

# POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE

Council of the County of Maui

## MINUTES

October 28, 2013

Council Chamber, 8<sup>th</sup> Floor

**CONVENE:** 9:02 a.m.

**PRESENT:** Councilmember G. Riki Hokama, Chair  
Councilmember Donald G. Couch, Jr., Vice-Chair  
Councilmember Gladys C. Baisa, Member (Out 11:43 a.m.)  
Councilmember Robert Carroll, Member  
Councilmember Elle Cochran, Member (In 9:10 a.m.)  
Councilmember Stacy Crivello, Member (In 9:43 a.m.)  
Councilmember Don S. Guzman, Member  
Councilmember Mike White, Member (In 9:15 a.m.)

**EXCUSED:** Councilmember Michael P. Victorino, Member

**STAFF:** Kirstin Hamman, Legislative Analyst  
Camille Sakamoto, Substitute Committee Secretary  
Ella Alcon, Council Aide, Molokai Council Office (via telephone conference bridge)  
Denise Fernandez, Council Aide, Lanai Council Office (via telephone conference bridge)  
Dawn Lono, Council Aide, Hana Council Office (via telephone conference bridge)

**ADMIN.:** Janice Y. Shishido, Deputy Director, Department of Housing and Human Concerns (Item PIA-1(31))  
Deborah Arendale, County Executive on Aging, Office on Aging, Department of Housing and Human Concerns (Item PIA-1(31))  
Norma Circle, Program Specialist, Office on Aging, Department of Housing and Human Concerns (Item PIA-1(31))  
Tivoli Faaumu, Captain, Department of Police (Item PIA-1(30))  
Jeffrey A. Murray, Chief, Department of Fire and Public Safety (Item PIA-34)  
Sananda K. Baz, Budget Director, Office of the Mayor (Item PIA-34, -22, and -35)  
Mark Walker, Deputy Director, Department of Finance (Item PIA-22 and -35)  
Jeffrey T. Ueoka, Deputy Corporation Counsel, Department of the Corporation Counsel (Item PIA-1(31), -22, -34, and -35)  
Richard B. Rost, Deputy Corporation Counsel, Department of the Corporation Counsel (Item PIA-1(30) and PIA-1(23))  
Edward S. Kushi Jr., First Deputy Corporation Counsel, Department of the Corporation Counsel

*Seated in the gallery:*

David S. Taylor, Director, Department of Water Supply (Item PIA-35)

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

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CHAIR HOKAMA: ...*(gavel)*... The Policy Committee shall come to order. This is our regular meeting of 28<sup>th</sup> of October, 2013. And this morning we have present our Vice-Chairman, Mr. Couch.

VICE-CHAIR COUCH: Good morning, Mr. Chair.

CHAIR HOKAMA: Good morning. And Committee members Mr. Carroll, Ms. Baisa.

COUNCILMEMBER BAISA: Good morning.

CHAIR HOKAMA: Good morning. And Mr. Guzman.

COUNCILMEMBER GUZMAN: Good morning, Chair.

CHAIR HOKAMA: Chair excuses at this time Ms. Crivello, Ms. Cochran, Mr. White, and Mr. Victorino. We shall take up public testimony at this time. So I'll ask Ms. Sakamoto if there's anyone that has requested to provide testimony in the Chambers?

MS. SAKAMOTO: No, Mr. Chair.

CHAIR HOKAMA: Thank you. We'll go to Hana Office. Ms. Lono, is there anyone wishing to provide testimony for today's meeting?

MS. LONO: The Hana Office has no one waiting to testify, Chair.

CHAIR HOKAMA: Thank you very much. Ms. Fernandez, Lanai, anyone wishing to provide testimony?

MS. FERNANDEZ: There is no one waiting to testify on Lanai.

CHAIR HOKAMA: Thank you. And on Molokai, Ms. Alcon, anyone wishing to provide testimony, please?

MS. ALCON: Good morning, Chair. This is Ella Alcon on Molokai and there's no one here waiting to testify.

CHAIR HOKAMA: Okay, thank you very much. With no requests for testimony, testimony for today's meeting shall be closed, Members, with no objections.

COUNCIL MEMBERS: No objections.

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CHAIR HOKAMA: So ordered. Thank you. Thank you, ladies, at the three offices.

**ITEM PIA-1(31): LITIGATION MATTERS (SPECIAL COUNSEL AUTHORIZATION: LEGAL AID SOCIETY OF HAWAII TO PROVIDE LEGAL SERVICES FOR DEPARTMENT OF HOUSING AND HUMAN CONCERNS) (CC 13-41; CC 13-328)**

CHAIR HOKAMA: May I direct you please to Policy Item 1(31) under the heading of Litigation Matters. We have a unique request, this is a special counsel authorization request, Legal Aid Society of Hawaii which is to provide legal services for the Department of Housing and Human Concerns. This Committee is in receipt of a Communication 13-328 from Ms. Ridao, Director of Housing and Human Concerns who has presented us with a proposed resolution. And as I understand it, this was a grant in the past, it is now being offered as a contract that will be administered through the Office of Aging and Aging Title III of the Federal program for a two-years compensation not to exceed \$73,200. So this morning we're going to ask...well we have the Deputy Director, Ms. Shishido present, and so, Ms. Shishido, why don't you give us your opening comments and then we'll also ask Mr. Kushi as our attorney to give us some comment later. But if you would, please.

MS. SHISHIDO: Thank you, Policy Chair Hokama. Good morning, Council members. On behalf of Department of Housing and Human Concerns and Jo-Ann Ridao, Director Jo-Ann Ridao who is, must be having a grand time. Anyway, she did send over a transmittal authorizing the employment of special counsel, Legal Aid Society of Hawaii with respect to providing legal services for the Department of Housing and Human Concerns. And the purpose of the proposed resolution is to request the authorization to award a grant of Federal funds to the Legal Aid Society of Hawaii to provide legal services to grandparents raising grandchildren, and to the elderly, pursuant to Chapter 3-6.6 of the Revised Charter of the County of Maui. I also have with me this morning Deb Arendale who is our Division Head. She is our Executive Office on Aging, and I wonder if she wants...may I ask her to say a few words?

CHAIR HOKAMA: Okay, if you would just state your name for the record, please, and share what, any comments you may have.

MS. ARENDALE: Thank you, Policy Chair Hokama. My name is Deborah Arendale, I'm the Maui County Executive on Aging. And good morning to members of the Council. Since I think the Older Americans Act was established, it calls for us to provide legal assistance to seniors and to grandparents raising grandchildren. This is a common service we have provided, again, according to Federal law, and we're just requesting that the County Council allows us to contract with Legal Aid Society of Hawaii in order to continue the provision of this service.

CHAIR HOKAMA: Okay, thank you. We'll have Mr. Kushi give us some comment since this is a change of operating for the County. Mr. Kushi, please.

MR. KUSHI: Yes, Chair Hokama, Members, this is an unusual request in the sense that it's requesting that you approve the employment of special counsel. The monies would go to Legal Aid Society. In its capacity as attorneys, they would represent the grandparents, et cetera, as far as

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the scope of the work. They will not be representing County employees or officers. In the past as you all know, we come to you for special counsel authorization to represent County employees or officers. This is a little hybrid in that in the past it's been done through a grant. The Department just gave the money to Legal Aid, and this money is Federal money, it comes through the State through the Office of Aging. Apparently the procedure has changed and now we are required as sub-recipients to bid this out. We did do, go through the vetting process, the bidding process, and I believe Legal Aid was the only applicant. But again, it's a little hybrid. The usual special counsel is that if you guys authorize it, we engage them and we supervise them, they come under our office, and the billings go through our office because they represent County employees for whatever reason they are hired as special counsel. This will not be the case. The monies would go through Legal Aid as a contract on a billing/receipt basis, and our office would have nothing to do with it. But in our, my office through my boss made a decision that, you know, in an abundance of caution, we come to you because it involves attorneys. That's all I have to say.

CHAIR HOKAMA: Okay, thank you very much, Mr. Kushi. Questions or...well we'll go with questions first, so we'll start with Mr. Couch.

VICE-CHAIR COUCH: Thank you, Mr. Chair. And thank you, Mr. Kushi, for that explanation. My only question would be why wouldn't we just do it as a regular contract for services? We put it out for RFP and just contract for services and proceed in that matter?

CHAIR HOKAMA: Mr. Kushi.

MR. KUSHI: Member Couch, if I understand your question, we did bid it out, but if you're saying that our office should do it...

VICE-CHAIR COUCH: No, I'm just saying it's just a regular contract for services, it doesn't matter whether it's special counsel or anything, it's just a service that we do, professional services and leave it at that.

MR. KUSHI: But if, it involves attorneys.

VICE-CHAIR COUCH: Is this the only thing that we do outside that involves attorneys that would normally be a contracting service?

MR. KUSHI: I recall situations where we give grants or award grants to nonprofits, they in turn as part of their duties go and hire their own attorneys, and it's written in the grant that they're authorized to do it, but it's their grant.

VICE-CHAIR COUCH: Okay, thank you, Chair.

CHAIR HOKAMA: Okay, thank you. Ms. Baisa?

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COUNCILMEMBER BAISA: Thank you very much, Chair. This is, as was said is unusual. Thank you for the explanation, because I was aware that, you know, this has been going on for a kind of long time and I wondered why now, but now I understand. I would like to hear from the Office on Aging what kind of legal services they'll be providing.

CHAIR HOKAMA: Ms. Arendale.

MS. ARENDALE: Thank you, Councilmember...Council Chair Baisa for that question. Over the course of the years we've provided general counsel to seniors and to grandparents raising grandchildren regarding a wide variety of issues. The Older Americans Act calls for us to provide "free legal services" to seniors. So they, seniors are free to call Legal Aid, they go through their vetting process, they're assigned either a paralegal or an attorney to assist them. It can be matters of living wills, powers of attorney, landlord/tenant disputes, guardianship issues with grandchildren. So it basically is the whole spectrum of legal issues with which seniors may need assistance.

COUNCILMEMBER BAISA: Are there age and income restrictions?

MS. ARENDALE: There are age restrictions. These services are provided to people over the age of 60, grandparents over the age of 55 or 55 and over. The, there are no income restrictions that the Older Americans Act puts in place as far as legal services.

COUNCILMEMBER BAISA: That's very good to know because, you know, many, many seniors have all kinds of legal issues and never know where to turn. That's why MEO for many years has had a free legal clinic going on thanks to the offices of Larry Ing and Mr. Jorgensen and Mr. Kuwada was a part of it also. But I think this is great and I'm glad we're here today talking about it on TV so that people will hear about it. It's great to get the information out. Thank you very much. And I am in support of this, I think it's a real needed service. Thank you.

MS. ARENDALE: Thank you.

CHAIR HOKAMA: Thank you. The Chair recognizes the presence of Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair. Pardon my tardiness.

CHAIR HOKAMA: No problem.

COUNCILMEMBER COCHRAN: Thank you.

CHAIR HOKAMA: No problem. Mr. Guzman?

COUNCILMEMBER GUZMAN: Thank you, Chair. My question is partly to the Administration and then to Corporation Counsel. First question, on the Federal grants, that's specifically from, in conjunction with the older...elderly administration act?

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MS. ARENDALE: Yes, the Older Americans Act.

COUNCILMEMBER GUZMAN: Okay. And then that's basically how much in the grant is being appropriated?

MS. ARENDALE: For the two-year period, we have appropriated \$73,000. We are, we know that at least 10 percent of that by law must be applied to grandparents raising grandchildren.

