

COMMITTEE OF THE WHOLE

Council of the County of Maui

MINUTES

November 19, 2009

Council Chamber, 8th Floor

CONVENE: 9:03 a.m.

PRESENT: Councilmember Michael J. Molina, Chair
Councilmember Danny A. Mateo, Vice-Chair (In 9:05 a.m.; Out 10:42 a.m.)
Councilmember Gladys C. Baisa, Member
Councilmember Jo Anne Johnson, Member (In 9:37 a.m.)
Councilmember Sol P. Kaho`ohalahala, Member (In 9:20 a.m.)
Councilmember Bill Kauakea Medeiros, Member (Out 10:42 a.m.)
Councilmember Wayne K. Nishiki, Member (In 9:05 a.m.)
Councilmember Joseph Pontanilla, Member
Councilmember Michael P. Victorino, Member

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

ADMIN.: Tamara Horcajo, Director, Department of Parks and Recreation (Item No. 18)
Roy Silva, Executive Assistant, Office of the Mayor (Item No. 2(9))
Kimberly A. Sloper, Deputy Corporation Counsel, Department of the
Corporation Counsel (Item Nos. 18 and 2(9))
Madelyn S. D'Enbeau, Deputy Corporation Counsel, Department of the
Corporation Counsel (Item No. 1(20))

Seated in the gallery:

Jeffrey T. Ueoka, Deputy Corporation Counsel, Department of the
Corporation Counsel (Item No. 18)

OTHERS: Kimokeo Kapahulehua (Item No. 18)
Lehua Huddleston-Hafoka, Executive Director, Kihei Youth Center (Item No. 18)
Johanna Kamaunu (Item No. 2(9))
Kaniloa Kamaunu (Item No. 2(9))
Orlando Tagorda (Item No. 2(9))
Melanie Alapai, Kihei Youth Center
One (1) additional unidentified attendees

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

CHAIR MOLINA: ...*(gavel)*... The Committee of the Whole meeting for
November 19th, 2009 is now in session. It's two minutes after the hour of 9:00. Good

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morning, Members. Present for our meeting this morning, we have Member Gladys Baisa.

COUNCILMEMBER BAISA: Good morning, Chair.

CHAIR MOLINA: Good morning. And we have Member Bill Medeiros.

COUNCILMEMBER MEDEIROS: Aloha and good morning, Chair.

CHAIR MOLINA: Good morning, Mr. Medeiros. And Member Joseph Pontanilla.

COUNCILMEMBER PONTANILLA: Good morning.

CHAIR MOLINA: Good morning. And Member Mike Victorino.

COUNCILMEMBER VICTORINO: Good morning, Chair.

CHAIR MOLINA: Good morning. So we have five Members present, including the Committee Chair, so we have enough Members to proceed with our business for today. And we have from our Committee Staff, our Legislative Analyst Kirstin Hamman as well as our Committee Secretary Camille Sakamoto. And from the Administration we have Kim...Kimberly Sloper and the Parks Director, Ms. Tamara Horcajo. Good morning, ladies. Members, we have three items on our agenda for today. But before we address any of these agenda items, we will entertain public testimony. We have three members of the public who have signed up to testify on our agenda items. But before we hear from our members of the public, Chair would like to go over a few ground rules. You'll have three minutes to testify with one minute to conclude. And please state your full name and any organization that you may be representing. So let us begin. Chair would like to call upon Kimokeo Kapahulehua to testify, and he'll be testifying on Committee of the Whole Item 18. And before Mr. Kapahulehua testifies, the Chair would like to recognize the fact that we have excused from our Committee meeting this morning at this point, we have Committee Vice-Chair Danny Mateo as well as Committee Members Jo Anne Johnson, Sol Kaho`ohalahala and Wayne Nishiki. Good morning, Mr. Kapahulehua.

...BEGIN PUBLIC TESTIMONY...

MR. KAPAHULEHUA: Good morning, Chair Molina. My name is Kimokeo Kapahulehua. Chair Molina and Council Members, we thank you for this opportunity this morning to speak in behalf of the Kihei Youth Center. This is for the kids. We have been in existence for 26 years, so I'm here this morning as a Board of Director of the Kihei Youth Center for your support in this resolution before you on our licensee [sic] for 20 years. So thank you so much for having us. Mahalo.

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

MR. KAPAHULEHUA: Thank you.

CHAIR MOLINA: And joining us in the meeting this morning, we have Committee Vice Chair Danny Mateo, as well as Committee Member Wayne Nishiki.

COUNCILMEMBER NISHIKI: Morning.

CHAIR MOLINA: Good morning. Next to testify we have Melanie Alapai. Okay, and she's just informed the Committee that she is withdrawing her request to testify on this item. So, Members, we'll make note of that. She's withdrawing her request to testify on Committee of the Whole Item 18. Next to testify on Committee of the Whole Item 18 we have Lehuanani Huddleston-Hafoka.

MS. HUDDLESTON-HAFOKA: . . . Good morning. Lehuanani Huddleston-Hafoka . . . *(clears throat)*. . . excuse me—Executive Director, Kihei Youth Center. Thank you again for this opportunity. And I just wanna start off by saying thank you to the County of Maui for allowing the Kihei Youth Center to . . . operate in its current facility for over 26 years. So I'm just here to support COW—excuse me—18 in regards to the license for the Kihei Youth Center. So I humbly ask for your support in giving the Kihei Youth Center a 20-year license so we can continue to do our services for our community. Thank you.

CHAIR MOLINA: Thank you for your testimony. Committee Members, questions for the testifier? Member Baisa?

COUNCILMEMBER BAISA: Good morning, Lehua.

MS. HUDDLESTON-HAFOKA: Good morning.

COUNCILMEMBER BAISA: Thank you for being here. Of course, you know, I'm very interested in youth activities and things for our kids. I think we have to focus on the whole purpose of all this is it's for our kids.

MS. HUDDLESTON-HAFOKA: Uh-huh. Yes.

COUNCILMEMBER BAISA: But I'm kinda giving you an opportunity. Would you tell us a little bit about what you do at the Center?

MS. HUDDLESTON-HAFOKA: Okay. Thank you. First and foremost, we're a drop-in center. And we service ages 8 to 18 years old. We have approximately 480 youth members registered with the Kihei Youth Center. We have a variety of programs that include homework assistance, cultural education, sports and recreation. We teach our kids basic home skills, how to cook, how to bake. We also provide a meal program when the kids

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don't have school including furlough Fridays. We prepare lunch for all kids. In addition to that, we do experiential field trips. We also coach our kids' basketball team, for example, drive the kids to their games if the parents are unable to do so. In addition, there's a emphasis on financial literacy and that's a highlight of our organization. We recently started operating a snack shop that is run by the children. And it's a self-sustaining project. All the monies...stay at the Youth Center and fund the other programs that we have. And we feel that by educating our kids about financial literacy we'll hopefully give them a firmer foundation in their finances. In addition, we do have a emphasis on education in a program called Merits which is "Math and English Resources Important to Success", where we work with the kids one on one in those areas. And we partner with the school by offering that extended services. In addition, we offer arts and craft. We have ukulele every week. And...other programs that come about, we take our kids to participate in.

COUNCILMEMBER BAISA: Boy, I'm tired just listening.

MS. HUDDLESTON-HAFOKA: ...*(Chuckles)*...

COUNCILMEMBER BAISA: How, how many staff do you have ...*(laughter)*...?

MS. HUDDLESTON-HAFOKA: Currently we have six staff members.

COUNCILMEMBER BAISA: Six people--

MS. HUDDLESTON-HAFOKA: Yes.

COUNCILMEMBER BAISA: --doing all of this?

MS. HUDDLESTON-HAFOKA: Yes. And we have great volunteers.

COUNCILMEMBER BAISA: Wow. What are your--

MS. HUDDLESTON-HAFOKA: Yes.

COUNCILMEMBER BAISA: --hours at the Center and your days?

MS. HUDDLESTON-HAFOKA: Okay. Well, when it's...school's in session we operate our youth services Monday, Tuesday, Thursday, Fridays from 2:00 p.m. to 6:00 p.m. And on Wednesdays from 1:00 p.m.—excuse me, 12:30. Now that Kamalii gets out earlier, 12:30 to 6:00 p.m. And if we have weekend activities, that varies. When school's not in session, we're open from 8:00 a.m. to 6:00 p.m.

COUNCILMEMBER BAISA: Wow.

MS. HUDDLESTON-HAFOKA: Yeah.

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COUNCILMEMBER BAISA: There's an awful lot of activity going on in that Center.

MS. HUDDLESTON-HAFOKA: Yes.

COUNCILMEMBER BAISA: I think it's important for us to understand when we're awarding a County lease--

MS. HUDDLESTON-HAFOKA: Uh-huh.

COUNCILMEMBER BAISA: --the benefit that is derived for the community from doing that. So thank you very much.

MS. HUDDLESTON-HAFOKA: Yeah, you're very welcome.

COUNCILMEMBER MEDEIROS: Chair?

CHAIR MOLINA: Okay. Thank you. Okay, Member Medeiros.

COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman. And thank you for being here this morning.

MS. HUDDLESTON-HAFOKA: Oh, thank you.

COUNCILMEMBER MEDEIROS: I just wanted to follow up on Member Baisa's questions. On a daily average, about how many youth attend or utilize the Center?

MS. HUDDLESTON-HAFOKA: Yeah. We can go as high 60 as an average. But we've been seeing an increase in numbers. But, so between 55 and 60 kids--

COUNCILMEMBER MEDEIROS: Okay.

MS. HUDDLESTON-HAFOKA: Yes?

COUNCILMEMBER MEDEIROS: And...and now that we're dealing with furlough Fridays, what's your attendance on furlough Fridays?

MS. HUDDLESTON-HAFOKA: You know, it's kinda interesting. The attendance is a little bit lower on furlough Fridays.

COUNCILMEMBER MEDEIROS: Really?

MS. HUDDLESTON-HAFOKA: Myself, as a parent, believes that parents are probably taking their vacation and personal leave to tend to their kids during this first few furlough Fridays. But I think in a few more furlough Fridays, we're gonna see an increase. So last

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two...well, we have one tomorrow, but the last furlough Friday we had about 33...between 33 and 44 kids. But I know we're gonna see a definite increase when it continues.

COUNCILMEMBER MEDEIROS: So on furlough Fridays, do you have your operation schedule like there's no school, from 8:00 a.m. to 6:00 p.m.?

MS. HUDDLESTON-HAFOKA: Yes. And we have partnered, for example, tomorrow we will be going to Hawaiian Island Humpback Whale Sanctuary where we partner with NOAA and Digital Bus which is from the Alakaina Foundation through Akimeka. And then we have our ukulele program in addition to having our, a daily program. And we do have a emphasis on our cultural education with Hawaiian being one of the emphasis. So we do have community partnerships.

COUNCILMEMBER MEDEIROS: So how do you transport the youth when you go on field trips?

MS. HUDDLESTON-HAFOKA: We have two vans, two 15-passenger vans.

COUNCILMEMBER MEDEIROS: Okay. Thank you for your testimony and for your information.

MS. HUDDLESTON-HAFOKA: Oh, you're welcome. Thank you.

COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman.

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

COUNCILMEMBER VICTORINO: Real quickly and thank you very much for being here. But I was interested and...and...and the community, all your volunteers. First, I know some is parental. They come and help. But all the outside like Kimo and...and many others that come and give of their time. Give us a quick overview on some of the people that come in and help you folks as volunteers just to take care of our keiki and give them an opportunity to grow.

