

COMMITTEE OF THE WHOLE
Council of the County of Maui

MINUTES

July 16, 2009

Council Chamber, 8th Floor

CONVENE: 9:06 a.m.

PRESENT: Councilmember Michael J. Molina, Chair
Councilmember Danny A. Mateo, Vice-Chair
Councilmember Jo Anne Johnson, Member
Councilmember Sol P. Kaho‘ohalahala, Member
Councilmember Bill Kauakea Medeiros, Member
Councilmember Wayne K. Nishiki, Member
Councilmember Joseph Pontanilla, Member
Councilmember Michael P. Victorino, Member

EXCUSED: Councilmember Gladys C. Baisa, Member

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

ADMIN.: Ty Yoshimi, Account System Administrator, Department of Finance (Item No. 1(12))
Scott Teruya, Administrator, Real Property Tax Division, Department of Finance (Item No. 1(12))
Tamara Horcajo, Director, Department of Parks and Recreation (Item No. 1(11))
Lauren L. Martin, Deputy Corporation Counsel, Department of the Corporation Counsel (Item No. 1(12))
Madelyn S. D’Enbeau, Deputy Corporation Counsel, Department of the Corporation Counsel (Item No. 1(11))

OTHERS: Item 1(11): Anthony Ranken, Attorney for Evelyn Goo
Gene Zarro
Evelyn Goo
One (1) additional unidentified attendee

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

CHAIR MOLINA: ...*(gavel)*... The Committee of the Whole meeting for Thursday, July 16th, 2009 is now in session. Good morning, everyone.

COUNCILMEMBER MEDEIROS: Morning.

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CHAIR MOLINA: Morning. And for the record we have in attendance, Committee Vice Chair and Council Chair Danny Mateo.

VICE-CHAIR MATEO: Good morning.

CHAIR MOLINA: Committee Member Jo Anne Johnson, Committee Member Sol Kaho'ohalahala, Committee Member Bill Medeiros--

COUNCILMEMBER MEDEIROS: Aloha.

CHAIR MOLINA: Good morning.

CHAIR MOLINA: --Committee Member Wayne Nishiki, and Committee Member Joe Pontanilla--

COUNCILMEMBER PONTANILLA: Morning.

CHAIR MOLINA: --and Committee Member Mike Victorino. Welcome--

COUNCILMEMBER VICTORINO: Morning, Chair.

CHAIR MOLINA: --back. And--

COUNCILMEMBER VICTORINO: Thank you.

CHAIR MOLINA: And yours truly, Mike Molina, running the Committee items today. We have two items, Members--COW-1(12), and COW-1(11). Before we get into the Committee matters, the Chair will leave it open right now for public testimony. And we do have one individual that has signed up for testimony. We have Anthony Ranken. And before Mr. Ranken begins his testimony, the Chair would like to go over a few ground rules. You have three minutes to testify with one minute to conclude. And please state your full name for the record and any organization that you may be representing. And please turn off all cell phones and pagers. And while we await Mr. Ranken to approach the podium, the Chair would also like to recognize Committee Staff in attendance. We have Kirstin Hamman, and we have Committee Secretary Camille Sakamoto. And from the Corporation Counsel's office, we have Laureen Martin; and from the Finance Department, we have Assistant Systems Administrator Ty Yoshimi, and Mr. Scott Teruya, our Real Property Tax Administrator. All right, good morning, Mr. Ranken. You may go ahead and begin.

...BEGIN PUBLIC TESTIMONY...

MR. RANKEN: Good morning, Mr. Chairman. And good morning, members of the Committee, Council. Again, my name is Anthony Ranken. And I'm here today as attorney for Evelyn Goo and her company, Maui's Best Gift and Craft Fair. I . . .you

