

# **BUDGET AND FINANCE COMMITTEE**

**Council of the County of Maui**

## **MINUTES**

**January 12, 2010**

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

**CONVENE:** 1:33 p.m.

**PRESENT:** Councilmember Joseph Pontanilla, Chair  
Councilmember Danny A. Mateo, Vice-Chair  
Councilmember Gladys C. Baisa, Member  
Councilmember Sol P. Kaho`ohalahala, Member  
Councilmember Bill Kauakea Medeiros, Member  
Councilmember Michael J. Molina, Member  
Councilmember Wayne K. Nishiki, Member  
Councilmember Michael P. Victorino, Member

**EXCUSED:** Councilmember Jo Anne Johnson, Member

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

Leinaala Kihm, Executive Assistant to Councilmember Medeiros

**ADMIN.:** Frederick Pablo, Budget Director, Office of the Mayor  
Marian Feenstra, Executive Assistant, Office of the Mayor (BF-63)  
Kalbert L. Young, Director, Department of Finance (BF-4)  
Tamara Horcajo, Director, Department of Parks and Recreation (BF-63)  
Don Medeiros, Director, Department of Transportation (BF-62)  
Wayne A. Boteilho, Deputy Director, Department of Transportation (BF-62)  
Edward S. Kushi Jr., Deputy Corporation Counsel, Department of the Corporation  
Counsel (BF-62)  
Traci Fujita Villarosa, First Deputy Corporation Counsel, Department of the Corporation  
Counsel

**OTHERS:** **Item 63:** Dale Bonar, Maui Coastal Land Trust  
Others (1)

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

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CHAIR PONTANILLA: . . .(*gavel*). . . The Budget and Finance Committee meeting is now in session. Today is January the 12<sup>th</sup>, 2010. Time is 1:33 p.m. Good afternoon, Members.

COUNCILMEMBER VICTORINO: Good afternoon, Chair.

CHAIR PONTANILLA: At this time the Chair of the Committee would like to introduce the Members that are here this afternoon. We do have Member Molina.

COUNCILMEMBER MOLINA: Good afternoon, Chair.

CHAIR PONTANILLA: Good afternoon. Member Baisa.

COUNCILMEMBER BAISA: Good afternoon.

CHAIR PONTANILLA: Good afternoon. Member Kaho`ohalahala.

COUNCILMEMBER KAHO`OHALAHALA: Good afternoon, Chair.

CHAIR PONTANILLA: Good afternoon. Member Medeiros.

COUNCILMEMBER MEDEIROS: Aloha. Good afternoon.

CHAIR PONTANILLA: . . .(*Inaudible*). . . Member Nishiki.

COUNCILMEMBER NISHIKI: Good afternoon,

CHAIR PONTANILLA: Good afternoon. Chair Mateo.

VICE-CHAIR MATEO: Good afternoon.

CHAIR PONTANILLA: Good afternoon. And Member Victorino.

COUNCILMEMBER VICTORINO: Good afternoon and aloha, Chair.

CHAIR PONTANILLA: Good afternoon. At this time excused is Member Johnson from this meeting this afternoon. I'd like to make a quick introduction of the Administration over here. We do have the First Deputy Corporation Counsel Traci Fujita Villarosa, our Budget Director, Mr. Pablo. And joining us from the Department of Transportation, we do have Don Medeiros as well as his Deputy

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here this afternoon. Supporting the Committee we do have Gayle Revels as well as Yvette Bouthillier.

Members, we do have three items on the agenda. Prior to going to the individual agenda items, we do have public testimony this afternoon. For those of you that are providing public testimony this afternoon, you have three minutes of public testimony, one minute to conclude. Before I call on the first and only person that signed up for testimony, Members and members of the audience, if you could turn off your cell phones. Chair would appreciate that. Okay, Members, we do have one person signed up for public testimony, Mr. Dale Bonar from the Maui Coastal Land Trust.

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

MR. BONAR: Aloha, Chair and Members of the Budget and Finance Committee. I'm testifying in support of BF-63 which is the amendment to the Open Space bill. This does some corrections to some of the...the confusions that...that ended up in the bill when...when we got to the point of...of...actually utilizing some of these funds and particularly having to do with conservation easements. So I...I am fully in support of this. The Land Trust supports these changes. I do have a comment which...which is something that...that the Corporation Counsel may have addressed or...it...it...it may already be included. On the first page in the first section what points out, the additional language the amount of the grant should be adjusted to reflect the cost of the appraisal to the County which is certainly an acquisition cost. I would suggest you may also want to think about, if it's not covered elsewhere, other costs that may come up, upfront. And what I'm specifically thinking about is Phase I environmental surveys which are often required when matching funds are coming from State or Federal sources. And the other thing might be a survey. So those kind of costs may already be covered somewhere else in...in legislation but...but you might consider adding those since that might be another 10, 20 thousand dollar cost to the Council or to the County if they're purchasing these lands. Thank you very much.

CHAIR PONTANILLA: Thank you. Members, any questions for Mr. Bonar at this time? Thank you. Ah, ah, Dale, before you go, can you...cite those two items that you...

MR. BONAR: Oh, the...it...it would be on...in Paragraph 3.88.060 right in the very middle, the underlined. The amount of the grant shall be adjusted to reflect the cost of the appraisal to the County. I would suggest adding to reflect the cost of the appraisal Phase I environmental surveys or other surveys as may be necessary for the project.

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CHAIR PONTANILLA: Thank you. Thank you again, Dale. Is anyone out there that would like to...provide public testimony that hasn't sign up if you would come forward? Seeing none, the Chair would like to close public testimony if there's no objections.

COUNCIL MEMBERS: No objections.

CHAIR PONTANILLA: Thank you.

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

**ITEM NO. 62: AMENDING APPENDIX B OF THE FY 2010 BUDGET  
(ADVERTISING FEE) (C.C. No. 09-338)**

CHAIR PONTANILLA: Members, the first item on the agenda is BF-63 [*sic*], Amending Chapter 3.88 Maui County Code. Take it back. I'm sorry. It's BF-62 Amending Appendix B of the FY Budget 2010 (Advertising Fee). The purpose of the proposed bill is to amend Appendix B of the Fiscal Year 2010 Budget by inserting a new fee of \$13 per display for advertising inside County transit buses. At this time the Chair would like to call on Mr. Medeiros for your comments.

MR. MEDIEROS: Good afternoon, Chair Pontanilla and Members of the Budget and Finance...Committee. Happy New Year to you. If you recall back on April 3<sup>rd</sup> of last year, the Council adopted Title 11 of the Maui County Code relating to public transit. This authorized the Department of Transportation to implement a program for advertising in the interior of the County transit buses. The Department has moved forward with...on this endeavor and the proposed bill today establishes a rate of \$13 per advertising display, at the same advertising rate charged by the City and County of Honolulu. In the past, you recall, we tried to fashion what we're doing with some of the things that the City and County has done. This would be for non...would be for government agencies and non-profits acting through government agencies will be allowed to place displays for one month free of charge in the buses. With your Committee's approval the Department of Transportation will move forward on this project as a pilot project to gauge the market for it and to refund...refine the program as we move along with this. We estimate that revenues would be in the area of about \$13,000 a year. That's based on five separate...displays in each bus of the 14 buses that we have on the road every day. Thank you for your time and we'll be available to answer any questions you may have.

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CHAIR PONTANILLA: Thank you, Mr. Medeiros. Members, any questions for Mr. Medeiros at this time? Member Molina followed by Member Medeiros followed by Member Mateo.

COUNCILMEMBER MOLINA: Thank you, Chair. Good afternoon, Mr. Medeiros and thank you for this proposal 'cause I know it's been brought up several times over the years. I'm glad you're moving in this direction. You mentioned this was modeled after Oahu as well as the...the Big Island. Do they have something similar advertising in their buses as well, their buses?

MR. MEDEIROS: At this time, my understanding is on Oahu—on the Big Island, they...they're putting things up for free. Honolulu is the only one that had a formal program. So we've worked with them to...to glean the elements that would be...that would work for us.

COUNCILMEMBER MOLINA: Good. Well, I can certainly appreciate you looking at a charge because, you know, to help offset our costs. And I think it's a win-win for all. The installation of the ads, so this is just putting up displays or will there...will we have to have somebody hire somebody to, I guess, paint or paste the ads in the buses and will there be an additional cost? How does that work, Mr. Medeiros?

MR. MEDEIROS: The...the people who...who're wanting us to put...to put the ad in, they will do the development of the ad. They will create the posters, generally laminate it or on a heavier cardboard and we have the size, the dimensions within the...the rules. And we will do the installation and remove...removal, my office will handle that. My Department will handle that.

