

BUDGET AND FINANCE COMMITTEE
Council of the County of Maui

MINUTES

August 18, 2009

Council Chamber, 8th floor

CONVENE: 1:32 p.m.

PRESENT: Councilmember Joseph Pontanilla, Chair
Councilmember Gladys C. Baisa, Member
Councilmember Sol P. Kaho'ohalahala, Member
Councilmember Bill Kauakea Medeiros, Member
Councilmember Michael J. Molina, Member (out 3:05 p.m.)
Councilmember Wayne K. Nishiki, Member (in 1:35 p.m.)

EXCUSED: Councilmember Danny A. Mateo, Vice-Chair
Councilmember Jo Anne Johnson, Member
Councilmember Michael P. Victorino, Member

STAFF: Gayle Revels, Legislative Analyst
Yvette Bouthillier, Committee Secretary

ADMIN.: Frederick Pablo, Budget Director, Office of the Mayor
Kalbert L. Young, Director, Department of Finance (BF-37 and BF-11)
Sheri Morrison, Director, Department of Management (BF-11 and BF-36)
Carol Gentz, Community Development Block Grant Program Manager, CDBG, Office of
the Mayor (BF-33)
Lance Hiromoto, Deputy Director, Department of Personnel Services (BF-11)
Traci Fujita Villarosa, First Deputy Corporation Counsel, Department of the Corporation
Counsel

Seated in the gallery:

Shelley Pellegrino, Executive Assistant, Office of the Mayor (BF-11 and BF-36)
Kalbert L. Young, Director, Department of Finance (BF-36)

OTHERS: Malcolm Findley, Cost of Government Commission (BF-11 and BF-36)
Varna Nakihei, Ka Hale Pomaikai (BF-33)

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PRESS: Akaku: Maui Community Television, Inc.

CHAIR PONTANILLA: . . .(*gavel*). . . The Budget and Finance Committee meeting for August 18, 2009 is now in session. The time is 1:32. Members, thank you for being here early. We're going to be losing quorum if we don't have one more Member attend this meeting at about 3 p.m., so what the Chair will want to do is just breeze through all of the items. We have four items this afternoon. So, with that, the Chair would like to introduce the Members that are here this afternoon. We do have Member Molina.

COUNCILMEMBER MOLINA: Good afternoon, Chair.

CHAIR PONTANILLA: Hi. Member Baisa.

COUNCILMEMBER BAISA: Good afternoon.

CHAIR PONTANILLA: Good afternoon. Member Kaho'ohalahala.

COUNCILMEMBER KAHO'OHALAHALA: . . .(*Inaudible*). . . Chair.

CHAIR PONTANILLA: Good afternoon. And Member Bill Medeiros.

COUNCILMEMBER MEDEIROS: Aloha.

CHAIR PONTANILLA: Aloha. Representing the Administration, we do have our First Deputy Corporation Counsel, Traci Fujita Villarosa, as well as our Budget Director, Mr. Fred Pablo, and the CDBG Program Manager, Carol Gentz. Supporting the Committee is Gayle Revels, who is our Legislative Analyst as well as Yvette Bouthillier, who is our Committee Secretary. Members, again, we do have four items on the agenda. The Chair would like to receive public testimony. For those of you that will provide public testimony, you know, you have three minutes to provide your testimony, one minute to conclude and if you can na...state your name and the organization that you represent, the Chair would appreciate that. We don't have anyone signed up for public testimony. . . .(*chuckles*). . . Is there anyone in the gallery that want to provide public testimony at this time? Seeing none, Members, if there is no objection, the Chair would like to close public testimony.

COUNCIL MEMBERS: No objections.

...CLOSE PUBLIC TESTIMONY...

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CHAIR PONTANILLA: Thank you. The Chair would like to welcome Member Nishiki to this meeting.

COUNCILMEMBER NISHIKI: Oh, thank you.

ITEM NO. 33: ACCEPTANCE OF REAL PROPERTY FROM KA HALE POMAIAKAI (C.C. No. 09-188)

CHAIR PONTANILLA: Members, again, this afternoon we do have four items. The first item that the Chair would like to bring up is BF-33. This is acceptance of real property from Ka Hale Pomaikai. This is on the island of Molokai. The purpose of the proposed resolution is to accept the donation of approximately 8.915 acres at 8303 Kamehameha V Highway, Mapulehu, Molokai. The property was purchased with CDBG funds by Ka Hale Pomaikai to establish a sober living facility on Molokai. Ka Hale Pomaikai is unable to move forward with the project and is in noncompliance with the Federal requirements of the CDBG program; therefore, the County is proposing to accept the property. At this time, I would like to have Ms. Gentz to provide us with some comments.

MS. GENTZ: Good afternoon, Committee Chair Pontanilla and Members of the Budget and Finance Committee. Chair, you have presented the information that I was going to present so we just respectfully request the Committee's favorable, favorable action on the proposed resolution, and if the Committee Members have any questions, I'm available.

CHAIR PONTANILLA: Thank you. Members, do have any questions for the CDBG manager? Member Medeiros followed by Member Baisa.

COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman. And yes, I just want a real brief summary of why they fell out of compliance.

MS. GENTZ: According to Federal regulations, they had five years to use the property for the proposed use which was the establishment of a sober living facility and we're approaching that five-year time period. They were not able to move the project forward due to concerns in the community for that particular parcel.

COUNCILMEMBER MEDEIROS: So concerns from the community meaning that the community wasn't happy about that particular facility, the kind that was going to be, to be at that location?

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MS. GENTZ: No, it was more concerns about the parcel and some burials and issues of that nature on the, on the parcel itself.

COUNCILMEMBER MEDEIROS: Uh-huh. And so the, that group, Ka Hale Pomaikai, with CDBG funds, purchased that property?

MS. GENTZ: That's correct.

COUNCILMEMBER MEDEIROS: And who was it purchased from?

MS. GENTZ: It was purchased from Nene O Molokai, an organization that had proposed to have a Nene breeding facility on the property.

COUNCILMEMBER MEDEIROS: I see. Okay, thank you, Ms. Gentz, for that information. Mahalo, Mr. Chairman.

CHAIR PONTANILLA: Thank you, Mr....Mr. Medeiros. Member Baisa?

COUNCILMEMBER BAISA: Thank you very much, Chair. Just a quick question. I certainly understand, you know, what we've got before us, but I'm wondering, you know, I know CDBG is pretty strict about giving money and then not, if you don't use it, there's penalties for not using it when they are very careful about how much money we have left over. How is land perceived? I know we bought the land and now we're getting it back. So how does that square with CDBG?

MS. GENTZ: The County would need to either reimburse the CDBG program, the fair market value of the property, or we're in the process of attempting to come up with another eligible use. We've been in discussions with HUD on what those uses might be, so we're attempting to come up with a use in order to avoid having to, having the County general funds, have to reimburse the CDBG program for the fair market value.

COUNCILMEMBER BAISA: Thank you very much. That, that was my concern is that, you know, this creates some kind of obligation to the Federal government. Thank you.

CHAIR PONTANILLA: Thank you, Member Baisa. Very good question. Member Kaho'ohalahala?

COUNCILMEMBER KAHO'OHALAHALA: Yeah, just some more clarification then, Carol. Since you say that the reason that the, they did not complete their, their timeframe of five years was because of burials. So how does that get resolved

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and how does another operator or entity get to utilize the property if you still have issues of burials?

MS. GENTZ: We're currently, a feasibility study is currently being conducted and getting a lot of input from the community in order to come up with some possibilities. So, you know, we've, so that's currently being done and so I, we won't know the results of that in, until November. But I know that there has been some discussions of the possibility of using it for a cultural center of some kind, something that they're, that, or a learning center or something like that where and where we could maybe turn a not-so-good situation in a resource for the community, not only Molokai but possibly the State.

COUNCILMEMBER KAHO'OHALAHALA: Okay. The, the area in question then how, how large an area are we talking about?

MS. GENTZ: Eight point nine one four or 915 acres. It's right along, it's right on the highway.

COUNCILMEMBER KAHO'OHALAHALA: So, it's quite a substantial area then, eight acres and --

MS. GENTZ: Close to nine.

COUNCILMEMBER KAHO'OHALAHALA: --there, are there any facilities or structures currently on the property?

MS. GENTZ: There is a house. There is a very old greenhouse that was used by the Sugar Association, and then there also is like a garage or a, a auxiliary building.

COUNCILMEMBER KAHO'OHALAHALA: Okay, and then in the previous organization then, they were not able to complete any of that? Were they looking at a new structure? Were they looking in their, in their use of this property?

MS. GENTZ: They were going to have to do some rehabilitation of the structures that are currently on the, on the property. And then they were also proposing to do some light, like agricultural, agricultural uses, some planting and things like that.

COUNCILMEMBER KAHO'OHALAHALA: And so now where does the, the, the burial now issue come into play?

MS. GENTZ: There is a known burial on the property, but then there is also some question about additional unmarked burials. Apparently, there are a lot of, been

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incidences of, of bones being exposed in rain and things like that and that was another reason why we want to have a feasibility study, which includes an archaeological assessment so that we could have a kind of unbiased or a knowledgeable evaluation of the property.

COUNCILMEMBER KAHO‘OHALAHALA: Okay. I’m, I’m just, Chair, I’m still a little confused as to how the previous organization was unable to rehabilitate the structure and that the reason given was burials. So, I don’t make a connection on, on the reason for it them not completing, you said was because of burials. And if the structure’s already there, are we talking about burials that are impacted by the current structure? Are we looking at new developments or new structures that that would have impacted burials or, and that is the reason why, and so can you clarify, just so I can understand the reason that they were not able to complete that project within the time limit given --

MS. GENTZ: Uh-huh.

COUNCILMEMBER KAHO‘OHALAHALA: --and your reason was burials. So, and with the rehabilitation of a current structure, how would have that impacted the burials itself, you know?

MS. GENTZ: I think it was more the community opposition to the use of the land. There is very strong opinions both in support of the facility on the property and for not using, not having actually anything done on the property. So, it’s very, there’s very, some very strong opinions on that in the community and so that proved to be prohibitive to the organization from moving the project forward.

COUNCILMEMBER KAHO‘OHALAHALA: Okay. So moving forward then, you’re saying that you would find an organization that could utilize the property? And then we’re talking because you’re talking about a reimbursement of pay, payback to CDBG. So if you found an organization that could now use the property, what would allow this organization or entity to move forward given the past issue you just --

MS. GENTZ: Uh-huh

COUNCILMEMBER KAHO‘OHALAHALA: --cited for us?

MS. GENTZ: That was one of our motivations in doing a feasibility study. That involved talking to the community and involving the community in coming up with what an acceptable use for the property would be.

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COUNCILMEMBER KAHO‘OHALAHALA: Okay. So it would be really community driven at this point then?

MS. GENTZ: We see that that’s the only way that that would be, we would be able to successfully move a project forward. I mean the other option, of course, would be to sell the property but we’re thinking that involving the community, we would be able to come up with a resource that the community would support and be able to utilize.

COUNCILMEMBER KAHO‘OHALAHALA: Okay. At which point do we have to pay back?

MS. GENTZ: I’m sorry, I didn’t hear you.

COUNCILMEMBER KAHO‘OHALAHALA: At which point do we have to reimburse CDBG?

MS. GENTZ: It, there’s a five-year limit and we’re approaching the five-year limit. If HUD sees us moving forward with the program or with the process, they haven’t put a strict deadline on it, so any time after October of this year, they could, in theory, come . . .*(inaudible)* . . .

COUNCILMEMBER KAHO‘OHALAHALA: So October is that fifth, five years then?

MS. GENTZ: Uh-huh.

COUNCILMEMBER KAHO‘OHALAHALA: Okay. Thank you, Chair.

CHAIR PONTANILLA: Thank you. Just to shed some light in regards to when they first came to the Council for appropriation through C...CDBG, nothing was said in regards to cultural or burials in the area and their take was to utilize the existing building as well as the nursery and convert that to a sober living-type facility. At no time, you know, when the Council at that time questioned the land itself in regards to burial sites and things of that nature, there were a lot of testimony by the organization in trying to create a sober living facility for the island of Molokai. One of the glaring things that they said was that, you know, the, the number of clients on that island was humongous in regards to not only, you know, the alcohol side but also the drug side. In fact, I think Molokai was one of the highest or the highest at the time within the State of Hawaii in regards to drug abuse. Member Molina?

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COUNCILMEMBER MOLINA: Thank you, Chair. Good afternoon, Ms. Gentz. So just trying to, kind of make sense out of all of this, so the former property owners were Nene O Molokai and at that time they had knowledge that there was, I guess, one burial on the property. And so when was the discovery made that there were additional burials, because I'm wondering, you know, with Ka Hale Pomaikai, and their involvement, I mean, there, there was no knowledge throughout the community that this was, there were additional burials on this property? Because I find it quite surprising that there was only, you know, one and then now all of a sudden, here it is, I don't know when but couple, a year or two ago, that now they find all these additional burials, because it's quite perplexing to me. Can you add some additional insight or, or what have you been told?

MS. GENTZ: Well, yes, I mean I wasn't here at the time that the property was purchased so I'm not clear on the details and that's another reason why we wanted to do a feasibility study, to get, because we are just hearing opinions on both sides, so we wanted to get some professional evaluation of the property. And so, it's my understanding, like I said, that there were a difference, a very strong difference of opinions on both sides on what these bones were, how extensive they were.

COUNCILMEMBER MOLINA: Yeah.

MS. GENTZ: But on the deed to the property, there is a designated burial area.

COUNCILMEMBER MOLINA: Uh-huh.

MS. GENTZ: It's also my understanding is that this, there, and again I don't know the details and again, that's why we wanted the feasibility study, is that there was also some historic significance to this area. Maybe not specifically this parcel but into the whole area and that is, has motivated some people in the community to feel very passionate about the parcel.

COUNCILMEMBER MOLINA: Yeah, I'm surprised Nene O Molokai didn't know more about, you know, the additional burials. I mean, you know I, but now, so we, we got to pay back, well this was, this was, this was CDBG funds that they received so now to, we got re...pay back the Feds now with County funds?