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know appeared not with a specific agenda of anything to say to you folks because I think it's really the responsibility of your own. . . Counsel to report to you. . . on the litigation and, and give you advise on that. And I wouldn't presume to assume that role. I'll just say that it's, you know, it's a serious claim and a substantial claim on which I represent Ms. Goo against the County. And I hope that we can resolve this in one way or another. I do wanna alert the Committee that. . . we. . . were trying, have been trying to resolve it without a payment of money from the County to Ms. Goo--although she's been, you know, very seriously damage financially. But what we were trying to do is instead just let her get going again in her, putting on these gift and craft fairs which is a service to the community as well as her livelihood by finding a new place for her to do that. And considerable effort and. . . brainpower and meetings and work went into the process of developing an alternative site, which was to be a portion of the Aquatic. . . Lahaina Aquatic Center lot that is not in use. Unfortunately, we've just had the, the rug pulled out from under us by the County Parks Department on that after we thought they were on board and had participated in earlier discussions. And this was after, you know, big meetings with the Planning Department and other concerned agencies and discussions with Corporation Counsel and submission of proposals. The idea was to grant Ms. Goo a 15-year lease on this property to operate her gift and craft fair which would. . . which would not cost her but compensate her in. . . in a way that would not cost the County anything and allow her to make her living again. But again, last. . . according to a letter from Tamara Horcajo at Parks and Rec there, for various reasons they are not willing to go through with that and they have jurisdiction over that land, apparently. So. . . we're back to looking at heading back into litigation in Federal court, unfortunately. And I understand it's been brought to the Council's attention to see if we wanna go that route or explore another solution. I'm not gonna go into the details, as I said, of the litigation and the claims unless there are any questions on that or anything related to this case. So I will end my testimony at that, but willing to answer any questions.

CHAIR MOLINA: Okay. Thank you very much, Mr. Ranken. Committee Members, questions or clarification for the--

COUNCILMEMBER PONTANILLA: Yeah--

CHAIR MOLINA: --Mr. Ranken's testimony? Mr. Pontanilla?

COUNCILMEMBER PONTANILLA: Thank you. Thank you, Mr. Ranken for. . . Ranken for being here. Just a. . . something for me to understand. When you say "an area by the Lahaina Aquatic Center", is it. . . Kaanapali-side of the Aquatic Center or Maalaea-side of that Center?

MR. RANKEN: It's a drainage basin. Evelyn--

COUNCILMEMBER PONTANILLA: Oh, the drainage basin.

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MR. RANKEN: Yeah. And, and, so, see, the thing about why we thought it would be very well suited is because it's an area that is, you know, not in use because it needs to be preserved open as a drainage basin. And our project would not involve any permanent structures. They basically would be, you know, taken down at the end of every day. So there wouldn't be a danger of flooding of permanent structures. And. . . Ms. Goo was offering to, you know, if there was a. . . a large rainstorm and created water in there, she would pump it out at her expense, which we thought would be a benefit to the County, too. Uh. . . so it seemed appropriate. But. . . but you can talk to Parks and Rec yourself if you like and, about the reasons they in the end are deeming it inappropriate.

COUNCILMEMBER PONTANILLA: Thank you. Just for your information, I know the Department of Transportation, State of Hawaii, is gonna expand that portion of H'piilani from Lahainaluna Road towards Aholo Road to four lanes. And part of the. . . design when I last talked to the Department--and you may have to clarify--was going deeper on the drainage area to accommodate some of those waters that come down from the mountain. So just for your information--

MR. RANKEN: Yeah, I, I did talk to them as well. And. . . that's good news. And we were willing to work around them as far as the scheduling of that. So I think it would. . . play in nicely to Ms. Goo's plans, rather than conflict with them, actually.

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

CHAIR MOLINA: Okay. Thank you, Mr. Pontanilla. Committee Members, additional questions for clarification of Mr. Ranken's testimony? Seeing none, thank you for your testimony, Mr. Ranken.

MR. RANKEN: Thank you.

CHAIR MOLINA: Before we call up our next testifier, the Chair would like to note for the record. . . Committee Member Gladys Baisa is excused from this morning's proceedings. Next to testify on COW-1(11), Gene Zarro.

NOTE: Pause.

