

BUDGET AND FINANCE COMMITTEE

Council of the County of Maui

MINUTES

October 15, 2013

Council Chamber, 8th Floor

CONVENE: 9:02 a.m.

PRESENT: Councilmember Mike White, Chair
Councilmember G. Riki Hokama, Vice-Chair
Councilmember Gladys C. Baisa, Member (Out 11:30 a.m.)
Councilmember Robert Carroll, Member (In 9:35 a.m.)
Councilmember Elle Cochran, Member (In 9:14 a.m.)
Councilmember Donald G. Couch, Jr., Member
Councilmember Stacy Crivello, Member (Out 12:04 p.m.)
Councilmember Don S. Guzman, Member
Councilmember Michael P. Victorino, Member

STAFF: Michele Yoshimura, Legislative Analyst
Carla Nakata, Legislative Attorney (Item BF-30)
Camille Sakamoto, 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.: Sananda K. Baz, Budget Director, Office of the Mayor
Wendy Taomoto, Capital Improvement Program Coordinator, Department of Management (Item BF-29)
Danilo F. Agsalog, Director, Department of Finance (Item BF-30)
Mark Walker, Deputy Director, Department of Finance
Jeffrey T. Ueoka, Deputy Corporation Counsel, Department of the Corporation Counsel

Seated in the gallery:

Guy Hironaka, Real Property Manager, Department of Finance (Item BF-30)

OTHERS: Rosemary Robbins (Item BF-29)
Jim Smith (Item BF-29 and 30)
Ted Yamamura, Certified General Appraiser, ACM Consultants, Inc. (Item BF-30)
Heidi Bigelow, Property Manager, West Maui Land Company (Item BF-30)
Rory Frampton, Makila Land Company (Item BF-30)

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

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Melissa Tanji, *The Maui News*

CHAIR WHITE: . . . *(gavel)*. . . Good morning, I thought that would wake everyone up. . . . *laughter*. . . It's so quiet in here. This meeting of the Budget and Finance Committee will come to order, it's October 15th and it is a little after 9:00 a.m. and I'd like to welcome Committee Vice-Chair Riki Hokama.

VICE-CHAIR HOKAMA: Chairman.

CHAIR WHITE: And Members, Chair Baisa.

COUNCILMEMBER BAISA: Good morning, Chair.

CHAIR WHITE: Good morning. Don Couch.

COUNCILMEMBER COUCH: Good morning, Chair.

CHAIR WHITE: Don Guzman.

COUNCILMEMBER GUZMAN: Good morning.

CHAIR WHITE: And Michael Victorino.

COUNCILMEMBER VICTORINO: Aloha.

CHAIR WHITE: And Stacy Crivello.

COUNCILMEMBER CRIVELLO: Good morning, Chair.

CHAIR WHITE: And joining us shortly will be Elle Cochran and Bob Carroll. And today with us we have Camille Sakamoto, our Committee Secretary; Michele Yoshimura, our Legislative Analyst, and joining us from Corp. Counsel we have Jeffrey Ueoka --

MR. UEOKA: Good morning, Chair.

CHAIR WHITE: --and from the Budget Department we have Sandy Baz and we have our CIP Coordinator, Wendy Taomoto, good morning.

MS TAOMOTO: Good morning.

CHAIR WHITE: Welcome. And with that, Members, we'll open up for public testimony and here in the Chamber we have only one person signed up at this point, so if anyone else is interested in

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signing up to testify, please let the folks at the desk outside know. So our first testifier this morning is Rosemary Robbins.

...**BEGIN PUBLIC TESTIMONY**...

MS. ROBBINS: Good morning, everybody.

CHAIR WHITE: Good morning.

MS. ROBBINS: I'm here to speak about Budget and Finance – 29, top of Page 2 on our agenda for today. And I particularly wanted to say that the community is hopeful in terms of the fact that this situation is not going to go away because other things are being introduced. We've got what it takes collectively to get it all addressed so I'm happy to see this and I would like to... I'm sorry, Michael, before I got here did that get read on the B-29?

CHAIR WHITE: I'm sorry, I couldn't quite hear you.

MS. ROBBINS: Did it get read? Do we know what we're dealing with here? The Old Wailuku Post Office and Kalana O Maui.

CHAIR WHITE: We're dealing with the Old Wailuku Post Office and the Launiupoko Land Purchase.

MS. ROBBINS: Yes, and so did that get read as to the significance of this?

CHAIR WHITE: No, it did not.