COUNCILMEMBER MOLINA: Oh, okay. So the...

MR. MEDEIROS: It's in-house.

COUNCILMEMBER MOLINA: Okay, so the...the advertisers, they'll do all that 'cause, yeah --

MR. MEDEIROS: Yes.

COUNCILMEMBER MOLINA: --that was my only issue was, will we have to incur a cost as well if these guys—if whoever wants to advertise in our buses. So, okay, thank you. Thank you, Chair.

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CHAIR PONTANILLA: Thank you. Member Medeiros.

COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman and Mr. Medeiros. The...it's \$13 per display and that's an interior ad. And they're all the same size then. Okay.

MR. MEDEIROS: That's correct.

COUNCILMEMBER MEDEIROS: And...and...and so that \$13 display is for how long a period of time?

MR. MEDEIROS: Be for 30 days.

COUNCILMEMBER MEDEIROS: Thirty days. Okay, and then Member Molina asked about the installation of that. Do our buses come with the frames on it where you just slide the ad underneath those frames?

MR. MEDEIROS: Yeah, that's...there are two channels --

COUNCILMEMBER MEDEIROS: Right.

MR. MEDEIROS: --that are about 11 inches high. And so you just basically slap it in.

COUNCILMEMBER MEDEIROS: Right. Okay. And then the monthly rate for one month—let me see down here—is a \$182 per month. How...how did we come about with that figure?

MR. MEDEIROS: We have 14 buses on the road every day on the fixed route.

COUNCILMEMBER MEDEIROS: Uh-huh.

MR. MEDEIROS: But there are more buses in the fleet because there are buses down for service for maintenance and for the various things. So we want to be sure that the ad is consistent and that that person or that entity will always have an ad on a bus that's on the road. So you'll have to fit all of the buses.

COUNCILMEMBER MEDEIROS: Uh-huh.

MR. MEDEIROS: And that's where we came up that the total cost really is \$182 per month. In other words to...to fit it all in the buses and...but it's based on 14 actual buses on the road.

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COUNCILMEMBER MEDEIROS: Right.

MR. MEDEIROS: So that that way the display will be there and the buses—we...we don't know on a given day where they'll be located. I mean, other than the 14 routes. So we're not going to allow advertisers to say, I...want it only in South Maui or I want it only in West Maui. It's...it's a one-shot deal.

COUNCILMEMBER MEDEIROS: Uh-huh. And...and on the buses, because the ads are standard size to fit the slots and so forth, how many total ads can be in one bus?

MR. MEDEIROS: The smallest bus we have, the interior is about 20 feet long so there's both sides of it.

COUNCILMEMBER MEDEIROS: Right.

MR. MEDEIROS: So presumably we have a certain amount of informational in...information up on those things. So you can get maybe about 30, 35 feet, something to that effect, of actual advertising that, you know, you might be able to get revenues, understanding the fact that we will have a certain amount of non-profits and that sort which we currently do now.

COUNCILMEMBER MEDEIROS: Uh-huh. And...and maybe you already mentioned this, but how did the fee of \$13...

MR. MEDEIROS: Well, that's the fee that Oahu's come up with and that they're using. They have 500 buses and...and they have it set up so you can do these various things. And so we just...we felt let's just follow that as a rule of thumb and see where this all goes.

COUNCILMEMBER MEDEIROS: Okay. And...and then finally, I think we asked this question in another previous meeting. Was there discussions or consideration for exterior ads of the buses?

MR. MEDEIROS: Currently...currently our ordinances within the County of Maui do not allow that.

COUNCILMEMBER MEDEIROS: Okay. So all interior ads?

MR. MEDEIROS: Correct.

COUNCILMEMBER MEDEIROS: Okay. Thank you, Mr. Medeiros.

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CHAIR PONTANILLA: Thank you.

COUNCILMEMBER MEDEIROS: Thank you, Chair.

CHAIR PONTANILLA: Member Mateo.

VICE-CHAIR MATEO: Chairman, thank you very much. Mr. Medeiros, thank you very much for helping us to...to create another revenue stream for the County. My only...my only, I guess, comment at this point is \$13 for one of those ads does seem really low. If you follow your...the guidelines that's posted, this is 11-1/4 by 28 inches. So this is a good size ad. And if we're gonna allow something of...of this size, a \$182 a month definitely tells you that this is where the bargain is. So I think Oahu can charge \$13 a month—an ad—because they've got the 500 buses that you've talked about. Have you looked at charging a little more than the \$13?

MR. MEDEIROS: We've looked at prevailing rates. You know, the newspaper and that sort of thing. And since this is our first endeavor, we thought let's try and keep it simple. Let's follow what another...what a metropolitan agency has and then let's see where it's going. And, you know, if we get so many, then I think we can look at some other...you know, how we can change this and bring it up. Bring the rates up if it's that popular. We have really no way of knowing the popularity of this, whether it'll sink or swim.

VICE-CHAIR MATEO: Okay. But apparently...apparently it's a successful endeavor because Oahu apparently, you know, has...their ads running throughout their entire system. Can you...can you kinda clarify for me how...how this will work in terms of our 14 buses? The...if I...I wanted to take an ad out and I would go to you, we would work out the agreement and we would have the individual do the sign. My one sign that I'm paying you \$182 a month, this one ad will go on all 14 buses or is it just in one bus?

MR. MEDEIROS: It'll go on all—it'll actually go on 25 buses.

VICE-CHAIR MATEO: So \$182 will allow advertising in how many buses?

MR. MEDEIROS: It'll be 25 buses of which 14 are on the road every day, on a fixed route.

VICE-CHAIR MATEO: Okay. So actually...then when you break it down in terms of the bigger bang for your buck in advertising, you really...we really helping the



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agencies with their advertising need because it comes down to really...pennies a day if you're looking at the utilization of this particular service. I...I just...I'm just concerned that, you know, if it becomes real successful and then we're...we're in need of increasing the fee, it's gonna be, you know, looking at us as just trying to gouge because we started off at a real low amount of money, \$13, because this is a good size...this is a good size ad that fits in...in the buses, yeah. I'm just concerned that \$13 might be very low. And I think...I think we should reconsider the \$13 or the \$182 a month since these things are going in the 25 buses. It just makes more sense to increase the consideration of the fee, yeah? Thank you, Mr. Pontanilla.

CHAIR PONTANILLA: Thank you. Mr. Medeiros, what is the ridership presently on that 14 buses, the different routes?

MR. MEDEIROS: On the...on the fixed route off service last month was actually the...the highest that we hit in a given month. And it was 199,506 boardings. So it was just shy of 200,000 for the month with...which equates to about 430 boardings a day or an average of 31 per vehicle on the road.

CHAIR PONTANILLA: So that would be in...residents as well as tourists riding the buses?

MR. MEDEIROS: You're correct.

CHAIR PONTANILLA: Yeah, the advertisement is really at the bargain price. Before I call on Mr. Victorino, you know, those advertisements that we put in the buses I know there are some restrictions like political, you know, restrictions, things like that. But on...on the personal advertising, for example, if I wanna advertise that my birthday is so and so date, can I do that on a per month base?

MR. MEDEIROS: With...within...within the rules that we have set up, we have some criteria for that. And ultimately the decision would come down to the Director of the Department.

CHAIR PONTANILLA: Okay, 'cause I had some questions like, you know, adult establishments like hostess bars and video arcades.

MR. MEDEIROS: No, no, and we must keep in mind that we have youngsters riding the bus, you know, in the third, the fourth, the fifth grade. We have these sort of things. So that's where, you know, we're starting out with this so we're controlling it within the house, within the Department and that the decision ultimately would be the Director's.

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CHAIR PONTANILLA: Good, good. Mr. Victorino.

