

MINUTES

PUBLIC WORKS COMMITTEE November 14, 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, Lihu'e, Kaua'i, on Wednesday, November 14, 2007, at 9:44 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

Minutes of the October 10, 2007 Public Works Committee Meeting.

Minutes of the October 24, 2007 Public Works Committee Meeting.

Upon motion duly made by Councilmember Iseri-Carvalho, seconded by Councilmember Bynum, and unanimously carried, Minutes of the October 10 and 24, 2007 Public Works Committee Meetings were approved.

There being no objections, the Committee recessed at 9:46 a.m.

The meeting was called back to order at 5:10 p.m., and proceeded as follows:

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

CR-PW 2007-25: on Bill No. 2238 A BILL FOR AN ORDINANCE TO AMEND CHAPTER 12 OF THE KAUAI COUNTY CODE 1987 ENTITLED "BUILDING CODE," ADOPTING THE 2003 EDITION OF THE INTERNATIONAL BUILDING CODE, AND INTERNATIONAL RESIDENTIAL CODE FOR ONE AND TWO-FAMILY DWELLINGS, AND PROVIDING FOR THE EFFECTIVE DATE OF THE ORDINANCE
[Approved as amended.]

- CR-PW 2007-26:** on Bill No. 2239 A BILL FOR AN ORDINANCE TO AMEND CHAPTER 13, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE ELECTRICAL CODE
[Approved as amended.]
- CR-PW 2007-27:** on Bill No. 2240 A BILL FOR AN ORDINANCE TO AMEND CHAPTER 14, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE PLUMBING CODE
[Approved as amended.]
- CR-PW 2007-28:** on Bill No. 2241 AN ORDINANCE AMENDING ORDINANCE NO. B-2007-657 AS AMENDED, RELATING TO THE CAPITAL BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2007 THROUGH JUNE 30, 2008, BY REVISING THE SURPLUS ESTIMATED IN THE BOND FUND (\$2,620,000 – Historic County Bldg. and Lihu'e Civic Center site improvements, Lihu'e WWTP Centrifuge Replacement, Wailua WWTP process & disinfection upgrade design, Pono Kai revetment wall design/plans, Lighting retrofits)
[Approved 4-1 (Councilmember Yukimura voting "no.")]

There being no objections, the Committee recessed at 5:12 p.m.

The meeting was called back to order at 5:30 p.m., and proceeded as follows:

- 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: I have been informed by staff that we have not received any additional information from the last questions. Before we go on, I would want to suspend the rules and invite anyone from the public wishing to testify. I don't think we have anybody today testifying on this matter.

There being no objections, the rules were suspended.

Mr. Rapozo: Oh, I was wrong. Mr. Mickens?

GLENN MICKENS: Thank you Mel. Good late afternoon Councilmembers. You have a copy of my testimony. Let me please read it as quickly as possible for the record. Remember upfront again. I have always said and I will continue that I am not anti-bikepath, but the way this bikepath has been played out is completely wrong. I, again, wish to thank Councilman Rapozo for diligently keeping this issue on the agenda. It is sad that after a year, this Administration cannot fully answer so many questions that have been asked of them. And, no, Tim, answers to many of these questions have not been addressed or they would not remain on the agenda. One blaring problem that no one wants to address is how the security of this path will be handled. My testimony of 10/27, I asked this same question and I am still waiting for an answer. With the shortage of 24 police in our KPD, most of these are patrolmen who would be the ones who would have to look after this path I presume who would patrol this path and respond to emergencies. In an article in *The Garden Island* which I have here you probably saw this little article in the paper told about an assault in Keālia near the cement path. It was in August (change side of tape)... still can't find out who the suspect is and they are still looking for help. Live in the real world and anyone can see that on many isolated areas in this 16 to 23 mile path and they keep on bringing this up.

It says 16 to 23 miles and if you notice articles in *The Garden Island*, they (inaudible) kept on noting that it was 23 miles and now it is 16, so I don't know how this varies. Assaults, rapes, robberies and even murders will happen, so where is the security and how much will it cost the taxpayers. I also asked how much total maintenance of this path will cost and never got an answer. The gateway project has cost us over \$400,000 a year since we have to eliminate the volunteers and hire qualified people to maintain it and its length is about one-third of the proposed path. What about the liability factor of those using this path? Shaylene already cited a lawsuit by a worker on this path, so you can imagine what will happen if some jogger, walker or ADA person gets hit by a bike. Again, with no stripe to divide the 10 foot wide path or no person to patrol it, where will the safety factor come from? Jay, you as much as anyone complain about our ready, fire, aim which I fully appreciate... process and not being proactive, so how can you approve of this path until all these issues are addressed? By Doug's own words, no research was ever done to see what you see that this path will get if it is ever finished if it is ever finished. Isn't it normal that we do a full study on any multi-million dollar project to basically see how many people will use it before it is ever started? Again, Federal guidelines state that it will be used for transportation and not recreation, so how do we get around the fact? What is to be done with the path that Joe Rosa help build 35 years ago that parallels our highway. The lack of usage...due to lack of usage, it has not been maintained and as Joe said, when Kūhiō Highway was repaved, it was widened and took away part of this path, so why are we spending millions of dollars to duplicate a project that was a failure? I wish anybody would refute that statement. Kaipō has raised questions about the equestrian path and the wall in

front of the golf course and that has never been answered. Think of the hundreds of man hours that this Administration has used on all phases of this project and ask yourself if these hours couldn't have been better spent on prioritized issues that truly impact the needs of this island. Thank you for hearing my testimony and I will answer any questions.