COUNCILMEMBER GUZMAN: Okay. And specifically, does the grant identify the type of legal services?

MS. ARENDALE: Yes. Norm is raising her...Norma Circle manages that program and she is --

COUNCILMEMBER GUZMAN: Chair...

MS. ARENDALE: --shaking her head yes.

COUNCILMEMBER GUZMAN: Chair, can I request that the resource person regarding the Federal grant be called to the floor?

CHAIR HOKAMA: If there's no objections by the Members --

COUNCIL MEMBERS: No objections.

CHAIR HOKAMA: --the Chair will allow it.

COUNCILMEMBER GUZMAN: Thank you.

CHAIR HOKAMA: Sure. Ms. Arendale, why don't you bring your resource person forward. Please join us, and if you would please identify yourself and the position you are, you're in regarding this item for us, please.

MS. CIRCLE: Good morning. My name is Norma Circle. I am an Aging and Disability Program Specialist II, and as such, I have managed the Legal Aid contract for the past 11 years.

CHAIR HOKAMA: Okay, thank you.

COUNCILMEMBER GUZMAN: So getting back to my question, specifically can you tell me the terms of the Federal grant, the language requiring the legal services? What type of legal services they're requiring?

MS. CIRCLE: The types of legal services as Deborah mentioned include consumer debt, landlord/tenant issues, even divorce issues. Let's see, what was some of the other...

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MS. ARENDALE: Guardianship.

MS. CIRCLE: Oh, guardianships, powers of attorney, anything except those of a criminal nature.

COUNCILMEMBER GUZMAN: Okay. Estate planning? Wills and trusts?

MS. CIRCLE: Sometimes they do, that's like last on their priorities of issues. If they...they don't...it's not something that's required of them to do, because we try to prioritize and target those people that have low income. That's, you know, that is our priority, that's our target group. Although we don't have an income criteria we do try to target. And if a person is of a nature with an estate, Legal Aid would try to concentrate more on people who need other issues. But if they have the time and can do it, they will help.

COUNCILMEMBER GUZMAN: Okay. So specifically landlord/tenant, divorces, guardianship, and what was the first one?

MS. CIRCLE: Debt.

COUNCILMEMBER GUZMAN: Debt.

MS. CIRCLE: Consumer debt issues.

COUNCILMEMBER GUZMAN: Consumer debt, okay.

MS. CIRCLE: And as I said, powers of attorney and advanced healthcare directives are the, one of their primary goals that they help people with.

COUNCILMEMBER GUZMAN: Okay, thank you. And then my second question, Chair, would be to Corporation Counsel. The subject matters that are being required by the Federal grant, the consumer debt, landlord/tenant, divorce, guardianship, special powers of attorney, those are all specific to clients, so when we're talking about the County being the source of payment, hiring Legal Aid as the attorneys, is it drawn up in terms of the separation of us getting involved, I mean us as a County getting involved in personal lawsuits, personal disputes, like personal debt consumer, personal landlord/tenant issues, personal divorces, personal guardianships? Are we now being a party to those issues because we are the source of income paying the attorneys? 'Cause it seems to me that the grant should go directly to Legal Aid instead of having to go through us, because now we become a party to it. It seems like that to me. Do you understand where I'm coming with the issue?

MR. KUSHI: I think I...sort of...Member Guzman. You think that through an agency concept we're involved?

COUNCILMEMBER GUZMAN: Right, yeah. So how do we separate that?

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MR. KUSHI: We will be involved definitely in a funding perspective but not on the day-to-day decision making by the attorneys. I would imagine if something hits the fan and Legal Aid gets sued by the party opposing their client and it goes to court, they would bring in not only us, they'll bring in the State, they'll bring in the Feds because that's the source of money. But again, the actual workings and the reason for the litigation we have no control over and we would not want to have control over that.

COUNCILMEMBER GUZMAN: Yes.

MR. KUSHI: Because we're not, they're not our clients, the eventual source of the representation. So in a roundabout way I think it would be possible, but we would defend it rigorously of course. We will not have any day-to-day control over these attorneys.

COUNCILMEMBER GUZMAN: Right.

MR. KUSHI: We wouldn't want to have it 'cause they're not, these people are not our clients.

COUNCILMEMBER GUZMAN: Yeah. I guess that's the issue that I'm raising is that how liable are we going to be as the County goes forward. And then in terms of malpractice suits, you know, ODC complaints, are we now...we haven't gotten an opinion to see whether the County would be made like party to any complaint against the Legal Aid Society for malpractice. So I look at it that way, I think the program is great, you know, I think it's something that our seniors need. But I also look at the liability of the County in terms of what are we taking on. Those are some issues that are pending in my thoughts.

MR. KUSHI: Let me just clarify also that, you know, although I haven't seen the actual contract which will be let out, I would hope that there would be some indemnification language.

COUNCILMEMBER GUZMAN: Yes.

MR. KUSHI: You know as all contracts that, you know, we'll give you this contract but you indemnify the County if anything hits the fan. In addition, Legal Aid Society is a semi-governmental agency funded by the, not only nonprofits or their own society but they get monies from the State also.

COUNCILMEMBER GUZMAN: That's a good point, very good point. Is there a possibility of each client signing off on an indemnification?

MR. KUSHI: I wouldn't go that far because then we'll have a connection with each client.

COUNCILMEMBER GUZMAN: Thank you, Chair.

CHAIR HOKAMA: Okay, thank you. Mr. Carroll, questions?

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COUNCILMEMBER CARROLL: No questions, Chair.

CHAIR HOKAMA: Thank you. The Chair would also recognize Mr. White, the presence of Mr. White.

COUNCILMEMBER WHITE: Good morning, Chair.

CHAIR HOKAMA: Good morning. Ms. Cochran, any questions on this matter?

COUNCILMEMBER COCHRAN: No, not at this time. Thank you, Chair.

CHAIR HOKAMA: Mr. White, any questions for our resource people?

COUNCILMEMBER WHITE: No questions. Thank you, Chair.

CHAIR HOKAMA: Any further questions? Mr. Couch.

VICE-CHAIR COUCH: Thank you, Mr. Chair. This might be either to Corporation Counsel or Ms. Shishido. Does the Department of Housing and Human Concerns recommend the attorneys to these folks or do they kind of prescreen and say okay, we're going to send you to the attorneys? Or do you just say hey, we have a group of attorneys there, you go talk to them?

MS. ARENDALE: We provide Legal Aid as a resource, so we do not refer them to specific attorneys at Legal Aid. We simply state that legal assistance is available should you need this type of support.

VICE-CHAIR COUCH: And then you point them to Legal Aid Society and say go there?

MS. ARENDALE: Yes.

VICE-CHAIR COUCH: But everything is pretty much between Legal Aid Society and the client?

MS. ARENDALE: Yes, sir. And we actually do not even get an identified client registry from Legal Aid, we get individual ID numbers that are assigned by Legal Aid, but we have no means of identifying who those folks are because of the attorney-client privilege.

VICE-CHAIR COUCH: So in one of the WHEREASes on the second page of the resolution it says, the second WHEREAS on that page says that the Legal Aid Society, it's, the real necessity to retain the Legal Aid Society of Hawaii as special counsel to provide legal services for the County. So they are providing legal services for the County?

MS. ARENDALE: No, sir. Not for the County, they're providing legal services for individuals, and are...the money we receive from the Federal government we RFP out according to our State

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procurement means and we pass that money to Legal Aid. They serve individuals 60 and over or 55 and over.

VICE-CHAIR COUCH: Okay. And...

CHAIR HOKAMA: Mr. Couch --

VICE-CHAIR COUCH: Yeah.

CHAIR HOKAMA: --just so you know, it's my intent to delete that clause.

VICE-CHAIR COUCH: Oh, okay. I was going to say that was, that's kind of what's been kind of confusing me. And I guess the only other thing that I'm just a little confused about is how...and I guess Mr. Kushi said it was because there are attorneys that are involved, but I would think we would have other contracts that have attorneys as well. So I'm just a little confused. But that, deleting that line helps a lot. So thank you, Chair.

CHAIR HOKAMA: Okay. Any further questions? Mr. Guzman.

COUNCILMEMBER GUZMAN: Thank you, Chair. I also would like to go along with my colleague and thank you for that, deleting that section. That was really problematic in terms of my questioning. I have a follow-up on the, the amount of monies that's being appropriated, you said it was 73,000 and 10 percent goes to grandchildren of elderly. Is it separated by case, like for instance is there a maximum amount per case that the Legal Aid will work up to? Because I can imagine at least one of these, a landlord/tenant case or a divorce case could run into, you know, 150,000 and 200,000 for one case. Is it capped per case? Because I can see, you know, in a matter of a year you'll be done in three months time with three different cases, three individual cases.

MS. CIRCLE: First of all...*(clears throat)*... excuse me, they do provide the legal services at a very low rate, and we have not capped it, it's never reached a point where it was astronomical for any one particular client.

COUNCILMEMBER GUZMAN: But there's no monitoring of it? Like for instance like...my main concern is that, you know, the amount of money that's appropriated could only service three or four clients if it's big cases. You know and there should be some type of at least internal policy to say, you know, look, we're only going to spend a certain amount per case so that you can have more people that you can service. Does that make sense?

MS. CIRCLE: Yes, it does make sense, and we do monitor, that's my job as monitor to see where the money is going. And if any one particular issue is going above and beyond what seems to be an average amount, we do talk to them about it. But they have their own resources, too, that they provide, because like I said, they only charge us a very low rate per hour for their services and so they are able to stretch it. And also added to that are contributions that people provide, give.

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They are afforded the opportunity to provide voluntary contributions, and when they do that, that's deducted from the amount that they bill us for, so the services are extended that way as well.

MS. ARENDALE: And excuse me, if I may add. Our contract amount is a cap, so we work in our contract with Legal Aid Society the estimated number of consumers they will serve, the estimated number of grandparents they will serve. And we monitor the numbers they're serving on all three of our islands in Maui County on a monthly basis. We get a client registry that is de-identified, but we can see exactly how many hours they've spent per client per island, and there's not a danger of exceeding this cap because our contract very clearly says this is the cap. And they're bound by their, the ethical guidelines of their profession as attorneys to be sure that they provide the best care possible. So they work also in conjunction with private attorneys, and I'm, I would imagine that if they get an individual that the case is very in-depth then they would work to, with a private-pay attorney who would then take that individual for a reduced rate or at a pro bono rate.

COUNCILMEMBER GUZMAN: So your contract specifically states a certain amount --

MS. ARENDALE: Yes, sir.

COUNCILMEMBER GUZMAN: --of individuals that should be serviced?

MS. ARENDALE: We ask them and we negotiate on an estimate of you will serve this, you know, approximately this many consumers, and we have years of, basically years of data to go on. We can see year after year how the service is trending. It doesn't vary very much from year to year. They've been doing this for quite a while so they're very good at staying within the guidelines that we have agreed with them regarding. And it's, we're not in danger of going over that cap because we're very clear that this is the amount of funding that we provide through this particular contractual agreement.

MS. CIRCLE: And I might add that we, they never have exceeded the cap, and we and as the monitor we look at it every month to see where they're headed and see if they're exceeding. 'Cause they kind of have to divide it over 12 months even though it's an estimate.

COUNCILMEMBER GUZMAN: So, Chair --

CHAIR HOKAMA: Yes?

COUNCILMEMBER GUZMAN: --have we done this type of process before in the past wherein...

