

# ENVIRONMENTAL MANAGEMENT COMMISSION

## COUNTY OF HAWAII

### MEETING MINUTES

Wednesday, February 16, 2022

9:06 a.m. to 11:03 a.m.

Zoom

#### Commissioners present:

Georjean Adams, Chair

Rick Gaffney, Vice Chair

John Burns

Dee Fulton

Lee McIntosh

Jon Olson

#### County staff present:

Ramzi Mansour, Director

Gene Quiamas, Acting Deputy Chief, Solid Waste Division

Sanne Berrig, Recycling Specialist

Peter Sur, Secretary

Keyra Wong, Deputy Corporation Counsel

#### Others present:

Steve Holmes, Nancy Cook Lauer, others.

### 1. CALL TO ORDER

Chair Adams opened with a roll call and called the meeting to order at 9:06 a.m.

### 2. APPROVAL OF MINUTES

#### a. January 7, 2022, special meeting<sup>1</sup>

**Motion, second, and vote:** Vice Chair Gaffney made a motion, to which Commissioner Fulton seconded, to approve the minutes. The motion was approved. Ayes 5 (Adams, Burns, Fulton, Gaffney, McIntosh); Absent 3 (Cardwell, Hoopii, Robinson); Excused 1 (Olson).

#### b. January 26, 2022, meeting<sup>2</sup>

**Motion and second:** Commissioner Olson made a motion, to which Vice Chair Gaffney seconded, to approve the minutes.

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<sup>1</sup> Draft minutes Jan. 7, 2022: <http://records.hawaiicounty.gov/weblink/DocView.aspx?dbid=1&id=114154>

<sup>2</sup> Draft minutes Jan. 26, 2022: <http://records.hawaiicounty.gov/weblink/DocView.aspx?dbid=1&id=114391>

**Discussion:** Vice Chair Gaffney proposed a correction to page 12:

“Commissioner Olson said that we did give them away over several periods of time. The interesting thing is that they're far more successful over here on the [~~wet~~] wet side as opposed to on the dry side.”

**Restatement of motion, and second:** Commissioner Olson made a motion, to which Vice Chair Gaffney seconded, to approve the minutes of January 26, 2022, as amended. The motion was approved. Ayes 6 (Adams, Burns, Fulton, Gaffney, McIntosh; Olson); Absent 3 (Cardwell, Hoopii, Robinson).

### 3. STATEMENT FROM THE CHAIR

Welcome to another crazy year, Chair Adams said. Do the best we can to get through it, and she just encourages everybody to be as resilient as they can be to the constantly changing situations that we deal with.

### 4. PUBLIC STATEMENTS ON ITEMS ON THE AGENDA

(None)

### 5. UNFINISHED BUSINESS

- a. Discussion of 2022 EMC Priorities – Each commissioner to state priorities for 2022.<sup>3</sup>

Chair Adams said she is renewing priorities for each of us individually as commissioners, and we are going to try to make an effort to get some advancement on issues to the Commission on informational items. Be thinking offline on how we can better help DEM and the Council to manage the environment. For these items we had set up last time, she asked for any additions or corrections and we'll open it again. If there are any new items or some old ones that you feel like you've succeeded or really wasn't that big of a priority, please let me know. Anyone have any comments at this time?

Vice Chair Gaffney said there are three areas that he has been working on in his district, and one of those is getting Honokōhau Harbor sewerred. And he just wanted to relay to the group that process is moving fairly well at the state level. It's a state process, and the money seems to be available. The engineering is under way. The other thing he was interested in is the idea of being able to move the recycled water from the Kealakehe Wastewater Treatment Plant by the ag park at the bottom of Ka'iminani Drive. There is the ag park, but there are also hundreds and hundreds of acres of ag land around the ag park for future expansion. There are about 400 acres of DHHL land which are also zoned to agriculture. It's an obvious opportunity to distribute our R-1 water. He also recently learned that the idea of connecting the wastewater treatment for R-1 distribution to the ag park is no longer a priority of the administration. It was of a previous administration. And he will continue to push because it's just so logical that if we're

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<sup>3</sup> EMC draft priorities: <http://records.hawaiicounty.gov/weblink/DocView.aspx?dbid=1&id=114388>

producing tons of R-1 water and we don't have a market for it, that we deliver it to people who can use it and hopefully expand agricultural opportunities as part of that process.

