

**ENVIRONMENTAL MANAGEMENT COMMISSION
COUNTY OF HAWAII**

MEETING MINUTES

Wednesday, August 28, 2024

9:12 a.m. to 12:14 p.m.

West Hawai'i Civic Center, Kailua-Kona, and Zoom

Commissioners present:

Georjean Adams, Chair; Dorothy Norris, Vice Chair
Laura Acasio, Jim Beets, Dell Otsuka, Erica Perez, Lee McIntosh

County staff present:

Ramzi Mansour, Director; Christy Swafford, PIO; Chris Sparber, Acting WWD Chief; Alex White; Alan Fukamizu, WWTP Operator; Shelise Lamb, Project Coordinator; Kelly Hartman, DEM Planner; Peter Sur, Secretary; Alex White, Recycling Specialist; Sinclair Salas-Ferguson, Deputy Corporation Counsel; Pomai Bartolome, Office of the Mayor

Others present:

Arlene Campbell, Frank Kiesler, Maya Matsuoka, Kelbert Yoshida

I. CALL TO ORDER

Chair Adams introduced the commissioners and called the meeting to order at 9:12 a.m.

II. APPROVAL OF MINUTES FOR AUGUST 2, 2024¹

Motion, second, and vote: Commissioner Otsuka made a motion to approve the minutes, to which Commissioner Acasio seconded. Minutes approved by voice vote. Ayes 6: Acasio, Beets, Otsuka, Perez, Norris, Adams; Absent 2 (Garcia, McIntosh). Motion carried.

III. STATEMENT FROM THE CHAIR

Glad you're here, Chair Adams said. Glad you survived the hurricane and can't wait till the next one. Lots of things going. We'll have interesting discussions today, so looking forward to it.

IV. PUBLIC STATEMENTS ON ITEMS ON THE AGENDA

(No public oral statements were made.)

Commissioners discussed the means by which they receive public testimony and the Chair asked the Secretary to provide direct links when updating the electronic meeting materials folder.

The county website has a county electronic calendar, DCC Salas-Ferguson said. That's where the county posts as required by law to post a notice for all of its meetings. So if you just Google

¹ II: Draft minutes: <https://records.hawaiicounty.gov/weblink/DocView.aspx?dbid=1&id=137937>

“County of Hawai‘i,” it pulls up that main website and you scroll to the bottom, there will be a county calendar. And then you click on the Environmental Management notice of meeting. And then it'll have the agenda and a link to all the documents for the meeting. I can walk you through it if you want to.

We'll make sure everybody gets that link, the Chair said.

It is frustrating, the Chair said. It does act like you need to be a tricky person to access some of these documents. But the Secretary is the wiz, so we will make sure that he gets the information out to you guys. What we got late- perhaps- not late, because technically, people could submit, up until yesterday morning- there was some information from Barbara Bell. I don't know if you two had a chance to talk. She's not able to be at this meeting, so she submitted some information about Puakō. And when we get to that, since you guys might not have had a chance to look at what she wrote, I'll try to summarize it, so remind me to do that when we get there. So we'll make sure you get a copy of it just for background information, because there's some good stuff there, and it is publicly available, so it's nice for her to- I think she must have just finished writing it up. So it's been published now.

So everybody did get a chance to read Steve Holmes' comments, Chair Adams asked. She continued: Barbara Bell had some interesting comments, and maybe what I could do is raise them when we get to- I think Erica had a question about Puakō. Yeah. So let me bring that up when we get there, instead of having to remember what she said between us.

V. UNFINISHED BUSINESS

- 1) Permitted Interaction Group on Cesspools and Sanitation – Deliberation and decisionmaking on the findings and recommendations² presented by the permitted interaction group on cesspools and sanitation at the meeting of the Environmental Management Commission on August 2, 2024. The draft recommendations of the permitted interaction group that the Commission will discuss are shown below:

In the agenda we have draft recommendations in the PIG report that we heard. This is the time now that we can discuss it and make motions, Chair Adams said. If you are so moved to do that first, I guess the question would be, are there some clarifications to what you heard, or would you like to move through each of the recommendations that were made in that report? Okay, nobody's jumping up and down, so why don't we just go through. And we could just work through the six recommendations that were made by the PIG.

1. Wastewater Division should require that
 - i) All properties within _ feet of a public or private sewer line should be required to connect, instead of the current 300 feet.
 - ii) The County should establish a connection fee for all new connections to a public sewer.

So, all properties within “fill in the blank” feet of a public private sewer line should be required to connect to a sewer, presumably instead of the current 300 feet. And the second part of that

² V.1: PIG report: <https://records.hawaiicounty.gov/weblink/DocView.aspx?dbid=1&id=137939>

is, not only do you need to connect, but that the County should collect a connection fee for all new connections to a public sewer, Chair Adams said.

DCC Salas-Ferguson said the Commission is making decisions today on whether or not to recommend something to Council and DEM. So it might make sense to walk through each of these individually. Perhaps somebody can make a motion. 1a doesn't have a definitive number, so maybe somebody can make a motion, "I make a motion that we recommend to DEM that all properties within 400 feet should be required to connect to a sewer line instead of the current 300 feet." Then you get a second, then you go into discussion, and then you Yea or Nay, move on to the next one.

Would anyone of the Commissioners care to make a motion on 1a, Chair Adams asked.

And you can make a motion just to open up discussion. You don't have to be wedded to whatever your motion is. It can just be to start the discussion, DCC Salas-Ferguson said.

Vice Chair Norris asked do we know at what point we connect the 90 percent or 100 percent of the connections that we need to make. Do we know that area yet or- it's hard to put a number in there unless you actually know the percentage that we can accommodate.

I recommend somebody just throw a number in there and then you guys discuss, the DCC said.

So somebody make a pretend motion, pick a number and then we can get a second and then we can open discussion, the Chair said.

Motion, second, and discussion: Vice Chair Norris made a motion to amend PIG recommendation 1a by inserting a distance of 900 feet and recommend its approval, to which Commissioner Beets seconded.

Chair Adams asked about basis for the change in the number of feet. I have heard the Director say 300 feet is awful restrictive. The Vice Chair makes a good comment about we want to capture a goodly number more, but not maybe more than we could even conceivably accomplish. So what's a reasonable number?

The higher the number, the more difficult it becomes, if I understand this correctly, Commissioner Otsuka said. So because the 300 (is the current threshold)- I still think that's a little too far to require people- the closer they are to where the hookup will be, I think the better as regards to the cost. But then a lot of places down in Keaukaha, the lots are like an acre, so they're farther away from the line. So the farther it is, the more expensive it becomes. The farther it is, the harder it becomes for anyone to hookup because it'll be too expensive.

Chair Adams asked Director Mansour for his input.

My recommendation to you is to hold off on making any recommendation, the Director said. The reason is our consultant is defining the sewer service area. So our intent, anybody within the sewer service area must connect under the current AOC. The AOC defines a sewer service area and any development within that sewer service area must connect to sewer. So technically, distance may not become an issue because now you're restricted to the sewer service area as per the AOC.

So the sewer service areas being defined by whom, the Chair asked.

Carollo (our consultant), the Director said. Now we're working on that cesspool conversion master plan as you all know, and we working on the planning for each facility (the Fac Plan). So that study is going to determine how many people we could connect to each facility within the sphere of influence and within the capacity of each facility. Therefore, probably the projection would be, any new development, subdivisions within that service area must be connected to sewer because that's what the Administrative Order of Consent from EPA requires.

Are there guidelines for how big you define a service area to be, the Chair asked.

The service area is defined based on multiple factors controlled by the current capacity of the plant and accessibility to sewer, to collection sewer lines, the Director said. We cannot exceed the capacity of the plant, so the criteria is defined an area that could provide a sewer service within the sphere for influence of 5 million gallons per day for Kealakehe, for example. So they run the hydraulic model on the collection system to see the capability and capacity of that collection system and they convey that to a number of connections and accessibility to the current collection system becomes the highest to connect. So the idea is yes, and eventually this is going to drive the policies and procedures, once the study is complete, to confirm with the mandated AOC requirement from EPA.

Commissioner Beets asked what the proposed deadline for the study completion is.

I think there's multiple facets to the studies, the Director said. We have multiple contracts with them. The intent was sometime end of this year or early next year for the cesspool conversion master plan, and then the Fac plan will thereafter. So probably within this coming year, we should have all the integrated waste management planning complete. There's a lot of information that we are collecting and becomes part of that study. And maybe if next meeting we'll have one of our staff present to you where we are. Remember, this is the same consultant that did public meetings back in February, and we invited everyone. So I encourage you to participate. There's an upcoming meeting as well, the second meeting probably coming up in September or October. So that kind of defines when we had the first meeting with the public. We had four meetings across the island. We put advertisement out and newsletters, notification to people to attend these meetings so they can add input. And we put also on our website, we did the survey, we solicited information. It is very important that everybody get involved so we could have as much information as we can developing these master plans.

