

# PUBLIC SERVICES COMMITTEE

Council of the County of Maui

## MINUTES

June 30, 2010

### Council Chamber

**CONVENE:** 9:00 a.m.

**PRESENT:** Councilmember Wayne K. Nishiki, Chair  
Councilmember Joseph Pontanilla, Vice-Chair  
Councilmember Jo Anne Johnson (in 9:11 a.m.)  
Councilmember Danny A. Mateo  
Councilmember Bill Kauakea Medeiros  
Councilmember Michael P. Victorino

**EXCUSED:** Councilmember Sol P. Kaho`ohalahala

**STAFF:** Scott Jensen, Legislative Analyst  
Scott Kaneshina, Legislative Analyst  
Clarita Balala, Committee Secretary

*Seated in the gallery:*

BJ L.R. Medeiros, Executive Assistant to Councilmember Bill Kauakea Medeiros  
Leinaala Kihm, Executive Assistant to Councilmember Bill Kauakea Medeiros

**ADMIN.:** Wayne Ribao, Assistant Chief, Department of Police  
Jonie Chong Kee, Acting Records Manager, Department of Police  
Don Medeiros, Director, Department of Transportation  
Wayne Boteilho, Deputy Director, Department of Transportation  
Kimberly A. B. Sloper, Deputy Corporation Counsel, Department of the Corporation Counsel  
Edward S. Kushi Jr., Deputy Corporation Counsel, Department of the Corporation Counsel

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

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CHAIR NISHIKI: . . .(*gavel*). . . The Public Services Committee please come to order. Let the record show the attendance of Committee Member Bill Medeiros.

COUNCILMEMBER MEDEIROS: Good morning, Chair. Aloha.

CHAIR NISHIKI: Council Chair Danny Medei...Danny Mateo.

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COUNCIL MEMBERS: . . . *(chuckled)* . . .

CHAIR NISHIKI: Committee Member Joseph Pontanilla, my Vice-Chair.

VICE-CHAIR PONTANILLA: Good morning, Wayne.

CHAIR NISHIKI: And Committee Member Mike Victorino.

COUNCILMEMBER VICTORINO: Aloha and good morning, Chair.

CHAIR NISHIKI: Thank you. Excused are Committee members Jo Anne Johnson and Sol Kaho`ohalahala. Members, we have also present Deputy Corporation Counsel, Kim Ball Sloper. Good morning and congratulations. She just had her third girl.

COUNCILMEMBER VICTORINO: Congratulations.

COUNCILMEMBER MEDEIROS: Yes.

CHAIR NISHIKI: And later I think we'll have Ed Kushi for Item 28. And representing the Police we've got Assistant Chief Wayne Ribao, and the Acting Records Manager Jonie Chong Kee. And later on, we'll have Director Don Medeiros from the Department of Transportation. So, Mr. Ribao and Jonie, you can take a seat here. Also, on the Committee Staff we've got Scott Jensen and Scott Kaneshina, our Legislative Analysts; and our Committee Secretary, Clarita Balala.

Members, today, we have two items on our agenda. First, we will consider PS-27, relating to records disposition schedule for the Department of Police. The County Communication 10-80 includes a resolution authorizing the adoption of a revised records disposition schedule for the Maui Police Department pursuant to Section 46-43, Hawaii Revised Statutes. The purpose of the proposed resolution is to update the schedule of disposal of Department of Police records. And then the Police Department will give us a more in-depth explanation of why an update to their records retention schedule is needed.

The second item, County Communication 10-109, from the Department of Transportation, includes a resolution *[sic]* entitled "A BILL FOR AN ORDINANCE AMENDING TITLE 11, MAUI COUNTY CODE, RELATING TO PUBLIC TRANSIT." The purpose of this proposed bill is to clarify and codify the County's public transit system (The Maui Bus), and in particular, County bus stops. And Director Don Medeiros is here.

So at this time, if there are no objections, we'll accept public testimony.

COUNCILMEMBER VICTORINO: No objections.

COUNCILMEMBER MEDEIROS: No objections.

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CHAIR NISHIKI: Thank you. Anyone here signed up to testify, Staff? Seeing none, the Chair will close public testimony, if there are no objections.

COUNCILMEMBER VICTORINO: No objections.

COUNCILMEMBER MEDEIROS: No objections.

CHAIR NISHIKI: Thank you. Okay, we'll turn to Item 27.