MS. ROBBINS: Okay. I'd like to do that if I may? A revised proposed bill entitled A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2014 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO ESTIMATED REVENUES: WAILUKU-KAHULUI COMMUNITY PLAN AREA, GOVERNMENT FACILITIES, KALANA O MAUI CAMPUS EXPANSION DESIGN OF PHASE IA; TOTAL CAPITAL IMPROVEMENT PROJECT APPROPRIATIONS AND TOTAL APPROPRIATIONS, in other words the OPERATING AND CAPITAL IMPROVEMENT PROJECTS. The purpose of the reviewed [*sic*] proposed bill is to amend the Fiscal Year 2014 Budget by adding first of all, a million and a half appropriation for Bond Funds in the Wailuku-Kahului Community Plan area for the Kalana O Maui Campus Expansion Design of Phase IA project, and secondly, a provision to make clear that the Council does not intend to ratify any or all acts, actions, omissions, expenditures, and/or related events regarding the demolition of the Old Wailuku Post Office building or the matter [*sic*] planning of the expansion project. And I think the two words in there that we really want to take a look at, one of them is "amending" because it wasn't organized completely before it got brought before the Committee, and the second one is on the fourth line from the bottom of that paragraph, just circle the word "not". So this is not an exception of, oh yeah well it's done and it's over with and it's easier to ask for forgiveness after whatever was done or not done if it was a missed

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timeframe. And the second paragraph on that has to do with the same content but it has to do with how it would be funded through the bonds and the same thing.

MS. YOSHIMURA: Three minutes.

MS. ROBBINS: Okay, I'd like to just finish up on that since it wasn't read beforehand. And that it is not accepting as what has happened, it's okay, past, done and now we're going to change the timeframes. So the community is not happy about that and I understand why not, so I thank the Council for sticking on to that and working it through. Thank you.

CHAIR WHITE: Thank you. Members, any questions for the testifier? Seeing none, thank you very much. And our next testifier here in the Chambers is Jim Smith. He'll be testifying on Items BF-29 and -30.

MR. SMITH: Good morning, Chairperson White and Members of the Budget Committee. This is a tough one, this is, I'm talking about --

CHAIR WHITE: Pull the mic up just a little bit.

MR. SMITH: --this bill on BF-29. The whole question is, a contract was assigned and approved as to legality and form that paid for the demolition of the Old Post Office . . . legality and form. Was that a formality, that signature, or not? That's where it starts, that's the crux of the situation. In the October 8th letter, memo, it's called a memo that said that this is no substantive change, okay, to another Bill that was submitted to you by the Administration. No substantive, that means to me, okay, you've ratified the actions in the 27, July 27 opinion. They offer you an alternative, and that is this, they offer you an...the Corporation Counsel who approved as legal, the demolition of the Old Post Office says to you, here's an alternative and this bill brings to you that alternative. What is wrong with this picture? The picture needs to be changed. You have oversight responsibility. Member Carroll pointed out we're responsible in his defense of the Mayor. We're responsible, we didn't do our oversight. Well before you do anything, tell us, what will be your change in oversight? I'm asking you to get independent Counsel to review the matters as they relate to finance and the demolition and your acts, because you could be culpable in terms of accommodating illegal actions, the budget ordinance that says \$1,000 fine and so many days in jail. It's not talking about jails to donate for a non-profit, it's talking about jail. And you were going to ratify that, does that make you culpable? Are you an accessory? Does it matter? Is it a formality? These are deep questions that you need to grasp. You can't avoid it. Pono means something, in the Hawaiian culture. Common good means something in the haole culture, okay. For me, common good means common knowledge, nothing else. I can understand it, it's good. I cannot understand it, it's not good until I can understand it. I can't understand this, it's not good. Hire independent counsel for this Budget Committee not for the investigation, that Policy Committee could take to a court today, the question was it legal? And the court would answer and once it said it was illegal --

MS. YOSHIMURA: Three minutes.

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MR. SMITH: --the dominos would fall. But until that, it doesn't happen. So I would ask you, please, Corporation Counsel has recused themselves, they come back and give you an alternative and you buy it. Please. Backbone. Persevere. That's my testimony on that one.

CHAIR WHITE: Thank you.

MR. SMITH: I was going to make it longer, because there were two items, but I made a mistake on my agenda. I just put BF-29 but I live with my mistakes so that's my testimony, on that. More good stuff but I can't give it to you. The next item, and this is not, this is systematic, okay. This is not just one item. This is happening in energy, this is happening all over with this Administration, with this entrepreneurial model, with this focus on results, because when you focus on results, everything else is a formality, a formality 'cause you're focused on results. Time is of the essence. Money means everything. Thirty pieces of silver meant something to someone, okay. And that's the eternal struggle for haoles, right and wrong. Common good, not moral. Common good is common knowledge. So I would ask you, this is Launiupoko, there's no mention in that about the community plan. There's no mention in that about assessments and all that kind of stuff, yet there's a conclusion that you're going to pay loads and loads of money for this. There needs to be due diligence on the part of this Administration and there wasn't, and you know Old Wailuku, old Main, One Main Street, okay. They brought that to the Council, the land was not for sale. One Main Street, they brought that to the Council, okay and there was \$5 million in repairs in it. No land, five million dollars in repair, and that's an open end, and the Council said, sorry, you didn't do a good enough job. Well I say to this Administration today, sorry, you didn't do a good enough job, 'cause you have oversight and you have, say that this is wrong. You got to do a good job. This is wrong, that's oversight. Demolishing the Post Office is wrong, you got to do a good job, it's wrong. So please, be vigilant. Aloha.

