

MINUTES

PUBLIC WORKS COMMITTEE

December 6, 2006

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, December 6, 2006, at 10:05 a.m., after which the following members answered the call of the roll:

Honorable Mel Rapozo
Honorable Jay Furfaro
Honorable Shaylene Iseri-Carvalho
Honorable Ronald Kouchi
Honorable JoAnn A. Yukimura

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

- C 2006-313** Communication (10/5/2006) from the Councilmember Iseri-Carvalho, requesting that the County Engineer and Planning Director be present at the October 11, 2006, Council Meeting to discuss permitting for the fifteen (15) rest pavilions being built along the coast from Keālia to Kapa'a.
[This item was deferred.]

MEL RAPOZO, PUBLIC WORKS COMMITTEE CHAIR: I am still awaiting confirmation that... I know that the memo was out to the County Engineer as well as the Planning Director. They are not here and I have been informed that they may be out sick, so I would ask that we recess this Committee until I get confirmation from the Administration whether or not they will be present, so this Committee will stand at recess.

There being no objections, the Committee recessed at 10:06 a.m.

The meeting was called back to order at 10:06 a.m., and proceeded as follows:

There being no objections, the rules were suspended.

Mr. Rapozo: Oh, there is Donald. Donald Fujimoto, thank you. Any questions for Donald?

SHAYLENE ISERI-CARVALHO: I do. Mr. Chair, I am in receipt of your responses to the questions that I had sent on November 24. We received a response

on December 5 and I would just like to go through those responses. I guess the question that I had asked, what is the certified distance from each pavilion to the shoreline? I know that you provided a map and maybe you could explain that map.

DONALD FUJIMOTO, COUNTY ENGINEER: Donald Fujimoto, County Engineer. Doug Haigh has...

Mr. Rapozo: Hang on real quick Donald. I know that Councilmember Iseri-Carvalho has the responses. I am not sure if everyone else does.

Ms. Iseri-Carvalho: It is in the packet.

Mr. Rapozo: Okay, I am sorry, continue.

Mr. Fujimoto: Doug Haigh who is the Project Manager is also on his way. I apologize, but I did not bring a copy of that response too, so I am kind of at a lost here.

Ms. Iseri-Carvalho: Maybe you want to take a recess.

Mr. Rapozo: Is Doug on his way?

Mr. Fujimoto: Yes.

Mr. Rapozo: How long is he...

Mr. Fujimoto: As long as it takes him to walk over here.

Mr. Rapozo: So he is walking across?

Mr. Fujimoto: Yes.

Mr. Rapozo: So why don't we take a short recess until he gets here, so we don't have to repeat ourselves. B.C., let's just do the caption break because I am not sure...

There being no objections, the Committee recessed at 10:09 a.m.

The meeting was called back to order at 10:21 a.m., and proceeded as follows:

There being no objections, the rules were suspended.

Mr. Rapozo: Councilmember Iseri-Carvalho, continue.

Ms. Iseri-Carvalho: We have begun, Doug, before you entered in going through the questions on the memo that was dated November 24 and the responses that we received. Before even getting into that, I think what is important just to set the background on how... when there is a building that is sought to be built in an SMA area, what is the process?

DOUG HAIGH, BUILDING SUPERINTENDENT: The actual permitting process, I do defer to Planning on that, but as far as Public Works, on this project, what we did is we submitted an SMA application to Planning for approval.

Ms. Iseri-Carvalho: And we are trying to get the dates for that. I think they may have provided the SMA...

Mr. Haigh: Yes, we first submitted the application in February 2003 and then in September 2003, we submitted the final EA to Planning to finalize the SMA application. And then in October 2003 is when Planning had the first public hearing for the SMA use permit.

Ms. Iseri-Carvalho: Okay, now on this... what documents need to be attached to your SMA permit application?

Mr. Haigh: I can't answer that.

Ms. Iseri-Carvalho: Okay, that would...

Mr. Haigh: The SMA permit application included the final environmental assessment. That was the document that was added at the end.

Ms. Iseri-Carvalho: That was added, yes. So just generally, I mean, I guess you've applied for SMA permits before on behalf of the County?

Mr. Haigh: I have never put together a package myself. We have consulted... I believe this is the only project that I've done a full SMA permit application for and then we had consultants doing that for us.