MR. ZARRO: . . . Good morning, Members. Good morning, Chair. Thank you for the opportunity to testify. I would like to testify on behalf of Evelyn Goo. I've known Evelyn Goo for a long time. Our children have grown up together. So I, I can't go back how many years, but at least maybe 14. And. . . the, the thing I wanna bring up most about this is I have been the recipient of Evelyn Goo's hard-earned. . . hard, hard labor, her work. The South Maui Learning Ohana literally built the Kihei Charter School on the efforts of Evelyn Goo's gift and craft fairs that she used to hold because we would be the recipient of the money that would. . . she would generate. We literally used that money to get to Honolulu, do the things we had to do, those types of things. As that effort grew and Evelyn became more. . . a community fixture with her gift and craft fairs, I got to

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know 40 or 50 of the families that were benefitting by this craft fair. And these are hard-working families that were, were supporting their children and their extended ohana through the efforts of these gift and craft fairs. And I got to help out a little bit and . . .with the operations once in awhile, helping my friend out. And what was interesting is the amount of *visitors* that would come and . . .and attend these craft fairs. And you know the, this wasn't a competitive thing. It was just a visitor experience. You know, like when you go somewhere else you either shop at the mall or you could shop at the *local* place. And this was really the *local* place. It was really amazing. A little bit of culture, little bit of handi-crafts, little bit of a . . .a genuine experience. So it was really sad to see this thing *explode*. . .in Lahaina. It literally. . .it was there and all of a sudden it *wasn't* there. And, and all I could liken it to is like a pedestrian crossing the sidewalk and they get hit by a truck. And that truck was the County of Maui. And, and I don't quite understand what happened or why it happened. But. . .I would like you know that it was a good thing that no longer exists. And we miss it as well. So. . .and I'm just one of the nonprofits that benefitted. One of the *many, many* nonprofits. So. . .thank you for your time.

CHAIR MOLINA: Okay. Thank you, Mr. Zarro. Committee Members, any questions for clarification regarding Mr. Zarro's testimony?

. . . Seeing none, thank you for your testimony.

. . . Committee Secretary, do we have any additional signups for testimony this morning?

MS. SAKAMOTO: No, Mr. Chair.

CHAIR MOLINA: Okay, thank you very much. And seeing no one else approaching from the gallery for testimony, if there are no objections, the Chair will close public testimony for today's agenda items.

COUNCILMEMBER VICTORINO: No objection.

COUNCILMEMBER MEDEIROS: No objection.

CHAIR MOLINA: So ordered by the Committee.

. . .END OF PUBLIC TESTIMONY. . .

CHAIR MOLINA: Members, let's . . .dive right into our first Committee of the Whole item which is 1(12), the Richard Certo versus County of Maui, et al., Civil Number 09-1-0438(1).

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**ITEM NO. 1(12): LITIGATION MATTERS (INDEMNIFICATION AUTHORIZATION:
RICHARD CERTO V. COUNTY OF MAUI, ET AL.; CIVIL NO. 09-1-0438(1))
(C.C. No. 09-14)**

CHAIR MOLINA: The Committee is in receipt of a correspondence dated July 1st, 2009 from the Corporation Counsel's office, requesting consideration of a proposed resolution related to this matter, entitled indemnifying Kalbert Young in the Richard Certo versus County of Maui matter. And it also transmitted a copy of the complaint. The complaint alleges that the County failed to pay Mr. Certo and similarly situated persons interest or actual earnings realized on the overpayment of real property taxes. The purpose of the proposed resolution is to indemnify Kalbert Young, Director of Finance, in this particular matter. And from the Corporation Counsel's office to give us an overview of the matter, we have Ms. Laureen Martin. Ms. Martin?

MS. MARTIN: Thank you, Chairman Molina. This lawsuit involves the payment of real property taxes in the assessed value of a property owned by Richard Certo. In 2007, the County assessed Mr. Certo's property to be valued at approximately 1.3 million. Richard Certo alleges that the 2007 assessed value of his property was wrong, and as a result he paid too much in property taxes. He filed an appeal with the Board of Review, challenging the assessed value. And the Board of Review found the assessed value of the building should be reduced for a total assessed value of approximately 1.1 million. The County issued a refund of the excess taxes paid. And on June 12th, 2009, Mr. Certo filed a complaint against the County and Kalbert Young, alleging that he is entitled to all earnings of the refunded amount. I am requesting Council indemnify Kalbert Young relative to the claims alleged in this lawsuit.

CHAIR MOLINA: Okay. Thank you, Ms. Martin. And because this is an indemnification at this point, do you see a need for executive session?