CHAIR WHITE: Thank you, Mr. Smith. Members, questions for the testifier? Seeing none, thank you very much for your testimony. And if there's anyone else in the Chambers that would like to testify please sign up and let us know that you're here to do so, and we'll go first to Hana. Hana can you call your first testifier if you have one?

MS. LONO: Good morning, Chair. This is Dawn Lono in Hana and I have no one waiting to testify.

CHAIR WHITE: Thank you, Dawn. Denise on Lanai, do you have any testifiers?

MS. FERNANDEZ: Good morning, Chair, this is Denise Fernandez on Lanai and there is no one waiting to testify.

CHAIR WHITE: Thank you very much, and we'll go to Ella on Molokai.

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

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CHAIR WHITE: Thank you very much. Is there anyone left in the Chambers who would like to testify? Seeing no one rushing forward, the Chair, without objections we'll close public testimony for the day.

COUNCIL MEMBERS: No objections.

CHAIR WHITE: Thank you. Public testimony is closed.

...END OF PUBLIC TESTIMONY...

CHAIR WHITE: Members, we have two items on the agenda for today and the first item is regarding BF-29 Old Wailuku Post Office and Kalana O Maui Campus Expansion. And the Committee is in receipt of a revised proposed bill entitled A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2014 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO ESTIMATED REVENUES: WAILUKU-KAHULUI COMMUNITY PLAN AREA, GOVERNMENT FACILITIES, KALANA O MAUI CAMPUS EXPANSION DESIGN OF PHASE IA; TOTAL CAPITAL IMPROVEMENT PROJECT APPROPRIATIONS AND TOTAL APPROPRIATIONS (OPERATING AND CAPITAL IMPROVEMENT PROJECTS). And the purpose of the revised proposed bill is to amend the Fiscal Year 2014 Budget by adding first, a \$1.5 million appropriation for Bond Funds in the Wailuku-Kahului Community Plan area for the Kalana O Maui Campus Expansion Design of Phase IA project, and two, a proviso to make clear the Council does not intend to ratify any or all prior acts, actions, omissions, expenditures, and/or related events regarding demolition of the Old Wailuku Post Office building or the master planning of the expansion project. And before I relate the second bill, I would like to recognize the presence of Member Cochran. Good morning.

COUNCILMEMBER COCHRAN: Thank you, Chair. Thank you.

CHAIR WHITE: And the second bill that we have is a revised proposed bill entitled A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. 4041, BILL NO. 40 (2013), RELATING TO THE ISSUANCE OF GENERAL OBLIGATION BONDS OF THE COUNTY OF MAUI (KALANA O MAUI CAMPUS EXPANSION DESIGN OF PHASE IA). The purpose of this bill is to amend the Fiscal 2014 Budget General Obligation Bond authorization ordinance by adding a \$1.5 million amount for the Kalana O Maui Campus Expansion Design of Phase IA in the Wailuku-Kahului Community Plan area, and No. 2, a proviso to make it clear the Council does not intend to ratify and as I mentioned earlier. And Members, I would like to emphasize that this is, that it is not the intent of the Council to ratify any or all of the Administration's prior acts, actions, omissions, expenditures, and/or related events regarding the demolition of the Old Wailuku Post Office building, the master planning of the Kalana O Maui Campus Expansion Project, or any of the subjects authorized for investigation pursuant to Resolution 13-83, as amended by Resolution 13-104. I would further emphasize that it is not the Council's intent for this appropriation to affect or hinder Council's investigation of the demolition of the Old Wailuku Post Office, the master planning of the expansion project or any of the subjects authorized for investigation pursuant to Resolution 13-83, as amended by Resolution 13-104.

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For that reason, I requested revised proposed bills to separate out the requested monies for the design of phase IA of the Kalana O Maui Campus Expansion Project from any monies intended to cover work previously performed by or on behalf of the Administration relating to the Old Wailuku Post Office demolition, the master planning of Kalana O Maui Campus Expansion Project, or any of the subjects authorized for investigation pursuant to Resolution 13-83. I believe it is in the County's best interest to allow the design to proceed while preserving the Council's ability to conduct its investigation and continue to question the sources of funding related to the noted demolition and master planning efforts. Should the revised proposed bills that were posted on today's agenda, ultimately get approved by the Council, such action should not be interpreted as an approval of prior expenditures or actions that were never authorized by ordinance despite clear Charter and other legal requirements requiring the Council's approval. Members, the Committee has been advised by the Department of the Corporation Counsel that even with clear statements indicating the Council's intent, the Department cannot provide any assurance that approving these revised bills will not be interpreted by a court to constitute de facto ratification of the Administration's prior acts. My feeling is that we must do what we can to preserve our rights, to pursue the truth, but that there is a balance to be struck with allowing the County to move forward with its business. Should we design, I'm sorry, should we decide to allow design work to proceed through the measures before us today, we should do our utmost to make clear on the Committee record and the bills themselves, that we're doing so without an intent to ratify the Administration's actions regarding already expended fundings. So with that, Members, I'm happy to open the floor for comments or questions. Mr. Victorino?

