

# **BUDGET AND FINANCE COMMITTEE**

Council of the County of Maui

## **MINUTES**

**November 30, 2010**

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

**CONVENE:** 1:32 p.m.

**PRESENT:** Councilmember Joseph Pontanilla, Chair  
Councilmember Danny A. Mateo, Vice-Chair  
Councilmember Gladys C. Baisa, Member  
Councilmember Jo Anne Johnson, Member  
Councilmember Bill Kauakea Medeiros, Member (out 2:52 p.m., in 2:58 p.m.)  
Councilmember Michael J. Molina, Member (out 2:18 p.m., in 2:49 p.m.)  
Councilmember Wayne K. Nishiki, Member  
Councilmember Michael P. Victorino, Member

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

**STAFF:** David Raatz, Legislative Attorney  
Scott Kaneshina, Legislative Analyst  
Yvette Bouthillier, Committee Secretary

**ADMIN.:** Frederick Pablo, Budget Director, Office of the Mayor  
Bob Collum, Staff Specialist V, Department of Civil Defense  
Kalbert L. Young, Director, Department of Finance (BF-103, BF-104)  
Scott Teruya, Administrator, Real Property Tax Division, Department of Finance  
(BF-103, BF-104)  
Jeffrey A. Murray, Fire Chief, Department of Fire and Public Safety (BF-103)  
Kathleen Ross Aoki, Director, Department of Planning (BF-102)  
Wayne A. Boteilho, Deputy Director, Department of Transportation (BF-106)  
Traci Fujita Villarosa, First Deputy Corporation Counsel, Department of the Corporation  
Counsel

Seated in the gallery:

Cindy Kagoshima, Business Administrator, Department of Fire and Public Safety  
(BF-103)

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David Thyne, Assistant Chief of Support Services, Department of Fire and Public Safety  
(BF-103)

Lee Mainaga, Fire Services Officer, Department of Fire and Public Safety (BF-103)

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

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CHAIR PONTANILLA: . . .(*gavel*). . . Good afternoon, Members. The Budget and Finance Committee meeting is now in session. At this time the Chair would like to recognize the Members that are here. We do have Member Molina.

COUNCILMEMBER MOLINA: Good afternoon, Chair.

CHAIR PONTANILLA: Good afternoon. Member Baisa.

COUNCILMEMBER BAISA: Good afternoon, Chair.

CHAIR PONTANILLA: Good afternoon. Member Johnson.

COUNCILMEMBER JOHNSON: Aloha.

CHAIR PONTANILLA: Aloha. Member Medeiros.

COUNCILMEMBER MEDEIROS: Aloha, good afternoon, Chair.

CHAIR PONTANILLA: Good afternoon. Member Nishiki.

COUNCILMEMBER NISHIKI: Good afternoon.

CHAIR PONTANILLA: Good afternoon. Member Mateo.

VICE-CHAIR MATEO: Good afternoon.

CHAIR PONTANILLA: Good afternoon. Member Victorino.

COUNCILMEMBER VICTORINO: Aloha and good afternoon, Chair.

CHAIR PONTANILLA: Good afternoon. Excused at this time is Member Kaho`ohalahala. With us this afternoon we do have personnel from the Administration. Our First Deputy Corporation Counsel, Traci Fujita Villarosa and our Budget Director, Mr. Fred Pablo. Supporting the Committee this afternoon we do our Committee Secretary, Yvette Bouthillier. Our Legal Analyst,

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Mr. David Raatz, and our Legal Legislative Analyst, Mr. Scott Kaneshina. Members, we have...many items...(chuckle)...on the agenda today, hopefully it does go fast. At this time there's no one that signed up for public testimony. So, Members, I'm going to call if anyone out in the audience that wanna provide public testimony at this time. Seeing none coming forward, the Chair would like to close public testimony.

COUNCIL MEMBERS: No objections.

CHAIR PONTANILLA: Thank you. Members, again good afternoon. Today's meeting is our final meeting for Budget and Finance Committee. Really appreciate all of your attendance this afternoon.

**ITEM NO. 97: AMENDING FY 2011 BUDGET, APPENDIX A, GRANT REVENUE (CIVIL DEFENSE AGENCY, NATIONAL OCEANIC ATMOSPHERIC ADMINISTRATION AWARD)**  
(C.C. No. 10-223)

CHAIR PONTANILLA: The first item on the agenda is BF - 97, amending Fiscal Year 2011 Budget, Appendix A, Grant Revenue Civil Defense Agency, National Oceanic Atmospheric Administration Award. The purpose of the proposed bill is to amend Appendix A, by adding a grant in the amount of 32,000, from NOAA, to host a Maui County Tsunami Symposium. At this time if I could call Mr. Collum up forward. Mr. Collum is a Staff Specialist V from the Civil Defense, and, and maybe as he comes down if...our Budget Director have any comments to make at this time?

MR. PABLO: Thank you, Chair, and good afternoon, Members. What this is...this is a reimbursable grant that the Civil Defense Administration has worked out with the, with the State of Hawaii. Mr. Bob Collum will be able to answer any of your specific questions on it, thank you.

CHAIR PONTANILLA: Thank you, Mr. Collum, do you have any opening statements to make?

MR. COLLUM: No, Mr. Chair.

CHAIR PONTANILLA: Okay, thank you. Members, any questions for Mr. Collum at this time? Member Victorino?

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COUNCILMEMBER VICTORINO: Thank you. And thank you for being here. I, I wanted to know, what is, you know, this 32,000, what is it reimbursing us for? What, what is this grant do, specifically.

MR. COLLUM: Right, we hosted the Tsunami Symposium and so it reimburses all of our expenses which was bringing in speakers, material that was used during the symposium, meals.

COUNCILMEMBER VICTORINO: Okay, so this 32,000 covers the entire cost of the symposium itself?

MR. COLLUM: No, it doesn't. The Hotel Security Association picked up, probably half of it too. It was for the Hotel Security Association and some CERT members, some other people that were outside the Security Association.

COUNCILMEMBER VICTORINO: So then if I'm...if I understand correctly, this was basically for our visitor industry, our security people in, in that area who are generally directly affected whenever a tsunami warning is, is issued?

MR. COLLUM: That's correct.

COUNCILMEMBER VICTORINO: And was police and fire and other entities from the...the public sector...I mean the, the government sector also invited to this?

MR. COLLUM: They were invited, yes.

COUNCILMEMBER VICTORINO: Okay, okay very good. Thank you very much, I do appreciate it.

CHAIR PONTANILLA: Thank you. Members, any more questions for the Department? If not Chair is ready 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 APPENDIX A, PART I, GRANT REVENUE – SCHEDULE OF GRANTS BY DEPARTMENTS AND PROGRAMS, CIVIL DEFENSE AGENCY", and filing of County Communication No. 10-223.

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

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

CHAIR PONTANILLA: Thank you. Members, any more discussion? Seeing none, all in favor of the motion, please say "aye".

COUNCIL MEMBERS: "Aye".

CHAIR PONTANILLA: Motion is carried, eight "ayes", one excused, Member Kaho`ohalahala.

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

**MOTION CARRIED.**

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

**ITEM NO. 102: AMENDING FY 2011 BUDGET, APPENDIX A, GRANT REVENUE (DEPARTMENT OF PLANNING) (C.C. No. 10-245)**

CHAIR PONTANILLA: The next item on the agenda--thank you, Mr. Collum--

MR. COLLUM: Thank you.

CHAIR PONTANILLA: --is BF-102, Amending Fiscal Year 2011 Budget, Appendix A, Grant Revenue, Department of Planning. The purpose of the proposed bill is to include an appropriation of \$2,800 from private donations in appendix A. Attached to this item is also a proposed resolution accepting the gift pursuant to Chapter 3.56, Maui County Code. The funds are to be used to offset travel cost for a commission meeting on Molokai. At this time the Chair would like to call on the Planning Department Director, Ms. Aoki?

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MS. AOKI: Good afternoon, Chair and Committee Members. We received this donation from a member of the Cultural Resources Commission because there was a desire of the Commission to have a meeting on Molokai. However, there are no current applications that need to be heard from Molokai, so due fiscal constraints, you know, we didn't have the luxury of just sending them to Molokai just to have sort of an open community meeting, which is what they wanted to do. So one of our members was extremely generous and offered this donation so that the CRC could go to Molokai and hold a community meeting.

CHAIR PONTANILLA: Thank you.

COUNCILMEMBER VICTORINO: Chair?

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

COUNCILMEMBER VICTORINO: Thank you. And first of all, Ms. Aoki --

MS. AOKI: Yes.

COUNCILMEMBER VICTORINO: --this was, when you say an open meeting there was no agendized [*sic*] items?

MS. AOKI: That's correct.

COUNCILMEMBER VICTORINO: That...then that's why we could not send them over --

MS. AOKI: That's correct.

COUNCILMEMBER VICTORINO: --'cause we had no agenda items to . . .(*inaudible*) . . .

MS. AOKI: There were no--right--there were no applications or a permit request of that nature from Molokai. If there were we would certainly send them to...we normally send boards and commissions to the respective island where the applications come from. So it's not that we won't send them, it's just that there was, there was no pending application to be heard.

COUNCILMEMBER VICTORINO: Well thank you for that clarification because there was talk that, you know, we were...we didn't have enough money, we didn't want

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to send them over, and so this clarifies the matter to make sure that people understand it was an *open* meeting to discuss issues on Molokai, which because there are no agenda'd [sic] item, the County could not pay the expenses. So by this general donation by Mr....where is the guy...Raymond, what is his last name?

MS. AOKI: Hutaff.

COUNCILMEMBER VICTORINO: Raymond J. Hutaff, yeah, you know, I, I want to say thank you on behalf of this community to, to stepping up to the plate. I mean it's wonderful that people like that step up and knowing the importance to the community put that money out and, you know, really putting, putting his, his money where his mouth is and that's really fabulous. So we want to thank him very, very much, Mr. Chair. Thank you.

CHAIR PONTANILLA: Thank you. Members, any more questions for the --

COUNCILMEMBER MEDEIROS: Chair?

CHAIR PONTANILLA: --Department? Member Mateo followed by Member Medeiros.

VICE-CHAIR MATEO: Thank you, Mr. Chairman, and perhaps just for clarification purposes. Because Mr. Hutaff was generous enough to provide or make the monies available for the Commission to actually meet on Molokai and as the Director had indicated, Mr. Chairman, there, there is no applications pending before the Commission at this point. So to be sure that this monies is used primarily for the purpose as intended...when you look at, when you look at the proposed ordinance, all it says is private donation with, with dollar value to it. My question, Mr. Chairman, would be whether or not it appropriate to add a proviso so we're sure that the monies is used specifically as being earmarked.

CHAIR PONTANILLA: Thank you, we'll do that.

VICE-CHAIR MATEO: Okay.

