

COMMITTEE OF THE WHOLE

Council of the County of Maui

MINUTES

October 15, 2009

Council Chamber, 8th Floor

CONVENE: 9:00 a.m.

PRESENT: Councilmember Michael J. Molina, Chair
Councilmember Danny A. Mateo, Vice-Chair
Councilmember Gladys C. Baisa, Member (Out 11:50 a.m.)
Councilmember Sol P. Kaho‘ohalahala, Member
Councilmember Wayne K. Nishiki, Member
Councilmember Joseph Pontanilla, Member
Councilmember Michael P. Victorino, Member

EXCUSED: Councilmember Jo Anne Johnson, Member
Councilmember Bill Kauakea Medeiros, Member

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

ADMIN.: Cheryl Okuma, Director, Department of Environmental Management (Item Nos. 1(21) and 1(16))
Gregg Kresge, Deputy Director, Department of Environmental Management (Item Nos. 1(21) and 1(16))
Brian T. Moto, Corporation Counsel, Department of the Corporation Counsel (Item No. 1(20))
Madelyn S. D’Enbeau, Deputy Corporation Counsel, Department of the Corporation Counsel (Item No. 1(20))
David A. Galazin, Deputy Corporation Counsel, Department of the Corporation Counsel (Item No. 1(16) and 1(21))

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

CHAIR MOLINA: . . .(*gavel*). . . The Committee of the Whole meeting for October 15th, 2009 is now in session. Good morning, Members.

COUNCIL MEMBERS: Good morning.

CHAIR MOLINA: For the record, we have in attendance Council and Committee Vice-Chair Danny Mateo, good morning.

VICE-CHAIR MATEO: Good morning, Chairman.

CHAIR MOLINA: And we have Member Gladys Baisa.

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COUNCILMEMBER BAISA: Good morning, Chair.

CHAIR MOLINA: Good morning. And Member Sol Kaho`ohalahala.

COUNCILMEMBER KAHO`OHALAHALA: Aloha. Good morning.

CHAIR MOLINA: Good morning. And Member Wayne Nishiki.

COUNCILMEMBER NISHIKI: Morning.

CHAIR MOLINA: Morning. And Member Joseph Pontanilla.

COUNCILMEMBER PONTANILLA: Good morning.

CHAIR MOLINA: And Member Mike Victorino.

COUNCILMEMBER VICTORINO: Aloha and good morning, Chair.

CHAIR MOLINA: Good morning. And excused from our proceedings this morning, we have Members Johnson and Medeiros. We have from the Corporation Counsel's Office, we have Madelyn D'Enbeau. And our hard-working Committee staff, we have Kirstin Hamman and Camille Sakamoto. Good morning, ladies. Members, we have three items on our agenda today. But before we do that, I'd like to check with our Committee Secretary to find out if we have anyone signed up for public testimony?

MS. SAKAMOTO: No, Mr. Chair.

CHAIR MOLINA: Okay, thank you. Members, you've heard from our Committee Secretary, at this point no one has signed up for public testimony on any of our three items. If there are no objections, Members, Chair will close public testimony on all three of our agenda items.

COUNCIL MEMBERS: No objections.

CHAIR MOLINA: Okay. So ordered by the Committee. Very good, Members. So let's get right into our work today.

ITEM NO. 1(20): LITIGATION MATTERS (SETTLEMENT AUTHORIZATION: KAMAOLE POINTE DEVELOPMENT LP, ET AL. VS. COUNTY OF MAUI, ET AL.; CIVIL NO. 07-00447 DAE LEK) (C.C. No. 09-14)

CHAIR MOLINA: First item is, Committee of the Whole Item 1(20), Litigation Matters - Settlement Authorization, related to Kamaole Pointe Development LP, et al. vs. County of Maui, et al.; Civil case No. 07-00447. The Committee is in receipt of a

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correspondence dated October 2nd, 2009, from the Corporation Counsel, transmitting the resolution with the aforementioned title and a copy of the complaint. The complaint alleges that Ordinance No. 3418 (2006), establishing a Residential Workforce Housing Policy is unconstitutional facially and as applied. The purpose of the proposed resolution is to authorize settlement of the case. And to give us a brief overview of this matter, we have from the Corporation Counsel's Office, Ms. D'Enbeau, but before that this matter, in all probability, will most likely transcend into executive session so just to make the Members aware of that. Ms. D'Enbeau, good morning. You have the floor.

MS. D'ENBEAU: Good morning, Mr. Chair. Good morning, Members. Yes, this litigation as the Chair has described, had to do with the constitutionality of the Workforce Housing Ordinance. We've been through numerous proceedings in Federal Court and, essentially, the ordinance has been declared constitutional by the Federal Judge, Judge Ezra. The remaining issues in the case have to do with the hearing for the application for a waiver from the provisions of the ordinance. The Plaintiffs in this case came to the Council, the Committee of the Whole, and then to the Council in mid-2007 to ask for a waiver from the requirements. And the remaining issues have to do with whether or not that waiver hearing was inappropriate and fair hearing. The last round of Summary Judgment Motions was heard on September 28th, this . . . last month and the Judge denied both the Plaintiff's motion and the Defendant's motion. We both moved that as a matter of law, of course the County moved that as a matter of law, the hearings were fair. Plaintiff's moved as a matter of law the hearings were not fair, and the Judge said, no, this is a jury question and involves factual disputes and the jury is the one who needs to assess the credibility of the various people who would be testifying. So, that remained open. At the hearing, on the record, Judge Ezra in a kind of an unusual move did point out and urged the parties to consider the fact that we've had this severe economic downturn and how that might affect what the Council might choose to do and the County might choose to do. At that afternoon, we had a settlement conference already scheduled as is customary as the matter approaches trial; at that point, trial was set for December 1st. We had a settlement conference scheduled with Magistrate Judge Leslie Kobayashi and as a result of that settlement conference with Judge Kobayashi, we reached a proposed settlement, which of course we need to discuss in executive session.

CHAIR MOLINA: Okay, thank you very much, Ms. D'Enbeau. Members, questions in open session related to the proposed resolution which would authorize settlement of this matter. Any questions in open session? We'll start with Mr. Victorino followed by Mr. Pontanilla.

