

BUDGET AND FINANCE COMMITTEE

Council of the County of Maui

MINUTES

September 14, 2010

Council Chamber, 8th floor

CONVENE: 1:34 p.m.

PRESENT: Councilmember Joseph Pontanilla, Chair
Councilmember Danny A. Mateo, Vice-Chair
Councilmember Gladys C. Baisa, Member (in 1:35 p.m.)
Councilmember Jo Anne Johnson, Member (in 2:11 p.m.)
Councilmember Sol P. Kaho'ohalahala, Member (in 2:01 p.m.)
Councilmember Bill Kauakea Medeiros, Member
Councilmember Michael J. Molina, Member
Councilmember Wayne K. Nishiki, Member (out 1:53 p.m.)
Councilmember Michael P. Victorino, Member

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

ADMIN.: Frederick Pablo, Budget Director, Office of the Mayor
Kalbert L. Young, Director, Department of Finance (BF-87)
Lori Tshako, Director, Department of Housing and Human Concerns (BF-88)
Wayde Oshiro, Housing Administrator, Department of Housing and Human Concerns (BF-88)
Patrick Matsui, Chief of Planning and Development, Department of Parks and Recreation (BF-85)
Lawrence Hudson, Captain, Technical Services, Department of Police (BF-84)
Benjamin M. Acob, Prosecuting Attorney, Department of the Prosecuting Attorney (BF-84)
Traci Fujita Villarosa, First Deputy Corporation Counsel, Department of the Corporation Counsel

Seated in the gallery:

Carmelito Vila, Manager, Motor Vehicle and Licensing Division, Department of Finance (BF-87)

Buddy Almeida, Housing Program Specialist, Department of Housing and Human Concerns (BF-88)

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OTHERS: Item 88: Wyatt Brown, Interim Executive Director, Lokahi Pacific

PRESS: Akaku: Maui Community Television, Inc.

CHAIR PONTANILLA: . . .(*gavel*). . . The Budget and Finance Committee meeting is now in session. Good afternoon, Members. We do have a quorum present this afternoon. The Chair would like to introduce the Members that are present this afternoon. We have our Vice-Chairman for the Council, Mr. Mike Molina.

COUNCILMEMBER MOLINA: Good afternoon, Chair.

CHAIR PONTANILLA: Good afternoon. Member Bill Medeiros.

COUNCILMEMBER MEDEIROS: Aloha and good afternoon, Chair.

CHAIR PONTANILLA: Aloha. Member Wayne Nishiki.

COUNCILMEMBER NISHIKI: Good afternoon.

CHAIR PONTANILLA: Good afternoon. Our Council Chair, Mr. Mateo.

VICE-CHAIR MATEO: Good afternoon, Chair.

CHAIR PONTANILLA: Good afternoon. And Councilmember Victorino.

COUNCILMEMBER VICTORINO: Good afternoon, Chair.

CHAIR PONTANILLA: Good afternoon. Excused at this time are Members Baisa, Johnson, and Kaho'ohalahala. Representing the Administration, we do have our First Deputy Corporation Counsel, Traci Fujita Villarosa as well as our Budget Director, Mr. Fred Pablo. Supporting the Committee our Secretary, Yvette Bouthillier, and also our Legislative Analyst, Gayle Revels. Joining us at this time is Member Baisa.

COUNCILMEMBER BAISA: Good afternoon, Chair.

CHAIR PONTANILLA: Good afternoon. Committee Secretary, do we have anybody signed up for public testimony?

MS. BOUTHILLIER: No.

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CHAIR PONTANILLA: Okay. Members, there's no one signed up for public testimony this afternoon. Without any objections the Chair would like to close public testimony.

COUNCIL MEMBERS: No objections. (excused: JJ, SK)

ITEM NO. 84: AMENDING FY 2011 BUDGET, APPENDIX A (DEPARTMENT OF POLICE; AND DEPARTMENT OF THE PROSECUTING ATTORNEY - EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANTS) (C.C. No. 10-183)

CHAIR PONTANILLA: Thank you. Okay. Members, we have four items on our agenda this afternoon, so we'll just move forward. The first item on today's agenda is BF-84, AMENDING FISCAL YEAR 2011 BUDGET, APPENDIX A, DEPARTMENT OF POLICE AND DEPARTMENT OF PROSECUTING ATTORNEY, EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANTS. The purpose of the proposed bill is to amend the fiscal year budget, Appendix A, Department of Police, by decreasing the Edward Byrne Memorial Justice Assistant...Assistance Grant, American Recovery and Reinvestment Act in the amount of \$49,312; and the Department of Prosecuting Attorney by increasing the Edward Byrne Memorial Justice Assistance Grant in the amount of \$89,649 and adding 1.0 Limited Term Appointment equivalent personnel. At this time, I'd like to call both Captain Hudson and our Prosecuting Attorney, Mr. Acob for comments. Budget Director, you have any comments to make at this time?

MR. PABLO: Thank you, Chair. I just could make some, some general comments which I got from, from both the Police Department and the Prosecuting Attorney's Office. . . .(*clears throat*). . . Excuse me. The grantor for this grant is the Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, and its monies derived from the Recovery...American Recovery and Reinvestment Act of Fiscal Year 2009. The money is being awarded under the Edward Byrne Memorial Justice Assistance grant. The grantee is the County of Maui with the project director being the Maui, Maui Police Department. The total award is \$274,649, and the program directs that the money be for a community violence manager and police-related computer equipment. The grant period covers from March 2009 to February 2013. Thank you.

CHAIR PONTANILLA: Thank you. Mr. Acob, comments regarding the grant?

MR. ACOB: Good afternoon, Mr. Chair and . . .(*inaudible*). . .

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CHAIR PONTANILLA: Can you speak into the mic, please.

MR. ACOB: Good afternoon, Mr. Chair and Members of the Budget and Finance Committee. We are here basically, as Mr. Pablo had indicated, to reflect our budget, an increase of 89,649, and to add one equivalent personnel in the amount of 1.0 which is Limited Term. But if you have any questions I'm...I'll be happy to answer. Thank you.

CHAIR PONTANILLA: Thank you. Captain Hudson, comments?

MR. HUDSON: We're here to support the Prosecutor's Office in this endeavor.

CHAIR PONTANILLA: Okay. Thank you. Members, any questions for the departments at this time?

COUNCILMEMBER VICTORINO: Chair?

CHAIR PONTANILLA: Member Victorino?

COUNCILMEMBER VICTORINO: Just so that I'm, I'm clear, and I'm...is this...this is not just a transfer of money, right? I mean is...one is almost 100,000...one is 85 or whatever and one is \$40-something thousand less, yeah. One is 49,000 less and the other one is 89. Why the difference? I mean what made them do that? Or is that something you guys decided to do?

CHAIR PONTANILLA: Budget Director, if you could.

MR. PABLO: Yeah. When, when we finally got the award from the Justice, Justice Department, it showed 275...274,000, and the agreement between the Police Department and Prosecuting Attorney's Office was to split it one-third to prosecutors and two-thirds to the Police Department. So we made the adjustments based on that award.

COUNCILMEMBER VICTORINO: Okay. Okay. So when you got the total then you figured out what --

MR. PABLO: That's correct.

COUNCILMEMBER VICTORINO: --each did...each division.

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MR. PABLO: That's correct. And originally what had happened in the original, original projection was that it was just for the salaries, and then that we were able to work out what the fringe benefits were and, and whatever was needed for the, for the community violence program manager.

COUNCILMEMBER VICTORINO: So we actually got more money than we anticipated? Is that what happened?

MR. PABLO: We got more than originally anticipated.

COUNCILMEMBER VICTORINO: Okay. Okay. Very good. Thank you for that clarification. Thank you, Chair.

CHAIR PONTANILLA: Thank you. Members, any more questions for the Department? At this time, the Chair is going to make his recommendation.

COUNCIL MEMBERS: Recommendation.

CHAIR PONTANILLA: Thank you. The Chair's recommendation is to pass on first reading "A BILL FOR AN ORDINANCE AMENDING APPENDIX A OF THE FISCAL YEAR 2011 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO GRANT REVENUE - SCHEDULE OF GRANTS BY DEPARTMENTS AND PROGRAMS, DEPARTMENT OF POLICE, EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (ARRA); AND DEPARTMENT OF PROSECUTING ATTORNEY, EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (ARRA)" and filing of County Communication No. 10-183.

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

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

CHAIR PONTANILLA: Thank you. It's been moved and second. Members, any more discussion? All in favor of the motion, please say "aye".

COUNCIL MEMBERS: Aye.

CHAIR PONTANILLA: Any opposed? Seeing none, motion is carried. Seven ayes, two excused, Member Johnson and Member Kaho'ohalahala.

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

NOES: **None.**

ABSTAIN: **None.**

ABSENT: **None.**

EXC.: **Councilmembers Johnson and Kaho’ohalahala.**

MOTION CARRIED.

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

CHAIR PONTANILLA: Thank you, Captain Hudson. Thank you, Mr. Acob.

ITEM NO. 85: AMENDING FY 2011 BUDGET (SOUTH MAUI COMMUNITY PARK) (C.C. No. 10-184)

CHAIR PONTANILLA: And if we can have the Parks Department come down at this time. Okay. Members, the second item is BF-85 AMENDING FISCAL YEAR 2011 BUDGET, SOUTH MAUI COMMUNITY PARK. The purpose of the proposed bills [*sic*] is to include \$200,000 of Lapsed Bond proceeds to supplement construction funds for South Maui Community Park. At first reading for Fiscal Year 2011 Budget, the Administration informed the Committee that additional funds were needed for construction on Phase I of the park, hence the budget amendment before us today. At this time I’d like to call on Budget Director for comments if you have any.

MR. PABLO: Thank you, Chair. I just have a short comment, and then I will let Mr...Mr. Pat Matsui from the Parks and Recreation Department answer any questions. The, the Department is pretty close to, to completing the South Maui Community Park. Mr. Matsui has met with the contractor, and they’ve identified what else will be needed to, to make the park operational. We estimate, at this time, it should be around \$200,000, and we were able to identify Lapsed Bonds of that amount from the North-South Collector Road which the Highways Department has mentioned has been put on hold until the work got a master plan with the State of Hawaii. Thank you.

CHAIR PONTANILLA: Thank you. Mr. Matsui, comments?

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MR. MATSUI: Thank you, Chairman. Yeah. As the Budget Director said that the appropriation is for contingencies that came up. We're about 50 percent completed. We've done pretty much the major work. The major utility lines are pretty much in. They started work on the lighting. The light pole bases are, are already completed and put in. The project is on schedule. The initial completion date was December 14th, but with the change order we added another 18 calendar days. So of the 200,000 we've identified like 95,000 that we, we know we're going to need from that. The balance is for unforeseen contingencies.

CHAIR PONTANILLA: Thank you. Members, any questions for the Department? Member Victorino?

COUNCILMEMBER VICTORINO: Thank you. And I think you, Mr. Matsui, came to us last month or a month before, and you kind of...this was because you had to retrench or...I forgot exactly what the...I remember you telling us, and I apologize for forgetting specifically what you were...we had to, we had to do something differently and so it was going to cost us more.

CHAIR PONTANILLA: Mr. Matsui?

MR. MATSUI: Yes. Yeah. Part of it was there was an area that had been filled in with unsuitable material --

COUNCILMEMBER VICTORINO: Okay. Yeah.

MR. MATSUI: --I guess dead Keawe trees and stuff, so that had to be taken out. And then there was...a major change order was how we connected to the waterline.

COUNCILMEMBER VICTORINO: Right. Okay. Okay. Thank you --

MR. MATSUI: So...yes.

COUNCILMEMBER VICTORINO: --for that clarification. I, I just remember you coming and discussing that with us, and then saying that you were going to come back later. Okay. Mr. Matsui, thank you very, very much.

CHAIR PONTANILLA: Thank you. Member Nishiki?

COUNCILMEMBER NISHIKI: Yeah. Thank you, Pat. And, and I just want to thank Administration for finding this money, because at budget time we were hit with the concern that perhaps this portion of Phase I wouldn't be completed. And I know that your staff worked with Administration to try to locate this money,

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Mr. Chairman. But can I ask you, in Phase I, Pat, what can this community hope to see? And I'm glad to see that the lights, which were a question mark and concern, may not be put in. But what can this community hope to finally see in Phase I?

MR. MATSUI: Phase I would be as far as fields, two...one completed soccer field with light and a softball field with lights. There's also going to be a playground that is being donated by the Grand Wailea, and then of course two restrooms--one for the soccer field, one for the softball field--interior roads, parking, and utilities, and a walking path.

COUNCILMEMBER NISHIKI: Okay. And, and the estimated completion date would be what for Phase I?

MR. MATSUI: We're looking at end of December.

COUNCILMEMBER NISHIKI: Okay. So the South Maui community, thanks to this Council and Administration, will have a good early Christmas present. So we thank you, Administration, for making this a reality.

CHAIR PONTANILLA: Thank you. Members, any more questions? Chair has one question. For irrigation, you going be utilizing recycled water?

MR. MATSUI: Yes. We're using the effluent from the Kihei Sewer Treatment Plant.

CHAIR PONTANILLA: Okay. Good. Thank you. Members, any more questions?

COUNCILMEMBER NISHIKI: Mr. Chairman?

CHAIR PONTANILLA: Member Nishiki?

COUNCILMEMBER NISHIKI: Yeah. Danny reminded me to say that don't forget, Wayne Nishiki, there is a Santa Claus. So I thank you.

CHAIR PONTANILLA: Thank you. Well, Mr. Nishiki, it took many years, but it's coming a reality.

COUNCIL MEMBERS: . . .*(Laughter)*. . .

CHAIR PONTANILLA: Okay. If there's no more question, the Chair is going make his recommendation.

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COUNCIL MEMBERS: Recommendation.

