

# ENVIRONMENTAL MANAGEMENT COMMISSION MEETING MINUTES

Wednesday, March 16, 2022

9:00 a.m. to 11:23 a.m.

Puna Conference Room, Hawai'i County Building, Hilo, and Zoom

## Commissioners present:

Rick Gaffney, Vice Chair

John Burns

Melissa Cardwell

Dee Fulton

Lee McIntosh

Jon Olson

Elyse Robinson

## County staff present:

Ramzi Mansour, Director

Sanne Berrig, Recycling Coordinator

Chris Chin-Chance, Recycling Specialist

Steven Bader, Executive Assistant to the Mayor

Peter Sur, Secretary

Keyra Wong, Deputy Corporation Counsel

## Others present:

Doug Perrine, others.

### 1. CALL TO ORDER

Vice Chair Gaffney, as presiding officer, opened with a roll call and called the meeting to order at 9:00 a.m.

### 2. APPROVAL OF MINUTES FOR MEETING ON FEBRUARY 16, 2022

**Motion and second:** Commissioner Olson moved to approve the minutes, and Commissioner Fulton seconded the motion.

**Discussion:** Vice Chair Gaffney requested the following corrections to the minutes:

“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 [~~leased~~] ag park, but there is also hundreds and hundreds of acres of ag land

around the ag park for future expansion. There are about 400 acres of Department of Hawaiian Home Lands land which are also zoned to agriculture.”

As an aside, the Vice Chair also wished to apologize to commissioners for not agendaizing for further discussion today some topics that were brought up at the end of the February 16, 2022, meeting. There were a number of questions as to the use of R-1 recycled water in the ag park, and questions about whether the Department of Parks and Recreation planned to pay for that R-1 water.

**Withdrawal of motion:** Commissioner Olson withdrew his motion.

**Motion, second, and vote.** Commissioner Olson moved to approve the minutes *as amended*, and Commissioner Fulton seconded the minutes. The motion was approved by unanimous voice vote. Ayes 6 (Burns, Fulton, Gaffney, McIntosh, Olson, Robinson); Nays 0; Absent 2 (Adams, Cardwell)

### **3. STATEMENT FROM THE CHAIR**

Vice Chair Gaffney said he would make statements throughout the meeting. He acknowledged that Chair Adams was traveling and would be more than happy to pass the gavel back when she returns.

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

Doug Perrine: “Hello, and thank you for what you do, everybody. And here's my show and tell. See if you can see that here. This is my 8-and-a-half-pound box of household batteries built up since the last time the County had a household hazardous waste disposal event or collection event, I should say, in Kona, where they accepted batteries. They have quietly stopped accepting batteries. If you go to the hawaiizerowaste.org website, you'll find suggestions for places where you can drop car batteries, lead acid batteries only, for recycling at these private businesses. Other than that, it seems as though the topic is completely avoided. So in this box here that I just lifted up, there are several pounds of very valuable heavy metals, including lithium, manganese, nickel, and lead. These are things that we as a country desperately need for our energy future, and which we are currently sourcing largely from dodgy places. For example, we're mostly dependent upon China for our lithium supply. Lithium is, of course, vital to our energy future. So we're placing ourselves, positioning ourselves for the future to be in a situation with China that would be equivalent to, say, if we were like Europe and completely dependent on Russia for our energy right now It's a matter of national security and just common sense that we need to make use of these valuable heavy metals that we have. The flip side of the coin is that all of these are toxic. And since the County provides no mechanism and nor has any private industry stepped up to provide any mechanism to dispose of these in a responsible way, obviously, nobody is. I don't know anybody else that has a box under their sink just waiting for somebody to give us a proper way to deal with these. They're going into the landfill or by the side of the road or wherever. And I think we all recognize as reasonable human

beings that there's no way the lining under our landfill is going to last forever. Eventually, sooner or later, everything that's in there is going to leach down into the aquifers and into the lava tubes that go into the ocean, and poison future generations and marine life, and so forth. Now this is the tip of the iceberg here. The big iceberg that's coming is electric vehicles, and it's not coming in a few years or tomorrow. That problem arrived yesterday, so to speak. In this past November, I got rid of my 10-year-old electric vehicle, which had a huge lithium battery in it and for which the County had no mechanism of disposal. Fortunately, I was able to sell that EV to somebody who shipped it to the mainland to be sold in the used vehicle market. But I have an acquaintance with an almost identical vehicle who was in a different position when the service department where he took it, his vehicle to be serviced, pronounced his battery dead and unreparable. And his only choice then to dispose that responsibly would be to remove the battery and ship it to the mainland, and have a new battery shipped over here. And that's \$10,000 for the battery and then \$3,000 for the shipping. I presume the shipping to the mainland is similar. So like \$3,000 shipping to get it to the mainland. It's not something that people are going to do. We know what people do with their used vehicles if it's going to cost them more than \$10 or \$20 to have them towed to a place where the metal can be recycled. So this is a desperate crisis. The county needs to come up for a plan what to do with batteries. And these big lithium batteries are not just a hazard in terms of poisoning our soil and water. They are also a hazard in terms of starting fires. You look at all the dead vehicles along the road. Now imagine if each one of those could be an ignition point for a brush fire, and an ignition point that's very hard to put out. You have to keep water on the lithium battery fire continuously for days before it's going to extinguish permanently. So we really need a system to dispose of our batteries. And that's my spiel. I'll pass it back to you guys."

Vice Chair Gaffney thanked the speaker, hoped to have some input from the Director, and recognized the presence of Commissioner Cardwell.

## 5. UNFINISHED BUSINESS

- a. Status report on 2022 EMC Priorities – Each lead commissioner to provide *brief* report on their priorities.<sup>1</sup>

Commissioner Olson said we need to get to the point where we figure out how we are going to pay for whatever it is we're going to do. We have got to pin the tail back on the donkey because nothing is really going to move forward until the issue of how do we pay for it is resolved. The thing that he had floated is that we pay the disposal fee at the point of purchase. We collect the money upfront. Now, that's probably not going to be the most popular thing in the world because basically right now everybody is getting by with just having it come out of the existing property tax pool. The downside of that is the average duck in the pond has no idea what it actually costs to do what we need to do, as we've just had the dissertation on batteries. That's just one of many things that we need to put a point on. And the public in general will get on board when they understand the costs and the consequences of their purchasing. If we can make them aware of the costs and the consequences of not doing an adequate job, we're going to get support. Until then, we are whipping a dead horse.