MS. MARTIN: I do not, as long as the questions do not revolve around the actual *merits* . . . of the lawsuit.

CHAIR MOLINA: And seeing that there's also no settlement proposal at this time. Okay, Members, you've heard from Corporation Counsel. And again, please craft your questions to the indemnification only at this point. Any questions for Ms. Martin related to this matter?

NOTE: *Silence.*

CHAIR MOLINA: Okay, seeing none, then the Chair is ready to offer a recommendation on this matter.

COUNCILMEMBER VICTORINO: Recommendation?

COUNCILMEMBER MEDEIROS: Recommendation?

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CHAIR MOLINA: All right, Chair's recommendation is to approve the proposed resolution entitled indemnifying Kalbert Young in the Richard Certo versus County of Maui, et al., Civil Number 09-1-0438(1) matter.

VICE-CHAIR MATEO: So moved.

COUNCILMEMBER MEDEIROS: Second.

COUNCILMEMBER VICTORINO: Second.

CHAIR MOLINA: Okay. Been moved by Vice-Chair Mateo, and seconded by . . .who was it, Mr. Victorino. Any discussion?

. . . Seeing none, all those in favor, signify by saying "aye".

COUNCIL MEMBERS: Aye.

CHAIR MOLINA: All those opposed?

. . . Okay, thank you. Chair will mark it eight "ayes" with one "excusal", Member Baisa.

VOTE: AYES: Councilmembers Johnson, Kaho'ohalahala, Medeiros, Nishiki, Pontanilla, Victorino, Vice-Chair Mateo, and Chair Molina.

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmember Baisa.

MOTION CARRIED.

ACTION: Recommending ADOPTION of resolution.

CHAIR MOLINA: Thank you very much, Members.

NOTE: Silence.

CHAIR MOLINA: . . . Okay, Members, let's move on to Committee of the Whole Item 1(11). The Chair would like to thank the representatives from the Finance Department as well--Mr. Yoshimi and Mr. Teruya--for your presence this morning. Moving on to Committee of the Whole Item 1(11).

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ITEM NO. 1(11): LITIGATION MATTERS (STATUS: EVELYN GOO, ET AL. V. COUNTY OF MAUI, ET AL.; CIVIL NO. 08-00172 DAE BMK) (C.C. No. 09-14)

CHAIR MOLINA: The Committee is in receipt of a correspondence dated July 1st, 2009 from the Corporation Counsel's office requesting an opportunity to provide a status report in an executive meeting on the settlement negotiations in this particular case--which is Evelyn Goo, et al. versus the County of Maui, et al., Civil Number 08-00172. And I believe--

COUNCILMEMBER ____: Corp. Counsel.

CHAIR MOLINA: --we're still awaiting the Corporation Counsel's representative. That is supposed. . .uh, Staff, who is supposed to be here from Corporation Counsel?

MS. HAMMAN: Madelyn D'Enbeau is supposed to be here. I'm surprised she's not here. I can try to contact--

UNIDENTIFIED SPEAKER: Okay.

MS. HAMMAN: --the Corporation Counsel.

CHAIR MOLINA: Okay. Members. . .we're gonna go ahead and take a brief recess until Ms. D'Enbeau gets here. So. . .let's reconvene, for the moment at. . .9:30? Hopefully, ten minutes is enough. And then. . .if she still hasn't arrived, we'll. . .may have to take an extended recess. So, Members, this Committee meeting, Committee of the Whole meeting for July 16th, 2009 is in recess until 9:30 . . .(gavel). . .

RECESS: 9:20 a.m.

RECONVENE: 9:30 a.m.

CHAIR MOLINA: . . .(gavel). . . The Committee of the Whole meeting for July 16th, 2009 is now back in session. Members, we are on Committee of the Whole Item 1(11), regarding litigation matters, Evelyn Goo, et al. versus County of Maui, et al. And joining us this morning from the Corporation Counsel's office is Madelyn D'Enbeau. And before I. . .have Ms. D'Enbeau give us an overview of this matter, the Committee is in receipt of a correspondence dated July 1st, 2009 from the Corporation Counsel's office requesting an opportunity to provide a status report in an executive meeting on the settlement negotiations in the case. Ms. D'Enbeau, you have the floor.