CHAIR PONTANILLA: Thank you. Chair's recommendation is to pass on first reading, one, "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2011 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO ESTIMATED REVENUES; KIHEI-MAKENA COMMUNITY PLAN AREA, PARKS AND RECREATION, SOUTH MAUI COMMUNITY PARK; TOTAL CAPITAL IMPROVEMENT PROJECT APPROPRIATIONS; AND TOTAL APPROPRIATIONS (OPERATING AND CAPITAL IMPROVEMENT PROJECTS)", and two, "A BILL FOR AN ORDINANCE DETERMINING THE PART OF THE PROCEEDS OF GENERAL OBLIGATION BONDS OF THE COUNTY OF MAUI HERETOFORE ISSUED IN EXCESS OF THE AMOUNT REQUIRED FOR THE PURPOSES FOR WHICH SUCH BONDS WERE INITIALLY ISSUED, OR MAY OR SHOULD NOT BE APPLIED TO THOSE PURPOSES, AND DIRECTING SUCH PROCEEDS TO OTHER PUBLIC IMPROVEMENTS OR AUTHORIZED PURPOSES OF THE COUNTY OF MAUI", and three, the filing of County Communication No. 10-84 [*sic*].

VICE-CHAIR MATEO: Mr. Chairman, I move for the passage of the two proposed bills you just recognized, including the filing of the communication.

CHAIR PONTANILLA: Thank you.

COUNCILMEMBER NISHIKI: Second.

CHAIR PONTANILLA: Thank you. It's been moved and second. Before I proceed, any questions? Oh, okay. Fine. Thank you. Members, any more discussion? Seeing none, all in favor of the motion please say "aye".

COUNCIL MEMBERS: Aye.

CHAIR PONTANILLA: Any opposed? Seeing none, motion is carried. Seven ayes, two excused, Member Johnson and Member Kaho'ohalahala.

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

NOES: **None.**

ABSTAIN: **None.**

ABSENT: **None.**

EXC.: **Councilmembers Johnson, and Kaho'ohalahala.**

MOTION CARRIED.

ACTION: FIRST READING of bills; and FILING of communication by C.R.

CHAIR PONTANILLA: Thank you, Pat, for being here.

MR. MATSUI: You're welcome.

ITEM NO. 87: INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF HAWAII, DEPARTMENT OF HEALTH (C.C. No. 10-193)

CHAIR PONTANILLA: The next item on, on the agenda is BF-87. INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF HAWAII, DEPARTMENT OF HEALTH. The purpose of the proposed bill is to authorize the Mayor to enter into intergovernmental agreement with the State of Hawaii, Department of Health to be compensated for services performed effective October 1, 2010 to June 30, 2011, for the implementation of the Statewide program on Parking for Persons with Disabilities, which issues placard, special license plates, and identification cards to qualified residents with disabilities. This afternoon joining us we do have the Finance Director, Mr. Young. Mr. Young, comments?

MR. YOUNG: Good afternoon, Mr. Chair and Members. This proposed resolution...I'm sorry, ordinance, is to authorize the Mayor to enter into an intergovernmental agreement with the State of Hawaii, Department of Hawaii for the County to issue, on behalf of the State of Hawaii, disabled handicap placards. The County of Maui currently and has been for a number of years been acting on behalf of the State to distribute these placards. This inter-government agreement doesn't change that process, except that it is necessary to formalize the relationship and the reimbursement between, between the State and the County. So the County performs this service on behalf of the State and is entitled to reimbursement of its expenses. So we're asking for the authorization to allow the Mayor to enter into this inter...intergovernmental agreement with the State of

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Hawaii, Department of Health. Mr. Lito Vila from the DMVL is supposed to be here to provide you with any technical or statistical information that you may have, but his notice to appear was scheduled at 2 o'clock, so we're slightly ahead of schedule. If any of the Members have any questions, Mr. Chair, I'd ask for your indulgence to allow for Mr. Vila to attend.

CHAIR PONTANILLA: Okay. Members, you got questions for the Department? Seeing none, Mr. Nishiki, you got questions?

COUNCILMEMBER NISHIKI: No.

CHAIR PONTANILLA: Thank you. Seeing none, the Chair's going to make his recommendation.

COUNCIL MEMBERS: Recommendation.

CHAIR PONTANILLA: Thank you. The Chair's recommendation is to pass on first reading "A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF HAWAII, DEPARTMENT OF HEALTH", and filing of County Communication No. 10-193.

VICE-CHAIR MATEO: Mr. Chairman, I move for the adoption of the proposed bill on first reading including the filing of the communication.

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

CHAIR PONTANILLA: Thank you. It's been moved and second. Members, any more discussion? If not, all in favor of the motion, please say "aye".

COUNCIL MEMBERS: Aye.

CHAIR PONTANILLA: Any opposed? Seeing none, motion is carried. Seven ayes, two excused, Member Johnson, Member Kaho'ohalahala.

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

NOES: **None.**

ABSTAIN: **None.**

ABSENT: **None.**

EXC.: **Councilmembers Johnson, and Kaho’ohalahala.**

MOTION CARRIED.

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

CHAIR PONTANILLA: Okay. Members...Mr. Lito, thank you for showing up.

COUNCIL MEMBERS: ...*(Laughter)*...

CHAIR PONTANILLA: Yeah. We have our fourth item coming up, but Chair is going to take maybe up to 2 o’clock recess?

COUNCILMEMBER VICTORINO: That’s fine. That’s fine.

CHAIR PONTANILLA: So this meeting is now in recess ‘til 2 o’clock. ...*(gavel)*...

 RECESS: 1:53 p.m.
 RECONVENE: 2:00 p.m.

ITEM NO. 88: AMENDING FY 2011 BUDGET (DEPARTMENT OF HOUSING AND HUMAN CONCERNS); AMENDING APPENDIX A (AFFORDABLE HOUSING FUND ESTIMATED BALANCE AND WAIEHU MAUKA RENTAL HOUSING PROJECT - LOKAHI PACIFIC); AND AMENDING RESOLUTION NO. 08-91 AUTHORIZING ACCEPTANCE OF PAYMENT FROM KEAKA LLC AND MAKENA MF-2&3, LLC TO THE AFFORDABLE HOUSING FUND FOR THE HALE MAHAOLU EHIKU PROJECT (C.C. No. 10-194)

CHAIR PONTANILLA: ...*(gavel)*... The Budget and Finance Committee meeting is now reconvened. Members, our final item this afternoon is BF-88 AMENDING FISCAL YEAR 2011 BUDGET; DEPARTMENT OF HOUSING AND HUMAN CONCERNS; AMENDING APPENDIX A; AFFORDABLE HOUSING FUND,

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ESTIMATED BALANCE AND WAIEHU MAUKA RENTAL HOUSING PROJECT - LOKAHI PACIFIC; and AMENDING RESOLUTION NO. 08-91 AUTHORIZING ACCEPTANCE OF PAYMENT FROM KEAKA, LLC, AND MAKENA MF-2&3, LLC TO THE AFFORDABLE HOUSING FUND FOR HALE MAHAOLU EHIKU PROJECT. Members, this is...this item is very complex; therefore, I would like to address one item at a time, so, so we don't get lost. Number one, recognize \$167,000 in General Fund Carryover Savings and allocate to the Department of Housing and Human Concerns Housing Program for the purpose of repayment of HOME funds for the Lokahi Pacific's Waiehu Project. At this time, I would like to call on Ms. Tsuhako for some comments.

MS. TSUHAKO: Thank you. And good afternoon, Mr. Chair and Members. Thank you for having me. The Department is requesting your assistance and consideration of appropriation of \$167,000 to the Department so that we can repay HOME funds in the same amount that were used for predevelopment costs at the Waiehu Mauka Project that was being spearheaded by Lokahi Pacific. And just as some background information, the agency underwent a little bit of turmoil earlier in the year, they lost their executive director, and they reduced their staff to save on expenses and, and such, and consulted with the Department along the way about looking at the variety of projects that they had on their, on their plates and trying to streamline and prioritize which projects were doable for them under their circumstances. And after working with their board and with their existing staff members, they came to the Department with the decision that the Waiehu Mauka Rental Project which this body had previously appropriated money, appropriated money for via the Affordable Housing Fund was no longer viable for the agency as the developer. And as such, the Department was forced to look at how we had contributed to the funding for that project, and one of the, one of the cost items that the Department had contributed to the development of that Waiehu Mauka Project was in the amount of \$167,000 for predevelopment costs which were legitimate costs associated with the predevelopment of that project. Now the predevelopment costs were just that. They were predevelopment, but we cannot, we cannot justify with the State any longer the payment of those funds, because Lokahi Pacific has relinquished that project. And because there's not going to be any units immediately provided by that development, the County is, is compelled to reimburse those HOME funds. The only way that we could legitimately use those funds is if units were actually provided within a timeline. And since it appears that Lokahi Pacific is not going to be able to produce or to follow through with that project and provide units the County is compelled to return the HOME funds in the amount of \$167,000 that were used for those purposes. I want to spend a minute to explain that there's consequences attached to the County not reimbursing HOME funds for that, and that is the...you guys are all familiar with CDBG and with HOME funds. All of those funds are programmed throughout

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the State, so the County is given allocations for various projects as such. Our effective use of those HOME and CDBG and other Federal fundings combine to increase the State's ability to receive more funds in the future, and so it's really critical that we have this appropriation so that we can reimburse the HOME program. Without that reimbursement the HOME program Statewide would suffer, because that money would not be reprogrammed in a timely fashion. Also the Department has tried to propose a plan to HHFDC that accounts for those funds and trying to reprogram other money that Lokahi Pacific was allocated, and so it all...it's, it's a very big puzzle. But this appropriation is really necessary to reimburse the HOME program, and I, I ask for your consideration.

CHAIR PONTANILLA: Thank you. Members, any questions to this first item?
Member Molina?

COUNCILMEMBER MOLINA: Yeah. Thank you very much, Mr. Chair. I know the subject is Waiehu Mauka, and that falls in Mr. Victorino's area. I don't know if you would like to extend him the courtesy as the area rep first, because I've got a lot of questions, Mr. Chair.

CHAIR PONTANILLA: Thank you. Mr. Victorino?

COUNCILMEMBER VICTORINO: I'll, I'll, I'll allow Mr. Molina since you recognized him, and if some of my questions are not answered I will follow. Thank you.

CHAIR PONTANILLA: Okay. Fine. Fine.

COUNCILMEMBER MOLINA: Okay.

CHAIR PONTANILLA: Mr. Molina?

COUNCILMEMBER MOLINA: All right. Thank you, Mr. Chairman. First of all I don't have any issues on the second bill, but my questions relate to this one. And, Madam Director, seeing your letter, August 18th, thank you for being here and with this consideration. So just so we get an understanding here, Lokahi Pacific, as it read in your letter and your statements, they seem to be having some organizational problems, and you're asking us to reimburse this 166,000 [*sic*] from the Affordable Housing Fund. And the intent of the fund, Mr. Chair, as you know and you, my colleagues, was to have houses built.

CHAIR PONTANILLA: Can I interrupt you on this one here? My understanding it's going to come from the General Fund and not the Affordable Housing Fund.

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COUNCILMEMBER MOLINA: Oh, it's not. Okay. It's not coming from...okay.

CHAIR PONTANILLA: It's, it's the General Fund. Yeah.

COUNCILMEMBER MOLINA: Okay. I was under the impression because we had allocated them funds from the Affordable Housing...or for the project itself.

CHAIR PONTANILLA: Yeah. For the project itself it's on the Affordable Housing Fund which is number two on my list --

COUNCILMEMBER MOLINA: Okay.

CHAIR PONTANILLA: --and we're going to be...discuss it.

COUNCILMEMBER MOLINA: Oh, okay. Then if I may ask the Director, so now that Lokahi Pacific, they made the choice not to pursue the Waiehu Mauka, and initially they came to the Department to propose Waiehu Mauka or was it the other way around, if you could give us some background on that?

MS. TSUHAKO: I believe that the Lokahi Pacific, like the other entities that were granted funding from the Affordable Housing Fund, came to the County after the County had published an RFP.

COUNCILMEMBER MOLINA: Okay. So they came to us? Okay. And then we're going to get that monies back that we...well, you're going to give the monies that was appropriated to them initially. Now you're looking to giving it to another project that they have, Kenolio Leilani, am I correct?

MS. TSUHAKO: That's, that's what we'll propose at a later time. We're working on that with the Budget Director right now to bring that issue forward.

COUNCILMEMBER MOLINA: Okay.

MS. TSUHAKO: But for the purpose of today's discussion, the 167,000 was purely HOME funds. That project, Waiehu Mauka hasn't used any of the money appropriated from the Affordable Housing Fund.

COUNCILMEMBER MOLINA: Okay. And it says that these funds were, were legitimately used funds. I was looking through my binder, do we have a...did the...or did Lokahi Pacific give you a breakdown of how those monies were spent? Because they're asking us or you're asking us to pay back...pay, pay that

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monies back and we're getting nothing out of it. So do we have...and we don't even...do we have anybody from Lokahi Pacific here as well, Mr. Chairman?

CHAIR PONTANILLA: No.

COUNCILMEMBER MOLINA: Madam Director, did you ask them to come? And 'cause normally they're always here, and I'm kind of curious as to why there's no representative from Lokahi Pacific here.

MS. TSUHAKE: I...Mr. Molina, I did not speak with anybody from Lokahi Pacific except for about four weeks ago, and I wasn't aware that they would either be here or not be here. I, I can certainly make a call and ask for Mr. Brown to be here if you wish, but we do have an accounting of the \$167,000 that were used for the predevelopment costs for Waiehu Mauka.

COUNCILMEMBER MOLINA: Okay. If at a later point that can be distributed. So I'm just surprised they're not here, because normally they're always very prompt, they're here. And for the record, in your letter you mentioned the executive director I guess departed. For the record, who was the executive director that departed according to your letter?

MS. TSUHAKE: Ms. Sombelon.

COUNCILMEMBER MOLINA: Ms. Sombelon.

MS. TSUHAKE: KaMaile Sombelon.

COUNCILMEMBER MOLINA: Okay. And now how many other projects does Lokahi Pacific have with us? Well, now Waiehu Mauka is done, done with, and we have this Kenolio Leilani. Is there other projects that they have received affordable housing funds for?