Mr. Rapozo: Thank you Mr. Mickens. Any questions for Glenn? If not, thank you again. Thanks for being so patient.

Mr. Mickens: Thank you Mel and you too Shaylene.

Mr. Rapozo: Mr. Rosa?

JOE ROSA: Good afternoon, a late afternoon. I have been here nearly seven (7) hours listening to this prior thing here. For the record, my name is Joe Rosa. I have listed here some things of concern that has to do with the bikeway. First of all, a speed limit. I have asked bicyclists on speed bikes how fast do you people travel... 15 to 25 m.p.h., so what would happen if some speed bikers come along 15, 25 m.p.h.? Catastrophe is going to happen because who is going to enforce a speed limit? My last thing of concern is crime. JoAnn, you weren't here when I testified prior. Before that, in 1985, one of my fellow State co-workers was killed (inaudible) between (inaudible) and Ninini Point on December 11, 1985. Before that, all along, fishermen, the opihi pickers, they had batteries and tires stolen from people of crime going in that area. Who is going to enforce all that there?

Secondly, like in that area, Mr. Bynum told me that the Lihu'e fishermen were taking care and will be taking care. How are they going to put another road for the fishermen? Are they going to put a road parallel to the bikeways? Is it going to be 12 feet, 15 feet, 20 feet wide for the fishermen? Those are questions that they say is going to be taken cared, but you have to come up with classified... what you are going to do in writing? Those are the kinds of things that you just grumble and don't do nothing about it. When I worked with State Highways, when you plan something, you are going to post speed limits and signs already before it is approved. There is no speed limits... I never heard it mentioned in this bikeways.

A third item of concern is the monk seals. I never heard anything mentioned about the monk seals in the intersection of Kawaihau Road and Hauuala Road when you come down from Kapa'a School there. That section (inaudible) Otsuka's (inaudible) was a little sandy beach there. There is a lot of monk seals that has always been there. I have seen a mother monk seal with a pup and I have seen it as much as three (3) monk seals when I am coming home one time from work from Keālia side. You can see it when (inaudible)... I don't know how DLNR is going to allow you folks to ride on there when the monk seals are over there. I haven't heard them mention anything else because I have seen DLNR people sitting out there when I was working, so are those are things of concern. When the monk seals... like Po'ipū, you can't even go swim at Po'ipū Beach, so what are they going to do,

block out the bikeways? My next item is bike (inaudible).

Mr. Rapozo: Mr. Rosa, how much more you got?

Mr. Rosa: About two (2) more items.

Mr. Rapozo: Anybody else want to testify in here? Thank you, you have your next three (3) minutes.

Mr. Rosa: My next item is on bike tours. What will keep people from running bike tours like they used to do out on the northshore from Wailua River Park to Kē'ē Beach? I say this because I have an experience up when bike tours were run when I was resurfacing the road from Hanalei to Kē'ē Beach. They come about 50... 25 to 50 riders. Now, you know, what is to prevent those people from running bike tours? I can see single bicyclists, but bike tour companies now. They are going to ask, hey, why can't we use it, it is a bikepath, it is bikeway. Okay, and then the next item that I have was... like I said, well, I mentioned about the fishermen at Ninini Point to Ahukuni Road. Now, a question of note and I have been sitting here seven (7) hours like I said, you know, I have heard the Council saying, about setbacks on the shoreline and about hardening of the shoreline and here we are putting the 10 foot wide concrete adjacent running parallel to the shoreline. Example, Kapa'a Neighborhood Center, they talk about the beach erosion in Kapa'a, beach (inaudible). It is being hypocritical. Talk about hardening... a good example, the County is doing it and they should be setting a preference, so this bikeway is going to cost big, big bucks and I am here speaking not for myself and I have nothing to gain from it except to try see if we can save some taxpayer's money. That is what I am here for. I am here testifying... basically, I see it for the people of Kaua'i and saving money because there is going to be a lot of isolation areas from Ninini Point to the Nukolii Hotel. Because like I said, JoAnn, if it wasn't for the State workers, our fellow worker wouldn't be found. He was dead nearly two (2) days. He didn't report to work, so sent a search party ourselves to go and look for him. And Mr. Mickens mentioned about that assault in Keālia, look, already it is happening, August, and nothing is being said. The police are now asking for help, so those are things to think about. Talk is easy, talk is cheap, but let's face the reality of things that can happen and not something that happens after-the-fact which has happened a lot of times. Things have happened... the County got sued because after-the-fact things, it is too late. Think of it. Thank you very much.

Mr. Rapozo: Thank you Mr. Rosa. Any questions for Mr. Rosa? Thank you very much.

Mr. Rosa: Thank you.

Mr. Rapozo: Anybody else wishing to testify? If not, thank you.

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

SHAYLENE ISERI-CARVALHO: I think we need to... There was a response that came in on October 24 that answered some of the 13 questions that were still outstanding. You still can't hear? You can, okay, thank you. So we have outstanding, questions 5, 6, 7, 12 and 13. I had indicated that I wanted to receive these items once these questions had been completed. These questions had been outstanding, I guess, back in September. So what we can do, I think is, do the questions that they did answer and then it would... I would hope that we would have these responses. Donald?