COUNCILMEMBER VICTORINO: Thank you. Thank you, Chair. Mr. Medeiros, you know, although I like the concept and I...I...I rather enjoy what you're doing to bring in additional revenue, I tend to agree with Chair Mateo that if we start too inexpensive, then we start to set a precedent so when we...we need or want to increase it, you know, then we look like bad people trying to gouge the public or gouge...gouge the people. You know, if this advertising and the amount of people that you're going to hit with this advertising on an average month, it's close to, I think we're...we're talking around 100...100 plus thousand on an average month. I...I don't see a reason why we wouldn't have gone like \$20, \$300 a month or something like that because to me we've got to look at all the revenue streams we can. If we're not going to increase bus fares, if we're gonna continue to have these routes—the Wailuku Loop, the Lahaina Villager and all the rest—with no cost, we know our costs are gonna continue to rise with fuel and other aspects in...in this business. So, you know, I think the public understands and I think the rate of return as an advertiser—I mean, I just did a little advertising in the Baldwin High School baseball...the...what do you call it...the program and half a page was \$85 and that's just for one weekend, one booklet. Maybe 200 they produce, right? So I'm...I'm thinking, I tend to agree with Chair Mateo—and I don't know what the rest of the Members thinking—but I'd like to see it a little bit higher starting off...starting it off at a higher rate because we start low, then to raise it sometimes it's really, really difficult. If you start higher—and let's say you find it unsuccessful. Let's say people are *not* buying ads or not coming in. We can always reduce. It's so much harder to go higher than to reduce, you know. But my feeling is we're in austere times. This is a prime advertising. I believe a lot of businesses would jump in. A lot of agencies would want to jump in. I think it's a time to really, really re-evaluate. I understand what Oahu is doing. But they get 500 buses. We've got 25. That...you just add the numbers up, you multiply that, you know. So that's my only suggestion, Chair, is I'd really like them to take a little harder look at something a lot more...I should say a lot more—*(sighs)*—I guess the word would be conducive to our needs, you know, because again this is a methodology of reducing income so that we don't have to raise fares. We don't have to have the general public pay more. So, you know, that's what I'd like to see. But we'll see what the rest of the Members feel but that's my suggestion, Don. And have you done any studies in that area? Or just this is what you saw Oahu do so you kinda...kinda took that as a base?

MR. MEDEIROS: We've had discussion with Oahu and the lion's share of what they have are PSAs, you know. It's not generating a...a ton of money for them. And

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so it's hard to tell, you know, what the appetite is of the community. And that...and that, you know, everyone's having a tough time out there.

COUNCILMEMBER VICTORINO: Yep.

MR. MEDEIROS: And if we could—that's why we're calling it a pilot program to...we have to start somewhere. You know, if...if you feel that maybe we're too conservative—this is the Budget Committee—you know, all I would ask is I'd just like to get it moving forward. We wished we could've started it sooner.

COUNCILMEMBER VICTORINO: Right.

MR. MEDEIROS: You know, if...if this body feels that it should be a little higher, then...then put a price on it and I will...I will do the best that we can and see where it goes from there. It's just a starting point.

COUNCILMEMBER VICTORINO: Okay. No, and Don, I thank you for that. And, again, that's my opinion and I guess Chair Mateo's, you know, feels the...similar. And...and that's all we're saying. We...we thank you for the job you're doing. And I think you're doing a great job. I just think that if we can graze a little bit more and...and, and again, whether it's PSAs or other, you know, methodology, it still reaches a lot of people that *The Maui News* and others that you pay way more to get something like that in. So, okay, thank you, Mr. Chair.

CHAIR PONTANILLA: Thank you. Members, just for your information what Mr. Medeiros had noted, \$13 would bring in \$182 per month on those 14 buses, \$15 would be \$210, \$20 would be \$280 and \$25 would be \$350. So that would be the differences between 13 and 25. Member Baisa, followed by Member Molina.

COUNCILMEMBER BAISA: Yes, thank you very much, Chair. This whole thing about advertising, it's a bargain because I think all of us do a lot of advertising. And we know what we pay. And, of course, we know that as political advertising we tend to get gouged. But that being...that not being the case, you know, I'm familiar like Rotary charging \$25 for a card...credit card-sized ad. And that's a heck of a lot smaller than...than what Chairman...Mateo showed us. I also know that a lot of churches allow sponsors to their papers. And they charge 25, 50 bucks a month. So I am not unhappy with the idea of charging \$25. I...I think that we ought to give it a go. You know, we're scratching for money. And we're gonna have to bite the bullet about always worrying about, you know, how we're gonna make people pay for it but I think we ought to give it a try. I agree with Member down here that if it doesn't fly then we'll give them a deal. We'll say,

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okay, well, you'll get two months for 25 bucks, or whatever it is. But, you know, I think we need to try to get the money. The other question I have is probably gonna turn the whole apple cart over. But who made the rule that we cannot advertise on the outside of the buses? Everybody else does. I see buses all over the place with every kind of advertising, you know. They...they're advertising their name, their companies and whatever. That's where the real money is. It's the moving billboards. I mean, if we're gonna go after money from advertising, that's where it is, not inside the bus.

MR. MEDEIROS: The way the ordinance is structured you can advertise your product...but you cannot advertise somebody else's product.

COUNCILMEMBER BAISA: Right.

MR. MEDEIROS: And that's how it's set up at this point.

COUNCILMEMBER BAISA: Right. And we made that rule, right?

MR. MEDEIROS: Yes, you did.

COUNCILMEMBER BAISA: So if we made that rule, then we can change that rule, right?

MR. MEDEIROS: *(Laughs)* Yes. *(Laughs)*

COUNCILMEMBER BAISA: So the...the monkey's here. Okay, thank you.

CHAIR PONTANILLA: *(Laughs)* Thank you. Mr. Medeiros, you know those commuter buses that—not commuter but the...the buses that goes from Wailuku to Kahului—

UNIDENTIFIED SPEAKER: ...*(Inaudible)*...

CHAIR PONTANILLA: Are we in charge of that?

UNIDENTIFIED SPEAKER: ...*(Inaudible)*...

CHAIR PONTANILLA: Do we support that...particular type of transportation and can we sell advertisement on those buses also?

MR. MEDEIROS: You mean the Maui Bus?

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CHAIR PONTANILLA: Not the Maui Bus but maybe I'm...getting confused as far as the Maui Bus and the...the transportation that we provide our communities. The ones that just jump on the bus in...like say, Kahului that goes to Wailuku to the different locations.

UNIDENTIFIED SPEAKER: The second one.

MR. MEDEIROS: Yeah, that's...that's still our operation. That's still a Maui Bus operation.

CHAIR PONTANILLA: So part...part of the advertisement would be in that...those buses also?

MR. MEDEIROS: Oh, yeah.

CHAIR PONTANILLA: Oh, okay.

MR. MEDEIROS: All of 'em.

CHAIR PONTANILLA: Okay.

MR. MEDEIROS: Yeah, that's correct.

COUNCILMEMBER VICTORINO: Okay.

CHAIR PONTANILLA: Oh, good, good. Members, any more questions?

COUNCILMEMBER MOLINA: Chair.

CHAIR PONTANILLA: Oh, I'm sorry. Yeah, Mr. Molina followed by Mr. Medeiros and then Member Kaho`ohalahala.

COUNCILMEMBER MOLINA: Thank you, Chair. Thank you, Member Medeiros and Member Kaho`ohalahala. Mr. Medeiros, you know, I guess when you mentioned that you modeled it after Oahu's rates it never came to my mind that they have a lot more buses so I'm glad Mr. Mateo brought that up. So I'm...I'm also in favor of adjusting the rate to something more because this is quite a deal. And I remember in prior meetings you had mentioned that there were already interested businesses in...inquiring about advertising. So can you tell us at this time how much businesses have expressed interest that you know of? I mean is it a decent amount of folks that have already consulted your office?

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MR. MEDEIROS: We've had a...we've had a few shopping centers. They...they wanna put brochures and brochure racks, you know, some of the tourist-oriented stuff. You know, we've had probably about six or eight inquiries, nothing overwhelming.

COUNCILMEMBER MOLINA: Uh-huh.

MR. MEDEIROS: And so it...it remains to be seen. You know, for us, you know, we're four years old and we're moving forward. And so maybe, you know, a little too conservative but, you know, we're looking to build something and see where it's gonna go. But it's up to the pleasure of this Committee as to—because it's a finance issue—where...where would you like...where you'd like to take it.

COUNCILMEMBER MOLINA: Uh-huh. Have you also considered different rate packages? For example like you have here, 30 days. Have also considered maybe down the...or down the road, if you will, maybe a three-month deal where, I guess, the...the more you advertise in the long run, it's a little bit cheaper for the...applicant. You know, maybe a yearly rate, a six-month rate, three-month rate. Have you also looked at that as well?

MR. MEDEIROS: Yes. And that...that is something that will evolve as this program evolves and to see where it goes. You know, if we get a lot of people interested in it and then...and then...then how to take it from there. So it's just a new endeavor for us. And, you know, we move people. Advertising isn't the number one thing that we do but it's a way of trying to generate some revenue *for* the system to help it, you know, serve the people that ride it. And so we're open...we're open to everything. This is sort of the first step and we're trying to take a baby step.

COUNCILMEMBER MOLINA: The buses first hit the road at what time of day in the morning?

MR. MEDEIROS: About 5 o'clock in the morning.

COUNCILMEMBER MOLINA: And...and they're on the road typically 'til what time?

MR. MEDEIROS: Our last bus is in around 9 or 10 o'clock at night.

