BUDGET AND FINANCE COMMITTEE
COUNCIL OF THE COUNTY OF MAUI

MEETING MINUTES

Held at the Council Chamber, 200 South High Street, Wailuku, Maui, commencing at 9:06 a.m. on April 12, 2001.

APPROVED:

[Signature]
Committee Chair

TRANSCRIBED BY: ESTHER C. WORONICZ

IWADO COURT REPORTERS, INC.
PRESENT: Councilmember G. Riki Hokama, Chair
          Councilmember Alan M. Arakawa, Member
          (Leave 4:11 p.m.)
          Councilmember Robert Carroll, Member
          Councilmember Dain P. Kane, Member
          Councilmember Patrick S. Kawano, Member
          (Leave 4:08 p.m.)
          Councilmember Michael J. Molina, Member
          Councilmember Wayne K. Nishiki, Member
          (Leave 2:44 p.m.)
          Councilmember Charmaine Tavares, Member

EXCUSED: Councilmember Jo Anne Johnson, Member

STAFF: Tamara R. Koller, Legislative Analyst
         Richelle K. Kawasaki, Legislative Attorney
         Tammy M. Diaz, Committee Secretary
         Madelyn D'Enbeau, Executive Assistant to
         Councilmember Wayne K. Nishiki

ADMIN.: Michele M. Yoshimura, Budget Director
         Brian T. Moto, Deputy Corporation Counsel
         Alice L. Lee, Director of Housing and Human
         Concern
         Milton Arakawa, Deputy Director of Public
         Works and Waste Management
         John Min, Planning Director
         Clayton Yoshida, Deputy Planning Director

OTHERS: Jim Smith
         Barney Eiting, Kihei Community Association
         Michelle Anderson
         Terryl Vencl, Maui Hotel Association
         Marsha Wienert, Maui Visitors Bureau

PRESS: None.
BF-9: PROPOSED BUDGET FOR FISCAL YEAR 2002 FOR THE COUNTY OF MAUI (C.C. Nos. 99-305, 00-140, 00-222, 01-25, 01-26, 01-47, 01-70 and 01-106, and three MISC. Communications)

CHAIR HOKAMA: Council's Committee on Budget and Finance will come to order. Let the record show present this morning is Mr. Kane, Mr. Arakawa, Mr. Carroll, Mr. Kawano, Mr. Molina, Mr. Nishiki and Ms. Tavares. Excused is Ms. Johnson.

COUNCILMEMBER TAVARES: How she's doing?

CHAIR HOKAMA: She's excused and still very ill.

Okay. First of all before we start, the Chair on behalf of the Committee would like to extend our sympathy to Mr. Arakawa and your family, sir. We appreciate all that Bill did for this County.

COUNCILMEMBER ARAKAWA: Well, thank you very much. It's not Bill, it's... my other brother-in-law Walter.

IWADO COURT REPORTERS, INC.
CHAIR HOKAMA: Oh, your other -- Walter, I'm sorry.

COUNCILMEMBER ARAKAWA: Walter was the um, he was the Safety Officer at HC&S. But he's also had an extensive military career. So it's been very, very complicated in trying to get a lot of the stuff together because um, his only daughter is in California, and she doesn't know where anything is. And his wife ended up in the hospital with pneumonia and chest pains over the weekend, so we're up at the hospital the other day 'til about 3:30 in the morning trying to get her settled in and it's just been a hassle. So thank you very much for understanding and this week the funeral will be next week Tuesday. But until next week Tuesday if I'm not here for whatever reason, basically my wife and I are trying to resolve a whole lot of different things that need to be resolved.

CHAIR HOKAMA: Well, you have our support and prayers, Mr. Arakawa, to you and your family.

COUNCILMEMBER ARAKAWA: Thank you.

DEPARTMENT OF HOUSING AND HUMAN CONCERNS

CHAIR HOKAMA: Okay. Members, we'll continue
with Ms. Alice Lee and the Department of Human
Concerns. Budget Director, any opening comments before
we ask Ms. Lee?

MS. YOSHIMURA: Good morning, Mr. Chair, um, no,
no opening comments this morning.

CHAIR HOKAMA: Thank you. Ms. Lee, any opening
comments for -- during this follow-up session?

MS. LEE: No, Mr. Chair. Thank you.

CHAIR HOKAMA: Thank you. At this time, Members,
you may ask questions from the Budget, Program Budget
which is Section 9 or from the Detailed Budget Section
9. We will allow Mr. Carroll, subject matter Chairman,
to start questions and comments, Mr. Carroll.

COUNCILMEMBER CARROLL: I'll pass for right now.

CHAIR HOKAMA: Okay. Thank you very much.

Mr. Kawano.

COUNCILMEMBER KAWANO: Um, thank you and good
morning, Chairman.

CHAIR HOKAMA: Good morning.

COUNCILMEMBER KAWANO: Ms. Lee, last night at
the public ... um, hearing, we had the animal shelter
people came and they did a fabulous job. As the
biggest group I think I ever seen in, in all of the
years that I've been here as far as supporting them.
And Monday that girl did a fabulous job by poking our,
by really giving us guys a jab and opening our eyes.

But she did a fabulous job. I just wanted to share that.

MS. LEE: Thank you.

COUNCILMEMBER KAWANO: I'm not ready,

Mr. Chairman, I'll pass.

CHAIR HOKAMA: Thank you. Mr. Molina.

COUNCILMEMBER MOLINA: Thanks, Mr. Chair. Good morning, Alice. Alice, Bike Safety Funds, does that come under Housing and Human concerns?

MS. LEE: Yes.

COUNCILMEMBER MOLINA: Okay um, how the funds -- how have they been used -- I mean expended over the last year?

MS. LEE: Well, the last -- when we came in apparently what they've been -- the previous Administration was using it for actually the disabled transportation. But this, this year we have increased the Disabled Transportation Fund and hoped to leave that fairly small amount 13,000 or so for the Bike Fund.

COUNCILMEMBER MOLINA: Okay. And this is throughout, for all of Maui County, Molokai, and Lanai included?

MS. LEE: Yes.
COUNCILMEMBER MOLINA: Yeah. Okay. Thank you.
CHAIR HOKAMA: Thank you. Mr. Nishiki.
COUNCILMEMBER NISHIKI: Pass.
CHAIR HOKAMA: Thank you. Ms. Tavares.
COUNCILMEMBER TAVARES: Everybody passing and my mouth is full.
CHAIR HOKAMA: We, we can return if you want?
COUNCILMEMBER TAVARES: I thought in the, you know, the review questions and the responses from Human Concerns Number 1, I thought this was going to be the opportunity for people to talk about what the responses were to the questions that they asked. Um, so I'll jump ahead and I don't know if you are going to ask about your affordable housing?
CHAIR HOKAMA: Yes, I am.
COUNCILMEMBER TAVARES: Mr. Chairman? Okay. That's what I was going to ask, so I'll, I'll pass and leave that for you.
CHAIR HOKAMA: Thank you. You can continue supplanting your energy, Ms. Tavares.
COUNCILMEMBER TAVARES: I don't want to read your mind.
CHAIR HOKAMA: Mr. Kane.
COUNCILMEMBER KANE: Pass.
CHAIR HOKAMA: Okay. Thank you. Mr. Arakawa.
COUNCILMEMBER ARAKAWA: Yeah. I want to get into the area of the Senior Center in Lahaina. Alice, at this stage, you know, I have been hearing a lot about the Senior Center and also the negotiation for the property, especially the negotiations for the property. In your opinion at this stage um, should we be going ahead with that project as far as the budgeting despite the controversy on the property ownership? (Inaudible).

MS. LEE: We would recommend it. We would recommend it. Um, for your information, we have, we're in the process of scheduling with Mr. Carroll's Committee a meeting on the Pioneer Mill Site and the lease to, for the Wainee Site to the Maui Economic Concerns of the Community Agency and that meeting will be held May 3rd at nine o'clock.

COUNCILMEMBER ARAKAWA: But as far as the budgeting process for that, at this point, you think that we've cleared enough hurdles so that we can rest relatively assure that we're not going to run into a real big hassle later on, on the property?

MS. LEE: I don't think that um, we're anticipating any big hassles; however, they'll always be somewhat of a question on the property, especially if the Council decides to, you know, on the sliver
that doesn't have clear title. On that sliver if the Council decides to just let it go and leave it alone, undeveloped, just let it go, they'll always be some, somewhat of a cloud over that. But if you took the avenue of -- let's say doing a long term lease with AMFAC and then, doing a friendly condemnation of that sliver where people will actually get paid if they make claims, they'll be paid fair market value if we took that route, and then, do a final conveyance. So, you know, there are different ways we can approach it and it will be up to the Council on how you want to deal with it.

COUNCILMEMBER ARAKAWA: Okay. Thank you. If I could follow-up with Brian?

CHAIR HOKAMA: Proceed.

COUNCILMEMBER ARAKAWA: Mr. Moto, as our legal advisor, the solution Alice has suggested, you know, actually doing a friendly condemnation of the parcel, the sliver that's in there, um, I actually considered doing something like that, going in and then charging it, whatever the costs are against the, against AMFAC, what we owe AMFAC, what we would owe AMFAC on this -- because it's actually their obligation if there is any monetary settlements that need to be made. Is that something that we can do in a relatively short time?
CHAIR HOKAMA: Mr. Moto.

MR. MOTO: Mr. Chairman, the length of time that it would take for a condemnation action will largely depend on whether there are any material disputes regarding either valuation or distribution of proceeds and, and, and legitimacy of claims asserted. In other words, it will depend on who comes forth to assert an interest in the property, how many people there are, and how difficult it is to identify and resolve or negotiate the legitimacy of their claims. Second, will be the issue of the value. Sometimes that can be resolved quickly, sometimes not. Um, so I guess that's the best answer that I can give. It will really depend on the nature of the discovery and litigation that takes place.

COUNCILMEMBER ARAKAWA: Alice has her hand up.

MS. LEE: If I may add, in eminent domain proceedings condemnation, what generally happens is we would have an appraiser appraise the property and whatever value it comes up with -- let's say $100,000, it's just a small sliver, let's say $100,000. In condemnation proceedings what could normally be done is to put that money aside, yeah, and then, as claims come up, the monies would be taken from there. So we could proceed with the project. Because once we
condemn the project, I mean the property, then we can take, take control of it.

COUNCILMEMBER ARAKAWA: Okay. It sounds like a plan and rather than going through a whole lot of detail, Mr. Moto, perhaps, Mr. Chairman, we can ask Corp Counsel to come up with a plan between now and the time we have to make decisions on this particular allocation to assure us that the legal work can be done so that this can be done without um, putting us at risk.

CHAIR HOKAMA: Okay. Mr. Moto.

MR. MOTO: Mr. Chairman, regarding the -- if there is a condemnation action and um, I'm not -- since I'm not assigned to the the Human Services Committee I think which, out of which this arises, um, I imagine that, that's where the discussion -- the additional discussion would take place and um, it's in that context that I'm sure Corporation Counsel, whoever is assigned to that can advise the Committee on the proper procedures to follow. And I would also like to add to Director Lee's comments. Uh, I was describing the length of the litigation itself. It is true that under the law of eminent domain the government can take possession of the property prior to the conclusion of the litigation um. However, the
government is required to essentially set aside um, the amount of money that is sufficient enough to um, pay for the land based upon an appraisal.

COUNCILMEMBER ARAKAWA: One short follow-up, Mr. Chairman.

CHAIR HOKAMA: Proceed.

COUNCILMEMBER ARAKAWA: Brian, if we set this money aside, do we have to set it aside in the budget as a separate budget account or can we take it out of someplace within Administration for settlement of accounts? Self-Insurance Fund or something like that? It does have to be separate?

MS. LEE: I think we don't have this budgeted, but I'm sure the Budget Director can answer that question. Maybe out of Countywide cost.

MS. YOSHIMURA: Um, it's something that we would have to look into and um, I would assume it could be put under the CIP project. Um, there's $2.2 million there and we can take a look at if we can purchase the land or pay for it out of the CIP Project.

COUNCILMEMBER ARAKAWA: So it would be part of the cost of the CIP project?

MS. YOSHIMURA: Correct.

COUNCILMEMBER ARAKAWA: Okay. As long as -- as long as we have a way of covering it um, I think we
can be comfortable with trying to going forward with it. I don't know if you guys had the calls that I've had, but I've had dozens of calls and people come up to me about that particular project. I want to make sure that we can have the mechanism to go through with it this year.

CHAIR HOKAMA: Thank you. Ms. Lee um, when we were in West Maui for one of our district meetings we understand about this propose site for the West Maui Senior Center which is I guess off of Lahainaluna Road this current proposed site, and we also heard that may be another site that might fit your request would be by the Gateball park area. Was that other site ever consider to possibly be the site for this project?

MS. LEE: We have been in discussion with AMFAC. We've also -- we have tried to look for another site as an alternative um. There's no other site that AMFAC owns at this time that could suit our needs and our time schedule. All the other properties that AMFAC has um, are either in agriculture or hotel. If we were to get another parcel from AMFAC, we would have to go through entitlement, an entitlement process, subdivision process and we're looking at possibly two years maybe, depends. As far as any other
lands by Wainee, we've already discuss that. I would imagine that the only possibility would be to subdivide part of the park. But even then -- even then I believe we would have to go in for some kind of zoning change.

CHAIR HOKAMA: Okay. You know, and that's why we're asking these questions so we can have a good picture. So when you -- so when you mentioned earlier to this Committee, it doesn't fit Administration's time frame, what is the commitment on time?

MS. LEE: Actually, it wasn't so much the Administration, it was the community. The senior citizens when I met with them several months ago, were unwilling to wait for another parcel selection. I asked them if they would consider that option because of the concerns raised at one of the Committee Meetings about the sliver and the title concerns of the sliver in the Pioneer Mill Site Office area. I mentioned that to them and I said this, this may hold up the project and shall we look for another piece and they said, "no." They were very adamant about finding a piece of property that we would allow for a senior center to go up right away and this is the only piece because it is zoned heavy industrial which would allow for business and the use of a senior center. The
Administration was responding to the community, was responding to the urging of the senior citizens to move this project as quickly as possible.

CHAIR HOKAMA: Okay. Thank you for that information. But, members, just like on Lanai we wanted a Police Station and we waited more than 20 years. Mr. Carroll.

COUNCILMEMBER CARROLL: Thank you, Chair. Yes, we don't want to look for that what's her name -- her obituary before we build the, the center as she brought up last night, one of the seniors. The land is two TMKs on that, the property, there are two separate TMKs on that, right?

MS. LEE: As far as I know there's only one.

COUNCILMEMBER CARROLL: And that piece is in that one over there?

MS. LEE: Right.

COUNCILMEMBER CARROLL: Okay.

MS. LEE: This is a sliver, Mr. Carroll, that is approximately 4,200 square feet and the whole property is 1.86 acres.

CHAIR HOKAMA: 1.68, Ms. Lee?

MS. LEE: 1.8 acres.

CHAIR HOKAMA: 1.8.

COUNCILMEMBER CARROLL: No. I couldn't remember
if there was a separate TMK for that. But I above all people are very sensitive to land issues and I have dealt with land issues for a long time. This is a small piece and having dealt with land issues in Hana and over here, we have just generally come to the agreement that usually a lot of times the parties involved or contractor actually gave the land to the major land owner because it was a small piece. If it's a usable piece or if was there was any intent of the people that they really wanted it, I would support that; however, I don't feel that this is a case in this particular instance. And the use of the land, I think the people that owned that land before long gone over hundred years would approve of the use of that land, and although other Council Members might disagree with me in dealing with land, it becomes very more emotional and spiritual thing for many of us and we do take things like that into consideration what the land is being used for. And because of those reasons, I would have no objection to acquiring this land, of course, doing everything possible to identify the owners and to do it in what we would call a "pono" way to make sure that it was done correctly, and I don't see a problem with this particular piece. Having said that now can I ask my question?
MS. LEE: Mr. Carroll, could I add one more thing?

COUNCILMEMBER CARROLL: Yes.

MS. LEE: I just thought I would just share with the Council Members that um, when I met with the senior citizens several months ago, they had already come up with a sketch of what they wanted and it just turns out by coincidence that they did not put any kind of development on that sliver. They had not even known about the sliver. Okay. What they had left that space, they left that space open for a grass parking. So I thought that was really interesting that, you know, just, you know, they had spent a lot of time on planning what they wanted for this area and they left it open, the area in question was left open.

COUNCILMEMBER CARROLL: I saw that too and I was very pleased that they did it that. That was also something that really caught my attention. All right. Last night during the public testimony, the youth were very, very pleased with MEO System of transportation bringing them down, and I think overall the community is really pleased. I mean it is are only public transportation and um, they were particularly one girl was asking to extend the line up to Kula a little bit further because I believe it -- can anybody remember
1 where she lived?

2 COUNCILMEMBER KANE: By the Canoe Club. Where

3 she lived?

4 COUNCILMEMBER CARROLL: Yeah. Because she was

5 Upcountry but the bus was not going up all the way to

6 pick up the kids that were further up on the mountain.

7 CHAIR HOKAMA: It's between Haliimaile and Kula

8 or Pukalani I think is where the --

9 COUNCILMEMBER CARROLL: Yeah.
10
11 COUNCILMEMBER CARROLL: -- young lady resided.
12
13 COUNCILMEMBER CARROLL: Anyway that I would hope
14 that some how we can work with MEO to expand that um,
15 that system and that line. Especially she says that
16 and this is from her testimony that sometimes it is so
17 crowded, they actually cannot allow kids on the bus.
18 They have to wait for a second bus. So it seems like
19 we have really high usage over there, and I would hope
20 that we can continue to promote this.
21
22 MS. LEE: Thank you, Mr. Carroll. I will look
23 into it. I know that the Youth Transportation Program
24 is a very popular one and MEO tries to accommodate the
25 youth as much as possible and is looking into
26 expanding their routes. Whether Kula is included, I
27 will look into that.
28
29 COUNCILMEMBER CARROLL: Thank you.

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CHAIR HOKAMA: Okay. Thank you, Mr. Carroll.

Members, just so that we can conclude the first portion, any additional questions for Ms. Lee regarding the West Maui Senior Center CIP request of $2.24 million cash? Mr. Kane. Okay. Members, just in rough numbers, 1.8 acres is approximately 79,000 square feet, and as Ms. Lee says what's in question is about 4,000 more or less plus square feet. So there's about 74,000 square feet of property that does not have a dispute of title. Okay Mr. Kane.

COUNCILMEMBER KANE: Does it hamper ingress/egress in anyway um, is it on the perimeter of this property or is it within in the middle of it or off to one, you know? So I mean those aren't might questions but since you brought that up, Mr. Chair, I would think those are some questions that we would need to understand just, just to get a feel of it a little bit of feel.

CHAIR HOKAMA: Alice, is there a quick way we can get one, just one may be one site --

COUNCILMEMBER KANE: One map.

CHAIR HOKAMA: -- map and to see where the question of title is regarding the whole lot? Is it --

MS. LEE: I didn't bring it with me, but I could get it unless Mr. Carroll has his.
CHAIR HOKAMA: Mr. Carroll, yeah, if you do then, you know, we'll take a, well won't need to take a recess. We will just ask staff to make a quick reproduction.

COUNCILMEMBER CARROLL: By the time I find it, but I can tell you what it looks like. If you had a square over here towards this corner --

CHAIR HOKAMA: Upper left?

COUNCILMEMBER CARROLL: -- there's a strip. Yeah. The upper left there's a strip that goes down about that far. It um, if it was this big, it would be like my fingers sticking out from the corner.

CHAIR HOKAMA: So we're talking Makai, Mauka side toward Lahainaluna Road?

MS. LEE: Mauka side.

COUNCILMEMBER CARROLL: Mauka side, yeah.

CHAIR HOKAMA: Lahainaluna Road side?

COUNCILMEMBER KANE: Mr. Chair, so we can get something that we can visually look at.

CHAIR HOKAMA: Yeah. I mean, okay. Okay.

COUNCILMEMBER KANE: With all do respect. I mean I know everybody trying -- it's about this big with the finger and -- anyway, Mr. Chairman, just as far as my question.

MS. LEE: If I could call my staff, I could get
another copy.


COUNCILMEMBER KANE: No need recess. Mr. Chair.

CHAIR HOKAMA: Yes.

COUNCILMEMBER KANE: Before you recess, if I could since she is going to send somebody to contact staff, could we just ask another question, we can just continue regarding this part, and then, try to get that answered while they're doing the leg work to get that in the interest of time.

CHAIR HOKAMA: Okay. Hold on.'Cause if Ms. Lee cannot answer --

COUNCILMEMBER KANE: Yeah, no problem.

MS. LEE: Okay. I'll answer the question.


Mr. Kane, proceed.

COUNCILMEMBER KANE: Any -- has any discussion taken place because of the fact that this is a heavy industrial zone area and you had hundred plus years of heavy industrial in this area regarding where there was an environmental assessment that was done or soil testing done, I mean we're building one senior center for seniors and I would hate to build them on one place that is just, we got some problems with environmental issues. So my question is, is anything
being done or explored or discussed regarding that aspect of this project?

MS. LEE: We will have to do an EA as part of the normal process. However, although it's zoned heavy industrial, it was the site of their office. It wasn't -- there was no mill operation at that site and in fact, that site is bordered by residences.

COUNCILMEMBER KANE: Just a curiosity, but thank you.

CHAIR HOKAMA: Okay, thank you. Alice, is that project site within the national historical area?

MS. LEE: We've checked, no.

CHAIR HOKAMA: Okay. At least that, that we know for certain. Any other questions regarding this project? Mr. Nishiki.

COUNCILMEMBER NISHIKI: Yeah. Personally, I'm not in favor of this site, Alice, to be honest with you. Um, I would have hoped that, you know, I can't go on the premise that this is where the seniors want it and, and, and there's this pressure and so it's got to be done. Um, mine is more of planning properly for the west side and for looking at the bigger picture of future when we're going to have more seniors. And I just think that this area is totally inadequate. I think it's an area that is going to be looked at in
regards to traffic problems because we got all the schools and everything else there, Mr. Chairman. And I would hope that um, we would look at another area, you know, closer to the park and all of that. That's all and any time you got land title problems um, despite that everybody thinks that it's a blink of the eye and it will go away. I, I have still concerns that um, in lieu of AMFAC's financial situation um, I don't know who -- I mean, you know, let's face it time running on AMFAC. They got this big loan over here that the employee retirement system --

CHAIR HOKAMA: They're ready to default. We understand that, Mr. Nishiki.

COUNCILMEMBER NISHIKI: I just am very uncomfortable. I would rather look at land perhaps closer to the park area and I don't know what other sites we -- are there, but I don't know, Alice. I, I, I just don't like the area or the situation of the land and, you know, you say zoning is a problem but, you know, if this is, you know, if this is going to be a government structure and we can get it into public quasi-public, I don't really see that as being a hindrance and I think that people can understand, you know, if we're looking and trying to coordinate the zoning, I think people can understand that, you know,
it may take a little more time. That's my two cents.

CHAIR HOKAMA: Thank you, Mr. Nishiki. And before I recognize Mr. Molina, in your Program Budget, it is on page 25-2 which is the West Maui Senior Center CIP Detail or Narrative with the request and I would just ask you to look at the very next page which is the Lahainaluna Relief Project. Ms. Lee, because Public Works is going to move forward on this project also, and they're also looking at 2002, are you made aware of any concerns from Public Works regarding how it could possibly impact your project request?

MS. LEE: Actually, it is going to improve and mitigate traffic issues. There's that expansion, road widening, road widening and what else are they going to do on Lahainaluna Road? May be the Budget Director could answer for Public Works on the improvements that are planned for Lahainaluna Road. Incidentally, now that I have the map I can show you that the seniors also on the question of entrance and egress they, they had planned for the entrance and egress to be on the side street because um, and they also put bus turnarounds um. I think as, you know, many senior citizens don't drive, so they will be shuttled, many of them will be shuttled back and forth by buses. And I'll show you -- as I set up the map, can you tell
them about the road improvements for Lahainaluna Road, please?

MS. YOSHIMURA: Um, in the Public Works or for Public Works, they have that Lahainaluna Road Relief Project. This year it's being -- Fiscal Year 2001, it's being designed as the Dickenson Street Extension or it was approved as the Dickenson Street Extension. I think after they went out to the community there was discussion on whether it should be Dickenson, Shaw or, or on the other side of the bridge, stream, yeah? So they're in discussion right now as to where exactly or what road exactly it is going to be. So we changed the road, we changed the project title from Dickenson Street Extension to Lahainaluna Road Relief where we would have a little bit more flexibility and not be tied to just Dickenson Street. But we are looking for relief in that area.

COUNCILMEMBER TAVARES: May be somebody from Public Works is listening and they can come over and talk about this. Because even their description 25-3, it says the extension begins at Honoapiilani Highway and terminates at Lahainaluna Road and that's right there at the corner. So it must go from some where to some where. But I think that description is off, so I don't know if that's above Honoapiilani Highway or
below. So it's a little unclear by the description that's in our binder. 'Cause I don't think there is any lower Honoapiilani Highway.

CHAIR HOKAMA: Okay. Staff will contact Public Works to see if we can have a representative see how it ties in and what impacts, good or bad, it affects the West Maui Senior Center Project. Okay. Members, Ms. Lee has in front of the Chair's dais the map for the proposal, Ms. Lee.

MS. LEE: Thank you, Mr. Chairman. As I mentioned earlier the Seniors came up with their own sketch, rough sketch of what they wanted. Right now we're having a consultant work on preliminary drawings which I had hoped would be ready for the May 3rd Meeting, so we could give you something better than just this and um, if you were able to come up here, you could see that the yellow borders represent the 1.8 acres and the blue colored area is the sliver that is um, in question as far as title. Now, the question that came up earlier was, where are they going to -- where are the seniors going to enter and egress. It's down below on the side street. What they did is they sketched in a bus turn around on that side. They have the senior center against the far right border. It's a long triangular building and where the sliver is
they have parking.

CHAIR HOKAMA: Alice, use the mic please,

Alice. Oh, here sorry.

MS. LEE: Thank you. Okay. So now you have a
little better visual idea of how the site is laid out
and this is the site sketch that they came up with.
This is the building -- the building sketch they came
up with. They have um, classrooms, they have a dance
studio, they have a music room, they have art studio,
they have a shower and um, bathrooms, they have an
area for eating, an office space. They thought of
everything. They spent a lot of time, yeah. There's
also a kitchen. They spent a lot of time um, working
on this, this, you know, this sketch and from this
we're having professionals make it into a preliminary
drawing. So we should have a rendering for you by May
3rd.

CHAIR HOKAMA: Okay. Any questions for the
Director? I'm sorry. It's your turn Mr. Molina and
then we'll move down toward Mr. Arakawa.

COUNCILMEMBER MOLINA: Thank you, Mr. Chair.

Alice, the Lahaina Honolua Seniors Club, roughly about
how much memberships, members are part of this Club?

MS. LEE: Well, it's not only them.

COUNCILMEMBER MOLINA: Yeah.
MS. LEE: It is the entire west side seniors that we're talking about. There are several hundred of them. On Wednesdays, if you go there's about may be 150 that show up on a regular basis, but once there's a senior site only for the seniors you are going to see upwards of 500 people going there on a regular basis.

COUNCILMEMBER MOLINA: So, this, this proposed structure could house, could I guess complement, take in as much as 500 seniors at a time?

MS. LEE: Well, they won't be all going in at the same time. It will operate similar to Kaunoa where you have your art classes going on, you have your ceramic classes going on, and different activities throughout the whole week.

COUNCILMEMBER MOLINA: And if say there's been a proposal for another site, how long are we looking at if just per so this site doesn't get approved, how long more would the seniors have to wait if say there is a site proposed that's near the park?

