

MINUTES

of the

COUNCIL OF THE COUNTY OF MAUI

February 4, 2011

THE REGULAR MEETING OF THE COUNCIL OF THE COUNTY OF MAUI, STATE OF HAWAII, WAS HELD IN THE COUNCIL CHAMBER, KALANA O MAUI BUILDING, WAILUKU, HAWAII, ON FRIDAY, FEBRUARY 4, 2011, BEGINNING AT 9:07 A.M., WITH CHAIR DENNIS A. MATEO PRESIDING.

CHAIR MATEO: Council of the County of Maui regular meeting of February 4, 2011, will come to order.

Mr. Clerk, may I have the roll call, please.

ROLL CALL

PRESENT: COUNCILMEMBERS GLADYS C. BAISA, ROBERT CARROLL, ELEANORA COCHRAN, DONALD G. COUCH JR., G. RIKI HOKAMA, MICHAEL B. WHITE, VICE-CHAIR JOSEPH PONTANILLA, AND CHAIR DENNIS A. MATEO.

EXCUSED: COUNCILMEMBER MICHAEL P. VICTORINO.

DEPUTY COUNTY CLERK LANCE TAGUCHI: Mr. Chairman, there are eight Members present, one Member excused, a quorum is present to conduct the business of the Council.

CHAIR MATEO: Thank you very much.

Members, this morning our colleague from the Westside will be providing the opening remarks for us. Ms. Cochran.

OPENING REMARKS

The opening remarks were offered by Councilmember Eleanora Cochran.

PLEDGE OF ALLEGIANCE

The Members of the Council, and others in attendance, rose and recited the Pledge of Allegiance.

CHAIR MATEO: Members, before we continue on with our agenda for the day, like everyone else at this time, we have the privilege of having the lion here with us this morning to help welcome in the "Year of the Rabbit". So, under the direction of Master Ben Seng Au, the Shaolin Arts Society, we welcome the "Year of the Rabbit".

Ben Seng Au's Shaolin Arts Society performed the Lion Dance.

CHAIR MATEO: Once again, thank you to Master, Master Ben Seng Au with the Shaolin Arts Society as we welcome in the "Year of the Rabbit". Thank you very much.

Mr. Clerk, let's proceed with our agenda.

DEPUTY COUNTY CLERK: Chairman, proceeding with presentation of testimony on agenda items. We have received three requests from individuals who wish to offer testimony on agenda items. Shall we proceed?

CHAIR MATEO: Members, before the Clerk calls up the first testifier, the Chair would like to set the parameters for anyone wishing to provide testimony to the Council this morning. We welcome anyone wanting to share your comments with the Council.

You will be allowed to speak for three minutes on any of the items posted on today's agenda. When your name is called, please advance to the podium, state your name for the record, if you represent a group or organization please so state the name of that group or organization as well.

At the start of your comments the green light will be lit. At the two minute thirty second mark the yellow light will be lit letting you know you have thirty seconds to conclude. And upon completion of three minutes the red light will be lit. If, an additional minute may be provided for, to you in order to complete your testimony.

And for those of us with cell phones, or other noise making devices, this would be a good time to either turn them off or set them on the silent mode. Decorum in this chamber will be maintained at all times.

Mr. Clerk, please call up our first testifier.

DEPUTY COUNTY CLERK: The first person to testify is Kai Nishiki. She will be testifying on County Communication No. 11-48, followed by Buck Joiner.

PRESENTATION OF WRITTEN OR ORAL TESTIMONY

MS. KAI NISHIKI (testifying on County Communication No. 11-48):

Good morning, Councilmembers, Council Chair.

CHAIR MATEO: Good morning.

MS. NISHIKI: I am Kai Nishiki testifying on County Communication 11-48. I think that we can all agree and appreciate the contributions the visitor industry makes to our economy. This is not dispu, disputable nor the reason why some of our community members object to the resolution.

The first objection is the timing. The former Council, the former Administration, County staff and our community have all worked on this budget for many hours and any additional funding, if available should be open to proposals from everyone. One organization should not receive special treatment.

Secondly, there are serious ethical questions being raised. Most of you Councilmembers were here yesterday when Mike White described his hotel's partnering with Maui Visitors Bureau on promotional trips together. His hotel hosting groups of writers brought in by MVB. Mike describing partnering with MVB in advertising with his hotel spending two million dollars in direct marketing.

He does this so his hotel will be profitable and that is great, I am happy for you. But it poses a conflict when you are a Maui County Councilmember and you are authoring a resolution to give more money to the Maui Visitors Bureau, whom you are in partnership with, a financial partnership.

It is the authorship of the bill that is the source of the conflict of interest. This resolution shouldn't even be on the agenda for this Council meeting in my opinion. Can Corporation Counsel advise this body of conflict of interest regarding authorship and also provide legal counsel to the Board of Ethics?

Action on this item should be deferred until after the Board of Ethics has made a decision. It is a conflict and this should raise a red flag. Let's focus on these points and keep discussion of the level of MVB's funding in budget hearings later this year where it belongs.

The Maui News editorial is wrong to try and drive the narrative that anyone who speaks out against this resolution just doesn't like the visitor industry. The issue is fairness and ethics, not a popularity contest. Thank you.

CHAIR MATEO: Thank you, Ms. Nishiki. Members, is there a need to have any part of the testimony rephrased? Thank you, Ms. Nishiki.

MS. NISHIKI: Thank you.

