

POLICY COMMITTEE
Council of the County of Maui

MINUTES

November 20, 2012

Council Chamber, 8th Floor

CONVENE: 9:11 a.m.

PRESENT: VOTING MEMBERS:

Councilmember G. Riki Hokama, Chair
Councilmember Gladys C. Baisa, Member
Councilmember Donald G. Couch, Jr., Member
Councilmember Danny A. Mateo, Member
Councilmember Mike White, Member

EXCUSED: Councilmember Robert Carroll, Vice-Chair
Councilmember Elle Cochran, Member
Councilmember Joseph Pontanilla, Member
Councilmember Michael P. Victorino, Member

STAFF: Carla Nakata, Legislative Attorney
Regina Gormley, Legislative Attorney
Tammy M. Frias, Committee Secretary

ADMIN.: Lt. Leighton K. Kanaele, Support Services Bureau Division, Plans & Training Section,
Department of Police (Item POL-48)
Patrick T. Matsui, Deputy Director, Department of Parks and Recreation (Item POL-48)
David C. Goode, Director, Department of Public Works (Items POL-61, POL-54)
Michael M. Miyamoto, Deputy Director, Department of Environmental Management
(Item POL-60)
Guy M. Hironaka, Real Property Manager, Department of Finance (Item POL-60)
Scott K. Hanano, Deputy Corporation Counsel, Department of the Corporation Counsel
(Item POL-48)
Michael J. Hopper, Deputy Corporation Counsel, Department of the Corporation Counsel
(Items POL-61, POL-54)
Richelle M. Thomson, Deputy Corporation Counsel, Department of the Corporation
Counsel (Item POL-60)
Edward S. Kushi Jr., First Deputy Corporation Counsel, Department of the Corporation
Counsel

OTHERS: Lt. Col. David Kashiwamura, Hawaii Air National Guard (Item POL-48)
Charlene Shibuya, Maui District Office, State Department of Transportation (Item POL-61)

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Grant Chun, Vice President, A&B Properties, Inc. (Items POL-54, POL-60)
Randy Endo, A&B Properties, Inc. (Items POL-60)
Mercer “Chubby” Vicens

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

CHAIR HOKAMA: . . .(*gavel*). . . Good morning. This is the Council’s Policy Committee. This is the Committee’s meeting of November 20, 2012. This morning the Committee has in attendance Members Baisa, Couch, Mateo and White. At this time, the Chair will excuse Mr. Carroll, Ms. Cochran, Mr. Victorino and Mr. Pontanilla. At this time, the Committee will hear any public testimony for those that have requested to have time before the Committee prior to our review and deliberations. So the Chair will announce if anyone would like to give public testimony on any of the items agendized for today’s meeting, please come forward and we shall provide an opportunity. With no one coming forward, Members, with no objection, the Chair will close public testimony for today’s meeting.

COUNCIL MEMBERS: No objections.

ITEM POL-3(5): HAWAII STATE ASSOCIATION OF COUNTIES (“HSAC”) (2013 HSAC LEGISLATIVE PACKAGE) (CC 11-32)

CHAIR HOKAMA: Thank you, Members. So ordered. Let me please direct you to Policy item 3(5), which is under the heading of the Hawaii State Association of Counties 2013 HSAC Legislative Package. You have in your binders, Members, a proposal from a correspondence dated November 13 from Mr. Pontanilla transmitting a revised proposed State bill from Hawaii County entitled A Bill for an Act Relating to Gallonage Tax on Liquor. And this proposed bill from the Big Island is requesting the Legislature to consider a per gallon tax increase of 30 percent, and to transfer that additional revenue to the respective counties, and partially reimburse counties for the cost of handling crashes involving drivers under the influence of an intoxicant. But I would also remind you, Members, that we do also have had a proposal from Ms. Baisa regarding her thoughts on how to address surpluses from liquor licensing fees. I would ask if, Mr. Kushi, is there any comments you wish to share to the Committee regarding any Corporation Counsel concerns regarding the proposal?

MR. KUSHI: No, Mr. Chair. As I reviewed the communication, it’s part of the HSAC package. My only concern is that your listed agenda item doesn’t indicate what kind of action you would take. My understanding is, from previous agenda items, a resolution was attached. But for this one, I’m not sure. I don’t think it is. So, but again, it’s a State legislative bill. It’s up to our Legislators in their wisdom to increase the tax on liquor.

CHAIR HOKAMA: Okay. Thank you, Councilor. Let’s see. Okay. And part of the reason we continued to review this, Members, this morning is that there was some concern about actually it was the Big Island’s proposal, 30 cents, or 30 percent per gallon. The Big Island has informed us

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it's 30 percent, not 30 cents per additional gas. Any additional comments, Members? Ms. Baisa, any additional comments you wish to share?

COUNCILMEMBER BAISA: I don't know where to start. Chair, I normally like to be a team player. But I have a problem with this. You know, gas is one of those essentials that we have to have. Whether we can pay, cannot pay, or whether it's five dollars a gallon or fifty dollars a gallon, we gotta go. We're gonna pay. And people have been suffering for the longest time with high gas prices. And you all know you come from the island where it's the worst. And it has been very tough here. And we finally see it going down. And I just am not comfortable with supporting any kind of increase that's gonna cost more, gas is gonna cost more. I didn't have any problem in trying to take from the alcohol money. That's a luxury. It isn't something, you don't put alcohol in your car. You put gas in your car so you can go to work and, you know, live and whatever. I haven't, you know, had time to study this to see how much revenue is gonna be generated, what benefit it is. And my first reaction is I'm not comfortable to support this. Thank you.

CHAIR HOKAMA: Okay. Thank you. Any other comments? Mr. Couch, any comments?

COUNCILMEMBER COUCH: No, thank you.

CHAIR HOKAMA: Okay. Mr. Mateo?

COUNCILMEMBER MATEO: No.

CHAIR HOKAMA: Mr. White?

COUNCILMEMBER WHITE: No.