Chair Adams said to consider this as a living document. If you've got new things that come up, feel free to let her know. But this will just be a published document so people know, hey, I know that Commissioner Cardwell is working on this, and let me go talk to her, or suggest talking to someone, to help get information. She added a couple of items. But one of the things that she wanted to continue to work on is sustainable funding for DEM, both the solid waste and wastewater programs. And she will keep pushing on that. And also know that there was an interesting webinar that she listened to, about how you could use a surcharge on tipping fees to fund your recycling operations. And there were several states, Ohio, Iowa, North Carolina, New Jersey, and a couple others of how they had laws established that said there would be this surcharge, and it would be used to fund this, that, and the other, a chunk would go to developing their recycling programs as a steady way – it was a fund specifically dedicated to the recycling operations and other environmental issues. It was very interesting, but it also struck her that one of our issues is we let more than half our waste go to the landfill for free, hidden in property tax. So to put a surcharge on people who don't even know they're paying for the landfill fees will be an interesting challenge for us. But that's one that she will tuck away. And if any of you are interested, she can forward some of the links they had for background information. And the title of the thing was Tipping Fee Surcharges to Support Infrastructure for Recycling. And infrastructure is something that we have pitifully little of. So that'll be a new continued effort of mine to try and figure out how we get funding. If nobody else has any comments on it, feel free to send things to me at any time and I'll update that list, she said.

**b. Status report from the Barriers to Private Recyclers Permitted Interaction Group.**

I'm the only member who is on it that is here at this meeting and I have to unfortunately say we haven't done much since the last time, so I don't really have anything to report, Chair Adams said. We are still collecting issues and a lot of it is just the raw material and the logistics of getting it to them, is a concern. Setting up meetings has been challenging over the last couple of weeks.

**6. NEW BUSINESS**

**a. Review of active bills of interest in the Legislature for the 2022 session.<sup>4</sup>**

Chair Adams said what has been taking up fair amount of her time, and DEM's, is all the legislative bills that have been introduced in the environmental arena. The Secretary noted that there were 67 different bills that dealt with DEM issues that they were tracking, and then going through hearings, and getting testimony, and making revisions on the fly. Only 23 of them appear to still be moving. She is not an expert on the political process here and would be happy to let either the Director or the Secretary pipe up on that. There are several layers of hearings and reviews and each of you individually has an opportunity to submit testimony as individuals, not representing EMC, but as individuals what your opinions are. And legislators do read them; they do pay attention. Rep. Nicole Lowen has introduced several of the bills and is someone

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<sup>4</sup> Active bills: <http://records.hawaiicounty.gov/weblink/DocView.aspx?dbid=1&id=114389>

who listens and will see some of these bills carrying over into future years. The Secretary is trying to get Steve Bader on the line. He is in the Mayor's office, tracking the State legislation and things that are on tap. Hopefully we could get Mr. Bader on the line to talk about the bills that you and DEM are trying to support, and whether now is the time that EMC wishes to submit some letter and support, or opposition.

Director Mansour said we have been tracking certain bills. Recycling Coordinator Sanne Berrig could probably give us a run down on the ones that she would love to see go through from a recycling point of view. We talked about it last time and we she said probably the best guy to give us an overview for the whole County is Steve Bader. We extended the invitation and the Secretary can get him hooked up to this meeting at least so you guys could hear from him as well. He asked Ms. Berrig to give an update.

Recycling Coordinator Berrig said that the bill increasing the advance disposal fee for glass died. It was set up more than 27 years ago and we still get the same amount, 1.5 pennies. Ms. Berrig is part of the All County Diversion Hui, an informal group, and we all supported it together. DOH was behind us. Henry Gabriel, Recycling Branch Chief with the City and County of Honolulu, calculated that the true cost overall is about 5 cents per container. We made a final pitch last night to Sen. Mike Gabbard's office. Starting next session we will start to lobby earlier and heavier and get everyone on board. So it's kind of crazy. She really doesn't know what happened the previous day at the hearing on HB 2399, the Extended Producer Responsibility bill from Rep. Lowen's office. What is still alive is a bill regarding composting. It's about changing allowing for composting in ag zone districts. So this kind of goes hand in hand with the county, with us working with Research and Development, they do most of the work. About eight coalition members are applying for a very large grant from the EDA for Build Back Better. They already were able to successfully get an amount Phase 1. So now we're working on Phase 2, which is a huge endeavor. And this composting would support that. It's looking at decentralized composting around the island more, and it's in the relevant districts. They kind of overlap with Council districts, but just different geographic districts on the island. So she really supports that one. January is just the craziest month for legislation. She also doesn't know also where the eWaste bill was. It was about moving forward just similar with EPR, just getting more money upfront from the manufacturers. Because at the end of the day, end of life, we the counties are left to be dealing with the goods. So as with the ADF glass, we need more money. Especially when there's a new TV design that comes out every six months and everyone buys a bigger, better TV. And the same with computers.

Director Mansour reviewed the bills for which DEM submitted testimony:

- HB 1411 is relating to the title of vehicles and vehicle registration.
- HB 1412 requires the counties to provide a minimum distance a vehicle must be moved within a specified timeframe to avoid a classification of abandonment.
- HB 1413 allows the Director of Finance to require payments of outstanding charges and fines owed to the County relating to the disposition of an abandoned vehicle by the

registered owner before issuing a certificate of registration or completing a transfer of ownership.