CHAIR MATEO: Mr. Clerk.

DEPUTY COUNTY CLERK: Next person to testify is Buck Joiner, he'll be testifying on County Communication No. 11-48, followed by Jim Smith.

MR. BUCK JOINER (testifying on County Communication No. 11-48):

Aloha kakou, good morning, Councilmembers. My name is Buck Joiner, I am testifying as an individual. I want to make it very clear that I do not oppose the Maui Visitors Bureau or what it does. I do oppose County funding of the MVB.

Hawaii tourism funding was set up at the State level from TAT to HTA to HCVB down to the County visitors bureaus. Everybody knows that. If the Maui Visitors Bureau wants more money, they should lobby the State for increased funding.

In 1990, the Maui Visitors Bureau was happy with a \$100,000. Each year they've come back asking for more and more and more. It's now, has been as high as three and a half million and right now it's at three million and they still want more.

We have County workers on furlough. We have services and infrastructure that are far below the needs of this County and yet MVB wants more money. How much is enough?

Maui visitor industry does not support the MVB financially, that's very critical. MVB is a 501(c)(6) organization, which is a trade representation organization, tax exempt. We also have the Maui Hotel Association, the Chamber of Commerce, the unions, all of those are 501(c)(6), but none of them come to the County and ask for money.

The question comes down to how do you deal with this and how do you address it. Sometimes when you have a graph or a picture or a chart, it, it helps show things better so I thought I would bring this one to make it a little more clear for you.

Okay, for those of you who need an explanation, that that tyrannosaurus rex is the Maui visitor industry. Down here, if you can't see that it's Wile E. Coyote, with a little sign that says "help" and that is the County, okay.

The visitor industry makes somewhere between three and four billion dollars a year. The County has half a million dollar, half a billion. The visitor industry makes six to eight times as much money as the County. And that, and then they turn around and they say to the County, "give me your lunch money". Okay. But it's never enough. No matter what we give, they always want more. You are taking from the poor and giving to the rich.

So how do we get the visitor industry to pay for its own advertising which is actually what we're talking about here. I'd like to explain that there is an easy concept, you do a private project improvement district or an impact fees--

CHAIR MATEO: One minute to conclude.

MR. JOINER: I see the one minute. And you get the, the County to collect small amounts from all of the visitor industry and then just give that to the Maui Visitors Bureau so that the visitor industry pays for itself. How much is enough? Please defeat this resolution, please stop taking from the poor and giving to the rich. Thank you.

CHAIR MATEO: Thank you very much. Members, is there a need to have any part of the testimony rephrased? Thank you, Mr. Joiner.

Mr. Clerk.

DEPUTY COUNTY CLERK: The next person to testify Jim Smith, speaking on County Communication No. 11-48, followed by Irene Bowie.

MR. JIM SMITH (testifying on County Communication No. 11-48):

Chairperson Mateo, Members of the Maui County Council. My name is Jim Smith. I'm a resident of Haiku and a constituent of Councilmember Mike White.

I'm here to ask you not to take up the issue of the resolution. Quite frankly, I appreciate the zeal of my representative, but I think there needs to be a little perspective as to the context that the decision to give money must be weighed for there to trust and faith in our process.

In this instance there doesn't appear to be a need. There is a budget, existing budget that's only been half way spent and yet there is a, a plea for more money and

there doesn't seem to be a connection to a need. So that would mean it's a flattery or that would mean it's something that is vain, but I don't accuse anyone of that.

But I'm saying in this chamber there has to be the connection to trust. The vote, the oath, separates you from the stock option, okay. That means trust is the engine, not results. And you're asked to take results.

And right now, it doesn't appear to be fair. You haven't taken this matter up in the context of other nonprofits coming to you and pleading for the dime. You haven't taken it up in that context. And to me, taking it up now at this meeting is quite unfair. It's very much like the Upcountry water meter list. If you have the money and you're a subdivider, you get to move ahead of the listees.

That nurtures dissent, it nurtures resentment, it nurtures all the things this body must oppose. This motion to bring to the floor this resolution nurtures dissent. To me it's an easy call, there is no need I think in the real terms for this to occur. For you to make this grand exception when there are others out there who would die to bring their troops and pray for \$250,000.

But no, there's been this effort which may reflect a distinction that has not been made by the freshman Member of this Council which is between a Senator and a Representative. A Representative can run and do whatever, but a Senator has to take the whole context into consideration before he acts, or she acts. And so I'd ask you take the whole context and defer, not act on this motion to move forward and act upon this resolution. Thank you very much.

CHAIR MATEO: Thank you. Members, is there a need to have any part of the testimony rephrased? Thank you, Mr. Smith.

Mr. Clerk.

DEPUTY COUNTY CLERK: Next person to testify Irene Bowie, testifying on County Communication No. 11-48, followed by Calvin Kuamo`o.

MS. IRENE BOWIE (testifying on County Communication No. 11-48):

Kung Hee Fat Choy, Chair Mateo and Councilmembers.

CHAIR MATEO: Thank you.

MS. BOWIE: Happy New Year in the "Year of the Rabbit". We are told that the "Year of the Rabbit" is to be a gentler year than the past year and I sincerely pray that that's the

case throughout the world with things that are going on and for us in Maui County that it really will be.

And I would say with that that I think that it's time that the environmental community and the visitor industry come together to work together. We, we really do have the same goals. We do want to preserve the beauty of this place and share it with visitors. So I, you know, I would love for this new year to be an effort for all of us to work together.

