

# INFRASTRUCTURE AND ENVIRONMENTAL MANAGEMENT COMMITTEE

Council of the County of Maui

## MINUTES

August 1, 2016

Council Chamber, 8<sup>th</sup> Floor

**CONVENE:** 1:35 p.m.

**PRESENT:** VOTING MEMBERS:  
Councilmember Elle Cochran, Chair  
Councilmember Gladys C. Baisa  
Councilmember Robert Carroll  
Councilmember Stacy Crivello  
Councilmember Mike White (in 1:41 p.m.)

**EXCUSED:** Councilmember Riki Hokama, Vice-Chair  
Councilmember Don S. Guzman

**STAFF:** Shelly Espeleta, Legislative Analyst  
Raynette Yap, Committee Secretary  
Dawn Lono, Council Aide, Hana Council Office (via telephone conference bridge)  
Denise Fernandez, Council Aide, Lanai Council Office (via telephone conference bridge)  
Ella Alcon, Council Aide, Molokai Council Office (via telephone conference bridge)

**ADMIN.:** David Goode, Director, Department of Public Works  
Danilo Agsalog, Director, Department of Finance  
Richelle Thomson, Deputy Corporation Counsel, Department of the Corporation Counsel

**OTHERS:** Rosemary Robbins

**PRESS:** *Akaku Maui County Community Television, Inc.*

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CHAIR COCHRAN: . . .*(gavel)*. . . Will the meeting of the Infrastructure and Environmental Management Committee please come to order? Today is August 1, 2016; and the time is roughly about 1:35 in the afternoon. Before we begin, Members and the audience, please silence all cell phones or any other noise-making devices. And, roll call, I have here with me—I'm the Chair,

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Elle Cochran—Bob Carroll.

COUNCILMEMBER CARROLL: Good afternoon, Chair.

CHAIR COCHRAN: Good afternoon. And also Ms. Gladys Baisa.

COUNCILMEMBER BAISA: Good afternoon, Chair.

CHAIR COCHRAN: Good afternoon. And Ms. Stacy Crivello.

COUNCILMEMBER CRIVELLO: Good afternoon, Chair.

CHAIR COCHRAN: Good afternoon, Members. Thank you so much for being here. At this time, the Vice-Chair of the Committee, Mr. Riki Hokama, is excused along with Member Don Guzman. From the Administration, we have David Goode, Director of Public Works.

MR. GOODE: Good afternoon.

CHAIR COCHRAN: Good afternoon. Danny Agsalog, Director of Finance.

MR. AGSALOG: Good afternoon, Madam Chair.

CHAIR COCHRAN: Aloha, thank you for being here. And, from Corporation Counsel, Ms. Richelle Thomson.

MS. THOMSON: Good afternoon, Chair.

CHAIR COCHRAN: Aloha. And Legislative Analyst, Shelly Espeleta.

MS. ESPELITA: Good afternoon.

CHAIR COCHRAN: Thank you. First meeting with me here in the Committee. Thank you for being here. And also Committee Secretary, Rayna Yap.

MS. YAP: Good afternoon.

CHAIR COCHRAN: And let me check in with our district offices and see if they do have testifiers. Ms. Lono in Hana, are you there?

MS. LONO: Yes. Good afternoon. This is Dawn Lono at the Hana Office and there is no one waiting to testify.

CHAIR COCHRAN: Thank you, Ms. Lono. And on Lanai, Ms. Fernandez, are you there, do you have testifiers?

MS. FERNANDEZ: Good afternoon, Chair. This is Denise Fernandez on Lanai and

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there is no one waiting to testify.

CHAIR COCHRAN: Thank you. And on Molokai, Ms. Alcon, any testifiers?

MS. ALCON: Good afternoon, Chair, this is Ella Alcon on Molokai and there is no one here waiting to testify.

CHAIR COCHRAN: Thank you, ladies, for being there. If anyone does show up, please notify the Chambers. And in the Chambers itself, do we have...so we will be having one testifier. I see Ms. Rosemary Robbins. I'll be calling you in a moment here Ms. Robbins. I want to mention, we have one item on the agenda; and this is IEM-9, which is Eliminating Exemptions in the Electrical Code, Plumbing Code, and Building Code for Conservation District. And we...testifiers, the one testifier, please testify to the one item on the agenda. You will be given three minutes; and, at this time, would you like to come down and testify...with no objections, Members, I shall now open public testimony.