MS. LEE: There's no fast-track process for this like a 201G. 201G is only for housing. We would have to -- and even the subdivision of land at Wainee for the Homeless Resource Center took an extremely long time. In order to get zoning, they would have to go
and, well, we would have to go before the Planning Commission, County Council, um, I don't know. I couldn't predict how long it takes, you know, for you to deliberate on something like this and may be on the optimistic side may be six to seven months. That's pushing it I feel. Then after that, you'd have to subdivide, that's another six to eight months and um, so may be a year and a half to two years.

COUNCILMEMBER MOLINA: And with this present project if it's approved, how fast could it go up?

MS. LEE: Tomorrow.

COUNCILMEMBER MOLINA: Literally, yeah.

MR. LEE: I mean literally, they could move in tomorrow, there's a building there. But that's not the building that they're going to use because really that building is not handicapped accessible.

COUNCILMEMBER MOLINA: So it's a modification, few modifications here and there.

MS. LEE: No, they're going to have a brand new building. The building that's there is the Pioneer Office Site.

COUNCILMEMBER MOLINA: On that sliver?

MS. LEE: No, there's --

COUNCILMEMBER MOLINA: No, no, nothing on the sliver.
MS. LEE: There might be a portion of an old house on that sliver. Let's say one of the plantation managers used to live there, well those old homes are going to come down. There are like two old houses there. They're going to come down, the Pioneer Mill Office site will remain for now, and then, the seniors will get a brand new building in the back.

COUNCILMEMBER MOLINA: Okay. Thank you.

CHAIR HOKAMA: Mr. Arakawa.

COUNCILMEMBER ARAKAWA: Alice, you know, that sliver that we're looking at, is it attached to anything that's usable? When it goes off of this property, what does is it connect to, or does it? Does it continue?

MS. LEE: I don't know. It may continue a little bit beyond the boundary.

COUNCILMEMBER ARAKAWA: But it's not part of another big parcel that somebody can use?

MS. LEE: I don't know, you'd have -- the TMK covers to that yellow boundary right there. So then there is in a sense a legal break right there.

COUNCILMEMBER ARAKAWA: Okay. But that sliver doesn't -- if there's let's say another two-acre parcel that was connected to this sliver, you might run into more of a problem than if it is just
this small piece, it's not really attached to
anything?

MS. LEE: There are homes bordering.

COUNCILMEMBER ARAKAWA: The other side.

MS. LEE: The other side.

COUNCILMEMBER ARAKAWA: So there's no real
practical use that anybody could come back and claim
against then?

MS. LEE: Not unless it is owned by the
neighbor.

COUNCILMEMBER ARAKAWA: Okay. Just, just curious
about it. Thank you.

CHAIR HOKAMA: Okay. Mr. Kane.

COUNCILMEMBER KANE: Just a real brief comment.

If this body decides to move forward with this,
regarding the proposed parking area which would be
over that sliver and that was the question asked
earlier about paved versus grass area, I would suggest
we just do grass until we have that thing resolved
only because you start putting pavement and paying all
this expenditure, it just seems like it wouldn't be
prudent for us to move, be aggressive in that sense.

MS. LEE: Thank you. I think Mr. Carroll
expressed the same thing to us earlier.

COUNCILMEMBER KANE: Oh, I'm sorry I didn't hear
that.

MS. LEE: Oh no, no at another time.

COUNCILMEMBER CARROLL: At another time.

COUNCILMEMBER KANE: Oh, oh. Thank you.

CHAIR HOKAMA: Thank you, Mr. Kane. Mr. Kawano.

COUNCILMEMBER KAWANO: Thank you, Mr. Chairman.

I was kind of lost because I missed the first part of
the meeting, I wasn't here. But, Ms. Lee, listening
to you and the questions that are firing to you and,
of course, last night the testimony by the Lahaina
people, seniors that came over. You said that like
Mike mentioned how long will it take you it probably
take another year or so if we were to look at another
site or something like that?

MS. LEE: A lot more than one year. First, we
would have to negotiate something with AMFAC.

COUNCILMEMBER KAWANO: Okay. Okay. That's
fine. And as far as the land that you folks, where
you folks are planning this, the senior center now,
and you said like tomorrow. So the only -- the other
thing is, Ms. Lee, I, I look at it like and I agree
with Councilman Nishiki, I feel the same way when we
had problem like with land title and stuff like that,
that also can take a long time too. Don't you think
so?
MS. LEE: Yes. But not if we condemn the
property. If we condemn the property and put some
money --

COUNCILMEMBER KAWANO: How long would that be?
Condemning and going through that process.

MS. LEE: It would not stop the development of
the property. It can go on simultaneously.

COUNCILMEMBER KAWANO: Oh, I see. Okay. Okay.

Thank you, Ms. Lee. But, but let's not -- I sure hate
to disappoint the seniors. And as many of them said
that they waited a long time and I agree with them and
I -- and if we keep on dragging this a lot of them
will probably never see that center so. But thank you
for all the information and thank you, Chairman. I'm
sorry I missed the first part.

CHAIR HOKAMA: No problem. I would like you to
have since we have Ms. Lee, I would like you to have
all the questions you have asked and have her respond
so that when we move to deliberations and I'm looking
at sometime next week, that you can have um, be
prepared enough to make a sound and comfortable
decision on this project.

COUNCILMEMBER KAWANO: One last question,
Chairman.

CHAIR HOKAMA: Mr. Kawano.
COUNCILMEMBER KAWANO: So Ms. Lee, you, you look at it, so you are in favor of the site?

MS. LEE: Yes, I am.

COUNCILMEMBER KAWANO: Thank you.

CHAIR HOKAMA: Alice, what would you estimate if we needed to put a amount on the land acquisition to take care of that questionable sliver? What kind of dollar amount would you think is smart for us to put on the site, $100,000?

MS. LEE: I feel $100,000 is very generous. It's probably not even that, probably is more closer to may be like 25, 30,000 but just to be on the safe side 100,000.

CHAIR HOKAMA: Okay. Mr. Moto, I don't know if you can answer this or if you're prepared? Let's say we start this project and out of the blue all of a sudden this person says I have claim to that sliver. By placing a lien, construction lien, against the County, does it stop the project? Even if it's only on the sliver, but he places a lien against the County, would that stop the total project?

MR. MOTO: Mr. Chairman, let me begin by addressing your use of the term construction lien. I believe you might be thinking of a mechanics lien, that's normally um, a security interest or a lien
that's asserted by a subcontractor or a supplier of
materials on a construction project. So any claim
asserting an interest in the subject property would
not be filing such a lien per se.

CHAIR HOKAMA: What would be they be filing,
Mr. Moto?

MR. MOTO: Well, what they would probably do is
if in fact the County proceeded through a condemnation
action, it would be to file a claim of some sort
asserting an interest of some kind in the property.

CHAIR HOKAMA: Okay. Filing the claim, would
that stop the project?

MR. MOTO: No, not unless the party obtained a
court order to enjoining the construction.

CHAIR HOKAMA: And in your opinion at this point
in time, at this point in time, Mr. Moto, would a
court reasonably consider such a motion before -- with
what we know as a fact at this time?

COUNCILMEMBER KANE: Mr. Chair, just to add to
that question.

CHAIR HOKAMA: Yes.

COUNCILMEMBER KANE: If we decide not to put
anything there as far as actual construction of a
facility on that property, would that have any bearing
as far as what you're talking about? In other words,
if we just left it grass as an example for the parking area as far as the proposal and we decide to move forward, would not developing that portion and if some claim were made and some court order, would that be able to stop the project even if we're not having any type of actual construction on that sliver? Just to try an answer that two questions at once.

MS. LEE: If I may, Mr. Chair, we have clear title on everything but the sliver. So we wouldn't be, so they -- nobody has claims to any other portion, yeah. Or shouldn't have legitimate claims.

CHAIR HOKAMA: But since we would have no right of entry agreement, Mr. Moto?

MR. MOTO: Well, I should note that because I'm not familiar with the exact facts behind this parcel, I should add that you have been talking about the possibility of condemnation action and that may in fact be one course of action. But another course of action might be also a quiet title action, that we would try to assert to ensure, to flush out any claimants that there may be out there for certain interest in the property. I just want to note that, that's something that probably should also be considered um, in this land title matter. But to get back to the Chair's main question again unless the
part -- I know of -- I'm not aware of any provision
that would forestall the County from using the
property once title was conveyed to it and of taking
possession of it um, subject to these apparently other
claims that had been made regarding the sliver. The
party would probably have to seek an injunction of
some kind if they desire to do so to halt
construction, I'm not -- I rather doubt they would be
successful in obtaining it.

CHAIR HOKAMA: Thank you for your opinion. I
know it's tough not knowing all of the facts, Mr.
Moto. Ms. Lee, by chance -- I'll get to you right
after this, Mr. Nishiki. Thank you. I didn't forget.
Has the County asked or did AMFAC currently ask State
Historic Preservation if that current Pioneer Mill
office building would be considered a value,
historical value that we, they wouldn't want it to be
torn down and that if anything they would have to
build with it or renovate it, but that it does have
some historical significance to Pioneer Mill in
Lahaina. Has that question been already may be
forwarded to Historic Preservation?

MS. LEE: We've only done preliminary inquiries
with, to find out whether it is in a historic
district. As far as the building is concerned, we
1 don't have any plans to tear it down.

2 CHAIR HOKAMA: Okay. You heard it from the
director so at least, you know, that building is going
to be there. Okay, any -- Mr. -- wait, wait I'm sorry,
Mr. Carroll, can you please wait I have -- it is
Mr. Nishiki's turn.

7 COUNCILMEMBER NISHIKI: Brian, just because I
don't like government being the, the, the arrogant
self that it is thinking that because we're doing
something for the seniors, we cannot deal with clear
title and, and, and this is the arrogance I think that
we get too self-righteous -- oh, we doing something
for the seniors, therefore, we don't have to worry
about anything else and I think that many of us want
to be responsible too when we do projects. And I just
want to bring up in this, this I guess it was a title
search on the warranty deed, there is not only one
parcel in there. Okay and this is how it is being
described, Brian, and that's the reason why sometimes
I wish maybe you would say I need to study this more
because this is valuable information you're giving to
us in a decision making capacity. Okay. I'm going to
read this, and then I need you tell us what it means.

"And the grantor hereby covenants with the grantee
that the grantor is lawfully seized in fee simple of
the described real property and the grantor has the
right to convey the same as efforts that the property
is free and clear of all encumbrances except as may be
described in Exhibit A." So they're admitting the fact
that there is questionable property there --

CHAIR HOKAMA: Mr. Nishiki um, Mr. Nishiki
before you continue could you just tell us what you're
referring from, please?

COUNCILMEMBER NISHIKI: This is the Warranty
Deed that Pioneer Mill is I guess conveying to the
County.

CHAIR HOKAMA: Okay. Thank you.

COUNCILMEMBER NISHIKI: "However, that the
grantor makes no covenants, representations, or
warranties whatsoever relating to title in or to such
portions of the property identified as portions of
Royal Patent 1865 Land Commission Award Number 1815
Apana 2." Okay, that's one, the other and it says,
"Portions of Royal Patent 1868 Land Commission Award
Number 6430." So there is two areas. It's not only
one and, and this is where it's not described and,
and, and my concern and I think everybody's concern as
people accepting land and spending upwards of $2
million is a fact that are we going to have clear
title prior to even getting on there because we're
raising the concerns of, you know, just because it is a sliver and we don't do anything in that area I don't think it's the concern. The concern is that there is one Royal Patent here that is not even on there that is being described and can you tell me today what it is? And I don't think this can be uncovered until you go through and get clear title. So here we are planning for an area that we have no clear title, but it is stated here in this warranty deed and yet we're going to go ahead and do something. I think we're going the wrong direction. Let's not do anything until we get clear title. Why, why get and do messy type of work? This is what I would think we in government are trying to get away from. So my question is what about this other portion of Royal Patent that it has been described herein, do you know?

MS. LEE: Mr. Nishiki, I think we can answer those kinds of questions on May 3rd when we take this matter up. But I guess the primary point we're trying to make with regard to this parcel is that nobody is going to be cheated if we condemn the property because if you have a legitimate claim, you will be paid fair market value for that little piece that you own. So under those circumstances, nobody is going to be, nobody's land is going to be stolen, nobody is going
to be cheated by anyone. This is a legitimate and
legal process that we are recommending that we follow
with condemnation.

CHAIR HOKAMA: You have a follow-up,

Mr. Nishiki?

COUNCILMEMBER NISHIKI: Yeah, and all I am
saying is that, you know, get the clear title before
you even start because we're talking about a $2
million cash project, Mr. Chairman. And, you know, as
much as Alice is so attached to this parcel here um, I
-- you know, and the question was asked of you,

Alice, I mean by all indications. I don't know if you
want to look at another place, you know, despite that
it may take a little more time, you know. Are you
willing to look at another parcel because of the
possible legal problems and who knows what the cost is
going to be? I mean you told us earlier that this was
a bonus. In my eyes it's not a bonus as long as we're
going to have to clear title and, and, and not really
have clear title right now. And then, I'm just hey we
work for the same government. You know, I'm just
asking you point blank, you know, you know, why are
you so attached to this one if there are other,

another location?

MS. LEE: Because the seniors convinced me. I
went out to them with the idea, with the suggestion, let's look for another parcel because there's this question even though it's a sliver. I went out to them and I said, wouldn't you want a piece that has no questions attached and it's clear and we don't have any controversy attached to the parcel and they said to me um, not if we can help it because for many of them they only have only so many years left and to them this is in a whole scheme of things, this sliver is insignificant to this whole parcel and if it weren't for the fact that Pioneer has been using this site for over hundred years and nobody has laid claim. But, but being the government we are and a, you know, representative of the people, we want to be fair to whoever has the legitimate claim and the fairest we can be is to give somebody their, whatever the value of the property is, is to compensate them um, in a fair manner and that's what condemnation would accomplish. So it's going to be just a matter of opinion. You're going to think may be forever that the best solution is another piece of property and may be, you know, in the final analysis it is the best solution, but we all represent the people and if the people are telling us that is not the solution we want, then we have to look at other options and
mitigate the problems attached to those other options, and I'm not saying that you're wrong, I'm just saying here we have a community that is very eager and very insistent on, on something um, to put up their senior center within the shortest amount of time. And they have just gone through the experience of the park expansion which as you know, Wayne, being on the Council years ago that the 13 acres at Wainee were promised and it hasn't evened open yet, and this is years ago. So this is what we're looking at. We want to look at something that might take a very long time or do we want to deal with an issue that is not perfect and try to mitigate the problems attached to it. Those are our choices right now.

CHAIR HOKAMA: Thank you, Ms. Lee. Any other questions, Mr. Kane?

COUNCILMEMBER KANE: Because the proposed design is still on a small piece of paper, Alice, as far as what the seniors put through, where did the 2 million construction figure come from? I mean how was that derived?

MS. LEE: It was derived by our department, by the Kaunoa Division Senior Centers, senior services. Robin Tanaka who is the Administrator for Kaunoa was ask by me to come up with estimates on how much a
senior center would cost based on the preliminary design that the people provided as well as his own experience from running Kaunoa for the last, you know, ten years um, and he came up with that figure and we um, forwarded it to the Mayor.

COUNCILMEMBER KANE: How much flexibility is in this $2 million figure, I mean as far as is this a tight figure? Is this a, is there a lot of room in that figure? I mean give us an idea where you're at with this figure, and the reason I'm asking this, Alice, because it is a cash one. You know, what I'm saying? May be it's not a difference between cash or bond, but it just seems like a nice comfortable round figure of two million, is okay that's a good figure, but I mean is it really 1.6, is it really going to end up 3.7? Are you going to come back later on and hit us with another million and we're going to have to go bond on that one, I mean? So I am just trying to understand how we arrived at that two million.

MS. LEE: It's an estimate that he provided and I will be glad to give you the breakdown that he gave me on the 2.2 million.

COUNCILMEMBER KANE: You have that? Is it written down on a piece of paper where you can distribute it to us?
Mr. Lee: Yes.

Councilmember Kane: And that way we don't have to go through it as far -- but if you can pass that on, I'd appreciate it just to get an idea. Help me in decision making.

Ms. Yoshimura: It's in a transmittal that is going to be forwarded to this body.

Councilmember Kane: Thank you. Mr. Chairman, I'm fine.

Chair Hokama: Okay. Thank you. Mr. Kawano.

Councilmember Kawano: The picture, the drawing that the seniors made, Mr. Chairman, is that some place around or only Alice got it?

Chair Hokama: I think only Ms. Lee has the, the concept that the seniors had. I don't think we are in a possession of what the seniors had envisioned.

Councilmember Kawano: Ms. Lee, can you share that with us? I sure would like to see the plan.

Ms. Lee: Sure.

Councilmember Kawano: Thank you. Mr. Chairman may be we can make copies of it, even if it's small.

Chair Hokama: We can do that. The staff can do that for the Committee Members. Ms. Tavares.

Councilmember Tavares: Yeah. Thank you. From what I glanced at is that 800 square feet that they're
looking at for this center?

MS. LEE: They have three 800 square foot classrooms.

COUNCILMEMBER TAVARES: Never mind erase that because I was going to say 800 square feet is awfully small for a center but.

CHAIR HOKAMA: Especially for $2 million.

COUNCILMEMBER TAVARES: Yeah, I'll wait till we see the plan.

MS. LEE: I can tell you real quickly what some of the others are. Office space, 2,000 square feet, restrooms 600 square feet, storage area is 450 square feet, the main hall/kitchen 3,400 square feet, the lounge area 400 square feet, and then they have other items like air conditioning, landscaping, demolition work, required furnishings, and all of that come up to 1,000 -- I mean $1,712,500 for the project construction, and then the Budget Director will transmit the rest of the information.

COUNCILMEMBER TAVARES: Thank you. I'm a whole lot more comfortable now. Um, the other question I had was I was surprised to hear you say that the office wasn't going to be demolished, the present office and um, I mean is that a decision that's set in concrete or whatever or where are you with that cause
that building -- I guess first would be to find out if it is going to be a historical whatever. I've been in that building for some meetings and one of the fact we have been to the same meetings there, and it needs a lot of work if it's going to be restored to anything. But that, that would put the senior center actually behind this office building, so it would be with where the union building is?

MS. LEE: Yes.

COUNCILMEMBER TAVARES: That's the one that would be demolished?

MS. LEE: And then, if you remember on the side, you know, when you come off Lahainaluna Road, the couple old buildings that are boarded up, they're going to be torn down and eventually the Union Building.

COUNCILMEMBER TAVARES: Oh, okay.

MS. LEE: Eventually, but actually we have no plans at this time for the front building where we meet in the Pioneer Office. I mean we just don't have any plans at the moment.

COUNCILMEMBER TAVARES: Okay. My other question, Mr. Chair, is um, you said this is on a long term lease. Is the arrangement with AMFAC or Pioneer Mill or is it fee simple?
MS. LEE: Well, what the original plan was for the County to just accept the conveyance.

COUNCILMEMBER TAVARES: Uh-huh.

MS. LEE: With the provision in our agreement with AMFAC that if they were a challenge to the untitled portion of the parcel, that AMFAC would pay for the legal challenge expenses associated with the challenge. This body decided no we don't like that option because what if AMFAC was broke, you remember?

COUNCILMEMBER TAVARES: All right. Okay.

MS. LEE: So we dropped that idea. So then I was going to propose that, okay, what if we did a long term lease for now and then do a friendly condemnation of the property, and then, proceed with the development of the property and deal with any claims that come up overtime. That's another option. Then a third option as mentioned by some members is to accept the land, period, and not ever develop on that sliver. That's the third option.

COUNCILMEMBER TAVARES: And my follow-up on that is, is this piece of land in any way connected to any requirement that AMFAC or Pioneer Mill has-- not Pioneer Mill but AMFAC has had regarding any developments, like is this supposedly something that needs a park assessment requirement, a affordable
housing requirement or whatever? Is this tied into something like that?

MS. LEE: Yes it is.

COUNCILMEMBER TAVARES: And which one is it tied?

MS. LEE: It's tied into the South Beach Mauka affordable housing requirements, which by the way the Council did not, which the County Council did not have a requirement of its own. This is the Land Use Commission requirement. The State Land Use Commission -- Commission requirement. What happened is the State Land Use Commission at one time placed an affordable housing requirement on AMFAC for the development of South Beach Mauka and um, over time decided that it was an inordinate amount of homes to be asking of AMFAC. AMFAC petitioned the LUC. The LUC said, "Okay. If you come up with an agreement that is acceptable to you and the County, then we will absolve you of this housing requirement." So that is part of the reason why we're able to get this property.

COUNCILMEMBER TAVARES: Because I was going to ask next is how do you relate this to affordable housing, a senior center where nobody going to live in, if that was the intent of the law, I mean the condition? But you are saying according to that, the
LUC had said that if the County and the land owner could come to some kind of agreement, they could be absolved from that requirement?

MS. LEE: Right. But it is all part of sort of a package with the Wainee property as well, and don't forget we have a lot of homes going -- I mean a lot of housing that will being going into the resource center over a hundred rental units, yeah? So it is part of a package.

COUNCILMEMBER TAVARES: Okay. Okay. Thank you for that clarification 'cause that was a question in my mind is how does this meet an affordable housing requirement. So it wasn't a County requirement in the beginning?

MS. LEE: It was not a County requirement. It was a Land Use Commission requirement.

COUNCILMEMBER TAVARES: Okay. Thanks. Thank you, Mr. Chair.

CHAIR HOKAMA: Okay. Hold on, Mr. Nishiki. I was just trying to digest what the Director just mentioned that the resource center component satisfies AMFAC's requirement for affordable housing and may be it does, but then why are we ante-ing up so much money to pay for their requirement fulfillment? It bothers me. Okay. Mr. Nishiki.

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COUNCILMEMBER NISHIKI: That's, that's my problem, is if this was a requirement. Okay now we knew the Land Commission-- Land Use Commission did it, so therefore why duplicate it because it's a government body? That, number one, bothers me whether and I'd like to see this documentation of what action the Land Use Commission did and what is so stated. I think it is important for us to understand this. Um, the other is what you just said um, why are we building it when it was supposedly to have been done by AMFAC? This makes no sense. It's smelly. I'm sorry and I, I want more clarification and I want to see the documentation of that action that the Land Use Commission did between AMFAC.

MS. LEE: Mr. Chairman.

COUNCILMEMBER NISHIKI: If we can get those documentation.

CHAIR HOKAMA: Yes, Ms. Lee.

MS. LEE: Yeah. I just want to make a clarification here. AMFAC was not required to build a homeless resource center. They're, they were required to build affordable homes as a result of getting approval for South Beach Mauka. What we accepted in lieu of affordable homes was the five acres of land for some kind of housing which the County in
partnership with um, Maui Economic Concerns of the Community, the only homeless shelter operator on this island, to address the needs of the homeless in West Maui. So AMFAC had nothing to do with picking the project that, that we eventually selected which is the homeless resource center and AMFAC had nothing to do with that. AMFAC as far as we're concerned satisfied their housing obligation in part by donating five acres of land for some kind of housing project which the County and the Community was going to um establish.

CHAIR HOKAMA: Mr. Nishiki, are you done? I'm going to move on to Ms. Tavares.

COUNCILMEMBER NISHIKI: How many homes were they supposed to have put up?

MS. LEE: 324.

COUNCILMEMBER NISHIKI: Anyway, I would request that we get all this documentation.

CHAIR HOKAMA: Okay. Thank you, Mr. Nishiki. Members. Thank you. Yeah.

COUNCILMEMBER NISHIKI: I just have a problem with a condition being put on, and then, it being taken away and how this whole process works, Brian. Um, because if we saw that a housing condition was going to be put on it, naturally the County would not
I want to duplicate it. But now to be able to thoroughly erase it and forgive or, or, or, or then say that in lieu of this something else is going to be put in its place concerns me, and all I want is I want, I don't want to have to here from Alice anymore, I am done with that portion. I just want to get the documentation so I can see what the action was for the Land Use Commission. Thank you.

CHAIR HOKAMA: Thank you, Mr. Nishiki.

MS. LEE: Mr. Chair.

CHAIR HOKAMA: Yes, Ms. Lee.

MS. LEE: Yes, I want to make a clarification. It's not fair to say there was a requirement of 324 homes without giving some background information. When AMFAC went to the Land Use Commission to um, for a district boundary change many years ago, they were going to build 240 houses. They were going to build 240 homes on 242 acres. And somehow the Land Use Commission as a result required them to build 324 affordable homes. Now how that makes sense, I'm not sure. But let's put everything into perspective here. On the one hand there's a requirement for 324 affordable units, but they were only going to build 240 homes. So let's keep all of those kinds of things in mind as we move through this process. Thank you,
Mr. Chair.

CHAIR HOKAMA: Okay. Thank you for that additional information. So, Members, you just gotta understand if the applicant agreed to that condition, it's still an agreement. Ms. Tavares.

COUNCILMEMBER TAVARES: Yeah, Mr. Chairman, perhaps it would be helpful to the Committee um, well to me anyway, if we know that a requirement is for X number of homes and we're going to look at taking land as in lieu of the homes, what is the value of the homes and the value of the land at the times, so that we can see that, that five acres or whatever was a correct exchange for that condition. You know, that that might help us in our looking at this.

CHAIR HOKAMA: That's a reasonable request,

Ms. Tavares.

COUNCILMEMBER TAVARES: Okay. Thank you.

CHAIR HOKAMA: Okay. Thank you. Okay. Members, it's obvious this project has --

COUNCILMEMBER KANE: Questions.

CHAIR HOKAMA: -- lot more information that we may need prior to decision making. And again, Members, there's many options to proceed with this. One is to continue to keep the design monies in the budget to let that process continue to move forward and withhold
the construction funding until we're satisfied, and
again there's more than one way to do or not do this
project. Mr. Arakawa, since you're here, we would like
to hear what impact if any and timing regarding the
Lahainaluna Road Relief Project has on this Human
Concerns project request.

COUNCILMEMBER KANE: Mr. Chairman, you had
Councilmember Arakawa looking at you, but you were
looking someplace else.

CHAIR HOKAMA: I'm sorry. I'm sorry, Alan.

Mr. Arakawa.

COUNCILMEMBER ARAKAWA: I realize who he was
talking to.

COUNCILMEMBER KANE: A humorous comment.

CHAIR HOKAMA: I'm sorry.

COUNCILMEMBER TAVARES: I was going to say what
does Alan know about the road?

COUNCILMEMBER KANE: He was like, how come he's
looking over there.

CHAIR HOKAMA: Deputy Director Arakawa.

COUNCILMEMBER ARAKAWA: At least, Mr. Chairman,
you didn't say the better looking Arakawa.

CHAIR HOKAMA: Thank you.

MR. ARAKAWA: Thank you, Mr. Chairman. Um,
Members, um, the Lahainaluna Road Relief Project was
basically intended to address traffic condition
problems at the intersection of Lahainaluna Road and
um, Honoapiilani Highway um, primarily because you
have three schools -- Lahainaluna High School, the
intermediate school and the elementary school in close
proximity far up Lahainaluna Road. So one of the
option was to extend Dickenson Street Mauka from
Honoapiilani Highway, and this extension would
parallel Lahainaluna Road and extend up to the area of
Ikena Street. And as, you know, Ikena is intended to
be the alignment for the Lahaina Bypass. So what the
County intended to do was to build Dickenson up to
Ikena Street and basically build a short stretch of
Ikena Street to link up with Lahainaluna Road um.
Recently, in talking with some members of the Lahaina
Community, there may be some other alternate routes
that we may also consider. One other option is
possibly um, extending Shaw Street instead of
Dickenson. So we'll consider their concerns that the
community might have and do the planning accordingly.
So that's basically the status of where we are right
now.

CHAIR HOKAMA: Okay. Any questions for Deputy
Director Arakawa of Public Works? Ms. Tavares.