COUNCILMEMBER VICTORINO: Thank you. The question I have for you is I understand it's customary to have a settlement meeting and come to some kind of, if possible, where everybody comes out okay in this whole deal. My concern is, and not talking, would that put this Council and other legislative bodies in a predicament that, oh, they sell so they must have been wrong? Because the public perceives that and that's my concern. I don't know how far you can discuss that portion and maybe have to go into executive session. But a settlement many times seems to indicate to the public wrong doing on the part of

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the Plaintiff, and we were the Plaintiffs. So just a quick overview and I don't know how far you can go and if we go too far, Mr. Chair, um, I'll yield at that point.

CHAIR MOLINA: Ms. D'Enbeau?

MS. D'ENBEAU: Thank you for that question. I think just speaking in general terms --

COUNCILMEMBER VICTORINO: Uh-huh.

MS. D'ENBEAU: --a settlement agreement will almost always contain language saying that neither party is admitting to any wrongdoing, that the settlement is reached merely to avoid the expenses and uncertainty of litigation which, of course, is the case. And so although the public might perceive it in that way, that would not be a correct perception.

COUNCILMEMBER VICTORINO: So if I understand your answer, basically, we would do this in this particular situation to avoid a large cost of court and a long adjudication of the . . . that case itself.

MS. D'ENBEAU: That's right.

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

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

COUNCILMEMBER PONTANILLA: Thank you, Chairman. I had, you know, the similar question in regards to settlement. We do have, and we did approve projects previously in regards to the Workforce Housing Policy. And I don't know what's going to happen with this settlement. Maybe as Ms. D'Enbeau had indicated, this does not tell us, tell people that the County was wrong so I'm just going to go with that. Thank you.

CHAIR MOLINA: Okay. Thank you, Mr. Pontanilla. Members, any other questions in open session? Mr. Mateo?

VICE-CHAIR MATEO: Chairman, thank you very much and I think the original allegation that stand or led towards the question of constitutionality or the unconstitutionality of the residential workforce policy that played the lead role in where we're at today. And it's good to focus in on the fact that the courts ruled the County's residential workforce housing policy to in fact be constitutional. And the rest of it that we're dealing with now is really issues of what? Is it discrimination of that they're you know kind of leading towards because "unfairness" encompasses so much. So are you able in open session to tell us or give us a little more information?

CHAIR MOLINA: Ms. D'Enbeau?

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MS. D'ENBEAU: As a matter of public record , the pleadings that the parties filed indicated that the Plaintiffs are arguing that certain comments that were made by Members of the Committee of the Whole and they are sitting as the full Council indicated or could indicate to someone that their minds were made up for the hearings so could indicate a bias of what we call bias that the hearing . . . of course the County vigorously denies that. And our argument was naturally that the hearing was fair and that on our side the argument was the Plaintiffs really didn't put on a case. They came to the hearing, they refused to answer questions and that from all appearances what they were doing was jumping through a hoop, which the courts require before you can get to Federal court to challenge the constitutionality of the Statutes. In other words, there is a requirement that you "exhaust your administrative remedies". And since the ordinance allows you to come in for a waiver, the County argued in our pleadings that it should be obvious that Plaintiffs came without any real desire to get away. We're just to get that part over with, done with, and go straight to Federal court. And in support of our argument, we pointed out that within days of the full Council acting on their rejection of the waiver request, the Federal action was filed. What the judge was saying is, that's well and good. You have your point and view, they have their point of view, this is a question for a jury to determine. Everybody needs to step forward, say their peace, the jury decides who's right and who's wrong in this case. In other words, the jury is the body that determines factual issues, factual disputes, and credibility issues . . . whose argument is more credible and so forth. So that's where we stand and yes, you're absolutely correct, Council member, the main focus of the litigation I believe anyway was the actual underlying question of whether or not the County could enact constitutionally the workforce housing ordinance as it did. And the court did deny the Plaintiff's argument that it was unconstitutional. So in that sense, in the larger part of the case, yes, that what's left has to deal with, excuse me, deals just with the waiver process and an application for a waiver from the requirements of the ordinance.

VICE-CHAIR MATEO: Okay. Thank you, Ms. D'Enbeau. Thank you, Mr. Chair.

CHAIR MOLINA: Thank you, Mr. Mateo. Ms. D'Enbeau, the Chair has just one quick question for you. Members, for your information, we're working off of the revised resolution which is attached to an October 9th correspondence to myself from Ms. D'Enbeau. Members, if you look at the second page of the resolution under the second BE IT RESOLVED portion, it states that it hereby authorizes the Mayor and Council Chair to execute a release and settlement. Can you give us a brief explanation why this revision was made to include the Council Chair in the release and settlement agreement? Is it something that you can discuss openly or do we need to go into executive session for it?

MS. D'ENBEAU: Mr. Moto, the Corporation Counsel, is here and I think he's able to address that question if that's alright.

CHAIR MOLINA: Okay. Good morning, Mr. Moto.

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MR. MOTO: Good morning, Mr. Chairman. The draft resolution was revised to include the reference to the Council Chair because number one, the lawsuit that was filed by the Plaintiff Kamaole Pointe Development names the Council members and so if there is going to be a settlement it will require your agreement, your acquiescence and participation. And if there is a settlement, it will probably require some actions on your part which will be discussed in closed session and those things cannot happen without your agreement.

CHAIR MOLINA: Okay. Thank you very much, Mr. Moto. Members, any other questions in open session related to Committee of the Whole Item 1(20)? If not, as you heard from Corporation Counsel, they're going to recommend executive session for this. Mr. Pontanilla?

COUNCILMEMBER PONTANILLA: Thank you. When these people came to Maui, to this Chamber, they didn't ask for, just to clear my mind, they didn't ask for a waiver, am I right?

CHAIR MOLINA: Ms. D'Enbeau?

COUNCILMEMBER PONTANILLA: Waiver of the workforce housing policy.

MS. D'ENBEAU: Uh, yes, they did ask for a waiver from the requirements of the workforce . . .

COUNCILMEMBER PONTANILLA: They did ask?

MS. D'ENBEAU: Yes.

COUNCILMEMBER PONTANILLA: Okay, fine. Thank you.