CHAIR HOKAMA: Not in my recollection. Again, your special counsel, the policy of special counsel has been because of a judicial case that the Council took --

COUNCILMEMBER GUZMAN: Right.

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CHAIR HOKAMA: --a Mayor to court and won, and the Supreme Court affirmed that only Councils can hire special counsels for the County.

COUNCILMEMBER GUZMAN: That's where my...I know. I'm having a tough time in terms of...is it a possibility that we can ask Corp. Counsel if we can get an ODC opinion on the liability of whether, like for instance, if an individual goes to legal counsel, I mean Legal Aid, hires Legal Aid but the County is paying for the attorney's fees, and at some point if the case cannot continue because it's not being paid or we extend over the cap, do we now, are we now forced to add in County money later on because we are the source of funding to continue that case?

CHAIR HOKAMA: Who you are addressing that question to, Mr. Guzman?

COUNCILMEMBER GUZMAN: Oh, I'm sorry. I guess Corp. Counsel.

CHAIR HOKAMA: Mr. Kushi, are you prepared to respond?

MR. KUSHI: Not really, I'd have to think about it.

COUNCILMEMBER GUZMAN: Yeah.

MR. KUSHI: And I further doubt if ODC would get involved.

COUNCILMEMBER GUZMAN: But is it now required...okay, let's just say for instance we do run out of money and the case is still continuing, does that mean we have to take money from our General Fund to pay the remaining cases that are still pending?

MR. KUSHI: It's discretionary within your budget authority if asked, but, you know, if the money's gone, it's gone, that's all they get.

COUNCILMEMBER GUZMAN: Yeah. So when it's gone that means that the individual will have a complaint in terms of hey, you guys, the County was paying our attorney and now the County is not going to continue to pay this case out.

MR. KUSHI: It's a matter, I would think it's a matter of management with the Legal Aid Society, I mean office. And if you look at the proposal itself, it's a cost breakdown as far as what this money represents in terms of the entire budget.

COUNCILMEMBER GUZMAN: Right.

MR. KUSHI: And it's very nominal...not nominal but it's not...maybe 10-15 percent of their entire working budget, and they have all these attorneys listed, how much County money is spent per each salary category. So it's not like we're funding their entire office. So, you know, again, but getting back to your question, you know, anything's possible with attorneys with imagination.

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You know that. But again, you know, we'd have in our contract that if something should happen internally with their attorneys and their clients that they need to indemnify us.

COUNCILMEMBER GUZMAN: Yes, okay.

MR. KUSHI: And --

COUNCILMEMBER GUZMAN: Thank you, Chair.

MR. KUSHI: --it's really not a favor we're doing it, it's a requirement by the Federal government.

COUNCILMEMBER GUZMAN: Okay.

CHAIR HOKAMA: Okay, thank you, Mr. Guzman. Any other questions?

COUNCILMEMBER COCHRAN: Chair?

CHAIR HOKAMA: Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you. And my question was asked by Mr. Guzman in regards if there's another example of such actions being taken by us in other departments or in any, is there, and you I believe stated, Chair, there isn't. So I mean I'm all for supporting, you know, grandparents raising grandparents [*sic*] 'cause it's such a huge and growing population. But this is, I don't know, kind of strange in a way, that...and I'm hearing the concerns, the bantering back and forth with both of our attorneys here on the floor. And I'm, yeah, a little puzzled and I think a little concerned as to what, I'm trying to figure out, I mean it's kind of a nonprofit group that provides good service, but yet now we're mandated by the Federal government to sort of, you know, put it out as an RFP, not so much a grant-wise. And they are the only bidder, thereby the winning bidder, too. So we're kind of left with not so much choices and options but to go this route, and I just don't want to see any negative, you know, repercussions on our behalf. And I'm sure, I was trying to find the contract also in here and I don't know if it's located somewhere?

CHAIR HOKAMA: I don't know if it's executed yet either --

COUNCILMEMBER COCHRAN: Okay.

CHAIR HOKAMA: --because we didn't give approval. There may, should be maybe a draft ...(*inaudible*)...

COUNCILMEMBER COCHRAN: Yeah, that's what I was kind of looking to see. Contract and County general terms and conditions, it's supposed to be attached to this document here and I don't see it. So I just kind of wanted to sift through and see exactly what it's stating and, you

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know, what it is that we're holding them to be accountable for. But those are just some generalized questions I had that --

CHAIR HOKAMA: Okay.

COUNCILMEMBER COCHRAN: --going through my mind, Chair.

CHAIR HOKAMA: The Chair appreciates your concerns, Ms. Cochran --

COUNCILMEMBER COCHRAN: Okay, thank you.

CHAIR HOKAMA: --and I'll address it shortly.

COUNCILMEMBER COCHRAN: Okay. I think --

CHAIR HOKAMA: Ms. Baisa.

COUNCILMEMBER COCHRAN: --Ms. Circle is...

CHAIR HOKAMA: What was that?

MS. CIRCLE: If I can just respond --

COUNCILMEMBER COCHRAN: Sorry.

MS. CIRCLE: --as to the question...

CHAIR HOKAMA: No, hold on, please.

MS. CIRCLE: Oh, I'm sorry.

CHAIR HOKAMA: Yeah. I'll call you when I'm ready. Ms. Baisa.

COUNCILMEMBER BAISA: Thank you very much, Chair. And maybe this is going where she wanted to go. But after listening to, you know, the discussion here, like Ms. Cochran, you know, I'm very much in support of legal services for seniors, and I'm not only talking about grandparents, I'm talking...or with grandchildren, I'm talking about the seniors having a whole bunch of legal needs. You know seniors are no different, especially at 60. Like the population I'm in, you know, they're having divorces and they're having property issues and they're having all kinds of stuff happening in their lives just like everybody else. So, you know, this is really a miniscule amount, \$73,000 is just not a big deal, especially when you're talking lawyers' fees 'cause we know how much those things cost. And we're lucky that we have an agency like Legal Aid that is, you know, providing it at a real nominal amount of money, and so this is money that gets stretched. But what I was looking for in here and all I can find is a budget, but I

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can't find any kind of a scope of service that says we're going to serve people that are 60, they're going to be low income, they're going to be, we're going to have 300 of them or an estimate. And I understand that number will change from year to year but we should have some goal, how many people we're going to serve. Because my colleague Mr. Guzman brought up the issue of what if we get involved in cases that are very expensive and they use up all the money. So maybe what would be helpful to all of us as we look at this might be some statistics, because it is an unusual thing, we've never seen this before. So of course all of us are a little more paying attention than we normally would to we get a hundred grants and we approve them, but this is just one and it's unusual and it involves lawyers and legal things which always creates interest around here. So, Mr. Chair, I would think that we might want more information, but I don't know what you're going to suggest. Thank you.

CHAIR HOKAMA: Okay, thank you. Questions, other questions? Comments? Mr. Kushi.

MR. KUSHI: Yeah, Chair, Member Baisa and Members, maybe to clarify. Again, you know, this is a resolution, this is in Committee, it needs to go before Council for full approval. In the meantime, if you could, before you act on it, we could, let me provide you copies of the RFP --

COUNCILMEMBER BAISA: Yes.

MR. KUSHI: --you know which would describe the solicitation. And I'm not sure if the contract has even been drafted yet because we needed to take this first step. But if it is in a draft proposal we could submit that to you also.

CHAIR HOKAMA: Okay. That would be good, Mr. Kushi. Mr. Couch.

VICE-CHAIR COUCH: And thank you, Mr. Chair. And along with my colleagues I have no problem with providing these services, that's not the issue. I'm just a little puzzled as to is this really a special counsel? Because if you look at the Charter, it says special counsel for any special matter presenting a real necessity for such employment, which prior to this there's nothing different other than it's how they're getting the funding. So I don't know how that...if it were a special counsel, it should have been a special counsel when we were doing the grant, I would think, Mr. Chair. Maybe I'm confused as to because it was a grant it doesn't have to be special counsel, but now that it isn't a grant, it's an RFP, it now is special counsel. So if Mr. Kushi can help --

CHAIR HOKAMA: Do not get --

VICE-CHAIR COUCH: --or you.

CHAIR HOKAMA: --the use of special counsel...you know Mr. Kushi made a very specific point earlier in his comments that in general special counsel is an attorney that the Council authorizes to represent an officer or an employee of the County in a legal issue. We're not hiring an attorney to represent an employee or officer of the County.

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VICE-CHAIR COUCH: Right. So then I guess how does that make it special counsel? That's where I'm confused. That's all.

CHAIR HOKAMA: Well the way, you know, for me, yeah, and again it goes back to the confirmation hearings when we had Mr. Wong and we questioned him about how did he view the role of special counsels, the role of the Council in authorizing such requests. And I believe Mr. Wong is just fulfilling what he shared on his intent and how to proceed through his office regarding this type of request. And, you know, it's, I appreciate that he's going to let the Council make that determination instead of he making, you know, he's going to...he could, I guess, have issued an opinion on why this may not come to us. But I think he's taking a very tactful route and I can support and appreciate his option back to the Committee. But again, Mr. Kushi made a clear point, this is a unique case --

VICE-CHAIR COUCH: Right.

CHAIR HOKAMA: --and it is the State that made the change, not the Feds. The State chose to change from a grant approach to a contract for service approach. Okay.

VICE-CHAIR COUCH: And, Mr. Chair, that's where my confusion is. If it was a grant but not a special counsel when it was grant, but now that it's a contract for services it becomes a special counsel? That's where I'm confused.

CHAIR HOKAMA: Well one is the procedure is definitely different to your Chair, but second, again yeah, you know, the way how the grants are written and Mr. Kushi can give you that. You know just like this contract, I'm not too sure what is in the contract terms of agreement, and maybe it's very clearly stated how to proceed and that's why we're here this morning. I'm not sure.

VICE-CHAIR COUCH: Okay. Thank you, Mr. Chair.

CHAIR HOKAMA: Mr. Kushi, any other comments?

MR. KUSHI: No.

CHAIR HOKAMA: Ms. Shishido, any additional comments?

MS. SHISHIDO: No.

CHAIR HOKAMA: Ms. Arendale or Ms. Circle, any comments you have on this request before the Committee? Well, you know, I had hoped we could have pushed this out this morning but I'm going to recommend deferral for couple things. One, I believe Committee Staff with Mr. Kushi will work on some of the language. I have issue with that second WHEREAS clause on Page 2 as pointed out by both gentlemen, Mr. Guzman and Mr. Couch. The Chair also has an issue with the first RESOLVED clause. I had something similar to that WHEREAS clause, and so we'll be working with Mr. Kushi and appropriate Staff to adjust the language so it's more palatable and

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more reflective of what the Committee as I've heard this morning's discussion, would prefer to see come before, back before the Committee. Any questions of your Chair's intent to move, how to move on this issue? And then I'll bring it back at the next meeting for review and hopefully decision making.

COUNCILMEMBER BAISA: No objections.

CHAIR HOKAMA: Okay, no objections?

**COUNCIL MEMBERS VOICED NO OBJECTIONS.** (excused: MPV)

**ACTION: DEFER pending further discussion.**

CHAIR HOKAMA: Okay, this item is deferred. Thank you very much. Thank you, Ms. Shishido, Ms. Circle, and Ms. Arendale.