COUNCILMEMBER TAVARES: Yeah. I guess we're
just chatting over here. Is the idea then to make Dickenson Street more or less the main entry in transportation route to the stuff that's in this area where the mill and the office is rather than putting all the traffic on Lahainaluna Road? Is that the idea behind this?

MR. ARAKAWA: I would say it's more of just a reliever road. It just would take some of the pressure off of Lahainaluna Road.

COUNCILMEMBER TAVARES: So is there any plan to do something on Lahainaluna Road itself since that's where the bottle neck is?

MR. ARAKAWA: Not at this point. One of the constraints with Lahainaluna Road is, you know, is the existing development on both sides of the road.

COUNCILMEMBER TAVARES: Yeah.

MR. ARAKAWA: So widening -- if we do widening basically, we would have to purchase property from existing homeowners which um, we -- well, it's not in the cards right now. It's not planned right now.

COUNCILMEMBER TAVARES: Mr. Chairman, may be what the Human Concerns and Public Works can look at if this goes through as the site for the senior center is to totally make the egress, ingress off of Dickenson and um, whatever that street was below that.
COUNCILMEMBER KANE: Pauoa.
COUNCILMEMBER TAVARES: Pauoa Street, so that -- and, and close off the through road, Pauoa Street to Lahainaluna Road. If we're talking about seriously trying to provide a relief, we got to cut off some of the easy access. I mean it's only what not even a block down or a block down to go to Dickenson and to get in and out of there and maybe that could help to relieve some of that Lahainaluna Road traffic by forcing them or directing, not forcing, directing them to use Dickenson and Pauoa Road or whatever and then not let Pauoa Road come out on Lahainaluna Road as part of the project. That might provide for more safety for the seniors also by not having some of the traffic taking off of Lahainaluna Road.

CHAIR HOKAMA: I think that's a reasonable suggestion for the two departments to consider. Thank you. Mr. Nishiki.

COUNCILMEMBER NISHIKI: Yeah, Milton, Ikena Street is how many blocks up from Honoapiilani? You're saying it's going to relieve, but all the traffic is generated from upper subdivisions and upper schools. That's when it all happens and it's like you said not going to be changed. So how far up is where this reliever going to go? I really don't -- it may help a
little bit, but God, I don't understand the philosophy of you saying it is a reliever road. How far up is it?

MR. ARAKAWA: Roughly, I would guess Ikena Street is may be about slightly less than a mile above Honoapiilani Highway. But Ikena is still, of course, still makai of the three schools.

COUNCILMEMBER NISHIKI: The three schools. But it's going up a whole mile?

MR. ARAKAWA: Yeah.

COUNCILMEMBER NISHIKI: This reliever?

MR. ARAKAWA: Roughly, roughly.

COUNCILMEMBER NISHIKI: Okay.

CHAIR HOKAMA: Thank you. Mr. Molina.

COUNCILMEMBER MOLINA: Thank you, Mr. Hokama.

Milton, I spoke with officials at Princess Nahienaena yesterday and they are interested in staggering their school hours. As a matter of fact they mentioned about three years ago they were, I guess they have what is called SCBM Council. It's made up of members of the community, staff, and the administration to decide, you know, which direction the school wants to go in regards to curriculum and other related matters. But one of the administrators said they would be interested in staggering their school hours.
They're currently on the traditional year round calendar and their operating hours are 7:45 to 2 p.m. They would be willing to, you know, adjust those hours to say may be opening up at 7:30 and ending school at 1:45. So once the strike is over and they would like to meet with you or David and myself and whoever, and may be Jimmy Kauhi from the State Transportation to see what can be done about staggering the school hours for the upcoming school year. So I just thought I'd pass that on to you.

MR. ARAKAWA: That's welcome news actually. We certainly would be happy to meet with them.

COUNCILMEMBER MOLINA: Yeah. I expressed our, you know, interest to them and that we're really, we would be really appreciative of their support in looking into that. So they're really happy that the County wants to get involved in it.

CHAIR HOKAMA: Thank you, Mr. Molina. Gentlemen, any questions? Mr. Kane.

COUNCILMEMBER KANE: No. Just an observation and it was interesting 'cause I guess the lady was being sarcastic in a letter to the editor, but the gist of her comments were not only the staggering, but because of the amount of traffic not apparent on the road because of the strike, which bring back to bear
the conversation that we had regarding bus ridership, and that's a whole different topic. But I just wanted to comment because what was the figure that Mr. Kauhi told us, 10% of the kids going to school riding the bus and 90% are all either one, two people in the car going to school, and you look now, now the strike, no traffic, virtually zero. I mean in central anyway, here. 7:45 before was a nightmare coming out of Wailuku town and coming up into Wailuku town. Now it's like I ride down the hill no problem. So it is just interesting that you brought that forward as far as the staggered portion. Again, I'm sorry for straying, Mr. Chairman, into your jurisdiction here.

CHAIR HOKAMA: Well, may be we should tell the State to have school at night.

COUNCILMEMBER KANE: Anyway.

COUNCILMEMBER TAVARES: We can all work at night. We do that so well.

CHAIR HOKAMA: Okay. Members, I'm going to take a break. You know, if you have any other questions for Ms. Lee regarding this project, please forward it so we can have Ms. Lee prepare responses. Other than that when we get back from recess, we're going to move on and talk about other things that particularly Members that ask questions for response by the
Director that she responded in her March 29th transmittal. Short recess...(gavel)...

RECESS: 10:33 a.m.
RECONVENE: 11:00 a.m.

CHAIR HOKAMA: ...(gavel)... The Budget and Finance Committee will reconvene and again thank you, Ms. Lee, for bearing with us and we apologize for the inconvenience. Ms. Tavares.

COUNCILMEMBER TAVARES: Yeah. If you're going to start with the responses for the HHC-01?

CHAIR HOKAMA: Proceed.

COUNCILMEMBER TAVARES: The question that I ask was on Number 5. So that is on, the response is on page the second page in -- I notice the pages are not numbered. But it was to provide by district the people served on Meals on Wheels and how many have requested but not been served, and at the bottom in Section C, she has the number of elderly currently on a waiting list and by districts, the total of 29. My question, Ms. Lee, is a follow-up, can't -- what is stopping you from serving those 29 or how much money more would it take to be able to include all of those people um, in your current services for Meals on Wheels?

MS. LEE: The first part of your question, the
answer is money and now let me see if I have any estimates with me.

COUNCILMEMBER TAVARES: While she's looking, Mr. Chair, I'd ask this question before at another time before Alice was here and this is the first time that we've seen information that was this detailed and that they actually knew how many was on a waiting list. So I really appreciate the work that your department did in providing this information.

CHAIR HOKAMA: Thank you for your comments.

COUNCILMEMBER TAVARES: Not to editorialize it.

CHAIR HOKAMA: You made me laugh there, Ms. Tavares. Thank you.

COUNCILMEMBER TAVARES: Well, if you don't have it readily available, could you get a figure to us?

MS. LEE: Okay. I'd be happy to. I thought I had it with me.

COUNCILMEMBER TAVARES: I guess that's for each district because it seems like a small number. There's only four in Kihei and two in the north shore. I know north shore people are more spread out, so that might be the cost and um, you know, time to get the person to deliver the meals because they already have a full schedule or whatever.

MS. LEE: You know, actually that's a little
deceiving. The demand is greater than what you see there. Um, we have a waiting list with the Office on Aging. But we don't have a waiting list with Kaunoa Senior Services and it's a different philosophy that both administrators have. Robin Tanaka feels it's unfair to open a waiting list with fully knowing that they cannot provide services; whereas Office on Aging has a different philosophy, it's more to sort of keep track. So um, I believe the numbers that you see were provided by the Office on Aging because they have a waiting list. So even though the numbers seem small, believe me the demand is much greater than what you see there.

COUNCILMEMBER TAVARES: So if you could send us a budget amount for expanding the services to what you feel is the demand out there.

MS. LEE: I'd be happy to. For the west side?

COUNCILMEMBER TAVARES: No, for all. All the areas.

MS. LEE: For all the areas, okay.

COUNCILMEMBER TAVARES: Yeah. By area.

CHAIR HOKAMA: Yeah, she shows four areas of Maui that has a waiting list.

COUNCILMEMBER TAVARES: Oh, yeah, I'm sorry.

Yeah. Because have you zero in some of those?
CHAIR HOKAMA: Yeah. So we're looking at Lahaina, Kihei, Central and North Shore.

COUNCILMEMBER KANE: Mr. Chair, what's the reference point again?

CHAIR HOKAMA: This is the response that Director Lee provided us in her March 29th transmittal in response to Committee request HHC-01. And the cover sheet is from Director Lee.

COUNCILMEMBER KANE: The question number is, I'm sorry?

CHAIR HOKAMA: The question was Number 5.

COUNCILMEMBER KANE: Thank you.

COUNCILMEMBER TAVARES: Second page.

COUNCILMEMBER KANE: Yeah. Thank you.

CHAIR HOKAMA: Thank you. You know, since you brought up that Meals on Wheels things, Alice, one, one -- I'm sorry for doing this, but regarding the West Maui Senior Center, would that come under Mr. Robin Tanaka's program direction?

MS. LEE: Yes.

CHAIR HOKAMA: Because I notice under operating impact the narrative says, "No impact on staffing." You don't foresee you needing people there either to conduct classes or, or, you know, some type of program at the new facility? Members, I'm referring to--
MS. LEE: That statement of no impact on staffing is a mistake. It's an error. Of course we're going to need additional staffing. It's just that we didn't submit any information. As a matter of fact when I saw that I asked him for additional information and I have um, a whole list of positions that will be required to staff the West Maui Senior Center.

CHAIR HOKAMA: Okay. If we can please ask for, for that breakdown and we'll make the copies for the, Members, Ms. Lee. Do you have the dollar amounts attached to the staffing requirements?

MS. LEE: Yes.

CHAIR HOKAMA: Thank you. We appreciate that very much. Okay. I would like to continue to move on with the responses provided by the Director. For my part, Alice, thank you very much for that list, inventory list. Before I move forward, on page -- Attachment B, I'm looking at Attachment B, Members, of the Director's response of March 29th. On page 3 of Attachment B, under Lanai City Redevelopment. I guess this is just a typo, Alice, on the very extreme right column you have total units still required 193, but when we add up the 50%, 60, 70, 120 requirements it comes up to 93. So I was hoping if you could just let

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us know which figure would be the more appropriate
number?

MS. LEE: I'll check into that.

CHAIR HOKAMA: Okay. Thank you. Members, if you
look at Attachment B by the Director, okay, assuming
that there's no adjustment to the Lanai looking at
3,881 affordable units still owed the County of Maui.
You know, when Alice mentioned earlier over a
thousand, that was something but we're closer to 4,000
units, and this is something I, I would like us to
work with the Director because a homeless shelter
program does address a symptom of homelessness, but it
doesn't correct the homeless problem. Okay and
providing may be more of these units affordable or
rental, can help address the problem, but lack of this
units creates one of the symptoms which is the
homeless situation, and in this budget you have one of
Director Lee's proposal to address the symptom of this
lack of affordable units out there for the community.
Alice, is there something through this budget review
this current year that can help address your efforts
to get this units constructed and on line? Is there
something we can do that can assist you in having
these commitments move to construction? And I ask you
that because we're shifting the construction person
you had in your department to I'm not too sure where
the person is going to go, Planning or Land Use and
Codes, Managing Director, but if you could give us
some of your thoughts on how we can get this moving
forward, please.

MS. LEE: Yes, when I come back to you with the
whole strategy completed, the plan was to ask if you
would consider additional positions not in this
budget, but to be paid out of a housing revolving fund
when the time came. Because as I mentioned to you
earlier, I believe I am the one that brought there are
thousands of units still owed and that's when you
wanted a list. It's not that easy to say to a
developer, "Okay. Now, provide your 200 that you owe
us", when number one, the ordinance itself requiring
that amount of housing does not provide any kind of
time line, number one; and number two, may be the a
developer is unable to provide all 200. So the policy
that we're going to be proposing to you would be --
well it's several initiatives. But one would include
providing for in lieu contributions, besides a house,
money and that would accrue to a revolving fund and
that revolving fund would help us provide collectively
more housing rather than just sit here and look at all
the requirements that are due and nothing is
1 happening. And this is where we're going to really
2 have to sit down and dig deep on how far we want to go
3 in order to provide more units on the market. Um, that
4 position that you mentioned, again our policy is not
5 to necessarily go and do the actually development
6 ourselves but to figure out ways how we can get
7 developers to provide the housing that is owed to the
8 County, and it might take a lot of creative scenarios
9 other than just one. And the one being okay go ahead
10 and provide the housing when we really have no, in a
11 sense, no authority to force them to build something
12 that is not stipulated that they have to build today.
13
14 CHAIR HOKAMA: Okay. I, I understand about what
15 you're saying that I guess we may not have been as a
16 legislative body shrewd enough to put triggers on
17 after you build X amount of units or reach a
18 percentage you must provide X amount of affordable
19 units that's part of the development of the project.
20
21 MS. LEE: As a matter of fact, Mr. Chair, I
22 would recommend in the future as you go through zoning
23 applications that if you do place an affordable
24 housing requirement on the project that number one,
25 you stipulate the time, they must build it, number
26 one, concurrently with the market homes, let's say if
27 it is a market-home type project, and that they must
provide an annual report on status to the Council. And that way you will always know how they're doing and you have better control and oversight over these types of situations.

CHAIR HOKAMA: Well, I think the Director is providing some suggestions that I mean we all agree obviously the previous Councils have determined affordable to be a critical component of development and that's why you see this 3,800 units owed the County. So it's, you know, I think we're going to need to have that Director participate with us to present some um, various solutions as she used the word creative and more than likely that's what we're going to need to be. Mr. Arakawa.

COUNCILMEMBER ARAKAWA: Yes, Mr. Chairman, I was wondering if Corp Counsel has any kind of a read as to the legislative, how we could actuate -- what's actually been a requirement in the past? There surely must be some legal triggers that um, are there or I guess if there's not, Brian, could you tell us if there's not?

MR. MOTO: Mr. Chairman, the first starting point would be to examine precisely the unilateral agreements and the terms of the zoning bills that were adopted. So that would be the first step determining
exactly how did they read because I imagine not all of
them were drafted the same way and some may have
triggers or deadlines where whereas others are not um.
Frankly it's a little difficult for me to kind of line
of this topic.

COUNCILMEMBER ARAKAWA: Right. Then maybe
trying off the top of your head, may be we can get
some kind of a written analysis of the 3,000 some odd
units that are owed us and those contracts that or the
unilateral agreements that um, created that the
requirement, and to what the triggers could be or are
not there that should be suggested to be able to
actuate those. Because if there's a requirement for
that many units to be made surely at some point
somehow there must be some mechanism that would be
make the developers have to put them in. And if we
can understand what those triggers are or what they
aren't, then perhaps we can know how to deal with the
future situation.

MR. MOTO: Mr. Chairman, yes, I think the first
step is to learn exactly as Mr. Arakawa has pointed
out to look a little deeper into each one of these
housing projects and to determine the current status
of development. Some may have been already completed
some perhaps never started.
COUNCILMEMBER ARAKAWA: It's just I know that we
had a real big (inaudible) about trying to provide
affordable housing and that's why the legislation was
created and to me it's kind of hard to fathom that we
made all these requirements, and then, the developers
don't have to do it because there's no time
mechanism. So may be by the time five generations
from now when they finally get around to it or
thinking about it so that's when they can start doing
it, in which, which that doesn't seem logical. But
then again legislation is not necessarily logical so.
CHAIR HOKAMA: I'm sure he tries to be,
Mr. Arakawa. I am sure the intention and effort is
there.
COUNCILMEMBER ARAKAWA: Well, I know but what
Ms. Lee is saying bears a lot of merit.
CHAIR HOKAMA: It does.
COUNCILMEMBER ARAKAWA: If we have a 3,000 plus,
you know, owed to us in the affordable category and we
have a real big problem with affordable housing in
this County in a lot of the areas, surely the two must
somehow be able to be made to correspond.
CHAIR HOKAMA: Thank you. Mr. Kane, anything on
this?
COUNCILMEMBER KANE: It seems like we have a
myriad of legal issues we need to I guess clarify and like you said, Mr. Chair, and what was mentioned by a project or by each individual entity that has entered into these agreements and then, see what was in place or what kind of requirements. So is that subject matter going to be or is that request going to be put to Corp Counsel with a response by a certain date and that subject matter in response being forward to a Committee for a discussion? I mean is that your intention on at this point right now?

CHAIR HOKAMA: Well, right now, you know --

COUNCILMEMBER KANE: Do incentives so we can start the ball rolling.

CHAIR HOKAMA: -- and that's what -- thank you, Mr. Kane, and that's why one of my questions to the Director was what, if any, would she want us to consider during this budget review that may be to help address this and what I'm -- my sense of what the Director has responded is that she is trying to work on an overall strategy, that she is not prepared yet to present to Council or the appropriate committee at this time and that she is looking, she is planning in the future, in the near future I would I believe to present something but she is not prepared at this time.
COUNCILMEMBER KANE: I'm sorry, Mr. Chairman, let me clarify my thrust in this. My thrust is from the legal standpoint on enforcing the existing ordinances that are in place that have, that are involved with these entities of affordable housing in Attachment B. So my question is are we able to now that we know this much, now we need to take the next step as far as Corp Counsel and what Brian was saying earlier, exploring in detail what exactly is there what options do we have, and that subject matter being forwarded to a Committee, from the legislative standpoint look at our options. Now, to me it seems like what Director Lee has would be a separate discussion. She would be proposing a whole new creative proposal. What I'm looking at what has, what's existing now -- I'm sorry.

CHAIR HOKAMA: Thank you. I just stopped so you can hear --.

COUNCILMEMBER KANE: -- what's existing now and what options are available to us now without even considering Ms. Lee's proposals. That's what I am trying to see if there's anyway we can get the ball rolling from that because, you know, things like this understanding where did we drop the ball legislative, and we when I say is legislative branch of government,
the Council, where did we drop the ball in making some flaws in the ordinances, identifying those flaws and so we cannot make the same mistake. I mean that's the whole idea of auditing, you know, or kind of self assessing or whatever you want to call it. Are we in a position at this point, at this juncture to direct Corp Counsel to go further into detail with that and then come back to a Committee with that response and so we can understand where we're at and where, what options we have to move forward? And legally can we -- how shall I say -- how can we collect?

CHAIR HOKAMA: Enforce the requirements?

COUNCILMEMBER KANE: Yeah I mean how can but, you know, because we got to look at the language that is going to affect each particular entity that's involved with this, you know, whatever the laws are because it seems like from what I'm hearing the laws are written without really any teeth to 'em and we don't really know that until Brian is able to give us that information.

CHAIR HOKAMA: Well, just from my observation of what occurred in the past and being part of a, at one time a development team for the Lanai Projects, I would say the Council in the past has, whether it is good or bad, relied on the integrity and credibility
of the developer, especially those that have been in
the business for a long time and are Hawaii based,
that they had a track record of proving themselves
and, you know, things have evolved good and bad. But
in the past I think the Council had every intention
of, of assuming correctly that the developer was going
to provide what was committed. So, you know, I would
say it's may be in hindsight, yeah, we can say where
we could have strengthen it. But on the, on the --
let me to address the main part of your question,
Mr. Kane.

COUNCILMEMBER KANE: You're almost provoking me
and not in a negative. But you're almost provoking me
to give a response on that. It's economics driven and
unfortunately it seems -- and again there's no
criticism to what was done in the past. To me we just
gotta look what happened in the past and then improve
it.

CHAIR HOKAMA: That's correct.
COUNCILMEMBER KANE: That's the bottom -- we're
not here to criticize what 10 -- 10 terms ago what a
Council did on a particular ord -- I mean, you
know,'cause.

CHAIR HOKAMA: At that point in time, yeah, the
situation was different. Yes.
COUNCILMEMBER KANE: 10 terms from now they'll look back at us and criticize us. So that's not my thrust. The thrust is, you know, bottom line is if that was the situation, then we need to learn from that and understand that our ordinances shouldn't be economics driven, they should be people driven and we it seems like there has been too much focus on trying to get -- well, I'll stop, I'll stop because--

CHAIR HOKAMA: Thank you for that. Thank you for not saying it.

COUNCILMEMBER KANE: Yeah.

CHAIR HOKAMA: At this time.

COUNCILMEMBER KANE: I'm sorry, Mr. Chair it's just --

CHAIR HOKAMA: Hold on, Mr. Nishiki.

COUNCILMEMBER KANE: That's why I said you provoked me on that and I was --

CHAIR HOKAMA: So, Mr. Nishiki, so that we may, the Chair can respond to the your main question.

COUNCILMEMBER KANE: Just taking it a step further for Corp Counsel.

CHAIR HOKAMA: Thank you and I'm happy we have elephant memory staff. Tamara, if you could share with the Members the intentions of the Chair that I had mentioned earlier.
MS. KOLLER: Thank you, Mr. Chair. In one of our earlier meetings and I'm not certain it may have come from Mr., Councilmember Kane um, the referral of one item has already, is listed to be added to our Committee report um. That referral is that the matter relating to adding a condition to a change in zoning, conditional zoning application, which would be require a time deadline for an applicant to develop affordable housing be referred to the Land Use Committee. I'm not certain if that's been --

COUNCILMEMBER KANE: I'm not aware of that. I don't recall making that bringing that issue to bear. But I realize if that's what covers it then --

COUNCILMEMBER ARAKAWA: We accept.

CHAIR HOKAMA: But you know, in the meantime to help the ball continue to move and work may be upon, on parallel paths that the Director is already -- has already initiated, we can induce our parallel path also from this branch of government. And so we will forward your request to Corp Counsel and I'm sure Mr. Kawano will either give a portion to either Land Use or since it's under Human Concerns Directors, Administrative direction, may be might go to Mr. Carroll's Committee for further discussion and consideration, I'm not too sure. Again I don't know
what Mr. Kawano is going to do upon receiving transmittal and communications, but I think it's only smart of us to parallel processing on this one to help move it and keep it on the big burner. Okay. Anything else on Appendix B? I'm willing to let other members speak on?

COUNCILMEMBER ARAKAWA: One question before you move in.

CHAIR HOKAMA: Yes, Mr. Arakawa.

COUNCILMEMBER ARAKAWA: Can I ask when was that transmittal supposed to happen, that request?

CHAIR HOKAMA: It's part of the Committee report.

MS. KOLLER: This would be part of this Committee report. It came up during one of our earlier discussions and I'm sorry I don't have the date on here. But we've been adding items as they come up during the discussion.

COUNCILMEMBER ARAKAWA: So it hasn't been transmitted yet?

MS. KOLLER: No, it has not. It would be in the final Committee report.

COUNCILMEMBER ARAKAWA: That's all I wanted to know. Thank you.

CHAIR HOKAMA: And, and before I recognize Mr. Nishiki. Just to let you know, Members, if you
flip through Appendix B and it's toward the end, about
the middle, Ms. Lee was able to show that for the
Puukolii Villages AMFAC Property Investment
Corporation, interesting enough, 1,275 units. From 50%
elderly rental, 50%, 100%, 120% of median target
groups for the West Maui area, you know, and that was
in lieu of a request for 1700 residential units,
proposed development, 1,700 resident or 12, 10, 20. I
thank you for all this information, Alice, it really
makes it a lot easier to see it all on a matrix like
this. And again, I don't know what this impact of the
default to the retirement system means to this County
and to Ms. Lee's Department on whether or not we will
ever see a realization. Who knows what AMFAC may do,
belly up receivership I mean, you know, lot of things
can occur with the Economics Grant or with that
troubled corporation. Okay. Mr. Nishiki.

COUNCILMEMBER NISHIKI: Alice, yeah, and I
thought this was most revealing but the question is, I
didn't look through the entire package that was
submitted, but are all developers or is -- let me
frame the question this way. Do we have someone
keying in on this and are any of these developments
resisting building units that were required that have
already completed their entire projects? You know, I,
I'm just curious what in lieu of this now what are some of the people saying when you call them up and go you owe this, are you going to do it? Are some coming on board and volunteering to do any?

MS. LEE: Oh, no, nobody volunteers to do any.

COUNCILMEMBER NISHIKI: Oh, okay.

MS. LEE: Nobody. That's why we came up with working on the data base to start tracking this and um, you know, the Chair asked about additional money for um, for housing and yes I will be coming back asking. But it will come from a revolving fund. So that's earmarked funds. We need somebody on this all the time, full time, you know, making sure that um, that we record any new change in zoning requirements as well as keep track of whatever is old and as far as developers wanting to volunteer nobody wants to volunteer. In many cases, they don't have the money already. Many cases the um, the zoning may have been given in the last 10 years and what they had agreed to 10 years ago they just cannot provide today. So that's the reason why I feel that we have to wherever possible, we're advising these developers to come back to the Council and to work out something agreeable, you know, so that we're able to get something rather than just look at what is old and never get anything.
So our position is most, most of the time is for them to come back to the Council and deal with um, what they had previously agreed to and see if the Council would be willing to reconsider and ask for something else or something less.

COUNCILMEMBER NISHIKI: I guess that is most important for us now being that I don't know how many of these are still land owners, Mr. Chairman, but surely if they are coming in for more zoning, then there should be a flag, a red flag raised saying that by the way these people still owe us some affordable housing. And may be that can be asked as we go through any zoning request.

CHAIR HOKAMA: And may be either Mr. Arakawa or Mr. Carroll, I'm not too sure which Committee would have, would be more appropriate, but may be there can be a communication sent to the Chairman to at least start the discussion on what exactly Director Lee is talking about and maybe to bring-- because, who knows, C. Brewer Properties has moved and we know that Mr. Stanford Carr bought a large portion of that development up that was approved by earlier Council action. So yes there are different players for certain projects, Mr. Nishiki. But I would hope the subject matter Chairs would consider ways of they
might want to address the issue. The Chair would appreciate that. Thank you. Okay. Members, anything else on Appendix B and again I'm, I'm really thankful of how the Director did present this because it has really popped my eyes. It really popped it. Yes, Mr. Arakawa.

COUNCILMEMBER ARAKAWA: Can I ask one question before you leave the topic?

CHAIR HOKAMA: Sure.

COUNCILMEMBER ARAKAWA: If Corp Counsel could check when we have an agreement like this, is there a lien on the property or the project until the um, the condition is satisfied?

CHAIR HOKAMA: Mr. Moto.

MR. MOTO: Mr. Chairman, no there is no lien in the formal sense that the formal legal technical sense. What there may be is a unilateral agreement filed and recorded on the property or properties.

COUNCILMEMBER ARAKAWA: So if you have unilateral agreement, doesn't that put some kind of a cloud over the titles by virtue of the fact that--

MR. MOTO: Yes. It does and it runs with the land. So it binds all successors and interest and that would be particularly important since during the life of a development sometimes land ownership changes.
and a new, a development may start with one party and subsequently transfer to other parties. They would take it --

COUNCILMEMBER ARAKAWA: Okay. Because that would be our leverage if anything?

MR. MOTO: That is, yes, where such unilateral agreements have been filed.

COUNCILMEMBER ARAKAWA: Okay. Thank you.

CHAIR HOKAMA: Okay. Thank you very much. Okay. Members, I would like to move on, and Mr. Arakawa, any questions regarding your -- the Director's response to your question to her which was question number 1?

COUNCILMEMBER ARAKAWA: No. I'm gonna pass on this.

CHAIR HOKAMA: Okay. What about question number four? Any questions you have regarding her response to question number four from you?

COUNCILMEMBER ARAKAWA: I went over the answers that she had. I have it in my office and they are pretty satisfactory from here. I don't have any questions.

CHAIR HOKAMA: Thank you very much.

COUNCILMEMBER TAVARES: Mr. Chairman.

CHAIR HOKAMA: Yes, Ms. Tavares.

