

**COMMITTEE OF THE WHOLE**  
Council of the County of Maui

**MINUTES**

**June 4, 2009**

**Council Chamber, 8<sup>th</sup> Floor**

**CONVENE:** 9:14 a.m.

**PRESENT:** Councilmember Michael J. Molina, Chair  
Councilmember Jo Anne Johnson, Member  
Councilmember Wayne K. Nishiki, Member  
Councilmember Joseph Pontanilla, Member  
Councilmember Michael P. Victorino, Member

**EXCUSED:** Councilmember Danny A. Mateo, Vice-Chair  
Councilmember Gladys C. Baisa, Member  
Councilmember Sol P. Kaho'ohalahala, Member  
Councilmember Bill Kauakea Medeiros, Member

**STAFF:** Kirstin Hamman, Legislative Analyst  
Camille Sakamoto, Committee Secretary

**ADMIN.:** Tamara Horcajo, Director, Department of Parks and Recreation (Item Nos. 17 and 18)  
Lori Tshako, Director, Department of Housing and Human Concerns (Item Nos. 17 and 18)  
Kimberly A. Sloper, Deputy Corporation Counsel, Department of the Corporation Counsel

*Seated in the gallery:*

Jeffrey T. Ueoka, Deputy Corporation Counsel, Department of the Corporation Counsel

**OTHERS:** **Item 18:** Tom Blackburn-Rodriguez  
Michael Duberstein  
Melanie Alapai  
Lehuanani Huddleston-Hafoka  
Kalimaya Herrera  
Colin Hanlon  
Four (4) additional unidentified attendees

**PRESS:** *Akaku: Maui Community Television, Inc.*

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**CHAIR MOLINA:** ...*(gavel)*... The Committee of the Whole meeting for June 4<sup>th</sup>, 2009 is now in session. Members, it's 9:15 a.m. Thank you for showing up this morning. We

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have a bare quorum for our agenda this morning. So, the Chair, certainly appreciates you being here. We've got three items on our agenda today, but first I'd like to introduce. . .present from the Staff, we have Kirstin Hamman, our Legislative Analyst; Committee Secretary, Camille Sakamoto. And from the Administration today, we have Housing and Human Services Director, Lori Tshako; and from the Corporation Counsel, we have Kimberly Sloper. And for the record, the Members in attendance, we have Members Johnson, Nishiki, Pontanilla, Victorino, and Committee Chair Molina. Excused are Members Mateo, Baisa, Kaho'ohalahala, and Medeiros. Members, before we get into our agenda items we will take public testimony for our three items today. And first up, we have Tom Blackburn-Rodriguez, and he'll be testifying on Committee of the Whole Item 18. And just a few ground rules before you start, Mr. Blackburn-Rodriguez, you'll be given three minutes to testify with one minute to conclude, and please state your full name and any organization you may be representing. And folks in the gallery, if you have any cell phones or pagers, please turn, turn them off so as to not disrupt our proceedings today. Good morning, Mr. Rodriguez.

**. . .BEGIN PUBLIC TESTIMONY. . .**

MR. BLACKBURN-RODRIGUEZ: Good morning, Mr. Chairman. My name is Tom Blackburn-Rodriguez. I am the President-Elect of the Kihei-Wailea Rotary Club. However, today I will be speaking as an individual. I would like to speak in support of the County arrangement to lease land to the Kihei Youth Center and say that I think it's a terrific, terrific partnership. They do a wonderful job. Our Rotary Club works closely with them and they are just out there every day doing things for the kids in, in South Maui. And you ever go there, you'll see it's full, and the kids are happy, and people aren't getting in trouble, and there's no graffiti, and it's just a really swell place. And, and just wanted to say thank you for considering the item and I hope that you will, once you do your due diligence, will be able to approve the lease agreement. Mahalo.

CHAIR MOLINA: Thank you, Mr. Blackburn-Rodriguez. Members, questions for the testifier? Mr. Victorino?

COUNCILMEMBER VICTORINO: Yeah, real quickly. Thank you, Tom, for being here this morning and, and giving us--what is the, the relationship between the Rotary and the Kihei Youth Center? What are you guys basically--

MR. BLACKBURN-RODRIGUEZ: Well, I would, I would say it's a relationship of love . . .(laughter). . . Oh, yeah.

COUNCILMEMBER VICTORINO: Okay.

MR. BLACKBURN-RODRIGUEZ: We, we, we. . .the Executive Director is a member of our Rotary Club. We raise funds for, and help them raise funds. The Rotary Club supports a movie and a dinner activity. They're volunteer activities. It's really a seamless relationship, and we're, we're honored to be part of that relationship.

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COUNCILMEMBER VICTORINO: And am I correct and you guys have also participated in some of the remodeling and some other things that have had, that the place has needed help with, some of the maintenance?

MR. BLACKBURN-RODRIGUEZ: Yes, if you want something painted and fixed up, call Rotary . . . *(laughter)* . . .

COUNCILMEMBER VICTORINO: Okay . . . *(laughter)* . . . We'll remember that one. I will remember that one.

MR. BLACKBURN-RODRIGUEZ: . . . *(laughter)* . . .

COUNCILMEMBER VICTORINO: Thank you. Thank you, Mr. Chair.

MR. BLACKBURN-RODRIGUEZ: Thank you very much, Mr. Victorino.

CHAIR MOLINA: Thank you, Mr. Victorino. Mr. Pontanilla?

COUNCILMEMBER PONTANILLA: Thank you. Thank you, Tom, for being here this morning. You know, we've received a lot of emails in regards to supporting the Kihei Youth Center. And of course, you know, I think majority of us will support any youth center. But the question that I have--and just to let you know the difference between lease and license. . . this area has been Executive Ordered from the State of Hawaii to the County of Maui for, you know, such purposes like the youth center. If we go with a lease agreement, you know, portion of that area needed. . . will, will need to be subdivided. But if we go with a *license* agreement then, you know, continue as is. So, I, I just want to let you know that there's a difference. Lease agreement would be, you know, subdividing the portion and, and it need to be brought forward and approval by the Board of Land and Natural Resources. So, you know, I think the license agreement would be more beneficial for the Kihei Youth Center. But we'll ask Corporation Counsel the differences. Thank you.

MR. BLACKBURN-RODRIGUEZ: Thank you.

CHAIR MOLINA: Okay, thank you, Mr. Pontanilla. Committee Members, any other questions for the testifier? Seeing none, thank you very much for your testimony, Mr. Blackburn-Rodriguez.

MR. BLACKBURN-RODRIGUEZ: Thank you.

CHAIR MOLINA: Next to testify on Committee of the Whole Item 18, we have Michael Duberstein, and he'll be followed by Melanie Alapai.

**NOTE:** *Pause while Mr. Duberstein approached the podium.*

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MR. DUBERSTEIN: . . . Aloha ka kou, my name is Michael Duberstein. I live in Kihei and among the kuleana I value most highly is the time I'm able to help out at the Kihei Youth Center. Our Rotary Club of Kihei-Wailea has, for years, done all we can to assist the KYC. And I greatly admire the amazing KYC's staff and board members, some of whom are here today, for the hours and extra time they commit to provide wide-ranging and extraordinarily useful programs built around Native Hawaiian values. But today, the onus falls on you. The current building at the Keniolu *[sic]* Rec Center has gone too long without bottom-line upkeep imperative to meet present and future safety and program standards. For example, anyone who's worked in that kitchen doesn't have to be reminded of how *wonderful* the staff does in that narrow, steamy space. So, I urge you to approve the new lease and then allow the necessary funds to be released for these long pending repairs and maintenance. Finally, the current economic slump inevitably means that more parents will be forced to find even more jobs, if they can--and that creates the prospect of even more keiki needing and utilizing KYC resources. *Please* do all you can to pitch in and support this wonderful program. Mahalo and malama pono.

CHAIR MOLINA: Okay, thank you, Mr. Duberstein. Committee Members, questions for the testifier? Seeing none, thank you very much for your testimony. Next to testify on Committee of the Whole Item 18, Melanie Alapai; followed by Lehuanani Huddleston-Hafoka.

*NOTE: Pause while Ms. Alapai approached the podium.*

MS. ALAPAI: . . . Aloha and good morning, my name is Melanie Alapai.

CHAIR MOLINA: Melanie, move your microphone down there. There you go.

MS. ALAPAI: My name is Melanie Alapai and I'm currently the Program Director at the Kihei Youth Center, and I am definitely in support of asking you in support of leasing the 20-year lease to the Kihei Youth Center. My manao on the Kihei Youth Center, like anywhere else is a necessity to the community--being that we are the only one in South Maui, and we've been there for about 25, 26 years. And it's amazing how there's a lot of members in the community that's been there for so many years, and are only now are coming out and bringing their children. And I got to say it's because of the help with the outside organizations and the great efforts--not just of our staff 'cause we don't want to take kudos for everything--but of the County and everyone else. And also with the, the kids. You know, the kids are seeing that it's a team effort made not with just us, the adults, but it's with everyone involved. So, I just want to ask you to please support our lease and mahalo.

CHAIR MOLINA: Okay, thank you, Ms. Alapai.

COUNCILMEMBER VICTORINO: Mr. Chair?

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CHAIR MOLINA: Mr. Victorino, question?

COUNCILMEMBER VICTORINO: Yes. Ms. Alapai, thank you very much for being here. As we had discussed earlier, I, I'm very curious. . .parental participation for which all programs throughout the County, in my estimation, lack enough help. . .but in the Kihei Youth Center, do you guys feel that you have a fair amount, not enough, need more? What is your take as far as parental? I understand the kids. I understand the outside and I understand what we're committed to. But the parents?

MS. ALAPAI: You know, I, I won't lie about it. We definitely want to see more parental volunteerism or people that. . .parents that come out, but at the same time we know that, you know, parents need to work, not just one job, two, three jobs at the same time. There are a lot of single family homes so you only *got* one parent. We have. . .we've seen help from friends of the church, which helps the parents at home, but they will. . .they're willing to come out, help the kids there at the Youth Center. But at the same time. . .with this time of the economic challenges that we have, we've seen--'cause you know that there's a dependency even more so now for this, for the youth center organizations as such. But we actually see the parents now really coming out and showing that we really need you now, whether it's volunteering their time or even donating one bag of, you know, a rice, you know, that probably, they probably need at home. But, you know, they're making, they're showing that they're trying to make that sacrifice to show that, you know, we need, they need us, too. So, you know, it's, it's, there's a, there's a kind of a half-and-half, I mean, I know we had that conversation earlier and I agree that we definitely need to see more involvement with parents, not just with our organization, I think, with many youth centers here in, in Maui County.

COUNCILMEMBER VICTORINO: Thank you, Ms. Alapai, and, and it's heartwarming to know that unfortunately it's a downturn that makes people or we have to turn for this kind of situations to occur. However, I think that's what I wanted the public to see--that youth centers are not just the County and the, the staff and the children, but parental involvement and parental assistance is very much needed so --

MS. ALAPAI: Oh, yeah.

