

**ENVIRONMENTAL MANAGEMENT COMMISSION  
COUNTY OF HAWAI'I**

**MEETING MINUTES**

**Wednesday, September 25, 2024  
9:08 a.m. to 12:03 p.m.  
Hawai'i County Building, Hilo, and Zoom**

Commissioners present:

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

County staff present:

Ramzi Mansour, Director; Craig Kawaguchi, Recycling Coordinator; Christy Swafford, PIO; Alex White, Recycling Specialist; Chris Sparber, Acting WWD Chief; Alan Fukamizu, WWTP Operator; Shelise Lamb, Project Coordinator; Peter Sur, Secretary; Kahalekaiopua Terry, Solid Waste Facility Attendant; Pomaika'i Bartolome, Executive Assistant; Sinclair Salas-Ferguson, Deputy Corporation Counsel

Others present:

Kelbert Yoshida (DHHL), Arlene Campbell, Nicole Larson; others

**I. CALL TO ORDER**

Chair Adams introduced members and called the meeting to order at 9:08 a.m.

**II. APPROVAL OF MINUTES FOR AUGUST 28, 2024<sup>1</sup>**

**Motion 1, second, and vote:** Commissioner Beets made a motion, to which Vice Chair Norris seconded, to approve the minutes as presented. Ayes 7 (Adams, Norris, Beets, Otsuka, Perez, McIntosh, Garcia); Absent 1 (Acasio). Motion 1 adopted.

**III. STATEMENT FROM THE CHAIR**

Great to have you back, Chair Adams said. We did an awful lot of conversation last meeting, and my apologies for being jet lagged and not entirely with the crew, but we're going to continue with conversations. Hopefully we'll get some more really good information and be able to move forward, especially on the permitted interaction group recommendations so that we can wrap up. And I'm hoping that we will get to hear from DEM's contractor, Carollo.

**IV. PUBLIC STATEMENTS ON ITEMS ON THE AGENDA**

Nicole Larson, see page 14.

**V. UNFINISHED BUSINESS**

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<sup>1</sup> II. Minutes to be distributed if available.

1. Permitted Interaction Group on Cesspools and Sanitation – Continued deliberation and decisionmaking on the findings and recommendations presented by the permitted interaction group on cesspools and sanitation at the meeting of the Environmental Management Commission on August 2, 2024. The Commission will discuss the following recommendations:

We are going to work our way again through the Permitted Interaction Group on cesspools and Sanitation, Chair Adams said. The PIG recommendations that we discussed in part were during last meeting, and I just want to go over again, but we did come up with a motion. It's in our agenda, you can see, that resulted from the long conversation that we had over the very first recommendation, basically recasting the recommendation dealing with public-private sewer lines and how close they need to be before you've got to hook up as a more direct statement that DEM and County Council are recommended to pursue legislative amendments to require connection to private sewer works when public facilities are not available. So that was our motion from last meeting that was approved and I just want to make sure we are okay with that motion. And we can come back to it if we have some more discussion to go through. Commissioner Perez, I'm going to lean on you on where you want to put the emphasis on these recommendations.

- a. 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.

One of the concerns I had was that I'm not sure we really talked about item a(i), that the County should establish a connection fee for all new connections to a public sewer, Chair Adams said. Since we're going the direction in public or private should be available or require connection, are we done with that particular recommendation or do we want to add new motion relative to a connection (ii)?

Those are two separate recommendations, Commissioner Perez said.

Commissioner Beets asked if a modification to a motion or a separate motion is needed.

I think it might be cleaner to do it as a separate motion, the Chair said. It does seem like it's a separate issue from, you've got to connect to private or public if it's not available [connect to public or, if not available, to private]. She asked for a motion.

I think that one quick question that I have is, again, this is just for recognizing the fiscal challenges that we have to take care and maintain infrastructure, Commissioner Perez said, and this has been a recommendation I know that the County and DEM support and find valuable to be able to afford affordable future upgrades and existing costs: So in recognition that DEM already acknowledges the need for this fee, would this be better addressed to our County Council for them to support a sewer connection fee?

We may or may not hear about it later in the agenda, Chair Adams said, in the current draft proposal for changes on Chapter 21 of the Code would include a connection fee. So I think DEM's already got the plan to do it and that it would be asking or supporting DEM and going to the Council to get that approved.

That was my thought process, but I just wanted to assure that that was correct, Commissioner Perez said.

Director Mansour said, we have a consultant currently working on the sewer rate study and the possible connections. All that's going to be commingled with our master plan because it's got to be a strategy of people already connected versus people already on cesspool who have to convert within the sewer service area, and the connection fees to the new subdivisions and new developers. So it's going to have a different scale, different fees set up to allow grandfathering and the current people within the area because it's not fair to penalize the cesspool people within the area to pay this hefty connection fees in addition to connection and conversion. So versus a new subdivision that is going to come in, the connection fees could pass on to the new homeowners or the developer and it becomes part of the finance for that new home versus somebody getting a loan just for the connection fee. So, yes, to answer your question, it's in the works. We already got the vision of how we're going to set it up. It's a matter of having the consultant deliver so we could put all that big roadmap for the County to be able to go before Council and before you, so you could review it and comment on it. But all these pieces are coming along.

So I guess the issue is for what our motion should be, if any, the Chair said, we're supportive of the idea of connection fees and we will be able to have shots at the integrated plan, the change in the rules, and the specific ways that you're going to do the connection fee.

I agree, the Director said. And I think that's very important to have your support, but also I want you to be supportive of the roadmap, of how to implement connection fees. So to me, it's premature now because like I was saying, people are going to be grandfathered in versus people who are going to come and develop and pay. From a legislative point of view, we talked about it last time. It's trying to allow people that don't have municipalities [i.e., public sewers] within their sphere of connection, but they have a private entity. To me, the law should allow private homeowners to connect to these big resorts or big private companies like American Water or Waikoloa. And I think that would do it at this moment. As far as connection fees, wait till the consultant at least gives us a draft so you could comment on the strategy of how we should implement the fees, because to me, that's where it's important for you to advise on how the fee is going to be implemented and collected and who's going to be charged and who's not paying.

Commissioner Beets asked whether the Director was suggesting that this should be a part of the Code changes that you're working on.

Yes, that is definitely going to be a Code change. No doubt, the Director said.

That's what I assume, Commissioner Beets said. One of our other potential motions was related to the support of the code changes. I think that's covered.

So we don't need a separate motion on that item, the Chair asked.

That would be my assumption, Commissioner Beets said. But that's also assuming that it does make it into the Code changes.

Commissioner Otsuka asked about the rate fees. So we're talking about Keaukaha and being exempt, at least for a period. Is there any consideration for the consultants to look into that when they're working on their plan?

That's the reason I say these people will be grandfathered in and we should not charge them, the Director said. That was my comment, there are certain people that already in the system. You don't want to overburden them with additional fees and costs. And that's going to be part of the decision making, yes.

- b. 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 recommendation was that County should conduct a formal legal review and interpretation of the *Konno* decision outlining its application misuse for private sector partnership regarding county wastewater projects, Chair Adams said. We discussed this quite a bit last time, and I believe our conclusion then was that DEM is indeed pushing the envelope as much as they can to not let *Konno* get in the way. In addition, we asked for, and hopefully we will receive later some comments that DEM has pulled together on how they have identified barriers, *Konno* in particular, but others in doing the integrated wastewater management plan that Carollo is going to present. It's an appendix to their overall presentation. So we'll see if that one comes up. (Note: the Carollo presentation was deferred.)

Commissioner Beets asked whether the Council can request a formal legal review and interpretation of *Konno*. Is that allowed?

The County is a corporate entity, DCC Salas-Ferguson said. It's a municipal corporation. It acts through its duly authorized constituents. From what I heard at the last meeting, the Director informed the EMC that there's already been a countywide investigation and interpretation regarding the parameters of *Konno*. I think the County Council could ask any legal question they want of their advisor, but their advisor is Betsy Strance. Corporation Counsel Strance would probably tell them, "We've looked into this. This is what it is." And then there's also the separation of powers, too, right? Like County Council, they pass laws and policy. They're really not supposed to get involved in the nitty gritty of the administration. To answer your question, Commissioner Beets, they could ask, and they would probably be given the same answer that was given to the administration.