ITEM BF-29: OLD WAILUKU POST OFFICE AND KALANA O MAUI CAMPUS EXPANSION

COUNCILMEMBER VICTORINO: Thank you, Chair. And thank you for that clarification and making us aware of what the Corporation Counsel has brought forth. You know I think that's important. My question to you is and to maybe Mr. Baz, these monies again we are trying to get the expansion plan started, and this is what these monies are intended to do.

MR. BAZ: Yes. Good morning, Mr. Chair and Members and Member Victorino. This was the presentation that was made by the Architect Group 70 about the next phase which is the design phase of IA.

COUNCILMEMBER VICTORINO: So just so the public understands, this is strictly for design purposes?

MR. BAZ: Correct.

COUNCILMEMBER VICTORINO: IA?

MR. BAZ: Yes.

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

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CHAIR WHITE: And I should clarify that IA represents just the --

COUNCILMEMBER VICTORINO: The Post Office.

CHAIR WHITE: --portion of the master planning that is, with respect to the building that would be built in place of the Old Wailuku Post Office.

COUNCILMEMBER VICTORINO: So right here at the corner of Wells Street and High Street.

CHAIR WHITE: Correct. It doesn't include design work for any of the remainder of the master planning.

COUNCILMEMBER VICTORINO: Just so that people understand what IA is.

CHAIR WHITE: No, I'm...thank you for clarifying that.

COUNCILMEMBER VICTORINO: Yeah. Thank you, thank you, Chair.

CHAIR WHITE: Mr. Couch?

COUNCILMEMBER COUCH: Thank you, Mr. Chair, and thank you for bringing up that language. I fully support the intent of that language and also want to thank you for hopefully getting this moving so that we aren't stuck in one way while waiting for another thing. And I agree with your comments that we are not ratifying any past actions by passing this, just to get it in the minutes so if any court were to ever, if it ever got that way, would say our intent is very, very clear. So, thank you for bringing that up and I agree with the route you're taking, thank you.

CHAIR WHITE: Thank you. Ms. Baisa?

COUNCILMEMBER BAISA: Thank you very much, Chair, and thank you for bringing this up. I am very excited to see some movement here. I am really excited about us talking about planning what we'd like to hope, I know some of us hope we'll see built someday, and I hope it happens before too long. And so I totally understand what's going on here. This bifurcation is very clear to me and I am in full support. Thank you.

CHAIR WHITE: Thank you. Members, any other comments or questions? Mr. Hokama?

VICE-CHAIR HOKAMA: Chairman, from Mr. Baz or Ms. Taomoto, the previous amount that we were asked to consider was about \$2.2, \$2.3 million. Now we're down to \$1.5 million. Can you or maybe Mr. Baz tell us the change of scoop and how we arrived at this \$1.5 million number now?

MR. BAZ: Thank you, Mr. Chair and Member Hokama. The \$2.2 million included in our appropriation to change the funding source for the demolition and master planning as well. So the \$1.5 million

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is consistent with the original presentation on the design costs of the building on Wells and High Street.

VICE-CHAIR HOKAMA: So where are we in our General Fund advancements and what we're projecting at this point in time, what is the bond numbers we're looking at?

MR. BAZ: Thank you. The current General Fund loan to the Bond Fund and Water Fund total is around \$25 million, so we're almost half way there to the \$55 million limit. We are looking at, we've started initial meetings, at least internal planning meetings to go forward with a bond issuance sometime probably spring or summer of next year and they, the current interest rates are, they vary but ranging around 2.8 percent for a 20-year average maturity.

VICE-CHAIR HOKAMA: Okay. Chairman, I understand your intent, I think it's very worthy on your part to try and move a component forward, certain components forward. I would just suggest two things as our Chairman. One, hearing what you shared earlier to the whole Committee regarding Corp. Counsel's potential position on a proposed proviso language, I don't see why the Committee wouldn't then not also consider moving forward to Council a Council resolution, that states for its position through a legislative act which we will vote by Council, a Council resolution stating that, and in that from also besides the budget document and Committee Report. Second, I think we can wait on the second part of the bill which is to authorize the bond component. I have no problem of supporting you until they put it in the budget document, but I think I can wait to authorize the bond later. Thank you.

CHAIR WHITE: Mr. Baz, does the, would the lack of authorization for the bonds impact your ability to expend the money?

MR. BAZ: Thank you, Mr. Chair. From my understanding of our budget, we have estimated revenue and that estimated revenue source has to have a, a defined ability to receive that monies. If there is no authorization in the bond ordinance to allow for that money to be spent then I feel that the budget would be unbalanced.

CHAIR WHITE: Mr. Hokama?

VICE-CHAIR HOKAMA: How is the first contract executed? This Group 70 contract. And what funds was used to execute and guarantee funding for that current contract?

MR. BAZ: With the...

VICE-CHAIR HOKAMA: Group 70.