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

Commissioner Fulton wanted to report that she has been stymied as far as acquiring any further data that she requested more than a year ago of the Department of Environmental Management. She has requested chloride data on the wells along with Ali'i Drive and the return to the Kealakehe Wastewater Treatment Plant. And the last time we saw any of that data was for January of 2021, when it was presented at that February meeting. So since then, she had asked that that information be included in the Director's Report. Director Mansour declined to include it in the Director's Report, but instead directed her to Wastewater Division Deputy Chief Eric Takamura. So she contacted Eric Takamura and then eventually was sent to Wastewater Division Chief Dora Beck. Recently, she reached out to Chief Beck and said, here's the information I'd like to have. I'd like to have the chlorides. She is also interested in any smoke testing that's been done to check for leaking laterals. Chief Beck sent some data. The most recent of that data dates to January 2021. So at this point in time, she has no new information despite repeated request for this data, she said. And we'll circle back to that during the Director's Report. So she has that to report, she is not getting any cooperation from DEM, and that raises the question of why. And so in her mind, has anything been done? Certainly they've got chloride data. What about the smoke testing? Has that even been done? Again, we'll circle back to that during the Director's Report.

Vice Chair Gaffney said the sewerage of Honokōhau Small Boat Harbor seems to be moving forward nicely. Senator Dru Kanuha's office has managed to free up \$2.2 million, for planning of that sewerage, and that is under way. And once the plan is done, Senator Kanuha is pursuing an additional \$6 million for the actual installation of the sewer at Honokōhau, and he seems to be positively disposed that that will come out of this legislative session. So all things being equal, Honokōhau will be seweraged in the near future. And just as a reminder, part of that project is delivering the sewer water from Kealakehe Parkway to the wastewater treatment plant, which is approximately seven-tenths of a mile south of the harbor, because at this point, it does not appear that the County installation of that sewer line will be complete at that time. So the plans are for the State to install the sewer line so that we would immediately begin to deliver the sewage from Honokōhau to the Kealakehe Wastewater Treatment Plant.

- b. Status report on action items from previous meeting
  - i. Update on DEM utilizing County text notification system to inform residents about unforeseen closures of all or portions of any transfer station, in a timely manner.

(No discussion)

## 6. NEW BUSINESS

- a. Discussion on the need for immediate options for the disposal of many kinds of batteries (household, vehicle, power system, etc.) to mitigate the environmental impact and the danger of disposal of these hazardous products on our island.

Commissioner Cardwell said she knew that Mr. K's Recycle and Redemption was doing a pilot program for disposing of batteries. The Commissioner, like Mr. Perrine, also has a box of batteries, and brought it to Mr. K's. She does not know how that pilot program is going. It would be worthwhile to follow up on that, and she can do that. And she is not sure if they are

taking lithium batteries. They are taking the regular kind of battery. Another concern that comes to mind has to do with used lithium batteries that people use for solar systems, because that's going to become an issue as well. People are starting to switch to lithium batteries for solar systems. They say that they last 10 to 20 years, but it kind of remains to be seen whether that's going to happen. So as we move to more renewable energy and people go off grid, and are using lithium batteries, when they no longer work, there's going to be a disposal issue there as well.

Vice Chair Gaffney said that as the Commissioner and Mr. Perrine pointed out, some of these things are already meeting their full life cycle. There certainly are people who have had battery systems in their homes for more than 10 years. And another consideration with regard to batteries is also the larger companies that are installing battery backup systems on solar and wind power generators. Those batteries are brought in. There should be a concern about how they're disposed of in this County as well. So the point of purchase, we know from the recycling of automobile batteries that point of purchase, works. It also works for tires. So it seems irresponsible that more and more hybrid vehicles are being brought bought into the island without a disposal system for them. So it's AA, AAA, C, and D batteries and camera batteries and batteries and computers and batteries and cell phones. All of these things are presumably ending up in the landfill. And that's something we all need to think about.

Commissioner McIntosh said there are certain stores that will take items like the used cell phones, and automotive stores will take or exchange car batteries. So they do have programs out there, but usually it's what they specialize in. And I think the bigger problem we're finding is that because we're an island, not part of the mainland, we don't have easy access to companies that will take these items, and it's costly to ship them. And that's more of the major problem that the County and State are running into, rather than point of purchase. Point of purchase could maybe help. But the bigger problem is, there has to be someone to take this, and it sounds like there is nobody to take it now.

Director Mansour said we do have hazardous waste events twice a year. We just had one two weeks ago on the west side<sup>2</sup> that takes batteries and hazardous waste. We spend quite a bit of money on these events, and we advertise them pretty well. He encouraged people to take advantage of these events. Each event costs us about \$50,000. It seemed like what he is hearing is, we could be really doing that public education. Start concentrating on that. It seems like there's a disconnect somewhere between what people know and what we do deliver from services. He added a Public Information Officer position this coming fiscal year, and tentatively it was approved for inclusion in the budget proposal. So hopefully, as we move forward, we have a PIO on board who could do more outreach to the public and more of the education of what we do. It seems like we used to do that public education back in the old days. We need to get back and work with the communities and do more community events, and do the education of what services we have. He could foresee that become an improvement as we move forward.

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<sup>2</sup> March 5, 2022, in Waimea - <https://hawaii.zerowaste.org/site-content/uploads/2022-02-24-Upcoming-HHW-Collection-Events-Media-Release-Waimea-Pahoa.pdf>

Hopefully, come July, we should be able to recruit for that position. As far as electronic batteries are concerned, under the electronic waste, we collect these batteries as well. So you could put them in the container in the bin where the e-waste goes. So that's also another way to collect these batteries. The third way, as Commissioner McIntosh mentioned, there are stores like Home Depot and Lowe's. They take your battery. If you have a power tool and you use a battery for it, all you have to do is take it back to Home Depot and Lowe's. They take these batteries and they dispose of it. But it seemed like there's a disconnect. We need to do more of the education to get our community on board with what we do.

Vice Chair Gaffney noted Mr. Perrine's testimony that it is not clear on the County website that they will take any kind of battery whether it's lithium ion, lithium ferrous, et cetera. So there are camera batteries, there cell phone batteries, there computer batteries, a whole range of batteries. And it was his understanding that those would not be taken.

Director Mansour said that if it's an electronic type of battery, it goes into the recyclable bin for e-waste. We do it during the household hazardous waste collection events. We do that twice a year. We just did one two weeks ago. People are going to bring all kinds of hazardous waste batteries, oil, whatever, and we take care of it during the events. But if the website is not clear, we could work on it and modify it just to make it clear to everybody.