CHAIR MOLINA: Okay. Thank you. Members, any other questions in open session before the Chair makes a recommendation? Okay, Members, at this point then the Chair will entertain a motion to go into executive session based on, pursuant to Section 92-5(a)(4), Hawaii Revised Statutes to consult with legal counsel on questions and issues pertaining to the powers, duties, privileges, immunities and liabilities of the County, the Council, and the Committee.

VICE-CHAIR MATEO: Mr. Chairman, move for executive session.

COUNCILMEMBER VICTORINO: Second, Mr. Chair.

CHAIR MOTION: Okay, the motion to go into executive session has been made by Vice-Chair Mateo and seconded by Committee member Victorino. Any discussion? Seeing none, all those in favor signify by saying aye?

COUNCIL MEMBERS: Aye.

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CHAIR MOLINA: All those opposed? Thank you. The Chair marks it 7 ayes, with 2 excusals – Members Johnson and Medeiros to go into executive session for Committee of the Whole Item 1(20).

VOTE: AYES: Councilmembers Baisa, Kaho‘ohalahala, Nishiki, Pontanilla, Victorino, Vice-Chair Mateo, and Chair Molina.

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmembers Johnson and Medeiros.

MOTION CARRIED.

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

CHAIR MOLINA: Members, the Chair would like to ask you for your consideration with regards to the next two items. There’s a high probability that the next two items will also require executive session so if there are no objections, the Chair would like to proceed in this fashion. We discuss each item openly then take a separate vote for executive session for both items so that way we can go into executive session with all three items instead of having to adjourn and reopen up the Chambers for each item. This way, we can discuss all three items in one I guess logistically it would make it a little easier on Staff. .

COUNCILMEMBER BAISA: No objections.

COUNCILMEMBER VICTORINO: No objections.

CHAIR MOLINA: So, very good.

ITEM NO. 1(21): LITIGATION MATTERS (SETTLEMENT AUTHORIZATION: DEPARTMENT OF HEALTH, STATE OF HAWAII VS. COUNTY OF MAUI; DOCKET NOS. 06-CW-EO-08, 06-CW-EO-15, AND 06-CW-EO-16) (C.C. No. 09-14)

CHAIR MOLINA: Okay, Members, we will now discuss the next item in open session, Committee of the Whole Item 1(21), relating to a settlement authorization - Department of Health, State of Hawaii vs. County of Maui; Docket Nos. 06-CW-EO-08, 06-CE-EO-15, and 06-CE-EO-16. The Committee is in receipt of a correspondence dated the 7th of October 2009, from the Corporation Counsel’s office, transmitting a proposed bill

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entitled "A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF HAWAII A SETTLEMENT OF ALLEGED VIOLATIONS AT THE MOLOKAI, LANAI, AND HANA LANDFILLS." The purpose of the proposed bills is to authorize the Mayor to enter into an intergovernmental agreement with the Department of Health for a settlement of alleged violations of environmental laws at the Molokai, Lanai, and Hana landfills. The proposed settlement agreement would accept a \$62,000 penalty which may be used to fund a supplemental environmental project. And joining us this morning, we have our Environmental Management Director, Ms. Cheryl Okuma, as well as her Deputy Mr. Gregg Kresge. And from the Corporation Counsel's office we have Mr. David Galazin. So, at this point, the Chair would like to ask Mr. Galazin if you have any opening remarks to be followed by the Director in open session for this item. Good morning, Mr. Galazin.

MR. GALAZIN: Good morning and thank you, Chair. Thank you, Committee members. This issue, the first one that we're going to be discussing Item 1(21) relates to notices of violations issued by the State Department of Health. The basic background and some of the settlement agreement is, proposed settlement agreement is included as part of the ordinance. But the basic gist of it and I'll run through it for you is that in 2006 at the Molokai Landfill, the Lanai, and Hana, the State inspectors came out and noted several different violations relating to storm water and other materials that were I believe vehicles that were kept at the Hana Landfill that inappropriately and sent notices of violation to the County. The timing of this first came about, our settlement negotiations began right before July of 2007 when of course the Department of Environmental Management was split off and so Director Okuma and myself have been involved in the negotiations to try and basically get some of this penalty reduced by doing a supplemental environmental project. The penalty is \$62,000 and the Department was able to negotiate a supplemental environmental project far in excess of that but which would satisfy the entire penalty amount. This project was agreed to by both the State Department of Health and the AG's office. And I believe the Department has put this item in the budget for this year so I don't know if the Department went over any of this information during budget sessions but we are, I believe, close to commencing the project which would satisfy these three different violations by doing one project just at the Molokai Landfill. So I think you have everything before you. If you have further questions for me of course I can answer them and the Department is here for technical questions as well.

CHAIR MOLINA: Okay. Thank you, Mr. Galazin. Director Okuma, do you have any additional comments to make before I open the floor for questions?

MS. OKUMA: Good morning, Committee Chair, Committee Members. I don't have any comments at this point but we're available for any questions. Thank you.

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CHAIR MOLINA: Okay. Thank you very much. Committee Members, questions in open session for Committee of the Whole Item 1(21) related to this matter, a proposed settlement. Mr. Pontanilla?

COUNCILMEMBER PONTANILLA: Thank you. If the Department or the Corporation Counsel can provide each of the violations for Molokai, Lanai and Hana? I think Hana you already mentioned, you know, looking back at 2006, today is 2009 so, you know, if he could explain to us you know what's been taking place so far up to this point.

CHAIR MOLINA: Mr. Galazin?

MR. GALAZIN: Thank you, Mr. Pontanilla. I can tell you from our standpoint of the negotiation side of it that in 2007 in that summer and again in the fall when we negotiated this idea of doing this particular supplemental environmental project orally agreed upon by both the State and the AG's office. And then we drafted, my office drafted a proposed settlement agreement for the State to consider and basically language there for close to year and a half before there was any movement from the State side to take it back up and get this project finished. So, I . . . I don't want to say a lack of attention on the State side but I don't really know what they were doing with it at the time.

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

CHAIR MOLINA: Thank you, Mr. Pontanilla. And, Members, as an FYI for you attached to the resolution is Exhibit 1 and you'll see specifically what are the complaints made by the DOH with regard to each landfill facility - Molokai, Lanai, and Hana, Exhibit 1, pages 1, 2 and 3. So as an FYI for you. Members, any other questions in open session for either Corporation Counsel or the Department? Member Kaho`ohalahala?