COUNCILMEMBER VICTORINO: --so that people can understand this is what we need. This is what makes *Maui* no ka oi. And I thank you and your group for what you do.

MS. ALAPAI: Thank you, mahalo.

COUNCILMEMBER VICTORINO: Thank you, Mr. Chair.

CHAIR MOLINA: Okay, thank you, Mr. Victorino. Committee Members, questions? Mr. Pontanilla?

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COUNCILMEMBER PONTANILLA: Thank you. Thank you, Ms. Alapai, for being here. I, I know several years ago when. . .Member Anderson, who was a former Councilperson representing Kihei or South Maui, she had advocated for some construction monies to repair the roof. Has that work ever been done?

MS. ALAPAI: No, because we actually have not *received* the monies because of the, because of the subject that we are here today. So, that's the result of the holdup, yeah. So, we have not done any work yet.

COUNCILMEMBER PONTANILLA: So, you wouldn't know if the money is still available?

MS. ALAPAI: From what we *understand*, it's still available, but it cannot be *released* because of, like I said, the subject that we're here today.

COUNCILMEMBER PONTANILLA: Okay, fine, thank you.

MS. ALAPAI: Thank you.

COUNCILMEMBER PONTANILLA: We'll follow up.

CHAIR MOLINA: Thank you, Mr. Pontanilla.

COUNCILMEMBER PONTANILLA: Thank you, Chair.

CHAIR MOLINA: Committee Members, any other questions for the testifier? Seeing none, Ms. Alapai, one quick question--

MS. ALAPAI: Okay.

CHAIR MOLINA: --just following up on the issue with the economic downturn. Over the last six months to a year, have you seen your membership increase, more kids?

MS. ALAPAI: Yes, we've seen increases. You know, it, it's fluctuating and. . .that you say that it's because the down. . .if there's any. . .the number, if the numbers go down at all it's because now parents don't have the transportation to bring their kids nor do they have the transportation to pick them up. So, it's easier for them now to just go straight *home* or because parents lost their jobs so now they're home and kids can stay home. So, and 'cause we've talked to several, we've actually, you know, we follow up on a lot of our kids and, you know, just, you know, just see how everything's doing and that's been the, they've been sharing that with us--that, you know, well I, I lost my job, I'm at home, so, you know. And the numbers do, I mean, so we've been going back and forth. But the numbers have gone up as well, too. . .and it's new members now. And it's because now they need it, mom has to work now, she used to stay home. You know, so there's a lot of different reasons. So, I'd say in a whole, it's been averaged the same. If not, the percentage has gone up a little bit more, at least by about 5 percent.

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CHAIR MOLINA: Okay, thank you. Members, any other questions? Seeing none, thank you for your testimony, Ms. Alapai.

MS. ALAPAI: Thank you.

CHAIR MOLINA: Next testifier, we have Lehuanani Huddleston-Hafoka, and at this point she is the last person to have signed up unless. . .okay, we have one more person that's signing. And. . .and after that, the person after Ms. Hafoka testifies, the Chair will offer one last opportunity to testify on any of our three items today. Good morning.

MS. HUDDLESTON-HAFOKA: Okay. Good morning, aloha, my name is Lehuanani Huddleston-Hafoka. I'm the Executive Director of the Kihei Youth Center. I've been here before testifying and at other hearings, and I always kind of say this corny story, but I was a 13-year-old youth member when Kihei Youth Center first opened up. So, I *know* firsthand that the Kihei Youth Center has been around for 26 years as of this February. And we are now seeing the grandchildren of the members from way back when. So, I think that's a wonderful story in itself. So, I'm here today, obviously, to ask the County to please support the license request for 20 years for the Kihei Youth Center. The number one reason--it would give stability to our organization. Therefore, we could continue with long-range planning and it also gives our community comfort to know that we will be around for another 20 years. Being the Executive Director, I do however have some concerns about the *license* as it's deemed on the application or the grant that I have in front of me. I'm still confused as to the license and the lease because within this document there's some mixed languages. It does state "license", and it does state "lease". So I just wanted to bring that up. I did have a question for Corp. Counsel, if it was possible, to answer. . .from Mr. Pontanilla's comment regarding the lease and the license. I wanted to ask if meters, metes and bounds would satisfy the needs rather than subdivision? We'd prefer to have a *lease* versus a license. So I, I was wondering if you would be able to answer that today.

CHAIR MOLINA: Oh. Yeah, we'll. . .when we get to our discussion phase--

MS. HUDDLESTON-HAFOKA: Okay.

CHAIR MOLINA: --we'll make sure we bring that up . . . *(inaudible due to interruption)*--

MS. HUDDLESTON-HAFOKA: Okay, okay, so we'll hang around for that. So, that was just one of the, the questions that we had.

. . . Again, we are here just, you know, asking and humbly asking that you do grant us the 20-year lease. I think we're *good* stewards of the property. We don't just take care of the facility itself and the basketball court, but we go beyond. . .and we go throughout the whole four-point, I think, it's two-five acres of the Kenolio Recreation Complex. We go over to the ABC Store where the kids sometimes hang out to bring them over. We go to

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the harbor across the street, to Kihei Villages next door. So, you know, our kuleana extends beyond the, the walls of the Youth Center and, I think, we, we are a *great* asset to our community. Thank you.

CHAIR MOLINA: Okay, thank you. Committee Members, questions for the testifier? Mr. Victorino?

COUNCILMEMBER VICTORINO: Yeah, thank you, Mr. Chair. And sorry I got a lot of little questions, yeah. Thank you very much and, and, and 26 years in, in retrospect is just a ...*(snap)*... speck of time, right?

MS. HUDDLESTON-HAFOKA: Yeah.

COUNCILMEMBER VICTORINO: You were, you started when you was two years old. I remember that one.

MS. HUDDLESTON-HAFOKA: . . .*(laughter)*. . . Okay, first of all, your membership--you just mentioned about grandchildren and, and, and like. . .so this would be like a third generation coming through the system.

MS. HUDDLESTON-HAFOKA: Yes.

COUNCILMEMBER VICTORINO: Through your area, I should say. What is your membership right now? What is the numbers for, for the Kihei Youth Center?

MS. HUDDLESTON-HAFOKA: We are 492.

COUNCILMEMBER VICTORINO: And what was, what was the high? And what was the low if you could remember, in let's say, the last five years?

MS. HUDDLESTON-HAFOKA: Our high is always 500 because we fluctuate.

COUNCILMEMBER VICTORINO: Five hundred?

MS. HUDDLESTON-HAFOKA: Within a year if the student, if the member doesn't reapply, you have a one-month grace period and then we purge them. So, we go as high as 500-plus and, I think, within the 26 years, you know, I think it started off with maybe 75 members--

COUNCILMEMBER VICTORINO: Terrific.

MS. HUDDLESTON-HAFOKA: So--

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COUNCILMEMBER VICTORINO: Terrific. Those. . .you, you mentioned about and I was very curious, you mentioned you go across to ABC, and then over to the harbor, anything within your, what I would guess radar area that you can bring in.

MS. HUDDLESTON-HAFOKA: Uh-huh.

COUNCILMEMBER VICTORINO: If they're not a member, let's say they're hanging out with some members, and they're not, is there any opportunity to. . .for them to join? And what is the course, cost, excuse me, to join?

MS. HUDDLESTON-HAFOKA: Yeah. It's only \$10 a year and it's a \$5 renewal fee. However, 90 percent of the kids cannot pay the \$10 so we scholarship them. And so, that's never an issue, you know. We even had parents who come in and when we tell them \$10 they reach into their bag and, you know, got to contemplate I going do \$10 gas or I going pay for my child's membership.

COUNCILMEMBER VICTORINO: Uh-huh.

MS. HUDDLESTON-HAKOFA: So, without even having them to ask, we just say no worries.

COUNCILMEMBER VICTORINO: Uh-huh.

MS. HUDDLESTON-HAFOKA: You know, so in regards to recruiting new members, we are *always* recruiting new members, and not for the sake of meeting a quota or anything but because if we know the child is at ABC Store, kind of hanging out, they really shouldn't be hanging out at the ABC Store. So, we say, you know, why don't you guys come over to the Youth Center. And some of them come and hang out at the Youth Center, but it's very hard for them to get membership forms filled out. . .and for whatever reason that is. So, we're constantly reminding them. But one thing we do, we feed them, they got to come in use the facility. We never ever turn away a youth that's in need.

COUNCILMEMBER VICTORINO: When you say "feed", it's like an afternoon snack or what, what, what--

MS. HUDDLESTON-HAFOKA: Yeah.

COUNCILMEMBER VICTORINO: --what do you, what do you refer to when you say "feed them"?

MS. HUDDLESTON-HAFOKA: Okay, for example, this summer, next week we're starting with our lunch program--which we've done, this is going to be our second year--Monday through Friday, we serve a lunch to every child that walks in the door.

COUNCILMEMBER VICTORINO: Wow.

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MS. HUDDLESTON-HAFOKA: For the past several years, we've done Friday night, what we call Friday night dinner and a movie night, where we provide a dinner for any child that walks in the door. . .and this is at no cost. And oftentimes some of the kids who are not members just because, you know, they take home the form it doesn't come back, we give 'em to them five times, they're hungry, we bring them in and you get to eat. And a lot of them in the past have had parents that are either homeless or from the shelter, and they're hungry, and they're waiting in the car for the kids.

COUNCILMEMBER VICTORINO: Uh-huh.

MS. HUDDLESTON-HAFOKA: So, we either tell the kids, you know what, take a plate to mom or your little sister, and then when we're done for the evening, whatever food is left over, we disburse it amongst the kids to take home.

COUNCILMEMBER VICTORINO: Terrific. Yeah, Mr. Chair, this is another example of Maui and its heart and being willing to do what it needs to, to take care their community. And I want to thank you very, very much from the bottom of *all* of our hearts for what you're doing. And sorry sometimes the funding is not there, like we were talking about, but we try our best. And I just hope the people of Maui County understand that all these programs are *so* important, 'cause without them many, many more of our less fortunate would be suffering even more irreparably. So, thank you, Mr. Chair, I appreciate it.

CHAIR MOLINA: Alright, thank you, Mr. Victorino. Members, any other questions for the testifier? Seeing none, thank you very much for your testimony.

MS. HUDDLESTON-HAFOKA: Okay, thank you very much.

CHAIR MOLINA: Okay. We have one more testifier on Committee of the Whole Item 18, Kalimaya Herrera.

*NOTE: Pause while Ms. Herrera approached the podium.*

MS. HERRERA: . . . Good morning, aloha.

CHAIR MOLINA: Aloha.

MS. HERRERA: And again, I do support our Kihei Youth Center. I used to be one of the board member. Unfortunately, I am traveling and promoting our kids. I am a martial arts instructor and I've been a single mom for, gosh, my, both of my boys are now 33 and 29, who are members of the U.S. Air Force. And through the growing, to the raising of the kids, yes, it's important to have a center, our Center, to let out their energy, to just be calm, and be ready for the parents at night . . .*(laughter)*. . . So, I do support our Youth Center. Thank you.