MS. TSUHAKE: I think the only other affordable housing project that they were involved in might be Honokowai.

COUNCILMEMBER MOLINA: Okay. And, and now the Department wants to continue the work with, with Lokahi Pacific even though they have this air of uncertainty or stability with this organization? I'm just kind of concerned because of this...whatever is happening with the, with the company, and now we're, we're still giving them a vote of confidence. And what's going to happen if there's another problem, they decide to pull the plug on say Kenolio Leilani, you know? So right now my...I don't, I don't have a lot of confidence right now with them in

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terms of their stability, and yet we're basically saying hey we're going to still stay with them and subject the taxpayers to...you know, I don't want to call this a bailout but this is what it looks like.

MS. TSUHAKO: Well to answer your first question, sir, I, I do understand, I'm, I'm perfectly aware that, that any of you or any of the public would have concerns about the viability of the agency. I think that what is reassuring to me and to others in the Department is that the agency has taken steps to manage the issues that they have. So I think that's important. They've, they've reduced their staffing to levels that they can accommodate. They've relinquished projects that they cannot commit to finishing. I think, you know, at some later point in time, we'll have a chance to discuss the Kenolio Leilani project which is very different in, in terms of its status from Waiehu Mauka. Waiehu Mauka hasn't begun yet, and Kenolio Leilani is a project that's already close to final subdivision. And so two, you know, very, very different circumstances, and so the Department has also--just as a little bit of background--has also been working with HHFDC and has made commitments to monitor Lokahi very carefully in terms of how any further allocate...or any current allocations of HOME funding is being done by that agency. So we do have...I won't say it's a corrective action plan, but we certainly have a plan in place to monitor and be in more consistent contact with HHFDC about those HOME funds.

COUNCILMEMBER MOLINA: Okay. Thank you, Madam Director. Thank you, Chair. I have more questions but right now I'm just left with a feeling of uncertainty, and I've supported this Department on many, many occasions, but if we're going to take action on this today I...I'm looking at not supporting this. 'Cause there's too many unanswered questions, there's no one here from Lokahi Pacific, and I would, I would have been...I would have hoped that they would have taken the initiative to be here, 'cause there's a lot of questions. It's just...anyway, I'll, I'll, I'll, I'll yield to the floor to my other colleagues. Thank you.

CHAIR PONTANILLA: Thank you. Chair would like to recognize presence of Member Johnson and Member Kaho'ohalahala. Before I ask any other Member to, to question the Department, the Chair would just want to add that in regards to the Waiehu Mauka Rental Housing project which we had allocated \$1.2 million to, we had a proviso on that particular project that the dollars wouldn't be...would be only for construction, and, and after the 201H project approval process has been gotten. So the severity of this \$167,000, and, you know, I understand your, your issues in regards to that particular monies that were used by Lokahi Pacific, but the bigger picture is that the State of Hawaii may be in jeopardy as far as I understand through CDBG. So it's, it's, you know, although it affecting this

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County it may affect the whole State, so I'll just leave it at that. Members, any more questions? Member Victorino --

COUNCILMEMBER VICTORINO: Thank you.

CHAIR PONTANILLA: --followed by Member Baisa.

COUNCILMEMBER VICTORINO: Thank you. My, my questions...and I, and I thank Mr. Molina, 'cause he covered much of the subject matter that I, I had questions with. But I also would like to know for this particular project is there any...and I try to find if there's anybody else who's interested in picking it up and continuing the, the Waiehu Mauka project. At this time you don't know of anybody who'd be interested in picking up that project?

MS. TSUHAKE: No, we don't. No, we don't, Mr. Victorino.

COUNCILMEMBER VICTORINO: Okay. 'Cause, you know, you know, this was one of those, you know, supposedly going to be shining stars for our community and especially in the area where the need of housing was so great. I'm very disappointed, you know, to see all of this come to fruition, and I've been hearing it on the streets but now to actually see it. And I know you mentioned it, so, you know, I thank you for the heads up, but, you know, I'm not too happy. And, you know, and how does this work for other projects that's going to come forward, and not only for Lokahi Pacific but for others, Mr. Chair? Now the skepticism starts to, starts to grow, and we have been as a County and as, and as long as I've been on this Council which is far shorter than you and Mr. Mateo and some of the others here, you know, we've always been very, very accommodating. But if this is an example of what may be happening in the future we're going to have to really scrutinize a lot more, and I'm concerned on what you're saying too, Mr. Chair, about the State. You know, we're already in deep trouble, and you're telling me now the State may be even in bigger trouble when it comes to the affordable housing, wow. Anyhow, I hope maybe somewhere in the not-too-distant future, Mr. Chair, somebody will pick up this project, 'cause it was a good project.

MS. TSUHAKE: Yes, I agree.

COUNCILMEMBER VICTORINO: You know.

MS. TSUHAKE: I agree.

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COUNCILMEMBER VICTORINO: You know, I mean it had all the earmarks of being what, what this community, and not just Waiehu and Maui but the community at large needed. You know, so I'm disappointed, but okay, I can live with it for now. And I still have a lot of questions and I'm not sure if I can support this, but I guess we'll wait 'til your recommendation, Mr. Chair, and I want to hear other Member's questions.

CHAIR PONTANILLA: Okay.

COUNCILMEMBER VICTORINO: Okay. Thank you --

CHAIR PONTANILLA: Thank you.

COUNCILMEMBER VICTORINO: --Mr. Chair.

CHAIR PONTANILLA: And, and in regards to your concern regarding, you know, the other projects that we've already funded, it, it, it is this Chair's intent to review those projects in a meeting, you know, Budget and Finance meeting to see where each project as far where they're at in, in, in creating affordable housing for this County. Yeah. We've doled out a lot of money. We haven't seen units so far. So, you know, I'm concerned in regards to the monies that we provided to these nonprofits, but my intent is to review every single project that we've funded, you know, before the end of the year, to get an update where they at. Member Baisa followed by Member Medeiros.

COUNCILMEMBER BAISA: Thank you, Chair. I'm trying to follow the money here. When Lokahi Pacific came to us for money to start the Waiehu Mauka project, apparently the, the Department gave them this 166 and change, so I guess it's 100...we can say \$167,000. And they used it for predevelopment costs, and that money that they were given was from HOME funds. And that is an appropriate use of HOME funds?

MS. TSUHAKE: That is correct, Member Baisa.

COUNCILMEMBER BAISA: So HOME funds can be used for predevelopment costs, and that's not an issue?

MS. TSUHAKE: Correct.

COUNCILMEMBER BAISA: Okay. Now because those funds were used and their project is not going to happen and the money's already spent, the action before us

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today is to take from General Fund 167,000 to replenish these Federal...HOME are Federal funds, right?

MS. TSUHAKE: Correct.

COUNCILMEMBER BAISA: To replenish, to replenish the Federal funds?

MS. TSUHAKE: That, that is absolutely correct.

COUNCILMEMBER BAISA: And where is this money coming from? Where are the General Funds coming from?

MS. TSUHAKE: I believe that they have been certified as Carryover Savings.

COUNCILMEMBER BAISA: So we're reducing Carryover Savings to cover this situation? That's what you're asking us for?

MR. PABLO: No. . . .*(clears throat)*. . .Excuse me. What is happened was when, when the Department came requesting this amount of 167,000, I met with Kalbert Young, our Finance Director, to determine whether there was any Carryover Savings which would be a source of funding. Although they're still closing the books for fiscal year...the past fiscal year and he hasn't been completely audited, he certified that 167,000 would be available.

COUNCILMEMBER BAISA: That's kind of an interesting answer. He's saying they're available but they're not certified yet.

MR. PABLO: Well the, the CAFR isn't, isn't completed as of June 30, 2010. The, the quarterly reports do indicate that there, there are monies there.

COUNCILMEMBER BAISA: Okay. So we know from previous reports that there should be enough money to cover this?

MR. PABLO: That's correct.

COUNCILMEMBER BAISA: Okay. I just want to be sure we're not taking away from anything else in order to make this repayment. I too am a little disappointed, but, you know, stuff, stuff happens. Thank you, Chair.

CHAIR PONTANILLA: It does happen. Member Medeiros followed by Member Kaho'ohalahala.

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COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman. Director Tshako, so in following up Member Baisa's questions, the HOME funds as you confirmed is Federal funds, and...is that correct?

MS. TSUHAKE: That's correct.

COUNCILMEMBER MEDEIROS: Okay. And so you're...through the Department you're asking for 167,000 to reimburse those HOME funds that were spent?

MS. TSUHAKE: That's correct.

COUNCILMEMBER MEDEIROS: Okay. So are we providing the money to Lokahi Pacific to make that reimbursement or are we reimbursing HOME funds directly?

MS. TSUHAKE: The County would be reimbursing for those HOME funds directly and not through Lokahi Pacific.

COUNCILMEMBER MEDEIROS: Okay. So the funds were expended and spent for predevelopment costs. What kind of predevelopment activities generated 167,000?

MS. TSUHAKE: You know, I don't have the, I don't have the spending breakdown.

COUNCILMEMBER MEDEIROS: Well give us an idea of what is predevelopment costs?

MS. TSUHAKE: Planning, architecture, Environmental Assessment.

COUNCILMEMBER MEDEIROS: Okay. So, so those things had to be done prior to construction then?

MS. TSUHAKE: Correct.

COUNCILMEMBER MEDEIROS: And so there's no option for the County to recover those expenses?

MS. TSUHAKE: No, because the, the...Lokahi Pacific has already spent the funds, and they don't have the means to pay it back.

COUNCILMEMBER MEDEIROS: And, and if Lokahi...if we don't pay it is the Federal government holding us responsible or Lokahi Pacific?

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MS. TSUHAKO: The, the Federal government holds the County responsible, because we were the grantee agency.

COUNCILMEMBER MEDEIROS: Okay. All right. Okay. Thank you for that clarification. Mahalo, Mr. Chair.

CHAIR PONTANILLA: Thank you. Member Kaho'ohalahala?

COUNCILMEMBER KAHO'OHALAHALA: Yeah. Thank you. Director, you in your summary made a comment that not repaying this had some dire consequences. Can you elaborate on that?

MS. TSUHAKO: Thank you for your question, Member Kaho'ohalahala. The, the consequences have to do with the State's overall funding...Federal funding that we receive for housing and housing-related programs. Every year, CDBG as well as our HOME program and various homeless providers collaborate to work on annual reports to HUD which is the main source of funding, and we talk about how we put together financing for various projects. This project...the allocation that was made for this project is part, is part of a larger puzzle of funding that the State through HHFDC has control over and sort of manages. What happens, when the Federal government...when HUD funds the State, is that we get graded...the State gets graded by the amount of money that we get, how efficiently it's used, what the outcomes are, and we get graded competitively with other states on how well they do. And so the, the impact of not paying this money back and having it--because there's timelines associated with the use of the funding also--is that the State suffers the consequence by kind of having a black mark on, on their productivity in terms of use of those HUD funds. So part...like I said, part of the reason that we feel compelled to pursue this, this request is because we don't want the State...overall State and its projects throughout the State to suffer and get less money in future funding cycles because of this...of not being able to pay the money back.

COUNCILMEMBER KAHO'OHALAHALA: Okay. And HFDC [sic] is the administering agency then --

MS. TSUHAKO: That's correct.

COUNCILMEMBER KAHO'OHALAHALA: --of these funds from HUD?

MS. TSUHAKO: From, from the HOME program, yes.

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COUNCILMEMBER KAHO'OHALAHALA: Yeah. Okay. And just so it's real clear to me and, and to those who are watching this then, that we are going to make a, I guess, a refund back to the HOME funds, and then that's supposed to allow HFDC [*sic*] now to...see, I'm not sure how we're repairing, you know, what are we repairing? And if part of HD...HDC, Hawaii Community Development Housing...is that HH...

MS. TSUHAKE: It's HHFDC.

COUNCILMEMBER KAHO'OHALAHALA: HFDC [*sic*]. Part of their task is to disseminate these funds and account for their use and within a timeframe. So when we make a restoration of this funds, then what does that mean for the funds themselves with the agency?

MS. TSUHAKE: The, the funding itself with HHFDC?

COUNCILMEMBER KAHO'OHALAHALA: Well, we should have spent or we did spend the 167,000. Okay. But what we're saying now is that because the project has not completed and has not met the timeframe, we're going to repay this back. So is the action of just repaying back to HFDC [*sic*] what we need to restore or is that funding should be actually accounted for in a project, you know?

MS. TSUHAKE: Ideally the, the funding should be accounted for in a project with completed units. I mean that, that would be the ideal for us as a County and for the State, but in this circumstance repaying the money to HHFDC and allowing them to reprogram it based on the State's plan is, is what they're saying we need to do to make things right.

COUNCILMEMBER KAHO'OHALAHALA: Okay. So we couldn't have re-appropriated this to another project itself?

MS. TSUHAKE: We, we couldn't do that without getting approval from HHFDC.

COUNCILMEMBER KAHO'OHALAHALA: Okay. Okay. And just so it's clear with me what, what it is that we are actually doing. Okay.

CHAIR PONTANILLA: Okay?

COUNCILMEMBER KAHO'OHALAHALA: Okay. Thank you for that explanation.

CHAIR PONTANILLA: Thank you. Member Johnson?

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COUNCILMEMBER JOHNSON: Yeah. And, and I understand that because of circumstances beyond your control and beyond our control the Waiehu Mauka project cannot go forward, and therefore the only way, from my understanding, is that this is now going to enable these monies to be eventually when HHFDC looks at it, they will then be able to reprogram once the money is restored. Is that correct?

MS. TSUHAKEO: That's correct, Member Johnson.

COUNCILMEMBER JOHNSON: Yeah. You know, Mr. Chair, I think that...it's a whole set of unfortunate circumstances, but in order for the monies to actually move forward to produce housing at some point--and the project I believe is in Member Nishiki's district--that these monies may possibly be reprogrammed for. Is that correct?

MS. TSUHAKEO: That is correct.