**ITEM NO. 27 REVISED RECORDS DISPOSITION SCHEDULE (DEPARTMENT OF POLICE) (C.C. No. 10-80)**

CHAIR NISHIKI: Assistant Chief Ribao and Jonie Chong Kee, if you'd like to give opening statements.

MR. RIBAO: Good morning.

CHAIR NISHIKI: Good morning.

COUNCILMEMBER VICTORINO: Good morning.

COUNCILMEMBER MEDEIROS: Good morning.

MR. RIBAO: All I want to start off with these...a lot of the records, well, I just want to mention the items that are bracketed that's what we want to change to. The unbracketed item is the old schedule and the bracketed item is what we want to change to. So, I just want to clarify that because I know that's a little different from what you normally see that's why.

CHAIR NISHIKI: Anything else, Assistant Chief Ribao, in regards to the explanation of the bracketed and also the underlining and you would look, Committee Members, after the resolution Exhibit A.

MR. RIBAO: I know for Items No. E through H, those proposals were made by our Business Manager, Mr. Greg Takahashi. And I spoke to him yesterday and he said that by his past experience, he's been our business manager for many years now, from his past experiences he wanted to pretty much increase the time that we retain these records because I guess he ran into issues before where no one could find the records and he really had to go dig deep or go to other County departments to get them so I think he feels better if we retain the records at MPD. That way, if the records are needed either for our Grant Audit or by any other agency, he'll know where to get them and it makes his job easier. So, again, from Items E through H, that's the reason for that. In most instances, increase of the time that we hold these records. But if you have any questions on individual items, we'd be more than glad to try to answer them for you.

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CHAIR NISHIKI: Thank you for your explanation, Acting Chief, Assistant Chief Ribao. Mr. Victorino?

COUNCILMEMBER VICTORINO: Thank you, Chair. And thank you, Mr. Ribao, for the explanation so that the public understands you. You're moving many of these from one calendar year to three calendar years...some moving up to seven fiscal years instead of one and that's just for retention in your Department for these various records.

MR. RIBAO: That's correct.

COUNCILMEMBER VICTORINO: Now, I was curious when I go to Page...uh, shoots, I'm sorry, there's no page number but I go to, I guess, "K" permanent files. Mr. Chair, that's about five pages in.

CHAIR NISHIKI: Okay.

COUNCILMEMBER VICTORINO: Okay. And I apologize there's no page numbers but I'm looking under "K. Permit Files" and I said permanent. I'm sorry, I apologize...Permit Files. I noticed that here some you want permanent or you've kept the same but I noticed Hunting Permits, and this is No. 2 and No. 3...Well, the first one you guys don't maintain the files anyhow, these are hunting permits so doesn't make difference, right?

MR. RIBAO: Yes.

COUNCILMEMBER VICTORINO: So hunting permits are DLNR?

MR. RIBAO: That's correct.

COUNCILMEMBER VICTORINO: Okay, okay, so I understand that. But the next one is the current *[sic]* and I understand your explanation but why would you want that removed because I thought curfew permits is not something, you know, it says here, curfew permits MPD Form No. 200 *[sic]* was removed from our form list on September 1, 1995. They no longer issue such permit. So that permit does not exist at all?

MR. RIBAO: That's correct.

COUNCILMEMBER VICTORINO: Okay. And why doesn't it exists, and I'm just asking that question because curfew sometimes becomes an issue in communities. I hear parents many times ask me about curfew violations...how do they...my child works...I get different rationale for that. But why was that removed and tell me what the curfew permit was if I may ask that question?

MR. RIBAO: I'll refer that to our Records Manager, Jonie Chong Kee.

COUNCILMEMBER VICTORINO: Sorry, Ms. Chong Kee to put you on the spot.

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MS. RIBAO: Sorry about that.

MS. CHONG KEE: I believe the curfew permits were to allow juveniles for special occasions time beyond the normal permit. We don't do that. That's not in sync with the curfew laws.

COUNCILMEMBER VICTORINO: Okay.

MS. CHONG KEE: So we don't, we just don't do it.

COUNCILMEMBER VICTORINO: Okay. Okay. I just was wondering about that one in particular, you know what I mean. And I love this...the last one I want to ask about is No. 5, Fireworks. Fireworks...you guys don't do that. That's really the Fire Department, right?

MR. RIBAO: Yes.

COUNCILMEMBER VICTORINO: Surprise how that's still around for so many years when the Fire Department has been the one that's been doing it all this time.

MR. RIBAO: Yes.

COUNCILMEMBER VICTORINO: But you folks still enforce fireworks violation as far as the call out by the public.

MR. RIBAO: Yes.