MR. BAZ: Yeah, with the appropriation that was made for the Old Wailuku Post Office. There was already a CIP appropriation.

VICE-CHAIR HOKAMA: So they were used on the premise of a rehabilitation project then.

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MR. BAZ: Yes.

VICE-CHAIR HOKAMA: Okay.

CHAIR WHITE: Those are cash funds, were they not? They were not Bond Funds.

MR. BAZ: No, I believe they were Bond Funds.

CHAIR WHITE: Were they? Okay.

VICE-CHAIR HOKAMA: We should have Committee Staff review those items, Chairman.

CHAIR WHITE: Okay. Further questions or comments, Members? Seeing none, the Chair is ready to make his recommendation.

COUNCIL MEMBERS: Recommendation.

CHAIR WHITE: Chair will entertain a motion to recommend passage of the revised proposed bill noted in paragraph one of the Committee's agenda on first reading.

COUNCILMEMBER VICTORINO: So moved, Mr. Chair.

COUNCILMEMBER COUCH: Second.

CHAIR WHITE: Been moved by, Mr. Victorino, seconded by Mr. Couch to pass the bill as noted, the bill in paragraph one as noted. The Chair would further like to entertain a motion to amend the revised bill, section two, paragraph D3C(1) [sic]with the language I've distributed to you at today's meeting which reads as follows: Under government facilities (1) Kalana O Maui Expansion Design of Phase IA provided that by this appropriation it is not the Council's intent to ratify any or all of the Administrations prior acts, actions, omissions, expenditures, and/or related events regarding the demolition of the Old Wailuku Post Office building, the master planning of the expansion project and any of the subjects authorized for investigation pursuant to Resolution 13-83, as amended by Resolution 13-104. Further provided that this appropriation shall neither affect nor hinder the Council's investigation of the demolition of the Old Wailuku Post Office building, the master planning of the expansion project or any of the subjects authorized for investigation pursuant to Resolution 13-83 as amended by Resolution 13-104.

COUNCILMEMBER VICTORINO: So moved, Mr. Chair.

COUNCILMEMBER COUCH: Second.

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CHAIR WHITE: Thank you. It's been moved by, Mr. Victorino, and seconded by Mr. Couch to move forward with the bill in paragraph 1, actually this is for the amendment, all those in favor, or any discussion, Members?

COUNCILMEMBER VICTORINO: Thank you, Mr. Chair. I know you want to move this along. Mr. Chair, I would like to thank you for putting this forward. At least there's a clear intent, and if there was litigation in the future and this was brought up, at least we had spelled out the intent. As you have said earlier, this doesn't guarantee anything, Corporation Counsel is not guaranteeing that this will be enough, but it is a step in the right direction. So I want to thank you for that first and foremost, and just so that the public understands that we are still trying to move ahead with this expansion at the corner of Wells and High Street with the aspect and the idea put forth that the investigation on what happened in the past is still alive and well. And so, I hope the public understands that by movement of this item today, it just ensures in our minds, and the intent that you've brought forward, that we want to see that expansion completed, we want the design to start so that like Ms. Baisa said, some of us may be around to see it happen. We've got time limits you know, there is the thing called term limit and we're facing that. But besides that, really it's a step in the right direction being positive. I understand some of my colleagues' issues with this, you know, again we can't stop the world. The world must continue to move on and we will get to the bottom of what the challenge was with that portion of the demolition. This ensures us moving on. So I want to thank you, Chair, and I'm glad that this was put in because again, the intent is clear and in court of law, at least some of my colleagues will say, you've made your intent known. Whether it's viable or not at that point in time, that's okay, it was made known when you did the actions you took today. Thank you, Chair.

CHAIR WHITE: I'd like to ask Corp. Counsel just to, just so that we have it on the record if you could address whether or not there's any possibility of our actions today impeding the investigation that's already underway.

MR. UEOKA: I don't believe so.

CHAIR WHITE: Okay. Any further discussion on the amendment?

COUNCILMEMBER VICTORINO: What was the question again, Chair?

CHAIR WHITE: Just to verify that the actions today will not impede or hinder the investigation that has already been put in to motion.

COUNCILMEMBER VICTORINO: Okay.

CHAIR WHITE: And the answer was, he doesn't believe so and maybe if you could make it a little more strong than I don't believe so, it would be appreciated.

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MR. UEOKA: My understanding is Council has the authority to investigate. I really can't, I don't know what will happen moving forward. So I guess I don't believe so is about as strong as I can get on it. Sorry about that.

CHAIR WHITE: Okay. We're back, we're still on the amendment. Any further discussion on the amendment? All those in favor, please signify by saying aye?

COUNCIL MEMBERS: Aye.

CHAIR WHITE: Those opposed, say no.

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

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmember Carroll.

MOTION CARRIED.

ACTION: APPROVE amendment to main motion.

CHAIR WHITE: Measure carries, eight ayes, zero noes. Members, we're back on the main motion as amended and if there are no objections this will allow staff to make technical and non-substantive revisions.