Ms. Iseri-Carvalho: Donald, do you have any input with respect to filing an SMA permit application?

Mr. Fujimoto: No, I don't. We can tell you what we included in our application.

Ms. Iseri-Carvalho: With respect to the pavilions.

Mr. Fujimoto: Yes.

Ms. Iseri-Carvalho: Okay, that is fine. Specifically, in your SMA, it was submitted... the SMA permit application was submitted in February 2003 and as part of that SMA permit application, what were the documents that were attached?

Mr. Haigh: I have not memorized that. I would have to go back and double check with the consultant to get that complete list of what they submitted.

Ms. Iseri-Carvalho: You don't have a copy of the SMA...

Mr. Haigh: Not with me, no.

Ms. Iseri-Carvalho: Do you have a copy back at your office?

Mr. Haigh: Yes, but there were other things that had been sent in separately by the consultant, so I would need to touch base with the consultant to find out what the complete submittal was.

Ms. Iseri-Carvalho: Okay, in the application for your SMA permit, would that... I know that there were many documents that were attached, but as part of those documents that were attached, was the shoreline certification?

Mr. Haigh: I am not certain when the shoreline certification would have been forwarded to Planning because we did get the final certification was, I believe, November 22, 2002. I believe the maps that were submitted with the SMA application reflected the certified shoreline, but I am doing that off of memory.

Ms. Iseri-Carvalho: Okay (change side of tape).

Mr. Rapozo: And what is required in an SMA permit application. It doesn't sound like Donald or Doug can answer that, so if you want to continue on any other questions in your correspondence until Brian gets here because, I, myself, need some clarification on the process as far as the SMA and what is required in the application for an SMA permit and especially as it pertains to the certified shoreline.

Ms. Iseri-Carvalho: Yes, if I could... I am fine up until now. I think it is important to get the process first and if Brian is one that could possibly assist, then we will wait until Brian gets here. My understanding is that he was here earlier and then he was going to a meeting and was going to return. I didn't realize that he was going to leave during the break.

Mr. Rapozo: Neither did I.

Ms. Iseri-Carvalho: I thought he was here for the hearing until completion.

Mr. Rapozo: I think he was and then he was summoned, so I have summoned him back. Councilmember Yukimura then Councilmember Furfaro.

JOANN A. YUKIMURA: I am sorry, I missed the full chronology that you were going through, but when was the application made? The SMA application?

Mr. Haigh: The SMA application was first submitted in February 2003.

Mr. Fujimoto: The last time we came, I guess I did a PowerPoint and I did have a chronological highlight of all the events.

Ms. Yukimura: Okay, but then the certification was...

Mr. Haigh: In 2002, November 22, 2002.

Ms. Yukimura: So that was current at the time of application.

Mr. Haigh: That is correct.

Ms. Yukimura: Okay.

Mr. Haigh: And my memory is that was one of our hurdles was to get this certified shoreline done in order to do the SMA application, so that we had defined, you know, the structures in relationship to the certified shoreline.

Ms. Yukimura: That is good.

Mr. Haigh: And that also because we did apply for SMA variance and we wouldn't have been able to do an SMA variance unless we established where the 40 foot setback was.

Ms. Yukimura: Right.

Mr. Haigh: So we did get an SMA permit and an SMA variance at the same time with the same application.

Ms. Yukimura: So the bikepath and I am trying... the bikepath is...

Mr. Rapozo: Councilmember Yukimura, I think we need to stick to the pavilions only on this item because...

Ms. Yukimura: Excuse me, then the pavilions are all outside of the 40 foot setback except one?

Mr. Haigh: No, they all are outside of the 40 foot setback.

Ms. Yukimura: Okay.

Mr. Haigh: The variance was not for the pavilions.

Mr. Rapozo: Councilmember Furfaro?

Mr. Furfaro: Thank you. When you reference the SMA application and the consultant, am I to assume that the actual application, since neither you nor Public Works had any experience prior with the SMA application on these pavilions, that it was the consultant that did the application and could I ask who that consultant was?

Mr. Haigh: The consultant was SSFM International and Public Works was the signator to the application. They did the work for (inaudible) the application.

Mr. Furfaro: So Public Works did the preparation of the application, not SSFM?

Mr. Haigh: We were signatory. They prepared it and we signed it.

Mr. Furfaro: They prepared it for Public Works, got it. Thank you. My questions have been answered.