CHAIR PONTANILLA: Any more questions? Member Medeiros?

COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman. Director Aoki, the donor donated \$2,800 and the cost according to his letter was 2,723, so where does the balance of that donation go?

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MR. PABLO: It just a rounding off on the, on the Appendix A, the actual amount that the, that the donor is, is going to give as a private donation is 2,823.

UNIDENTIFIED SPEAKER: 27...(chuckle)...

COUNCILMEMBER MEDEIROS: Wait.

MR. PABLO: 2-7-23 I'm sorry, yeah.

VICE-CHAIR MATEO: Okay, that's the amount of the donation?

MR. PABLO: That's correct, on, on the Appendix A we usually round it up to the next hundred or thousand.

VICE-CHAIR MATEO: Okay, okay, thank you for that clarification. Mahalo, Mr. Chairman.

CHAIR PONTANILLA: Thank you. Members, any more questions for the Department? If not, Chair would like to entertain a motion. If there's no objection, the Chair would like to make one.

COUNCILMEMBER VICTORINO: No objections.

VICE-CHAIR MATEO: No objections.

COUNCIL MEMBERS: No objections.

CHAIR PONTANILLA: Thank you. The 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 APPENDIX A, PART I, GRANT REVENUE – SCHEDULE OF GRANTS BY DEPARTMENTS AND PROGRAMS, DEPARTMENT OF PLANNING", two, adopt a proposed resolution "AUTHORIZING ACCEPTANCE OF DONATION FROM RAYMOND J. HUTAFF, TO THE COUNTY OF MAUI, DEPARTMENT OF PLANNING, PURSUANT TO CHAPTER 3.56, MAUI COUNTY CODE", and three filing of County Communication No. 10-245.

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

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



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CHAIR PONTANILLA: Thank you. Members, any more discussion? If not, all in favor of the motion, please say “aye”.

COUNCIL MEMBERS: “Aye”.

CHAIR PONTANILLA: Motion is carried. Eight “ayes”, one excused, Member Kaho’ohalahala. Thank you, motion is carried. Thank you, Kathleen.

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

**NOES:       None.**

**ABSTAIN:   None.**

**ABSENT:   None.**

**EXC.:       Councilmember Kaho’ohalahala.**

**MOTION CARRIED.**

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

**ITEM NO. 103: AMENDING FY 2011 BUDGET AND APPENDIX A, SPECIAL PURPOSE REVENUES (DEPARTMENT OF FINANCE AND DEPARTMENT OF FIRE AND PUBLIC SAFETY (C.C. No. 10-246)**

CHAIR PONTANILLA: The next item on the agenda this afternoon is BF-103, amending Fiscal Year 2011 Budget and Appendix A, Special Purpose Revenues, Department of Finance and Department of Fire and Public Safety. The purpose of the proposed bill is to reduce appropriation for the emergency fund by \$1.1 million and increase the Department of Fire and Public Safety Administration maintenance program by \$250,000 and the fire rescue operations program by \$860,000. At this time the Chair would like to call up the personnel from the Fire Department, Chief Murray. Any opening comments, Mr. Pablo?

MR. PABLO: Thank you, Chair, just, maybe just a few comments. When the...when I met with the Fire Department on this particular budget amendment, we were talking about whether we should go down immediately with it or perhaps wait until the new Council comes on board in January. Being that it does deal with public safety and public safety deals with lives, I thought we should come down immediately with this budget amendment. We know that at the stage where the helicopter operations cost is, there is only about \$34,000 left and that, that would

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definitely be expended fast. They are funds left in a program budget, which it is, but we project that sometime during the second half of the year that money, that coverage from the other program...I mean, the other sub-object code in the program budget would be, be used up. Realizing that there'll be a new Council in January and we have budget deliberations already in March through May, I thought it would be best if we come down as soon as possible. It would be the best and most prudent thing to do. So thank you for placing this on the agenda, Chair.

CHAIR PONTANILLA: Thank you. Chief Murray, comments?

MR. MURRAY: Good afternoon, Chair and Council Members. Thank you for this opportunity as well, for allowing us to come here for a budget amendment. The Budget Director did speak about the \$34,000 that we have left, roughly. We still did not receive our end of October and November costs, so it is a little lower than that. I would say about half that amount, so...thank you.

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

COUNCILMEMBER VICTORINO: Thank you, and, Chief Murray, thank you for being here. Now some of this additional funds you're asking for is due to these large brush fires that we've had and some of the recues you've undertaken, like the one this past weekend...out Hamoa?

MR. MURRAY: Yes, sir.

COUNCILMEMBER VICTORINO: And I can say that because I had personal experience with two of the major fires in my district, that your Department not only were very professional, very. . .*(inaudible)*. . .and very, very aware of what was going around them that saved all the homes both in Mokuhau Valley, Wailuku Country Estates, and Wailuku Heights. And so I will definitely support that because you guys spent overnight, three nights in Mokuhau Valley and two days up in Wailuku Heights and the men were exemplary. The men and the women of your Department were exemplary, and I would like to thank you very much. And, Mr. Chair, I can support that because these people really put their lives on the line for us and the people of Maui County, so I have no qualms with this, sir.

CHAIR PONTANILLA: Okay, thank you.

MR. MURRAY: Thank you, sir.

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CHAIR PONTANILLA: Members, any more questions? Chair has several, you know, I, I, I'm looking at your 9/30/2010, Finance Director Quarterly Report and again there's some discrepancies in the Emergency Fund balance available and the amount that is being requested. Secondly, you know, I just received some documents, some financial reports in regards to the Department's expenditure, and right now you're spending as of November the 10, you know, you still have...your spending has been like 63 percent left over, from now until the end of the fiscal year. Also I do have a document that's in front of me that says, you know, you're already committed, to \$460,000 for helicopter services and there's still open commitments of \$415,900. So if you can kind of explain to me in regards to these open commitments, and because of the open commitments you have a balance of \$44,000.

MR. MURRAY: Chair, could you please go over that again for me.

COUNCIL MEMBERS: ...(chuckles)...

CHAIR PONTANILLA: Oh, okay, the helicopter service --

MR. MURRAY: Okay.

CHAIR PONTANILLA: --contractual service, your total budget was \$779,976. You have already committed \$460,462, and presently you still have an open commitment of \$415,968 which leaves you a balance of 44,494. My interest is that open commitments.

MR. MURRAY: Right, thank you, Chair, for that question.

CHAIR PONTANILLA: Before you answer that, I'm sorry, the, the amount that already been paid out is \$319,514 and then you do have that open commitment. And then that balance that Mr. Pablo had mentioned.

MR. MURRAY: Right. That, that would be for the, the monthly payments that we have prorated throughout the fiscal year.

CHAIR PONTANILLA: So the open commitments would be the balance of the year?

MR. MURRAY: Yes.

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CHAIR PONTANILLA: And that still leaves, still leaves you a balance of \$44,000...so the bills that you talk about that you still need to pay, will be coming out of this open commitments?

MR. MURRAY: No, it will be coming out of we...our actual cost is the 34,000 that is left, 34,894. And that cost for October and November will be coming out of that \$34,000.

CHAIR PONTANILLA: So that open commitments...can you explain that again?

MR. MURRAY: I believe, Chair, that is for the...what we...the total cost of 600 some odd thousand dollars for the annual contract. We prorate each month and we pay them that amount. Yeah. So we, we, we're unable to use that for anything other than that.

CHAIR PONTANILLA: Just for the helicopter service?

MR. MURRAY: Yes.

CHAIR PONTANILLA: Okay. And then the \$34,000 that's left is for flying time, I presume.

MR. MURRAY: Yes, for flying time, and even that amount should be lower once we get all the bills. I'm not sure why they haven't forwarded their bills, but we had quite a bit of flying time in the last two months.

CHAIR PONTANILLA: Okay, as far as the fires are concerned that happened in Fiscal Year 2011, did we receive or did we apply for any reimbursement through the Federal government as well as the State of Hawaii? And if we did, when we do receive the money, where does it go?

MR. MURRAY: Okay, thank you for that question. Previously we have submitted a Fire Management Assistance grant through FEMA, August 2009 and June 2010. The '09 fire was on Molokai and the 2010 was the Maalaea. Okay, for the Molokai fire we are still awaiting \$174,499 for that fire. We are...and this process we did it timely, we still have not received the money. And the Maalaea fire, the total came out to \$238,090.53. Those funds when they are sent to us go directly into General Fund and if it's not received within that fiscal year it doesn't come back to our Department. And as you can see we're still awaiting the '09 grant funding, which we, we were approved already but we haven't seen that money. So that happened at the beginning of the fiscal year and we're already in almost into 2011. So that's where the funding ends up, in the General Fund.

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CHAIR PONTANILLA: Thank you. So, Mr. Pablo, when we receive the funds, does it become carryover savings at some point?

MR. PABLO: That's correct. If, if, if the funds are received during the fiscal year, it does go back into the Department. If it's received in a subsequent fiscal year it goes in the General Fund and that becomes part of carryover savings.

CHAIR PONTANILLA: Okay, so it doesn't go directly...can, can it come in to General Fund and re-appropriated to the Fire Department?

MR. PABLO: No, only the Council could do that.

CHAIR PONTANILLA: Okay.

MR. PABLO: Thank you.

CHAIR PONTANILLA: Thank you. Members, any more questions regarding this matter? Member Baisa?

COUNCILMEMBER BAISA: Yes, thank you very much, Chair. Chair, it's very difficult for us to follow this discussion because we don't have any kind of a worksheet in front us. I'm not really sure what came in and what went out and where we are, and so it makes it a little difficult. So...and for me I'll have to rely on your recommendation because I don't have anything to take a look at. Thank you.

CHAIR PONTANILLA: Okay, thank you. The Chair will make available some information that we receive, you know, I...like I said I promised the Fire Department that any time they come in for a budget amendment that we'll be looking at the budget amendment at their request. But sometimes we do have some questions that will need to be answered, and what I received is...just half an hour ago is this latest print out as far as a cost by the Department. And to date they still have 63 percent of their...average mid 60's in regards to their spending, so as far as the spending is concerned, you know, they're on target, based on the dollar amount. And I can make this thing available to all of you so that you can review it, and, you know, at this point here if there is no more questions the Chair would like to defer this item to January. We'll bring this amendment forward in January to give you Members some time in regards to reviewing the budget for the Fire Department so that, you know, we all clear about how we spending our money, okay. And this is not the only department that we're gonna be doing it. It's going to happen to every department in regards to their spending, so that we

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all on board. The Chair again, you know, would like to reiterate that, you know, I continue to support the Fire Department and again, you know, we all gotta be mindful in regards to any budget amendment that comes to this Budget and Finance Committee. So, Members, any more questions for Department? Member --

COUNCILMEMBER VICTORINO: Yeah.

CHAIR PONTANILLA: --Member Victorino?