COUNCILMEMBER MOLINA: Wow. And that's 30 days.

MR. MEDEIROS: Every day.

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COUNCILMEMBER MOLINA: For every day, yeah? And at a \$182 a month that's a...quite a deal, quite a deal. So, anyway, Mr. Chair, well, I look forward to, you know, well, some adjustments possibly in the...the figure here 'cause I think this is a really, really good, good deal at this point, so anyway, thank you.

CHAIR PONTANILLA: Thank you. Member Medeiros.

COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman. Director, I wanted to know because you have different buses, of course, each will have a different amount of space for ads. But there'll be a standard size, right, no matter what size the bus is, correct?

MR. MEDEIROS: That's correct.

COUNCILMEMBER MEDEIROS: So have you done a projection of if all the ad space was filled by paying agencies, not non-profits, what would be the projection for the year at \$13.

MR. MEDEIROS: About 50,000.

COUNCILMEMBER MEDEIROS: 50,000. So if we close to double that, we...we're talking some pretty good fees then to collect that, right?

MR. MEDEIROS: If...if people . . . *(inaudible)* . . .

COUNCILMEMBER MEDEIROS: Be willing to...

MR. MEDEIROS: Yeah.

COUNCILMEMBER MEDEIROS: Right, right.

MR. MEDEIROS: Yeah.

COUNCILMEMBER MEDEIROS: So...

MR. MEDEIROS: It's that two-letter word, yeah?

COUNCILMEMBER MEDEIROS: *(Chuckles)* So, Mr. Chairman, you know, I...I agree. I think \$13 is a really good deal but...and I think we agree that we...we should up that a little bit. But I'm gonna let the Director decide on that being that they're the ones that have to deal with it and they're the ones talking to the other municipalities about, you know, kinda guiding them on this first time. So, yeah,

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it's good to see that we're gonna go in that direction and get some revenues to help the bus system. Mahalo, Mr. Chairman.

**CHAIR PONTANILLA:** Thank you. Member Kaho`ohalahala.

**COUNCILMEMBER KAHO`OHALAHALA:** Thank you, Chair. I would agree with Member Mateo's concern for the cost and would be willing to...to consider that. The questions I have is in your restrictions for advertisements, perhaps also include alcohol and tobacco as restricted ads. I would also suggest that any illegal or unlawful kinds of activities that aren't allowable within our...our own County or State that not be allowed to advertise. And then, you know, some of the anticipated stuff is, you know, when it gets down to the real...the, you know, the marketing part of this, this could be advantageous for someone who can afford to continue these kinds of ads and...and essentially monopolize the ad opportunity within your buses. So my question is are...are there limits at which a person can...can run an ad? Do you consider recycling so that there is a...an opportunity for others to be able to advertise so...so that the suggestion was that, you know, do you have packages? You know, if I bought a year package and I'm taking a year but if I bought five year packages, I might be able to monopolize every single bus so that I'm the only advertiser in the bus. So...so it's these things that I'm trying to anticipate that maybe we should be thinking about as well as in terms how...how we allow, you know, we're dealing with a lot of these issues right now before us where someone has...has a...a certificate or a license to do so and then now if you wanna come in or I...I'll sell you my license or I'll sell you my certificate so that you can now have but going cost you. You see, so someone takes advantage of an opportunity to their own profitability which is not the intention of why we're doing this. But I would say in light of the fact that these are things that we deal with...with government in the kinds of things we allow, that here is one more opportunity perhaps we should take a closer look at, at how to mitigate these things before they occur. And then so something to think about. Yeah.

**MR. MEDEIROS:** We...we...we have done that. We've...given it a lot of thought and to answer your first question, under the Section Number 14 towards...towards the down...down towards the bottom. You know, that's our service which is prohibited by law to be sold or offered for sale to minors or an age-based subgroup of minors. So we have Corp. Counsel took that to great pains to deal with the legality issues and those issues that you're talking about. Under...if you look—where was it? I saw it here a second ago—twelve...okay, all advertisements will be on a space-available basis and posted in order received. Organization will be...required to provide, you know, tax key, et cetera. And so it's...it's...there was something in here—let me find it—where it's on a



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first-come—first-served basis. So, you know, if I get yours and I get two more afterwards it's...it's how it come in. After the thirty days the next person will get it, you know, pending on how it goes. So we have a rotation system to address the other piece that you were talking about, a monopoly. That's...that's not the case. I mean if we have just one person interested, well, obviously there'll be just one person interested.

COUNCILMEMBER KAHO'OHALAHALA: Right.

MR. MEDEIROS: But, you know, as it goes on so we've looked at some of those elements to include them in our rules to preclude those concerns that you have.

COUNCILMEMBER KAHO'OHALAHALA: Okay. I'm just looking for them in here so, in your rules, and that's why I'm...I'm just posing those questions, yeah? Okay, thank you, Chair.

CHAIR PONTANILLA: Thank you. Member Medeiros.

COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman. Director Medeiros, in your conversation with the City and County of Honolulu because they have a program already, was the question raised or discussed about implementing a program like this under the State procurement law, what would be the requirements?

MR. MEDEIROS: We initially had that discussion with the Finance Department on the how-to piece of it, you know...

COUNCILMEMBER MEDEIROS: Our Finance Department?

MR. MEDEIROS: Yes.

COUNCILMEMBER MEDEIROS: Okay.

MR. MEDEIROS: Yes, Member Medeiros, and it was with the idea initially of maybe contracting with a advertising firm to do this. And so we...there were questions about it. And since we were just starting into this—and then I talked to Honolulu about it—and it's gotten quite large in Oahu. And that's what they would like to do. And, but, yes, there are concerns with HRS so we're keeping it in-house and it'll be something that's done within the Department, within the County.

COUNCILMEMBER MEDEIROS: So...so your plans to implement this program should it go forth, you feel it'll be a plan that complies with State procurement law?

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MR. MEDEIROS: Yes.

COUNCILMEMBER MEDEIROS: Okay. And...and...and that has been passed through Corp. Counsel?

MR. MEDEIROS: Yes.

COUNCILMEMBER MEDEIROS: As far as reviewing that? Okay.

MR. MEDEIROS: That is correct.

COUNCILMEMBER MEDEIROS: Okay, okay. Corp. Counsel, you have any comments on the State procurement law as it applied to a program like this?

CHAIR PONTANILLA: Corp. Counsel?

MS. FUJITA VILLAROSA: Mr. Chair, there's actually another Deputy in my office that handles Department of Transportation matters. I...I personally haven't been working on this but I can tell you in general with procurement law, for example, if the County were to...purchase the...the actual advertising cards from them, then we would need to comply with the procurement law for something like that. You know, to purchase the actual advertisement cards, like to get them printed somewhere. We have to...

COUNCILMEMBER MEDEIROS: Okay. But that wouldn't apply to people that are buying the ads and producing the ads themselves. And the County is just placing it in the buses?

MS. FUJITA VILLAROSA: Yeah, I'm not sure what the...what, how the program is gonna run. I...I'm just...I was just using that as...as an example.

COUNCILMEMBER MEDEIROS: Okay. Okay.

MS. FUJITA VILLAROSA: Yeah, if...if the County were to be ones to actually purchase the cards then we would follow procurement law.

COUNCILMEMBER MEDEIROS: Okay. So I just wanna be sure we...we covered our bases on that and that we're not going forward and then find out, oops, you know, we...we made a mistake and we're not in compliance. And along that same lines any kind of taxes that we charge or collect for these ads would also have to be

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recorded and processed. Is that correct? Because you're gonna sell these ads, right?

MR. MEDEIROS: We're selling...we're providing space --

COUNCILMEMBER MEDEIROS: Space.

MR. MEDEIROS: --in a bus.

COUNCILMEMBER MEDEIROS: Okay, okay. So are you required --

MR. MEDEIROS: A County-owned vehicle.

COUNCILMEMBER MEDEIROS: --to...to pay any taxes on that? No? As far as you know, no?

MR. MEDEIROS: No.

COUNCILMEMBER MEDEIROS: Okay. Thank you, Director. Mahalo, Mr. Chairman.

CHAIR PONTANILLA: Mr. Nishiki.

COUNCILMEMBER NISHIKI: I was looking at 14 where you talk about the advertising where it says to racial, religion, ethnic prejudice, controversial or violence. How would you describe religion? Or is that something that our legal attorney has looked at? The reason why I bring this up is what if it's a church advertising summer school. What if it's a Catholic School representing tuition for a paid class? Or Salvation Army ringing bells? Or...I don't know, any kind of offshoot, yoga or Islamic or Buddhist or any kind of faith-based type of organization. And...and...and...and then you get to make that determination on whether you're gonna allow it or not? I say no. I want more clarification on it, you know, because then you're open to a lawsuit that you chose Christian and didn't choose Buddhist or you didn't choose Islamic or Mohammed.