I think the point of this motion would be that the EMC recommends people who are on the way far side of a service area would have to connect, Chair Adams said. And so right now, if public comment is coming in, they're thinking 300 feet, and we're talking about expanding that.

Well, the 300 feet is not going to be within the AOC mandate. That's what I'm saying, the Director said. Now we have a mandate from the federal government telling you that if you are within the sewer service area- So the 300 feet becomes moot. It doesn't have a value to it. Outside the sphere of influence, you're not going to have enough capacity that requires wastewater expansion. But that's why policies and procedures are going to be driven from the study to comply with a mandated federal AOC and yet be reasonable to our constituents and our communities. I cannot see a house within the sewer service area is going to connect. It's going to be very expensive, but a subdivision with many lots and parcels, that probably would be required. Look what we did with that affordable housing. They run a sewer line almost a mile away from the sewer.

Commissioner Perez asked for a clarification when you're looking at service areas under this AOC and you're looking at areas where there is no current assets that the county owns. To me, is not so much of a distance question as a question around the integration of privately owned systems in areas where there are no current County assets. So within this new definition of service areas, are you also looking at the potential of using private utilities that could then benefit areas where county has no assets, such like South Kohala or Kea'au or Puakō or HPP. In those areas where there are no current County assets, and there is a plethora, some locations of private assets, including private connection, as a future mandate for future developers. Is more of the concept of this recommendation in my perspective.

Yes, that's part of the study, the Director said. They look in there, they identify all the private facilities within the county. The good one is Mauna Lani. Carollo did some analysis for them as part of private connections as well.

I just want to make sure that I'm understanding what you're saying, Commissioner Perez said. Is it that within these studies of service area, is this kind of like the county's idea is to build out a package that then communities have to implement? Or are you saying that within this service area study, the County is going to take some role in servicing their constituents to be able to connect to private utilities?

Well, there's a few things that study is doing, Director Mansour said. The studies identify, No. 1 the sewer service area within the facility, county owned facilities, such as the seven waste treatment plants we have, and within their capability of capacity handling of the current system. Then the other one is to look at the second sphere, which requires the expansion of such facility, and then the third sphere, which is allow for decentralized units, or IWS. That's the criteria. So it's layered in that fashion. As far as the private sectors, it is the big facilities that could handle capacity. And they were willing to take it because we cannot mandate on the private. The current Department of Health requirement is in regard to a municipality. So, when I was in the cesspool conversion working group, I was pushing Department of Health from a

legislative point of view, to change that, to allow hookups should not only be to municipalities. So hopefully that needs legislative change. But once we have the study and the information, that's what we're going to recommend. And hopefully our elected officials may take on that challenge from a legislative point of view and change it. So we could allow to have that option of a private municipality allow for our communities to hook up as well. I know we had a meeting, but maybe, you know, we are almost 75%, 80% complete on that study. And we've been talking about it, if you want to make change, you guys better get involved in meetings with the public. And there are upcoming meetings. But I cannot entertain changes when the consultant is already going to finish the product. Participate, participate, participate early and in advance. Otherwise, it's going to cost us so much money to do change orders, to have the consultant start revising things.

I definitely try to participate in as much community outreach as I humanly can, Commissioner Perez said. Also, drafts of these documents would be extremely helpful to be able to review and at least see the request to these contractors and specifically what their purpose in developing is. I think that my concern is that what's going to happen within these studies is that the only locations that County is going to be able to play a role in are the outline that you just presented, which is current assets and current utilities that are in existence, while there's huge areas this island where County doesn't have current utilities. So in that case, what is the best path to be able to, you know, from a County Commissioner as well as a County entity through DEM, what is the best way to be able to look at these areas that don't have County infrastructure to be able to take care of our water sources and actually participate with the private relationships that could benefit and secure our resources? I guess that is my perception, because what I'm hearing from you is that this study is going to specifically look at municipalities, county owned assets, and then beyond.

That's the first sphere, the Director said. The second sphere is to look how to expand the county asset. The third sphere would be defined by decentralized package unit, or IWS. So we are looking at, No. 1, county assets. No. 2, any new assets that could be constructed as decentralized units or individual assets that could be as IWS, that is outside the first sphere.

So the second sphere, with decentralized systems, those would be county owned decentralized systems, Commissioner Perez said.

Yes, the Director said. And that's where you come in about creating, if you recall, I talked about creating the entire County as a sewer district. That way the County will start building these assets. Otherwise, you have to go through the current laws and you have to create sewer assessment district or facility sewer districts for every community. And that's going to be obsolete. Imagine trying to get each community vote on the same ideas and get 50 plus 1% to be able to construct it. So the idea is, yes, once we get decentralized areas of recommendation, that's where it's going to go to the public and you figure out how we going to drive policies and procedures. If people want decentralized, they need to push the issue so the County can build decentralized package units for them. If they don't want decentralized IWS, then that's going to be individual IWS. So, it's very comprehensive analysis and a study that we working on. It's not

just a County asset. We are looking at how environmentally we could protect this island and water resources by maximizing the sewer connections and allowing for better connections under new assets if the people wish to have it.

Vice Chair Norris asked for a restatement of what the AOC demands of the County. Your current plan can cover what they need to cover there. And you mentioned that the next cesspool conversion meeting is in December, is that correct?

We're working on trying to figure out right date, and we are working on the consultant to make sure that we lay out the date that could meet everybody's need and also the trigger where they are in the process, Director Mansour said. The AOC is a public document. It says, any development within the AOC needs to connect. I don't have it in front of me to read the exact language, but that was the whole concept of, if you are within the sphere of influence of that treatment plant, you must connect. We have Kealakehe, for example. We have 5 mgd and a max of 8 mgd and we are receiving 1.5 mgd. So we are almost 25, 30 percent. So we have still 60 percent free capacity at Kealakehe. So we manage it. My direction to the consultant and staff, manage it as if you manage your checking account. You need to know how much you have and how much you're going to be able to allow. So No. 1, we don't over commit. And No. 2, we plan it where we make sure that the current people that exist within the sphere of influence, from DHHL to affordable housing, to current people, that they have high priority for connection.

So the County will cover what they can cover. And then what you're saying the balance should be done by the private facilities, the Vice Chair asked.

Anything outside the capacity of the plant would trigger Sphere 2. Sphere 2 is under Department of Health. When you reach 75 percent of the capacity, you have to start planning about expanding the facility. So Sphere 2 requires the analysis of the expansion of current facilities. We looked at that and we're trying to figure out the cost of expanding to the second sphere versus decentralized or versus IWSs. Policies and procedures, that's where you need to get involved in reviewing that and advise County Council and the Department of what options better that's going to trigger the Sphere 2 and Sphere 3.

So actually defining the number of feet is going to be dependent on the POTW that's available. And also there's no sense in defining the number of feet then, the Vice Chair asked.

It's not a standard number, Chair Adams said. It depends on the service area definition.

There is no reason to see the old number of feet because they never had a master plan, the Director said. It's the Wild West. That's why we have so missing segments. So we are changing. We are changing where we're going to have policies and procedures to be able to fit the mandated federal requirement and plan better for the future and also work with what we have or what had happened in the past so we could correct it. So once you have that master plan, then anybody comes trying to develop or connect, they have to refer back to that master plan

so they know if we could allow for the development or not, based on capacity and based on availability of collection system. It's similar to your current Department of Water Supply. If they don't have units, they're going to tell you we're not going to have units for you. You cannot develop because if you don't have access to water, you cannot develop. If you don't have access to sewer within the sewer service area, you could develop, but you have to comply with Department of Health requirements, which is going to require them, if it's a big development, to put their own waste treatment plant, or if it's a subdivision, they may end up putting decentralized package units. But we're going to have a road map so we don't fall into the same predicament that we've been in over the last 30 plus years.

Maybe, Commissioner Otsuka said, we can get the dates of those meetings and the sewer service area, they're looking at relationship with the utilities, like the water, because like in Desha Avenue in Keaukaha, there are problems with the water pipes, so they couldn't proceed to complete the sewer installation. So I'm just wondering that, maybe we can get a copy of the Asset Management System, you know, that will help us at least like a roadmap. Let us look at it and determine, you know, out of all these different factors that makes up the AMS, we can look to see how we can better advise you on certain things. Granted, the consultants are there and they're doing what they're supposed to do, but I'm just saying, for us or for me specifically, I kind of need to know. In fact, I do need to know what I'm making recommendations on. So if I know what the AMS states for the county, then it will probably help me better to do my job.