COUNCILMEMBER TAVARES: On question number four
on the response, I wanted to ask, Alice, when we were
discussing it earlier in the response to my question
afterwards, could I use those numbers presented in
number four as a baseline for looking at possibly,
yeah expanding into the both that area that Mr.
Arakawa wanted to go and beyond the Kaanapali side and
also look at um, using that number for Central Maui
because the number seems close based on 25 persons
served.

MS. LEE: Yes, as a base line.

COUNCILMEMBER TAVARES: Yeah. Could you tell me
where, where are the meals prepared for like the west
side? The Meals and Wheels Program. Do you know
that?

MS. LEE: Some are at the school.

COUNCILMEMBER TAVARES: Oh at the schools
there?

MS. LEE: Yeah and the rest are at Hale Mahaolu.

COUNCILMEMBER TAVARES: Oh I see.

MS. LEE: We wish the schools would prepare all
the meals because it is the cheapest and better
quality meals actually. However, um, they did it on a
time available basis.

COUNCILMEMBER TAVARES: Oh, okay. Would they
they be to handle the additional meals, your current
schools that are providing the service?

    MS. LEE: May be a portion of it and then the
other, the rest would be from Hale Mahaolu.

    COUNCILMEMBER TAVARES: Okay. Yes, I guess in
light of that information if, you know, the earlier
question we ask if you could just do the one for South
Maui and the North Shore.

    MS. LEE: All right.

    COUNCILMEMBER TAVARES: Thank you.

    CHAIR HOKAMA: Thank you, Ms. Tavares.

Mr. Molina, any questions from, to the Director
regarding her response to your question number three?

    COUNCILMEMBER MOLINA: I'm satisfied.

    CHAIR HOKAMA: Okay. Thank you. We'll leave that
portion. Any other questions for the Director
regarding the operational request through the details
or through the Program Budget Proposal? The Chair
will entertain it from the Members. Mr. Carroll.

Thank you. Mr. Molina. Thank you. Mr. Nishiki.

    COUNCILMEMBER NISHIKI: No.

    CHAIR HOKAMA: Thank you, Ms. Tavares.

    COUNCILMEMBER TAVARES: No.

    CHAIR HOKAMA: Thank you. If you do, I would
really request that all of you present it to the staff
as quickly as possible because I'm sure the Director
would like to give you her thoughts prior to decision making on the budget request.

COUNCILMEMBER TAVARES: Which is Monday?

CHAIR HOKAMA: Which is Monday and just so and, and let me tell the Staff or make a announcement that I will be sending out in a memo form and then, because I want Alice to also hear it so and all of the directors be prepared, Budget Director, regarding my memorandum on decision making and proposals.

MS. KOLLER: There's a memo that'll be coming out today that basically is asking for proposals from Members to be submitted to the staff no later than 4:30 on Monday. That's so that the staff can combine those proposals in a work sheet as a comparison basis to be used on Tuesday morning. For ease, we will provide a work sheet on disk that is in the same format as the Budget Ordinance. For those Members that do not want or are not going to be submitting a complete proposal but has certain areas where they want to make changes um, deletions and additions, we need to, we're requesting that, that could be put in memorandum format. But if you do take -- if you add something, you need to be able to show where you're taking it away, and we need to remember that the general fund must be kept separate from the other
funds. So we cannot intermix with the Special Funds. And staff will be available for any questions on that. Our sessions will begin at 9:00 next week and um, you want to plan on working in the evenings and possibly on Friday after the Council Meeting, if necessary. I think that was the, pretty much the gist.

CHAIR HOKAMA: Thank you, Tamara. Yes, Ms. Tavares.

COUNCILMEMBER TAVARES: So does that mean we will actually start deliberations on Tuesday morning?

CHAIR HOKAMA: If at all possible, I would like to start deliberations and the Chair's intention is to start on the revenue side and start discussion and hopefully we can work toward some kind of decision making on eventually what will be the revenue that we're going to work from and once we said revenue, then I think everything else will be easy to fall in place on expenditures. I'm not going to work, bubble up and do expenditures first, and then, try and match revenue.

COUNCILMEMBER TAVARES: Right.

CHAIR HOKAMA: Okay.

COUNCILMEMBER TAVARES: So that is Tuesday?

CHAIR HOKAMA: The Chair would like to --

COUNCILMEMBER TAVARES: Tuesday morning?
CHAIR HOKAMA: -- if, you know, that's the Chair plan and, of course, we are semi flexible. But at least, you know, the timing that the Chair would like us to kinda move, and, you know, I mean if we need to adjust, we'll adjust. But at least, you know, there are some marks that um, you are working with to develop your proposal and recommendations for the Committee's consideration. Yes.

COUNCILMEMBER TAVARES: Mr. Chair, I didn't mean that's the day we're going to do, but no sooner than the morning of Tuesday?

CHAIR HOKAMA: That's correct, no sooner than Tuesday. Yes we will not start deliberations.

COUNCILMEMBER TAVARES: 'Cause we still have some departments to come back yet, and I don't think we're going to finish them today unless we're planning to go tonight. Is that your plan to go to tonight too?

CHAIR HOKAMA: No. I think this is the last break the Chair will give the Committee.

COUNCILMEMBER TAVARES: Oh. Mr. Chair, also if the -- if Michele can get the word to all the departments that if we're going to be doing proposals and whatever, that they need to get their answers to us by Monday at the latest.

CHAIR HOKAMA: Yes, and that's why I wanted
Alice to be here to listen and again, you know, I understand it's a long weekend but the clock from the Charter does not stop for holidays and weekends. Okay and so that clock continues to tick against this Committee and, you know, I appreciate, you know, we have Good Friday and Easter Sunday this weekend and at this time we are scheduling so we can plan accordingly. Monday it's the Chair's intention to start with Managing Director at 9 a.m. If we can get through that within a two-hour period, Civil Defense will follow at eleven and if we get through that, anything regarding the Council's budget or OCS and the Clerk will be at 1:30 Monday afternoon. And that is the schedule that you can try and work with I would ask that you work with and we'll see how we go. Yes, Ms. Tavares.

COUNCILMEMBER TAVARES: We didn't do rates and fees for parks. Um, you're going to try to squeeze them Monday sometime?

CHAIR HOKAMA: We will, yes, I think that's very important because various members have brought up a discussion regarding community center fees and a few other things and I think may be Finance or maybe the Budget Director because I'm looking at upping the parking fees too, okay, in preparation for some of the
future facilities we may be building. But days of
cheap and free parking are gone for reserve stalls.
Most of it are already on a fee schedule but times,
times have changed. Any other comments, Mr. Arakawa?
COUNCILMEMBER ARAKAWA: When you're starting to
do the evaluations and we're starting to set, how are
you going to go through the budget and do that?
You're going to start at the beginning of the Budget
Document and go through or how are you planing to do
it?
CHAIR HOKAMA: On the revenues?
COUNCILMEMBER ARAKAWA: First revenues and then
the expenditure side?
CHAIR HOKAMA: Revenues, I would I'm looking at,
of course, (inaudible) want to set and more than
likely it won't be changes in your Grant Revenues, I
mean Grant Revenues are basically going to be set. I
think the area that we're going to take time on is
what will be the, the tax. Again we won't have the
certification 'til 19th. I believe April 19th. So
again I would like to, us to at least start so that
when we do get the certification numbers um, it will
be, at least we're moving along.
COUNCILMEMBER ARAKAWA: So we're going to start
with what we're going to assume is going to be the tax
revenue and we will have a discussion as to what that number should be set? What we're going to get from the State in TAT and what, all of those revenues that are going to come --

CHAIR HOKAMA: That is correct.

COUNCILMEMBER ARAKAWA: -- one at a time?

CHAIR HOKAMA: Yes.

COUNCILMEMBER ARAKAWA: Take our best guess?

CHAIR HOKAMA: Yes.

COUNCILMEMBER ARAKAWA: And then, we're going to go back in and we're going to start each of the departments and we're going to come back and set -- if we're going to do a roll back of property tax, we'll do that after that once we know what the expenditures are and what left over we have.

CHAIR HOKAMA: Well, right now the Chair is considering to use the 19, '99 rate at this point in time. Okay. And again, I would like us to borrow, if possible, I would like us to borrow the minimum amount of bonds. Okay. I'm not into -- and what I've asked staff to do just for the Members information is, I'm asking the staff to contact Finance and Budget Directors that with all of these request under CIP, what would be the projection five years down the road on the continuing cost to this County including
projected collective bargaining increases, facility maintenance, and operational cost and see where we are. Because I think we need to be real about what is the carrying load that is going to be asked of the taxpayers each year. And I think projections will help us make some decisions this year.

COUNCILMEMBER ARAKAWA: So we're going to do the fees and all of our revenues first, then we're going through department by department?

CHAIR HOKAMA: That's correct, Mr. Arakawa.

COUNCILMEMBER ARAKAWA: Then we will adjust department by department. So you are going to start the departments at the beginning of this um, document but the, the detailed document and go right through to the back end on the critical parts --

CHAIR HOKAMA: We may not need to go page by page, you know, we'll see how it goes, you know, but we'll work it by departments.

COUNCILMEMBER ARAKAWA: But from the beginning, from the front to the back. From the front to the back? I don't intend to go through every page. But we start from the front and work our way back.

CHAIR HOKAMA: Yes. Unless one of the Members can provide a better option to do it. But at least you kind of have a general sense of how the Chair's
looking, looking for --

COUNCILMEMBER ARAKAWA: That, that's why I'm asking. Cause then when I start doing my analysis, I'll start from the front and can go back.

CHAIR HOKAMA: And I guess, you know, if one thing that we may -- what I might want to do is um, move what is the central service we, we are required to provide and then look at some other things. Yes, Mr. Arakawa.

COUNCILMEMBER ARAKAWA: Yeah. I'd like to get a sense and I don't know if this is appropriate at this time or not, so if you think it's not appropriate just tell me and I will stop. Um, I'm looking at the Community Facilities District as part of something we can do this year and if we start doing um, community district funding, we may start changing some of the revenues or the bond, ability to float bonds um. Also looking at, for instance, Maui Lani Project floating a bond -- trying to see how we can float a bond to do the project, the roadway um, and then, coming and have the developer pay back that bond. So those are things that we're going to be trying to do, and I don't know if that's appropriate for discussion at this time or not.

CHAIR HOKAMA: Well, it is on this Committee's
master calendar, Mr. Arakawa, the CFD proposal and at
this time the Chair is not supportive of the proposal
in Committee and I'm not planning to have a hearing on
it or Committee meeting on it 'cause I, at this time,
am not confident of the ability of the developer to
pay back our -- what we're going to ante up up front.
Ms. Kawasaki-Lu, do you have a comment?

MS. KAWASAKI: I think Tamara just passed you a
note regarding the notice we received from the County
Clerk. That notice has to be posted by three o'clock
today if you folks want to consider doing a fuel tax
increase.

CHAIR HOKAMA: We'll excuse the Director Lee and
we thank you for your presence this morning. The
Chair is going to take a very short recess
...(gavel)...
RECESS: 11:48 a.m.
RECONVENE: 11:54 a.m.

CHAIR HOKAMA: ...(gavel)... The Budget and
Finance Committee will reconvene. Members, after
talking to the our Committee staff and the Budget
Director, it is the Chair's comments that at this time
the Chair feels there's sufficient revenue in the fuel
tax or so called "Highway Fund Revenues Source," at
this time not to consider an increase, and therefore,
it is the Chair's intention not to post notification for public hearing requiring discussion on this fuel tax source at this time. Comments, Mr. Arakawa.

COUNCILMEMBER ARAKAWA: Mr. Chairman, there have been tremendous discussion and concern in the communities about our Highway System and the need to upgrade a lot of them. If we don't do anything with the fuel tax, we're going to have to be adjusting with revenues sources from other areas. Um, if the Chair is willing to try and adjust what is necessary as far as making the repairs to the existing system and trying to upgrade the system from other sources other than fuel tax, then I'd be happy to not consider the fuel tax. But if we need to consider the fuel tax in order to put more funding into highway improvements this year, then we should schedule it.

CHAIR HOKAMA: Thank you, Mr. Arakawa. The Chair's intention for this Budget Review was to look at additional General Fund supplement for Highway Maintenance and Improvements that belong to the County and that is just County roads. I'm not looking at doing more for the State. I'm tired of subsidizing the State of Hawaii.

COUNCILMEMBER ARAKAWA: Okay, that's fine with me. Thank you.
CHAIR HOKAMA: Mr. Carroll.

COUNCILMEMBER CARROLL: I would also hope that we do not need to raise that tax right now with the prices going through the roof. It's becoming really difficult just for our poor housekeeper that has to drive through Lahaina every day. It is becoming really hard on families. Some families are paying $100 a week now for fuel. I would hope that we can find other sources and not get into that area of raising taxes, fuel taxes. Thank you.

CHAIR HOKAMA: I agree with you, Mr. Carroll. I think there are other ways that if you want to buy a gas guzzling luxury car may be we just adjust the cost of the registration for that type of vehicles instead of going through the tax, fuel tax program. But that may be another way of addressing some revenue is you want to buy the gas guzzler or you're going to pay for a gas guzzler? Mr. Carroll.

COUNCILMEMBER CARROLL: Can we do that?

CHAIR HOKAMA: To register?

COUNCILMEMBER CARROLL: That I mean, does that mean under certain vehicles --

CHAIR HOKAMA: Under vehicle weight and licensing that's County -- that's our County jurisdiction. Okay. So on the rates and fees, you
might want to look at that, Mr. Carroll?

COUNCILMEMBER CARROLL: I didn't realize we could, if you buy a Cadillac, you could charge them more than the guy buying a little Nissan or something.

CHAIR HOKAMA: That's how we do -- there's options for the Committee to consider, Mr. Carroll.

Thank you. Mr. Kawano.

COUNCILMEMBER KAWANO: Yeah, Mr. Chairman. I will support your recommendation that we don't raise it because of the fuel and because of islands like ours, yours and mine, the fuel. You can imagine what we're paying for gasoline compare even to Maui.

CHAIR HOKAMA: That's correct.

COUNCILMEMBER KAWANO: It's unreal. We're going get smash if we ever look at that. Thank you, Chairman.

CHAIR HOKAMA: We're at about $2.70 for regular unleaded on Lanai. Okay. Mr. Molina, any comments or questions?

COUNCILMEMBER MOLINA: Yes, I will support you on that. I think with gas prices anticipated fuel cost will go up for the Summer and guarantee next year, it's not going to go down very much if it does, and hopefully people will be more motivated to buy fuel efficient vehicles and let's look at other ways
of get generating revenue since, you know, I don't
think people would appreciate getting anymore taxes,
you know, increased and so forth. Thank you.

CHAIR HOKAMA: Thank you. Ms. Tavares, any
comments and questions?

COUNCILMEMBER TAVARES: Yeah. My comments have
nothing to do with the price of gas. My comments have
to do with I don't think we can justify a fuel tax
increase based on the savings and that area each year
and until we get to a point where we're spending down
to practically zero in any fiscal year, we should not
be talking about raising taxes, we should be talking
about lowering taxes. And also um, just as a point of
information, in Fiscal Year 2000 which was two years
ago, the estimate in the Mayor's budget for Fuel and
Franchise taxes was 10.6 million. The Council
adjusted that to increase it by about 300,000. The
actual revenue that came in that year was 11.7
million. So the under estimate if you want to look at
it that way was $1.1 million between the Mayor's
proposed budget and what was actually collected in
that fiscal year. So there already is built in a
pretty conservative approach to projecting taxes. So
I feel very comfortable that we do not need to raise
the taxes for those two reasons. Thank you.
CHAIR HOKAMA: Thank you for sharing that information and comments with us. Mr. Nishiki, anything?

COUNCILMEMBER NISHIKI: No.

CHAIR HOKAMA: Okay. Thank you. So we will not have a public hearing on discussions of Fuel Tax.

COUNCILMEMBER NISHIKI: I've actually cut down my consumption on gas too. I walk a lot these days.

COUNCILMEMBER TAVARES: He ups the consumption on the other end.

CHAIR HOKAMA: Thank you. Thank you very much. Mr. Kane. Thank you. Mr. Kawano.

COUNCILMEMBER TAVARES: Off the record.

COUNCILMEMBER KAWANO: No, no, no. I was going to say I believe what Wayne is saying because his van been parked there from yesterday. So he must be doing a lot of walking.

COUNCILMEMBER TAVARES: So he walked home last night.

COUNCILMEMBER ARAKAWA: He ran out of gas, Pat.

CHAIR HOKAMA: It is part of his contribution to the bubble up economy. Okay. Members, thank you very much. We will recess until 1:30 p.m. ...(gavel)...

RECESS: 12:01 p.m.

RECONVENE: 1:37 p.m.
CHAIR HOKAMA: ...(gavel)... The Committee on Budget and Finance will reconvene. At this time the Chair will allow public testimony to be presented to the Committee. Testimony will be limited to three minutes. First before us is Jim Smith. Thank you.

...BEGIN PUBLIC TESTIMONY...

MR. SMITH: Chairperson Hokama, Members of the Budget Committee. My name is Jim Smith. I'm a resident of Maui County and interested in these proceedings. Um, I just learned today that you would be taking up the Planning Department during this session, and I have some concerns regarding fees as they relate to intervening and as they relate to appeals of Director's decisions. A little background, I first became aware of the appeal process of Director's decisions in 1990, I believe it was '95 in which I sought to appeal the decision of a Director and at that time, there was no fee charged um, for, for a citizen appealing, and I really don't believe there should be a fee charged for the appeal of a Director's decision primarily because the only people who benefit from a successful appeal of the County of Maui because the standard for making the decision has to be that
there's been an error of law. So when there's an appeal of a Director's decision, really everyone gains both by the process and the conclusion because it firms up or doesn't. So no one should be charged for that. I was not charged at that time because the budget did not contain a specific fee for appeals, it did for variances. Okay. Following that the Director came straight to the Chair and sought to have a fee charged during the budget process, but it didn't make it. Finally, it did make it and it made it on the argument that it cost money to um, put an advertisement in the paper, and therefore, that money should be paid by the appellant. But to me the logic of an appeal of this nature is, is different from a variance, and that a variance someone can gain personal from, from success because it has to do with a personal issue. But always in an appeal it is the public interest that's validated. Subsequently the policy for identifying what fees are in the budget, I believe has moved off of what I think is a legitimate way. By legitimate I mean you have to specify a specific amount for a specific appeal primarily because of the identity of cost for that appeal, and what the budget did last year, was it put a sliding scale. In other words, there's a minimum of $300 for
an appeal. But it can go higher for a appeal of any kind. So that should -- I would ask this Committee to consider returning to the idea of a specific fee for a specific action. Secondly, the Department of Planning last year the Planning Commission adopted through the rule making process a fee for intervening. In other words, they went through the public notice and and acted upon and established a rule which in essence is a fee, and to me that is exclusively by our Charter the purview of the Council. The Council must decide on what the need is and whether or not there should be a fee, a charge for that and once it's decided it should set the schedule. But in this instance the Planning Commission which has no fiscal responsibility whatsoever with the, with the costing of the Department, then created a fee by a rule making process which in essence took a way from this Council that investigatory and I believe legislative mandate from our Charter. So to me the exclusive ability to make a fee, to establish a fee, has to retain and be and remain in the legislative branch, not in a department. And I understand the authority is taken from a State law that relates to SMAs but to me I think the over bear, overriding concern is to keep the Council in control of the fiscal management of our
County and this breaks that down and I don't believe that in this instance the rule making authority of the Planning Commission would supersede our legislative branch. So I would ask you to consider that, though the Planning Commission wishes to have a fee for intervenor participation in a matter that needs to be determined by you, and I testified against that, that establishment on the basis that it is your kuleana to judge whether or not there should in fact be a fee and not a commission which is a part of a department. One of the things that is interesting about the fee logic or the logic of a fee establishment is that you must gain personally in order to -- and because you gain personally from this permit, you then have to justify the expense of time. But something like intervening is not a personal gain. It always enhances the process. It always makes for a better decision by the Planning Commission because of the standards that are applied and you cannot specifically say that one person seeking this would cause any more or less expense than a corporation and to me that needs to be protected is this petitioning the government when one sees something that isn't right, and that in essence is what constitution provides. It is also what makes for a better process and to see that as an expense I
think distorts the logic of fee establishment. If you
read that bill or that rule, you'll find that there is
an enforced mediation. And it would seem that the fee
then would have to compensate for the payment of a
mediator but that's arbitrary and that's self
generating expense by the rule and it shouldn't be
used as a rationale for fees. So I asked that you do
this. One, you specify the fee for the service or for
the action in which a fee is charged and the amount
specifically rather than a set sliding scale and
second, that you not charge a fee for public interest
actions and specifically for decisions appealing the
decision of a Director for appeals that appeal the
decisions of a Director because they only relate to
the legalities and such and also intervening because
this to me are the, the avenues a citizen has that
should not be impeded because of money, and they're
difficult enough when one is serious about it. And I
do have experience as an intervenor in a Board of
Water Supply case which I successfully participated in
as well as an appeal of a Director's decision. And I
would ask you to protect my ability to take to task
erroneous or what I believe to be erroneous decisions
on matters that affect me as well as SMA intervenor
issues. To me these two areas need to be encouraged
1 and not discouraged. So I would ask you to look
carefully at that. Thank you very much.

CHAIR HOKAMA: Thank you, Mr. Smith.

Questions? Seeing none. Thank you very much, Jim.

Next is Mr. Barney Eiting.

MR. EITING: Good afternoon. My name is Barney
Eiting. I am here today on behalf of the Board of
Directors of the Kihei Community Association and also
as Chairman of the Association's Planning and
Development Committee. First of all, the Association
wishes to thank Budget and Finance Committee Chair
Riki Hokama and all of the Council Members who travel
to Kihei this past week to attentively listen with
great patience I might say to the individual concerns
of our community. Open meetings of this nature are
critically important to both the Council Members and
the community at large only if the relevant community
concerns are addressed in a timely manner through
effective action plans designed to solve the problems.

Our Kihei Community Association wishes to thank the
Maui County Council for the support we received over
the last 41 years since we were chartered as official
voice for the Kihei Community. In late 1998 and early
'99, our Planning and Development Committee realized
we must immediately begin to address and solve our
rapidly growing community problems before they overwhelmed us. The traditional role of the Planning and Development Committee was to review all SMA applications and submit recommendations to the Planning Commission for their consideration in this traditional review process. However, to become glaringly apparent this reactionary process was becoming part of the problem and did not address the future needs of the community. We needed to become proactive in pursuit of solutions, basically, through smart growth concepts. On March 10th of '99 the KCA wrote to Mayor Apana offering his Administration and opportunity to join with us in a partnering venture to begin developing a town plan, including Urban Design Guidelines and Open Space Master Planning for the Kihei-Makena area. The Mayor responded to our proposal on June 10th, 1999 with the grant from the County Planning Department in the amount of $25,000. These were funds already allocated for other Kihei Projects. On March 31st '99, we submitted our formal plan of action for developing the Town Plan Urban Design Guidelines and Open Space Plan to the Administration and the County Council. The detailed proposal outlines specific goals, objectives, procedures and the request for funding, and you'll
find these attachments -- I believe each of you have a packet on your desk. Um, on May -- and we did receive no funding on that particular year. On May 4th, 2000 we submitted a request for funds on a 2000, 2001 budget to continue our planning process. Once again, we received no funding. Three years ago the KCA sought the assistance of the Pacific Disaster Center, the National Aeronautic and Space Administration and the Maui High Performance Computing Center to gather extremely accurate GIS data to support our town planning endeavors, and I might say in there that Bill Medieros of the Planning Department was very instrumental in helping us collect much of the data, our GIS data. The State-of-the-Art highly technical, three dimensional modeling capability offered us by these entities have allowed us to continue our technical planning objectives; however, without necessary funding from the County, we are unable to continue, our thus far very successful community input and information exchange seminars so critical to the planning process. And we need an appropriation of $85,000 to continue our efforts towards the completion of the update of the Kihei-Makena town plan. And I might say that to the efforts or the funds that we need are to continue the community input process. We
I have the tools now and that was demonstrated a week ago in a demonstration by NASA and the PDC with some exciting concepts, and we're fortunate in Kihei that perhaps because of our proximity to the Computing Center and PDC, that we're one of very few communities in the United States that NASA is creating a model for us so that we can begin accurately making projections, not projections, I'm sorry. But various scenarios all the way from tidal waves to extreme flooding measures, the growth, the natural growth of the community. And we set up three different scenarios in there for growth based on the most current census data. So in conclusion, I really want to say we do thank this Council for its support in the past and look very much for your support in the future. Thank you.

CHAIR HOKAMA: Thank you, Barney. Questions for Barney? Seeing none. Thank you very much for --

Ms. Tavares, you had a question?

COUNCILMEMBER TAVARES: Barney, your budget or the request that you're asking for is um, 85,000, is that correct?

MR. EITING: That is correct.

COUNCILMEMBER TAVARES: And it is outlined in --

MR. EITING: You will find that on the second to the last page.
COUNCILMEMBER TAVARES: Second to the last page.

Where does that fit into what your proposal is, I guess it's page six that you start talking from the beginning? You start talking about the estimated schedule and costs and have you phase I, II, III, IV.

MR. EITING: This is a chronological --

COUNCILMEMBER TAVARES: Has any of that been completed already?

MR. EITING: Well, I'm sorry, the -- and SMA let me clarify that -- what I meant to reference was through 37 years or so the Planning and Development Committee of the Kihei Community Association was specific to addressing SMA applications as we currently still do, and then, scheduling community meetings where various developments and so forth can be brought before the community; is then taken to our Board of Directors. They summarize what our Planning and Development Committee's comments are along with comments from the community, and that then is submitted to the Planning Commission or the Planning Department for review or, you know, our opinion as to the development. Um, three years ago, we through the grant from Mayor Apana were able to begin developing as in accord with the Community Plan Update Design Guidelines and Open Space Master Planning and we used
those funds, judiciously over the last two years and but we come to a halt. And one of the most important tools that we have is getting community input and these two specific North Kihei seminars were very, very instrumental in us helping to understand what the community needs are of that area and to a specific point it related to North Kihei as it relates to North Kihei or South Kihei Road at that end. It is very clear that the community in that instance wants to preserve the dunes and beaches and protect access to the shoreline and so forth as opposed to a multi-lane highway structure. And we are currently working. The Mayor did suspend that project. We are currently working with the Planning Department in really redesigning what the needs are of the community. So if I -- I hope I'm responding to your questions in the sense what we really need to get back on track again is with our community input seminars, and a classic example is what we call and we're trying to schedule our next seminar, the Piikea corridor. For those of you who may not be very familiar with the streets, Piikea is the new street, it was old Road C that comes from Piilani Highway headed makai towards the end of Azeka Place. We look at that corridor as being comprehensive from the Piilani Shopping Center South
to Lipoa Street, and then, heading Makai so that it includes the community center the Haggai Institute um, on down Lipoa Street, on to Lipoa Street down to South Kihei Road. Much of that is still undeveloped. We see a wonderful opportunity to create a beautiful entrance into Kihei but that is, is functional as well as esthetic in nature, and I recently had a meeting yesterday with the principals that have now purchased Azeka and the Kihei Professional Building. We scheduled a meeting for the 30th of this month. They're going to bring all their principals, architects and so forth from Oahu to help us in planning a more pedestrian friendly, opening paths for pedestrians and bicycles and so forth. And for those of you who may have familiarity with the area a good example of what happens. People may be in Lipoa Shopping Center doing laundry. If they wanted to go to Longs which is just a few steps away really, they have to go back out on to Lipoa, down to South Kihei Road, down South Kihei Road, pull back into Longs and yet there is ample room to build pedestrian access so that you can walk your bicycle or whatever without having to further congest the highway. So we really need to have additional funds so that we can continue our planning process for smart growth concepts.
COUNCILMEMBER TAVARES: Well, I guess, Barney, what my question really is getting at is, where does this $85,000 fit in your estimated schedule and cost that's noted on page six where you talk about the different phases? You have Phase I through IV and you have a sign, completion times of months, three months eight months, four months, four months. And I -- I'm just trying to figure out where does this fit into your overall --

MR. BITING: I see, okay.