CHAIR PONTANILLA: Department?

COUNCILMEMBER NISHIKI: So how do you make that type of determination?

CHAIR PONTANILLA: Either Corporation Counsel or Department...Department in regards to religious.

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MR. MEDEIROS: I guess the...the first thing I'd have to do is to see what, in the Department, what is it that you're trying do. If in your first example it was a daycare...center, that's...that's what you're trying to do is a daycare center. What...that's...I don't see a problem with that in...in...in...the...in the...in its context. It...'cause this goes on to say whether it's ethnic prejudice, it's controversial, or there's violence. A preschool, you know, doesn't evoke any of those issues. Just because it's, say, run by a church, doesn't necessarily make it a religious thing.

COUNCILMEMBER NISHIKI: Well, it could be. It could be counseling and then they say, hey you know, trust in the Lord.

MR. MEDEIROS: Well...

COUNCILMEMBER NISHIKI: I'm not against it.

MR. MEDEIROS: No, no. I understand what you're saying.

COUNCILMEMBER NISHIKI: Now...now don't get me wrong.

MR. MEDEIROS: And it's...it's very...

COUNCILMEMBER NISHIKI: I'm very concerned that you're gonna get us in trouble --

MR. MEDEIROS: No.

COUNCILMEMBER NISHIKI: --because you're making this decision and I think that you need some kind of...guidance...guidance by our Corporation Counsel.

MR. MEDEIROS: Well, they've given us that in this language and if...if...if we get something that we feel is controversial then we have them to question and...and to help us move through it. And in the example that you gave which was...which is a daycare, you know, that's pretty straight forward. It doesn't really matter who's...who's...who's running it. And if that's the message then that's...that's what we'd be concerned about. If there are other messages, then...then we'd have to take a second look at it as to what those messages are. And what is the intent of the advertising? I think what we're going to find is that it's probably going to be more along the lines of...shop at such and such a place or take this cruise or, you know, come and have dinner at this place or something like that that's rather benign. So when we get into some of these others that you bring up, which is...which is...which is really valid, and then we're gonna have to work

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with Corp. Counsel and work through it. And this is one of the reasons that we looked at Oahu as to what they've dealt with and what they've kinda come up with. And then Corp. Counsel has...has kinda dotted the i's and crossed the t's from our...our side of it.

COUNCILMEMBER NISHIKI: Well, I think that you may need to look at this religious area and see what Oahu does because I'm sure that they may have had experiences already.

MR. MEDEIROS: Yeah, no question. You're right.

COUNCILMEMBER NISHIKI: Anyway, Mr. Chairman, I'm just more interested in looking at this area because it could stir up problems, big problems.

CHAIR PONTANILLA: Thank you. Maybe some comments from Corporation Counsel, if any.

MR. MEDEIROS: Junior.

CHAIR PONTANILLA: I was wondering what Mr. Kushi was doing here. We had 'em this morning.

MR. KUSHI: Yes, Mr. Chairman.

CHAIR PONTANILLA: Question about religious, putting up signs in the buses.

MR. KUSHI: Well, the ordinance that this body passed, Ordinance 6328, effective date was...April 4, '09, under Section 11.02.040A, as in apple, Subsection 2 says advertising...advertising shall not be accepted—and 2 states that advertising that by reason or design, format or subject matter promotes or appeals to racial, religious or ethnic prejudice or violence. That's the only section I see that religious or religion is mentioned. But, again, you know, it...the topic you're talking about encompasses a broader issue, the separation of State and church. And this can get into all kinds of areas. And...not so much what we're talking about today is advertising within a County bus. We could also be talking about...demonstrations in County parks, banners in County parks or government buildings that promote religion or disparage another religion. So that's the kind of issues you're talking about. There's a whole slew of case law about that. So I can only comment that the Department...we've advised the Department to follow what this body passed in terms of advertising.

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CHAIR PONTANILLA: Thank you. Members, any questions regarding what Mr. Kushi had just said? Member Baisa.

COUNCILMEMBER BAISA: Chair, I, you know, I realize that this may be ridiculous and appear to be ridiculous but, you know, we're living in a new world. I'll just share an experience. You know, from all the many, many years I was at MEO we always had Christmas parties. And towards the end of my years there, I was informed that that was not appropriate anymore, that we could have *holiday* parties. But we were not to use the word "Christmas" because it had a religious, you know, connotation. So I think what Member Nishiki is saying is possible, could be even probable, that if we were to put Christmas advertisements in our buses from, you know, vendors or whoever. But, you know, I don't know where...where you draw this line, because like Corporation Counsel says, you know, the opportunity for litigation is everywhere. It's just everywhere. So what is common sense? But Member Nishiki makes a good point.

CHAIR PONTANILLA: Thank you. Members, any more questions for the Department or Mr. Kushi at this time?

COUNCILMEMBER NISHIKI: I...I got a question because I...I...I need to know how Don is gonna draw this line. I mean, what...what're you gonna do now that this is occurring? If I tell you today I want to advertise prayer meetings, Sunday school. Are you gonna allow it?

CHAIR PONTANILLA: Department.

MR. MEDEIROS: Say...say that one more time please? I'm...I'm sorry.

COUNCILMEMBER NISHIKI: If I want to advertise come deal with your marital problems and come to this prayer meeting or, you know, attend some kind of a...relationship put on by a church and God will save you.

CHAIR PONTANILLA: Mr. Medeiros.

MR. MEDEIROS: Based on what you're saying, it probably would not be appropriate under our rules. And I would then consult with...Corp. Counsel to see if we would be able to allow it in there or not. Initially, the Department, myself or...or the Deputy would be the gatekeeper of this. And when a question arises, then we'll have to go to legal counsel for it. And we have the...the way the...the way the...the rules are structured, you know, that's why we're sort of calling this a pilot program, too. It'll give us a chance to work through these things and see what is gonna come our way. Ultimately I think the problem is gonna happen

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when you *deny* somebody, okay? So if I felt that it was questionable or my deputy felt it was questionable, then we would go to Corporation Counsel and get a...get a reading for it. And then if it comes back and Corporation Counsel says no for whatever reasons, then *c'est la vie*. Then we go from there.

COUNCILMEMBER NISHIKI: Okay. I...I...I just...I'm just...wanna be real...to be real safe. You may allow something. You're right, you may allow something and somebody going, oh, look, very similar. And then you deny somebody again. And I guess, Junior, I think that you need to spell out with Don what...what this...what cases we have within church and State. I mean I think that even within this County government, Mr. Chairman, and...and...and Mr. Mateo, you know, we were challenged one time because we had Buddhist ministers come in over here and Christian ministers come in over here and giving prayer, you know. So as long as it's County, Don, I think that, you know, we gotta really be careful. That's all. I...we were...I don't know if we were challenged. Were we challenged?

CHAIR PONTANILLA: I don't know.

COUNCILMEMBER NISHIKI: Was there a complaint? I'd like to find that out. And then I think we all stopped it. And now we individually, some of us read passages but that's...I...you know, you know, I don't know but and some of us give our own philosophy or read from Homer, whomever. But anyway, I'm just concerned.

CHAIR PONTANILLA: Thank you. Mr. Medeiros. *(interrupted by cell phone music)*

COUNCIL MEMBERS: *(Laughter)*

COUNCILMEMBER KAHO'OHALAHALA: That's the bus ad. *(Laughter)*

MR. MEDEIROS: In trouble already.

COUNCILMEMBER KAHO'OHALAHALA: An interior bus ad.

COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman. I wanted to ask the Director, you know, Member Nishiki brings up very good points. But at the same time it's hard to forecast ahead of time what may come up and...and I don't think you can write a, you know, ordinance or rules to cover every single situation. But Member Nishiki brings up a good point to look ahead to that. But my question for the Director is with as many jurisdictions that have been doing this for ages, wouldn't you want to get their rules and use it as a guide? Which I'm sure you're

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using Honolulu's one as but, you know, they have jurisdictions on the mainland that have been doing it way longer than Honolulu probably. And so I...I think the information and research is available and those companies, you know, have run...run into all...what is being brought up now. And they probably have adjusted their rules and procedures and practices to incorporate that. So have...have, Director, have you checked with other jurisdictions or just mainly City and County of Honolulu?

MR. MEDEIROS: We've relied on the experience of the City and County of Honolulu.

COUNCILMEMBER MEDEIROS: Okay.

MR. MEDEIROS: You know, who's...who's been in business for a long time and the...and the counsel of our County attorneys.