COUNCILMEMBER VICTORINO: And, and, Chair, I, I will follow your recommendation but I just want to know from the Department and from Mr. Pablo, if we wait till January and there were any more major disasters or fires or, you know, and, you know, somebody...some people say, well this is the wet season so that doesn't happen. But that doesn't preclude Upcountry and many areas that are dry. I just went through Kaupo and came around that area, and man, it's really dry back there. My question is, if there was something major to occur, what affect would that have on you and your Department, Mr. Murray? And Mr. Pablo, maybe you can address. I know you gave me numbers, Mr. Chair, but I just want their take on it, if you don't mind please.

CHAIR PONTANILLA: Before he answer let me just remind you that...and all of the Members that this is a program budget.

COUNCILMEMBER VICTORINO: Yeah.

CHAIR PONTANILLA: Okay.

COUNCILMEMBER VICTORINO: Understood, but I just want to make sure that there's --

CHAIR PONTANILLA: Thank you.

COUNCILMEMBER VICTORINO: --no possibilities of having problems, and that's all I'm asking.

CHAIR PONTANILLA: Thank you.

COUNCILMEMBER VICTORINO: Thank you, sir.

MR. MURRAY: Thank you, Mr. Victorino, for that question. For your information even though we are having some precipitation in rain here and there, this is one of

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those seasons that NOAA has given a drought index. The State of Hawaii is the driest in the country. They are in drought category IV, and we are the worst in the United States. And even though we're gonna have certain rain on the windward side, according to this map and their predictions that it may be wet on those ends, but it will be very dry on the west end of Molokai, all of Lanai, and the south and west end of Maui. You know I, I, really hope it does rain but then if it dries out again as it, as it did last year...March already we were having complete dry season, so that's still the last quarter of our fiscal year. We're, we're, we're just trying to stay ahead of the ball game here and I know it becomes very busy during that time because it's our normal time for budget. I just hate to not be able to pay any of our contractors or our, our people, for that matter, or be able to fix our vehicles.

COUNCILMEMBER VICTORINO: If we were to review this in January, you feel confident enough that...and, and, and look at everything at that point and do whatever you need to do, along with Mr. Pontanilla's description of the program budget which people may not understand what a program budget, but basically you can move money around, that's what a program budget does. You can feel comfortable in waiting till January to review this and having the new Council make whatever adjustments we need to make at that point?

MR. MURRAY: Well one of the main reasons for us to come in now was because this Council had the history of, of this budget, not to say that they won't be able to pick up on that, but it was pretty fresh in your minds as it, as it is in mine. I mean yeah, we can cross our fingers I guess...I mean again, my question is how long is that process gonna take from January, and will we have the appropriate amount of money within that specific time. That's my only worry.

COUNCILMEMBER VICTORINO: Mr. Pablo, would you have anything that you would like to add to that please?

MR. PABLO: Yes, similar to what I had opened with my, my remarks, my concern is that the Department at some stage, if they get to a stage where they're gonna overspend and that will be a violation of the County Charter and the General Budget Provisions. The other thing I wanted to bring up was the Fire Department not only deals with brush fires and fires, they also deal with rescues and emergency medical services. So even, even if you put those fires aside...let's say that the rains are heavy, the Department still has quite a bit of work that they do with the helicopters.

COUNCILMEMBER VICTORINO: Yeah, and, and I'm keenly aware because this past weekend when I was in Hana, there was a search and rescue at Hamoa Beach, and

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the helicopter was there, their fire trucks that responded, EMT's were there. And I understand they didn't find anybody and as it turned out, I *think*, I was...if I'm correct there was nobody missing. At least nobody was reported missing. But I mean the expense was. . .(*inaudible*). . .the helicopter was up there, searching and, and the rest was, you know, the guys were on the jet skis out there and doing all of that stuff and that, that's money expended. I, I, I'm happy that the result was...hopefully no one missing, I mean that's always better than finding a body, I agree. However, Mr. Chair, and, and, and I will...and that's up to the rest of the Members, but I can support what you wanna do, although I do agree with the Chief here that we all have the history. Next month or the month after next I should say in January we'll have five different faces, of which maybe they will all, all understand but if they don't that much longer the process is drawn out. So, you know, I'm concerned but I will follow your, your lead, Mr. Chair, because you've, you've always been very fair about that. And I just want the Department to know that I *too* was one of those that said when you came in for a budget amendment and could justify it, I would have no opposition. And I have seen the work they've done, I've seen the long hours they put in and it's not just the money, it's the effort and, and putting their lives on, on the line, all the Fire Department personnel. That cannot be changed, cannot be replaced, and cannot be paid for. So, I, I'm...I'll, I'll wait for you're, you're direction, Mr. Chair, but I do agree if we need to, let's not wait too long, sir. Thank you.

CHAIR PONTANILLA: Thank you, I, I think all of the Members here do agree with what you say. All, all I'm saying is that, you know, all of us have some fiscal responsibility, and, and we want to make sure that, you know, if we budget any monies for any department we are responsible for that. And, and, you know, again, you know, when the Department do come request for budget amendments, you know, we take, we take those budget amendments and, and, and, we act on 'em. But in, in this case here all I'm, you know, suggesting is that we move to, you know, defer this thing to next month, have the Members look at the financials in regards to...what we have the latest financials that we have in our hands. I think all of you have the quarterly report in your hands in regards to the spending that has already been done through September the 30<sup>th</sup>. And when you look at the September 30<sup>th</sup> report, what's available is over 70 percent of their budget, so that's what I'm concerned about. Member Johnson?

COUNCILMEMBER JOHNSON: Yeah, I, I just want to find out the money that's owed from the past services, you know, where you put in the grant. Is that coming from the State or the Federal government?

MR. MURRAY: That's coming from the Federal government.



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COUNCILMEMBER JOHNSON: Oh, no wonder it takes so long.

MR. MURRAY: Yeah, historically we have never gotten a reimbursement...anything less than a year. And, and all the departments Statewide have had the same issue.

COUNCILMEMBER JOHNSON: Okay, and is there any way to hurry them along?  
...(chuckles)...

MR. MURRAY: No, there's...we've, we've tried --

COUNCILMEMBER JOHNSON: Okay.

MR. MURRAY: --we've, we've pretty much called everybody.

COUNCILMEMBER JOHNSON: Yeah, my, my other question is, because of course you have contractual services and what not, has there ever been a time that to your knowledge where a vendor would not render service in anticipation that later on they, you know, they'll present their bill and whatever...like have they ever *refused* because you didn't pay up front?

MR. MURRAY: No, we haven't had that problem. We, we are in one of those fortunate situations, other than just the helicopter services. We have private contractors, land companies that help us at brush fires. Which we wouldn't be able to stop a lot of these brush fires or wild land fires that are coming close to communities without their help. And they come, we, we make a call to them they'll show up. And just recently the past year they have been charging us and that's what we're using...whatever funding we have left, we use to pay them, because without them this joint effort just would not...we wouldn't be able to save those homes.

COUNCILMEMBER JOHNSON: Yeah, I, I really appreciate that because, you know that, Mr. Chair, is my other concern is that, if we have contractual obligations many times *just* like the Federal government is delaying payment for us. My concern would be if you have a vendor that is dependent on that income, I don't want to negatively impact the private vendor because we're taking our sweet time to get the money to them *because* of the very same issue that we find ourselves in with that reimbursable. So, that's just from a private sector perspective too that, you know, we need to, we need to be mindful of that, and as long as we don't get refused service, but my concern is always for the little guy 'cause I've seen this happen so many times in government. We *always* pay so late and that, that would be a further concern to me, irrespective of the, you know, the other issues...that always is something that I don't like to do that to the small business community. Thank you.

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MR. MURRAY: Thank you.

CHAIR PONTANILLA: Thank you. Members, any more questions for the departments? If not the Chair...

COUNCILMEMBER NISHIKI: Yeah, I got a question.

CHAIR PONTANILLA: Sure, Mr. Nishiki?

COUNCILMEMBER NISHIKI: Just because that was brought up. So are we late in paying any, any bills that the Fire Department owes?

MR. MURRAY: Not at this time.

COUNCILMEMBER NISHIKI: Okay good, thank you.

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

COUNCILMEMBER MEDEIROS: ...*(inaudible)*...

CHAIR PONTANILLA: Member Medeiros?

COUNCILMEMBER MEDEIROS: Yeah, you know, the projection for the upcoming budget cycles doesn't look good but...and, and because, you know, I won't be here and some other Members won't be here and we can see how the delay has caused, you know, some anxious moments for the Fire Department here. Is there some way that the funding can be provided, you know, ahead of time? I know as Budget and Chair...Budget and Finance Chair, you wanted them to come back for these budget amendments. And I'm just concern that if the budget amendments process is going to take so long that it jeopardizes their operations and the people, their contractors, that maybe if we can think of another process. But a question I wanted to ask is...I know the, the contractors that the Fire Department calls, and they been doing that for years since I was in the Fire Department, they would come and help, but they would do it for free. Now that they're charging, how does that affect the, you know, not having more than one vendor available? How are we doing that?

CHAIR PONTANILLA: Maybe a question for --

COUNCILMEMBER MEDEIROS: Budget Director?

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CHAIR PONTANILLA: --Budget Director.

COUNCILMEMBER MEDEIROS: You know under the procurement process, how are we just getting one person to respond to the emergency and charging? Because before they didn't charge, so you could call anybody.

MR. MURRAY: Well I'm not sure exactly on what the rule is about that. But we have vendors that we work with, who have the experience of working on fire lines with us, which is very important for their safety as well as people around our fire fighters and everybody else who's helping. They've been coming out for over 20 years --

COUNCILMEMBER MEDEIROS: Yeah.

MR. MURRAY: --and helping for free, and when they, they send us a bill, it's minimal.

COUNCILMEMBER MEDEIROS: Okay.

MR. MURRAY: It's for their man hours, rarely do they charge for fuel. I mean I, I, I think it's just in, in a way of them getting some type of payment to, to help with their CEO's to understand that their give back to the community is still, you know, alive and well.

COUNCILMEMBER MEDEIROS: Right. Yeah, I think through the procurement process as you describe these contractors having the experience and, and the know-how of working with you folks that, probably you, you fall under a sole provider kind of purchase which would allow you to use just one vendor. So...

MR. MURRAY: I understand under our Charter in an emergency situation I have the authority to, pretty much summons --

COUNCILMEMBER MEDEIROS: Okay.

MR. MURRAY: --anybody with expertise.

COUNCILMEMBER MEDEIROS: Okay.

MR. MURRAY: And there's more than one vendor that comes out and helps --

COUNCILMEMBER MEDEIROS: Okay.

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MR. MURRAY: --on, on the larger scale. I mean we...sometimes were up to seven or eight. Yeah. It all depends on where it happens on the island and the availability and time and their --

COUNCILMEMBER MEDEIROS: Yeah, and where their assets are.