COUNCILMEMBER VICTORINO: But this is just the permitting process, right?

MR. RIBAO: Yes.

COUNCILMEMBER VICTORINO: Okay, thank you, Mr. Chair. Thank you for giving me the opportunity to question the Assistant Chief.

CHAIR NISHIKI: Thank you. Mr. Pontanilla?

VICE-CHAIR PONTANILLA: Thank you. So it's similarly to curfew that we still enforce the curfew ordinance?

MR. RIBAO: Yes, we do.

VICE-CHAIR PONTANILLA: Okay. Thank you.

CHAIR NISHIKI: Mr. Mateo?

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COUNCILMEMBER MATEO: Chairman, thank you. Assistant Chief, the request for keeping some of the materials longer, these are electronically kept or are they still paper...materials that you're keeping?

MR. RIBAO: For Greg Takahashi's items those are more than likely paper items in most instances.

COUNCILMEMBER MATEO: And because you're requesting for a longer period of time, you do have the space available to store--

MR. RIBAO: Yes, we do.

COUNCILMEMBER MATEO: --these things?

MR. RIBAO: Yes.

COUNCILMEMBER MATEO: Thank you. That's all I needed to know. Thank you.

CHAIR NISHIKI: Any other questions? Let the record show the presence of Jo Anne Johnson, good morning, Jo Anne.

COUNCILMEMBER JOHNSON: Good morning.

CHAIR NISHIKI: Mr. Medeiros?

COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman. Assistant Chief Ribao, on the retaining the records longer than you used to maintain them, are there any HRS or statutes or Department policies that give you direction on how long you have to retain certain records?

MR. RIBAO: I'm not aware of any HRS or...I know there's no Department policy. The Department policy is this retention schedule, the County retention schedule.

COUNCILMEMBER MEDEIROS: Okay. So the retention schedule that you just mentioned now you said the County's retention schedule. Is that by the Administration or by a certain agency that you followed that retention schedule?

MR. RIBAO: I believe the County has an overall retention schedule and I think the Police Department pretty much follows that schedule as well.

COUNCILMEMBER MEDEIROS: Okay. And so by increasing the number of years the Department wants to retain the files now that's just a Department request or your policy now that you're going to retain them longer?

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MR. RIBAO: Yes, that's a Police Department request. That's correct.

COUNCILMEMBER MEDEIROS: Okay. Thank you, Assistant Chief Ribao. Mahalo, Mr. Chairman.

CHAIR NISHIKI: Thank you. Any other questions?

COUNCILMEMBER MATEO: Recommendation, Chair?

CHAIR NISHIKI: Thank you.

COUNCILMEMBER JOHNSON: Mr. Chair?

CHAIR NISHIKI: Oh, I'm sorry, Jo Anne?

COUNCILMEMBER JOHNSON: It's okay. I'm sitting way over here on the right side so you can see me. Anyway, I just wanted to find out on the gun registrations because I know there was a Supreme Court ruling having to do with the right possessor firearms or whatever, does that have any bearing whatsoever on your record retention? Because I noticed one of the comments on the gun permits, gun registration ownership file you're going to keep that one fiscal year now, and the previous comment was recommended that the gun permit application be kept as a permanent record. The records are important especially if the permit is denied following checks which revealed past criminal history or denial due to psychological reasons. So that's now not going to be...

MR. RIBAO: Actually earlier I explained it. Items that are bracketed are what we want to change it to.

COUNCILMEMBER JOHNSON: Oh, it's just what you want to, oh, it's just the opposite.

MR. RIBAO: Yes.

COUNCILMEMBER JOHNSON: Okay.

MR. RIBAO: I know that's little different from what you normally see.

COUNCILMEMBER JOHNSON: I'm sorry for that. It's just exactly the opposite. Okay, then that makes more sense.

MR. RIBAO: Thank you.

COUNCILMEMBER JOHNSON: Yeah, because that is really important, particularly now with the gun law changes.

MR. RIBAO: I agree.

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COUNCILMEMBER JOHNSON: Thank you.

CHAIR NISHIKI: Seeing no other questions, the Chair would recommend authorizing the adoption of a revised records disposition schedule for the Maui Police Department pursuant to Section 46-43, Hawaii Revised Statutes, and the filing of the item.

VICE-CHAIR PONTANILLA: Mr. Chairman, I move that we approve the resolution entitled "AUTHORIZING THE ADOPTION OF A REVISED RECORDS DISPOSITION SCHEDULE FOR THE MAUI POLICE DEPARTMENT PURSUANT TO SECTION 46-43, HAWAII REVISED STATUTES", and the filing of County Communication No. 10-80.