Commissioner Perez said that if we're going to have a motion that we made and adopted last meeting that looks at private-public facilities, engagement, partnerships, the continual barrier to those is *Konno*. So I feel that if we're going to adopt that particular motion that we adopted last month, that the next follow up to that is going to have to be more of an investigation into *Konno* that results in something substantial enough that it won't be referred to as a barrier consistently in moving forward. I think that it's fantastic, the movement that the Director has made with the administration in kind of pushing the envelope to get past the *Konno* decision in regards to wastewater. And I fear that if it is not done in a formal manner, a review specifically for wastewater, that it could just become another problem with a different administration. So I would like to see some form of legal review. And that was also a recommendation during a Puakō community event in hosting national environmental finance committees that are spread all across the nation, and Puakō hosted several. The *Konno* decision came up as a barrier in those meetings with the Puakō community, and it was recommended at that meeting to have more of a formal review of the *Konno* decision through the wastewater lens.

DCC Salas-Ferguson cautioned that the Commissioners need to have a motion to discuss.

**Motion 2:** I would like to make a motion that our County Council should conduct a formal legal review or interpretation of the *Konno* decision outlining its applications for private sector partnerships regarding county wastewater facilities and projects, Commissioner Perez said.

DCC Salas-Ferguson added that *Konno* was a Supreme Court decision interpreting state law. So that's all state law. The way to change that is through state legislation. That's the only way to change the *Konno* decision.

I don't think that we're asking for a change, Commissioner Perez said. I think it's being misused.

And now this is the final thing I'll say on this, regarding "misused," DCC Salas-Ferguson said. So I don't think it's a use- I think it's a legal parameter for the County's ability to do things. It's interpreting HRS and what the limits of that are. And the county is required to comply with the law. Whenever any Director goes and does something big, he or she consults the attorney. The attorney advises them on the law, what they can and cannot do. Oftentimes, there's gray area. They'll be advised about the risks of that. Because the County, the authorized constituent, they're authorized, they have discretion to take risk. When I hear misuse, I kind of want to correct that a little bit. I don't think the County, in my opinion, from what I've seen, is using *Konno* as something to hamstring themselves. I think the counties, from what I heard from the Director, are trying their best through the consultation with HR and everybody else, and I think they've even involved the state and the other counties. I think I remember Mayor Roth creating some meetings to try to figure out how can all the counties - not get around *Konno*, but- what are the parameters? What can we do and what can't we do? So I think if that's what you're asking, to kind of take another second look at it, I think it's fine to always take a second look at it for each specific thing that the County wants to do. But to modify what *Konno* restricts the counties from doing would require a state legislative amendment. And from what I've heard the

Director and everybody else saying, is that there already is a countywide opinion on the limitations of *Konno*. You can always recommend them to take a second look at that. So I'll stop talking, but I just wanted to give you that background.

A motion has been made by Commissioner Perez, the Chair said. There's some wordsmithing that we might do. For example, taking out "misuse," from what you did as the recommendation was stated. So whether we need to get a second on the actual motion that Erica made and then discuss changes- or just go take a vote as is. But I haven't gotten a second yet to the motion.

Commissioner Otsuka said that if people went back to look at the reason *Konno* was even brought up, they would find the reason or the root of that, which makes it look now as if it was a misuse of government official to engage in something that was in violation of the rights of the civil service people who historically and customarily did the jobs. So I it's just a broad thing we throw out there restricting us from doing stuff that we probably can do. So I think if we went back and we looked at it, we'd realize what happened to have that suit brought against the County.

Chair Adams again asked for a second on the motion.

**Second:** Commissioner Otsuka seconded Motion 2.

**Discussion:** Commissioner Beets recommended a friendly amendment to the motion to address DCC Salas-Ferguson's comments.

Anyone can make a motion to amend, DCC Salas-Ferguson said. So you can just make a motion to amend your motion. It's basically making a new motion and voting on the amendment and then discussing it. So what you are trying to do is recommend that the County conduct a formal legal review of the *Konno* decision outlining its parameters for private sector partnerships specifically pertaining to county wastewater projects.

I'm okay with just the word "misuse" coming out of it, Commissioner Perez said. I feel if that one word were to be removed, it sounds to me what I'm hearing that that's the request or the recommendation.

**Motion 2a, second, and vote:** Commissioner Perez made a subsidiary motion to amend Motion 2, to which Commissioner Otsuka seconded, to recommend that the County should conduct a formal legal review and interpretation of the *Konno* decision outline application for private sector partnerships regarding county wastewater projects. Ayes 7 (Adams, Gonzalo, Beets, McIntosh, Otsuka, Norris, Perez); absent 1 (Acasio). Motion 2a to amend Motion 2 is adopted.

**Motion 2 vote:** Ayes 7 Ayes 7 (Adams, Gonzalo, Beets, McIntosh, Otsuka, Norris, Perez); absent 1 (Acasio). Motion 2 is adopted as amended.

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

Commissioner Beets asked whether a sewer connection special fund would be in the new changes to the code.

We need to make sure, the Director said, the intent of that fund they are talking about. Conversion is different from connection. So if the intent for that is funds to assist qualified people financially to convert their cesspool, that's different from connection fees. The connection fees we talked about earlier and the purpose for connection fees from industrial practices is to allow for the expansion of the facility in the future. And that's when you have a new subdivision trying to connect to an existing sewer, then they are going to take some capacity of that sewer line. So you charge them for that capacity. And based on the current cesspool rules, if we want to assist them to convert the cesspool to sewer and abandon their cesspool, is different than just, you have a sewer line in front of you and you need to connect. But either way, both of them are going to be in the Code.

Thanks for that clarification, Commissioner Beets said. But I think what we're talking about is just the establishment of a connection special fund, and it can be specified on whether that's going to be cesspool elimination and establishment of a new sewer connection, and also new connections from industry or any other purpose.

Director Mansour asked whether Chair Heather Kimball supported a State bill assessing \$10 from each parcel to allow for the conversion or sewer connection fees that could go toward assisting the individual that's not connected. But the fees will be collected from everybody, and I don't know if that even passed. I just want to make sure we don't try something that failed. We need to learn of what failed and modify it to make it go through. And maybe that's something somebody could research what was done last year.

Commissioner Perez said last session there was a bill to charge a cesspool fee. And that's just for existing cesspool owners to create a special fund for cesspool conversion. So essentially, it was kind of also used as a social change strategy to get people used to paying for sanitation instead of just having a free cesspool, charge \$10 for cesspool owners, create a cesspool conversion fund, that then those fees could go to help the affordability for conversion. And no, it did not pass. It was not passed last session. There's been discussion of it coming back around this year, but I don't know if it will.

The Director said, the point of contention was, a lot of people thought, why should I pay for somebody who cannot connect, but I'm not going to connect? But our argument is, you're going to benefit environmentally, it is the environmental benefit to the entire island. So my recommendation would be, the thought has been around at least since I started through different committees, through different legislation. So if you would like to look at what was proposed last year and maybe modify it or propose something new, that could become more robust, maybe that could help.

The issue on the floor right now is the PIG made this recommendation, as it's stated, Chair Adams said, and whether anybody wants to make a motion and then second it regarding the sewer connection special fund. If you want to make a different motion based on this conversation or do some exploration of, how can we make it more of a winner, I am open to that. But question on the floor is, what do we do with this recommendation?

Commissioner Beets said that his understanding was that the special fund was important and maybe even necessary for the current and future directors to have these funds available, because otherwise it's going to have to be a special allocation.

What you're trying to say is the enterprise fund for sewer, the Director said, where you have the current rate into a certain fund that could stand alone from the General Fund, so you could allocate and manage that fund from a Department point of view rather than an accounting point of view.

In effect, correct, without saying it's an enterprise fund, Commissioner Beets said.

The Sewer Fund is set up as a special fund, the Director said. Ratepayers pay their monthly rate fees and it goes into that Sewer Fund. That sewer fund is technically controlled by the Department to cover the O&M. But the challenge here is that fund is not big enough. That's why we always have to get subsidy from the General Fund, because we don't have a lot of connections. We don't have customers.

The clarification that we need is on the connection side, because our understanding was that you have a real issue with connections, not just regular operations and maintenance, Commissioner Beets said. So can it be one fund is the bigger question.