Mr. Rapozo: Donald? The rules are suspended.

There being no objections, the rules were suspended.

Ms. Iseri-Carvalho: Can I ask a question?

Mr. Rapozo: Go ahead.

Ms. Iseri-Carvalho: Thank you. Question 1 was to provide the design plans of the cantilever. Donald, thank you, your attached sheets 24 (inaudible) of the short term improvement (inaudible) showing the General Plan and the typical section. Number 2 was about the four (4) lane bridge as considered as one of the options and the plan and whether or not it would... how much it would cost to construct the four (4) lane bridge now instead of the two (2) lane bridge and how much time it would take. Your response... do you have a copy of your response?

DONALD FUJIMOTO, COUNTY ENGINEER: Yeah. Okay, I will just read the response. Widening of the existing Kūhiō Highway bridge was not considered in detail as one of the options for the Kūhiō Highway short term improvements. Widening... replacement of the existing Kūhiō Highway bridge is being considered in the EIS (Environmental Impact Statement) for the long term improvements. Detailed information on this option should be available when DOT, the State DOT releases the draft EIS.

Ms. Iseri-Carvalho: Go ahead.

Mr. Fujimoto: Should I proceed to item 3? Any questions on item 2?

Mr. Rapozo: I have a question Donald and Jonathan Jay, and I am sure you met with him... I believe that is his name... the architect or the... he stopped by one day with a plan or an idea, a concept that would actually... probably create a much better situation for bicyclists anyway that they would be able to free ride across and not be having to dismount and walk their bikes across and was that option given thought or you may not even be aware of.

Mr. Furfaro: You were here.

Mr. Rapozo: I may have not been here, but I met with him personally and he showed me...

Mr. Fujimoto: I think that is when it was brought up about this... if this was ever considered at all. Again, it was. It was not considered for the short term, but it was considered for the long term. This is one of the options that they are looking at in putting improvements across Wailua River. I think ultimately, the State believes that they need another four (4) lane access, a new bridge. I think the proposed alignment is mauka of the existing crossing. I think it is somewhere up by the Smith's boat area and, again, that was part of that project.

Mr. Rapozo: Go ahead Councilmember Yukimura.

JOANN A. YUKIMURA: You talking about the Wailua Bridge?

Mr. Fujimoto: Right, that was considered as an option. The option was to either make that four (4) lanes, the existing bridge four (4) lanes, or to actually construct a brand new separate bridge.

Ms. Yukimura: And where is that in its process?

Mr. Fujimoto: I have no idea. The last I heard... they were targeting I guess going out to the community summer of this year, so they are actually behind schedule.

Ms. Yukimura: Well, I think Mr. Jay's point was, you know, why spend \$12 million or \$14 million on temporary when you could wait maybe another six (6) months and then file... I mean, six (6) months, eight (8) months and actually do a permanent project turning Wailua Bridge into a full fledged four (4) lane road and he did say that structural analysis was necessary because he hadn't done that.

Mr. Fujimoto: Right. I think the issue was at that time, the State was, again, going through the process of doing the long range plan and this... doing this now would contradict their need for that long range plan, therefore, jeopardizing that project. Therefore, they looked at it as a short term... what could they do to alleviate the traffic now on the short term.

Ms. Yukimura: Okay.

Mr. Rapozo: Thank you. Any other questions? If not...

Mr. Fujimoto: Item 3, provide written verification that the County was exempt from doing an environmental EA for this project. Attached is a copy of exemption (inaudible) class number 3 of the comprehensive exemption list for the

County of Kaua'i, Department of Public Works on file with the State of Hawai'i, Office of Environmental Control. Please refer to items number 4, 7, 11, 16, 60, 67 and 71. Also, attached is a copy of Federal Highways information concerning National Environmental Policy Act (NEPA) implementation and please refer to Section 771.117 category (inaudible) exclusion C3.

Mr. Rapozo: Any questions on item 3? Go ahead.

Ms. Iseri-Carvalho: I mean, you know, it just... what you guys have attached is this 1999... the way the County of Kaua'i exempts itself from its project of getting an EA. How did that work? And then when you look at exemption class 3, it refers to construction and location of single, new, small facilities or structures and the alteration and modification of the same and installation of new, small equipment and facilities and the alteration and modifications are the same including, but not limited to, single family residences less than 3,500 square feet... multi unit structures designed for not more than four (4) dwelling units, stores, offices and restaurants designed for total occupant load of 20 persons and water, sewage, electrical, gas, telephone and other essential public utility services... extension to serve such structures or facility. It is just totally not even applicable. I mean the testimony by Doug Haigh was that they are categorically exempt from doing an EA because and that you guys were doing this just from the goodness of your heart for the entire bikepath. That was the testimony and how does this exclude you from doing that? It is not even applicable. You know, I think maybe this was a thing that you need to consult with Doug Haigh with, but, you know, I remember talking with the Federal Highway guy. We flew up to Honolulu and they basically said that you need to comply on the (inaudible) with the EA process.

Mr. Fujimoto: Yea, I will have to get back to you.

