

Petition for Impeachment of Mayor Alan Arakawa

March 9, 2017

Section 13-13 Impeachment of Officers, Charter of the County of Maui states:

“Appointed or elected officers may be impeached for malfeasance, misfeasance or nonfeasance in office or violation of the provisions of Article 10.” (Code of Ethics)

Such impeachment proceedings shall be commenced in the Circuit Court of the Second Circuit, State of Hawaii.

The charge or charges shall be set forth in writing in a verified petition for impeachment signed by not less than five percent (5%) of the voters registered in the last general election.”

“If the court sustains the charge or charges, such officer shall be deemed removed from office. The officer sought to be impeached and the petitioners seeking the impeachment other than the Board of Ethics shall bear their own attorney’s fees and other costs of such proceedings.”

Definitions

Malfeasance- *Wrongdoing, especially by a public official.*

Misfeasance- *A transgression, especially the wrongful exercise of lawful authority.*

Nonfeasance- *Failure to perform an act that is required by law.*

Wailuku River runs through Iao Valley, a sacred place of immense historical value as the burial place of many revered ancient Hawaiian chiefs, as well as the location of an important historical conflict known as the battle of Ka-pani-wai o ‘Iao (The damming of the waters of ‘Iao).

Allegations of violations committed by Mayor Alan Arakawa which demonstrate impeachable offenses for malfeasance, misfeasance and nonfeasance

- After the devastating flash flood storm of September 13, 2016, the Mayor, operating under emergency proclamations delivered from the Federal, State and County levels, had been tasked with producing mitigative measures to “provide relief for disaster damages, losses, and suffering, and to protect the health, safety, and welfare of the people.”
- Sections 127A-13 and 127A-12, Hawai’i Revised Statutes, allowed the Governor (in order to provide emergency relief as a result of this event), to suspend (as allowed by federal law), a myriad of statutes in the name of public safety during an emergency situation.
- The statutes that normally oversee bid requirements, procurement codes, public land management, state water code, soil and water conservation districts, soil erosion and sediment control, forest reserves, conservation districts, state parks and recreation area, natural area reserves system, conservation of aquatic life, wildlife and land plants, coastal zone management, environmental quality control, water pollution, Environmental impact statements, and many others were suspended “in order to provide emergency disaster relief, to assist in all efforts to eliminate the danger.
- By the last week of September 2016, the Mayor had ordered the set-up of a temporary emergency debris collection site at the landfill to accept material from Iao Valley. TJ Gomes Trucking Company was hired on September 30th to manage the collection site for storm debris from Iao River. Witnesses observed and documented TJ Gomes Trucking Co. hauling hundreds of full truckloads of large boulders as they left Iao Valley, for transport to at least two locations; the County landfill and a county baseyard in Waikapu.
- TJ Gomes Trucking Co. subcontracted PB Sullivan to operate a rock crusher which was set up at the county landfill site. PB Sullivan began to process and crush the large quantities of boulders and rocks being hauled out of the valley and delivered to them at the county landfill by the last week of September. The crushing contract with PB Sullivan was set to last for up to a year.
- The county baseyard facility in Waikapu was utilized as a temporary storage facility to house the mass quantities of boulders and rocks that were being removed from the Iao River bed.
- October 10, 2016 after community outcry and numerous witnesses came forward outraged over the unnecessary harvesting of materials from Iao River, the Mayor’s managing director visited the county landfill and gave the stop order to the rock crushing operations that had been previously approved and requested by the Mayor.

- On October 11, 2016, at a Special Council meeting, the Administration presented their request for Special Emergency funds in the amount of \$5 million to reimburse the monies they had already spent on emergency work within Lao Valley from the date of the storm until the date of the Special Council meeting.
- When asked if the crushed rock at the county landfill was going to be used as landfill cover, the Administration answered unwaveringly that it had no intentions to use the crushed rock as landfill cover. (By the morning of October 12, 2016 all of the crushed rock in question was dumped in the landfill and used as cover for the garbage.)
- The emergency funding requested by the Administration of \$5 million dollars was approved by the Council to be used for reimbursement for the Administration's completed emergency work at Lao; as it was characterized to the Council by the Administration that the work that had been conducted in the valley was indeed a matter of public safety, and was used to provide emergency disaster relief and assisted in all efforts to eliminate any danger to the community, mitigating further damage to public property.
- The emergency funding of \$5 million was also characterized to the full Council as monies that were eligible for reimbursement by FEMA disaster relief funding.
- However, up until the Mayor hired a FEMA consultant to guide them through the necessary regulations and guidelines (sometime after mid October 2016), FEMA regulations had not been followed in order to be eligible for such reimbursement.
- The Mayor worked outside the scope of his authority under the emergency proclamations to protect the public's safety, and instead took advantage of the emergency situation to use the Lao river bed as a rock quarry for large quantities of harvested material for crushing.
- The public's safety was not in jeopardy from the river bed and boulders that had lived there for ages. By working outside the scope of his authority within the river bed, on mostly private land, to conduct emergency work within Lao Valley, the Mayor is guilty of illegal misappropriation of public funds.
- By representing that the emergency funding would be reimbursed at some point by FEMA, and at the time not following regulations to meet the criteria to be eligible for such funding reimbursement, the Mayor was both negligent and irresponsible with public funds, and dishonest with the Council.

For all aforementioned reasons, the Mayor is guilty of not one, but all three impeachable offenses: malfeasance, misfeasance and nonfeasance.

I declare under penalty of perjury that the foregoing is true and correct.