COUNCILMEMBER KAHO`OHALAHALA: Yes. Corporation Counsel, you said that the settlement of this was going to be, in part, mitigated through a project that the Department was going to be putting together?

MR. GALAZIN: Yes, that's correct. And they're probably a little more able to talk about the specifics of the project if you'd like to hear more about that. But we are going to be able to satisfy a hundred percent of our penalty through this project.

COUNCILMEMBER KAHO`OHALAHALA: So is that to be discussed in executive session?

MR. GALAZIN: The scope of the project is public record. It's part of the settlement agreement so we can discuss that in open session.

COUNCILMEMBER KAHO`OHALAHALA: Okay. Then to follow up, I would like to understand what the project is and how we're going to fulfill the, I guess, the fines I guess. You said it was going to be incorporated into a project. Do we know what the project is?

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MR. GALAZIN: Yes, we do. I'll just talk briefly about the process and then I'll let the Department talk about the project itself. The way the Environmental Project works, the SEP, as it's referred to is a way for a violator to spend money instead of having it go directly to a State or a Federal agency. The State in this case we would be spending money that would otherwise in lieu of paying cash to the State we'd be constructing a project. We would not otherwise normally do but which would give environmental usefulness to the citizens of Maui County. So we talked about different ways. We went back and forth with the State over different kinds of projects that we might be able to undertake, and the one that we finally settled upon that we are going to construct and that DOH and like I said the AG's office have agreed would satisfy our penalty. So, in lieu of paying any money directly to the State, the Department is expending far in excess of what that money would be to construct this project. And I'll let the Department talk about it.

MS. OKUMA: Thank you. To add to what Mr. Galazin has explained, we were able to negotiate a project that we felt was for the benefit as well of the Molokai community. And it basically involves a project at the landfill involving the construction of a concrete pad with an overhead to that facility and there will be fencing involved. This will allow us to be able to accept batteries, tires, appliances, propane tanks and such at the landfill and some processing can be done on that pad without creating further violation. And as Mr. Galazin explained, this is a very long, drawn out negotiation process with the State. We can't explain why it took so long. All we know is that we had verbally agreed on this concept and in good faith the Department did proceed to get this item budgeted. So the item has, the project has actually been budgeted. And we proceeded forward in good faith that we were going to be able to finalize the final terms of the agreement because we had, in fact, we believed agreed on the concept. So we proceeded. And where we are right now is we're at a point pending answering some questions that the State Department of Health had, has of us we are poised and ready to begin construction of this project hopefully to begin that very near in the future. And again, I just want to say that we proceeded forward because as Mr. Galazin explained for whatever reason this was a year and half process with the State. We had struck an agreement in concept a year and a half ago and we did not want to get behind in terms of our good faith efforts. So we proceeded and we believe that this is good for the community at Molokai, the ability to be able to process these metals. And as I have been here before you to explain that we have an interim plan, we tried to move forward to a final plan, this will become part of that overall plan this particular project. And so we felt that we could proceed forward in this manner to try to resolve this -- better to pay for a project than to issue a check to the State.

COUNCILMEMBER KAHO`OHALAHALA: Okay. If I may . . .

CHAIR MOLINA: Proceed, Mr. Kaho`ohalahala.

COUNCILMEMBER KAHO`OHALAHALA: What was the project that was budgeted that you are describing that includes this?

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MS. OKUMA: Okay. I'm referring to the last page of . . . let's see, you want to explain?

COUNCILMEMBER NISHIKI: Page 10.

MS. OKUMA: Yeah. Okay. It's attached to our Corp. Counsel's transmittal. The transmittal date is to Committee Chair Molina, October 7th, 2009. It's the last page which explains the project.

CHAIR MOLINA: It's Exhibit A.

. . . *(pause)* . . .

CHAIR MOLINA: Mr. Kaho`ohalahala, any additional questions?

COUNCILMEMBER KAHO`OHALAHALA: Just making sure I'm . . . *(inaudible)* . . . Okay, thank you, Chair.

CHAIR MOLINA: Okay. Thank you. Members, any other questions in open session related to Committee of the Whole Item 1(21)? We have Mr. Pontanilla followed by Mr. Nishiki.

COUNCILMEMBER PONTANILLA: Thank you. You know on the Lanai Landfill, I've gone out with the previous . . . previous inspection with Milton Arakawa who at the time was in charge, and the project was to provide a drainage swale and a detention basin. I know that the landfill, the land it sits on belongs to Lanai Land Co. Has that thing been settled in regards to the ownership?

MS. OKUMA: Yes. I believe I've been able to mention that previously that, that particular project has been completed.

COUNCILMEMBER PONTANILLA: Finished?

MS. OKUMA: Yes.

COUNCILMEMBER PONTANILLA: Okay. Good. Thank you very much. Thank you, Chairman.

CHAIR MOLINA: Thank you Mr. Pontanilla. Mr. Nishiki?

COUNCILMEMBER NISHIKI: Page 2 of that same and she's alluding to the fact under no. 5 it says, on or about May 2006 inspected the facility. DOH alleged that the Respondent had recently discharged polluted storm water to Kalamaiki Gulch. I don't know anything about Kalamaiki Gulch but does that gulch run to the ocean?

CHAIR MOLINA: Director?

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MS. OKUMA: I would suspect it does because normally these kinds of violations impact receiving waters, marine ocean waters, so I would suspect that if it's running into a gulch and that gulch reaches the ocean, that's the reason for the violation under Federal law.

COUNCILMEMBER NISHIKI: Okay. I guess my concern is you're polluting with vehicle oil. How do you deal with oil if you're still going to discharge it into this area? I mean, what is the . . .

MS. OKUMA: First of all, we don't accept vehicles at Lanai Landfill. That would be a violation. And I don't believe we are accepting motor oil at that landfill either. I believe we have other areas that are set up for that. I mean, we are very aware of these violations and our intent is not to create any future violations. So, I think one thing is that we are not accepting vehicles at the Lanai Landfill.

COUNCILMEMBER NISHIKI: Okay, and you were and that's the reason why they found this in the storm water sampling?