We have a consultant looking at the logistics and the mechanics of what the fund is going to serve and how it's going to be established, the Director said, to be able to grandfather people in without charging them the connection versus allowing a new developer to pay for that connection. And that money will get collected and will go under the sewer special fund that we already have. But we'll have a different designation.

Commissioner Otsuka asked, because the County has no specific funds for that, maybe we could initiate, through us, the idea to the public for the benefits of improved connections down the line, environmental health, especially in areas like Keaukaha. We could maybe tie it in with funds from the federal and state infrastructures to alleviate some of the costs to the County. Could we do that? It's just that talking about it doesn't help us get there. So I'm just saying because we have no special funding for the sewer coming up, that we could propose to have one through the EMC and tie it in with federal grants or state funding, to help us to alleviate the cost to the County so that we can at least establish some money for that when the time comes, will have more money to put into it. Is that a possibility?

Everything is a possibility, the Director said. There's nothing impossible, but we have to be clear of what we are asking the legislative body to do. When we had the Cesspool Conversion Working Group, some of the group members came from the financial institutions within the state and were trying to figure out how we could fund some of these conversion or connections to a sewer. The State acknowledged and was very cognizant of the need to fund this dilemma that the State has and the Department of Health approved over the years. Commissioner Perez, I don't know if I missed anything. I know you were a member as well, but that's my recollection. It was the finance aspect and the funding was a major part and it was really up to legislation to set aside money and first they need to figure out where they're going to bring the money. We even talked about the possible of having environmental sewer fees or increase the taxes or any type of fee that we could agree on. Have you seen anything come through from legislation on the state level? It seemed like they don't want to deal with it. They keep kicking the can down the road. So many bills go before them every year pertaining to either funding or cesspool conversions and what have you and it seemed like each one of them dies at the Senate.

Do you think, Commissioner Otsuka said, we could incorporate it into the budget planning to recommend that the fund be part of the County's annual budget or include it in a special bond issuance emphasizing the importance for the environmental sustainability and public health?

I think that's a good idea, the Director said, because that's what we going to end up recommending as part of the master plan, to do it based on increment of \$10 million a year to allow us to construct a segment of the main trunk line, to ease the connection to residents in the future by 2050. So that would be a good one where County Council members or Finance Department consider setting aside "X" amount of dollars to go toward rolling the wheel now to start planning for 2050 so we don't get blindsided.

Commissioner McIntosh asked for a motion.

We were trying to clarify what a sewer connection special fund is and whether we are in a position to make a motion to, as recommended by the PIG report, support a special fund, Chair Adams said. Sounds like DEM could designate a portion of their existing sewer fund to be a sewer connection special fund if they wanted to. But there's still the question of, where's the money coming from? And we're kind of backing up to the whole issue of fees, which we decided in the previous discussion that that we will deal with it when it comes to us in the specifics of the integrated wastewater management plan and the Code changes. Again, is there a motion to be made here? Do we need it? Is it ripe? And what are we really trying to effect a change?

I may recommend, the Director said, that you wait until you hear Carollo's update on the IWMP to understand the thought and the layout, and because the financing of potential projects that we need to do prior to the 2050 connection and conversion deadline to all of these cesspools is going to be a major issue statewide, but also for our County. So we need to assist our constituents and we need to plan ahead. So my recommendation may be table that motion till you hear what the consultant is working on, because that way you'll have a better

understanding of what needs to be funded and then how we're going to approach the funding aspect of it.

I think that's true, Commissioner Otsuka said. For me, it's good to know what's happening now with any updates so that we can make decisions now or recommendations now before we hear the almost final draft. But I would like to make a motion to incorporate into the budget planning through the EMC. Recommend that the fund be part of the County's annual budget or included in a special bond issuance, emphasizing its importance for the environmental sustainability and public health. Is that too long?

I don't think there's a limit on motions, the Chair said. I think it's trying to get hold of what all you're including in there that we would be voting on.

To first incorporate into the budget planning for the EMC, to have a fund be part of the county's annual budget or included in a special bond issuance, Commissioner Otsuka said. Does that even say anything?

You're not saying what the purpose of the fund is for, Commissioner McIntosh said.

For the funding for the sewer. The sewer fees, Commissioner Otsuka said.

Sewer fees for what, Commissioner McIntosh asked. We have operation costs. We have connection costs. We have conversion costs. So this is where I'm getting lost.

Okay, so according to the PIG, we're looking at ways in which we could help the residents by special funding, Commissioner Otsuka said. So this is all part of that. And I guess with what Director Mansour said about the sewer funds now, which is sort of like an enterprise fund that takes care of some of the O&Ms. So this is separate from that. This would be specifically for the fees on sewer hookups. How does that sound? Or maybe you can come up with a better wording for that, but it's specifically towards the fees for sewer hookups

I believe Commissioner Otsuka just clarified that, Commissioner Beets said. The last thing she said is for hookups. So connection fees and not operation and maintenance fees, et cetera. So I assume her motion would be modified specifically for connection fees.

Maybe you could restate your motion and then if there's a second, you can discuss it. If there's no second, then it would just fail, DCC Salas-Ferguson said.

Okay, Commissioner Otsuka said: I move that the EMC will create a fund to be part of the County's annual budget, emphasizing its importance for environmental sustainability and public health toward- Help me here. I just want to make sure that EMC- I move- I make a motion to move that the EMC create an annual. Can I do this again?

Can you also make a recommendation to support item c, the Secretary asked.

**Motion 3:** Commissioner Otsuka made a motion to support item C with regard to the sewer connection special fund fees.

You can do it a number of ways, DCC Salas-Ferguson said. You can just restate what's in c and make a motion that the County should support a sewer, you know, et cetera. Is that what you want, to make a motion?

I actually want two motions, Commissioner Otsuka said. 1) To move to have the County support the sewer connection special fund to provide sewer connection assistance. 2) And another motion to have them include that in there-

Let's do one at a time, the Chair said. She asked for a second.

**Second:** Vice Chair Norris seconded Motion 3.

**Discussion:** Commissioner McIntosh asked why would you ask the county to set up a fund to pay itself? Because the connection fee is paid directly to the County and the County can just waive it if it comes down to it. And that's what the Director was talking about grandfathering, and different things like that, and the updated code. So I don't see the purpose of this motion creating this fund. Now, if you're giving money to help cover expenses outside of paying the County, like if they have to hire somebody private to do this, work to connect, I can understand that portion of it, but just paying the fee to the county, I don't know how much this fee is. Sounds like it might be a lot if you're talking about loans, but you know that it doesn't make sense setting up a fund, paying the county, paying itself through this fund.

Thank you for clarifying that, Commissioner Otsuka said. It wasn't intended to give it back to the County for them to be able to waive it. It was specifically for the people who couldn't afford to pay the fees. So that money would be deemed for those people. So when the time comes, when it's time to hook up, then that would come from that special fund. So in my case is Keaukaha, for instance. So although the Director didn't specifically say Keaukaha, with the people being grandfathered in, that's who I'm representing. And this fund will go for everybody else who can't afford it. I mean, it's not- I don't think it's- we'd be paying the County themselves. It wasn't- it's deemed for the people who cannot- it's just a special fund. Does that make sense? I mean- and even- like you say- with any costs that come up, aside from what's already in there for fees, that's what it would be. That is what it could be used for as well.

Commissioner Beets said that what he heard from the Director is that the consulting report is going to address these issues and probably make recommendations. I think that will be addressed. I think I would prefer to table this and see what the consultants are providing so we can really dig into this and suggest appropriate measures. So my question to the Director is, when will a draft of the consulting report be available?

That's my concern, too, Commissioner Otsuka said. It's like waiting to hear or see what they have to say. It's kind of hard because really, they should have something for us now. I mean, I understand it's just going through the process, but to see what they have so far will help us better not have these questions raised at these meetings. That's for me, because I don't know when we'll hear it. And then from then, we're buying more time to discuss the recommendations. So it's good to have an update now so we can kind of see where they're at and, yeah, let it go and not ask any more questions later on because we know where they're at. But, you know, thank you. I appreciate that.

I, too, would like to see the plan, Chair Adams said. This is so complicated to come up with how we fund this and what we call it. I think I would do much better if I had an outline of what is being considered. There isn't a single bullet, a single pot of money that it all comes out of. So we need to see more of the detail, and I prefer to defer this.