Ms. Iseri-Carvalho: So, I mean, I understand that, you know... so we can defer the question Committee Chair, but I don't think that satisfies...

Mr. Fujimoto: I believe our exemptions specifically says bikepath and pedestrian ways as an exemption.

Ms. Iseri-Carvalho: How can the County... well, you know, it refers to that and then it talks about new pavement. It says, number 4 was construction of new pavement, included but not limited to driveways, parking lots, walkways and bike... So the Federal law... none of that even apply? It is just... you guys exempt based on number 4... number 7 was comfort facility. I mean it looks like you guys are not looking at the bikepath in totality like you have taken out certain things like new pavements and comfort facilities and existing parks, pedestrian bridges... parts where you have bike racks... um, sidewalk and covered walkways and then you have like pavilions, you know, but I just don't think this is the...

Mr. Fujimoto: Well, my understanding of, again, the EA process is there

are two (2) separate and distinct issues. One is the State and I think it is the 343 and that is called the EA (Environmental Assessment). Under the EA, each County submits issues that are exempt... that the State already pre-qualifies as exemptions otherwise, you know, nothing would get done because everything we would do would have to go through this process. So... the Federal guidelines, again, have their own criteria and I don't have the guideline right here, but, again, they also have pre-determined items that they consider to be excluded... categorically excluded. I believe that bikepaths are one of them. I mean it is obvious that, you know, in the... like, for example, there's um... doesn't have Class II, but the exemption Class I is really operation and repairs. This is a new project, but he just list that because there are some places that we are redoing like in the case by Pono Kai, etc. But in exemption Class III, these are new facilities and it is not only small facilities or structures. It could be alteration, etc. and if you look at item 4 there, it specifically says construction of new pavement including but not limited to driveways, parking lots, walkways and bikeways. So these are specifically excluded from requiring EA.

Ms. Iseri-Carvalho: But it is only if they don't have significant impacts. When you did the... Mr. Sweeney's group when they did their EA, they totally contested the findings of the consultant, right? I mean, you are saying that you guys... If you guys don't have... if you are saying that you guys don't have to do an EA, then why are we wasting our money doing an EA for each segment of the bikepath?

Mr. Fujimoto: Again, I was not part of the initial phases of doing this design, so I am assuming that they relied on this and at that time, there was no significant objections to these projects. Again, I don't know. I can check and get back to you. Again, we can have Doug Haigh here because he is ultimately the guy that was involved initially and is intimately involved with the initial stages.

Ms. Iseri-Carvalho: Okay, so we just follow up with number 3 question.

Mr. Rapozo: I do... I think the intent of category 3 exemptions, if you read that, construction and location of single new small facilities or structures. Small facilities or structures and not so much a huge project like that. Councilmember Bynum?

TIM BYNUM: I am a little confused by this question. What is it we are saying was exempt from an EA?

Mr. Fujimoto: The bikepath itself, the project.

Ms. Iseri-Carvalho: The entire project.

Mr. Fujimoto: Yea, the pavement. You know, pavements are exempt according to this.

Mr. Bynum: But we have an EA for each segment of the bikepath.

Mr. Fujimoto: And, again, I am not... and I can get back to you. I thought we did run an EA even though we did not need one that (inaudible)... that we do have one on file.

Ms. Iseri-Carvalho: I guess I would want to know how much the cost of this EA was that took off from the bikepath if we didn't have to do it.

Mr. Fujimoto: And I don't know and I need to get back to you.

Ms. Iseri-Carvalho: And we could have had, you know, maybe a longer bikepath. I mean, you know, I don't know, but I know that there was some significant environmental impacts that were provided in the environment impact... environmental assessment that was done by the Sweeny group in that area by Wailua... across Wailua Houselots, the road, what is that one way road?

Mr. Rapozo: Papaloa.

Ms. Iseri-Carvalho: Papaloa, so it is quite interesting if that is the response, but like I said, the answers that were provided doesn't appear to satisfy that question.

Mr. Bynum: So was the question here, we could have exempted, but we choose not to because there is an EA for each segment of the bikepath. I don't understand the premise of the question.

Mr. Fujimoto: I am not, you know, I am not familiar with the exact details of this process.

Mr. Rapozo: Well, the question was simply because the statement was made that we were categorically exempt from doing an EA, the question is, what exempts us from EA's and that is what this...

Mr. Fujimoto: Well, the exemption class, again, is obvious that it is written here that, you know, again, you can always do an EA just to be safe. You can always do another EA, but...

Mr. Rapozo: If you are stretching this category 3, we can build anything pretty much without an EA.

Mr. Fujimoto: But it is specific though. You know, it should fall under one of these categories, you know. I think there is 1 through 40... 1 through 63 items, 1 through 74, excuse me wait. Yea, 1 through 74 items. So, for example, you know, if you were to build... it says here, pavilion, comfort station, and picnic

shelters. They are specifically exempted.

Mr. Rapozo: Right, in itself as a small project.

Mr. Fujimoto: Yea.

Mr. Rapozo: But if it is part of a big project, I think what I am saying is, if the project is big and it includes a lot of these things, if the rationale is saying, okay, we don't need an EA for the bathroom because it is covered here. We don't need an EA for the bikepath segment, then it is fine... a pavilion because it is listed, then we don't have to, but I think what the question is in the total project.