MR. MURRAY: --skills, yeah.

COUNCILMEMBER MEDEIROS: Yeah. Okay, thank you, Chief. Thank you --

CHAIR PONTANILLA: Thank you.

COUNCILMEMBER MEDEIROS: --Mr. Chair.

CHAIR PONTANILLA: Members, any more questions? Chair would like to make his recommendation at this time.

COUNCIL MEMBERS: Recommendation.

CHAIR PONTANILLA: Thank you. The Chair's recommendation is to refer to the new Council Chair for the referral of this item, fiscal year...well starting January 1, 2011.

VICE-CHAIR MATEO: Mr. Chairman, I move for...move that item BF-103 be deferred to the next Council Chair for referral to the next sitting Council.

COUNCILMEMBER VICTORINO: Second, Mr. Chair.

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

COUNCILMEMBER BAISA: Yes, Chair, I'd like to say that I will be supporting your recommendation, however I do want the Fire Department to know that I understand the importance of what they do and it is very important because we promised them that we would give them the money they need to do their job. What I trust is that because it's already been decided that you'll continue to Chair this Committee that your commitment is that you'll take care of it.

CHAIR PONTANILLA: Yes.

COUNCILMEMBER BAISA: Thank you.

CHAIR PONTANILLA: Thank you, and it will be done in January.

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COUNCILMEMBER BAISA: Thank you.

CHAIR PONTANILLA: Okay, and at the same time, you know, we can also do the amendment to Appendix A to reflect the true number. Okay. If not all in favor of the deferral...if there's no objection to the deferral, Chair would like to...oh there's a motion on this. Okay.

VICE-CHAIR MATEO: Yeah, we have a motion.

CHAIR PONTANILLA: All in favor of the deferral at this time please say "aye".

COUNCIL MEMBERS: Aye.

CHAIR PONTANILLA: Any opposed? Seeing none, deferral to the Council...to the *new* Council Chair for referral for next year is carried. Eight "ayes", one excused, Member Kaho`ohalahala.

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

**MOTION CARRIED.**

**ACTION: REFER to the Council Chair for the term beginning January 2, 2011.**

CHAIR PONTANILLA: Thank you, Chief, and we'll see you in January.

MR. MURRAY: Alright.

CHAIR PONTANILLA: Thank you.

MR. MURRAY: Thank you everybody. Happy holidays.

CHAIR PONTANILLA: Members, I, I'll provide you the latest information that I got regarding the status of the Department's budget. Thank you.

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**ITEM NO. 104: ORDINANCE AMENDING TITLES 2 AND 3, MAUI COUNTY CODE, RELATING TO REAL PROPERTY TAX REVIEW BOARDS (C.C. No. 10-247)**

CHAIR PONTANILLA: Okay, the next item is BF-104, Ordinance Amending Titles 2 and 3, Maui County Code, Relating to Real Property Tax Review Boards. The purpose of the proposed bill is to establish up to three real property tax review boards to assist with the backlog and timely processing of real property tax appeals. At this time joining us is our Finance Director, Mr. Young as well as Real Property Tax Administrator, Mr. Teruya. At this time the Chair would like to call on Mr. Young.

MR. YOUNG: Thank you, good afternoon, Mr. Chair and Members. The measure before you is a proposed revision to Maui County Code, specifically in the area of the Real Property Tax Board of Review. Borne out of discussions with the committee over the last...a year and more recently in the construction of the Fiscal Year '11 Budget, to address the backlog in Real Property Tax appeals the Department has been looking at different options that can enhance addressing the backlog. One item that was discussed at committee was perhaps increasing the number of boards of review. There is examples of this in the City and County of Honolulu, who have more than one board of review. Maui County and the Maui County Code currently only allow for a single board. The measure before you proposes to increase the number to up to three boards and also allows for the opportunity for membership on a board to be...that can be moved from one board to the other in the instances where a vacancy or an absence may slow the process. So I think this proposal will go a long way to address a backlog currently, but should something similar arise in the...whatever future for Maui County, it will be a tool there. And if the County gets back to more normal rate of appeals where a single board is more than adequate, the Code revision allows for that flexibility as well. So we don't have to establish three boards or two boards, we can have up to three, so I think it's a very good tool. The Administration requests your support in passing this amendment and this measure. With me today is Mr. Scott Teruya, the Administrator for the Real Property Tax Division, and he's prepared to provide any statistics or answer any technical questions the Committee may have. Thank you, Mr. Chair.

CHAIR PONTANILLA: Thank you. Member Johnson?

COUNCILMEMBER JOHNSON: Yes, I just wanted to make sure because we're doing this by ordinance. There's nothing in the Charter then that would prohibit the

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formation of additional boards as long as it's, I guess within whatever the current structure is?

CHAIR PONTANILLA: Mr. Young?

MR. YOUNG: I do not believe that the Charter limits the number of boards, but I will defer to Corporation Counsel for that opinion.

CHAIR PONTANILLA: Corporation Counsel?

MS. FUJITA VILLAROSA: Mr. Chair, the Charter doesn't reference the boards of review but the, the general provisions on board and commissions would still apply.

COUNCILMEMBER JOHNSON: Okay, so all of the...just the generic things --

MS. FUJITA VILLAROSA: Right.

COUNCILMEMBER JOHNSON: --that cover how they're selected and the process. But not --

MS. FUJITA VILLAROSA: Not specific.

COUNCILMEMBER JOHNSON: --not specific, okay. Yeah, that was my only question and I totally support this...(chuckle)... It's the only way we're going to get some extra money. Thank you.

CHAIR PONTANILLA: Thank you. Member Molina followed by Member Baisa.

COUNCILMEMBER MOLINA: Yeah. Thank you, Chairman, and if I could ask Director Young just, you know, I think I'm going to follow up on that question with regards to potential cost. Was that discussed on and was this...I don't know if it's something that should be also maybe be brought up before the Cost of Government Commission. Any cost considerations for the Council to look at?

MR. YOUNG: We have looked at the area of cost and I have discussed this issue with the Cost of Government Commission. The cost is actually minimal, there will be administrative support that has to be provided. The Council actually provided for an additional position in the current fiscal year for a committee clerk, or a, a, you know, a clerk that will, that will service this, this review board, or an additional review board and also provide backup to the existing board and the existing clerk that's provided there. So there is that cost that would be entailed with that.

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However, I would point out that that cost is not solely for the creation of this new board. It's actually...will help add value to the board, but that position actually backfills the current functions and operations in the division already. So it, it...you know, we're getting added value for, for that position. There is a cost but it's minimal and it's not purely directed to the creation of an additional board.

COUNCILMEMBER MOLINA: So basically we have that position already there and just maybe adding more responsibilities to something that's already existing...a position existing?

MR. YOUNG: Correct, and in my discussion with the Cost of Government Commission, they were, they were supportive of the concept. Because although there is that cost factor that I just mentioned, the revenue generation side far outweighs the value added, so, you know, it's a cost benefit evaluation and the benefit far exceeds the cost contribution.

COUNCILMEMBER MOLINA: Okay, well sounds like the case of to make a little money gotta spend money but I like the idea. Thank you, Mr. Director. Thank you, Chairman.

CHAIR PONTANILLA: Thank you. Member Baisa?

COUNCILMEMBER BAISA: Thank you very much, Chair. I had pretty much the same questions. I was concerned about what it would cost us but I definitely support this. I think it's really, really important that we address these appeals that are, you know, pending and holding up a lot of cash that we could use in our budgets, so you have my support.

CHAIR PONTANILLA: Thank you. Members...Member Nishiki, Member Mateo, and then Member Victorino.

COUNCILMEMBER NISHIKI: Kalbert, you know, while this direction is occurring and, and we've not heard any stats from you people. I, I, and I don't know how accurate *The Maui News* is, so I, I tend to have to ask you the question. They said that a lot of the cases, despite that it...it went through this processes then appeal a State board or whatever you call it and that's where the hang up is. So give us an idea of the **numbers** that are going through that process and then getting stuck in the State, and, and, and how much are now being settled just through this process? And, and I think that the next Council will need to really know what realistically is occurring and what kind of revenues perhaps we're talking about. So that this next time around, Mr. Chairman, you can have an idea of what they're going to produce, and I think that is a basis for granting whatever. Of course this seems to



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be one area that has been mentioned. However I, I...we heard and I don't know where it was from, that the board is keeping up, it's just the warm bodies that you may *have now* are not producing enough. So, what is the real story?

MR. YOUNG: Why, why don't I let Mr. Teruya fill you in on the statistics and the on ground situation status.

MR. TERUYA: Okay, currently right now we...between the Board of Review and the Tax Appeal Court we have about 4,300 appeals outstanding. Of that 4,300, 2,500 remains at the board of review level and about 1,800 at the tax appeal court level. Just as far as numbers go as far as what the Board of Review has done. Since April of 2010 they have closed or at least heard about 1,400 appeals, of that 1,400 appeals 1,000 of them went further on to file with the Tax Appeal Court. A lot of these cases that took their option to go to Tax Appeal Court were primarily the larger establishments, meaning the time share properties and the hotels. So of the cases that remain, which is about the 2,500 cases which we are scheduled through June of 2011 so far, are not primarily the major properties where we feel that a lot of these cases or a majority of these cases will be settled at the board level and most likely, traditionally have not gone on to Tax Appeal Court. So at this time, based on the current pace, the board meets twice a month and they are hearing approximately 150 cases per hearing, and that is a large number in comparison to the previous years where we've probably had about 25 to 50 cases at the most, so the board is trying, and they have asked to ramp up the amount of cases per hearing. So at that pace, where we are right now, you know, we're scheduling out, we are looking at approximately at least June 2011 to hear the remaining of the cases. The amount of funds that remains in abeyance at the board level is approximately \$15 million, and of...the total is about 31 million about 30 to \$31 million, and half of that is at Tax Appeal Court level. So that gives you some comparison as to where we are as far as what we can achieve locally and what we have to deal with at the State level.

COUNCILMEMBER NISHIKI: Yeah, and, and if I may continue. I heard that we've been winning most of ours on the local level. What has been the statistic on the tax appeal level? And, Mr. Chairman, it would seem like we need to know how this Tax Appeal Court or whatever it is, how it functions so that we can tell your State legislators if that's who controls the purse strings that, look the reason why we come and beg for money is because you need to hurry up and get these guys to do the tax appeals and we probably have more money and wouldn't have to come and ask you for money. I mean to me that's --

CHAIR PONTANILLA: Yeah.

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COUNCILMEMBER NISHIKI: --that's fair, logical and makes sense. So is that something that this Council needs to pursue with our legislators? I mean tell me how that State tax appeal operates and how much...I mean it's like if, if it's that many here in Maui County, I'm sure that they hear Kauai, and Oahu, and the Big Island. So...you happen to know how long that is going to take, or you have any kind of history as far as whether we've won or not there, or do you go there and, and participate, and what have you gotten as far as the percentage if you've won or not won?