CHAIR HOKAMA: Again, part of the review again, Members, was to present you the verification of the intent of the Big Island County, and what they're proposing. It is your Chair's recommendation at this time that this item be deferred and that we can take up a future item. Yes, Ms. Baisa?

COUNCILMEMBER BAISA: Chair, let me correct myself. I'm looking at gallonage tax on liquor. And the same thing applies. You know, I think that what I'm trying to do is we're gonna take our share of fines and we're gonna take it from the taxes. And my concern, and why I like my idea better, is because we are gonna get that money. And for my, what I've watched now in six years that I've been here is that I've asked them over and over every time they came, can you do something else with the money? And they say, well the law only says we can take care of educating the people who have liquor licenses. What I'm trying to do is to point that to other people, like prevention of youth and prevention or treatment. You know, places like Aloha House have to operate and they come to us for money because, from the general fund because they don't have funding. So if we can get some of this money and use it that way, then I'm more comfortable with that. And 30 percent, what is 30 percent? How much money are we talking

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about? I don't know. Do we have any kind of study on this, how much money we're talking about?

CHAIR HOKAMA: No. They just proposed, as you can see the underscoring in the Ramseyered format, you can see, for example, a gallon of wine would go from 5.98 per gallon currently to 7.77 come July 1, 2014. So that's just the tax.

COUNCILMEMBER BAISA: You know, Chair, I've watched this over the years. You know, we have sin taxes, right? And we like to tax alcohol and cigarettes, and sometimes we sell this as a way to prevent people from using those things. But I'm really sorry, but my experience with people who smoke and drink is they're gonna smoke and drink and they're gonna find a way. They may give up food, they may give other things, but they're gonna pay for it. And, you know, to get money is to get money, but I just don't know if this is the place. I really don't know if this is the place. I wish we had more research so we had better numbers to look at. Also, it's might be, it's gonna be a competing proposal.

CHAIR HOKAMA: You're correct.

COUNCILMEMBER BAISA: Absolutely. And you know the Legislators are gonna make choices. And of course I'm gonna fight for my proposal. I've thought about it for a really long time and I tried proposing it for many years, in fact, through the Democratic Party even because I feel so strongly about it. I wanna see the money earmarked for prevention and treatment.

CHAIR HOKAMA: Okay. Thank you.

COUNCILMEMBER BAISA: Thank you.

CHAIR HOKAMA: And I can share that, I believe, the County Council of Kauai through their committee review, shared some remarks regarding your proposal, Ms. Baisa. And at this time, they mentioned that there might be some concerns from the State's perspective reading your proposal, but then end, the end, they unanimously supported your proposal and that will be brought before the HSAC executive members for additional consideration of how we might wanna support that as a group. But it is gonna be part of our County's proposal, Ms. Baisa.

COUNCILMEMBER BAISA: Thank you very much. I think it's worth a try at that level. Also, hopefully we'll have better ability to follow it and speak up for it. You know, while we talked about it, I don't know what kind of tracking or if we did anything to follow it.

CHAIR HOKAMA: I'm sure, I think, Mr. Mateo's staff that was assigned did a good job tracking it. But I will limit the discussion on your proposal since that's not really on the agenda.

COUNCILMEMBER BAISA: Okay. Well, I guess you know where I am.

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CHAIR HOKAMA: But we've pretty much, you know, made an earlier determination to be supportive of your proposal, Ms. Baisa.

COUNCILMEMBER BAISA: Thank you very much. But, you know, if this is like I said it's a competing proposal, I'm not going to support it.

CHAIR HOKAMA: Is there any further discussion by the Members? If not, with no objection, the Chair will defer this item.

COUNCIL MEMBERS: No objections.

COUNCIL MEMBERS VOICED NO OBJECTIONS (excused: RC, EC, JP, MPV).

CHAIR HOKAMA: Thank you, Members. This item is deferred.

ACTION: DEFER pending further discussion.

ITEM POL-48: INTERGOVERNMENTAL AGREEMENT WITH HAWAII AIR NATIONAL GUARD REGARDING USE OF UKUMEHAME FIRING RANGE (LAHAINA) (CC 12-81)

CHAIR HOKAMA: Okay. We getting to the fun stuff soon. Let's get to Policy Item 48 please. This is a proposed Intergovernmental Agreement with the Hawaii Air National Guard Regarding the Use of Ukumehame Firing Range in the West Maui District. So I'll ask if the appropriate representatives will come forward. We have Deputy Parks Director, Mr. Matsui, Lieutenant Kanahale [*sic*], representing the Department of Police. We also have Lieutenant Colonel David Kashiwamura of the Hawaii Air National Guard joining us and Deputy Corporation Scott Hanano. Okay. Members, what you currently have before you as of November 7th is a revised bill for a proposed bill. Department of Corporation Counsel, so I will ask at this time if the Department of Corporation Counsel can give its comments on the revised bill please. Mr. Hanano. Any comments on the proposed revisions?

MR. HANANO: No comments. Just added ...(*inaudible*)...

CHAIR HOKAMA: Can you speak in the mike please?

MR. HANANO: The revision from the original was we added some more exhibits to clarify the exact location. And then we also added a term limit on the effective term of the memo of, MOU per your recommendations. Other than that, everything remains the same.

CHAIR HOKAMA: Okay. Any questions for Corporation Counsel, Members? If not, we'll next move on and ask the Lieutenant from the Department. Lieutenant Kanahale [*sic*], if you have any comments from the Department of Police to share with the Committee please?

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MR. KANAELE: Actually, no comments. But we can answer any questions you might have.

CHAIR HOKAMA: Okay. Mr., Lieutenant Colonel Kashiwamura, is there any requirements, any comments you wish to share?

MR. KASHIWAMURA: No comments for the Hawaii Air National Guard, but I'll be willing to answer any questions that the Council members may have.

CHAIR HOKAMA: Okay. Thank you. Mr. Matsui, from the Parks Department, any comments from the Parks' perspective?

MR. MATSUI: We have no comments. This range, and this particular range is under the control of the Police Department. So, you know, it's their call.