MS. HUDDLESTON-HAFOKA: Okay. What's kinda interesting is that several of our volunteers—and three come to mind and I'll just say their first name—we call her Aunty Jo, Aunty Susan and Tim, none of them have children at the Youth Center. And we're really blessed that they've decided to dedicate their time to the Kihei Youth Center. And our other volunteers are just as important, but they have a connection by either having children or grandchildren at the Youth Center. And everybody has to go through the process of being criminal-background checked, TB clearance and so forth. So we know that if anybody would like to take the time to do that, they are extremely sincere in helping us. And so we have family, extended family members as well that come and help us from our youth members or our staff. So we have a *really* nice support of volunteers.

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COUNCILMEMBER VICTORINO: And what kind of number, real quickly off the top of your head, how many volunteers would you estimate in an average month help you out?

MS. HUDDLESTON-HAFOKA: Well, we have a constant ten that we can call upon, but we can go upwards to about 20, including our board members 'cause our Board is not just a policy board. They're also a volunteer board.

COUNCILMEMBER VICTORINO: . . . *(Chuckles)* . . .

MS. HUDDLESTON-HAFOKA: And I think that's really important to mention that our board members come and wash dishes, serve food, come and clean as well. So if we include our board members, we can go as high as up to about 25 volunteers that we can consistently call upon.

COUNCILMEMBER VICTORINO: Thank you. Sounds like a very good, well-run program. Thank you, Mr. Chair.

MS. HUDDLESTON-HAFOKA: Thank you.

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

MS. HUDDLESTON-HAFOKA: You're welcome. Thank you again.

CHAIR MOLINA: Okay. Next to testify, Members, we have Johanna Kamaunu, and she'll be testifying on Committee of the Whole Item 2(9).

MS. KAMAUNU: . . . Aloha, Members.

COUNCILMEMBER BAISA: Aloha.

COUNCILMEMBER MEDEIROS: Aloha.

MS. KAMAUNU: I have to tell you that the last time I was here I rather enjoyed the conversation or the discussion that you had after...our testimonies. And I wanted you to know that I did go and do some background work. And I have to say that I could not support the Mayor's choice for the Planning Commission. And I can't say I represent our community either. But in the discussions that I've had with the people that...are in family and *are* in the community, we don't find him—I guess the word is, he definitely doesn't represent our interest. And, again, he over—he *represents* another side that is already over-represented on the Planning Commission. And that's all I wanted to mention. Thank you.

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CHAIR MOLINA: Okay. Thank you for your testimony, Ms. Kamaunu. Committee Members, questions? Member Baisa, for Ms. Kamaunu? Oh, Ms. Kamaunu, if you could hang on?

COUNCILMEMBER BAISA: Thank you so much for coming this morning. Your last remark was that he doesn't represent—or...or...some side that's over-represented or whatever. Can you be...give us a *little* bit more? You may not want to and that's okay. But if you would, explain what that "side" is?

MS. KAMAUNU: It's his interest with HC&S. I know the comment was that maybe because of his work with HC&S in the water department area that he may be...or he was the Mayor's choice for this...this position. But I don't think that would *qualify* him. Basically that he *is* with HC&S, an employee, you know. And—or was with HC&S. But that was my main concern.

COUNCILMEMBER BAISA: I think he's retired.

MS. KAMAUNU: Yeah, yeah.

COUNCILMEMBER BAISA: I think he's an older fellow. . . .*(Chuckles)*. . . Okay, thank you very much. I just wanted to clarify that, be sure that I had...I understood what you were trying to tell us. Thank you.

MS. KAMAUNU: You know what, like I was saying, my interest is totally different from where the discussion went...last time. But I appreciate that discussion. I hadn't realized that West Maui wasn't represented at all. And I will concede . . .*(laughter)*. . . We have another opportunity, I guess, as the other Commissioners come...are replaced. But, gee, that...that's an awful disservice to the West side.

COUNCILMEMBER BAISA: Thank you very much.

MS. KAMAUNU: Thank you.

COUNCILMEMBER BAISA: Thanks for coming.

CHAIR MOLINA: Thank you, Member Baisa. Committee Members, any other questions for the testifier? Mr. Medeiros—oh, sorry, Ms. Kamanu [*sic*].

COUNCILMEMBER BAISA: . . .*(laughter)*. . .

CHAIR MOLINA: You're very popular this morning. . . .*(Chuckles)*. . .

COUNCILMEMBER MEDEIROS: . . .*(laughter)*. . .

COUNCILMEMBER BAISA: . . .*(laughter)*. . .

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CHAIR MOLINA: Mr. Medeiros?

COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman. And, aloha.

MS. KAMAUNU: Aloha.

COUNCILMEMBER MEDEIROS: Thank you for being here. Yeah, so would you kinda give us an idea of a person's qualifications that would represent, you know, your community and your area? And do you know of anyone that interested in signing up with the Mayor's office to be considered for commissions and boards?

MS. KAMAUNU: Is it fair to give a name over the pulpit like this? . . . *(Chuckles)* . . .

COUNCILMEMBER MEDEIROS: . . . *(laughter)* . . . Well, I don't know. I think it's free speech so . . . *(laughter)* . . . I, well, Chair, is there any prohibitions to doing that?

CHAIR MOLINA: You know, that's a good question. Staff, I mean. . . I guess, well if you're talking about free speech, I guess if you do throw names out there but keep in mind that if the testifier—I would just . . . now I'm just speculating. If . . . if you're asking a testifier to give out a specific name . . .

COUNCILMEMBER MEDEIROS: Well, she's asking us if she can do it. I'm not asking her . . . *(laughter)* . . .

CHAIR MOLINA: Yeah. Yeah. Well, but anyway --

COUNCILMEMBER MEDEIROS: Yeah.

CHAIR MOLINA: --they could. . . I . . . I don't wanna put themselves--

COUNCILMEMBER MEDEIROS: Uh-huh.

CHAIR MOLINA: --into any potential pickle, if you will.

COUNCILMEMBER MEDEIROS: Okay.

CHAIR MOLINA: Maybe may not be appropriate here in this venue to throw out any names. So--

COUNCILMEMBER MEDEIROS: Okay. I'll go with your . . . your guidance.

CHAIR MOLINA: Just to . . . it's just to play it safe.

COUNCILMEMBER MEDEIROS: Yeah, Chair.

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CHAIR MOLINA: Although I cannot prohibit you from asking--

COUNCILMEMBER MEDEIROS: Yeah, yeah.

CHAIR MOLINA: But I'm just giving my--

COUNCILMEMBER MEDEIROS: So maybe if you'll give a description of a person that would be representative of your community and area?

MS. KAMAUNU: My community would be Waihee.

COUNCILMEMBER MEDEIROS: Uh-huh.

MS. KAMAUNU: And I definitely would look at someone who has some...farming background. And I say "farming" as opposed to agricultural.

COUNCILMEMBER MEDEIROS: Uh-huh.

MS. KAMAUNU: I'm not looking at *commercial* farming, even though we have farmers that do commercial work, but there's smaller farmers. You know, they're a little more conducive to the *community's* needs. And they protect and preserve the resources that are already in place. Someone who's *aware* of the resources, preferably someone who *lives* and works with the resources. Not necessarily science background, but someone who's actually stuck his hands in there and walked the waters--

COUNCILMEMBER MEDEIROS: Uh-huh.

MS. KAMAUNU: --the water paths, yeah?

COUNCILMEMBER MEDEIROS: Uh-huh.

MS. KAMAUNU: And I suppose you could have the same comment for West Maui--that if you brought someone into or approved of someone in the Planning Commission, that they might have that type of background. It would be nice for them to have a *cultural* background as well. It only seems *appropriate* that you would *have* someone with a stronger cultural background because that seems to be *sorely* missing from the Planning Commission. Or those areas seem to be underrepresented on that Planning Commission.

COUNCILMEMBER MEDEIROS: Well, well, thank you for, you know, describing...a candidate that you think is good for your area. I would just suggest if you have names, that you encourage them to give their names to the Mayor's Office for consideration.

MS. KAMAUNU: I have...we did make a...well, we had someone in mind and they've submitted their names, but I don't know that the...

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COUNCILMEMBER MEDEIROS: Yeah. Well, the process, it's...it's left to the Mayor to send down--

MS. KAMAUNU: Right.

COUNCILMEMBER MEDEIROS: --nominees, yeah.

MS. KAMAUNU: Right, right. Well, it's just that I didn't know whether or not it would be accepted because there was a deadline for this.

COUNCILMEMBER MEDEIROS: Right. Yes.

MS. KAMAUNU: So unless you open...open that up again, no one else could be considered.

COUNCILMEMBER MEDEIROS: And they may be for consideration in the future vacancies that you could do that also.

MS. KAMAUNU: Yes.

COUNCILMEMBER MEDEIROS: But thank you for your testimony this morning.

MS. KAMAUNU: You're welcome.

COUNCILMEMBER MEDEIROS: Okay. Mahalo, Mr. Chairman.

CHAIR MOLINA: Thank you. Thank you, Mr. Medeiros. Any other questions for the testifier? Seeing none, thank you, Ms. Kamanu *[sic]*--

MS. KAMAUNU: Thank you.

CHAIR MOLINA: --for your patience and...your testimony. All right, we have one more testifier, I believe. We have to testify on Committee of the Whole Item 2(9), Kaniloa Kamanu *[sic]*.

. . . And joining us for our proceedings this morning is Member Kaho'ohalahala.

MR. KAMAUNU: Good morning, Members.

COUNCILMEMBER ____: Morning.

MR. KAMAUNU: My name is Kaniloa Kamanu *[sic]*. I'm, of course, from Waihee. Just a comment and I, I sat in the last time we were, when you guys discussing this matter. And I talked to some of the people in Lahaina and especially I think one of 'em that I believe did put his name in. And I guess the concern was and that was brought up in that meeting was there wasn't any representation. And especially in that area that's so inundated with

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a lot of development in...in areas that do have not only cultural but even for, you know, just people who...who have grown there and live there. You know, the demographics of...of Lahaina is really—I mean it just continues to grow and there seems to be no structure of either controlling it or, you know, I mean kinda slowing things down. You know, it just seems that it kind of keeps going and going. And I...I think it's detrimental to them on that area not to have one or two representatives, especially for such a big area. A area that...that...is rapidly growing. And we know why. I mean the...the...the businesses there, so people wanna capitalize on their properties and stuff like that. But, you know, there needs to be, I believe, someone in that area to be able to be represented. And as we can see those that are represented are little bit...I guess when it comes down to that planning area. . .like even for Waihee, take for instance--even though we have someone from the Central area or the Wailuku area, they really don't know what Waihee is about. And when we went to testify at the Planning Commission that we were against what their Maui plan...what the plan for Maui was in our area, they really didn't understand it even though those people represented...supposedly represented our area. They...they...they...kinda didn't understand what the focus of the people was until we came in and then we let them know. And I would say for Lahaina I'm sure there are—I mean, I read the...the newspapers, you know, about all the...the commentaries on...letters to the editor. You know, you have a lot of disgruntled people that are against what's going on. But, yeah, you know, I mean not to have somebody represent your area makes it even *harder* because, you know, I mean they don't really understand what's going on in the area. And, you know, so you really *need* a representative to be fair to them--

MS. HAMMAN: Three minutes.

MR. KAMAUNU: --to be fair to them, you need someone that, you know, not just live there couple years but though they've kinda grown up in the area and has seen the changes. I think it's only fair to them that...so I would say I would oppose to this thing or ask you to send this thing back because it should be someone to better represent the area. Thank you.