Vice Chair Gaffney asked about these large lithium-ion batteries that people are using for home solar storage, and also the large batteries that are in automobiles. Are those recycled?

Director Mansour said yes, when you replace the battery, they take the old battery from you because you must turn it in, and they sell you a new battery for the vehicles. The other one is also through the HHW collection event. You could bring these batteries and we dispose of them through that event. Maybe we need to be clearer as we do these events. Maybe we need to specify what we expect to take so people are aware of what they could bring in. The batteries in a hybrid car are just like any other car battery. When they replace it, they're supposed to take it from you, he said. Or it could be turned in at the household hazardous collection waste event.

That is important information, Vice Chair Gaffney said. So, let's continue to watch this subject. And maybe when the next hazardous waste pickup cleanup is announced, perhaps we can get some media attention to the fact that we're talking about all batteries are considered hazardous waste and will be collected at these events.

Commissioner Fulton asked what happens to the batteries that are within electric cars that are involved in collisions and end up at the body shops and get totaled. What happens with those batteries?

Director Mansour said the the dismantling contractor will dismantle anything hazardous before they recycle the steel and the metal. And that also gets considered as hazardous waste that

ends up being handled by hazardous waste vendor. They take all the hazardous materials out of the car, and they compact it pretty well for transport off island.

Commissioner Cardwell said she had looked at the County's HHW collection page just to see what information is there. And there is a long list of things that are or are not accepted, and where the hazardous waste collection is. It looks like the most recent one was in Puna, actually on March 6. But there was one in Waimea on March 5, and then there was one in Kailua on the 12th<sup>3</sup>. So maybe the issue is just lack of people looking at the website or just the dissemination of information that people just don't know where to look for this kind of information. But there's clearly a disconnect because all the information is on that page of what's acceptable, what's not acceptable. And one of the things that is acceptable are all different kinds of batteries, including lithium.

Director Mansour said staff do really good job. We do the advertisement, we do the programs, but there's a few that cannot be reached. Maybe they don't know how to navigate to get to the information or maybe they get to the information when they have the product at hand. But you log on to our site, it is very clear. Our staff has really been doing a good job and trying to be more transparent, more out there. And this event costs us a lot of money. He hopes people take advantage of it.

Commissioner Cardwell asked how soon it is announced when the next waste collection happens so that people have enough time to schedule that.

We have to go through the procurement process, the Director said. So, it takes about three months and we advertise it in advance because it takes that much time to secure a vendor. People have plenty of time to get on the website and all they have to do is just read our website.

Commissioner Olson said we've got to get it off basically the property tax base and get it back to the consumer at the point of purchase.

Director Mansour agreed. That is a different discussion of how we're going to fund all these programs, and that's a continuing discussion. We're never going to give up on that. It's probably going to be some resistance with certain programs, whether it is pay as you throw or going after the producers through legislation. So that is always an ongoing discussion with legislators way in advance. It's going to be at a cost. But the good thing is also we had offered the Solid Waste Division Chief position to a very qualified individual that will be joining us in probably June or July. So, we're going to be more concentrating on that as well, on putting a plan together to get us through that. But we're going to face resistance. People are used to getting free stuff. We're working on it. And hopefully with your help, we'll navigate through these

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<sup>3</sup> Upon further review this date appears to be incorrect. There was no collection event on March 12 in Kailua-Kona.

difficulties because we may face some resistance, but we need to put a good plan together and present it and see what comes out of it, he said.

Vice Chair Gaffney read a note in the chat from Recycling Specialist Chris Chin-Chance to the effect that the County does not have a contract to schedule the next events, and therefore, they can't announce the event dates until they have the contract to schedule the next event. We'll continue to discuss this, the Vice Chair said.

b. Discussion regarding DEM Operating and Capital budgets for FY 22-23<sup>4</sup> - (Bill 126<sup>5</sup> & Bill 127<sup>6</sup>)

Director Mansour said the draft budget has been submitted to the Mayor. He approved some of the funding for us, some of the positions. So it went to Council members. We're going to have a budget hearing (on April 14) in front of Council members. And then the second round (in May). We are revising some of the positions that we are requesting that were not approved the first time around. Hopefully we get more approved in May, so we could at least get in a situation, at least from the wastewater side, to do more. As you know, the project list is humongous. We have so many projects in the Wastewater Division, but we only have three current engineers working on them now. But we are going to keep our finger crossed. And the good thing is we got the public information officer position approved the first time around. So we're going to make sure that we capitalize on that position as we hire that person.

Vice Chair Gaffney asked if any of the positions are focused on a grant writer or somebody to pursue additional funding outside of the county budget structure.

The first round of the budget did not include a grant writer, Director Mansour said. We're going to do it for the May 5 submittal. It's his understanding the Department of Research and Development will be chasing grants and loans for the entire County. The Director had a lengthy discussion with DEM's business manager the previous day, and we're going to resubmit it for the May budget round because if that's the only source of our income for the Department, we need the staffing that could chase that income for us. Because all of our projects are funded either by loans or grants. So we're going to try to submit it in May, and hopefully get some traction on that.

Vice Chair Gaffney said that while Research and Development has the skill set, they also have a broad area for which to pursue funds. And given that we have federal money opportunities probably greater than at any time in our lifetimes, it's critically important that DEM have its own grant writer who is focused only on the priorities of DEM as opposed to counting on Research and Development, which has responsibilities that go much more broadly across county government. And again, it's his understanding that they are already overwhelmed with the kinds of stuff that they have to do and they're still doing grant writing and catch up because

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<sup>4</sup> Bill 126 & 127 excerpts pertaining to DEM:

<http://records.hawaiicounty.gov/weblink/DocView.aspx?dbid=1&id=115341>

<sup>5</sup> Bill 126, Draft 1, Operating Budget: <http://records.hawaiicounty.gov/Weblink/0/doc/1031266/Page1.aspx>

<sup>6</sup> Bill 127, Draft 1, Capital Budget: <http://records.hawaiicounty.gov/Weblink/0/doc/1031267/Page1.aspx>

their responsibility includes all of the damage from Kīlauea. So they're really backed up. If we can support the opportunity for DEM to have its own grant writer, it's an important thing for us to do given the opportunity for federal funding, which requires a lot of different things. And we may need grant support for the additional 20, 30 or 40 percent that is required by a lot of these funding agencies that the County may or may not be able to pursue by bond floats and other means.