COUNCILMEMBERS: No objections.

CHAIR COCHRAN: Thank you very much.

**. . . BEGIN PUBLIC TESTIMONY . . .**

CHAIR COCHRAN: And we have Rosemary Robbins.

MS. ROBBINS: Good afternoon, everybody.

CHAIR COCHRAN: Aloha.

MS. ROBBINS: I'm seeing a non-quorum here. Hopefully it's going to resolve itself. Rosemary Robbins, concerned citizen, testifying on the one item on the agenda, the Infrastructure and Environmental Management Committee, Item 9. You're talking about three minutes, I'm talking about years, that this has been going on. And thank you very much, Elle, for all the work you have done in particular on this. I went up on Thursday...went down on Thursday, the seventh floor, and got that binder and went through the materials there and it turned out to have been a wonderful collection of materials. So just quickly, the first one that I pulled was County Communication number 13-135, that's listed in paragraph one of today's agenda. It was from Councilmember to Gladys Baisa as the Chair way back when in April 13<sup>th</sup>. And the focus on this is to be able to eliminate exemptions that it turns out the Hawaiian Home Lands and the offices that are identified with them, definitely think these should be eliminated, so there's good news at the end of this tunnel and thanks for much for all the people who did all that work. And, with that, in the binders, there are copies of pieces that go with, what they're after. You need to come? Okay, okay. So that was the first date April 11, 2013, and it was your work that was put forward on that. The second

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date is also in 2013, July 3, and it was from the Director of Public Works, here with us this afternoon, asking about an amendment to eliminate exemptions in the Public Work [sic] code of County of Maui. So thank you, Elle, having submitted that. And, again, the materials and the backups are all there with it. Then the third one, also for July of 13, came in from the Mayor; and he said that there was definitely room for improvement and I think all of would agree with that in terms of the goings on that have happened. And then coming up into February 25, 2016, there was material that came in from Oahu and the good news was that there is recommendation from the Department of Homeland Security that not only should some of the materials that were addressed on those earlier pieces be modified, but also some of the stuff that has to do with some of the other codes that were in there. So this was from the Department of Natural Resources [sic] and they are very much in favor of supporting what's on our agenda for today. And they also would support any proposals to amend the Electrical and Plumbing Codes in order to eliminate these exemptions that have had goings on, on Hawaiian lands that shouldn't apparently have been going on, so they're delighted that that is being met. So I'm really appreciative of all of that, and I know I speak not just myself because people have been asking, what the blank was this about? And I didn't know until I spent that kind of time with that material that was up there, but it was good stuff; and I just thank everybody for putting their best forward in that.

CHAIR COCHRAN: Thank you very much, Ms. Robbins. Members, any need for clarification of our testifier? Seeing none, thank you, Ms. Robbins, for your time.

MS. ROBBINS: You're welcome.

CHAIR COCHRAN: And I'd like to welcome Chairman White to the meeting. Thank you so much.

COUNCILMEMBER WHITE: Good afternoon.

CHAIR COCHRAN: Good afternoon. And, at this time, did we receive any more testifiers?

MS. ESPELITA: Madam Chair, that was the only testifier today.

CHAIR COCHRAN: Okay. Very good. So, Members, with that, without objections, I shall now close public testimony.

COUNCILMEMBERS: No objections.

CHAIR COCHRAN: Thank you, so ordered.

**. . . END OF PUBLIC TESTIMONY . . .**

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**IEM-9:                    ELIMINATING EXEMPTIONS IN THE ELECTRICAL  
CODE, PLUMBING CODE, AND BUILDING CODE  
FOR CONSERVATION DISTRICT**