**ITEM PIA-1(30): LITIGATION MATTERS (SETTLEMENT AUTHORIZATION: CHRISTOPHER CARROLL AND DUKE-PATRICK CARROLL V. COUNTY OF MAUI, ET AL.; CIVIL CV13-00066 LEK KSC) (CC 13-41)**

CHAIR HOKAMA: Let us move forward, please, to 1(30). 1(30) is also under Litigation Matters. This is a settlement authorization request. This is regarding the case of Christopher Carroll and Duke-Patrick Carroll v. County of Maui, et al.; Civil No. CV13-00066 LEK KSC. We received on October 16, 2013 from Corporation Counsel, a proposed resolution entitled Authorizing Settlement of Christopher Carroll, et al. v. County of Maui, et al., Civil No. CV13-00066 LEK KSC. And this morning we have Mr. Rost as the Deputy assigned to this case. Mr. Rost, if you would please.

MR. ROST: Thank you, Mr. Chair. This case arose on February 11, 2011. The Plaintiff Christopher Carroll was being served a temporary restraining order by several officers of the Maui Police Department. One of the requirements of such a restraining order is that the subject must surrender his, any firearms in his or her possession to the Maui Police Department. Mr. Carroll refused to do that and ultimately ended up being arrested and assaulting one of the officers by kicking him in the legs. Due to Mr. Carroll's resistance he was Tasered twice. At that point the police officers were able to take control of the situation and handcuff Mr. Carroll. When they were taking him to the squad car however, his minor son came out of the residence and began to interfere with the attempt to put Mr. Carroll in the police car so he ended up being arrested as well. They've now filed suit and the Department of the Corporation Counsel is in receipt of a demand for settlement. An early settlement conference was set with the Federal court for November 20<sup>th</sup>, so we would like to present the Plaintiff's demand to the Council. Because this matter is in active litigation, executive session will be required if we're going to get into the specifics of the demand and the case. And Captain Faaumu is here to address any questions the Council may have.

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CHAIR HOKAMA: Okay. Captain, is there anything you wish to share in open session at this time on this matter?

MR. FAAUMU: No, Mr. Chair. I'm here to answer any questions regarding our policy.

CHAIR HOKAMA: Okay, thank you very much. Members, any questions for Deputy Counsel Rost in open session regarding this matter? Okay, the Chair will recognize Ms. Crivello's presence. We have eight Members --

COUNCILMEMBER CRIVELLO: Good morning, Chair.

CHAIR HOKAMA: --present. Therefore upon request by Corporation Counsel, the Chair will entertain a motion to enter into executive session under Hawaii Revised Statutes 92-5(a)(4) and 92-5(a)(8), both which allows the Committee to enter into executive session to consult with legal counsel on questions and issues regarding the powers, duties, privileges, immunities, and liabilities of the County, the Council, and this Committee, as well as to deliberate or make a decision that requires consideration of information that must be kept confidential to a State or Federal law or a court order. Mr. Couch.

VICE-CHAIR COUCH: Thank you, Mr. Chair. I move to go into executive session under HRS 92-5(a)(4) and 92-5(a)(8).

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

CHAIR HOKAMA: Thank you. I have a motion made by Mr. Couch, seconded by Ms. Baisa. Discussion, Members? All in favor of the motion, please say "aye".

COUNCIL MEMBERS: "Aye".

CHAIR HOKAMA: Opposed, say "no". Motion passes with eight ayes and one excused, Mr. Victorino.

**VOTE: AYES: Chair Hokama, Vice-Chair Couch, and Councilmembers Baisa, Carroll, Cochran, Crivello, Guzman, and White.**

**NOES: None.**

**ABSTAIN: None.**

**ABSENT: None.**

**EXC.: Councilmember Victorino.**

**MOTION CARRIED.**

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**ACTION: APPROVE; RECESS open meeting and CONVENE executive meeting.**

**ITEM PIA-1(23): LITIGATION MATTERS (SETTLEMENT AUTHORIZATION: KAY BURKE V. COUNTY OF MAUI; CIVIL 09-1-0127(1)) (CC 13-41)**

CHAIR HOKAMA: Let me now also direct you to Policy Item 1(23). This is also a litigation matters, settlement authorization. This is the Kay Burke v. County of Maui, Civil No. 09-1-0127(1). We are in receipt of a correspondence dated October 17, 2013, from the Department of Corporation Counsel, with a proposed resolution transmitting, regarding a complaint from Kay Burke regarding physical injuries on an incident January 24, 2009. Mr. Rost, is this yours also?

MR. ROST: Yes, Mr. Chair.

CHAIR HOKAMA: Please proceed.

MR. ROST: Thank you, Mr. Chair. The Council previously authorized an offer in this matter, subsequently we had a settlement conference with the Court, and the Plaintiff has made another counter proposal which I would like to advise the Council about. So because the case remains in an active litigation I'd like to request executive session to do that.

CHAIR HOKAMA: Okay, thank you very much. The Chair will entertain a motion to enter into executive session under Hawaii Revised Statute Section 92-5(a)(4) and 92-5(a)(8) of Hawaii Revised Statutes. Mr. Couch.

VICE-CHAIR COUCH: Thank you, Mr. Chair. So moved.

COUNCILMEMBER BAISA: Mr. Chair, second.

CHAIR HOKAMA: I have a motion made by Mr. Couch, seconded by Ms. Baisa to enter into executive session as allowed by Hawaii Revised Statutes 92-5(a)(4) and 92-5(a)(8). Any further discussion, Members? All in favor the motion, please say "aye".

COUNCIL MEMBERS: "Aye".

CHAIR HOKAMA: Opposed, say "no". Motion passes with eight ayes, one excused.

**VOTE: AYES: Chair Hokama, Vice-Chair Couch, and Councilmembers Baisa, Carroll, Cochran, Crivello, Guzman, and White.**

**NOES: None.**

**ABSTAIN: None.**

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**ABSENT:** None.

**EXC.:** Councilmember Victorino.

**MOTION CARRIED.**

**ACTION:** APPROVE; RECESS open meeting and CONVENE executive meeting.

CHAIR HOKAMA: We shall take a recess to prepare for executive session. . . .(gavel). . .

**RECESS:** 9:50 a.m.

**RECONVENE:** 10:37 a.m.

CHAIR HOKAMA: . . .(gavel). . . The Policy Committee shall reenter open session. Thank you, Members.

**ITEM PIA-1(30): LITIGATION MATTERS (SETTLEMENT AUTHORIZATION: CHRISTOPHER CARROLL AND DUKE-PATRICK CARROLL V. COUNTY OF MAUI, ET AL.; CIVIL CV13-00066 LEK KSC) (CC 13-41)**

CHAIR HOKAMA: Regarding Policy Item 1(30) under Litigation Matters, the settlement authorization of the Christopher Carroll and Duke-Patrick Carroll, we shall...we're going to defer this item, yeah?--defer this item as discussed in executive session. So with no objection, this matter, this item is deferred.

COUNCIL MEMBERS: No objections.

**COUNCIL MEMBERS VOICED NO OBJECTIONS.** (excused: GCB and MPV)

**ACTION:** DEFER pending further discussion.

**ITEM PIA-1(23): LITIGATION MATTERS (SETTLEMENT AUTHORIZATION: KAY BURKE V. COUNTY OF MAUI; CIVIL 09-1-0127(1)) (CC 13-41)**

CHAIR HOKAMA: Under Policy Item 1(23) also under Litigation Matters. Settlement authorization, the Kay Burke v. County of Maui; Civil No. 09-1-0127(1), the Chair is also going to defer this item and have Mr. Rost move forward as discussed in executive session. No objection, Members?

COUNCIL MEMBERS: No objections.

**COUNCIL MEMBERS VOICED NO OBJECTIONS.** (excused: GCB and MPV)

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**ACTION: DEFER pending further discussion.**

CHAIR HOKAMA: Okay, thank you.

**ITEM PIA-34: COST RECOVERY OF HELICOPTER SERVICE PROVIDED BY DEPARTMENT OF FIRE AND PUBLIC SAFETY (MISC)**

CHAIR HOKAMA: We are now going to move on to Policy Item, we're going to start off with Policy Item 34, Members. We're going to take it slightly out of order. Which is the Cost Recovery of Helicopter Service Provided by Department of Fire and Public Safety, and then from there we'll move on to Policy Item 22. The Chair will start off the, this portion of the meeting by saying that this is our initial endeavor into this fee structure areas, cost recovery areas. This is, will be Policy Committee's attempt to try and get information pertinent to the Budget and Finance Committee's upcoming budget cycle. And so this Committee will do its part to get pertinent financial information that will hopefully be useful in budget session for us. So under Policy Item 34 we have a communication dated May 29, 2013, from the County Clerk, reporting that on May 28, 2013, by adoption of the Budget and Finance Committee Report No. 13-59, the matter of cost recovery of helicopter service provided by the Department of Fire and Public Safety be referred to the Policy Committee. This morning we do have our Chief with us, Chief Murray, and of course we have Deputy Counsel Ueoka assisting the Committee on this matter. So, Chief, will, if you have any opening comments, that would be great. And also prior you starting, my apologies, I also wanted to recognize Budget Director also is with us, Mr. Baz, who will be assisting with appropriate comments. So, Chief, if you would, please.

MR. MURRAY: Aloha and good morning. Happy to be here to answer any questions that you may have regarding the helicopter service. And I have a question, is it the Fire Department's contract helicopter that we're talking about? All right.

CHAIR HOKAMA: Yes.

MR. MURRAY: Chair, would you care for me to explain how...

CHAIR HOKAMA: Why don't you give us some background information, Chief, regarding this service and the amount of resources that it takes from the County to make this happen, and what's your outcomes, your mission outcomes and the statuses please.

MR. MURRAY: All right. The Department has a contract with Industrial Helicopter Company that we have on an annual basis, and it is a four-year contract but a year-to-year as it goes. We are budgeted a million dollars annually, fiscally to handle this operation. These, the helicopter is utilized for fighting fires as well as rescuing people. We, on an annual basis we average about 140 actual callouts for the helicopter itself, and it varies from year to year based on our fire season as well as our rescue season. And looking at other counties and how they do their contract service, I believe that Maui County has the most efficient system in place, and it limits

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liability to the County because of the insurance that company carries and their responsibility to maintain and also provide the pilots for this service. I'll entertain any questions.

CHAIR HOKAMA: Okay. Chief, you have, by chance, any type of handout on your numbers and whatnot?

MR. MURRAY: No, we don't, but I do have some numbers for you. In Fiscal Year 2011 - '12, the helicopter went out 124 times; Fiscal Year 2012 and '13, 151; and 2013, '12 and '13 is 128, and '13, '14 as it stands right now 39. So we're lower than average.

CHAIR HOKAMA: Okay. And, Chief, this is all on 911 callouts?

MR. MURRAY: Yes.

CHAIR HOKAMA: Can you tell us, Chief, operationally, your general orders or your procedures, the dispatcher makes the determination of the chopper being sent or can you tell us some protocols?

MR. MURRAY: Okay, protocol on how that works. The dispatcher gets the information to our crews and our Battalion Chief and our Rescue Captain have the authority to dispatch that helicopter based on the call. And we also utilize information from Police Department and EMS and our outlying companies if they are there on scene to determine the use of the helicopter. So there's a response matrix that each call goes through regardless of what it is, so for the utilization of that it goes through that same process.

CHAIR HOKAMA: Okay, okay.

MR. MURRAY: You know one of the big things about using the helicopter is the accessibility and the amount of time that we need to get a viable patient to medical assistance.

CHAIR HOKAMA: Have you folks broken this down into an hourly rate or something?