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CHAIR MOLINA: Okay, thank you for your testimony. Committee Members, questions for the testifier? Chair just has one question, more out of curiosity. What form of martial arts do you instruct?

MS. HERRERA: Kajukenbo. It's a Hawaiian martial arts.

CHAIR MOLINA: Oh, interesting.

MS. HERRERA: Been involved with it and do love to, you know, I'm also one of our promoter for our cultural events here for the Chinese New Year. And our Youth Center have been involved with it, and hopefully to see us more here.

CHAIR MOLINA: Oh, okay, well thank you very much for sharing it. I appreciate your work. Okay, do we have anyone else interested in testifying? Just come on up, Mr. Hanlon, you can do the paperwork afterwards.

*NOTE: Pause while Mr. Hanlon approached the podium.*

MR. HANLON: . . . Committee Chair Molina, Council Members, my name is Colin Hanlon. I'm the Chief Professional Officer with the Boys and Girls Clubs of Maui. And I, I, I hadn't prepared to testify today but, you know, having, having come and seen the process, we are going to, the Boys and Girls Club, has in front of it a couple of license agreements that will, will be in front of your body shortly with, as well. And they're, they're written slightly different than the one that the Kihei Youth Center has. . .but, but very similar. And we do see some challenges with the way it's written. So, I just wanted to ask that you take some time and review the documents to make sure that it, it is what we're trying to accomplish on both sides to, to make sure that the youth development organizations, whether it be the Kihei Youth Center or the Boys and Girls Club units, are really positioned with those facilities to expand their reach and serve more kids, because *that* is why they were designed and, and, and built--so we could actually do a better job of serving the kids in our communities. Specially, based around license verse lease and. . .control over who comes into the facilities is another thing that's, that's worded in these as well. And we find challenges with that due to the fact that we're equipping these facilities with hundreds of thousands of dollars worth of equipment and we want to make sure that the people that come into the facility do so first, first and foremost with, with our blessing, and understand what our rules and regulations are, and our levels of behaviors, and we can make sure that, that, you know, we're, we're going to be the. . .people who. . .steward the building and the facility in the future.

CHAIR MOLINA: Okay, thank you very much, Mr. Hanlon. Committee Members, questions for the testifier? Seeing none, thank you for your testimony.

MR. HANLON: Thank you.

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CHAIR MOLINA: Okay, the Chair will offer one last call for anyone in the gallery who would like to testify on any of our three items today.

. . . Seeing no one approaching, Members, the Chair will close public testimony on our agenda items.

COUNCILMEMBER VICTORINO: No objections.

CHAIR MOLINA: Okay, so ordered by the Committee.

**...END OF PUBLIC TESTIMONY...**

CHAIR MOLINA: Alright, Members, let's start off first with Committee of the Whole Item 3(1), which relates to the Hawaii State Association of Counties' Fiscal Year 2009-2010 Annual Operating Budget.

**ITEM NO. 3(1): HAWAII STATE ASSOCIATION OF COUNTIES (HSAC) (FISCAL YEAR (FY) 2009-2010 ANNUAL OPERATING BUDGET) (C.C. No. 09-17)**

CHAIR MOLINA: We have before us the, the matter was, the Committee was in actually receipt, receipt of a correspondence dated April 9<sup>th</sup>, 2009 from Nestor Garcia, who is the HSAC President, transmitting the proposed FY '09-2010 Annual Operating Budget and requesting Council approval. At its meeting of April 2<sup>nd</sup>, 2009, the HSAC Executive Committee approved the proposed budget and subsequently transmitted the budget to each of the Councils for their approval. The proposed budget must be approved by HSAC's general membership at its annual scheduled meeting for June 18<sup>th</sup>, 2009, which will be held on Kauai. Now, because of time limitations, Members, the Council will not be able to consider a Committee recommendation before the annual meeting on June 18<sup>th</sup>, 2009. So, therefore, it is my intent as the Committee Chair to discuss this matter and then defer it. In a letter to the Council Chair, I've requested that the Committee of the Whole be discharged from consideration of this item so that the Council *tomorrow* may take prompt action and that this request be considered at the Council level. So with that being said, Members, any comments on the proposed budget? I'd like to ask maybe Mr. Pontanilla, as our HSAC representative, do you, do you have any initial comments on this particular matter before us today?

COUNCILMEMBER PONTANILLA: Um. . .thank you for recognizing me, Chairman.

ALL: . . .(laughter) . . .

COUNCILMEMBER PONTANILLA: The budget was presented to the Executive Board at our last meeting prior to Budget and the Executive Board is now forwarding for our Statewide approval the budget for Fiscal Year 2009-2010 in regards to the Operating Budget for HSAC. In our meeting, upcoming meeting in several weeks from now, we're going to take up this matter again to approve it or disapprove it based on the different

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County's proposals and recommendation, if they do have any. So, I, I just want to say, you know, with our Legislative Analyst, Kirstin, and myself, you know, we kind of formulated the budget for HSAC for the 2009 and '10. Thank you.

CHAIR MOLINA: Alright, thank you, Mr. Pontanilla, and thank you for your, your comments to update the Committee on this budget and how it got to be the way it is. Members, any other comments on the proposal before the Chair makes his recommendation?

COUNCILMEMBER VICTORINO: Recommendation.

CHAIR MOLINA: Okay, the Chair, as stated earlier, we'll defer the item and at tomorrow's Council meeting there will be a formal proposal to discharge the Committee of the Whole of this matter and we will take a vote on it at the Council level tomorrow. So, Committee of the Whole Item 3(1) has been deferred.

**COUNCIL MEMBERS VOICED NO OBJECTIONS.** (excused: GCB, SPK, DAM, and BKM)

ACTION: DEFER pending further discussion.

CHAIR MOLINA: Members, we will now move to Committee of the Whole Item 17, which is a resolution to authorize the, authorizing the grant of a *lease* of County real property to the Kaupakalua Roping Club & Youth Rodeo, Inc., over in Haiku.

**ITEM NO. 17: RESOLUTION AUTHORIZING GRANT OF LEASE OF COUNTY REAL PROPERTY TO KAUPAKALUA ROPING CLUB & YOUTH RODEO, INC.** (C.C. No. 09-89)

CHAIR MOLINA: Before the Committee is this resolution, Members, if you'll look in your binders, it is a grant of a ten-year lease of County real property to Kaupakalua Roping Club & Youth Rodeo, Inc. for two parcels of land totaling 4.833 acres to develop and maintain a rodeo arena. The Maui County Grants Review Committee recommended approval of the lease at an annual rent of \$1 a year, as seen in Exhibit 2 of the resolution. The lease document, standard terms and conditions, and grant agreement, again, are in your binders for your review. Before, I open up the floor for any questions, I'd like to recognize the Director of Housing and Human Concerns, Ms. Tsuhako, to give us some additional clarifications and comments on the matter. Ms. Tsuhako?

MS. TSUHAKO: Thank you. Good morning, Mr. Chair, and Members. The Department is forwarding this request for a grant of a lease of County real property to Kaupakalua Roping Club & Youth Rodeo for the purposes that you stated previously. I would note that the Department of Parks and Recreations Director, Ms. Horcajo, is here. The Department of Parks and Recreation actually has jurisdiction over this piece of property, and the Department of Housing and Human Concerns has simply processed this application through the Grants Review Committee and brought it forward to this

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Committee. My understanding is both Parks and Recreation and my Department are in support of this grant of real property to Kaupakalua Roping Club & Youth Rodeo.

CHAIR MOLINA: Okay, thank you, Ms. Tsuhako. Director Horcajo, do you have anything else you would like to add from the Parks Department on this matter? Please feel free to come on up and join us this morning.

. . . And by the way, I don't believe we had a representative from the Kaupakalua Roping Club here to also give their thoughts. So, I know, we did mention to them that we would have this item heard. So, it's unfortunate no representative is here from the organization, but so be it. Madam Director, you have the mic for additional comments. Ms. Horcajo?

MS. HORCAJO: Thank you very much for the opportunity to support both the items that are on the agenda that affect real property today. But the Roping Club has been operating on these two Tax Map Key locations. I don't know exactly how long, for many years. And they have been a great example of a great steward of our public property--providing programs for the youth and families in the area, providing improvements, keeping the arena safe and open for public participation. We very much support. . .the. . .request in front of you. And. . .a side note here, I want to thank the Department of Housing and Human Concerns for moving these grants of real property along. Some of these have been waiting for some time so, and I want to thank the Committee of the Whole for bringing these up and, and moving along. We're definitely putting a dent in the backlog. Thank you.

CHAIR MOLINA: Okay, thank you, Madam Director. Okay, Members, the floor is now open for questions. Member Pontanilla, followed by Member Victorino.

COUNCILMEMBER PONTANILLA: Thank you, Chairman. Am I to understand that the property that we're leasing are owned by the County?

MS. HORCAJO: . . . That's correct on that account.

COUNCILMEMBER PONTANILLA: Okay, thank you. That's all the questions that I had, Chairman. I just like to make a short comment in regards to the formulation of this roping, Kapalu...Kaupakalua arena. When I was working for the phone company, we had several employees that were . . .*(end of tape, start 1B)*. . . you know, utilizing equipment from the company that we were so...graciously volunteered to do. So, I have a lot of history regarding this one. Thank you.

CHAIR MOLINA: Okay, thank you, Mr. Pontanilla. Member Victorino?

COUNCILMEMBER VICTORINO: Thank you. My line of questioning will follow more along the area of the length of the lease because yesterday we went through a number of items and we were told that they had asked for 55, but 15 was given or 30 was given. So,

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Ms. Tshako, to your knowledge on this *particular* request, what was the time that they asked for? What was the length of lease that they requested?

MS. TSUHAKO: Thank you, Member Victorino, for your question. The Kaupakalua Roping Club requested a ten-year lease.

COUNCILMEMBER VICTORINO: Okay.

MS. TSUHAKO: And that what was recommended by the Grants Review Committee.

COUNCILMEMBER VICTORINO: But the organization themselves asked for ten years?

MS. TSUHAKO: That's correct.

COUNCILMEMBER VICTORINO: Okay, I think that's very important because again we went through all this yesterday, and I, I just wanted to make sure that if that's all they're asking then that's fine, you know, I can, I can live with that. The other question I had for you, it really goes to Ms. Horcajo now. You mentioned about the work they do to keep the arena in good use, condition and, as well in safe condition. Do you or anybody from your Department--and I know they have insurance and all this stuff--but does anyone do some kind of annual or semi-annual check on the conditions of the facility itself since, even though I do agree it is operated by this Kaupakalua Roping, still we are ultimately, if something goes wrong, would be pulled in, in a suit. So, do we do annual checks or do, is there any kind of checking on this facility?

MS. HORCAJO: Over the past year, we have initiated an annual check sheet and a list of monitoring for the facilities. So, we are initiating this program and we're hoping to take it very seriously and to work with the different organizations to identify their needs and try and brainstorm how to solve those, those concerns for the facility. So that has been initiated.