This topic, when we were in the PIG meetings to my recognition, was not necessarily about the distance, Commissioner Perez said. It was about the utilization of private utilities and incorporating private into whatever distance that is. If the distance is moot, then remove the distance because that actually wasn't the conversation. The conversation was regarding integrating the private into the public. And if that is better had and dealt with at the Legislature, great. That's good for us to know if that's the only place we can tackle that barrier. Because from what I see is Phase 1 of an AOC, we're looking at like 10-to-15-year timelines just to update the current infrastructure that the county has. So if Phase 2 gets implemented 15 to 20 years later, then where are our resources and what is the state of our coral reefs? What's the state of our drinking water? We're just going to continue what's happening that's happening right now until the County can expand. If Phase 1 comes out with just the upkeep of current utilities, then Phase 2 is going to be many years down the road to where if we could integrate current private utilities that are there and start to connect communities that are next to these private utilities and mandate that. I think that that's more of the discussion that I remember having at the PIG. And it's to expedite where we are right now. We're not in a healthy place for our communities, our environment, our County employees. And to be able to expedite all of this, would that private language be best tackled at the Legislature? Is that what I'm hearing from you is that there's no place to be able to integrate that within our county systems?

Yes, the Director said. The best way that you could do submit recommendations for County Council or elected officials is to take it to the Legislature. It's a legislative matter. They need to revise the current language to allow for private connection as well as municipal.

Excellent, Commissioner Perez said. So I think that that is what this recommendation is about. So this recommendation wouldn't be to you as DEM. This recommendation would then be shifted to our County Council to put pressure on our Legislature to include this private language within the state codes and the state mandate so we can expedite connections to existing infrastructure.

Yes. That could help drastically, the Director said.

Excellent, Commissioner Perez said. I'm now kind of coming full circle. I really appreciate you for taking the time to walk me through that.

Commissioner Beets said we have spent a lot of time on this and we're still with the first recommendation. So one of the thoughts that I had is that we consider returning the recommendations back to a new PIG, I guess we'd have to consider for some additional language because one of the things that's become clearer now, we do need to integrate the service areas into the recommendations. And also look at this language relative to the timelines, because if we're really not requiring connections until what's recommended in the AOC, by the time of the requirement for cesspool conversion, that's over 25 years away and we're just kicking the can down the road. So maybe we want to consider a few other options.

I would agree, Chair Adams said, and there are elements in here of trying to incorporate public services as also rather private services, part of our solutions that we recast the consideration of what our next step should be in terms of how do we make it the private-public partnership so that we've got two tracks that are moving: The slow, dragging, County building better facilities and trying to enable more private enterprise to help get sewerage done as opposed to septic systems. Whether we need to go back or whether we can do it today to define what is the action item, what's the ask we would make of the Council vis a vis going to the State Legislature if we need to on how can we enable the private solutions that need to be a part of this. It can't all be County-owned operations. And I don't know if you feel you've got enough to be able to wrap that today or we bring it back next time for additional discussion and some proposed language. I don't know if you want to form a new PIG or just have individuals come forth with their recommendations and we work through them.

Withdrawal of motion: Vice Chair Norris withdrew the motion.

Commissioner Perez wished to make a motion, which was not yet recognized, to recommend to the County Council to support modification of the Hawai'i Administrative Rules to include private connections as well as municipalities.

Can you mandate that a private sewer line take on additional customers, Chair Adams asked.

That was the question I had, DCC Salas-Ferguson said. So it sounds like you want the County Council to recommend to the Hawai'i State Legislature to enact a certain statute to require private landowners to connect to private sewer systems too, he asked.

To modify the current language that's already in there for public lines to be inclusive of private as well, Commissioner Perez said.

Has anyone looked at that language that you guys are talking about modifying, DCC Salas-Ferguson said.

We looked at it during the cesspool conversion group discussion. It's been a while, but I think we could find it within the statute, Director Mansour said.

The Chair raises a good question, DCC Salas-Ferguson said. Is that even something that the Legislature can do? Maybe it is, maybe it isn't. But also the mechanism. I mean, the Hawai'i County Council, they can pass resolutions asking the State Legislature to do something, but they don't have any authority over the State Legislature. So maybe that's something to look into and be real specific about it. Maybe it's for the future PIG to take a look at that statute and talk to the people, whether or not that's even something that's legally doable. I would suggest looking into that before making a recommendation to our Hawai'i County Council to do something.

I also have a question, Chair Adams said, and you worked on it forever on the cesspool conversion plan, whether that was any of the recommendations for legislative bills. I know you wanted to include private as well as public in some of those, whether there's one to glom on to.

I can review that and look back through it, Commissioner Perez said. We very much encouraged and recommended in order to expedite the timeline, to use private utilities as a partnership. I can look through that, though, right now.

(The motion was tabled until Commissioners concluded discussing 1(b). DCC Salas-Ferguson said he could talk with Commissioner Perez and dig in to the statute that she was discussing and whether the State can require that.)

I think that I can make a recommendation or a motion, Commissioner Perez said. I'm going to try it one more time. I would like to make a motion to recommend that DEM and County Council pursue legislative amendments in consultation with their attorneys to be able to include private connection.

Rather than private connection, maybe "connecting to privately owned facility," that clarifies it better, Director Mansour said.

Could even be IWS or something like that, Commissioner Perez said.

Just for clarification, were you asking that they pursue that as a requirement or as an option, DCC Salas-Ferguson said.

As a requirement, Commissioner Perez said. The recommendation is that DEM, along with County Council, pursue legislative amendments to require connection to private wastewater facilities.

When public facilities are not available, DCC Salas-Ferguson asked?

Yes, Commissioner Perez said.

Motion, second, and discussion: Commissioner Perez made a motion, to which Commissioner Otsuka seconded, that DEM and County Council are recommended to pursue legislative amendments to require connection to private sewer works when public facilities are not accessible.

Commissioner McIntosh said he thought the County had already was looking into this. They had questions that they hadn't answered yet. So aren't we just asking them to do something they've already done?

We think there may be some ambiguity, if not gaps, in the current legislation at the State level and that it needs to be worked on, Chair Adams said.

HAR 11-62, Wastewater Systems, says, "Any new building capable of generating wastewater shall be connected to a wastewater system- shall connect to public sewers," Director Mansour said. So what we need to do is change to "shall connect to public or private sewers." But that's a good motion that Commissioner Perez has proposed, because eventually, we may need to- the Department of Health acknowledged that- Sina Pruder was running that division at that time. She retired. But it's doable. It's a matter of just having one of the State Representatives submit and propose that addition or change. But, I mean, the way that Commissioner Perez proposed it, it's perfectly fine, because that's what's going to drive our policies and procedures after the IWMP is complete. Because I mentioned it multiple times. Once that document is complete, is going to trigger policies and procedures and new laws to be able to comply with the federally mandated AOC that we have and set this County for a better horizon when it comes to managing our wastewater and protecting our shoreline and groundwater.

It encompasses more than just a single amendment, Chair Adams said. It's looking at where there needs to be amendments. We're not going to get into the nitty gritty in this motion.

Vote: Ayes 7 (Acasio, Beets, McIntosh, Otsuka, Perez, Norris, Adams); Absent 1 (Garcia). Motion carries.

2. The County should conduct a formal legal review/interpretation of the Konno decision outlining its application/misuse for private sector partnerships regarding County Wastewater projects.

The other recommendations for the PIG revolved around money, Chair Adams said. Perhaps the closest one in terms of private versus public, county doing everything versus private was No. 2 on your recommendation list, which was to ask the County to conduct formal legal review of

the Konno decision outlining when we can and cannot defer or let the private sector take on public sewer or sewer treatment systems or sewer works, is the term of art that's used, the connections, the pumps to the treatment plant, the POTWs. What we're saying, the "P," what in the way of the *Konno* decision is going to get in the way of allowing "P" to mean private?

DCC Salas-Ferguson said it sounds like the interest is that you want the County to pursue the parameters of private sector partnerships with the County regarding wastewater projects. So I think that's something that you could recommend to DEM for them to look into. I'm not sure that it's this body's mandate to be looking into the legal requirements regarding real specific administrative issues such as personnel.

The issue, I think, if I may, on behalf of the PIG group, Chair Adams said, oftentimes the response to, why can't we fill in the blank private public partnership? The response is the Konno decision says we can't. If the County has ever even thought of providing a service, then it has to be done by County employees. And you cannot allow for private businesses to provide that service. *Really?* And specifically in the arena of wastewater treatment.

Konno stands for the general proposition that once the county is doing something, it cannot privatize it, DCC Salas-Ferguson said. Once the County takes on a duty, it has to continue doing that. It can't contract that out to a private entity to then do it, because then it's contracting out what are civil service jobs. There are exceptions in the Hawai'i Revised Statutes that provide exceptions to this Konno decision. Okay, so you're saying, "Sinclair, you advise DEM, why don't you hire somebody to do this because you don't have employees to do it." And DEM is like, "we can't hire a private entity to do this because we have employee positions that are supposed to be doing it, but we don't have the employees." Is that the conundrum that's happening?