COUNCILMEMBER TAVARES: -- yeah cost. Where are you at as far as, are you at Phase I or --

MR. BITING: Well, what we've done, we had to dip because of lack of adequate funding, we had to dip in to several of those areas. But what we're really needing the funds for now, for instance, in Phase I, we have a completed the orthophotography, computer scans, digital overlays and things of that nature. We have um, been able to conduct two workshops. So we took some out of Section II um. We had not been able -- well, obviously some public announcements and things. We've taken some from professional and consultant fees and we've taken some out of Phase IV which are, you know, public announcements and so forth. But where our real need is -- and I think
that's outlined in, excuse me.

COUNCILMEMBER TAVARES: So it's not specifically
to address any one phase, it's parts of all of these
phases?

MR. EITING: Right. What we've done, we really
needed 190,000 but it's not very practical in this
year of austerity that we're going to get everything
we ask for. So what we are trying to do was to
consolidate those needs and we figure that the $85,000
which was requested from last year would be adequate
for our needs in this coming fiscal year. Um, the
Professional consultant fees are a big portion of what
that is, and I think most of you are familiar with our
consultant who is Harrison Bright Rue. He's a nicely
recognized town planner and we're extremely fortunate
to have been able to retain Harrison. He's just
published the National Publication, Real Towns which
is I know in the hands of the Planning Department,
some of you may have that already and it's a real
effective tool and in helping to explain during our
seminars to the people exactly what smart growth is
and how we can employ those that methodology to
accommodate the needs of our vastly growing community.

COUNCILMEMBER TAVARES: Thank you, Barney.

MR. EITING: You're very welcome. Thank you.
COUNCILMEMBER KANE (TEMPORARY CHAIR): Any other questions for Mr. Eiting? Mr. Arakawa.

COUNCILMEMBER ARAKAWA: Barney, when we if we were to give you the $85,000 um, I was fortunate enough to be at your last presentation and there were a lot of um, a lot of things you've already done with the project your able to, to be able to plan communities out, but there's a lot of equipment that you needed or a lot of software that you need to develop to do the projections. To what point do you think that $85,000 will be able to get you to advance in how we're doing the actual planning?

MR. EITING: Actually, we're very fortunate as I said at the beginning to have access to NASA and PDC. In terms of the technical information that's needed, they have come forward and are spending a significant amount of money in pursuit of some of their own activities that interrelate to what we need in the community. Directly in response to your question, Alan, the um, we will use -- we'll need some additional money. For instance we do the processing of our information through the Maui High Performance Computing Center. Now, we're able to utilize the facility but the computer specialist and so forth, we're required to pay their time and so forth. So some
of that money goes into consulting time, towards the
achievement of the technical data that we demonstrated
at that meeting that you attended.

COUNCILMEMBER ARAKAWA: Well, real bottom line
is what I'm asking is, if we're putting $85,000, what
are we getting for our $85,000 and what is the end
product that we can really use?

MR. EITING: We're hoping to achieve the end
product that was originally designed to cost 190,000
and much of that cost, originally, and that's what
detailed I think in the um, document that Charmaine
was referencing. This was the original proposal and
on the page beginning -- on well, on page six,
beginning on page six. We detailed all of the the
things that we needed to accomplish in order to
develop our guidelines um, but much of that was
related to consultant cost of a highly technical
nature that has since, Alan, been supplemented. That
would be I think on your -- I'm sorry, that it'd be
like the fourth or fifth piece of paper in that
folder. I penciled in the date 4/24/99. It's
Kihei-Makena Community Plan Implementing Actions for a
Town Plan Urban Design Guidelines and Open Space Plan.
And on the this page six of that, that's where we
detail $190,000 that would be required to do that. 85
-- if you'll look at the second to the last sheet there. We talk about the community meetings. The, what we really need is a place to assemble all of, to keep all of our documents and so forth and we're looking for a rental place so that -- through the last three years we've accumulated a significant amount of data and we need to catalog that. We have very small offices in KCA. The working resources and materials development and equipment is some additional things we need for presentation to -- at the various seminars and then the biggest part of that is professional and consultant fees, and those -- that amount of money should accommodate what our objectives are for this next year. I don't -- unless you have some specific thing, I don't know what you may be searching for.

COUNCILMEMBER ARAKAWA: Well, basically, what I'm searching for, Barney, as an explanation is by putting this money in, the return of the community we're actually getting some NASA professionals that, for instance, -- they're top in the nation, they only do a very few community projects like this. We're getting their expertise to be able to develop the community plan process and the software for that community plan process to take us where we need to go to do projections with that community plan and to be
able to actually try and see how various components within our community such as water, such as highways, such as different projects with run off, power all would come into play within the community planning process. So that if we do this in say $85,000, we're actually getting million of dollars worth of benefits from it that we otherwise would have to pay for.

That's sort of what I'm trying to get from you.

MR. EITING: Okay. I'm sorry, yes. Yes, indeed that's absolutely true and we're -- as I say within the Planning Department, we have had wonderful cooperation. Bill Medeiros has, of course, through the years become quite expert in things like GIS. What we have been able to do is further refine the GIS information specific to the South Maui area, and by the way just as an aside to that, I had some recent discussions with Makena-Wailea, the two Maui Meadows Organization, ourselves, of course, and Maalaea informing the Alliance of Associations to better address um, all of the needs of South Maui and it looks like that's going to come to pass. We've had a couple of joint meetings and we're developing a better, better communication between the people of that comprise South Maui. Once again, thank you very much. I really appreciate the opportunity to come
before you.

COUNCILMEMBER ARAKAWA: Thanks, Barney.

CHAIR HOKAMA: Thank you, Mr. Eiting. Next we have Michelle Anderson. And this is the last of the testifiers this afternoon, Members.

MS. ANDERSON: I'm sure you're happy to hear that. Good afternoon, Members, my name is Michelle Anderson. I'm testifying on my own behalf today. Um, actually I'm testifying on behalf of the general public. Um, you have before you a request from the Planning Department to authorize a fee of $500 for intervention at the Planning Commission Level on a Special Management Area Permit. Currently, there is no charge for this fee. Um, in the last three years I've spent a lot of time at the Planning Commission tracking their job and various permits. And I have found in the last three years that there's really only been maybe two or three permits that came before the Planning Commission that did not get the recommendation of the Planning Department. So therefore, when the Planning Commissioners start off looking at a project, they start off with the intent that this project has the approval already of the Planning Department. Now um, the Special Management Area Permit Process, is a public process. It's
mandated by the Coastal Zone Management Act to be a Public Process. The public is supposed to be part of it and when a permit is issued and a public hearing or rather when an agenda item is scheduled, the public gets 40 days notice at the most that a permit is about to be issued. So if you're within 500 feet of a proposed project, you only get 40 days notice that this project is even going to happen. And the project has been with the Planning Department for months already. So the developer whose promoting the project, he's had the time of a planner whose devoted to this in the Planning Department, the expertise of the Planning Department as a whole to help them comply with the application requirements um, and they work with the applicant to be in compliance so that can get recommendation for approval. Um, and that it isn't until right before they go to a public hearing that the public even gets notification that this project is on line and it's coming up for permit approval. So then the public has an opportunity to come and testify in front of the Planning Commission, but they only get three minutes. So if they have great concerns about this, it's very difficult to get your concerns across in three minutes. So the only recourse they have to stop the project from getting approval that day is to
intervene and if it cost them $500 to intervene, to me
you're just shutting the public out of the process
that much more by, you know, if you want more than
three minutes, it's going to cost you $500 and then if
you can't get a settlement with the developer and come
to some agreement um, that addresses your concerns,
then have you to hire an attorney and go to a
contested case hearing. And that's going to cost
anywhere from $50,000 up if you have to go to circuit
court for a final relief. Um, the Planning Department
in a contested case hearing, they're going to incur
charges, they're going to have to pay for a hearing
officer unless they get a Planning Commissioner to
play that role. A hearing officer can cost anywhere
from 10 to $30,000, and then they got the cost of
transcripts which is usually around 10 grand. So it
really would be to everyone's best interest rather
than cut the public out find a way to include the
public in a more open way, and I know there's ways you
can do it. I understand the department um, they're
trying to make sure that only people who are really
serious intervene. So you have to have $500 on the
table to show that you're really serious about your
concerns. But the $500 isn't going to really off set
the cost of an intervention or a contested case. It's
really manini compared to what a full contested case hearing would cost. So I would hope that um, you would not issue this fee, not approve this fee. To me it's just cutting the public out and making it more difficult for the public to participate. A lot of times what happens is, is when an intervention is filed, it's settled because it forces the developer to come to the table and discuss the issue with the concern party and many times it is just the matter of further disclosure get more information out on actually what's happening. When this came up in front of the Planning Commission, I testified um, a couple of other people testified. Isaac Hall came and um, testified and gave a letter to the Commission which I would like to pass on to you for your um, information because he brings up some really good points too. That's about it. Thank you.

CHAIR HOKAMA: Mr. Kane.

COUNCILMEMBER KANE: Just a reference point in our --

CHAIR HOKAMA: You need to look in your Budget Ordinance on page 36.

COUNCILMEMBER KANE: Okay. I'm there.

CHAIR HOKAMA: On the bottom.

COUNCILMEMBER KANE: Amendments to Planning

IWADO COURT REPORTERS, INC.

CHAIR HOKAMA: I think she's more concerned about the Special Management Area Appeals.

COUNCILMEMBER KANE: So, Michelle, is it 500 or $300? 'Cause I hear you're saying $500, and yet Special Management Appeals is a $300 filing fee. Which one are you referring? I'm just trying to get clarity on what you're trying to --

MS. ANDERSON: I thought it was settled at 500.

The Planning Commission Minutes I have where they discuss this, they were discussing it at 500. Maybe they changed it.

COUNCILMEMBER KANE: We'll get the clarification.

MS. ANDERSON: But whatever the fee is, I don't think there should be a fee for the public to get more than three minutes involvement in the public process. That's basically my point.

COUNCILMEMBER KANE: Thank you. Thank you.

CHAIR HOKAMA: Thank you. Any other questions for Ms. Anderson? Seeing none. Thank you very much, Michelle.

CHAIR HOKAMA: Okay. Members, that's all we have for testimony that had signed up this afternoon. So the Chair will be closing the testimony portion of
our Committee Meeting.

...END OF PUBLIC TESTIMONY...

DEPARTMENT OF PLANNING

CHAIR HOKAMA: Let us move on to the continuation of the follow-up and any additional comments or questions for the Planning Department? This afternoon, we have both the Director Mr. John Min and Deputy Director Mr. Clayton Yoshida present. Budget Director, any opening comments for the afternoon session, please?

MS. YOSHIMURA: Um, no, no opening comments.

CHAIR HOKAMA: Okay. Before I start with the Planning Director. At the end of the morning session when we had a really short discussion regarding the fuel tax, one of the areas that I did mention about where the County could go was regarding the registration that was brought up by various Members -- Mr. Kane, Ms. Tavares. I would like to have the Budget Director explain some of the things regarding the check you write to the County Finance Department when you register your vehicle every year. Finance Director. Excuse me, Budget Director Yoshimura.
MS. YOSHIMURA: When you register your vehicles, of the amount that is collected $2 goes for the Highway Beautification Fund, and that's for um, that's in a special account. $6 -- if you refer to page 16 and 17 of the Budget Ordinance and the Rates and Fees Section, sorry. At the top of page 17 um, second item down 3262 Fees, Registration of Motor Vehicles, that $6 stays in the County. In fact, all of these fees stay in the County. But each time you register a vehicle, you get um, charged $6 for the registration and that's in the General Fund. On page 37, you will see the Highway Beautification Fund and that would be $2 for each new and duplicate certificate and on -- sorry I should have gone to page 24 first. Page 24, will give you the County Weight Tax and that amount goes to the Highway Fund. Now, the County collects the total amount of the vehicle registration and part of it is um, State Weight Tax Fees. Now, before the County submits um, payment to the State, we send a proposal and um, you'll see in the budget there's a State Registration Grant, Vehicle Registration. A proposal is sent to the State to fund the four positions or five positions, the cost of operating the program and any type of equipment. The State approves the proposal, and then um, the County would submit a
check to the State um, with a reduction of that amount. Okay. So when we send in our State Weight Tax Amount, it's reduced by the amount of the State Vehicle Registration Office for five positions.

CHAIR HOKAMA: Are you done, Director Yoshimura?

MS. YOSHIMURA: Yeah, if anybody has any questions?

CHAIR HOKAMA: Ms. Tavares.

COUNCILMEMBER TAVARES: Yeah. Thank you for getting that information on such short notice, Michele. Um, also to kind of review with the Members on that Highway Beautification Fee that $2 is -- what it is now, the State authorization is $5. So we could raise it up to $5 as of I think of last legislative session. The Highway Beautification Fund is also an area based on last year's legislation that can be used for the carcass removal on the highways for the Humane Society and for Community Work Day highways beautification projects. So these are two areas that we saw as sources of funding for those two groups. So if we can keep that in mind and if we want to look at something else that that's one area that we could raise the fees, you know, upwards to $5 which is authorized by the State.
CHAIR HOKAMA: Thank you.

COUNCILMEMBER KANE: Mr. Chair.

CHAIR HOKAMA: Mr. Kane.

COUNCILMEMBER KANE: I can't recall a discussion in this area and may be Ms. Tavares or any other, the other Members that were here last time or Budget Director. On the reasoning behind going $1 for the U-drives and then $2 for all other vehicles, can anybody recall that? Just to understand why we ended up at $1 when we could have gone up to five. Just, just kind a point of inquiry I guess.

CHAIR HOKAMA: Ms. Tavares, do you remember?

Because I, I know you had --

COUNCILMEMBER KANE: I recall, Mr. Chair, we did have a discussion on this and I'm just trying to recall what reason we came up with.

CHAIR HOKAMA: Last term we did and I'm not too sure if $2 was the max we could go, so we ended up $2, or it was always five?

COUNCILMEMBER TAVARES: Yeah. $2. No $2 was the max at the time we were discussing it last year, and there was a bill in front of the legislature at the time that passed after we were here. I guess the feeling was that we didn't want to -- 'cause we talked about the $1 for the car rental thing and that we said
that most of the litterers on our highways are not the tourist. I mean sorry to say, but I guess we didn't want to really get in to that particular time.

COUNCILMEMBER KANE: Thank you.

COUNCILMEMBER TAVARES: Yeah. I think that was it.

CHAIR HOKAMA: Thank you for that clarification.

COUNCILMEMBER KANE: We'll enter into new discussions this time around I'm sure.

COUNCILMEMBER TAVARES: Yeah.

CHAIR HOKAMA: Well, there's another opportunity to adjust it. Pardon me?

COUNCILMEMBER ARAKAWA: Did Terryl say $5?

CHAIR HOKAMA: Ms. Tavares said $5.

COUNCILMEMBER ARAKAWA: Oh, it wasn't Terryl?

CHAIR HOKAMA: No. She's an expert in some areas but not in every area. Okay. Any other questions for the Budget Director regarding this specific Motor Vehicle Registration area? If not thank you again, Michele, for that very quick response on our -- on the Chair's request. Much appreciated. Okay. Members, may I turn your direction to the Planning Department areas, and of course, I would like to deal with the Operational and Expansion Request and then go into the Rates and Fees portion. So, Planning Director Min, if
you could address the Operational and Expansional
areas first, and I don't know if you have anything
prepared or you prefer the Committee to ask, just ask
questions for comments?

MR. MIN: Thank you, Mr. Chairman. I believe at
our last meeting I went over the specific expansion
request. I'd be happy to answer any questions or if
you want me to review it again, I could do that.

CHAIR HOKAMA: Okay. What I prefer we do first
then since that's your opening comments unless Deputy
Director, do you have any comments you'd like to add
to this Committee's discussion at this time? Okay.

Thank you. Um, Members, may I refer you to the April
4, 2001 response from the Director of Planning to
Budget Committee's request, designated PL-01. And
let's go to the first question that was asked by Mr.
Arakawa.

COUNCILMEMBER ARAKAWA: Hold on, I'm trying to
find it.

CHAIR HOKAMA: Okay. We'll wait for you,
Mr. Arakawa. And Members, you know, I feel that as we
continue to proceed, I would like to go through the
responses that were worked on hard by the Department,
given to us in written response, that we at least go
through those to see if there are any questions
regarding the responses provided by the departments.

Mr. Arakawa.

COUNCILMEMBER ARAKAWA: Why don't you pass me
for now until I find it?

CHAIR HOKAMA: Okay. Thank you. Again, Members,
it is the April 4 transmittal from the Planning
Department. Okay. Let's go to question number 2 then,
that was asked by Member Molina.

COUNCILMEMBER MOLINA: Thank you, Mr. Chair.
John, you mentioned in your response the last line is
the Department is currently in the process of
developing a detailed works program for the General
Plan Update. When do you think you'll be complete
with this?

MR. MIN: Yeah um, that's interesting you ask me
that question. In fact, I was just reviewing a draft
this morning um. So we're trying to get that together.
I have a first draft that we're looking at. We need
to do some additional work on it, but we are working
on it.

COUNCILMEMBER MOLINA: What kind of additional
work are you looking at?

MR. MIN: Well, there's some aspects about the
program that I need to, I need to kind of consult with
a few other people before we begin to pin it down.
But we do have something, we do have a program outlined, we have a tentative program um, and we have a tentative time table um, but it's very preliminary at this point in time, and like I said I just got it this morning and um, reviewed it with our staff Darren Suzuki. And I will need to have a little bit more time to work with him to try to get it to um, you know, to a point where we're more comfortable with it.

COUNCILMEMBER MOLINA: All right. Thank you.

CHAIR HOKAMA: Okay. Any other Member has a question regarding question two and the response provided by the Department? Ms. Tavares.

COUNCILMEMBER TAVARES: Yeah. Mr. Chairman, on the response for that question um, the RFP is being worked on as part of that?

MR. MIN: Yes it is. The RFP has been advertised for a consultant to, for the update of our socio economic forecast and I believe we um, the deadline we have set is May 8th for submittal of proposals.

COUNCILMEMBER TAVARES: Mr. Chairman. To also I don't know if -- in your, you know, you have the socio economic forecast. Are you planning to do any, have anybody do any gathering of information regarding perhaps um, may be national guidelines on things such as parks and sewer facilities? Things that are not
the just the resident population and employment?

Other kinds of facilities may be looking at a
countywide, they'll have um, different places. I
guess because I'm most familiar with parks I know that
um, there's a guideline for parks put out by the
National Park, Recreation and Park Association (NRPA)
that sort of gives some guidelines like about how many
tennis courts you should have per thousand population,
swimming pools, baseball fields, etcetera, etcetera.
Um, are you planing to have any of that done? I think
you had (inaudible) told do that the last round. And
would that be included, things like that included in
this?

MR. MIN: That won't be included in the socio
economic forecast. But what we were looking at for
the next fiscal year um, next fiscal year is to um,
update our Public Facilities and Public Infrastructure
Assessment, and part of that is to look at those kinds
of standards to determine what the future needs are.
COUNCILMEMBER TAVARES: So that's part of the
technical studies?

MR. MIN: That's correct.

COUNCILMEMBER TAVARES: Okay.

MR. MIN: That's correct.

COUNCILMEMBER TAVARES: And that will be in time
for the General Plan, CAC or whatever they're using?

MR. MIN: Well, we'll probably get our public
involvement program off sooner than that study will be
completed. But I think, you know, we'd like to have it
available during that process and that's part of our
request in this current, in this proposed budget.

COUNCILMEMBER TAVARES: Are you also including
anything along the lines of smart growth initiatives
in the General Plan Process?

MR. MIN: We haven't looked at any of the
specific content issues or um, substantive issues of
the program. Right now, we're just trying to look at
developing a program, a time table. As far as the
specifics, those need to worked out.

COUNCILMEMBER TAVARES: Okay. Thank you,
Mr. Chair.

CHAIR HOKAMA: Okay. Thank you very much. Any
other Member has a question regarding number two of
the response from Planning Department? Mr. Kane.

COUNCILMEMBER KANE: And I don't know if it's
directly related to this. I guess we're hearing the
new or not new, but the it's most recent buzz term
"smart growth." Mr. Min, has the Department adopted
or are looking at developing what guidelines we're
going to follow for smart growth because I think
there's a lot of people out there who have different versions of what smart growth means. Are you in any type of position today or are you looking at developing or adopting any type of parameters or guidelines or standards for what smart growth stands for -- to us here in in Maui County versus other places as an example?

MR. MIN: I think that's one of the issues that, you know, we will be looking at in terms of the General Plan update, and I think the question that you raised what is "smart growth" is really the question.

COUNCILMEMBER KANE: Yeah. I mean really it is. Anyway I just -- only because I hear different people, you know, Mr. Eiting use the term earlier in his presentation and in the past, you know, from the National Governors Association having their understanding of it um, various environmental groups have there their understanding of what it is. So it's like what are we looking at? Are we all on the same page and we're talking -- you know, when people come up and testify "smart growth." What is "smart growth"? What does that mean? Thank you.

CHAIR HOKAMA: Thank you, Mr. Kane. I can tell you I think both you and I learned from our NACO Conference a couple months ago. Smart growth goes
from no growth to a strictly enforced controlled
growth and again, you know, there's a big per --
spectrum of what smart growth covers depending on what
region of the country you're from. Um, people in
Florida, and people in Hawaii have I can tell you have
two different ideas about smart growth. So that might
be something for all the Members. And again to make
my plug for NACO, next month in May the budget
schedule has made it so that if you wish to attend the
Western Interstate Region Conference in Kona, I
believe the whole Saturday is dedicated under the NACO
President's Smart Growth forum. So you might be
interested in hearing from what your colleagues from
around the country considers smart growth to be in
what areas we may have consensus in. So I would
recommend if you are interested to um, make the
attempt to attend that in our Western Region
Conference. Mr. Arakawa.

COUNCILMEMBER ARAKAWA: Thank you, Mr. Chairman.

Um, this area is something that I've always been very
interested in and in your projected um, answer, it
answered both my question, number one and number two
it sort of combined. In your Department in every
Community Plan that we've passed so far, you know,
we've asked for a whole series of different plans like
the Highway Plans, what are you planing to do for drainage how are you planing to handle storms, um, water. In your projections in what you're going to be doing um, this year, how are you planing to address those kinds of concerns within the planning process? In other words when we go out to communities, you know, members in the community, community after community has said well you're not doing any planning. All you're doing is taking a developer request and you're processing, and I'd like to be able to understand exactly how the planning process in of itself where you're not reacting to request but rather you're directing requests, how the Department is going to be taking that view? How are you going to react to that?

MR. MIN: Well, first of all one of the recommendations that I think are found in most community plans is to um, revise our regulations to implement policy in the community plan and one of the as you know in terms of Title 19. The Comprehensive Zoning Ordinance, you know, we are preparing amendments or not amendments, but for example a bill to establish an open space district. That directly relates to policies in every community plan that we have. Um, so that we are gearing up that, that
effort. Um, other code um, regulations, service business residential and other types of uses that are identified in the community plan, we're working to try to establish those districts so we have applicable regulations. Um, in terms of, you know, special studies um, depending on the specifics of the community plan, some of the drainage, highway and those types of functional plans, we don't get directly involved in. That may be part of, you know, Public Works or some other agencies. But to answer your question, you know, in terms of program um, you know, our focus this year is trying to amend some of our regulations to implement the Land Use policies in the Community Plan. Secondly, in terms of our request directly related to um, the Community Plan and General Planning Program um, and so that's kind of my general answer.

COUNCILMEMBER ARAKAWA: Just so that I'm clear in understanding, the basic policy for the Department this year or the program this year is to try and create the implementation of the zoning districts and you're going to be putting your manpower and funding, well staff um, to be able to do that is one of your primary areas?

MR. MIN: That's one of our priorities for this
COUNCILMEMBER ARAKAWA: Okay. And then the overall, the planning process, we're going to be going into -- I guess Councilmember Tavares and the Planning Committee is going to be going to try to create the General Plan, well the start of the General Plan. So that is also going to be part of the major budgeting process --.

MR. MIN: That's correct.

COUNCILMEMBER ARAKAWA: -- and manpower?

MR. MIN: Yes.

COUNCILMEMBER ARAKAWA: So those are the big pushers that the Department is going through?

MR. MIN: Yes.

COUNCILMEMBER ARAKAWA: Okay. Any other area that I'm missing that you guys are going to be putting a lot of emphasis behind?

MR. MIN: Well, you know, some of the other projects that we're working on are the Small Town Code for Wailuku, and that's the follow-up of the adoption of the Wailuku Redevelopment Plan by the Council. So that's another project that we're working on. We have some other rules and regulations that we're um, working with the Planning Commission to um, revise specifically shorelines, the shoreline setback rules
um. We're finishing up the Upcountry Green Way Master Plan Project which we started last year um. Let's see.

CHAIR HOKAMA: You have your Open Space Ordinance ready, Mr. Min?

MR. MIN: Um, yeah. We are working on that where um, we'll be setting up a technical Committee to assist in that effort and also to be conducting some workshops with the Planning Commission before we send it up. We have to work that bill through three Planning Commissions so and given the nature of the bill, it's probably a very difficult bill just given the nature of an Open Space Bill. We want to spend um, a lot of time, you know, getting public input and putting together something that um, has gone through a process.

COUNCILMEMBER ARAKAWA: Okay. Thank you very much. At least now it is very clear in my mind what the general basic programs are for the department and how it correlates to the Planning Process. Thank you.

CHAIR HOKAMA: Thank you, Mr. Arakawa. Members, any other questions regarding the response?

Mr. Kawano.

COUNCILMEMBER KAWANO: John, when you talk about working with the three Planning Commissions, how are you plan to schedule that?
MR. MIN: We have had two preliminary workshops with the Maui and Lanai Planning Commission. We're going to also be doing with the Molokai Planning Commission at the end of this month. Um, based upon the input and discussion we get, we're going to put together a draft um, a bill, and we'll be working with a committee, technical committee to get some technical input on this, and then, we'll go back to the Planning Commissions, have another round of workshops. And when the Planning Commissions had a chance to um, you know, provide preliminary comments, we'll take that and put together a bill which we'll put out for public hearing.

COUNCILMEMBER KAWANO: Thank you, John.

CHAIR HOKAMA: Thank you very much.

COUNCILMEMBER KAWANO: Thank you, Chairman.

CHAIR HOKAMA: Members, any other questions regarding the responses of questions asked by the Committee?

COUNCILMEMBER KANE: Mr. Chair.

CHAIR HOKAMA: Yes, Mr. Kane.

COUNCILMEMBER KANE: Did Charmaine do the number three already? I'm sorry if I missed it. You already?

COUNCILMEMBER TAVARES: No, I didn't go yet.

COUNCILMEMBER KANE: Oh, okay 'cause I heard you
CHAIR HOKAMA: No, no, we --

COUNCILMEMBER KANE: You're talking about number two?

CHAIR HOKAMA: Yeah. Question number two, and then, Mr. Arakawa kind of touched between one end too. So now we'll go to number three. Then, after we do three the Chair has a psychic feeling that there is an intense need for a short break so. Ms. Tavares.

COUNCILMEMBER TAVARES: Before the stuff melts. Yeah. On number three about and Mr. Kawano kind of touched on this already on the training for new and continuing members of the commission and um, I think as you have been with us through some of the meetings realize what kind of concerns we have and some of the, I think, concerns even from the Planning Commissioners that they need more information up front as to what their role is in the whole process. I appreciate that you're covering the things that you are and especially in public meeting laws and ethics and community plans, zoning, etcetera. Hopefully, the commissioners are really well versed in these areas so they don't feel that they're at a disadvantage when they have to come up to um, public criticism. So thank you.