Mr. Fujimoto: Yea, again, and I am not an attorney, so I am not sure.

Mr. Rapozo: And you are probably not the right one to ask, so we can move on and we will get clarity on that question and...

Ms. Iseri-Carvalho: Can I ask just one more question?

Mr. Rapozo: Sure.

Ms. Iseri-Carvalho: Donald, you know this list, who created this list?

Mr. Fujimoto: This is, again, this was, you know... this was created way before my time. This was part of the process of the environmental assessment that during this environmental assessment issue when this was developed. You know, basically, the whole purpose of the environmental assessment is to protect the environment, to find the impacts of any project or anything that you did and especially if government funds. Using government funds even more, you should be accountable on the environment. I mean, that is the whole intent, but as part of the process if we did not have an exemption class, every time we do a resurfacing project, we would have to do a, you know, one of these things and it is an exemption. If you look at exemption Class I, it doesn't have everything, but I am pretty sure there is a resurfacing item 3.

Ms. Iseri-Carvalho: Donald, I guess the question is and you can't answer it, so no sense guessing, but one who created the list because it just seems that there would be some sort of conflict if the County creates its own list of exemptions and then exempts itself from doing an EA.

Mr. Fujimoto: Well, it was approved by the OEQC, but again, the process itself is that the... what do you call that, the receiving agency or the responsible agency actually approves the exemption, so in this case, we would have to approve whether this exemption qualifies or not. And you are right, does it sound (inaudible)... but that is the process and the State ultimately is the final so-called agency that...

Ms. Iseri-Carvalho: Determiner.

Mr. Fujimoto: Yea, right, that won't say yes or no.

Ms. Iseri-Carvalho: And I guess that is why I am confused because I remember meeting with the State Highways persons and they brought up 4F and they brought up that process and they... we had mentioned about the golf course area and I believe it was clear from when speaking to them that an EA had to be done and certain other things had to be considered. But, you know, instead of, you know, about going back and forth about this. Why don't we both go get the information from the parties that we believe could answer that question more thoroughly because otherwise, it seems that for almost anything you can get an exemption.

Mr. Fujimoto: Only if it falls over here though. There is a lot of things that doesn't fall under here and the...

Ms. Iseri-Carvalho: You can stretch it because it is so generic.

Mr. Fujimoto: There is also a list that specifically says that you have to get an EA on... that you cannot go through an exemption. One of them is wastewater plants, you know, any kind of wastewater facilities, you have to have an EA whether it is private or public or whatever.

Ms. Iseri-Carvalho: In 3, essential utilities including, but not limited to wastewater system, drainage system... this is part of exemption class 3, number 3, water system...

Mr. Fujimoto: This is a... where are you looking at?

Ms. Iseri-Carvalho: Exemption Class 3 which is the one you told us to look at... that that is the class that we are under, right? You are saying look at exemption class 3 of the list, so that is the one that we are looking at. The one I said it references single family residence, multi unit structures, stores, offices and restaurants and water, sewage, electrical, gas, telephone and other essential public utility services and then it lists the 74 exemptions, right?

Mr. Fujimoto: Right.

Ms. Iseri-Carvalho: And then you go, everything is exempt. Fencing, curbing, walls, extensions, modification or additions to any existing building, essential services including, but not limited to, wastewater system, drainage system, water system, electrical system, communication system, irrigation... I mean everything is exempt.

Mr. Fujimoto: But it has to qualify under 1 through 74.

Ms. Iseri-Carvalho: And that is the list I am giving you.

Mr. Fujimoto: So even though it says that generically, yes, sewer, water and all that stuff, but it has to be through one of these.

Ms. Iseri-Carvalho: It is, number 3. Try look at exemption class number 3.

Mr. Rapozo: I guess the better question is, Donald, what is not exempt? What would be an example of something that is not exempt?

Mr. Fujimoto: There is a list. There is a specific list that is not exempt.

Mr. Rapozo: Can you recall what one of them might be?

Mr. Fujimoto: Well, one of them, like I said, was wastewater.

Ms. Iseri-Carvalho: Cannot be.

Mr. Rapozo: It is not because wastewater is...

Ms. Iseri-Carvalho: It says right here, exempt, wastewater systems.

Mr. Fujimoto: This is um... and that is a contradiction I guess.

Mr. Rapozo: My point exactly.

Ms. Iseri-Carvalho: We will pass that one.

Mr. Rapozo: Let's move and go get the accurate list.

Ms. Iseri-Carvalho: Go get the list and then we come back and talk.

Mr. Rapozo: It is not an easy issue. I think that, you know, the EA process itself is definitely open for controversy.

Mr. Bynum: I am still not clear why we are discussing the exemption that is under the bikepath which just had an EA for each section of it. I have been familiar with this exemption for some time and where I have seen it applied is, you have an existing facility and you are going to add one shelter, one pavilion or you are going to add a walkway or it gets more specific in here about minor modification to existing sewage treatment plants that are within... are consistent with the masterplan capacity. So I have always seen this as, hey, if the County has facilities and they are going to add a small shelter, add a comfort station to a park, but if...

you know, so like at Lydgate Park, when we master planned the whole park, we did an EA because it was comprehensive in nature. It wasn't just an addition here, an addition there, but for the bikepath, we've done an EA for each segment.