I am interested to know when the report is going to be released or the draft report, Commissioner Perez said. I think that I'm really kind of struggling with this because I hear the intention of wanting to wait for the report, and I also gravitate toward that. I also understand that there's roughly 55,000 cesspools on Hawai'i Island that are going to need to be converted, and they are going to cost money, and there are people that are not going to be able to afford it. And so I don't think those things are debatable. And the faster that we're able to start to secure funds, the faster we're able to start to tackle the 2050 deadline of conversion. So that's kind of where I'm sitting. And just in this middle of, we know that there's going to be a huge budget. We know that things are going to need to be converted and transitioned to alternative technologies outside of cesspool. And we don't have funds right now at all set up to be able to do this. The Director is correct. The State, if you talk to State Legislature officials, they feel very strongly about not wanting to support cesspool conversion directly. And at some point, there does need to be a fund that's set up to be able to help us progress in that direction. I do want to see that done thoughtfully. So I also understand wanting to wait for a report.

Commissioner Garcia supported tabling or deferring Recommendation C until we have a better view of what's proposed. I think it's important that we kind of listen to what the Director was saying about that. And I think if we've got the consultants working on it and they're preparing this, saying we should lean heavily on what they're doing, and then if we object to it, then create our own. But if they've got the right thing in place, then we should support it.

Vice Chair Norris also asked when will this report will be available. Do they have a schedule to actually put it out? And also I'm in favor of tabling it till then. But I really would like to know when, essentially.

To me it's very clear, the Director said. I think this is part of the Director's Report and staff will share. Chris Sparber could share the timeline that was given to the consultant. We're being transparent. The idea of always circumventing studies and report is not highly recommended. Because how would you- you're having difficulty even making a motion. Because it's such a

complex subject. So, Commissioner Otsuka, get the facts, then make the decision based on the facts.

I can't really ask and speculate, but we know nothing else than what you tell us, Commissioner Otsuka said.

You know, what I'm telling you is we are doing a study with our consultant, take it at its value, the Director said.

Chair Adams called a timeout, noted there will be information on the Director's Report, and called for a vote. This is incredibly complex, she said. And obviously those of you who are on the PIG and studied this and the conversion work group before that, it's not simple stuff.

**Motion 3 Vote:** Ayes 1 (Otsuka); Nays 4 (Beets, Garcia, McIntosh, Adams); Abstain 2 (Perez, Norris); Absent 1 (Acasio). Motion 3 not carried.

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

**Motion 4 and second:** Commissioner Beets made a motion, to which Commissioner Garcia seconded, to encourage the County Council to adopt the Chapter 21 County Code changes proposed by DEM.

**Discussion:** I'm not going to support something that I have not seen, Chair Adams said. I mean, I've seen early drafts, but it wasn't complete. There's a lot of devils in those details.

So you're making a motion to support something for the council to adopt something that hasn't been completed yet, Commissioner McIntosh said. Why make that motion when we haven't- It's not even finished.

**Withdrawal of Motion 4:** I would like to withdraw the motion at this point until we see the final draft, Commissioner Beets said. I have reviewed the draft and I'm pretty good with it. It is premature. I withdraw the motion until we receive.

- e. 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.

**Motion 5, second, and vote:** Commissioner Perez made a motion, to which Commissioner Beets seconded, that DEM should should work with EPA technical assistant program to address innovative financing strategies such as enterprise funds, finding franchise organizations, energy saving performance contracts, and service contracts. Ayes 7 (Beets, Garcia, McIntosh, Otsuka, Perez, Norris, Adams); Absent 1 (Acasio). Motion 5 adopted.

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

This was brought up to support workforce development and training with innovative technologies so we can get on a path forward to be able to have the appropriate workforce, to be able to use appropriate technologies that will kind of bring down costs and affordability for the state or for the county, Commissioner Perez said.

Commissioner Beets said that there is an existing water technician certification program. It sounds like there is a greater need to support the existing one and look at additional programs for workforce development.

I think it was pretty straightforward, Commissioner Perez said. Just wanting to support a workforce. It is a gap that's been identified by the cesspool conversion working group. It's the gap that's consistently discussed in these meetings of having the workforce available to maintain infrastructure and sanitation projects. And so anything to be able to assist advancing workforce across the County- that's what this was intended to do.

**Motion 6 and second: Commissioner Beets made a motion, seconded by Commissioner Perez, to request that the County Administration and Council support the present and additional water technician certification programs to address the workforce shortage.**

**Discussion:** Commissioner McIntosh asked if this is training for existing employees or potential new employees.

I feel it should be for both, Commissioner Perez said. I think that continued training for current County staff with new technologies is needed, and we need additional workforce. So we needed new people also going through these certification programs.

Commissioner Beets said that when this was discussed, the Director mentioned there are present staff members that want a higher-level certification so that they can apply for other jobs. So it would be for existing staff and future employees.

**Testimony from Nicole Larson:** I do have something to contribute on this topic real quickly, which is that I've been to multiple conferences in the mainland about different types of sustainability priorities on large scale infrastructure projects. And I have seen a successful model of a high school vocational program where the students, as part of their training, either as a career based learning program or at the community colleges, would be as part of the course, they would end up with that certification that would provide a direct workforce right out of high school, say, so there are certainly models in existence we could modify for the County.

Chair Adams thanked Ms. Larson for her testimony and asked if Commissioners had further comments.

I know the county had, in several departments, adopted the Vista program, and as mentioned before, HCC has programs, the university has programs, but the Vista program is kind of, you know, it's active within the county. Maybe we can look into that, Commissioner Otsuka said.

Commissioner Perez asked if there is a need to include language around innovative technologies. I just don't really want that to fall off or to be lost in translation. And so when I think of this, it is definitely, you know, working with the existing programs, but also allowing current County employees as well as future workforce development within innovative technologies.

I was trying to keep it concise and brief, Commissioner Beets said. So I said present and additional in my motion. I think that covers it, unless you want to be more explicit.

**Motion 6 Vote: Ayes 6 (Beets, Garcia, McIntosh, Perez, Norris, Adams); Abstain 1 (Otsuka); Absent 1 (Acasio). Motion 6 adopted.**

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 28, 2024.*

(Postponed)

3. Discussion on Wastewater Division's working draft of the proposed new Chapter 21 of the Hawai'i County Code relating to Wastewater Management.

Thank you for your patience and your support with this measure, Acting Chief Chris Sparber said. So currently, we are working on the requested revisions. We're really trying to incorporate the request for identifying how we're going to handle the connections within the service area. Also working to identify the areas that overlap and the necessary needs for implementation of the integrated wastewater master plan as well. I just wanted to- for the team as a whole and those here in this meeting- the County code is like a rough grading tool. It gives the County the jurisdiction to implement certain things. It doesn't mean we have to implement everything, but it gives us the capability to do such. Then the administrative rules that will follow the County code will be all the particulars. Essentially that would be the final grade of your roadway or whatnot. That would tell me I can charge "X" fee at certain triggering events and all those fine details. So I just- we're also within the County Code, working to iron out the particulars of the pretreatment requirements, so that's where we are. I don't have a revised draft at this time for the team. We anticipate we'll likely see a revised draft after the election is finished up in November. And in terms of trying to coordinate with everybody's schedules and get time with Corporation Counsel and all the folks within our Division and Department.

I'll just make a general comment, Chair Adams said. As a former employee of EPA, the level of detail in the Code is beyond my imagination. I think a lot of it belongs in administrative rules that will allow for more fine tuning without going through the agonizing process of having three readings with the County Council who really don't know anything about wastewater management. But so be it. Good luck. I may or may not be here to comment if it's not around

by the time of our next meeting in November. So good luck. It's a tremendous amount of detail and complexity, so I just encourage you, when you've got draft language that you'd like feedback on, give it to us sooner rather than later so that we've got time to really look at it.