CHAIR HOKAMA: Okay. So you telling us no liability for Parks then, everything's to Police. Members, questions? I can tell you the Corporation Head Counsel Wong and I went onsite. We reviewed the property. There's things that can be improved on how we operate, and we expect those improvements to limit and minimize or eliminate potential issues of liability and safety concerns at the site. It is an area where there is multiple users of various ranges. There's not just a range. There are multiple ranges. And as your Chair, it is interesting how this type of documents come later than sooner. So from the Committee's standpoint, I would say that we would request that those parties involved in this document please, in the future, if there's any need of revision, renewal, termination, that they be done within a timely and appropriate processing method. We do not like to deal with things after the fact. Members, any comments regarding this revised bill from the Department? Okay. If not, the Chair would then recommend passage on first reading of the revised proposed bill entitled A Bill for an Ordinance Authorizing the Mayor of the County of Maui to Enter into an Intergovernmental Agreement with the Hawaii Air National Guard, 292nd Combat Communications Squadron, Regarding the Use of the Department of Police's Firing Range Located at the Ukumehame Firing Range, Lahaina, Maui, for Annual Military Small Arms Training and Certification; and to file County Communication 12-81.

COUNCILMEMBER BAISA: So moved.

CHAIR HOKAMA: Thank you, Ms. Baisa.

COUNCILMEMBER WHITE: Second.

CHAIR HOKAMA: Thank you. I have a motion made by Ms. Baisa and seconded by Mr. White. Members, any discussion of the motion before us? Having none, all in favor of the motion, please say aye.

COUNCIL MEMBERS: Aye.

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CHAIR HOKAMA: Opposed say no. Motion passes with five ayes and four excused. Gentlemen, thank you for your presence today. We appreciate it.

VOTE: AYES: Chair Hokama, and Councilmembers Baisa, Couch, Mateo, and White.

NOES: None.

EXC.: Vice-Chair Carroll, and Councilmembers Cochran, Pontanilla, and Victorino.

ABSENT: None.

ABSTAIN: None.

MOTION CARRIED

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

ITEM POL-61: INTERGOVERNMENTAL AGREEMENT WITH STATE DEPARTMENT OF TRANSPORTATION FOR CONSTRUCTION OF KEAWE STREET EXTENSION PROJECT AND INTERSECTION IMPROVEMENTS (LAHAINA) (CC 12-226)

CHAIR HOKAMA: Members, may we please move on to Policy Item 61. This also is an intergovernmental agreement request with the State Department of Transportation for Construction of Keawe Street Extension Project and Intersection Improvements in Lahaina regarding, through County Communication 12-226. And this morning we have Mr. Hopper from Corporation Counsel, Mr. Goode, our Director of Public Works, and Ms. Shibuya from the Maui District Office, State Department of Transportation. Let's see, Members. We will note that we have received a revised proposed bill by correspondence November 16, from the Director of Public Works. And I would ask the Committee that we focus our attention and review in deliberations on this proposal. So at this time, Director Goode, any comments for the Committee please?

MR. GOODE: Thank you, Chair. Morning, Members. This intergovernmental agreement before you is, for some of you that were up there recently, the blessing of the bridge over Kahoma Stream, an almost completed project. Briefly, the Lahaina bypass is, of course, a State Department of Transportation project, and Ms. Shibuya's here to fill you in on that if you have questions. But the Keawe Street extension was initially a County project. In order to get this first phase of the Bypass completed, we needed to have two places in which to meet the Bypass, one being

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Lahainaluna Road and the second being Keawe Street. And so the County initiated work to extend Keawe Street up to the bypass. And as time went on, it became clear the Bypass became more complicated. There was archaeological finds found, and they had to realign the Bypass. And it made more sense for the State to incorporate Keawe Street really into their project and make it one project on the design build concept. And we're appreciative of that. We realize that we were gonna spend certain funds in doing Keawe Street. And what is before you today is to simply transfer the funds that we would've spent to the State really makes our portion of the road or the work. It's also important to note that the million five that's being transferred the County was also gifted to the County in a separate transaction as part of one of the North Beach development projects. It had a condition that required a payment to the County of 1.5 million specifically for this Keawe Street extension. So in that effect, at least to the County, at least on a budget standpoint, is been, is zero. We had monies from the private sector, it came to us, it's been accepted in a previous budget. It's sitting there. We're now transferring it to the State. We, of course, have spent time internally working with the State Department of Transportation and making sure it's, meet our end of the obligations and whatever engineering work that has to happen. And we're pleased to hear that the road's opening soon. So with that, I'll conclude my remarks.

CHAIR HOKAMA: Okay. Members, the Chair's gonna ask Ms. Shibuya for comments before I entertain any questions from you folks. So Ms. Shibuya, is there any comments you can share with the Committee at this time, please?

MS. SHIBUYA: Thank you, Chair and Committee. Basically, Dave Goode sort of gave you an overview. But I guess this is an example of a good partnership, you know, where the State was able to actually take the project that was already programmed as a Federal aid, which was 20 percent local and 80 percent matching. And from what Dave explained, your 20 percent essentially came from a developer. And I guess the advantage of having the State do the construction administration, we essentially saved the County some money on the construction contract administration since we had our crew out there. And, you know, essentially the finished cost of the project was approximately 6.7, so if you look at the 20 percent, it was about 1.3, and leaving only like about a 200,000 for construction contract administration which is not enough really to cover, you know, a project like that for a year, so. And also the State paid for the design, the redesign that needed to be done. So, so we feel, you know, this intergovernmental agreement and the 1.5 transfer is a great deal for the County, but as well as being part of this, I would say like a historic milestone in completing the first phase of this Lahaina Bypass project, which many can talk about, you know, being heard of back in the '70s and the Environmental Impact Statement being done in the '80s, well, starting in the '80s and '90s. And here we are in 2012. We're finally gonna see, at the end of the year, the opening of the first phase.

CHAIR HOKAMA: Thank you, Ms. Shibuya. Mr. Hopper, any additional comments you wish to share from Corporation Counsel regarding the proposed revised bill?