CHAIR HOKAMA: Thank you, Members. Mr. Kane.

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COUNCILMEMBER KANE: Yeah, Mr. Min, are you going to take into consideration the four specific examples before Charmaine wrote etcetera in question number three? Because I notice the example she gave, and then, what basics that you talked about as far as ethics, public meeting, law, community planning, zoning, etcetera are two different sets of examples.

MR. MIN: Yeah. Um, our approach with workshops with the Planning Commission is we, you know, we provide them a basic overview of, you know, the public meeting law and ethics and we go over some Corporation Counsel opinions that may have a bearing on their decisions, you know, that sort of orientation. We also discuss generally the planning process, you know, what is a community plan? What is zoning? In addition to that, um, if the Commission feels there are specific areas of interest that they would like other workshops on, we do program that. Let me give you an example, we recently in fact this week we had a meeting on the Maui Planning Commission and there were several areas of interest for that commission. One was they wanted to have a workshop with a traffic consultant to get an understanding of the methodology involved in putting a traffic study together. They want a better understanding of what's
in these studies. Okay. So we're in the process of working with Public Works Department to set up that workshop. Another area they're interested in is the plans of the Water Department, and so we will be scheduling a work shop to include the Water Department to go over their Water Use and Development Plans and their Capital Improvement Programs and Projects for the commission. Um, so what we try to do is respond to areas of interest for the Commission. Another area that they're interested in is parking standards. Um, there's a sense among some of the commissioners that may be some of our parking standards may not be adequate. So they asked us to um, provide them some information on that and we will be putting together sort of a comparative analysis of parking standards of Maui County and other comparable jurisdictions to kind of get some discussion going on that. So our approach is really to kind of flow with the commission and what they're interested in and we're more than happy to set up workshops on any matter that is of interest to them. But those are the three things that have came up just as we -- and we will be working on with them on future workshops.

COUNCILMEMBER KANE: Thank you, Mr. Min. Thank you, Mr. Chair.
CHAIR HOKAMA: Thank you. Mr. Carroll.

COUNCILMEMBER CARROLL: Thank you, Chair. John, as you know, I was always a proponent of the workshops and we had many lunch hours and all that, and I think it was a real benefit to all of us on the commission. One of the things that we never really got into through that I'd like to see done is review of the Planning Commission rules by the Commissioners. Often we came across things that we thought should be done differently, rules that were written up that weren't really appropriate now. But getting into specifics, I don't want to do that now. But the thing is I would hope that you could have workshops to where you specifically looked at the rules that the Planning Commissions operates under and have the Commissioners review that, and I think that there could be changes made that would make it fairer more user friendly and better for the public and the Planning Department and the Commission, and I was hoping that we could pursue that.

CHAIR HOKAMA: Mr. Min, any comments or are you going to take that under advisement?

MR. MIN: Yeah. I'll take that under advisement and I, you know, may be we can chat about it some of the specific areas. We had some discussions with the
Commission on particular sections of their rules um. One is the three strikes and you're out rule, but you know, there may be other areas that may be we should take a look at and discuss.

COUNCILMEMBER CARROLL: Yeah. I don't want to get into that right now. I don't think that's appropriate at this time. But it does need to be pursued. I think we both agree and I would like to follow-up on that.

CHAIR HOKAMA: Thank you, Mr. Carroll.

Ms. Tavares.

COUNCILMEMBER TAVARES: Yeah. I was going to ask Mr. Min if um, if any of us are interested, if we sent you a list of the things that we think the Planning Commission should have workshops on and you guys can review that and may be that becomes part of their handbook or something, you know, from the end of we get the projects after the Planning Commission has looked at it and then we ask questions and we're not sure if those questions were raised at the Planning Commission unless we read the minutes of the meeting or unless your planner tell us that it was. So I think some of us have a feel for what kinds of things that we thought the Planning Commission -- Commissioners should be aware of as they're looking at projects, and
if we could send you a list and you can consider it, I think that would help.

MR. MIN: Yeah. That's a good suggestion.

We'll be happy to look at that.

COUNCILMEMBER TAVARES: Thanks.

CHAIR HOKAMA: Okay. Thank you. Yes, Mr. Carroll.

COUNCILMEMBER CARROLL: Just an announcement that the Administration brought down ice cream that is melting over there, if any of the other Commissioners are going to have anything.

COUNCILMEMBER KANE: Council members.

COUNCILMEMBER CARROLL: Excuse me. We're talking about so many commissioners that we demoted or promoted everybody over here how you want to look at it. If the other Council Members or the staff are going to have ice cream, if they don't want to drink it, I think they'd better proceed to the front and pick up their ice cream. Thank you.

CHAIR HOKAMA: Well, the Chair had used that as a way of controlling discussion. Recess, 10 minutes... (gavel)...

RECESS: 2:44 p.m.

RECONVENE: 3:01 p.m.

CHAIR HOKAMA: ... (gavel) ... The Budget and
Finance Committee will reconvene and I noticed you're all energized and focused for a potentially long afternoon. But the Chair is adaptable. Okay. Before we restart just to let you know to make adjustments for Monday, Members, again 9:00 I'm hoping to bring Managing Director. If we are able to conclude Civil Defense at eleven, and if we're able to wrap that portion up, Members, I would like to bring back the Parks Director at 1:30 to discuss Rates and Fees which also includes Community Centers. So that's tentatively what we are scheduling and we'll see how much we can get accomplished. But I do know that some Members would like to talk about the Parks and Recreation Rates and Fees which I think deserves some discussion before deliberations and decision making.

Yes, Mr. Arakawa.

COUNCILMEMBER ARAKAWA: I thought we opted not to bring Civil Defense back?

CHAIR HOKAMA: There is some questions for the department. So we're going to ask them -- and that's right now we had them for 11. Hopefully, we are able to do it in an hour.

COUNCILMEMBER ARAKAWA: An hour?

CHAIR HOKAMA: Yeah -- so cause just to let, you know, Mr. Arakawa, and we understand your absence, was
part the-- we had entered as part of the discussion regarding the water safety or life guard situation and how like on Oahu when they close the North Shore Beaches, Civil Defense makes the decision and it takes away from the lifeguard on the beach, that Civil Defense comes and makes -- and it is one way they've address it on Oahu and it is part of discussion if we want to consider um, that opportunity or option for this County. Okay. Members, let's get back to Department of Planning, please. And since this is Planning Department, the Chair is going to let Ms. Tavares as our subject matter Chair to start any questions or comments for the Department?

COUNCILMEMBER TAVARES: I actually had none, it was answered in my follow-up.

CHAIR HOKAMA: Thank you.

COUNCILMEMBER KAWANO: Um.

CHAIR HOKAMA: Yes, Mr. Kawano.

COUNCILMEMBER KAWANO: Thank you, Chairman.

Since we're not really put together yet, I'd like to ask, John, John, I know you're taking care of the commissions, the other commissions, but also I'm wondering what about your staff? When I attend the Molokai Planning Commission, I still see them passing on the mics and I say, you know, equipment wise and I
was wondering and I was hoping that, that you would
bring these guys over and I know over here that
they're pretty good as far as recording and all that
kind of stuff. But why when I see the commission and
that's such an important commission, I mean all
commissions are important, but when I'm seeing them
passing mics and I said, "Oh, my God."

MR. MIN: Yeah, that's a good point and I was on
Molokai yesterday for a Planning Commission Meeting
and I had a chance to talk to staff there, you know,
regarding the PA System and um, I asked Clayton today
to see if we can look in our budget to replace that.
Because I see some real problems. The PA system at
the Mitchell Pauole, if you're doing any recording,
you basically have to pick it up audio, you have to
get an audio off of that, you can't plug it into the
speaker. So the quality of the tape um, audio tape is
not that good and it is hard to transcribe. Secondly,
the Commission for example did a meeting out on the
east end and they had to take that PA system at
Mitchell Pauole out to the east end and it really
didn't work well out there. So we're looking at that
and what I'm trying to do is see if within our current
budget we can deal with that. Because I see that as an
immediate need and but it was brought to my attention
yesterday just how bad it is.

COUNCILMEMBER KAWANO: I'm glad John because I feel that can be such a big improvement, not only for the commission, but for the workers too, the staff who staff you guys meetings, yeah. When they come over here and see how the commissions and how the thing is plugged in and everything, and I just figure I better share this with you. But I am glad you looked into and will look at as far as that goes. Thank you, John.

CHAIR HOKAMA: Okay. Mr. Director, one of the idea that I have that I am planning to request to the Committee for consideration and I'm asking because it is going to impact you, is to take $100,000 from the Mayor's budget in this grant area and place it with your department of which 50,000 would be for the MRA to continue to proceed on updating their requirements after Council last Council approved the Redevelopment Update Plan, and the second 50,000 would be for the development of the RFP for the Multi Purpose Parking Project at Vineyard which is already the County property. Um, I think this is where it belongs and I don't know if you have any comments that you wish to share with the Committee at this time, but it is some thing that I am very seriously considering proposing to the Committee.
MR. MIN: Um, yeah Mr. Chairman, I have a question regarding the 50,000, I believe is the first um, item that you identified. This is for plan implementation by the Redevelopment Agency?

CHAIR HOKAMA: That's correct. Whatever updates they need to do on design or if you need some monies to get a better assessment either of your subsurface requirements and improvements, flow patterns whether it be for pedestrian flow, traffic flow.

MR. MIN: Um, yeah I guess as a general comment we --

CHAIR HOKAMA: Is the MRA still attached to you --

MR. MIN: Yes, it is.

CHAIR HOKAMA: -- for support?

MR. MIN: The Redevelopment Agency is part of our Department and we have been working with them. There are two projects that we wanted to, that we want to accomplish this year with the MRA. One, is to complete the review of the small town code and they're midway through that, we're hoping in a couple of months that code can be adopted um. The second project is to develop an RFP for the municipal parking lot property. And, you know, as I see this appropriations I, you know, I'm assuming that the interest in
providing it to our department is so that we can expedite the development of that RFP. Um, and if that is the intent um, you know, I think it, I think the appropriation would accomplish that because currently just in terms of staffing and trying to get all of these different things done um, you know, we do have to juggle assignments with staff and um, you know, the up shot of it is, is that it takes us longer to get things done. We eventually get it done but it's just we have to do it within our means. So I am assuming that the interest in um, assigning the 50,000 for the RFP to the Planning Department is really to accelerate the formulation and um, process of the RFP, is that -- am I correct on that?

CHAIR HOKAMA: Well, like many other projects that this Committee has talked about, this is a 30-year old project. So let's either do it or not do it and if we're not going to do it, what are the other options for the County to consider with its property? You know, we also read this morning that um, poor Mr., the Ooka family, you know, they're trying to dispel rumors of sale, and yet there's this other property for sale. And I would hope that Administration would be at least considering it if there is any smart and justifiable reason why we would
consider purchasing or working out something that could assist the County's efforts in what we're trying to do in Wailuku town, but then again that's a different project. But for this project let's make a determination and let's get the MRA doing the job they were created for by state statute and let's get either moving forward or let's crap the project. 30 years is pretty long to wait. Hold on, Members um. Mr. Carroll, I saw your hand first.

COUNCILMEMBER CARROLL: Thank you, Chair. Can we go any where right now?

CHAIR HOKAMA: I want to stay on this subject and then once we get through with this we'll move on. Okay. Thank you. Ms. Tavares.

COUNCILMEMBER TAVARES: Yeah um, I'm a little puzzled by John's response. Are you or, Mr. Chairman, was your intention to put the money in the Planning Department so that they would over see a grant of that money to the MRA or was it for the Planning Department to actually do the RFP for the Redevelopment Agency?

CHAIR HOKAMA: You know, right now I'm not too sure how I would plan, I would recommend wording it but because we are aware the MRA is the responsible agency and the for the area that the parking lot is included in and they have certain powers given to them
by State law considerable powers by State law, I would like them to take the responsibility of moving this request forward. Yet I do know however, Members, unless they have the support of the Planning Department because the planning staff assist the agency. Unless the two of them kind of coordinate working together, I'm afraid it's not going to happen. That's why right now I'm looking at going through the Planning Department since the staff support is there, and yet they still we need to find a way to still make the agency responsible and move forward with this project. And I do know they they currently do not have the funds to do such a thing. So they're going to need assistance from the Council, but it's been a 30 year project that's been discussed up and down. There's been studies then. We have gone through three decades of seeing how by not doing anything it has hurt that our community here. So that, that was my intent, Ms. Tavares.

COUNCILMEMBER TAVARES: Thank you.

CHAIR HOKAMA: Okay. Questions, you had a question, Mr. Kane?

COUNCILMEMBER KANE: No. Same line. And the only clarification, Mr. Chair, is um, when you're talking-- when you use the terms scrap, you know,
let's move on it or pee or get off the pot in other words. You referred specifically --

CHAIR HOKAMA: It's just my frustration that it's not happening.

COUNCILMEMBER KANE: And I understand that and so when you say getting off the pot um, you're referring specifically to the municipal parking lot project?

CHAIR HOKAMA: Correct. And again, you know, I would hate for them to say yeah the Council did update it. The Council did mention verbally support, yet they know we don't have money and how they expect us -- well, I'm just saying we're going to help you here's the money go and do your job. Yes, Mr. Kane.

COUNCILMEMBER KANE: So, Mr. Chairman, my thought because you did bring it up um, we also have the power if in effect they're unable to do that job specifically, we have the power to disban the MRA. Don't we?

CHAIR HOKAMA: I believe under State statute there is a provision for us um, but we will need to justify that action and right now the MRA can say we have not provided them the tools to do their job.

COUNCILMEMBER KANE: Yeah. But the parameters that were set in creating the MRA are nonexistent in
this day. In other words, it was created for break
everything down and rebuild everything up not
revitalize. It seems like there is different
languages and trends that are happening that would
almost create an obsolescence of that agency and so I
don't know. Hopefully we can get some dialog as to
understanding and get some clarity to that because --

CHAIR HOKAMA: I think really the word
redevelopment has um, kind evolved also during the
three decades, Mr. Kane --

COUNCILMEMBER KANE: Uh-huh.

CHAIR HOKAMA: -- from breakdown to completely
rebuild to see where it makes sense to save and
renovate, and then also when you need to rebuild,
rebuild. Um, whoever had a chance to go to New
Orleans you will see that the frontage is part of the
old historic um, Stonewall Jackson days and yet you
walk through the doors, there is clearly up-to-date,
high speed, I mean modern. But it's a way they kept
redevelopment and yet still maintain some historic um, présence that's part of their marketing and character
of New Orleans and be able to still address the needs
of the current day requirement of consumers and
residents. Mr. Min, any questions regarding this?

MR. MIN: No. I think um, you know, the RFP for
the multi purpose parking lot, I think that fits with
one of the priorities for the MRA and I think um, you
know, with this I think it would help certainly move
that along um, and as far as the other monies for
implementation, I think again with the adoption of the
Wailuku Redevelopment Plan Update that's really a blue
print for the Redevelopment Agency to start getting
things done. And I think that's from my perspective,
a very meaningful step forward.

CHAIR HOKAMA: And that was my intent, Members,
to help nudge it along if that's the right term to
use. Mr. Arakawa.

COUNCILMEMBER ARAKAWA: Yes. Mr. Chairman, in
that particular area of discussion, there's a lot of
thought that needs to go into this and I think
planning needs to take a very leadership role in this
area. The entire concept of the town and the
direction they're going to go has evolved over, as you
say, 30 years into a mass of almost meaningless
garbage in the sense that nothing has been
accomplished to really do anything and revitalize the
town, and we've seen it slowly deteriorate. At the
same time we have been hearing discussions about
broken sewer lines that need to be replaced. We put
in a lot of money to Iao Theatre renovations and right
now, you know, we can't even flush toilets in there. So I think the Planning Department needs to take a lead role in this area to be able to really finalize what our goals are and actually plan the area out. You have an agency to work with but or to partner with, but it needs to be done. I think coming out of this, this year if we do that, if the Planning Department and the Administration hasn't taken a leadership role and really recreated that area, now I'd be almost of the mind to take the whole thing and scrap it and say well forget it. But I think it is really time, the point that you make is really relevant. It is either do something or give it up. Take a real positive stance um, put the effort to do it right or just say we can't do it, we don't think it is going to be doable and let the private enterprise do it. In my opinion just looking what is happening is you got a handful of developers or owners there that are going to make a lot of money off of this and um, I'm not seeing a whole lot as far as the individuals, small owners being able to prosper at all. So I'm very torn in my mind as to whether we should be putting any money in there or not and I'll support it this year. I probably won't support it next year if it's not done.
CHAIR HOKAMA: Thank you for your comments, Mr. Arakawa. I think one of the big concerns for um, property owners and tenants in that area is the subsurface infrastructure improvements that need to be required and, you know, sometimes government whether it be County or what not tends to make the requirements of an approval so costly that, you know, the person just says forget it, I can't afford it. So nothing is done and yet we all know we have subsurface infrastructure problems and it's very expensive. But if it this is part of a total plan for the area, the agency with hopefully Mr. Min's Department support can help provide a phasing in master plan that makes good sense that is affordable and can accomplish the goals of what we hope Wailuku can and should be. So I appreciate your comments, Mr. Arakawa, and that's the Chair's intent is we'll, we if it needs to be driven by Council, so be it.

COUNCILMEMBER ARAKAWA: Well, that's our job, Mr. Chairman.

CHAIR HOKAMA: I have no problem with Council leading the efforts. Okay. Thank you very much for your, the Committee's patience on the Chair's initiative. Any other comments regarding the Operational Program Budget or Detailed areas either
for clarification? Ms. Tavares.

COUNCILMEMBER TAVARES: Yeah I wanted to ask Planning Director um, on that um, transportation modeling project that you've been assigned or reassigned or urged to pursue, how will you go, how will you go about doing that? I mean you have staff to do that or are you going to do with consultants?

MR. MIN: Yeah. I think we need to get a consultant. It is a pretty technical study. Um, we you know, we gotten some informal estimates of how much it might cost to do each of these two studies and we're looking per study um, at about 75 to $100,000 per study. I think one estimate we got for West Maui was about 100,000 and for Kihei about 75,000. Apparently there's more data in Kihei, so that's why it may be a little cheaper. But we're looking kind of in that order of about 100,000 per study.

COUNCILMEMBER TAVARES: And do you have that in your budget this year?

MR. MIN: No, we don't. Um, we, we do have and apparently we have a contract a very old contract for the West Maui Transportation Study that was apparently was done back in 19 around 1988. But the funds were never released. The consultant was never given the notice to proceed. And so that study never went
anywhere. But apparently the contract is still on the books. So, you know, we're in the process of seeing whether we can proceed with that. We're probably going to have to supplement it because, you know, that fee was based on 1988 dollars and but if we can proceed with that we're going to try; however, we have no funding for South Maui.

COUNCILMEMBER TAVARES: So you're saying South Maui is about 75,000?

MR. MIN: Yeah. I would ballpark it 100,000.

COUNCILMEMBER TAVARES: Hundred.

MR. MIN: Just as a ballpark, 100,000 per study.

COUNCILMEMBER TAVARES: How is it that you think you can reactivate a -- doesn't that, that money has lapsed by now from 1988.

MR. MIN: You know, I, I've kind of gotten some conflicting reports and that's why I am trying to track that down, but I was, I was told that the monies have not lapsed and we're in the process of getting verification of that um, and if it hasn't, then we will see if, you know, we can um, you know, if we can undertake that. We're going to have to, we'll probably will have to re-- renegotiate the contract and so forth but.

COUNCILMEMBER TAVARES: Can you get us that
1 information before we get into deliberation?

2 MR. MIN: Yeah. We'll verify that.

3 COUNCILMEMBER TAVARES: Which is next Tuesday?

4 MR. MIN: Yeah. We'll verify.

5 COUNCILMEMBER TAVARES: Okay. Thank you.

6 CHAIR HOKAMA: Thank you, Ms. Tavares.

7 Mr. Molina.

8 COUNCILMEMBER MOLINA: Thank you, Mr. Hokama.

9 John, what kind of, with these transportation models, what you hired these consultants, what exactly are you going to ask them to look into? What kind of specific data are they going to have to come up with to justify these models?

10 MR. MIN: Yeah, the basic frame work of the, of the model or the plan, I believe is laid out in the ordinance. Um, but basically they'll come up with a plan that will identify improvements that'll be needed within the region and develop a assessment fee um, in order to fund those improvements. So for instance um, you know, part of it will be to have a formula. Let's say for each residential dwelling there will be an assessment fee of X number of dollars. Okay. Similar to other assessment fees. And I think that's the basic objective of what will be accomplish but to do that they're going to have to come up with a plan.
They'll have to look at projected demand um, identify necessary improvements that'll be needed in the region cost that out, and then, be able to allocate that over potentially future development, and determine on a pro rata basis or per unit basis what the assessment would be.

COUNCILMEMBER MOLINA: Did they give you a time table as far as how long developing this model will take?

MR. MIN: If I recall, I think the contractor had I think it was about 12 months to complete the study. That's sort of a standard for most of these studies.

COUNCILMEMBER MOLINA: Okay. Thank you.

CHAIR HOKAMA: Thank you, Mr. Molina. Any other questions? Yes, Mr. Kane.

COUNCILMEMBER KANE: So kind of tagging on that discussion that we had from the Council Meeting. So preliminarily, John, from last week Friday to today is when you did your preliminary, preliminaries on these transportation models or was this something that you've been looking at for months or I'm just give me some or give us some background, you know, brief. But if you can give us some background. I'm just trying to understand, I wasn't aware of these
transportation models until Member Johnson -- so then after looking at that in my discussions at the Council Meeting was, you know, let's, let's do a joint thing, we went through that. We realize we didn't have to do it because it is a subject matter that we could already discuss here. So now you're saying that you already been kinda looking at it preliminarily, you've already got the ballpark. So when did that occur, within the past six days?

MR. MIN: Yeah, actually it's very, it's within the past week and the reason is is we're anticipating that we might get asked this question at the budget, at our budget meeting. So we wanted to get some ballpark idea how much would it cost to do this, and so that's why we did a little research on it.

COUNCILMEMBER KANE: So if this body in its deliberations decide to, to fund these transportation model project or fund the transportation model work, I was looking at recommending to the body for consideration putting in provisos to make sure these things get done. I mean within a certain amount of time you come up with the consultant and provide monthly reports back to a body on the Council so that we know this thing is moving along and when you said 12 months, in my mind I'm thinking do we need 360 or
1 do we need a whole year? Can we do it in nine months?
2 You know, and do we put provisos in there? How do you
3 feel about -- I mean ultimately it's our decision, but
4 I just want to get some feedback from you as a
5 Director who's going to be faced with these may be
6 that these proposals that will come forward in our
7 deliberations.
8 MR. MIN: Yeah. Well, the 12 month time period
9 is just a general time period that I think we place on
10 most consultants. Now, obviously, for a particular
11 project if there are certain time tables which are um,
12 let's say um, special, let's say we're looking at six
13 months or we're looking at nine months, I think those
14 things need to be spelled out in the RFP so that the
15 consultant when they're --
16 COUNCILMEMBER KANE: Bidding.
17 MR. MIN: -- bidding for it, know what they're
18 getting in to. Um, again the 12 months is just a
19 general, you know, um, time frame. But it could be
20 done sooner um, you know, if a consultant worked on it
21 full time and, you know, was able to pull everything
22 together quickly.
23 COUNCILMEMBER KANE: Now, Mr. Chairman, my final
24 follow-up on this just to wrap it up for me in my
25 mind. By placing these type of provisos and pressing
or bringing the time in tighter, does it affect the bid outcome as far as does it, the tighter you make it, the higher it goes?

MR. MIN: It could depending on um, you know, again depending on what we're asking of the consultant. If, you know, if we shorten it to let's say nine months and it's a comfortable time period for the consultant, you know, it may not affect the pricing but, you know, if, if cutting back three months is going to mean they're going to have to put in a lot of additional work, additional hours and so forth, then that's when the price starts going up.

COUNCILMEMBER KANE: Okay.

MR. MIN: Frankly, I haven't, you know, asked any of the consultants that we just informally talk to how long it would take to put this together, but I used 12 months again as a general ballpark time period that we use with our consultants.

COUNCILMEMBER KANE: Thank you and, Mr. Chairman, and another -- and I'm sorry, I don't want to cut off anybody else. This is an issue that you've talked, about Chairman, and so I just wanted to put it on the table and whether we get an answer now or not that's okay. But as far as committing future Councils, it seems like this ordinance that we're
referring to when we're talking about the West Maui and South Maui transportation models, it seems like a past Council is committing a future Council to do something, and we've had discussions on that. So I don't know if from Mr. Moto's standpoint, this is one of those cases or it's not the case because, you know, but here we are where kind of a past Council is making us spend the money, we have to come up with some money at every five years or whatever it is. So that's something that crossed my mind as that we talked last Friday. I thought about what we've experienced as far as that line of discussion and how it's, if at all relevant to this situation?

CHAIR HOKAMA: Mr. Moto, any comments regarding Mr. Kane's statements.

COUNCILMEMBER KANE: Do you understand,

Mr. Chairman, where I'm coming from?

CHAIR HOKAMA: I do.

COUNCILMEMBER KANE: Yeah.

CHAIR HOKAMA: I know exactly what you're saying.

MR. MOTO: Mr. Chairman, the way I think I, I view the requirements um, regarding the um, impact fee ordinances is that although they certainly envisioned a certain schedule of studies um, and because one
point is that um, I don't believe it is clear. I don't have the ordinance in front of me right now, but whether it was always supposed to be intended that it may be outsourced to a consultant, I think they were probably anticipated that such contracts would be issued. Oh, thank you.

COUNCILMEMBER KANE: And, Mr. Chair, I would only ask that um, perhaps instead of just looking at the, at what the code is itself, it may be interesting to see how that code was developed and looking at the discussion that took place so that we understand the intent of the code. In other words, the discussion that took place to arrive at what we've got in the books?

MR. MOTO: Mr. Chairman.

CHAIR HOKAMA: Mr. Moto.

MR. MOTO: Right. I want to thank Councilmember Tavares. In fact with the statute in front of me, it is pretty clear I think that upon re-reading this that back in 1989, so this is the law that goes back quite away, they did in fact envision contracts being awarded to qualified professional engineers in order to accomplish the various studies and plans that would be done. To your specific question, does this action bind future councils in terms of appropriations and
the answer is um, no not in the that sense because of course, a future Council could always decline to appropriate monies for these studies and um, either disregard the directives of the ordinance or at the same time amend the ordinance to change the schedule of deadlines that are set forth in the ordinance. My understanding is that in fact a contract was awarded some years ago um, and that contract has been held in abeyance. So the monies, some monies were encumbered years ago and technically I think that contract remains open.

COUNCILMEMBER KANE: Is that the one that Mr. Min is referring to the earlier, the West Maui one? Is that the one that you're following up on --.

MR. MIN: Yes.

COUNCILMEMBER KANE: -- Director Min?

MR. MOTO: Oh I apologize if he already said that.

COUNCILMEMBER KANE: No, no I'm just trying to link the dots. That's all I'm trying to do and what we got to do here forward but what happened in the past to now. That's what I'm trying to do.

MR. MOTO: So, Mr. Chairman, the reason why I mentioned the matter of that encumbered amount is to say that in fact years ago some monies were

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appropriated but never expended, but they haven't lapsed either.

COUNCILMEMBER KANE: And I guess to response to Ms. Tavares' question, we're going to find out was that request initiated by the Administration in the budget proposal? We -- there was a discussion at one point in time, the monies were put there and it just wasn't carried through. And so that's -- is that what your question is, Charmaine, just so I can again connect all the dots?

COUNCILMEMBER TAVARES: Yes.

COUNCILMEMBER KANE: Thank you. I'm clear.

Chair Hokama: Thank you very much.

Mr. Arakawa.

COUNCILMEMBER ARAKAWA: I can shift areas?

