

IEM Committee

From: Christel and John Blumer-Buell <blubu@hawaii.rr.com>
Sent: Monday, January 25, 2016 12:59 PM
To: IEM Committee
Cc: Sen. J. Kalani English; repdecoite@Capitol.hawaii.gov; Mayors.Office@mauicounty.gov; Maui_County Council_mailbox; Elle Cochran; Robert Carroll; corpcoun@mauicounty.gov; Sandy Baz
Subject: IEM-10 LOWER NAHIKU BRIDGE HEALTH AND SAFETY CONCERNS (NAHIKU). Public Testimony. Please Confirm Receipt.
Attachments: IEM-10 LOWER NAHIKU BRIDGE HEALTH AND SAFETY CONCERNS (NAHIKU) .pdf

Contact Persons for Community Petitioners

Terry Kristiansen P.O. Bo 841, Hana, HI 96713, 808-248-7600 <greentoes@alohaservices.net>

Irene Pavao P.O. Box 873, Hana, HI 96713, 808-248-8584 <iphana@yahoo.com> and **John**

Blumer-Buell P.O. Box 787, Hana, HI 96713, 808-248-8972 <blubu@hawaii.rr.com>

January 25, 2016

Maui County Council Infrastructure and Environmental Management Committee,
Elle Cochran, Chair.

200 South High Street, Wailuku, Hawaii 96793

Sent Via Email <iem.committee@mauicounty.us> and U.S. Priority Mail.

January 25, 2016

Subject: IEM-10 LOWER NAHIKU BRIDGE HEALTH AND SAFETY CONCERNS (NAHIKU).

Aloha Chair Cochran and Committee Members,

Community Petitioners recently submitted a petition to Mayor Arakawa with Cc: to State Representatives, the Maui County Council, the IEM Committee and the EAR Committee. The petition states:

“I SUPPORT REPAIR OR REPLACEMENT OF THE LOWER NAHIKU BRIDGE AND REPAIR OF THE KUHIWA GULCH CULVERT AS THE PRIORITIES FOR THE FY 2017 COUNTY OF MAUI BUDGET FOR LOWER NAHIKU. I DO NOT SUPPORT FUNDING OF THE PROPOSED NAHIKU COMMUNITY CENTER”.

In moving toward resolution of IEM-10, “LOWER NAHIKU BRIDGE HEALTH AND SAFETY CONCERNS (NAHIKU)” and EAR-26, “Proposed Nahiku Community Center”, we suggest the Economic Development, Energy, Agriculture, and Recreation Committee and the Infrastructure and Environmental Management Committee publish simultaneous and timely agendas announcing back to back site visits and meetings in Lower Nahiku. This will enable residents to be heard and the council to conveniently access the Lower Nahiku Bridge and the proposed Nahiku community center sites. The two issues are closely related and in close proximity to one another.

The community will provide shelter, chairs and refreshments. The nearby Nahiku Congregational Church pavilion is a convenient optional location for meeting if there is heavy weather.

The Kuhiwa Gulch Culvert issue is not, currently, on your committee "List of Matters". Please consider adding this important issue to your "List of Matters" and meeting agenda. This would enable residents to testify regarding the issue. This is a life and death situation for some community members that live on the Hana side (south) of the culvert. It could be added as a site visit, time permitting.

Brad Taylor, Nahiku community member who lives on the Hana side (south) of Kuhiwa Gulch, talked with Hana Fire Department representative Gayle Notestone and Maui County Public Works Director David Goode regarding the culvert. We understand Director Goode told Mr. Taylor last year an engineer would be sent to look at the Kuhiwa Gulch Culvert to determine needed repairs. We do not know if that has been done.

It is our understanding Mr. Taylor was told the Hana Fire Department cannot serve residents on the south side of the culvert because of concerns regarding a collapse of the culvert. We have been told by Mr. Taylor he drives heavy equipment over the culvert to make a living. Understandably, he is gravely concerned with the situation.

LOWER NAHIKU BRIDGE HEALTH AND SAFETY CONCERNS need to be addressed, resolved and funded as soon as possible. **The situation is urgent. The State of Hawaii and County of Maui have failed to resolve issues involving the bridge for decades.** The state and county seem to treat the responsibility like a "hot potato". The fact is the Lower Nahiku Bridge and road to the Nahiku Landing are part of the **OLD GOVERNMENT ROAD** that historically went from the Nahiku Landing and ended at Ulaino to the south. The route from the landing and over the bridge have been in continuous use for more than a hundred years.

Your committee is in the best position to hold hearings, collect and compile historic and current information and solve the problems.

The County of Maui has repaired, rebuilt and maintained the Lower Nahiku Bridge and road for decades. Today, there appears to be a dispute regarding the legal easement of the bridge. This is an old government road going back before statehood. There should not be a dispute over the location.