I think when you look at the marketing images that, that, that sell Hawaii, that the MVB and other agencies promote, those are healthy streams and waterfalls. They are clean and pristine reefs that are full of life. And so I think we really do have a common goal to, to work together. And, and I would like to ask that organizations such as MVB think to include an environmental voice on your board to, you know, that we can talk about these things before they really come to loggerheads.

I would also say that whatever happens with this resolution I would like the Council to seriously consider the three legged stool as you go into the next budget. And that is the economy, social concerns and the environment, they are all equally important and should be balanced.

I, I think that with a new Governor in office this is a new time and a new way of thinking at things. And as the Governor said, the money spent on marketing Hawaii to tourist has grown disproportionate to the amount we need to spend on Hawaii's own infrastructure, social as well as physical. I think that is the direction we should go in.

I'm up here all the time and what we always hear is there's not enough money for it, there's not enough money for it, we'd love to do it but there's not enough money for it. So I'd just ask you in this new year in the gentle "Year of the Rabbit" to consider a balance of our needs as you go forward. Thank you.

CHAIR MATEO: Thank you. Members, is there a need to have any part of the testimony rephrased?

Mr. Couch.

COUNCILMEMBER COUCH: Mr. Chair. Thank you, Ms. Bowie. I just want to make sure, are you in support or not in support of this.

MS. BOWIE: Maui Tomorrow has not taken a position on this.

COUNCILMEMBER COUCH: Okay, thank you.

MS. BOWIE: I, I really just wanted an opportunity to put this to you. And one thing that I did forget was this is a great document, "Indicators of Environmental Health 2010" from the Hawaii State Department of Health. In this it shows that 72 of, of, are, are, is the number of impaired coastal waters in Maui County is 72 out of a 122. So that's something we should all be looking at. Thank you.

CHAIR MATEO: Thank you very much, Ms. Bowie.

Mr. Clerk.

DEPUTY COUNTY CLERK: The next person to testify is Calvin Kuamo`o, he'll be testifying on County Communication No. 11-40, 48, excuse me, followed by Dana Naone Hall.

MR. CALVIN KUAMO`O (testifying on County Communication No. 11-48):

Hi, Councilmembers.

CHAIR MATEO: Good morning.

MR. KUAMO`O: Good to see you all. Yesterday was the same thing. I'm speaking for, against the money that goes to support the visitor bureau.

They still haven't put bathrooms or a wash place over at Kealia Pond area where they made a broadwalk [*sic*] and there's no bathrooms and there's no place to wash your hands, you know. I mean there's no rubbish pickup over there and you want the tourist to come here and embarrass us more?

No I don't want that money to go there. I want it to someplace else where it might help the people of, of our island. Thank you.

CHAIR MATEO: Thank you. Members, is there a need to have any part of the testimony rephrased? Thank you, Mr. Kuamo`o.

Mr. Clerk.

DEPUTY COUNTY CLERK: The last person that signed up to testify is Dana Naone Hall, testifying on County Communication 11-48.

MS. DANA NAONE HALL (testifying on County Communication No. 11-48):

Oh, we did this yesterday. Okay, gently. Good morning, Chair Mateo and Councilmembers.

At yesterday's Economic Development, Agriculture, and Recreation meeting, committee members and the public were treated to a mini sale, to many sales pitches by various testifiers from the hotel industry leading up to a forty-five minute presentation by the MVB in support of Councilmember White's resolution.

The Director of Sales and Marketing for the Grand Wailea Hotel was one of the industry representatives who urged passage of the resolution because tourism generates millions in Federal, State and County revenues. While we all agree that tourism is an important part of our economy, we do not all agree that everything else is secondary. Or that additional money from the budget should be placed in the hands of marketing gurus. Not without a lot more discussion and deliberation, and disclosure.

If the Mayor is in favor of additional funding from last year's budget, his Administration should identify the source of that funding so we all know ahead of time where this extra money or repurpose money is coming from.

Now, in any case, the formula of taxes generated by tourism equals funds for County services and infrastructure is not so simple. Let's take Grand Wailea as an example. Grand Wailea like a number of other hotels is appealing its property taxes. So during the period of the appeal, the County does not have the benefit of all the property tax assessed against the hotel.

A few days, and furthermore a few days ago a Chapter 11 Bankruptcy proceeding was filed which includes the Grand Wailea Resort. In pleadings filed in Bankruptcy Court, there is a consolidated list of the holders, of the debtors, thirty largest unsecured claims. Number 21 on that list is the County of Maui, Department of Water Supply, listing the South High Street address, attention Dave Taylor. The sum owed is \$448,357.40, nearly a half a million dollars in delinquent payments.

And who knows when the County is going to receive that money because in bankruptcy proceedings as you probably know, during the pendency of bankruptcy action, no money moves until that, that bankruptcy proceeding has been resolved.

So, anyway, that, that's my testimony today. In, in fact, we're actually already supporting the hotel industry in ways that, that are not truly disclosed to the public.

CHAIR MATEO: One minute to conclude.

MS. HALL: Okay, and, thank you, Mr. Chair.

CHAIR MATEO: Thank you. Members, is there a need to have any part of the testimony rephrased. Thank you, Ms. Hall.

Mr. Clerk.

DEPUTY COUNTY CLERK: Chairman, no other individuals have signed up for testifying.