Mr. Fujimoto: And, again, I am not real intimate with this project, so I know you guys had a very long day and it is pretty late, so can I make a recommendation that we defer this until I get the proper staff here to respond to this?

Ms. Iseri-Carvalho: That is fine Donald. But then, you know the rest of the questions that still needed to be answered and that is fine. I mean we can defer this because we have other things and I would rather have a comprehensive report. I am just saying that we have been waiting for two (2) months and we wanted to... I was hoping that we would get the answer, so we could receive this item and await the audit for the bikepath, so that is my intent. So if you can help us facilitate that process by finishing up the questions... the questions that are still outstanding was ones that you guys already provided answers to, but we wanted the County Attorney's Office to concur because there was testimony both here and at the Planning Commission that the County was responsible for the construction cost of the roofs. I don't see that. I don't know why because initially, it was testified that we weren't responsible and then we said that we are responsible and that is what we are going to leave 'em on and now, you know, we ask for the County Attorney's opinion and we never ever got that.

Mr. Fujimoto: Can you submit that in writing because, you know, it gets real fuzzy after a while and I am not really sure what the question is after a while. But from my understanding and my recollection of that item, again, yes, I confirmed that if the process is that the contractor is responsible for all cost to do the project as they had submitted. There are shortcomings with this so-called issue was their responsibility. If we had stopped them or prevented them from being able to do their job, then we would become responsible and that is really the issue.

Ms. Iseri-Carvalho: Well, no, the issue was that we needed a County Attorney's opinion to...

Mr. Fujimoto: And, again, I don't know what to ask the County Attorney. I mean I am not sure what the question is.

Ms. Iseri-Carvalho: It says that this is the same questions, Donald, from September 18 that we never ever got answers to. You know, we asked about the safety signage on the bridge. We had concurred with your department that the bridge railings did not appear safe because they were flimsy. I mean you could literally with your hand move those side to side.

Mr. Fujimoto: Yes.

Ms. Iseri-Carvalho: These things need to be answered before the final walk through of the bikepath before we accept the bikepath.

Mr. Fujimoto: Right.

Ms. Iseri-Carvalho: And so all these safety issues have to be in place because we don't want to accept something that isn't safe and that was something that was brought up by Mr. Haigh himself that he felt that that bridge...

Mr. Fujimoto: And I believe he did address that issue and, again, just in the interest of time and everything, I think the best thing is if we defer this until he is here.

Ms. Iseri-Carvalho: But I don't want to defer it and not get answers and that is all that I am saying. Do not accept... I would hope that you guys are not going to do the final walkthrough until these answers are provided to us.

Mr. Fujimoto: Well, again, we actually... we really thought, honestly, that we had answered the questions as completely as we...

Ms. Iseri-Carvalho: But you guys are saying that you guys are waiting for responses.

Mr. Fujimoto: Well, some of them from Glover, yes.

Ms. Iseri-Carvalho: Right, I mean, so you guys, you know, clearly once we release them from the bikepath as being the contractor, you know, we don't want to be stuck like how we have been stuck before that the warranty period doesn't apply which is the one year period after the walkthrough and then we have all these safety issues that are outstanding and then we have to incur the cost for this.

Mr. Fujimoto: Right.

Ms. Iseri-Carvalho: That is the concern for that and, again, the rockfall study, we still haven't gotten the study back from you guys.

Mr. Fujimoto: Duly noted.

Ms. Iseri-Carvalho: And that is like, you know, that has been like over a year now.

Mr. Fujimoto: And we are aware, thanks to you of that handrail issue and we are looking into that.

Ms. Iseri-Carvalho: But I don't mind having it deferred.

Mr. Rapozo: Thank you.

BILL "KAIPO" ASING, EX-OFFICIO MEMBER: Councilmember Rapozo, what we are going to end up doing... we have a lot more work on the agenda. I do not believe that we can finish, so I am not going to continue meeting after 6:30, so let's mark 6:30 as the time that we will take the dinner break.

Mr. Rapozo: Okay.

Chair Asing: Then we can go forever.

Mr. Rapozo: No, we don't want to go forever, but...

Chair Asing: Let's take the dinner break. I don't want to infringe on our employees like I did the last time and I apologize that it went a little extra long and I don't want to do that.

Mr. Rapozo: Okay, thank you Mr. Chair. Okay, thank you Donald. Do we have any more questions for Donald before we entertain the motion to defer? Okay, perfect. Can we have the 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 Yukimura, 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.

Mr. Rapozo: Is it okay to take the next item as well? Is that okay staff? I mean, does that cause a problem for you who have to type up all these minutes? Is it a problem? I believe... I am not sure.

Ms. Iseri-Carvalho: The question relates to both items. On memorandum that was dated October 24, 2007, the question that I wanted to get answers was, as it related to all of the seawalls and road alignments, we had proposed and had discussed with Bernard Carvalho who was here at the time representing the Pono Kai project that it might be more feasible to do all that Kapa'a area. Moanakai, Pono Kai and Kapa'a Beach Revetment in one RFP as opposed to taking it individually because they would... it appears, based on our discussion this morning as well as, you know, what we know from history that they

would have some impact. If they change one area, they would have impact to the other remaining areas, so it was my understanding based on discussions with Mr. Carvalho that it was going to be handled as one project, one big project. So we never got a response Donald from the October 24 memo, so I guess we will try to...