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

Ms. Iseri-Carvalho: And maybe this may not be your question, but I know that the shoreline certification is valid for a year. Is that your understanding as well?

Mr. Haigh: State law is that it is valid for a year as far as State laws is concerned.

Ms. Iseri-Carvalho: And what does that mean when you say that it is valid for a year?

Mr. Haigh: That is all, I am not an expert.

Ms. Iseri-Carvalho: Alright, so we will wait for Planning to get here.

Ms. Yukimura: Well, I think if I might just pipe in here. One of the implications of that is whenever you are establishing a setback line before the Planning Department, the line from which you measure has to have been certified within a year of that measurement. That is the beginning point, right, of the measurement of the setback. You measure a setback from the certified shoreline.

Mr. Rapozo: I guess the concern is if the certified shoreline was done in 2002, you would have to assume that the shoreline in 2006 is no longer the same. So in essence, your structure could be in the setback by the time you construct. So that was the question I know that Councilmember Iseri-Carvalho had. I couldn't answer and I am hoping that Brian can.

Ms. Iseri-Carvalho: And the question is because the testimony that we had previously received was that when the final EA was done or when it was presented to the public, the actual selection of the sites of the pavilions as well as the rest stations were not picked. I mean, they were not done until a later time, so that was my concern. I don't know at what point they were done in order to establish using that same setback. Not the same setback, the certified shoreline.

Mr. Rapozo: Go ahead Councilmember Yukimura?

Ms. Yukimura: So, I mean, so the EA was prepared and at that point, the locations had not been determined, but at the time was SMA application, they should have been determined.

Ms. Iseri-Carvalho: To my understanding, they were not.

Mr. Haigh: The picnic shelters were identified in the SMA application, the locations. A couple of them have been moved during the building permit process. The rest areas were not... the location or quantity of the rest areas was not identified in the SMA.

Ms. Iseri-Carvalho: So that is the concern that I have.

Ms. Yukimura: So they were not focusing on the rest areas then?

Ms. Iseri-Carvalho: Well, I don't know. I need to get clarification because there was also some testimony that some of the pavilions had been within one foot of the setback and if they were one foot of setback that was established in 2002, I don't know how valid they are after they were built if they were not measured at the appropriate time.

Ms. Yukimura: I think that is a question for Planning.

Mr. Rapozo: Exactly.

Ms. Yukimura: Those are the questions that were testimony given back and forth and, Donald, I do have your chronological highlights and in the chronological highlights we did not have the shoreline certification date. We start off with November 2002 as when your draft EA was published. In February 2003, as Doug has just testified, that was when the SMA use permit was submitted in August of 2003 was when the final EA was published. In September of 2003, the final EA was submitted to the Planning to finalize the SMA use permit and then there were hearings, but the SMA use permit was approved in January 2004. So there is a question on how valid, whether... if the shoreline certification had been done in November 22, 2002 and it was valid up until November 22, 2003 and we didn't have the permit approved until January 2004 if that is still valid or if there is some other considerations and that would be a planning issue. So we would wait for Planning. We do have building issues, but before we proceed with the question on the building issues, I think it is important to get the process from Planning Mr. Chair.

Mr. Rapozo: And I would agree with that because I think that sets the foundation for a lot of the questions that we have as far as the structures themselves. I did have... in the packet that was provided, there is the application for the shoreline certification that was done in October of 2002 and you are saying that it was granted in...

Ms. Iseri-Carvalho: January 2004.

Mr. Rapozo: The certified shoreline... the shoreline was actually certified on what date?

Mr. Haigh: November 22, 2002 and I apologize for that. If you look at the attachment with a magnified glass on the map, you will see that there is this signature block for DLNR on there and that is the official... because I ended up calling up DLNR yesterday trying to track this down and they pointed out to me on that map is the signature by DLNR certifying it and that was... if you look at that signature, it is November 22.

Mr. Rapozo: On the bottom... I see the map.

Mr. Haigh: (Inaudible) 1... it is the one and the see the signature in the bottom right hand corner, that is the one.

Mr. Rapozo: Right.

Mr. Haigh: That is the one.

Mr. Rapozo: That is the State...

Mr. Haigh: And if you want, I can send you a PDF file on that and you can blow up this.