MR. HOPPER: Thank you, Mr. Chair. Just as Director Goode stated, the \$1.5 million was a required contribution pursuant to an SMA approval condition. And it was specifically required for the

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construction of the Keawe Street extension project. Just noting that, in our research, that's what we found. So that would be the source of the money, would be an SMA condition. And the money has been provided to the County pursuant to that condition.

CHAIR HOKAMA: Okay. Thank you very much. Members, I'll ask for your questions and comments. Mr. White, more than likely you were representing West Maui District when this was being conceived.

COUNCILMEMBER WHITE: The Lahaina Bypass has been a reality that turned into a dream, and it's nice to see it's turning back into a reality now. I first heard of it when I moved to Maui 26 years ago from the Big Island, so I wanna thank Ms. Shibuya and Director Goode for getting this piece of it together. And we're very much looking forward to seeing the entire bypass completed. And it's just, you know, one of those reminders that these things move very, very slowly. And so to see them keep moving is certainly encouraging. So I wanna thank everybody for their cooperation.

CHAIR HOKAMA: Thank you, Mr. White. Mr. Mateo?

COUNCILMEMBER MATEO: No questions.

CHAIR HOKAMA: Thank you. Mr. Couch?

COUNCILMEMBER COUCH: No questions.

CHAIR HOKAMA: Ms. Baisa?

COUNCILMEMBER BAISA: Sounds good. No thanks.

CHAIR HOKAMA: Very good. Is there any additional concern or comments that the Committee needs to be aware of before we move into deliberations, Director, Mr. Goode?

MR. GOODE: One thing I neglected was that there were some changes made to the bill within the last week, and we got the State, not we, Charlene got the State Department, the AG, Deputy AG and the Director's office to sign off on the agreement in, like, 48 hours. So really, really thank...it's a record, she said. Well, you wanna thank those folks. And so, obviously, everyone's keen to wrap up the project.

CHAIR HOKAMA: Well, thank you for that good work, Ms. Shibuya. So, from the County standpoint, if we can do it once, we can do it again. So we look forward to additional partnerships and a quick, quick movement of the review and approval process. So this Committee will do its part also. Members, any concerns regarding the proposed revisions to the ordinance? If not, your Chair is then recommending for the Committee to recommend passage on first reading to the Council of the revised proposed bill entitled--boy, this is one long title--A Bill for an Ordinance Authorizing the Mayor of the County of Maui to Enter Into an Intergovernmental Agreement

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with the State of Hawaii for Construction of the Keawe Street Extension Project and Intersection Improvements Located at Lahaina, Maui, Hawaii; and to file County Communication 12-226.

COUNCILMEMBER BAISA: So moved.

COUNCILMEMBER WHITE: Second.

CHAIR HOKAMA: I have a motion made by Ms. Baisa, seconded by Mr. White. Members, any additional discussion on the motion before us? Having none, all in favor of the motion, please say aye.

COUNCIL MEMBERS: Aye.

CHAIR HOKAMA: Opposed, say no. Motion passes with five ayes and four excused. Ms. Shibuya, thank you very much for joining us. I believe Mr. Goode will continue to remain for the additional matters on the agenda. So thank you for your presence.

VOTE: AYES: Chair Hokama, and Councilmembers Baisa, Couch, Mateo, and White.

NOES: None.

EXC.: Vice-Chair Carroll, and Councilmembers Cochran, Pontanilla, and Victorino.

ABSENT: None.

ABSTAIN: None.

MOTION CARRIED

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

ITEM POL-54: HANSEN ROAD REALIGNMENT (PUUNENE) (CC 12-123)

CHAIR HOKAMA: Okay. Next we have Item 54, Members. And this is regarding the Hansen Road realignment in Puunene. So today we have Mr. Goode from our Department of Public Works here present to give us comment. We also have Mr. Chun from Alexander and Baldwin to provide any responses to questions or concerns from the Committee regarding this proposal before us. So, Director Goode, if you'd share your thoughts on Item 54 please.

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MR. GOODE: Thank you, Mr. Chair. The land before you, Members, is a little unusual for a road lot in that we're doing an exchange. As you're no doubt aware, this portion of Hansen Road near the mill was straightened. I wouldn't call it straight, but it's not as curvy as it was. And in order to do that project, we had to move onto land that was owned by A & B, and in exchange we gave up land where the road formerly was. And the exchange created two lots, which are in your binder. In fact, I have a color-coded one. I'm not sure if you do, but it very nicely, graphically explains how the lots that were created. And they're almost exactly the same size. They're about 28,000 square feet each. Now there's a difference of about 900 square feet between the two lots. And in that exchange process, we had to, pursuant to the Maui County Code, had to advertise in *The Maui News* in lieu of doing any appraisals as relates to the difference in value that was waived since the square footage was so small. It made more sense to just waive all that paperwork and extra cost and time. I also want to mention that, as relates to the rest of Hansen Road which is something that the Department gets frequently asked about, is under design. There was, I think, it was either funds were appropriated or use of Countywide funds, but that project is under design. It's going along fairly well. I think we're close to 90 percent complete on design. We've asked, we had it programmed, within the STIP, to be Federally funded. And we just asked DOT to move it up for Fiscal Year '15 to '14, and they've approved that. I got a letter the other day. So I would think that we're likely gonna see that in a budget submittal this coming FY '14 year for Council. That would reconstruct the entire road from where we left off with this project to Hana Highway. Mr. Chair, that's it.

CHAIR HOKAMA: Thank you. Mr. Hopper, any comments from Corporation Counsel regarding the revised proposal?

MR. HOPPER: Mr. Chair, just noting this was pursuant to a specific section of the Code 3.44.060, which deals with exchanges. So this is a type of exchange that the Council, in the Code, has provided for and so the resolution was prepared based on that section.

CHAIR HOKAMA: Okay. Thank you very much, Mr. Hopper. Members, as I mentioned earlier, we do have Mr. Chun representing Alexander and Baldwin. So if there are any questions, he's here present to respond to them. Mr. Chun, is there anything you wish to share on this matter to the Committee at this time?

MR. CHUN (from the audience): No, sir.