Director Mansour said that will be his justification on the supplement because we need to chase our own sources of income. And even if we hire staff members, they're probably still going to coordinate with R&D as well.

c. Upcoming proposals to amend the County Code.

Director Mansour said DEM intended to share with Commissioners the pretreatment program bill, but we are going to wait. We were advised by our Corporation Counsel to first submit it to the Department of Health and then get it out because that will allow everybody to review and comment as we move forward, because it was still in the draft form, and we have a deadline to submit it to Department of Health. But eventually, yes, that pretreatment program triggered us to do some code changes. So that will become an opportunity for you to review it and advise us of what other code changes you would like to do.

Vice Chair Gaffney asked whether anything currently in the County Code requires people on the sewer system to pretreat their wastewater.

Director Mansour said the only there relates to FOG, or fats, oils, and grease. But no, there's nothing in detail. It took our staff quite a bit of time to rewrite and introduce that pretreatment bill. Our new engineer that we hired last year was put in full time just trying to put the details into a bill for an ordinance because you're talking about enforcement, implementation, and procedures. None of that was within our code.

Vice Chair Gaffney asked whether the new pretreatment requirements will include those businesses that are that putting salt water into the sewer system, in particular dive shops, saltwater fish wholesalers, and so forth. There are opportunities for salt water to be introduced into the sewer system in ways other than leaks.

That is correct, Director Mansour said. Each business is going to be looked at and analyzed as to what it is discharging, and will be required to do a pretreatment prior to disposal.

## 7. **REPORTS/CORRESPONDENCE**

a. Legislative update<sup>7</sup> – Executive Assistant Steve Bader or other County personnel

Mr. Bader thanked the commissioners for inviting him, and for their volunteering to do this important work. The Mayor has a real push for sustainability. The general public may not understand where the connection is between sustainability and the work that's done by DEM

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<sup>7</sup> Legislative update: <http://records.hawaiicounty.gov/weblink/DocView.aspx?dbid=1&id=115343>

and the commissioners do to help assist that process. When he goes to the Legislature and have discussions with our delegation and other legislators, even they sometimes don't see that connection. And it's really important that the community understands that. And so hopefully in that budget process, that PIO position gets approved and there could be more concerted, coordinated effort to get information out so people can understand what's being done, all the good work that's being done, but also how important that work is to the future. Rather than going bill by bill, he is going to kind of take some highlights and give an overview. The staff has been doing a great job of tracking bills, the Secretary, and everybody downline in different divisions. Mr. Bader get information daily, sometimes several times a day.

Mr. Bader is in regular contact with the Director and the Secretary, and it's been very helpful for the County's overall legislative approach. This will change by the end of the week, but there were about 1,000 bills that crossed over. And out of those 1,000 bills at the Department level, the County is probably tracking between 250 and 300 bills of interest or concern. There's many other bills that we keep an eye on, but some of those bills are not going to get hearings and some of those bills will be amended. So they're going to look a little different. But the ones that are being tracked across County, there's somewhere between 250 and 300 bills in that vicinity. Out of the mayor's office, we're looking closely at about 45 to 50 bills. We have been kind of looking at them from the very beginning. And out of those bills, about a quarter of those bills are what we consider DEM bills. So right now, the Secretary is saying there's about 22 bills that are being tracked. And out of those 22 bills, the Mayor's office is directly looking at about nine or 10 of them closely. So that doesn't mean that the other bills aren't important. It means that those particular bills have particular importance to the Mayor, and some of that has to deal with bills that are being looked at statewide. So as the Mayor talks to the other mayors, we have regular meetings through the Hawaii Council of Mayors, their legislative policy people, and the mayors, we all get together to kind of discuss what they're looking at. And so that's where some of the bills we are tracking. It kind of has more of a statewide impact.

As for DEM, there are some bills that are being tracked at the state level by other counties. And the example would be the abandoned vehicle package of bills, so HB 1411, HB 1412, HB 1413, and HB 1414. That package, which is primarily sponsored by our own Rep. Gregor Ilagan, has wide support from the Hawai'i State Association of Counties. What Rep. Ilagan has said is that next year there may be more aggressive bills put in place that would deal with some of the practical issues that on the ground we sometimes have to deal with, which is location of cars, how you get to private property, and all of that.

What they did this year is to focus on more administrative type bills to kind of lay the foundation for next year. But behind that is that it is an election year. Every seat is open, and there isn't a real appetite to do anything that aggressive this year. So there are a lot of bills put in place as a build up to next year or ramp up the next year.

Mr. Bader wanted to talk about SB 3363, which was the general obligation appropriation request bill for \$50 million to help us with the Hilo Wastewater Treatment Plant. Originally, right before session started, we had three bills. One of them didn't get introduced right off the

but because as we were having discussions with concerns that labor had, that bill just couldn't be introduced. And then the other bills died without getting the kind of hearing they needed. But this one survived and was heading to the Senate Ways and Means Committee so it could cross over to the House. But because it didn't get heard in time, we had to turn it into a direct CIP request, which was suggested early on in session that we might contemplate doing that.

But at the time that discussion came, we had options. So, it didn't make sense to throw another option in there while we hadn't worked through these other vehicles. Eventually, Mr. Bader said, we made a formal request out of the Mayor's office directly to the budget folks to add that as a CIP request. So the bill died, but the request is still alive. And what we must do since that budget is moving over to the other chamber is to get support on the House side for keeping it in, and support not only with our legislators, but if there's support, at the staff level. And that's the kind of stuff that he does, which is to have those conversations not only with members of committees or our own delegation, but also having discussions with staff folks to make sure that an appropriation or a request isn't erased out of a draft budget, and then tracking whatever potential political issues are behind the scenes that we need to know about. So that's kind of where that deal is. It's important we're going to have to wait until the final design is in, before we can make the kind of push we want to make on that.

But the Hawai'i News Now report<sup>8</sup> certainly got people's attention in Honolulu because everyone he had meetings with referenced that news report, and a part of that, when we're saying that there could be an imminent failure at the plant, means that we also on the administration end have to do disaster planning for it, and it has to be well-thought out. And we have to do it in a way where we can engage the surrounding communities, and then make sure that at the State level, folks are paying attention.

We've started to have those conversations with the Governor, with other legislators who have concerns about environmental issues. So when we get into what we'll call a tabletop planning exercise, we'll make sure everybody knows what's going on. And certainly this Commission would have an understanding. Mr. Bader is sensitive to the issue of how things can get disconnected between the work that's being done at the Department level, where the commissions sit, and where the general public sits, and everybody can be doing a great job, but if there's no communication flow or real comprehensive way of getting information out, then people are not going to be aware. Mr. Bader said if we get into that kind of disaster planning, the Commission would have to know. And so without stating a particular time frame, we're kind of looking at that. And depending on what happens at the Legislature, it may be sooner than later that we do that, because if we're saying this money is important, we need to do this as soon as possible.