Basically, Chair Adams said. And there's also the issue of, the County has seven facilities, and is that what the service is defined by the existing service areas, even if they're mushily defined, and it hasn't provided it to the vast majority of the County by area. It's provided it in certain areas to certain numbers of people. So is the box the act of treating and collecting sewage in the universe, or can we narrow it down? How specific a service claimed in the-

So it's about "historically and customarily done by the county," the DCC said. You have six or seven wastewater treatment facilities. Can the county go and contract out somebody to run an 8th wastewater facility?

Or maybe a package system, Chair Adams said.

That would be a question of Konno and the parameters of it, DCC Salas-Ferguson said. It would be HR, Corporation Counsel, deciding the limits of that. So I guess you could ask DEM to take a look at the legal authority of the County to enter into private-public partnerships and that would involve an analysis of Konno.

From what I understand, Commissioner Otsuka said, that Konno case was filed by a Solid Waste employee because if it was historically and customarily performed by County workers, then they cannot privatize or they can, but they have to use County workers to do that job. Just like with the hauling of the solid waste. They're renting the trucks. But from what I understand, it's the County drivers that are driving the trucks. Is that correct?

It would be a detailed legal analysis with DEM, Corporation Counsel, HR, the unions, DCC Salas-Ferguson said. So you can recommend that they pursue those avenues. As this body is an advisory body, you can recommend things. So it's fine to recommend.

Chair Adams asked if anyone would like to make a motion to that extent.

Can we make a motion to look into that, Commissioner Otsuka asked.

Director Mansour said as DEM is not a legal department he referred the Commission to their own counsel.

DCC Salas-Ferguson wanted to clarify something about the structure of how the County works. So you can ask DEM to look into establishing private sector partnerships regarding County of Hawai'i wastewater projects. DEM has an attorney. DEM doesn't have to take your recommendation. It's a recommendation, something for them to consider. You can ask them about it. Ramzi Mansour is the director of DEM, right? So he can take that recommendation or not. If he wants to take that recommendation, that kind of goes into their operations. And then that would be an internal process. The Director, in order to do a big project like that, there's a lot of internal County agencies that would be involved. I mean, No. 1, it would be the Director discussing with his legal advisor, "Hey, EMC told me to look into a public private sector partnership" and then that attorney would look into it. And if that attorney's like, "Oh, no, cannot," then it's done. If that attorney says, "You know, maybe here's an avenue that could possibly work" - it's a gray area that would be in consultation with our boss, Betsy Strance. She makes the call when something's gray. But that would be an internal DEM thing to look into whether DEM wants to or not. It wouldn't be me advising, I advise this Commission on their rules and their authority and Robert's Rules and procedure and all that stuff. But I don't advise DEM or Human Resources and I don't have the ultimate call on the parameters of Konno.

DEM has gone into partnerships with private companies, right?, asked Commissioner Otsuka.

County agencies contract with private entities all the time for services, whether it's goods services. So I don't know that hypothetical that you mentioned, if they're procuring vehicles, whether it's rental or acquisition, DCC Salas-Ferguson said.

You said it perfectly, the Director said. Any public service that has been done historically and customarily in the past cannot be contracted out. So if there is a public servant that provides that service, you cannot contract, privatize that or ask for a contractor to come augment that service or provide the service.

There are exceptions to that under HRS Chapter 76. And that is something that DEM could look into with HR and Finance and its own attorney to see whether or not any of those exceptions apply to whatever specific issue there is, DCC Salas-Ferguson said.

Corporation Counsel Strance came up with countywide findings, and she shared it during the Cabinet meeting, the Director said. It's very, very clear. The threshold is very clear to define it. So if a good example, currently we don't have R-1 done by public servants. So the R-1 could be privatized if there is a private entity willing to take it because we don't produce it yet. But once we start producing it, then we cannot privatize it. And that's where the balance is. You know, the opportunity is you can privatize into a contract as long as we are not doing it currently. You put it out as a contract, either RFP, and you just solicit private entity to come build the R-1 facility and take the water and run it and make money out of it on their own. Because we, we're not in the business of R-1 currently. So that's an example that you could put it out as an RFP and people could come and build the facility and run it, what have you. Puakō is a good example. Mauna Lani is a private facility. Betsy Strance and Finance determined that they could connect to their facility because it's to the benefit of the public as a whole. Because we don't own the facility. A private entity owns it. So Puakō community could connect it because it is a private project. And also we could fund it under facility community sewer district. So it could be funded through Chapter 32 through the County. But once they build it, the County will put bonds out there, pay for it, and then they divvy up the cost to the property owners. So it becomes reimbursable through your property tax bill. But that will be going toward the FCD and they determine that is acceptable. I know it took us three years to get there, but we just had a meeting with the community, and they were informed that the County could create the FCD. And once they finish building that collection, because they only are only building in the collection network. And once they build the collection, it's their system. But it could be bonded through the County because the constituents would pay it back.

So that's one example of, a public private partnership. You're saying that basically the County could finance infrastructure, DCC Salas-Ferguson said.

It's a site specific, the Director said. It must be approved by Finance, Corporation Counsel, and probably Department of Human Resources.

To take it back here to EMC and what we can do and what kind of motion recommendation we want to make, Chair Adams said, maybe the issue is that we recommend that DEM work every process they've got to not allow Konno to get in the way of providing community treatment works as opposed to putting up with septic. And then it's, work every angle you've got. And as a Commission, we refuse to believe that that's an impossible barrier. So fight it. I don't know if that's a motion or statement of the feeling of the Commission, if that's true.

Commissioner Perez said she found the recommendation from the Cesspool Conversion Working Group to include within County planning, the private sector. So I copied and pasted that in the chat. In regards to the Konno decision, I just had a couple of questions. We've been

wearing a different hat of Coral Reef Alliance. Jim Beets and I equally have both worked within that community for over 10 years trying to address the cesspools that are in that area. The Konno decision in two different administrations had come up as barriers to be able to move that community forward in connecting them either to their own little private package plant or even the Mauna Lani with assistance from the County. So the Konno decision, I do, from personal experience, have been given numerous times that the Konno decision has blocked efforts in moving not only Puakō forward, but even the south end of Ali'i drive near Kahalu'u and those efforts. So I very much support some kind of legal review for even what EPA has recommended to us of the Konno decision, specifically around wastewater and being a barrier to wastewater movement forward. I did have a quick question to the Director and thank you for laying out what's happening with the Chapter 32 and the CFD component for Puakō. So one additional question that would also lead back into Konno is that given, yes, the County can finance it through the CFD, would then the County be able to do a build and gift scenario of then managing the O&M of that infrastructure into the future while it went to the private treatment plant? Because I think that that was the additional question in regards to both Puakō as well as the south end of Ali'i drive is in the instance that community is able and willing to step up and put forth the effort to get the infrastructure in and again expedite things so that the County doesn't have to shoulder the actual infrastructure development. But then once infrastructure is in, then is County able to take on the existing operation and maintenance into the future of that infrastructure?

That is a good question, the Director said. And that has been addressed as well. So let's use Puakō, because it's a low pressure system. The county never maintained a low pressure system. So that also could go to Mauna Lani. If they opt to take it that way, they only could bill the community one invoice. Otherwise, if the County takes the O&M, then we're going to introduce a new function. Then it become public servant function, and then we have to set the O&M fees for that community to be able to build them for the O&M. So they are aware of these options, and also they're entertaining looking at privately maintaining it within their home association. So options to select from, you know, because it's a new system the County has never done before. It wasn't customarily and historically done by the County employees.

Is that a yes? The County is able to then take on the O&M into the future?, Commissioner Perez asked.

If the community requests from the County to take the O&M, an MOA with the community will be drawn because they're going to be subject to the same sewer rate as everybody else is, the Director said. Plus they going to get another invoice from Mauna Lani for the treatment. The logistic and agreement needs to be established between the three entities, the private sector, the County, and the association, to make sure they're clear on roles and responsibilities.

That was part of Barbara Bell's testimony, is to be able to secure that agreement in order to have that in order for the community to be able to basically take on their end of it, which is the Chapter 32, Commissioner Perez said. So then that would again be applicable to other communities like the south end of Ali'i drive. In the same instance, if there was an entity that

would then be able to sewer the south end of Ali'i drive and take it to a private treatment plant, rather than to the Kealakehe treatment plant, then that would also be something that the County would be able to do a build and gift of, and take care of that collection into the future.

Right, the Director said. And we have also been talking to Hawai'i Water as well. So we've been, like I mentioned earlier, I'm glad you shared that on the chat. Because, you know, No. 1, it says "Require the County to do a comprehensive integrated wastewater management plan." That's what we're working on. That's why we have about 75% complete on it. So. And that's the reason we doing what we're doing and we have being knocking on private entities such Hawai'i Water, American Water, to see to what extent. We even reached out to the airport on the Kona side to see if their treatment plant could potentially be expanded to include some of the communities because they are outside the sphere of Kealakehe WWTP.