MS. GENTZ: At this point, we're attempting to come up with an eligible activity that could be done at the property that would avoid that. So we're not at that point where we have been requested by HUD to reimburse, for the County general funds to reimburse the CDBG funds at this point.

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COUNCILMEMBER MOLINA: Uh-huh. So now, if we accept the donation, then we're going to do the feasibility study at our cost and you have any estimate what the feasibility study may, may run?

MS. GENTZ: It's about \$70,000 and that was included in the Fiscal Year 2009 budget.

COUNCILMEMBER MOLINA: Okay. I guess this is an interesting story, to say the least. Thank you, Chairman.

CHAIR PONTANILLA: Thank you. And again, Members, at the time when we had this item in this Chambers, you know, Member Nishiki as well as Member Molina, myself, Member Johnson as well as Member Mateo was sitting Council persons when we accepted the recommendation made by CDBG. Member Nishiki?

COUNCILMEMBER NISHIKI: Yeah, and, and, and I can remember vividly some of the testimony because a lot of them mentioned that they had to come to Maui and they wanted something to where it was on Molokai where they didn't have to go and spend big money to visit these Members. Also the facility here was getting crowded so there goes the reason, but, that was the reason. This is what's happening now. Can you please describe what you mean by opposition? Was that the community because of the burials because we read the SHPDA report right, that took place and then of course the Molokai Burial Council also, I think, has been involved now. You mentioned that the study was going to be 70,000. Do we, is this, does this have clear title also? Were people, anybody challenging the title?

MS. GENTZ: Not to my knowledge.

COUNCILMEMBER NISHIKI: Do you know if there's clear title?

MS. GENTZ: Not, I can't address that issue at this point. I could look into it but apparently there was not an issue when the, you know, deed was transferred.

COUNCILMEMBER NISHIKI: Well --

MS. GENTZ: But I'm not certain about that.

COUNCILMEMBER NISHIKI: Well, yeah, you know, I would, I would ask you to find out if there is clear title. Finally, the cost that is associated with this what you call assessment, besides addressing the burial, what, what other things are you going to assess? What is usable? What is not usable on the land?

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MS. GENTZ: In the feasibility study, we've requested three options of what could be done with the land. At one time, we had considered using it for a, for a fire station for the area. That's probably not viable because of the burials but they're going to present us with three different options.

COUNCILMEMBER NISHIKI: And, and, and finally, who is the archaeologist that is doing this? Was this someone that was recommended to you people by the Burial Council? I guess, I guess the reason why is this is an opportunity for us to get a real objective study rather than, you know, a landowner that wants to put development on it. So do you happen to know or how, were you in charge of choosing this person or has that person been chosen?

MS. GENTZ: Yes, the, yes, they have been chosen.

COUNCILMEMBER NISHIKI: And who is it?

MS. GENTZ: The Company is New West Land Company. They were involved with the community with past development on the island and they are working closely with the chairperson of the Molokai Burial Council.

COUNCILMEMBER NISHIKI: Okay. And, and when's that report scheduled to be completed?

MS. GENTZ: They're currently on island, on Molokai. The final report is not expected until November.

COUNCILMEMBER NISHIKI: Okay. I'm done. Thank you.

CHAIR PONTANILLA: Thank you. Member Kaho'ohalahala followed by Member Medeiros.

COUNCILMEMBER KAHO'OHALAHALA: Yeah. Chair, I was just wondering since we have a lot of questions that have to do directly with the organization Ka Hale Pomaikai, that you have in the audience Varna Nakihei and if she's willing to answer some of them, it would help us I think tremendously because she's been directly involved with, with that, you know, so.

CHAIR PONTANILLA: Thank you. Members, if there is no objections, I'd like --

COUNCILMEMBER MEDEIROS: Well, could, could we continue asking CDBG questions first before she comes down?

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CHAIR PONTANILLA: Sure, before I bring up the person, yeah.

COUNCILMEMBER MEDEIROS: Okay.

CHAIR PONTANILLA: Member Medeiros?

COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman. In following up some of the questions already asked, in the project that was going to be accomplished, the sober living facility, did that project require a process with the County that would have required an archaeological survey of that property?

MS. GENTZ: At that point, no.

COUNCILMEMBER MEDEIROS: No. And that's because they were just going to rehabilitate the existing building?

MS. GENTZ: That's correct.

COUNCILMEMBER MEDEIROS: Okay. So, did Ka Hale Pomaikai receive additional funds beyond the purchase of the property to operate this facility or was the funds strictly to purchase the property at, is what they got from CDBG?

MS. GENTZ: CDBG fully funded the purchase of the property. They were approved for an additional \$89,000 to do planning and design for the rehabilitation although they did, they chose not to execute that subrecipient agreement.

COUNCILMEMBER MEDEIROS: So they didn't receive those funds?

MS. GENTZ: No, they did not receive those funds.

COUNCILMEMBER MEDEIROS: And how much did the property cost?

MS. GENTZ: It cost \$250,000, right around there.

COUNCILMEMBER MEDEIROS: Okay. And that's for the 8.9 acres?

MS. GENTZ: That's correct.

COUNCILMEMBER MEDEIROS: Wow. So is Ka Hale Pomaikai the legal owner of that property --

MS. GENTZ: At this --

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COUNCILMEMBER MEDEIROS: --as the deed says?

MS. GENTZ: At this point in time, yes.

COUNCILMEMBER MEDEIROS: And what is the appraised value of that property currently?

MS GENTZ: We haven't done a current appraisal. At the time, I believe it was about \$560,000.

COUNCILMEMBER MEDEIROS: So when Ka Hale Pomaikai came in to apply for CDBG funds and it was determined that their purpose was to buy property for their facility, was, does CDBG require appraisal to determine value?

MS. GENTZ: Yes and --

COUNCILMEMBER MEDEIROS: So what was the appraisal at that time, 560,000?

MS. GENTZ: That's correct.

COUNCILMEMBER MEDEIROS: Okay. I, I'm not sure if you, you have a, a, a map or a TMK map of the area. Do you have that? I, I didn't look through entirely but what my question would be is where on the property, the location and how much of the 8.9 acres is used by these burials? Is it like spread out? Is it right in the middle? Is it on the border?

MS. GENTZ: There is a specific area designated for burial.

COUNCILMEMBER MEDEIROS: And do we know where that, I mean, do the Members here have some kind of map that shows where the burials are?

MS. GENTZ: Do you have that map? (*speaking to someone off mic*)

COUNCILMEMBER MEDEIROS: Do you know how much of the 8.9 acres is consumed by the burials?

MS. GENTZ: It's not, what's designated on the parcel, I don't know exact amount. It's not that large but there are, the contention is that there are other bones and other burials on the property.

COUNCILMEMBER MEDEIROS: Potentially other burials?

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MS. GENTZ: Uh-huh.

COUNCILMEMBER MEDEIROS: Okay. And, in, in, in, in trying to resolve the opposition or concerns of the Molokai community, were they acceptable or encouraged to have a cultural facility there that would incorporate the preservation of the burials?

MS. GENTZ: Um, like I said, they're on the island now so I haven't gotten, you know, a report from them at this point but I know that they're actively talking to members of the community.

COUNCILMEMBER MEDEIROS: Okay. So Ka Hale Pomaikai as the legal owner is donating the land to the County that was purchased through CDBG funds?

MS. GENTZ: I don't know if that's technically correct or not.

COUNCILMEMBER MEDEIROS: Okay. What, what is technically correct?

MS. GENTZ: I don't know what would be technically --

COUNCILMEMBER MEDEIROS: Oh.

MS. GENTZ: --correct but we're assuming, we're proposing to assume ownership of the property.

COUNCILMEMBER MEDEIROS: We being CDBG or the County?

MS. GENTZ: The County.

COUNCILMEMBER MEDEIROS: Okay. Corp. Counsel, do you know what the legal procedure we're discussing here as far as Ka Hale Pomaikai owning the property? Are they donating it to the County? Are they transferring ownership to the County? What are we doing here?

MS. FUJITA VILLAROSA: Yeah, according to the resolution, it is a donation of property.

COUNCILMEMBER MEDEIROS: Okay. Donation of real property? Okay. Alright. So the Council would have to accept this donation, right, and then determine, I guess, what we're going to do with 8.9 acres and how we pay back CDBG. Okay. Thank you, Ms. Gentz and Corp. Counsel. Mahalo, Mr. Chairman.

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CHAIR PONTANILLA: Thank you. Member Kaho'ohalahala, you had a question, followed by Member Baisa.

COUNCILMEMBER BAISA: *(Speaking in background)*

COUNCILMEMBER KAHO'OHALAHALA: Okay. Go ahead.

COUNCILMEMBER BAISA: You sure?

COUNCILMEMBER KAHO'OHALAHALA: Yeah. I was going to ask if Ms. Nakihei would like to come down and --

CHAIR PONTANILLA: Yeah, I'll take Member Baisa and then we'll ask --

COUNCILMEMBER BAISA: Thank you, Member Kaho'ohalahala. I'll try to make this brief. I just want to be really clear. Ms. Gentz, I'm sorry but can you repeat for me, you said earlier something about reimbursing CDBG at fair market value. You know, when we look at the numbers, the first number we look at is this 270,000 but in the material before us, it states that the Board of Directors would also like to mention that the gift of \$750,000 in terms of price reduction. So when we look at fair market value, without an appraisal, we could guess that this is worth over a million dollars, so would it be the million dollars that we have to give back to CDBG? We need to think about this because it's not as simple as it appears to be.

CHAIR PONTANILLA: Ms. Gentz, if you want to respond.

MS. GENTZ: As I mentioned, a appraisal was done at the time that the purchase, the property was purchased and at that time, it was \$560,000. We have not done an additional appraisal. That would be if we got to the point, that's what we would have to do and we haven't done it at this point because HUD would not accept an appraisal more than I believe 90 days old, so we didn't want to have to do it twice. I'm not, the nonprofit did not give any documentation to support the amount that they indicated in that letter of, what was it, 750...

COUNCILMEMBER BAISA: Seven hundred fifty thousand.

MS. GENTZ: Right. So there was no documentation to...that supports that number.

COUNCILMEMBER BAISA: Okay. Thank you very much. That gives me what I need to know and I certainly welcome the participation of Ms. Nakihei. Thank you.

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CHAIR PONTANILLA: Thank you. Members, any more questions for the --

COUNCILMEMBER MEDEIROS: Chair, just one.

CHAIR PONTANILLA: --Administration before I bring up Ms. Nak...Nakihei?

COUNCILMEMBER MEDEIROS: Yeah, just one, Chair.

CHAIR PONTANILLA: Member Medeiros?

COUNCILMEMBER MEDEIROS: Mahalo. So, Ms. Gentz, the CDBG doesn't expect the County to reimburse them for more than was given out in the first place, right?

MS. GENTZ: Federal regulations require the, the County to reimburse at the fair market value, not the amount of the original grant.

COUNCILMEMBER MEDEIROS: Really?

MS. GENTZ: Yes.

COUNCILMEMBER MEDEIROS: Okay. This presents some interesting discussions. Thank you, Chair. . . .*(chuckles)*. . .

CHAIR PONTANILLA: It does.

MS. GENTZ: Excuse me, if I could add --

CHAIR PONTANILLA: Sure.

MS. GENTZ: --I mean, it would be reimbursed back to the CDBG program as opposed to being reimbursed to the Federal government so that money then could be used for other eligible pro...CDBG projects. That's the good news.

COUNCILMEMBER MEDEIROS: Yeah, just a follow-up. So reimbursed to CDBG. CDBG Maui?

MS. GENTZ: Yes.

COUNCILMEMBER MEDEIROS: Or CDBG nationwide fund?

MS. GENTZ: CDBG Maui.

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COUNCILMEMBER MEDEIROS: Okay. Thank you.

CHAIR PONTANILLA: Thank you. Before I call Ms. Nakihei, just a fast question to Ms. Gentz. So let's say we are given two-point whatever million dollars and we somehow receive this extra funding, so the original monies that we get from CDBG . . .(end of tape 1A). . . what's, what probably can happen with the reimbursement or paying back CDBG?

MS. GENTZ: I'm not sure I understand your question.

CHAIR PONTANILLA: So if, let's say CDBG say *okay, Ms. Gentz, you've got two and a half million dollars for CDBG distribution, Maui County*. If we were to, the County reimburse CDBG for like say \$700,000, your two and a half million dollars is not affected?

MS. GENTZ: If the County were to reimburse the fair market value, no, the regular annual allocation would not be affected. It would be affected if the County did not reimburse the program for the, the property.

CHAIR PONTANILLA: Okay. Thank you. Any more questions, Members? At this time, Members, if there's no objections, I'd like to bring up Varna Nakihei to provide us with some insights regarding this particular property. And, Varna, can you state your name and the organization that you represent?