COUNCILMEMBER VICTORINO: Thank you and I'm glad to hear that because we had talked about this back a couple years ago, and I think not only for them, but *all* users of our facilities there should be some kind of monitoring to make sure that something doesn't happen and we all say, oh, I never know that. I mean, you know, we *should* know if there's something unsafe in *any* of our leased properties to these various organizations. And thank you very much, Ms. Horcajo. Thank you, Mr. Chair.

CHAIR MOLINA: Okay, thank you, Mr. Victorino. Committee Members, any other questions for either Director Tshako or Director Horcajo? The Chair just has basically one comment. I was taking note of the conditions for the grant of lease which is Exhibit B and, you know, looking at the, let's see, the accounting practices that they're required to do. . .can I ask, I guess, either one of the Directors? As of this moment, they have been complying with all of what you've required of them in terms of accounting practices, even some of the issues that Mr. Victorino brought up? And I, I say this because I'm

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quite disappointed that the, whoever the Director of this organization is or their representative is not here. Whereas, we have another Committee item and we see they're well represented in this gallery. And it's quite unfortunate because I believe we did notify the organization representative that we were having this meeting. . .and they're not here to answer some of the questions that were brought up by some of my fellow colleagues. So, I'm not too pleased about them not being here to respond to questions, and yet they're requesting an extension. They need to be here. Madam Director, can I get your responses to my inquiries, please?

MS. TSUHAKO: Thank you, Mr. Chair. If I understand your question correctly, you're asking us if there's any, any --

CHAIR MOLINA: Any issues, have they been complying?

MS. TSUHAKO: --any issues about the grantee's compliance?

CHAIR MOLINA: Accounting practices. Uh-huh.

MS. TSUHAKO: None that I'm aware of.

CHAIR MOLINA: Okay.

MS. HORCAJO: . . . My comment to add is that we have had an opportunity to meet with them quite a bit over the years. I am very surprised that the representative isn't here. It could be school children or issues that came about, because they have been very diligent in meeting the requirements that our Department has asked of them.

CHAIR MOLINA: Uh-huh. Okay, well, the Chair would've certainly appreciated a call from them to let us know that they're not here. So, that is why I may have some reservations about approving this today--by not having a representative here to respond to questions from the Committee. But be it as it may, Members, any other questions before the Chair offers a recommendation on this matter?

COUNCILMEMBER VICTORINO: No.

CHAIR MOLINA: Okay, the Chair will recommend the adoption of the proposed resolution and the filing of County Communication 09-89.

COUNCILMEMBER VICTORINO: So moved.

COUNCILMEMBER PONTANILLA: Second.

CHAIR MOLINA: Okay, it's moved by Member Victorino, seconded by Member Pontanilla. Any other discussion?

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COUNCILMEMBER VICTORINO: Mr. Chair?

CHAIR MOLINA: Mr. Victorino?

COUNCILMEMBER VICTORINO: I, I will agree with you that not having a representative here somewhat makes me hesitant, also. I agree with that. However, knowing their history--and you and I know their history a *long* time--this organization has been a real good steward to this particular County property, and the organization themselves have been really up front with the youth with the roping and other areas which sometimes doesn't really exist very much here in Maui County. And I think they've been one of the leaders in that area. So, even though they're *not* here, I would not hesitate to extend and, and support this ten-year extension. Maybe it's best they know in the future when something comes up, please have somebody here 'cause it's really important. 'Cause like you say, questions come up, and we can't answer them, or they can't answer them, and that makes it difficult. Like yesterday, we had to defer something 'cause we couldn't get an answer 'cause no representative from another organization was here. Other than that, I would have full support of your recommendation, Mr. Chair, and wish them continued success. And I thank Ms. Horcajo for getting that list together 'cause I think it's been long overdue. We've just always assumed it was okay. I think now we've gotten to the point where we need to check and make sure that things are safe for *all* our users throughout the County of Maui, whether it's *us* or some other organization. So, thank you, Mr. Chair.

CHAIR MOLINA: Okay, thank you, Mr. Victorino. Committee Members, any other questions before the Chair calls for the vote?

. . . Okay, Members, the Chair will call for the vote. All those in favor, signify by saying "aye".

COUNCILMEMBER VICTORINO: Aye.

CHAIR MOLINA: All those opposed?

. . . Thank you, the Chair will mark it 5-0 with four excusals--Vice-Chair, Committee Vice-Chair Mateo, Members Gladys Baisa, Sol Kaho'ohalahala, and Bill Medeiros. And the Chair will want it noted for the record he votes with reservations on this. Okay, Members, the measure passes on to first reading [*sic*] to the County Council.

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**VOTE:       AYES:   Councilmembers Johnson, Nishiki, Pontanilla, Victorino, and Chair Molina.**

**NOES:       None.**

**ABSTAIN:   None.**

**ABSENT:     None.**

**EXC.:       Councilmembers Baisa, Kaho‘ohalahala, Medeiros, and Vice-Chair Mateo.**

**MOTION CARRIED.**

**ACTION:     Recommending ADOPTION of resolution and FILING of communication.**

CHAIR MOLINA: Alright, Members, we have one more item to discuss. That is COW-18, which relates to a resolution authorizing the grant of a license of County real property to the Kihei Youth Center.

**ITEM NO. 18:   RESOLUTION AUTHORIZING GRANT OF LICENSE OF COUNTY REAL PROPERTY TO KIHEI YOUTH CENTER (C.C. No. 09-99)**

CHAIR MOLINA: Members, you will note that there are alternate resolutions in your binder. One of them has been, been revised by the Corporation Counsel. One authorizes the grant of a 20-year license to Kihei Youth Center of approximately 3,868 square feet at 131 South Kihei Road, Kihei, Maui, Hawaii to operate a youth center. The other resolution authorizes the grant of a 20-year *lease* to Kihei Youth Center for the same property. So, one is a lease resolution and the other is license resolution. And the Maui County Grants Review Committee recommended approval of the *license* for an annual rent of \$1 as seen in Exhibit C of the resolutions. And by correspondence dated May 26, 2009, your Committee Chair requested that the Department of Corporation Counsel provide a resolution authorizing the grant of a *lease* for consideration by the Committee as an alternative to the resolution authorizing the grant of a license. There are significant legal differences between a license and a lease that the Chair will ask Corporation Counsel to explain at a later moment today. And it's interesting to note in Mr. Nishiki's Committee there are a number of *lease* requests, and being that this particular item is a license--that's why your Chair sort of anticipated we may have a somewhat extended discussion on this matter for us to understand the differences between granting a license versus a license. And one more thing, the Committee is in receipt of a correspondence dated June 3<sup>rd</sup> from Corporation Counsel, again. . .that they transmitted these two, two revised proposed resolutions. One, again, authorizing the license, grant of a license; and one authorizing the grant of a lease to the Kihei Youth Center, which includes the addition of an adjacent basketball court. So, I've said a

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loadful here . . . *(laughter)*. . . right now. Alright, let's start off first with, I guess, if we could get an overview from Director Tsuhako, and at a later point then I'll ask Corporation Counsel to give their thoughts. Ms. Tsuhako?

MS. TSUHAKO: Thank you, Mr. Chair. The . . . the Department, as I had mentioned earlier of Housing and Human Concerns, processed this grant through the Grant Review Committee. And the Committee offered its recommendations of a lease of 20 years at the rate of a dollar per year. As our speakers noted earlier during their testimony, the County had previously granted funding for repairs of certain portions of the Youth Center. And that *grant* was executed but not. . . we weren't able to release the funding for that because the lease of the property or the license, excuse me, of the property had expired and a new application had not been completed and processed. And so, this became, the Kihei Youth Center became a real focal point of trying to expedite the process. And with this particular property, the Department encountered a few more obstacles because of the need to go before the Board of Land and Natural Resources. And so, together with the Youth Center staff and their community support, as well as, their board members, presentations were made before the Board of Land and Natural Resources and, and authorization for the grant. . . the lease, excuse me, the license extension was obtained. At this point, I would like to defer to Ms. Sloper to offer a description of the differences between the lease and the license. And we'll just say for the record that I think Department of Parks and Recreation is requesting that the *license* be granted to the agency rather than a lease.

CHAIR MOLINA: Okay, thank you, Ms. Tsuhako. Ms. Sloper?

MS. SLOPER: Thank you, Chair. Basically, what we're dealing with is. . . and to just, I guess, for comparison purposes when you're. . . we're talking about the Kaupakalua Roping Club, the item earlier, that was for entire Tax Map Key parcels. So, you're talking about an entire property that's being *leased*. When we're talking about the Kihei Youth Center, we're discussing only a *portion* of a Tax Map Key parcel. So, a *lease* is appropriate for an entire parcel. A *license* is appropriate for a *portion* of a parcel of land. And. . . like Director Tsuhako just mentioned, the property that we're dealing with for the Kihei Youth Center is Executive Ordered land from the State. So, it's in the care and custody of the County, but it actually, it's owned by the State. And so that was what required the Board of Land and Natural Resources' approval. Any time the County wants to do anything with Executive Ordered land, it needs to be approved by the State Board of Land and Natural Resources. That would include. . . that includes the lease or license of the property. That would also include any subdivision of the property, which would. . . that would be necessary before a lease could be granted to the Kihei Youth Center in this instance. And part of that is related to the County Code under the Subdivision Code. . . because. . . under the Code, we're not allowed to lease, sell, or, you know, transfer any interest in properties until final subdivision is approved. So, that would, you know, if. . . if we were to try to grant a *lease* to the Kihei Youth Center, subdivision would have to be completed or at least up to final subdivision approval

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before the lease could actually be approved. I don't know if that confused matters more, but . . . *(laughter)*. . .

COUNCILMEMBER VICTORINO: No, just more confused . . . *(inaudible due to interruption)*--

CHAIR MOLINA: Thank you, Ms. Sloper. Just one quick question before I turn matters over to the rest of my colleagues. So, being that this is an Executive Ordered piece of property from the State, I, I presume you checked with them and they didn't have any issues with the issue of doing this as a license versus a lease.

MS. SLOPER: The, the license document has been approved by the Deputy Attorney General who advises the Board of Land and Natural Resources. So that has been already approved by the State. It hasn't been signed off by them because they wait until everybody else has signed.

CHAIR MOLINA: Okay, thank you. Okay, I will turn matters over first to Mr. Nishiki as the area representative. Do you have any questions for Corporation Counsel or our Directors, to be followed by Mr. Victorino.

COUNCILMEMBER NISHIKI: Yeah, I've got a, I've got a question. When any license agreement, you say only a portion of the property. . . is given a license. When you talk about this particular piece of property--and I'm looking at a . . . map. . . on the June 3<sup>rd</sup> communication to us, Mr. Chairman, if that's the updated one, and it's just before Exhibit C. Are you familiar with that, Ms. Sloper?

MS. SLOPER: Yes.