MS. OKUMA: You know I don't know what the specifics were back in 2006. I don't recall if there were vehicles being accepted at that point. So at this point, I can't really speak to those specifics. That was back in 2006.

COUNCILMEMBER NISHIKI: Okay. But the process now has been accepted by the Department of Health and the project is completed?

MS. OKUMA: Yes. We had to get approval in terms of that drainage project that Councilmember Pontanilla referred to, yes. All of these projects are done under the oversight and approval of the State Department of Health.

COUNCILMEMBER NISHIKI: Okay. If people have questions on this one, I will allow that, Mr. Chairman because I want to switch to the Hana one next.

CHAIR MOLINA: Okay.

COUNCILMEMBER NISHIKI: If somebody's got questions about Lanai . . .

CHAIR MOLINA: Okay, Members, any other questions in open session? Okay, Mr. Nishiki, go ahead?

COUNCILMEMBER NISHIKI: Yeah. I want to go to the next page, page 3.

CHAIR MOLINA: Okay.

COUNCILMEMBER NISHIKI: And that's where they alleged also about used oil, storm water detention basins, run-on diversion swales that we failed to disclose the scrap metal

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processing activities. So what are we doing there because obviously this talks about, again, water perhaps running into the ocean?

MS. OKUMA: First of all, no, we have corrected that situation. As you recall, we did a major clean up in Hana and that was accomplished this year in fact. So we cannot accept those appliances and vehicles. That would be a violation. And again, our intent is not to incur further violations when we've already cleaned it up and we're making every effort to maintain compliance. Compliance is very important to the Department, to the County.

COUNCILMEMBER NISHIKI: Okay. So that's done. And then I want to move on to Molokai despite that we discussed it. This one here was any other storm water again running into the ocean? . . . (*CHANGE TAPE - 1B*) . . .

MS. OKUMA: Again, I have to assume that was the reason why the State Department of Health cited because their jurisdiction is for any pollutants that enter through channels or systems that eventually end up in the ocean. So I can't speak to them but, you know, seeing their notice of violation I assume that that's how they decided to proceed in terms of having jurisdiction to cite us.

COUNCILMEMBER NISHIKI: So, in essence, on all these three violations we've dealt with them and money has been spent?

MS. OKUMA: Yes.

COUNCILMEMBER NISHIKI: Okay. Thank you.

CHAIR MOLINA: Thank you, Mr. Nishiki. Members, any other questions in open session before the Chair makes a recommendation?

COUNCILMEMBER KAHO`OHALAHALA: Chair?

CHAIR MOLINA: Mr. Kaho`ohalahala?

COUNCILMEMBER KAHO`OHALAHALA: Thank you. I just want to ask one question about the Lanai facility. I observed that the current landfill area it's always been a problem where wind and trash being blown and it continues to go beyond the fences because you've got gaps in the fence that allows trash now to continue to blow off into the main highways so it's continuously being litter. So is that a potential violation?

MS. OKUMA: That could give us reason to take a look at that. I can't tell you that we do have wind screens up. It is a problem. Wind-blown trash is a problem at not only that landfill but others as well too. And at Lanai we do have what you call, litter fences. They may not always work in the manner that we'd like to but thank you for bringing that up and will take another look at this current situation and see what that is.

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COUNCILMEMBER KAHO`OHALAHALA: Well, I know you raised the fences and then it's the bottom of the fence now that's open.

MS. OKUMA: Oh, the bottom. Okay.

COUNCILMEMBER KAHO`OHALAHALA: And we were told that you can't close the bottom of the fence that's why litter keeps blowing.

MS. OKUMA: Okay. We'll take a look at that.

COUNCILMEMBER KAHO`OHALAHALA: Thank you. I would not want us to have another violation.

CHAIR MOLINA: Thank you. It's a good point made, Member Kaho`ohalahala. Members . . . Mr. Pontanilla?

COUNCILMEMBER PONTANILLA: Just one last question. So when you pick up litter, you know, for the various landfill, you provide cover at the end of the day?

MS. OKUMA: I don't recall in the daily operations if it's every day, but yes, we're providing cover in accordance with requirements.

COUNCILMEMBER PONTANILLA: Okay.

MS. OKUMA: So that is very important to us too. That is a regulatory requirement.

COUNCILMEMBER PONTANILLA: Thank you. Thank you, Chairman.

CHAIR MOLINA: Okay, thank you, Member Pontanilla. All right, Members, seeing no other questions in open session, the Chair is going to entertain a motion to go into executive session pursuant to Section 92-5(a)(4), Hawaii Revised Statutes, to consult with legal counsel on questions and issues pertaining to the powers, duties, privileges, immunities and liabilities of the County, the Council, and the Committee.

VICE-CHAIR MATEO: Chairman, move for executive session.

COUNCILMEMBER VICTORINO: I second the motion, Mr. Chair.

CHAIR MOLINA: Okay, the motion has been made by Committee Vice-Chair Mateo and seconded by Committee member Victorino to go into executive session for Committee of the Whole Item 1(21). Any discussion, Members? Seeing none, all those in favor signify by saying "aye".

COUNCIL MEMBERS: Aye.

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CHAIR MOLINA: All those opposed? Thank you. The Chair will mark it 7 ayes, with 2 excusals - Members Johnson and Medeiros.

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

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmembers Johnson and Medeiros.

MOTION CARRIED.

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

ITEM NO. 1(16): LITIGATION MATTERS (STATUS: EPA NOTICE OF VIOLATION FOR THE CENTRAL MAUI LANDFILL; DOCKET NO. R9-07-05) (C.C. No. 09-14)

CHAIR MOLINA: Okay, Members, moving on to our last item on the agenda for discussion in open session it is Committee of the Whole Item 1(16), Litigation Matters - EPA Notice of Violation for the Central Maui Landfill; Docket No. R9-07-05. The Committee is in receipt of a correspondence dated September 15th, 2009 from the Corporation Counsel's Office requesting an opportunity to discuss the status of the finding and notice of violation issued by the United States Environmental Agency (EPA) on June 5th, 2007 for the Central Maui Landfill. And once again to give us an overview of this matter from the Corporation Counsel's office we have Mr. David Galazin, and also we have Directors Okuma and Kresge here to provide additional information on this matter as well. Mr. Galazin?