CHAIR MOLINA: Okay. Thank you, Mr. Kamanu [*sic*]. Committee Members, questions for the testifier? Seeing one, thank you for your testimony. Mr. Kamanu [*sic*] was the last person to have signed up for testify...to testify. Committee Secretary, have we had any other signups for testimony?

MS. SAKAMOTO: No, Mr. Chair.

CHAIR MOLINA: Okay. Thank you. Members, no one else has signed up to testify and seeing no one else from the gallery approaching, the Chair's gonna recommend that we close public testimony for all three items today.

COUNCIL MEMBERS: No objections.

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CHAIR MOLINA: Okay. So ordered by the Committee. We will close testimony.

...END OF PUBLIC TESTIMONY...

CHAIR MOLINA: All right, Members, we shall get into the business of the day.

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

CHAIR MOLINA: First, we'll take up Committee of the Whole Item 18 which is a Resolution Authorizing Grant of a License of County Real Property to the Kihei Youth Center. The Committee is in receipt of County Communication No. 09-99, from the Director of Housing and Human Concerns, transmitting a proposed resolution to authorize a grant of a 20-year license to the Kihei Youth Center for approximately 3,868 square feet, located at 131 South Kihei Road in Kihei, Maui, Hawaii, to operate a youth center. In addition, a correspondence dated September 10th, 2009, from the Director of Parks and Recreation, transmitting a *revised* proposed resolution entitled Authorizing a Grant of a License of County Real Property to Kihei Youth Center. The purpose of the *revised* proposed resolution is to authorize a grant of a 20-year license to the Kihei Youth Center for approximately 3,989 square feet, building and adjacent basketball court located at 131 South Kihei Road, Kihei, Maui, Hawaii to operate a youth center. And as I mentioned earlier today, we have the Director of the Parks Department, Ms. Tamara Horcajo, as well as Ms. Kim Sloper from the Corporation Counsel's office. Ladies, who would like to take the lead on giving us opening remarks on this proposal? Or if you choose, we'll go...Ms. Horcajo? Proceed.

MS. HORCAJO: Thank you, Chairman Molina, for looking at this resubmittal of this resolution, and Members of the Committee of the Whole. Our Department is resubmitting this resolution for a grant to license real property of the, to the Kihei Youth Center. This proposal probably looks familiar to you. In September of this year, the grant was approved by the Council for a period of 35 years. We are resubmitting this request as the Kenolio Center which houses the Kihei Youth Center sits on executive-ordered property which is Executive Order to the County of Maui for Parks' use. And the Kihei Youth Center was required to get approval from the Board of Land and Natural Resources for this lease agreement. The approval that they received at that time, or that they have received from the Board of Land and Natural Resources is for 20 years. The...request from the Kihei community...the Kihei Youth Center is to come back to this Committee so that there is consistency in the agreement language. The choice was to go back to the Board and get that agreement revised to a 35-year lease, which was approved in September by the County Council; or to come back to the County Council, as we are doing today, to request that you grant a lease of 20 years to the Kihei Youth Center for operations of their youth center at the Kenolio property. If there's any additional questions on this, we, the Parks Department is very much in support of this request. And again the reason that we're back here today is to be consistent and to come in compliance with the 20-year agreement as was approved by the Department of Land and Natural

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Resources. And then our lease. . .with the County to the Kihei Youth Center would be consistent with that 20 years.

CHAIR MOLINA: Okay. Thank you, Ms. Horcajo. Prior--

COUNCILMEMBER VICTORINO: Chair?

CHAIR MOLINA: --to recognizing Mr. Victorino for questions, Corporation Counsel, do you have any additional comments to make with regards to this request?

MS. SLOPER: Not at this time.

CHAIR MOLINA: Okay, thank you. Mr. Victorino, proceed.

COUNCILMEMBER VICTORINO: So...so...thank you, Mr. Chair. Ms. Horcajo, so I'm understanding that the State wouldn't give us 35, 20 would be the max they would allow us?

MS. HORCAJO: . . . The original request was for 20 years.

COUNCILMEMBER VICTORINO: Uh-huh.

MS. HORCAJO: And that was granted and approved.

COUNCILMEMBER VICTORINO: Okay.

MS. HORCAJO: Uh. . .Ms. Sloper will--

COUNCILMEMBER VICTORINO: Okay. Whoever can answer the question, yeah--

MS. HORCAJO: --answer that.

COUNCILMEMBER VICTORINO: --because I know we went through this whole rigmarole to make it 35 years, to give 'em time to build and some other things, capital improvements. I think this was all part of that. And now to go back to 20. . .I...and...I...I'm not sure if that's gonna affect any of their plans for expansion and renovation. So, Ms. Sloper, maybe you can explain to us. Thank you, Mr. Chair. I'm sorry, I...you know...

CHAIR MOLINA: Okay. Go ahead, Ms. Sloper.

MS. SLOPER: Thank you. Member Victorino, the...the process which was explained to the Kihei Youth Center--because they were the ones who would have to go before the Board of Land and Natural Resources--was that the delays would...could be excessive. It could be in excess of six months before they could even get on the agenda for the Board, for them to *consider* whether they would extend the period from 20 years to 35 years.

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COUNCILMEMBER VICTORINO: Uh-huh.

MS. SLOPER: The...my understanding is that the status of the Kihei Youth Center, there are numerous renovations that do need to be made. They can't get some of the funding for that...some of the *County* funding for that until they have a lease, or in this case, a license in place.

COUNCILMEMBER VICTORINO: Uh-huh.

MS. SLOPER: Because of *that* and the *need*, I guess, for expediency in getting those renovations done and started, they elected...the Youth Center elected to go with the 20-year term rather than try to get an extended 35-year term because of the delays that would occur in trying to get the Board of Land and Natural Resources' approval.

COUNCILMEMBER VICTORINO: Okay. Okay, I think that's...that's understandable. I'm...I'm just afraid that part of the reason we had worked so hard to go to this 35-year, Mr. Chair, was because they had wanted not only to do renovations but expansion. And some of these...foundations unless you got a 25-year lease minimum or something of that nature—I don't remember all the numbers—you know, they don't look favorable about helping. And so I thought that was the whole premise behind it. I understand what you saying. If you go in for one thing and then you go back to the State they—and especially the way things are now—they're gonna move very slowly on it. And it's not an intent. I think it's just the way times are for them and for a lot of other services that are being offered by the government. But I just think, you know, so long as it doesn't and they're okay with it. And what you was telling me, the Kihei Youth Center is okay with this, then fine. I can...I can accept it. I just...I just thought the whole premise of the 35-years was to *allow* them that opportunity to go after foundation money--which many times you gotta have at least a 25-year lease. And I think Ms. Horcajo can verify that--that's, many times, the case. And if without that, you know, they're not going to look favorably upon you. In fact, many times they won't even consider you. So if everybody's okay with this, then I can go with it. I just wanna make sure the Youth Center is not adversely affected at a later point. And I'm not sure if at later point we can ask the State or they can go back, ask the State and we could make changes at a future point. But that's another conversation at another time. Thank you, Ms. Sloper and thank you, Ms. Horcajo. Thank you, Mr. Chair.

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

COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman. I wanted to ask both Ms., Director Horcajo and also Corporation Counsel. Director Horcajo, you did mention that this property was executive-ordered over to the County from the State. And that Executive Order was in 1978?

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. . . Okay, while you look for that, my...my question, you know, having dealt with executive orders in Hana when we did the dialysis center, their regs and how strict they are to the wording in their executive order, I just wanted to ask because the executive order says it's been done and, and put under the jurisdiction of the County. . .but under the control and management of the Department of Human Concerns. So when did the County Parks and Recreation take on this? Or...or because I don't see any amendments to the Executive Order.

CHAIR MOLINA: . . . Ladies, who would like to try and answer Mr. Medeiros' question? Go ahead, Ms. Sloper.

COUNCILMEMBER MEDEIROS: I, I can see if they just said "County of Maui", but they're pretty specific in what department would be of control and management of this property. So did this question ever come up in your planning for this...license agreement?

MS. HORCAJO: Councilmember Medeiros, that question has not come up. . .between us. The Parks--

COUNCILMEMBER MEDEIROS: Corp Counsel, yeah, in your review of this, did that come up as something that our legal department would investigate?

MS. SLOPER: No, it hasn't come up specifically. I do know that the—well, obviously the Board of Land and Natural Resources has already . . .

COUNCILMEMBER MEDEIROS: Right.

MS. SLOPER: . . . reviewed this application. And they are...in the application, it did mention the direct, the Department of Parks and Recreation as well. I--

COUNCILMEMBER MEDEIROS: Okay.

MS. SLOPER: --I can't speak for whether they reviewed the specific language as far as what you've just pointed out in the Executive Order or not...but at this point . . .*(end of tape, change to 1B)*. . .

COUNCILMEMBER MEDEIROS: The Board of Land and Natural Resources reviewed it and approved it. This is an Executive Order under their Department. So if they're fine with that, I just wondering, you know, if *our* departments had brought that up to their attention. But thank you for this opportunity.

CHAIR MOLINA: Okay. Thank you, Mr. Medeiros.

COUNCILMEMBER MEDEIROS: Mahalo.

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CHAIR MOLINA: Maybe at a...if there's a need to respond, I'm sure the Department can...maybe either communicate with your office or communicate with the Committee.

COUNCILMEMBER MEDEIROS: Yeah, because the Executive Order that we looked at in Hana for the dialysis, we had to go through the process to change the wording in the Executive Order. They made it pretty clear to us that it was specific and...and needed to be changed. So I just bring that up so that we, we don't run into a problem...*(laughter)*... later on. Thank you.

CHAIR MOLINA: Okay. Thank you. Good point. Committee Members, any other questions for either Ms. Horcajo or Ms. Sloper? Member Kaho`ohalahala?

COUNCILMEMBER KAHO`OHALAHALA: Thank you, Chair. You know, in the executive—I mean I wanna, have another question but just to follow up with Member Medeiros. So if the Executive Order gives that property to the County of Maui, then why is it that the organization, the Youth Center, now needs to secure a lease with the...the Department of Land and Natural Resources?

CHAIR MOLINA: Ms. Sloper?

MS. SLOPER: Member Kaho`ohalahala, it's actually that the Kihei Youth Center was applying for *approval* from the Board of Land and Natural Resources. Under HRS section, Chapter 171, the Board of Land and Natural Resources acts as an approving agency for all executive-ordered lands. So the...even though it's under the control and management of the County--

COUNCILMEMBER KAHO`OHALAHALA: Uh-huh.

MS. SLOPER: --it's still subject to approval by the State.

COUNCILMEMBER KAHO`OHALAHALA: Okay. And then the next question has to do with...are they prevented from moving forward with a 35-year lease by the County even though they have a 20-year with the approval by the DLNR?

MS. SLOPER: ... Are you asking if they can go...

COUNCILMEMBER KAHO`OHALAHALA: Well, we are asking for it to be aligned, 20/20. And my question is what says that it needs to be aligned 20/20?

MS. SLOPER: Well, the Board of Land and Natural Resources has to sign off on the—

COUNCILMEMBER KAHO`OHALAHALA: The 20?

MS. SLOPER: --have to approve it as well--

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COUNCILMEMBER KAHO'OHALAHALA: Yeah.

MS. SLOPER: --the document and they...the approval that they've given at this point, the authorization is only for 20 years. So if we...if the *County* grants a 35-year license and the document says 35 years, then it's...they're not gonna sign off on the...the actual license document, the State.

COUNCILMEMBER KAHO'OHALAHALA: And...and that's the main reason why you're making this change then? So it could not be that the County would stand alone in its granting to the organization?