But if we don't have a plan in place to deal with an outfall, then it does not make sense. All that stuff works together, and it could create the kind of traction we might need if there's a follow

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<sup>8</sup> <https://www.hawaiinewsnow.com/2022/02/10/hilos-sewage-plant-danger-complete-failure-could-trigger-environmental-disaster>

up story when we start being real public about that process. It might be helpful to us in making sure that CIP request stays in the budget or, as we go to next year, that all of that groundwork has been laid as we get into the biennium budget, the two-year budget, which is normally when you would make an ask like this. So there's a lot of stuff going on.

Mr. Bader said he wanted to kind of give an overview of what's happening. And the staff at DEM do a good job of communicating this. We have the information we need on a daily basis. From the Mayor's office, we have a quarter of the bills that we think are very important are bills that we're monitoring closely out of the DEM. After this week, we'll have a better idea of where some of these bills stand. Some hearings have been scheduled, but between today and tomorrow and probably Friday, some of the rest of those bills that are on that list of 22 that DEM is closely monitoring, we will know the status because if it's not scheduled, it's not going to make a time frame. So in other words, if it's not heard by then the next week, then these bills are going to be dead. They're going to be deferred. So what happens in the next few days are going to be important. And within a couple of weeks, out of that 1,000 bills, you're probably going to see 300 to 400 drop off almost immediately.

And it's not always bad that that happens because companion bills are going to be worked on, or sometimes they are similar bills that are not companion bills. In both Chambers, there's going to be conversations to take language and start morphing the bills. So there's a lot of activity over the next few weeks that's going to happen and Mr. Bader will probably be making a couple more trips to Honolulu in the next week or so to make sure that we're not out of that information loop because you can only get so much out of Zoom meetings. You can never get a real frank conversation with a legislator to understand why he or she is voting a certain way or if there's a backstory to what we're not understanding in this meeting. And that's the value of being able to get over there to talk to them.

Vice Chair Gaffney thanked Mr. Bader for his comments and assistance. One point he wanted to make is that next year, before the session, he would like to know about bills that are important to the administration, particularly the ones that are also important in the Commission's kuleana. Some of us have personal relationships with legislators, not just Big Island legislators. And the earlier that we reach out, the earlier these things can be seen as important enough to move through the process. So that's something we missed this year. But we would like to do that in the future, he said.

Commissioner Cardwell asked for a brief rundown of bills that the administration was following. Mr. Bader cited the following:

- Abandoned vehicles: HB 1411, HB 1412, HB 1413, HB 1414
- Hilo Wastewater Treatment Plant, SB 3363
- Management of organic waste, HB 1526
- Extended producer responsibility, HB 2399
- Theft of vehicles, HB 1486

- Cesspool compliance pilot grant program, HB 2195.
- Cesspool conversion bill, HB 1806.

We are always looking at the schedules and making sure we understand the timing because it's fast. Mr. Bader said. You get a little bit more than 24 hours notice.

Commissioner Cardwell commented on HB 2399, which is something she has been following and submitting testimony in support. Commissioners can comment individually because we haven't come to any kind of consensus as a Commission, but we can still contact our legislators in regard to any of these bills that are important to us. She just received an email from Zero Waste Big Island, Jennifer Navarro's group. And they're really good about sending out information about submitting testimony. She can send the Secretary the link to sign up to be informed if anybody is interested. With a lot of these bills, now is the time to submit testimony. And like Mr. Bader was saying, sometimes there's only a 24 hour notice. It's important to follow some of these bills that are close to our hearts, especially the extended producer responsibility, one.

Mr. Bader gave a brief overview of how a bill passes through the Legislature: There are hearings on one side, it passes through, it gets voted on, it crosses over the other side, you go through the same process all over again. Mr. Bader pays attention to how those committees get scheduled or where it's going. Is it going to be a joint committee or not? Sometimes committees get set up in a way where the bill is doomed to fail. And it's frustrating because once you see what the referral is ... it's almost set up in a way. It's never going to make it to the money committees (Finance or Ways and Means). And so you try to see if you can gauge that ahead of time. But sometimes you don't know because these decisions are made pretty quickly. And that's the value of trying to have conversations at different levels with folks even beyond our own delegation, as the Vice Chair was saying, you have relationships with other folks, whether they are other legislators from other counties or staff.

That is very important, Mr. Bader said. He always tells folks when they're talking about how to be effective at the Legislature is that you got to have the widest range of information, and then from there see where you can draw the lines to figure something out, because you cannot single-source this. You can say that I talked to X, the majority leader or whomever, and he or she said this. Those folks wouldn't know what's going on in the opposite Chamber. They don't know what's going on upstairs in the Governor's office. He spent three years working in the Governor's office in Honolulu, and he knows, sitting there, how little the folks in both Chambers knew about what's going on there. So sometimes when he is in Honolulu, he will have conversations with the executive level because he wants to see what the view is. Sometimes there are funding bills that don't make it, that could end up getting into the budget somewhere. administratively. A State department could put money into a budget to be able to alleviate whatever that concern is. And so that's the kind of stuff that he is looking for, that kind of information.

Sometimes only staff people would know, or sometimes it's only at the executive level that they will have an awareness where they said, don't worry about this, because this department is going to make sure that it's in their budget. And it kind of alleviates a lot of stress for us at this level when we're calling people and writing testimony and beating our heads against the wall, we can have that information. So whatever information you can get, you can funnel it to the department so they could get it to him. We are only at the halfway point at the Legislature, there's a lot of stuff that's going to happen from this point forward for the next half of the session. So all that is good. And we appreciate any information we can get. And he is happy to share whatever he knows that is pertinent.

Commissioner Robinson asked about the consequence if a homeowner does not converting to an approved wastewater system by 2050.

Director Mansour said he is a member of the Cesspool Conversion Working Group with the Department of Health. He had a meeting the previous day and the group is trying to figure out the timing and how could we get 80,000 cesspools converted within the State to meet the deadline. We anticipate some homeowners, for difficulties for one reason or another, may not meet the deadline, but there could be a ramification, he said. They may get one extension. But with 80,000 cesspools, if we don't start converting now, nobody's going to meet the deadline. So the question is, how could we create incentives to start converting now so we don't have a backlog just a few months before 2050? So that's why they tried to pass that legislation at the point of sale. The idea is if you are selling your house and it has a cesspool, you have to convert it prior to the sale. So can start expediting some of the process. And WAI (Wastewater Alternatives and Innovations) had also stated that technically, with all the resources we have, you are averaging about 109 homes a year.