CHAIR MATEO: Members, Ms. Hall was the last individual who had signed up to testimony prior to the start of the meeting. If there is anyone in the gallery at this time wanting to provide testimony to the Council and had not done so already, you are welcome to please advance to the podium at this time.

Members, seeing no one approach, with no objections, we will close public testimony for the day. Any objections?

MEMBERS VOICED NO OBJECTION.

CHAIR MATEO: Thank you, so ordered. Additionally, Members, we are in receipt of written testimony, those testimonies had been placed in a folder, placed on your desks. With no objections we will receive these testimonies into the record. Any objections?

MEMBERS VOICED NO OBJECTION.

CHAIR MATEO: Thank you, so ordered.

THERE BEING NO OBJECTION, WRITTEN TESTIMONY RECEIVED FROM THE FOLLOWING WERE MADE A PART OF THE RECORD OF THIS MEETING:

1. Thomas A. Craig;
2. Sharon Klaschka, Wailea Beach Marriott Resort & Spa; and
3. Terryl Vencl, Maui Visitors Bureau.

CHAIR MATEO: Mr. Clerk, let's proceed.

DEPUTY COUNTY CLERK: Chairman, proceeding with communications.

The following County Communications were presented.

COUNTY COMMUNICATIONS

NO. 11-46 - DANILO F. AGSALOG, DIRECTOR OF FINANCE,
(dated January 24, 2011)

Transmitting 115 contracts/grants for December 2010 for filing with the County Clerk.

CHAIR MATEO: Thank you. Mr. Pontanilla.

VICE-CHAIR PONTANILLA: Thank you, Chairman.

I MOVE TO FILE COUNTY COMMUNICATION NO. 11-46.

COUNCILMEMBER HOKAMA:

SECOND.

CHAIR MATEO: Members, motion on the floor made by Mr. Pontanilla and second by Mr. Hokama to file County Communication No. 11-46.

Mr. Pontanilla.

VICE-CHAIR PONTANILLA: Thank you, Chairman.

This communication from the Finance Director transmits a summary report listing 115 issued contracts and grants during the period of December 2010. The referenced transmittal items are for filing with the Office of the County Clerk and available for review. Any Member with concerns over any of the contracts or grants may refer the concerns to the Council Chair for consideration.

As Budget and Finance Committee Chairman, I wish to file this County Communication and the 115 referenced issued contracts and grants. Thank you.

CHAIR MATEO: Thank you, Mr. Pontanilla. Members, further discussion on the item?

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, I would like to have one contract referred to the Finance portion of our Budget and Finance Committee for additional review. I would

request that Contract C4718-1, which is regarding auction rate securities be, be referred to Budget and Finance for committee review.

CHAIR MATEO: Thank you very much. Members, the request from Mr. Hokama is Contract No. C4718-1, regarding auction rate securities be referred to the Budget and Finance Committee. Any objections, Members?

MEMBERS VOICED NO OBJECTION.

CHAIR MATEO: Thank you, so ordered. Further discussion, Members? Thank you. Members, all those in favor of the motion to file County Communication No. 11-46, signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL, COCHRAN,
COUCH, HOKAMA, WHITE, VICE-CHAIR
PONTANILLA, AND CHAIR MATEO.

CHAIR MATEO: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBER VICTORINO.

CHAIR MATEO: Motion is carried with eight "ayes", one "excused" Member Victorino.

Mr. Clerk, proceed.

NO. 11-47 - ALAN M. ARAKAWA, MAYOR,
(dated January 25, 2011)

In accordance with Section 2.41.040, Maui County Code, informing the Council of the following vacancies:

1. *Maui Redevelopment Agency* due to the resignation of Robert Horcajo received on January 5, 2011; and
2. *Salary Commission* due to the resignation of Jeremiah Savage received on January 18, 2011.

COUNCILMEMBER HOKAMA: Mr. Chairman.

CHAIR MATEO: Mr. Hokama.

COUNCILMEMBER HOKAMA:

I MAKE A MOTION TO FILE COUNTY COMMUNICATION
11-47.

COUNCILMEMBER COUCH:

I SECOND.

CHAIR MATEO: Motion on the floor made by Mr. Hokama and second by Mr. Couch, to file
County Communication No. 11-47.

Mr. Hokama.

COUNCILMEMBER HOKAMA: Mr. Chairman, Members, according to Maui County Code
requirements the Mayor is required to inform Council of vacancies on various boards
and commissions. And this transmittal is just informing Council of the services that
Mr. Robert Horcajo performed and donated to the Maui Redevelopment Agency as
well as the services of Mr. Jeremiah Savage on the Salary Commission.

We have their letters attached to the communication and there is no further Council
requirements on these items, Mr. Chair.

CHAIR MATEO: Thank you, Mr. Hokama. Members, further discussion? All those in favor
of the motion to file County Communication No. 11-47, signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL, COCHRAN,
COUCH, HOKAMA, WHITE, VICE-CHAIR
PONTANILLA, AND CHAIR MATEO.

CHAIR MATEO: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBER VICTORINO.

CHAIR MATEO: Motion is carried with eight, excuse me, motion is carried with eight "ayes",
and one Member "excused" Mr. Victorino.

Members, the Chair will take a very short recess at this time. Council will stand in
recess.

(THE MEETING WAS RECESSED BY THE CHAIR AT 9:41 A.M., AND WAS RECONVENED AT 9:42 A.M., WITH ALL MEMBERS PRESENT, EXCEPT FOR COUNCILMEMBER VICTORINO, EXCUSED.)