MS. D'ENBEAU: Thank you, Mr. Chair, Members. Uh. . .I, I apologize for being late this morning. I was able to watch Mr. Ranken and Mr. Zarro's presentation on our screening. . .media. So I did see what they had to. . .had to say and what the questions were to them. I have a brief statement of the case. . .that I, comes from the. . .something

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that was filed in Federal Court--so it's certainly appropriate to read it in open session. It just tells you a little bit what this case is about, if I might?

CHAIR MOLINA: Okay. Proceed.

MS. D'ENBEAU: This case involves a parcel of land at a crowded intersection in Lahaina, Maui, that is conditionally zoned in the B-2 Business District. And I'll just insert here that it's on . . . Honoapiilani Highway and Lahainaluna Road. That, that corner. Um. . . in rezoning the parcel in 1999, the Maui County Council, concerned about traffic congestion and architectural design in the historical Lahaina town, imposed conditions prohibiting a number of high-density uses. . . including banks, and requiring an architectural design compatible with the old historic town. Other uses, including financial buildings, are permitted. So this is a conditional rezoning in 1999 of this parcel.

. . . In 2004, Plaintiffs Evelyn Goo and her company, Maui's Best Gift and Craft, LLC, allegedly leased the land from the owner, Barry Brown, in order to operate an open-air market using temporary tent spaces provided to a number of vendors. The County of Maui, after advising Plaintiffs that the uses violated the conditional zoning, granted multiple extensions to relocate the business, but ultimately issued two notices of violations. . . violations against Plaintiffs and Barry Brown. The notices of violation were appealed to Maui County Board of Variances and Appeals. Owner Barry Brown had. . . apparently had been attempting to sell the land since the 1999 rezoning, and ultimately sold to the West Maui Federal Credit Union. Plaintiffs claim herein--that language just means, it's telling you what the lawsuit is about--that the Wailuku. . . I'm sorry, the West Maui Federal Credit Union should *not* be permitted to locate its business on the land because a conditional zoning prohibits banks. However, the County determined that a credit union is a permitted *financial* building and not a *bank*. Plaintiff claims that this determination was part of a conspiracy to close down her open. . . air market, giving rise this litigation. So, again, that's a brief summary. And I believe you have copies of the complaint. I have 'em here if you don't. In any case. . . this matter proceeded along and initially Ms. Goo was represented by attorney Jim Fosbinder, James Fosbinder. And Mr. Fosbinder withdrew as counsel . . .

. . . and Mister . . .

. . . and Mr. Fosbinder withdrew as counsel in September of last year. And Mr. Ranken now represents. . . Ms. Goo and her company. So there have been some settlement negotiations and Mr. Ranken described them briefly to you, which would involve the County leasing to Ms. Goo for her. . . open-air market--the. . . a portion of the drainage basin that is. . . serves the. . . Lahaina Aquatic Center. And then concerns raised by the Parks Department about whether or not that's an appropriate use and other issues that have come up. And because this is settlement negotiations, I think it's appropriate to have discussions of what those settlement negotiations are in executive session.

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CHAIR MOLINA: Okay. Thank you, Ms. D'Enbeau. Members, any questions in *open* session? And . . . I, I trust that if some of your questions are maybe deemed more appropriate for executive session, Ms. D'Enbeau will let you know. So, Members, any questions in open session? Mr. Medeiros?

COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman. Ms. D'Enbeau, I just wanted to find out. . . what is the date that the property owner, Mr. Brown, sold it to West Maui Federal Credit Union?

MS. D'ENBEAU: Um. . . it was in. . . right--

COUNCILMEMBER MEDEIROS: Or the year--

MS. D'ENBEAU: --it was in 2006. I'm sorry, I don't have the *exact* date--

COUNCILMEMBER MEDEIROS: Okay.

MS. D'ENBEAU: --in front of me right here. And there was--just if I might add to that? There was also a lawsuit that Mr. Fosbinder. . . filed on Ms. Goo's behalf *against* the West Maui Federal Credit Union. . . and that case has been settled. I don't. . . I'm not privy to what the terms of that settlement were, but just very recently that case was settled.