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

CHAIR NISHIKI: Moved by Mr. Pontanilla, seconded by Mr. Victorino. Any discussion? The Chair would like to also say, if there are no objections, there are minor revisions Corporation Counsel recommended so if they are allowed to be made with our Staff.

VICE-CHAIR PONTANILLA: No objections.

COUNCILMEMBER VICTORINO: No objections.

CHAIR NISHIKI: Okay. Any other discussion? Seeing none, all those in favor say "aye"?

VICE-CHAIR PONTANILLA: Aye.

COUNCILMEMBER VICTORINO: Aye.

CHAIR NISHIKI: All those opposed? Motion carried. Six to nothing -- Johnson, Medeiros, Mateo, Pontanilla, Victorino, and Nishiki. Excused is Councilmember Kaho'ohalahala.

**VOTE:       AYES:   Chair Nishiki, Vice-Chair Pontanilla, and Councilmembers Johnson, Mateo, Medeiros, and Victorino.**

**NOES:       None.**

**ABSTAIN:   None.**

**ABSENT:    None.**

**EXC.:       Councilmember Kaho'ohalahala.**

**MOTION CARRIED.**

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**ACTION: Recommending ADOPTION of resolution and FILING of communication.**

CHAIR NISHIKI: Okay, thank you so much.

MR. RIBAO: Thank you, Chairman.

CHAIR NISHIKI: Thank you, Kim, Mr. Ribao, and Jonie.

**ITEM NO. 28 MAUI COUNTY PUBLIC TRANSIT SYSTEM (MAUI BUS)**  
(C.C. No. 10-109)

CHAIR NISHIKI: We have one more item. Mr. Medeiros and...

Also, Corporation Counsel Ed Kushi is here. This is Item 28, from the Department of Transportation. This is a proposed bill for an ordinance amending Title 11, Maui County Code, relating to public transportation. Mr. Medeiros, you can introduce the members of your entourage.

MR. D. MEDEIROS: Good morning. Thank you, Chair Nishiki. To my right is Deputy Director Wayne Boteilho. And to my left is Corporation Counsel Ed Kushi. You've already let the Members know where this is going so I really don't have anything to add. I'm open for questions at this time.

CHAIR NISHIKI: Look at the ordinance, the definition - "*County bus stop*" means an area, identified by signage on a County bus route, where County transit buses and special transit service vehicles stop for the boarding and unloading of passengers. Those are the new definition. Any questions from Committee members? Mr. Victorino.

COUNCILMEMBER VICTORINO: Thank you, and thank you, Mr. Medeiros, for being here today. My question in this definition of County bus stop, this would be areas for which we have control of this or are these privately owned areas for which we have a working agreement with?

MR. D. MEDEIROS: Yes, it would be for...generally, this would be for what's on a County roadway.

COUNCILMEMBER VICTORINO: Okay. So those like bus stops at Kaahumanu Shopping Center and Pukalani and other what I call private owned bus stops. The sign is there, the facility is there but people are loaded and unloaded on the buses at these facilities would not be covered under this County bus stop ordinance?

MR. D. MEDEIROS: Correct because it's on private property and we'd have to work with them as to how it was to operate.

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COUNCILMEMBER VICTORINO: So these same rules apply to something like that but I guess, well, I don't know, you know. I have over here advertising...we're not talking about any of that. We're just talking about the definition of a County bus stop, right?

MR. D. MEDEIROS: Yes.

COUNCILMEMBER VICTORINO: So then I don't get confused 'cause I looked in the back and there's other things but that's not what we're talking about.

MR. D. MEDEIROS: In general, just to kind of refresh your memory, back in 2008, if you recall, we did the Planning Study, and so really what this is, is a follow through on this. This was a study, this now will take what lesson, what this developed and turn it into codified as code of law so that we'll be able to control things a lot better at the bus stops and then move forward with it. So on the first page under Section 11.07.010 the very last sentence you'll see that it refers to this so this is sort of the direction. And really this is developed so that as we go forward and development comes along if a facility is going in on what nature that's on our route and there's a stop there it helps the architects for those developments to know what it is that should happen. It helps us what a shelter, when a shelter should be put in or when a bench should be put in or just a sign. In the case of a shelter, we're saying if that location garners 25 or more boardings a day, you should consider putting in a shelter, and that was the basis for this whole thing. If you recall, the other piece of this document was the six-year plan, CIP plan on how we would roll out. Of course, with the economic climate, you know, that's probably not going to be happening in the near future but as time goes on.