COUNCILMEMBER JOHNSON: Okay. So looking at that reprogramming and the, the need for affordable rentals which we have always supported, I guess I'll make a quick analysis. I think that the money...albeit this was kind of a messy situation that, you know, led up to the unfortunate circumstances that this other project could not go forward. The...there was not an...a non-eligibility issue with regard to the use of the initial money, so what we're doing...and, and I also note that there's another item that will be coming forward, because there was a foreclosure on Keaka, LLC and Makena. So their contribution was actually due to, you know, the financial meltdown. That was another complication. So this is just...it's not pretty when you have these economic challenges, but for myself I could go and ask all these questions. I think that because this is coming before the Council, I would prefer to move in the direction of allowing monies to be repaid, move it out of Committee. And at least hopefully by that time when it does come to full Council, if there are Members that do have questions we would be able to answer that. But I so much...and perhaps that's because my term is ending, I, I would like to see some possibility that housing units would be produced, and from my estimation, Mr. Chair, this is the only way that it can occur for better or for worse. And, you know, it's not pretty, but, you know, the bottom line is there's no housing that will be produced unless we take this action. So I would support it with the caveat that when it does come before the full Council for a vote that if there are unanswered questions that the necessary people be made available and those questions be answered. Thank you.

CHAIR PONTANILLA: Thank you. Members, any more questions? Member Mateo?

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VICE-CHAIR MATEO: Chairman, thank you. And thank you for the opportunity. I share Mr. Molina's concerns and frustrations over this particular project, but I'm still, you know, I still have concerns about this particular organization and especially with reprogramming monies. We have an organization that came before us and, and was prepared to move this project forward, stood on it time again how good it was, it's going to happen. And an allocation was provided to them for predevelopment work, and this is what we're stuck with at this particular point. We're kind of stuck between a rock and a hard place, damned if you do and damned if you don't, because if we don't then the HUD--the bigger picture--the HUD funds...the HOME monies become in jeopardy at this point. And, and yet there is a potential consideration for reprogramming...reprogrammed monies going to the same organization, the same organization that couldn't fulfill this particular project. So at what point will we say, you know, you need, you need to deliver, you need to look at funds, because, you know, if they've got ongoing projects, and they do, you know, they should have another arm to be able to generate this kind of funds. It just seems pathetic that the taxpayers continue to pay this debt--or I'm not going to say debt--continue to pay this failure to move the project forward, and, you know, and I'm using the, I'm using the word "failure". It's kind of harshly, but you know what, projects from this organization came...they came to us and told us they're ready to move forward, we need the monies, it's going to happen. You know, surprise, it didn't, it won't. So I'm a little concerned about the Department's openness in, in continuing to fund additional projects, because somehow we've got to get a little more from them to be sure that these projects are a little farther along the way, you know, and we don't end up with another mishap with having to pay or provide taxpayers' monies to a Federal organization just to protect the integrity of that fund for the entire State of Hawaii. So I'm a little, I'm a little disturbed with the organization's failure to, to deliver. Thank you. Thank you.

CHAIR PONTANILLA: Thank you. Member Victorino?

COUNCILMEMBER VICTORINO: Yeah. And thank you, Chair. And just to add on to what Mr. Mateo said, and maybe in the future we've got to be more careful and earmark the money or whatever word we want to use for a specific construction or something of that nature where we know the actual project itself, it's starting. Not this pre, pre, pre-construction costs which, you know, thank you architects and, and, and EIS and EIAs and all that other...EAs or whatever, but that's all money down the, down the tube. Let me ask you this, Ms. Tsuhako, if somebody else was to come along, all of this that has been done, the EA and all the other architectural designs and whatever, would that be applicable so long as they kept the project going from that point forward with the same design and all that? Would that still be able to be used by some other organization?

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MS. TSUHAKO: I, I think it would be, Mr. Victorino, and it's not something that the Department has totally dismissed, because I think Lokahi in their own process...and I, I see Mr. Brown in the, in the audience. He's joined us. He's the interim executive director from Lokahi, so he's here and available, but I think that between their board and their remaining staff members have gone through a very thorough process of sort of vetting their projects. And unfortunately they weren't able to finish, you know, as Mr. Mateo said, they weren't able to finish all their commitments. But as I, as I tried to explain to Member Baisa, I think the difference between Waiehu Mauka and the Kenolio project in Kihei is that the Kenolio project is very far along.

COUNCILMEMBER VICTORINO: Right.

MS. TSUHAKO: It's very far along. Waiehu Mauka hadn't even been built, I mean the infrastructure and all that stuff...*(inaudible)*...

COUNCILMEMBER VICTORINO: Haven't moved the dirt yet.

MS. TSUHAKO: Exactly. So I think that that project...because the concept was a very good one, I agree with you, and it did provide especially the rental units which the community really needs at this point in time. So it was a good project, and, and I don't think anybody has totally forgotten about it and said well, it's never going to happen.

COUNCILMEMBER VICTORINO: Right.

MS. TSUHAKO: But, you know, you, you have an agency that said, you know, we're having trouble, we need to, we need to relinquish some of these projects, because we're not going to be able to do everything. And so, yeah, I share the disappointment that it's not going to be done. I think the Council put a proviso on the Affordable Housing Fund appropriation that said you need to be granted your 201H application before you can get any of this money, and that was a very prudent thing to do. But I appreciate the fact that the agency came forward and said, look, we cannot do this, you know, rather than accept, you know, going through the 201H and not being able to do it at the end and then using up all the...you know. So I have to give them credit for doing that, and for saying we, we...we've looked through all of our things, we've, we've had to prioritize, and this is what we can do, this is what's doable for us. And, and so I have to give them credit for doing that.

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COUNCILMEMBER VICTORINO: Well, Ms. Tsuhako, I, I...I'm okay with that. It's just that, you know, it's a disappointment, but, you know, we're in hard economic times and disappointments are...abound us. And just that we had, had been told and sold on this whole project, and it was going to come fruition, and, you know, it's, it's there...now you come back later and say you can't, that's fine. But it's still the trust level now changes. And, Mr. Chair, I would hope at one point we would have an opportunity to talk to Mr. Brown, I guess the new executive director, so that we can get some clarification in where Lokahi Pacific is bound, where they're looking to go now. That's with your call of course, Mr...I ask your permission on that one. But thank you, Ms. Tsuhako. And thank you, Mr. Chair.

CHAIR PONTANILLA: Thank you, Mr. Victorino. If I do bring up Mr., Mr. Brown that the discussion would be based on what is posted in today's agenda.

COUNCILMEMBER VICTORINO: Absolutely.

CHAIR PONTANILLA: Okay. And, Members, let me remind you, you know, today's agenda, we not giving Lokahi Pacific any monies, okay. We are deleting one of the projects in the Affordable Housing Fund to recapture \$1.2 million, it comes back to the fund. So, Members, if there's no objections, and, you know, the Chair is willing to bring up Mr. Brown if you do have questions regarding items on today's agenda.

COUNCILMEMBER MOLINA: No objections.

COUNCILMEMBER MEDEIROS: Chair, I still have a question for . . . *(inaudible)*. . . I still have a question for the Director.

CHAIR PONTANILLA: Sure.

COUNCILMEMBER MEDEIROS: Okay.

CHAIR PONTANILLA: Why don't you ask your question. Then I'll --

COUNCILMEMBER MEDEIROS: All right.

CHAIR PONTANILLA: --call on Mr. Brown.

COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman. Director Tsuhako, refresh my memory where, where this project was slighted...sited to be? Waiehu Mauka, where was that project?

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MS. TSUHAKE: In Waiehu. I, I don't the, I don't know the...

COUNCILMEMBER MEDEIROS: Well, Waiehu is a big area.

MS. TSUHAKE: Yeah. I don't know the exact...

CHAIR PONTANILLA: It's almost at the intersection of --

COUNCILMEMBER VICTORINO: Yeah. Down...

CHAIR PONTANILLA: --Kahekili and --

COUNCILMEMBER VICTORINO: Yeah.

CHAIR PONTANILLA: --Waiehu Beach Road.

COUNCILMEMBER VICTORINO: Beach Road.

MS. TSUHAKE: Beach Road.

CHAIR PONTANILLA: Wailuku side.

COUNCILMEMBER VICTORINO: Yeah.

COUNCILMEMBER MEDEIROS: Okay.

COUNCILMEMBER VICTORINO: Yeah.

COUNCILMEMBER MEDEIROS: So on the mauka side, I guess?

COUNCILMEMBER VICTORINO: Yeah.

MS. TSUHAKE: Yes.

COUNCILMEMBER MEDEIROS: Right? Okay. Thank you.

CHAIR PONTANILLA: Okay. Any more questions for the Department? If not, Mr. Brown, if you could come to the lectern over here. Yes. Thank you for being here, Mr. Brown. Mr. Victorino, questions for Mr. Brown?

COUNCILMEMBER VICTORINO: I guess the...I'm going to yield to Mr. Molina, because Mr. Molina had some direct questions, and I yield to him.

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CHAIR PONTANILLA: Okay. Fine. And, Mr. Brown, if you can introduce yourself and the organization you represent.

MR. BROWN: My, my name is Wyatt Brown. I'm the interim director and controller for Lokahi Pacific.

CHAIR PONTANILLA: Thank you.

COUNCILMEMBER MOLINA: Okay. Thank you, Mr. Chair. And thank you, Mr. Brown, for, for coming here, and I was...initially I had expressed concern that there was no representative from Lokahi Pacific here, but thank you for making the effort to be here.

MR. BROWN: Sure.

COUNCILMEMBER MOLINA: And please understand why we're being...we're scrutinizing this because of the public's...you know, these are \$166,000. That's a huge chunk of change for us to consider. So just to put it real bluntly, what...well, why did Lokahi Pacific decide to pull the plug on the, on the Waiehu Mauka project in the first place?

MR. BROWN: I think...a lot of reasons for that. One, Lokahi had, had started various development projects, quite a few, more than a handful, and we felt after the, the executive director left the organization, the board took a hard look at all the projects that had been started under her direction. And their question to the remaining staff was...is what projects can we finish and what projects do we just need to unfortunately step away from? And so Waiehu Mauka was one of those projects. Let me, let me just say this maybe to give you a little bit of clarity and understanding specifically for the Waiehu Mauka project. Originally we thought that based on the information that we had received from our consultants that there was going to be about \$1 million needed to do the infrastructure for the project, and the 166,000 was spent on engineers to go out and assess the site, figure out, you know, what's it going to take to get this project out of the ground. And that figure was increased to I believe \$6½ million, so I mean that...that's huge, right? So when that came to light, you know, so, so I mean that's a real good reason to really stop and take a look at this project. The other thing too is the former executive director was also looking at other funding sources to help with this and our other projects, and unfortunately, blame it on whatever you want to, the economy or whatever, but those did not come through. So without money to move forward, it, it just made a lot of sense to pare back particularly this one and move forward with the Leilani project which I think has been discussed.

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COUNCILMEMBER MOLINA: Okay.

MR. BROWN: Does that answer your question?

COUNCILMEMBER MOLINA: Yeah.

MR. BROWN: . . .(Inaudible). . .

COUNCILMEMBER MOLINA: So in essence basically Lokahi Pacific was, say, in over its head, if you will, at the time?

MR. BROWN: I think...

COUNCILMEMBER MOLINA: And now with the economic downturn and...

MR. BROWN: Recently I heard the term "mission creep".

COUNCILMEMBER MOLINA: Yeah.

MR. BROWN: Yeah. Yeah. In, in that respect, yes. I mean we, we thought...I think there was a time when we thought, yeah, this would be a viable project, and, and as you said earlier it'd be...there's a great need in the community for, for, for that type of housing. But unfortunately, you know, the reality, you know, it's we...as we...we had to do the research, you know, and do, do the due diligence to determine, you know, what's it going to take to build this thing. And, and as that came out, it's like oh my gosh, we, we really can't proceed with this particular project. It's unfortunate, and I apologize to you. And I agree with, with, with your assessment 100 percent.

COUNCILMEMBER MOLINA: Yeah. And, you know, we, we have to think like that of the person on the street, you know, with the tax dollar, because --

MR. BROWN: I, I understand that completely.

COUNCILMEMBER MOLINA: --you know, you, you spend \$166,000 and then in essence get nothing back in return. You know, that we, we have to respond to our constituents and explain why, so, you know, we're gatekeepers of the public dollar. So that's why we need this information and to sign off if we choose to, and that's why, you know, I, I have some concerns, but, you know, it is what it is. So I'll, I'll yield the floor to other Members for questions. Thank you, Mr. Brown.

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MR. BROWN: Sure.

CHAIR PONTANILLA: Thank you. Mr. Victorino?

COUNCILMEMBER VICTORINO: Yeah. Thank you. And, Mr. Brown, thank you for that explanation and at least to clear some of the, the, the concerns we had and...

MR. BROWN: Sure.

COUNCILMEMBER VICTORINO: And my question to you is what made it go from your \$1 million original assessment by your consultant to \$6 million? I mean that's a tremendous jump.

MR. BROWN: It is.

COUNCILMEMBER VICTORINO: The consultants are not normally that far off, but what, what, what caused it? I mean there had to be a cause.

MR. BROWN: I, I, you know, I'm not the original consultant. I, I don't know where he got his numbers, but we hired, I believe, Tanaka. R. T. Tanaka was the engineering firm who did the work and came back with that assessment. And let me just qualify myself. Up until very recently. I really wasn't involved in the management of these development projects, that was, that was handled by the executive director, and so I'm, I'm really trying to catch up and get up to speed on something...on, on this in this area. My understanding...my rudimentary understanding is, is that the piece of property that the project would have been set on is on a bit of a hill. I'm not really good at reading topo maps. And, and it's, it's a sandy hill, so it's going to require a lot of concrete and metal, caissons, those types of things to go into the ground to support the, the volume of the structures that were going to be setting on that so they wouldn't just, you know, slide off the hill at the, you know, earthquake or something like that.

COUNCILMEMBER VICTORINO: And, and knowing the area, you're absolutely correct.

MR. BROWN: Okay.

COUNCILMEMBER VICTORINO: And I, I...

MR. BROWN: Oh, thank you.