MS. NAKIHEI: My name is Varna Nakihei and I'm the founder and the president of the board, and I was informed just a couple hours ago that this meeting was going to happen so I came here not knowing what was happening or what we going do. . . .(crying). . . And I thank the Council, because you guys ask all the right questions. The thing that I been bogging with for the past five years is they said this is a burial site. You guys have proof that there's, it's a burial site. The iwi was found above the surface. When Sara Collins did the, the archaeologist thing back five years ago, the documentation that I saw that Nene O Molokai gave me was that she found it on top the first, the surface. It might've been coming from the property above us 'cause that used to be one cemetery. That used to be a church over there. And how we know it's not coming down from there. You guys have proof that there's, there's only hearsay. And there is a property, just a portion on a property that Charlie Young's property, actually the, the, the fence line is on his property which he had three family members buried there where the lady before Nene O Molokai had bulldozed. Auntie Luana Hamakua, Kupuna Luana Hamakua was on the burial thing with these people that you said, the community opposed. That's only three people that opposed this. We went, we

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did an environmental assessment that you guys gave us the money for. We did a burial plan. We did the community thing. We did all the work. What's wrong here? And our intentions is just to heal our island. It's not about putting money in our pocket. I've been doing this for ten years, no pay. I fly back and forth, nobody pay my way. I mean, the intention was good. The motive was good. I don't know why we couldn't, you guys wouldn't reconsider this and give us back the land so we can do our thing. That's why we haven't done anything. You guys wanted another environmental assessment which would cost us another \$26,000. Where we gonna good, get that from? So yeah, we just as frustrated, you know, that we couldn't move forward because of this iwi issue. You know, so if you guys could, could prove, I mean, if you like do more work, spend money to go dig and that's fine. I just got off the phone with Ian Robinson and, and he, he came out with a plan but it's too soon. I just talked to him an hour before I came here, you know. And I would really like you guys to reconsider. I was going to sit there and just listen but I cannot just sit with all, with all the work we put into this place and not at least come up here and try to defend it, you know. Thank God for Department of Hawaiian Homelands, that they gave us the property, 30-year contract or lease that we finally went open our doors a year ago, that we can house five men from jail, you know, coming back to Molokai, that is existing now and active. We had monies from Alcohol, Drug Addiction Department. You know, we have staff now. The whole reason I wanted to start this was number one, heal the people and to create myself a job. Well guess what, ten years later, I still not one employee but we do have staff now, seven of them, that has jobs on Molokai, you know. So I would really hope you guys reconsider this. If you're going to find somebody that going be eligible, why can't we be eligible? Even if our five-year contract ran out. You know, 'cause of course, you know, the two people, owners before us was people from the mainland. I koko. I come from the aina. You think I not going respect the place and build a place with a lele that people can come and give hookupu(?)? We're a culture program. This is what we do. We, we malama the aina as well as our people. And if there's burial over there, that's part of my ancestor. We be doing protocol. We're all about culture. We do hooponopono. Kupuna's in place already. We just want to do our thing but we couldn't move forward because of this iwi issue. It's not our fault that it ran out five years. And we put a lot of work. We've been paying tax on the land. We've been paying the water and everything else that we supposed to. We did everything right, so I don't know.

CHAIR PONTANILLA: Thank you. Members, any questions for the testifier? Member Medeiros first followed by Member Nishiki.

COUNCILMEMBER MEDEIROS: With the information that she has provided, it, it sheds a different light on it, for me anyway. And I know she's there for questions

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but because of what she said, can we ask Ms. Gentz something while she's still there or you want her --

CHAIR PONTANILLA: Yeah.

COUNCILMEMBER MEDEIROS: --strictly questions to her?

CHAIR PONTANILLA: Let's ask her first --

COUNCILMEMBER MEDEIROS: Her questions?

CHAIR PONTANILLA: --and then we'll get back to . . . *(inaudible)* . . .

COUNCILMEMBER MEDEIROS: Okay. I'll, I'll hold my questions till later. Thank you.

CHAIR PONTANILLA: Mr. Nishiki?

COUNCILMEMBER NISHIKI: Yeah, thank you. Do you have letters from CDBG as to reasons why they're taking this back?

MS. NAKIHEI: No, only that --

COUNCILMEMBER NISHIKI: No letters?

MS. NAKIHEI: --the five years was up. And people came just last week wanting to just go on the property. That's our property. Nobody called us. Nobody asked permission, you know. And other people was able to allow, I mean able to go on the property and do their own protocol. Aunty Luana had blessed the place. We have done so much and so of course kupuna was kind of, you know, kind of disappointed.

COUNCILMEMBER NISHIKI: Yeah, I, I, I, I read your letter the last, the last page, Members, about, you know, the name and the place named after Aunty Carla Ku and Aunty Lani Kapuni.

MS. NAKIHEI: Uh-huh.

COUNCILMEMBER NISHIKI: And so it's, you know, this, last week was the first time that you were notified by --

MS. NAKIHEI: I think the week before.

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COUNCILMEMBER NISHIKI: --by letter?

MS. NAKIHEI: I think the week before. Okay. My executive director who is being paid --

COUNCILMEMBER NISHIKI: Uh-huh.

MS. NAKIHEI: --she ran away on vacation, 'cause she just never like deal with this already. She had to go back and forth, back and forth. Aunty Luana Hamakua used to sit on the Burial Council and I, that's my kupuna. I love her with all my heart. She, she gives me wisdom.

COUNCILMEMBER NISHIKI: Right.

MS. NAKIHEI: She told me that Hanapii(?) guys went and take iwis on the land and did their own burial protocol, which is a small section over there which that time, they mahaoi too, for going over there and doing that.

COUNCILMEMBER NISHIKI: Yeah.

MS. NAKIHEI: Now she on my board.

COUNCILMEMBER NISHIKI: And, and, and, and I would see if a letter was written on behalf of you people as to why the delay because of this sensitive issue of iwi on top.

MS. NAKIHEI: Yeah, I understand.

COUNCILMEMBER NISHIKI: They would, they would probably understand why the delay. So you are here today saying you really don't want to vacate this land. You still want to do your program.

MS. NAKIHEI: Uh-huh.

COUNCILMEMBER NISHIKI: Okay. I'll allow other Members to ask questions but I have a, a real problem here.

CHAIR PONTANILLA: Thank you. Member Kaho'ohalahala?

COUNCILMEMBER KAHO'OHALAHALA: Thank you, Chair. Mahalo, Varna, for coming down and talking to us. The information that we have before us has a

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letter from the Department of Land and Natural Resources to your executive director. One, is your board still active?

MS. NAKIHEI: Yes.

COUNCILMEMBER KAHO‘OHALAHALA: And the members that are listed in this is still your active mem...board members?

MS. NAKIHEI: Yeah, and a couple additioned [*sic*].

COUNCILMEMBER KAHO‘OHALAHALA: Okay. And then, it does state here that the, that there were burials that were found on the property and that the, they’re inviting you to a, to the Burial Council, I believe, then to say this *the Council would like to invite you*, and I’m assuming that Council meaning the State’s Burial Council. Okay. Does Molokai have its own Burial Council?

MS. NAKIHEI: About a year or two ago, no, they, they couldn’t fill the seats so I don’t know if they have one full Burial Council now.

COUNCILMEMBER KAHO‘OHALAHALA: But that would be the, the entity that would be reviewing burial issues on Molokai?

MS. NAKIHEI: Uh-huh.

COUNCILMEMBER KAHO‘OHALAHALA: And it’s not constituted right now, it’s not, it’s not active, it’s not, it’s vacant in other words?

MS. NAKIHEI: Yeah.

COUNCILMEMBER KAHO‘OHALAHALA: So the vacancy leaves no review body for the island of Molokai where burials are concerned?

MS. NAKIHEI: Uh-huh.

COUNCILMEMBER KAHO‘OHALAHALA: Okay. So that would be a problem.

MS. NAKIHEI: Yup. That’s the thing too.

COUNCILMEMBER KAHO‘OHALAHALA: Okay.

MS. NAKIHEI: Because we never had a active Burial Council on Molokai.

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COUNCILMEMBER KAHO'OHALAHALA: Okay. So, that, that's one question then. Then I guess for clarification then you're saying then that your program is ongoing?

MS. NAKIHEI: Yes.

COUNCILMEMBER KAHO'OHALAHALA: And then you've not been aware of the fact that, that you were going to be forfeiting this, this property through CDBG?

MS. NAKIHEI: Well, we kind of, we kind of got frustrated and we just never like, we never have the monies to do EA again. We did a burial plan before and --

COUNCILMEMBER KAHO'OHALAHALA: Who, who?

MS. NAKIHEI: --so we just said you know what --

COUNCILMEMBER KAHO'OHALAHALA: Who asked you to do a, a further environmental assessment?

MS. NAKIHEI: CDBG. They're doing one right now.

COUNCILMEMBER KAHO'OHALAHALA: And the reas...reason that, yeah, I'm confused.

MS. NAKIHEI: I, I, they said, 'cause it expired.

COUNCILMEMBER KAHO'OHALAHALA: Okay, so you're original environmental assessment, they're saying is no longer valid and so --

MS. NAKIHEI: Yeah.

COUNCILMEMBER KAHO'OHALAHALA: --you have to do an updated one?

MS. NAKIHEI: A new one.

COUNCILMEMBER KAHO'OHALAHALA: And that's when you were unable to, to complete that work?

MS. NAKIHEI: Uh-huh.

COUNCILMEMBER KAHO'OHALAHALA: And due to your, to your inability to complete that then, CDBG is now doing its own environmental assessment?

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MS. NAKIHEI: If that's the case, why never do um for us? . . .*(chuckles)* . . .

COUNCILMEMBER KAHO'OHALAHALA: Okay.

MS. NAKIHEI: I mean, I sorry. Because my executive director said it would cost us 26,000 but hearing from Carol, it's 70,000. I mean you guys gave us 20,000 to do 'em. I mean, we take that to heart, we appreciate that, you know.

COUNCILMEMBER KAHO'OHALAHALA: Uh-huh.

MS. NAKIHEI: It's not like money we can throw away. So we really appreciate that.

COUNCILMEMBER KAHO'OHALAHALA: So can you talk to us about the information provided to us that the reason for your inability to complete this was because of opposition from your, your community?

MS. NAKIHEI: Well, I've been dealing with three specific people. I don't know if you define that as community but that's the only three people been opposing this and I know, I went to see them face to face because I live here. I had to come work now right after almost nine years, and they told me they wanted to do an iwi museum. They had their own agenda, you know, which it didn't happen and, what was I getting to?

COUNCILMEMBER KAHO'OHALAHALA: Well you, we were talking about the community opposition, yeah.

MS. NAKIHEI: But everybody else we talked to, we had meetings after meetings in the community. Everybody supported this, majority of the people because each family has a member that's suffering, you know. That's suffering from drugs or alcohol or whatever and they too supported the idea that it's on island and the whole family can get treated.

COUNCILMEMBER KAHO'OHALAHALA: So did they support also that it would be appropriate for this particular area?

MS. NAKIHEI: Yes, they did.

COUNCILMEMBER KAHO'OHALAHALA: Okay. I, I'm just finding it inconsistent with what we're getting in information. So the other part of it then would have been the fact that burials were on, so these are the two points that were brought to this Council, is that there were burials and that two, that there was now

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community opposition. So you're saying that there was more community support than opposition?

MS. NAKIHEI: Yes sir.

COUNCILMEMBER KAHO'OHALAHALA: Okay. And then the burial issue was that you had to redo an EA. You were unable to do so and that you had essentially done one prior --

MS. NAKIHEI: Uh-huh.

COUNCILMEMBER KAHO'OHALAHALA: --and that was no longer valid. So, where, where do you want this to go now? What is, how is the, how is, you know you said that there was structures on the property already?

MS. NAKIHEI: Yeah.

COUNCILMEMBER KAHO'OHALAHALA: You utilized them at one time to help your, your sober living?

MS. NAKIHEI: Never did because of this issue. We couldn't even do anything.

COUNCILMEMBER KAHO'OHALAHALA: So you were put on hold then for, from utilizing --

MS. NAKIHEI: Well, we couldn't do nothing until the issue, the iwi issue was solved. And we had a business plan that we could hire our clients later when they're successful, create more jobs. We don't want to come back to the County for more monies. We want to be self sustainable.

COUNCILMEMBER KAHO'OHALAHALA: Okay. So who put you on hold in terms of resolving the iwi. Is it the State Department of Land and Natural Resources, the Burial Council?

MS. NAKIHEI: Whatever CDBG tell us to do.

COUNCILMEMBER KAHO'OHALAHALA: So CDBG gave you instructions to not proceed --

MS. NAKIHEI: What to do and --

COUNCILMEMBER KAHO'OHALAHALA: --until, until you did what?

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MS. NAKIHEI: Until now. The five years is up and now they saying that the opposition is, it's just the, to me, it, it's not, it's kind of shaky too, you know, the answers that I, I hear today. Isn't, you know, there's nothing that is, is valid. I mean, no proof, no nothing. I mean, why you, what you guys going do with the land? Might as well let us continue, solve the, the iwi issue, and we just want to move forward.

COUNCILMEMBER KAHO'OHALAHALA: Okay, okay. Mahalo and thank you for your, you know, your clarification.

CHAIR PONTANILLA: Thank you. Member Baisa?

COUNCILMEMBER BAISA: Thank you very much, Chair. Just a couple of quick questions and thank you for being here. It really is nice to have you here that we can ask. You know, I'm familiar with Molokai but not that familiar so that names of streets and things make sense to me. Where exactly is this property?

MS. NAKIHEI: It's --

COUNCILMEMBER BAISA: Kind of give me some landmarks.

MS. NAKIHEI: You know where Kilohana School is?

COUNCILMEMBER BAISA: Yes.

MS. NAKIHEI: About two miles going --

COUNCILMEMBER BAISA: Halawa?

MS. NAKIHEI: --Halawa way.

COUNCILMEMBER BAISA: So about two miles from there and it's up on the mountain side?

MS. NAKIHEI: No, it's on, it's on the flat ground right off the highway and there's a home which I didn't want to expose this but I saw a map that Nene O Molokai showed me and only me, that there was a church and cemetery up there. I'm just assuming that it might be coming from up there and did anybody ever consider looking at these lady's documents? No. 'Cause she record everything, Nene O Molokai. I mean, she really does her homework. I trust her. I seen it. I seen the map. I seen the uncovered casket, wooden casket. I seen all of that. I just never

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told anybody. Did anybody ever consider looking into the lady's files if she let you guys? She did her homework.

COUNCILMEMBER BAISA: Thank you very much. That's really important to me. Now I have a picture in my mind. I was thinking somewhere in Kaunakakai proper and I couldn't --

MS. NAKIHEI: No.

COUNCILMEMBER BAISA: --think of where this could be. Eight acres is a big piece of land.

MS. NAKIHEI: Yeah. And that's a million dollar house above us and today, the appraiser is 1.9 million on the property.

COUNCILMEMBER BAISA: On this piece of land that --

MS. NAKIHEI: The 8 point --

COUNCILMEMBER BAISA: --we're talking about.

MS. NAKIHEI: Yes.

COUNCILMEMBER BAISA: This 8 acres? You said one point what?

MS. NAKIHEI: Nine million.

COUNCILMEMBER BAISA: One point nine, so close to \$2 million this thing --

MS. NAKIHEI: Yes.

