

**ECONOMIC DEVELOPMENT, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

MINUTES

June 3, 2010

Council Chamber

CONVENE: 1:35 p.m.

PRESENT: VOTING MEMBERS:

Councilmember Jo Anne Johnson, Chair
Councilmember Gladys C. Baisa
Councilmember Michael J. Molina
Councilmember Joseph Pontanilla

NON-VOTING MEMBERS:

Councilmember Michael P. Victorino

EXCUSED: Councilmember Sol P. Kaho'ohalahala, Vice-Chair

STAFF: Scott Jensen, Legislative Analyst
Tammy M. Frias, Committee Secretary
Yvette Bouthillier, Committee Secretary
Leinaala Kihm, Executive Assistant to Councilmember Bill Kauakea Medeiros

ADMIN.: Tamara Horcajo, Director, Department of Parks and Recreation
Jeffrey T. Ueoka, Deputy Corporation Counsel, Department of the Corporation Counsel

OTHERS: Patricia Cadiz, HST Windsurfing School, Inc.
Roger Simonot, South Pacific Kayaks & Outfitters
Greg Howeth, Lahaina Divers Inc.; Lahaina Dive & Surf, LLC
Teri Leonard, Maui Dreams Dive Co.
Alan Cadiz, HST Windsurfing School, Inc.
Carol Reimann, Executive Director, Maui Hotel & Lodging Association
Additional attendees (3)

PRESS: Chris Hamilton, *The Maui News*
Akaku--Maui County Community Television, Inc.

CHAIR JOHNSON: ...*(gavel)*... The meeting of the Economic Development, Agriculture and Recreation Committee will come to order, and this is our meeting of June 3rd, 2010. We have in attendance this afternoon--we have a bare quorum, but I really appreciate because we went a little bit long in our last meeting--we have Member Gladys Baisa.

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COUNCILMEMBER BAISA: Good afternoon, Chair.

CHAIR JOHNSON: We also have, albeit just a couple seconds late, we have Member Michael Molina.

COUNCILMEMBER MOLINA: Good afternoon, Madam Chair.

CHAIR JOHNSON: Thank you for your attendance. And we also have Member Joseph Pontanilla.

COUNCILMEMBER PONTANILLA: Good afternoon.

CHAIR JOHNSON: Thank you for your attendance. And excused is Member Kaho'ohalahala. And we also have a Non-Voting Member who I'd like to acknowledge, Member Michael Victorino.

COUNCILMEMBER VICTORINO: Thank you, Madam Chair.

CHAIR JOHNSON: Thank you for your attendance.

COUNCILMEMBER VICTORINO: My pleasure.

CHAIR JOHNSON: From the Administration, we have our Director of Parks and that's Ms. Tamara Horcajo. Thank you, Tamara. Good afternoon. Corporation Counsel, Mr. Jeff-Ueoka.

MR. UEOKA: Good afternoon.

CHAIR JOHNSON: We have Mr. Scott Jensen from Council Services and also Tammy Frias, and we have Yvette Bouthillier who's sitting out taking our testimony sign-up sheets.

ITEM NO. 20: COMMERCIAL OCEAN RECREATIONAL ACTIVITY (C.C. No. 09-216)

CHAIR JOHNSON: So, Members, thank you for your attendance. We only have one item on our Committee agenda this afternoon, that is EAR-20, and that is regarding the Comm..., Commercial Ocean Recreational Activity. The Committee is in receipt of County Communication No. 09-216, from the Director of Parks and Recreation, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 13.04, MAUI COUNTY CODE, PERTAINING TO COMMERCIAL OCEAN RECREATIONAL ACTIVITY", and the purpose of the proposed bill was to clarify the nontransferability provision and allow Commercial Ocean Recreational Activity Permits to be transferred to a spouse, reciprocal beneficiary, or child of the permit holder, and to delete the definition of "Ocean recreational activity"; and to insert a definition for "Reciprocal beneficiaries".

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So today the Committee will consider whether to recommend passage of the proposed bill on first reading, with or without revisions, or to consider filing the County Communication or other related action.