MR. MURRAY: Yes. Our hourly rate that we pay for the contract I believe this year is about \$440 an hour. So we pay roughly about 635,000 a year for the contract, and then we put aside that extra money for the actual use of that. So as far as breaking it down, that's just the hourly for the helicopter. The man hours and the other resources that go into effect are not calculated in that budget line item.

CHAIR HOKAMA: Okay. Now have we utilized the helicopter service in a manner that even after warning the public they still move forward and put themselves in endangerment, have you folks come up with a cost recovery amount?

MR. MURRAY: No, we haven't, and one of the reasons is that if you look at one of the sources that calculates cost of one life as with traffic accidents, it's anywhere from 860,000 to a million dollars per person of death, for traffic death. So when you look at the program as a whole, so,

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you know, our ability to save one life in that measurement, it pays for itself. And statistically we save more than that annually.

CHAIR HOKAMA: Okay. But that doesn't help us budgeting, yeah. I mean that --

MR. MURRAY: Understood.

CHAIR HOKAMA: --sounds good but that doesn't help the Council come up with some numbers to what we should be providing the level of service at.

MR. MURRAY: Understood. And, you know, what we also need to look at is what is the parameters that we would have for a cost recovery. You know it's...right now we don't have the data to break it down, we could take some time to break those items down and see where they're at.

CHAIR HOKAMA: Okay.

MR. MURRAY: I mean, you know, I mean...

CHAIR HOKAMA: And that's a fair comment, Chief. That's a very fair comment. And the Chair would take that into account, but I think by the time it comes March, we will be expecting some type of communication from your Department on...and if you have questions, you know, please, please ask and we can help clarify parameters. But, you know, to this Chair everything has a cost, and we only can afford what we can pay, so I am looking for a proposal of, per hour of what it would take if, for us to consider a fee structure that even after warnings if you choose to endanger yourself and then place County employees in endangerment and we respond, you going get one bill.

MR. MURRAY: Okay, we'll do that.

CHAIR HOKAMA: 'Cause I'm not of the philosophy to endanger three County employees to save one knucklehead who, you know, chooses not to take warning, not to take hazard into account and then places three public servants in danger's way. I have problems with that kind of mentality and . . .(inaudible) . . .

MR. MURRAY: Understood. Understood. I have a question on the cost recovery aspect of it.

CHAIR HOKAMA: Yes, Chief.

MR. MURRAY: Is it something that the Department of Finance will be taking care of by doing the cost recovery assessment or is it something within our Department?

CHAIR HOKAMA: That's something we would be taking every department's comments on. You know every department may have a different view, Chief. Every department may all come and say we all agree Finance should be the guys that do it or whoever it be. It depends on, again, if

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we move this forward and how we're going to make the penalties stick. So if you're a property owner we can lien the property as a way of collecting down the road.

MR. MURRAY: All right. You know one of the issues I believe that, you know, might be a big picture thought process on where we're going to lay this out is that Maui is a destination to have fun, do eco tours, all of these different things. So we're selling Maui as that, and, you know, where do we draw the line to individuals making that extra step? Because a lot of times they're on private property that they don't, they should not be on, they're trespassing, and they'll break through fences, tear down no trespassing signs or kapu signs. We have a lot of issues with that. I mean the landowners struggle to keep these places off limits as well as the State Department of Land and Natural Resources, too. So I think there's a lot of issues that we need to iron out prior to...

CHAIR HOKAMA: Yeah, we'll be...no, we want your comments on those issues, Chief.

MR. MURRAY: Okay.

CHAIR HOKAMA: We want you folks' comments.

MR. MURRAY: All right.

CHAIR HOKAMA: 'Cause those are unique situations that you guys deal with that we need to be aware and informed of. But yeah, you will be an active component in helping to, us move this, how to frame the parameters fairly and accurately.

MR. MURRAY: All right. Thank you for that opportunity.

CHAIR HOKAMA: Yeah. Mr. Couch, questions?

VICE-CHAIR COUCH: Thank you, Mr. Chair. And that's, I believe, the discussion that prompted this comment from Budget Chair White. The...Chief, wanted to know if, there are other fire departments not necessarily in this State but in any state that do something like this, this isn't something unprecedented is it?

MR. MURRAY: No, it's not. Not all departments across the nation do that. Mainly where this thing evolved from was EMS transport. So that's kind of a thought process that a lot of departments across the country have looked into, especially if they have EMS in their department. So they already have a cost recovery division to handle that you know.

VICE-CHAIR COUCH: And, Mr. Chair, as you said, if somebody ignores lots of warnings or tears, as you said, Chief, tears down signs and goes on private property and then hurts themselves, I certainly can see how...and you have to go in and use the helicopter to get 'em out. I can certainly see how we would want to charge them for that, something like that. I guess in your report back to the Chair, would...Mr. Chair, can I ask for how other jurisdictions might be doing something like that --

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CHAIR HOKAMA: Sure.

VICE-CHAIR COUCH: --especially in rugged...

CHAIR HOKAMA: Within the fire sphere --

VICE-CHAIR COUCH: Right.

CHAIR HOKAMA: --of activity, yeah --

VICE-CHAIR COUCH: Yeah.

CHAIR HOKAMA: --that would be appropriate for the Chief.

VICE-CHAIR COUCH: 'Cause I've heard that other places will charge you for plucking you out of a silly situation.

CHAIR HOKAMA: One thing that your sisters counties deal with that we don't necessarily deal with in Hawaii is unchartered areas. There's counties that have unchartered areas, and so there's a discussion of legally they're not required to respond 'cause you're not in the chartered part of the county. And only the chartered guys pay the taxes and the fees to support their department, so is it fair to them to respond to non-charter. I mean it's a big issue in other counties.

VICE-CHAIR COUCH: Thank you, Chair.

CHAIR HOKAMA: But it's something that, you know, comes up. Mr. White?

COUNCILMEMBER WHITE: Thank you, Chair. Chief, do you have ideas or information on how many or what percentage of your callouts are rescue versus fire?

MR. MURRAY: Okay, let me pull that up right now.

COUNCILMEMBER WHITE: Or rescue, fire, and whatever other items you get called out for.

MR. MURRAY: So the items that we have it listed is fire, so mainly brushfire, rescue, service call, or good intent, or severe weather. That's the listings that we utilize now, and we can change those parameters if needed.

COUNCILMEMBER WHITE: And roughly what percentage go to rescue?

MR. MURRAY: It is the bulk, roughly about 60 percent go to rescue.

COUNCILMEMBER WHITE: Okay. And do you have a sense of what the average airtime is?

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MR. MURRAY: Rescues usually don't run that long unless we're in a search pattern.

COUNCILMEMBER WHITE: Right.

MR. MURRAY: As opposed to long brush fires, those go for days or weeks. So, you know, as far as getting an average I would say two to three hours. I mean given the, some that are very lengthy and some that are very short. Sometimes we're able to effect the rescue within one hour.

COUNCILMEMBER WHITE: Right. And then I'm assuming the cost would be not just the helicopter time but also the overtime incurred by the ground crews as well?

MR. MURRAY: Yeah. We try to limit the overtime on those unless we have lengthy rescues that utilize more than one crew. Like for instance back, I don't remember what year but there was a crash on Molokai in Pelekunu Valley that took 20 of our personnel to effect the recovery, and that was, you know, basically to our limits as far as repelling and what have you. But the helicopter had to fly in several times because we couldn't effect the rescue, the recovery with the helicopter itself was too steep and too windy. So in those cases then we have people come back because we need to have multiple persons in certain stations as far as the rope rescue is concerned --

COUNCILMEMBER WHITE: Right.

MR. MURRAY: --as a safety measure. So we don't have that very often but when we do, we do call back the rescue personnel specifically.

COUNCILMEMBER WHITE: Yeah. Yeah...

MR. MURRAY: But normally we do it with the people that are on duty. Yeah, 99 percent of the time.

COUNCILMEMBER WHITE: Yeah, off of Mr. Couch's question, I think it would be important for us to check how other resort destinations are charging, because I think it's, you know, to me trying to define Mr. Hokama's term "knucklehead" is relatively easy at times, but at the same time I think, I would think a knucklehead would be more like me or Mr. Couch who are somewhat familiar with the kinds of dangers that people run into on Maui and Molokai and Lanai. We would be knuckleheads if we put ourselves in that kind of danger, but a visitor, I'm not sure if I would, you now, I might call them lolo but not, maybe not knucklehead.

MR. MURRAY: I'll stay out of that debate.

CHAIR HOKAMA: Smart move, Chief.

COUNCILMEMBER WHITE: Yeah, Mr. Couch and I can get into danger no matter where we go on Maui. But anyway, thank you, Chair.

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CHAIR HOKAMA: Yeah, thank you. Ms. Baisa?

COUNCILMEMBER BAISA: It's a tough one, Chair. You know as human beings, you know, we would save another human being that was in trouble regardless if they were a knucklehead or lolo or whatever because, you know, that's a life. And that person is somebody's child, somebody's father, or somebody's whoever. And so, you know, out of our just humanity we have to try and save them, but it does bother me that we have to spend so much time and money rescuing people who take chances. You know they may be physically not able to do that, they may have some medical condition, whatever or push the envelope, and you see all the time, you know, people get into trouble. And they don't know where they're going, they get isolated on trails and then bad weather comes upon them, they don't know where to go, they're not prepared, they're not seasoned outdoors people. And even those people get into trouble because, you know, of situations. And I don't think it's fair, I don't think it's fair to the rest of us who, you know, at my, in my physical condition I wouldn't think of going hiking in the mountains and staying overnight and whatever, 'cause I know that that would be putting myself in harm's way and everybody else if I got into trouble. But people come to Hawaii like Chief says and, you know, they want to experience and they're daredevils and they just have to take their picture at the top of wherever they're going and jump into that pool that they probably shouldn't or whatever. And, you know, we can only do so much as far as warning. Sometimes I wonder if maybe we do do enough to warn people about the dangers. You know we advertise the fun but I'm not sure we equally advertise the dangers and the limitations, and then we have these people that write these books about their experiences and do hidden secrets and hidden treasures and whatever. And today with social media it's even worse because these pictures are all over the internet and they're all over the world for people to take a look, and if you're a daredevil person, well, you might want to come to Maui and try one of these things. But I think we need some kind of legal limitations, and I agree with Member Couch, I think it'd be a really good idea to see what other people are doing. And maybe we need to set some guidelines or some laws or whatever that, you know, if you endanger yourself, well, you may have to pay us back. But it's a tough issue because it involves somebody's life, and none of us want to be, you know, in the situation where we don't go to save somebody. 'Cause again, it's somebody's, that person is special to somebody. Thank you.

CHAIR HOKAMA: I hear you very well, Ms. Baisa, and you bring up a very, very good point. Very good point. But if you talk to, we don't have Police now, but if you talk to Police during the last tsunami, even after roadblocks and people still wanted to pass that safety zone and try surf a tsunami, and I'm going so does that mean then Chief Murray gotta send so many firefighters for go --

MR. MURRAY: No.

CHAIR HOKAMA: --getting these guys sweeping out to ocean or whatnot, you know.

MR. MURRAY: No, we wouldn't actually. You know and in situations like that --

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CHAIR HOKAMA: You should share with us that then, Chief.