COUNCILMEMBER MEDEIROS: Uh-huh.

MR. MEDEIROS: I...I think that we need to maybe frame this in the context that the job of the Maui Bus is to move people. That is probably the toughest cargo to move 'cause anything can happen. Everybody's different. Everybody has their, you know, their own issues and we've done, in my opinion, a very successful job. And I do not see any reason for this to be any different. We run parks, you know. We run all sorts of things that we oversee in the County of Maui. This is just another element. I would urge the Council to—because it's a pilot program and we're starting to—let us...to let us...please give us the green light to move forward. We are in tough economic times and anything generated, you know, would be helpful. If we're not against it, if you wish to tweak the amount, then do so. I...I would just ask that we could move this along in a timely manner because if we don't, then it's just gonna be sitting on the wayside. If...if we are afraid of any kind of liability, we wouldn't even be in this business of...of moving people. And so I would urge you to put some trust in the Department and the people that we have here in the County in the Corporation Counsel and the Administration to...to be able to move this in a professional manner without hurting anyone or...or anybody's feelings in the light that it's given. Thank you.

CHAIR PONTANILLA: Thank you.

COUNCILMEMBER MEDEIROS: Yeah, and...and I...I, you know, I feel the same way. I think I have a lot of confidence and so do my colleagues in you folks running your Department and your service. Let me ask you this because you...you talked about non-profits being free. Is there a percentage of the ads that will be non-profit that won't be going over that? Otherwise, if we have all



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non-profit ads, we don't have a revenue stream. So has it been decided what percentage of the total ad space available will be allocated for non-profits if they wanted? And if you have additional space and nobody's paying for those spaces, then certainly you could increase that. Have you had that discussion?

MR. MEDEIROS: Yes. And we haven't gone there because we wanted to see the appetite. What...you know, how many people will come...will we get a lot of people or not? And we didn't wanna be exclusionary to begin with.

COUNCILMEMBER MEDEIROS: Okay.

MR. MEDEIROS: So it says first come first serve. And so we'll see how it goes. If we get 20 requests for non-profit and 5 requests for revenues, it's kind of a...you know. And...and...and if we're...if we're busy this month then maybe next month we won't 'cause we're doing it on a monthly basis. And that's why we did it on a monthly basis. That's why we didn't do it for a longer period of time. And so give us the chance to, you know, start to move this forward and see...see where it's going. And lomilomi it as we move along and I think it'll all work out.

COUNCILMEMBER MEDEIROS: Okay. And I...I agree with you. My...my final question is on your Advertising in the Maui Bus form, on the bottom of it, it says, "by submitting this application advertiser agrees to abide by all rules and procedures set by the Director of Transportation regarding advertising in County transit buses." So you already have in place the rules and procedures for this program?

MR. MEDEIROS: Yes, sir.

COUNCILMEMBER MEDEIROS: Okay. All right. I'm glad. And...and was that fashioned also by looking at what City and County of Honolulu had?

MR. MEDEIROS: Yes.

COUNCILMEMBER MEDEIROS: Okay.

MR. MEDEIROS: That was passed by this body in April of last year.

COUNCILMEMBER MEDEIROS: Okay. Good. Thank you, Director. Mahalo, Mr. Chairman.

CHAIR PONTANILLA: Thank you. At this time, if there's no objections, the Chair would like to make his recommendation.

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COUNCIL MEMBERS: Recommendation.

CHAIR PONTANILLA: Thank you. The Chair's recommendation is for passage of the proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2010 BUDGET FOR THE COUNTY OF THE MAUI, AS IT PERTAINS TO REVENUES - FEES, RATES, ASSESSMENTS AND TAXES FOR ADVERTISING FEE", and filing of County Communication Number 09-338.

VICE-CHAIR MATEO: Chairman, I move for the passage of the proposed bill as you have just read including the filing of the communication.

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

CHAIR PONTANILLA: Thank you, it's been moved by Member Mateo, seconded by Member Victorino. Members, any discussion? Member Molina.

COUNCILMEMBER MOLINA: Yeah, thank you, Mr. Chair. I will certainly support this and I know there's the issue of the religious matter or, I guess, maybe there could be some, what, Fifth Amendment challenges so, but I'm interested in at least moving this out. And if we get challenged then, of course, we can again take a look at the...what we have here or we can get written comments from Corporation Counsel or whomever to deal with this particular matter. But I'm ready, at this point, Mr. Chair, to propose an amendment on the figure.

CHAIR PONTANILLA: If you can.

COUNCILMEMBER MOLINA: Yes, Mr. Chair, and I'll just throw this out there since these numbers were, I guess, when you had consulted with Staff in looking at the type of revenue that potentially could be generated with a number that is above the proposed \$182 monthly fee. So I will propose to amend the fee to be \$350.

CHAIR PONTANILLA: Thank you.

COUNCILMEMBER VICTORINO: Second, Mr. Chair.

CHAIR PONTANILLA: Moved by Molina, seconded by Member Victorino to increase or amend the proposal by going to \$25 per month...oh...or \$25 times 14 buses, or \$350. And second by Victorino.

COUNCILMEMBER MOLINA: Yeah.

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CHAIR PONTANILLA: Member Molina.

COUNCILMEMBER MOLIINA: Yeah, thank you, Mr....Mr. Chair. Just to add clarification. That will be \$350 per month from 182 per month to \$350 per month.

CHAIR PONTANILLA: Thank you. Member Kaho`ohalahala.

COUNCILMEMBER KAHO`OHALAHALA: Okay. Just a clarification. I know the...the Director presented that there were 25 buses. And that that would be...so are you looking at 25 times the 25, then?

COUNCILMEMBER MOLINA: I guess...well, based on the figures that was given to us by Staff, that was based on—is that on the 25 or the 14 buses?

CHAIR PONTANILLA: Staff?

COUNCILMEMBER MOLINA: If I could ask Staff to comment.

MS. REVELS: Mr. Chair, according to their letter it is by...based on 14 buses. Thirteen dollars times 14 is 182.

COUNCILMEMBER MOLINA: Yeah. Member Kaho`ohalahala.

COUNCILMEMBER KAHO`OHALAHALA: Yeah then, then, Chair --

CHAIR PONTANILLA: Member Kaho`ohalahala.

COUNCILMEMBER KAHO`OHALAHALA: --if...if not a friendly amendment, then I would suggest I...I make another amendment to change that to...to...into the 25 buses because they're being rotated as I understand. And then once that's set and your ads are in place, they're within all of the buses whether they're on the road or not. Yeah. But 14, you say, are on...

CHAIR PONTANILLA: On the road all the time.

COUNCILMEMBER KAHO`OHALAHALA: Okay.

COUNCILMEMBER MEDEIROS: That's what we...

CHAIR PONTANILLA: Can you clarify that, Don?

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MR. MEDEIROS: Yeah. We...we have been...we've sorta thought about that and that's why when we proposed it, we proposed it based on the \$13 per card because the amount of—it's really based on the...on the...on the amount of buses that you have on the road. So we...we felt...felt so that we don't get involved in all this other stuff, if...if...if...if you would please help us by saying, if you want it to go from 13 to 25 and that's...that'll be the...that'll be the safest way to proceed at this point, the clearest way to proceed at this point.

COUNCILMEMBER MOLINA: Okay.

COUNCILMEMBER KAHO`OHALAHALA: Okay.

CHAIR PONTANILLA: Fine. Thank you.

COUNCILMEMBER KAHO`OHALAHALA: Then I'll withdraw...

COUNCILMEMBER MOLINA: Yeah.

CHAIR PONTANILLA: You guys okay? Any more questions in regards to the amendment changing the fee per month from 182 to \$350? Seeing none, all in favor of the amendment, please say "aye".

COUNCIL MEMBERS: Aye.

CHAIR PONTANILLA: Any noes? Seeing none, motion is carried. Eight ayes, one excused, Member Johnson and no noes.

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

**MOTION CARRIED.**

**ACTION: APPROVE amendment to main motion.**

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CHAIR PONTANILLA: Going back to the main motion as amended, Members, any more discussion regarding this item? Seeing none, all in favor of the motion say please say, "aye".

COUNCIL MEMBERS: Aye.

CHAIR PONTANILLA: Any opposed? Motion is carried. Eight ayes, one excused, zero noes. Thank you. Motion is carried.

**VOTE:**

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

**MOTION CARRIED.**

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

CHAIR PONTANILLA: Thank you, Members. Thank you, Mr. Medeiros and Mr. Boteilho and Mr. Kushi.