MR. GALAZIN: Okay. Thank you, Chair. This matter concerns a notice of violation that was issued by the Environmental Protection Agency, Region 9, for the Central Maui Landfill. What I'd like to do is kind of start by giving you a little bit of background of the history of this. For the Central Maui Landfill, in 1994, we received approval for vertical expansion of Phases I and II with a design capacity of 1.8 million mega grams at which point this landfill became subject to sub-part WWW of the Code of Federal Regulations. At that point, it was less than 2.5 million mega grams so we did not, we had to submit an initial, we're supposed to submit an initial design capacity report and we did not have the staffing at the time to do so. At that time, we were not required to implement a gas control collection system. In 1996, the landfill received approval to expand Phase IV and construction of Phase IV took place in 1998, 1999. Unfortunately, the State Department of Health denied the operating permit for Phase IVA. There was some design and

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construction issues. So we tried to work those out but in the meantime we had to keep using Phases I and II. It's estimated that Phases I and II reached the capacity of 2.5 million mega grams in January of 2004, and that's an important number because under the Code of Federal regulations that's a trigger for certain requirements. At that point, . . . reached that 2.5 million mega gram mark in terms of a physical capacity, we were required to calculate the landfills non-methane organic compounds emission rate. There's a specified formula there. According to default values we were above our threshold level and this began a trigger of a 30-month window in which we were supposed to have a gas control collection system in place to put that in mid-2006. The design plan, again, must be prepared by a professional engineer, must address a specific sort of criteria. It wasn't until February of 2007 that we finally submitted a landfill gas master plan to the EPA prepared by the County's consultant. The EPA did not initially accept our design plan. The EPA sent this notice of violation dated June 5th, 2007, which basically alleged that we failed to submit the design plan within the required timeline which was a year from reaching that 2.5 million mark so that would be January 2005 and that we failed to install the collection system by 2006 which was within that 30-month window they were given. Some of the rationale behind that, uh, let me pull out my timeline here cause it gets a little bit complicated.

. . . *(short pause)* . . .

In October 2006, we had bids requested for the collection system but it set out for bid and we didn't have any bids received and the gas master plan was completed but we had to go out and rebid just due to a lack of availability of anyone here on the island to do it. And it wasn't until August 2007 that we actually were able to award the contract and get things up and running, and it wasn't until 2008 that we had our gas collection control system in place, which puts us outside of that window. So, the basic gist of the NOV that the EPA issued was that the size of the landfill at a certain time triggered this clock, which started the time in which we had to put our control system in place, and our control system was not in place until roughly 24 months after that 30-month window expired. Once it was in place, the EPA entered into negotiations regarding a proposed settlement of the fines that could be levied. Our initial discussions were not only designed to arrive at a final dollar amount but were also intensely focused on trying to work another supplemental environmental project as I kind of explained in the last item. Again, the SEP must be something that is related to the violation, remediate some kind of environmental problem and is not something that the County was already going to do. It was the Department's preference that as much of the penalty, whatever that penalty amount be assessed, as much of that penalty be satisfied through a SEP because we would rather see some kind of environmental project that gains a benefit to the people of the community rather than cutting a check to the United States government. After several months of rounds of negotiations, it became clear that the EPA and the County were on far ends of the spectrum in terms of what percentage of the penalty could be satisfied via a SEP, and the EPA was urging us to not only pay a large cash amount but also construct a significant SEP to only satisfy a small portion of the penalty. As we didn't get anywhere necessarily with that, EPA started to change tactic and so they would not

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negotiate any more in terms of a project having a SEP. What they wanted to do was just fix a dollar amount for the settlement first in terms of what penalty we would pay and then they would just, at that point, entertain ideas of how we would cut that down by doing a supplemental environmental project. And where we are now is that the Department of Environmental Management and myself would need to provide a status update in terms of what liabilities we might face, what litigation issues might be out there so I anticipate that most of these questions would probably need to be addressed in executive session rather than open session. But that's kind of the background to it, and I don't know if the Department wants to add anything more to that.

CHAIR MOLINA: Okay. Thank you, Mr. Galazin. Director Okuma, anything else you'd like to add?

MS. OKUMA: Uh, no, we have nothing further to add.

CHAIR MOLINA: Okay, thank you very much. Well, Members, you've heard the comments from Corporation Counsel that there may be a need for us to go into executive session. Any questions in open session at this point? Mr. Nishiki?

COUNCILMEMBER NISHIKI: Thank you. You know, I read through this and if you follow the timeline, Committee Members and you look at all the things that have not been done and when you listen to this morning, you can hear the Corporation Counsel talk about this supplemental Environmental Assessment. I mean, time after time, EPA are not prepared by a professional engineer, do not address the following issues, number 17 and 18 on page 5; number 19, do not show the holes and trenches; and I'll go on and it says, do not show that collection devices are not designed go on and on and it does not show any gravel dimension, go on and on, number 20, failed to show the gas collection devices, go on and on, 21 it says failed to describe how the GCCS will meet the design; number 22 failed to submit a design plan; number 23, failed to submit a demonstration; number 25, 26 failed to install; number 27, constitutes a violation.

Page 8 then is the serious part of the EPA going 32,500 a day for violation issue and order requiring and bring a civil action again. Mr. Galazin, what is the latest? Is this the latest in any kind of response from the response in regards to the County and its action? That's what I want to know.

CHAIR MOLINA: Mr. Galazin?

COUNCILMEMBER NISHIKI: What is the latest as of what -- a month ago, two months ago? I have nothing here.

MR. GALAZIN: The gas control collection system has been installed and is up and running and the EPA, we've been sending the regular EPA, we've been sending regular reports to the EPA and everything seems to be fine with how we are running it now. So, any problems

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that were out there had been addressed in terms of, you know, possible environmental concerns. So the Department is doing what it needs to do at this point.

COUNCILMEMBER NISHIKI: Are you hiding anything from us in regards to any letters that the EPA has sent to us giving us timeline s in which we've got to do certain things?

MR. GALAZIN: No, Mr. Nishiki, I'm not hiding anything.

COUNCILMEMBER NISHIKI: There's no, if I write to the EPA, they will tell me that there is no communication from them other than this last September 15, 2009 cover letter and what is it involved here?