So that is it in a nutshell. And currently, we have signed up to testify a total of six individuals. If there's no objections, we will take public testimony. And I'm limiting you, unfortunately, to three minutes. I, I think that. . .we've had two previous meetings on this. We have flogged this. . .*(chuckle)*. . .as far as it can be flogged, and I think people would agree that they want a decision and some kind of recommendation from this Committee. And I really want to thank all of you for your patience in moving through this and waiting for us to also get through with Budget.

So without further ado, our first testifier is Ms. Patricia Cadiz, and she will be followed by Roger Simonot.

. . .BEGIN PUBLIC TESTIMONY. . .

MS. CADIZ: Hello, everyone. My name is Patricia Cadiz. I'm here representing our company, HST. We teach windsurfing, surfing, and kite surfing. And thank you for taking the time. I'm just going to reiterate a little bit just to refresh memories. There is two parts of the bill that we don't like and the reasons that we're going to ask you to file this bill today is. . .the. . .speaking to the nontransferability issue, Section 3. This is actually, I want to clarify, not a relaxation of the definition of nontransferability, it's a very wide expansion of the definition of nontransferability to effectively eliminate access to a permit held by a business entity upon any change in ownership, except to a family member or a reciprocal beneficiary. One share a stock, movement from stock into a trust, taking on a partner--all of those things would completely eliminate access to the permit permanently and forever. This is an anti-business move. In so doing, it seems that the Parks Department is seeking to extend the language of nontransferability of permits to nontransferability of business entities, and it seems as though the sole intent is expediting the attrition of service providers. This undermines the professionalism that the County seeks. It seems to me all the effort we've put into this new ordinance and new admin rules over the last, I think, nearly eight years has been to raise the bar of professionalism, and nontransferability is completely counter to that goal. Nontransferability is bad for the community and the resources because it fosters only a lessee or short-term approach to operations. Nontransferability diminishes the ability to borrow; no incentive to invest in training, quality gear, or safest method. Nontransferability is a disincentive to building long-term relationship with other park users in protecting the precious resources, and it eliminates the highly-regarded invested, trained, akamai operators to be replaced perhaps by a random lottery winner. It doesn't make sense for the community. It makes more sense to be able to sell that business to one of the best employees who has worked and learned the best practices of the business.

On the other issue in this bill, the dual jurisdiction, which is the deletion of the definition, it's important to note that if that definition is deleted and the State comes forth with a proposal to

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manage, access the, the activities as well, there will, there will be dual jurisdiction, and there has not been coordination between the agencies to make sure that that's actually a workable situation; and it's quite likely that I might have a permit to work in the park and you might have a permit to work on the beach and neither one of us could actually do anything.

I see that I'm out of time. So, I just want to ask you to please file the bill and. . .thank you very much. Any questions?

CHAIR JOHNSON: Thank you. Are there any questions of Ms. Cadiz? Thank you very much, Patty, for your attendance.

MS. CADIZ: Thank you.

CHAIR JOHNSON: Roger, and if I'm not pronouncing, if it's Simonot or Simonot. . .

MR. SIMONOT: Simonot. Thank you.

CHAIR JOHNSON: Simonot, okay, and he'll be followed by Greg Howeth.

MR. SIMONOT: Good afternoon, my name is Roger Simonot. I operate a small tour company called South Pacific Kayaks, and I am a permit holder. And I don't have a prepared speech here today, but what I'm trying, the point I'm going to try to get across today is. . .I, I'm very much opposed to this bill and I think it should be filed. Patty just mentioned about the dual jurisdiction with eliminating the definition ocean rec..., ocean recreation activity. And for the same reason that Patty talks about, we may find ourselves unable to do any work whatsoever, County and State not seeing eye to eye and can't, and unable to get. . .rules together that, that would enable us to do that. So that's, that's something that it's pretty serious and it could have a devastating effect on all the small businesses that operate. Secondly, the nontrans..., nontransferability issue, it's real important to note that when. . .the permit system moved from the Finance Company [*sic*] to the Parks Department, it, it. . .a lot of the language was just transferred over, and the transferability language was part of that. At that time permits were available. So if you transferred your business, if you sold your business, the permit would not transfer. You could, you would simply go in and meet the criteria and enable yourselves to get a new permit. With the introduction recently, no permits have been made available, and that's a decision by the Parks Director. Add that on top of this language, and that transferability issue or definition takes on an entirely new meaning because we cannot go and, and simply get ourselves a new permit. So that's something really important to take into account. People have worked long and hard building their businesses and investing in their businesses. Sometimes you need to go and secure some financing for new equipment or new space, whatever it might be. All those things will be unavailable to us should this go into effect because nobody's going to invest in our future because we don't know what it's going to be. And that's the long and the short of it. We, we really think this bill should be filed. It's not good for the community. It's not good for