**ITEM NO. 63: AMENDING CHAPTER 3.88, MAUI COUNTY CODE, OPEN SPACE, NATURAL RESOURCES, CULTURAL RESOURCES, AND SCENIC VIEWS PRESERVATION FUND (C.C. No. 09-339)**

CHAIR PONTANILLA: The next item on the agenda, Members, is BF-63. BF-63 is Amending Chapter 3.88, Maui County Code, Open Space, Natural Resources, Cultural Resources, and Scenic Views...Preservation Fund. The purpose of the proposed bill is to clarify the application process in Section 3.88.060, Maui County Code, to allow for conservation organizations to secure other interests in property where the transfer of the title is not appropriate, such as conservation easements. At this time if Ms. Horcajo and Ms. Feenstra can join us regarding this. Ms. Horcajo, or Ms. Feenstra, if you have opening comments or comments regarding this proposal.

MS. HORCAJO: Good afternoon.

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CHAIR PONTANILLA: Good afternoon.

MS. HORCAJO: And thank you very much for allowing us the opportunity to come down and make some comments regarding the proposed bill and change in the ordinance. I believe our...our comments on the Open Space, Natural Resources and Cultural Resources and Scenic Views Preservation fund is very important to the Administration, to the Mayor, and to our departments and...believe that it's definitely an asset to our community. And we're very lucky to have Maui Coastal Land Trust. They've done such a great job for us in the community. We have Molokai Land Trust as well. And we have...have seen applications from both these organizations and appreciate the comments that have been submitted. We have just received...this proposed bill this...this week. Just have...haven't had really too much opportunity to speak with other departments to find out the long-term impacts of these changes...for the community on this public funds. And I'm not sure how many questions I can answer. I'll try to do that and be here to make any comments. At this time I think we would like to perhaps have an opportunity as an Administration or to get more information from Councilmember Pontanilla on...we understand it's a housekeeping matter and maybe we'll get more information from you folks today as we're here. So thank you for this opportunity.

CHAIR PONTANILLA: Thank you. Members, questions for the Department at this time? Seeing none, if I can have Ms. Gayle Revels expound on this here? Thank you.

MS. REVELS: Thank you, Mr. Chair. There are two parts of this bill. The first is the change to 3.88.060 and it is a change to the way that the bill or the project is transmitted to the Council. Currently the Code requires that a budget amendment be sent along with a copy of the grant agreement and appraisal. But occasionally the project is already approved in the budget so that isn't necessarily appropriate. So this is a change to say that if it's not in the budget, we need a budget amendment. If it is in the budget, we'd like those accompanying documents but we don't necessarily need a budget amendment.

The second portion of this has to do with conservation easements. Currently, the Open Space Fund requires that anyone receiving money from the Open Space Fund grant the County a...a easement to the land once they have title. When the fund was originally created the intent was to purchase land where you would have title but also to be able to purchase a conservation easement. The way the Code is currently written, if you purchase a conservation easement you would not be able to then give the County a further easement on the land. So that needs to be

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clarified in the Code so that if we are granting money from this fund to buy an easement, they don't have to try and give us an easement which they can't do. It's basically the two changes to this bill.

CHAIR PONTANILLA: Thank you. Members, questions? If not the Chair would like to make his recommendation.

COUNCIL MEMBERS: Recommendation.

CHAIR PONTANILLA: The Chair's recommendation is for passage of the proposed bill entitled, "A BILL FOR AN ORDINANCE RELATING TO THE OPEN SPACE, NATURAL RESOURCES, CULTURAL RESOURCES, AND SCENIC VIEWS" on first reading, and filing of County Communication Number 09-339.

VICE-CHAIR MATEO: Mr. Chairman, I move for the passage...of the proposed bill as you have just read including the filing of the communication.

CHAIR PONTANILLA: Thank you.

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

CHAIR PONTANILLA: It has been moved by Chairman Mateo, second by Member Victorino to move forward on bill...on the bill entitled, "A BILL FOR AN ORDINANCE RELATING TO THE OPEN SPACE, NATURAL RESOURCES, CULTURAL RESOURCES, AND SCENIC VIEWS" for first reading.

COUNCILMEMBER BAISA: Chair.

CHAIR PONTANILLA: Members, discussion? Member Baisa.

COUNCILMEMBER BAISA: Yes, Chair. Will you be entertaining an amendment to add the items that Mr. Bonar had suggested?

CHAIR PONTANILLA: Yes, if...you wanna include that amendment.

COUNCILMEMBER BAISA: Yes, please. On the Section 3.88.060 in the middle of the paragraph where it's underlined. It says, The amount of the grant shall be adjusted to reflect the cost of the appraisal to the County. We also want to add the...cost of a...Phase I environmental surveys and possibly other surveys or something like that.

COUNCILMEMBER VICTORINO: Second, Mr. Chair.

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CHAIR PONTANILLA: Thank you. Moved by Member Baisa, second by Member Victorino. And maybe if Mr. Bonar can provide us with --

COUNCILMEMBER BAISA: The language.

CHAIR PONTANILLA: --some of the verbiage for this amendment and we'll take it up on first reading. Is that okay?

COUNCILMEMBER BAISA: Okay.

MS. REVELS: Mr. Chair, if we don't have the exact verbiage at this point we would not be able to make the change. It would need to be a floor amendment at first reading.

CHAIR PONTANILLA: What we'll do then is we'll take a 10-minute recess and we'll reconvene at 2:50 while we work the proposed amendment. Thank you. This meeting is in recess till 2:50. . . .(gavel). . .

RECESS: 2:40 p.m.  
RECONVENE: 2:50 p.m.

CHAIR PONTANILLA: . . .(gavel). . . Thank you, Members, for that recess. The Budget and Finance Committee meeting is now reconvened. Member Baisa.

COUNCILMEMBER BAISA: Yes, thank you, Chair. Due to more information being available, I'd like to withdraw my amendment.

CHAIR PONTANILLA: Thank you.

COUNCILMEMBER VICTORINO: Mr. Chair, I withdraw my second.

CHAIR PONTANILLA: Thank you. Members—there's no action required on this, right? Okay, Members, the...main motion is to move forward on this particular item. But because of some issues that—unresolved issues—that we need to clear up, the Chairman at this time would like to have the main motion be rescinded. We cannot...

VICE-CHAIR MATEO: Chairman, I withdraw my motion.

CHAIR PONTANILLA: Thank you.



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COUNCILMEMBER VICTORINO: Mr. Chair, I withdraw my second also.

CHAIR PONTANILLA: Thank you. Members, at this time the Chair, if there's no objection would like to defer this item so that we can work on the proposed bill with all of the added information that we received during this...item as we have discussed.

COUNCILMEMBER VICTORINO: No objections.

CHAIR PONTANILLA: If there's no objection, Members, the Chair would like to do that.

COUNCIL MEMBERS: No objections.

CHAIR PONTANILLA: No objections? Thank you. This matter is deferred.

**ACTION: DEFER pending further discussion.**

**ITEM NO. 4: FINANCE DIRECTOR'S QUARTERLY AND CIP REPORTS**  
(C.C. No. 09-322)

CHAIR PONTANILLA: The last item on the agenda, Members, is the BF-4 which is the Finance Director's Quarterly and CIP reports. Thank you, Director Horcajo and Ms. Feenstra. BF-4 which is the Finance Director's Quarterly and CIP reports. The Chair's intent of this...item was to discuss the Department of Water Supply this afternoon. But I understand that the Department is now in conference with the Mayor in regards to their particular budget for 2011. So I would like to request each of you to review the Department of Water Supply CIP report and at the next meeting when we do bring up CIP that, you know, you have projects that...after you review the projects that you want to have the Department to discuss with us. If...if the...the Members could provide me that information so that we can provide that information to the Water Supply...so that they can provide us any updates on your request. But before I defer this item, there's couple of questions that I would like to ask either the Finance Director or the Budget Director. Joining us is the Finance Director, Mr. Young. Thank you. The Capital Improvement Projects report does not include the project of Department of Water Supply and if I could get some explanation why this report is exclude...excluded from this CIP report. Maybe the Finance Director can provide us some information.

MR. YOUNG: Good afternoon, Mr. Chair and Members. The report...the Finance Director's Quarterly Report, the back section does include a full listing of all the

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CIP projects in the County of Maui that are on system in the Department of Finance. The Department of Water Supply projects, however, are not on system in the Department of Finance. The Department of Water Supply still maintains a separate and their own finance office within their Department. And therefore, their project, their data is not included or accessible on this run in the Finance Director's Quarterly. So when we provide this report it is absent those projects because those projects are not reported on the computer run that's managed by the Department of Finance.

CHAIR PONTANILLA: Thank you. So in the future, would it be included in your report, on the Quarterly report?