MS. SLOPER: Correct. Because of the need under the...Chapter 171 for the State to approve or authorize the granting by the County to the--

COUNCILMEMBER KAHO'OHALAHALA: Okay.

MS. SLOPER: --Kihei Youth Center.

COUNCILMEMBER KAHO'OHALAHALA: Thank you.

CHAIR MOLINA: Okay. Thank you, Member Kaho`ohalahala. Members, any other questions as it relates to Committee of the Whole Item 18 prior to the Chair making a recommendation?

COUNCILMEMBER BAISA: Recommendation?

COUNCILMEMBER VICTORINO: Recommendation?

CHAIR MOLINA: Okay. So ordered by the Committee. The Chair will recommend the...entertain a motion to...authorize the granting of a license of County real property to the Kihei Youth Center--

VICE-CHAIR MATEO: Chairman--

CHAIR MOLINA: --for 20 years. Go ahead.

VICE-CHAIR MATEO: --move for the adoption of that proposed revised resolution entitled Authorizing a Grant of the License of County Real Property to Kihei Youth Center, including the filing of the communication.

COUNCILMEMBER VICTORINO: Second the motion, Mr. Chair.

CHAIR MOLINA: Okay. The motion to...approve the revised resolution entitled Authorizing a Grant of a License of County Real Property to Kihei Youth Center, and the filing of the

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communication has been made by Committee Vice-Chair Mateo and seconded by Member Victorino. Members, any discussion on the proposed motion? Member Baisa?

COUNCILMEMBER BAISA: Chair, I just wanna make a brief comment. I'd like to say that it gives me great pleasure to support this motion. I think that programs like this are absolutely critical to our community. And I think that this is the way the...County contributes and I'd like to congratulate the staff, board and volunteers of the Center and ask my colleagues for support. Thank you.

CHAIR MOLINA: Okay. Thank you, Member Baisa. And prior to calling for the vote, the Chair would like to recognize Member Johnson to our proceedings as well--

COUNCILMEMBER JOHNSON: Aloha.

CHAIR MOLINA: -- this morning. Aloha. Member Pontanilla?

COUNCILMEMBER PONTANILLA: Thank you. I, too, will be supporting this item. But just a comment to the Parks Department. Several weeks ago, we received from you folks. . .regarding all the executive-ordered parks that State had given the County. So I think it's...behooves us to go look into this matter in regards to the number of years that. . .you know, authorizing the County in utilizing those parks for County use. Thank you.

CHAIR MOLINA: Okay. Thank you, Member Pontanilla. Member Kaho`ohalahala?

COUNCILMEMBER KAHO`OHALAHALA: Yeah, thank you, Chair. I'll be supporting the motion, but my only real comment is that it is awkward to think that the County is trying to exercise its rights to make some decisions and policies; and in this regard we are told that it is precluded by some other entity and in this case, the Board of Land and Natural Resources. So it's kind of awkward to think that *our* decisions are pretty much being made *for* us in the case of this situation where we're told we cannot do 35 years, even though we have. And then we have to come back. So it's a situation that doesn't really fit well. And I think it would be worth our time taking a look because otherwise we will be encumbered by someone else making decisions for this body when it comes to making these kinds of leases for use for long term for activities of which we fund. You know, so...so that's my only comment.

CHAIR MOLINA: Okay. Thank you, Member Kaho`ohalahala. Member Medeiros?

COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman. I, too, will be supporting the motion. But I also would express the same sentiments as Member Kaho`ohalahala. I don't know if it's a State law or a Department of Land and Natural Resources policy that they have to review it. We, in Hana, in doing the home...the Dialysis Center didn't have to go through that process. It was left to us in the County to formulate the lease or the license agreement. So I think finding some clarification and be sure how it affects us in

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the County under executive-order properties would be good to know. Mahalo, Mr. Chairman.

CHAIR MOLINA: Thank you, Mr. Medeiros. Members, any other comments as it relates to the motion on the floor before the Chair calls for the vote? Seeing none, all right, Members, all those in favor, signify by saying "aye".

COUNCIL MEMBERS: Aye.

CHAIR MOLINA: All those not in favor, signify by saying "no". Okay. We have...Chair will call it unanimous. Nine, zero.

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

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: None.

MOTION CARRIED.

ACTION: Recommending ADOPTION of resolution and FILING of communication.

CHAIR MOLINA: And the Chair would like to thank Ms. Huddleston-Hafoka, the Executive Director, for informing the Committee, as well as all of her hard-working staff. And Chair certainly appreciates their participation. So the matter passes, nine, zero.

. . . Okay, Members, the Chair would like to ask for your consideration. We are going to lose a Member within the next hour. And we do have Committee of the Whole Item 1(20) before us. I anticipate that will take some discussion, considerable discussion. And also our last item on the agenda is Committee of the Whole Item 2(9), which is the nominations to Boards, Committees, and Commissions. I...we have the nominee before us today. I would ask that if there are no objections that we take that item up prior to Committee of the Whole Item 1(20). Any objections?

COUNCIL MEMBERS: No objections.

CHAIR MOLINA: Okay, Members. So ordered. So we will take Committee of the Whole Item 2(9) prior to Committee of the Whole Item 1(20).

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**ITEM NO. 2(9): NOMINATIONS TO BOARDS, COMMITTEES, AND COMMISSIONS
(MAUI PLANNING COMMISSION) (C.C. No. 09-15)**

CHAIR MOLINA: Committee of the Whole Item 2(9) relates to nominations to Boards, Committees and Commissions, to the Maui Planning Commission. The Committee is in receipt of a correspondence dated October 16th, 2009, received on the same day from the Mayor requesting consideration of the nomination of Orlando Tagorda replacing John B. Guard to the Maui Planning Commission for a term expiring on March 31st, 2011 and transmitting a copy of Mr. Tagorda's application form. Members, as you recall at our last Committee of the Whole meeting, we had this matter discussed and deferred in order to give Mr. Tagorda a chance to appear before the Committee to respond to any questions that you may have. And again joining us we have from the Mayor's Office, Mr. Roy Silva, and also the Corporation Counsel's office, we have Ms. Kim Sloper on this matter as well. So, Mr. Silva, before we ask Mr. Tagorda to come up, do you have any brief remarks you'd like to make?

MR. SILVA: No. None.

CHAIR MOLINA: Okay. Thank you. All right, Members, Mr. Tagorda, I'd like to ask--excuse me, prior to coming up, Mr. Tagorda, Mr. Nishiki?

COUNCILMEMBER NISHIKI: Yeah. For...for the Mayor's Office. I, I, I personally am not against Mr. Tagorda, Mr. Chairman. But I...I still need to ask the Mayor's representative, and I'm going to read from the almighty County Charter. And I'm going to be reading from Page 45, Council Members, and I will not read something that is not here in case you don't get to get to your Charter. And it is under Section 13-2, Boards and Commissions. And I'm gonna read from the second paragraph. It says:

Each new Board or Commission established by this Charter shall have nine members. Of the nine members initially appointed, three shall serve for a term of five years, two shall serve for a term of four years, two shall serve for a term of three years, and two shall serve for a term of two years. Number 2, not more than a bare majority of the members of any Board or Commission shall belong to the same political party. Number 3, in making appointments to all Boards and Commissions the Mayor shall give due consideration to balance geographic representation.

This is the issue that I have, Mr. Chairman. And...and I think it is a very important one in, in, in view of what the Charter reads. And the Charter doesn't say, Council Members, and to you, Mr. Silva, and to the Administration--the, the Charter is very strong by saying that in making appointments to all Boards and Commissions the Mayor *shall*. And I think that those of you that have been writing ordinances to make sure that you have words that *mean* what you want to get across. . .the word "may" is often used and that's when, you know, you can kinda speculate and, and, and say, hey, well, it says, "may" so, you know, it's may and may be. . .okay. And so you get to play this political game of

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politics. But in this situation, the County Charter which has been approved by the residents of this County and, and, and set up by residents that were appointed to the Charter Commission, were very strong in saying *shall* consider --

CHAIR MOLINA: Mr. Nishiki--

COUNCILMEMBER NISHIKI: --and give due consideration for balanced geographic representation.

CHAIR MOLINA: Mr. Nishiki, do you have a question for Mr. Silva?

COUNCILMEMBER NISHIKI: Yes.

CHAIR MOLINA: Okay, please. Thank you.

COUNCILMEMBER NISHIKI: I'm...I'm trying to lay down my foundation, Mr. Chairman--

CHAIR MOLINA: Okay--

COUNCILMEMBER NISHIKI: --and thank you.

CHAIR MOLINA: All right.

COUNCILMEMBER NISHIKI: So in this instance, no one from West Maui--and, and, and, and I'll allow the West Maui representative to speak to this also. But I, I'm going to speak being that I was asked to deal with this concern by people from West Maui also, that they feel that they are not being represented. Why, when we know that there are many projects that are coming up in West Maui, and...and no one is being represented? And I think perhaps at our last meeting this was spoken upon and I guess, Mr. Silva, we want to...well, *I want to* personally ask...for an answer or justification why not.

CHAIR MOLINA: Mr. Silva, can you respond to Mr. Nishiki's inquiry?

MR. SILVA: Yes. Thank you for the question. Currently there is no members from Central Maui on the Commission, Kahului. And Mr. Tagorda *is* from Kahului so we feel that that need will be met. And as I said earlier, in...we have two members that are coming off the Commission in 2010...and at *that* time, we will look at filling a...a...a spot from Lahaina.

COUNCILMEMBER NISHIKI: Mr. Chairman, if...if...if I may? When and when you talk about Central Maui, we've got Mr. Hedani who lives in Wailuku; we've got Mr. Starr who, I think, lives in Wailuku; we've got Mr. Hironaga that lives in Kahului--if that is what you consider to be Central Maui. So *again* this is not true.

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. . . *This* is not true. Now, if you say that Central Maui entails also Kihei, well, you've got Lori Sablas that lives in Kihei. And you got Donna Domingo that lives in Kihei. So again. . .where Central Maui is...maybe you need to tell me. What you...is...is Wailuku considered Central Maui? Is Kahului considered Central Maui? Is Kihei considered Central Maui. . .

CHAIR MOLINA: Mr. Silva?

COUNCILMEMBER NISHIKI: . . . Mr. Silva?

MR. SILVA: Our thinking is that Kahului is Central Maui, and Mr...Mr. Tagorda is from Kahului. And also Mr....Mr. Hironaga is from Paia on his address listing.

COUNCILMEMBER NISHIKI: . . . You got people from Wailuku, also. And, and, and so I, I, I guess, you know, I, I, I guess I'm not buying this person being on there. And like as I said, Mr. Chairman, nothing to do with the person being picked. But someone that is missing from a *big* geographical area called West Maui. And...and I'm done with the question. I, I, I don't buy what is being represented by the Administration. Thank you.

CHAIR MOLINA: Okay. Thank you, Mr. Nishiki. And before I recognize Mr. Medeiros, again, we have Mr. Tagorda waiting in the gallery. So I'll go ahead and permit one more question, Mr. Medeiros. And after Mr. Tagorda is done then, you know, again I'll open up the floor for additional questions to not only Mr. Tagorda, but to the Administration as well. Mr. Medeiros?

COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman. And I...I think Member Nishiki, you know, in, in reading the provisions in the Charter. . .brought up a section about geographic representation. And I would like ask...to ask Corp. Counsel what defines in this Charter geographic representation. Is it political districts? What is geographic representation?

CHAIR MOLINA: Ms. Sloper?