MR. TERUYA: Historically we normally do not have many cases before the tax appeal court level. Since 2009 and '10 we have approximately 1,700 cases in front of the Tax Appeal Court. We have worked...we recently as far as last month have gone to Tax Appeal Court and we have settled 100 of the cases, which was only one apartment project. So, I can't speak as to what is our win/loss ratio at Tax Appeal Court other than what we just completed, and it was pretty close to down, down the middle as far as what was, what the judge ruled on.

COUNCILMEMBER NISHIKI: Meaning?

MR. TERUYA: They split difference. At the tax appeal court level the judge, basically took the middle ground.

COUNCILMEMBER NISHIKI: Yeah, so that's why most people are going there now because there is a statistic to show that they have got a better chance there, right? And that's, that's their . . . *(inaudible)* . .

MR. TERUYA: Yeah, that's just one condominium project, so I'm not certain if that would...it was just based before the evidence what they presented on their expert witness versus ours.

COUNCILMEMBER NISHIKI: Anyway, Mr. Chairman, I think it would be worth for this next Council to pursue this area and find out, because if that is a venue that most of them are gonna take, as far as what Scott's saying, all the big, the big amounts then, you know, these people are not foolish. So it is something that I think the next Council needs to, needs to look at . . . *(inaudible)* . . and how you **attack it**. Tell me what the...how long these cases are taking in that court in Honolulu.

MR. TERUYA: It's, it's hard to say. Is the judge who...maybe Traci might be able to expand more on that, but we are not ones who can establish the date of the hearing. So this case that was just heard was a 2009 case that was just recently completed, so, you know, we're not the only ones there. There's the City as well

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as Hawaii and Kauai, and we have 1,700 cases before Judge Chang, currently. So it's a process. I, I would comment that there are other jurisdictions in the mainland that...and everyone is different, however some municipalities have a rule where you must go through the local board before you can bypass it or go through the State level. So...but that is, that is in their, their part of their code, so ours...but the Hawaii Revised Statutes currently does not say that. It has the option to go to either the board or the tax appeal level. But there are municipalities out there that require them to go through the local level before you can have the opportunity to go to the State level.

COUNCILMEMBER NISHIKI: But Traci, can we stop this by telling these guys they can't go through that process then? Is that what Scott is saying? It's an either or but if, if you lose that doesn't mean you can go to the next level.

CHAIR PONTANILLA: Corporation Counsel?

COUNCILMEMBER NISHIKI: Or is that the process.

MS. FUJITA VILLAROSA: No, it...currently the process is, is that the taxpayer can either appeal to the Board of Review or the Tax Appeal Court. If they lose at the board of review stage, they get a second bite at the apple, meaning at Tax Appeal Court, meaning that the court does not even consider the board's action. You know normally, normally when matters are appealed to court, when agency actions are appealed to court, there usually has to be a basis of error, you know, that the agency below had to have erred in some way. For Tax Appeal Court that's not the case, it's, it's the exception where the taxpayer gets a de novo, de novo review, meaning a brand new review. The court doesn't, doesn't consider what the board action was. It...they are backlogged at Tax Appeal Court, and as Scott mentioned the other jurisdictions have the same problem that we do. Unfortunately, you know, the Tax Appeal Court is part of the judicial branch of government so I don't know what authority or power the legislative branch would have over that judicial branch. So any, I guess discussions would have to take place, like with the judicial branch, the Chief Justice of the, of the judicial branch.

COUNCILMEMBER NISHIKI: And Scott, when they go and do the appeal, the money still stays and cannot be spent in the County coffers?

MR. TERUYA: That is my understanding; it's in a litigated account.

COUNCILMEMBER NISHIKI: So, Mr. Chairman, this is gonna be a big problem. You're gonna see more and more taxes collected and, and, and, and, and taxpayers being unduly taxed because we've got money that government can't

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spend. And so, you know, you know, something's gotta be done by...*now that we understand it*. I mean all my years in the Council I've not heard this but at least we're moving in the right direction and understanding, so now with the information that we got, we cannot sit down on our butts and not try to find a solution, that's all I'm saying. Because you'll have a taxpayers revolt if government again, continues to hoard money and not deal in a process that now some people are using. Thank you.

CHAIR PONTANILLA: Thank you. Fast question, Mr. Young or Scott in, in regards to any appeals, is there a fee? I, I know they pay a fee with the County, is there a fee with the State? And is our fee too, too light?

MR. TERUYA: The current fee to appeal at the board level is currently \$75 and I believe the cost at Tax Appeal Court is 100...well associated with attorney cost probably too.

CHAIR PONTANILLA: Oh, okay, thank you.

MR. TERUYA: Yeah, and the, the...when you appeal to the State court level, there's no fee paid to the County of Maui.

CHAIR PONTANILLA: Mr. Mateo?

VICE-CHAIR MATEO: Chairman, thank you. Mr. Teruya responded to my questions that I, that I had, regarding the number of appeals and what that equated to in terms of dollars, and dollars and cents. However in Mr. Young's...I guess comments regarding the Administrative support and its additional costs, did that take into consideration Corporation Counsel's additional expenses as well to man the additional service?

MR. YOUNG: No, Mr. Chair, Chairman, it did not.

VICE-CHAIR MATEO: Yeah, so, so, Ms. Fujita, looking at this because it's not much considering the, the value that can result from it. Your Department apparently already is stretched with your attorneys already doubling up. So additional *[sic]* like this is something that your Department probably can or can adjust too.

MS. FUJITA VILLAROSA: We would do our best. We already advised some boards and commissions...ones that are advisory. We tried to be on call for those boards and commissions and make ourselves available to boards and commissions that have, you know, the final say in a matter. So in this case with this board...I, I actually advise the Board of Review. And it's a board that should have an

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attorney staffing it, because it does have final decision-making authority, so somebody in my office would have to advise the additional boards if they were created.

VICE-CHAIR MATEO: So, if you, if you're the legal advisor for this particular board, then who is your backup?

MS. FUJITA VILLAROSA: Currently, it's Adrienne Heely.

VICE-CHAIR MATEO: So there's two?

MS. FUJITA VILLAROSA: Yes.

VICE-CHAIR MATEO: Okay, thank you. Thank you, Mr. Chair.

CHAIR PONTANILLA: Thank you. Mr. Victorino?

COUNCILMEMBER VICTORINO: Thank you. The only question I have left for you is, by speeding up our process if the vast majority...when we do this start ending up in tax court, would we really benefit any further? I guess that's the million dollar question. I mean, I understand right now a large number are moving on to the tax court...if I heard the numbers correctly. So, by speeding our process up would that speed up more to go to the land...I mean to the Land Court or to the Tax Court I should say. And then now, we're still kinda like stuck in between a rock and a hard place, I mean, that's my question.

MR. YOUNG: Well I, I think in the details of the statistics that Mr. Teruya gave, if you remember early on we said that there was a large number of appeals, a number of them are the large hotels and time shares. Those are actually the appeals that were actually pulled up into the queue and sent to the Board to try and resolve because they had the largest revenue impact. But there are also the ones that are most prone to...if they don't get their way at the Board, to take it to the Tax Appeals Court. So, if they're gonna go there anyway, it does behoove the County to get those cases adjudicated at the board level, so that we can have the other cases move through as well, okay. While it's true that a large number of them didn't get their way at the Board and then went to Tax Appeal Court, you have to look at the *type* of cases that they were, and they were the hotel and the time shares. We knew that would, that could stand the case but we wanted to address those cases most expediently specifically. Now the other thing to keep in mind is that the reason why those cases likely go to the Tax Appeal Court is because those entities or owners usually have the wherewithal and the financial backing to do a case at the Tax Appeal Court, because the difference between having your, your,

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your appeal heard at the board level versus the court level is just that, the board level is rather, you know, is staffed by volunteers and citizen volunteers. When you go to court you are, you know, you're gonna be compelled to have an attorney, hire expert witnesses. The, the file, the court filing fee may only be slightly more than the County, but I'll tell you that if you're gonna go to court you, you're gonna have to put on the actual show, it's not a, it's not just come and talk to a bunch of citizens, you know, you are, you are before a judge. So I think that in that respects, you know, I don't want to deprive any appellant of their constitutional and legislative right to file an appeal to the court system, but really the board process is the avenue for the average citizen and taxpayer to take advantage and get their, their case heard. And, and I, and I think this, this ordinance revision will, will serve and benefit the, you know, the small property owner, because they are the ones that actually desire and will benefit the most by having their cases heard at the board level.

COUNCILMEMBER VICTORINO: Okay, thank you, so if I'm clear in what you just said, is the vast majority that are left over are probably the smaller cases or the smaller appeals that should and will probably will not move any, any...move forward. So in other words those could be pretty much settled, yes or no, in the Board of Appeals and that's it. You, you would suspect that would be what would happen, right?

MR. TERUYA: That is what our...we anticipate. Yeah, and the, the additional board is good also because it gives the division the opportunity to hear a lot of our cases during the non-peak times. Right now we are trying to establish the assessments for the upcoming year and by having board throughout the year really is not the best for operations. It's, it's after we've established certification is really our, more of our down time where we would like to hear more of our cases during the summer months, prior to the, you know, the certification and the assessments setting of the value so that's to the benefit of the Real Property Tax Division and to, to the average taxpayer.

COUNCILMEMBER VICTORINO: So the benefit I see right here is, you're saying that will help give you more time for the establishment of this future assessments, right? That's number one, and number two, even though there's a lot of small ones it's still the work a lot of small ones. But financially, moneywise...what kind of percentage of what is due more or less are we talking about? Because you just mentioned the bigger ones...the time share, the hotels which is the bigger chunk of the money. So if...let's use a hypothetical number, 1 million, right, \$1 million. How much is on that side of the big guys and how much is on the little guys? Fifty-forty, I mean fifty-fifty, sixty-forty, what, what would it be? Just, you know, just so that the public understands the importance of this.

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MR. TERUYA: This is probably half.

COUNCILMEMBER VICTORINO: Fifty-fifty.

MR. TERUYA: It's about fifty-fifty I would say, yeah. And the other thing with this amendment does, is it also gives the board the opportunity for...in the event that they lack quorum, the additional board, they can use one of the members to fill in for quorum, so we don't have cases or, you know, any, any deferral because we can't meet quorum. I mean, there is a lot of cost that goes involved with doing certified mail to 150 cases, I mean you talking over \$5,000 of certified mail that we're doing for a hearing. So, we don't want to postpone cases and, you know, spend the cost and, and not hear the case.

COUNCILMEMBER VICTORINO: Okay, that'll be interesting, you know, to be able to move people around. I guess that'll be interesting. I never heard that before but I mean, if it's legal and Ms., Ms. Villarosa, you're saying that it will be alright to move these people around like that? I mean, and, and I don't have quorum so I called two people from the other board and make them part of that board. Is that okay?