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COUNCILMEMBER VICTORINO: You know, so I know the area, so --

MR. BROWN: Okay.

COUNCILMEMBER VICTORINO: --you're absolutely correct.

MR. BROWN: Okay.

COUNCILMEMBER VICTORINO: It is sandstone there, and, you know, any kind of structure you're going to put, you're going to have to put a lot of reinforcement.

MR. BROWN: Yeah.

COUNCILMEMBER VICTORINO: So somebody didn't do their homework unfortunately, but at least you get, you know, the public has to understand like Mr. Molina said --

MR. BROWN: Yeah.

COUNCILMEMBER VICTORINO: --why we spent the money --

MR. BROWN: Right.

COUNCILMEMBER VICTORINO: --and get nothing back for it. That's number one. We can make mistakes like anybody else, but the public's not want to accept our mistakes. Excuse me, for being honest.

MR. BROWN: No.

COUNCILMEMBER VICTORINO: You know, they get very angry because that's their money.

MR. BROWN: Yeah.

COUNCILMEMBER VICTORINO: And so I...at least you're clarifying a few of the questions that we're going to hear from our constituents. You know, other Members say well mistakes happen and we gotta move on. Oh, I agree, but we've got to have at least a good explanation to the public. And I thank you for your help, and I'm glad you came over. I'm glad somebody let you know that you should be here to help us at least identify the challenges, what caused this, this project in particular. I'm not talking about anything else --

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MR. BROWN: Okay.

COUNCILMEMBER VICTORINO: --just this project to go, and, and, and have it go out that way. And now hopefully someday, somewhere along the line somebody will pick it up and do something over there, but in the meantime, Mr. Chair, I thank you for allowing me the questions.

CHAIR PONTANILLA: Thank you. Member Johnson?

COUNCILMEMBER JOHNSON: Yes. Mr. Brown, thanks very much, and thanks very much for meeting with me privately as well. One of the questions I have I guess, you know, 'cause sometimes in our view it's money down the drain. But in your...from your perspective, even though you're not familiar with all the intricacies of why the costs escalated as they did, the \$167,000 that you paid for the engineering --

MR. BROWN: Yes.

COUNCILMEMBER JOHNSON: --study

MR. BROWN: Yes.

COUNCILMEMBER JOHNSON: --that was money that regardless of who did the project that money would have had to be expended in order for anyone to proceed on that project?

MR. BROWN: Yeah.

COUNCILMEMBER JOHNSON: Okay.

MR. BROWN: I would agree with that.

COUNCILMEMBER JOHNSON: Okay. And, and that to me is, you know, I guess, you know, a core thing that whether the estimates were correct or incorrect, at least now that study's been done. So that can be used as the formation of the basis for anybody to take over that project, because now they know what the underlying development estimates will be.

MR. BROWN: Very true. Yes.

COUNCILMEMBER JOHNSON: Okay. I, I just wanted to make sure --

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MR. BROWN: Okay. Thank you.

COUNCILMEMBER JOHNSON: --that, you know, we don't, we don't use terminology...yeah, it, it didn't result in a project being built --

MR. BROWN: Right.

COUNCILMEMBER JOHNSON: --but when you learned of that...just like so many times burials, we don't anticipate that there's going to be tremendous burials. And then all of a sudden the costs skyrocket or maybe the site is really not even able to be used. So I just want to thank you for at least picking up the ball and running with it at this point, because it's not easy and I do appreciate what you've gone through. Thank you.

CHAIR PONTANILLA: Thank you. Member Baisa?

COUNCILMEMBER BAISA: Yes. Thank you very much. And thank you, Mr. Brown, for being here. I certainly understand how it is to be the comptroller and all of the sudden be the director. I did that too. . . .*(Laughter)*. . .

MR. BROWN: Lucky you.

COUNCILMEMBER BAISA: But unfortunately I didn't do it under those kind of circumstances. But, you know, I think what's missing today and why there's a lot of questions is we don't have any document before us that shows what this \$167,000 was used for.

MR. BROWN: Okay.

COUNCILMEMBER BAISA: We have a general term that says predevelopment costs, but it doesn't say \$20,000 to this engineer and, you know, \$30,000 to this archeologist or wherever it went. 'Cause we all know about these development costs and how big they can be.

MR. BROWN: Okay.

COUNCILMEMBER BAISA: And I'm not sure that we're clear that the original estimate of \$1 million...we don't have anything to show where that came from. Is that part of that cost that your...that, that we paid for with the 167,000?

MR. BROWN: No. The, the 167,000 was paid to a local engineering firm or architectural firm and it...the money was paid out to them, and if you like, we

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can, we can get documentation for you. It has a breakdown of the work that they did. They also had to hire consultants, like a surveyor had to go out and survey the property, as an example. I don't remember all the details.

COUNCILMEMBER BAISA: So the money, the \$167,000, the whole thing went to one engineering firm?

MR. BROWN: It went to the engineering firm --

COUNCILMEMBER BAISA: And they hired the consultant.

MR. BROWN: --and they hired the consultants and paid the consultants for the work that they needed to do.

COUNCILMEMBER BAISA: And as a result of that you got the \$5 million estimate?

MR. BROWN: No...well, okay. My...

COUNCILMEMBER BAISA: That...that's what I'm trying to follow.

MR. BROWN: I see what you're saying.

COUNCILMEMBER BAISA: Yeah.

MR. BROWN: Yeah. R. T...and this...I looked at these documents a couple months ago, but if my memory serves me correctly, R. T. Tanaka, who was I believe the engineering firm that was used on this, they said that it would take...I believe the figure was \$6½ million to, to, to build the infrastructure to support the buildings.

COUNCILMEMBER BAISA: And that was as a result of the total engineering study that --

MR. BROWN: Yeah.

COUNCILMEMBER BAISA: --they did.

MR. BROWN: Right. Right. Right. That was their assessment.

COUNCILMEMBER BAISA: The \$1 million was just a guesstimate that somebody had? There was no money paid for that thing, no study?

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MR. BROWN: You know, I...I'm not sure exactly the source of, of that. You know, an individual was, was hired by the executive director to do a proposed, you know, budget for the project. And that was my understanding that they thought, you know, that line item would be --

COUNCILMEMBER BAISA: Right.

MR. BROWN: --\$1 million.

COUNCILMEMBER BAISA: Now we know these estimates are very interesting. You know, when they give you an estimate on a project you better be prepared for a lot more. We even see it with the contracting --

MR. BROWN: Yeah.

COUNCILMEMBER BAISA: --that the County does --

MR. BROWN: Yeah.

COUNCILMEMBER BAISA: --for roads or buildings or whatever we do. Generally...I just was at a meeting at noontime and we talk about change orders, you know, and it's 10,000 here and 50,000 there, and before you know it, it's adding up to the millions. I see the Chair nodding his head. So, you know, we kind of understand that, but I think it would have been helpful if we had had something in our binder to explain about this predevelopment costs and what, what it was about.

MR. BROWN: Okay.

COUNCILMEMBER BAISA: Thank you.

MR. BROWN: All right.

CHAIR PONTANILLA: Thank you. Member Molina?

COUNCILMEMBER MOLINA: Yeah. Thank you, Chair. Mr. Brown, and I know it's a...you're in a tough situation. You're basically walking in to clean up, you know, something that, you know, you basically did not have the...any initial involvement with.

MR. BROWN: For understanding.

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COUNCILMEMBER MOLINA: But, you know, you're the guy, so. To your, to your knowledge, you know, did Lokahi Pacific or the board or whomever consider paying back this 166,000 or a portion of it? And if not, can you tell us why?

MR. BROWN: At this time, it would be virtually impossible for the agency to pay back that kind of money. We're just not in a financial position to do that. Did we consider, yeah, we...we'd love to do it. I mean we...and with the fallout of every...the...you know the shakeup that happened a couple of months ago, we have a lot of vendors that we do owe money to, and we're, we're working with them and doing the best that we can to pay them what we can. But, yeah, I mean if we could pay it certainly we would, but unfortunately we cannot, and that's why we're falling on your mercy to ask for help.

COUNCILMEMBER MOLINA: Okay. Thank you. Thank you, Chair.

CHAIR PONTANILLA: Thank you. Member Medeiros?

COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman. Mr. Brown, thank you for being here. I know you have limited history with the project as the interim executive director, but I, I...I'd like to know, in the organization who approves the projects? Is it the executive director, or the board of directors, or a combination of both, or who else?

MR. BROWN: The, the executive director would consider proposals.

COUNCILMEMBER MEDEIROS: Okay.

MR. BROWN: Do her due...or his or her due diligence, and then it would be presented to the board of directors usually at a regularly scheduled board meeting unless there was some emergency and we had to have a special meeting. And then the board itself would, would look at the information that was provided and make a decision based on that information.

COUNCILMEMBER MEDEIROS: So the board would have the final approval of the project?

MR. BROWN: Yes. Yes, they would. Yes. The...it...yes.

COUNCILMEMBER MEDEIROS: Okay. And, and just so that I can refresh my memory, the property for this project, how was that acquired?

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MR. BROWN: That was...and I don't know...chicken or egg which came first, but my...the, the property is...was owned by Pacific Rim Land Company. And the arrangement was they had, I believe, two of the total six...or total eight acres that they wanted to develop for themselves. They were going to put, I think, six lots on there, and then the balance, the six acres which was on this hillside, that would be deeded over to us once we had the 201H in hand, once we had completed that. And because we did not make it to that point, the decision was made that we had to step away from this project. The property was never passed into our hands.

COUNCILMEMBER MEDEIROS: Oh, so it's still owned by the original or --

MR. BROWN: Yes.

COUNCILMEMBER MEDEIROS: --or, or --

MR. BROWN: Yes, sir, it is.

COUNCILMEMBER MEDEIROS: --the present owner.

MR. BROWN: Yes.

COUNCILMEMBER MEDEIROS: I see. So, so in thinking that this property might be used for this project, who went to look at the property from Lokahi Pacific?

MR. BROWN: You know, I'll tell you this, I didn't go.

COUNCILMEMBER MEDEIROS: Who would go in, in your organizational structure --

MR. BROWN: Who, who would normally get...

COUNCILMEMBER MEDEIROS: --and process?

MR. BROWN: I would think that the executive director probably looked at it. I, I, I didn't ask her, oh, have you seen the property? I...

COUNCILMEMBER MEDEIROS: How do you purchase property without seeing it?

MR. BROWN: Well I would...like I was saying, I would assume that the executive director went, went and looked at it. That would be my assumption.

COUNCILMEMBER MEDEIROS: I see. Okay.

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MR. BROWN: But, but I, I can't tell you. I don't recall a conversation where the executive director said I went out and saw it --

COUNCILMEMBER MEDEIROS: Right.

MR. BROWN: --but I'm pretty sure she probably looked at it.

COUNCILMEMBER MEDEIROS: Yeah. Okay.

MR. BROWN: That would make sense for me, too.

COUNCILMEMBER MEDEIROS: Thank you. I'll, I'll ask the Department if they would know, but thank you.

MR. BROWN: Okay. Sure.

CHAIR PONTANILLA: Oh, thank you. Any more questions for Mr. Brown? If not, thank you for being here, answered a lot of questions --

MR. BROWN: Okay.

CHAIR PONTANILLA: --a lot of concerns.

MR. BROWN: Hopefully helpful.

CHAIR PONTANILLA: Members, I understand that the Department has some invoices. If you want copies made we can make the copies and give it to you folks in regards to whatever the breakdown was for the \$167,000.

COUNCILMEMBER BAISA: Yes, please.

COUNCILMEMBER VICTORINO: . . .*(Inaudible)*. . .

COUNCILMEMBER BAISA: Yes please.

CHAIR PONTANILLA: Okay. We'll make copies.

COUNCILMEMBER VICTORINO: Thank you.

CHAIR PONTANILLA: Mr. Brown, we, we do have the copies.

MR. BROWN: Oh, you do.

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CHAIR PONTANILLA: Yeah. Thank you.

COUNCILMEMBER MEDEIROS: Mr. Chairman? Are, are we still allowed --

CHAIR PONTANILLA: Mr. Medeiros?

COUNCILMEMBER MEDEIROS: --to ask the Department questions?

CHAIR PONTANILLA: Oh, yeah.

COUNCILMEMBER MEDEIROS: Since Mr. Brown is done. So I...Director Tshako, what's the procedure for the Department when a nonprofit like Lokahi Pacific says they want to build, you know, a project on a certain piece of property? Does the Department look at the property? Or does the Department go on the assumption that Lokahi Pacific or whoever the nonprofit is has made an assessment of the property for the particular use that they have in mind?

MS. TSUHAKO: Thank you for your question, Member Medeiros. I'm going to, with the Chair's permission, defer to Mr. Oshiro who was part of the committee that reviewed the proposals that were received by the Department from the RFP that was published for the Affordable Housing Fund.

CHAIR PONTANILLA: Thank you. Ms. Tshako...

COUNCILMEMBER MEDEIROS: Mr. Chairman, if you would?

CHAIR PONTANILLA: Yeah. If Mr. Oshiro can come forward.

COUNCILMEMBER MEDEIROS: Okay.

CHAIR PONTANILLA: Let me just ask you this question while Mr. Oshiro's coming over. Lori --

MS. TSUHAKO: Yes. Sorry. Excuse me.

CHAIR PONTANILLA: --when we reviewed all of the projects for consideration, Lokahi Pacific presented this particular project to this Council in regards to what they were going to do. I know there were some plans presented, the whole bit. In fact, there was a booklet that gave us all this information in regards to the project. By any chance do you have a copy of that, that maybe...I don't know if the Members would like to take a look at that. But there were some plans that were

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presented to this Council not only for this particular project, but I think there were like three or four of 'em. But...

MS. TSUHAKO: Mr. Chair, I don't have the file with me, but we can certainly look in the, the original proposal --

CHAIR PONTANILLA: Sure.

MS. TSUHAKO: --because I'm sure it would probably mirror what you might have received during that time.

CHAIR PONTANILLA: Okay. Mr. Oshiro?

MS. TSUHAKO: ...*(Inaudible)*...