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encouraging the high quality service providers that are out there. And I hope you guys understand our point of view on this.

CHAIR JOHNSON: Thank you very much. Are there any questions? Seeing none, thank you. Greg Howeth, and he will be followed by Teri Leonard.

MR. HOWETH: Madam Chair, Members of the Committee, my name's Greg Howeth. I am the President of Lahaina Divers Incorporated, and I'm also a member in Lahaina Dive & Surf, LLC. We happen to be CORA operators for scuba diving in, here in Maui County. I've testified numerous times before. The problems with the language that's in this bill is that it would've effectively put me out of business because whenever it was time for me to buy my business, I had to seek bank financing, and no bank is going to loan on any of our CORA businesses based on the language that's in this bill. *Please* file this and don't allow it to see another light of day. We've talked in ad nauseam over this, we've had numerous meetings, and there's a lot changed over the years. When we first started, the room was packed with businesses trying to get in, there was conflicts with users, and the economy--we didn't think that you could sell a house fast enough because you couldn't make enough money for the next one that was coming, it was moving so fast. Look at the room today, there aren't a lot of us left, and the effect of this bill would be to put a lot more people out of work, a lot more people out of their homes. And in this economy, I don't think this Council nor Maui County can afford those actions. Please file this bill. Thank you.

CHAIR JOHNSON: Thank you. Are there any questions? Thank you, Greg. Teri Leonard, and she'll be followed by. . . Alan Cadiz.

MS. LEONARD: Good afternoon and aloha. Thank you all for listening to us today. My name is Teri Leonard. I'm the Mana..., Manager of Maui Dreams Dive Company, and each time I've come before you in the past I've prepared testimony. But today I just came to just remind you of a few things. So, I'll be as brief as possible for you. Donovan and his wife, Rachel Domingo, have owned Maui Dreams Dive Company for 11 years. I have worked there, in August it will be my 11th anniversary. In that time they have paid hundreds of thousands of dollars, I'm sure well over a million, maybe \$2 million, in wages, taxes, insurance. So in so many ways they have contributed to the community. That doesn't even come close to the environmental benefit that they've given the community. Don here has spent many, many hundreds and hundreds of hours of his own time to go out and put in moorings and to fix them, repair them, plus many other activities that we do; underwater cleanups to cleanup fishing tackle and material off the bottom of the ocean--all free to the community. We act as, as. . .in fact when I turned in our permit application to the Parks Department, the woman actually commented that we give free, we're free lifeguards for the Parks Department. I mean there's so many things that the company does for the community. I don't understand the motivation behind wanting to get rid of us through attrition or to. . .suggest that our business can't be sold in a, in an equitable manner. And why would he keep, why would, why would Don want to keep investing in that business if he knows he can't sell it? Me, I've been there 11 years. I, I'm. . .I've learned a lot in my 11 years about

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the business. I could never become a partner. I could never buy it out. I could not go and create my own business because the permits aren't available. So just keep these things in mind, please, and just don't, don't get rid of our good businesses. Thank you.

CHAIR JOHNSON: Thank you, Teri. Any questions? Seeing none, the next testifier will be Alan Cadiz, and he'll be followed by Carol Reimann.