MR. GALAZIN: Member Nishiki, there's been lots of communications but its communications from EPA's regional counsel to myself and this is an open matter which is still a matter of potential liability for the County and it would be inappropriate to include some of these communications within the packet here. I do have some information available for you if we are in executive session --

COUNCILMEMBER NISHIKI: Okay.

MR. GALAZIN: --if that's your wish.

COUNCILMEMBER NISHIKI: Okay, I'm done then.

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

COUNCILMEMBER PONTANILLA: Thank you, Chairman. Landfill in Central Maui brings back good memories because in my office at that time I had indicated that the closure of Phase I and II was a priority and we budgeted millions of dollars to do that work, and it was completed. But my question to the Department, you know, the based on the closure of the landfill, the gas collection system was that part of the closure of the landfill?

CHAIR MOLINA: Director Okuma?

COUNCILMEMBER PONTANILLA: The completion of the closure of the landfill.

MS. OKUMA: You know, I don't recall if it was part and parcel of the closure plan but I do know there was a consultant commission specifically to address the gas control situation when it was realized that the County had exceeded this threshold a couple years earlier. So, it was addressed as part of the chronology that Mr. Galazin outlined to you.

COUNCILMEMBER PONTANILLA: Thank you. One more fast question. I know the mound is quite high and what kind of approvals did we need to get to go get the vertical beyond the limit of . . .

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MS. OKUMA: Are you talking Phase I and II?

COUNCILMEMBER PONTANILLA: Phase I and II, yeah.

MS. OKUMA: Okay. Normally, you need to get Department of Health approval. Since this was back in 2004 in that timeframe, I can't tell you as we sit here today whether that approval was obtained. My understanding is that there was a delay I guess a delay that the County would have preferred there not be a delay of Phase IV. But due to that, it actually in a sense put the County in a situation where Phase I and II had to be operated at least five years longer than it should have been.

COUNCILMEMBER PONTANILLA: Thank you. And I gotta say, you know, I know you're trying to do a really good job because you weren't here when all of these things came about back in 1994. And since being here, I note that the Department is trying to achieve some results in regards to not being fined by EPA nor the Department of Health. So, thank you, Chairman, and I'll ask more questions during executive session. Thank you.

MS. OKUMA: Thank you, Mr. Pontanilla: Ms. Baisa?

COUNCILMEMBER BAISA: Yes, Chair, thank you very much. I think Member Pontanilla and I we're on the same track here. I was looking at the dates that are involved here and it looks like it goes back to 1994 but really the violation began in 2005 when they didn't meet that deadline. And Ms. Okuma, you arrived when?

MS. OKUMA: July 1, 2007.

COUNCILMEMBER BASIA: And when was the landfill declared to have met, it was stated that you've now met the requirements. When did that happen?

MS. OKUMA: Well, actually if you look at it, we installed and began to run the landfill gas collection system and reports have been submitted to Department of Health. So I kind of look at that as a good time that we're able to put the system in place and satisfy the requirements of Department of Health and EPA so that would be the summer of last year, summer of 2008.

COUNCILMEMBER BAISA: So there's been a lot of activity since you arrived?

MS. OKUMA: Yes.

COUNCILMEMBER BASIA: Thank you very much. We really appreciate your efforts.

MS. OKUMA: Thank you.

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CHAIR MOLINA: Thank you, Ms. Baisa. Committee Members, additional questions in open session. Mr. Kaho`ohalahala?

COUNCILMEMBER KAHO`OHALAHALA: The air quality -- are we talking about the morning stench that we smell here? I mean I've been to the airport trying to get a flight out and the air was just permeated with this, is that what we are talking about in this particular case?

CHAIR MOLINA: Madam Director?

COUNCILMEMBER KAHO`OHALAHALA: No?

MS. OKUMA: It's gas that's produced from the natural decomposition of the organic materials in the landfill. And so that's basically what we're talking about as far as the capture of that, that gas product.

COUNCILMEMBER KAHO`OHALAHALA: It's not glass that has . . .

MS. OKUMA: No, with the smell . . .

COUNCILMEMBER KAHO`OHALAHALA: That would settle down in the lowest parts of the landscape?

MS. OKUMA: No, no, I don't believe so, no.

COUNCILMEMBER KAHO`OHALAHALA: Okay. So is this detectable to our nose?

MS. OKUMA: I don't know that you can smell this but we have probes and samplings that are done which are better detections sometimes. But I can't tell you if you can smell what it is that we're trying to capture. But we are sampling it . . .

COUNCILMEMBER KAHO`OHALAHALA: There's no smell to this gas, this composting?

MS. OKUMA: Well, I don't know if it's that gas but, yes, we have heard that people smell odors coming from the landfill but that may not be the gas that we're required to capture. We have specific instruments or probes that do the collection and we have specific samplings for purposes of satisfying the regulatory requirements because of the danger of gas, the danger of that particular gas.

COUNCILMEMBER KAHO`OHALAHALA: What would be some of the health kinds of concerns?

CHAIR MOLINA: Department?

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MR. KRESGE: Oh, sorry. Maybe I can add a little bit to this. The landfill gas regulations are covered under the Clean Air Act, and this happens to be processed by which to control greenhouse gas emissions, which go up into the atmosphere tend to be lighter than our ambient air and go up into the atmosphere and degrade the atmosphere. So that's why the greenhouse gas emissions are controlled to this extent. When the landfill reaches a certain capacity, in this case the mega grams, it's assumed that the landfill is producing a certain amount of methane and other greenhouse gas emissions that need to be captured before they release into the atmosphere. So that is what this is controlling. So those gases wouldn't be lying down in low areas; those gases would be going into the atmosphere. I don't know if that helps clear things up.

COUNCILMEMBER KAHO`OHALAHALA: Okay. Even with colder temperatures?

MR. KRESGE: I'm not sure about that. I mean, different temperatures have different effects on gases but I do know that the Puunene Mill and the fertilizers in that area are pretty heavy too so I can't say which would be the cause of it.

COUNCILMEMBER KAHO`OHALAHALA: Okay.