- HB 1414 makes a person who is the registered owner of a vehicle deemed abandoned or derelict subject to a tiered fine system.
- HB 1640 establishes electronic device manufacturer recycling goals, record keeping, and reporting requirements for manufacturers and collectors.
- HB 1992 is about composting, about agriculture districts allowing them to do composting and decentralized composting. That comes to play for our DEM because as you we were thinking about in the prior administration, they focused into a centralized composting facility on the east side, where all the somebody must transport all the greenwaste across the island to one location without understanding the cost and without understanding how bad it's going to impact the environment. Imagine all these trucks, vehicles. Just think about us now moving waste from east to west, and it's becoming a nightmare. So imagine taking that countywide from each district to start moving the organic food in the greenwaste to one location on the east side. It just becomes more complicated. We were talking about decentralized, more efficient systems. So that's something we need to stop looking at. This bill could lead us thinking about what do we need to do to be more efficient when it comes to composting decentralization. We also need to start encouraging homeowners to go back to figuring a way to find composters that we could hand out to these homeowners and encourage them to do the same. The Director was in California last weekend, and because they under a mandate for organic food by 2035, they are supposed to have zero going to the landfill. So they started following what the County Hawai'i was doing years ago. But we've been fortunate here. Our residents went through the exercise before and they love to do that. So we need to find ways to start encouraging that process again.
- HB2147 is to allow Department itself to permit the federal facilities (as required by federal law).
- HB 2399, as previously discussed, is about extended producer responsibility.
- SB 2998 requires the Department of Health to implement the Auditor's recommendations for the Deposit Beverage Container program.
- SB 3363, is the one we have really been watching to authorize the issuance of general obligation bonds by the state in the amount of \$50 million to allow us to subsidize the replacement of the Hilo Wastewater Treatment Plant. Most of you have probably seen the Hawai'i News Now report about the Hilo plant. We have about 13 percent lifespan on it. It is our top priority, it's the No. 1 priority now, in addition to the other priorities. Vice Chair Gaffney said the west side is not as high a priority as it was for prior administrations. That's not a true statement. It's still high priority, but it's not ranked the No. 1 high priority. So they are all still priorities to us. But Hilo becomes an environmental crisis if we don't pay attention to it right away. That's why it's on the top of our radar. We're trying to get it going before it becomes an environmental crisis. A 13 percent operational facility is not adequate. It's not acceptable. And that's why we're focusing on protecting from a potential 3 million gallons of water potentially spilling in the ocean. That requires immediate attention. We're looking at possibly a \$200 million

project. We're trying to find the funding, try to work with people, trying to get that project going as soon as possible.

Chair Adams reiterated that we each individually can provide testimony. HB 2399 was recently approved by the House Committee on Consumer Protection and Commerce. It's going to be quite a bear to work out the details of that legislation, she said. And that it is a large pain to have to deal with the states and maybe counties with different laws, and she is worried as a consumer about what's going to be blocked from sale in Hawai'i because we've got some extraordinary regulations. There will be a lot of details that need to be worked out with multiple stakeholders. She asked if any commissioners felt the need for EMC to provide testimony or whether we just stand behind the Director and say, good luck.

Director Mansour said any support that EMC gives DEM is very greatly appreciated. If you feel there are any other bills that DEM has overlooked, please let us know as well so we could be on the same page in supporting what you guys wanted to achieve.

Vice Chair Gaffney asked to give a clarification. He didn't mean to demean the R-1 upgrade at the plant, saying: I have been working from when I first came on the EMC to get a transmission line planned into the extension of Ane Keohokālole Highway because that's the logical place to run that R-1 line, and also a sewer line from the bottom of Palisades and Kona Acres and all of those subdivisions that eventually need to be sewerred. So what I meant to relate there was that in talking to (Deputy Managing Director) Bobby Command, I've learned that Ane Keohokālole is no longer the priority that it once was and as a result, it's not shovel-ready and therefore it's not likely to be able to access federal funding, which is a disappointment because it had been my hope all along that that's where the logical place to install the sewer line while the extension was being installed. So I don't have a problem with what DEM is doing with the R-1 upgrade at the plant. My concern is making sure that we have customers for that R-1 water. And the logical customers in my mind are the ag-zoned lands at the end of Ane Keohokālole.

Director Mansour replied that he just had a Zoom meeting yesterday with Parks and Recreation because we're only going to be generating 1.0-1.8 million gallons per day (MGD). As you know, that's not a lot of R-1 water to go around. The idea is when they were talking about the regional park across the street from the treatment plant where the current sump is, to use that R-1 water for the regional park. The idea is we have some certain amount of money that was set aside through SRF funding to do the design of that dual piping system going across the street. We're going to try to encumber that this year. Our Wastewater Division is working on securing those funds to do the design of the R-1 dual pipe system across the street to go to the regional park, or do it to the north. That is being worked on. And I think they estimated that they're probably looking at 1 MGD for that regional park. We don't have the commitment. Unfortunately, we don't have enough customers that connect to our either the west side facility or the east side facility. This is unsustainable. We need to find a way. We need to work with you and the Administration to find ways to start increasing the amount of customers, because that means in return, we have better revenue to do our Operations and Maintenance projects. With that said, even with that, that means we will increase the amount of our R-1

water, because that means we'll get more MGDs coming to the plant. Until we get there, then you're right. Then probably we could tap to more customers. But 1 MGD per day, it's not enough R-1 water even for a golf course, because I think one of the golf courses we were talking to, they are almost in the range of 1.5 to 2.0 MGD usage. And the regional park may be able to consume all of the R-1 water that we're going to produce. So mathematically, we must work within what we got currently to work with.