Members of the Nahiku community made a materials list to rebuild the bridge. The cost was around \$10,000 (ten thousand dollars). Volunteers are willing to rebuild it. According to one community member who met with Mayor Arakawa, Council Member Carroll and others the administration was going to have a structural engineer look at the bridge. Has that been done? The Nahiku community has not received regular or valid reports. It should be noted several community members have stated the current failure of the bridge is the result of the County of Maui not using treated lumber in making previous repairs.

Now, Council Member Carroll and Administration are talking about building a “modern” bridge. The historic and unique Lower Nahiku is made from wood, not concrete. To rebuild the historic structure would not be difficult.

Health and safety issues are not the only issues needed to be addressed:

a) Currently, owners of property on the makai side of the bridge are cut off from vehicular access to their properties. They have no choice but to walk across the bridge to access their properties. The owners pay county property taxes, yet do not receive the historical services they have received from the County of Maui. That includes repair and maintenance of the historic bridge. There are looming liability issues facing the County of Maui if the situation is not addressed soon.

Again, your committee is in the best position to solve the problems.

b. Availability emergency services for tourists and residents have been severely hampered by the bridge closure. This is a dangerous situation. Hana’s EMT

emergency services, the Hana Fire Department and local residents are in the best position to comment on the situation.

We thank you for your careful consideration of these serious matters and questions.

We look forward to your responses to the enclosed information and suggested meeting in Lower Nahiku. We welcome requests for information. Please email all three of us. Or, call one of us. We will forward your communications to the community and concerned citizens for their information, responses and suggestions.

Sincerely yours,

Terry Kristiansen, Irene Pavao and John Blumer-Buell.

Contact Persons for Community Petitioners and concerned citizens.

IEM Committee

From: Elle Cochran
Sent: Friday, September 02, 2016 2:25 PM
To: IEM Committee
Subject: FW: Lower Nahiku Bridge...Jeffrey C. Paisner...Tax Key # 1-2-001-18

From: Maui_County Council_mailbox
Sent: Friday, September 02, 2016 8:14 AM
To: Council Member <Council_Member@mauicounty.us>
Cc: Jpaisner@ripcony.com
Subject: FW: Lower Nahiku Bridge...Jeffrey C. Paisner...Tax Key # 1-2-001-18

From: JEFFREY C PAISNER [<mailto:jeffreypaisner@mac.com>]
Sent: Thursday, September 01, 2016 9:26 PM
To: Jeffrey Paisner <Jpaisner@ripcony.com>
Cc: Zeke.Kalua@co.maui.hi.us; Mayors.Office@co.maui.hi.us; Robert Carroll <Robert.Carroll@mauicounty.us>; kalani@kalanienglish.com; Maui_County Council_mailbox <county.council@mauicounty.us>; Randy Pico <randy.pico@co.maui.hi.us>; Darrell Richard <darrell_richard@lksd.org>
Subject: Re: Lower Nahiku Bridge...Jeffrey C. Paisner...Tax Key # 1-2-001-18

On Sep 1, 2016, at 9:19 PM, Jeffrey Paisner <Jpaisner@ripcony.com> wrote:

Date: 1 September 2016

Aloha Zeke:

I am most appreciative of having the opportunity to speak with you directly in relation to the continued "stalemate" between the Maui County and State of Hawaii to come to a resolution to either repair or replace the bridge over the Makapipi Stream in Lower Nahiku.

I have already spoken to Council Person Robert Carroll. He suggested that I contact you directly to discuss this matter.

As we discussed...it was determined that I should provide you with an introductory e-mail which would lead to a meeting with Mayor Arakawa. Please share this e-mail with the Mayor to "brief" him regarding this matter.

I originally purchased my property (Tax Key is referenced above) in 1972 or 1973. At that point in time the road to Lower Nahiku had not even been paved with asphalt. It should be noted that this road encroaches upon private

properties in numerous locations as it traverses from the Hana Highway to the Nahiku Landing. Yet this fact did not prevent the expenditures of monies to perform this work. This begs the question of why funds cannot be allocated to repair or replace the bridge even if it encroaches upon private property. Is the County of Maui or The State of Hawaii prepared to stop allocating funds to maintain or repair the Lower Nahiku Road simply because it encroaches upon private properties? This appears to be the precise excuse that is being used not to fund the repair or replacement of the Bridge. Is Maui County prepared to expend well over \$2 million dollars of Taxpayers Monies to fund the construction of a Community Center that must be accessed by a road that encroaches upon private properties? I have not even included the continued cost to operate and maintain the Community Center. The bridge could have been repaired for far less than \$20,000. Less than 1% of the cost to build the Community Center!! The Bridge is an already existing vital infrastructure of the Lower Nahiku Community. The Bridge provided for access to the only common area for recreation and gathering for the entire Community. Yet it was allowed to deteriorate until it was deemed to be unusable? It is very difficult to understand the practical or cost efficient logic in this scenario?