CHAIR HOKAMA: Okay. Thank you. For the microphone, Mr. Chun was asked if he would share, had any comments to share, and his response was negative. Members, any questions regarding the proposal on the adjustment regarding Hansen Road? It's pretty much done, right, Director?

MR. GOODE: Yeah, pretty much. There was one thing I forgot to mention in my remarks. There's, I think, one of the portions of the resolution asks that the subdivision be completed within 90 days. And initially I was a little concerned about that, but I talked to my staff and that won't be an issue at all meeting that condition.

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CHAIR HOKAMA: Okay. Thank you very much, Director. Okay. Members, this is an interesting one. It's hard for us to not be supportive, since it's pretty much done. So again, we need to improve our processing for the, for this Committee, this body, regarding its approval process. Other than that, the Chair will be supportive and I'm open to a motion to pass on first reading of the revised proposed resolution entitled Authorizing the Exchange of Real Property Situated at Hansen Road, Puunene, Maui, Hawaii, Pursuant to Section 3.44.060, Maui County Code; and to file County Communication 12-123.

COUNCILMEMBER BAISA: So moved, Chair.

COUNCILMEMBER WHITE: Second.

CHAIR HOKAMA: I have a motion made by Ms. Baisa, seconded by Mr. White. Members, questions, discussion on the motion before us? Ms. Baisa?

COUNCILMEMBER BAISA: Chair, I just wanna say I'm really happy to see anything that's gonna make Hansen Road better. You know, those of us that come from Upcountry, we go through Hansen Road to access Kihei and Wailea. And it's really bad. It's a washboard, and so I'm really excited to hear what Director Goode has explained this morning about where the approvals and the money are going. But I tell you, the sooner, the better. This is great. We really need to do it. It's the gateway to so many things. Thank you.

CHAIR HOKAMA: Thank you for your comment. Any additional discussion, Members? If not, all in favor of the motion, please say aye.

COUNCIL MEMBERS: Aye.

CHAIR HOKAMA: Opposed say no. Motion is carried with five ayes and excused are Mr. Carroll, Ms. Cochran, Mr. Victorino and Mr. Pontanilla.

VOTE: AYES: Chair Hokama, and Councilmembers Baisa, Couch, Mateo, and White.

NOES: None.

EXC.: Vice-Chair Carroll, and Councilmembers Cochran, Pontanilla, and Victorino.

ABSENT: None.

ABSTAIN: None.

MOTION CARRIED

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

ITEM POL-60: PURCHASE OF LAND LOCATED AT PULEHU ROAD FOR THE EXTENSION OF THE CENTRAL MAUI LANDFILL (KAHULUI) (CC 12-225)

CHAIR HOKAMA: Thank you very much, Members. Thank you, Director Goode. And thank you, Mr. Hopper. Last item for today, Members, and thank you very much for letting us deal with this. This is regarding Policy Item six zero, 60, Pulehu Road. Regarding this item we have Mr. Ginoza, well, we have Mr. Miyamoto, Deputy Director of Environmental Management. We will have Ms. Thomson representing Corporation Counsel. From A & B, Alexander and Baldwin, we do have Mr. Chun and Mr. Endo that are present to respond to any concerns or questions from the Committee. And from Department of Finance we have Mr. Hironaka, who is also here available to respond to concerns of the County's due diligence process in reviewing this proposal before the Committee. We are in receipt, Members, and I know this is just a few days ago, a response dated November 16, 2012, from Deputy Director of Environmental Management, which also contained an attachment of a proposed, revised proposed resolution regarding the authorization of purchase of land located at Pulehu Road, Kahului, island and County of Maui, Pursuant to Chapter 3.44, Maui County Code. At this time, the Chair will ask Deputy Director Miyamoto for comments regarding the proposal.

MR. MIYAMOTO: Thank you, Mr. Chair. The proposal is for the finalizing the purchase of the 28 acres that was previously approved by this body that gave us the funds for that project. The proposed master plan for this property is for services that will help support the landfill. When we say services that support the landfill, we're looking at possible warehousing for materials that we need at the landfill. We're looking, as you guys may have read on the front page of *The Maui News* recently, about some kind of a waste conversion technology facility that we'll be presenting to this body sometime in the next year. We're looking at alternative methods for handling our green waste material, also with the sludge and FOG. And we're also looking at the possibility of a Materials Recovery Facility, if that's something that makes sense for the County economically and environmentally. And we're also looking at a possible abandoned vehicle storage yard. Currently, we lease some property for that abandoned vehicle storage yard. Once we own this property, if we can develop it to have our own vehicle storage yard, then we can no longer have to pay on that lease for that property. And that's all I have at this time, Mr. Chair.

CHAIR HOKAMA: Okay. Thank you. Before I ask the Members for their questions or comments, I'll ask Ms. Thomson if she has comments from Corporation Counsel regarding the revised proposal.

MS. THOMSON: Thank you, Chair. No comments necessarily regarding the proposed purchase agreement, but wanted to point out that the process for using the parcel for non-allowed uses on Ag property would necessitate a Special Use Permit from the State Land Use Commission. And I'm happy to answer your questions.

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CHAIR HOKAMA: Okay. Thank you. Mr. Endo, Mr. Chun, is there anything you wish to provide comment on the record regarding this item before the Committee?

MR. CHUN (from the audience): No, sir. But if there's any questions, we're available.

CHAIR HOKAMA: Okay. Thank you. Again, the Chair asked if they had any comments to share at this time. The response was no, but they are available to respond to questions presented by the Committee. Members, you do have that November 16th, the Chair did send questions or items of concern prior to the meeting this morning. We have in response a three-fourths of an inch thick document for your review. And so if there are questions from the Members at this time, the Chair is open. Or if you would like, the Chair can start. One of the things that I also will tell you, Members, if the Committee, and again we just have five members today, it is possible for the Chair to defer this item and have it brought back up next week on the 26th if the Committee feels to do so to review the responses in time for you to make a good decision. Of course, one of the areas that the Chair brought up, is that we are gonna purchase lands that have been designated Important Ag Lands. So that by itself is an indication, because I believe that was a decision made through the Land Use Commission, is also a component of the State Constitution. And again, you know, it's something that I wish wasn't part of this consideration today. But it is. So, Members...Mr. Miyamoto, you have any comments on the Chair's concern regarding the use of designated IAL lands?