COUNCILMEMBER NISHIKI: Okay. So, in the license agreement, you say you're only going to give the Center. . . what?

MS. SLOPER: On Exhibit A to the license agreement, which is the map that you're, I believe, the map that you're referring to--

COUNCILMEMBER NISHIKI: Okay.

MS. SLOPER --the exhibit shows the entire Kenolio Park. The area that is. . . has a dotted kind of oval around it is the area or the portion of the Tax Map Key parcel that would be. . . the license to occupy would be granted to the Kihei Youth Center.

**NOTE:** *Silence.*

COUNCILMEMBER NISHIKI: . . . Okay. What does the Youth Center have now existing? Do we have a license or license agreement?

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MS. SLOPER: The *lease* that they had. . .it was a *lease*.

COUNCILMEMBER NISHIKI: Okay.

MS. SLOPER: And it expired. . .so they have. . .they're, they're--

COUNCILMEMBER NISHIKI: They have nothing now? Okay.

*NOTE: Silence.*

COUNCILMEMBER NISHIKI: . . . I still don't know what the difference is between a license agreement and a lease. Is there *less* property. . .included?

MS. SLOPER: . . . In the sense that you're talking about a portion of an entire parcel instead of an entire Tax Map Key parcel, yes.

COUNCILMEMBER NISHIKI: Okay. And I'll ask the Kihei Youth Center why they prefer a lease. And I don't know if you people have spoken to them. Have you spoken to them?

MS. SLOPER: I have not personally spoken to them.

COUNCILMEMBER NISHIKI: Has anybody spoken to them. . .giving them any kind of *legal* advice on why they prefer a lease?

CHAIR MOLINA: . . . Ms. Tsuhako or Ms. Horcajo, are you able to respond?

MS. TSUHAKO: Oh, Member Nishiki, I believe that Lehua went down the other day and spoke with. . .one of the staff members from Parks and Recreation and actually discussed the difference between the license and the lease or the, the property that was in question because the basketball court wasn't in the original documents that had already been signed. And so, I, I think, there was a discussion about it. I don't know the extent to which they were talking about the *legalities* because neither Lehua nor the staff member is an attorney, so I'm, I'm not sure.

COUNCILMEMBER NISHIKI: Okay, okay, so, we'll talk. . .we'll ask them the question later. But in the *County's* position, you would prefer a *license*?

. . . Yes or no?

CHAIR MOLINA: Ms. Sloper, or Ms. Tsuhako, or Ms. Horcajo, you can respond to that question, please?

MS. TSUHAKO: Um--

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MS. HORCAJO: . . . I'll jump in here because the Department of Parks and Recreation. . . on file, over the years, has a variety of documents that have said both lease and license. I think the issue of clarifying the difference between a lease and a license has recently been done. And. . . but again, this is up to Corp. Counsel. In this particular case, the area on Exhibit A, the portion that the Youth Center has--and it's this document that we have clarified with the Kihei Youth Center--is in the middle of the Kenolio Recreation Center which is bordered by many of our other programs that have, we have agreements with other organizations that use the facility and we permit them out to the community as well as it has a public restroom facility, a ballpark, et cetera. My understanding of the requirement for a subdivision, which would be at the expense of the organization, would be costly for them to subdivide out. And in addition, there may be subdivision requirements such as the additional water meter that would be very, very pricey. I, I don't know all of the other conditions of subdivision, but we feel that we are very supportive of the organization being where they are and doing what they're doing. And that's why we are supportive of the license agreement. We do not want to *lease* this facility and we would not be in agreement to that because so many other organizations are involved and the public is involved. Your question, Councilmember Nishiki, is a very good one. I'm not sure if the. . . I'd like to know why the Youth Center has a concern there regarding lease or license because it's our understanding that programmatically we are very much in support of continuing our agreement with them. And maybe there's some underlying concern there we don't understand.

COUNCILMEMBER NISHIKI: Okay. Now, finally when we talk about this big portion and, and a license agreement is given to them, does that eliminate the use of other portions of this property that was given to us in an executive agreement?

*NOTE: Silence.*

MS. SLOPER: I'm sorry . . . *(inaudible)* . . .

CHAIR MOLINA: Ms. Sloper?

COUNCILMEMBER NISHIKI: You know, you know, I, I, you say, you talk about the entire area, okay, and you say different people or organizations are using it. The Kihei Youth Center has the building.

MS. HORCAJO: Uh-huh.

COUNCILMEMBER NISHIKI: Okay. Now, will it *prohibit* the Youth Center from using any portion of that Executive Order of property or land?

MS. HORCAJO: It does not prohibit them.

COUNCILMEMBER NISHIKI: Okay.

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MS. HORCAJO: They go through the regular channels. If they want to use the Kenolio open room or the cafeteria, the other rooms, we have a standard permit process through our permit office because we do give permits to other groups--the Charter School, other groups use it, too. And so, our permit office is the one that--in this case, Lehua, will call the permit office and get a permit to use the *other* facilities or ball fields just so we don't have like double booking. So, that the programs. . .but they do that often. They use a large portion of the, of the area often.

COUNCILMEMBER NISHIKI: Okay, so, my understanding then in a license agreement or lease would only be that we need to subdivide. Is that, is that *all* it is? Nothing more as far as use or control of the area?

*NOTE: Silence.*

MS. SLOPER: . . . Um . . .

CHAIR MOLINA: Okay. Ms. Sloper?

MS. SLOPER: I think basically that's, that is the, the difference. We're talking about either the entire park that would be a lease, or we're talking about just a portion of it.

COUNCILMEMBER NISHIKI: Right.

MS. SLOPER: Or we're talking about subdividing out that portion --

COUNCILMEMBER NISHIKI: Right.

MS. SLOPER: --to grant a lease.

COUNCILMEMBER NISHIKI: Okay, and, and I just want the Youth Center to understand that. And, and we'll call them up at a later time, Mr. Chairman, but I'll allow other Members now to ask questions.

CHAIR MOLINA: Okay thank you, Mr. Nishiki. Member Victorino?

COUNCILMEMBER VICTORINO: Well, I think most of my questions were asked by Mr. Nishiki. I think the only question I have, and I guess the Youth Center can answer--what is their preference and why? You know, I guess, that's, that's the biggest thing. The other question would be for Ms. Sloper. When it comes to liability, lease or license, which would put more exposure on to us as you best understand it?

CHAIR MOLINA: . . . Ms. Sloper?

MS. SLOPER: Thank you. I . . .believe the liability issue for the County would be the same no matter if you're granting a lease or a license. Again, like we discussed yesterday, the

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grantee or the licensee or the lessee would also have the same kind of insurance requirements as any other grantee from the County.

COUNCILMEMBER VICTORINO: Okay, I just wanted to, you know, because sometimes different entities would have or different *types* of contractual agreements, as you well know, have different types of liability that is connected to it. So, if you're saying either one would be the same, then I'm fine with that. Thank you. Thank you, Mr. Chair.

CHAIR MOLINA: Okay, thank you, Mr. Victorino. Mr. Pontanilla?

COUNCILMEMBER PONTANILLA: Thank you. Maybe for Ms. Horcajo. You know, sometimes we frequent the old Kihei cafeteria, Kihei School cafeteria. And you mentioned that there's other organizations that utilize, I, I think, there's several buildings over here, you know, during the weekday. So, if we were to grant this lease for the whole parcel, then these organizations would need to work with, I guess, Kihei Youth Center to gain, well to utilize the buildings. Am I right?

MS. HORCAJO: Um. . .we would definitely not be in support--

COUNCILMEMBER PONTANILLA: No, no, I understand that--

MS. HORCAJO: --of a lease . . .*(laughter)*. . .

COUNCILMEMBER PONTANILLA: I understand that.

MS. HORCAJO: But right, then, then, for example, the PALS program is currently using a portion of, of the location. And then the Kihei Youth Center would be in control of the ball field, the Bridge Club area, the Art Society--

COUNCILMEMBER PONTANILLA: Uh-huh.

MS. HORCAJO: --has an area there, et cetera. A license. . .a lease for this total property would then give authority to the Youth Center.

COUNCIL MEMBER PONTANILLA: Thank you. Maybe for Corporation Counsel. If the organization want to go ahead and subdivide this parcel, then who has jurisdiction in control of, you know, the parcel, well the subdivided parcel, would be the County of Maui or DLNR?

MS. SLOPER: Any, because it is State land Executive Ordered to the County, any subdivision would actually need to be approved prior by the Board of Land and Natural Resources. The land would remain Executive Ordered to the County. It wouldn't, it wouldn't transfer to be strictly County, unless you know, there were some decision by the State to do so.

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COUNCILMEMBER PONTANILLA: Thank you. One final question, in regards to the old Puunene airport, we know, we have a lot of tenants in there. Are they on license agreement or lease agreements?

MS. HORCAJO: . . . They are currently --

COUNCILMEMBER PONTANILLA: Or we don't have any agreements? . . .(laughter). . .

MS. HORCAJO: --they are currently with a permit with our South Maui office. They have a *permit* for use. We're in the process of establishing a Master Plan for the area, at which time we'll designate locations and we plan on having a license agreement for each of those areas.

COUNCILMEMBER PONTANILLA: Thank you. Thank you, Chairman.

CHAIR MOLINA: Alright, thank you, Mr. Pontanilla. Member Johnson?

COUNCILMEMBER JOHNSON: Just so that I have this clear The terminology of lease and license is basically interchangeable with one respect. And that would be that it's a *lease* if the parcel can be identified through a Tax Map Key and, I guess, with metes and bounds. And the, the *license* would be something where the *whole* property is used for other purposes but only that portion that's identified in the exhibit would be covered underneath the license agreement. Is that essentially it?

MS. SLOPER: Yes, to the extent that the *lease* would be for an entire parcel--

COUNCILMEMBER JOHNSON: Uh-huh.

MS. SLOPER: Because. . .I hesitate to say, you mentioned metes and bounds--

COUNCILMEMBER JOHNSON: Uh-huh.

MS. SLOPER: So there's a distinction. I think the lease would have to be the entire parcel because. . .as, I think, as the Kihei Youth Center mentioned earlier in their testimony, they were wondering about getting metes and bounds. Metes and bounds would not necessarily. . .create. . .a lease.

COUNCILMEMBER JOHNSON: Uh-huh.

MS. SLOPER: It would, it would have to be for that entire parcel.

COUNCILMEMBER JOHNSON: Right and, and, Mr. Chair, you know, whether Kihei community, you know, I guess, it would be the Kihei Youth Center, *wants* a lease or doesn't want a lease, I think, this is our choice. And from everything we're being told, it needs to be a license agreement. And as long as they understand that it's just, it's

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terminology and really nothing more, everything stays the same except that in the exhibit those features or those areas of that property would be identified in the exhibit--as *opposed* to having, you know, what we usually see which is a Tax Map Key that identifies the whole entire property. So, I have no problem with moving forward with this. I support it 100 percent. And I think that it is our call. And from what I hearing, it has to be a license agreement. Thank you.