COUNCILMEMBER MEDEIROS: Would you know how that is defined in the Charter? Because a lot of times when you talk about geographic representation, we think about political...districts . . .

UNIDENTIFIED SPEAKER: Uh-huh.

COUNCILMEMBER MEDEIROS: . . . but I'm not sure if that was the intent of the Charter.

CHAIR MOLINA: Ms. Sloper, do you need a little bit more time? And at a later point I can allow you to respond to Mr. Medeiros'...

MS. SLOPER: Yes, please.

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CHAIR MOLINA: Okay.

COUNCILMEMBER MEDEIROS: Yeah. Because I think that question's gonna continually come up --

CHAIR MOLINA: Sure.

COUNCILMEMBER MEDEIROS: --in our considerations. But thank you for that opportunity, Mr. Chairman.

CHAIR MOLINA: Okay. Thank you, Mr. Medeiros. And what the Chair will, if there are no objections, I'll bring Mr. Tagorda up to do his...presentation. And at a later point I'll recognize Ms. Sloper to give a response to your question, Mr. Medeiros. Okay. Member Baisa?

COUNCILMEMBER BAISA: If you don't mind, I wanna point one thing out before we bring Mr. Tagorda up. And...it's related to the question that Mr. Medeiros is asking. Geographic representation doesn't necessarily say "residence in that area". I, I, it's not spelled out. So I think that's very interesting because --

UNIDENTIFIED SPEAKER: Right.

COUNCILMEMBER BAISA: --we've had lots of interesting cases about, you know, representing districts. But we do have a member on the Commission and I don't know if she's...could be possibly considered as representing West Maui. And that's Ms. Sablas who does not *live* in West Maui but I know spends a *lot* of her time there. There isn't a time that I haven't been to the Kaanapali Beach Hotel that--that woman is the head of the Pookela program, and spends a great part of her life in West Maui and has spent many, many years there. So I don't know if that's a consideration. And I just throw that out to muddy it up a little bit more. Thank you.

CHAIR MOLINA: That...that it will do.

COUNCILMEMBER VICTORINO: ...*(Chuckles)*...

CHAIR MOLINA: Anyway, Members, I'm gonna call up Mr. Tagorda. Mr. Tagorda, if you could come up to the lectern and if you would give us just a brief overview of your intentions to be a nominee to the Planning Commission. And after you are done, Mr. Tagorda, then I'll open up the floor for questions from the Committee Members. Good morning, Mr. Tagorda.

MR. TAGORDA: ... Mr. Chairman, Committee Members, good morning to everyone.

COUNCILMEMBER BAISA: Good morning.

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COUNCILMEMBER MEDEIROS: Morning.

MR. TAGORDA: My name is Orlando Tagorda, requesting all of you to support me to the Planning Commission. And, Mr. Chairman, I would like to thank you personally for explaining to Committee of the Whole Members what happened on November 5, 2009. There are two important events that I had to attend that day; this Committee of the Whole meeting on...on that date and the funeral services of a beloved friend who passed away. And...these are two equally important events for me. I want to be at two places at one time but that's impossible. So I choose to attend the funeral services of my beloved friend, co-worker, and almost a mom to me. But after that services I wanted to come and show my face to you and meet with you to tell you and meet with...and...and answer your questions and concerns. However, that didn't happen. I'm happy to be here now and. . .answer questions or listen to your concerns.

CHAIR MOLINA: Okay. Thank you, Mr. Tagorda. Committee Members, the floor is now open for questions to Mr. Tagorda. Mr. Mateo?

VICE-CHAIR MATEO: Chairman, thank you. Mr. Tagorda, good morning. Can you just give us a little more information on your background and perhaps your interest in serving on the Maui Planning Commission?

MR. TAGORDA: I...I used to work with HC&S. But I retired in 2006 as a Water Coordinator, East Water Coordinator. And I...for a short period of time, I worked for King Kamehameha Golf Course up in Waikapu. And after that, like I said, when I put the word or terminology "semi-retired", I'm still working for work that I can reach out to people. But because I have this license as a mortgage solicitor--I'm an independent mortgage solicitor now. And that's that work I'm doing right now to reach out to the community. And...like I said, my interest in applying for the Maui Planning Commission is with good intentions. I would like to do what is best for Maui County. I have all the time to devote that energy and resources. So if given the chance, this is what I can tell you all because I need all your support so I can get confidence in fighting for Maui's cause. I will make this as a cause in my life--to do improved quality of life in Maui. I am not affiliated with anybody, no group affiliations, no special interests, just me, independent guy trying to volunteer my service. I'm proud to serve Maui. And if bestowed upon me the trust that you folks will do today, Maui County will not be betrayed by me. That's all.

VICE-CHAIR MATEO: Yeah, Mr. Tagorda, was the Planning Commission the only commission that you applied for?

MR. TAGORDA: Recently, yes. I am really planning to just go to Planning Commission because I see things that not really happening right. And it's at the Planning Commission that I can make a difference of improving the quality of life we have. I heard in the newspaper about all these...the demise of Maui Land and Pine. Mr. Nishiki's concern

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about developments. Okay, if we let go of those things without proper balance, my grandkids sure not gonna live here. There'll be no job for them, no good opportunities for them. So that's the reason why I am very strong and committed to do the right thing for Maui.

VICE-CHAIR MATEO: Thank you, Mr. Tagorda. Thank you, Mr. Chair.

CHAIR MOLINA: Thank you, Mr. Mateo. Committee Members, any other questions for Mr. Tagorda?

. . . Okay. All right. Seeing no other questions for you, Mr. Tagorda—I'm sorry, Member Kaho`ohalahala?

COUNCILMEMBER KAHO`OHALAHALA: Thank you. Mr. Tagorda, I had asked the question previously on...at the first pass of this because your application wasn't...wasn't as complete. So can you explain to me you're semi-retired, you know, again? I heard you say something but I didn't...

MR. TAGORDA: Yeah. I...I guess I'm sorry to...to use that terminology. I...I...I apologize to confuse everyone.

COUNCILMEMBER KAHO`OHALAHALA: Yeah.

MR. TAGORDA: When I said semi-retired, I'm still working. But not...no longer with HC&S or with King Kamehameha. I am an independent mortgage solicitor. I set my own hours. I go to the office if I want. I meet a lot of people outside, which is my passion. I like to reach out. That's what I...in my application, in my resume, I had there I'm looking for work where I can use my people skills. And that's where I come in.

COUNCILMEMBER KAHO`OHALAHALA: Okay.

MR. TAGORDA: Especially nowadays it's timely that I can help a lot of people losing their houses. All these modification loans that they're going through, it's...it's pain.

COUNCILMEMBER KAHO`OHALAHALA: Okay. So that's your current employment?

MR. TAGORDA: That's my current job. I'm working...as an independent...mortgage solicitor.

COUNCILMEMBER KAHO`OHALAHALA: Okay.

MR. TAGORDA: I set my own hours. I'm free to do anything I want.

COUNCILMEMBER KAHO`OHALAHALA: Okay. And then just in your comments you just made earlier with Member Mateo's question, in your interest in serving on the Commission, can you reiterate that again one more time, please?

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MR. TAGORDA: Okay. It's...I said it's a good intention for me. I want to do the best for Maui.

COUNCILMEMBER KAHO'OHALAHALA: Uh-huh.

MR. TAGORDA: Okay, I don't know what the word means, but with my...who I am, what I want to accomplish, I want to set some goals and make plans, *good* plans. And refocus ahead instead of bickering politically, okay?

COUNCILMEMBER KAHO'OHALAHALA: Uh-huh.

MR. TAGORDA: That's where I don't want politics. I want to volunteer with all my heart to do the best I can.

COUNCILMEMBER KAHO'OHALAHALA: Okay. And, Mr. Tagorda, what are...what are some of your goals then?

MR. TAGORDA: My goals is to see to it that we get sustainable growth, meaning to say we have Maui Land and Pine before for many years and so with HC&S and so many visitors that we have. Those things are no longer, I think, you know, don't quote me wrong here. It's...Maui Land and Pine closed. We didn't expect that they will close. So what we need to bring in to Maui are sustainable work, energy, solar, wind, all those things that will make our economy grow back again, you know. So those are the things I'm looking at. I don't think we can go back to big agricultural farm. I heard Mr. and Mrs. Kamanu [*sic*] that they want into farming. I want to go to fishery, farming, forestry, all those things. That is dear to me. I don't want eyesore development. I see one eyesore development, I just don't want to go there. I go someplace else. And like I said, I am not affiliated with any special interest group may...be it hotel, agriculture, visitor industry, you name it. I'm independent. That's what I'm bringing to this body. This my being neutral, unbiased, untainted.

COUNCILMEMBER KAHO'OHALAHALA: Okay. And then just one more question. You know, the...the section of the Charter that Member Nishiki raised about finding representation throughout the County of Maui, what are your thoughts about that?

MR. TAGORDA: Well, it's...it's hard to go to that Charter provision because I didn't read the fine prints very well. But I have with me, the Planning...Department of Planning, Chapter 8 of the Charter, Commission also about Planning Commission. It says right here, each Planning Commission shall consist of nine members appointed by the Mayor with the approval of the Council. The nine members each of Planning Commission shall be resident of Maui County. That's why I apply for the job. They didn't say requirements that like being a Ph.D. or expert in so on and so forth. I am a resident of Maui County. And I will tell Mr. Nishiki, I will represent *all* of Maui, Mr. Nishiki, even

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Lahaina, Hana, you name it, except Lanai and Molokai. I will even represent Kahoolawe if somebody there.

COUNCILMEMBER BAISA: . . .*(laughter)*. . .

COUNCILMEMBER KAHO‘OHALAHALA: It has its own commission.

ALL: . . .*(Laughter)*. . .

MR. TAGORDA: So that...this is it. This is what you get from me.

COUNCILMEMBER KAHO‘OHALAHALA: Okay. I appreciate your comments.

MR. TAGORDA: Thank you so much.

COUNCILMEMBER KAHO‘OHALAHALA: And I just wanted your thoughts, you know, in...in part of the discussion that this body has had.

MR. TAGORDA: Thank you, Sol. Thank you.

COUNCILMEMBER KAHO‘OHALAHALA: And I appreciate that. Yeah, thank you.

MR. TAGORDA: Thank you.

CHAIR MOLINA: Okay. Thank you, Member Kaho`ohalahala. Member Medeiros?

COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman. Good morning, Mr. Tagorda.

MR. TAGORDA: Good morning, sir.

COUNCILMEMBER MEDEIROS: And thank you for being here. And we can appreciate your explanation of why you couldn't make that next meeting. And I think for many of us that was an important event for you to attend. I just wanted to ask you in looking through your education and work experience, I notice community service that you served on the Maui County Board of Water Supply. That was a five-term...five-year term, is that correct?

MR. TAGORDA: Yes, yes, Mr. Medeiros.

COUNCILMEMBER MEDEIROS: And what was your experience of serving on that board?

MR. TAGORDA: I was proud to be on that Board of Water Supply. We tackled so complex issues on that Board of Water Supply when I was there. Now it's advisory. I don't want to go there now . . .*(laughter)*. . .

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UNIDENTIFIED SPEAKER: Okay.

MR. TAGORDA: This...where I come in. I like challenges in my life. When I was there from 1997 to 2002 --

COUNCILMEMBER MEDEIROS: Right.

MR. TAGORDA: --there were so many complex issues that comes from the Water Board...the Board of Water Supply. The Department is...I could say dysfunctional at that time.

COUNCILMEMBER MEDEIROS: Uh-huh.