MR. MIYAMOTO: Mr. Chair, just to clarify that there's approximately six plus acres of the twenty-eight acres that isn't designated as part of IAL. And we have been in discussions with Corporation Counsel and the current owner about how we can develop that property even though there are IALs on there, and the possibility of, is there a possibility of finding replacement IALs and things of that nature. That's about all I have.

CHAIR HOKAMA: So the Committee's understanding would be that you're in discussions currently for some type of adjustment of IAL lands that the County owns and would then reach an agreement with Alexander and Baldwin? Is that what we're hearing? I'm trying to understand your comment to the Committee. Ms. Thomson?

MS. THOMSON: Thank you. I believe that the discussions have been with A & B on their willingness to potentially designate other A & B land in an exchange. That would, of course, be subject to Land Use Commission approval though.

CHAIR HOKAMA: Okay.

MS. THOMSON: Another option would be to petition the Land Use Commission to remove the IAL designation from that portion of the property that's designated IAL.

CHAIR HOKAMA: Members? Mr. Couch?

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COUNCILMEMBER COUCH: Thank you, Mr. Chair. And I'd sure like to have Mr. Chun come down and kind of tell us what's going on with that property, what's happening now on the essentially 22-ish, 21½ acres of Important Ag Lands, and if there is something that can be switched, swapped.

CHAIR HOKAMA: Thank you. The Chair will request, the Chair can just request. Mr. Chun, Mr. Endo, if you would come to the podium and join us. Both of you can be there. Mr. Endo, wanna join Mr. Chun and share the light.

MR. CHUN: Good morning, everyone, and happy Thanksgiving. Thanks for having us here this morning.

CHAIR HOKAMA: Thank you for being here. Mr. Chun, did you hear the comment and question from Mr. Couch?

MR. CHUN: Yes.

CHAIR HOKAMA: If you are able to, could you share your comments please?

MR. CHUN: Sure. Actually, just for the Committee's background and information, this is a transaction that was sought by the Department of Environmental Management, not by our company. And we are accommodating the County of Maui in its goals as far as implementing these alternative methods by which to address our solid waste needs here in the County of Maui by cooperating in this transaction. Originally, when the Department of Environmental Management had approached us, there was an interest, we understood there to be an interest in an area just slightly mauka of this parcel, which we therefore left out of IAL.

CHAIR HOKAMA: Mr. Chun, I'm sorry. Just so the Committee can get a sense, can you give us a time when, you know, you're talking about this discussion was occurring so we can kind of get a sense of the length of the talks and when it was started, and where we are today please.

MR. CHUN: Of course. Actually, the discussions occurred between Mr. Ginoza's predecessor, Ms. Okuma, and with Mr. Bob Sasaki, our former president. So this is, this is a conversation that's occurred over the course of a number of years. I would say, well, Ms. Okuma served in the last Administration, so it was during that timeframe. The long and the short of it is ultimately the County determined that they would like to acquire the parcel that is before the Committee today, which happens to be a portion of it in the Important Agricultural Lands designation. However, the Department was able to, through Ms. Okuma's initiative, make inquiries into the legislation and the process as far as, you know, what it means to be Important Ag Lands in the context of this public purpose that is proposed. In the context of that, the County would need to get a special permit to implement its activities in the Agricultural District regardless of whether or not the lands were in Important Agricultural Lands. Further, the petition, such a petition from the County would not necessarily require replacement lands, you know, on the part of, would not be required by the Land Use Commission necessarily. They could simply approve a Special Permit

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on the Important Ag Lands if they deemed the public purpose outlined by the request for Special Permit to be suitable. So as you can see, the submission that you all received is actually just a three-page letter. And the attachment is the statute that speaks to the uses that can occur in Important Ag Lands. And I think that is attached because, clearly, the County of Maui's analysis was that so the direction that they're headed in terms of the use of this property is kind of comfortably within the parameters of what would be allowed. Important Ag Lands is kind of a new thing for the State, as well as the County. And actually, Alexander and Baldwin is the first landowner in the State to have implemented the statute, so folks are kind of feeling their way through this. But Ms. Okuma did do a lot of due diligence in terms of assessing and ascertaining the suitability of this property for the goals of the Department.

CHAIR HOKAMA: Mr. Couch?

COUNCILMEMBER COUCH: Thank you. And thank you, Mr. Chun, for being here. What's happening on that land now that it's designated as Important Ag Land?

MR. CHUN: It's in cultivation.

COUNCILMEMBER COUCH: Cane? You have cane growing on that?

MR. CHUN: Yes.

COUNCILMEMBER COUCH: And do you have a suitable replacement if necessary? While it may not be legally required, I'm thinking that even something as small as 26, 25 acres we'd like to at least keep in IAL. Do you have a suitable area that you would consider putting into IAL?

MR. ENDO: Over the course of the last several years, HC&S actually has been expanding their amount of cultivated acres, both in the North Kihei area, as well as the former pineapple fields near the H'poko side. So they basically are growing as much as they can as of this current year. So I would say yes, we've more than compensated for the 28 acres.

COUNCILMEMBER COUCH: But you would be willing, I mean, you can find the 25 acres that are designated as Important Ag and redesignate something that's not now designated Important Ag into Important Ag?

MR. ENDO: Oh, yeah. We definitely have additional good cane fields that are not currently designated IAL that could be added. But we do wanna note that we wouldn't want to, the way that our agreement is structured we're not too keen on filing an application to amend our current IAL designations at this time just for 28 acres. So the way the terms of the agreement are structured, we would basically support the County in their request for a Special Use Permit to show that there's no negative impact by taking this 28 acres out. And in the future, of course, there may come a time when we do have larger amounts of acreage that we do wanna add to the IAL. And we would then sweep in this 28 acres into that larger application in the future. But, just to be clear, we kind of would not want to go through that whole process just for 28 acres.