Chair Hokama: Members, any other questions in the area that we were -- let me finish up please, Mr. Arakawa. Ms. Tavares.

COUNCILMEMBER TAVARES: Yeah. Both of these um, impact fees is what they're called, Chapter 14.62 and the one you have is West Maui and Kihei, and they were just provided by Nishiki's staff since he is a ghost now. I'm the next ghost. So I was acting for him, not only reading his mind but being his body too. But I
I want to --.

COUNCILMEMBER KANE: That's scary, Charmaine.

COUNCILMEMBER TAVARES: I know where I'm going after work right? But um, both of these, both of them have that clause about the enactment and I guess the West Maui one was prior to the South Maui one 'cause it was 1988 for West Maui, and then 1989 for South Maui I think. That's all.

CHAIR HOKAMA: Okay. Thank you. Anything else on this area? If not we're going to -- yes, Mr. Kane.

COUNCILMEMBER KANE: No. I just want to thank you, Chair, for allowing this discussion to occur. 'Cause you know, it came from last weekend.

CHAIR HOKAMA: No. I can see a tie into the budget discussions. Thank you. Mr. Arakawa.

COUNCILMEMBER ARAKAWA: Yeah. I actually have two areas that I would like to approach. One more as a real question and the other one. Um, in dealing with the current crisis that you have with the building are you budgeting for any kind of a ability to resolve this if you cannot go back into the building?

MR. MIN: Um, that is not, that is not part of our proposed budget. Okay. Building maintenance is, you know, handled by the Public Works Department. I'm
not aware if there's any contingencies in their budget for that possibility. Um, I think a, you know, we are expecting to be able to return to that building. I think based on the information that we've been getting regarding the different tests that have been done, you know, we certainly expect to be able to go back. Um, so to answer your, "no" we're not planning for that worse case situation.

COUNCILMEMBER ARAKAWA: Okay. Well, let's hope your prediction comes out correct because if we do have to budget for it -- well, if we're out of budget, then have you to handle this particular situation.

MR. MIN: Yeah.

COUNCILMEMBER ARAKAWA: I don't know where you're going to get the money from. So we'll see about that. I think that um, Administration should be looking at some kind of contingency just on the outside that we're going to have to take some of your staff, if not all of your staff, and be able to relocate them someplace. But that's your guys call. The other area that I want to shift gears to is, you know, we talk a lot about planning, but your department also handles a lot of permitting and those types of processes. In this budget season how are you planning to use this year's budget to improve the
system that you have currently and what percentage of
um, I'll just lump it and say improvement do you
expect to be able to get um, as far as expediting the
process?

MR. MIN: Well, we're doing some internal, we
have some internal projects that relate to that. One
is um, you know, we've been working with other
agencies in expanding our KIVA Permit Tracking System
and what we would like to do is utilize that to track
all of the incoming work that comes into the
department. You know, over and beyond just
applications. And so that is, that's sort of an
internal thing that we're working on. The KIVA System
also provides for other kinds of efficiencies in
generating letters and reports and so forth. So we're
hoping to utilize that to basically be able to get out
the paperwork faster. Okay. Staff reports, for
example, there are templates that can be set up in the
system and um, a lot of basic information can be
inputted once incorporated into the letters that go
out, the staff report and, you know, other documents.
So we're trying to, you know, work with MIS and other
Land Use and Codes to improve upon that system. Um, so
that's one area that I think we're working on, it's
more of an internal operational um, project.
COUNCILMEMBER ARAKAWA: If I could take just a
that peculiar area. You know, when people are coming
in with a plan and they want to have a plan checked,
you're requiring X amount of plans to be submitted so
each of the departments can get one. Are you going to
be computerizing that so that the department -- the
people coming in don't have to pay for the cost of
creating all of these plans, but rather you put it on
the computer, and then, broadcast it out to all the
different departments and get their response in the
same method?

MR. MIN: I think we're headed in that direction
okay. But I think we need to sort of take the first
step and develop the system. Okay. Um, and obviously
as these, you know, as we implement these systems
which allow for digitizing maps and digitizing
information and storing it I think um, that's sort of
the next step that we will be looking at.

COUNCILMEMBER ARAKAWA: I only ask that because
from a budgetary standpoint, you know, I'm not seeing
anything in your budget that's going to really create
the ability for you to spend money to get better
equipment to start doing some of this stuff and um,
I'm just curious if you are budgeting for it.

MR. MIN: Um, I believe we are. We do have in
our budget. I think we are our computer budget is apparently in the MIS Budget. But we are asking for some additional equipment in that area and like I said, we have been participating with Land Use and Codes and other departments in the KIVA Project.

COUNCILMEMBER ARAKAWA: And what do you think would be the reasonable expectation for this Council as far as progress um, as far as time frames and handling these permits as far as cost to the people that are applying for the permits? And consider it in respect of may be us putting in a condition on your budgeting that says that you will -- the department will make a 10% or 15% or 2% um, progress toward expediting the process. I know it's a guess, John.

MR. MIN: Yeah um, the reason I am kind of hedging is I think your question um, involves other aspects other than just what I have been talking about. I think KIVA is certainly going to help a lot in terms of work efficiencies within the department, but one of the fundamental issues that we need to deal with in permitting is we need to look at the procedures that are in our rules and in our code. Um, and if you look in Title 19 for example um, Section 19.510, you know, it lays out procedures for public hearings for, you know, for different types of
permits. One of the things that we found is that a lot of these procedures are conflicting. We have different public hearing procedures for different types of applications and um, I think one way of um, making things a little more efficient is to develop one procedure. Um, and some of these procedures are, you know, like I said I mean they're confusing. You have two or three different things that you have to follow for a given -- well, for example, if you are filing two applications with our department, there might be two separate public hearing procedures um, and that might involve and, you know, a delay or extended processing just because you have to follow those different procedures. I think we need to look at that area if we're going to make some enroads to streamlining. The other is looking structurally at um, you know, which authority is going to prove different types of things. Um, I know we had some discussions here at the Council in the Land Use Committee regarding delegation of authority and there's some real issues with that. But there are some types of approvals that may be easier to delegate through the Commission or even at the Departmental level. You know, that's another aspect to streamlining. Um, it's, it's more than operations.
1 We can do what we can do. But there are other
2 procedural and, you know, structural issues that we
3 have to look at in our code. The other thing is that
4 as time has gone on, the processing of applications
5 has gotten more complicated because of public
6 involvement, because of the interest that, that
7 communities have in participating in the process and
8 that has um, extended the time period for processing
9 of applications. Other agencies that also participate
in these reviews are, you know, we depend on
11 them to provide us comments on project applications
12 and um, often times, you know, we they -- it takes
13 them a while to get back to us. So we might set a
14 deadline of maybe four weeks, three weeks, four weeks
15 for a response, we might not get it for two months.
16 So, you know, we're working with that kind of
17 situation as well.
18
COUNCILMEMBER ARAKAWA: I'm going to interrupt,
19 Mr. Chairman. I understand what you're saying and at
20 the same time I think this Council needs to take a
21 proactive stance and say if that is what the
22 department needs to work on, then work on it. So that
23 you can say um, to the Council this is what we need
24 for you to help us with, this is what each of the
25 department need to do to help us with. Instead of
four weeks doing this review process may be. Can you
do it in a week or two days or get back to it? If we
have to dedicate someone to be able track these and
put um, time lines on them for tags on them so that we
can follow them through the process and see where the
slow downs are. Somehow within this entire process
that you have to work with to be able to come back and
say at the end of the day, end of this year we will
have a 10% reduction in the amount of time it's going
to take to process this or 10% more efficiency because
these are the areas we're going to be working on. And
we all need to work on it together, that's a given.
But I do think we do need to start really looking at
those a lot harder. I do know that I've had many
people call my office and say, you know, it's taking
me three weeks to be able to get a response from a
department and there's no justification in my mind for
taking that long to be able to look at a plan or, or
other people call up and say, you know, my engineer
gave us this plan and somebody in the Planning
Department is having to go over what the engineer did
to approve it. Perhaps the engineer stamp should be
sufficient to be able to pass the plan and the owner
should be put on the engineer or the designer.
They're the ones that went to college. They're the
one that got the degree. They're the ones that are
the professionals to do this area, and we need to
change our policy so that we can cut the cost to the
applicants. Those are the kinds of things that I am
looking at that the department should be working on to
get a 10 or 20% percentage reduction, you know, in
inefficiency, Mr. Chairman. That's the direction I'm
asking the question for. Because from a budgetary
standpoint, the cost of the County um, in all these
time delays and the cost to the applicants, our
citizens, it is a tremendous amount of cost involved.

CHAIR HOKAMA: Okay. Thank you. I think Mr. Min
has a sense for your concern and I'm sure he'll come
up with his recommendations for us to help the
department implement the appropriate improvements.
Mr. Carroll, you have any questions, sir?

COUNCILMEMBER CARROLL: My questions, Mr. Min
has answered during the course of this discussion.
Thank you.

CHAIR HOKAMA: Thank you. Mr. Kawano.

COUNCILMEMBER KAWANO: I had the same thing and
as far as the building goes, Chairman, and I think um,
it's been answered.

CHAIR HOKAMA: Thank you. Mr. Molina.

COUNCILMEMBER MOLINA: Thank you. John, you
know, what Dain touched upon with regard to smart
growth and the abstract interpretation of that term.
In your role as Planning Director what, what is your
interpretation of smart growth, what would you like to
see implemented?

CHAIR HOKAMA: That's a loaded question.

COUNCILMEMBER MOLINA: Sorry.

MR. MIN: It is a loaded question and, you know,
I think an important part of developing a smart growth
strategy, a smart growth plan is you really need to
involve the community in developing a consensus on
what is smart growth and what are the principles that
we're going to follow in developing that plan or that
strategy. Okay and, you know, I think we've heard um,
you know, I think Councilman Kane said, "Depending who
you talk to, you get a different point of view on what
is smart growth." And I think that's why the process
is important. I think certainly there, there are
common elements to a smart growth program that, you
know, have been identified. But how they're
translated, what priorities you give to these
different concepts, where they're implemented um,
those are matters that have to be discussed within a
planning process, now which involves the community.
So um, I think it would be premature to get into
talking about, you know, instead of specifics of what smart growth is, but I think it is a program that has um, been successfully implemented in many mainland jurisdictions for example, and it's an idea which is catching hold and um, I think it has a lot of merit for our community.

COUNCILMEMBER MOLINA: Thank you for trying to answer that difficult question and I appreciate you emphasizing the integrity for the process. Thank you.

CHAIR HOKAMA: Thank you, Mr. Molina, and again it depends what region of the County you're talking to. I am sure you're going to have different ideas from Mr. Kawano's island of Molokai and again depend what part of Molokai you're coming from. So smart growth can be three different things on just his island, you know. Ms. Tavares.

COUNCILMEMBER TAVARES: While we're on the smart growth topic um, may be I can share from about the three or four conferences that I have attended over the past years on smart growth. That what's key to smart growth is that each community develops the definition for smart growth and it's the community that should define it, and just to let Members know there was a -- did I say this already? -- a House and

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Senate Bill in the legislature that is um, to start an
I guess it's an advisory committee to the Governor on
smart growth and it would be made up of State Planning
Office people, the counties and some citizens and
things, and it is to provide some guidelines. There
are some members -- it's passed both Houses. Some
members have voted against it, and of course, I'm in
the process of writing letters to those members that
voted against it, and I can send a packet to you folks
that came that shows what the testimony has been.
It's not very long, but I've written a letter to
support it and I think it's going to be heard next
week sometime. And I think this is the key or the
first step and then all of the situations where we've,
the conferences that I have attended each community
that has tried to implement smart growth has stated
that the leadership from the top and basically the
State is very critical to how successful your
community smart growth um, planning evolves. That the
ones who did it inspite of the fact that there was no
principle -- no guiding principles from the State
level found it much more difficult to get cooperation
amongst agencies and things like that because face it,
we have State roads, State airports, harbors and all
of that. So we cannot be our own little three islands
by ourselves. We do have to do some things in concert. So I would urge the Members to read that stuff and my letter and if you can, feel like you can support it, I would suggest that you do. I think we need to start and it is critical. I'm not saying we have to wait for the State before we get into it. But it does help if there is an over, overlaying or overlaying um, at least general principle statements about smart growth for Hawaii and then each County can develop their own particular or unique characteristics for their smart growth. Like you say, Molokai probably has six different, you know, criteria or areas for with different criteria for smart growth. So I'll send that to the Members and if you can look at and I think the hearing is going to be either Tuesday or Wednesday next week.

CHAIR HOKAMA: Thank you for that, Ms. Tavares. I think we need to keep the ball rolling, Members. You heard one of the testifiers last night that mentioned she believes Lahaina Small Boat Harbor will have 200,000 impact by cruise ships in the coming year and where are we with facilities and how it impacts the County roads and the need for police and fire protection. So--

COUNCILMEMBER KANE: That's only the boats.
That's not to mention everybody else who goes there.

CHAIR HOKAMA: That's correct, Mr. Kane. So
again we will be facing impacts, good and bad from --
COUNCILMEMBER KANE: It's all Marsha's fault.
CHAIR HOKAMA: -- strong economy. Now, now.
Okay. Members, anything else regarding the
Operational side or the Expansion side? If not, the
Chair is going to direct us to Rates and Fees. Seeing
none. Let's go to Rates and Fees and, Mr. Min, since
the topic of testimony earlier this afternoon was on
the appeals fee proposal, if we could address that
particular request first, please. Members, I believe
we are on the Budget Ordinance and if you would please
refer to page 36 and 37, I believe there's Appeals,
Board of Variance and Appeals. Refer to Table A on
page 36, SMA appeals $300. Mr. Min, is this the
correct thing that we are to look at regarding the
testimony presented this afternoon?
MR. MIN: Uh, yes.
COUNCILMEMBER KANE: Sorry, Mr. Chair,
reference? I'm sorry.
CHAIR HOKAMA: Okay. Budget Ordinance, Members
um, if you look under Appendix B, Rates and Fees, it
is on pages 36 and 37 and uh we'll, we'll wait a few
moments. On the top of or in the middle or under the
heading it would say Special Revenue/Trust and Agency Funds. Okay. You got it, Mr. Arakawa? Okay. Thank you. Okay, Mr. Min, if you could give us your comments on this, please.

MR. MIN: Mr. Chairman, would you like me to just highlight the areas that are changed and then answer your question? There are few areas that have been changed. I could point that out quickly and, or do you want me to zero in on the petition to intervene?

CHAIR HOKAMA: Why don't we move, you know, because of the time and everything show us all the rates and fees applying to your department first, and go down one by one and it says no change, change, and then, we can come back and focus on this one particular button.

MR. MIN: Okay um.

CHAIR HOKAMA: And give us the references as we go along?

MR. MIN: Uh, beginning on page 35.

CHAIR HOKAMA: This is under the Rates and Fees Portion of Appendix B?

MR. MIN: Yes.

CHAIR HOKAMA: Okay.

MR. MIN: At the bottom of the page, the
Comprehensive Zoning Ordinance um, the third item conditional permit says, "refer to Table A." In the past the fee for conditional permit was $100. So now we're relating the fee to Table A which is the sliding scale um. Depending on the value of the project, the fee will vary.

CHAIR HOKAMA: Okay and Table A for the Members, information is on the very next page 36?

MR. MIN: That is correct.

CHAIR HOKAMA: Okay. Thank you.

MR. MIN: Okay um, the fourth item in that listing, project district. The current fee is $300 and recommendation is to also relate the fee to Table A. That is correct, yeah, to the sliding, to the sliding fee scale.

CHAIR HOKAMA: Okay.

MR. MIN: Okay. On the next page, page 36. At the top of the page related to Special Management Area Permits. We've included After the Fact Permits. Um, the first reference is to After the Fact Permits. Fees would double as set forth in the applicable table below. Um, this relates for example to an SMA Use Permit which requires a public hearing. So if, for instance, the fee in Table A was $300 uh, if it's an After the Fact Fee, they would pay a filing fee of
$600. Okay. The second reference to After the Fact is After the Fact Minor Permits. These are permits that are proved administratively, doesn't require a public hearing. The um, proposal is to double the fee to $100, and in addition to, and in addition to add to that a fee applicable in Table B. Table B refers to is right below this on page 36, Table B is a fee schedule for items that do not require a public hearing. So let's say we get a minor permit, an SMA Minor Permit that is filed After the Fact, the fee would be $100 plus and depending on the value of the project. If the value of the project was $20,000, then it would -- there would be an additional $50 added to that filing fee. So it would be $150.

CHAIR HOKAMA: Mr. Min, what is the ceiling for a minor permit?

MR. MIN: Uh, currently it's $50.

CHAIR HOKAMA: No, no. The project total. What is the --

MR. MIN: I'm sorry. Oh, it's 125,000.

CHAIR HOKAMA: So up to 125,000. Table B would be the appropriate --.

MR. MIN: That's correct.

CHAIR HOKAMA: -- table and then anything over $125,000 would be Table A?
MR. MIN: That's correct. Yeah. Anything over 125,000 requires an SMA Use Permit which involves a public hearing and that would be Table A.

CHAIR HOKAMA: Okay. And the $125,000 maximum for a minor permit is set by state statute?

MR. MIN: That's correct.

CHAIR HOKAMA: Okay. Thank you.

MR. MIN: Okay. At the bottom of page 36 um, related to Planning Commission, we have Shoreline Setback Variances. Um, the current Shoreline Setback Variance Application Fee is $150 and the proposal here is to again relate the fee to Table A.

CHAIR HOKAMA: It says and Table B, Mr. Min?

I'm sorry. The Shoreline Setback Variances it says, "refer to Table A and Table B."

MR. MIN: Oh, okay, I understand. Um, yeah for Shoreline Setback actions we have um, two, two types of approvals or applications. We have the Variance and we have the Shoreline Setback Approval. The Shoreline Setback Approval is Administrative, for example, landscape planting is, is one of the or landscape planting, putting in a public beach walkway, that would qualify um, as a minor structure, minor improvement and require a Shoreline Setback Approval which is administrative. So for that type of
administrative Shoreline Setback Action, Table B would apply.

COUNCILMEMBER ARAKAWA: Clarification,

Mr. Chairman.

CHAIR HOKAMA: Mr. Arakawa.

COUNCILMEMBER ARAKAWA: As I'm understanding it, the Table B fee of $50 right now, you would eliminate the $150 for anything in Table B and make it $50?

MR. MIN: No. Okay the $150 is the filing fee for Shoreline Setback Variance.

COUNCILMEMBER ARAKAWA: Okay.

MR. MIN: Shoreline Setback Variance requires a public hearing. Okay. Our proposal is to relate the fee for Shoreline Setback Variance to Table A. Okay. Shoreline Setback Approvals which are Administrative would be related to Table B.

COUNCILMEMBER ARAKAWA: What is the current fee for Shoreline Setback Approval?

MR. MIN: There is no fee for Shoreline Setback Approval, currently.

COUNCILMEMBER ARAKAWA: Okay. Thank you.

CHAIR HOKAMA: Okay. Thank you. Continue, please.

MR. MIN: Okay. And then on page 37 at the top um, we have um, added a filing fee for petitions to
intervene and the recommendation is $300. Um, our department charges a fee for practically every application that comes before our department. There are fees for appeals and these have been on the books for many years. Um, if an appeal is filed the fee if it's an SMA. Appeal filed before the Planning Commission, the fee is $300. Petitions to intervene we're suggesting that the fee be comparable to that of an appeal and be $300. Now, I think you've heard testimony about the cost of processing um, petitions to intervene and the cost of contested case hearings and they can be very costly. We've had some contested case hearings that have run from 20,000 on up to $45,000. These are costs that we bear, that the department bears. We pay for hearing officers. We pay for court reporters. We pay for those kinds of services that are directly related to contested cases. So the fee that is being suggested in no way will cover our actual cost. Um --

CHAIR HOKAMA: Okay. Anything else regarding Rates and Fees for your department, and we can have more discussion on this particular filing fee request.

COUNCILMEMBER ARAKAWA: That's all for the department?

CHAIR HOKAMA: Well, I'm not too sure.
COUNCILMEMBER KANE: Mr. Chair.

CHAIR HOKAMA: Yes, Mr. Kane.

COUNCILMEMBER KANE: Just point of information. So that the petition to intervene that 300 filing fee was added, so it didn't exist before it was zero before in other words?

CHAIR HOKAMA: That is correct.

MR. MIN: That is correct.

COUNCILMEMBER KANE: Yeah. Thank you. And, Mr. Chair.

CHAIR HOKAMA: Yes.

COUNCILMEMBER KANE: That's the specific one that Mr. Smith was referring to, one of the several things that he touched on in his testimony. The other one was I think just the sliding scale approach overall was another issue that he brought forward.

CHAIR HOKAMA: Right.

COUNCILMEMBER KANE: Thank you.

CHAIR HOKAMA: And I believe Ms. Anderson's concern was also regarding the filing fee for the petition to intervene. Okay. Mr. Min, anything else?

MR. MIN: Yeah. If I could make a correction.

CHAIR HOKAMA: Okay.

MR. MIN: On page 36, Shoreline Setback Variances. It was brought to my attention that the
current fee is um, $250.

COUNCILMEMBER KANE: Not 150?

MR. MIN: That is correct. I think to be accurate on this um, the reference should be under Shoreline Setback Variance, it should refer to Table A, period. Um --

CHAIR HOKAMA: Mr. Moto, do you have a concern?

MR. MOTO: Yes. Thank you, Mr. Chairman. The Director and I were simply discussing the fact that I guess the Planning Department uses certain terminology for certain applications, like they use the term "Shoreline Setback Variance" for any variance that requires a public hearing, and then, they use the term "Shoreline Setback Approval" for essentially variances that don't require a public hearing. They're approved administratively. And so on page 36 at the very bottom of your draft bill, it could be, it is possible to revise the description of um, the fee to, to more closely match the terms that Mr. Min has been using Shoreline Setback Variances, Shoreline Setback Approval and, and break it out that way. And the fee for Shoreline Setback Variances would be simply referred to Table A and the fee for Shoreline Setback Approval would be referred to Table B.

CHAIR HOKAMA: Okay. Thank you. We'll have the
Department transmit a hard copy of all of the Rates and Fees of the Department and the recommended and the current fees and the recommended changes and those that have established a fee, were non-existed prior. We'll, we'll make -- I think it will be easier for the Members when they go through the departments deliberations. Yes, Ms. Tavares.

COUNCILMEMBER TAVARES: Mr. Chairman, if it's possible, on page 37, Highway Beautification is kind of stuck in the middle there between Planning Commission stuff and the Building Permit Plan Review Fee.

CHAIR HOKAMA: Right.

COUNCILMEMBER TAVARES: Is there a way that, that could be move either at the end of all this section that has to do with Plans and Construction or at the beginning of the section? 'Cause it doesn't seem to have, may be you can switch places with um, you know, move it after Park Assessment and put the highway beautification. I don't know why it is in that order. Is it alphabetical? But cannot be because it is P and then H and then B, so it must not be alphabetical. It might make easier reading -- actually it's only because I couldn't find it when I was looking for it before. Because I thought all that
stuff was about Public Works and Planning things.

CHAIR HOKAMA: I don't see a -- yes, Mr. Moto, is there a need for it to be where it is?

MR. MOTO: I'm going to ask Michele Yoshimura, the Budget Director, to correct me if I'm wrong. I believe the reason why you find this isolated reference, cite to the Building Permit Plan Review Fee surrounded by other fees to which it does not seem to be in context to relate is that -- the Special Revenue/Trust and Agency portion of the fee schedule. Whereas most of the other Building Permit Fees um, go into the General Fund.

CHAIR HOKAMA: So as long as we keep within this area we can put it where ever we want right, Mr. Moto? As long as we keep it in the Special Revenue?

MR. MOTO: Oh, yeah.

CHAIR HOKAMA: We could have it the first thing under Special Revenue or the last thing, right? It doesn't have to be where it is within Special Revenue/Trust and Agency Funding?

MR. MOTO: Oh, I'm sorry. I guess I misunderstood the question. Then, yes. Yeah. You could rearrange it within the section.

CHAIR HOKAMA: Okay. We'll move it.

COUNCILMEMBER TAVARES: Yeah if, because I know
that the reason that it is by the Public Works kinds of things because they use that for removal of cars, abandoned vehicle stuff which is partially Public Works' responsibility and partially Finance, but may be it could go down at the bottom and end it with the Highway Beautification 'cause the next one before that would be the Fire Plan Review Fee. May be you could just change places?

               CHAIR HOKAMA: Okay. We'll make the adjustment I think that's a very good suggestion.

               COUNCILMEMBER TAVARES: If, if you can.

               CHAIR HOKAMA: Council can do anything.

               COUNCILMEMBER TAVARES: I mean that's if Council agrees.

               CHAIR HOKAMA: Correct. If Legal Counsel agrees with County Council, I am sure we can do anything. Okay. Members. If not Mr. Min, you know, I want to try and end up with your -- the Members being allowed to ask the question regarding that issue brought up by the testifiers. Members, any questions for Mr. Min regarding that $300 Filing Fee Proposal? Mr. Carroll.

               COUNCILMEMBER CARROLL: Thank you, Chair. When I was still in the Planning Commission, and this is going to relate to this fee, by motion that I made we required the two parties before we granted this
1 contested case to go and deal in good faith and come
2 back and report to the commission. And in that case
3 it worked, they came back and they settled. In a case
4 like that if you made it a policy and we discussed
5 about making that a policy, was it done?
6 
7 MR. MIN: Uh, yes. That rule change was adopted
8 by the Commission.
9 
10 COUNCILMEMBER CARROLL: Okay. So that's in
11 place now?
12 
13 MR. MIN: That's correct.
14 
15 COUNCILMEMBER CARROLL: All right. In that case
16 is the person refunded his $300 if he has paid the
17 $300?
18 
19 MR. MIN: You know, that's a good question and
20 and again, you know, unless we -- because we don't
21 currently have a fee, we really don't have a policy on
22 that.
23 
24 COUNCILMEMBER CARROLL: But that's what I am
25 asking you if you could make that the policy because
26 obviously there would be no expense at that time and
27 the money should be refunded.
28 
29 MR. MIN: I think that's very reasonable um,
30 and, and, you know, as a matter of practice with
31 applicants, for example, we might get an applicant
32 that files an application and for whatever reason they
If I decide to withdraw the application before we schedule any public hearing, we return everything to them including their fee.

COUNCILMEMBER CARROLL: Okay. I would like to see that $300 returned. I mean when it does work and the parties agree it saves the County, you know, 20, 30, $40,000 when they go through this process and I would certainly think it's proper to return that $300. That's all for now.

CHAIR HOKAMA: Okay. Thank you. Anyone else?

Mr. Kane.

COUNCILMEMBER KANE: Yeah. I, I apologize for my ignorance on this particular topic, so I'm not following. So if anybody can take a moment to bring me into the loop on this. I am trying to understand with all do respect to Mr. Carroll, he was a part of the Commission, so it is very easy for him to understand and it's second nature. For me, you know, I'm clueless to what you're talking about. So I don't know if, Director Min, if you can -- I promise I'll learn quick but until that.

MR. MIN: I know you will. The Planning Commission, the Maui Planning Commission um, amended its rules regarding Petitions to Intervene. When we get a Petition to Intervene, before we actually get
into a contested case proceeding, the Commission has required that the parties go through mediation to try to work out the differences.

COUNCILMEMBER KANE: Uh-huh.

MR. MIN: If that doesn't work, then we proceed until the contested case hearing. Okay. Prior to that you file a Petition to Intervene. If it's granted by the Commission, we get right into the contested case hearing mode. Okay. So now the Commission has put mediation in as another process. The comment by um, um, Mr. Carroll is if the parties through the initial mediation settle their differences, can the intervenor get their $300 back because we haven't gone into the contested case. And, you know, my comment is that, that sounds reasonable to me because if you're an applicant and you file an application with our department and let's say a couple months down the line you decide you want to withdraw your application um, we will return the application along with the filing fee. Okay. Um, you know, provided that we didn't have to go to a public hearing and expend that for a public hearing notice. So I'm just, you know, I was just commenting that it sort of is a comparable situation and it didn't strike me as being unreasonable.