Vice Chair Gaffney asked what is the status of the regional park. There's been no public discussion about the regional park proceeding.

Director Mansour said they are moving in with Phase 1 eventually. They are not going to build it all at once. I think it was like \$220 million, similar to the R-1 water's \$162 million price tag, the one that currently was designed for, he said. So definitely they are trying to build it in phases. Eventually they're going to get there, but also it's driven by the need for water as well. We're going to work hand in hand. We projected probably within three years at least Phase 1 will be in place. So that's an ongoing discussion with them and trying to figure out how they're going to fund it, and what have you. The big picture here, the bottom line really comes to funding. You guys all know the County's general fund is only \$500 million. So when you have a project like this it takes the entire county budget, it's not sustainable for the county to fund such a project, even if they float bonds or what have you because our debt ratio will go out the roof. But that's more for the Finance Department to talk about it. But as to the principle of financing, we need to look a different way to be able to deliver our projects.

Vice Chair Gaffney asked if the County is going to pay DEM for use of the R-1 water in the regional park.

Director Mansour said he didn't know. We haven't gotten there yet, but he would imagine it would be a memorandum of agreement between us and them, he said.

Chair Adams asked the Vice Chair to put this discussion on the agenda for the next meeting to get answers to specific questions and get some background from DEM.

Commissioner Fulton asked that the Director share the Department's priorities. It's very easy for people to grasp the need for repairs or replacement to the Hilo Wastewater Treatment Plant, because it's a concrete physical structure. If a wall collapses, we're going to have something visual and something really bad happening. What's a little harder for people to understand, I think, is the reality of what's going on at that Honokōhau Small Boat Harbor and the perpetual chronic dumping of polluted water into that sump. So that's an ongoing problem that is destructive to our water quality. Those waters on the west side are federally impaired. We know the Hilo plant is at the top, but could you share the next two priorities on your list? Do you have a 1, 2, 3?

Hilo is No. 1, Director Mansour said, and it's tied with Pāhala and Nā'ālehu because under the Administrative Order on Consent, the EPA made it clear we could receive a fine up to \$63,000

per day. So that also has been a high priority because of the AOC. We have another AOC (from the Department of Health) for the pretreatment as well that our staff is working on. And these three priorities right now because it's a mandate under stipulated fines, and then Kealakehe. We have started meeting with the consultant. They're working on the headworks and the odor control for that facility because it's way overdue for Kealakehe WWTP. The meetings started with the consultants, so they're working on that. Our staff in the Wastewater Division also had a Kapu'e Bridge sewer line in Pāpa'ikou. As you all know, we are under construction of that because we completed the bypass because it was still spilling to the water stream below it. We are in the process of negotiating with Hawai'i Dredging Construction Co. in the contract to either move forward with them or rebidding that portion of completing the project. But we were successful in getting the bypass so we could avoid the continuous spill. So these are the high priorities that we've been working on. Kealakehe is one of them, and the consultants are working on the design for these components, and sand filter, the staff has started on as well for the Kealakehe Treatment Plant. So these are the top four that's really hot on our agenda. And the guys are working on – Wastewater Division Chief Dora Beck just finished a spreadsheet of all of the force mains, which kind of took the Director by surprise. Some of them were constructed in the 1960s. Imagine the condition of these force mains that were constructed in the 1960s. We need to figure a way how to fund them, how to do the sewer replacement segments, televise them, prioritize the sewer collection replacement as we move forward as well. Hopefully that answers some of your questions, he said.

Chair Adams, commenting on the legislative update, asked where the cesspool conversion bills are in trying to come up with funding to allow people to convert to sewer to become your customers of the wastewater treatment plants. Are those bills moving, and what are the barriers to getting assistance to get conversion from cesspools done?

Director Mansour said SB 2802, which would set up a cesspool conversion fund and authorize counties to charge a fee on commercial and residential property owners with cesspools, appeared to be coming back to life.<sup>5</sup>

c. Upcoming proposals to amend the County Code.

Chair Adams asked for an update on proposals to amend DEM's rules, to add a definition of uncovered loads, to establish a process to allow trailers at transfer stations, and restoring the residential tipping credit.