Mr. Rapozo: I trust the copy. I was wondering if there was any... is this what they send back... they only sign the maps? Don't they send back a letter saying...

Mr. Haigh: I touched base with the surveyor and he said that this is all that they got.

Mr. Rapozo: Okay.

Mr. Haigh: And the surveyor is the one who manages this process, so...

Mr. Rapozo: Okay, so page... the first page is the only one that is signed by the State?

Mr. Haigh: (Inaudible). Yes, I believe.

Mr. Rapozo: And then I would assume there would be a... some kind of letter though, right?

Mr. Haigh: I assume also, but I asked the surveyor and he said that he never got another letter.

Mr. Rapozo: Okay, fair enough. Any other questions? Go ahead Councilmember Iseri-Carvalho.

Ms. Iseri-Carvalho: Just for further clarification, in the SMA permit application, can you indicate which of those 15... the rest stations as well as the pavilions were included and not only the design, but whether or not they had specific locations and distances.

Mr. Haigh: Can you repeat that again please?

Ms. Iseri-Carvalho: The SMA permit application process and maybe we can consider them separate. With respect to the nine (9) pavilions, were the locations of those pavilions indicated in the SMA permit?

Mr. Haigh: Yes, except as I mentioned, couple of them were relocated.

Ms. Iseri-Carvalho: And which ones were those?

Mr. Haigh: Those were the ones that were closest in between the lifeguard tower and the entrance going down to the beach.

Ms. Iseri-Carvalho: So there were two (2), three (3)?

Mr. Haigh: Two (2) were relocated.

Ms. Iseri-Carvalho: Okay, the two (2) between the lifeguard tower and then they were located to be right next to each other.

Mr. Haigh: They were located to be tucked in on the north end of Keālia Beach there.

Ms. Iseri-Carvalho: So there were nine (9) of them, right?

Mr. Haigh: There is nine (9) total, yes.

Ms. Iseri-Carvalho: Okay, those ones except the two (2) that were moved had initially been in an SMA permit exact location...

Mr. Haigh: The SMA permit did not have a dimension exact location. It had a map that showed the general location, but it was not dimensioned.

Ms. Iseri-Carvalho: Okay, so there was no distances or no accurate as far as whether it was in the shoreline or not within the shoreline from the certified...

Mr. Haigh: The SMA permit, if I remember correctly, showed the 40 foot setback line and showed all of the structures on the mauka side of the 40 foot setback line.

Ms. Iseri-Carvalho: Even after the change?

Mr. Haigh: In the SMA permit, there hadn't been a change. In the building permit, then I believe the building permit drawings also showed 40 foot setback. My memory is that it did.

Ms. Iseri-Carvalho: Okay.

Mr. Haigh: And I am looking at this map here which I believe is a represent of that and does show the 40 foot setback. It does not show the shoreline because it just didn't fit in the map necessarily.

Ms. Iseri-Carvalho: Okay, so that was submitted in the SMA permit that was in February 2003, right?

Mr. Haigh: Correct, except for the change.

Ms. Iseri-Carvalho: Except for the change and then the change was reflected in the building permit you said.

Mr. Haigh: That is correct.

Ms. Iseri-Carvalho: Okay, and then in the EA, were the locations of the specific pavilions and the rest stations depicted?

Mr. Haigh: My memory is that the supporting documentation for the EA and the SMA were near identical. They basically used the same drawings and the same attachments. In fact, actually, the SMA included the EA as part of its package.

Ms. Iseri-Carvalho: Okay, that was afterwards, though, right? Because the initial SMA permit application was done in February and the final EA wasn't done until September.

Mr. Haigh: It had included the... my memory and I could be wrong. I believe it included the draft EA in the initial submittal and then we had the final EA.

Ms. Iseri-Carvalho: And what was the difference between the draft EA and the final EA?

Mr. Haigh: I cannot tell you exactly the differences.

Ms. Iseri-Carvalho: With respect to the pavilions and the rest stations?

Mr. Haigh: Well, I don't remember any changes at this point, but in the draft EA, I think there is actually reference to some large pavilions at Keālia Beach, potential large pavilions in the draft EA that we did end up changing to the smaller pavilions. I would have to research that to give you specific answers.

Ms. Iseri-Carvalho: So you are not sure and then when we talk about the six (6) rest stations, how was it depicted or was it depicted in the SMA permit application?