## VI. REPORTS/CORRESPONDENCE

- Correspondence from Wilson Okamoto regarding the availability of the Draft Environmental Assessment for the Nā'ālehu Large Capacity Cesspool Closure Project and public comment period.<sup>2</sup>

The public comment for this Draft EA ends October 21, Chair Adams said. So you've got time to read it and submit comments. If there's something that you've already spotted that you want EMC to comment on, it tracks pretty much with the one that was done for Pāhala. I just have one question, which was kind of both on Pāhala and Nā'ālehu. The recommended option is to put in a package plant and then buried subsurface drip lines to discharge the treated water. I understand Pāhala has got a macadamia nut tree farm where drip lines are going to be dug into, and I don't think that the state will let you collect those nuts and use them for food. But I don't know anything about Nā'ālehu area. And the fuzzy, fuzzy picture that's in the report, it looks like it's just kind of scrubby land where it's going to be buried. Does anybody know?

Commissioner McIntosh said it's open ranch land right now. It's next to the Nā'ālehu Hongwanji, that field behind the water well, or pump station. So it's just a bunch of cattle there right now.

I'll let somebody else get back to me on that question of trying to think of, okay, what's the life cycle? Where's stuff going? And, you know, how are we managing the land that's on top of the drip lines?

Vice Chair Norris said it depends on the level of the treatment of the water, whether they can reuse it for agricultural purposes. And I need to review it a little more, but I have a feeling that if it's going into a mac nut farm, that they should be able to harvest it if the water is treated to the appropriate level.

Director Mansour commented on the use of the macadamia nuts. The Department of Health has guidelines of the R-1, R-2, R-3 applications. So anything we end up doing has to meet the guidelines of the Department of Health. Second, you could irrigate mac nuts, almonds, pistachios, any type of food consumption, as long as it doesn't touch the ground, subsurface drip line will be adequate and the way you process such nuts. As far as the macadamia nuts, in Pāhala, our landscape architect looked at it, and due to the lifespan of the remaining trees and the age of the trees, and based on the uptake of the roots to the nutrients, they were not adequate. So as part of the project, we're going to cultivate the entire land and grow some different type of crops and landscaping tolerant to the effluent and be able to absorb the nutrients, the nitrogen and the phosphorus. So all that is part of the design. We do look at every possibility. Thank you, Chair, for your email. I agree with you about the nuts, but we

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<sup>2</sup> VI: WO letter – <https://records.hawaiicounty.gov/weblink/DocView.aspx?dbid=1&id=138863>

looked into it and the nuts and the trees need to come out for that project because the uptake was minimal and the age of the trees, it's not going to allow us to become sustainable. So it's best for us to clear the land and start with a new grass or some, some type of grass or plants that our landscape architect is now looking at it, considering the nutrient within the effluent to balance the uptake by the roots.

And then at Nā'ālehu, Chair Adams said, I read it was going to be all fenced in. Is the Nā'ālehu area going to be still cattle feeding ground?

Yes, it could be, the Director said. It's going to be fenced in from the public. So there's no access to the public, so we have to fence it in. And yes, you could grow animal feed with R-3. You don't even need R-1 or R-2. And that's as long as not for human consumption. So the guideline within DOH for reuse is very clear. And as long as we follow also Title 22 in the process. So there's a lot of regulation from EPA and the Department of health on how and what you could use with different process and different treatment.

Thank you, Chair Adams said. It's open for comment. I'm not sure that EMC has anything officially to say from our group, but individually, you're more than welcome to send in comments.

Vice Chair Norris asked if we are considering native plants in the replacement of these other plants. I would like to see us not introduce any more invasives, she said.

Yeah, this is a No. 1 priority, the Director said. Of course, you don't want to introduce anything that is going to be invasive and create nuisance because we don't want to create something that becomes a maintenance problem or a neighbor's problem. So, yes, what we consider is something that is native to the island and something that also could be used for cattle feed. Since Nā'ālehu is all surrounded by cattle. It could be good to offset some of that land to allow for cattle feed, animal feed. So whatever they love to eat, that's what we get to concentrate on as well. It's all up to the balance of nutrient and uptake.

I love that idea, Commissioner Perez said. I think that that's super cool. Anything that can be circular economy style and stay in Hawai'i and bring more resources is a really cool process. How is financing coming along with Nā'ālehu and Pāhala? How is the financing structure organized in the cost to homeowners for this transition?

Nā'ālehu and Pāhala, zero cost to the homeowners. This agreement was done by C. Brewer & Co. when the County took over the wastewater system. So both communities have zero impact on each homeowners, solely performed by the County funds through General Obligation Bond or state revolving funds.

So they'll just be, they'll just be kind of brought into the regular kind of schedule fee, Commissioner Perez asked.

They are already paying into the Sewer Fee, the Director said.

- Director's Informational Report

1. Legislative update

Chair Adams said that as far as legislation goes, one of the things that she and the Secretary were looking at was for the motion we passed last time. Supporting private and public partnerships was their way to tack it on to the package that went through Council earlier this month for the recommended legislative changes package that's going to be going for review on October 2. There's another council meeting coming up where they will accept, presumably, or amend the recommendation from the Committee to ask for the following State legislation changes. There used to be in the initial draft a place that would fit just right. They dropped that and changed it so that the only mention of cesspool in that package right now is with regard to treating for nitrogen. So there isn't a neat place to put it. One of the things, since we passed some more motions, if you'll allow the Secretary to try to gin up what we would send to Council on the recommendations, the motions that we've passed regarding the PIG, but I'm not sure we can hang it on a specific resolution that they've got unless you know, different, Director. Are you going to be asking for some changes and what they're going to adopt as Resolution 630?

I haven't even gotten that far, the Director said. I need to sit down with the Secretary and go over these types of legislative updates. And because this is our opportunity now, this is the time that we need to start thinking about what we need to submit to our elected official and see who's going to be able to sponsor such legislation. And that's where you come to play as an advisory committee. We talked about we may need legislative changes to allow hooking up to a private waste treatment plant because that needs a legislative change through HAR 11-62 through the Department of Health, but it has to come through the State. And then it goes back again if we need to review what was submitted as far as sewer fees or cesspool conversion fees and see if we need to reintroduce it again. And any other thing that you would like to advise, and maybe we could start reaching out to those elected officials and see if they want to sponsor such a bill.

Well, as I understand the timing, Chair Adams said, you've got the Secretary there, who understands all this process. I think our window is pretty short for this coming session relative to Hawai'i County Council sending a package over, and we could shoot for early October. We'll put together the motions that we have passed, but I'd be surprised if it got incorporated into the package. So we may be looking at next year.

Commissioner Perez asked the Director: I know that there has been some conversation of potential of basically, identifying us as a State issue that's in need for cesspool conversion because we have so many. Instead of tackling it by home or homeowner or by county, look at some process to where we could have it as a statewide cesspool initiative for conversion and seeking funds for the entire State. Is there any kind of traction with that, that you've discussed with anybody, or the potential of us, like stepping in as the EMC to be able to support that kind of a concept?

The Director said Chair Kimball is now the Chair for the County group. I know she's very interested, and she's the one who authored that bill last year. So now with her position being the chair, maybe that something will be good from you to shoot to her. Maybe that will be good because I know she'll be willing.

Is that something that we could have potentially packaged in time for this year, Commissioner Perez asked. I feel like it is, but maybe it's not.

Director Mansour asked the Secretary about the timing.

So what Resolution 630 is doing is going to recommend that the Hawai'i State Association of counties include various bills, priorities in the HSAC legislative package, the Secretary said. Once this resolution is approved, it will go to the HSAC Executive committee, which is composed of the designated members of each County Council. They will then vote on the items and those that make it through will go back to the other counties as a new resolution for approval of the legislative package, approval by all councils, and then items that pass that hurdle will be probably sent to the Speaker for introduction as a bill or as a series of bills in the next session.

The Director said maybe pass it to the State where the State could take all the cesspool issues trying to fund it.

Whatever passes is going to be introduced as a bill in the legislature, the Secretary said. So this is one step in the process.

But I hope the bill doesn't get approved where the County is now on the hook without the state understanding we need the funding from them, the Director said.

We need to review that and maybe get a hold of Chair Kimball and understand, the Director said to Commissioner Perez. Maybe we get a Zoom meeting with her.

Yeah, I think that that would be fantastic to at least sit down and talk with her and see if we could get something for this session, Commissioner Perez said.

Director Mansour asked what is the deadline for new legislation.

I can't speak to that, but probably now would be a good time to work on legislation for the 2025 session, the Secretary said.

If the Commission works on certain language on legislation and we are able to sponsor some elected official to take the lead on it, we have time, till December, the Director asked.