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<sup>5</sup> Following this meeting, SB2802, in fact, did not receive a hearing and did not come back to life by the next deadline. However, HB 2915, HD2, has crossed over from the House to the Senate. Description: "Establishes a cesspool compliance pilot grant project to assist low- and moderate-income property owners, including lessees on Hawaiian home lands, with the costs of upgrading, converting, or connecting a cesspool. Applies to cesspools identified as failing by the department of health. Appropriates funds. Effective 7/1/2100. (HD2)" [https://www.capitol.hawaii.gov/measure\\_indiv.aspx?billtype=HB&billnumber=2195&year=2022](https://www.capitol.hawaii.gov/measure_indiv.aspx?billtype=HB&billnumber=2195&year=2022)

We did two public hearings, Director Mansour said. On the west side (January 25), we had zero attendees. On the east side (January 26), we had four people in attendance. We got a handful of comments. Regarding the trailers, we had some comments from commissioners on the size of the trailers, 6 by 10 feet instead of 6 by 9 feet. And it has to be 6 by 9 feet because the administrative rules allows a maximum of 3 cubic yards. You are limited on trailers, residential trailers, and the reason they use 6 foot by 9 foot is not only for the safety, but also just to stay within that limit. So if we stay with the 6 foot by 9 foot, then we could take it and adopt the rule the way it is now, as was submitted prior to the public hearings. But if we need to do any modification, then we have to start the clock again for the 30-day notice and do another public hearing. So he recommends that we stick with the 6 foot by 9 foot. Some people got 6 foot by 10 foot. Maybe put up a board and make sure when you go to the landfill, show that 1 foot is not being utilized and you should be okay, he would imagine. So it's a matter of, as long as you just stay within the 3 cubic yards.

Chair Adams asked if there are any other changes DEM is working on.

Yeah, one of the changes is the pretreatment ordinance, Director Mansour said. We're doing a lot of change in (Hawai'i County Code) Chapter 21, because of that pretreatment AOC that we have. So in addition to that, adding the pretreatment requirements and how we're going to go about implementation and enforcement, that's also going to be reflected in the administrative rules as we move forward. So our staff are working on both the code change for Chapter 21, and the administrative rule to allow for the pretreatment, and also to strengthen the code to allow for the County to be able to inspect cleanouts on private properties and to also allow if there are laterals that on private property need to be replaced to allow the residents to take care of it.

Chair Adams said it would be helpful for us to see your earlier drafts before the official final proposal, so that we could comment and check in with our district people and businesses as to what impact they may have. Just talking about the general topic is kind of vague for individuals. But if we could get a draft, that would help focus on figuring out who might be adversely impacted or how it could be tweaked to help people.

Director Mansour said we will share a draft because it's very important for each one of you to comment on it, because this is the opportunity.<sup>6</sup>

Chair Adams said if there are other specific areas that EMC would like to see some changes, we can look through the rules and think about whether there some things that we as the Commission should support with DEM.

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<sup>6</sup> Upon further advice of DEM counsel, a draft cannot be shared; however, DEM can share a national model pretreatment ordinance ([https://www3.epa.gov/npdes/pubs/pretreatment\\_model\\_suo.pdf](https://www3.epa.gov/npdes/pubs/pretreatment_model_suo.pdf)) developed by the EPA and adapted by municipalities nationwide. See also Revised Ordinances of Honolulu, Chapter 14, Articles 1 through 10.

c. Upcoming budget proposals for FY 22-23

Budget time is coming up, Chair Adams said. Are there particular issue areas that we should be prepared to support that you don't think you're going to get far enough with the Council, that it would make a difference for us to write a "Yeah. We need this money really, really badly, and we're willing to trade off something to pay for it"?

Director Mansour said the budget always is a challenge. Our challenge is the funding, financial obligation, and staffing. So this year we submitted what we think we need to be at for each division, he said. But he keeps being reminded that there's only one pie that goes for the entire County, and we get a slice of it. So that slice is constrained. We don't have any other way to fund it because it just comes through certain baskets and we get our share from that basket. So we may not get what we asked for, but we're still working on it, and see where that's going to take us. It would tie our hands more of what we need to do and accomplish. He understands the logic behind it because there's so much money coming in, and so much money needs to be delegated to different departments within the entire County.

Chair Adams asked if there is a particular element to support, to let us know, pass that on.

## 7. REPORTS/CORRESPONDENCE

Requests for updates: The commissioners have requested informational updates on the following:

- a. Summary of significant new and upcoming DEM activities since January EMC meeting.

Chair Adams said she had read an article about Mayor Roth talking to the Cost of Government Commission about various different issues, including Pay As You Throw, and that there were some hurdles to looking at public-private partnerships. Previously, the Cost of Government Commission had recommended increasing landfill fees. So are there some things that the Mayor is trying to push as well for the County that you're participating in?