MR. CADIZ: Thank you, Madam Chair. Thank you, Council Members, for the opportunity to speak. Listening to my wife speak, we're very like-minded. I thought, wow, she. . .she read my speech. We, we agree on a lot of the same things. My name is Alan Cadiz and I'm owner of HST. We teach windsurfing, kite surfing, and surfing. . .mostly at Kanaha Beach Park, but we, we go to a few other beaches. I believe this bill, EAR-20, is an anti-business bill. I really believe it's an attempt to expedite the attrition of businesses that guide and coach our visitors and residents in the ocean, and that the language in this bill expanding the definition of nontransferability is the same as what the Parks Director proposed in a previous draft in the Administrative Rules. And despite the objections of the CORA businesses, she wanted the language in, in her rules. It was only when Tom Cole pointed out that the Director, that she had overstepped her authority, that she removed it from the draft. At the same time she said she would return to County Council to make the changes in the ordinance, and that's why we're here today or have been here before. My question is if the County Ordinance 13.04 and the Parks Administrative Rules are to ensure professionalism in our industry to effectively raise the bar on our service providers, why then would you consider a bill that would have the opposite effect? This bill would ultimately discourage building business equity, it would discourage stewardship of the resource, it would discourage building good relations with the community. It would, however, foster a don't-care attitude. It wouldn't happen overnight, but it would happen. This bill from the Parks Administrator is an anti-business bill. At a time when Maui residents are feeling the economic downturn, wouldn't it be better if the Administration and the Council work together to improve the business climate instead of even more regulations. I respectfully ask you to file this bill. Thank you.

CHAIR JOHNSON: Thank you, Alan. Any further questions? Thank you very much. And our last testifier is Ms. Carol Reimann.

MS. REIMANN: Hello again, my name is Carol Reimann. I represent the Maui Hotel & Lodging Association. I would just like to stop for a second and, and thank Ms., Director Tamara Horcajo and the Department of Parks and Recreation. . .you know, they put a lot of effort in trying to regulate our beach parks. And, you know, there's no doubt that there needs to be a balance between commercial activities and the needs of our residents. So we understand that this is a tough task and applaud them for their efforts. I've testified before you numerous times, so I won't go over my entire testimony. But I would like to point out the recent news about improved visitor statistics provides us with a really false sense of security. The County's economic engine, the visitor industry, continues to struggle, and it will be a very long and slow recovery for us. Deep discounting from all sectors of tourism is still common practice as we collectively try to

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attract savvy visitors amongst the highly competitive global marketplace. It is the Maui Hotel & Lodging Association's hope that the County of Maui should consider the importance of tourism to our economy and enact policies that encourage and nurture our beach operators, especially during these tough economic times. We feel that there are some issues with this current bill, and we ask that you please file. Thank you.

CHAIR JOHNSON: Thank you very much. Are there any questions of Ms. Reimann? Thank you very much for your attendance. Is there anyone else in the audience that wishes to give testimony who has not previously testified? Seeing no one coming forward, the Chair would request that public testimony be closed. Are there any objections?

COUNCIL MEMBERS: No objections.

CHAIR JOHNSON: Okay, thank you. And we have at this time received to my knowledge. . .you know, any written testimony is already in the binder. We didn't receive any new testimony today.

...END OF PUBLIC TESTIMONY...

CHAIR JOHNSON: So, Members, I will next ask for Ms. Horcajo who, as Ms. Reimann said, sometimes has a difficult task trying to, I guess, survive too in this climate, and particularly after just completing a budget. . .that always seems to put our poor Parks Department last on the totem pole. But, you know, we tried. So, Ms. Horcajo, if you could just give us, you know, your comments. Thank you.

MS. HORCAJO: Good afternoon and thank you, Chairman Johnson. And thank you, Members, for being here today and for taking up this issue again. The Parks Department did submit the bill that's before you today actually to clarify and expand the, the definition as put in the Maui County Code as it relates to commercial ocean recreation activity. And I thank you to the testifiers; I understand that, you know, we all read things differently. So here we are.