COUNCILMEMBER BAISA: --is worth now.

MS. NAKIHEI: And the reason why Nene O Molokai wanted to give us, because she had a lot of opposing from the community about the, the birds digging the ground like that. But she sold it to us for \$250 because we had a good, you know, solid thing that we wanted to do with our people. If not, she could have sold 'em to us for that 560,000.

COUNCILMEMBER BAISA: Thank you very --

MS. NAKIHEI: Uh-huh.

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COUNCILMEMBER BAISA: --very much for being here. Thank you, Chair.

CHAIR PONTANILLA: Thank you. Members, any more questions for Ms. Nakihei?
Member Medeiros?

COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman. And yeah, Ms. Nakihei,
mahalo for coming at your own expense to provide us information.

MS. NAKIHEI: Oh no, I live here now.

COUNCILMEMBER MEDEIROS: Oh you live on Maui?

MS. NAKIHEI: Yeah, but I go home all the time --

COUNCILMEMBER MEDEIROS: Oh, okay.

MS. NAKIHEI: --for board meetings and stuff.

COUNCILMEMBER MEDEIROS: Okay, good. I'm glad you didn't have to fly over.

MS. NAKIHEI: Uh-huh. Me too.

COUNCILMEMBER MEDEIROS: . . .(*Chuckle*). . . So the opposition to the project
because of the iwi was the determining factor in the project not being able to
move forward?

MS. NAKIHEI: Yeah.

COUNCILMEMBER MEDEIROS: Is that's correct?

MS. NAKIHEI: Uh-huh.

COUNCILMEMBER MEDEIROS: Okay. Did your organization, Ka Hale Pomaikai,
request an extension of time from CDBG?

MS. NAKIHEI: I think we might have, you know, but I don't know what happened to
that.

COUNCILMEMBER MEDEIROS: Okay. We, we can ask Ms. Gentz when we're
through, you know, asking you. Is it your understanding and looking at the, kind
of the site plan provided to the Members in our binders, is it your understanding

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as it was explained to us by Ms. Gentz that on the deed that transferred the land to you folks, it did say that there was, you know, a burial of some sort there. Was that your understanding? That it was already established that, you know, they, they, and --

MS. NAKIHEI: Well.

COUNCILMEMBER MEDEIROS: --we have to ask Ms. Gentz again how, how that was done but I thought she said that. But yeah I was interested to ask if, you know, and we'll ask Ms. Gentz if your organization did request an --

MS. NAKIHEI: Uh-huh.

COUNCILMEMBER MEDEIROS: --extension of time so you could do what --

MS. NAKIHEI: I think we did, we did.

COUNCILMEMBER MEDEIROS: --was required. Okay and okay. Well thank, thank you so much --

MS. NAKIHEI: You're welcome. I think --

COUNCILMEMBER MEDEIROS: --for being here and for your information.

MS. NAKIHEI: Yeah I think you or Mr. Nishiki brought up, you know, that there was one burial then, now there's 20. Another word is there's 90. Another word is the whole property.

COUNCILMEMBER MEDEIROS: Uh-huh.

MS. NAKIHEI: I mean, I'm just as, my guess is just as good as you guys'.

COUNCILMEMBER MEDEIROS: And is it your understanding that because you did say something that the iwi was found at the surface level?

MS. NAKIHEI: Yes.

COUNCILMEMBER MEDEIROS: So there was no excavation to --

MS. NAKIHEI: No.

COUNCILMEMBER MEDEIROS: --determine that were there burials there?

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MS. NAKIHEI: Yeah, no.

COUNCILMEMBER MEDEIROS: These are surface iwi that was located?

MS. NAKIHEI: Yeah, and Sara Collins has the documentation too because of course we had --

COUNCILMEMBER MEDEIROS: Uh-huh.

MS. NAKIHEI: --some copies of stuff and she, in her documentation was it was sitting on the surface.

COUNCILMEMBER MEDEIROS: Uh-huh.

MS. NAKIHEI: The iwis that she found.

COUNCILMEMBER MEDEIROS: Right. And, and so because of that, that small group of members from Molokai, they decided to oppose your project being on that property? Because of the iwi, that supposedly it was found there?

MS. NAKIHEI: I'm sure it's because of the iwi but for me, this is just my opinion --

COUNCILMEMBER MEDEIROS: Uh-huh.

MS. NAKIHEI: --those people are so used to fighting, laau(?), fighting, manae(?) fighting this, fighting that. There was nothing to fight about so they fight us about that. That's just my opinion.

COUNCILMEMBER MEDEIROS: Okay. Well thank you. I appreciate your insight on that. Mahalo, Mr. Chairman.

CHAIR PONTANILLA: Thank you. Member Baisa?

COUNCILMEMBER BAISA: Thank you, Chair, and thank you, Ms. Nakihei. One more question. This is the last one. In your letter that you signed to us on April 27, 2008 along with Shari Lynn --

MS. NAKIHEI: Uh-huh.

COUNCILMEMBER BAISA: --there's a paragraph in here that says that the board, I guess that's your board --

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MS. NAKIHEI: Right.

COUNCILMEMBER BAISA: --has been informed of the County's desire to use the site for a new fire station. Is that still a consideration?

MS. NAKIHEI: Well, what our plan was, was to sell a portion to the Fire Department so they can be right next to us.

COUNCILMEMBER BAISA: I see. So that was more a wish by your organization but nothing has transpired with that?

MS. NAKIHEI: No.

COUNCILMEMBER BAISA: 'Cause then, you know, if we try to put the new fire station there, we're going have the same issues. We got to deal with this iwi issue.

MS. NAKIHEI: Yeah.

COUNCILMEMBER BAISA: Thank you very much.

MS. NAKIHEI: Uh-huh.

CHAIR PONTANILLA: Thank you. Member Molina, you had a question, no?

COUNCILMEMBER MOLINA: No.

CHAIR PONTANILLA: Okay. Thank you.

MS. NAKIHEI: Really?

COUNCIL MEMBERS: . . .*(Chuckles)*. . .

CHAIR PONTANILLA: Okay, Members, any more questions for Ms. Nakihei?

COUNCILMEMBER NISHIKI: Yes.

COUNCILMEMBER MEDEIROS: Nakihei.

CHAIR PONTANILLA: Member Nishiki?

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MS. NAKIHEI: Nakihei, knucklehead, whatever.

COUNCILMEMBERS AND MS. NAKIHEI: . . .(*Chuckles*) . . .

COUNCILMEMBER KAHO`OHALAHALA: Nakihei.

COUNCILMEMBER NISHIKI: You know the April 8th letter that was sent to you by CDBG, do you know what the content of the letter describes, because this obviously, it's the letter that I'm referring to also that Gladys referred to.

MS. NAKIHEI: I forget.

COUNCILMEMBER NISHIKI: Okay. Well we can ask CDBG because I was just curious what that letter said. But you can't remember any letter asking you people to stop because, because the five year has expired?

MS. NAKIHEI: No.

COUNCILMEMBER NISHIKI: Okay. Thank you so much.

CHAIR PONTANILLA: Thank you. Thank you for being here.

MS. NAKIHEI: Thank you.

CHAIR PONTANILLA: Okay, Members, questions for Ms. Gentz at this time?

COUNCILMEMBER NISHIKI: Yes.

CHAIR PONTANILLA: Member Nishiki followed by Member Medeiros.

COUNCILMEMBER NISHIKI: Carol, you've heard today from Varna and obviously just the little that I know and I think the burial concern would have stopped any type of action by this group except that they would have used that one living situation to, to continue for the treatment. Now, what reason other than the five year that expired, were you given about why they should not be using this property?

CHAIR PONTANILLA: Ms. Gentz?

MS. GENTZ: I'm sorry, repeat your question.

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COUNCILMEMBER NISHIKI: Yeah. Did you essentially tell them five years is up so now you, you need to vacate or, or they, they don't need to vacate but you need give this property up?

MS. GENTZ: Let me provide some additional information for clarity and if I haven't answered your question, ask it and I will try again but for clarity, when the property was purchased in 2004, it was purchased with CDBG money. They, in order for that CDBG money to be used, there was a environmental assessment phase one done of the property. The land was purchased. At that point in time, everything was in compliance and then as part of the Federal regulations and as part of the subrecipient agreement, there was a clause that there was five years in order to use the land for the intended purpose. They encountered opposition and they did not raise any other funds to move the project forward. They did come for additional CDBG funds a couple years later. When we sent them the subrecipient agreement for that additional \$89,000, they sent us a letter on November 20, 2007, I have a copy that I can give the Committee, that indicates that they would, *please accept our sincere apologies as we voluntarily decline the current offer of \$89,000 for the 2007 year. We hope to be able to see the resolution of certain cultural situations which have been beyond our control in the near future but until such time, we feel it is in the best interest of our Maui County to fund other worthy projects.* That was our indication in November, 2007, that they would, you know, between 2004 and 2007 since they had already, we had no involvement in the project because the CDBG funds had been used just for the purchase and that it was up to their organization to move the project forward and up to that point, there were, there was no CDBG additional involvement in the project. So at that point, they had about three years to move it forward and that's when they said because of certain cultural situations, we aren't, you know, we hope to resolve them but at this time, they weren't going to use the additional CDBG funds. So at that point, we asked them, okay what, you know, what can you, what are you going to be able to do with it because we knew at that point, in 2007, that there was the five-year limitation. When they informed us, which I believe was the April 27, 2008 letter that is in your packet, they, the board, voted to agree with the reversion of assets involving the transfer of control of the real property. In response to that letter, I sent a letter, oh, excuse me, I sent a letter on April 8th, so before, that was their response to my April 8th letter --

COUNCILMEMBER NISHIKI: Yes.

MS. GENTZ: --which I also have a copy and that's where I state that because of the subrecipient agreement and the Federal regulations, that they had five years to do something with the property. That is when I put them on notice officially in writing. We had had conversations before that with the executive director but

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officially on April 8, 2008 is when I said *we're coming up on five years, what are you going to do*, and then on April 27th, they came back and said we're going to, we want to revert the property back to the County because we're not able to move it forward. So they had, after they purchased the property, except for the five years to do something, they could have raised additional money from other sources to move the property forward. We weren't, at that point after the purchase of the property telling them, directing them what they could or could not do but they were not able to move it forward with other sources of funds so that's where we are today. So, I'm not sure if I answered your question. If not, then I'll try it again.

COUNCILMEMBER NISHIKI: Yeah, I was just trying, I was just trying to look at the time of when this occurred from the time when obviously State Historic Preservation issued this letter of concern. They were also getting resistance, as she said, from three members of the community and, you know, this, this iwi concern I think for many people is, especially for probably native Hawaiians as she stated, you know, this is where, this is the land that she comes from. This is, you know, her family and everything else. I, I'm sure that they don't want to clash, you know, and so, you know, trying to resolve it just as you people now are spending \$70,000 is something that I think we need to take into consideration. The other fact is, is, despite that it's past, right, and you, you, you hear today that they want to continue to do it, and I think that we have justification perhaps why now with these studies going on and everything else . . .*(end of tape 1B)*. . . writing back to the national, if that's where the law is or maybe you now understanding today from them that the iwi concern is big. This is a Hawaiian community. Is there that ability for you to reconsider?

MS. GENTZ: I don't know that HUD would, their question would be *why hasn't the organization been able to move the project forward*.

COUNCILMEMBER NISHIKI: And --

MS. GENTZ: They would question whether it is a viable project because according to statute, they had five years to do it. So, at that point, I think HUD would say you would need to pay the funds back because --

COUNCILMEMBER NISHIKI: You say, can I, can I, can I ask you this question? I, I, I, I, I would hope that maybe you would look at it differently as you, as we have this discussion today. The, the fact that if you don't make an attempt and try because you may not feel but we may feel and so we're asking you to please represent all our wishes about how we should go about this and make an attempt

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to HUD about this issue and I think that it's an issue that bears HUD relooking at and I guess my question is, you're the key player here for us, you are, you know.

MS. GENTZ: Uh-huh.

COUNCILMEMBER NISHIKI: You know? And as strongly as you, whatever your feelings are, maybe today, I hope it changed, you know. Because it wouldn't hurt and if there's, and if you think that it will cause some problems, then maybe let this body know today if the direction that we may be asking you is not valid enough.

MS. GENTZ: I mean I'm certainly willing to ask, to make the request of HUD.

COUNCILMEMBER NISHIKI: Uh-huh.

MS. GENTZ: And based on previous conversations with HUD and their actions on other issues not in Maui, I would say the chances are that they are going to not receive it favorably but certainly we can, I'm, I'm very willing to make that request. This, as I mentioned earlier in my comments, I, we are quite aware and HUD is too of the emotions and the concerns on both sides of this issue because HUD has been contacted directly on this particular property and so that again is why we chose to do a feasibility study, because we did not feel qualified, the CDBG program did not feel qualified to evaluate the situation.

COUNCILMEMBER NISHIKI: Yeah, and, and, and the evaluation is this, because I don't know if you heard what she said today. The lady that sold them the land, yeah, sold them at a deal despite that they could probably get more, because obviously this lady also had a heart and, and, and, and as we said, you know, this involves our family members, you know, that are sick, they're sick, they need help, they're sick, sick, you know, and, and very well, these people we know could die. We read about it all the time about drugs and, and, and the addictions and everything else. I mean, to me, if you give them that account of why the land was that cheap and inexpensive and, you know, that whole heart story, I think it's, it, it, it, it really would maybe change, you know. I, I, I, they want to do it, you know.

CHAIR PONTANILLA: Member Nishiki, thank you.

COUNCILMEMBER NISHIKI: Yeah. I'm done.

CHAIR PONTANILLA: I'm going to stop the questioning on this issue here and Member Nishiki, you bring up a good point in regards to, you know, writing a

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letter. Ms. Gentz, if you could, writing a letter to HUD or CDBG in regards to what we've heard today and knowing that the organization still want to continue to do something on this land so that they can help their people in, in regards to sober living. And if HUD says, you know, we're following the Federal guidelines and they say no, then, you know, that's something that probably would be satisfying for everybody just to get that answer. So, you know, if you could write the letter for, for this Council in regards to the question that Member Nishiki had. Member Baisa . . . *(inaudible)* . . .