COUNCILMEMBER VICTORINO: Okay. And again the last question I would have for you and, Chair, I'll let other Members ask, you put down special transient service, so the ParaTransit would that be inclusive of this special transient service? Is that what this is to include?

MR. D. MEDEIROS: Yes. That's more of a catch all. Generally, the ParaTransit that was talked about before will pick you up by your home or something to that effect. But there may be certain circumstances that the unit may need to use one of our bus stops.

COUNCILMEMBER VICTORINO: That I wanted it clarified because we didn't want these people to see this and say, oh, wow, they're not going to come to our house, Mr. Chair, so I want that to be publicly stated. So thank you. That's all the questions I have for now. Thank you, Mr. Chair.

MR. D. MEDEIROS: Thank you, Member Victorino.

CHAIR NISHIKI: Thank you. Any other question? Mr. Pontanilla?

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VICE-CHAIR PONTANILLA: Tell me if I'm out of order, yeah, please. I know we're talking about the definition probably of County bus stops. But Mr. Victorino brings out a pretty good point. In regards to Chapter 11.07, and I was kind of interested in the advertising at County bus stops should we do it, and the question is, how we do it is my issue.

MR. D. MEDEIROS: Yeah, I sort of thought that was coming because as you know we are going to be coming before your Committee shortly to discuss the advertising piece generally in the buses. So, this kind of hit before that one. So I guess it's a timing issue but we thought we would include that in here as part of the bus stop piece as well. That sort of gives us a way to go forward without having to come back and add that in...I assume that we'll be talking about advertising when we come before your Committee, Chair.

VICE-CHAIR PONTANILLA: So we'll talk about advertising in the bus and the location of these bus stops.

MR. D. MEDEIROS: Yeah, that's an option at some point that we could talk about because in the ordinance I don't believe we're talking about bus stops at this point. But we could talk about that when we come before your Committee.

VICE-CHAIR PONTANILLA: Okay. Good. Thank you. Thank you, Chairman.

CHAIR NISHIKI: Any other questions? Mr. Mateo?

COUNCILMEMBER MATEO: Thank you. Mr. Medeiros, can you tell me or give me information on how the Department worked out liability issues for those bus stops that are on private property like Kaahumanu Shopping Center, the Wal-Marts, the Lahaina area, I mean what is the County exposure?

MR. D. MEDEIROS: On the facilities that have required it to a certain degree is that they've requested that Roberts Hawaii, being the operator, include them as additionally insured on the Roberts' insurance policy. We require Roberts to have a ten million dollar insurance policy to cover the transit operations.

COUNCILMEMBER MATEO: And the site of the bus stations, bus stops, like the shopping center complexes, they're not required to have any additional insurance because the public system runs right through their properties?

MR. D. MEDEIROS: Because they're open to the public they generally have all these liabilities and really want the bus system to come in because it brings shoppers. And so in some, we've had this, we've included them and some haven't asked us to at all.

COUNCILMEMBER MATEO: Okay. Thank you. Thank you.

CHAIR NISHIKI: Any other question? Mr. Medeiros?

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COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman. And good morning, Mr. Medeiros, Mr. Boteilho. Thank you for being here early. Being that we're talking about the County bus stop, I wanted to know as we travel on the County roadways and see the bus stops indicated by the posted signage, we see through the goodness of some people in the public to put benches that they've constructed. You know, a lot of people where there's no benches sit on the fire hydrant or utility concrete ground boxes. As far as the chairs or benches that are put there, what kind of liability does that raise for us because my experience in Public Works with the County is that when you provide things on County right-of-ways or in this case the County stops with their buses to pick up people and drop off people, yeah, I wanted to know, is there a liability for us, you know. When people sit on these benches and they fall off them or the bench falls, flips over and they get injured, is there a potential claim to the County because the County left the benches there knowing that they were put there not by the County? I don't know if Corp. Counsel would assist you?

CHAIR NISHIKI: The Chair is going to allow the question...not being what we're discussing but Mr. Kushi?

MR. KUSHI: Yeah, uh, Mr. Chair, Member Medeiros, again, there's a potential claim for anything. I'd like to answer on a case-by-case basis based on what the factual situation is. Your first fact is whether or not the issue is who put those facilities on there. And if it's not the County, who and by what right and where? Is it in the County right-of-way or is it on private property adjoining the County right-of-way. And three, whether the County acknowledges and confirms and encourages the use of these facilities. Having answers to all these three major questions, then we can analyze liability. Initially, I would say no because it's not a County funded facility. But again, if the County adopts the facilities or benches, et cetera and encourages the use, there may be some estoppel issues. So I can't say, yes, no or even maybe at this point and time. But again, the intent of this ordinance is to officially acknowledge these bus stops.