COUNCILMEMBER VICTORINO: No objections.

CHAIR WHITE: Thank you. And we're now joined by Mr. Carroll. Good morning, Mr. Carroll? Okay. Any further discussion on the main motion?

COUNCILMEMBER VICTORINO: As amended, right?

CHAIR WHITE: Pardon?

COUNCILMEMBER VICTORINO: As amended.

CHAIR WHITE: As amended.

COUNCILMEMBER VICTORINO: Okay. Just to make sure.

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CHAIR WHITE: Thank you. Any further discussion? Mr. Guzman?

COUNCILMEMBER GUZMAN: Thank you, Chair. I just wanted to get some answers in my mind clarified on the...so in terms of the monies that were appropriated for the rehabilitation/demolition, we're not talking about those monies, we're talking about just bifurcating or separating additional monies just for design, not construction or ...*(inaudible)*...

CHAIR WHITE: That's correct, and it is a little confusing because both amounts were \$1.5 million.

COUNCILMEMBER GUZMAN: Right, that's what I was getting at.

CHAIR WHITE: So I appreciate you bringing that up, I should have mentioned that earlier. The monies that were spent on the master planning and the demolition amounted to the same figure, \$1.5 million. This is not the same 1.5 million and it is also 1.5 million that is bifurcated from the rest of the expenditure for construction and design of other parts of the master planning, and none of this will be used to cover the expense of any of the demolition. So this \$1.5 million is completely separate.

COUNCILMEMBER GUZMAN: Yeah, I see your rationale, and I see your theory behind it in terms of trying to isolate the monies that were appropriated for the rehabilitation/demolition versus what we're talking about in this resolution regarding the design. But can we put more specific language in the resolution to distinguish the two, or is that...maybe I should ask Corporation Counsel if the language in the present resolution --

CHAIR WHITE: Yeah, I'm not the one to ask.

COUNCILMEMBER GUZMAN: --alright, has distinguished the two appropriations well enough that you are bifurcating and you're isolating the two incidents, or the two appropriations. I just don't want a nexus, connection between two appropriations later on.

CHAIR WHITE: Yeah, before you answer that, Mr. Hokama's idea of the Committee sending to the full Counsel the resolution relating to this just for additional strength, the Chair would support doing that and that might give us another, an opportunity to make your issue very clear.

COUNCILMEMBER GUZMAN: And the reason why I'm going that way, Chair, is that yeah, you have the language here that clearly indicates the Council's intent. That's one layer, and I want a little bit more of an additional layer to separate the two appropriations so that you can isolate it more definitely if so happen this needs to go to a higher court or a higher authority. So, Mr. Hokama's comment, I see the rationale behind that, that you want to layer, you want...you basically just have one layer here saying yeah, you have the intent, we've stated on the resolution through the amendment the intent of not combining the two, or isolating it. But I'd like to have one additional layer and if the language can be clarified to separate it further then that's, I would feel more comfortable about that.

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CHAIR WHITE: Corp. Counsel?

MR. UEOKA: I guess, could you restate the question?

COUNCILMEMBER GUZMAN: Is the current resolution, the language, incorporated therein, does it have language in there that really identifies the two separations, or bifurcating the monies that were appropriated for the rehabilitation project, and separating that out, the language to the \$1.5 million that is herein for the design?

MR. UEOKA: It is our understanding that they're two separate appropriations. However, we have stated in prior opinions that the matters are very interconnected. So, I guess It'd be difficult to separate the two items much more than this, 'cause this is the, it's clear in the appropriation it's the Kalana O Maui Campus expansion design of Phase IA. And to further change the title, I guess I'd have to see what you propose but it may go beyond the scope of nonsubstantive change.

COUNCILMEMBER GUZMAN: Can we limit it just to design?

MR. UEOKA: I believe it is limited just to design right now.

CHAIR WHITE: It is limited, and by the way it's the proviso that we're referring to, not a reso.

COUNCILMEMBER GUZMAN: Alright, the proviso. Okay. Well if that's your opinion then I guess with just one layer of the intent.

CHAIR WHITE: Mr. Hokama?

VICE-CHAIR HOKAMA: Chairman, I apologize if there is some confusion from my comments. I support your proposal that Mr. Guzman is referring to. My comment was that the Committee can also consider another proposed resolution specifically on the subject of this bifurcation and it will be a Council Resolution. It wouldn't be a Budget ordinance amendment, it wouldn't be a proviso revision. It would be a Council Resolution stating in its resolve clause, that after we state our points and our whereas, that this is in no way any type of action that ratifies previous actions that we've already made a determination on regarding the Old Wailuku Post Office

COUNCILMEMBER GUZMAN: Chair?

CHAIR WHITE: Mr. Guzman?

COUNCILMEMBER GUZMAN: Just after further clarification, thank you, Mr. Hokama, for clarifying that, but I am in agreement to that in having a separate resolution to further clarify. I think that would, a Council resolution, to further add an additional layer of support or evidence on our part of our intention. Thank you.