MR. MURRAY: --we would...you know in a situation like a tsunami, there's fair warning, hopefully, that has gone out. We would basically try to respond to the ones that haven't put themselves in harm's way. It's just like for instance if you look at Peahi, you got Jaws, there's a limit to what we will do based on the size of surf, yeah. So they hire their own people, usually our people to go and do it off duty. And there's a reason for that, because this is something that they're, you know, competing at or what have you, and we usually don't get involved in something like that. There's a limit that goes on. So we would try to respond to the areas in a tsunami case because it would be, basically all of our shorelines would be impacted, so there would have to be an assessment made on who we're going to get and at what. And it's all based on the call. And, you know, one of the points that you brought up, Chair, is that, you know, one of the things that we see is that the experts that are out there that get into trouble, they'll wait 'til the last minute to call us, because they're calling everybody else to come and get them. And in some instances we're unable to effect a rescue based, you know, due to darkness, so we'd hate to avoid, you know, having people avoid calling early. So if they get in trouble at 11:00, call us at 11:00, you know, don't call us at 5:30 in the winter 'cause we got 25 minutes of light to find you. And that puts us at more risk than anything. So, you know, a lot of education will need to go on I would believe, you know, to find a happy medium of how we can figure this out. You know there's a lot of authors to books that send people out to places that they probably never been, and we wonder how these guys found this place, you know, but they're injured and we gotta get 'em to help right away. Or sometimes, you know, they fell to their death. So a lot of interesting things go out, out there. I don't know what the right answer is but I would just want people to call early. And a lot of times the individual who gets called for help is not the person who called, it's somebody else who called. So now who fulfills that liability to make the payment? I didn't call, you know, but thanks for saving me, I appreciate it. I don't know. You know there's all of those situations that happen to us on a weekly basis so.

CHAIR HOKAMA: Yeah, yeah. So, Chief, are there other situations beside that tsunami example you shared that is unique that you folks deal with in that, those type of responses?

MR. MURRAY: You know there's been a few times that I know of that we've warned people, for instance, that are doing, you know, say a canoe trip from one island to the other and then something breaks and they want to stay with their equipment until their friend shows up with their boat. Once we come on scene we're unable to release them, so we'll just...

CHAIR HOKAMA: And that's in the water, Chief?

MR. MURRAY: Yeah, in the water usually. You know if people are stranded...we have issues where individuals are hiking and their dog goes off the cliff, they call, can you help us with a dog, usually we don't do that. But what we need to realize, too, is that most of us who are pet owners will pretty much do the same thing for your child as you would your pet, so they're going to put themselves in danger. So we'll try to find creative ways to solve that problem. Conducting a

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training situation where we have three hours to pull it off, we'll go out and maybe retrieve an animal for them. Because they're not going to stop, they're going to wait 'til it's dark and then they're going to go down and get their pet. So, you know, avoiding situations also save us a lot of money as well, you know, the outcome. Because once we're on scene and we release them to their own responsibility and they choose not to be responsible, we're still responsible. People are going to always say hey, you had the opportunity to solve this problem but you chose not to. So, you know, if a person is down there then it's something that we have to do quickly, but if we have the time to think about it, sometimes we come up with some creative scenarios that we're able to save people from themselves. To put it lightly.

CHAIR HOKAMA: Well that was well said there, Chief. Ms. Cochran?

COUNCILMEMBER COCHRAN: Thank you, Chair. And Chief, myself, and Mr. Ueoka were briefly discussing cost recovery, and for me it's about the ocean safety aspect, being a, you know, a surfboard rental business owner, and I think education is very key. We didn't come up with a silver bullet is going to cure all this but, you know, it was a brief discussion, and I think there's a responsibility for say a surf shop owner or what have you who sends the people out, you know, with the rental equipment and they need to educate and tell them what, you know, the safety, teach them safety. Don't go out in the trade winds, stay within the shoreline area or, you know, this and that, because I've been hearing from our own departments that they've been getting a lot more calls due to, you know, more shops doing these rentals who aren't as, you know, educational and bringing awareness to the people they rent to. Because these are visitors, these are our tourists that come to enjoy and have fun on Maui, but then again what happens, they get into trouble. And just they didn't know any better. But then there are some of us who are pretty akamai and, you know, ma`a to the ocean but yet you can get caught off guard, too. So thereby we need to utilize these services. So again, there's no simple answer to all the situations that I know the Department goes through, but I think if there's a way somehow to make sure that the people, the vendors that do put people into these predicaments and situations in harm's way that then in turn utilize our services which taxes are, you know, our budget, then maybe there's a route there. But Mr. Ueoka did mention, you know, ocean, that becomes a State area, so then we'd have to be discussing with State and versus County and jurisdictions and what have you. But again, you know, this is an important discussion I think we're having, and something that we should definitely continue to look into. Because the services are only growing, and again, the more users, recreational users out there, the more chances for, you know, these situations to arise where thereby needed emergency, you know, services and what have you. So this is a good topic. Thank you, Chair.

CHAIR HOKAMA: Thank you. Ms. Crivello?

COUNCILMEMBER CRIVELLO: Thank you, Chair. I think it's important for us to try and do some sort of analysis for cost recovery, but how do you measure which is applicable, I guess, to cost recovery? And I think that's more the in-depth discussion that should be part of the analysis. Because basically it's not if we'll need it, it's when. And you mentioned the, 24 years ago today was the plane crash that happened off Molokai, and our loved ones wouldn't have been able to

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come home for its, for the finality of that if we didn't have the services of the Fire Department and at the time of the helicopter use. So, you know, it's how do you measure when it is necessary, and I think for you folks in the rescue world, it's just at the time is to react what is necessary to save lives. So when we have the lolo that's not educated then maybe that's something we need to look at when we talk with the visitors industry. How we can I think more or less expand on education, and often they don't want to mention it because it deters the visitor, but once they're here there should be some process or hopefully there's a process to educate so that they become aware. But like I say, we don't know when we'll need the services, and how do we do the comparative cost recovery in my opinion is the question.

CHAIR HOKAMA: Thank you. Mr. Carroll?

COUNCILMEMBER CARROLL: Thank you, Chair. I'd just like to say that for East Maui we really appreciate all the services that they give, not only using the helicopter but also the rescue services that we have. Hana, East Maui residents hardly ever use these services, most of them are from our visitors either from this side of the island or, you know, from off island; however, it still saves our local people lives at times, because if it wasn't for them our local residents have to go over there and try to find these people, rescue them, take them out, find them on the water, find them on the mountain. Whereas where we have professionals doing that with professional equipment, it not only saves the person that's in danger but it also helps to save and preserve the lives of just ordinary people like me and everybody else that end up going out there to do this because it's obviously we are, somebody is going to do it. So these services not only save the people that they go originally to rescue but they also help to preserve and keep safe our citizens, too, that otherwise would, they would do it but the danger is there. So we really appreciate all the services that they're giving. And I don't think you can put a price on it. Thank you.

CHAIR HOKAMA: Thank you. Mr. Guzman?

COUNCILMEMBER GUZMAN: Thank you, Chair. I'm still trying to grapple the concept of cost recovery for the helicopter service where it's basically a public health, safety, welfare service. I understand the concept with the EMS where it's tied in, ambulance goes out, then you can tie in the cost with medical insurance and you can recover that way. But for the helicopter service I just, I'm having a hard time trying to figure out a concept how you're going to recover the cost. Because even in suicide situations when someone is trying to commit suicide, that's a crime, it's under the books in the HRS to commit suicide, but never have I ever seen the prosecutors or the MPD charge someone for attempted suicide. So it's the same thing, there are police forces out there to help and prevent these types of safety situations, and so I see the same concept with the helicopter. I'm just trying to, you know, I guess what Mr. Couch is saying, maybe we need to look at other jurisdictions and see how that works. Because I'm sitting here trying to think of different scenarios where we could try to get a cost recovery and I'm blank. I just can't differentiate how that will work. So kind of stuck, but it's a good topic. Good topic to discuss. Thank you, Chair.

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CHAIR HOKAMA: Well it's an assignment we have, this Committee has by a Council decision, and so part of the due diligence is of course see what sister counties may or may not be doing. At the end of the day, you know, the Committee's recommendation on policy is to just maintain status quo and not to look at a fee structure or a cost recovery program, or we may. Again, you know, part of the due diligence is getting information, and then having the community weigh in. And because one thing, if we're, as a taxpayer you're going to pay one way or the other but you're going to pay. Okay, so part of it is making people aware of how they're going to pay, how they're going to pay that cost. And for me it's, you know, I don't have a problem paying and helping my friends and neighbors on what I would consider reasonable things, but I don't have unexhaustible resources, none of us have. And so we're going to need to make decisions and this may be one of them down the road. I'm not too sure, it depends what the departments tell us on the other type of cost recovery items that we got listed and how they may want to approach those things. But I think it's a worthy discussion, and maybe part of the discussion is we need to delineate more clearly what is the State's authority and what is the County's authority and stop being goodie goodie and say well we know this is the State but we'll do it anyway. You know that's part of, to me, the problem. You know and so, and that's why the discussion comes once a year, once a term, what is the County's core requirements that we are responsible and obligated to pay for. Because we pay a lot of nonobligatory payments that we believe is important still yet to the community. So it's going to be an interesting one. Chief, anything else? Is there things that, you know, we'll give you time to maybe have your Department or appropriate staff help you get the, more information. And I think some of the questions the Committee asked about the component of rescue versus the other categories is important. I would say the one regarding water, how much water callouts you get, 'cause I'm sure this is something we can talk to DLNR about how we might want to look at a more equitable relationship. Anything else for the Chief, Members, that, regarding potential information you may want to request from the Department prior to next discussion on this? And then we'll also compare to our other counties what they're doing regarding this matter, too. Yes, Ms. Baisa.

COUNCILMEMBER BAISA: So, Chair, I'm sorry I missed the first few minutes of the meeting, but they're going to come back with information on the categories of what they've done and which ones were, for lack of a better, knuckleheads or whatever and which ones were real?

CHAIR HOKAMA: Yeah. We'll, I'll send a letter out under my signature from the Committee to the Chief and...

COUNCILMEMBER BAISA: I would say preventable, you know, or avoidable if they didn't put themselves in harm's way. I think that'd be important for us to see --

CHAIR HOKAMA: Good words.

COUNCILMEMBER BAISA: --how much of it is that.

CHAIR HOKAMA: Good words.

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COUNCILMEMBER BAISA: Thank you.

CHAIR HOKAMA: Good words. Anything else for the Fire Chief, Members? Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair. And your inquiry with Fire Chief in regards to water, that's the ocean water rescues, per se, or in a...

CHAIR HOKAMA: Anything that he can report back to us.

COUNCILMEMBER COCHRAN: But not Dave, I see Director Taylor is here, Water Department.

CHAIR HOKAMA: No, no, no, not drinking water, we're talking about...

COUNCILMEMBER COCHRAN: Okay. Like how much water do we use to put out fires or...

CHAIR HOKAMA: Yeah, we're talking about the ocean.

COUNCILMEMBER COCHRAN: Okay.

CHAIR HOKAMA: We're talking about the ocean.

MR. MURRAY: Coastal waters.

CHAIR HOKAMA: Because like you, Ms. Cochran, I still gotta deal with the effects of losing one resident to a boating accident, okay, back home. So yeah, I still get people unhappy about that situation.

COUNCILMEMBER BAISA: Well you could drown in a punawai.

CHAIR HOKAMA: Eh, you can drown in your bath tub.

COUNCILMEMBER BAISA: When we were kids we swam in the punawai.