COUNCILMEMBER MEDEIROS: Right.

MR. KUSHI: And perhaps have funding to confirm that it is a County facility, and get easements or licenses or fee simple property, private property to construct these facilities.

COUNCILMEMBER MEDEIROS: Okay. Thank you for that response and information. But on a follow up regarding just the bus stops, as we attempt to accept the bus stops when we put up a sign at a bus stop that this is the Maui Bus stop, is there a certain descriptive property boundary that is included in that bus stop? In other words, is there like a metes and bounds of where the bus stop is and where the County liability starts or stops? Or we're just saying that we're putting up a sign -- this is the bus stop but the area is not described?

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MR. D. MEDEIROS: When we look at a location to put bus stops, identify bus stops, we have to work with Public Works. Public Works has the responsibility for the roadways, not our Department. And so we'll do a site survey, take pictures of it and then work with the Engineering Department at Public Works. And what we're using the current signage or location of the signage that's already there. Many times it's near a crosswalk or it's a bike route or something to that effect. So that helps Public Works understand what it is. So, generally we know because it already has some sort of a County sign that it is within public right-of-way. And then we give that information to them and they keep note of it so that we have some idea of where they are. And so as projects come on they know that they're there and they include in the projects such as the one that the County is currently, Public Works is currently working on at Happy Valley with the stop that's down there and they've made accommodation for that so that it's workable.

COUNCILMEMBER MEDEIROS: All right. Thank you for that information. Mahalo, Mr. Chairman.

CHAIR NISHIKI: Any other questions from Committee Members? Mr. Pontanilla?

VICE-CHAIR PONTANILLA: My question is similar to Member Medeiros. You know when State Highways do road improvements, do we work with the State in regards to maybe creating bus stops, future bus stops here in Maui County?

MR. D. MEDEIROS: The State has been really good working with us and we have very few bus stops on the highways generally because they serve their arteries and it's not conducive to a bus stop because of the level of traffic on that road. But they have been really good working with us and we have talked to them about various locations and that sort. So they'd like to include that as they move forward with road developments and road projects. They've been just great.

VICE-CHAIR PONTANILLA Thank you. Is there a possibility of maybe a different venue because you're just talking about definitions here in regards to future location for bus stops and my favorite location is Puunene Avenue. I understand that the State of Hawaii is going to expand Puunene Avenue to four lanes and the possibility of creating a bus stop in that vicinity for those people in the first and second Increments.

MR. D. MEDEIROS: We have been in contact with HDOT and we have been talking to them about a location on Puunene Avenue, Mill side of the church that's on the airport side just up in that area. I'm sorry I can't remember which crossroads that is. But we've been in discussion with them on that as to maybe setting something up temporarily because we have had requests for something in that location further down that you're speaking of, sir.

VICE-CHAIR PONTANILLA: Okay. Maybe a different venue, maybe I can get together with you to let you know in regards to some of my constituents in Kahului that have...well, they have locations that they want to stop at and also board at. So maybe I'll just contact your office and we can discuss this thing.

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MR. D. MEDEIROS: That'll be great. Look forward to it.

VICE-CHAIR PONTANILLA: Thank you.

MR. D. MEDEIROS: Thank you.

CHAIR NISHIKI: Any other questions from Committee Members? Some clarification. Don, you know, you say County bus stop means an area identified by signage on a County bus route where County transit buses and special transit service vehicles stop for the boarding and unloading of passengers. And then under the Prohibition area, it says, except for the County transit buses and special transit service vehicles in the process of boarding or unloading passengers no person shall stop, stand or park a vehicle at a County bus stop. Then you say...it shall not apply to the Police or emergency vehicles. I guess the question is, how do we identify these areas should someone from the general public park there?

MR. D. MEDEIROS: We have a sign that is two feet long and one foot wide. It's quite visible.

CHAIR NISHIKI: There's no really metes and bounds of the area.