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CHAIR WHITE: The Chair would be willing to work with Staff to bring a resolution before you at a subsequent meeting, and if any of you have input as to what you would like to, what elements you would like to see in the resolution, please let Staff know. Any further comments on the item of the reso? Okay. Seeing none. Any further comments on the main motion as amended? Seeing none, all those in favor of the main motion as amended, please signify by saying aye?

COUNCIL MEMBERS: Aye.

CHAIR WHITE: Those opposed, say no. Measure carries, nine ayes, zero noes.

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

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: None.

MOTION CARRIED.

ACTION: Recommending FIRST READING of revised bill.

CHAIR WHITE: Members, we are on to the second bill which is in paragraph two of the Committee Agenda. And the Chair would entertain a motion to recommend passage of the revised bill noted in paragraph two of the Committee's Agenda on first reading.

COUNCILMEMBER COUCH: So moved.

COUNCILMEMBER VICTORINO: Second.

CHAIR WHITE: Been moved by, Mr. Couch. Seconded by Mr. Victorino. And discussion, Members? Seeing none, the Chair would entertain a motion to amend the revised proposed bill, section two, paragraph 3C(1) with the language I've distributed at today's meeting and have previously read.

COUNCILMEMBER VICTORINO: So moved.

COUNCILMEMBER COUCH: Second.

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CHAIR WHITE: Okay. It's been moved by, Mr. Victorino. Seconded by, Mr. Couch. Any discussion, Members on the amendment? Seeing none. We're back to...all those in favor of the amendment, please signify by saying aye?

COUNCIL MEMBERS: Aye.

CHAIR WHITE: Those opposed, say no. Measure carries, nine ayes, zero noes.

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

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: None.

MOTION CARRIED.

ACTION: APPROVE amendment to main motion.

CHAIR WHITE: And we're back to the main motion on the bill as amended. Any further discussion, Members? Seeing none. All those in favor, please signify by saying aye?

COUNCIL MEMBERS: Aye.

CHAIR WHITE: Those opposed say No.

VICE-CHAIR HOKAMA: No.

CHAIR WHITE: And we have eight ayes and one no, Mr. Hokama.

VOTE: AYES: Chair White and Councilmembers Baisa, Carroll, Cochran, Couch, Crivello, Guzman, and Victorino.

NOES: Vice-Chair Hokama.

ABSTAIN: None.

ABSENT: None.

EXC.: None.

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MOTION CARRIED.

ACTION: Recommending FIRST READING of revised bill.

CHAIR WHITE: Okay. Members that brings us to the end of this item.

COUNCILMEMBER COUCH: Mr. Chair?

CHAIR WHITE: Yes.

COUNCILMEMBER COUCH: Do you need to file this one or are you going to leave that open?

CHAIR WHITE: Leave that open.

COUNCILMEMBER COUCH: Okay.

CHAIR WHITE: And we're on to our second item but we are expecting Mr. Yamamura to be joining us so we'll take a recess for now and...

UNIDENTIFIED SPEAKER: . . . *(inaudible)* . . .

CHAIR WHITE: --pardon? Oh, there he is. I was looking over here. Okay. Okay, we will move in to BF-30 instead of going in to a recess, and that BF-30 is amending the Fiscal Year 2014 Budget: West Maui Land Acquisition (Real Property at Launiupoko, Maui).

ITEM BF-30: AMENDING FY 2014 BUDGET: WEST MAUI LAND ACQUISITION (REAL PROPERTY AT LAUNIUPOKO, MAUI) (CC 13-202)

CHAIR WHITE: And joining us, is Mr. Agsalog going to be coming in today?

MR. BAZ: No, Mr. Walker, Deputy Director of Finance is here. Mr. Agsalog's not available.

CHAIR WHITE: Okay. And so we have Mr. Ted Yamamura here if you'd like to call him up for, for any questions. So, Members, the description of the bill is the Committee is in receipt of correspondence dated September 9, 2013, from the Chair of the Budget and Finance Committee, transmitting a proposed resolution entitled **AUTHORIZING THE COUNCIL CHAIR TO CONTRACT FOR AN APPRAISAL OF APPROXIMATELY 186 ACRES AT LAUNIUPOKO, MAUI**. The purpose of the proposed resolution is to authorize the Council Chair to contract for a new appraisal of the 186 acres at Launiupoko. And Members, the reason I posted this bill was that at the time, there was remaining some uncertainties regarding the, this issue. The Chair felt it was appropriate to schedule the resolution calling for a new appraisal as a backup plan. The reasons for that: first, the request for Mr. Yamamura to do the reappraisal had not yet been sent by the Council Chair due to procurement requirements, and secondly, Council