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COUNCILMEMBER COUCH: Okay. And lastly, and it's just more of a, just what was going on in everybody's minds. You were saying that the County requested this somewhere during a previous Administration, yeah?

MR. CHUN: Yes.

COUNCILMEMBER COUCH: Okay. So and at that same time, that's when you decided to make your declaration of IAL. So were you guys in discussion with that and knowing that the County wanted to get that? Or had you already done that, the designation?

MR. CHUN: The latter.

COUNCILMEMBER COUCH: You'd already made the designation?

MR. CHUN: Yeah. And then subsequent to that, the County determined that, that was the property they really wanted.

COUNCILMEMBER COUCH: Okay. Great. I don't have any more questions for them. I have some for Mr. Miyamoto when it's time.

CHAIR HOKAMA: Okay. Since Mr. Chun and Mr. Endo are here, we'll, you know, let's complete all the Committee's questions for them. Mr. Mateo?

COUNCILMEMBER MATEO: No questions.

CHAIR HOKAMA: Mr. White?

COUNCILMEMBER WHITE: No questions.

CHAIR HOKAMA: Ms. Baisa?

COUNCILMEMBER BAISA: No.

CHAIR HOKAMA: Okay. You know, one of the things in my request to the Department, and I wanna hear what you folks may respond from your company's perspective, is regarding the remainder parcel. And part of the response the Department gave us, it states on Page 2 of a November 16th response to us, under number four, it says as a safeguard the purchase agreement includes A&B's conveyance to the County of any remainder parcel, i.e., any interest that A&B may have in the County-owned portion of the property. Could you tell us what could be those remainder parcel interests?

MR. ENDO: Yes. Committee Chair Hokama, I can explain that. It is a little bit convoluted, but can be explained pretty easily.

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CHAIR HOKAMA: Okay.

MR. ENDO: Basically, what happened is the 28½ acres is a portion of a larger field, a larger A&B parcel. And so over a year ago, when this was all in progress, we authorized the County because things were moving well. We said, okay. Why don't you guys go ahead and subdivide that out. And so what they did was we hired Kurt Tanaka Engineering. They subdivided out the 28 acres, and then at the same time, out of a lot of optimism I guess, sort of somewhat miscommunication, they took the next step and actually took the 28 acres and consolidated it into the existing neighboring County parcel. So right now, we don't actually have a lot, a single lot of 28½ acres. What we have is the 28½ acres already added to the County parcel. So right now, we have one giant County and A&B parcel rather, of a hundred and...I think seventy-nine acres. And so the technical terminology in the agreement just says because we're effectively co-tenants at this point of this larger parcel, or rather tenants in common, the County and A&B, that A&B just to clarify that we don't, we're not trying to say that we have any ownership to the portion that you already owned. And so it's just a technical, legal description to say that we're deeding all of our interest in that bigger parcel over to the County, some of which we owned before, and some of which we actually don't own. I hope that wasn't too convoluted.

CHAIR HOKAMA: No, it's good to know your understanding and what your, you, you know, what your entity's position is. So don't move. So Ms. Thomson, is that the County's understanding and position?

MS. THOMSON: Yes. We agree.

CHAIR HOKAMA: Okay. Mr. Couch?

COUNCILMEMBER COUCH: I'm sorry, but that brought up another question. How can that have been done without Council's approval? That subdivision, that consolidation? Because that's land we didn't own.

CHAIR HOKAMA: That is an appropriate question for Corporation Counsel to respond.

MS. THOMSON: I'm sorry that I don't have any information that was done during, you know, my predecessor and also Mike's predecessors' tenure. I can find out, but I don't know that answer today.

CHAIR HOKAMA: We have Mr. Hironaka from Department of Finance. I'm sure through due diligence, you should have had a flag come up. Mr. Hironaka, are you prepared to respond to that comment or question from Mr. Couch? If you are, please come forward.

MR. HIRONAKA: ...*(inaudible)*...

CHAIR HOKAMA: I think they would like to hear the response, too.

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MR. HIRONAKA: Good morning, Chair and Committee members. When we checked the title report, it did not show the consolidation report. It just showed as being co-tenants on it. So it did not raise a red flag at that time.

CHAIR HOKAMA: But to Mr. Couch's point, how can we have land that the Council never did accept? Since we're the only authorized entity by Charter.

COUNCILMEMBER COUCH: And to add further to that, Mr. Chair, is how could the Department reconsolidate without that title?

CHAIR HOKAMA: Mr. Chun, why don't you make yourself comfortable? This has nothing to do with your entity. This is an internal home issue. Ms. Thomson?

MS. THOMSON: I would need to look into that further before I could provide a clear answer.

CHAIR HOKAMA: Okay. Thank you. Yeah, that would be appropriate, Ms. Thomson, so.

UNIDENTIFIED SPEAKER: And Mr. Chair, additional...

CHAIR HOKAMA: Yes, Mr. Couch?

COUNCILMEMBER COUCH: And a follow-up to that is, I mean, if it's okay legally, then I'm fine with moving forward, but I don't know that, that we could legally do that. I'm not sure how that would work, what the proper procedure would be.

CHAIR HOKAMA: You know what, Members? As I stated earlier, we do have the ability to repost, and for the next meeting, I would ask the Department of Environmental Management to work with Corporation Counsel to address the concerns that the Committee has brought up today, and to be prepared to respond on the 26th of this month at our next Committee meeting so that hopefully we can be supportive and assist us moving forward regarding our solid waste issues. One additional question from me before Mr. Miyamoto. This component, is this part of the Integrated resource, Solid Waste Management Plan that the Department is following, and that you folks are just, you know, phasing in part of what is the County's understanding of our Waste Management Plan that the County spent good money to put together?

MR. MIYAMOTO: Yes. It's part of the Integrated Solid Waste Management Plan. It identified additional services that the County wanted to provide and support for the landfill. And this is one area that the land that we're looking at adding those facilities to support the landfill.