So definitely there's a challenge trying to get to 2050. But the committees are working on maybe some legislation that could expedite the process or create a point of sale type of situation. Hopefully it passes. It has some advantage to it. It may face some resistance, but the working group is trying to navigate that as well. Hopefully that answer your question.

Commissioners thanked Mr. Bader for his assistance.

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

a. Wai'ōhinu Transfer Station

Director Mansour said the contractor only completed 20 percent and we were thinking about terminating. He had requested a meeting with the contractor and the designer, and visited the site himself for the third time just to figure out what's the best way to move forward. We met, and they submitted a schedule to get us at least the retaining wall and the asphalt, so people could start using the transfer station. Because the current retaining wall is very jeopardized, and it could fail because there's nothing supporting it. Given the importance of that issue, they gave us a schedule to complete the project by December. We're going to meet with them, and hold them to that date as a deadline. And we agreed hopefully they could finish it given the

opportunities on the permitting process, that they could meet within the specified days. And they know we may subject them to liquidated damages after the deadline. So we are in the process of working with Corporation Counsel to create a change order to allow them to move forward and complete the project based on their new schedule.

Commissioner McIntosh asked if DEM is going to repair the existing wall so you can back up to the chute. Was he talking about finishing the bottom part and continuing on with a different system?

Director Mansour said the contractor will finish the bottom part, the one they started, because that's what was in their contract. So we are going to finish the bottom part to bring the new retaining wall.

Commissioner McIntosh said the County needs to put more teeth in their contracts. They start a project and they don't finish and nothing happens and they just walk away.

b. Status of Kealakehe WWTP sand filter donation and timeline for its installation

Director Mansour said we signed a contract with Engineering Partners locally here on the island. They are working on the design plan because they have to put the project out to bid. So they just started laying out the dismantling of the sand filter units because there are five units within that sand filter, plus all the mechanical parts. They started doing the layout. We are also waiting on them to give us the work schedule. Our goal is once it gets dismantled and transported to Kealakehe WWTP, Deputy Chief Eric Takamura is also working on securing another contract that is going to be doing the headworks and the odor control. So it's coming along. His goal is by the end of this year we should have it at least in place and running if we do not get tangled in the permitting process.

It has to be located by the treatment plant as opposed to the sump because by code we have to intercept the water because you have oxidation, chlorination and filtration. So we have to strategically put it on the plant to complete the process.

c. Plans for inspection of sewer laterals on Ali'i Drive from Kuakini Highway to Hualālai Road

Director Mansour said we currently don't have a plan on inspecting the laterals, but there are a lot of manholes that we need to raise along Ali'i Drive. Some of them have been covered by Department of Public Works as they were laying the asphalt. So our staff are currently working on the traffic control plan. The intent is once they finish that traffic control, we need to start raising these manholes, and also covering these manholes that have been buried by the asphalt. So this is part of the master plan: we had put \$500,000 into the budget to get us that master plan. Part of that master plan is how to lay out the maintenance and replacement of sewer segments over time, to identify the segments that need to be replaced, either due to the corrosion, if it's ductile iron pipes, and part of it is also during the inspection of the sewer line. The laterals are going to be inspected as well, but it's going to be within a program.

Vice Chair Gaffney asked if that's the case, do we understand that the laterals can be inspected right now, and that there's no new ordinances or any requirements so that the laterals can be inspected by the division.

Director Mansour said when we did the pretreatment program, we reinforced that and the code change. So when you review that bill, please redline it, mark it up to whatever you would like to see because this is our opportunity. But the laterals were included as part of the code changes under the pretreatment.

Commissioner Fulton said she and the Director we had spoken informally about smoke testing along Ali'i Drive that may have occurred through 2021 and into 2022. Of course, that's part of the information that she had requested more specifics on as far as the history of that testing is concerned. It wasn't provided to her yet. She asked for advice on how to proceed.

Director Mansour said he had seen some of the emails between her and Wastewater Division. Deputy Chief Eric Takamura has been specially assigned to oversee the operations. We took that responsibility and spread it so we could manage it better. The information the Commissioner got from Chief Beck was in September or October, the year before. The person in charge of that has been on personal leave since then, and he extended it for another month just recently. But he had a chance to talk to our Grade IV operator, David Thomas. And he said, yes, they have been doing dye testing along Ali'i Drive as well, every time they get a call. So Mr. Thomas and Dr. Takamura may have more updated data because we just had a meeting with Dr. Rick Bennett at the facility with Mr. Thomas and our Engineer V. And he was sharing some of that data on the chloride with Dr. Bennett. The Director will have Dr. Takamura get with Dave Thomas and make sure they send you the latest data.

Commissioner Fulton asked for a timeframe for that to happen.

Director Mansour said he will have Mr. Thomas and give the Commissioner the information after this meeting.

Commissioner Fulton said the two main subjects were the chloride data and history of smoke testing along Ali'i Drive. And she was interested also in the results of the smoke testing, and the dye testing, too. That's news to her that any dye testing has been done. She looks forward to getting the information from the Director soon.

#### c. Solid Waste Division Projects and Updates

Director Mansour said we have been having challenges with our equipment, especially our trucks. That led to backlog of garbage on the floor of the reload facility. So we tried to get with the labor union (UPW), and we had a conversation with them about trying to get somebody from the outside to assist us because it became a health and safety hazard. They said no, we cannot go outside and get assistance. We try to manage with what we have. And then the reload facility caught on fire last Thursday. The Fire Department was there. Our staff from the

wastewater and solid waste divisions mobilized to put out the fire, and fortunately, we were able to resume operations the day after and the afternoon after we did the assessment, and we were able to restore everything else besides power to the facility. But that gives you an idea of the stuff that our staff deal with day in and day out. It's unfortunate that we will not be able to hire a private hauler just to empty the floor for us, because we kind of knew it. Refuse always catches on fire due to spontaneous combustion or something that gets thrown in the garbage. Our current permit allows zero loads left behind. So unfortunately, we are still having five to six loads at the end of the day. But moving forward, he needs to reschedule another meeting with the union and try to navigate something to move forward because the current situation is unacceptable. We still have equipment failing. We went front of Council members, they finally approved our equipment purchase for three trucks. We are backlogged on the purchase for a year before we can get them. We're going to anticipate more breakdowns on the equipment, and we're going to be faced with the same decision making of trying to get a private entity to come in and into the floor for us, so we don't catch the place on fire like we did just last week. So that's as far as that aspect of the reload is concerned.