Mr. Haigh: It was identified as rest areas with final quantities, locations, to determine during design and design to be determined during design.

Ms. Iseri-Carvalho: Final quantities, locations and design.

Mr. Haigh: Yes.

Ms. Iseri-Carvalho: To be done when?

Mr. Haigh: In design.

Ms. Iseri-Carvalho: And then in... so it was never... even after you guys finalized your SMA permit application, it was never indicated where the amounts, the locations and the design was going to be?

Mr. Haigh: That is correct.

Ms. Iseri-Carvalho: Okay, and at what point were these six (6) determined?

Mr. Haigh: They were determined by the design/build contractor. They had initially determined it in their proposal and I am not positive on the exact locations during the proposal, but at the first public design meeting, they identified the locations of the rest areas and called them rest pavilions and had some graphic representation showing pavilions.

Ms. Iseri-Carvalho: Okay, my recollection based on Donald's submittal of his chronological events, indicates that there were... in April 2004 is when Glover submitted its design/build proposal with the pavilions in lieu of the shade trees. Would that be the date?

Mr. Haigh: That is correct.

Ms. Iseri-Carvalho: Would that be the date then?

Mr. Haigh: Yes.

Ms. Iseri-Carvalho: That was the first time that we had seen the six (6) rest stops with the structures... I mean with the roofs and the actual location?

Mr. Haigh: That is correct.

Ms. Iseri-Carvalho: So you are saying that even though we didn't know where those locations were going to be, that the shoreline certification was still valid?

Mr. Haigh: I am not talking about... I can't respond to that.

Ms. Iseri-Carvalho: Okay, I guess we will wait for (inaudible).

Mr. Rapozo: Anymore questions that... because I am inclined to just recess until we can get Bryan here because I want to get that cleared up because I think there are a lot of questions just involving the process. So, if not, let me recess. Donald and Doug, if you could just relax until Bryan gets here and Bruce?

BRUCE PLEAS: Bruce Pleas for the record. I am no expert on this. I just have dabbled on this on other areas, but your shoreline certification, I believe and you need to check with the expert, Mr. Mamaclay. You need to have... the certified shoreline has to be valid within one year of the building permit application or approval. So it is not just with the SMA, it also goes on that... so it needs to be valid if they said that the proposal by Glover was submitted in April of 2004, you need to have a certified shoreline in April 2003. So you need to just ask that question for the timeline. Also, on your map with the shoreline certification, if there were prior shoreline certifications, they should be on there or you can get hold of the State surveyor and see if there were any prior shoreline certifications that would give you some idea of whether it has changed over "x" amount of time from the shoreline certification, so you need to ask that. You need to get that information too which will help you just kind of figure out that maybe there is some erosion going on or not and also along the lines of erosion, I believe, the County is doing a study and it should be ready in a year or two (2) or three (3) or four (4) or whenever and that will give you that information supposedly at your fingertips for situations like this. Thank you.

Mr. Rapozo: Thank you Bruce. That is what we are waiting for right now is to get some clarification. Anybody else from the public? If not, I will call the meeting back to order and, again, I will be recessing this Committee until we get Bryan from Planning here. Thank you.

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

There being no objections, the Committee recessed at 10:43 a.m.

The meeting was called back to order at 10:53 p.m., and proceeded as follows:

Mr. Rapozo: It is now almost 11:00 p.m. which means that this is about 14 hours since we started at 9:00 a.m. this morning. The Committee was recessed because we were expecting Planning Department personnel to be here to discuss the pavilions, the rest pavilions. Now more specifically, the issue today was regarding the shoreline certification for the pavilions and I just need to express my extreme disappointment that the Planning Director and the Deputy were not available. We had then asked for one of the Planners to come by and explain to us the process to obtain an SMA permit which I assumed and I am learning today more than ever that it is never good to assume anything. But I had assumed that any, pretty much any Planner in the Planning Department, any staff person could come up here and explain to us the process to get an SMA permit because many of the questions that we've posed to the Planning Department pertaining to this pavilion issue which, in my mind, is quite serious because it involves potential violations of our code, potential violations of the SMA law, and I don't think we should take that likely especially since we recently passed... unanimously passed and not so much the new members of the Council, but the rest of us, the zero tolerance recommendation that we strongly urge them to pursue a zero tolerance policy. So more so, I think it was important and we had been assured that we were going to have someone here today and this has been on the agenda now. This has been an issue that we have been discussing for a while, so it was extremely disappointing when we couldn't get anyone here from Planning.