COUNCILMEMBER BAISA: Thank you very much, Chair. I --

COUNCILMEMBER MEDEIROS: Mr. Chairman. Excuse me. But I believe you told me that I would follow Mr. Nishiki.

CHAIR PONTANILLA: Okay. Go ahead, I'm sorry.

COUNCILMEMBER BAISA: Go ahead.

COUNCILMEMBER MEDEIROS: Mahalo. The, for Ms. Gentz, is there any consideration in the program for unforeseen circumstances and that's the question and the unforeseen circumstances is the iwi, the concern about it. How does CDBG look at something like that because not everything can be planned out perfectly and there are unforeseen circumstances so what is CDBG's program? How do they receive and try to resolve that?

MS. GENTZ: The CDBG program here in the Count...at the County level, we work with organizations all the time and we also have to comply with Federal regulations.

COUNCILMEMBER MEDEIROS: Uh-huh.

MS. GENTZ: So there are times when we have had to cancel other projects because they have come up against a five year, a similar five-year period. So, I mean, what we attempt to do is work with the organizations as they go, as we go along in the, in the process. But it is a Federal program. The County is obliged by Federal regulations to implement the, the program based on these regulations.

COUNCILMEMBER MEDEIROS: Okay. And so you did mention in a response to another Member that people contacted CDBG nationally and, and brought some concerns to them. Is that correct?

MS. GENTZ: I don't know that it went nationally. It went to the Honolulu field office.

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COUNCILMEMBER MEDEIROS: Oh, the Honolulu. And was this from the opposition or the advocates for the project?

MS. GENTZ: Over the last five years, probably both sides have contacted the field office directly --

COUNCILMEMBER MEDEIROS: Uh-huh.

MS. GENTZ: --about issues on this property. The field office is very aware of the project and has, we have been, the CDBG program, we have been in close contact with them, apprising them and getting their input on how we could best resolve the issue.

COUNCILMEMBER MEDEIROS: Okay. So in Ms. Nakihei's response, she feels that the iwi issue was what held their project from moving forward and I believe you're saying the same thing. So how was the iwi issue authenticated? I mean, who said that, you know, okay, there, there's burials there without any kind of archaeological survey done? I mean, can somebody just come and say I oppose this project because I believe this and this is wrong? Somebody has to substantiate that. Who does that for CDBG?

MS. GENTZ: Well, again, this is why we decided that a feasibility study at this point was the best way to get some, because we were hearing from both sides. This is my opinion, you know, the other side was saying this is my opinion and very passionate and very strongly their opinion.

COUNCILMEMBER MEDEIROS: Okay.

MS. GENTZ: And we did not feel that we had the ability, because we didn't have the documentation or the expertise --

COUNCILMEMBER MEDEIROS: Right, right.

MS. GENTZ: --on deciding what was and what wasn't and that's why we chose to do a feasibility study.

COUNCILMEMBER MEDEIROS: Right. Okay. And --

CHAIR PONTANILLA: Member Medeiros, before you ask the next question, I just want to find out from Ms. Gentz, if we did the study, will the organization be eligible to, to reapply or, or, you know, get this property so that they can run their program once we do the study?

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MS. GENTZ: You know, again, since I don't know what the, the consultants have, you know, I haven't been apprised of what they have found on, on the ground while they've been there the last week and what their recommendations were, so, certainly we would entertain it. Again, we, I don't know exactly how HUD, well, would view us recommitting to the same organization that hasn't been able to move the project along in the last five years. It would have to, the feasibility study would have to have a strong case for how we go from where we are today to where we want to, you know, what is their proposal.

CHAIR PONTANILLA: So we need that study then.

MS. GENTZ: At this point, yes, I think that's going to be key to moving the, resolving the issue.

CHAIR PONTANILLA: Thank you.

COUNCILMEMBER MEDEIROS: Thank you, Mr. Chairman. Does CDBG program have provisions for a request for an extension on time?

MS. GENTZ: Um.

COUNCILMEMBER MEDEIROS: For unforeseen circumstances and reasons?

MS. GENTZ: According to CDBG regulations, the initial time to expend money is one year.

COUNCILMEMBER MEDEIROS: Okay.

MS. GENTZ: We do allow for extensions to complete the project up to the five-year limitation because again, that's another Federal regulation.

COUNCILMEMBER MEDEIROS: But, but how can it be an extension if you already have five years but you're extending up to five years?

MS. GENTZ: Well, initially, you have one year to expend the funds.

COUNCILMEMBER MEDEIROS: Okay. But this is, we're talking about completing the project, right?

MS. GENTZ: Uh-huh.

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COUNCILMEMBER MEDEIROS: So are there provisions to extend it beyond five years?

MS. GENTZ: No there are not.

COUNCILMEMBER MEDEIROS: There are not. And then finally, you did say that an EA was done?

MS. GENTZ: At the time the land was purchased, I was looking for that a minute ago --

COUNCILMEMBER MEDEIROS: I believe you said there was an EA done.

MS. GENTZ: It was the phase one.

COUNCILMEMBER MEDEIROS: Okay.

MS. GENTZ: I don't have the documentation with me.

COUNCILMEMBER MEDEIROS: But you, you feel that there was an EA done?

MS. GENTZ: It was not a complete environmental assessment.

COUNCILMEMBER MEDEIROS: . . .*(Inaudible)*. . .

MS. GENTZ: It was, because a complete environmental assessment, that would require doing subset...subsurface --

COUNCILMEMBER MEDEIROS: Surface, right, right.

MS. GENTZ: --evaluation would, would not have been required for the purchase of the land. It would have been required for building on the land.

COUNCILMEMBER MEDEIROS: Okay. So there wasn't any EA done?

MS. GENTZ: There was a phase one environmental site assessment completed . . .*(inaudible)*. . .

COUNCILMEMBER MEDEIROS: Environmental site assessment?

MS. GENTZ: Uh-huh.

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COUNCILMEMBER MEDEIROS: Does an environmental site assessment require public comment?

MS GENTZ: Yes it does.

COUNCILMEMBER MEDEIROS: Did, during the public comment part of that, did the community provide any public comment in opposition?

MS. GENTZ: At this point, I'm, I'm not certain about that because I wasn't here at the time so I, but when we did the additional grant for \$89,000, there was public opposition to the project at that point.

COUNCILMEMBER MEDEIROS: Okay.

MS. GENTZ: I can tell you that.

COUNCILMEMBER MEDEIROS: But, but you can't recall and you weren't there, but does the file show because this started before your time?

MS. GENTZ: I would have to look at that.

COUNCILMEMBER MEDEIROS: Okay.

MS. GENTZ: I, I don't remember . . . *(inaudible)* . . .

COUNCILMEMBER MEDEIROS: I think that's an important piece of information to have, you know, that it did provide for public comment, and it would have been good to see if there was any opposition at that time. So, my, my, my final question if not a statement is, I'm following up on Member Nishiki's comments, is there any way, any options available that we can help this group continue their project?

MS. GENTZ: As Mr. Nishiki requested, I can write a letter to HUD. I'm not aware of any exceptions or a process that, but I can certainly write a letter and get an official response from the Honolulu field office.

COUNCILMEMBER MEDEIROS: And at the request of the Chair, you know, that would be good. Mahalo, Mr. Chairman.

CHAIR PONTANILLA: Member Baisa?

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COUNCILMEMBER BAISA: Thank you very much, Chair. Just one quick question. Ms. Gentz, you mentioned earlier that there was, we're on a timeline here and that we needed to resolve this issue by when, you mentioned an October date?

MS. GENTZ: October, 2009 would be five years after the initial purchase of the property.

COUNCILMEMBER BAISA: Would that be October 1?

MS. GENTZ: October 4th.

COUNCILMEMBER BAISA: October 4th. So essentially we have the last part of August and the weeks in September to resolve this issue, so we don't have a whole lot of time. And the reason I bring that up is, you know, looking at a timeline and how things work here and how long it takes to schedule meetings and get things done, I'm kind of worried because, you know, we're kind of with our back against the wall, write letters, wait for answers and you know how it is. We don't seem to have a whole lot of options because in looking at the agreement that was signed between us and the subrecipient, the CDBG agreement, it says that they, if things go bad they either pay the County the current fair market value of the asset or transfer the asset back to us. So those are really the two options according to contract and if that's the fair market value, and this agency has to give us back what was mentioned earlier, \$2 million, it seems like the logical response would be to take the asset back. But what happens to it after that, of course, is a question and then what it does in terms of finances, so, this is a lot more complicated than it appears on the surface. I do want to say this publicly. I think it's very important. We're very fortunate to have Ms. Gentz. As a CDBG coordinator, she's done a yeomen's job in trying to straighten things out with our funder and to deal with the agency's compliance and she's dealing with a lot of things that she inherited. This agreement was signed in 2003 by a former administration and so, we appreciate, you know, the difficult task you're dealing with and I just wanted to say that in the, in fairness. Thank you very much.

CHAIR PONTANILLA: Thank you, Member Baisa. Member Molina?

COUNCILMEMBER MOLINA: Thank you, Chair. I had several questions but they were asked along the way so I won't be long. First of all, thank you, Ms. Gentz. I know you kind of inherited, you know, a problem that I, I think many of us didn't anticipate would go this, this long. My question to you is what happens to Hale Pomaikai if we as a body decide not to accept this donation? Now they got the CDBG funds and now they cannot act or possibly cannot act on what the funds were intended to be used for. Is that, I guess that's the question you're going to

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ask, I guess HUD or whomever. Because I'm, I'm concerned about the organization now. So then who owns the property then? You know, they use these monies, right, to buy the property. Now if they cannot, you know use these monies for what was originally intended for because of this burial issue, what happens now . . . *(inaudible)* . . .

MS. GENTZ: Well, as Councilmember Baisa just quoted from the subrecipient agreement, it would be, the agreement that they signed, it, the property would be reverted to the County or they would pay the fair market value of the property to the County and at that point --

COUNCILMEMBER MOLINA: Meaning they, Hale Pomaikai?

MS. GENTZ: Right. So, so that's one section of it. Then the other part of it is the County has an agreement with HUD, with the Federal government and that subrecipient agreement is based on the regulations that HUD will hold the County to. So then now, the County will be in the middle and in the same situation of, except we can't give the property to the Federal government so we, they would require us to reimburse us, reimburse the CDBG program for the fair market value of the property.

COUNCILMEMBER MOLINA: And that's on the condition if we accept the donation, though right?

MS. GENTZ: Well, they will, see, our agreement is with HUD and then we have an agreement with Ka Hale Pomaikai. If we chose not to do anything with the nonprofit, the Federal government would hold us accountable. So, we could, we could say *okay, nonprofit, keep the property, do what you want* but the Federal government is then going to say *okay, Maui County, you spent \$250,000 of Federal money for this property and it's not being used for what the application indicated it was going to be, so then now you owe, the County owes the Federal government the fair market value.*

COUNCILMEMBER MOLINA: I hate to say it but it looks like we're almost in a no win situation here. Somebody got stuck with a white elephant in this.

MS. GENTZ: And that is why we chose to do a feasibility study to see if we could come up with an option where it could be used for a community purpose and so we're trying to, that is why we decided to invest \$70,000 in order to save the County 1 million or 2 million, in order to come up with something that the community could support and then would have a benefit for the community.

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COUNCILMEMBER MOLINA: I sure hope something comes out of that feasibility study because that would be another \$70,000 taxpayer dollars. So, I mean, I appreciate you, you guys having to think out of the box on this but, *whoooo*, Mr. Chairman, I presume this is your intent is to defer and I know there's a lot of issues, you know, not only the burial issue, fire department, Molokai, again the cost, again if we, if we do accept or don't accept, so there's a lot more questions than we totally didn't anticipate today. So, I'll just leave it at that Mr. Chair and I will await your recommendation.

CHAIR PONTANILLA: Thank you, Mr. Molina.

COUNCILMEMBER MOLINA: Thank you.

CHAIR PONTANILLA: Before you guys go into or I call upon you guys for more questions, you know right now, we do have a deadline of October 4, 2009. If we don't take action, you know, the County might have to pay \$2 million but in the mean time, you know, if we pass this resolution, it gives the opportunity for the CDBG to do this study and, again, this does not hold Ka Hale Pomaikai from not being one of, you know, for not being a recipient again for this particular property. Correct, correct me if I'm wrong, Ms. Gentz. They would have an opportunity. Am I right or wrong?

MS. GENTZ: Again, since I, I'm at this point, not ruling out anything because we're waiting for the feasibility study. So since I don't know what they have talked to the community, what ideas they've come up with at the community level, I'm not going to rule anything out at this point.

CHAIR PONTANILLA: So they still could be a recipient?

MS. GENTZ: It's a possi...possibility, I, and, they're, I mean, at this point, until we see the feasibility study, I, I really don't have a basis to comment or to know what other, other costs there may be associated with what, what we decide to do with the property.

CHAIR PONTANILLA: Thank you. Member Baisa?

COUNCILMEMBER BAISA: Yes, Chair, thank you. Briefly, Ms. Gentz, the feasibility study is already happening?

MS. GENTZ: That's correct.

COUNCILMEMBER BAISA: When is the anticipated date that they would complete it?

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MS. GENTZ: The end of October. Now, um --

COUNCILMEMBER BAISA: ...*(Chuckles)*...

MS. GENTZ: Yeah.

COUNCILMEMBER BAISA: Okay. That's, thank you very much.

CHAIR PONTANILLA: Thank you, Member Baisa. Member Nishiki?