Commissioner Perez asked for a draft of the actual report.

I don't want to have reports out there with different copies and drafts, because once we need to make sure whatever we put out, it's at least the final draft, the Director said. I'm not going to have multiple reports. But our staff could do a presentation. I mean, you could access the prior public meeting and see what the consultant had presented.

I've done that and I still feel the need to see the draft report, Commissioner Perez said. So when I'm told to give recommendations-

It's in the process of being compiled for the next meeting, the Director said.

I guarantee it'll be on the next meeting's agenda and to get the report, Chair Adams said. As a former consultant, I agree with the importance of maintaining control over drafts and that they have to be something that you're willing to stand behind as not a bunch of garbage. Give us the report when you can. What I'm hearing back to the recommendations that were made is you are looking at public-private partnerships. If you run into something that says by legislation, you cannot touch something. And if it was part of the recommendation, if you have looked through the chat, Commissioner Perez had posted the language that was in the cesspool conversion work group to provide public-private. If that still needs to be pushed, then I think what the motion before No. 1 was, push it. And I think it's fine for Commissioner Perez to go back and just come up with what specifically would we send to Council that we would need to do. The other recommendation on Konno, you're saying you are fighting Konno. You are getting concessions on what is possible to do with the public-private. And we support that because we don't like the answer that Konno's in the way. And if we can't hire a County person- we can't even hire enough County people to manage what we've got, much less future plans, then that just says, okay, as EMC, we support you pushing the envelope on Konno. We've got to leverage every facility we possibly can.

So think about if you want to come back and you've got a motion to make. Right now we're motionless. Got a couple concepts that maybe we could, maybe they're not necessary or maybe

they need too much work offline to come back with something and it would have to be individual. Or maybe two of you can get together and come up with some proposed language for a September meeting. But I think we're ready to move unless you come up with brilliant ideas, come back and we can consider motions.

(The Commission took a brief recess)

Commissioner Otsuka said with the Konno decision being a detriment to trying to proceed, is there a list of all the different areas where the DEM has needed to go, but in their mind, the Konno decision has stopped them from doing it? Is there a list of projects that they wanted to have done but they didn't because of the Konno decision? Is it such a thing?

I would doubt very much whether it's been itemized like that, Chair Adams said.

Before it's even entertained, we've got that roadblock with the Konno decision, Commissioner Otsuka said. So I'm just saying that there must be a lot of projects that could have been at least attempted or suggested, but it didn't go further than that because the Konno decision is holding it up.

Maybe one way to deal with this relative to wastewater is to ask DEM to identify as an appendix, maybe to the Carollo Integrated Wastewater Management Plan where they have identified impediments, Chair Adams said. Is that fair? That's something DEM would do, not the contractor. Would that help people for them just to enumerate as parts that they're working on? This IWMP, it's got all this meat to it. And the thing we're worried about is Konno is cutting off some options or perceived to be cutting off some options. So put that in some sort of attachment that we can see.

That will work because that will help us even with the ASM, Commissioner Otsuka said.

In response to that question, Chris Sparber said, as far as identifying projects where the Konno decision has challenged from an implementation standpoint, as the cesspool conversion plan is structured, we're going to be looking at, what do we need to do to convert every cesspool by 2050. And we've kind of broken it up, like Ramzi has said, into different spheres. So I'm not quite sure I can work with our consultant to list out those challenges, but I'm not sure- I think we would need to list out the challenges rather than project by project, because I think we would group- if we're going to propose that a, say that a County developed facility is privately operated through some type of an operational agreement, I don't think at this point in time that we've looked at that far. We're mainly putting the cesspools into a group that says, okay, these will be grouped into the sphere of an IWS. So an on-site treatment system, if those folks want to put together a private treatment facility that fits their needs, that is an option, but at this point in time, there is no county facility that would facilitate sewerage of those people.

I understand what they're looking at, the Chair said. I'm just wondering if there's more kind of commentary from DEM that has said, these are some of the barriers that we are struggling

with, Konno being one of them. And so you've already defined some parameters on what the consultant can look and deal with, and they don't know Konno from a hole in the ground, which is a cesspool. And if there's another sidebar kind of commentary that could be provided more informally by DEM?

We can list out the challenges that we face with the task of providing 49,000 cesspools with alternatives to close, so that that's something that we can accommodate, Chief Sparber said.

Do we need to make that a formal request, or is this enough, Chair Adams asked.

It'll be in the minutes, Chief Sparber said. So I'll toss it over to our engineer that's managing the day to day of that study.

Vice Chair Norris asked, isn't the Konno decision designed to ensure that jobs are not taken by off-island people? And wasn't there a caveat in the cesspool conversion plan that actually trained people in doing the operation and maintenance of these type of plants? And can there be sort of a hybrid situation in which the infrastructure is actually operated and maintained by those trainees?

Workforce development was a huge section of the recommendations that were put forth to the Legislature, as well as building capacity within the State DOH as well as County DEM, Commissioner Perez said.

And can I also add to that now, Chief Sparber said. As far as workforce development, you know, the county does do some various outreach here and there as we get time and capacity. But internal workforce development, we have a training program for our operators. I would group that into two internal -within the County, we're continually developing our workforce and training them on new, you know, technologies as facilities get fixed, upgraded, repaired. And then also there's an external component, which I think DEM is putting forth some additional effort to develop some pathways to enable that to happen as well.

Thank you, Commissioner Otsuka said. It's good to hear that you are developing your employees and you're continually developing them. So then I have to ask, how often is that done? Because there are operators I know that need to be trained, that are not being trained so that it can help with the operations at the wastewater plants. So are they actively being trained from within?

We have a contract with UH and there are a couple of trainers that come on island and they do training for east side and west side, Chief Sparber said. So what I push my supervisors to do is set up monthly or every other month trainings, work with their staff to understand what they need for their continuing education as far as to satisfy their licensing requirements, to keep everything updated, and then go from there. So, I let my supervisors drive that. We've been having trainings on the west side and on the east side. Mr. Alan Fukamizu is saying within our comments, they are for CEUs. And then we also do some off-site training via conferences. We

sent our collection systems group to a training earlier, I think, this year for in situ CIPP-type repairs. So that's what we've been to, you know, currently doing internally.

Chair Adams called a timeout on the discussion. We're way behind on the agenda. That's really not one of the focus areas that we have. If I may, you can follow up maybe separately if you want to, she told Commissioner Otsuka. I just want to go back to the recommendations that were made by the PIG. And I think we've said, No. 1, that Erica was going to come back with maybe some more specific language. And you've got some went back and looked that would deal with public-private partnerships. Emphasis under the private.

Commissioner Beets suggested taking the remaining recommendations and return it to the PIG for clarification on motions, or initiate a new PIG to do so.

I would recommend that people individually look at some motions that they could bring to next meeting. I'm good with that set of things. Rather than it be a PIG committee, the Chair said.

Whatever's required, that would be a better use of time, Commissioner Beets said.

Do some homework, Chair Adams said. If any of 3 through 6 are your favorite pieces, come up with some language and bring it to the next meeting.

I'm all for moving on because I don't want to eat up the entire meeting just on this, Commissioner Perez said, but this conversation was extremely helpful. I think that it did actually result in a great outcome. Is there anything that- I'm going to go back to what chair is requesting, is that if we do just postpone, is there anything immediately regarding 3 through 6 that somebody either has a question on or a clarifying comment to be able to guide the next meeting? So we actually come up with some recommendations. I don't want to utilize everybody's time, but the discussion is super helpful.

I would say No. 4, which says that we support the code changes from DEM- we haven't seen the final code changes, so that one's definitely deferrable, Chair Adams said.

Is there any update that the Director or his team could maybe provide in regards to the technical assistance that is being utilized from EPA currently, either under the AOC or do you folks feel that it could be beneficial even outside of the existing AOC, but under this new EPA technical assistance program and the information that was shared in this bottom table- is there value in engaging this assistance program for our County, like for County wide technical guidance, even outside of the AOC, Commissioner Perez asked.

We always ask EPA for technical assistance, the Director said. They provided it when we were doing NextGen and they provided it to help us set priorities as we were negotiating the AOC.

I don't have anything right now with technical assistance from the EPA, Kelly Hartman said. However, we are working on a few grants to provide us with funds to do our public education

and outreach for the IWMP. So that will provide us with a budget so we can do presentations and advertisements and flyers, all those types of things.

Director Mansour cited the Closing America's Wastewater Access Gaps funding program. And that's where they also provide technical assistance through that grant. My understanding there's a lot of money in there.