COUNCILMEMBER MEDEIROS: You want me to restate the question for you, Mr. Oshiro?

MS. TSUHAKO: ...*(Inaudible)*...

MR. OSHIRO: ...*(Inaudible)*... No, we didn't go to the site.

COUNCILMEMBER MEDEIROS: So my understanding, there's a committee that reviews the projects presented to the Department of Housing and Human Concerns, and you're on that committee?

MR. OSHIRO: We were...correct.

COUNCILMEMBER MEDEIROS: Okay. So...

MR. OSHIRO: It...we're...we requested for proposals and they all submitted proposals, then we review the proposals and we, I guess, grade it or score the proposals based on what's submitted.

COUNCILMEMBER MEDEIROS: Is, is the proposal...part of the proposal a description of the property?

MR. OSHIRO: Correct...actually it's more a description of the project and when it's going to be completed and so forth.

COUNCILMEMBER MEDEIROS: So --

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MR. OSHIRO: What's . . . *(inaudible)* . . .

COUNCILMEMBER MEDEIROS: --we the County and the Department are going sight unseen and approving a project without seeing the property? Somebody might sell us, you know, the Brooklyn Bridge and, you know, we're going to accept that. So I..I'm just wondering, you know, in the review process that the Department does that...so there's no one that actually goes to look at the property with the...say with the nonprofit that's making the proposal for the project?

MR. OSHIRO: Correct.

COUNCILMEMBER MEDEIROS: Okay. So we just take it that whatever they send in, we're just approving other things besides the choice of the property, whether topographically, you know, the thing would make sense for a project like that. So we, we, we, we don't do that as a Department? Okay. Do you know if the applicant or the nonprofit goes out to look at the property, and says hey, this is what we need and, and makes that assessment to the Department?

MS. TSUHAKO: Mr. Medeiros, thank you for your question. The Department doesn't have the expertise to know exactly what would be appropriate or not topographically for a project. So what Mr. Oshiro is saying is that a group...a committee is convened to review the proposals. They review the proposals, they have time with the agencies that submit those requests, and maybe ask questions. But I think you bring up a good point, and it's something that future committees can look at is possibly doing a site visit. But I would like to also keep in mind that we don't have any, any engineers or any architects or anyone necessarily who would have the specific knowledge that would be --

COUNCILMEMBER MEDEIROS: Right.

MS. TSUHAKO: --required to, to question to say whether it was...the proposed use would be appropriate for that particular parcel of land.

COUNCILMEMBER MEDEIROS: Okay. Yeah.

MS. TSUHAKO: So but thank, but thank you for that suggestion.

COUNCILMEMBER MEDEIROS: But...thank you. And I, I think I would further suggest that being that the Department doesn't have that expertise, we have departments that do. And I think an inquiry with Department of Public Works, Engineering, might be able to make that assessment for you. It's a matter of just coordinating that with another department. Okay. Thank you, Mr. Chairman.

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MS. TSUHAKE: Thank you.

CHAIR PONTANILLA: Thank you. Just for your information, on 201H projects or, or projects that we want to fund through the Affordable Housing Fund, we have at times had gone and, and do site visit. In this case here, I don't think we did. Members, any more questions for the Department regarding the first issue? If not, you do have copies that were provided to you by the Department in regards to the expenditure of the \$167,000.

COUNCILMEMBER MOLINA: Chairman? My apologies. Can I ask the Department --

CHAIR PONTANILLA: Member Molina?

COUNCILMEMBER MOLINA: --just one quick question?

CHAIR PONTANILLA: Sure.

COUNCILMEMBER MOLINA: Ms. Tshako, in light of this happening, is now the Department looking at taking steps to be, I guess, more strict with, you know, entertaining any RFPs for, you know, people who want...any organization that may use affordable housing funds for future projects? And because in light of what's happening I think the Department now...I think, I think you might have stated it earlier, now you're going to start taking more...well you mentioned something about corrective measures. You know, because I think this may be setting a precedent on what we do today as a Council, and if, you know, or if we do for one organization for a certain project if, you know, other entities that have projects out there. And what if they pull the plug and then a similar request comes back to us? You know, what then? So how is the Department looking at this now that we have this scenario with one nonprofit entity?

MS. TSUHAKE: Thank you, Mr. Molina. That's a very good point. I, I did say that we were working very closely with HHFDC to more carefully scrutinize the projects that have been allocated funding from HOME as well as from Affordable Housing Fund, because usually agencies will use various sources of funding to piece together a big...bigger appropriation to finish their projects, and so we need to look at the big picture, too, as well as more into the details. The Department as a whole not only in regard to our, our oversight of the Affordable Housing Fund projects, but also through our Grants Management Division and through the Director's Department and our other divisions that grant funding to nonprofits, have been taking a closer look. We've always tried to hold all the grantees

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accountable for how County funds are spent, and what we're doing now is we're trying to establish some guidelines that, that make it more clear what the County expects in terms of, of services in exchange for those funds. But in...and particularly related to housing we are working more closely with the, with the agencies who are getting funding through the County to make sure that the same issues that have plagued Lokahi Pacific don't come up. That we, we have measures in place to mitigate those concerns or that they have plans...more appropriately, they have measures in place to mitigate any concerns that come up and that there's a, there's a plan in place. You know, we want to make sure that there's a plan A and a plan B for them, and to try and work with them to help figure those things out. Because it is...I mean this is really a big...it's really a big blow to, to the Department's attempt to work with nonprofits to provide affordable housing, and we, we understand that, and we don't take it lightly at all.

COUNCILMEMBER MOLINA: Okay.

MS. TSUHAKE: So thank you for your question.

COUNCILMEMBER MOLINA: Yeah. Thank you. And I appreciate the fact that you guys are making sure that the onus is on the nonprofit entity. It's...it can't be where they all come running to the County if, you know, for a decision that they make, then ask us to, you know, provide relief or a bailout, if you will. 'Cause...that's why I'm just so really concerned that what we do here could be setting a precedent, and I'm glad you...the Department, you're looking at taking some stricter measures and guidelines and criteria. So thank you, Madam Director and Mr. Chair.

CHAIR PONTANILLA: Thank you. Members, any more questions for the Department? Member Baisa?

COUNCILMEMBER BAISA: Just one more quick question and I'm done. But, you know, I'm looking at the invoices, and how is this handled? Did we give the money to Lokahi to pay the, the consultants or did we pay the consultants?

MS. TSUHAKE: The money is given to Lokahi to pay the consultants.

COUNCILMEMBER BAISA: So we have a contract with them?

MS. TSUHAKE: With Lokahi.

COUNCILMEMBER BAISA: For this 100 whatever it was, 166, whatever.

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MS. TSUHAKO: I think there were additional HOME funds programmed to that project, and those were contracted with Lokahi. And then what they do is they...when they spend...for example, when they spent this money they invoiced the County, and then the County...they pay the vendor, the County reimburses them, and so there were additional HOME funds that weren't spent but were allocated in a, in a larger picture to this project.

COUNCILMEMBER BAISA: So there's more HOME funds involved in this particular project?

MS. TSUHAKO: There were. Those have been already, I think, accounted for and reprogrammed with HHFDC's approval.

COUNCILMEMBER BAISA: Okay. Thank you.

COUNCILMEMBER VICTORINO: Chair?

CHAIR PONTANILLA: Thank you. Member Victorino?

COUNCILMEMBER VICTORINO: Thank you. And, Ms. Tzuhako, you have a copy of the...all that papers, right?

MS. TSUHAKO: I do.

COUNCILMEMBER VICTORINO: Yeah. Okay. And, and not to beat a dead horse, but I was reading at the bottom of the very first one to Maui Architectural Group, and I was just reading and I just...I, I...maybe you can help me figure it out. It says note...there's a little note at the very bottom somebody typed in, pay only \$80,890 of this invoice, 'cause balance of 890...8...80,000, okay, excuse me. Let me go back. Paying only \$80,890 of total invoice since grant has a balance of \$80,990, and 100 must remain in account. Balance of \$60,777.36 is being paid out of Grant G2664. Are you telling me that was just two different grants we gave them or is that... 'cause what I'm curious to find out if this is all our money? Or, or how did this...because I don't like paying back if I don't have to pay back something that somebody else put in money like say the State or something. Do...you know, so that's all I'm asking, what does that mean?

MS. TSUHAKO: I...I'm going to defer to Mr. Brown, because I don't know what G2664 is.

COUNCILMEMBER VICTORINO: Yeah. I'm just, I'm just trying to get, you know, if you don't mind, Mr. Chair.

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MR. BROWN: . . .*(Inaudible)*. . .

CHAIR PONTANILLA: Maybe Mr. Oshiro can explain.

MS. TSUHAKEO: Thank you for your patience, Mr. Chair.

COUNCILMEMBER VICTORINO: And I apologize I'm asking so many questions, sorry.

MS. TSUHAKEO: It's okay. I'm sorry I am not familiar with that grant.

MR. OSHIRO: Yeah. Lokahi Pacific was given three, I guess, three grants that was to be used for predevelopment, and each of those two grants was for 90,000 each. And there wasn't enough funds to pay for the Maui Architectural Group invoice from one grant, so we had to split the grant...I mean split the payment...I mean to two...from two grants.

MS. TSUHAKEO: . . .*(Inaudible)*. . .

MR. OSHIRO: All, all from HOME, yes.

COUNCILMEMBER VICTORINO: They, they were all from the HOME funds?

MR. OSHIRO: Yes.

COUNCILMEMBER VICTORINO: Okay. 'Cause I just...I was curious because the grant numbers I couldn't make sense of it, so I didn't know what that meant.

MR. OSHIRO: Yeah.

COUNCILMEMBER VICTORINO: And so since there was two payments I wanted to make sure that it was all from the HOME funds, right?

MR. OSHIRO: Yes.

COUNCILMEMBER VICTORINO: Okay. And all the rest of these invoices that were subsequently put on here...and, you know, I saw over here under Maui Architectural...yeah, I saw Honolulu Blue...or HONBLUE for \$1,267, and then later on I see another invoice. And again, I'm nitpicking at this point, and I, and I really shouldn't, you know, I apologize. It's just I'm frustrated because I see another one for 730...\$737.45. I guess that's the way it is, but, you know, now

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that we see this and, you know, the public wants to know. So how does HONBLUE does one for one side and then they have a separate invoice, you know, even though it's only \$737, but every dollar counts now.

MR. OSHIRO: Right.

COUNCILMEMBER VICTORINO: So...

MR. OSHIRO: Right. I believe it was for different types of prints, for architectural prints.

COUNCILMEMBER VICTORINO: Okay. So that's what these guys basically do?

MR. OSHIRO: Yes.

COUNCILMEMBER VICTORINO: The architecture.

MR. OSHIRO: A separate...yeah, that's the print.

COUNCILMEMBER VICTORINO: So they invoice you guy...or invoice Lokahi Pacific was separate and then they invoiced Maui Architectural Group?

MR. OSHIRO: No. Actually I believe they billed Maui Architectural Group, and Maui Architectural Group turned in their invoice to Lokahi, and then Lokahi turned the invoice to us, to the County.

COUNCILMEMBER VICTORINO: Oh, okay. You know what, I apologize. There was a reverse page I wasn't looking at. I apologize. Sorry, Mr. Chair. There was two pages and I only looked on page one.

CHAIR PONTANILLA: Okay. Thank you.

COUNCILMEMBER VICTORINO: Sorry about that. Thank you. I, I have no more questions.

CHAIR PONTANILLA: Thank you. Thank you.

COUNCILMEMBER VICTORINO: Sorry.

CHAIR PONTANILLA: Okay. We go to item number two.

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

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CHAIR PONTANILLA: The second item that...for discussion in regards to this agenda item is the deletion of Waiehu Mauka Rental Housing project from the Affordable Housing Fund amounting to \$1,216,152. So that's the deletion, and, and that money comes back to the Affordable Housing Fund. So, Members, you guys get questions regarding that?

UNIDENTIFIED SPEAKER: No.

COUNCILMEMBER VICTORINO: No, no.

COUNCILMEMBER MOLINA: No.

CHAIR PONTANILLA: Okay. Thank you.

VICE-CHAIR MATEO: Mr., Mr. Chair?

CHAIR PONTANILLA: Yes, Mr. Mateo.

VICE-CHAIR MATEO: The...that...we're talking about the second one?

CHAIR PONTANILLA: The second...

COUNCILMEMBER JOHNSON: Number two.

VICE-CHAIR MATEO: We're talking about...

COUNCILMEMBER VICTORINO: Return the money.

VICE-CHAIR MATEO: Yeah. We're about that be not able to collect that 5.8 million for...

CHAIR PONTANILLA: Oh, no, no, no. That...that's the next --

COUNCILMEMBER JOHNSON: No.

CHAIR PONTANILLA: --item that I got.

COUNCILMEMBER VICTORINO: That's the next item.

COUNCILMEMBER BAISA: Oh.

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CHAIR PONTANILLA: Okay. The next item, which is number three on this agenda sheet, is the...reduce the estimated balance of...as of 6/30/2010 by \$3,444,600. Keaka, LLC, and Makena MF-2&3 made actual contribution for the Hale Mahaolu Ehiku Project of \$2,425,500 whereas Resolution No. 08-91 authorized the acceptance of \$5,870,000 and...\$870,100. So at this time, the Chair would like to call on Ms. Tshako regarding this particular item.

MS. TSUHAKO: Thank you, Mr. Chair. This need for amendment comes from Keaka, LLC's inability to fulfill what they believe to be their in lieu contribution to the Affordable Housing Fund due to their financial circumstances. The Department, of course like you, is disappointed that we're not going to get the full measure of that contribution; however, Keaka did make a cash donation for part of that funding directly to Hale Mahaolu for their Ehiku Project, and that's recognized in the amount of--I forget where it is, excuse me--in the amount of \$2,425,500. So we appreciate your consideration.

CHAIR PONTANILLA: Thank you. Members, question? Member Johnson?