COUNCILMEMBER NISHIKI: No, I disagree. I think this is all the reason why this letter should be written, Carol, to be honest with you. I was looking, tracing the dates of when these documents from when Alan did it in 2003, and then the State of Hawaii Department of Land and Natural Resources letter in January of 2004, okay? In it you mentioned about the two hundred thou...20,000 EA study but the EA study would not have discovered the iwi. Okay? Now, when I look at the letter of January 28th and read from it, Mr. Chairman, as to what the concerns are, we have every reason, valid reasons why the letter should be asked of HUD to extend this period and the reason is, as Gladys pointed out when she asked *when is this study going to be done*, end of October. I wrote down November as when she said it was going to be done earlier but no matter, it's still after that date, the five-year date. However, Mr. Chairman, in the letter of January 28th, if you look under Exhibit 6, the last paragraph, it says, this is talking about the archaeological grant, *should additional ground disturbance be proposed for elsewhere on the property in the future, an archaeological survey, inventory survey, may need to be conducted prior to such action and mitigation may be needed if significant historic sites are found during the survey*. So, this is talking about the survey that is now being done which they had no money to do it, but now we're doing it. So, there's a reason why now that all of these things have got to be done prior to maybe even tilling the land for farming or whatever that they wanted to do. If you look at the next page, second paragraph, burial sites program, a second issue centers around the occurrence of human skeletal remains appearing in the surface after heavy rains such as the rains which recently affected all the Hawaiian islands including Molokai. Okay. This was an unusual rain so here we go again. An unusual rain and what occurred, the bones open. SHPDA inspection should take place to assess whether any remains have surfaced--what we are doing right now--the likelihood of additional remains being exposed and mitigative measures regarding such occurrences for persons occupying or residing on the parcel. The site inspection team should include a qualified archaeologist. So, here we go now. Again, Mr. Chairman, they need to hire, if all of this has occurred, they need to hire a qualified archaeologist to do all of this work prior to any action

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being done. So, Carol, I think that, and, and, and, and again, I want to also emphasize as Gladys has praised you, you know, you know in, in, in, in dealing with you, when I deal with you, I don't see you getting angry. I see you, you keep your composure. No, I think number one, you're an intelligent person and, and, and all of these things for me in, in trying to communicate this to you today, all make sense as to why, Mr. Chairman, we have valid reasons to extend and not, and, and, and, and, and I, and I, and I feel also for, for the doom and gloom part, portion of it. But I, I, I look at the sunny side today, really, because all of these things here that have appeared after this contract and we are now spending 70,000, Mr. Chairman. They would have not been able to do it because these studies have not occurred. And I'm sure that whoever that group is that you're going to communicate after you, you even reference this, reference this communication here. Reference this communication and say that's the reason why we're having to spend 70,000 to do it. They're looking at it going *wow, you guys have to spend 70,000 to do it, wow*, obviously it's important because it is. Yeah? And so I, I, I just think that we should proceed with this letter and hopefully you will come with a big smile at our next meeting and tell us what occurred.

COUNCIL MEMBERS: . . .(Chuckles). . .

COUNCILMEMBER NISHIKI: You know, I, I, I really think we've got the, the reason. Yeah, the justification. Excuse me. Chair, I'm done.

CHAIR PONTANILLA: Okay. Thank you for that.

COUNCILMEMBER NISHIKI: I, I, I'm, I'm --

CHAIR PONTANILLA: You know, when I look at our schedule, I, I'm glad Member Baisa brought that up, it would bring us in a precarious situation. We just won't have the time to approve this resolution just looking at the schedule. So, you know, we're put, you know, we have a difficult situation here. You know, we want to, you know, support Ka Hale Pomaikai on Molokai because, you know, when they first came to us, this was, this is a good project, when, when they look at, you know, sobering, you know, alcohol as well as drugs on that island, this is a good project. And, you know, too bad it took this long to come here at this time of, you know, short period, that now we got to act, hopefully we can act so that, you know, we don't jeopardize this County also. You know, \$2 million is a lot of money. So, Ms. Gentz, you had a question?

MS. GENTZ: Well, I need to clarify a couple things. One, that letter from SHPDA dated 2004 is not the reason why we're doing the feasibility study and you should also

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be aware that we have many letters from SHPDA on this subject and it was during this time that there was some turnover in that Department and they changed through the course of a number of years. They changed their, you know, they, they advised us and, on Ka Hale Pomaikai, one thing, and then they, they changed their minds or changed their direction at some point. Again, that, you know, so we have conflicting input and advice from SHPDA. That's another reason why we are doing the feasibility study. I mean it's a very complicated end situation with no clear cut conclusion at this point.

CHAIR PONTANILLA: Thank you. Member Kaho'ohalahala?

COUNCILMEMBER KAHO'OHALAHALA: Thank you, Chair. Just some closing comments. Carol, I do want to thank you for all your work too as well as the other Members have stated. The thing that I think needs to be perhaps given consideration as well is that, there have, aside from Ka Hale Pomaikai, there have been commitments made by kupuna on that island and if you read their letter and statements about who they made their dedications to, who are they representing in those dedi...dedications, I think, has to be a part of our decision making and cannot be left out because these were words already spoken by those kupuna. So, perhaps what we need to do is look at how we can assist this organization to make it whole once more so that the property that they intended to use and, and all the people who made commitments to support that intent and that program, can be made whole and the other . . .*(end of tape 2A)*. . . the kind of support that this offers to them is something that should be given consideration as well so I say these are all very good reasons for why we should perhaps assist in helping them to complete this to the point that they can implement and put a program together. That is a necessary part of Molokai's healing and wellness. So, I don't want to leave those parts out because I think we're getting caught in a lot of those other issues that surround this but I want to not lose sight of the fact that some of those commitments already made by the elders of that island has to be given some measure of, of worth and that's why we should not lose sight of that so I just want to end with that Chair and say --

CHAIR PONTANILLA: Thank you. Okay. The Chair is going to make his recommendation in regards to this particular item and, you know, we do have one more meeting that we can hear this item and hopefully by then, you know, we have some response from CDBG in regards to the Federal guidelines and if we don't have that response by then, we need to act on that September 1st meeting date so that we can have this thing go to the full Council on October, October 1st, I think, or October 2nd. So, Members, I'm going to defer this item, wait for some feedback from the Federal government and move forward on our September

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meeting, we'll take this item up again. So, Members, if there's no objections, the Chair would like to defer this item.

COUNCIL MEMBERS: No objections.

ACTION: DEFER pending further discussion.

CHAIR PONTANILLA: Thank you. Members, hopefully the next item is a quick one. And, and again, Ms. Gentz, I want to thank you for being here. I know there were a lot of tough questions that were asked upon you. Thank you for the response that you provided this Committee. I, I, I know that, you know, you do have that five-year limitation and hopefully, you know, the other nonprofits that go through CDBG really appreciate what we've done here this afternoon because it's sometimes not easy decision making because all of the facts are not here in order for us guys to make a real good decision, a reasonable decision. So, again, Ms. Gentz, thank you for being here.

ITEM NO. 37: AMENDING FY 2010 BUDGET, APPENDIX A (POST-EMPLOYMENT OBLIGATIONS FUND) (C.C. No. 09-202)

CHAIR PONTANILLA: Members, the next item is BF-37. BF-37 is amending Fiscal Year 2010 Budget, Appendix A, Post-Employment Obligations Fund. And the purpose of the revised proposed bill is to amend the Fiscal Year 2010 Budget, Appendix A, as it pertains to the Post-Employment Obligations Fund, by increasing the Estimated Balance as of June 30, 2009 and the total for Fiscal Year 2010 in the amount of \$15,241,488 and by adding provisos for Actuarially Required Contributions for Fiscal Year 2009 in the amount of \$12,676,000 and for Fiscal Year 2010 in the amount of \$16,775,327. Members, you all have a copy of the revised proposed bill from the Budget Director dated August 11, 2009. So at this time, the Chair would like to call on Mr. Young, our Budget...our Finance Director for comments. Mr. Young.

MR. YOUNG: Thank you. Good afternoon, Mr. Chair. Good afternoon, Members. This proposed budget amendment before you is actually a functional requirement for Fiscal Year '09 and Fiscal Year '10. As you folks know, the County of Maui has established a Post-Employment Obligations Fund. We created this fund back in Fiscal Year 2007 and it took effect in 2008 Fiscal Year. The purpose of this fund is to set aside or prepare monies for the County to take care of its unfunded liabilities related to medical benefits for our retirees as well as for the employee retirement system unfunded liabilities. The County Code requires, Chapter 3.07 which establishes the fund, requires that the fund disbursements be approved first by Council. In Fiscal Year 2009, in the budget ordinance, the Council did

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appropriate monies for the Post-Employment Obligations Fund to satisfy our Actuarially Required Contribution, the A-R-C, or ARC, but in the Fiscal Year '09 Budget, the ordinance did not grant the sufficient authorization to expend the funds and since Fiscal Year '09 has concluded as of June 30, 2009, the funds are still available in the fund but since they were set aside and appropriated for satisfaction of our unfunded liability, it is appropriate that we now expend the funds in satisfaction of the '09 liability and at the same time make the correction for Fiscal Year '10 Budget to grant the authorization for our Fiscal Year '10 ARC as well. In regards to the Fiscal Year '10 ARC, the Department of Finance does not intend to submit the ARC payment until later on in the fiscal year as is our normal matter of course and strategy with dealing with the unfunded liability. So, for the ordinance before you, the recommended budget amendment is to allow the authorization for \$12,676,000 as the ARC payment which will be applied for the 2009 Fiscal Year liability. At the same time, to grant the authorization for \$16,775,327 for the ARC requirement for Fiscal Year '10. I will also point out for the Committee that both of these ARCs only relate to the Employee Union's Trust Fund or the medical benefits for our retirees or for people who will be retiring. With that, I'm available for any questions that either you, Mr. Chair, or your Members have on this issue. Thank you.

CHAIR PONTANILLA: Thank you. Members, any questions for Director Young? Member Baisa?

COUNCILMEMBER BAISA: Thank you very much, Director Young, for being here. You know this is my favorite subject. Just to get it straight, what we had in the budget and what we're going to pay for '09, can you quote those figures again?

MR. YOUNG: Okay. In the Fiscal Year '09 Budget. . .(long pause). . . in the Fiscal Year 2009 Budget, Council appropriated 14,266,000...I'm sorry...265,131 back in, back for Fiscal Year '09 as the amount for the Post-Employment Obligations Fund. What we're asking for in this budget amendment is that, that for, that 12,676,000 be the amount authorized in the Fiscal Year '10 Budget but also letting you know that we will intend to submit that amount for satisfaction of the '09 ARC, so not the 14,265,131 that was appropriated back for Fiscal Year '09 but instead, the 12,676,000 satisfied for the ARC in the '09. The reason for the difference is because at the time that the '09 budget was constructed back in March of 2008, the calculation for the ARCs are all estimates based on the actuarial presentation and the performance of the funds, you know, the investments basically. So we estimate what that ARC is going to be and that's how we came up with the 14,265,000. Also included in that is, that amount actually only represents the amount of the total ARC, getting, getting complicated, but the total ARC is actually closer to 21 million but of that 21

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million, there's a portion that we pay on a pay as you go method if you will for current retirees, people who are currently already receiving coverage from med...from medical benefits, so those are people that are already in retirement. So you must, since we already paid that as a matter of course, that can be reduced from the ARC so the amount that we are paying at the end of the fiscal year only is for those people that are currently employed but they have vested, meaning that whenever they retire, whenever that may be, they will get, they will be partaking in the medical benefits or people who were previously employed by the County, they're not employed anymore with the County but they are vested and when they retire, they will receive the benefits, so for those people, it's called a future unfund, it's the future liability. Those portions are actually un-funded on a future looking actuarial basis. That's the 14 million that was originally budgeted in '09. That's the 12,676,000 that I'm asking as a budget amendment to be applied for '09. The reason for the difference is because the amount that we actually budgeted, when we looked at how much we actually paid for retirees that are current on the pay-go method and the actual basis of premiums that are in the...that were paid in the Fiscal Year '09, that's the difference. So, we actually have about a million or a million and a half savings, if you will, that we, we don't have to pay that to satisfy our ARC. We can satisfy the ARC with simply 12,676,000.

COUNCILMEMBER BAISA: Very good for '09. Now, let's fast forward to '10.

MR. YOUNG: Okay. For Fiscal Year '10, because what we're doing is we're again, we're forward looking. I'm, I'm calculating or estimating what the ARC is going to be on June 30, 2010, that's why it's kind of, I'm trying to calculate and guesstimate [*sic*], if you will, what the ARC will be, taking in to account what the actuarial report said the ARC was on July 1, 2008, so from that as the basis looking forward. I also take into account the fact that medical premiums with the EUTF, as you probably know from the collective bargaining negotiations, are going up. The plans haven't been settled yet but they are expected to be more expensive than they were in 2009. We also anticipate that the actuarial presentation of the performance of investments under the fund likely will have decreased in value from 2009. That's just relative to how the stock market has been performing so that's a pretty safe guess. The only difference is guessing how much have they declined. So from that, I am estimating that we will likely have to deplete the full amount of funds that are in the Post-Employment Obligations Fund to satisfy the Fiscal Year '10 ARC and so that's where I'm looking at the current balance that's in the fund as of the transmission of this budget amendment plus an expectation of some interest earning on those investments over the next year. I believe that the fund will have \$16,775,327 on

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or around June 2010 and that's the authorization amount that I would like to expend to satisfy our ARC.

COUNCILMEMBER BAISA: Thank you very much for a very complete and easy to understand answer. This is really an important thing for us. You know, this post retirement fund and you know making sure that people have benefits when they retire is such a sacred thing and you really do a very good job, Mr. Young, of keeping track of this. And I think the estimates, you know, when you're talking about the kind of numbers you're talking about, a million, a million and a half, it may seem like a lot to the average person but when you put this in the context of many, many millions, it's, it's very good and it's done very well. Thank you.

CHAIR PONTANILLA: Thank you, Member Baisa. Members, any more questions for the Director? Seeing none, if there's no objections, the Chair would like to make his recommendation.

COUNCILMEMBER BAISA: Recommendation.

COUNCILMEMBER MEDEIROS: Recommendation.

CHAIR PONTANILLA: Thank you. After hearing Mr. Young, the Chair's recommendation is for passage of the proposed bill as revised on first reading and filing of County Communication No. 09-202.

COUNCILMEMBER BAISA: So moved, Chair.

COUNCILMEMBER MEDEIROS: Second.