This is a free program, Commissioner Perez said, that the County could gain support from and not have to pay for it in regards to planning and assessment, project development, partnership and engagement, innovative funding and financing and program management support. So I was just wondering if you were already accessing that. Just so I'm prepared for next meeting to come in with more recommendations.

Yeah, please, the Director said. Any recommendation that you have, shoot it to Kelly Hartman, Brenda Iokepa-Moses, she used to be the director for USDA. So she may have access to things that we may not. But if you could shoot an email to Brenda, Kelly and "CC" me as well, because I know we've been talking about the Closing America Wastewater Access Gap. And my understanding is EPA have ERG as the consultant and they are trying to access the state revolving fund. I think Chris Sparber may be working with them trying to define projects or where we may need their assistance.

3. The County should support a Sewer Connection Special Fund to provide sewer connection assistance to homeowners who have insufficient income.

(Postponed)

4. The County should support and encourage the County Council to adopt the Chapter 21 county code changes proposed by DEM.

(Postponed)

5. The County should identify the potential for EPA Technical Assistance Program to address innovative financing strategies such as enterprise funds, franchise organizations, Energy Saving Performance Contracts, and Service Contracts.

(Postponed)

6. The County should support a Water Technician Certification Program to address the workforce shortage.

(Postponed)

- 2) Discussion with DEM regarding Inflow and Infiltration of water at the Hilo WWTP system and Wastewater Division's efforts to address it. *Postponed August 2, 2024.*

Chief Sparber asked for a postponement.

Director Mansour asked what this request was about.

Chief Sparber said Commissioner Acasio requested about our efforts on addressing I&I so, specifically, what are the efforts with respect to in situ CIPP repairs. And so, that begs a bit of discussion with some figures and different things. So I was requesting to defer.

Just make sure it's consistent what you submitted to EPA as well, because I thought that was also a request within the AOC. So I just want to make sure that you stay consistent with the same information, the Director said.

Commissioner Acasio said that if there was information provided to EPA, can we have access to that so that we're aware, if- I understand there's a consistency thing that's being requested, but what was provided to EPA, are we able to access that as Commissioners? And the request was from last round, where are we at with regard to dealing with that issue of I&I? Multiple public meetings, we've heard that there are intrusions, therefore extrusion, and especially along our coastlines where we have high tides. Again, how is the department addressing that critical need, especially in regard to intrusion and extrusion?

Chair Adams asked the Commissioner to talk or email directly with the Chief what she would like to see.

I can. I can make more specifics, that's for sure, Commissioner Acasio said. We've had this discussion on multiple meetings. It's been a request from the public as well as multiple commissioners. I know I have been driving it, but I think it's important, since it has been brought up by the public in multiple meetings, both community meetings as well as this Commission meeting, that it gets addressed publicly.

EPA required from us to rank our collection system based on certain rating and televising the entire system, analyzing it, Director Mansour said. So we just want to make sure we don't get ahead of us as we submit the same information to the public as required by EPA. So I don't know. He asked the Chief where his staff are on assessing the collection system. But that was one of the requirements within the AOC. So just to let you know that, you have to run the camera, you have to analyze the collection system and rank it based on the pipe's conditions and what have you. And that's Step No. 1. So you could know exactly what you are dealing with and then you propose an implementation plan. So that is part of the process within the current AOC. Am I right, or did I misspeak?

That's correct, Chief Sparber said. So per the AOC, the collection system does need to be fully assessed within a five-year period. So we have goals in which our sewer collection system staff understand, hey, we need to, you know, inspect a certain amount of length of pipe and that, that is one aspect of it. But yes, we do have more immediate needs in which we are taking care of, working to address.

And any document that goes to EPA, it's a public document. So you could access it on the EPA website as well.

We'll get a fuller presentation at our next meeting, Chair Adams said.

- 3) Update on state Functional Equivalent Discharge Strategy Workshops hosted by DOH and any additional comments Commissioners would like to be addressed.

This agenda item is to offer you the opportunity, if you had a chance, to look through the presentation materials, summaries and meetings that were being held on the functional equivalent discharge where you got to have an NPDES for everything and wanted to have some questions, comments going to the Director. I don't know if you've had another meeting of that workgroup since we last met or not?

Yeah, we did have a meeting, but for some reason they mentioned in the meeting that that meeting is to be confidential until they get things out, the Director said. I guess there's a lot of pressure under the State to come up with something. So we'll see. But ironically, you can go to their website. I thought they posted the presentation. They may post the slides.

Commissioner Norris said she reviewed the workshops online and there was supposed to be another one on Monday, and was wondering if we could get a synopsis of that. All we're getting is the slides and I would like to also know about the question and answers and that sort of thing from the NPDES. Where are we as far as addressing the NPDES? Are we going to do dye studies? I guess that's too broad a question for now, but please keep us informed about the NPDES process.

I'll put it on the agenda for next time too, just in case there's an update that would help us, the Chair said. I also encourage, I did myself, to send in your comments directly to the Director just as we were doing with the cesspool conversion group. We've got thoughts. He's pretty open to at least reading his email.

VI. REPORTS/CORRESPONDENCE

- Update on the Sustainability Summit Solid Waste Reduction workshops (Adams) *Postponed from August 2, 2024*

We're *putzing* along, with all those people volunteering to do follow up, they haven't raised their hands again, so we're still recruiting people to do some work, Chair Adams said. Couple of independent projects that are moving forward, but hopefully I'll have something more to say next time. We are trying to work three different areas. The legislation that we recommended for banning (landfilling of) recyclables, I had a meeting with Craig Kawaguchi and Alex White about their thoughts on it. I haven't done much as I've been traveling. There's a project going on related to the World Sprints to get recycled compostables. And looking at how we can work on that. And then not much movement on the resource recovery park, although we keep exploring different grant opportunities.

- Director's Informational Report

1. Legislative update

(No discussion)

2. Solid Waste Division Projects and Updates

1. Recycling, Greenwaste, and Landfill Diversion updates³

Commissioner Otsuka saw the report and noted that inventories at both facilities are good right now. They have been moving the mulch, from what I hear, she said.

2. Solid Waste Operational Study update

Shelise Lamb wrote a summary of the work being done on the operational study for solid waste, Chair Adams said. She says that draft report was submitted to DEM on August 22. Our next step is for DEM to review their draft and sit down with DEM and the consultant on revisions to make on the draft. And they hope to have something into September. They're going to meet on the final report. Hopefully, we will get look at it before it's a final report so that we can offer comments from EMC. Certainly we will comment before or at the same time as it goes to council. The report will have what the report has in it.

Commissioner Otsuka asked to see the draft.

I haven't seen it, the Director said, but I think the Secretary mentioned it to me and he gave me a copy. I have not really even opened it yet, but I think if it's a good enough draft, definitely I want you to give me input before become final. It was a final document, so I definitely want you to look at it comments are greatly appreciated and very important to have at this stage.

As soon as you feel comfortable releasing it, we will take it as fast as you'll give it, Chair Adams said.

I just think it's important for us during the whole process to know what is happening, Commissioner Otsuka said, because even so, when it started with the feedback that they required, it's no different. It's like whatever feedback they got, they're incorporating in the plan. And maybe it's just good practice to keep us updated on the progress so that we can catch anything now or comment or suggest any recommendations now before it gets to 90% and then 100%. And it may not be good enough for you to pass it on to us, but I would like to see it, I would like to see what they've come up so far because I do have questions and I just want to make sure it's being addressed. Thank you.

Isn't it going out to January now? I mean, from October to January? Is that what I heard? The final draft, it's been extended, Commissioner Otsuka asked.

It depends how long it's going to take us to get back with them, the Director said. For the sake of transparency. Like I said, from Day 1, our intent is always to be transparent. And the more brains I get to get involved, the better the results. So there's no reason for any of us to take a document and make it a solo document that doesn't benefit anybody. That's the reason we

³ VI.2.1: Greenwaste: <https://records.hawaiicounty.gov/weblink/DocView.aspx?dbid=1&id=138013>

have public meetings, that's the reason we have you to review documents. That's why I always come back to you with any common recommendation. So yes, I agree with you.

This particular draft, what Ms. Lamb says in the chat, is the goal is to have all comments, which should include EMC, to E2, Element Environmental, by September 23 to meet. So she did include submission on October 31. So October 31 is supposed to be the final submission.

So she did include you for the review, the Director said. So if she did, then I don't need to ask her. Just maybe the Secretary could share the draft with you because to me this is, this is going to convert to a final. So it seemed like they already prepared it complete. So they are still waiting on comments, modifications, and what have you. That answers your question.

So anyway, the final report is still scheduled, apparently for October 31, so not January, the Chair said.

And it may change. It depends if you guys have too many comments, too many changes. But let's start with first having you guys look at it, the Director said.

Yeah, that's why it's important to see it as it's being worked on so we don't have to extend it until next year, Commissioner Otsuka said.