COUNCILMEMBER JOHNSON: This would be for Corporation Counsel. Because this was an original...I believe this condition was originally attached to the...this particular granting of the...well, it wasn't a project, it was actually the land use change and there were certain requirements. What is the consequence of the inability of the enterprise to actually perform underneath the conditions and underneath the agreements that we had?

CHAIR PONTANILLA: Corporation Counsel?

MS. FUJITA VILLAROSA: Mr. Chair, I'm sorry, but I'm not familiar with the underlying obligation. So I would have to take a look at the document that describes the obligation and what would happen if they weren't able to fulfill the...all the obligations.

COUNCILMEMBER JOHNSON: Yeah. And, and, Mr. Chair, I would at some point...if we can under your signature send a request to Corporation Counsel to get that. I think this is one situation where we grant approvals on certain fundamental agreements, and when those agreements are either breached or unable to be fulfilled, I want...because it's the, you know, there's good faith going both ways here. If they're not able to perform what are they doing? And what are the consequences? And what are our rights? And that may come in a totally different venue, but I think it's really important that we ask the questions. Thank you.

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CHAIR PONTANILLA: Thank you. Members, any more questions? Member Mateo?

VICE-CHAIR MATEO: Chairman, thank you. And I...my interest is similar to, to Ms. Johnson's, that perhaps Corp. Counsel can provide a response to later. In, in addition to that the...this particular entity that was supposed to have provided almost \$6 million to Hale Mahaolu for the development of their project, what does this do at this point to Hale Mahaolu's project? Because now they're not getting the full amount of monies that had been projected originally, and where does that put Ehiku in terms of being able to complete their project and especially now with the recent fire?

MS. TSUHAKO: Thank you for your very significant question, Mr. Mateo. I believe that, according to Mr. Katsuda at Hale Mahaolu, they sort of had a sense that they may not get the, the entire amount of money that was promised to them via this agreement, and so they've been working very hard over the last year to sort of garner other sources of fundings to complete their project. That's about as much of a...as a detail as I know. I don't know what other funding sources he's looking into, but I think he's been aware for some time now that the entire obligation would not be donated to him.

VICE-CHAIR MATEO: Okay. Well, you know, it's, it's nice that at this point they're even giving, you know, over \$2 million when they really don't have nothing to, to virtually bank on, but my interest would again go back to Corporation Counsel and what the standing of the development project would be based on the approvals. Because for...I cannot speak for anybody else, but for me part of my approvals and support of that particular project was based on this, and had this not moved forward I don't think I would have supported the project. So thank you.

COUNCILMEMBER VICTORINO: Chair? Chair?

CHAIR PONTANILLA: Thank you. Member Victorino?

COUNCILMEMBER VICTORINO: Yeah. And, and, and to tack on to that, I would like to know if, Corporation Counsel, to add to those questions, one of the, the specific question I would have, when and if someone else and whoever takes over, because these conditions were put on based upon the land use. And so long as...and I was always told the...what do you call those?

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

COUNCILMEMBER VICTORINO: The conditions follows the land. They don't go away. So in other words, somebody else comes in and starts to develop this area,

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the condition still exists, and, and we were told that many times by Corporation Counsel that, that was what happen. So, so if somebody else comes along and if the conditions follows the land, then are they obligated? And see, we're saying okay, we'll take the 2 million and, and thank you very much and, and whatever, but somebody else comes along, does this hurt us from getting the additional three million eight hundred whatever dollars left over? You know, and that's what I would like answered, because the condition--right, Mr. Chair?--goes and follows the land. So if the obligation has never been completed then the obligation should be completed and should be known to the person or entity or whomever buys this land, whether it's...I don't know who, but whatever. This time we want to make sure that there is no, like, thank you very much, I'm buying it, and, you know, tough luck, and you guys are going to live with what we have. Uh-uh. We put the conditions, right, Mr. Mateo? And we want those conditions to be fulfilled, right, Mr. Pontanilla?

CHAIR PONTANILLA: Yeah. We put in like 43 or 45 conditions.

COUNCILMEMBER VICTORINO: Well whatever they are, I don't care.

CHAIR PONTANILLA: It goes with the land, and, and we have that same issue over here with the development just outside this building here. They haven't fulfilled all of their conditions, and, and we still need to remind them about those conditions in regards to infrastructure improvements, affordable housing, and the bit. So, Corporation Counsel, I think you heard the request by the Council Members in regards to this particular item and the responsibility of the new owners, I guess, to adhere to the conditions that were set on the approval process. Any more questions, Members?

COUNCILMEMBER MOLINA: Chair?

COUNCILMEMBER VICTORINO: Recommendation.

CHAIR PONTANILLA: Member Molina?

COUNCILMEMBER MOLINA: Just for procedure's sake I, I would like to request we take separate votes, I guess, on...or was it your intention to do this in all...both considerations in one motion?

CHAIR PONTANILLA: Yeah. Right.

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COUNCILMEMBER MOLINA: Can I then make a request for a separate vote on the bill related to the Waiehu Mauka, have that as a separate vote from that of the other bill?

CHAIR PONTANILLA: Okay.

COUNCILMEMBER MOLINA: I don't know. Can we do that procedurally?

CHAIR PONTANILLA: Sure . . . *(inaudible)* . . .

COUNCILMEMBER MOLINA: I know this comes under one, you know, agenda item.

CHAIR PONTANILLA: Yeah. The Chair's intent was to take each bill --

COUNCILMEMBER MOLINA: Separately.

CHAIR PONTANILLA: --at one time --

COUNCILMEMBER MOLINA: Okay.

CHAIR PONTANILLA: --all three, yeah, at one time, and then if you want to separate out then I'll...we'll consider that.

COUNCILMEMBER MOLINA: Okay. Thank you, Chairman.

CHAIR PONTANILLA: Okay. Any more questions to the Department, Members?

COUNCILMEMBER VICTORINO: No.

CHAIR PONTANILLA: If not, the Chair would like to make his recommendation.

COUNCIL MEMBERS: Recommendation.

CHAIR PONTANILLA: Thank you. Chair's recommendation is to pass on first reading "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2011 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO ESTIMATED REVENUES; DEPARTMENT OF HOUSING AND HUMAN CONCERNS, TOTAL OPERATING APPROPRIATIONS, TOTAL APPROPRIATIONS (OPERATING AND CAPITAL IMPROVEMENT PROJECTS); AND APPENDIX A AS IT PERTAINS TO PART II, SPECIAL PURPOSE REVENUES – SCHEDULE OF REVOLVING/SPECIAL FUNDS FOR FISCAL YEAR 2011; AFFORDABLE HOUSING FUND, ESTIMATED BALANCE AS

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OF 6/30/10, AND WAIEHU MAUKA RENTAL HOUSING PROJECT – LOKAHI PACIFIC”; and two, to adopt the proposed resolution “AMENDING RESOLUTION 08-91 AUTHORIZING ACCEPTANCE OF A PAYMENT OF \$5,870,100 FROM KEAKA LLC, AND MAKENA MF-2&3, LLC TO THE COUNTY OF MAUI AFFORDABLE HOUSING FUND, PURSUANT TO SECTION 2.96.040.B.2, MAUI COUNTY CODE, AND SUBSEQUENT DISBURSEMENT TO HALE MAHAOLU AND ITS AFFILIATE HALE MAHAOLU EHIKU, INC.” Three, to allow Staff to make non-substantive changes to the bills for consistency, and four, filing of County Communication No. 10-194.

VICE-CHAIR MATEO: Mr. Chairman, I move for the passage of the proposed bill as you had so recognized as well as the adoption of the proposed resolution that you also recognized including the filing of the communication.

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

CHAIR PONTANILLA: Thank you. It’s been moved and second. Member Molina?

COUNCILMEMBER MOLINA: Yeah. Thank you, Mr. Chair. I would request for a separation of the two bills.

CHAIR PONTANILLA: You want to separate --

COUNCILMEMBER MOLINA: Yeah. I, I move to...

CHAIR PONTANILLA: --the first one?

COUNCILMEMBER MOLINA: Yeah, sir. I move to separate the first bill that you stated earlier for a separate vote from that of the second bill *[sic]*.

COUNCILMEMBER VICTORINO: Second, Mr. Chair.

CHAIR PONTANILLA: It’s been moved and second by Mr. Victorino. It’s been second that we separate the first item from the second proposed bill *[sic]*. Any discussion? All in favor of separation signify by saying “aye”.

COUNCIL MEMBERS: Aye.

CHAIR PONTANILLA: Any opposed? Seeing none, motion is carried. Eight ayes, one excused, Mr. Nishiki.

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

NOES: **None.**

ABSTAIN: **None.**

ABSENT: **None.**

EXC.: **Councilmember Nishiki.**

MOTION CARRIED.

ACTION: APPROVE.

CHAIR PONTANILLA: Okay. Coming back to the main motion as amended.

COUNCILMEMBER MOLINA: Chair?

CHAIR PONTANILLA: Any more discussion?

COUNCILMEMBER MOLINA: Yeah. Chair?

CHAIR PONTANILLA: Member Molina?

COUNCILMEMBER MOLINA: I’d like to give my comments related to the first bill --

CHAIR PONTANILLA: Sure.

COUNCILMEMBER MOLINA: --that we’ll be taking the vote on. Regrettably, Mr. Chair, I, I cannot support this first bill, and I, I sympathize with Lokahi Pacific’s economic situation or, or whatever else occurred there, but again it was not our decision as a County to pull the plug on the Waiehu Mauka project. They came to us, and as Chairman Mateo had mentioned earlier, they had told us that this project’s ready to go and there was a lot of hope and optimism. And granted we cannot control what happens with the global economy, but it, it happened, and a decision was made by the entity to not, you know, expand further with this project, and therefore a debt of 166,000 was left. And I want to thank Mr. Brown from Lokahi Pacific for showing up here to give us further explanation, and he basically told us that the company was not in a position to pay that debt off, and that is why they’re asking us for a consideration. And I know we want to support...try to provide some support to our businesses, but \$166,000, Mr. Chairman, that our taxpayers are going to have to bear is difficult for me to,

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to swallow that. And, you know, the question also becomes now how can the County recoup our loses, and will this be setting a precedent for the future for other entities that come to this County for monies from the Affordable Housing Fund? They want to do a project. What if we have a situation like this with another company? You know, we're policymakers here, we have to send a message, and we have to be very mindful of the taxpayer dollars. And I'm also aware of the argument that we have to look at the longer term and how we can...I guess, the State isn't...they're having their own problems with the housing corporation. But for me, I'm, I'm going to have to take the side of the taxpayer on this, Mr. Chairman. This is...it wasn't again our decision to pull the plug on the project, and yet we're being asked to...dare I use the word "bailout" again? You know, I know it's not a very popular term right now, and we already have our own problems too with the County, you know, trying to make ends meet. And if we do this for one we may have to do this for someone else, too. I mean where does it end? And the taxpayer is getting nothing out of this. You know, the intent was to get some sort of affordable housing or affordable rentals out of this, and we're getting zero. And I, I appreciate the work Lokahi Pacific has done in the past, but times have changed and we also gotta change with the times, too. So, Mr. Chair, with, with, with no disrespect to your recommendation, I, I cannot support the, the motion for this first bill. Thank you.

CHAIR PONTANILLA: Thank you. Members, any more discussion? Member Johnson?

COUNCILMEMBER JOHNSON: Yes, Mr. Chair. And, you know, I can appreciate what Member Molina is saying, but then I have to also look at the bigger picture which is the creditability of the County with regard to oversight. We, we ultimately...we are the responsible party with...as a recipient of HOME funds, so, you know, because there's a much bigger picture involved with regard to the HOME funds, I don't want to send a mixed message to the Federal government. These monies are given to the State much like we received the ARRA funds or, you know, other monies. We had the best of intentions. I believe that Lokahi had the best of intentions in moving forward with the project. They made a miscalculation. The monies in my view were not misappropriated, but because they could not go forward with the project, they basically became ineligible as far as the HOME monies went. Therefore, we're just simply saying oops, you know, cannot move on that one, but the monies that are coming from the General Fund, you know, now to repay that HOME fund will actually...it'll restore that. So the monies will be given to some other project. It may be one that Lokahi does it. It may be another one. So it's not like we're, we're losing the money. We're temporarily putting it back into the kitty and then we will take it back out, so that's the way I view this. But I do not want to compromise or jeopardize other

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monies and send a wrong message to Washington, because we do need these monies. And I think that that alone is why I would support this. It's not pretty the way that it came about, but it's what I believe in the end will be fiscally prudent and beneficial to everyone. Thank you.

CHAIR PONTANILLA: Thank you. Members, any more discussion? Member Baisa?

COUNCILMEMBER BAISA: Yes. Thank you very much, Chair. Chair, this is a tough one, and I agree with both sides of what I've heard. I understand Member Molina's position, and I also understand what Ms. Johnson is saying. For me, I think the, the big picture is where I have to focus, and the big picture is the impact on the State and the receipt of Federal funds. And, you know, I'm sorry that this happened; I wish it hadn't happened. I think there's a lesson in here for all of us. You know, they say when mistakes happen if you learn from it and you don't make it again then we can forgive you, but if you keep making it then we haven't learned anything. And I hope we all learned something from this, to do maybe a little more due diligence in checking things out before we invest big money in here. But, you know, at this point, I think we'll lose a lot more if we don't take care of this, so I will be supporting the motion, but with reservations.

CHAIR PONTANILLA: Thank you. You know...

COUNCILMEMBER VICTORINO: Go ahead. I'll wait for you.

CHAIR PONTANILLA: No, no. I'll go after you, Member Victorino.