CHAIR PONTANILLA: Moved by Member Baisa, second by Member Medeiros. Members, any more discussion? If not, all in favor of the motion, please say "aye".

COUNCIL MEMBERS: "Aye".

CHAIR PONTANILLA: Any opposed? Seeing none, the motion is carried with five "ayes", four excused, Members Molina, Johnson, Mateo and Mr. Victorino. Motion is carried.

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VOTE: **AYES:** **Councilmembers Baisa, Kaho`ohalahala, Medeiros, Nishiki, and Chair Pontanilla.**

NOES: **None.**

ABSTAIN: **None.**

ABSENT: **None.**

EXC.: **Councilmembers Johnson, Molina, Victorino, and Vice-Chair Mateo.**

MOTION CARRIED.

ACTION: **FIRST READING of revised bill; and FILING of communication by C.R.**

ITEM NO. 11: COST OF GOVERNMENT COMMISSION REPORT
(C.C. No. 09-98)

CHAIR PONTANILLA: Members, the next item...thank you, Mr. Young, for being here. The next item on our agenda is BF-11, Cost of Government Commission Report and at this time, Ms. Morrison, please join us. The Commission has submitted a report entitled Cost of Government Commission, County of Maui report, the report of findings and recommendation for the Commission term April 1, 2008 to March 31, 2009. Members, at our meeting on July 14th, we heard from the Commission regarding the issues in the report. Today, I would like to give the Administration an opportunity to comment on the report. Ms. Morrison?

MS. MORRISON: Thank you, Mr. Chair, and Members. It's a pleasure to be here this afternoon. We have a very good working relationship with the Cost of Government Commission and, in fact, I attended another meeting with them last week, one of their regular committee meetings, Commission meetings. There's a, I would say this is one of the best written and prepared Cost of Government Commission reports I've been privileged to read for some time and so I do appreciate their work and their spending as much time as they do. One of the commissioners that worked with the subcommittee that worked on the Department of Management was so good that we hired her as a planner in the Department of Planning and she's no longer on the Commission but we're happy to, to have her and that's Gina Flammer who was from upcountry in the Kula Community Association.

Overall, the report, both the Mayor and I concurred with many of the concerns that were reported and the recommendations that the Commission has with the exception of one. I, I don't believe we're ready for a Department of Energy but I

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do agree that it's a critical area and that there are ways to increase our efforts in that area but in terms of the audit report, the capital improvement report, you will be happy to know that we have hired our County Capital Improvement Program Coordinator. That person is Wendy Taomoto, an engineer in the, senior engineer in the Department of Water Supply currently but as of September 1st, she will be working in the Department of Management and I am pleased to have that position filled. And we will be working, she will be working as, as you know, that position is significantly focused on planning and, and looking at long-range planning, linking our budget for both annually and long range on, with the community plans, island plan, general plan. The other half of that job is focused on the implementation of that plan, how are we doing, and I'm also am pleased to report that the, through the efforts of the Finance Department, we have been working diligently to close out old projects and that's true whether they're capital projects or purchase orders for things that never got purchased or so on in many departments over the, over the past months and that, that process is ongoing so that's a good thing also.

In terms of energy, as you know, the Mayor has a number of initiatives and I want to also thank the Council for passing the New Energy Building Code that was passed yesterday in the Infrastructure Committee, passed out of committee. That's a very positive movement and one of the high priorities of one of the Mayor's energy working groups, and the recommendations of those energy working groups will be shared at the Energy Expo that we are sponsoring on September 10th and 11th, I believe, and there'll be a number of items in there about renewable energy and energy efficiency.

With regard to the Department of Management, there was, there were a number of significant recommendations. We are reviewing those and looking at ways to make management more of the focus of the Department of Management. It's an operating department as well as the right arm of the Mayor's office by virtue of the charter and at the same time, I have a department of 42 or 46 employees. So it's worthwhile to look at ways to organize our work to make sure that we are managing most effectively and I have asked the Commission, and I understand they have considered our request that we continue to look at, at this topic along with some of the other topics that they have been looking at. Because there are some options and different ways that we may want to approach discussions with other departments, with other Counties, how are they organized and how do they manage, how do their managing directors work with their Mayors and with their departments and with operating issues such as fleet management, facilities management and so forth.

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The last item was the DPS Subcommittee and I believe the Commission is going to continue to look at issues related to personnel services and hiring. We concur with their recommendation to do a process audit and we'll be pursuing that in the weeks and months ahead. That concludes my initial comments. I'd be happy to answer any questions, Mr. Chair.

CHAIR PONTANILLA: Thank you, Ms. Morrison. Members, any questions for our Managing Director? I think she covered most of the departments pretty well. Member Medeiros?

COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman and thank you for your, your comments and your report. I just would like to find out if you could expound on why you think the County is not ready or needs a Department of Energy.

MS. MORRISON: Currently, we have two staff that are focused on energy issues, two that are focused only on energy issues, maybe let me put it that way. At the same time, the Mayor believes that it's very important for the departments to focus on energy issues as a part of their ongoing operations. Certainly, Wastewater has incorporated a lot of energy efficiency changes into their, their operations. Water is looking at a number of initiatives. One of the reasons we want to focus more on Facilities Management also is so that the management of the buildings that the County owns are looked at with regard to energy efficiency as well as any other maintenance and management issues. Currently, this building is managed simply if something breaks, we, we repair it or we replace it rather than managing it as a facility and we need to upgrade our approach to that. Energy is part of that but it's not a separate element. It's just integrated within all of that from our perspective so I do believe that we need these energy specialists to help us along the way but I'm not really sure who would be in the Department of Energy yet, how many people. Currently, for example, we have a Risk Management Division within Finance. There are safety specialists in that division and there also safety specialists out in some of the departments. Maybe that kind of model is something we might look at. Maybe energy would be a division in a department of administrative services that could look at facilities management, fleet management including energy and so on. So there are, there are a number of options that we are considering and just like the, we appreciate the emphasis certainly on energy and I, and I know that the Mayor, it's one of the Mayor's priorities. Whether it should be isolated in a department as opposed to integrated without, throughout all departments is something we're, we're still looking at.

COUNCILMEMBER MEDEIROS: Okay. And then a second question is under your Department and direc...supervisory responsibility, the Cost of Government

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Commission report that we're looking at, it lists a, a, a energy coordinator. Now is that Mr. Victor Reyes position?

MS. MORRISON: No, Dr. Reyes is in the Office of Economic Development as an appointed position under the Office of the Mayor. He's an appointed position. In the Department of Management, all of the positions are civil service positions except for me, my first assistant and my secretary. The position, the Energy Coordinator position in management is Kal Kobayashi.

CHAIR MEDEIROS: Oh, okay.

MS. MORRISON: His focus has been primarily on the regulatory issues before the PUC in, in electrical utilities.

COUNCILMEMBER MEDEIROS: Okay. Thank you for those responses. Mahalo, Mr. Chairman.

CHAIR PONTANILLA: Thank you. Members, any more questions regarding the Commission's report? Member Baisa?

COUNCILMEMBER BAISA: Thank you very much, Chair, and thank you, Managing Director, for being here this afternoon. I am very impressed with the work of the Cost of Government Commission and knowing Ms. Flammer as well as I do, I'm really excited that we now have her as a County employee. I'm sure she's an asset to the Planning Department. Just, I missed it, I probably wasn't paying attention when you said it, but can you tell me again what, what's going to be done about the personnel services concerns?

MS. MORRISON: One of the recommendations of the Commission was that we do a process audit to review the work flow, how do things actually, how do positions actually get filled, how do reorganizations occur, et cetera. And I think that's an excellent idea, partially just for the transparency of it so that everyone knows. I, I'm not sure we all know exactly what happens in the black box when we . . . *(chuckles)* . . . send our, send our paperwork to the, to the Department despite everyone's best efforts. And so I think that would be a good thing simply for informational flow, but also it would open up the opportunity to look for efficiencies which is what I think the Commission was, was focused on as well. It would then give us the foundation for any further opportunities for improving the operations in there.

COUNCILMEMBER BAISA: Terrific. I, I think that's a really good idea. You know, every year when we sit here talking about the budget, we look at the positions that

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aren't filled and we look at the premium pay and so if we could somehow find a way to just move that paper around faster, it might help in many ways and also get some people to work so that --

MS. MORRISON: Absolutely.

COUNCILMEMBER BAISA: --so the workloads won't be so heavy so that's a very exciting thing. Thank you, thank you very much.

CHAIR PONTANILLA: Thank you, Member Baisa. Yeah, I just like to comment, you know, the Commission's report is really informative and they come out with pretty good, in fact, excellent recommendations and sometimes we just go through the report, they give us a report and I, I think this is the first time we getting feedback from the departments and that's it. My, my question to you, Ms. Morrison, is there a possibility for, from the Administration to give us from time to time an update as far as where you're at in regards to recommendations that are being made?

MS. MORRISON: Of course. I think that would be a good idea because some of these will eventually lead to requests for funding and so forth, potentially, or maybe just better information flow, so I'd be happy to do that. And in that regard, Mr. Chair, I neglected to, to comment on the audit portion of this so at the appropriate time, I just have a couple of comments on, on that.

CHAIR PONTANILLA: Thank you. Yeah, I, I noted down resources over here, you know, just looking at next year already and, and some of the recommendations that they do make involve, you know, additional resources. So. Members, any more questions for Ms. Morrison, the Managing Director? Member Baisa?

COUNCILMEMBER BAISA: Yeah, just one more thing. I forgot to comment on, you mentioned that the CDBG, no, no the CIP Coordinator had been hired and mentioned that that was Wendy Taomoto. Of course I'm concerned because I know she's from Water. Is that going to leave a big hole in Water?

MS. MORRISON: No question. It will leave a big hole in Water and that, that's the, the unfortunate part about having talented people. The, the, wherever they go, they, they do good work and then the place they leave will have to replace them with someone of equal value. So that, yes, that's a challenge for the Water Department, no question.

COUNCILMEMBER BAISA: Oh well. Somebody's loss is somebody's gain. That's the way it is. Well, hopefully, we can expedite our process and hire somebody for

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Water. But I think you're lucky to get Wendy because she's certainly is familiar with CIPs. Thank you very much.

MS. MORRISON: Thank you.

CHAIR PONTANILLA: Thank you. Members, any more questions for Ms. Morrison? If not, the Chair's recommendation is for filing of County Communication No. 09-98.

COUNCILMEMBER BAISA: So moved, Chair.

COUNCILMEMBER MEDEIROS: Second.

CHAIR PONTANILLA: Moved by Member Baisa, second, seconded by Member Medeiros. Members, any more discussion? If not, all in favor of the motion, please say "aye".

COUNCIL MEMBERS: "Aye".

CHAIR PONTANILLA: Motion is carried with five "ayes", zero "noes", four Members excused, Member Molina, Johnson, Mateo and Victorino.

VOTE:	AYES:	Councilmembers Baisa, Kaho`ohalahala, Medeiros, Nishiki, and Chair Pontanilla.
	NOES:	None.
	ABSTAIN:	None.
	ABSENT:	None.
	EXC.:	Councilmembers Molina, Johnson, Victorino, and Vice-Chair Mateo.

MOTION CARRIED.

ACTION: FILING of communication by C.R.

ITEM NO. 36: COST OF GOVERNMENT COMMISSION REQUEST FOR COUNCIL RECOMMENDATIONS (C.C. No. 09-191)

CHAIR PONTANILLA: The last item on the agenda is BF-36 and, Ms. Morrison, you can stay if you want. I'm going to bring down from Cost of Government, Malcolm Findley who is a member of Cost of Government. Again, Members,

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BF-36 is Cost of Government Commission request for Council's recommendations. You know although we cannot make recommendations or we can't have an informal discussion in regards to some of the things that we want to see, you know, give the Committee some kind of an idea. So at this time, the Chair would like to recognize, or bring forward Malcolm Findley, who is a member of the Cost of Government. And, Mr. Findley, if you do have opening comments that you want to make, you're welcome to do that.

MR. FINDLEY: Yes, thank you, Mr. Chairman. Sorry, I missed the last Council meeting. I was traveling on the mainland. I know our Chair, Craig Anderson, and several other members were present and the Chairman, I think, judging from the minutes that I've read, did quite a comprehensive review responding to issues that were raised. We very much appreciate the Council's acknowledgement of our work on the Commission. I certainly enjoyed being on it as a former career civil servant. It gave me a chance to revisit some of the experiences I've had over 30 years with the Federal government. In fact, I worked for HUD for 30 years so I, it was interesting being in the meeting today as well. But, we are very interested in input from the Council and we are following up on the Mayor's suggestions to us for work as well as we welcome some of the things that you folks or most of the things that you folks brought to Mr. Anderson's attention at the last meeting. And my particular interest is audit so I was, I, I feel that a lot of issues are appropriate for audits beyond just what the Commission can do because we're volunteers. We meet only once a month. We have limited capabilities at times and if there could be staff auditors as opposed to hiring outside contract auditors which aren't necessarily . . .(end tape 2B). . . anyway, that's my, kind of my pet interest and I also enjoyed working with Gina Flammer who is a really great competent individual on the analysis of the Managing Director's office and I think we have a, we have something that will be worth looking into in terms of lightening the load and refocusing some of the efforts in that office, particularly where Ms. Morrison is concerned. So, unless there's any questions, again thank you for the opportunity to be here today.

CHAIR PONTANILLA: Thank you. I, I do have a question that I would like to ask you and this is the Commission report that you provided us. Since you're going to be on the Commission next year, you know, I, I, I don't know if you guys review past reports in, in, in the recommendations that were made during the past reports to see where they're at. Is that something that you guys can take a look at?