CHAIR HOKAMA: So okay. If, Chief, anything you want to share, else you want to share before we finish up your item, this item?

MR. MURRAY: No, thank you for the opportunity. I think this is a good discussion, and, you know, I applaud this Committee for actually looking into the possibilities of cost recovery. And, you know, we look forward to giving you all the information that we can find, and we'll go ahead and do our due diligence as far as the other localities in the United States that have similar issues like the ocean and what have you. So yeah, thank you for the opportunity.

CHAIR HOKAMA: Yeah, thank you. Mr. Ueoka, any comments? You were awfully quiet today.

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MR. UEOKA: No, thank you.

CHAIR HOKAMA: Okay, thank you very much. Chief, thank you very much for your presence.

MR. MURRAY: You're very welcome. Have a nice day.

CHAIR HOKAMA: We appreciate your participation and Mr. Ueoka. We'll move on to...we'll defer Item 34, Members.

COUNCIL MEMBERS: No objections.

**COUNCIL MEMBERS VOICED NO OBJECTIONS.** (excused: MPV)

**ACTION: DEFER pending further discussion.**

CHAIR HOKAMA: Thank you.

**ITEM PIA-22: FEE STRUCTURE FOR FEES COLLECTED BY VARIOUS COUNTY DEPARTMENTS** (CC 13-102)

CHAIR HOKAMA: And we'll bring up Policy Item 22 which is the Fee Structure for Fees Collected by Various County Departments. At this time, we'll ask Mr. Walker to please join us from Finance Department and Mr. Baz, our Budget Director, if they could share some comments with the Committee regarding a communication, No. 13-102 from our Planning Committee Chair, Mr. Couch relating to a fee structure for fees collected by County departments. And so maybe we'll start, be a little different. Since this was initiated by a communication from Mr. Couch, maybe we'll ask Mr. Couch to give us a few comments prior to letting Mr. Baz or Mr. Walker share their thoughts.

VICE-CHAIR COUCH: Thank you, Mr. Chair. And the reason why we have this communication is the Planning Committee had a, an item before it that had, the determination, we were trying to determine whether we were going to have, recover costs for the Planning Department. And it became a broader message that we said well, you know, we should talk to Policy to see if, how are we going to go through department by department. Do we need to...are some departments cost recovery, we want to recover full cost, are some departments cannot. Police Department you can't do that, you can't charge citizens for police services, essentially, and those kind of things. So it was, the reason I brought it up is the Committee said, you know, we should discuss the overall umbrella policy, how do we as a County want to, or as a Council, Policy Committee want to have that policy. And we assume that there's going to be some cost recovery in some and not in others, so we just have to kind of discuss it. And that's, this was the impetus for this communication. And there's some notes in here or some other, you know, things that we talked about, and it was mainly for the fee structure for the Department of Planning.

CHAIR HOKAMA: Right, right. Thank you for that, Mr. Couch.

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VICE-CHAIR COUCH: Thank you.

CHAIR HOKAMA: Mr. Baz, any comments you wish to share at this time, please?

MR. BAZ: No, Mr. Chair. Just again, this is a good topic for discussion. As we present the Mayor's Proposed Budget, it's nice to know where the Council's coming from as far as a fee versus a tax type situation. So as again, we look forward to the outcome of any kind of decision.

CHAIR HOKAMA: Are you able to...and I know you're working on your, the new budget, Mr. Baz, but without sharing what you may want to still keep under wraps, is there some changes in your folks' approach to County budgeting regarding the fee structure component?

MR. BAZ: Mr. Chair, at this time we don't have any drastic changes proposed for changing the structure of fees versus taxes, but as you mentioned, still quite, kind of early. It'll be about five more months before we transmit the budget.

CHAIR HOKAMA: Okay. Mr. Walker, Department of Finance, is there anything you want to share at this time regarding the fee program for either your Department or in general for the County?

MR. WALKER: Thank you, Mr. Chair. No, nothing in particular. I guess I'm here just to learn where you guys are going and what the discussion is, and I'm assuming I'm going to get some homework.

CHAIR HOKAMA: Well we was hoping, you know, if, and this is a two-way communication --

MR. WALKER: Yeah.

CHAIR HOKAMA: --Director. So, you know, if you're telling us that there's areas that are aware within your Department that has shown a trend of decreasing revenues and, you know, and there's some little flags that are popping up --

MR. WALKER: Right.

CHAIR HOKAMA: --that you might want to have us be at least educated --

MR. WALKER: Right.

CHAIR HOKAMA: --so that we can make appropriate adjustments.

MR. WALKER: I appreciate that. I think in general we try to recover what costs we can in, specifically in our DMV which is where we, the bulk of our fees are charged. And though I would say I don't know when the last fee study was done on, from our Department to actually look at what true costs are versus what we're charging. But other than that there's been no studies done

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recently to look at trends, but certainly, you know, we can do that if that's the want of the Committee.

CHAIR HOKAMA: Okay, thank you. I'll let the Committee start their questioning. Mr. Guzman? For any gentleman present.

COUNCILMEMBER GUZMAN: Thank you, Chair. That's interesting about a fee study schedule, I mean study. Has there been those studies in the past?

MR. WALKER: Yeah. I'm not aware of any to be honest with you, but...

CHAIR HOKAMA: Mr. Baz.

MR. BAZ: Thank you, Mr. Chair. Yeah, I'm not aware of any fee study either. Understanding that the DMV collects different aspects of, when you pay your car registration for instance, there's certain things that you're paying that are not just fee recovery, they are...or not just fee recovery I guess for the registration of your vehicle. You're paying for things that the State is charging. You know we are covering our costs from the State, we get to keep a certain portion of that to cover those costs. And then there's also things that are paying into the Highway Fund so that we can have roads get paved and we can have a Highway Beautification Fund to keep the highways kind of clean, too. So there's other aspects than just the cost recovery for providing that service.

COUNCILMEMBER GUZMAN: My follow-up question would be what departments would you recommend or you see as potential low-hanging-fruit departments where we can actually go in and study the cost recovery? Are there several different type of departments out there? I know one of them would be probably Parks and Rec, but are there are other ones that...Planning. Is there a list that you can at least give us an idea, and then from there we can kind of formulate the top priorities?

CHAIR HOKAMA: Mr. Baz.

MR. BAZ: Yeah, thank you, Mr. Chair. Member Guzman, that's a very good question. And that's kind of, if you look at the County Budget at Rates and Fees, Appendix B, you'll see a wide variety of things in there, because certain things are items that you can recover the cost on. A good example is our utilities. Our Water Department, our Wastewater Division, they recover their costs because they are a utility for our community, so the users pay that fee. As I got in trouble for bringing up the Solid Waste portion of it from when we had this item before, you know, there, I can see a public benefit to that, having, not having it be a full cost recovery item but being a portion of the cost recovery item. And, you know, same with the Parks Department, too. If we were going to start charging say for tennis courts, 'cause that topic got brought up recently, it would cost us more to collect the fees to have somebody at the tennis courts, you know, monitoring it, collecting the fees, and, you know, putting it in the bank than we could probably make off of charging, unless we're going to start charging them, you know, \$50 an hour to rent the tennis courts. You know so there has to be some kind of analysis done in that, and there are

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some low-hanging fruits that have been discussed in the past. Pools are fairly isolated, you can, you know, gate them up --

COUNCILMEMBER GUZMAN: Right.

MR. BAZ: --and there's always staff there. But then teaching the lifeguards to collect money and save lives might be an issue as well. Golf course, you know, is a cost recovery item but of course it doesn't recover all of its costs as well, and even though they may be efficient as Member White brings up as far as maintenance of the park versus other parks, there is, again, it's more of a utility type of situation where you're going there for a specific purpose. And pools are like that, too. So I mean that, so the lowest-hanging fruit that I can see is that, but I don't, I wouldn't know what my boss would think of that or, you know, the community or yourselves.

COUNCILMEMBER GUZMAN: So in terms of the top three departments that could possibly be analyzed would be, number one would be what?

MR. BAZ: Parks.

COUNCILMEMBER GUZMAN: Parks.

MR. BAZ: Yeah.

COUNCILMEMBER GUZMAN: Number two would be?

UNIDENTIFIED SPEAKER: Parks.

COUNCILMEMBER GUZMAN: Don't say Parks.

MR. BAZ: You know a majority of the other departments are chartered services for the community that, like Police and Fire and even Human Concerns to a certain extent is, are things that are there for a general public benefit or people can't afford to cover those costs. Yeah, I...

COUNCILMEMBER GUZMAN: So just Parks, right?

MR. BAZ: At this point. Yeah, I mean, yeah, yeah.

COUNCILMEMBER GUZMAN: Okay.

MR. BAZ: Unfortunately that's it.

COUNCILMEMBER GUZMAN: Thank you, Chair.

CHAIR HOKAMA: Except for Police and Fire you can pretty much look at all the other departments with some fee structure. Water has it, Public Works has it, Planning has it. I mean, you know,

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pretty much every department has something or another, and might be only a small part, plan review fee in the budget, you know so.

COUNCILMEMBER GUZMAN: I guess, Chair, what I was trying to get at was if we could, you know, maybe somehow get some type of analysis like per department and maybe a priority. If there's a top three then we can look at it per department, the top three departments where we can look at the cost recovery and just focus on one department at a time but in a structured, orderly manner. Instead of going okay, let's do all the departments.

CHAIR HOKAMA: Yeah, yeah.

COUNCILMEMBER GUZMAN: I was trying to get that out.

CHAIR HOKAMA: Yeah, yeah. No, you make sense, and I think Council tried to help once when we started off with the Planning audit, and, you know, we didn't keep up the pace. But, you know, that was an attempt. Mr. Baz.

MR. BAZ: Thank you, Mr. Chair. And actually that's a kind of a key function of the Planning Department cost recovery model was kind of a test to see where everybody feels about that, and that's why it's still stuck and from my understanding not really moving forward is 'cause we're not quite sure of the whole, the model of what would you like to do. And I can tell you from my job trying to prepare the budget, you know, I, of course, you know, it's a Mayor's Proposed Budget and we're looking at it from, you know, the Mayor's perspective of what fees versus taxes and different things like that. But it's also, you know, a cooperative effort of course with Council 'cause you guys end up having to work on it and deal with it and finally approve it. Having a direction of whether we should be moving forward towards, you know, spending the money on studies and whether it's something that we want to either move towards more of a cost recovery type situation or more of a tax situation is where I think we, as the Administration, you know, the directors can do, you know, we can do the studies, we can provide all the information. It'd be nice to know, you know, and I guess the Planning Department one was the test of that is where you guys want to move forward. And that's why Mr. Couch I think brought that out.

CHAIR HOKAMA: Thank you. I'll go right down the line. Mr. White?

COUNCILMEMBER WHITE: Thank you, Chair. I've made a list of those that are full cost, partial cost, and no cost recovery. But just for the public to understand, the full cost departments are the Liquor Department, the Water Department, and Wastewater. The partial cost departments are Solid Waste, Parks and Recreation, Transportation, Planning, and the Development Services Administration of the Public Works Department, and then to some degree Housing through rent collections. And then the no cost at this point are Police, Fire, Corporation Counsel, Prosecutor, the Personnel Department, Management, Housing and Human Concerns other than the housing, and then the Finance Department and Civil Defense. And I think it's, you know, it's a good discussion for us to have. As we saw in the discussion regarding the Planning fee expansion, the question is who should bear the cost, and who's benefiting from the various services that are

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being provided? It's a broad, broad discussion and a difficult issue. I think it might be helpful if we were to approach this department by department, because I think each department's got its own services, and the public in each case has widely varying benefits that come from that department or services that are provided. So it's a tough one. And so I'm thankful that you've brought it forward, and I look forward to additional discussions about it.