CHAIR COCHRAN: So let's jump into our one and only item, IEM-9; and that is Eliminating Exemptions in the Electrical Code, Plumbing, and Building Codes for Conservation District. And, Members, the Committee has received the revised proposed bill noted in paragraph three on the agenda and approved as to form and legality by the Department of the Corporation Counsel. So I'd like to refer you to that correspondence, which is July 20<sup>th</sup>. Let me pull up my iPad here to get there. And I want to thank Deputy Hopper for this quick turnaround on this item. And the bill would eliminate the exemption in the Electrical Code, Plumbing Code, and Building Code relating to lands in Conservation District. And this is the version of the bill that we will be working from. And the Committee last met on this item July 11<sup>th</sup>; and, during that discussion, the Committee was comfortable with moving ahead to eliminate the exemption for Building Code for Conservation District Lands. Because the exemption also affects the Electrical and Plumbing Codes, it was necessary to amend those sections of the Maui County Code for consistency. And the revised proposed bill incorporates amendments to all three of these codes, and that is what we'll be discussing. So, with that, I'll open the floor up to Director Goode of Public Works for comments. And I recall you did initially bring this point up, so here we are today. Director Goode?

MR. GOODE: Good afternoon, Chair --

CHAIR COCHRAN: Good afternoon.

MR. GOODE: --Members. David Goode, Department of Public Works Director. And we like this version of the bill. It does meet the concerns we raised earlier, so essentially it removes the exemptions from conservation lands from having to get a building, plumbing, electrical permit for structures that normally would require that. And, as it's been mentioned, DLNR is very supportive, Department of Finance is supportive. The only...the Department that wasn't supportive, and that was Hawaiian Home Lands when they were mentioned in the bill; so that's also been removed from our last meeting. So we're very supportive and we look forward to implementing this should it become law. Thank you.

CHAIR COCHRAN: Okay. Thank you very much, Director Goode. And we also have Department of Finance. Director Agsalog, do you have any comments?

MR. AGSALOG: Madam Chair --

CHAIR COCHRAN: Yes?

MR. AGSALOG: --good afternoon, and Member of the Committee. As I mentioned last meeting that I attended, it would...once we have this in place, it would assist our

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assessment division to get more information from the structures being built in the conservation areas; so we really appreciate this change in our ordinance. Thank you, Madam Chair.

CHAIR COCHRAN: Okay. Very good, Director. Thank you. And Corporation Counsel, Ms. Thomson, did you have any comments at this point?

MS. THOMSON: No, Chair, thank you. No comments.

CHAIR COCHRAN: Okay. Well there you go. Alright, Members, as we have discussed this a few times, I think we've gotten to this point where, as I mentioned in the elevator with Director Goode, our ducks in a row; and I think we should be pretty much good to go. But floor is open for your folks' questions or comments that you might have at this time. Members, anything? No? Everyone's shaking their head going, yeah, looks good. Ms. Baisa?

COUNCILMEMBER BAISA: Thank you very much, Chair. I am ready to act because I'm comfortable hearing from our Department Director and legal as well as our Finance Director. I think that the concerns we have have been fixed, and so I am very comfortable with what we have before us. Thank you.

CHAIR COCHRAN: Thank you. And I agree, and that's why it's here today. And any further discussion? Let's see.

COUNCILMEMBER WHITE: Chair?

CHAIR COCHRAN: Yes, Mr. White?

COUNCILMEMBER WHITE: I'm sorry --

CHAIR COCHRAN: No problem, go ahead.

COUNCILMEMBER WHITE: --to be a little slow on the draw, but --

CHAIR COCHRAN: Yeah.

COUNCILMEMBER WHITE: --I think it's also comforting to know that DLNR supports the recommendation as well. So with that added to the list of other people that feel that we're headed in the right direction, I feel like Ms. Baisa, I'm ready to move on it. Thank you.

CHAIR COCHRAN: Okay. Very good. I do have a question and it's posed for Corporation Counsel. It was at our last discussion on this item, we requested information from Corporation Counsel regarding the County's process for placing the lien on real property for delinquent real property taxes including the number and timing of required notices. And we did receive a letter dated July 26, 2016 from Mr. Hopper referring us to Sections...looks like 3.48.235-3 [sic], is that

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right? And 3.48.286 and 3.48.190B and 3.48.260 for the relevant law. And Ms. Hopper...sorry. Ms. Thomson, wasn't sure if you had any...if you could describe any of these sections to us that relate to the question that was posed?