Director Mansour continued: The greenwaste, the mulch, is a commodity in high demand. So our goal is to be able to have enough to go around. Over the last year commercial users are going there and taking a large loads of that mulch, it doesn't leave much for the residents. That's why we have a lot of complaints from residents and the commercial users of what's going with mulch at the Kealakehe site. We keep reminding people. People want large quantities of mulch. We have tons and tons of mulch at Pu'uanahulu. So if people want to fill up a truck or big semi or what have you, they could get it from there, but we are limited on the quantity that goes to Kealakehe because we only got two trailers. And every time we empty the green waste trailer, it comes back full with mulch. And that's the amount we could bring in. So given that and the resources we have, our are staff doing their best effort to continue operating with old equipment. And between transporting waste from east to west and transporting some of the mulch back to the Kealakehe Transfer Station, it takes some new equipment, and this Administration was gracious enough generous to approve some of the equipment for us also in the FY 22-23 budget. We are getting more equipment to replace some of our old equipment. When he did the presentation for Council last week, we had 44 trucks. Twelve out of these trucks are disposed. Currently, we have 24 trucks, and four of them are in for repairs. We have 22 transfer station, and we have two landfills. We don't have enough equipment to go around. We have 25 operators. So that's why the equipment was a very important topic to chase and trying to get the resources to our staff. We're working on that. We hope to get better news in the May budget. We've been going around and meeting with our solid waste crew at 6:30 a.m. before they get up and go on the roads, because they travel all over the island, we are so decentralized. The No. 1 concern they have is, get us the equipment, get us safe equipment, get us the right equipment. So we heard them out loud. The Mayor heard them out loud. He's been meeting with them as well. The Director thanks the Mayor for his understanding and the support that he's given us, and given the staff to move forward.

Vice Chair Gaffney asked about the Hu Honua bioenergy plant. It's recently been revealed that they only have enough trees to operate for six years or something like that. And they are saying

publicly that one of their intentions is to buy green waste from the county to fire the plant. Is there any discussion with them toward that, and what's the Director's feeling with regard to disposing of green waste through that means?

Director Mansour said he has had no discussion with them. Greenwaste is a high demand commodity. Our No. 1 priority is ag use, for our farmers, and also our constituents, our residents, because we don't have soil here on the island. He would hate to see that going to flame rather than being used to create crops and food. So, no, he has not had a discussion with them, and that won't be his recommendation to the administration.

Vice Chair Gaffney said he was glad to hear that, because a Mayor who is focused on sustainability should also be focused on the production of high quality compost and mulch for agricultural production, as opposed to production of power.

Commissioner Olson said when the Pāhoa and Kea'au transfer stations were redesigned, there was supposed to be areas set up for composting at those facilities, and that kind of somehow got lost in the fray. Moving this material around certainly would be helpful, and he is sure the community would be appreciative.

Director Mansour said that is our intention. When he went before Council a month ago or so, that discussion came about decentralizing compost rather than centralizing compost. And we have testimony from the public that they would like to see decentralized composting. And we have an agreement that limits us from doing that. So we're going to look at decentralization to meet the need and demand of the constituents. It makes perfect sense to take the green waste within the transfer station and put a grinder system, and start grinding and creating mulch. Even if you don't create compost, at least you could start creating mulch at each transfer station rather than transporting it.

Commissioner Cardwell asked the Director about the agreement that limits decentralized composting.

Director Mansour clarified this is about the current agreement with Hawaiian Earth Recycling, because the intent was to have the composting facility in Hilo, centralize it, and have material brought from transfer station and the landfill to that facility, which makes it complicated, because imagine transporting foods from every business on the highways and from a landfill. It becomes a nightmare for logistics and the transporting of that.

Commissioner Cardwell asked if there is there a time frame on that agreement and asked if the centralized location is at the W.H. Shipman Business Park. What's going on with that?

Director Mansour said that from a legal point of view, let's not discuss it, because that whole subject could end up in litigation as we move forward. But at this point, the Department is looking at options. That's all he can say.

Commissioner McIntosh had a question relating to electronic waste. Rather than just having collection points, have you considered decentralizing, maybe having one day where you collect them like normal, but also for all the other transfer stations, we could also drop them off there, and then they could be ferried to your drop off point somewhere? Something like that would be helpful because it's a long drive for him to go to Hilo, Kona, or Puna, and he doesn't know the last time when one was held at Wai'ōhinu. It's been a long time.

Director Mansour said regarding the household hazardous waste collection, we did one in the Ka'ū district last year, and we have a small turnout. So we are monitoring the turnout because, for \$50,000 we want to make sure we maximize the collection. And we've been putting notifications out islandwide. If people want to drive in that weekend to bring their stuff to the Kona, Waimea, or Pāhoa areas, they could do that. As we lay out the dates and the timing and the location, our staff goes back and reviews records to make it efficient.

It also might help if you put up big banners or posters, Commissioner McIntosh said. We still don't have anything about specific items. You have the general signage. But he didn't know that they are only taking one appliance a day per person or per TMK. However, you do that because he just had a neighbor who had to come back with appliances because they brought too many. But there's no signage at Wai'ōhinu for that and some other things. If you look hard enough, you might be able to find it on the website. But overall, from what he found, most people in Ka'ū don't generally visit websites. So if we had signage, it would help because people do read signs.

Director Mansour said he could talk to our staff, we could add signs. But word of mouth helps because they may end up hauling two white goods and they read the sign by the door, they're going to be disappointed as well. So the idea is that's the reason we encourage people to access our website before they get out the door, so they don't end up driving with two white goods and read the sign at the landfill, and then they're going to complain again.

Commissioner Cardwell agreed. By the time they've read the sign at the landfill, they're already there with their stuff. So it's too late. It is all on that website, the list of everything that can be accepted as hazardous waste. But if somebody doesn't go on the website, well, then that's not going to help them. So there needs to be a sign, like a week before the hazardous waste drop off somewhere at some community center next week. If there is a hazardous waste drop off, this is the list of the things that you can bring.

Director Mansour hoped that with the new PIO position, maybe we can start creating more public service announcements. We're going to continue navigating. Every person may not hear about it, but we are going to do our best to put the word out.