MR. YOUNG: I will...I will communicate the desire of the Council to the Department of Water Supply and try to coordinate their quarterly submission of CIP projects to be timed with that of the Finance Director's Quarterly report as well as with the CIP report that the Budget Director sends down, Mr. Chair.

CHAIR PONTANILLA: Thank you. Members, any...any questions in regards to what I just questioned the Finance Director about in regards to the reporting of the Water Department's Capital Improvement Projects in the...Director of Finance...Quarterly CIP report? Member Kaho'ohalahala.

COUNCILMEMBER KAHO'OHALAHALA: Is...is complying to this, the discretion of the...by the Department?

MR. YOUNG: I...I'm not sure about what discretion there is. The requirements of the Finance Director to submit this report is, I believe, a requirement in the County Code. So to that extent, you know, we will try to coordinate when all the CIP projects are reported by the various departments, if they could be coordinated to be submitted at the same time.

COUNCILMEMBER KAHO'OHALAHALA: Okay. Thank you.

CHAIR PONTANILLA: Yeah, it is in the Charter. *(Laughter)* Thank you. Member Medeiros, followed by Mr. Mateo.

COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman. Director, I just wanted to ask and you may have touched on it, I'm not sure. But there's a...CIP Coordinator in the Mayor's Office now, I believe under the Managing Director? Is that with...

MR. YOUNG: Correct. Yes.

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COUNCILMEMBER MEDEIROS: Okay. And does that person compile or submit the reports also or it's all per department?

MR. YOUNG: I...I'm not aware if that position is involved at all in terms of the compilation of this report. The report that's in the bound Finance Director Quarterly is essentially run off of systems with...via analysts in the Department of Finance. So that's why it's just a computer-generated report. There are no, you know, modifications or revisions to...to develop this report other than just running it off of system. So it's, as far as I know, to my knowledge, it is generated purely from the, you know, staff within the Finance Department.

COUNCILMEMBER MEDEIROS: And is the report contributed to by the different departments that...connected?

MR. YOUNG: Yes, to the extent that during the progress of the quarter and at the time of closing of the quarter to run the report, we, you know, we must make sure that all expenses that the department has reported and expects all expenses that occurred during a quarter to be run on this report in time. To that extent, there is interaction with the departments, yes.

COUNCILMEMBER MEDEIROS: I see. I see. But as far as you know, the CIP...the CIP Coordinator out of the Mayor's Office doesn't contribute to that particular report or...or...or system?

MR. YOUNG: As far as I know, not to the...the compilation of the report. But I do know that the CIP Coordinator does rely on the report and does interact with the departments to check on progress and may even utilize the report as the impetus for that update. But as far as like getting input into the report itself, I don't...I do not believe so.

COUNCILMEMBER MEDEIROS: Okay. Thank you, Director. Mahalo, Mr. Chairman.

CHAIR PONTANILLA: Thank you. Member Mateo followed by Member Victorino.

VICE-CHAIR MATEO: Yeah. Chairman, thank you. Chairman, my question is for you...only because you probably have already looked at the numbers. Can you tell us what this difference is in terms of what the CIPs for Water Department is that would virtually be very different in terms of matching up the Director's report less whatever amount you come out with in reviewing the Department's CIPs?

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CHAIR PONTANILLA: Thank you, Mr. Mateo (*chuckles*) for that question. I...I don't have that information for you but I can get that information for you.

VICE-CHAIR MATEO: Yeah, if...if you could because it should be a considerable sum. And so what we're getting piecemeal. And for us to get a better handle on this County's CIPs, I think it's important for us to get the --

CHAIR PONTANILLA: The full picture, yeah.

VICE-CHAIR MATEO: --full picture instead of all these single snapshots.

CHAIR PONTANILLA: I agree.

VICE-CHAIR MATEO: Yeah. Thank you.

CHAIR PONTANILLA: There is another report just for quarter, so. Member Victorino.

COUNCILMEMBER VICTORINO: Yeah, I think...I think, Mr. Chair, if you will look in your chapter Maui County...your Charter, I should say...on Page 26 on the Section 18.12—no, I should say, 8...8-811.7 [*sic*] Revenues. Basically the Department of Water is a enterprise fund and they...because of their semi-autonomous, even though that has changed, their financial system has never changed, has never fallen back *under* the Department of Finance. Am I correct in saying that, Mr. Young?

MR. YOUNG: Yes.

COUNCILMEMBER VICTORINO: And so they still operate under that premise that all monies that they get on behalf of the Department of Water Supply and provide capital improvement appropriation through the Department of Water Supply. They do not send...submit...a report with all the other CIPs. And it's still in the Charter. And that was one of many of the things that we are working towards, as you well aware this morning. These are only the steps to get to that point so that one day that even that can be sent back to the Charter Commission and say, no, that money should be under the County, under the Department of Finance, not a whole separate entity. Even though it's an enterprise fund and we have four of 'em. We have the Golf. We have Wastewater. We have...Water and what's the fourth one?

MR. YOUNG: Solid Waste.

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COUNCILMEMBER VICTORINO: Solid Waste. Right? We have four separate funds. But three of the four are under the Department of Finance. Only that one acts semi-autonomously because they were a semi-autonomous board until 2002. And because we've never been able to change the rules nor has the Charter Commission ever had a chance to change...that part of the...the Maui County Code, it still operates that way and that's why we do not yet. Under Water and our Water Resource Committee and the Board of Water Supply, they'll get those numbers. In fact, the Board of Water Supply still looks over and sort of pre-approves or advise pre-approval of the fiscal budget for the Department of Water that still exists today. Even though, again, they're only an advisory capacity. So anyhow, it's...it's a convoluted answer to the question but that's the way it's...it's operated for such a long time and that's why we don't get the CIP under your auspices. Am I correct, Mr. Young?

MR. YOUNG: Yes. Yes.

COUNCILMEMBER VICTORINO: Thank you.

CHAIR PONTANILLA: Thank you. And it should be included, you know. But it will take some, I guess, other amendment in doing so. So we'll bring up the Water Supply Department again and we'll query them on their Capital Improvement Projects. But in the meantime, you know, take a look at their reporting as far as—and if you don't have it, we'll get copies to you so that you can make some determination on what projects that you guys wanna review. But I do have another question for the Budget Director and this is in regards to the Lanai Police Station that's listed in the Quarterly Report on Page 5 of the report, Lanai Police Station. There's an appropriation for \$600,000 for Fiscal Year 2010. I don't know if this is an entry in error or is there any activities for the Lahaina Police Station? I'm assuming that this should've gone to the Lanai Senior Center. *(pause)* Budget Director.

MR. PABLO: Chair Pontanilla, I'm...I'm looking at that information which...which we're referring to in the Quarterly Report and I'm...and I'm not familiar with...with that amount nor the transaction that occurred on that date. I would have to get this information from the Police Department.

CHAIR PONTANILLA: Okay, could you?

MR. PABLO: Yes.

CHAIR PONTANILLA: Could you? Okay. Thank you. Members, any questions for the Budget Director regarding CIP Quarterly Report or the Finance Director? If

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not, Members, if there's no objections, that's all the items that we have today. And the...we've taken care of all of the business. So this Budget and Finance Committee meeting for January 12...

COUNCILMEMBER MOLINA: Chair, Chair.

CHAIR PONTANILLA: Member Molina.

COUNCILMEMBER MOLINA: What is your recommendation for Item 4?

CHAIR PONTANILLA: I'm sorry.

COUNCILMEMBER MOLINA: Thank you.

CHAIR PONTANILLA: The Chair's recommendation is to defer this item.

COUNCIL MEMBERS: No objections.

CHAIR PONTANILLA: And again we'll bring up the Water Department in regards to reviewing their Capital Improvement Projects. Thank you. So if there's no objections, Members, the Chair would like to defer.

COUNCIL MEMBERS: No objections.

**ACTION: DEFER pending further discussion.**

CHAIR PONTANILLA: Thank you. At this time, that's all for the discussion this afternoon. So the Budget and Finance Committee meeting for January the 12<sup>th</sup>, 2010 is now adjourned. . . .(gavel). . .

**ADJOURN: 3:08 p.m.**

APPROVED:

  
JOSEPH PONTANILLA, Chair  
Budget and Finance Committee

bf:min:100112:rk

Transcribed by: Reinetta Kutz

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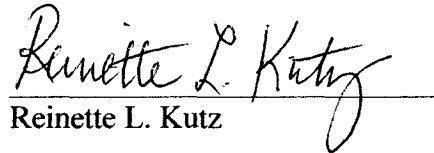
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CERTIFICATE

I, Reinette L. 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 3<sup>rd</sup> day of February, 2010, in Wailuku, Hawaii.

  
Reinette L. Kutz