CHAIR MOLINA: Okay, thank you, Member Kaho`ohalahala. It certainly makes for interesting discussion that's for sure the next time we all go out to the landfill. Something we can't see but we can certainly smell. All right, Members, seeing no other requests for questions in open session, the Chair is going to entertain a motion to go into executive session pursuant to Section 92-5(a)(4), Hawaii Revised Statutes, to consult with legal counsel on questions and issues pertaining to the powers, duties, privileges, immunities, and liabilities of the County, the Council, and the Committee.

VICE-CHAIR MATEO: Mr. Chair, move for executive session.

COUNCILMEMBER VICTORINO: Mr. Chair, I second the motion.

CHAIR MOLINA: Thank you. The motion to go into executive session has been made by Committee Vice-Chair Mateo and seconded by Member Victorino. Any discussion? Seeing none, all those in favor signify by saying "aye".

COUNCIL MEMBERS: Aye.

CHAIR MOLINA: All those opposed? Thank you. The Chair marks it 7 ayes with 2 excusals - Members Johnson and Medeiros, to go into executive session.

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

NOES: None.

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ABSTAIN: None.

ABSENT: None.

EXC.: Councilmembers Johnson and Medeiros.

MOTION CARRIED.

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

CHAIR MOLINA: So, Members, for the record, we will go into executive session for all three items on our agenda today, Committee the Whole Item 1(20), Committee of the Whole Item 1(21), and Committee of the Whole Item 1(16). We will prepare the Chamber for executive session so, Members, would you like to take your morning recess now?

COUNCILMEMBER VICTORINO: Yes, Mr. Chair.

CHAIR MOLINA: All right, Members, please come back to the Chambers at 10:05, okay Members, or would you like 15 minutes, Members, 10 minutes?

UNIDENTIFIED SPEAKER: Fifteen.

CHAIR MOLINA: Fifteen. All right, we'll call it 15 minutes, Members, so return promptly at 10 minutes after the hour of 10 o'clock to go into executive session for our agenda items for today's Committee of the Whole meeting. This meeting is in recess. . . . *gavel* . . .

RECESS: 9:55 a.m.

RECONVENE: 12:08 p.m.

CHAIR MOLINA: . . .(*gavel*). . . The October 15, 2009 Committee of the Whole meeting has now reconvened in open session. Members, the Chair is about to make recommendations on all three of our Committee of the Whole items for today.

COUNCILMEMBER VICTORINO: Recommendation.

ITEM NO. 1(20): LITIGATION MATTERS (SETTLEMENT AUTHORIZATION: KAMAOLE POINTE DEVELOPMENT LP, ET AL. VS. COUNTY OF MAUI, ET AL.; CIVIL NO. 07-00447 DAE LEK) (C.C. No. 09-14)

CHAIR MOLINA: Thank you. We'll start first with Committee of the Whole Item 1(20) related to a settlement authorization: Kamaole Pointe Development LP, et al. vs. County of Maui, et al., Civil Case No. 07-00447. Based on the Committee's discussion with the Corporation Counsel's in executive session, the Chair will entertain a motion to approve

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CHAIR MOLINA: All right, Members, moving along to Committee of the Whole Item 1(21) related to a settlement authorization between the Department of Health, State of Hawaii vs. County of Maui. The Chair will entertain a motion to approve a proposed bill entitled "A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF HAWAII FOR THE SETTLEMENT OF ALLEGED VIOLATIONS AT THE MOLOKAI, LANAI, AND HANA LANDFILLS".

COUNCILMEMBER MATEO: Chairman, I move for the passage of the proposed bill on first reading.

COUNCILMEMBER VICTORINO: Mr. Chair, I second the motion.

CHAIR MOLINA: Okay. A motion has been made for the passage of the proposed bill by Committee Vice-Chair Mateo and seconded by Committee Member Victorino. Any discussion? Seeing none, all those in favor signify by saying "aye".

COUNCIL MEMBERS: Aye.

CHAIR MOLINA: All those opposed?

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

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmembers Baisa, Johnson and Medeiros.

MOTION CARRIED.

ACTION: Recommending FIRST READING of proposed bill.

CHAIR MOLINA: Thank you, the Chair will mark it 6 ayes with 3 excusals - Members Baisa, Johnson, and Medeiros.

ITEM NO. 1(16): LITIGATION MATTERS (STATUS: EPA NOTICE OF VIOLATION FOR THE CENTRAL MAUI LANDFILL; DOCKET NO. R9-07-05) (C.C. No. 09-14)

CHAIR MOLINA: And finally, Members, the Chair would like to offer a recommendation on Committee of the Whole Item 1(16), which relates to an EPA Notice of Violation for the

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Central Maui Landfill. The Chair would call for a motion to file the September 15th, 2009 communication from the Corporation Counsel related to this matter.

COUNCILMEMBER MATEO: Chairman, move to file.

COUNCILMEMBER VICTORINO: Second the motion, Mr. Chair.

CHAIR MOLINA: Okay. Thank you. The motion has been made by Committee Vice-Chair Mateo to file the communication and seconded by Member Victorino. Members, any discussion? Seeing none, all those in favor of the motion to file signify by saying "aye".

COUNCIL MEMBERS: Aye.

CHAIR MOLINA: All those opposed?

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

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmembers Baisa, Johnson and Medeiros.

MOTION CARRIED.

ACTION: Recommending FILING of correspondence

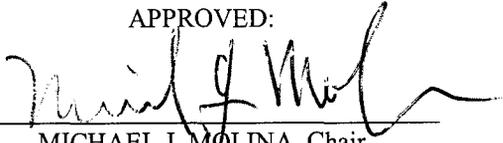
CHAIR MOLINA: Thank you. The Chair marks it 6 ayes with 3 excusals - Members Baisa, Johnson, and Medeiros. Well, Members, it is 12 minutes after the hour of 12 o'clock. This concludes our events for the Committee of the Whole meeting of October 15, 2009. Any announcements? Seeing none, the Chair would like to thank you all for your hard work, the Administration and, of course, our hard working Committee Staff. So, this Committee of the Whole item . . . Committee of the Whole meeting for October 15th, 2009 is now adjourned. . . .(*gavel*). . .

ADJOURN: 12:12 p.m.

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APPROVED:



MICHAEL J. MOLINA, Chair
Committee of the Whole

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Transcribed by: Jo-Ann C. Sato