MR. D. MEDEIROS: No, no. Because of the rural nature of our infrastructure and I know our infrastructure we don't have that where it's striped and what have you. That's why part of this planning design guide did an evaluation of these and we're attempting to address the first ones and we've done design which shows in about nine right now to...and design them and ready to go. What we've done to try to foster this movement forward because of our tight budget conditions is that we've applied to the Federal government for \$800,000. You were kind enough to provide the matching with 20 percent \$200,000. So we're looking to get that. Deputy Director Boteilho has just completed two grants for two different pots of Federal money. So I would ask you to cross your fingers that that can come through. Because we're ready to go. We've got the design, we've done all of that sort of stuff. We just need to get it built and the money to get it built. We're also in the final stages and you funded that as well for us, thank you very much, at Kaahumanu to put in the shelters and some infrastructure. We've already issued a notice to proceed and had our pre-construction meetings. So we look forward to that in the near future.

CHAIR NISHIKI: Okay, Don, you just hit it on the nail...on the head. Because of the rural nature and you've got a bus stop what if somebody just parks close by to where that bus stop is? I don't see any violation of this but has there been instances where people's vehicles or where they park and where the bus stop is located been a problem like they get in the way of the bus being able to pull off to the side?

MR. D. MEDEIROS: Yes, yes, there has been.

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CHAIR NISHIKI: So you don't see any problem with that? I mean, what are you going to tell the person that blocks or prohibits the bus from getting pulled off the side and stopping in a soft manner because the vehicles parked there?

MR. D. MEDEIROS: They'll get a ticket...for illegal parking. You know I think the police, we'll work with the police as this moves forward, and I guess it's at their discretion whether they just give 'em a warning or give 'em a parking ticket. That's sort of to let people know, I mean, we have this in several areas and it's quite pervasive in some of the areas in some of the areas. And one in particular it's kind of tough and that one, obviously, and we have looked at as soon as we can get this money through we're going to do a shelter at that location because of the high loading. But the part of the problem is, it all deals with safety. If you've got a bunch of children there, which we do, and a car is blocking it, you have the concern the bus getting in or blocking traffic. My bigger concern is that a child is playing and doesn't pay attention and darts in front of the car and gets hit. I mean, children are children, and so if people understand that this is bus stop and it should be kept clear and that a bus is going to come there, it comes down to courtesy. And I guess if it doesn't go that way and people don't do that, then they're open to get a ticket, a traffic citation for illegal parking.

CHAIR NISHIKI: I guess I'm not satisfied with that answer just because I think it could occur, Don, and you said they're going to get a ticket. But Mr. Kushi, you'd like to address this concern.

MR. KUSHI: Yes, Chair Nishiki. You're looking at Section 11.070.020, parking prohibitions. And it says what it says but it doesn't say what the violation would be. And I concur with Director Medeiros is that if anything it's going to be a parking, no parking violation citation by the Maui County Police Department. Now there's a separate parking ordinance, I forget what title or chapter it is but there are violations for parking in prohibited zones, specifically loading zones. I've not looked at that section to incorporate these provisions but, again, that would be the avenue I would recommend. Again, there needs to be some enforcement granted but, again, like we said with this whole program it's a start. I would encourage the Committee to at least let this one go and follow up with the prohibitions. Again, I would imagine going down the road that the Director and his Deputy would expand its provisions not to include signage, adequate signage stating the violations, adequate striping on the County right-of-way to indicate where you can or cannot park, stand, or load if you're not doing County business, and then adequate provisions for towing away. But again, these are the consequences of legislation where you say you can't do anything.

CHAIR NISHIKI: Thank you, Mr. Kushi. Jo Anne?

COUNCILMEMBER JOHNSON: I was just going to say that under the beach access parking stalls, which we have, they do have the signage there that cites the specific section of the County Code where you can receive that fine for violation, and then that makes it real clear. So I'm in favor of moving this part of it forward and then addressing on the other

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side, that other section the ordinance. I don't even know, Mr. Kushi, through administrative rules or right of appeal or anything, is that part of how this could be further flushed out and stipulated?

MR. KUSHI: Mr. Chair, Member Johnson, you could possibly do it through administrative rules but then you would then create County administrative fines. And when you do a fine system where the County keeps the money, the police really is not involved. You'd have to have non-uniform officers going and cite notice of violations, and you don't go through the court system. That's the advantage or disadvantage of administrative fines, whereas in the parking ordinance it is a definite violation where you go through the district court and the police would then cite you but then the State keeps the money. So you have good and bad on both sides but, again, I think the fastest way without going through notice of violations and have the Director and the Deputy go out and cite the violators and have an Appeals Board listen to this is to have the police just cite them and they pay a parking violation fine.

COUNCILMEMBER JOHNSON: Yeah...