CHAIR PONTANILLA: Corporation Counsel?

MS. FUJITA VILLAROSA: Mr. Chair, this bill is actually tailored after city and county's bill on, on for their Boards of Review and this is how they operate. So the provisions in here take in to account what happens in a temporary vacancy, yeah, it's just temporarily borrowing. So they wouldn't really be, you know, moved permanently from one board to another. It would just be in the event of...lack of quorum situation.

COUNCILMEMBER VICTORINO: And there's never been a legal challenge to this?

MS. FUJITA VILLAROSA: Not, not that I'm aware of.

COUNCILMEMBER VICTORINO: Okay, okay, thank you very much. Thank you, Mr. Chair.

CHAIR PONTANILLA: Thank you. Member Nishiki?

COUNCILMEMBER NISHIKI: Yeah, I, I, I, I just, I just gotta say this as my departing words.

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

COUNCILMEMBER NISHIKI: Just because there seems to be a lot of hypocrisy, when I hear about when we go to the budget, Mr. Chairman, and then we have budget hearings and people come and testify...visitor industry, the hotels come and testify about their property taxes and, and the gamut and where we should be giving the money to, you know, fine. Then the, then there's a process that we set up for them to go to in regards to how we deal with their taxes. And of you, as you heard today, the *ones* that are...after they lose through the process because they have another process and there's...the Corporation Counsel says when it goes to the new process they don't look at what went through the old process to say that oh, you already lost in a court. You have a new hearing, you know, and this is important, and *yet these are the very people* that stick and stuck their money in our budget, and *yet have the gamut* to come and ask for the bigger portion of money to promote the visitor industry. And, and, and, and, and, and you need to look at this, when you look at the next budget. You know, it's a bit of hypocrisy, you know, that you say that you want to participate in government and, and, and go through the process and then, you know, you say, you know, support the industry and so give it to the industry. And yet they then come around when their taxes are being assessed, they go through a normal process, they, they lose, and, and, and, then, then they stuck it to us in, in this, this tax appeal and where we've got \$15 million. I mean talk about hypocrisy. I don't know if any of *us* have been called that, but I think that the people of Maui County should know this, you know, and yet the lion share, as, as I said, goes to visitor promotion. So, you know, you get from one side and you stick it to us on the other.

CHAIR PONTANILLA: Yeah.

COUNCILMEMBER NISHIKI: That's kind of like not up and up. *But* you should think about this now --

CHAIR PONTANILLA: Thank you.

COUNCILMEMBER NISHIKI: --next year.

CHAIR PONTANILLA: Thank you. Members, any more discussion? 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 TITLES 2 AND 3, MAUI



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COUNTY CODE, RELATING TO REAL PROPERTY TAX REVIEW BOARDS”, filing of County Communication No 10-247.

VICE-CHAIR MATEO: Mr. Chairman, I move for the passage of the proposed bill as you had just cited including the filing of County Communication No. 10-247.

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

CHAIR PONTANILLA: Thank you. Members, any more discussion? If not, all in favor...

MR. RAATZ: Excuse me, Mr. Chair.

CHAIR PONTANILLA: Oh, I'm sorry.

MR. RAATZ: I just wanted...go ahead.

CHAIR PONTANILLA: Go ahead, Mr. Raatz.

MR. RAATZ: Staff would just like to call the body's attention to the effective date for the bill which references January 1<sup>st</sup>, 2011. Just as a procedural matter this is bill wouldn't be passed on first reading until December 17<sup>th</sup> of this year and then we'd carry over for second reading some time in January, so possible amendment might be to just change the effective date to the standard language that the ordinance shall become effective upon approval.

CHAIR PONTANILLA: Members, if there's no objection the Chair would like to make the friendly amendment.

COUNCIL MEMBERS: No objections.

CHAIR PONTANILLA: Thank you. So 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 Molina and Member Kaho'ohalahala.

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

**NOES:**         **None.**

**ABSTAIN:**      **None.**

**ABSENT:**      **None.**

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

**MOTION CARRIED.**

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

CHAIR PONTANILLA: Being this is the last meeting for Budget and Finance, at this time the Chair would like to thank --

COUNCILMEMBER BAISA: You have one more. One more.

COUNCILMEMBER JOHNSON: One more item.

COUNCILMEMBER VICTORINO: Oh, okay.

COUNCILMEMBER BAISA: One more item.

COUNCILMEMBER JOHNSON: One more item.

CHAIR PONTANILLA: I'm sorry.

COUNCILMEMBER VICTORINO: Oh. Okay.

CHAIR PONTANILLA: Yeah. . .before I, you know, relieve Mr. Young here--

COUNCILMEMBER VICTORINO: Oh, okay, we got all scared, oh god.

...(Laughter)...

CHAIR PONTANILLA: Geez. Gotta give you guys a chance, man. The Chair would like to say thank you to Mr. Young for all of the work you've done with this Committee. You've provided us with very good insights as well as...things that we should know, advice, good advice and, and, you know, coming up with, you know, an amendment like this here, you know, really says that you really care

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about the County and I really appreciate of that. So, Mr. Young, thank you very much.

COUNCILMEMBER VICTORINO: Chair?

CHAIR PONTANILLA: Mr. Victorino?

COUNCILMEMBER VICTORINO: Thank you, Chair, and I, I'll quickly echo my same sentiments as you. I have truly been honored to work with you, Mr. Young, through the past four years. I know personally I'll miss you very much because we've had opportunities to sit down on a one-on-one basis, and I found you very articulate, you know, you get right to the point, and you're very knowledgeable and you give me the facts. And I, I, I, I very...I been very appreciative of that. I will, I will myself miss you a lot and I wish you nothing but success for you and your family and your future endeavors. And if there is ever a time...I hope, you know, like I've said to many people, it's not aloha but a hui hou, until we meet again. Thank you --

CHAIR PONTANILLA: Thank you.

COUNCILMEMBER VICTORINO: --Mr. Young, for all your hard work.

CHAIR PONTANILLA: Thank you. I'll just go right down the line. Mr. Mateo?

VICE-CHAIR MATEO: ...*(laughter)*...Mr. Young, you are a class act. Thank you.

CHAIR PONTANILLA: Thank you, Mr. Mateo. Mr. Nishiki?

COUNCILMEMBER NISHIKI: Yeah, what about Fred? Later?

COUNCIL MEMBERS: ...*(laughter)*...

CHAIR PONTANILLA: ...*(inaudible)*... one more. Transportation?

COUNCILMEMBER NISHIKI: No, no, no, no, no. I, I, I, I just, I just really want to say from the bottom of my heart, it was like, whenever we've had financial, the budget everything to deal with, I think it was such a pleasure getting information whereby we could make good decisions. I think it's frustrating to have members representing and Administration and not giving you answer to your questions from whereby I as a sitting Council Member can make a decision. And, and, Kalbert, it's like, I don't have to be there, but I have heard stories that when you went to the Bond Counsel with Mr. Pontanilla on the mainland and how you were

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able to discuss Maui County's financial situations and how impressed they were in you representing Maui County. I think whoever is taking your place, I would hope that you would guide him or her in...the information you've given to this County as, as for your public service. I think that we cannot afford, Mr. Chairman, just as you scrutinized today the Fire Department and wasn't willing to easily just give them what they wanted. I think this is the kind of scrutiny that is going to be demanded upon us as public servants. And, and, Kalbert, this Council is losing a...unbelievable public servant. I, I just want to thank you on behalf of myself and those of us that living here in Maui County that, you know, your four years...the two years that I've come to know you anyway, has been a real pleasure. I know you've got a little baby now and you've got a wife so...take care of them, that's number one. And again, thank you very much for your service. I hate to see you go. Thank you.

CHAIR PONTANILLA: Thank you. Member Medeiros?

COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman. It's always difficult to go after Member Nishiki because he uses everything up, but...

COUNCIL MEMBERS: ...*(laughter)*...

COUNCILMEMBER MEDEIROS: So next time, start the regular way...*(laughter)*...but, Director Young, Kalbert, yeah, thank you for your service to the people of the County of Maui. I think this government and, and the people of the County of Maui have benefited from you sitting in the position of Director of Finance greatly. You've kept our government in top physical conditions and you're...you have been always aware of everything that need...that you needed to be aware of, concerning your position and those around you. Even though at times when you came up here to explain things and it was like listening to somebody speaking Greek, you somehow found a way to explain it in layman's terms, so that we could understand it. But the...as it has been said, you certainly have been...for me, in this four years, you know, you're very intelligent, very knowledgeable, very articulate, and I think Mr. Nishiki said something important that, whoever comes to fill your shoes is gonna have a challenging time to match up to what you have been to this Council, this government, and the Department of Finance. But I think positive for me in looking at you, is that you won't be stagnant very long. I'm sure somebody's going to grab you up immediately, whether it's in another government sector or in a public...private industry. I'm sure they are licking their chops waiting for you to end your term and be out there for, you know, kind of like in sports, you know, the draft, they're going to be ready to draft you, number one. So thank you, Kalbert, for all that you provided

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us in this Council and this government. Mahalo, and best wishes to you and your family. Mahalo, Mr. Chairman.

CHAIR PONTANILLA: Thank you. Member Johnson?

COUNCILMEMBER JOHNSON: Yes, thanks so much, Kalbert, too. It's been a pleasure working with you and I think one of the things that philosophically a lot of times we've been at opposing ends, particularity, you know, on Mr. Fisher's issue and Mr. Tavares' issue with regard to how the taxes, you know, are structured and providing some kind of a mechanism in there to, I guess control some of the cost one way or another. So my philosophy, you know, even though it may not match with yours in that respect...I really have enjoyed the conversations that we had on a private basis and I've always respected your opinion, and I think that you've always treated me with great respect, as far as my opinion goes...even though we don't have to agree on everything and what's the old saying is if two people agree on everything one is unnecessary. ...*(chuckle)*...So I've always felt that, you know, that is something that many times instead of taking things personally or, you know, feeling that somebody's wrong, you never ever made anyone of us feel that way and that, that I really admire. And, you know, being a new father I think that you will find plenty of time for your little one and enjoy your family while you can, and have a safe holiday and best of luck in the future. Thank you.

CHAIR PONTANILLA: Thank you. Member Baisa?

COUNCILMEMBER BAISA: Thank you very much, Chair, and Kalbert, thank you, thank you for everything. I don't want to go into a long dissertation. I think we're all...much has been said already, and I think the easiest thing we could just say is, you know, "amen", I agree. But I do want to tell you that, you know, one of the things that I appreciate most in people that are in your, positions like yours of authority and, and responsibility, is professionalism and knowledge, and you have both. And you do a really good job for us with everyone working together in your leadership. You're leaving this County healthy fiscally, and I want to thank you very much for that, because, you know, that's the bottom line is we can run the best programs and we can do whatever we want, but if our fiscal shop is not in shape, we're in, in for big trouble. And I personally want to thank you very much for your efforts and for all you have done for us and wish you all the very, very best to you and Cindy, and your baby, and all the best to you. Thank you.