CHAIR MATEO: Council of the County of Maui, regular meeting for February 4, 2011 will reconvene.

Mr. Clerk.

NO. 11-48 - MICHAEL WHITE, CHAIR, ECONOMIC DEVELOPMENT, AGRICULTURE, AND RECREATION COMMITTEE,
(dated January 27, 2011)

Relating to County Communication No. 11-18, from Councilmember Mike White, transmitting a proposed resolution entitled "URGING THE MAYOR TO TRANSMIT A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2011 BUDGET TO AUTHORIZE SUPPLEMENTAL FUNDING FOR THE MAUI VISITORS BUREAU" and informing of his intention to offer the following motions:

1. A motion to DISCHARGE the Economic Development, Agriculture, and Recreation Committee from further consideration of County Communication No. 11-18;
2. A motion to WAIVE the requirement of committee referral and report as provided for in Rule 7(E) of the Rules of the Council;
3. A motion to ADOPT the proposed resolution;
4. A motion to FILE County Communication No. 11-18; and
5. A motion to FILE this communication.

CHAIR MATEO: Thank you.

Mr. White.

COUNCILMEMBER WHITE: Thank you, Mr. Chair. Councilmember White requests approval to abstain from the vote on these measures. And I do so after receiving informal advice from Corp. Counsel that while they do not feel that I have a conflict, in the abundance of caution, I should be refraining from the votes based on the County, the County Council rule that pertains to items resulting in possible challenges with the

Ethics Board, or Ethics Commission rulings. So, with your, with your approval, I would like to abstain from the vote.

But I would also like to point out that while I'm definitely a part of the County's largest economic engine, as your Vice-Chair *[sic]* of the Economic Development Committee I'm charged with coming up with ways in which we can get our economy going again. I believe I've done so in this case. I realize going into it that there would be challenges because I'm part of the industry.

But as with other types of issues that come before this Council, such as voting on property taxes, or homeowners exemptions, where all of us as homeowners could be seen as having a direct conflict. But because we need to vote on things of that nature, we're able to move ahead because what accrues to us does not, does not, well, what accrues to us is no different than what is accruing to the remainder of the public. And I believe that's the, the case in, in my position and, but at the same time I request permission to abstain from the vote.

Thank you, Mr. Chair.

CHAIR MATEO: Thank you, Mr. White.

Members, in accordance with Council Rules, Rule No. 8(C), Mr. White has requested to abstain from voting. That request is now in the hands of the body. Mr. White has indicated his reasons for the request. The Chair asks the body whether you approve his ability to abstain from voting in this particular upcoming matter.

Discussion? Ms. Baisa, go ahead.

COUNCILMEMBER BAISA: I was prepared to make a motion, Chair.

CHAIR MATEO: Go ahead.

COUNCILMEMBER BAISA:

I MOVE THAT WE APPROVE MEMBER WHITE BEING,
ABSTAINING FROM VOTING.

COUNCILMEMBER COCHRAN:

SECOND.

CHAIR MATEO: Members, we have a motion on the floor made by Ms. Baisa and second by Ms. Cochran that Mr. White abstain from voting.

Ms. Baisa.

COUNCILMEMBER BAISA: Thank you very much, Chair.

I am making the motion because I believe that the matter of the Ethics Board and them not having met is an important issue and until that is settled, I think this is appropriate. Thank you.

CHAIR MATEO: Thank you, Ms. Baisa. Members, further discussion on the matter?

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, while I am open to this motion that you have accepted on the floor at this time, I will state for the record that in my view that this does not in any way make an indication of whether or not we're making a prejudgment regarding Mr. White's situation that is, that is before the Board of Ethics.

CHAIR MATEO: Absolutely, Mr. Hokama.

COUNCILMEMBER HOKAMA: Thank you, Chairman.

CHAIR MATEO: Thank you very much. Members, further discussion? Seeing none, all those in favor of the motion, signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL, COCHRAN,
COUCH, HOKAMA, VICE-CHAIR PONTANILLA, AND
CHAIR MATEO.

CHAIR MATEO: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBER VICTORINO.

ABSTAINED: COUNCILMEMBER WHITE.

CHAIR MATEO: Motion is carried with seven "ayes", and one "excused" Mr. Victorino.

Mr. Clerk, let's proceed again. We are again at item, County Communication No. 11-48, excuse me.

Mr. Couch.

COUNCILMEMBER COUCH: Thank you, Mr. Chair.

I MOVE TO DISCHARGE THE ECONOMIC DEVELOPMENT, AGRICULTURE, AND RECREATION COMMITTEE FROM FURTHER CONSIDERATION OF COUNTY COMMUNICATION NO. 11-18, TRANSMITTING A PROPOSED RESOLUTION ENTITLED "URGING THE MAYOR TO TRANSMIT A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2011 BUDGET TO AUTHORIZE SUPPLEMENTAL FUNDING FOR THE MAUI VISITORS BUREAU".

COUNCILMEMBER HOKAMA:

SECOND.

CHAIR MATEO: It's been moved by Mr. Couch and second by Mr. Hokama to discharge the Economic Development, Agriculture, and Recreation Committee from further consideration of County Communication No. 11-18.

Mr. Couch, further discussion.

COUNCILMEMBER COUCH: No, thank you.

CHAIR MATEO: Thank you very much. Members, all those in favor of the motion--

COUNCILMEMBER COCHRAN: Chair--

CHAIR MATEO: Go ahead, excuse me.