MS. THOMSON: Sure. Thank you, Chair, I'd be happy to. So those sections of the Maui County Code generally describe that the property tax is a lien that's placed automatically on property as of July 1st of the tax year. So if taxes are not paid, we can go through two different types of foreclosure to collect on that lien. One is a judicial foreclosure; so going through a court process. The other is called, non-judicial foreclosure, which is done through notice and then tax sale. With that second type, the primary difference would be that the owners of the property have the right to redeem if they paid the unpaid, the back taxes and the fees and interest and all. They have a year to be able to redeem their property. That's the primary difference. Regarding notice, notice is given to the owners, the taxpayers and any persons listed on the record; so that'll be who hold mortgages and things like that.

CHAIR COCHRAN: Okay. Thank you very much for that explanation. And, Members, did you have any questions or comments in reference to the description of Ms. Thomson's...about that? Okay, alright, just wanted to...and I failed to read, I guess, the detailed agenda. I'll just go ahead and do that. The Committee is in receipt of the following County Communication 13-135, from Councilmember Mike White, transmitting a proposed bill to eliminate exemptions in the Building Code of the County of Maui relating to lands within the Conservation District or lands...well, actually, we took out the "lands designated as Hawaiian Home Lands." Correspondence July 14, 2016, the Department of the Corporation Counsel, transmitting a revised proposed bill entitled "A Bill for an Ordinance Amending Sections 16.18B.090(2)(b), 16.20B.101.4.1, and 16.26B.101, Maui County Code, to Eliminate Exemptions in the Electrical Code, Plumbing Code, and Building Code of the County of Maui Relating to Lands within the Conservation District." Then a correspondence dated July 20<sup>th</sup>, from Department of the Corporation Counsel, transmitting a revised proposed bill, approved as to form and legality, entitled "A Bill for an Ordinance Amending Title 16, Maui County Code, to Eliminate Exemptions in the Electrical Code, Plumbing Code, and Building Code of the County of Maui Relating to Lands within the Conservation District." And the purpose of this newly revised proposed bill is to eliminate exemptions in the Electrical Code, Plumbing Code, and Building Code in County of Maui relating to lands within Conservation District. And it sounds so redundant, but that is the detailed agenda item. And so with that, Members, if we don't have any further need for questions or comments of Departments and what have you, and it sounds like we're very comfortable in what's presented here today, I will make my recommendation.

COUNCILMEMBERS: Recommendation?

CHAIR COCHRAN: Thank you very much. The Chair will entertain a motion to recommend passage on first reading of the revised proposed bill, transmitted by

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Department of the Corporation Counsel, by correspondence dated July 20<sup>th</sup>, entitled "A Bill for an Ordinance Amending Title 16, Maui County Code, to Eliminate Exemptions in the Electrical Code, Plumbing Code, and Building Code of the County of Maui Relating to Lands within the Conservation District," incorporating any nonsubstantive revisions and filing of County Communication 13-135.

COUNCILMEMBER WHITE: So move, Chair.

COUNCILMEMBER CRIVELLO: Second.

CHAIR COCHRAN: It's been moved by Chair White, seconded by Ms. Crivello. Members, any need for discussion? Seeing none, all those in favor, say, "aye."

COUNCILMEMBERS: Aye.

CHAIR COCHRAN: Any opposed, say, "no." Seeing...let's see...we have five "ayes," two excused, zero "noes," the motion passes.

**VOTE: AYES: Chair Cochran, Councilmembers Baisa,  
Carroll, Crivello, and White.**

**NOES: None.**

**ABSTAIN: None.**

**ABSENT: None.**

**EXC.: Vice-Chair Hokama and  
Councilmember Guzman.**

**MOTION CARRIED.**

**ACTION: FIRST READING of revised proposed bill and  
FILING of communication.**



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CHAIR COCHRAN: And with that, Members, that was our one and only item on the agenda; so short and sweet to the point. This meeting is adjourned. Thank you. . . .(gavel). . .

**ADJOURN:** 1:53 p.m.

APPROVED:

A handwritten signature in cursive script that reads "Elle Cochran". The signature is written in black ink and is positioned above a horizontal line.

ELLE COCHRAN, Chair  
Infrastructure and  
Environmental  
Management Committee

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Transcribed by: Raynette Yap