CHAIR HOKAMA: Okay. So you folks, any issues to be prepared for the November 26th meeting? Ms. Thomson, any problems with that?

MS. THOMSON: No. None at all.

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CHAIR HOKAMA: Okay. Mr. Miyamoto, you folks can be prepared to respond on the 26th?

MR. MIYAMOTO: Yes, we will.

CHAIR HOKAMA: Okay. And if Mr. Hironaka, if you can make yourself available again, we would appreciate it in case there's additional questions for your Department regarding your Department's role and responsibility in this proposal. Mr. Couch?

COUNCILMEMBER COUCH: Thank you, Mr. Chair. And my question to Mr. Miyamoto was, you know, we're gonna, we're talking about doing waste-to-energy as, somebody mentioned that it was in the paper just recently. How will the waste-to-energy proposal affect the need for all 28 acres? Because I would think that the waste-to-energy would slow the growth of the landfill tremendously. I think Mr. Ginoza said somewhere up to 80 percent. So how would, would purchasing all of this land be required still even if we did waste-to-energy and reduce the landfill need to 80 percent?

CHAIR HOKAMA: Director?

MR. MIYAMOTO: Yeah. The land that we're purchasing, we're not looking to actually do land filling, you know, putting waste into that land. We're looking at adding services and certainly the waste conversion facility could help reduce the amount of, the speed, the rate at which we fill our landfill. So the purchase of this land just helps us to develop those types of alternatives. For example, like in green waste, we're looking, we're thinking about anaerobic digestion that would generate a gas that could be utilized to generate power. So we do have the additional 11 acres that was previously purchased. That may be a possible site where we could go ahead and transition over from the existing location and Phase III of the landfill into this newer acreage to maintain the existing operations while we develop the new operations. So it is part of that and whether or not we need the whole 28 acres, as I mentioned, we are looking at partly to utilize some of that for the abandoned vehicle property that we currently lease from one of the providers so we could save some of the funding for that by providing the facility there.

CHAIR HOKAMA: Okay. Thank you. Any...Ms. Baisa?

COUNCILMEMBER BAISA: Chair, as I read this letter, it appears that there is urgency also, and there's a clock.

CHAIR HOKAMA: Yes.

COUNCILMEMBER BAISA: December 31st. And I think it's important because the last sentence that says they may not agree to the current sale price if we don't consummate it this year. So, you know, I think that's a consideration that, I don't know, if this is, this statement is true or not, but we don't wanna pay any more than we have to. And while we may not need all of it now, if we

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need it down the road, we better get it while we can get it at a good price. So obviously there's some urgency here. Thank you.

CHAIR HOKAMA: And the Chair is very aware, Ms. Baisa. And thank you for also being aware of it. Again, Members, the Chair, that's why we've, the Staff has been very helpful. And that is why I can tell you that if we make a decision on the 26th, we'll be able to get this done by the proposed deadline of December 31st. But I will also share with the Members that we received this in sometime September. And so we have, again Members, your Chair is appreciative of the deadlines. I can tell you that, as your Chair though, I'm scheduling as best I can. But, you know, again, we haven't had this long, you know. So again, prior to the meeting, I wanted to make sure the Department was aware of my concern in our review, and that they prepare to be prepared to answer the questions that are part of the responses that you have before you today, because I think it needs to be vetted out and we need to understand. If we are gonna permanently take out IAL acreages, it better be for a hell of a good reason because we don't, the State does not designate. We don't support also designating IAL lands to be used for non-agricultural purposes in general. I think we've all made that decisions in the community plans, General Plans, island plans discussion that we support agriculture. And that is one of the reasons why that question was posed to the Department to respond. And we appreciate Alexander & Baldwin's cooperation in assisting the County's initiative in this matter. Okay. So is there any additional questions the Committee needs to have the Staff work on with the Departments? Mr., wait, let me before I get to you...Mr. White, anything you wish to have also prepared for the 26th so we can make the decision?

COUNCILMEMBER WHITE: No, I think between you and Mr. Couch, we've got it covered. I think it's interesting to note that the County already owns the land on the Real Property Tax site. And, so to acquire and consolidate without paying any money, I think, is quite interesting. And, you know, we always complain that things move too slowly, but in this case one Department or somebody is way out in front of us. So it'll be interesting. Thank you.

CHAIR HOKAMA: Mr. Mateo, anything else you need for the 26th?

COUNCILMEMBER MATEO: Chairman, if we look hard enough, we'll find out that the County also owns greater acreage of A&B's properties as well. So perhaps, we should start looking deeply.

CHAIR HOKAMA: Thank you. Mr. Couch?

COUNCILMEMBER COUCH: Thank you, Mr. Chair. You know, thank you very much for getting those questions asked and answered. It was very helpful with the decision. And I have no problem with doing this because A & B said that they can get another 28 acres when they do the next IAL consolidation. That's not an issue. My only concern is the legality. If we can do this legally, I'm fine with it. You know, I'd be willing to pass it out today. But I have some serious concerns as to how that came about and is there pukas in our procedures?

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CHAIR HOKAMA: Thank you for that concern. Okay. Members, we shall, the Chair shall, is gonna defer this item. I am going to repost it for the 26th to have an additional review and then I will also request that be prepared for a decision to be made on this request at that meeting. Any objections, Members?

COUNCIL MEMBERS: No objections.

COUNCIL MEMBERS VOICED NO OBJECTIONS (excused: RC, EC, JP, MPV).

ACTION: DEFER pending further discussion.

CHAIR HOKAMA: Okay. Thank you very much. Mr. Miyamoto, Ms. Thomson, Mr. Hironaka, thank you for being here. This meeting today for Policy Committee of the Council of Maui, November 20, 2012, is adjourned. . . .(gavel). . .

ADJOURN: 10:13 a.m.

APPROVED:



G. RIKI HOKAMA, Chair
Policy Committee

pol:min:121120

Transcribed by: Amanda Kaili

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CERTIFICATE

I, Amanda Kaili, 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 this 13th day of December 2012, in Kahului, Hawaii.



Amanda Kaili