Director Mansour said as far as from the latest report that we submitted is concerned, public-private partnerships were one of our top agenda items. We tried to get private capital funding to come in to assist the County, at least on the wastewater side, so we don't have to tie up County funding and raise the debt ratio. But unfortunately, that bill died. But there is that bill that he spoke about, SB 3362, that could allow maybe the potential of also anything above \$100 million. You could allow private funding where they could come in and kind of take over the design, construction and maybe the maintenance, but not the operation. Kudos to the Mayor, he tried the day that he took office, and we tried and we are still continue trying to figure a way how to get our hand into the private funding, so we could at least start getting into a better infrastructure system as far as the wastewater collection system, R-1 system, the treatment plant facilities, and what have you. But that doesn't mean that we're going to stop. I know we are still working, trying to facilitate between communities that wanted to connect to a nearby private facility. We're not going to just raise our hands and give up, but we're going to try to make deals and assist our communities to be able to get what they deserve, to get a

treatment facility rather than cesspools and septic tanks. So we're going to continue facilitating between private wastewater facilities and our constituents, our communities.

Regarding landfill fees, we are trying to figure out how we could generate more revenue to be able to offset the cost of business. I know PAYT came about maybe in 2007, and it was turned down, nobody wanted it. He was going through old reports the Department had. And so we probably need to bring this back to life or set up a system because we cannot continue with the status quo. To continue with status quo and expect different results is the definition of insanity. We have to start looking at different ways. Otherwise we're not going to achieve different results if we stay within the status quo. The good thing is we did the interviews for the Solid Waste Division Chief and it seemed like we had really great candidates. We have been fortunate the two met the qualifications and exceeded it. But we haven't yet made the decision. But I that would be a great asset to the Department as we select the Chief, because they're going to come in with also great experience for, just the Solid Waste Division to navigate through collection, curbside collection versus PAYT. But we need to change the system we have to improve on it, of course, to better the service that our customers expect. So that's some of the updates I gave you guys, a lot of updates on the wastewater in Hilo and the priority. So that kind of adds to that director's report. But if you guys have any questions, I'll be more than happy to entertain any that you may have.

#### b. Wai'ōhinu Transfer Station (McIntosh)

Director Mansour said we inherited numerous problematic contracts. For Wai'ōhinu Transfer Station, construction was 20 percent complete, design was 60 percent complete, and the contract actually ended in February. And they are waiting on us to decide to continue moving with the same contract, which is a mess. Four years and only 20 of construction complete is unacceptable. So he is revisiting that and we need to revisit the idea of what's good for that district. Unfortunately, the habit of this Department was getting in to sign a contract and not understanding the end goal of the contract. We need to get back into the planning aspect of things. We need to have a road map. We cannot sign contracts without understanding what the end goal is going to be. So our goal is we need to do a plan. We've been talking to Council Chair Maile David on preference for that district, on maybe finding a way either in Wai'ōhinu or Ocean View to build a more centralized transfer station similar to the Hilo facility, where that district everybody goes to that transfer station, and it becomes the hub for commercial and residential, and then it moves to WHSL. That makes more sense than keep spending millions of dollars on not having a road map. That's true for the Ocean View site. There was a plan to build up Ocean View, and we spent money to improve that roadway, and they put roadway improvements to the facility based on DOT requirements. We need to sit down with the contractor for Wai'ōhinu, and see if we can we save that contract just to do what we need to do to get us just to standard operations, and maybe focus on which side is going to be better to become the reload facility for that district, the Wai'ōhinu side or the Ocean View side. So that's where we add on it. It's a great question, but we need to get back into the planning and creating a road map before we start spending money on contracts.

Commissioner McIntosh said that when he was on the Cost of Government Commission, it became apparent that when the County was doing things, they didn't have a vision of what they wanted to accomplish. That's what they need to have involved in planning and what they want to do.

We have a good contractor we to work with, but unfortunately, the vision and the plan and the roadmap are not there, Director Mansour said. Wai'ōhinu could be a good reload facility, but the challenge with that is you don't have enough distance to accumulate the queue or the traffic, because you got a kind of horseshoe type of turn going into the facility. It's a better facility from the geographic location and geology because it's flatter, and easier to construct than Ocean View, but Ocean View also has pros and cons. Any feedback from you would help us in determining that. It will trigger how we're going to fund it as well. We have got to continue working with the stakeholders and hopefully we may come to the resolution of how to move forward.

## **8. FUTURE AGENDA ITEMS**

### **a. Follow up on action items determined today.**

Chair Adams asked if anyone wanted to follow up on questions for the next agenda.

Vice Chair Gaffney wanted to discuss the parallel timelines regarding the regional park. At the end of the day, R-1 water has value. And if the County is assuming they're getting R-1 water for free because the county has (unintelligible), then that's completely (unintelligible) the potential business model that comes (unintelligible) on water everywhere else in the country. We're aware that Kohanaiki is interested in buying R-1 water, whether or not that still (unintelligible) remains to be seen. But I think that the whole subject of R-1 water should be looked at again. And then the timeline for the park (unintelligible). (Audio was unclear)

Chair Adams said we can talk some more about the concepts of composting and whether it makes sense to take some efforts to start looking harder at the decentralized composting model, as well as what can be done to further support and encourage home composting. Ms. Berrig last time had mentioned Kaua'i has found that it's really cheap to buy everybody a big bucket that does composting like Earth Machine™ composters or some others. She is not necessarily endorsing that brand per se, but to support composting equipment could be cheaper than paying for the landfill of compost waste, if that's right for the next meeting

Once the new Solid Waste Division Chief gets hired, the Chair would like to talk with that person about the Integrated Solid Waste Management Plan that we put together, as well as thoughts that EMC has had in this whole comprehensive planning better on how we can collect waste, preferably for reuse and recycle, but lastly for disposal, just so we can start working on him or her for issues that we think are important for solid waste.