#### d. Wastewater Division Projects and Updates

Vice Chair Gaffney said that on Hawai'i Public Radio, Amy Miller, Director of the Enforcement and Compliance Assurance Division, Region 9, U.S. Environmental Protection Agency, announced that she is working with the County on extending the sewer systems as part of the

process of getting rid of cesspools. And he wanted to ask the director if he could bring us up to date on that subject.

Director Mansour said there is a meeting set up with EPA, so he will have more details after they meet on April 6.

So at this point, Vice Chair Gaffney asked, there's no plan to extend the sewer system?

Director Mansour said she was referring to having an integrated wastewater management plan, and we haven't got to that. And we're working with trying to navigate how we get that.

Director Mansour said we have other small projects that we working on, like the Hale Hālāwai SPS that is being finalized, the headworks and odor control at Kealakehe WWTP. The consultant was selected to pursue the design on that as well. So there's a lot of projects that staff are pursuing for the wastewater, but most importantly we have started the design at the Hilo WWP. We are looking at the end of the year to get the construction document out and put it out on the street and encumber money prior to end of FY 22-23.

## **8. FUTURE AGENDA ITEMS**

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

Commissioner Cardwell said she would like to be kept to date on what's happening with the Hawaiian Earth Recycling, and she doesn't know if that needs to be on next agenda. That's an important issue. And if that contract is limiting our ability as a county to have a decentralized composting system, well, then that's something we need to know about.

Vice Chair Gaffney said it's reasonable that it be added to the unfinished business section of the agenda because it is something that we've been talking about or hearing about as an issue for a long time. And what we've heard from the general public when they've testified at Commission meetings and also one-on-one to us as Commissioners is that they want to see this decentralization as well. From his perspective, it's ongoing unfinished business that we should just include in future agendas automatically.

Commissioner Robinson asked if she was looking for an update to the litigation or are we as a Commission focused on working on the decentralization problem.

It's both, Commissioner Cardwell said. They go hand in hand. It seems one the limiting factors of creating a decentralized composting system is the fact that the County is in a contract with Hawaiian Earth Recycling. She tried to follow up on that and didn't get far with it because of the possible litigation issue. The person she was emailing wasn't able legally to give her that information. But it does seem like the County is in this contract with Hawaiian Earth Recycling, but nothing's happening with that because it fell through. There was a site in Shipman Business Park that was going to be the site of the composting, the centralized composting facility, and it never got off the ground. But the county is still in a contractual agreement with that company,

even though nothing's happening. So that needs to be resolved in order for us to move forward with a decentralized composting system.

Director Mansour said that is a good summary. We may not be able to give updates, but you can start analyzing and looking at decentralization as well, because the Recycling Coordinator and Research and Development are working on some grants and studies.

Commissioner Cardwell asked if decentralized composting can still happen even with this other unresolved issue? Can they be two separate things?

Director Mansour said currently we can't because the composting is under that contract county-wide. He said again he cannot go into detail pertaining to that particular contract.

Commissioner Cardwell asked if the contract has a time limit.

It expires in 2036, Director Mansour said. He does not have a crystal ball. We leave it up to Corporation Counsel.

Vice Chair Gaffney reminded commissioners that the Secretary is very good about sending the draft agenda out week or ten days at least before these meetings. And if you have additional agenda items, that's a really good time to get them inserted in the agenda. And it gives us the freedom to discuss these subjects at the meeting. So please be aware and watch for that email.

## **9. ANNOUNCEMENTS**

The next meeting is scheduled for April 27, 2022. Regular business to begin at 9 a.m. and the continuation of the contested case hearing regarding appellant Kai Ala Partners LLC to begin at 2:15 p.m. The meeting will be online with a location open to the public at the West Hawai'i Civic Center, Community Meeting Hale (Building G), 74-5044 Ane Keohokālole Highway. Please contact the Department of Environmental Management or monitor the website for updates.

Vice Chair Gaffney asked Deputy Corporation Counsel Keyra Wong to remind the Commission about the contested case hearing.

Deputy Corporation Counsel Wong said the continuation of the contested case hearing is set for April 27 at 2:15 p.m. The plan is to have EMC's regular meetings start at 9:00, and then there will be a recess and then a reconvening at 2:15 p.m. Commissioner Robinson and Commissioner Cardwell were the only commissioners who didn't participate in the hearing on January 7, 2022. Commissioner Olson is recused. And Commissioner Carrie Hoopii resigned. So this is our group, The Secretary has sent out the link for the YouTube video from January 7. It's three hours long. But you can speed it up. And so if you can review the video and what was entered into evidence on the record and then come prepared to state on the record that you reviewed those items and that you are ready to proceed with the continuation of the hearing. The plan is to reopen the evidentiary portion so the commissioners can have time to ask questions again of the witnesses of both the Department and Kai Ala Partners LLC.

And then, the Counsel said, after that we'll close the evidentiary portion, and then someone will state a motion, second it, and then have discussion. And so this is the second and final time that we will meet for this contested case proceeding. And the reason why we're meeting again is because there wasn't a prevailing vote from the last meeting. And so we need at least four commissioners to vote either way, if there are seven or fewer commissioners attending the meeting. And so she wants to also remind everybody, except for Commissioner Olson, since he's not going to be participating, just make sure you don't do your own independent investigating. Obviously, you don't talk to each other about the substance of the contested case. Everything has to be done in open session and on the record.

Vice Chair Gaffney asked if any additional evidence has been introduced from either side.

Deputy Corporation Counsel Wong said she has not received anything. Whatever will be new will be on April 27, mostly based on whatever questions commissioners have to ask. Because the testimony is evidence. She does not think the parties will be submitting anything as far as documents. It'll just be testimonial evidence from the witnesses.

The Deputy Corporation Counsel asked the Secretary to email the link of the January 7, 2022, meeting recording to all commissioners via blind carbon copy. And any questions that come up in the meantime may be sent to the Counsel. Deputy Corporation Counsel Sinclair Salas-Ferguson is returning to advise the commission effective April 1.

Commissioner Cardwell asked that exhibits and other documents pertaining to the case be sent out to commissioners as well along with the link. The Secretary agreed.

## **10. ADJOURNMENT**

**Motion, second, and vote.** Commissioner Olson made a motion to adjourn, to which Commissioner Fulton seconded, and the meeting adjourned via unanimous consent. Ayes 6 (Cardwell, Fulton, Gaffney, McIntosh, Olson, Robinson); Nays 0; Absent 2 (Adams, Burns).