Maybe there's time, the Secretary said. There are legal issues with County EMC directly making recommendations.

We get to advise our County Council. We do not get to advise the state Legislature, the Chair said.

If there are some friendly legislators, you can ask them to introduce bills directly as well, the Secretary said.

Can we review what that all means? I'm sorry, I just want to be super clear in my understanding, Commissioner Perez said. I can take on next steps to talk to Heather Kimball. And to do that, I just want to make sure that what hat I'm wearing when I do it.

Have you ever had a formal motion that approved the recommendations from the cesspool conversion group, Chair Adams asked. There's a whole slew of legislation, most of which went nowhere at the State Legislature and keep getting brought back. So presumably there are some bills that are still semi-conscious that can be brought back this coming session. I don't know if we need to have another formal motion out of EMC to say from us to the Council, we support the recommendations of the cesspool conversion working group for legislation at the state level to enable us to get this conversion going now and completed in time.

I think that we should do that, Commissioner Perez said. And this is not a recommendation that's going to be found in those lists of recommendations by the CCWG. So that's two different components. I agree with you, Chair. Like anything that the EMC can do to support cesspool recommendations going forward and actually passing at the Legislature or that we can implore our County Council to assure that those things happen. I think yes, we do need to do that. I guess that my question was to the Director, which was a little bit different because the question about the state kind of "hui-ing" together and tackling this as one like cesspool issue across our state is a different recommendation that you also will not see in the cesspool conversion recommendations that were put out.

Is that a motion you want to make now or do you want to do some homework with the Director and Chair Kimball, Chair Adams asked.

Maybe I'll do that and then I can report back. Or we can put it on next month's agenda if we think that we have time. I would, you know.

DCC Salas-Ferguson said the Chair is correct. EMC has authority to advise DEM and the County Council on certain issues.

So you said that we can't address the state directly, the Vice Chair asked.

Not as a Commission, DCC Salas-Ferguson said. You can go in your personal capacity and provide your public comments or if you want to go talk to your State legislature about something. But the EMC as a group only has authority to issue recommendations to DEM and the Council.

If DEM has had this as a recommendation, Commissioner Perez asked, then could we support DEM in trying to make it successful?

You could ask DEM, you could advise the Department on anything, really. DCC Salas-Ferguson said. Anything that's related to their programs and what they do. What are you trying to do? What are you thinking of doing?

I am trying to support this concept of a larger statewide effort, Commissioner Perez said. And so this concept is not my concept. There are numerous conversations. The Director has been involved in some of them. I think this is something he does support. I don't want to speak for you, Director, by any means, so please chime in. But if there is a way that we as the EMC can support our DEM in assuring that the State can support cesspool transition at a larger scale, will make it more affordable, will make it easier for counties to be able to go in the right direction for cesspool conversion by 2050. And so I am asking because we're talking about the Legislature and bills. That's why I'm bringing it up now- how can we support that? How can we support DEM? How can we support the Director? Does he still think that this is an initiative that would help us as the County of Hawai'i move forward with the 2050 goal of cesspool conversion?

You can make comments and recommendations to DEM and that could include, "we recommend that DEM support Bill X in the State Legislature," DCC Salas-Ferguson said. So your comments would be to DEM and if DEM chooses to, they can go and provide comments regarding certain legislation in whatever process DEM has. I don't know if they have restrictions and every administration is different regarding how they conduct communications with the State Legislature as departments. I don't know if there are rules or policies or procedures on when the Director can say something to the State Legislature or not. But- this is just hypothetical, if there were a bill regarding cesspool conversion and EMC thought, "That's a good bill, we would like DEM to support that bill," that would be your recommendation to DEM? If they follow whatever procedures they have regarding State Legislature, they could mention that in their testimony, we support this bill. And it was discussed that the Environmental Management Commission, which also supports this bill, they can relay that, but the communication has to be through- Basically EMC cannot communicate directly with state legislature. They have to run their communications through DEM and DEM decides, you know how to use that.

Maybe the better question is, can EMC submit testimony, the Director asked.

Not from the Commission, DCC Salas-Ferguson said, but individual members can testify as themselves. It's a constitutional right.

You support a bill through testimonies, the Director said, and if EMC cannot submit written testimony then it has to be individually. But we do have procedures. Jean Miskovich in the Mayor's office coordinates all legislative matters that come before the administration. And each director pertaining to the subject area, they either support or decline, and they give reasons. And so there is a process.

EMC can also ask County Council to pass a resolution supporting something. I think that's how County Council communicates with the State Legislature, DCC Salas-Ferguson said.

Sometimes we get it through County Council members or State Legislators themselves that they reach out to us, they need support. And we call Ms. Miskovich and it's kind of a coordination effort. So it could come from House Representatives or State Senators to the County Council, and vice versa. If the County wants something it will reach out, for example, to Sen. Tim Richards and say, hey, we need your support in this. So there is that work effort, but it has to go through the Mayor's office advising him of what we'd like to see happen through his liaison.

Chair Adams said she would like to move us along. Commissioner Perez and the Director are going to do some homework. If you want to come back and say, these are the bills that we want to support or the issues, then we can address that at our next meeting and get word to the Council. I think we are long on record whether formal motions, but certainly in support of all the attempts to deal with a cesspool conversion project. We've been kept up to date by the Secretary whenever new legislation is coming in, during the massive program of which bills are moving, we've been on top of that. We've been supportive. And if this new initiative gets pulled into a bill form, which my impression from looking at this last package that Chair Kimball was sponsoring, they like to tie it to a bill, a draft bill. And so if there is one that we can go, "yeah, this," or whatever our opinions may be, that would be helpful. But I think right now it's more the sense of the EMC is, go for it, Director, and pull every string you can figure out.

## 2. Solid Waste Division Projects and Updates

### 1. Recycling, Greenwaste, and Landfill Diversion updates

We had our household hazardous waste collection in August, Mr. Craig Kawaguchi said. In Hilo 1,875 gallons of used motor oil were collected, and on August 17 in Kona, 643 gallons of UMO. And then we have our first tire collections event on the 28th at Kea'au Middle School, 472 vehicles. And about last count was 23 roll-up containers of tires were collected, maybe about 5,000 tires total. So we're waiting on the final count and tonnage. Short but crazy day.

Later in the meeting, Commissioner McIntosh asked what the County does with the collected tires.

I think most of it gets sent out and it gets burned for energy, I think. I am pretty sure it's going to Korea and it gets used for power plants, Mr. Kawaguchi said.

### 2. Solid Waste Operational Study update

The operational analysis was submitted by Element Environmental on August 22, Ms. Shelise Lamb said. Our team has reviewed the document and has provided our comments back to E2. In summary, while there were some components of the scope of work that were met, there were quite a few that have not been met. And so we submitted it back to them with our comments and added to the scope a second draft that will need to be submitted to our executive team on October 4. The goal here is to allow some time for E2 to implement the

corrections and correct all the issues that we've identified before anything is brought to the Director and EMC.

So I hear October 4 is the next draft you expect to get, Chair Adams said. And at that point shortly thereafter, we would expect to receive that draft, or certainly before our October meeting.

It depends on the quality that we receive, Ms. Lamb said. We definitely want to be in agreement with the Director on what is stated in that analysis before it's public. So that is what I'm saying. You'll have to see what E2 submits (unintelligible) ... What I was saying was that the consultant will present their second draft to our executive team, which is the Director, Deputy Director, Division Chief, Division Deputy Chief, and myself with the incorporation of our comments, and then at that time we'll know what the next steps are. But we want what's released to be a good representation of what we asked for in the scope of work, and that represents the Solid Waste Division and any recommendations and financial analyses from E2.

We are all anxious to see the report and available to comment on drafts if you're ready to take them, Chair Adams said.

### 3. Wastewater Division Projects and Updates

#### 1. Pāhala and Nā'ālehu Large Capacity Cesspool Closure AOC<sup>3</sup>

Chief Sparber said the Draft EA for Nā'ālehu is out. We're getting comments on that. We're also designing the wastewater treatment plant and the collection system for the Nā'ālehu project. We're working on the initial 30% design for that specific project.

As far as the package plant alternative, with respect to Pāhala, we're under design, Chief Sparber said. We're finishing up our 60% on the treatment plant itself. The contract for collection system construction is already being routed within the county. Funds have been identified, and then that collection system will start to be constructed.