COUNCILMEMBER COCHRAN: --can, um, sorry, I just, can I just get the exact definition of what it means to discharge.

CHAIR MATEO: Discharge means that the committee itself will no longer be responsible for this item, this item has been forwarded to this body for action.

COUNCILMEMBER COCHRAN: Thank you.

CHAIR MATEO: Thank you. Members, the Chair will call for the question again, all those in favor of the motion to discharge the Economic Development, Agriculture Committee from further consideration of County Communication No. 11-18, signify by saying "aye".

COUNCILMEMBER HOKAMA: Aye.

COUNCILMEMBER CARROLL: Aye.

VICE-CHAIR PONTANILLA: Aye.

CHAIR MATEO: Those opposed say "no".

COUNCILMEMBER BAISA: No.

COUNCILMEMBER COCHRAN: No.

CHAIR MATEO: Thank you very much.

Mr. Chair, roll call, excuse me, Mr. Clerk, roll call.

DEPUTY COUNTY CLERK: Councilmember Gladys Coelho Baisa.

COUNCILMEMBER BAISA: NO.

DEPUTY COUNTY CLERK: Councilmember Robert Carroll.

COUNCILMEMBER CARROLL: AYE.

DEPUTY COUNTY CLERK: Councilmember Elle Cochran.

COUNCILMEMBER COCHRAN: NO.

DEPUTY COUNTY CLERK: Councilmember Don Couch.

COUNCILMEMBER COUCH: AYE.

DEPUTY COUNTY CLERK: Councilmember Riki Hokama.

COUNCILMEMBER HOKAMA: AYE.

DEPUTY COUNTY CLERK: Councilmember Michael P. Victorino.

CHAIR MATEO: EXCUSED.

DEPUTY COUNTY CLERK: Councilmember Mike White.

CHAIR MATEO: ABSTAINED.

COUNCILMEMBER WHITE: ABSTAINED.

DEPUTY COUNTY CLERK: Vice-Chair Joseph Pontanilla.

VICE-CHAIR PONTANILLA: AYE.

DEPUTY COUNTY CLERK: Chair Danny A. Mateo.

CHAIR MATEO: AYE.

DEPUTY COUNTY CLERK: Chairman, there are five "ayes", two "noes", and two "excused".

AYES: COUNCILMEMBERS CARROLL, COUCH, HOKAMA,
VICE-CHAIR PONTANILLA, AND CHAIR MATEO.

NOES: COUNCILMEMBERS BAISA AND COCHRAN.

EXCUSED: COUNCILMEMBER VICTORINO.

ABSTAINED: COUNCILMEMBER WHITE.

CHAIR MATEO: Thank you, Members, motion is carried, we're going to go ahead and proceed. Mr. Couch, go ahead.

COUNCILMEMBER COUCH: Thank you.

I, MR. CHAIR, I MOVE TO WAIVE THE REQUIREMENT OF
COMMITTEE REFERRAL AND REPORT AS PROVIDED FOR
IN RULE 7(E) OF THE RULES OF THE COUNCIL.

COUNCILMEMBER HOKAMA:

SECOND.

CHAIR MATEO: It's been moved by Mr. Couch, second by Mr. Hokama to waive the requirements of committee referral and report as provided in Rule 7(E) of the Rules of the Council.

Mr. Couch.

COUNCILMEMBER COUCH: Thank you. Mr. Chair, approval of this motion by a two-thirds vote of the entire membership of the Council will enable us to consider the proposed resolution on the floor.

CHAIR MATEO: Thank you very much. Members, further discussion? All those in favor of the motion to waive the requirements of committee referral and report signify by saying "aye".

COUNCILMEMBER HOKAMA: Aye.

COUNCILMEMBER CARROLL: Aye.

VICE-CHAIR PONTANILLA: Aye.

CHAIR MATEO: Those opposed say "no".

COUNCILMEMBER BAISA: No.

COUNCILMEMBER COCHRAN: No.

CHAIR MATEO: Mr., Mr. Clerk, roll call, please.

DEPUTY COUNTY CLERK: Councilmember Gladys Coelho Baisa.

COUNCILMEMBER BAISA: NO.

DEPUTY COUNTY CLERK: Councilmember Robert Carroll.

COUNCILMEMBER CARROLL: AYE.

DEPUTY COUNTY CLERK: Councilmember Elle Cochran.

COUNCILMEMBER COCHRAN: NO.

DEPUTY COUNTY CLERK: Councilmember Don Couch.

COUNCILMEMBER COUCH: AYE.

DEPUTY COUNTY CLERK: Councilmember Riki Hokama.
COUNCILMEMBER HOKAMA: AYE.
DEPUTY COUNTY CLERK: Councilmember Michael P. Victorino.
CHAIR MATEO: EXCUSED.
DEPUTY COUNTY CLERK: Councilmember Mike White.
COUNCILMEMBER WHITE: ABSTAINED.
DEPUTY COUNTY CLERK: Vice-Chair Joseph Pontanilla.
VICE-CHAIR PONTANILLA: AYE.
DEPUTY COUNTY CLERK: Chair Danny A. Mateo.
CHAIR MATEO: AYE.

DEPUTY COUNTY CLERK: Chairman, there are five "ayes", two "noes", one "excused", and one "abstained".

AYES: COUNCILMEMBERS CARROLL, COUCH, HOKAMA,
VICE-CHAIR PONTANILLA, AND CHAIR MATEO.