CHAIR MOLINA: Okay, thank you, Member Johnson. Chair appreciates your comments especially with your. . .you were formally employed as a. . .at the West Maui Youth Center.

COUNCILMEMBER JOHNSON: Yes.

CHAIR MOLINA: So, you certainly have intimate knowledge of the issues that the youth centers face.

COUNCILMEMBER JOHNSON: And I just want to add, too--that it is not unusual for County leases or license agreements to expire, simply because it's just an ongoing thing. And we had, and we probably according to Colin, we probably still have the same situation for West Maui. We just have that little portion where the youth center was and then the adjoining property. So, it was never a problem for us. And it operates exactly the same. Thank you.

CHAIR MOLINA: Okay. Thank you, Member Johnson. Members, if there are no objections, I'd like to call upon the Executive Director, Ms. Huddleston-Hafaoka, to respond to questions from the Committee.

. . . I believe, Mr. Nishiki, you made the request.

COUNCILMEMBER NISHIKI: Yeah. After listening to the attorney for the County, do you now have an understanding of what the lease would entail or a license would entail? And do you still hold strongly to having a lease, which means, from my understanding, that you would now entail the entire property with all the other buildings also and have control. You also heard the Parks Director, I don't know if she said "no", but she really was against that.

MS. HUDDLESTON-HAFOKA: Okay.

COUNCILMEMBER NISHIKI: So, your comments?

MS. HUDDLESTON-HAFOKA: Okay, I, I do understand from Corp. Counsel the, the, the difference about the lease and the, the license. But I do want to make a clarification as not at any time did the Kihei Youth Center . . .*(end of tape, start 2A)*. . . the property. Not ever, I don't think it was ever mentioned. So I think it was just misconstrued and. . .that we would. We are just here for the physical building, 3,900-plus square feet and the

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basketball court. I think the reason it may have been mentioned, because of the fact that the lease would entail the whole TMK, which of course if you look on the TMK you'll see 4.25 acres or whatever it is. So, we're not going after that. In regards to a lease though, the reason we mentioned it and we were so adamant is *because* as a document it does have mixed languages. So, my assumption is that it would have to be clarified. So, I think, in all fairness is we were just as confused--license, lease. Some may say it's the same. I've heard that. You know, same, you know, it's the same thing. Others say, well, it came from one attorney and the other side came from the other attorney. So, again, we were just confused and we just needed some clarification. The reason we asked for a lease, though, is with grantors is they *ask* how long do you have a *lease*. They never ask how long do you have a *license*. So probably that's the reason. It was just common, common language that the grantors ask--is how long is your lease, you know, if we're going to give you "x" amount of monies, we want to know how long is your lease, you're not going to be there another one year, five years or 20 years. So, you know, that's just common knowledge for--at least in particular youth centers--applying for grants. So, I think, that's why we were, you know, more adamant. And then in our past documentations, we've seen the word lease. So, again, this is something that's new for us. We just needed some clarifications. I do understand the part of the Parks and Recreation having management of the outside of the, the or the facility itself, and then the Department of Housing and Human Concerns manages the grant that we are then awarded for our program. So, I, I can distinguish between those two. But our concern, again, would be just for clarification sake. And in regards to a water meter, we actually, I'm assuming we must *have* our own because we pay water and sewer bill. So and that's just for *our* portion. But, again, that would be if we were to get a lease of the entire property and so forth. So, again, I do understand the difference but I just needed it to be clarified in the documentation.

COUNCILMEMBER NISHIKI: Okay. Also, did you ask for 20 years?

MS. HUDDLESTON-HAFOKA: Yes.

COUNCILMEMBER NISHIKI: Okay.

. . . I'm done, thank you.

CHAIR MOLINA: Thank you, Mr. Nishiki. Mr. Victorino?

COUNCILMEMBER VICTORINO: Thank you. So, what I'm hearing you say basically is the verbiage within the contract between license and lessor. . . lessee or license and lessor, whatever, in the documentation you're presently looking at?

MS. HUDDLESTON-HAFOKA: Yes.

COUNCILMEMBER VICTORINO: And that's the confusing part that you're having with that?

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MS. HUDDLESTON-HAFOKA: Yeah. Throughout the whole document it says, you know, licensee, licensor, lessee, lessor. So can we pick and chose which one we want? So, I need to have it clarified.

COUNCILMEMBER VICTORINO: May, maybe--

MS. HUDDLESTON-HAFOKA: Yeah.

COUNCILMEMBER VICTORINO: --Mr. Chair, after we get through with Ms. Hafoka, I, I would like to have that addressed by Corp. Counsel--why the different verbiage in the different parts of the contract itself. And the last question I have for you. The 20 year you asked, and Mr. Nishiki just brought it up, you guys felt that was sufficient for your program and what you plan to do? Because, again, we've been told by many organizations that lease our property--especially when it comes, comes to capital improvements and, and things of that nature, when you go out to many of these foundations, if you don't have 30-plus year they just don't want to consider it because, again, they don't want to put money into something that in 10 years or 20 years boom, it may be put in somebody else's hand. So, at this time, you feel 20 years is sufficient for where your program is moving?

MS. HUDDLESTON-HAFOKA: No, we would like to ask for more, but we were recommended to ask for the 20 years. But we'd like to get 30, you know, for that, for that mere purpose that you stated. So--

COUNCILMEMBER VICTORINO: And when you say 20...

MS. HUDDLESTON-HAFOKA: And if not 35.

COUNCILMEMBER VICTORINO; Yeah, okay, and thank you. And you said you were "recommended". *Who* recommended that to you?

MS. HUDDLESTON-HAFOKA: I think just through, in the five years that we haven't had the lease, past board members, past people in the community. . .maybe, you know it was just common conversation, you know, why you guys not asking for 35 that's what the grantors want, you know.

COUNCILMEMBER VICTORINO: Right.

MS. HUDDLESTON-HAFOKA: Somebody else said oh, you just better ask for the 20, you know, I'll be humble and ask for the 20. So, this has been for five years that we've been without a lease. So, five years *total*. But so, you know, if we can get 30 or 35, we'd be happier. But we didn't want to stop the process because --

COUNCILMEMBER VICTORINO: Right.

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MS. HUDDLESTON-HAFOKA: --it's been so long. So, we didn't dare want to, you know, amend anything. And then the other aspect of it is the \$120,000 repair and maintenance that we've been waiting to get. So--

COUNCILMEMBER VICTORINO: Okay, we'll ask the Department on that and maybe Mr. Nishiki would like to bring that up as an amendment because unless there's a justifiable reason for not asking. . .giving an extension, we've been giving it to others in the last few days.

MS. HUDDLESTON-HAFOKA: Uh-huh.

COUNCILMEMBER VICTORINO: I'm to this point now that let's be fair to everybody, especially our youth centers, Mr. Chair. They need all the help and if they can go out and get monies and they're *not* being able to because we only give 'em 20 years or 5-year or 10-year leases or licensing, whatever we come down to the final, final decision, and where we can give them 35 or, or more, I think, it's time we look at that and, and start making that, that change because it affords them the opportunity to go out and get monies from many foundations that, again, unless you get 30-years-plus, they won't even talk to you. So, Mr. Chair, I'll bring that up at a later, at the other point when, if you allow me to ask the Department some of these questions that I'm bringing up right now.

CHAIR MOLINA: Okay--

COUNCILMEMBER VICTORINO: Thank you, Mr. Chair.

CHAIR MOLINA: Alright. Thank you, Mr. Victorino. Members, any other questions for Ms. Huddleston-Hafoka?

COUNCILMEMBER PONTANILLA: No, not for her.

CHAIR MOLINA: Okay. Seeing no other questions for you, Ms. Huddleston-Hafoka--

MS. HUDDLESTON-HAFOKA: Could I, I just have a comment, please. I just would like to add though that Kihei Youth Center and the South Maui Parks and Recreation, I mean, we're extremely thankful and we have a wonderful relationship and I think that's why, you know, community partnership is so important. So, but you know I just didn't want this moment to overcast that, you know, that we are not good partners and good stewards. So, I just would like to, you know, thank Tamara and the South Maui Parks and Recreation Department for being great partners, as well as Lori Tshako and her Department. So, thank you.

CHAIR MOLINA: Okay, thank you. Okay, Members--

COUNCILMEMBER VICTORINO: Chairman?

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CHAIR MOLINA: --we'll ask Mr. Victorino, you had a question of Corporation Counsel, and then Mr. Nishiki will follow up with your question.

COUNCILMEMBER VICTORINO: I'll, I'll yield to Mr. Nishiki 'cause that's his, his district--

CHAIR MOLINA: Okay.

COUNCILMEMBER VICTORINO: --and I'll let him ask the question.

CHAIR MOLINA: Mr. Nishiki?

COUNCILMEMBER VICTORINO: And if he doesn't ask my question, then I'll ask it.

COUNCILMEMBER NISHIKI: Um--

CHAIR MOLINA: Okay. Mr. Nishiki, proceed.

COUNCILMEMBER NISHIKI: The license agreement, is there metes and bounds on this license agreement as far as what it covers on the land? And the reason why I ask that question is you heard her say that they wanted that license agreement to also include the basketball court. You know, I guess not, with that, they want to control who uses it or whatever. So, my question.

MS. SLOPER: Mr. Nishiki, there's not *metes and bounds* in the license agreement. That's, and that's part of. . .or this basketball court issue was part of why. . .I sent up the revised resolutions, license, and grant agreement yesterday--because through discussions with the Department of Parks and Recreation, we did learn about the request for the basketball courts. So, the specific language describing the premises in the license agreement and the grant agreement, actually all of the documents *now* includes not only the building, the physical building where the Kihei Youth Center is located, but also the basketball courts. And that's also what's indicated on Exhibit A, the, that kind of oval. . .line of. . .to indicate what premises are being licensed to the Youth Center.

COUNCILMEMBER NISHIKI: Okay, so, whichever way we decide to go, license or lease, the basketball court is part of the agreement?

MS. SLOPER: Yes.

COUNCILMEMBER NISHIKI: Thank you.

CHAIR MOLINA: Okay, thank you, Mr. Nishiki. I think, Mr. Victorino, followed by Mr. Pontanilla.

COUNCILMEMBER VICTORINO: Yes, thank you and the question I have as you heard with Ms. Huddleston-Hafoka is that in the verbiage, in the contract itself you have "lease" and

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you have "license" all--is there a reason *why* the, the language is based upon that? Could it, should it be one or the other--and I ask you that question, Ms.--

CHAIR MOLINA: Sloper.

COUNCILMEMBER VICTORINO: --Sloper.

MS. SLOPER: Sorry, I, I do apologize. On Page 4 of the license agreement, I, I do notice that the word "lease" is listed there when it should be "license". If we're talking about Exhibit D to the license agreement, Exhibit D is a standard reservations, covenants, terms and conditions that we use for licenses and leases, and in that beginning paragraph it does say that all references to the lease, the lessee, or the lessor shall include and be deemed to refer to the license, the licensee, or the licensor where applicable. So, it's just, it is standard language that's used for all. . .grants of real property. So--

COUNCILMEMBER VICTORINO: Okay. So, so, in other words--

MS. SLOPER: I will . . .*(inaudible due to interruption)*--

COUNCILMEMBER VICTORINO: --what you're reading right here, what I'm reading right here, then it would supersede any verbiage that is brought, put in there later on regarding license, um, lessor, or lessee I should say?