I am not an attorney. But I do know that the claim could be made that the Lower Nahiku Road now belongs to either the County or The State of Hawaii as a result of Adverse Possession. Or that the road areas that encroach upon private properties could be taken via Condemnation proceedings (a far more expensive alternative).

Would the County of Maui be prepared to Landlock all of the residents of Lower Nahiku from having vehicular access to their properties should the road require the allocation of funds to repair and maintain it? Will you close off Lower Nahiku Road from the Hana Highway just as you closed off the Bridge? Would you deprive those other private property owners from being able to access their property? I think not. Then why is it acceptable to deprive other property owners from access to their property? But this has been the unfortunate result of the failure to take the initiative and focus to resolve the current impasse. Timely leadership at the County level is sorely needed here! That leadership should come directly from the Mayors office.

***State Law clearly provides that private lands cannot be landlocked.** Starting approximately 6 years ago I hired Carlsmith & Ball to assist me in legalizing an easement to access my property. I had been accessing my property for over 40 years via a pre-existing dirt road without ever having my access denied by the property owners through which the dirt road traversed. I spent well over \$70,000 of my own personal funds to secure this legal easement. By obtaining this easement I also legalized access for many of my neighbors at my sole expense. It should be noted that the easement also passes over a roadside strip of EMI land which is directly adjacent to the Lower Nahiku Road. There is no reason

whatsoever why the County of Maui or the State of Hawaii could not obtain an easement for the bridge far more easily than a private citizen such as myself did.

I am 66 years old now. I made over a \$70,000 investment so that I could develop and enjoy the use of my property. I have been effectively denied access to my property for 2 years now. My property has been rendered to be almost worthless. In effect.....my property has been virtually condemned for practical use. I had my heart set on growing fruits and restoring the ancient loi patches. For myself....time is of the essence. The private properties of two of my neighbors (Randy Pico & Darrell Richard) are also being denied the use and enjoyment of their properties. I presented letters identifying their respective Tax Keys with both of them pleading for the bridge to be repaired when an informal hearing was held in Hana last February 2016.

A few important points as follows:

***The bridge was barricaded by the County of Maui in September of 2014. No prior warning notice was ever given to the private property owners that rely upon the bridge to access their properties.**

***This is an historic bridge that once provided the only route to travel from Wailua Village to the Nahiku Landing by boat.....and then to the old Kings Highway an then onto Hana.**

***It is a bridge that has been continuously maintained and repaired 100 or more years by either Maui County or the State of Hawaii.**

***There is no justifiable reason why the bridge should have been allowed to deteriorate to the point where it had to be barricaded in the first place.**

***It is a bridge that provides for vehicular access to a vital and traditional recreational and gathering place for the entire Nahiku Community at the Nahiku Landing.**

***It is a also bridge that provides for vehicular access to private tax paying Property Owners own private properties.**

The subject of the Bridge has been publicly addressed in numerous governmental meeting on both the County and State level over at least the past decade. This is a matter of public record. There has been more than ample time to get the issues resolved in a manner that would have led to either the continued maintenance and repair and/or replacement of the bridge.

The excuse I have been given for blockading the bridge is to protect the County and/or State from liability. The fact is that the bridge is still being traversed on foot by both residents and tourists. The decking of the bridge is being allowed to rot away leading to the possibility of injury. The guard rails at the edge of the cliffs down towards the Landing are also being left in a perilous state of disrepair. Those guard rails cannot be replaced until vehicular equipment & materials can pass over the bridge. The bottom line is that both the County and State still remain acutely exposed to financial liabilities that far exceed the cost of repairing or replacing the bridge and guard rails. Exposing Taxpayers to these potential financial liabilities is not fiscally prudent.

THE SOLUTION:

I am suggesting that the County of Maui utilize the temporary steel bridges that have recently been used in the Hana area as a immediate "stop gap measure" to resolve this over 10 year impasse/deadlock between the County & State until the issues at hand are legally resolved. In lieu of this solution the bridge could be temporarily repaired for a modest amount of money. I do believe that 2 of these temporary steel bridges are already being stored in the Hana baseyard.

Mayor Arakawa:

With all due respect.....private citizens should not be deprived the use of their properties as a result of the inaction and/or seeming incompetence of the public officials that they elect to represent them.

Please use your leadership platform as Mayor to insure that "pono" prevails. Please use your platform to insure that the basic property rights of all of the tax paying citizens of Maui County are protected.

I hope to be afforded the opportunity to meet directly with both you and Zeke at a day and time of your convenience next week between Tuesday through Friday.

Please advise as to the day and time. Please also acknowledge receipt of this e-mail.

In the meantime I wish all a happy Labor day weekend.

Mahalo & Best regards,

Jeffrey C. Paisner

cell # 917.539.6059

e-mail: jpaisner@ripcony.com

e-mail: jeffreypaisner@mac.com

***Please use both e-mail addresses when you respond. Mahalo.**

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