NOES: COUNCILMEMBERS BAISA AND COCHRAN.

EXCUSED: COUNCILMEMBER VICTORINO.

ABSTAINED: COUNCILMEMBER WHITE.

CHAIR MATEO: Thank you, we'll, we'll go ahead and proceed. Mr. Couch.

COUNCILMEMBER COUCH: Thank you, Mr. Chair.

MR. CHAIR, I MOVE THAT WE, WE THE COUNTY COUNCIL
PASS A RESOLUTION "URGING THE MAYOR TO TRANSMIT
A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR
2011 BUDGET TO AUTHORIZE SUPPLEMENTAL FUNDING
FOR THE MAUI COUNTY VISITORS BUREAU".

COUNCILMEMBER HOKAMA:

SECOND.

CHAIR MATEO: Thank you very much. Members--

COUNCILMEMBER HOKAMA: Recess.

CHAIR MATEO: --we're going to, we're going to take a short recess at this time.

(THE MEETING WAS RECESSED BY THE CHAIR AT 9:52 A.M., AND WAS RECONVENED AT 9:54 A.M., WITH ALL MEMBERS PRESENT, EXCEPT FOR COUNCILMEMBER VICTORINO, EXCUSED.)

CHAIR MATEO: Council of the County of Maui, regular meeting of February 4, 2011 will reconvene.

Members, the, the Chair in the request for waiver, the vote was five "ayes", two "noes" the motion that we proceeded with required six "ayes". We did not acquire six "ayes", the motion failed. This time the Chair recognizes Mr. Couch.

COUNCILMEMBER COUCH:

MR. CHAIR, I REQUEST THAT THIS MATTER BE POSTPONED TO A DATE CERTAIN.

COUNCILMEMBER HOKAMA: Is that a motion, Chair?

CHAIR MATEO: That's the motion.

COUNCILMEMBER HOKAMA:

SECOND.

CHAIR MATEO: Thank you. Members, Mr. Couch has requested that we postpone this item to date certain, that date certain is the next Council meeting scheduled for February 18, 2011, 9:00 a.m. here in these chambers, that is the date certain. Are there any objections?

MEMBERS VOICED NO OBJECTION.

CHAIR MATEO: Thank you very much. So ordered.

Mr. Clerk, let's proceed.

DEPUTY COUNTY CLERK: Chairman, the following county communications are recommended for referral to the following committees as noted.

NO. 11-49 - SANANDA K. BAZ, BUDGET DIRECTOR,
(dated January 25, 2011)

Transmitting a proposed bill entitled "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, DEPARTMENT OF HOUSING AND HUMAN CONCERNS".

The Deputy County Clerk stated that the recommended action is that County Communication No. 11-49 be referred to the Budget and Finance Committee.

NO. 11-50 - SANANDA K. BAZ, BUDGET DIRECTOR,
(dated January 25, 2011)

Transmitting a proposed bill entitled A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2011 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO ESTIMATED REVENUES; DEPARTMENT OF MANAGEMENT; TOTAL OPERATING APPROPRIATIONS; AND TOTAL APPROPRIATIONS (OPERATING AND CAPITAL IMPROVEMENT PROJECTS)" along with the "CERTIFICATION OF ADDITIONAL REVENUES FOR FISCAL YEAR 2011".

The Deputy County Clerk stated that the recommended action is that County Communication No. 11-50 be referred to the Budget and Finance Committee.

NO. 11-51 - GLENN T. CORREA, DIRECTOR OF PARKS AND RECREATION,
(dated January 26, 2011)

Transmitting a proposed resolution entitled "AUTHORIZING A GRANT OF A LEASE OF RECREATIONAL SPACE COUNTY REAL PROPERTY TO BOYS & GIRLS CLUBS OF MAUI, INC. FOR THE WEST MAUI BOYS AND GIRLS CLUB OF MAUI".

The Deputy County Clerk stated that the recommended action is that County Communication No. 11-51 be referred to the Economic Development, Agriculture, and Recreation Committee.

NO. 11-52 - KYLE K. GINOZA, DIRECTOR OF ENVIRONMENTAL MANAGEMENT, (dated January 14, 2011)

Transmitting a copy of the "COUNTY OF MAUI, DEPARTMENT OF ENVIRONMENTAL MANAGEMENT, WASTEWATER RECLAMATION DIVISION, USEPA/DOH CONSENT DECREE, QUARTERLY PROGRESS REPORT #46, OCTOBER 2010 THROUGH DECEMBER 2010".

The Deputy County Clerk stated that the recommended action is that County Communication No. 11-52 be referred to the Infrastructure Management Committee.

NO. 11-53 - DAVID C. GOODE, DIRECTOR OF PUBLIC WORKS,
(dated January 26, 2011)

Relating to the Downhill Bicycle Tours Study.

The Deputy County Clerk stated that the recommended action is that County Communication No. 11-53 be referred to the Infrastructure Management Committee.

NO. 11-54 - ELLE K. COCHRAN, COUNCILMEMBER,
(dated January 26, 2011)

Relating to infrastructure improvements needed to initiate phasing out the use of injection wells.

The Deputy County Clerk stated that the recommended action is that County Communication No. 11-54 be referred to the Infrastructure Management Committee.

NO. 11-55 - DANNY A. MATEO, COUNCIL CHAIR,
(dated January 27, 2011)

Transmitting a letter from Commissioner Christopher Lau, notifying of the intent to transfer property in Makena pursuant to Condition No. 21 of Ordinance No. 3613.