Chapter 13.04 states, permits are not transferable. The Department is looking for guidance on this and from the County Council, and we're here today to answer any questions or assist you in the decision making. Mahalo.

CHAIR JOHNSON: Thank you very much. Are there any questions of Ms. Horcajo? Seeing none, I would just ask Corporation Counsel to address the issue to the nontransferability or any. . .answer any questions, if there are any, on the part of the Members. Do you feel comfortable addressing that, Mr. Ueoka?

MR. UEOKA: Yes.

CHAIR JOHNSON: Okay, please.

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MR. UEOKA: The question I had was when the businesses are transferred, the issue came up as whether or not the permit is considered an asset of the corporation or other business entity. So when the business is, the corporation or let's say business entity is sold from one person to another, does that constitute a transfer of the permit because the permit is still with the business; however, the business now has new owners, partners, members, et cetera. That was the question. We weren't sure the bill was intended to clarify that, saying that the transfer or the sale of the business would be a transfer of the permit. So that's what we're here asking for clarification on.

CHAIR JOHNSON: Yeah. And, and I think Staff also, Mr. Jensen, may have some examples too of why, you know, basically the way that we were reading this originally was that if you do have the permit, every year you have to renew it anyway. So it's not really an asset of the corporation or the business entity because if you sell the business and you have one month left on your permit, whoever the new person is that buys that business has to reapply just like anyone else. So that, I think, was something really important because I don't want to send the impression and I, I don't think the Administration wants to send the impression either that we're trying to restrict who you can or cannot sell your business to. Even as individual operators. . . currently, if you don't adhere to the Administrative Rules and conduct yourselves in a way that is really responsible, your permit can be pulled anyway. So to me, I don't see that as a problem because I see that the County has the leverage. If somebody is not conducting themselves in a proper manner, you know, we have recourse. But I know Mr. Jensen also had done some similar research. Would you care to comment, Scott, on anything further?

MR. JENSEN: Madam Chair, no, I, I just echo the comments that have been made, and I think that's reflected in the Department's statements on the matter.

CHAIR JOHNSON: All right. Thank you. And I think that. . . I really appreciate the Administration, and, and Ms. Horcajo and I early on visited about some of this. And some of the confusion, I think, came about maybe even on my part as a result of discussions. When I've seen permits like Akina Aloha Tours where, you know, you have a permit, but it's a different kind of situation there where you're actually going through a much more lengthy process and there is some vesting. This is very different, ocean rec activities permits that renew every year, and that's just the way it is. It's a procedural thing. So, I think what Ms. Horcajo and the Department is seeking is guidance from us. And I'll be honest with you right now, Members, I, I know we've kind of flogged this like, you know, as much as we can. My inclination is to simply file the bill because I prefer to just leave things in the present order, the way that it's been operating. The new Administrative Rules are implemented. If they need tweaking, that is not in our control anyway, that's Administration, and I think they are receptive. If there is some kind of a change or something isn't working smoothly, that's within their span of control. So with, you know, with that, I'll just open it up for comments. Oh, Member Baisa. I'm looking at you, but I'm not saying your name. . . .(chuckle). . . So, Member Baisa.

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COUNCILMEMBER BAISA: . . .*(chuckle)*. . . Thank you very much, Chair Johnson. I think that, you know, this matter has been discussed, as one of the testifiers mentioned, ad nauseam, and the time has come to make a decision, fish or cut bait here. And I've heard your recommendation and I was about to ask for that; however, there may be other discussion before that. But I think for me, one of the things is the bad timing of doing anything further to inflict harm on our businesses really, really bothers me. As Ms. Reimann from the visitor, from the Hotel Association mentioned, you know, we're just beginning to see glimmers of hope that things are turning around, but it's still very, very fragile, and so I think we want to be very, very careful. But as the meetings have been held and I think better understanding of what the Department was trying to do and what the bill is about, I think, like you said, we have other means to deal with issues. And I think the fact that these permits are, you know, for one year, that's in itself very difficult. You know, when you have a permit for a year, it's very difficult to plan. I relate to having a grant for one year. It's almost hard to hire a staff because no, who's going to do it and want to come and work for you for a promise of one year, or why would you want to invest great money in a business when you have it for one year? So, I think that's kind of self-policing. But I would like to thank Ms. Tamara Hodges [*sic*] very much. Tamara, you worked really, really hard on this bill, you and your staff, and I know you're trying to just, you know, deal with many, many things. However, at this point I tend to kind of agree with, with Chair Johnson that maybe the best thing for us to do is to file this now and if it continues to be an, an issue and if problems get worse, there's nothing to stop us from looking at it again. So, Tamara, thank you, you know, very, very much and thank you, Chair Johnson, for bringing the matter up to our attention and giving it a full discussion. I think the community has had much opportunity to discuss it as well as the Council. So, I'd like to thank everybody. Thank you.