Mr. Rapozo: Okay, what we will do is we will take both items. Staff has informed me that as long as the action at the end is the same for both, we can take it up together and it would be. So let's also take up PW 2007-12 which is the action plan and timeline for the Moanakai Road alignment/Fujii Beach Revetment as well. So we will take up the two (2) items at the same time.

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. Fujimoto: Okay, I guess I already gave you some background information on both and I think I tried to state our position. And in all due respect to Councilperson Iseri-Carvalho, we did look at trying to package the whole deal. There are couple issues with that. Number 1 is that because of the immediacy and the safety of both 'Aliomanu and Pono Kai, we really did not want to jeopardize those projects by trying to package these together. So we went ahead and we actually issued PO's, separate PO's for both 'Aliomanu and Pono Kai with Oceanit and they are, right now, pursuing those projects and the case of 'Aliomanu, we just... I just got an e-mail from them today with recommendation on temporary repairs. The case of Kapa'a Beach Revetment is a real complicated issue because that revetment is only one small section of that whole beach in front of that area, so to try to decide what we are going to do there. Whether remove it, expand the wall or what we are going to do really comes down to more of a system wide report which was a recommendation of Oceanit. Since Dr. Fletcher... I guess Chip Fletcher from U.H. Sea Grant is working on that study for Kaua'i. We felt that maybe we should wait for that report before we can do any kind of assessment on what we are going to do on the long term repair because there are several options. I mean, you know, you can harden it, you can do sand replenishment, you can do these so-called underground bypasses or whatever they call it. So the recommendation really is... leave... there is no doubt that the revetment there is slowing down the process. It is almost like a peninsula right now, so there is no doubt in my mind that if we were to just go there and pull it out, that we are going to accelerate the erosion in that area and we are not even sure if that is going to come back or what is really going to happen. Ultimately, once we do that... so, hopefully, we are trying to buy time by leaving that there until we get the study, so we can come up with some intelligent idea of what we are really going to do. It is hard to say that that is really an emergency right now because there is no real immediate threat to anybody, you know, like in the case of Pono Kai seawall where we actually have safety netting...

people walk around there constantly. This area is more isolated. It is more of a... there is a natural drop off, so we are looking at signage and those kinds of issues to mitigate the immediate safety situation there. In the case of Moanakai...

Ms. Iseri-Carvalho: Before you go into Moanakai, I have a question on the Kapa'a Beach Revetment, so are you saying that... was this determination made with the consultation of Oceanit?

Mr. Fujimoto: Yes.

Ms. Iseri-Carvalho: And they said that that would be okay?

Mr. Fujimoto: Yes, again, their feeling was that if we were to pull it, we would definitely lose a lot of that beachfront rapidly and we are not sure like the impact that maybe that... just that small segment is really slowing down the rest of the erosion along that coast. By pulling that out...

Ms. Iseri-Carvalho: And we weren't suggesting to pull it out. I mean we don't know what would be the suggestion because that is why we needed the report from Oceanit to let us know what would be the best course of action. We do know that... and this is from testimony from your department that the last two (2) years, they've had five (5) feet of erosion. This is what was testified too, so I am worried. I mean, to me, if we are talking about trying to protect that beach area, apparently, the revetment is there and we are still losing five (5) feet a year which is high for the rest of the island. That is a high rate.

Mr. Fujimoto: Well, the...

Ms. Iseri-Carvalho: Hold on. I don't understand why that is not something that we are addressing as a emergency situation and I am using the term emergency loosely, but when I see a piece of property that is losing five (5) feet a year and that has been documented for the last two (2) years which means we lost 10 feet in the last two (2) years, I think there are some serious concern.

Mr. Fujimoto: Okay, one of the issues that has come out by Oceanit themselves is they are not even sure what the best course of action is without doing a very in-depth, lengthy, very long study that U.H. is already doing and have undertaken. So for them to try repeat what they have already started, it might take three (3) or four (4), five (5) years just to come up with the plan on how to resolve this problem because it is not a simple thing about, you know... nobody really understands the current... everybody has their theories and I believe that Oceanit theories is actually not consistent with Dr. Fletcher's theories.

Mr. Rapozo: Donald, Dr. Fletcher's study is only going to show erosion. It is not going to show...

Mr. Fujimoto: It will show a pattern. It will show a so-called pattern and so-called theory about how this ocean current is moving.

Mr. Rapozo: I don't know if his does that. I think we contracted him just to do the erosion rates. I am not sure and maybe I am wrong, but the last time he was here, all he does is rely on photographs.

Mr. Fujimoto: Again, Oceanit believes that that study will give them the information they need to come up with a recommendation. So for them to develop that same study would be to duplicate the efforts. So it is hard to do emergency for something that will be five (5) years later to get a...

Ms. Iseri-Carvalho: Five (5) years later times five (5), we are going to be 25 feet... we are going to be in the bikepath over there pretty soon.

Mr. Fujimoto: Yea, I mean so we don't know. I mean nobody really knows. We were hoping that the current will eventually replenish itself like in the case of the golf course where the beach is actually replenishing itself through that so-called current, but we don't know. Nobody really knows and so even to suggest beach replenishment and this is Oceanit's very words. Even to suggest sand replenishment, there are no guarantees. How long would it last? They don't know. How often do you have to keep adding sand, they don't know. So now are we going...