COUNCILMEMBER MEDEIROS: Okay. Thank you. I just wanted to. . . establish the chronological order of events. Mahalo, Mr. Chairman.

CHAIR MOLINA: Thank you, Mr. Medeiros. Committee Members, any other questions in open session for Ms. D'Enbeau from the Corporation Counsel's office? Mr. Pontanilla?

COUNCILMEMBER PONTANILLA: Thank you. I'd just like to make a comment regarding. . . the property and, and Mr. Brown. I know. . . they had come forward to this Council to get some easements approved so that he could construct a business building. But I guess it never happened. So I, I just like to make that comment that we approved some easements regarding this particular property. . . easements for the Water Department. Thank you.

CHAIR MOLINA: Thank you, Mr. Pontanilla. Any other questions in, for. . . during open session for Ms. D'Enbeau?

. . . Seeing none, then the Chair will acknowledge the recommendation of Corporation Counsel to go into executive session. So therefore, the Chair will entertain a motion to go into executive session pursuant to Section 92-5(8), (4), Hawaii Revised Statutes, to consult with legal counsel on questions and issues pertaining to the powers, duties, privileges, immunities, and liabilities of the County, the Council, and the Committee.

VICE-CHAIR MATEO: Move for executive session.

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COUNCILMEMBER MEDEIROS: Second.

CHAIR MOLINA: Okay, it's been moved for executive session by Committee Vice-Chair Mateo, and seconded by Committee Member Medeiros. Any discussion, Members? Member Johnson?

COUNCILMEMBER JOHNSON: Yeah, I just wanna disclose that because I am mentioned as one of the parties, you know, that has specific knowledge, I'm not benefitting one way or the other. . .I will participate in the executive session if a settlement or anything ultimately comes out of it. I don't want. . .you know, anything that I hear in executive session, anything that I share will remain there. But I think because I have specific knowledge of this. . .I would ask if there's anyone that has problems with that, let me know now. Because as far as I'm concerned, I think. . .I have more information . . .*(laughter)*. . . possibly than even Ms. D'Enbeau has that may help to shed light if there are questions that arise.

CHAIR MOLINA: Okay, thank you, Member Johnson. Committee Members, any comments. . .related to Member Johnson's disclosure?

COUNCILMEMBER PONTANILLA: I have no objections.

CHAIR MOLINA: Okay, any objections?

COUNCILMEMBER VICTORINO: No objection.

COUNCILMEMBER MEDEIROS: No objection.

CHAIR MOLINA: Okay, seeing no objections, so ordered by the Committee. You'll be allowed to participate, Member Johnson, and thank you for that disclosure. Any other comments related to the motion on the floor, which is to go into executive session?

. . . Ms. D'Enbeau?

MS. D'ENBEAU: Uh. . .the Parks Department Director is here. May she stay in the executive session?

CHAIR MOLINA: Uh--

MS. D'ENBEAU: Or does she get called in later? I'm not sure how that works.

CHAIR MOLINA: Uh. . .I believe if she is a. . .involved in the matter. . .I guess it would be at the discretion of the Committee.

MS. D'ENBEAU: All right.

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CHAIR MOLINA: Committee Members, are there any objections to having the Parks Director participate in the executive session discussions? Committee Staff?

MS. HAMMAN: Mr. Chair, I would just note that I think that she would need to be *necessary* to the . . . deliberations in executive session for her to remain. And that that's really a determination of . . . of the body--whether she's necessary.

CHAIR MOLINA: Okay. Committee Members, the Chair is open, opening the floor for comments on, regarding the participation of the Parks Director in the executive session meeting.

COUNCILMEMBER VICTORINO: Mr. Chair?

CHAIR MOLINA: Mr. Victorino, followed by Mr. Medeiros and Mr. Kaho'ohalahala.

COUNCILMEMBER VICTORINO: I think, first of all, because . . . the Parks Department is a part of this whole . . . issue and the use of this particular property that, that has been talked about--according to Mr. Ranken, is under their control, not the particular one at the corner of Lahainaluna and Front Street, but the other one which was part of a supposedly . . . part, or settlement that was being worked out, I think they need to be here. So I, I would like to request that Parks and, Parks Department be allowed to stay.