Director Mansour said he and DEM were very pleased with the candidates that were interviewed. They really did their research, and they understand our ISWMP. They made it a

point of the discussion with certain ideas they have in mind. So that was a great attempt to sit down with them.

Vice Chair Gaffney asked if there had been any progress on the notification of the public when the greenwaste is going to be shut down without any pre-planning? Apparently, it happened again on this last Sunday. He is just wondering if whoever runs the Civil Defense notification program could get that out to the people.

Director Mansour said Civil Defense did not want to overwhelm that channel with DEM notifications. But we are continuing to work with Acting Chief Mike Kaha and our staff. I don't know if we eventually could have our own app, he said. But that's still in discussion and we'll see where we will take it. Over the weekend, last week, we had five people out sick. And that's what happened on the west side. We were short staffed. We only were three staff members for all the facilities on the west side.

Ms. Berrig said when we have closures, because they're specific to different areas, not everyone wants to know information about everywhere. You want to know your notification for your transfer station. Unfortunately, if it falls outside of business hours or on weekends, then we can't go through the normal processes of a press release or notifying or getting the information out. But if you sign up here, this is a working system.

Vice Chair Gaffney said that if the system does function, then there needs to be some outreach to the public to let them be aware as well. Some people may not want more apps, ever, but at least if they know that that's an option, we're serving them better by letting them know that that option exists. He said he has never received a notice saying that any of the transfer stations were shut down.

b. Other (Commissioners may suggest items they would like placed on the next agenda.)

Commissioner Olson asked whether there had been any discussion about the possibility of abrupt sea level rise and how that would impact the Hilo Wastewater Treatment Plant? The complex there was only about 10 feet above sea level. If you follow what's possibly going on in the Antarctic at the moment and other dire predictions about sea level rise, continuing to support that where it is might be questionable. That was one thing on his mind.

The other comment was that the green waste trailers had compacting capability, and he does not think that's true anymore. We possibly are having to haul more than we otherwise would if that were still true about the trailers having the ability to compact the green waste to a higher level.

Director Mansour, commenting on the sea level rise, said that is a wider, bigger task that the entire state is looking into. Honolulu's Sand Island facility was designed to be about 16 feet above original ground level. But what they didn't understand is that every property surrounding that new design is going to be underwater anyway, and your infrastructure is going to be

underwater. So they wasted \$200 million designing something that is going to be underwater anyway. It goes back to not having a roadmap and a plan of what the entire community needs to do to become cohesive. If you want to look at it, you have to raise the roadway, you have to raise everything up to be successful.

Chair Adams said the issue of sea level rise and the impact on all our facilities is a big one. But we could perhaps agendaize that for another meeting.

Commissioner Burns said it's good to mention how complex it is to assess sea level rise for various buildings or infrastructure. We recently looked at vulnerability and studies about areas of the coastline that are susceptible to flooding will be available to the public.

Chair Adams agreed it is a complex issue and there may be a good time when it's ripe for us to hear about, and we can have Commissioner Burns lead the discussion.

On the compacting greenwaste trailers, compactors were taken out of trailers because they add weight, and you are so weight-limited on the highways, so you'll be hauling all that dead weight of the compactor on each trailer, and that's the reason for getting away with the compactors with the trailers.

Chair Adams summarized that Director Mansour said the compactors in the trailers are basically dead weight. And so they took them out in order to be able to carry more mass, both for solid waste and green waste.

Commissioner Olson noted that at one point, the compactors were stationary. They simply compacted the trailer load, and then the compactor remained on site.

Director Mansour said, the good thing is if we go to decentralized compost, we're going to be shredding the green waste on site, and they do not need to be hauled.

On the topic of closure notifications, Ms. Berrig said she forwarded a press release that had just come out, and there are banners, apparently, at the transfer stations. She was concerned that the Vice Chair did not receive any notifications.

Chair Adams said that if anybody wants a specific topic on the agenda, pass it on to the Secretary as well as the Chair. But we'll talk about this next agenda item. If you have a topic, it will be for the Vice Chair to manage for the March 16 meeting.

- c. Continuing attempts to re-schedule the Kai Ala Partners LLC appeal of the Director's decision to bill two wastewater accounts for TMK (3) 7-5-019:018 and (3) 7-5-019:026.

Chair Adams asked the Secretary to talk about some of the frustrations or possibilities in rescheduling the contested case hearing. Fortunately, the Appellants have been amenable to rescheduling and have a fairly schedule, but we are having challenges getting more than five

commissioners, as well as the different witnesses that we need to have available for that hearing.