MS. SLOPER: Correct.

COUNCILMEMBER VICTORINO: Okay.

MS. SLOPER: But I will. . .on Page 4 of the license agreement, I will change that reference to a lease--

COUNCILMEMBER VICTORINO: Oh . . .

MS. SLOPER: --to a license to make it --

COUNCILMEMBER VICTORINO: To a license to make it con...

MS. SLOPER: --clear.

COUNCILMEMBER VICTORINO: Okay. Yeah, I think they bring up good points and I think that needed to be clarified because confusion like that sometimes can lead us to other problems down the road. And then second question I have for. . .I guess, Ms. Tamara. I going pick on you first. If we were to change and amend this to 30 or 35 years, would the Department--and again, she said they asked for 20 only because that, that was kind of like what was recommended. But you and I both know because of the way the foundations throughout this nation and, and otherwise, 30, 35 years *many times* makes it a big, *much*

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bigger probability of getting grantor money from these organizations, these foundations, I should say. So, would you have any objections if we were to amend it to 30 or 35 years to allow them that flexibility for other things, other improvements, and, and, and things of that nature? Would you have any objections to that?

CHAIR MOLINA: Madam Director?

MS. HORCAJO: The Department of Parks and Recreation does support those long-term agreements and, and an agreement for 30 to 35 years is very much, you know, acceptable. Agreements from a lot longer than that. . .well, let me backtrack for, I, I think, the 20 to 35 years. . .nonprofits, the people who are on the board or involved with the organization will still be alive at the end of that--

COUNCILMEMBER VICTORINO: . . .*(laughter)*. . .

MS. HORCAJO: --you know, changeover.

COUNCILMEMBER VICTORINO: Uh-huh.

MS. HORCAJO: So, which is a very good thing, that institutional . . .*(laughter)*. . . information. So, we would very much support. . .a 30-, 35-year agreement. Sometimes if it gets much longer--the 50, you know, on up, sometimes the institutional memory isn't there. And. . .so that's perhaps why we like between the 20- to 35-year. . .lease range or license.

COUNCILMEMBER VICTORINO: Well, thank you, Ms. Horcajo. And, and, Mr. Chair, if, if Ms. Tsuhako has any comments in regards to that, as far as your take on, on these long-term, longer-term lease. . .or license, whichever? I'm sorry, I gotta . . .*(inaudible)*. . .

CHAIR MOLINA: Ms. Tsuhako?

MS. TSUHAKO: Thank you, Mr. Victorino. I, I think during our discussion at yesterday's Public Services Committee meeting, we, we did talk about some of the ramifications of having *longer*-term leases. And I gave Mr. Pontanilla just a really short list of those agencies that have leases that are 50 years and beyond. And there's a handful of them that, that exist. But I think the. . .the danger is, as Mr. Pontanilla noted yesterday, is that some of the those agencies may be not be, be solvent in 75 years or 100 years, you know, just depending on what the times are. And I think another consideration was that we were granting these leases of public lands that may have. . .more, we may have needs in the *future* for different purposes other than those granted today. And so, I think, you know, Ms. Horcajo makes a good point, 30 years or so. . .gives those programs a time to operate and, and do the services that they need to do, that what we could project fairly over 30 years. Longer than that seems really hard to be able to predict what the needs are going to be in 50 years or 75 years or even 100 years. So, that would, that would be my

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caution. . .about, you know, trying to. . .you know, create a policy that sets a certain length of a lease time.

COUNCILMEMBER VICTORINO: Well, again, thank you, Ms. Tshako. And Mr. Chair, I'm not trying to set a policy. I'm just trying to be realistic. Here's an organization, it's been in existence for 26 years, has done great work down in the South Maui area, has provided multi-generational. . .programs, and now, you know, I hear from the organization 30, 35 years would be preferable because we can do more improvements, look for more grant money from foundations. So I think that's the only reason why I would like to see, and again, as I stated yesterday, we can't put anything as a blanket--this is the way it's going to be for everybody. I know some people have said, well, if you do for one, you got to do for the other. I think each, each program has to go on its own merit. And I, and I, that's the way I truly believe. And I think that's the way the Grants Review Committee looks at it. I think that's the way Parks and Recreation looks at it. I think that's the way the County of Maui has always looked at it. And I think if we continue that as being our premise in the way we do things, I don't think you can get into a lot of legal hot water. But at a later point, I would like to, to, to, to ask to amend this to 35 years to help this organization because there's a lot of improvements that are needed and we're taking a long time to give them the money from the County for that improvement. Maybe they can go out and find some foundation money to do some of these improvements which is really deserving of the South Maui community. So, at a later point I'll bring that recommendation up. . .well, maybe with Mr. Nishiki's approval. Okay, thank you, Mr. Chair.

CHAIR MOLINA: Alright, thank you, Mr. Victorino. Your comments are well taken and whichever it may be--license or lease--we need to get those monies released so you can repair that roof. Mr. Pontanilla?

COUNCILMEMBER PONTANILLA: Thank you. I was going to ask Ms. Horcajo about the 20-plus years, if she was okay with it. You know, listening from her, 30 years is good. The list that Ms. Tshako had provided me yesterday, let me give you some examples--75 years, and basically these are for senior housing, all the Hale Mahaolu. So you know those buildings not going to go away and the need for senior housing, you know, will go on forever and ever.

. . . Maybe for the Parks Director--in regards to the facilities within this Tax Map Key, who is responsible to provide repair and maintenance? And I understand that we gave the Youth Center \$175,000 to go repair the roof. Is this like the County will be responsible for all upkeep of all the buildings?

CHAIR MOLINA: . . . Madam Director?

MS. HORCAJO: The. . .agreement, license or lease, to any, for any specific area does then. . .transfer the responsibility of maintenance to that organization that has that license or lease agreement. It is still a County facility. It is still, you know, our responsibility to

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assist in keeping that building safe and maintained and open to the public. So, the facilities that are at Kenolio, for example, that are not leased to a specific organization are directly under the responsibility of the Parks Department to request for funds from the County to maintain, you know, continue our maintenance of that. And in this case, we're responsible to assist any organization who has a lease or license to maintain their facility.

COUNCILMEMBER PONTANILLA: So, we'll continue to support those organizations?

MS. HORCAJO: As I said, it does state in the agreement that it is their responsibility to repair and maintain the facility under the lease or license with them. but that does not release the County of the responsibility to *monitor* that facility.

COUNCILMEMBER PONTANILLA: Okay, thank you. Thank you, Chairman.

CHAIR MOLINA: Alright, thank you, Mr. Pontanilla. Members, if there are no other questions the Chair will offer its recommendation. But before that we have Member Nishiki who had a question.

COUNCILMEMBER NISHIKI: Yeah, Lori or Parks. . . Tamara. Whenever a group that has a County lease wants to do a project, capital project, do they come and see you people first before they engage in the project being that it may be. . .it is a County property or it's on County land, County building?

MS. HORCAJO: . . . That is a requirement of the lease or license document that any improvements that the organization plans be reviewed by the proper department or the department that they're under. In our, in my case, it's Parks Department.

COUNCILMEMBER NISHIKI: Okay.

MS. HORCAJO: So, yes.

COUNCILMEMBER NISHIKI: And, and, and, as we heard yesterday the whole reasoning. . .in giving people longer leases was capital projects. And, and I see that happening. Does the capital project mean it has to be initiated by the lessee? I mean we're doing this roof improvement, right? To me, that's a capital project. But it's under the County, it's a County project that's going to initiate the, the roof being fixed or repaired, right?

MS. TSUHAKO: Okay, if. . .yeah, let me take a stab at this. Member Nishiki, thank you for your question.

. . . The agency sometimes come to the Department of Housing and Human Concerns to seek line item funding for those projects. So, that's the way we would get involved--because we don't, ultimately our Department doesn't ultimately have control over those Parks and Recreation parcels. I think if the agency chooses to do or to pursue a capital improvement project, that, that would really be their project and they would

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know that the improvements they made to their facility are helping with their programming. But ultimately, for example, if they were to, you know, choose to leave that property and, and rent another spot in, in town, somewhere else, that those improvements would, you know, obviously would stay with the property. The County would be the ultimate beneficiary of those improvements. But I, I would not consider *that* initiation of the capital improvement project to be a "County project".

COUNCILMEMBER NISHIKI: Okay.

MS. TSUHAKO: I think that Director Horcajo had, you know, really promoted a really good idea, and we'll be talking about this a little bit more over the summer--is that she suggested that since many of the youth center properties across our community have maintenance issues, the buildings are getting older, and they're very well used, that we start the conversation about looking at working with all of the youth centers who need those sort of projects and having them go after grant funding. . .as a *group* with all those projects listed or maybe prioritized in some way to leverage some of the funding that's available to us through the Federal government rather than coming back to, you know, what we know is a very strapped County budget and seeking, you know, small bits of, of capital improvement project funding. So, we're going to try to pursue that and work on that over the summer *together*.

COUNCILMEMBER NISHIKI: Okay, Tamara, to your knowledge there has never been any problems with users of the basketball court, have they?

CHAIR MOLINA: . . . Ms. Horcajo?

MS. HORCAJO: To our knowledge. . .there has not been conflicts over there, at, with the basketball court.

COUNCILMEMBER NISHIKI: And, and as it now stands, Kihei Youth Center is the controller of the use of that basketball court?

MS. HORCAJO: That is correct and one of the big reasons is that they will have now authority over the lights--when the lights are off and on, and they'll be, they are paying for the electric for those lights. So that. . .*that* is a, a huge *benefit* for our Department to have them paying for the lights. If there is a group of adults who. . .is causing the concern, they can turn off the lights . . .*(laughter)*. . . on those courts and, or they can have their own programming of different clinics or night games and programs for the youth on the court. So they have requested that area, and we do support them in that.

COUNCILMEMBER NISHIKI: Okay, thank you.

CHAIR MOLINA: Okay, thank you, Mr. Nishiki. Mr. Pontanilla, followed by Mr. Victorino.

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COUNCILMEMBER PONTANILLA: Just, just a fast question. For other users of the basketball court, do they come to the Parks Department in regards to having permission or to the Kihei Youth Center for permission to utilize the court?

MS. HORCAJO: So far, and. . .the public is welcomed to use. . .the, the courts. As I understand it, there has never been. . .anyone turning the public away. If a public group would like to hold a clinic or an event on the court, they would need to go to the Youth Center to ask specifically for exclusive use. The Youth Center would also have the authority to ask people to leave if their appropriate behavior was not appropriate for the basketball court.