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

COUNCILMEMBER BAISA: Yes, Chair, thank you very much. Love this discussion. You know this is, goes on all the time, and every time it comes up we find ourselves having a very difficult time trying to, you know, just get a handle on it. And couple things come to mind for me and, you know, it seems like it's simple but it's not really simple. If you start looking at all the departments and you say okay, well this is a core service and this is what the County is supposed to do, this is part of our job, to me those core services are very difficult to charge for because, you know, that's what we are supposed to do and that's what our property taxes are probably collected for is to provide core services. But in addition to that we also have a lot of discretionary services that we like and our community likes, and it adds to our quality of life and so we want those, too. Now are those the ones that we charge for? And we find ourselves having a difficult time doing that because as Sandy said some of them might cost an awful lot to try to get recovery or it's just not popular, you know, if we said we're going to charge you to use the pool or we're going to charge you to use the tennis court. And I don't find that unmanageable. You know nowadays with modern technology there's many ways to charge for people to get into something without somebody being there. I travel a lot and I'm amazed, I go to these humungous, humungous parking lots in Mexico, tiered parking and you never see a human being, everything is done electronically. So, you know, I think that's, the idea that it would take somebody to be there is not a concern. However, you know, again, it goes back to what values in our community, what we want to provide, and the quality of life that we want. But I really like Member Guzman's trend of thinking. I think maybe we should identify one department and let's study that department really well, and if we can come to some kind of an agreement, let's do a pilot and see what happens. Because as we continue to look at this full spectrum of all the departments, it's kind of overwhelming. You know we'd have to do all this research and all these studies and all this stuff, and we just kind of back away from it all the time and say well next year we'll deal with it and next year we'll deal with it. Well maybe if we just took one and tried it out and see what happened, and if it's successful then we go to number two. But if we don't begin somewhere we're never going to do it. So I do like Member Guzman's idea. I think we ought to all get together and say okay, this is the department where we think there's potential for us getting some recovery and let's check it out. So that's just where I'm at. Thank you.

CHAIR HOKAMA: Thank you. Mr. Couch?

VICE-CHAIR COUCH: Thank you, Mr. Chair. And yeah, I appreciate Mr. White's list of --

COUNCILMEMBER BAISA: It's a good list.

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VICE-CHAIR COUCH: --yeah, of departments. This all, again, was spurned on two different departments, Planning and Parks. Well I think we had a whole session in the, and I think that's what the PIA-35 is all about is the Parks fees for the facilities, for getting a permit for a community center and all that. We were considering possibly increasing those and we thought let's take a look at it. But Parks has...and I agree, let's do one at a time and Parks is a good one to possibly start, but they've got a lot. They've got the centers, they've got of course the pools, they've also got, they deal with CORA which is another issue, and I know Finance deals with vendors, mobile vendors. That's another one that's getting big and hot right now. So going with a specific department is great. We did do a study, a study was done by the Council or commissioned by the Council and it was done in 2006 or somewhere around there, the Zucker Study for the Department of Planning. So there is, there are suggestions, and the suggestions were clear, is if you're going to do cost recovery, here's how you do it and here's what your fees are gotta be, if not then that's a decision we have to make. So quite potentially, quite possibly Planning would be an easier one to, we've got the study, we've got it, we've just got to make the decision, but that's a long discussion, too. So I agree, one department at a time, whichever one you want to do, but there was one study done for the Planning Department. Thanks.

CHAIR HOKAMA: Ms. Cochran?

COUNCILMEMBER COCHRAN: Thank you, Chair. Yeah, and I think this is a wonderful topic for discussion which needs to be, you know, looked into a lot more. But the idea of going by a department in particular I think makes most sense and yes, Parks, Planning as Mr. Couch has mentioned. So I just look forward for further discussion. And thank you, Mr. White, for breaking down the different departments. I was looking in our Charter and going well which one does collect and which one doesn't and where...so that was helpful, too, to put it in order. But, Chair, I just appreciate the topic matter being brought up here, and then, you know, further discussion needed obviously and studies. And but I think there's some answers, you know, I think we'll be able to recover some, maybe not all in all areas but I think a lot more than we are at this point. So thank you for the start of the discussion.

CHAIR HOKAMA: Thank you. Ms. Crivello?

COUNCILMEMBER CRIVELLO: Thank you, Chair. I agree with Chair Baisa as far as what we have to consider, what is core services, and, you know, we cannot lose sight of that as to core services. And of course we understand that there's the constant cost of, rising cost of providing the necessary services. So I like the idea that we take one department at a time and try to come back again to the analysis of what is it that we want to recover with the cost. You know sometimes you have all these fee structures, you know, you rent a car, you have all these added costs that goes for one thing or the other. So with that analysis I think, too, it's necessary for us to identify where we want to apply the fees if we intend to do anything like that. But I can appreciate us looking into this, but I just don't want us to lose sight of the valuable service we also provide with core services and what our government employees provide. I think some of the Parks and Recreation to me, you know, I mean do you charge the Little Leaguers for using the park? I

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mean then we lose sight of our values if we start doing that. And we want to develop more parks to provide all the necessary services for our youth as well as our people as a whole. So I think we need more serious discussion on this matter, but I thank you for bringing it forward.

CHAIR HOKAMA: Thank you. Mr. Carroll?

COUNCILMEMBER CARROLL: All the points that I wanted to bring up I think have been covered quite adequately. Thank you, Chair.

CHAIR HOKAMA: Thank you, Mr. Carroll. I would just say, you know, well we already started on Planning Department with the Zucker Audit, but one program area that it seems to be in the news quite a bit and, you know, since they've just completed I guess their residential survey, a Department that might want to consider then is Parks and Recreation. But unfortunately we don't have the Director or the Deputy here to give us some comment today, so I wouldn't want to put Parks in a position that they're not able to respond to queries from the Committee. You know I don't think that's fair at this time, 'cause we're going to need to have cooperation with the Committee as well as whichever other Committee wants, moves forward with the departments. It's got to be a joint effort for us to make the improvements. So saying that and hearing the Members, Mr. Baz, Mr. Walker, any other insights or thoughts that you want to share? Mr. Ueoka, you want to share that we may need to be aware of?

MR. UEOKA: Not that I can think of right now, Chair. Thank you.

CHAIR HOKAMA: Mr. Baz, any thoughts?

MR. BAZ: Again, Mr. Chair, this is a very good topic. Planning, you know, is already has the study, and Parks Department is they're at least getting the community survey results compiled and things like that, I'm not sure when they're going to be ready. But having them bring that up and discuss, you know . . . *(inaudible)* . . .

CHAIR HOKAMA: Without saying more than you need to say, will the survey be utilized to help you develop your upcoming Parks Department budgetary requirements?

MR. BAZ: I think certain parts of it will, not the whole study, 'cause the Department's already submitted their budget to me and the study hasn't been fully compiled yet.

CHAIR HOKAMA: Okay.

MR. BAZ: But I'm sure they took into account those kind of things, and may or may take into those accounts as we review the priorities in the Department.

CHAIR HOKAMA: Okay, okay. Mr. Walker, any comments that you wish to share?

MR. WALKER: Yeah, no further comments, Mr. Chair. Thank you.

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CHAIR HOKAMA: Yeah. Well one of the things that, you know, we didn't talk about it too much but one area of great concern to me on the cost recovery will be when and how we implement the, Mr. Baz, the replacement of the sewer system Countywide. You know when we moved forward in the '70s that was basically 80 percent, 80 cents of a dollar was the Federal dollar and we don't have that 80 cents no more. And we're going to need to start replacing components of our system, and so part of that will be an appropriate fee structure. I am assuming from past experience that that is one of the ways the Department and the Division will be approaching you and you to come back to us. So is that something you wish us to bring forward and at least have a conversation earlier than later regarding the budget, budgetary components?

MR. BAZ: Well, Mr. Chair, you know, that is a big topic, you know, Water Department is under, you know, similar situations, right. We're spending \$13 million to replace a very old flume and that's, you know, been something that, discussion of, you know, we borrow the money, we pay it back with that special fund. And, you know, so it's more of a financial perspective, do we look towards a, in the bond you have special revenue bonds in that kind of component, if it's going to affect our General Obligation Bond borrowing capabilities. Those costs would be incurred, you know, because it is a utility, both of those items especially would be incurred by the users, the beneficiaries of that. The big factor that is in discussion with Water especially but is, is it the County that puts the, foots the bill ahead of time and then gets it back with user fees and rates, or is it that we depend on those that are going to be building developments to put in those systems and bear those costs upfront. Those are the kind of big items, yeah.

CHAIR HOKAMA: One thing that I would hope, you know, you would have the right discussions with other senior management people and then maybe report back to us later is, you know, for me I'm always interested if we can set up an appropriate financial structure, including the fee structure, at what point then does a special purpose bond become more advantageous for the County to use than one General Obligation. And if that's something, you know, we can work toward, at least having a discussion sometime in the near future there, Mr. Baz, I would appreciate that. And I think that's something that would be, might be helpful as we approach certain funding in Mr. White's Committee during the new budget.

MR. BAZ: Yeah, thank you, Mr. Chair. Yeah, that is a very complicated question and answer, and one that, you know, we have looked at the differences and benefits and disadvantages to all of those different funding aspects, including private funding sources as well.

CHAIR HOKAMA: Sure, great. Any further questions for the gentlemen, Members? Mr. Taylor, I know you've been patient and I appreciate your presence but we're going to wrap it up today. But you will be on for the next one, I can assure you. So, Members, if there's no other questions, the Chair will defer Policy Item 22, with no objections.

COUNCIL MEMBERS: No objections.

**COUNCIL MEMBERS VOICED NO OBJECTIONS.** (excused: MPV)

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**ACTION: DEFER pending further discussion.**

**ITEM PIA-35: COST RECOVERY OF LICENSES AND PERMITS ISSUED BY COUNTY DEPARTMENTS (MISC)**

CHAIR HOKAMA: Because of the time also I'm going to defer 35, Members, with no objections.

COUNCIL MEMBERS: No objections.

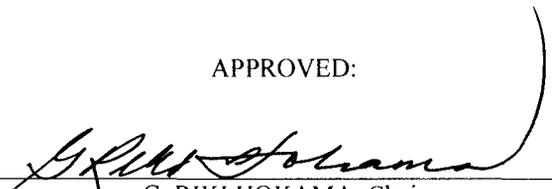
**COUNCIL MEMBERS VOICED NO OBJECTIONS.** (excused: MPV)

**ACTION: DEFER, NO DISCUSSION.**

CHAIR HOKAMA: Okay, thank you. So thank you for your presence and appreciate your folks attendance today. This meeting is adjourned. . . .(gavel). . .

**ADJOURN:** 11:48 a.m.

APPROVED:

  
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G. RIKI HOKAMA, Chair  
Policy and Intergovernmental Affairs Committee

pia:min:131028:ds

Transcribed by: Daniel Schoenbeck

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CERTIFICATE

I, Daniel Schoenbeck, hereby certify that the foregoing represents to the best of my ability, a true and correct transcript of the proceedings. I further certify that I am not in any way concerned with the cause.

DATED the 7<sup>th</sup> day of November, 2013, in Kula, Hawaii



Daniel Schoenbeck