In fact, we did have one of the Planners who had to leave and never came back. You know, like I said, the zero tolerance policy for me was a step in the right direction. I think that was this Council telling the Administration, hey, let's move forward with making things right and, you know, it is not as much a priority to them as it is to us. I am going to be asking obviously for a deferral, but also that this matter be... and I guess I would have to ask permission of the Council Chair that this matter be taken up at 9:00 a.m. at the next Committee Meeting. Mr. Chair, is that possible?

Chair Asing: Sure.

Mr. Rapozo: Simply because... you know, I know I heard this from Councilman Furfaro in the past and I always chuckled when he said that, but our invitations are not RSVP. It is not where, come if you want. You know, we have this issue that is quite serious that needs to be addressed. We need to have someone here, we do, and for them to disregard our request and I had an opportunity to speak to the Planner who... that was here earlier today on one of the breaks. I have to tell you that what he had told me was basically what we... what I thought anyway and I won't speak for anyone else that, in fact, the shoreline certification was expired. That, in fact, that it was a violation, so it is serious. It is extremely serious and I think that the Administration should take heed to our request when it comes to these kinds of situations because it is important. The

questions that were sent out, there were several, and I do not want to entertain any of those questions as the Chair until we establish that foundation of the SMA process, so that we are all clear as Councilmembers because I know maybe some of you are... do understand that, but I will tell you in the four (4) years that I have been here, every time I've asked about a question about the SMA process, I get a different answer depending who you ask--whether it is Buildings or Planning or Public Works or whatever. So I think it is appropriate before we even entertain any other questions that any of you posed. We established the parameters of this SMA law and the process and more specifically the shoreline certification aspect because it is vital especially when we are putting hardened structures along our coastline. We did have a question, a legal question as well, and I do want to state that the Deputy County Attorney Tagupa was available. He did standby up until probably an hour ago, an hour and a half ago in which I told him not to hang around because I do not want to entertain his questions until we, again, establish the SMA process. So with that, I will be asking for a deferral. Before that, I would like to ask if there are any comments from anyone here. Councilmember Furfaro?

Mr. Furfaro: You know, I do want to point out that we have a wonderful resource within our own office here with our County Clerk who is a former Planning Director and, obviously, when it comes to general interpretations, Mr. Nakamura brings a great wealth of information with him on process and I just wanted to point that out.

Mr. Rapozo: Thank you Councilmember Furfaro and I will tell you that I have consulted with our County Clerk who is, I guess, a former Planning Director. The problem is that his interpretation differs from our Administrative Assistant's or Executive Administrator's...they tried to change his name, but anyway, from Gary Heu. Anybody else? Councilmember Iseri-Carvalho?

Ms. Iseri-Carvalho: Yes, I have had extensive discussions I guess with the Administration regarding this issue. I have had extensive comments made. This is really, I think, something very serious. I am also very disturbed with respect to not having or not having the answers available which I find that are simple answers. I believe that when personnel are hired, especially as a Planner, that they should know fully what the process is that we do not need to have the Planning Director tell us what the SMA process is. We do not need the Deputy Planning Director to tell us what the SMA process is. Every single person in that office that is a Planner should know these rules by heart. It should be, in essence, their sort of bible in doing their job. So it is quite disturbing when we cannot find a single person who can answer questions of process because these are the kinds of issues that the Planning Department deals with everyday. As we all recollect that special moment when Karen Diamond and her attorney had won their appeal on how we set and determine the shoreline certification, it was an impressive moment

for them and for the Council, I think it is very important to support that kind of effort that is being made by private citizens.