COUNCILMEMBER PONTANILLA: Thank you and the reason why I asked that question is that not only this facility but the other facilities that we have in Maui County like tennis, you know, swimming pools, things like that. We utilize public monies to provide these amenities for recreation and, and that's the reason for the question. Thank you.

CHAIR MOLINA: Okay, thank you, Mr. Pontanilla. Mr. Victorino?

COUNCILMEMBER VICTORINO: Thank you and my question was along that same lines. And, but I was going to, you know, add to Mr. Pontanilla's statement that we've been very blessed because many of the organizations that have utilized and in other words taken some kind of charge of these facilities--whether it's the Wailuku tennis courts or whatever--have done a phenomenal job in actually enhancing what the County does and upgrade, up-keeping and upgrading the facilities. But more importantly being good stewards of those facilities 'cause they, they kind of like adopt the park, adopt the tennis court, adopt whatever. You saw that classic example up in Kula. We just recently opened the new Kula tennis courts. And the association up there, they've gone already out there, they're digging weeds, they're doing all kinds of stuff and they take pride. So, I think, this is very, very important. But I wanted, the other question I was really going to ask was for Ms. Tsuhako because you just mentioned about this summer getting together and kind of discussing maintenance issues and upgrading issues, and issues of age for our various facilities throughout the County of Maui at various youth centers. . .and others maybe, you know, in that whole discussion. So would it behoove us, because we're here now with this one, to give them a 30- or 35-year lease so that as these discussions are brought forth then you don't have to come back? If there is a capital campaign and you, you know you're out there trying to find money, they don't have to come running back in to us and say, hey, now instead of 20, we need 35 so that we can get monies to help with this--would that, in your opinion, help them along and help *you* to put this strategic plan together?

MS. TSUHAKO: I certainly think that having a lease of 30 years or 35 years would help the agency. . .depending on how they pursue funding.

COUNCILMEMBER VICTORINO: Right.

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MS. TSUHAKO: If they pursue funding only from the County, it won't make any difference. However, if they're aggressive and they look to other sources of funding, it will make a difference. The *hope* that Ms. Horcajo and I had was that we can, we can help to initiate a project and have the youth center. . .groups as a *whole* --

COUNCILMEMBER VICTORINO: Right.

MS. TSUHAKO: --we're planning a training for them at the end of July. . .would look at source, such as CDBG, which has, you know, had increased funding recently through the stimulus package and look at *that* as a source of potential funding for their repairs and maintenance programs.

COUNCILMEMBER VICTORINO: Uh-huh.

MS. TSUHAKO: So, I don't know that it would have a huge difference if the applications were made to CDBG. But I, I agree with you in the, in the hope that they would pursue nongovernmental funding from private foundations. Yes, it would make a difference.

COUNCILMEMBER VICTORINO: Well, I think, thank you, Ms. Tshako, and I thank you, Mr. Chair, for allowing me. I'll just close with this statement, then--if we give it to them, then I would, and myself personally, expect them to at least get out there and attempt to beat the bushes with these various foundations because now we've given them the opportunity. With a 20-year lease, it almost *stifles* them and makes them more dependent on us. So, I think, in, in my, my mind--and I hope my Member, other Members feel the same way--we will give them this *opportunity* to get out there and get *less* dependent on County funds or even other funds and go, and be able to go out there and, and, and get these foundations that are out there willing to give money so long as they got long-term leases. So, thank you, Mr. Chair.

CHAIR MOLINA: Okay, thank you, Mr. Victorino. Members, at this time the Chair is going to end the Q&A portion of this particular item. The Chair is going to offer a recommendation. And, Members, I want to first of all thank Corporation Counsel and to help us differentiate between a license and a lease agreement. It was, for the most part, some, very educational. So, anyway, we've spent a lot of time on this item. The Chair is going to recommend that we. . .is going to ask for a motion for the adoption of the *revised* proposed resolution which is attached to the June 3<sup>rd</sup>, 2009 letter from Corporation Counsel, which authorizes the grant of a *license* and the filing of County Communication 09-99.

COUNCILMEMBER NISHIKI: So moved.

COUNCILMEMBER VICTORINO: Second.

CHAIR MOLINA: Okay, it's been moved by Member Nishiki, seconded by Member Victorino. Members, the floor is now open for any considerations or amendments to the resolution.

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COUNCILMEMBER VICTORINO: Okay, Mr. Chair, I'd like to amend this licensing agreement [*sic*] to change from 20 years to 35 years, a licensing for this Kihei Youth Center.

COUNCILMEMBER NISHIKI: Second.

CHAIR MOLINA: Okay, it's been moved to amend the license agreement from 20 years to 30 years. And Members for--to 35. Sorry.

COUNCILMEMBER VICTORINO: Thirty-five, 35, yes, please.

CHAIR MOLINA: And Members it will be, I presume, Mr. Victorino, if I'm correct--under the first "Be it resolved" on the second page of the resolution?

COUNCILMEMBER VICTORINO: That is correct, if--

CHAIR MOLINA: Okay.

COUNCILMEMBER VICTORINO: --Ms. Sloper would make sure I'm putting it in the right manner.

CHAIR MOLINA: Okay. The proposed amendment has been seconded by Mr. Nishiki, for the record. Ms. Sloper, we are looking at the first "Be it resolved", am I correct, to amend from 20 to 35 years?

MS. SLOPER: Yes.

CHAIR MOLINA: Okay.

**NOTE:** *Silence.*

CHAIR MOLINA: . . . Yeah. So this would be, applies to both the resolution *and* the license agreement as well, right--just for clarification sake. Okay? Alright, the motion to amend is on the floor. Members, Mr. Victorino, discussion?

COUNCILMEMBER VICTORINO: I think we've discussed the point. Thank you very much, Mr. Chair.

CHAIR MOLINA: Alright, Members, seeing no other discussion on the proposed amendment, the Chair will call for a vote on the *amendment*. All those in favor, signify by saying "aye".

COUNCIL MEMBERS: Aye.

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CHAIR MOLINA: All those opposed? Thank you, the Chair will mark it 5-0.

**VOTE: AYES: Councilmembers Johnson, Nishiki, Pontanilla, Victorino, and Chair Molina.**

**NOES: None.**

**ABSTAIN: None.**

**ABSENT: None.**

**EXC.: Councilmembers Baisa, Kaho'ohalahala, Medeiros, and Vice-Chair Mateo.**

**MOTION CARRIED.**

**ACTION: APPROVE amendment to main motion (extend term of license from 20 years to 35 years).**

CHAIR MOLINA: Now, we are back to the main motion as amended. Any additional discussion? Mr. Pontanilla?

COUNCILMEMBER PONTANILLA: Thank you. I just wanted to thank Ms. Tshako...as well as Ms. Tamara in regards to collaborating and, you know, working with all of the youth centers. And I think Ms. Tshako is also working with different organizations in regards to applying for different grants for, for any organization here on Maui. So, I just want to say, you know, thank you for providing that support to any organization, the youth organizations, the senior organizations here on Maui...*(end of tape, start 2B)*...

CHAIR MOLINA: Mr. Victorino?

COUNCILMEMBER VICTORINO: Real quickly. Same thing, same kudos, but I also will add that I am very happy to hear that the County, especially the Parks and Recreation, and I hope all Departments that lease out property from the County have checklists and have various or *regular* inspections of these properties. Because, Mr. Chair, I think this is very important for us and the Departments to know what's going on. So, I want to thank Ms. Horcajo for taking that first step and, I think, Ms. Tshako and you collaborating to get this...I guess, program or strategic plan or whatever you want to call it to upgrade and maintain and do the things for our organizations, our youth organizations, and all the organizations. Because I think one of the biggest challenges they face, I constantly hear it from "I don't know where to go and how to get this process started". And I think they are showing some great leadership in that area. And I want to thank them. And thank you, Chair, for bringing this forward today 'cause it's something that was long overdue.

CHAIR MOLINA: Yeah.

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COUNCILMEMBER VICTORINO: Five years without a lease, that's a long time to go without a lease. So, I understand the process of government but, boy, we sure do move slow.

CHAIR MOLINA: . . .*(laughter)*. . .

COUNCILMEMBER VICTORINO: Thank you, Mr. Chair.

CHAIR MOLINA: Thank you very much for your comments, Mr. Victorino. Mr. Nishiki?

COUNCILMEMBER NISHIKI: Yeah, I, I, I think more importantly. . .and I think that you expressed it this morning, Mr. Chair. I hope that the people that came today and because you are given an ability to express yourself, it goes to show you that those of us that sit here are not mean. but I think that we're compassionate, we listen, and you may not like some of our decisions, but we do listen and try to help those people that come and discuss with us their concerns. Thank you.

CHAIR MOLINA: All right, thank you very much, Mr. Nishiki. And the Chair would also like to express his thanks to the representatives from the Kihei Youth Center--much appreciated that you were here to provide us some clarification and education on the situations that you face, and challenges. So, with that being said, Members, the Chair will call for the vote on the main motion as amended. Again, this is for the resolution, which would be grant, the granting of a *license* of County real property to Kihei, the Kihei Youth Center which includes the basketball court. All those in favor, signify by saying "aye".

COUNCILMEMBER VICTORINO: Aye.

CHAIR MOLINA: All those opposed? Thank you, the Chair will mark it five ayes with four excusals--Committee Vice-Chair Danny Mateo, Committee Member Gladys Baisa, Committee Member Sol Kaho'ohalahala, and Committee Member Bill Medeiros. The measure passes to the Council for first reading.

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**VOTE: AYES: Councilmembers Johnson, Nishiki, Pontanilla, Victorino, and Chair Molina.**

**NOES: None.**

**ABSTAIN: None.**

**ABSENT: None.**

**EXC.: Councilmembers Baisa, Kaho'ohalahala, Medeiros, and Vice-Chair Mateo.**

**MOTION CARRIED.**

**ACTION: ADOPTION of further revised proposed resolution authorizing a grant of a license, and FILING of communication.**

CHAIR MOLINA: So, Members, that concludes our business for today. The Chair would like to remind the Members that we have a 1:30 meeting under the leadership of Committee, Chairman Johnson for the Economic, Agriculture, and Recreation Committee this afternoon at 1:30. Any announcements before we adjourn our session this morning? Seeing none, the Chair, again would like to thank all of you Members who showed up this morning to make our meeting possible. And to our great Staff and also to the Administration, thank you for participating and showing your dedication to public service. It is ten minutes to the hour of 11 o'clock, June 4<sup>th</sup>, 2009, this Committee of the Whole meeting is now adjourned . . . *(gavel)* . . .

**ADJOURN: 10:50 a.m.**

APPROVED:



MICHAEL J. MOLINA, Chair  
Committee of the Whole

cow:min:090604

Transcribed by: Delfey Fernandez

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CERTIFICATE

I, Delfey Fernandez, hereby certify that the foregoing represents to the best of my ability, a true and correct transcript of the proceedings. I further certify that I am not in any way concerned with the cause.

DATED this 26<sup>th</sup> day of June 2009, in Wailuku, Hawaii.

  
Delfey Fernandez