Secretary Peter Sur said five members need to vote one way either way to have a motion to pass that can lead to a decision, order, conclusions of law, finding a fact. And so the first time we met, it was a 2-3 vote.

Deputy Corporation Counsel Keyra Wong said there needs to be another vote, essentially, because the motion didn't carry. So, we're starting over. There must be a new motion either way to hold the director's decision or reverse and remand it or modify it in some sort. And so it depends on what that is and how many commissioners are present at the next meeting.

The Secretary said we have a maximum of eight who can vote. And getting all eight together has been a challenge. And if we have a special meeting, it's going to be the 30-day notice the newspaper all over again. We could have it during a regular meeting as well.

Commissioner Burns said it would be good to solve the issue as soon as possible. So he is happy to make the time when we throw out those dates. It would just be good to try and get as many options as possible and lock that down. It's already tricky within the work hours of the week to fit the regular meeting in. We just got to keep trying, but hopefully we can encourage everyone to try and respond to those polls as fast as possible to just lock something in and plan on it.

Chair Adams encouraged the Secretary to try again for the last half of March. We can move it fairly fast, if everybody does the homework and reads through material that we had from the first hearing, then we're just asking some clarifying questions of the testifiers. I don't believe anybody has indicated they've got print testimony to provide, so it would be looking at the record and then making our decision, she said.

Commissioner McIntosh suggested it would be sufficient to have seven commissioners in attendance rather than trying for all eight, which could result in a tie vote. So if we cannot get eight, seven would be enough.

Commissioner Fulton said it was essential we have eight votes.

Deputy Corporation Counsel Keyra Wong said the more commissioners who can show up, obviously it would be the best, but it will all come down to the motion that's presented and then the vote. So it's hard to say. It could go either way, but obviously we're going to work to have everybody there, she said.

Commissioner Fulton said if five the participants in the January 7, 2022, special meeting do not change their votes, and we only have seven participants, then the result is "predetermined" what the outcome will be, because there is only one possible result of getting five commissioners, in favor of upholding the Director's decision.

That assumes that the same five will show up at the next hearing, Deputy Corporation Counsel Wong said, and somebody might change his or her mind based on the information that's provided at the next hearing. So it's really hard to say. But she does agree that we should have all the commissioners, if possible, to show up at that next meeting.

We've got one more round that gives us an opportunity to make the decision, and so we have an obligation to try to make that happen, Chair Adams said.

Vice Chair Gaffney asked if there are other County boards and commissions that require the same level of majority vote that this Commission does.

Deputy Corporation Counsel Wong said she was fairly sure all of the boards who have adjudicatory functions have similar rules, like Board of Appeals. They go through this all the time where they're either not able to make quorum or they don't have enough people. They have the same rule that applies, that they carry it over to the next meeting for a second and final vote on the merits. So this is not uncommon. It's just that we're just having a harder time finding availability among all eight commissioners.

Vice Chair Gaffney asked if none of the other boards and commissions can make a decision based on a simple majority of the quorum, and they all have to be a majority of the total number of commissioners or board members.

Deputy Corporation Counsel Wong said it depends how many commissioners or board members are present at the hearing. If there are fewer than seven present, you need at least four votes either way. So it depends how many commissioners or board members are actually there at the hearing, getting the record, reviewing all of the evidence. She is certain that those adjudicatory boards and commissions have that similar rule.

Chair Adams asked about the requirement to set up a meeting location open to the public for meetings after March 25.

Deputy Corporation Counsel Wong said there might be an extension of that. For our purposes and for Commissioner Olson particularly, it would be good to do a physical location with the connectivity issues. So to the extent the Secretary can secure a physical location for the next couple of meetings or at least maybe do similar to what he did today where Commissioner Olson shows up at the Hilo office at least for the month, that would be helpful for him.

Chair Adams agreed. Things change daily, hourly. We'll just have to see what we can do. Our intent is if we can all hear each other, see each other, if we can, and then the public has an opportunity to participate in our meetings, so resilience is her theme. Be resilient and we will make this happen.

**9. ANNOUNCEMENTS**

The next meeting is scheduled for March 16, 2022, online or at a location to be announced. Please contact the Department of Environmental Management or monitor the website for updates.

Chair Adams will be traveling out of the country on March 16, so Vice Chair Rick Gaffney will chair the meeting. And we've already identified some agenda items that can go on there. If there are additional thoughts people have that you want to cover, please let us know, Chair Adams said. Otherwise, we are scheduled to meet again on March 16.

**10. ADJOURNMENT**

**Motion, second, and vote:** Commissioner Olson made a motion to adjourn, to which Vice Chair Gaffney seconded, and the motion was adopted. Ayes 5: Adams, Fulton, Gaffney, Olson, McIntosh; Nays 0; Absent 4 (Burns, Cardwell, Hoopii, Robinson). Meeting adjourned at 11:03 a.m.

Respectfully submitted,

Peter Sur, Secretary