MR. FINDLEY: I, we did take a, I, this is my second year on the Commission, I have a two-year appointment, so the report from the year prior to this one, I did go through in considerable detail as did the Commission. We had, we had an audit component. We had, a number of the other issues were also in that report. But

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unfortunately, I don't want to be necessarily critical but I had a role at least in, in writing the format for this year's annual report. The prior report had to do with a lot of narrative-related findings but didn't necessarily then end up with a lot of specific recommendations. And one of the things that I appealed to our Chairman Warren Suzuki, who's done an outstanding job, I thought, was that, that my experience in government is that as people get to the level that you folks are at, you get a great, enormous amounts of paper. And the ability to focus on information that isn't well presented is limited so the reports have to be brief, concise, well organized, sort of in the shape of bullets as well call them occasionally in government. And so that's part of the reason the Chairman supported that reformatting of the report and hopefully we can continue that on. So, at any rate, but as far as any reports prior to that, I'm, we did not look at them, but hopefully that, that's certainly a worthwhile suggestion as to at least learn from them, whatever we've accomplished in the past.

CHAIR PONTANILLA: Thank you. And, and your reporting was really, you know, different from previous reports like you say. The other ones were like findings and no recommendations and yours gave us your analysis, methodology as far as what you guys found and how, and your recommendations going forward. Members, Member Baisa, you have any questions?

COUNCILMEMBER BAISA: Yes, thank you very much and thank you very much, Mr. Findley, for great work and thank you for being here with us today. Question, how does the Commission choose the areas that you decide to spend time looking at?

MR. FINDLEY: Well, we're, we're very receptive to the Mayor's suggestions and basically a number of the areas, particularly the review of the Managing Director's office was, was at the Mayor's suggestion. Also, the, there was feedback from, to Warren Suzuki from Members of the Council about different areas that warranted study. And so, it's sort of a collegial discussion and analysis. We also have to look at our capacity, like right now with Gina's departure, we're down one member, so... And just through the process of discussion and things brought to our attention, was a, decision was made by the Chair as to what committees should be formed and who should be on them.

COUNCILMEMBER BAISA: Thank you very much. I'm sure that like us and I'm sure my colleagues get the same kind of feedback and emails and visits in the grocery store by constituents who will stop us and say *why don't you guys look into XYZ because it would save you a lot of money, you're talking about saving money, why don't you do thus and so*. Would it be appropriate to refer those kinds of

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people to the Cost of Government Commission and say, well, why don't you contact them and give them your idea?

MR. FINDLEY: I, I'm not sure. We have the, my preference would probably be that, that you as the elected officials filter that information from your constituents and, and if you, in your judgment feel that it's something that warrants our particular consideration, I'm sure we would be very receptive to that. And the other thing I would add, though is that there's a wide variety of issues. To really get into an, an, an in depth analysis that, that would be used for decision making purposes, it seems to me that the, the, the audit format which is something that basically the report you received was a modified audit format. And I met with Mr. Young and I've had experiences and background in the audit process although I'm not an auditor, I certainly received a number of audits when I was a Federal employee from our office of Inspector General so I'm the guy that had the task of resolving the various adverse findings. At any rate, in the course of that, the audit format can be healthy for the whole process of getting to the bottom of where there are deficiencies that need to be addressed because, and the other aspect of it is that the career civil service tends to take audits very seriously. And as you may have noticed in my, the report I wrote relating to audits, that the issue of change agents, we had a gentleman appear before us that was suggested by several Council people. How do you affect change in government? How do you stop people thinking that's the way we've always done it, that's the way we should continue. Audits can be a catalyst for that. But it needs somebody who is a career employee whose on the staff who works within the County and who you, you or the Managing Director or the Mayor can say *okay, your assignment is now to go over and evaluate for the next 30 days fleet management* or whatever and come back and present it more or less in the format that you got with our annual report. Here are the findings, here's are methodology, here's what we recommend and most importantly, this is where the real most important answer is. You not only have findings and recommendations but they have to be brought to closure. You can't just make a recommendation. You have to close that audit finding in the Federal government, and if you don't close it, you're held accountable and you're given a set period of time to do it. So, it's a fiduciary process as well but the area, I think that the County's in reasonably good shape on the financial aspect of things. Where I'm concerned about is what's called operational office which are all, everything that's not financial as to how things get done or don't get done that you have a lot of different issues now that are, relate to, that you brought up very excellently in the last meeting about the cost of things, asset management, and vehicles, what did, what did, how they're purchased and how, how they're looked at, how they're accounted for. All of those kinds of things, in my view and judgment, are highly suitable for a staff audit or an audit, or some sort of an audit,

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but at least when you got somebody hired on staff, you don't have to go out and contract for them and all the rest of it.

COUNCILMEMBER BAISA: Thank you very much. The reason I asked the question is today's agenda item specifically mentions requesting the Council's recommendations for areas of County operations that the Cost of Government Commission should consider during your upcoming year or your upcoming term. So, Chair, is that what we should be discussing today?

CHAIR PONTANILLA: No, we should be discussing informally and not specific.

COUNCILMEMBER BAISA: Okay, okay. So --

CHAIR PONTANILLA: No, we don't want to interfere with the Cost of Government Commission.

COUNCILMEMBER BAISA: Right, so even though this is what it says, it's an informal discussion. We're not really saying *okay, we want you to look into this, that and the other thing.*

CHAIR PONTANILLA: Yeah. That's the reason why I made that opening comment in regards to informal discussion.

COUNCILMEMBER BAISA: Okay. Thank you.

CHAIR PONTANILLA: Members, any more questions for Mr. Findley. Mr. Kaho'ohalahala?

COUNCILMEMBER KAHO'OHALAHALA: Thank you. Mr. Findley, thank you for being here. Can you explain to us in your committees that are set up to take on different tasks, how are, are their, their work accomplished in, in, I mean looking at these subcommittees, you got energy, you got CIP. And I see that you got members that are assigned to them. Briefly describe how their information or their tasks are, are, are handled or --

MR. FINDLEY: Well, you have five different subcommittees and to some degree, there's a fair amount of latitude and discretion on the people that are assigned to the subcommittee. There's a Chair on subcommittee as to how they go about their business. But basically they're not only reviewing written commu...documentation but they're, we, they're almost always meeting with the principals that are involved and that are knowledgeable. You can see from my report and audit that I met with Mr. Young and met with the gentleman who's

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now retired who's an auditor and met with your former Chair Hokama, I guess, who was very helpful, who was very supportive of audits and gather that kind of feedback information. And so, it's sort of, I also went through last year and the prior years, report, there had been an audit, audit report prior to the one I worked on and to see what I could learn from that. So basically, it's information gathering and analysis. The more challenging thing is to try to come up with some kinds of conclusions and recommendations that are feasible, achievable and then present them in such a way that they can be followed up and acted on. So that was my, my view was to get the recommendations up front so that they could be quickly scanned and then if the Council or anybody else wanted more information, they get to go back and read the more detailed report. But we still, the format still needs some fine tuning I would say but we, we did make some progress in that area.

COUNCILMEMBER KAHO'OHALAHALA: So --

MR. FINDLEY: I don't know if I answered your question now but basically, it's collegial process, generally there are anywhere from two or three people on the subcommittee and the Commission as a whole basically has to include that they agree with the subcommittee's reports so they don't have a total say in it, the Commission does.

COUNCILMEMBER KAHO'OHALAHALA: So it's pretty much at the discretion of the, the chairs of those subcommittees then?

MR. FINDLEY: The chair is a, is a very key individual. Yes.

COUNCILMEMBER KAHO'OHALAHALA: Okay. And then is there a timeframe in which you need to complete these kinds of reviews?

MR. FINDLEY: Well, one of the considerations that we tried to keep in mind last year, I don't think we totally succeeded but we tried, but we certainly, it was mentioned with Mr. Anderson and, is the importance of the budget cycle. If we wanted people, wanted to make recommendations that involved the hiring of people, we needed to get that, the report done sufficiently timely so it not only considered by the Council but also by Ms. Morrison and the Mayor's office with that budget cycle as well. And of course, one of our absolute priorities was hiring the CIP Coordinator position because we thought that was essential and I'm delighted that that position now, is now filled.

COUNCILMEMBER KAHO'OHALAHALA: Okay, just on the comments, I just wanted to get your feedback on this. In your energy subcommittee report, you

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made some specific recommendations about creating a Department of Energy. And in light of the, the position of the report given by the Managing Director and in your recommendations, what are your thoughts?

MR. FINDLEY: My, my personal thoughts are, I think, there's a nine-member Commission and, and, is that energy was looked at not only last year but the year prior to that. And that the, the Leo, who was the Chair, is very knowledgeable about energy. He's also the Vice Chair of the Commission at this time, Leo Caires. And so he, he was a proponent of setting up an Energy Department and a lot of, and also Gina Flammer was as well, that they thought that was, that was built into the Managing Director's report. However, the Mayor indicated when she appeared, and I, I was not there, I was, I have the minutes of the meeting, that she felt that it was, for lack of better, I think the term she used was premature and that other things needed to be studied. The thing that, the other aspect of the energy report, which we emphasized, was whether there was sufficient communication between these two positions. One occupied by Mr. Reyes, the other by Mr. Kobayashi. One is a career appointment, one is a political appointment. One's in the Mayor's office, one's in the Managing Director's office. I personally am not sure that matter is ever going to be resolved beyond what we've already done to discuss it. So, I, I for one am ready to move on and focus on something else. Recognizing that the way that things are now structured, unless they can be brought under one umbrella, they, they, they do somewhat, they do similar but dissimilar duties. And Mr. Reyes, I seem to have, I have more, more knowledge of his activities. Of course, he has this big event coming up next month. But as it happens, I, there's a, there's a continuation of the energy subcommittee and I was designated by Mr...by Craig as the Chair of the energy subcommittee. And the area that I hope to focus on has more to do with how departments are functioning to save, save energy costs. For example, in the Water Department, their, their projected budgeted bill is \$17 million for electricity of which the bulk of it comes from imported oil. So are they indeed an ...*(inaudible)*... So I'm told that they're the largest expenditure of any County department. Had, and when Mr. Eng appeared before us, I asked him about what steps they've taken to figure out how to, different, even, what, I can't get the right words in, balance the energy flow in some way. And also what sort of recommendations did he have from our two energy specialists and the answer I got at the time was they hadn't gotten any yet. I said, *did you ask for them*, and I think he said *no*, he was looking into hiring someone. Anyway, I pur...I intend to look into those kinds of issues.

COUNCILMEMBER KAHO'OHALAHALA: So again, you said you, you are appointed to take on that task?

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MR. FINDLEY: Yes.

COUNCILMEMBER KAHO‘OHALAHALA: Okay. Okay. I think I would, want to comment and say I think that you’re on the right track in terms of making those assessments because a lot of times in our budget deliberations, it is the cost of operating those departments that have become high budget items, you know, fuel costs, energy, pumping water, you know, all of that stuff. And, and if we can find ways of trying to find more efficiencies in those areas so that energy doesn’t necessarily mean putting up a PV or wind generation in terms of, you know, renewables for consumers, but how government itself can, in fact, become more efficient in how we operate so, I’m, I’m glad to hear that.

MR. FINDLEY: If I could just add one, one more point in that area. We also had Mr. Taylor of Wastewater up here. By the way, I was very impressed with both, both of those gentlemen, Mr. Eng and Mr. Taylor, but Wastewater is sort of the other side of the coin. They’re both, there’s a, you know, a relationship between Water and Wastewater and yet that relationship I don’t think necessarily has been as fully pursued --

COUNCILMEMBER KAHO‘OHALAHALA: Or integrated.

MR. FINDLEY: --in terms of energy cost savings and other areas. And then there’s also the whole area of, of vehicles and, and, and, and how, how they’re, how they’re bought, whether there, whether there are any criteria been established. I don’t, there’s a lot of things I don’t know. I’m just beginning to get into it.

COUNCILMEMBER KAHO‘OHALAHALA: Well I’ll be looking forward to that.

MR. FINDLEY: Well, thank you, Sir.

COUNCILMEMBER KAHO‘OHALAHALA: Thank you.

CHAIR PONTANILLA: Thank you. Members, any more questions for Mr. Findley? Again, Mr. Findley, I just want to say thank you for all of the hard work that you guys do for the County government and I’m glad that you guys came up with this new method of doing your report. At least it gives us some recommendations on how to improve government. So with that, Members, that was the last item on our agenda. So at this time, the Chair would like to recommend that we file County Communication No. 09-191.

COUNCILMEMBER KAHO‘OHALAHALA: So move.

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COUNCILMEMBER MEDEIROS: Second.

CHAIR PONTANILLA: Moved by Member Kaho'ohalahala, second by Member Medeiros. Members, any more discussion? Seeing none, all in favor of the motion, please say "aye".

COUNCIL MEMBERS: Aye.

CHAIR PONTANILLA: Any opposed? Seeing none, motion is carried. Five ayes, four excused, Member Molina, Johnson, Mateo, and Mr. Victorino.

VOTE:

AYES:	Councilmembers Baisa, Kaho'ohalahala, Medeiros, Nishiki, and Chair Pontanilla.
NOES:	None.
ABSTAIN:	None.
ABSENT:	None.
EXC.:	Councilmembers Johnson, Molina, Victorino, and Vice-Chair Mateo.

MOTION CARRIED.

ACTION: FILING of communication by C.R.

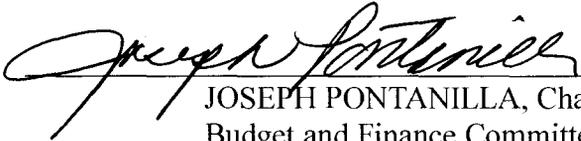
CHAIR PONTANILLA: Thank you, Members, for your attendance this afternoon. We just have bare quorum so I really appreciate you guys being here. And again, Mr. Findley, thank you for being here. Thank you, Ms. Morrison, for staying. Budget Director, Mr. Pablo; First Deputy, Corporation Counsel, Traci, thank you for being here, as well as Staff, Gayle and Yvette. Any announcements, Members? If not, this meeting is now adjourned. . . .(gavel). . .

ADJOURN: 4:00 p.m.

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APPROVED:



JOSEPH PONTANILLA, Chair
Budget and Finance Committee

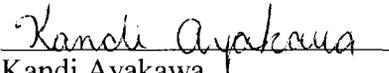
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Transcribed by: Kandi Ayakawa

CERTIFICATE

I, Kandi Ayakawa, 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 10th day of September, 2009, in Wailuku, Hawaii.


Kandi Ayakawa