We truly did before we even got the decision from the Supreme Court based upon all the evidence that we had seen. The many site visits that Councilmember Rapozo and I had done out in the Hā'ena area and the Wainiha area. There are clearly what appears to be numerous concerns that are raised by residents that there are laws on the books that are not being enforced as much as they should be. It boggles my mind that we cannot even get a person here to talk about what I believe is something so fundamental to a person's job to be effective. So it draws some serious concerns. Definitely, I know that Councilmember Yukimura has raised that a lot in her Committee and I think it is important to establish the kind of communication that the Mayor spoke about at the Inauguration. It was quite optimistic to hear that he had wanted to establish effective communication. I think effective communication works two (2) ways, but if the Planning Department... these questions and I am not sure the public is aware of. They go out weeks in advance. They go out from the last meeting, so they've had opportunities to respond to these questions in a timely fashion and, yet, we consistently find ourselves constantly having our staff make calls almost on a daily basis because we have letters that are due almost on a daily basis. Deadlines, because in order for us to be effective on this Council, we need to get the requisite information to make informed decisions and I think it leads us to be ineffective and irresponsible when we do not get the kind of information that is necessary to make good planning decisions and to make good decisions for our community. It is disturbing that we are starting the new term like this. This should have been... I would have hoped a new beginning as was described and one that I was looking forward to in starting this next term. I would hope that this was an anomaly and that this is something that will not occur again. As I had brought up with Mr. Heu who has been trying so hard to be accommodating that we need to establish... if we are not going to get personnel here, they need to let us know beforehand. We need to be told in a timely fashion not that somebody shows up on the day and right before your hearing they are gone. If they are called away to an appointment that has been scheduled and what I understand that the Planner that was here had an appointment previously scheduled, then we should be told because then we can make accommodations to take those items out of order.

So there are numerous kinds of things that we can go to accommodate the Administration, but if we don't know that they have these other commitments, we are not able to accommodate them and then who suffers? Really, the public because it is unfortunate that they do not get the information that they deserve in the timely fashion. I would like to point out that I did consult with other former Planning Directors and what I had a concern about in the communication was that we received information and also received confirmation from Mr. Haigh this morning that the shoreline certification was done on November 22, 2002. We also

received testimony from a former Planning Director regarding shoreline certification that... I am sorry, 2003, November 2003. We received confirmation that you need to have a valid shoreline certification in existence at the time that you apply for your building permit.

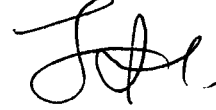
In looking at the chronological highlights that was previously provided by Public Works and we did not submit a building permit application until January 2006 which clearly indicates that we would be in violation based on the testimony that we had received from the former Planning Director that confirms what we had and also based on the expertise that we have had in-house that confirms that those pavilions should not have been built to begin with if there was not a valid shoreline certification in place. Now, I ask the Council to look at the County as being one of the applicants. There are numerous others and would we have tolerated if a person decided to build this humongous structures all along the beach over in Hā'ena without having a building permit, without having a valid shoreline certification, would we have condoned that kind of activity? This is, likewise, the same kind of activity that is being looked at by the County in building those 15 rest stops without having a valid shoreline certification. That is a very important certification. It leads to all kinds of coastal erosion and issues. There are valid reasons why you need to get those adjusted every year because they change. We currently have a bill that is pending that has been looked at, at Planning, about trying to increase that in taking terms in having something in the interim because we clearly recognize that we are experiencing coastal erosion on our island that is detrimental to all the structures that are within a certain area and we are trying to extend that, so that we can protect our beaches. So it is unfortunate if the County is being caught in this kind of position and not having a shoreline certification. I think that needs to be answered immediately. I am hoping that this issue will be, again, discussed as soon as possible. I would concur in and having this as a set matter and requesting that the Planning Director as well as the County Engineer be present to answer all of the questions. We will also... Public Works Chair, I would also request that I do have some further follow up questions that I would like to have also addressed at the next meeting if possible. Hopefully, we can flesh out all of these concerns as soon as possible.

Mr. Rapozo: So noted, thank you. Any other discussion? Hearing none, I would entertain a motion to defer. Again, I would ask the staff to make a note that we would take this item up at 9:00 a.m. at the next Committee meeting.

Upon motion duly made by Councilmember Kouchi, seconded by Councilmember Yukimura, and unanimously carried, C 2006-313 was deferred.

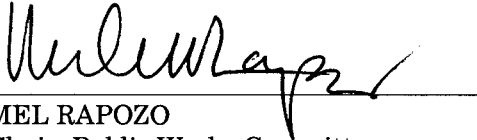
There being no further business, the meeting was adjourned at 11:07 p.m.

Respectfully submitted,



Lisa Ishibashi
Council Services Assistant

APPROVED at the Committee Meeting held on January 24, 2007:



MEL RAPOZO
Chair, Public Works Committee