CHAIR JOHNSON: Thank you. And if you'd like to, so that we can give your comments within the context of the motion, the Chair would entertain a motion at this point in time to file the EAR-20 and the County Communication attached to it.

COUNCILMEMBER BAISA: So moved.

COUNCILMEMBER MOLINA: Second.

CHAIR JOHNSON: It's been moved by Councilmember Baisa, seconded by Member Molina. And discussion? And I'll let Member Molina, followed by Member Pontanilla.

COUNCILMEMBER MOLINA: Thank you, Madam Chair. And just, just briefly. . .you know, the dynamics have changed over the last eight years, you know, the economy has. . .basically tanked and everything slowed down in the visitor industry. So, I think we have to take that into consideration. So some of the issues that had raised some concerns previous and maybe might have been the nexus for this attempt with the nontransferability have changed and, you know, I, too, applaud the, the Department, Ms. Horcajo, for making an attempt to see what can be done. But in light of the times that we live in, maybe we should maybe take a breather from this a little bit. We flogged it enough maybe at this point, Madam Chair.

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COUNCIL MEMBERS: . . .*(chuckle)*. . .

COUNCILMEMBER MOLINA: So, I guess filing at this point might be the more appropriate thing to do, but it doesn't prohibit this matter from being looked at again whether it occurs at this term or the next term. So I'll, I'll support your recommendation, Madam Chair.

CHAIR JOHNSON: Thank you.

COUNCILMEMBER MOLINA: Thank you.

CHAIR JOHNSON: Thank you very much. Member Pontanilla?

COUNCILMEMBER PONTANILLA: I, I think what I was going to say has been said. I'll just support your recommendation.

CHAIR JOHNSON: All right, thank you. Non-Member Victorino?

COUNCILMEMBER VICTORINO: Thank you. Non-Voting Member. I'm still a Member--

CHAIR JOHNSON: I know.

COUNCIL MEMBERS: . . .*(chuckle)*. . .

COUNCILMEMBER VICTORINO: --but Non-Voting. Okay.

CHAIR JOHNSON: Non-Voting.

COUNCILMEMBER VICTORINO: But, just, just, you know. . .you know, I'm just very sensitive nowadays. Three and a half years ago when I was on that humungous committee, which was many departments put under one, Co-Chair Medeiros and I took on this project and we were working on this and some of you were at the meetings, and I said back then they needed to get it right and they, you know, you've worked towards it, but things changed drastically in the last three and a half years. And so, Madam Chair, even though I don't vote, I am a Non-Voting Member, you're right, I can support your recommendation when it comes to the full Council--oh, and in fact it will come to the full Council.

CHAIR JOHNSON: Right, right.

COUNCILMEMBER VICTORINO: I, I beg your pardon, excuse me. But I think it's the right move at this time. And I thank Ms. Horcajo and Mr. Ueoka, because they've been on this for a long time. This is one of Mr. Ueoka's *first* challenges of many that he's run across. And so I thank you,

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Madam Chair, and I, I can support what you're doing, even though I won't vote on it. Thank you.

CHAIR JOHNSON: No. And, and the Chair appreciates that, yes. And, and because of an earlier issue we have, we're all Members of every Committee, but we're called Non-Voting Members on certain committees. So, you know, that's a *whole*, another issue, which we won't even go there.