#### 2. Hilo WWTP upgrades and bid opening<sup>4</sup>

As far as the Hilo Wastewater Treatment Plant rehabilitation, we've opened the bids, Chief Sparber said. The apparent low bidder came in at \$337 million for the base and then another \$30 million for the additive alternative. Currently, we are reviewing the apparent low bid and also determining how we're going to proceed with the additive alternative.

The Pua projects are underway. So we're looking at the Pua force main replacement and the sewer pump station rehab. Those plans are nearing 90%. We just returned 90% comments on those and we're looking at getting bid documents and getting those projects shovel ready. They have been identified as a little bit later in our AOC, but our hope is to get design done, get everything finalized, and then we could identify some grant funding. So we did get a couple of

<sup>3</sup> VI.3.1: Ka'ū - <https://www.dem.hawaiicounty.gov/projects/pahala-na-alehu-large-capacity-cesspool-closures>

<sup>4</sup> VI.3.2: Hilo - <https://records.hawaiicounty.gov/weblink/DocView.aspx?dbid=1&id=138864>

EPA earmarks identified. We have our Onekahakaha Sewer Pump Station Force Main project, as well as we have the Wailoa SPS rehab. We're currently working to identify what specific steps we need to take to ensure that we can get those grants. Just because we were identified on the CDS list, that's a great first step. But then there's a process to actually get the funding and be able to move forward and complete the project. Those are all the projects I have currently. We have our rate study under way as well. So we're currently finishing up the revenue requirement and then we'll be looking at the rate structure overall.

Later in the meeting, Director Mansour said there is a lot of misinformation out there about the Hilo bid. A lot of people think we should have accepted the first bid because now it's costing twice as much. They don't understand it's totally two different projects. The people making such a statement, they need to be cognizant of the fact. So if you hear something, this is the response. It's two different projects. It's the entire facility versus one component. That's like replacing your roof or doing your whole house.

### 3. Wastewater Plans

We have the integrated wastewater master plan, Chief Sparber said. That plan in itself is a challenge. There's a lot of things to consider. We're working around the election. We're trying to work within the different communities to identify the projects and figure out how do we prioritize different things. What level of, how are all these things going to balance? Where's the funding coming from? What are our connection requirements? What's the schedule? So that plan has definitely turned out to be a challenge. And so we're continuing to work on that. We hope to have a draft. We're looking at later this fall or early next year because of the public consultation that will be taken into account for that. And then in terms of staff, in terms of other projects, we have on the Kona side the Hale Hālāwai Force Main replacement. AOC requires us to go to bid on that project January 1 of next year. So I'm finishing up the last little SMA. It's an internal SMA permit through planning, getting 100% bid documents, hopefully the first week of October. So that project will be shovel ready once funding is identified.

1. Integrated Wastewater Management Plan and Public Engagements<sup>5</sup> and cesspool conversion plan presentation by Carollo. Report by DEM on limits placed on Carollo's scope of work due to issues such as the "Konno decision" and other challenges.

(Postponed to next meeting).

The following discussion was not a part of the agenda:

Chair Adams said she was poking around the previous day on the functional equivalent workshops at the state for NPDES and that the last meeting of that group was the previous week, and there is a packet online and she asked the Secretary to send out the link to that, that kind of summarized where things are going. What is the impact for Hawai'i County?

Chief Sparber said at the last workshop, the Clean Water Branch proposed an overall approach. The current NPDES permits for our facilities are handled by the CWB. But then a lot of the

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

permitting for construction and permitting for plants that don't have a UIC, an underground injection control or an NPDES permit are kind of quasi-permitted by 11-62, and so you have essentially two agencies involved in some cases at these facilities. So CWB came out and they said, okay, what we're going to do for plants that have a what they call it functional equivalency risk, we're going to have the publicly owned treatment plants get a functional equivalent general permit for POTWs. Then we're going to have another one for the industrial folks, and then we're going to have another one for kind of everything else. And so they're approaching it with a general permit.

You mentioned an exemption from an NPDES requirement with the 11-62, Vice Chair Norris said. What was that?

HAR 11-62, our discharge requirements for what we would call DOH facilities, Chief Sparber said. So these are facilities that don't have NPDES permits and they don't have injection wells. Rather than individually permitting them, the Wastewater Branch - this is a separate branch of DOH - determined, we're going to create 11-62 for overall wastewater compliance for the smaller facilities that aren't covered with injection wells or NPDES permits. Kealakehe is a 11-62 facility. We don't have an injection well, we don't have an NPDES permit.

And the Clean Water Branch creates this overall prioritization of risk for all of our existing wastewater treatment plants that could potentially fall into a functional equivalent situation where the functional equivalent would be applicable because their effluent would get to surface waters, potentially, during some duration of undefined time, Chief Sparber said. What happens is, is based upon that risk, you self-report and get a general permit. But overall, to summarize, the State, through its CWB, is looking at approaching functional equivalency for facilities that may not technically qualify for an NPDES permit with a functional equivalent general permit. So as for the impacts to the County, honestly, it is challenging to say at this point because the county will need to understand where we fall into that functional equivalent risk categorization for POTWs. We need to understand what the specific requirements from the CWB will be. The term that really concerned me from the perspective of a utility operator is compliance schedules. So one thing that I found unique about this general permit is that if you don't meet the conditions of the general permit, they, through that general permit, could give you a compliance schedule. And that's something that we have with our NPDES permits at times is compliance schedules. They have specific improvements that you need to do.

We're waiting to get a better understanding, Chief Sparber continued. But one thing that was mentioned in that meeting was that CWB would be doing, would be referencing the drinking water standards, so there would be secondary effluent requirements associated with that. So nitrate requirements. Overall, I think it is a positive step in the right direction because we do need to preserve our drinking water, our coastal waters. Although I'll be looking forward to some clarity from CWB in terms of how this is going to implement and the potential changes to my operations. I did comment a few times in that meeting on, what do I do about my facilities, like Pāhala and Nā'ālehu, that are under design? I don't want a situation where I get my approval to operate from DOH Wastewater Branch, and then I get a compliance schedule from

Clean Water Branch because, say, they didn't explain what we needed to do during design, so we're shifting our design. The Director has a lot of knowledge in this, and he's been hammering on the EPA drinking water standards. We've included that in our design for Pāhala and Nā'ālehu in anticipation of these further requirements. So it seems like that should hopefully future-proof us against any further requirements from the Clean Water Branch. At this time, without the general permit in front of us, it's hard to tell.

For me, it's mind boggling, Chair Adams said. So was there happiness on the part of EarthJustice with what you were talking about?

No, Chief Sparber said. EarthJustice was kind of frustrated because they don't think that the general permit is applicable in this situation. And that's their position, that they are not happy with that approach.

So when you're talking about the other category that we get a general permit, is that all the cesspools, Chair Adams asked.

It could be possibly septic, Chief Sparber said. It's hard to say. That's another thing that I commented on. I said, a lot of times, general permits get promulgated to the counties. I said, DOH, you need to consider the level of effort if you're going to push these requirements down to the counties, make us police all of the cesspools and the septic and the private wastewater treatment plants. I said, you need to iron out the jurisdictions because we don't necessarily want to get into that business because of the staffing and our commitments as a county.

Vice Chair Norris asked whether the POTWs with injection wells will still be required to do an NPDES. They don't fall under the general permit.

They could, Chief Sparber said. That's the interesting thing about this functional equivalent general permit approach. The risk score of your facility would determine whether you are potentially applicable to this functional equivalent general permit. And then the way that it was explained in the meeting, is the permit would be in addition to an existing permit. So theoretically, you could have a functional equivalent general permit and an NPDES permit or UIC permit.

Is that functioning under two permits at one time, Vice Chair Norris asked.

Correct, the Chief said.