CHAIR MOLINA: Okay, Mister--

COUNCILMEMBER VICTORINO: The--

CHAIR MOLINA: Oh.

COUNCILMEMBER VICTORINO: The Director, I should say.

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

COUNCILMEMBER MEDEIROS: I have similar . . . sent, sentiments, Mr. Chairman, because if the Director of Parks and Recreations [*sic*] has some information to offer which she can't offer in open session, then she should be allowed to be in the executive . . . closed session.

CHAIR MOLINA: Okay. So noted, Mr. Medeiros. Mr. Kaho'ohalahala?

COUNCILMEMBER KAHO'OHALAHALA: Pass.

CHAIR MOLINA: Okay. Members, any other comments related to . . . allowing the Director of Parks to participate in the executive session? Any objections?

COUNCIL MEMBERS: No objections.

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CHAIR MOLINA: Okay. So noted. Then we will permit Director Horcajo to join us in the executive session. So seeing no other discussion with regards to the motion on the floor, the Chair will call for the vote for executive session related to Committee of the Whole Item 1(11). All those in favor, signify by saying "aye".

COUNCIL MEMBERS: Aye.

CHAIR MOLINA: All those opposed?

... Thank you. The Chair will mark it eight "ayes" with one "excusal", Member Baisa.

VOTE: AYES: Councilmembers Johnson, Kaho'ohalahala, Medeiros, Nishiki, Pontanilla, Victorino, Vice-Chair Mateo, and Chair Molina.

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmember Baisa.

MOTION CARRIED.

ACTION: APPROVE; RECESS Open Session and CONVENE Executive Session.

CHAIR MOLINA: All right, Members, it is 9:40. We will take a brief recess, a short recess, so please don't leave the building. We will prepare the Chambers for executive session. This meeting is in recess ...*(gavel)*...

RECESS: 9:41 a.m.

RECONVENE: 11:33 a.m.

CHAIR MOLINA: ...*(gavel)*... The July 16th, 2009 Committee of the Whole meeting. . .is now reconvened in open session. Members, the Chair is ready to offer a recommendation on Committee of the Whole Item 1(11), regarding the Evelyn Goo, et al. versus County of Maui, et al. matter.

COUNCILMEMBER VICTORINO: Recommendation?

CHAIR MOLINA: Okay, the Chair's recommendation since this is an ongoing matter at this point, the Chair would recommend deferral of this matter.

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COUNCILMEMBER VICTORINO: No objections.

COUNCIL MEMBERS: . . .(inaudible) . . .

COUNCILMEMBER VICTORINO: Okay, no objections.

CHAIR MOLINA: All right. Hearing no objections, so ordered. This matter is now deferred.

COUNCIL MEMBERS VOICED NO OBJECTIONS. (excused: GCB)

ACTION: DEFER pending further discussion.

CHAIR MOLINA: Members, do we have any announcements to share?

COUNCILMEMBER JOHNSON: Yeah.

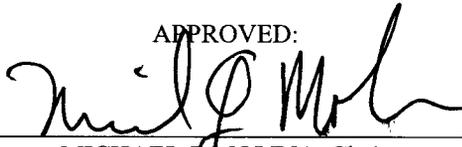
CHAIR MOLINA: Member Johnson?

COUNCILMEMBER JOHNSON: My Committee meeting is at 1:30 this afternoon. And so any Members, even though you're not a voting Member, you're certainly welcome to attend. We have one item on the agenda this afternoon, and it will be our little park area that is . . .not too far down the road from us . . .(laughter) . . . I believe it's Stanford Carr's property. That's the only item on the agenda. Thank you.

CHAIR MOLINA: Okay. Thank you very much, Member Johnson. Any other announcements? Seeing none, the Chair would like to thank all of you for your participation today, the Committee Staff as well, and the Corporation Counsel's office. Ms. D'Enbeau, thank you very much for all of your hard work. It's 11:35 on Thursday, July 16th, 2009. This Committee of the Whole meeting is now adjourned . . .(gavel) . . .

ADJOURN: 11:35 a.m.

APPROVED:



MICHAEL J. MOLINA, Chair
Committee of the Whole

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Transcribed by: Camille Sakamoto