COUNCILMEMBER VICTORINO: Okay. Thank you, Chair. I too am torn with this one, because again when they came to see us they gave us this grand plan. And grant you, yeah, things change, and we've seen that in the business world. We've seen collapses of businesses all over Maui and all over the country and actually all over the world. But this is one of those situations where something has been done and somehow it has to be rectified. I agree with Member Molina, is this a message we want to send? Is this what we want people to think this County is good for? I mean there's enough people out there complaining right now, Mr. Chair, about how generous we are with our nonprofits, and I'm not going there except for the fact is we do what is right and it does a lot of good for this community. But, you know, there's those...there's naysayers, those skeptics out there. This is another one to be added to the pile, and I'm afraid that this may open Pandora's Box. So even though I very rarely disagree with you, Mr. Chair, and disagree and, and your recommendation, this is one that I will be not supporting, and only because I really believe this is not the time to send the message. They have to understand they made a mistake and we can't cover

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everybody's mistakes. Now it may be wrong and I apologize, and I'll say I'm sorry to Lokahi Pacific, but you made a choice...whoever made those choices and we cannot keep getting stuck with the bill. Does that jeopardize our future, Mr. Chair? I hope not. But I think the message has to be sent that we're not here to bail out people, and I agree with Mr. Molina on that one. So thank you, Mr. Chair.

CHAIR PONTANILLA: Thank you. Members, any more discussion? Member Medeiros followed by Member Kaho'ohalahala.

COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman. Mr. Chairman, I'm going to, you know, and, and listening to Member Molina and Baisa and Victorino, certainly, you know, good points are made. But I'm going to support your recommendation for the reason that we had a project in Hana that we started on, and again it had to do with the topography of the land. We thought to do the groundwork and the infrastructure would have been about two or three million dollars. Well after the engineers did their report it jumped up to 15 million. So we discontinued that project on that particular property, but we were able, as a community, to get Hana Ranch to provide another piece of property that was more level, the topography was conducive [*sic*] to building the senior affordable housing and, and daycare center. So I can understand what Lokahi went through on this when finding out their cost went from one or two million to six million. So I, I will support your recommendation on those grounds that we experienced the same thing on a project in Hana. Mahalo, Mr. Chairman.

CHAIR PONTANILLA: Thank you. Member Kaho'ohalahala?

COUNCILMEMBER KAHO'OHALAHALA: Yeah. Thank you, Chair. I just wanted to add that I'll be supporting the motion, Chair. One of the things that...it has come to light I think in this discussion is that obviously there needs to be a little bit more oversight in terms of how these proposals advance, and ultimately it's this Council that made the final decision to fund it. So I think for us we need to spend a little bit more time perhaps taking a closer look, and when these projects do come forward, we hope that it will be vetted through the Department so that you've done the best that you can before they come forth. And then it ultimately is still the Council's responsibility to ask those tough questions of those projects to ensure that we get a better sense of what it is that we are supporting. So in this case, I think at least they learned something is that the cost to, to construct it was going to be much more than they had anticipated. So on their part, perhaps that was a lesson learned, but on our part we should have been able to ask some of those questions, too. So I'd like to make sure that we take some of the responsibility here today, but I'm going to support you because this is the right

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thing to do, because we're looking at a greater picture here in terms of continuing funding of these kinds of projects. So thank you, Chair.

CHAIR PONTANILLA: Thank you. Members, any more discussion? Chair just like to add quick comment. You know, I agree with all of what you guys had said, but I think, you know, when you look at the big picture, not only the County will, will be losers, but the whole State would be losers. And I, and I think hopefully going forward when, you know, nonprofits come in for request for affordable housing funding that we scrutinize from the beginning and ask the tough questions like we asked this afternoon in regards to this one particular project. And too many times we get caught and, and not the intentions of those nonprofits, but, you know, as you folks have said, you know, sometimes costs escalate and, and, and all of a sudden, the project doesn't become feasible for that particular entity. And similar to private business, they look for economic upturn before they start anything. During economic downturn, you know, you don't see anything going. So I, I just want to thank the Members for really, you know, having a real good discussion in this one particular matter. So Chair is going to call for the vote. Oh, Member Molina?

COUNCILMEMBER MOLINA: Yeah. Thank you, Chair. For my second and last time just to reemphasize, as it relates to this project I think the Council did our due diligence. What was done by Lokahi Pacific was an economic decision that was out of our control, and typically when we see applicants come to this...to the County for monies, generally we're not asking them about their solvency as an organization. Okay. We're asking them questions related to the project that's on the agenda, and not so much the company stability. So I wanted to make that point as it relates to Waiehu Mauka. So I believe we did our due diligence as it relates to the project. So, you know, in this case, it was...again, let me reemphasize, it was an economic decision that had nothing to do at the time when we were doing the questioning about the project. So I want to make that point very clear. So again now if this is a watershed moment where now we have to look at all applicants and ask questions about their economic solvency or stability with the coming event so be it then. You, you or whoever as the Committee Chair will have to allow for that kind of questioning if that's the message that we're sending here. So, you know, future applicants, then I guess I'll add that on my list of questions to ask then, what is your stability as a company? 'Cause when we look at our agendas, Mr. Chairman, it's always about the project, and we have to be very mindful about Sunshine Law issues. So I just wanted to make sure that point is shared with the public. Thank you.

CHAIR PONTANILLA: Thank you. And, and, Members, we at our last Council meeting, we approved a amendment in regards to how we going to be asking for

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more information from those people that are requesting from the Affordable Housing Fund, and maybe Staff can enlighten me...enlighten us.

MS. REVELS: Yes, Mr. Chair. At the last Committee meeting, we passed a bill requiring all projects from the Affordable Housing Fund to be submitted with a budget amendment, and also that projects be submitted to Committee with their full application instead of just a summary sheet like we've received in the past.

CHAIR PONTANILLA: Thank you. Member Johnson?

COUNCILMEMBER JOHNSON: And I think for the Administration too, one of the things even for our nonprofits, if we've learned no other lesson on this particular issue it's that the engineering studies need to be completed, at least at the point where the project is ready to go. Because if you don't have sound engineering figures, I think that, that makes it very difficult. So, you know, I think for, for most of these projects \$167,000 for the base engineering work, if they don't have the money to do those kinds of studies I would see, you know, whether they get it from the County or somewhere else they really do need to do that. And, Mr. Chair, because we separated these issues, do we also have to amend to, you know, file this one separately? Or will it auto-file when we pass all of them? It's just a procedural question.

CHAIR PONTANILLA: Staff?

MS. REVELS: I'm sorry. Could you repeat the question?

CHAIR PONTANILLA: Because this was separated do we need to file it separately or?

MS. REVELS: No, Mr. Chair. There is still only one communication.

CHAIR PONTANILLA: Okay.

COUNCILMEMBER JOHNSON: Okay. Thank you.

CHAIR PONTANILLA: Thank you. Okay. Members...Mr. Mateo?

VICE-CHAIR MATEO: Yeah. Mr., Mr. Chair, could I ask for a one-minute recess --

CHAIR PONTANILLA: Sure.

VICE-CHAIR MATEO: --just to talk with...approach the Chair?

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CHAIR PONTANILLA: Okay.

VICE-CHAIR MATEO: Thank you.

CHAIR PONTANILLA: Recess, one minute. Don't leave. . . .(*gavel*). . .

RECESS: 3:37 p.m.

RECONVENE: 3:42 p.m.

CHAIR PONTANILLA: . . .(*gavel*). . . The Budget and Finance Committee meeting is now reconvened. Thank you for that short break. I thought was going to be easy, but it's not that easy. At this time, the Chair would like to entertain a motion. The motion is to approve on first reading the proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2011 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO ESTIMATED REVENUES; DEPARTMENT OF HOUSING AND HUMAN CONCERNS, TOTAL OPERATING APPROPRIATIONS, TOTAL APPROPRIATIONS (OPERATING AND CAPITAL IMPROVEMENT PROJECTS); AND APPENDIX A AS IT PERTAINS TO PART II, SPECIAL PURPOSE REVENUES – SCHEDULE OF REVOLVING/SPECIAL FUNDS FOR FISCAL YEAR 2011; AFFORDABLE HOUSING FUND, ESTIMATED BALANCE AS OF 6/30/10, AND WAIEHU MAUKA RENTAL HOUSING PROJECT – LOKAHI PACIFIC".

VICE-CHAIR MATEO: Mr. Chairman, I move for the passage of the proposed bill as you had so recognized on first reading.

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

CHAIR PONTANILLA: Thank you. Members, any discussion? Mr. Mateo?

VICE-CHAIR MATEO: No, thank you.

COUNCIL MEMBERS: . . .(*Laughter*). . .

VICE-CHAIR MATEO: Oh, Mr. Chairman?

COUNCIL MEMBERS: . . .(*Laughter*). . .

CHAIR PONTANILLA: Thank you, Mr. Mateo, for remembering.

COUNCILMEMBER VICTORINO: I was waiting.

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VICE-CHAIR MATEO: Mr. Chairman, I'd like to add a proviso on the attached bill, and if you would look at the attached bill on Page 2 under No. 6. The heading is Department of Housing and Human Concerns. I'd like to add a No. 2 under B. Housing Program, and that proviso would read "Provided that the \$167,000 be used to reimburse HHFDC for HOME program funds expended by Lokahi Pacific for predevelopment costs of the Waiehu Mauka Affordable Rental Project". And, Mr. Chairman, right after the word "HOME" I need to provide the full...all of the, I guess, the full recognition of the HOME and it would be HOME Investment Partnerships.

COUNCILMEMBER VICTORINO: Second that, Mr. Chair.

CHAIR PONTANILLA: Thank you. It's been moved by Member Mateo, second by Member Victorino to add a proviso "Provided that \$167,000 be used to reimburse HHFDC for HOME Investment Partnership Program funds expended by Lokahi Pacific for predevelopment costs for the Waiehu Mauka Affordable Rental Project". And this will make it consistent with Appendix A. Members, any more discussion? All in favor of the proviso please say "aye".

COUNCIL MEMBERS: Aye.

CHAIR PONTANILLA: Thank you. Back to the main motion, any more discussion?

COUNCILMEMBER BAISA: No.

UNIDENTIFIED SPEAKER: No.

COUNCILMEMBER BAISA: No.

COUNCILMEMBER VICTORINO: No more noes.

COUNCILMEMBER BAISA: No more noes.

CHAIR PONTANILLA: Oh, I'm sorry. Noes?

COUNCILMEMBER VICTORINO: No.

CHAIR PONTANILLA: Any noes to the proviso?

COUNCILMEMBER BAISA: Didn't ask.

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COUNCILMEMBER VICTORINO: Not to the proviso, right?

COUNCILMEMBER BAISA: He didn't, he didn't ask for noes.

COUNCILMEMBER VICTORINO: This is the proviso.

CHAIR PONTANILLA: Okay. Yeah. This is for the proviso, I didn't ask for any noes.

COUNCILMEMBER BAISA: Yes.

CHAIR PONTANILLA: So is there any noes on the proviso?

COUNCILMEMBER JOHNSON: No.

CHAIR PONTANILLA: Seeing none, okay, motion is carried, eight ayes, one excused.

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

MOTION CARRIED.

ACTION: APPROVE amendment to main motion.

CHAIR PONTANILLA: Okay. Back to the main motion. Okay. As amended. Any more discussion? All in favor of the motion please say "aye".

COUNCIL MEMBERS: Aye.

CHAIR PONTANILLA: Any noes?

COUNCILMEMBER MOLINA: No.

COUNCILMEMBER VICTORINO: No.

CHAIR PONTANILLA: Okay. Motion is carried with six ayes, two noes, Member Victorino, Member Molina, one excused, Member Nishiki.

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

NOES: **Councilmembers Molina, and Victorino.**

ABSTAIN: **None.**

ABSENT: **None.**

EXC.: **Councilmember Nishiki.**

MOTION CARRIED.

ACTION: APPROVE.

CHAIR PONTANILLA: Okay. The next item Chair would like, like to entertain a motion to adopt the proposed resolution amending...entitled “AMENDING RESOLUTION 08-91 AUTHORIZING ACCEPTANCE OF A PAYMENT OF \$5,870,100 FROM KEAKA LLC, AND MAKENA MF-2&3, LLC TO THE COUNTY OF MAUI AFFORDABLE HOUSING FUND, PURSUANT TO SECTION 2.96.040.B.2, MAUI COUNTY CODE, AND SUBSEQUENT DISBURSEMENT TO HALE MAHAOLU AND ITS AFFILIATE HALE MAHAOLU EHIKU, INC.”

VICE-CHAIR MATEO: Mr. Chairman, I move for the passage of the proposed bill *[sic]* as you had so recognized on first reading *[sic]*, and including the filing of the communication, Mr. Chair.

CHAIR PONTANILLA: Thank you.

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

CHAIR PONTANILLA: Thank you. Members, any more discussion? All in favor of the motion please say “aye”.

COUNCIL MEMBERS: Aye.

CHAIR PONTANILLA: Motion is carried eight ayes, one excused, Member Nishiki.

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

NOES: **None.**

ABSTAIN: **None.**

ABSENT: **None.**

EXC.: **Councilmember Nishiki.**

MOTION CARRIED.

ACTION: APPROVE.

CHAIR PONTANILLA: Okay. Members, back to the main motion which was the Chair’s recommendation. All in favor of the motion please say “aye”.

COUNCIL MEMBERS: Aye.

CHAIR PONTANILLA: Any noes? Seeing none, eight...motion is carried, eight ayes, one excused, Member Nishiki.

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

NOES: **None.**

ABSTAIN: **None.**

ABSENT: **None.**

EXC.: **Councilmember Nishiki.**

MOTION CARRIED.

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

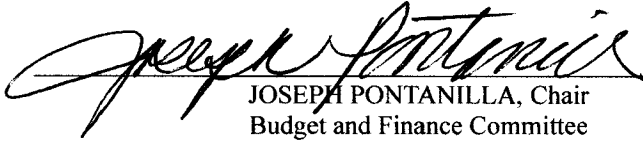
CHAIR PONTANILLA: That’s all we have for this afternoon, Members. It’s been long. The first part was easy, and the last item was very enlightening in our discussion. So the Budget and Finance Committee meeting for September 14th is now adjourned. . . .(gavel). . .

ADJOURN: 3:47 p.m.

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APPROVED:



JOSEPH PONTANILLA, Chair
Budget and Finance Committee

bf:min:100914:ds

Transcribed by: Daniel Schoenbeck

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CERTIFICATE

I, Daniel Schoenbeck, 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 the 1st day of October, 2010, in Pukalani, Hawaii



Daniel Schoenbeck