CHAIR PONTANILLA: Thank you. Member Molina?

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COUNCILMEMBER MOLINA: Thank you, Mr. Chairman, and my apologies, I had to step out of the room to address a personal matter earlier, and speaking of long dissertations, that's what I was working on, so I have, I have it right here for Mr. Young, but no, just kidding. You know, before I, I address Mr. Young, I just want to mention to the Members, I know Member Johnson mentioned Bill Tavares, and Mr. Tavares, I found out last week, has been in and out of the hospital, so I spoke to him on Thanksgiving Day and he seemed to be in good spirits, so just wanna send out our prayers to Mr. Tavares and hope to see him back here in the Chambers real soon. So, on to Director Young, thank you so much for your service, and what I've always appreciated about you is not only your friendship but your integrity. You've always...I think Member Medeiros I guess put it real well when he said that you, you could break down a complicated concept and make it very easy for us to understand and that, that's so important. And it's not...it's an ability or a talent that few people possess...it's like being a, a ,a good teacher, you know, you take a difficult concept, break it down in layman's terms, and then everybody can understand and go oh, okay now I understand and that, that's a very special quality to have. So wherever you end up, I'm sure you will certainly be an asset, you know, well...we will certainly miss you here in the County. But I'm sure, you know, there's a lot of options for you and whether the economy is good or bad, a good numbers person is always very, very valuable. So, with that being said, I want to wish you, and Cindy, and your new born as well lots of luck and great success and, you know, don't be a stranger as the old saying goes and, you know, I know this has been a really tough year for you especially. In light of your favorite team the Colts, they're having a tough time so on a personal note, I know you are a big closet Indianapolis Colts football fan, so we hope that team will be on the upswing for you. So have a great holiday season. Thank you, Chairman. Thank you, Mr. Young.

CHAIR PONTANILLA: Thank you, thank you. And, and, you know, I, I gave my thanks much earlier but one thing that will always leave me is a AA+, that's the best. Mr. Young, your turn.

COUNCIL MEMBERS: ...*(laughter)*...

MR. YOUNG: Thank, thank you, Mr. Chair. I, I appreciate the sentiments for each of the Council Members and, you know, I would, I would tell each of you and your predecessors that I've had the pleasure of working with...here at the legislative branch that the feeling is...are mutual. I appreciate the opportunity to have to work with each of you as leaders in our community. I never thought of myself as being a leader of your...at your level, but I appreciate your sentiments and appreciation for...of what we've all done together to improve the finances for the County of Maui. And we should all feel a sense of pride that over the recent

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years, even in the midst of the economic downturn, that Maui County has established itself as the most fiscally and financially strong governmental entity in the State of Hawaii, and that's even compared against the State. Although I leave the Department of Finance, in the County of Maui, I feel comfortable that I'm leaving the County in a stronger financial position than when I came here and promise you that we will have the opportunity to work again, together very soon and I look forward to that opportunity. Thank you, Mr. Chair, and to each of the Members.

CHAIR PONTANILLA: Thank you. Mr. Victorino?

COUNCILMEMBER VICTORINO: Yeah, Chair, one real quick thing. Mr. Medeiros mentioned draft choice...no, you're definitely a free agent.

COUNCIL MEMBERS: ...*(laughter)*...

COUNCILMEMBER VICTORINO: A highly touted free agent, so let's leave it at that. And the Colts will be back just like the 49ers won last night so you and I fall in the same line. They're on their way back. Thank you, Mr. Chair.

CHAIR PONTANILLA: Thank you. Again thank you, Mr. Young and Mr. Teruya.

**ITEM NO. 106: AMENDING FY 2011 BUDGET (DEPARTMENT OF  
TRANSPORTATION) (C.C. No. 10-260)**

CHAIR PONTANILLA: Members, we have our final item this afternoon which is BF-106, Amending Fiscal Year 2011 Budget, Department of Transportation. The purpose of the proposed bill is to delete the time reference, no later than September the 30<sup>th</sup>, 2010, in the proviso for the Paratransit service. This is due to an unexpected delay from an appeal regarding the bidding process. So with us this afternoon we have the Deputy Director from Transportation, Mr. Boteilho, comments?

MR. BOTEILHO: No, not at this time, Chair.

CHAIR PONTANILLA: Okay, fine. Members, questions for Mr. Boteilho in regards to this particular ordinance?

UNIDENTIFIED COUNCIL MEMBER: Recommendation.

CHAIR PONTANILLA: If not, very simple.

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COUNCIL MEMBERS: Recommendation.

CHAIR PONTANILLA: The 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 THE DEPARTMENT OF TRANSPORTATION", and filing of County Communication No. 10-260.

VICE-CHAIR MATEO: Mr. Chairman, I move for the passage of the proposed bill as you have just cited including the filing of County Communication No. 10-260.

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

CHAIR PONTANILLA: Thank you. Any more discussion? Member Baisa?

COUNCILMEMBER BAISA: Ah, yes, what essentially does this do to this situation that we're in?

CHAIR PONTANILLA: Mr. Boteilho?

MR. BOTEILHO: If I could, I'd like to yield to Madame Corporation Counsel because she has been working on this recently more than I.

CHAIR PONTANILLA: Corporation Counsel?

MS. FUJITA VILLAROSA: Mr. Chair, the amendment would delete the September 30<sup>th</sup> deadline for the...to issue the RFP and execute the agreement. So that would now need to be done by the end of the fiscal year without this September 30<sup>th</sup> deadline.

COUNCILMEMBER BAISA: So all this does is ascend...extend that deadline to June 30<sup>th</sup>.

MS. FUJITA VILLAROSA: That's correct.

COUNCILMEMBER BAISA: And as far as we know then the service that is involved in this contract, what is the status of that?

CHAIR PONTANILLA: Department? It was awarded --

MR. BOTEILHO: The RFP went out and a selection was made in the second week of September, and there was an appeal filed. And since...because of the appeal



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everything is on hold. Oh, yeah, our...pardon me, our, our current provider is continuing to provide that service, because they are still under contract to do that service.

COUNCILMEMBER BAISA: So you're saying that Roberts of Hawaii is still providing the ADA Paratransit.

MR. BOTEILHO: Yes.

COUNCILMEMBER BAISA: And they will continue to do that while this appeal pends.

MR. BOTEILHO: Yes.

COUNCILMEMBER BAISA: So we don't have any idea when this is going to happen?

CHAIR PONTANILLA: Maybe Corporation Counsel can answer that question.

MS. FUJITA VILLAROSA: There's a hearing scheduled for tomorrow, and I believe a decision by the hearings officer, I think is due on the 10<sup>th</sup> of December. But then of course there could also be an appeal from, from that decision so...the first decision that we are expecting is December 10<sup>th</sup>, but it, it could go on beyond that if, if the decision is appealed.

COUNCILMEMBER BAISA: Okay, I would have a lot more questions but I probably because this is involved in a legal matter, I don't think I will ask them on the floor. Thank you.

CHAIR PONTANILLA: Thank you. 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 eight ayes, one excused, Member Kaho'ohalahala.

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

**NOES:**       **None.**

**ABSTAIN:**   **None.**

**ABSENT:**   **None.**

**EXC.:**       **Councilmember Kaho’ohalahala.**

**MOTION CARRIED.**

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

CHAIR PONTANILLA: Again, Members, you know, this is the last meeting that we’re going to be having for the year and, you know, like Mr. Young, I, I would like to say to Mr. Pablo, it’s been great working with you as a Budget Director. You know, I’ve had...well we’ve had numerous conversation in regards to the fiscal responsibility of this County, but I really respect all of the things that you have done for this County of Maui. So again, Mr. Pablo, thank you very much.

MR. PABLO: Thank you.

CHAIR PONTANILLA: Members, any more comments?

COUNCILMEMBER VICTORINO: You can start that side.

CHAIR PONTANILLA: Oh, we’ll start from Mr. Molina --

COUNCILMEMBER JOHNSON: Start that side, yeah.

COUNCILMEMBER VICTORINO: They complain all the time that side, no problem.

COUNCIL MEMBERS: ...*(laughter)*...

COUNCILMEMBER MOLINA: Thank you, Mr. Chairman, I just want to send, send out my aloha’s to you, Mr. Pablo, and thank you very much for your service and, and, you know, something about Fred that some of you may not be aware of, he’s a connoisseur of fine foods and wine and he speaks...I believe, is it three different languages. And you once served as an attaché for the Federal government. So, he’s a man of many, many talents and we’re certainly very fortunate to have a man of his talents with us here. So friendship is certainly, you know, well

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appreciated, will be missed, but we hope, you know, you still come by, come by the building and, you know, continue to serve our community in various capacities, but I think you are certainly planning on a well, well deserved rest if you will for the time being and enjoy, you know, the good times as they say. So again thank you so much, Fred, for all your contributions and help with us towards the County of Maui and certainly a pleasure working with you. Thank you, Chairman.

CHAIR PONTANILLA: Thank you. Member Baisa?

COUNCILMEMBER BAISA: Yes, thank you very much, Chair, and thank you, Fred. It's been great working with you the past four years. I feel that not only have you been extremely competent and professional but you've also been a great friend and I really appreciate that. And I want to thank you for the process you've developed for reviewing the budget, and it evolved over the four years, and you got better and better at trying to consolidate and make it a quicker process, a more efficient processes. And I hope that, you know, the strides we made will be carried forward. And I'd like to thank you very, very much and wish you and the Mrs. all the best.

CHAIR PONTANILLA: Thank you. Member Johnson?

COUNCILMEMBER JOHNSON: Ah yes, thanks Fred and, you know, I really appreciate the fact that you've taken a lot of criticism at different times. You've been a true gentleman; you never lost your temper; you maintained your grace and your dignity under pressure, and at times I know it's difficult to sit in the position that you sat in and I really admire that, because there're other people that would not have reacted perhaps as...in as dignified a manner as you did. And, while I don't...that's not my particular style, I understand that when you sit in that chair you have to take whatever comes at you. And for that I really...I thank you for being the kind of person that you are and for really respecting all of our diverse opinions and our diverse styles and for being always a gentleman. And you still have some hair left, I noticed...(chuckle)...

COUNCIL MEMBERS: ...(chuckles)...

COUNCILMEMBER JOHNSON: So I had kinda predicted, Mr. Chair, that after we got through, you know, putting him through the mill that he wouldn't have any hair left...(chuckles)...but he does have a few hairs left. So, I, I really hope that you move on to kinder, gentler, more pleasant things, and, and thank you for your tolerance of sometimes, you know, some of the difficult things that you've had to face and for really helping us in many ways. Thank you.