MR. TAGORDA: I don't know about now, see. So...but we had good projects that it became...complex again. We had that H'Poko Well that was _____. Pookela was good. But I don't know what's going on now.

COUNCILMEMBER MEDEIROS: Right.

MR. TAGORDA: Okay, but I...we did some...tackle some good complex job before.

COUNCILMEMBER MEDEIROS: Okay. Thank you. Can you explain to me...because you also served on another commission from 2006 to 2008 called the Hawaii Commemorative Quarter Advisory Commission. What...what was that commission about?

MR. TAGORDA: This was formed...all the members—I think we are about 35 members all over the island—to design what we have now in our quarter, okay, with all our...all of the islands and King Kamehameha overseeing all of the islands. Our--

COUNCILMEMBER MEDEIROS: So the quarter...the quarter being the coin?

MR. TAGORDA: Yes, yes.

COUNCILMEMBER MEDEIROS: The quarter coin?

MR. TAGORDA: Yes, Mr. Medeiros.

COUNCILMEMBER MEDEIROS: Okay.

MR. TAGORDA: That's where I was involved for two years. I...I go to Honolulu to get a meeting and it was a very, very, very efficient way of moving things around --

COUNCILMEMBER MEDEIROS: Uh-huh.

MR. TAGORDA: --with 35 members.

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COUNCILMEMBER MEDEIROS: Right. Okay. Thank you for explaining that part to me.

MR. TAGORDA: Thank you.

COUNCILMEMBER MEDEIROS: I didn't know what quarter meant. But now I know it's the coin. But I...I wanted to also ask you, because the Planning Commission is such an important commission and very involved in many things in our County, what would be your approach--because as you serve on a commission . . .(end of tape, change to Tape 2A). . . people will stop you, you know, at the store, at events and...and ask you about issues. So how, how would you approach that kind of activity for yourself outside of Planning Commission meetings?

MR. TAGORDA: So when you become members of this important boards and commission, you are...your decision is gonna be based on form, information, factual and rightful information. So you are there to not make judgment but to hear them. See? So my approach would be neutral. You listen to all...all walks of life because sometimes people talk. . .not right. So we need to gather right information before we make judgments.

COUNCILMEMBER MEDEIROS: Okay. Thank you, Mr. Tagorda. I appreciate your sincere and candid responses and for being here this morning.

MR. TAGORDA: Thank you.

COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman.

CHAIR MOLINA: Thank you, Member Medeiros: Member Baisa?

COUNCILMEMBER BAISA: Thank you, Chair. And thank you, Mr. Tagorda, for being here today. I don't have a lot of questions for you because I happen to have the privilege of knowing you. But I do have one question I wanna put on the table for you 'cause I think it's important. We've noticed that many times, you know, the Planning Commission works really, really hard. I do not envy them. Oh, they spend hours and hours and hours making extremely difficult decisions and it's very stressful. But there's a *huge* commitment of time that's required. This so-called semi-retired status, will that give you the flexibility to be able to be there?

MR. TAGORDA: I...I have no problem, Member Baisa, of attending *every* meeting they have because when I was at the Board of Water Supply and I'm still working for HC&S, I tried 90 percent of my time to be there.

COUNCILMEMBER BAISA: Good. Well, thank you very much.

MR. TAGORDA: You're welcome.

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COUNCILMEMBER BAISA: 'Cause I think attendance is a very, very important issue. Nothing is worse than when they cannot almost get a bare quorum to make decisions. So thank you very much.

MR. TAGORDA: Thank you, Member Baisa.

CHAIR MOLINA: Thank you, Member Baisa. Committee Members, questions? Member Johnson, followed by Member Pontanilla.

COUNCILMEMBER JOHNSON: Thank you so much, Orlando. And thank you for calling me, too. I really--

MR. TAGORDA: You're welcome, Member Johnson.

COUNCILMEMBER JOHNSON: --appreciate your sincerity and, you know, your openness and I thank you for the conversation that we had personally. I just wanna . . . *(clears throat)*. . . ask you one really important question 'cause I'm only one of nine members and I don't know, you know, how this will occur or, you know, if your nomination will pass or if it will not pass. Only God knows that . . . *(laughter)*. . . so I wanna ask you . . . *(clears throat)*. . . if for some reason because of the situation with regard to the geographic representation which is probably the only reason that I could see that you would not be confirmed. . . if you are not confirmed this time, will you still be willing to serve when those...when other appointments come forward in the future? If we should choose to ask Administration to get someone from West Maui, would you still be willing to serve?

MR. TAGORDA: Member Johnson, I have been applying for this commission for two years now, since 2007. And I got chance to be picked out by our Mayor. Now, I didn't do anything. I just turn in my application because of my interest. So I can't wait anymore.

COUNCILMEMBER JOHNSON: . . . *(laughter)*. . .

MR. TAGORDA: I want to be there.

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

COUNCILMEMBER JOHNSON: . . . *(Laughter)*. . . Yeah. But...but if you **have to** wait, you know, it's kinda like...

MR. TAGORDA: Well, if I have no choice. I still have to put in my application.

COUNCILMEMBER JOHNSON: Okay.

MR. TAGORDA: But I love...I like your support so I be confirmed.

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COUNCILMEMBER JOHNSON: And, and I know.

MR. TAGORDA: That's why I talked to you.

COUNCILMEMBER JOHNSON: I know. And whether...whether I do or whether I don't, you *know* that I support--

MR. TAGORDA: Like I...*(inaudible)*...

COUNCILMEMBER JOHNSON: --you as a human being--

MR. TAGORDA: Like I told you--

COUNCILMEMBER JOHNSON: --and you're a decent individual.

MR. TAGORDA: --when we were on...on the phone, I will represent Lahaina to the best of my ability--

COUNCILMEMBER JOHNSON: ...*(inaudible)*...

MR. TAGORDA: --if that's your concern.

COUNCILMEMBER JOHNSON: ...*(inaudible)*... I believe you. I believe you're sincere. Thank you very much, Orlando.

MR. TAGORDA: ...*(inaudible)*...

COUNCILMEMBER JOHNSON: And thank you for your willingness to be...be right there and persevere no matter what. Thank you.

MR. TAGORDA: Thank you, Member Johnson.

CHAIR MOLINA: Thank you, Member Johnson. Member Pontanilla?

COUNCILMEMBER PONTANILLA: Thank you, Chairman. Good morning, Orlando. You know, I've been there before, where you're at. And I've been questioned by several of the Members that are sitting here today. And the questions that were brought out were, you know, not easy questions. But thank you for your sincerity in your responses. And one comment that really hits me is that, you know, you say if you're selected as a Commissioner that you would be representing Maui...you know, fairly. But the question that I have, you know, it shows here when you was working for HC&S you was the Water Coordinator. What was the duties for that particular position?

MR. TAGORDA: My duties as a Water Ditch Coordinator is that I...I gather information where the water's coming from, from all the way to East Maui and West Maui. And I tried to

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monitor that, time it where it were...that water reaches a certain ditch so I can allocate that efficiently to all the farms that needs that water. That's my job. I take rainfall reading. I take _____ reading. And every time I have to call Wailoa when the water is coming. How much, how many million gallons are there so we know what to do 24/7.

COUNCILMEMBER PONTANILLA: Thank you. So you...you basically provided water to the different fields or to the different farms...as a Water Coordinator?

MR. TAGORDA: Yes, Member.

COUNCILMEMBER PONTANILLA: Thank you. Thank you, Chairman.

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

COUNCILMEMBER VICTORINO: ...*(Chuckles)*... I guess I should, eh? And thank you, Orlando, for being here. And I've listened with great intensity to your answers to the various questions Members have brought up. And I'm very thankful that, first and foremost, you're here for the purpose of serving the people of Maui County. What can we ask for more? I think that's something we tend to forget in this day and age of the difficulty in finding volunteers to do anything, to serve on many boards and commissions. In fact, you guys remember just recently we just reduced one board membership because of the fact of the *difficulty* of getting applicants, let alone getting quorums. So we have an applicant here—oh, okay, maybe not from the resident district and we've seen that happen before. But then not like the water issue, the Water Board, because that was almost two years we'd have to wait. We have five months for which the Mayor, and hopefully sending someone from West Maui, down to us. So that would be March of next year. So it's not like we gotta wait a *long* time to get a representative from West Maui or any particular district. And so, Mr. Tagorda, I...I don't have to ask you questions because you've already answered all my questions. I will say that, you know, I'm thankful for people like you stepping forward, that are willing to step forward, get under the microscope, all the scrutiny that we do here in...in this Chamber, any other areas. We live in a day of...transparency. Everybody wants to know everything about anything. But sometimes I'm surprised how much people don't really understand what's going on. So, Mr. Chair, I wait for your recommendation. I thank Mr. Tagorda again for being here. And, you know, all the questions my Members asked were very good and it's helped me make a good decision. And I thank all my Members for asking the questions. Thank you, Chair.

CHAIR MOLINA: Okay. Thank you, Mr. Victorino. Mr. Tagorda, I...I have just one question for you. In looking at your application and your reasons why you...included in there a word that Mr. Victorino used, "transparency" and "full accountability." Can you just elaborate a little bit on that 'cause those words are...are used a lot in the--

MR. TAGORDA: Oh--

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CHAIR MOLINA: --community and, of course, especially campaign time, too, you know when-

COUNCILMEMBER BAISA: . . .*(laughter)*. . .

MR. TAGORDA: Okay. I...I didn't get anybody to write this for me. I wrote it from my own word. When I said "full transparency" and "full accountability", I'm bringing something honest. I'm bringing something to the body, Planning Commission, an honest work, untainted, unbiased, neutral, independent. That's what my use of "full transparency and accountability." I will be accountable to the community as a whole, to Maui County. And like I said if that trust is bestowed upon me, Maui County, take...be assured that I will not betray you. I will work the best I can to improving our quality of life and make sure that we get all these grandkids growing up, generations to come, they can live here with a lot of job, a lot of work, affordable housing, affordable rental units, you name it. We are all for that. That's what I meant...Mr. Chair.

CHAIR MOLINA: Okay. Thank you. Members, any other questions before I excuse Mr. Tagorda?

. . . Seeing none, thank you very much, Mr. Tagorda, for your time.

MR. TAGORDA: Thank you so much. I have the utmost respect to every...each and every one of you. Have a good day.

CHAIR MOLINA: Okay. Thank you. All right, Committee Members, I believe Mr. Medeiros had a question for Corporation Counsel. Ms. Sloper, are you available to...to answer the question now for Mr. Medeiros?

MS. SLOPER: Uh. . .sort of . . .*(laughter)*. . . Mr. Medeiros, I think there actually isn't a...a definition for geographic representation in the Charter itself. The only reference is to. . .basically geography are in Article 3, Section 3-point...3-1 which is on Pages 2 through 4 of the Charter, which would be the districts that each of you represent. And then also as Mr. Tagorda pointed out in Section 8-8.4, the Planning Commission has the additional requirement that members be from the *island* for which the Planning Commission is for. So in this instance, the Maui Planning Commission would be for this island.

CHAIR MOLINA: Mr. Medeiros?

COUNCILMEMBER MEDEIROS: Ms. Sloper, thank...thank you so much for researching that and pointing that out. I think it helps me understand better what their...what the Charter is speaking of when this...it speaks of geographic representation. So thank you very much. Mahalo, Mr. Chairman.

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CHAIR MOLINA: Thank you, Mr. Medeiros. Members, any other questions before the Chair offers a recommendation?

COUNCILMEMBER VICTORINO: Recommendation?

COUNCILMEMBER MEDEIROS: Recommendation?