The Deputy County Clerk stated that the recommended action is that County Communication No. 11-55 be referred to the Planning Committee.

NO. 11-56 - DANILO F. AGSALOG, DIRECTOR OF FINANCE,
(dated January 18, 2011)

In accordance with Section 3.16.020c, Maui County Code, transmitting two reports on settlement of claims as of December 31, 2010.

The Deputy County Clerk stated that the recommended action is that County Communication No. 11-56 be referred to the Policy Committee.

(COUNTY COMMUNICATION NO. 11-56 WAS FILED LATER
IN THIS MEETING. See page nos. 26 and 27 for discussion.)

NO. 11-57 - COST OF GOVERNMENT COMMISSION,
(dated January 27, 2011)

Transmitting the "COST OF GOVERNMENT COMMISSION, COUNTY OF MAUI,
REPORT OF FINDINGS AND RECOMMENDATIONS FOR COMMISSION TERM
2010 - 2011".

The Deputy County Clerk stated that the recommended action is that County Communication No. 11-57 be referred to the Policy Committee.

(COUNTY COMMUNICATION NO. 11-57 WAS LATER
REFERRED TO THE BUDGET AND FINANCE COMMITTEE.
See page no. 27 for discussion.)

NO. 11-58 - MICHAEL P. VICTORINO, COUNCILMEMBER,
(dated January 27, 2011)

Transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING
SECTION 14.12.030, MAUI COUNTY CODE, RELATING TO EXEMPTIONS FROM
THE COUNTY'S WATER AVAILABILITY POLICY".

The Deputy County Clerk stated that the recommended action is that County Communication No. 11-58 be referred to the Water Resources Committee.

CHAIR MATEO: Thank you.

Members, is there a request for consideration at this time? Members, yeah,
Mr. Hokama, go ahead.

DISCUSSION AND ACTION RELATING TO
COUNTY COMMUNICATION NO. 11-56

COUNCILMEMBER HOKAMA:

CHAIRMAN, I MOVE THAT COUNTY COMMUNICATION
11-56 BE FILED.

COUNCILMEMBER CARROLL:

SECOND.

CHAIR MATEO: Members, we have a motion on the floor made by Mr. Hokama and
second by Mr. Carroll to file County Communication No. 11-56.

Mr. Hokama.

COUNCILMEMBER HOKAMA: Mr. Chairman, this is a report from Director of Finance
regarding the status of settlements with the County of Maui. For the Members
information, that on the back of the transmittal page is a listing of the cases and of
settlements and judgments. If there is a request for a specific claim or judgment to
be referred to committee, I'll be very open to that consideration. Other than that I
would ask that this matter be filed.

CHAIR MATEO: Thank you, Mr. Hokama. Members, further discussion? All those in favor
of the motion to file County Communication No. 11-56, signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL, COCHRAN,
COUCH, HOKAMA, WHITE, VICE-CHAIR
PONTANILLA, AND CHAIR MATEO.

CHAIR MATEO: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBER VICTORINO.

CHAIR MATEO: Motion is carried with eight "ayes", one "excused" Member Victorino.

DISCUSSION AND ACTION RELATING TO
COUNTY COMMUNICATION NO. 11-57

CHAIR MATEO: Members, there is another item that I would like you to take a look at, that is Policy No. 11-57, item, County Communication No. 11-57. This, the Clerk recognized as being referred to the Policy Committee. The Chair would like to make note that currently in the Budget and Finance Committee, an item currently exists. This particular item that is, refers to the Cost of Government has historically been forwarded to the Budget and Finance Committee. If there are not objections, at this time Members, the Chair would like to have this particular item referred to the Budget and Finance Committee instead.

MEMBERS VOICED NO OBJECTION.

CHAIR MATEO: Thank you very much. So ordered.

Mr. Clerk, let's proceed.

DEPUTY COUNTY CLERK: Mr. Chairman, nothing further is schedule to come before the Council.

CHAIR MATEO: Members, we've concluded our business for the day.

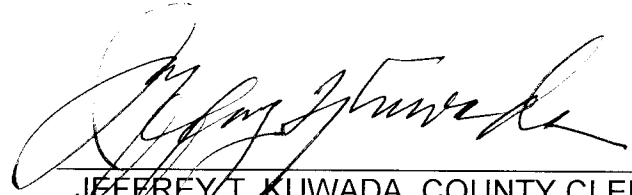
The Chair would like to recognize those individuals that provide support to the Council: Mr. David Goode, our Director of Public Works; Mr. Pat Wong, the Acting Corporation Counsel; Mr. Lance Taguchi, our Deputy County Clerk; Mr. Ken Fukuoka, Director of Council Services; and our support staff, both Joyce Murashige and Theresa Valdez.

And of course we extend our wishes for a very Happy New Year to our Chinese community. May the "Year of the Rabbit" keep you safe, in good health and provide you with good fortune. Kung Hee Fat Choy to all of our residents of Maui.

Members, I thank you for your participation and your work today. The Council of the County of Maui, regular meeting for February 4, 2011 is adjourned.

ADJOURNMENT

The regular meeting of February 4, 2011, was adjourned by the Chair at 10:02 a.m.

A handwritten signature in black ink, appearing to read "Jeffrey T. Kuwada", written in a cursive style.

JEFFREY T. KUWADA, COUNTY CLERK
COUNTY OF MAUI, STATE OF HAWAII