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CHAIR PONTANILLA: Thank you. Member Medeiros?

COUNCILMEMBER MEDEIROS: Mahalo, Mr. Chairman. Yeah, Mr. Pablo, it's been four years of enjoyment working with you. It must be that people that are responsible for the care of the money of the taxpayers, they must either take something or as part of their lives to be calm and, you know, like Kalbert, you have been very professional about the work that you do and you have always displayed a calm and confident demeanor, which is important in the work that you do, and very knowledgeable and experienced. So I just want to thank you for being a part of my four years here and I, I wish you the best in whatever you do in the future. And wish you and your family a happy and safe holidays. Mahalo.

CHAIR PONTANILLA: Thank you. Member Nishiki?

COUNCILMEMBER NISHIKI: Smooth. This last two years...the last one of course was a, a, a, a quite a tumultuous, working on the budget. And I know that I got into your face a couple of times and I know that you were not so happy with perhaps some of the things that this Council did just because you were trying to defend the Administration's budget. However, I, I thank you again for giving me a lesson in some of the things that I did not know in regards to budgeting. Thank you again for your friendship, Fred. I think that outside the meeting area when we were able to discuss other subjects outside of what the Council did in its budget deliberations, you were very frank with me as to what you felt personally. So again, good luck. We both will be leaving the County but I know that when things like this occur, better things are in store for us, so good luck from the bottom of my heart. Thank you for your friendship.

CHAIR PONTANILLA: Thank you. Member, Chairman Mateo?

VICE-CHAIR MATEO: Mr., Mr. Pablo, we all know that during tough economic times, the person that really takes the hit in being able to justify the expenditures of the County is the budget director, and you have been not only patient but have been understanding in being...in giving each one of us the opportunity to understand the bigger picture. The last budget especially was, was very difficult for all of us, yourself included. And I think going through that exercise, we've had a budget director that stood virtually with us, you were here every day; you were always available; you always responded; there was always a follow-up. So there was always a connect between, between the council deliberating and getting access to information so, you know, what you leave is, you know, a, a legacy of accountability to this body. And I just want to thank you. We have had arguments in the, in the, in the past just trying to understand that thing that they

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call a budget. And you have been more than fair, so thank you and good luck to you in your endeavors, Mr. Pablo.

CHAIR PONTANILLA: Thank you. Member Victorino?

COUNCILMEMBER VICTORINO: Well, Mr. Pablo, what else can I say? When you're at the end of the table like Mr. Molina said, not much left, but I didn't leave, I just made a big dissertation just copying all of what you said earlier. But no, I, I wish you the same...I wish you well and, you know, and before you walked in, you knew I knew a lot about you because Donnie had told me all about, my niece. So I had a good back-ground *check*, before you had walked in. And I knew you would do a great job and you proved that out, and you proved a patience because, you know, when Nishiki gets in your face, I expect you to just come across that table, but no, you just kept real cool and just smiled and more that he said, the less you...I mean you really tried to understand what he was saying. And, you know, it's that type of people that our government needs more of, understanding and caring about the people of this County, and you really have demonstrated that. We are gonna miss you. I will return with new expectations with the next group coming in, and...but I will have had the honor of working you over...working with you over the past four years.

UNIDENTIFIED SPEAKER: ...*(chuckles)*...

COUNCILMEMBER VICTORINO: I've still not...I've been tongue twisted all day and it has not changed. I've been consistent. When I go bad, I'm bad all the way.

COUNCIL MEMBERS: ...*(laughter)*...

COUNCILMEMBER VICTORINO: Whoo! But I really would like to say aloha, happy holidays to you and your family. And again like I say to everybody else and I'm gonna say this again, it's not aloha, it's a hui hou, until we meet again. God bless. Thank you, Chair.

CHAIR PONTANILLA: Thank you. Mr. Pablo?

MR. PABLO: Thank you, it's my hardest budget session yet.

COUNCIL MEMBERS: ...*(laughter)*...

MR. PABLO: No, I enjoyed all those kind, kind words and I, I also share the same, same sentiments. I think I, I developed a lot of friendship here with all of you. We all had the same goal, how do we get the best budget for the County to serve the

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people. And when you look back in the past four years, it...I mean it has been difficult years, economy has gone down, people have lost their jobs, unemployment at a high rate. But you look at all the programs that you as a body have passed, yeah, affordable housing, we have over 300 units at a cost to the government of 55,000 per units. That's quite an accomplishment, Members. We have a record four years of capital improvement projects, 517 million, 150 percent more than any other four years combined. You have grant revenue of over 400 million in four years, more than a prior eight years. So working together with you, we have set the course for Maui's future. I wish the best to the new Members who come in who follow you that they will follow in your footsteps and, and continue the good work. And also had words with my successor last week and I gave him the whole bunch of material to read, so I think he'll be ready to run off, off or run in...(chuckles)...with all of that information. But again, thank you and I, and I special want to thank Chair Pontanilla, it hasn't been a easy four years as you know. And he has, he has really led the Budget and Finance Committee. The process has improved over the past four years. We are no longer here till 11:00 at night, maybe 6:00 or 7:00, and so it has been very, very good. Thank you again. I wish all the best to all of you.

CHAIR PONTANILLA: Thank you, Fred. Okay, we got one more item to take care of.

COUNCILMEMBER JOHNSON: Thank you. Thanks, Fred.

**COMMUNICATIONS FOR REFERRAL TO THE COUNCIL**  
**CHAIR FOR THE 2011-2013 COUNCIL TERM**

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|-----------------------|---|
| <b>ITEM NO. BF-4</b>  | <b>FINANCE DIRECTOR'S QUARTERLY AND CIP REPORTS</b>   |
| <b>ITEM NO. BF-5</b>  | <b>CIP IMPLEMENTATION REPORT</b>  |
| <b>ITEM NO. BF-11</b> | <b>COST OF GOVERNMENT COMMISSION REPORTS</b>  |
| <b>ITEM NO. BF-55</b> | <b>QUARTERLY STATUS REPORT ON COUNTY ROAD RESURFACING PROJECTS (DEPARTMENT OF PUBLIC WORKS)</b> |
| <b>ITEM NO. BF-62</b> | <b>ADVERTISING INSIDE COUNTY TRANSIT BUSES</b>  |
| <b>ITEM NO. BF-73</b> | <b>REAL PROPERTY TAX HOME EXEMPTION</b>   |

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- ITEM NO. BF-82    TRANSPORTATION SERVICES GRANT RELATING TO MAUI ECONOMIC OPPORTUNITY, FISCAL YEAR 2011**
- ITEM NO. BF-83    TAXICAB RATE OF FARE AND BAGGAGE CHARGES**
- ITEM NO. BF-86    REPEALING CHAPTER 3.28, MAUI COUNTY CODE, RELATING TO REAL PROPERTY TAX, AND AMENDING CHAPTER 3.48, MAUI COUNTY CODE, RELATING TO REAL PROPERTY TAX AGRICULTURAL USE DEDICATION**
- ITEM NO. BF-89    STATUS OF PROJECTS FUNDED THROUGH THE AFFORDABLE HOUSING FUND**

CHAIR PONTANILLA: The final thing we'll take up is the referrals for next term. This time, the Chair would like to move that...the Chair is recommending that the communication as listed on today's agenda be referred to the Council Chair for the term beginning January 2, 2011, pursuant to Rule 21 of the Rules of the Council. And, Members, you do have the agenda with you. I'll just read it off: BF-4, Finance Director's Quarterly and CIP Reports; BF-5, CIP Implementation Report; BF-11, Cost of Government Commission Reports; BF-55, Quarterly Status Report on County Road Resurfacing Projects (Department of Public Works); BF-62, Advertising Inside County Transit Buses; BF-73, Real Property Tax Home Exemptions; BF-82, Transportation Services Grant Relating to Maui Economic Opportunity, Fiscal Year 2011; BF-83, Taxicab Rate of Fare and Baggage Charges; BF-86, Repealing Chapter 3.28, Maui County Code, Relating to Real Property Tax, and Amending Chapter 3.48, Maui County Code, Relating to Real Property Tax Agricultural Use Dedication; BF-89, Status of Projects Funded through the Affordable Housing Fund. Members. . .Mr. Mateo.

VICE-CHAIR MATEO: Mr. Chairman, I move that each of the communications that you recognized be referred to the Council Chair for the term beginning January 2, 2011, pursuant to Rule 21 of the Rules of the Council.

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, Mr. Kaho'ohalahala.

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

**NOES:**         **None.**

**ABSTAIN:**      **None.**

**ABSENT:**       **None.**

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

**MOTION CARRIED.**

**ACTION:**      **Recommending REFERRAL of BF-4, BF-5, BF-11, BF-55, BF-62, BF-73, BF-82, BF-83, BF-86, and BF-89, to the Council Chair for the term beginning January 2, 2011, pursuant to Rule 21 of the Rules of the Council.**

CHAIR PONTANILLA: Members, that's all we have for today's agenda. Again this Chairman would like to thank each and every one of you for your efforts in, in attending the meeting for the Budget and Finance Committee. I know it was very tiring when budget session occurred, but this Chair really appreciate your attendance...the Committee meetings. At this time, I would like to share my thank you to Yvette Bouthillier, who's been with this Committee for four years. I thank you very much, Scott Kaneshina, as well as Mr. Raatz. Again I would like to recognize and, and thank our Corporation Counsel, Traci Fujita Villarosa for being our counsel during our budget deliberation, thank you for supporting us. Members, this ends our meeting for--what is the date?--November the 30<sup>th</sup>.

COUNCIL MEMBERS: ...*(laughter)*...

CHAIR PONTANILLA: So without any objections, that...this meeting is now adjourned.  
...*(gavel)*...



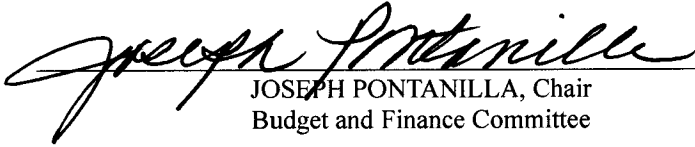
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**ADJOURN:** 3:16 p.m.

APPROVED:

  
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JOSEPH PONTANILLA, Chair  
Budget and Finance Committee

bf:min:101130:mc

Transcribed by: Michelle Cabaccang

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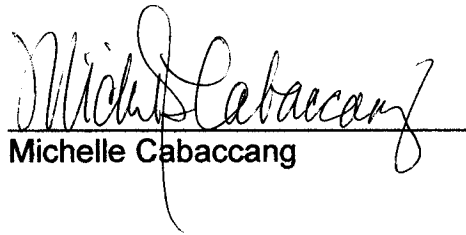
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**CERTIFICATE**

I, Michelle Cabaccang, 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 20<sup>th</sup> day of December, 2010, in Kahului, Hawaii

  
Michelle Cabaccang