CHAIR MOLINA: All right, Members, the Chair will recommend the nomination of Mr. Orlando Tagorda, replacing John B. Guard to the Maui Planning Commission, for a term expiring on March 31st, 2011.

VICE-CHAIR MATEO: Chairman, I move the approval of the nomination of Mr. Tagorda to the Maui Planning Commission.

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

CHAIR MOLINA: Okay. The motion has been made by Committee Vice-Chair Mateo and seconded by Committee Member Victorino. Members, the floor is open for discussion. I will recognize Mr. Mateo, first, as the maker of the motion. Mr. Mateo?

VICE-CHAIR MATEO: Chairman, this, this was for me a very difficult. . .consideration. And the difficulty was because of the consideration of requirement. And after having the opportunity to talk with Mr. Tagorda, I believe that it becomes incumbent on this Administration to start abiding by process and following requirements as set by Charter. I think it's unfortunate that Mr. Tagorda was caught between a rock and a hard place. But here comes an individual that is sincere. This man is willing to subject himself to the abuse . . .*(laughter)*. . .

ALL: . . .*(laughter)*. . .

VICE-CHAIR MATEO: --that this community, based on projects that he will be reviewing, will be subjected to. I believe in his sincerity and I believe in his wanting to make a difference. I think what...you know, kinda impacted me was when he's...he spoke and he said, "I will represent *all* of Maui." That's what we do. I'm from the island of Molokai. I represent not only Molokai, I represent *all* of Maui County. So I am willing to support this man's nomination and advise Administration to *abide* and do as the Charter recommends. And I'm sorry Mr. Tagorda had to go through this difficult hearing process but, Mr. Chairman, I will support your recommendation.

CHAIR MOLINA: Thank you, Mr. Mateo. Member Johnson?

COUNCILMEMBER JOHNSON: I...you know, this is also very difficult for me because I had a long conversation with Mr. Tagorda. And I asked him many questions about his knowledge of West Maui because that, I think, is one of the things that when you're voting on issues, you...you need that kind of fundamental institutional knowledge about

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what you're gonna be voting on. But he assured me that if there were questions or things that came up where he did not have that knowledge or expertise that he would certainly seek...input from me or from our community because. . .five months may not seem like a long time to people, but when a development is approved those five months can make all the difference. I don't know who the representative would be from the geographic area of West Maui. I...I—that's another thing, you know. I...I will have to recheck and make sure that those individuals file their applications. But I respect Mr. Tagorda and I trust him enough that he will be true to his word and that he seems a man of honor who will treat his word as his bond. And I will be happy to give him that support *only* to prove that, yes, he can represent my geographic district just as equally as he can support any other geographic district. And I share Member Mateo's comments, though--and I feel that as the West Maui representative in the past, I have extended repeatedly to this Administration, and I'm not holding Mr. Silva accountable for this because this has been offered straight to the Mayor and to Mr. Silva's predecessor. Repeated requests that when you...if you don't get a representative from West Maui, if you don't get someone qualified, let me know because there are many people that approach me continuously who I think can be unbiased, who perhaps do not have that predisposition to having a particular approach to government or to decision-making. So I would hope, though, that the Administration would pay *me* as well as other Members--and I know the same thing happened with Member Medeiros—pay us the respect that I believe we are accorded. And have the common courtesy to *call* us or to consult with us or to ask, do we *know* anything or do we know anyone from that area? That is the way that I would like to be treated and I am happy to extend that. I've tried to work with the various departments and Parks Director and I have regular communications so I know that it's possible. But that is my disappointment and I explained that to Orlando because I thought he deserved to know. And much as Member Mateo said, he's caught in the middle but I will support him and I will expect a...better way of handling things in the future from this Administration, 'cause if we're supposed to be working together for the benefit of the *people* then why is there little or no communication? Thank you.

CHAIR MOLINA: Thank you, Member Johnson. Point well taken.

COUNCILMEMBER VICTORINO: Chair?

CHAIR MOLINA: Member Nishiki, followed...

COUNCILMEMBER NISHIKI: No, I'll...I'll wait.

CHAIR MOLINA: Okay. All right. Mr. Victorino, followed by Mr. Pontanilla.

COUNCILMEMBER VICTORINO: Okay. Thank you and, you know, I'll say that what hit me very, very hard this morning was the fact that Mr. Tagordo [*sic*] said, you know, numerous times that I am willing to serve *all* of Maui. And I think that's so important in anything anyone we've brought on boards and commissions, first and foremost no matter where they come from. As we heard from one testifier that one of the Planning

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Commissioners that was from the district for which he lives in really didn't understand his neighbor or his area--and that happens sometimes, you know. Do we understand every part of our community? As Councilors we try our best, but sometimes we don't know everything. And that's why have to go out and find experts to help us. Go to the community. Go to community meetings. Understand the dilemma of the community, the associations. And then we can...then make better decisions. Five months is *not* relatively long. Considering where the economy is right now, there's not much happening out there. A lot of things have come to a complete halt. And it's like you heard yesterday, \$70 million of projects are sitting and not moving and primarily because of the financial markets out there. Nothing the government can do. Nothing much anybody can do until the financial markets let loose and hopefully very soon. I thank Mr. Tagorda for taking today the time to be here. I can support a person that is willing to work for the entire County, especially the island of Maui 'cause Planning Commission is just basically Maui, yeah? No matter where. And the willingness to go out and learn like we have to. The willingness to go seek help when he needs to. I will echo the same sentiments as my colleagues as far as the Administration, Mr. Silva--you can pass it on to Administration, to the Mayor, that considerations for geographical areas should be made. And hopefully next year when she does, she will do that. She will look. I agree that sometimes consultation with us wouldn't hurt. A quick call, a quick e-mail. You got anybody, any? I don't think these things are unreasonable requests. I have to agree with them. But I will not hold up somebody's nomination, especially someone who has a good, good intention like this person because of a geographical issue, especially when I know very soon we'll have an opportunity to correct that. And I will stand fast in five months when those nominations come down, if there is nobody from West Maui the Administration is gonna have a *difficult* time having my support. I'm putting it at right now, drawing the line...the line in the sand. No ifs, buts, Mr. Chair. I've made it known. West Maui will have someone or this gentleman, this Council Member will not be supporting it. So you can pass that message and if the Mayor ever really watches this after, like I do at 3:00 in the morning, she'll hear it. Thank you, Mr. Chair. . . .(Laughter). . .

CHAIR MOLINA: Thank you, Mr. Victorino. Sounds like you have a little insomnia at times.

COUNCILMEMBER VICTORINO: Ah...

CHAIR MOLINA: Like the rest of us.

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

CHAIR MOLINA: Mr. Pontanilla?

COUNCILMEMBER PONTANILLA: Thank you, Chairman . . .(laughter). . . After, you know, following Mr. Victorino's pretty tough but, you know, my earlier comments regarding a comment that Mr. Tagorda had indicated serving, you know, all of Maui really brought things home to me, because we're elected, all nine of us, by the people of Maui County.

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And we serve all districts. I...I...I remember when I was on the Planning Commission looking for someone to replace me in the area that I was representing was difficult. We didn't select anybody from my district. And, you know, I...I can understand the feelings of Ms. Johnson in regards to having someone from the district. So we waited year and a half. Someone resigned and then we filled that seat with a person from Kahului. So I really appreciated the Committee at the time, the so-called Blue Ribbon Committee, during the Arakawa administration for selecting someone from Kahului, after lobbying for year and a half trying to get somebody on the Planning Commission from Kahului. And at that, somebody from agriculture. So, Mr. Chairman, I'm gonna be supporting the nomination of Mr. Tagorda. You know, I've known Mr. Tagorda for a number of years. He's very sincere in the things that he say and he do. I know he's gonna work hard. So, Mr. Chairman, I await your call. Thank you.

CHAIR MOLINA: Thank you, Mr. Pontanilla. Member Medeiros, followed by Member Baisa.

COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman. And, Mr. Chairman, I certainly will be supporting your recommendation and the motion that's on the floor. I...I wanna say, you know, as far as Mr. Tagorda, I was impressed that he took the initiative to engage a personal discussion with me...about this nomination. And I think, you know, when people have that kind of initiative it speaks well of them. But beyond that, he also in...in our discussions of things—and that's why I like to, you know, have personal discussions with people—is because you get a good sense of that person by their eye contact and by their body impressions when you ask them questions. So I was impressed that I could sense his sincerity, his passionate advocacy that he was expressing. And I asked him what was his passionate advocacy. And it...he said it was to do things on the Planning Commission that would benefit and improve everyone's quality of life and the sustainability of our County. So *that* impressed me. And I know we've had the discussion about geographic representation. And as Member Johnson mentioned, we did have that discussion also for a representative from the East Maui district. And I appreciate this Council's supporting us being able to get a representative from our district. So I think in listening to the testimony this morning from Mr. and Mrs. Kamaunu, certainly they bring up a good point that representatives of different areas should reflect the lifestyle and the needs of those areas. And so I...I think we have to, in our future reviews of nominees, consider that sincerely. But I...I wanna thank you, Mr. Chairman, for having this this morning and for changing it on your calendar. And I wanna thank Mr. Tagorda for making himself available for us to ask questions. And I certainly will wholeheartedly support this nomination. Mahalo, Mr. Chairman.

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

COUNCILMEMBER BAISA: Yes, Chair, thank you very much. It's serendipitous but last night--I guess I don't sleep very well either. My husband and I were up until almost midnight. In fact, he lasted longer than I did watching the Planning Commission meeting. And I can't help but wonder about the dedication of people that are willing to

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serve on the Planning Commission. It's a tough, tough commission to serve on. There's so much information. There's so many long meetings and there's so much...debate and sometimes it gets a little contentious and hot, you know. And it's not an easy place to be and I'm sure people take that home and, ahh, feel like they need a margarita when it's over. I mean it's a tough place to be and the fact that we have a person who is willing to do that and who has the sincerity, in my opinion, has the time and is *humble* and certainly has the...people skills. You know, I'm impressed by the fact that he took the time to contact the Members who didn't know him, to discuss their concerns with them and, to...prepare for today. And, you know, I have to admire that. And I think that I don't have any problem in supporting Mr. Tagorda. But I am a little feeling bad that he's had to endure this trial here in order to be confirmed. And it isn't fair because on the short time I've been on this Council, this is the *second* time that we have been through this geographic issue. We went through it with Hana and now we're doing it for...with the issue over West Maui. And I really would *beg* whoever is in charge of this, if it's the Mayor or staff or whoever does it, to *please* try harder to try and bring us a balanced geographic representation so that we don't have to put people through this. It's embarrassing for them and it's difficult for us. And our community doesn't need this kind of stuff going on. It's makes me very uncomfortable when I see emotional and hurtful things happening. I don't think they need to be. With a little bit more preparation and a little bit more everybody thinking and being sensitive about how people feel about things, maybe we can avoid some of this. So anyway, Chair, I will be supporting your recommendation with pleasure and thanking Mr. Tagorda very much for his willingness to take on this kind of a job. Good luck.

COUNCILMEMBER VICTORINO: ...*(Laughter)*...

CHAIR MOLINA: Thank you, Ms. Baisa.

COUNCILMEMBER BAISA: ...*(laughter)*...

CHAIR MOLINA: Mr. Nishiki?

