audit does not mean that we give up entirely our obligation for fiscal oversight as well as any kind of oversight because we are here, really, the eyes and ears of the public. Not every person can attend the meetings when they are scheduled. A lot of times the Councilmembers were unable to attend these meetings because they were set on Wednesday nights. So a lot of times, people don't get the kind of notice that they need, number 1, but number 2, people are busy. You know, you talk about meetings and 25 people attend, well, we've got 64,000 on this island, so how much of a percentage of population is attending these meetings that are going to give you the entire input of what is valued on the island. That is not the only place that the public process works. The public process works here as well and there are some people who can make these meetings more than they can make those other meetings that are set at the Convention Hall or at the Middle School or at Lydgate. So we need to be open minded to assure that all of the residents have input. Again, whether we are at the meetings or whether you are at a football game or a basketball game, volleyball game, whether you are at Safeway supermarket or Wal-Mart or Star, we need to keep our eyes and ears open to the public's interest that just because you go to a meeting doesn't mean that that is the only interest that are going to be considered. That would be my first response. The second and what we have learned here at the Council is that a lot of times that these public informational meetings... not all of the information is being conveyed, so that people are fully informed when they do

make a decision. We've learned that many, many times. We've talked about the Pono Kai seawall, we talked about the fact that we have these sink holes, we've talked about the fact that the fishermen have complained about not having access to the beaches where they normally would have and that we have taken a lot away from their culture, way of life, because of this bikepath and do we reconcile those differences. A lot of people feel intimidated when they go to these meetings that if they don't share the opinions of those that are running the meeting that they don't get access to provide their public input and people leave and I've seen that many times. So there are numerous ways of getting people's input and simply because there is a public meeting that is set up. I know we had talked about having residents within a 500 feet radius and that was admitted to by the Administration and that was something important. I don't know, I didn't receive any information in the mail at anytime. I don't know if other people have. Nobody has come to me to say that they have received anything in the mail that they have been notified of the meetings. Again, you know, caution on the process and be assured that the consultants are providing all the information. Like I said, I don't think had they provided the information that the erosion rate was five (5) foot a year at the Kapa'a Beach Park, that people would be in favor of putting a bikepath ten (10) feet from the ocean that is going to be in the ocean in maybe two (2) to three (3) years. Give people full information, so they can make an informed decision and if the appropriate decision is to move the alignment which we have seen many, many times here. Fortunately, again, by having these kind of dialogues with the Administration to assure that we are not only preaching sustainability, but also practicing it that we do want to assure that this bikepath is here for future generations and not simply for two (2) to three (3) years especially when we look at... this is the biggest project that we have had on the island. The closest one that comes to this project is the \$43 million judiciary building. This bikepath is set at this time \$51 million, so it tells you the kind of magnitude that is involved in a complex process or project like this and it is important that not only the Council keep his eyes and ears as to what is going on, but the community as well. So I encourage all of you to participate in these meetings, but if you are unable to, by all means, everybody knows how to contact us, knows how to contact Donald Fujimoto and he is really good about returning phone calls, but, yes, have your input provided and we'll evaluate those kinds of input like we evaluate every other project. It is not that we focus solely on the bikepath, but we focus on affordable housing. That has been on the agenda, you know, for months. We talk about vacation rentals and that has been on the agenda for two (2) years, almost two (2) years. You talk about shoreline setback and that is another bill that has been on the agenda for about a year and a half. So there is a lot of issues and it is not just focused solely on the bikepath that we exert the time and energy, but it is because there is a lot of money involved and I know people work extremely hard especially in these times for the moneys that they earn and they should be entitled to know that their moneys are being spent in a worthwhile fashion and simply that is all that I wanted to say.

I think that it is important to finish up answering the questions that we have provided. I had spoken earlier this morning with Mr. Fujimoto who is fully in

concurrence that they will provide all the answers and upon the last communications getting out, they said that they are still waiting for answers. We will be receiving this matter, but I can tell you that this audit isn't going to happen overnight and simply because we say we are going to have an audit doesn't mean that we give up our responsibility of oversight.

Mr. Rapozo: Thank you. Any other discussion? If not, let me just state that the action we took at the last meeting was simply to approve a request for assistance from the State Auditor's Office. Obviously, this body cannot dictate to the State office to do the audit. It was request from this Council that... actually, it is going to be sent out today. We anticipate a response in a week or two (2) as far as what will happen next, so I fully expect this item to be received once the audit is in process, but there are some questions that, again, Mr. Fujimoto has committed to responding within the next... our next Committee meeting won't be for another three (3) weeks because of a five (5) week month, so that is the reason for the deferral. Again, we don't know what the Office of the Auditor will respond to and we are waiting for that, but that won't happen for another few weeks. With that, any other discussion? If not, I will entertain a motion to defer.

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

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

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.]

Mr. Rapozo: For the same reasons, I am going to be entertaining a motion to defer, but I would ask if there are anybody in the audience that wants to testify. Hearing none, any discussion?

Ms. Iseri-Carvalho: Yes, I did, again, speak with Bernard Carvalho as well as Donald Fujimoto this morning. They are currently in the process of obtaining a proposal from Oceanit. They are also looking at the issues we had raised regarding the definition of applicability of this being a expedited project or that it could qualify as an emergency repair, so with those issues outstanding, I

would, again, support a deferral as requested by both parties.

Mr. Rapozo: Thank you. I would entertain a motion to defer.

Upon motion duly made by Councilmember Bynum, seconded by Councilmember Kouchi, and unanimously carried, PW 2007-11 and PW 2007-12 were deferred.

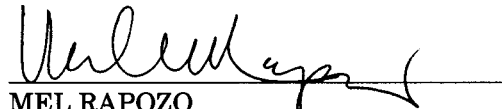
There being no further business, the meeting was adjourned at 10:30 a.m.

Respectfully submitted,



Lisa Ishibashi
Council Services Assistant

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



MEL RAPOZO
Chair, Public Works Committee