Mr. Rapozo: Maybe we have to find somebody that does know.

Mr. Fujimoto: I think the science is there. I think the issue is, how do you address a problem if you don't know what the problem is?

Mr. Rapozo: You hire an expert that knows how to figure it out. They don't sound like the experts if they are going to rely on Dr. Fletcher's report.

Mr. Fujimoto: They can develop their own and they are telling you this, but it takes time to come up with this report.

Mr. Rapozo: And I understand that, but if he is just saying... Dr. Fletcher's report is going to come back and say, you guys probably got about a 3.8, 4.2 erosion rate (change tape)...

Mr. Fujimoto: Again, Oceanit has a theory and, you know, again, how are we going to be held hostage to... let's say we decide that we want to preserve Kapa'a Beach Park, so we are going to do sand replenishment.

Mr. Rapozo: That would be a good idea.

Mr. Fujimoto: So we are going to do sand replenishment.

Mr. Rapozo: That would be a good idea.

Mr. Fujimoto: So we are going to spend millions of dollars every year... we are not even sure how many millions because we don't know how fast the sand will go away and where will the sand come from. So these are issues...

Mr. Rapozo: We have one minute left and I guess I would probably want Oceanit here to discuss this matter as well. I think I would like to have them... a representative from Oceanit here to discuss this as well, so it will be my request that we defer this. Donald, I guess my only question... in the area of Moanakai, what are we going to do as far as the bikepath and the alignment of the road. Are we going to proceed?

Mr. Fujimoto: That is going to be... we are holding that last. We are trying to address this issue on stabilizing that road first.

Mr. Rapozo: So that is... your intention is to not proceed until we get this area stabilized?

Mr. Fujimoto: Well, or we get some idea from Federal Highway on what they consider to be vested interest or... an example, we pave the road. We pave a brand new road. The contractor will come in and put in a brand new waterline. He can't do that for one year, so does that mean the life of that road is one year and they are going to patch it and, you know, everything is fine? I mean, so the Federal Highway guidelines would determine what is the life. If there is a life for this project, so-called the cycle life, so if we get 10 years out of this or five (5) years out of this, is that considered the project life, I don't know. These are issues that I need to discuss with Federal Highway.

Mr. Rapozo: But you know the intent of starting to lay concrete down on that area where we were told by Oceanit that there is probably some under the road burrowing of the tunneling of the water that was there... what they told me when I was there standing on that road. They said, it appears that the undermining is probably under the road and...

Mr. Fujimoto: Again, Oceanit... you know, because my biggest concern is, is this an immediate threat? Do we need to do an emergency procurement?

Mr. Rapozo: And I understand that, but barring that, I just want to make sure that we are not going to proceed with laying anymore assets down on the ground... (inaudible) relocating telephone poles, moving roads to accommodate the bikepath before we have an understanding what is going on under that Moanakai Road. That is what I want to hear from you. Is that the intent of the Administration or are you guys proceeding with the bikepath?

Mr. Fujimoto: Well, we will keep you informed on that. Again, I cannot commit because...

Mr. Rapozo: No, it is just a yes or no. In other words, was there direction to proceed or was there direction to hold off until we really know what is going on on Moanakai Road?

Mr. Fujimoto: Right now, the direction is this would be the last phase of construction.

Mr. Rapozo: Of the bikepath?

Mr. Fujimoto: Of that segment of the bikepath.

Ms. Iseri-Carvalho: (Inaudible) conditions that were imposed by Planning anyway that you would still need to get your construction documents within six (6) months of the certified shoreline which... I mean, you still got the other conditions...

Mr. Fujimoto: Right, so the planning might proceed, so we may have to proceed and come up with the alignment and come up with the design, but actual work would be phased so that...

Ms. Iseri-Carvalho: Could not happen.

Mr. Fujimoto: We are going to try to... we try to leverage this project to actually have the Federal government pay for the improvement, but they said they couldn't.

Mr. Rapozo: No sense they pay for the improvement and we have to go pay to fix it later because the road had caved in under. Anyway, we will end it there and it is 6:33. I am sorry Mr. Chair, I went three (3) minutes over time. I will ask for a motion to defer, but I will also ask that we contact Oceanit and have... maybe the Administration can have them here as well on that meeting date.

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

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

PW 2007-13 Communication (9/26/2007) from Mel Rapozo, Public Works Committee Chair, requesting that the Administration be present to present their evaluation report on the Traffic Calming Pilot Study on Weke Road in accordance with Resolution No. 2006-08.

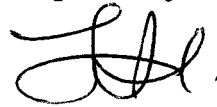
**[This item was deferred until the December 12, 2007
Public Works Committee Meeting.]**

Mr. Rapozo: This was a condition of the Resolution 2006-08. There is a request to defer this until December 12.

Upon motion duly made by Councilmember Iseri-Carvalho, seconded by Councilmember Yukimura, and unanimously carried, PW 2007-12 was deferred until the December 12, 2007 Public Works Committee Meeting.

There being no further business, the meeting was adjourned at 6:35 p.m.

Respectfully submitted,



Lisa Ishibashi
Council Services Assistant

APPROVED at the Committee Meeting held on November 28, 2007:



MEL RAPOZO
Chair, Public Works Committee