Director Mansour said the report says nothing about closing facilities.

The contractor for the ISWMP had offered that as an example of what could be done, Chair Adams said. It was not a recommendation, one of the 80-plus that was made for the plan. It was a consideration of the 2019 plan.

3. Wastewater Division Projects and Updates.

1. Pāhala and Nā'ālehu Large Capacity Cesspool Closure AOC⁴

Chief Sparber said the Wastewater Division is in the process of awarding the Pāhala collection system construction project. The Pāhala WWTP treatment plant design contract is underway and on track.

2. Countywide Wastewater AOC

Chief Sparber said we have projects requiring repair, rehabilitation of the Kealakehe Wastewater Treatment Plant, Hale Hālāwai, Pua Force Main, and some other various projects. Those are on track, on schedule. In terms of our programmatic efforts, we're still going through our ordinance revisions and our pretreatment team is working on a program narrative, which is a synopsis of the requirements and our implementation plan. And we're going through that internally before we release that out with the proposed ordinance changes for public comment.

⁴ VI.3.1: Ka'ū - <https://www.dem.hawaiicounty.gov/projects/pahala-na-alehu-large-capacity-cesspool-closures>

3. Hilo WWTP upgrades and bid unsealing

Hilo is still out for bid, Chief Sparber said. We're addressing a protest that came in. We have a process, procurement rules, that we need to follow.

4. Wastewater Plans

1. Integrated Wastewater Management Plan and Public Engagements⁵

Commissioner Otsuka asked if anyone was affected by the water while they were camping at Keaukaha. Christy Swafford was supposed to take any communication from the campers at Puhi Bay. Did anyone report some kind of infection from the water? And about checking the lab results or the reports, do we have copies of the lab reports from that, or can we get.

Ms. Swafford said she took phone calls from the community, and no, I did not receive reports of anyone that reported, like, an infection or getting sick, she said. Mostly the community had deep, valid concerns about why they didn't know in time. I was new. I think I was here, like, a week when it happened. But now we have opened more doors to connecting with our community. So aside from just the press release, we began using social media. We're on Facebook and Instagram, and as of this week, we are on NextDoor. And NextDoor can target specific communities when things happen. So along with the required press release that I will do in the event of an emergency, I will also post across social media. I just shared this with Ramzi and Brenda, we actually had an event, a hurricane. And I posted to social media for the first time in the emergency response phase. And we had a lot of people. We had a whole lot of hits, actually. People were looking to social media for support and help during those times. So my hope is that now that I'm here and now that I'm up and running, we will have better communication moving forward. No one shared with me that they got sick, but they definitely shared with me that they wanted better communication.

Director Mansour gave Ms. Swafford kudos for bringing our outreach quickly. Within the last three weeks, by having all these social media, NextDoor, a newsletter, our website is being updated constantly. She set a great system where she meets with us and we capture the issues that the community needs to address, and we address it right away through educational program. Just to follow up with Commissioner Otsuka's question, we had a community meeting with Keaukaha community last week, and then we presented one of the good things that we need to share with you. We hired Sea Engineering to monitor the outfall. So they brought divers, they inspected the entire length of that outfall. They documented the condition of that. And fortunately, in good news, that we didn't have any leaks along the entire stretch of that 3/4ths to a mile of outfall. So they end up doing a dye testing. It worked perfectly. The dye came out of the diffusers as it needed to at the end of that outfall. It was good finding. And we shared that with the community members.

We also shared with the community members our progress on the Hilo waste treatment plant and the Pua Force Main projects, because these are two projects within the current AOC as

⁵ VI.3.4.1: IWWMP - <https://www.dem.hawaiicounty.gov/projects/integrated-wastewater-management-plan>

well. So we are mandated by EPA to rehabilitate all these facilities. And we not only doing rehabbing, actually, we change in the process. At Hilo, we are going to go from bio-trickling filters to activated sludge, which is going to give us better treatment for nutrient removal. We took samples of the water during the whole process. We shared it with the community as well. A lot of people, when they see brown water, they think it's Hilo Waste Treatment Plant - that's misinformation. The Hilo WWTP water is as clear as your drinking water. So it's not brown, I just want to make sure. And we address that because I know during the event last weekend for that Matson barge, I think they disturbed the bottom of the bay, and they turned this water all to brown water. And we got flooded with concerns and phone calls. But this has nothing to do with our department. Has nothing to do with our waste treatment plant.

So I just want to make sure you don't take misinformation and exploit it, because it's not beneficial. So we need to make sure that we as professionals understand the difference between brown water and reclaimed water from the Hilo WWTP. They're not the same. So I just want to make sure you all know that.

Ms. Swafford referenced being able to share the Director's presentation so that you can have it. And I am actively working on our website, she said. And this will all be posted on our site. In the presentation, we shared ways for our community to read the report that the Director is referring to. It's linked in the presentation. You can watch the full dive, it's beautiful, it's on YouTube. And we shared that with the community. And we shared how to monitor your own waters and I showed them how to zoom in on Puhi Bay and check the water on the EPA website. That's linked on our homepage of our website now, and then how to sign up for alerts when and if things happen in the future.

Commissioner Otsuka said it was a good presentation. She asked about the dye. We saw the person dump a five gallon bucket. How much dye do you drop in for an outflow that long?

It's not a five-gallon bucket, the Director said. In the report, it tells you the amount they needed for that length because they have to calculate based on the water volume and based on the distance. So it's all calculated in the report they used.

It was a good report, Commissioner Otsuka said. It's just that when the person was dumping the dye, it seemed like it was just a repeat of the same person doing the same thing. So I just want to know, do you have an idea as to how much dye was dropped in based on your calculations for the distance of the outfall? I mean.

It's in the report, Ms. Swafford said. I was out there with her; she had a computer with her and she was logging exactly what she was doing and the timing. And she was also communicating with the divers. So she knew they started all the way out and she knew as they moved forward. And I was there for the last- I think that video might be the very last time she did it. So it was strategically planned to release just the right amount that they needed for the testing.

Yeah, they have a methodology and process, the Director said. They are a third party consultant. We usually don't direct them what to do and not to do because they are on the hook for making sure to meet with all state and local mandates. They are the subject matter expert and they do that for living day in, day out.

I hope you had a chance to look through the ERPs, the emergency response procedures that Chris Sparber gave us, Chair Adams said. They're pretty fulsome if you go through all the appendices and read through the protocols and the requirements for reporting and how they do the testing.

Vice Chair Norris noted that it was said brown water is not the same as reclaimed water. And I was wondering, the whole east side of Kona had a brown water alert during the hurricane or right after. And that's mostly due to runoff. Is that right? And is that the DOH responsibility and not ours?

That's true, the Director said. I think you are bringing a good point. I was going to follow up to Commissioner Otsuka's question. The State has certain obligations. The county has certain obligations. Our obligation is to monitor our wastewater facilities that end up discharging to the ocean because it is a requirement under DOH. The beach, it's a State water, it's not a County water. The shoreline is a State water, not a County water. So the State is the lead entity when it comes to monitoring all the shoreline. That's why they put the advisories. The advisories come from the Department of Health. If you look at the link and if you all sign up to receive notification, notification comes from Department of Health to all of us, even to the County. So when they have a brown water advisory, yes, it's due to the hurricane, storm water, or flood water. It carries sediment with it and it carries soil and everything that it gets in its way. Because it's either going to come through a drainage channel, is coming through natural stream or river or creek and it ends up being at the bottom of the bay. So that's what they refer to. I received close to 10 advisories on my phone pertaining to that brown water just yesterday, or early this morning. When you see brown water, it's a sign of sediment transport that took place through streams, through stormwater. Because what happened is it scours the soil and all the dirt in its path and takes it to the shoreline and when it turns the entire shoreline brown because of the sediment. I remember walking down Ali'i Drive by Papa Kona restaurant. The whole area was brown because we have that drainage channel that was flooding, got so much water, and it just went right straight into the shoreline. And I think the entire area was so brown, it was just the water surface. There are certain roles and responsibilities, and thank you for bringing it out because I just want to share it with you. From a County point of view, it is our authority and obligation to meet what we are mandated to meet through federal and state laws, and the state takes the roles and responsibility to monitor shorelines and state water.

4. Status of existing staff vacancies and recent hires

1. Solid Waste Division Chief and HR specialist interviews were held

I was told you hired an HR person, Chair Adams said.

We were able to hire an HR person, started yesterday, Director Mansour said. She came from Oregon state. Experienced in HR. So hopefully we look forward to start working on HR issues. And we're doing a reorganization for the department. That's our priority No. 1, because that was mandated under the AOC as well. There are a lot of moving targets. The AOC covered pretty much everything that needs to put us back on track. And HR is going to help us, hopefully. And I'm still requesting another HR position just for wastewater because- and I think that's maybe what you guys need to do, send a recommendation to add that position because the wastewater needs its own HR. I met with the wastewater staff and I can understand their frustration. I'm frustrated as well, because a year and a half it's just running on a skeleton crew. Technically we have one HR person. When that person was gone, everything froze, which is crazy. But my understanding is we cannot ask for another HR.