MR. KUSHI: And with also the consequence of towing away.

COUNCILMEMBER JOHNSON: And that to me, Mr. Chair, is probably the better way to go then the other way because it's too cumbersome. But I think for me it is a safety issue and I think that we should move forward because otherwise what's going to end up happening is when we get to the subject matter in Mr. Pontanilla's committee we won't have the definition to deal with and I'm all for just moving this forward. But I appreciate you raising the issues. Thank you.

CHAIR NISHIKI: So Mr. Medeiros and Mr. Boteilho, are you up for the challenge?

COUNCILMEMBER VICTORINO: Chair?

CHAIR NISHIKI: . . . *(chuckled)* . . . Any more questions or--

COUNCILMEMBER VICTORINO: Mr. Chair?

CHAIR NISHIKI: --comments?

COUNCILMEMBER VICTORINO: Chair?

CHAIR NISHIKI: Mr. Victorino?

COUNCILMEMBER VICTORINO: Thank you, Chair. What I wanted to know is you know you mentioned that there's a certain area or certain location that seems to be very prevalent. Is this a wide spread or just in one certain area...as far as these violations are

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concerned? In other words, someone parking in a loading and unloading area for the bus?

MR. D. MEDEIROS: It occurs sporadically but consistently.

COUNCILMEMBER VICTORINO: And is it just certain areas or...

MR. D. MEDEIROS: Yeah, it's a particular area.

COUNCILMEMBER VICTORINO: A particular area.

MR. D. MEDEIROS: There's a tractor at that area.

COUNCILMEMBER VICTORINO: So you don't want me to ask where that area is...

MR. D. MEDEIROS: I prefer not to.

COUNCILMEMBER VICTORINO: Oh, okay, okay. In other words, you don't want to start raising the flag right there. Because I looked at most of the route and I looked at most of the stops and there's really no parking in many of these areas anyhow allowed so that's why I was very curious why one particular spot. Okay, I won't ask you any more questions. But Mr. Chair, I think the other thing that crossed my mind we do this for our school buses. Wherever our school buses stop that red light goes out and you've got to stop by statute. You have to stop. Either way traffic cannot move. And I was wondering if...and I believe that will be real hard with a bus system because now you're talking stops all over and traffic coming to a halt every moment of the day. However, maybe something we want to consider later on is if you're talking safety and maybe high traffic area where kids are concerned some kind of system that would make people think about driving by during that period of time. Anyhow, just another thought and I'll look into that area, Mr. Chair, and present something to you later. Thank you.

CHAIR NISHIKI: Thank you. Any other questions? Seeing none. The Chair would entertain a motion amending Title 11, Maui County Code, relating to public transit be passed on first reading and the filing of the item.

VICE-CHAIR PONTANILLA: Mr. Chairman, I move to adopt the proposed bill on first reading entitled "A BILL FOR AN ORDINANCE AMENDING TITLE 11, MAUI COUNTY CODE, RELATING TO PUBLIC TRANSIT" and the filing of County Communication No. 10-109.

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

CHAIR NISHIKI: Moved by Mr. Pontanilla, second by Mr. Victorino. Any discussion? Seeing none, all those in favor say "aye"?

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COUNCIL MEMBERS: Aye.

CHAIR NISHIKI: All those opposed? Motion carried. Six to nothing - Johnson, Medeiros, Mateo, Pontanilla, Victorino, and Nishiki. Excused is Councilmember Kaho`ohalahala.

**VOTE: AYES: Chair Nishiki, Vice-Chair Pontanilla, and Councilmembers Johnson, Mateo, Medeiros, and Victorino.**

**NOES: None.**

**ABSTAIN: None.**

**ABSENT: None.**

**EXC.: Councilmember Kaho`ohalahala.**

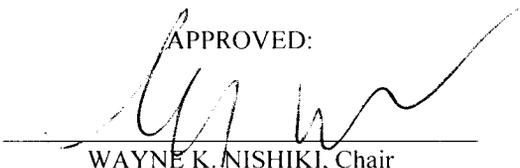
**MOTION CARRIED.**

**ACTION: Recommending FIRST READING of bill and FILING of communication.**

CHAIR NISHIKI: Members, thank you for your promptness. Thank you for your diligence. And if there are no other questions or comments, this meeting is adjourned. . . .(gavel). . .

**ADJOURN: 9:45 a.m.**

APPROVED:



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WAYNE K. NISHIKI, Chair  
Public Services Committee

ps:min:100630

Transcribed by: Jo-Ann Sato