COUNCILMEMBER KANE: Okay. Thank you. I
appreciate that. Thank you, Mr. Chair.

CHAIR HOKAMA: Okay. Thank you.

COUNCILMEMBER KANE: And I think one of the issues as from what I gather from Mr. Smith's testimony is I think you made a comment that there is a fee being created through a rule making process rather than coming through the Council and creating that fee. So I'm trying to get clarification. Has there been a fee created through a rule making process at the Planning Commission level that never came through us? Does there exist a fee that we never saw that has been implemented in that Planning Commission Process? And if so, then the legal question to Brian would be is that allowable since they -- well, I'll let you answer that, is that allowable?

CHAIR HOKAMA: Who's going to respond first? Mr. Min or Mr. Moto?

COUNCILMEMBER KANE: And, Mr. Chairman, is that a correct assessment of what Mr. Smith was saying or anybody? It sounds like that's what he was trying to say.

CHAIR HOKAMA: Well, that, that's his assessment.

COUNCILMEMBER KANE: Yeah, yeah. And so I am just trying to verify and get clarification from the
Department and Corporation Counsel. Thank you.

CHAIR HOKAMA: Who is going to respond to the question from Mr. Kane? Mr. Moto.

MR. MOTO: Mr. Chairman, pursuant to statutory authority the Planning Commission um, by Administrative Rule which has the effective of law has adopted rules establishing fees for certain permits and procedures. Um, those rules have been drafted in a way that simply that create the fee, but don't identify the specific amount, but instead refer to the County Budget Ordinance. So that um, the rule for an SMA permit will say there shall be a fee um, and the fee shall be as set forth in the Annual Budget Ordinance, and so that it -- what happens then is that the work and the legislation that you're working on now in effect sets that fee.

COUNCILMEMBER KANE: Okay. So I understand that clarification. So what you're saying is -- and I'm sure you heard Mr. Smith's testimony. He's implying that -- it seems like he's implying that a fee was imposed without, without the Council playing a role in that. So you're saying that's not true. That it ultimately does come through us, through this document right here that we're going to be approving and it is just a matter of us deciding whether or not we're

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going to allow that fee to occur.

MR. MOTO: Mr. Chairman, I'm not -- well, I, I'm not sure if Mr. Smith had a specific case or incident in mind. I'm not aware of any fee that does not come before the Council for approval in some way. All of the fees that are levied by the department or one of the Planning Commissions should be and as far as I know is listed in this Annual Budget Ordinance, and it's really up to the Council to determine whether to impose such a fee or to modify the amounts or to eliminate them entirely.

COUNCILMEMBER KANE: So by the Commission in their Administrative Rule Function saying that there shall be a fee, ultimately though the Council is the one who determines what that fee will be, if any? In other words, even though they say there shall be a fee, we can say that fee is zero. And that's just for sake of discussion to understand it?

MR. MOTO: Mr. Chairman, yes.

COUNCILMEMBER KANE: Okay. Thank you.

CHAIR HOKAMA: Okay. Thank you very much. I think it still comes down to the Council --

COUNCILMEMBER KANE: Yeah, yeah.

CHAIR HOKAMA: -- decision. Ms. Tavares.

COUNCILMEMBER TAVARES: Could I ask how many um,
1 people or incidents have been filed or how many
2 intervenors or appeals have been filed under, you
3 know, where this fee is kicked in? How many have you
4 had in a year?

5 MR. MIN: Okay. I'm going to sort of take a
6 guesstimate at this.

7 COUNCILMEMBER TAVARES: Okay. Oh, Mr. Handy
8 dandy. Clayton just popped here with all the-- he's
9 reading our minds. Boy, this is scary.

10 CHAIR HOKAMA: Psychic.

11 COUNCILMEMBER TAVARES: I didn't tell him I was
12 going to ask that question.

13 CHAIR HOKAMA: It is one of those CRs, Members.
14 Cosmic Revelations.

15 MR. MIN: He's psychic among other things.

16 COUNCILMEMBER TAVARES: Thank you, Mr. Yoshida.

17 CHAIR HOKAMA: He's got it all by years broken
18 down. Excellent.

19 COUNCILMEMBER TAVARES: Five.

20 CHAIR HOKAMA: Okay. Members, according to
21 Mr. Yoshida this is only for the first half of the--

22 MR. YOSHIDA: Yes Council woman-- Councilmember
23 Tavares for the Year 2000, that's only for the first
24 half, January to June because this was what was
25 presented to the Planning Commission when they were
deciding on their amendments to the rules --

COUNCILMEMBER TAVARES: Oh I see.

MR. YOSHIDA: -- and they wanted to know how many petitions to intervene have been filed. So we went back to the calendar year 1996 to the first half of the year 2000 and for those 4 1/2 year period 26 SMA, I mean 26 Petitions to Intervene were filed of which um, 10 were withdrawn, 2 were denied, 3 were filed and 6 actually went through a Contested Case Hearing Process. So about 23.1% or 6 of the 26 petitions to intervene filed for the 4 1/2 year period actually went through the Contested Case Process, and then under Exhibit B it goes through the cost of the Hearings Officer and the transcript. So say for the Kihei View Apartments SMA Contested Case, the cost of the Hearings Officer was about $16,000. The cost of the transcript was about $4,000. So the total cost was about $20,000. For that Kaanapali Ocean Resort SMA Contested Case at a Kekaa North Beach, the cost of the Hearings Officer was $30,000. The cost of the transcript was about $14,000 and the total cost was about $44,000.

COUNCILMEMBER TAVARES: So in these cases these cost that you read there, the totals that is born by the Planning Department or is it split between the

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applicant?

MR. YOSHIDA: That is totally borne by the Planning Department.

CHAIR HOKAMA: If I can add a question in the same light of Ms. Tavares' questioning. So, Mr. Min, regarding the note on the bottom regarding Jon Van Dyke which was this Special Counsel, that cost will also be born by the Planning Department for the Special Counsel?

MR. YOSHIDA: Well, in that particular case the Council authorized the Commission to hire a Special Counsel. So besides the Hearings Officer who was Joel August, the Council authorized the Planning Commission to hire a Special Counsel which was Jon Van Dyke and the cost of that was born by the Council. So we don't know how much they spent on that. But that was the -- in addition to the $44,000 --

CHAIR HOKAMA: We should have back charged you guys.

MR. YOSHIDA: -- the Hearings Officer and the transcript, that was also the cost of hiring Jon Van Dyke as Special Counsel to the Planning Commission.

CHAIR HOKAMA: Okay. So for the -- for application two on Exhibit B if we say Mr. Van Dyke had another $25,000 contract -- I mean I'm just
guessing -- okay, we're looking at may be $70,000 for
that one case?

MR. YOSHIDA: Correct.

CHAIR HOKAMA: That is all born by the County of
Maui.

MR. YOSHIDA: Correct.

COUNCILMEMBER TAVARES: What was the outcome of
the case that particular case?

MR. YOSHIDA: That particular case um, the SMA
 Permit and whether it complied to that condition
number 7 of the 1988 SMA um, that it was granted back
in October of 1998.

COUNCILMEMBER TAVARES: So the intervenors
lost?

MR. YOSHIDA: There was a settlement agreement
between the intervenors. There were six intervenors
including Jo Anne and Jim Johnson.

COUNCILMEMBER TAVARES: Oh, okay that case.

MR. YOSHIDA: Yeah, that case. There were some
intervenors who dropped out. I think Buck Buchanan
was, and Dave and Elizabeth Chenoweth reached a
settlement agreement with the applicant. But above
that the Commission decided to place additional
conditions over and above the settlement agreement,
and they had numerous meetings and discussions and
COUNCILMEMBER TAVARES: Okay. Thank you.

CHAIR HOKAMA: Okay. Thank you. Mr. Molina.

COUNCILMEMBER MOLINA: Thank you, Mr. Hokama — Hokama. John, or Clayton, how do you folks arrive at $300 as the, you know, an appropriate fee?

MR. MIN: If I recall, it sort of relates I guess to um, Table A and what the sort of minimum fee would be that we charge for a public hearing item or um, 300 seemed to be about a reasonable minimum. Over the years, I guess the Department has come in to increase the fees from 150 to 250, and I think $300 is kind of where it is settled.

COUNCILMEMBER MOLINA: What other um, did you consider any other, any fees higher than 300?

MR. MIN: Uh, in terms of our Public Hearing Applications because the fees are based on a sliding scale depending on the value of the project, okay um, our sense was that $300 as a minimum for a small project, a project with a very small valuation, under 125,000 was reasonable. Um, some of our fees can be as high as $2,000 depending on the value of the project. Okay. So 300 is sort of the very, you know, the entry level, the very minimum fee and depending on the value of the project, it can go up to um, 2,000 3,000, may
may be even up to $4,000.

COUNCILMEMBER MOLINA: Is it just to intervene?

MR. MIN: No, no, no. As far as petitions to intervene, the fee there is proposed at $300. That's the same fee that relates to appeals um, amendments to our rules. I'm sorry, amendments to our rules are higher. Um, $300 if you look at our proposed fee schedule is the minimum, that the minimum fee, and what we're proposing for the petition to intervene is the minimum fee.

COUNCILMEMBER MOLINA: This is just to recoup some of -- well, actually you'll never recoup everything, right? So it is more or less this is just a token fee?

MR. MIN: That's how we kind of view it. You know, if have you to pay a fee, you have to show you're a little earnest about doing it.

COUNCILMEMBER MOLINA: I guess some people would look at it as penalizing their right to, you know -- I'm looking at it from the other side too. They're looking at it as an infringement upon their right to, you know, express themselves or contest a case. Okay. So this is more or less a token fee on the part of the Commission or the Department and to see -- not, not to discourage them but to, I guess, see how
serious these intervenors are with this case to
whenever they want to contest a case. So you don't
have any frivolous interventions coming at you left
and right, I guess?

MR. MIN: Our intention was not to discourage
Petitions to Intervene. I think if a, if a party, an
individual is serious about intervening, they will
intervene. Um, you know, that's, that's been sort of
the track record um. The good news is that a number of
them do settle and we don't get to that contested case
hearing stage. And I think 23% of our um, petition to
intervene have actually ended up, you know, at that
contested case phase. So there is, yeah, I think, an
effort to try to settle, work things out.

COUNCILMEMBER MOLINA: Um, before it reaches
this stage, right?

MR. MIN: Yeah. Because I think when you get
into to a contested case hearing, it is difficult for
all parties concerned. It is extremely costly, even
for intervenors. Although they're not sharing any of
the cost of the department, they have to retain an
attorney, they may have to pay witness fees. Um,
there's a lot of cost involved.

COUNCILMEMBER MOLINA: Thank you.

CHAIR HOKAMA: Okay. One thing Mr. Min didn't
mention, Mr. Molina, is that it becomes very adversarial when you go in to contested case proceedings. It's not too friendly. John, just so that the Members are very clear, "filed" of a petition means "no action"? You have withdrawn, denied, filed contested case.

COUNCILMEMBER KANE: Exhibit A.

CHAIR HOKAMA: So filed, you know, you show three of the petitions as filed. File means what, as it relates to the Planning Commission? Does it mean no action or does it mean they filed it because they agreed with the intervention?

MR. YOSHIDA: I believe in filed um, I believe that they reached some sort of agreement and they just filed the intervention.

CHAIR HOKAMA: Then wouldn't it be a withdrawal? Or settlement? I mean I am just trying get a sense to be very clear. You have all of this broken down for us and I'm just trying to get a clue of what "filed" means from the Department of the Commission's point of view?

MR. MIN: May be to add to what Clayton has stated, I believe the reference to filed refers to um, applications that are currently going through a contested case hearing, prehearing process. I'm just
looking at the foot note. And we have three petitions
to intervene which are going through a prehearing
process. And so I think the reference to filed are
those applications that are kind of at that stage.
Those that are identified as contested cases are those
that have actually gone through that contested case
hearing process.

CHAIR HOKAMA: Okay. So this is before a
Hearing Officers your selection, this is prior to --
this is all your preliminary preparation?

MR. YOSHIDA: Basically the application was
withdrawn. The application itself was withdrawn. So
the petitions to intervene, so the application was
filed and the petitions that intervened that went
along with it since there's no active petition,
there's no active application anymore were filed. So
that's what it means. In the case of the Maui Lu when
they were going to do the redevelopment of the Maui
Lu, there were two petitions to intervene that were
submitted and they were granted intervenor status, but
subsequently the applicant withdrew the application
and the application was filed. So the two petitions to
intervene were filed because they were moot --

CHAIR HOKAMA: Uh-huh.

MR. YOSHIDA: -- at that point in time.
CHAIR HOKAMA: Okay. I hope that makes everybody understand and not confused.

MR. MIN: I stand corrected.

CHAIR HOKAMA: I am sorry if I confused everybody, but --

COUNCILMEMBER TAVARES: No, you didn't.

CHAIR HOKAMA: Mr. Kane. Because filing to the Commission is different from a Council filing action um. It is two different meanings.

COUNCILMEMBER KANE: Just my math. We got Petitions to Intervene, 26; and then, if you add up all the percentages and the numbers after that there's --

CHAIR HOKAMA: There's 21.

COUNCILMEMBER KANE: -- five or 19.2% not being recognized. Is there some other category that we're not talking about? It may not even be important but I just again I'm just trying to understand the document that you passed out to us. You know, you got 26 and 100% and if you add up everything of those four -- so that's one question. Then another question is back to what Mr. Carroll was suggesting as far as getting a reimbursement of the $300. At what stage does that reimbursement --

CHAIR HOKAMA: Kick in?
COUNCILMEMBER KANE: -- kick in? Yeah. In other words, if we go to withdrawal and denied and filed, you still get reimbursed, but if it goes to contested, then they keep it?

CHAIR HOKAMA: I guess depends if you win or not the case?

COUNCILMEMBER KANE: Which brings up other questions, you know? If the intervenor loses, is there anyway they share in the cost of this whole expenditure or if there was some sort of settlement, is there some sort of cost sharing of the expenditure to deal with this or is this the cost of doing government or the cost of running government and we just look at it as a write off and that's just the way it is?

So I apologize for the barrage, but I'm crashing and burning pretty soon. Cannot, yeah? And I didn't think so.

MR. YOSHIDA: Councilmember Kane. If -- let's see I guess if you add up the total number of withdrawn, denied, filed and went to contested case that's --

COUNCILMEMBER KANE: 21.

MR. YOSHIDA: -- 21. So the remaining five are still pending.
COUNCILMEMBER KANE: Oh, okay. Pending.

MR. YOSHIDA: Yes.

COUNCILMEMBER KANE: And so since I got you right there, so the $300 petition to intervene filing fee as far as talking about a reasonable suggestion by Councilmember Carroll to have that reimbursed at what point it is, is it not reimbursed? At what point in this process that you've drawn out for us does it not get reimbursed?

MR. MIN: I think once we get into the contested case phase, after mediation and once we get into like the prehearing conference for a contested case hearing and the contested hearing, I would think that right after the mediation, I think we moved into another arena, and at that point I think um, you know, there should be no return. But if after mediation there's a settlement, we never get into having a prehearing conference which involves a hearing officer, I would say at that point it, we should consider returning that fee. That would seem reasonable to me.

COUNCILMEMBER KANE: So, Director, filed and denied, at what phase of the process are those two categories and would those qualify as a return or is that already too far in this? So, yeah.

MR. MIN: I think to be consistent, if it's
denied or filed, it ought to be returned because it never gotten beyond that.

COUNCILMEMBER KANE: Okay. And then as far as and I think Bob and I were just kind of answering our own, my own question, but as far as passing on any type of expenditures to an intervenor, that's not something that -- I don't know if, Brian, that's a legal question or if that's something to the Director, Mr. Chair?

CHAIR HOKAMA: You mean if the applicant loses the intervenor, the contested case that the 300 filing fee be paid by the applicant and the intervenor's fees refunded?

COUNCILMEMBER KANE: Or even going down into the Exhibit B, Mr. Chair, in looking at the cost of contested cases.

CHAIR HOKAMA: Or pay for the contested case.

COUNCILMEMBER KANE: And if the intervenor, you know, it comes down to -- and again I don't really understand. I'm just trying to get a feel for it. I'm not suggesting any tendencies on my part. I'm just trying to understand the process, and in a case of the cost of contested cases, there's no way that because we have a concern about in a previous discussion how you said oh, 25,000 for the hiring of Jon Van Dyke, so
there was an expenditure of $70,000 somewhere around -- added up. If an intervenor initiates this whole process and the intervenor loses this case, is there any mechanisms out there that would allow the burden of cost on the intervenor, and Mr. Carroll and I were thinking "no." It's just the cost of government, that's just the way it is to provide for the open, for government, you know, open to the public and allowing this engagement and interaction. So I am just trying to understand that.

CHAIR HOKAMA: Okay. Thank you, Mr.--

COUNCILMEMBER KANE: Or if there is a settlement, Mr. Chair? During the contested case, okay we're going to settle, you know, they come up with something, do they share cost? You pay for your stuff, I pay for my stuff or again --

CHAIR HOKAMA: Well, I think we'll let Mr. Moto give us a comment at this time.

MR. MOTO: Mr. Chairman, the subject of the type and extent to which parties to an application and by parties, I would include the intervenor, can be made to bear the cost of the administrative litigation in effect including the cost of the Hearing Officer and or the transcript, for example, is a matter that was addressed by my predecessor in Land Use matters, Kelly

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Cairns, and I believe she may have actually written a memo or letter to the Planning Commission when they discussed this matter. And the advice given at that time and the discussion that followed noted that under Chapter 91 which is the Highway Administrative Procedure Act, State law does not permit the passing on to parties of the cost of Contested Case Hearings. So we cannot impose upon either the applicant or the intervenor the cost, for example, the Hearing Officer or the transcript. What we can impose are reasonable fees basically for the administrative cost of processing the paper through the application and um --

COUNCILMEMBER KANE: Mr. Chair. So just to follow-up on that point. So, Brian, you just described a discretionary act as far as reasonable fees. So what does that mean? Are there any type of set standards that would dictate what is and what is not reasonable as far as what we can determine as a charge to any or all parties involved? And the long and short of it, if possible. I'm crashing and burning.

MR. MOTO: Yes. Well, I guess to give a brief answer is that the charges collected must be to compensate the governmental entity providing the service for its expenses and not to raise revenues.
In other words, it must truly be a fee and not a tax.

It -- normally what is done --

CHAIR HOKAMA: You can break even but you can't show a net gain.

COUNCILMEMBER KANE: So how do you quantify the service born by the government entity? I mean how do, if Corp Counsel does something, how do we say, do we give you an hourly wage, do we take what you get yearly, break it down and then figure out how many hours you did as an example? How is that -- how is that quantified?

CHAIR HOKAMA: I think you just said it Mr. Kane.

COUNCILMEMBER TAVARES: You answered your own question.

COUNCILMEMBER KANE: Well, I say that but is that somewhere where we can use that to justify it? I mean is it written somewhere where we can refer to that as a basis for the charges that will be passed on to the party or parties? I mean -- and I'm just taking, I'm taking it out as far as I can, Mr. Moto, just so I can understand this whole process so when we get into deliberation, you know, it will help me understand what I'm deciding on.

MR. MOTO: Well.

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COUNCILMEMBER KANE: Unlike Mr. Carroll whose
been through all of this, so he doesn't need this
stuff. It's kind of like boring him and I apologize,
Mr. Carroll.

MR. MOTO: Let me, Mr. Chairman, state that I
would like the opportunity to review the advice
previously given by my department on this subject. But
on the -- I will note that often times the
establishment of fees are based upon some kind of
study or evaluation of the, the amount of time that is
spent and any actual cost associated with the
processing of the paper application and so forth.

COUNCILMEMBER KANE: And a final, it's not a
question but so, Director Min, my question would be
then if that's the case and we can pass on cost that
are deemed reasonable and if it's based on some sort
of quantifying um, um, standard or whatever you want
to call it, is there documentation taking place on the
amount of hours that are -- I mean do you folks
document who does what, how much time is put into it
so we can justify this thing, so we can create the
paper trail to justify what cost we're going to pass
on to these parties?

MR. MIN: Yeah. We do have -- we do have
estimates of the amount of time it takes to process
different applications. We do have that information.

COUNCILMEMBER KANE: To a point where an opposing attorney wouldn't be able to poke holes into our, our standards or what we have available to justify our passing those cost?

MR. MIN: Yeah. I'm comfortable that we can justify our proposal.

COUNCILMEMBER KANE: Mr. Chair, thank you for allowing me to take it out, again.

CHAIR HOKAMA: Thank you. Mr. Carroll, any comments?

COUNCILMEMBER KANE: Unfamiliar territory for me.

CHAIR HOKAMA: That's okay. We're all learning.

COUNCILMEMBER CARROLL: Even though I remember very well the opinion and everything, I think it would probably be more appropriate to wait for Corporation Counsel to come back with it, although I have no problems remembering the discussions and the opinion. But I will say this that if it was any more than $300 and we did not have the rationale that we're using now, I would oppose the fee. The only reason I'm not opposing the fee is because the rationale that Mr. Min has given for that fee, for that $300 and I would certainly not approve a penny more than that. I think
that can be shown as appropriate but no more. Thank you.

CHAIR HOKAMA: Okay. Thank you. Any other questions? If not, the Chair is --

COUNCILMEMBER KANE: Mr. Chair.

CHAIR HOKAMA: Yes.

COUNCILMEMBER KANE: The last issue that hasn't been covered by a point brought up in testimony was the sliding scale and why we went from as what Mr. Smith said, and again I think it's important that because somebody came out and took the time to bring up issues that he felt was affecting him adversely, I think it is incumbent upon us to explore those concerns or address those concerns and, you know, come to some sort of resolve. So his thing was the sliding scale um, Director Min, and why we went and his thing was we should assign a specific cost to a specific item instead of doing it based on a cost or or a cost of a project. And so I'm just interested to hear your thoughts.

MR. MIN: If I understood his comment um, he was referring to the fee for appeals um, under the Board of Variance and Appeals.

COUNCILMEMBER KANE: Yes.

MR. MIN: And quite frankly, I think he makes a
good point. Because in the other sections where we have appeals, there's a specific dollar amount $300. But in this particular section the fee for appeals relates to Table A --

COUNCILMEMBER KANE: Sliding scale.

MR. MIN: -- and the value of the project. So to be very honest I can see his point on that 'cause it's not consistent with the $300 fee that we have in other parts related to appeals. So --

COUNCILMEMBER KANE: So saying that, Mr. Chairman, saying that are you folks willing to -- are you looking at standing by this original budget proposal or are you willing to since you've identified an inconsistency, are you willing to submit a change to bring yourself into a consistent line of fee charges? Specific fees for specific actions, I think is what he said.

MR. MIN: Yeah. I, I would be willing to submit a revision to this to make it $300 for Board of Variance and Appeals, appeals. I think his request is, you know, has merit and I think we need to be consistent in our fee structure, and if we're going to charge $300 for appeals before the Planning Commission, it should be comparable for the Board of Variance and Appeals. That makes sense.
COUNCILMEMBER KANE: Okay. So my final question now becomes people who have money versus people who really don't have money, so now we're looking at $300 which is, could be deemed excessive by somebody who doesn't have money. So I'll yield the floor.

COUNCILMEMBER TAVARES: Yes, I think you're getting -- oh, excuse me, Mr. Chairman.

CHAIR HOKAMA: Yes, Ms. Tavares.

COUNCILMEMBER TAVARES: I think we're getting into some deliberation stages and I'm holding my -- a lot of my comments for deliberation, and I think that's a very valid point that we need to think about. I just had another question about this area.

CHAIR HOKAMA: Proceed.

COUNCILMEMBER KANE: Thank you. I'm done.

Thank you, Mr. Chairman. And I appreciate you drawing the line of -- deliberation.

COUNCILMEMBER TAVARES: I know you're getting so passionate over there, Mr. Kane. Um, under the Board of Code Appeals, what is an exception, exceptions under Board of Appeals? The first one exceptions is $300 filing fee? I know what an appeals is, but what is an exception?

MR. MIN: You know, I'm not really sure what that refers to. Um, Board of Code Appeals is, you
know, administered by Land Use and Codes.

COUNCILMEMBER TAVARES: Oh, that's right.

MR. MIN: I could take a guess, but I really
don't know. I'm not sure.

COUNCILMEMBER TAVARES: Could we find out what
that is? What's an exception?

CHAIR HOKAMA: We will follow-up on that. And
we'll ask a -- LUCA is under you, Mr. Min?

MR. MIN: No, it isn't. Board of Code Appeals is
under the Land Use and Codes Administration, Public
Works Department.

CHAIR HOKAMA: Okay. We'll forward it to Public
Works for a response by next week Tuesday.

COUNCILMEMBER TAVARES: Mr. Chair.

CHAIR HOKAMA: Yes, ma'am.

COUNCILMEMBER TAVARES: That makes my highway
beautification even more out of place.

CHAIR HOKAMA: And that's why we will relocate
it to a more appropriate --

COUNCILMEMBER TAVARES: Just ignore me, I'm just
delirious.

CHAIR HOKAMA: I like it when you folks
delirious.

COUNCILMEMBER KANE: Not.

CHAIR HOKAMA: Okay. The last thing then the
Chair is going to say as part of, prior to deliberations is that for those of you that feel a strong concern that was raised by Mr. Kane and I think Ms. Tavares may share some similar thoughts, then the Chair would recommend that you, those of you that feel it strong enough to start considering drafting a provision that may be added to this portion of the fee schedule whereby a waiver, may be considered if a financial hardship or a financial situation can be proved to address the concern of those that may not have the resources. Ms. Tavares.

COUNCILMEMBER TAVARES: Yeah. Mr. Chair, could we get what revenue this generates all these appeal fees, the $300? $200 is on now or these are proposed?

CHAIR HOKAMA: Mr. Min, proposed or in place?

MR. MIN: Um.

COUNCILMEMBER KANE: (Inaudible).

MR. MIN: Yeah. With the exception of those that I've -- those changes that I noted, Table A is in effect, for example.

COUNCILMEMBER TAVARES: All the appeal fees are in effect?

MR. MIN: The appeals fees, yes, they are.

COUNCILMEMBER TAVARES: So if we could just have an amount from how much revenue we've gotten based on
the appeal fees um, may be to date so far this year
and may be -- was last year 300 in effect wasn't
$300 for last fiscal or this fiscal year, last fiscal
year?

MR. MIN: I'm not sure.

CHAIR HOKAMA: Okay. You know what, I'm going
to ask for that to be sent to the Committee. We're
going to lose quorum shortly. Mr. Carroll needs to
leave for his own family requirements, and the Chair
will recognize that request and support him. So,
Members, anything else, please send it forward.
Monday again we will start off with Managing Director
at 9:00, and we'll do as much as we can. I thank you
for staying. It's 5 p.m., have a very good holiday
and safe Easter.

COUNCILMEMBER TAVARES: Happy Easter.

CHAIR HOKAMA: Happy Easter to all of you and
this meeting is adjourned...(gavel)...

MR. CARROLL: Thank you, Chair.

ACTION: DEFER pending further discussion.

ADJOURN: 5:00 p.m.
STATEMENT

I, ESTHER C. WORONICZ, state:

That the meeting contained herein was transcribed from videotape by me in machine shorthand and was thereafter produced in transcript form under my supervision; that the foregoing represents, to the best of my ability, a true and accurate transcript of the proceedings had in the foregoing matter.

I further state that I am neither attorney for any of the parties hereto nor in any way concerned with the cause.

Dated this 6th day of June, 2001.

ESTHER C. WORONICZ