COUNCILMEMBER VICTORINO: Oh, let's not go there.

CHAIR JOHNSON: But I think continuing this on would be tantamount to Council Member abuse, and I am not for that.

COUNCIL MEMBERS: . . .*(chuckle)*. . .

CHAIR JOHNSON: So . . .and particularly business owner abuse. . .*(chuckle)*. . . It's because you have to take time away from your businesses to come here. But I just want to thank the Staff, the Administration, and also all the people that currently are still remaining, you know, in business who are struggling, because one of the things that they did not say is their numbers are 30 percent less than when we began this discussion, and that's hard, you know, to accept because many of these people pour their heart and souls into their business. And with the economy evaporating before our very eyes--we faced that this year in our budget--and I think the Administration as well as our Committee is open to any suggestions that you have. . .*(chuckle)*. . . Member Baisa?

COUNCILMEMBER BAISA: I probably shouldn't ask this and maybe opening Pandora's box, but I think it's a good thing to get, give the opportunity. I'd like to ask Ms. Horcajo if she has. . .you know, are you going to be able to live with our decision?

CHAIR JOHNSON: . . .*(chuckle)*. . . Yeah. And, and that's perfectly fine. Tamara, please respond. . .*(chuckle)*. . .as the Non-Voting Member. . .*(chuckle)*. . .

COUNCILMEMBER BAISA: As the Non-Voting Member. . .*(chuckle)*. . .

CHAIR JOHNSON: Unofficial.

COUNCILMEMBER BAISA: I know how, how much you. . .this meant to you and how hard you worked on it. So, I'm just. . .you know, are you going to be able to make it work?

MS. HORCAJO: Actually, I guess opening a can of worms is, is. . .you're right. The Maui County Code reads, Permits are nontransferable. So as I understand it today from the direction, permits are not transferable. So that's where we stand and then guidance. . .the permit is not an asset of the business. This was also at our Small Business Regulatory Review Board, indicated to us that

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permits were not or should not be considered an asset of the business. So any business sale is not affected by the, the permit. So it's good to get--

COUNCILMEMBER BAISA: Very good.

MS. HORCAJO: --this clarified so we can just keep moving on. And, again, I do consider all of the commercial operators as our partners, and I will continue to say that because I really believe that together we do provide opportunities for our residents and visitors. So, I do appreciate their service.

COUNCILMEMBER BAISA: Thank you very much, Ms. Horcajo. I appreciate the good spirit. Thank you.

CHAIR JOHNSON: Thank you. Is there any further discussion? Seeing none, all those in favor of the motion to file this communication as well as the subject matter, please signify by saying aye.

COUNCIL MEMBERS: Aye.

CHAIR JOHNSON: And the Chair votes aye, and there are no nays. So it's unanimous.

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

NOES: None.

EXC.: Vice-Chair Kaho'ohalahala.

ABSENT: None.

ABSTAIN: None.

MOTION CARRIED

ACTION: Recommending FILING of communication.

CHAIR JOHNSON: And I want to thank the Members for basically supporting these many meetings, and I do appreciate all the attendance of those vendors who have been very faithful in following this issue.

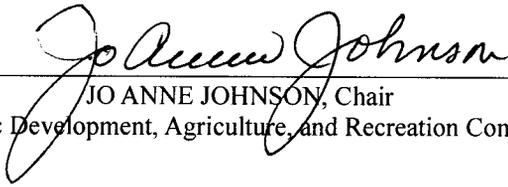
So with that, seeing no further business on the agenda, the meeting of June 3rd, 2010 of the Economic Development, Agriculture, and Recreation Committee is hereby adjourned.
...*(gavel)*...

**ECONOMIC DEVELOPMENT, AGRICULTURE, AND
RECREATION COMMITTEE MINUTES**
Council of the County of Maui

June 3, 2010

ADJOURN: 2:06 p.m.

APPROVED:



JO ANNE JOHNSON, Chair
Economic Development, Agriculture, and Recreation Committee

ear:min:100603

Transcribed by: Tammy M. Frias