COUNCILMEMBER NISHIKI: I...I...I want to not offend any of you people and I'm glad all of you are here today. And so when I speak please listen to what I say and please don't take it personally. Earlier I spoke about the Charter and I've heard one, two, three. . .four of you mention about the geographical consideration, perhaps why Mr. Tagorda has had to go through this process. As you heard, I did not question him because I did not feel that I needed to because this vote for me is not against him. It's *not* against him. And I heard some of you Members—not some, I heard...doesn't matter how many--bring up the situation of, oh, there is somebody that works in Lahaina so, therefore, maybe this consideration should be given because we've had this occurrence occur before. So I want to bring up again and this is what I call, you know, easily trying to twist how we want to suit perhaps the, how we want to defend ourselves in this vote. If we are going to say that. .if we are going to say that and give that as a reason--that somebody may not live there but they work there, then I bring up the situation. If...what if all our Planning

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Commissioners, *all* of them, nine of ‘em, live in Kihei. But one works in Paia, one works in Makawao, one works in Lahaina, one works in Kahului, one works in Wailuku, one works in. . .Makawao—if I didn’t say Makawao.

UNIDENTIFIED SPEAKER: You said that . . .*(laughter)* . . .

COUNCILMEMBER NISHIKI: Yeah. . . .*(Laughter)* . . . Yeah. Okay, so that’s gonna be okay? *That’s* gonna be okay if . . .if . . .if we’re going to follow that train of thought? And as I said, it’s not personal. It’s what was said and . . .and then I examined it and I go, no. . .that is not what the Charter says. I really—and I’ll do my research—but I really mean that this means when they talk about this that it should be where you live. And I don’t know if the application form that one takes and . . .and looks at is supposed to be representative, but it sure ask, it sure ask in the application form, your name, last name, first name, full middle name, city of residence. And then it asks island. So it’s pretty specific in here and I think it had to do with why we need to look at where we live in . . .in regards to what the Charter is saying. And again, Mr. Chairman, I don’t wanna second-guess this Charter and . . .and . . .and . . .and allow us to stretch it, stretch it anyway we can and give those reasons as to why we cannot consider what the Charter is saying in . . .in . . .in passing any individual that comes before us. But it . . .*(end of tape, change to 2B)* . . . Administration, if you think that you are aside from looking at this and . . .and . . .and getting a legal opinion--and I think that we may need to, Mr. Chairman, so that we can all sit by what the Charter Commission discussed and normally we can find out if they discussed whether you need to reside and resident and that was the background of why they passed this, then we should. That way there will be no more speculation on how this Administration brings forth nominations. And so today. . .Nishiki may be casting the only “no” vote. But I think we have to get across—and again I said it’s not against Mr. Tagorda. That’s why I asked no questions . . .to him. It is against how this starts, as Danny Mateo said, and how it comes before us. I think is . . .why it is uncomfortable for many of you is because of what has occurred here. And . . .and . . .and my vote today is get it together, do your research and *don’t* put us in this situation. That’s all. And for this reason, Mr. Chairman, I am voting “no”. I believe the Charter is specific and . . .and we have no one from West Maui that resides there. So that is my reason for voting “no”. And thank you so much. And I apologize because I meant to offend no one. Just what we’re reading from and what the law says. Thank you.

CHAIR MOLINA: Okay. Thank you, Mr. Nishiki. And I don’t believe you’ve offended anyone. The Chair certainly appreciates your passion and your stance on this issue.

COUNCILMEMBER NISHIKI: Thank you.

CHAIR MOLINA: Member Kaho`ohalahala?

COUNCILMEMBER KAHO`OHALAHALA: Thank you. Thank you, Chair. I agree with all of the discussion that’s been placed before us on this particular . . .nomination. One of the things that is important to me is the . . .the honor of the word. And Mr. Tagorda coming

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forward today--and I appreciate the time he's taken to...to contact the Council Members. I was not able to meet with Mr. Tagorda personally, but I appreciate his responses today. And I wanna say that words are very honorable. And Mr. Tagorda has presented to us, I think, today his words of honor. And so it is that that's going to help me make my decision today. And that I appreciate the fact that he comes and presents himself in a manner in which I think has been honorable. So for that reason I will be supporting his nomination. Thank you.

CHAIR MOLINA: Okay. Thank you, Mr. Kaho`ohalahala. I guess the Chair will take the privilege of speaking last on this. And I wanna thank all of you for your comments and opinions and your passion. To Mr. Tagorda, thank you for putting yourself up before us. I know it wasn't easy especially with what transpired at the first meeting. We all knew full well this would be a challenge for you. My personal feeling has always been with any nominee is to give them the benefit of the doubt. And unless there's something horrific, so horrific in their background, then that's a whole 'nother story. Again, Members, just to remind you this is for a term expiring on March 31st, 2011. So basically it's just for a little over a year. Mr. Tagorda, should he get the approval, doesn't have a lot of time to prove himself. And especially if he wants to be considered for a full term he will definitely have to do a lot and once again come before us. And as has been stated by many of you, he has certainly impressed you with his passion and his commitment. And that is certainly appreciated by all. And the Administration, you've heard from at least one Member about the seriousness of coming back here and keeping the Administration's word about having a nominee from West Maui, which I presume, will be in March of next year. And the Chair shares that same feeling as well. So there certainly will be resistance if there is not a nominee for consideration in the coming months. So just to remind you, Mr. Silva, and as well as the Administration. And thank you for being here as well to respond to the questions and inquiry from the Committee. So, Members, with that being said, the Chair will now call for the vote. All those in favor of the nomination of Orlando Tagorda to the Maui Planning Commission for a term expiring on March 31st, 2011, signify by saying "aye".

COUNCIL MEMBERS: Aye.

CHAIR MOLINA: All those opposed?

COUNCILMEMBER NISHIKI: No.

CHAIR MOLINA: Okay. We have eight "ayes" and one "no", Mr. Nishiki. So Mr. Tagorda, his nomination passes and this will go on to the full Council. Thank you very much, Members, for all of your opinions and thoughts. You worked very hard and the Chair can certainly can respect the comments from both sides of the issue.

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VOTE: **AYES:** **Councilmembers Baisa, Johnson, Kaho`ohalahala, Medeiros, Pontanilla, Victorino, Vice-Chair Mateo, and Chair Molina.**

NOES: **Councilmember Nishiki.**

ABSTAIN: **None.**

ABSENT: **None.**

EXC.: **None.**

MOTION CARRIED.

ACTION: **Recommending APPROVE the nomination and TRANSMIT a copy of the committee report to the Mayor.**

CHAIR MOLINA: Members, I think we've earned a break.

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

CHAIR MOLINA: The Chair would like to call for --

COUNCILMEMBER VICTORINO: . . .*(Chuckles)*. . . Pretty soon . . .*(inaudible)*. . . over there.

CHAIR MOLINA: --a recess. Members, we shall return at five minutes to the hour of 11 o'clock. This...Committee of the Whole meeting for November 19th, 2009 is now in recess. . . .*(gavel)*. . .

RECESS: **10:42 a.m.**

RECONVENE: **10:57 a.m.**

CHAIR MOLINA: . . .*(gavel)*. . . The Committee of the Whole meeting for November 19th, 2009 is now back in session. Members, we have one more item left on our agenda for 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: And that is Committee of the Whole Item 1(20), a Settlement Authorization involving Kamaole Pointe Development LP, et al. versus the County of Maui, et al. Committee is in receipt of a correspondence dated November 2nd, 2009 from the Corporation Counsel's Office transmitting a proposed resolution entitled Authorizing Settlement of Kamaole Pointe Development LP, et al. versus the County of Maui, et al.,

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Civil No. 07-00447. And 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 we have from the Corporation Counsel's Office to give us an...overview in open session, Ms. Madelyn D'Enbeau. Ms. D'Enbeau?

MS. D'ENBEAU: Thank you, Mr. Chair. Good morning, Members. As you recall, I was here on October 15th just a little more than a month ago on this case. And just as a brief review, the case was filed in 2007, alleging that the Workforce Housing Ordinance was unconstitutional on its face--meaning it should just be thrown out altogether. And also "as applied". "As applied" meant...referred to the hearing that was held before this body on a waiver application by the Plaintiff in the case. So I'm happy to say...as I mentioned before, the court did find on a motion for summary judgment that the Residential Workforce Housing Ordinance *is* constitutional on its face. So it stands subject to review or an appeal. It stands at this point. But should the matter be appealed, there might be a different result. But in any case right now it's constitutional. What remains is the issue about whether or not the waiver hearing that was held before this body provided due process. And in addition there's an issue about whether this is the proper body to hear this waiver in any case. But those are the issues that we're...that we have left for settlement. And at the October 15th meeting I was given some instructions by this body. We had a further settlement conference with Judge Kobayashi over in Federal court on October 28th, 2009. And I'm here today to report on the results of that settlement conference which I would like to do in executive session.

CHAIR MOLINA: Okay. Thank you, Ms. D'Enbeau. Committee Members, any questions in open session related to this matter?

COUNCILMEMBER VICTORINO: No.

CHAIR MOLINA: Okay. Seeing none, then the Chair will agree with the recommendation to go into executive session for further discussion. So therefore the Chair will 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.

COUNCILMEMBER VICTORINO: So moved, Mr. Chair.

COUNCILMEMBER PONTANILLA: Second.

CHAIR MOLINA: Okay. It's been moved by Member Victorino and seconded by Member Pontanilla to go into executive session. Discussion, Members? Seeing none, all those in favor, signify by saying "aye".

COUNCILMEMBERS: Aye.

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CHAIR MOLINA: All those opposed? Thank you. The Chair will mark it six “ayes” with three excusals, Members Mateo, Kaho`ohalahala and Medeiros.

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

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmembers Kaho`ohalahala, Medeiros, and Vice-Chair Mateo.

MOTION CARRIED.

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

CHAIR MOLINA: Okay, Members, we shall now prepare the Chambers for Executive Session so we shall take a brief recess and once the recess is done, we shall convene in executive session. This Committee of the Whole meeting for November 19, 2009 is in recess. . . .(gavel). . . .(end of tape, start 3A). . .

RECESS: 11:01 a.m.

RECONVENE: 11:17 a.m.

CHAIR MOLINA: . . .(gavel). . . Committee of the Whole meeting for November 19, 2009 is back in session. Members, based on discussions in Executive Session, the Chair is going to recommend that we defer Committee of the Whole Item 1(20). Any objections?

COUNCIL MEMBERS: No objections.

CHAIR MOLINA: Okay, so ordered.

COUNCIL MEMBERS VOICED NO OBJECTIONS. (excused: WM and DAM)

ACTION: DEFER pending further discussion.

CHAIR MOLINA: Members, I believe this takes care of business for our meeting for today. Chair would like to thank you all for your hard work, as well as the Administration's participation--thank you for all of your efforts--and to our hardworking Committee Staff.

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And, Members, don't forget at 1:30 today we have an Economic and Agricultural and Recreational Committee meeting chaired by Member Johnson today, 1:30. So please be there or be square. So --

COUNCILMEMBER JOHNSON: ...*(laughter)*...

CHAIR MOLINA: --with that being said, Members, have a great day and once again thank you all for your hard work. It is 18 minutes after the hour of 11 o'clock. This Committee of the Whole meeting for November 19th, 2009 is now adjourned. ...*(gavel)*...

ADJOURN: 11:18 a.m.

APPROVED:



MICHAEL J. MOLINA, Chair
Committee of the Whole

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Transcribed by: Reinette Kutz

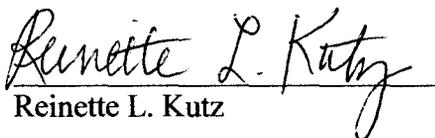
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CERTIFICATE

I, Reinette Kutz, 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 9th day of December, 2009, in Wailuku, Hawaii.


Reinette L. Kutz