#### 4. Status of existing staff vacancies and recent hires

Director Mansour said we have an HR new hire and she came in with experience. So she's working on allocating positions, recruitment. In addition to that, we're working with Department of Human Resources on the reorganization for the Department to make sure we become more efficient, consolidated, and allow for strength in areas where the strength need to be. So that's moving forward. We have almost 30% vacant. The recruitment is going to

continue. We're working diligently with the Department of Human Resources through the process and the system to make sure that we could do what we could do to enhance the recruitment and attract candidates. The State has worked with us and they are changing in the engineering compensation so that we could recruit better people, more applicants. We also have worked with DHR to modify the current job classification for civil engineers I, II, III, where right now you don't have to have a civil engineer degree to apply for engineer I, II, III. You could have a mechanical engineer or an electrical engineer degree. So that widens our recruitment process, because technically, you don't need to be a civil engineer to enter into the engineering field of engineer I, II, III. And then that will allow you to get your license in the civil engineering profession. And we just did that about a few months ago in Department of Human Resources. They were acceptable to the idea, they did the change. So hopefully now we could widen the recruitment to include the entire engineering field.

Commissioner Otsuka understood there was a position posted for a Chief and there was one candidate. So I'm just wondering what happened to that candidate.

The Chief that you talked about was posted for the Solid Waste Chief, the Director said. We are still determining the negotiation. We're going to give him a letter, official letter soon.

The Wastewater Division Chief, we have the current acting chief, but the Wastewater Division is going to be reorganized. So you're going to have a totally different structure for WWD to be able to accommodate the east and west sides. And also we're going to have an Engineering Division that will particularly concentrate on capital projects so it doesn't take away from the operational side of wastewater to get involved into, you know, the design, construction, maintenance, all that. We are creating a different division with the right people and classification. That way, better efficiency and performance. We cannot continue the status quo because we'll be falling into the same thing we've fallen in over the last 30 years.

Do you have an anticipated date as to when this can happen, Commissioner Otsuka asked.

We are working with Human Resources, the Director said. And we already informed the union. We're going to try to consolidate meetings. As you know, it's a process. We have to work with all entities, stakeholders, to be able to do that transition. Wastewater should do what the Solid Waste Division does, concentrate on operations. Engineering should be given to engineers. So I think that will give all staff clear expectation. So it's a matter of just getting other departments and we need to do the consultation and we just have to follow the process. We already have shared that, the layouts and divisions. So we're working on implementation, hopefully.

I asked last time about the asset management implementation plan or the plan that you folks have within the County, Commissioner Otsuka said. So when I looked at it, I noticed that for the specific tasks regarding collection system spill responses, the responsible parties are the Division Chief, Deputy Chief, and this report was submitted to the EPA. So I'm just saying I don't know how long it's going to take before we get someone in there so that these reports would be more accurate.

Even under the new organization it will still be the Division Chief, but he or she won't be required to be a licensed engineer. That's one of them. I mean, he or she is still going to have the same title, but different job duties, but licensing won't be required. So the structure for the Wastewater would still have a Division Chief, but the requirement would be less stringent than what we have now because you cannot recruit. We are trying to rebrand and we are trying to open the recruitment to more candidates without restriction of these licenses. If they are going to do operations, that's what they're going to do. The licensing for engineers should be in the Engineering Division, not the operations.

I appreciate that explanation, Commissioner Otsuka said. I'm just saying when this is done, and for a while now, there is no Division Chief or Deputy Chief to make these decisions. So I'm talking about the spill that just happened. So this is the thing that concerns me. We don't have the people that should be where they are making decisions that should be made, and yet we're providing these reports that are- you know, granted, I know these people are the ones responsible to make the decisions, but there haven't been one to make these kinds of decisions for a while.

We have the Acting Division Chief, the Director said. He still has the responsibility of the Chief.

So with the 30% that you mentioned, how many people does that equate to, the Commissioner asked.

That's of the entire department. That's 86 vacancies. Solid Waste, Wastewater, Abandoned Vehicles, Accounting, the Director said.

## 5. Questions from commissioners

### 1. Update on the chute cover for Wai'ōhinu Transfer Station (McIntosh)

I was wondering when the transfer station was going to get our chute cover, because I see Pāhala has a real nice one, Commissioner McIntosh said. And with our transfer station, it's open, so the wind comes zipping through and you throw something in. If it's real light, it keeps going, it doesn't go into the bin. So I thought that's a lot of work for the guys that are working at a transfer station, they have to clean it up. So I was wondering if there are any plans for a chute cover and when we might get one.

There is, and it is under design, the Director said. I remember signing a consultant agreement sometime early this year for them to pursue the design. So the idea is that we're going to design canopies over all the bins. Maybe next meeting, I'll have Gene Quiamas or Mike Kaha be attending to give an update on the design status of that. But to answer your question, yes.

### 2. Update on Pua Force Main Installation and Rehabilitation Project (Otsuka)

Commissioner Otsuka noted this item can come up next time because it may fall under the historic preservation.

Is there specific question with respect to Section 106 or HRS 6E, Chief Sparber asked.

No, not specific to that, Commissioner Otsuka said. I just- what I read was Keaukaha or the Pua Pump Station would fall under or could potentially fall under that Act or that Section 106. So would special consideration be given because of that?

Are you saying, Chief Sparber asked, that those facilities are, in terms of they're historic or- I'm just not sure what you mean by special consideration.

Well, Commissioner Otsuka said, they're going to install and rehabilitate that area. So before they do that, and with all the work and things that go into that cost, the work and the effect it would have to the Keaukaha community, is there special consideration because it's on Hawaiian Home Lands, and it could be deemed historical?

We're going through the applicable 6E and 106 consultation processes, Chief Sparber said. Once those determinations are made, we'll have some more information. But we did do the biology. We looked at avian impacts. We looked at, you know, historic artifacts and cultural impacts as far as the consultation. It is within existing easements and previously disturbed ground. The area near Pua SPS is where the old treatment plant used to be, and then we have the force main that was put in within the existing easement. The proposal is to install a parallel force main and then also to rehabilitate the inside of the pump station, as well as add a surge protection tank and a new stairwell and above ground fuel tank to the outside of the station. So the work will stay within our existing fence line at the pump station.

Okay, Commissioner Otsuka said. I'd like to take a tour of it, too.

That could be arranged, Chief Sparber said.

## **VII. FUTURE AGENDA ITEMS**

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

Chair Adams said she would work with the Secretary and we'll package up the motions that we made so that we're clear. DEM is a recipient of some of the motions, but will certainly be copied on what we send to Council.

We have several items that we deferred, the Chair said. I'll be picking up on those again. As always, if have anything you want us to cover, whether it's DEM or commissioners, let me know and we'll try to pull it into the agenda.

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

(No discussion)

## **VIII. ANNOUNCEMENTS**

The next meeting is scheduled for Wednesday, [~~October 23, at WHCC~~] October 30, at 76-5706 Kuakini Highway, Suite 101, 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.<sup>6</sup>

The Secretary noted that Wastewater Division is unable to attend next month's meeting after 10 a.m. and the October 23 meeting would need to be rescheduled.

Since I deferred our presentation from Carollo and expect progress on the pretreatment and wastewater codes, we need time for Wastewater Division rather than trying to jam everything into the beginning of our meeting, the Chair said. Respond to the Secretary and his request for reschedule as soon as you can.

## **IX. ADJOURNMENT**

As always, great questions, great discussions, complex issues, but I want to just give kudos to our staff, the Director said. We know we are short staffed, but every one of them goes the extra mile. It's not easy to deliver on these projects and to create the proper foundation. We really, the department had accomplished so much from structure and from building the right foundation with all these master plans that we're working on and kind of set the stage forward. So we still, the momentum is still ahead of us. It's not an easy ride, but usually once you have a strong foundation, you can start building on it with confidence.

So I'm glad to see Hilo was bid up competitively, the Director continued. We had four bidders, and one was nonresponsive, but we got three. And that gives you an idea of a competitive process creating a better bidding amount. And I think that was our strategy from Day 1 to rebid it, because it just did not make sense to pay \$70 million over a \$100 million project versus paying the same \$60 million over a \$200 million project. So the excess percentage over the estimate went from 70% to 25%. That's a major saving to the taxpayers. And the thoughts went into, why should we have rebid it? And we did end up saving taxpayer money by rebidding the project So it's a major savings. But keep us going with your questions. So that's great. I appreciate it.

**Motion 7, second, and vote:** Commissioner Burns made a motion to adjourn, to which Commissioner Garcia seconded. Ayes 7 (Beets, Garcia, McIntosh, Otsuka, Perez, Norris, Adams); Absent 1 (Acasio). Motion 7 adopted and meeting adjourned at 12:03 p.m.

Respectfully submitted,

Peter Sur, Secretary

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