But I'm trying to fight that as well, the Director said. We need HR specialists, one just for the wastewater because we are under mandates. If we miss deadlines, it's major fines and violations. So I'm fighting that fight with the Department of Human Resources. Hopefully they come around and help us as well. And we are doing a reorganization for the department to streamline it better. Wastewater Division is a hierarchy like a pyramid. There's no way one person could do collection, do design, oversee construction, oversee maintenance, oversee operations. There's no way. So we are splitting that division. We are proposing a new division for engineering and focus on capital projects within the AOC. So it's a proposal to allow for higher, more qualified staffing for the needed tasks and challenges. Operations need to focus on operations. They don't need to be blindsided with another hundred different topics. We feel good, but it's just a matter of getting the Department of Human Resources and everybody else trying to get the buy-in. But our HR, hopefully now she can start leading that forward.

2. Other vacancies

(See above)

5. Questions from Commissioners

1. What is the impact to Department of Environmental Management operations and finances of opening Kalapana Transfer Station two days a week? (Adams)
Postponed from August 2, 2024

Director Mansour said this bill came after the budget was approved. So we have to request additional funding, and hopefully we get about \$100,000 to subsidize that additional day. I know the methodology in which it was brought after the budget rather than before the budget, but it wasn't like, we have the money and we have the staffing. Our staff is renting equipment to be able to provide these services, and they we had an unfunded position that we are trying to get funded. So staff are monitoring that as well. So for next year's budget, we'll have a better idea of how much that additional day is going to cost. We provided the extra day, as you know. We never had an issue. It just. It need to be asked for through the process of budgeting, similar to Ocean View. But unfortunately, it wasn't taken that way. But it's neither here or there. We rented equipment and they are shuffling in staff until we get that unfunded position funded. Staff are doing good job trying to provide the service, go outside the box to make sure we get the right resources.

2. What is happening regarding the decentralized wastewater pilot project at Puakō? (Perez)

I hope all of you had a chance to read Barbara Bell's comments, Chair Adams said. She had some good questions in her letter.

I was reviewing what was shared with the Puakō community a few weeks ago during an update, Commissioner Perez said. I just had a quick question in that what was presented to the community was for the development of a gravity-fed line. And it just kind of made me question what other types of resources were being kind of spent on investigating gravity-fed lines and low shoreline areas. And if the bids that are going out are going to be focused more on infrastructure that promotes climate mitigation strategies and that could bring down capital investment costs and not use gravity fed lines. There's a great deal of research that has come out of Puakō from both resource impact as well as engineering that has already ruled out gravity-fed lines. So I was very surprised to see something that was going back to the Puakō community and being looked at. So I was just wanting a little bit more clarity on that.

It's not a DEM project, Director Mansour said. The community received \$300,000 for Carollo to do that analysis. So it wasn't driven by the Department or the County. It was privately independent with the community nonprofit and with Carollo.

It was an EFC study, Commissioner Perez said. So it's not going to be used as a support document or support research into the integrated wastewater master plan or the Puakō-South Kohala wastewater master plan. It's just going to be completely standalone?

In speaking with Carollo's Cari Ishida, EPA got a \$300,000 grant EPA to help that community, and they did it. We will probably end up using it as reference document. But it's not going to be part of the system that they're going to use. They had a presentation with the manufacturer, and it seemed like all the community wanted to go with that low pressure system. And they already came to that conclusion prior to even the study.

That's why I was confused about it, Commissioner Perez said. The community didn't request that. And if it actually is utilized as any kind of support document for our County planning uses, it should be utilized to represent that gravity-fed sewer systems are not financially feasible or feasible, even from an engineering perspective, for our shoreline areas, for our-

It depends, the Director said. We cannot sign off on anything until we do that. They did the investigation, but remember, they took that gravity and only divided it for the 109 homes rather than dividing it for all properties facing that gravity line. So you cannot penalize that community to pay for the entire gravity line if the entire stretch of property is going to be able to benefit from it. So I have issues with the way it was calculated by Carollo because they only took the capital cost and divided it by the number of homes going to connect, rather than by all properties facing that sewer line, which didn't make sense to me. That's why it came up \$400,000 per connection or something.

It went from the Aqua Engineering study with a low pressure system at \$15 million to \$113 million to sewer Puakō with a gravity-fed line. So that was a very alarming number to see. And the point that I'm making is that if that's what it is taking to implement gravity fed sewer lines, then alternative mechanisms and infrastructure should be looked at. That one could lower capital costs as well as promote climate mitigation strategies that are outlined in our climate mitigation plan.

We're looking at three different options, the Director said. Gravity is one of them. So even for the cesspool conversion, the study, we have tables that compare cost to multiple options. Even for our cesspool conversion master plan, some of the studies recommend low pressure because ends up being achievable. So yes, we study the feasibility and it becomes site specific because it depends how far is your current collection system from what you're going to connect to. So there are multiple factors in play with it. But you're right, what makes our decision is the financial aspect of the system.

I believe it was also it was used for the Kea'au collection system, which is I think again resulting in these astronomical prices that the county then obviously doesn't have the funding or financing for, Commissioner Perez said.

Kea'au and Pāhoa and Puna, we did analysis for four different options, including low pressure, the Director said. We even did an analysis to get a sewer line connected to Hilo and we done gravity. So the dollar range was from \$4 billion to \$11 billion. I think that \$11 billion probably requires more excavation. Gravity, you could do it up to \$4 billion. But. But you have a window. So it wasn't all gravity. It was a very detailed AECOM report.

Chair Adams wished to close out the discussion. The point is we've got this study and we can use it how we need it, she said. Sometimes it's good to have a dollar sign associated with the wrong, bad option. At least you've got some documentation on why it's a bad option. But it would be nice to have spent the \$300,000 on something useful. Looking at the comments that were made in Barbara Bell's questions, funding, funding, funding, is always the challenge and where does it come from? And maybe that can get rolled back into looking at the possible motions that could come up next time in terms of how we support or point to other ways of providing funding for all this cesspool conversion work, whether it's connection fees or connection mandates along with a fee. Looking at these different facility districts, service areas, lots of money that can be funneled together. I thought an interesting question that she had asked is, what kind of guarantees can the County provide? You're trying to project what the costs are going to be over a long period of time, especially when you're talking private, public, and who's going to own what. And yeah, we'll carry it for a while. And some of these subdivisions will build their own quick and dirty private wastewater treatment and then they evaporate away and there's nobody running the development anymore. And here's the stuff that needs to be maintained and extended. Who's going to keep footing the bill? Is it something the County can even commit to taking on? So anyway, I thought there were some really interesting questions that she had, and would ask those of you who are going to try to come up with great ideas for motions for next meeting can look at.

3. Has there been any follow-up discussion with DOH and County Administration on public notice for spills? (Adams)

It sounds like DEM has done some communication with the emergency folk on spill response, Chair Adams said. And again, who's talking to whom when there is a load of water or waste going into a bay, how it gets posted, who does the posting? Again, I was hoping, and it sounds like you are looking, certainly with Ms. Swafford on how to open up those lines of communication so that we make sure the public is protected and knows when to take care.

VII. FUTURE AGENDA ITEMS

1. Follow up on action items determined today.

Chair Adams noted a few deferred items. Anybody else wants to have some recommendations? Apologies to Commissioner Acasio, she said. We'll try to make sure that we cover the deferrals. I think we had some really good conversation and information exchanges happening today.

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

It's good to hear that there's an HR person now, Commissioner Otsuka said. And as much as I'd love to volunteer, maybe it would be nice to invite someone from HR to let us know what the process is. Is that a good recommendation? And if we could have copies to the Asset Management System Implementation Plan, because I think it will better inform us to make advisory recommendations.

VIII. ANNOUNCEMENTS

The next meeting is scheduled for Wednesday, September 25, at the Puna Conference Room of the Hawai'i County Building, 25 Aupuni Street, and via Zoom. Please contact the Board Secretary or review the agenda posted on the County Calendar within six days of the next meeting for confirmation.⁶

IX. ADJOURNMENT

Motion, second, and vote: Commissioner Perez made a motion to adjourn, to which, Commissioner Otsuka seconded. Ayes 6 (Beets, McIntosh, Otsuka, Perez, Norris, Adams); Absent 2 (Acasio, Garcia). Motion carried and motion adjourned at 12:14 p.m.

Respectfully submitted,

Peter Sur, Secretary

⁶ VIII: Hawai'i County Calendar: <https://www.hawaiicounty.gov/our-county/county-calendar>