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Services was not sure that ACM would agree to do the reappraisal, in which case the Chair felt we would need to have the ability to secure a new one. Also, the Administration has decided not to provide the correspondence and subsequent document between the Administration and ACM relating to the formulation of the appraisal. And lastly, the Committee is in receipt of a copy of a 2007 appraisal of the 240, I'm sorry, the 214-acre Launiupoko parcel done by the same appraiser, ACM, that places a value of \$6.7 million on the parcel as of 2007. And this is significant since raw land values remain well below 2007 levels. We're happy to have Mr. Yamamura here this morning to assist us, because we've got some questions. So the three items we'll be covering in our discussions today, and you're certainly welcome to bring up additional items: item one, the Committee needs to clarify what instructions were given to the appraiser by the Administration and what point in the process the instructions were given and the reasons for doing so. Item two, I think it's appropriate for this Committee to review the reasonableness of the \$13 million purchase price, in light of the \$16.7 million appraisal in 2007 that I just mentioned. Also, taking a look at a 2011 purchase of a 236-acre Kula parcel that has final subdivision approval for 35 lots which was sold for 6.2 million, and especially in light of the fact that the 186 acres were purchased for \$1.1 million just 12 years ago. And if this Committee is going to recommend to Council, that the County pay \$12 million or \$12 million more or 12 times what the sellers bought the land for just 12 years ago then this Committee has a responsibility to do our due diligence. It's the Chair's hope that with the assistance of the Administration and Mr. Yamamura that we'll be able to achieve a level of understanding necessary to move towards a determination of what might be a fair value for the property. And item three, is to have the Committee discuss the status of the lands under consideration and have an understanding of what the, what the rush is to conclude the purchase. As I mentioned, the Chair's open to Members exploring other items as well, so with...

COUNCILMEMBER BAISA: Mr. Chair?

CHAIR WHITE: Yes.

COUNCILMEMBER BAISA: If you don't mind, I just wanted to bring everybody up to date. I did finally, because of the procurement thing, issue that authorization for a contract.

CHAIR WHITE: Yeah, I thought I, okay, I thought I, oh yeah you're right.

COUNCILMEMBER BAISA: It's been issued.

CHAIR WHITE: I had mentioned that by the time I posted it hadn't gone out.

COUNCILMEMBER BAISA: Yes.

CHAIR WHITE: But it has subsequently gone out.

COUNCILMEMBER BAISA: Yes.

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CHAIR WHITE: And so, I guess, the question for you is whether or not Mr. Yamamura has responded positively or...

COUNCILMEMBER BAISA: I am not aware of a response as of this moment. Thank you.

CHAIR WHITE: Mr. Yamamura, if you wouldn't mind coming down. If you can let us know whether you've received the correspondence from the Chair and whether or not you're able to do the reappraisal.

MR. YAMAMURA: Good morning, Chair White, Council members. I did receive the document. I just returned from Disneyland with my granddaughters so I haven't really caught up with my correspondence yet. But I will be responding to that document.

CHAIR WHITE: And will you be responding in the affirmative or.

MR. YAMAMURA: I need to review it a little bit more carefully, I can't answer that right now.

CHAIR WHITE: Okay. We may have some questions for you in a little bit. I was hoping that Mr. Agsalog would be here because he mentioned that he was the chief negotiator. I know he's had significant involvement in the process. The, you know the concern of, of this Committee is, or of this Chair is that instructions were given to you as to how to conduct the appraisal. Could you explain to us what, what instructions were given to you that, were out, that you put in to your appraisal?

MR. YAMAMURA: Yes, in fact, because the scope of work is very critical in the appraisal, the instructions, if you will, are contained on Page 3, right up front. And it's essentially...

CHAIR WHITE: Members, you have that appraisal in your binders.

MR. YAMAMURA: It's the appraisal dated November 2, 2012. And it clearly outlines the parameters set by the client. The client in this case would be the County of Maui, and when I say the County of Maui, I am referring to Guy Hironaka and Wendy Taomoto who were my contacts. And my instructions were to conduct the appraisal based on the hypothetical condition that lots one through eight in Makila Ranch's III Subdivision were legally subdivided lots. So they're standalone, legally subdivided lots, not a bulk parcel. And number two, that lots one through eight had County-standard subdivision roadways, electricity, private, potable and non-potable water supply, and the hypothetical condition that property B, Makila Ranch's two subdivision, was also a legally subdivided parcel and also contained County-standard subdivision roadway access, electricity, private, potable and non-potable water to the site. So those were the hypothetical conditions upon which this appraisal was completed. And lastly, there was an extraordinary assumption involved, which was that the figure of 3,228,575 would be the construction cost to complete the infrastructure that the lots were being assumed to have available to them.

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CHAIR WHITE: Okay. And are those normal instructions and were those instructions included in the initial correspondence with the County, or would, did they come subsequently, or at a later date?

MR. YAMAMURA: From my understanding, negotiations were ongoing between the County and the seller, and so it was, new information was being given to me based upon the negotiations and information discoveries between the County and the seller. So, having said that, initially we were to look at the properties as a bulk parcel, but then based upon negotiations between the County and the seller, the assignment changed accordingly, according to what, how negotiations were going. And so ultimately in my final appraisal, this is what it was decided on, to look at it as finished, legally subdivided lots.

CHAIR WHITE: And if you had looked at it just as a bulk purchase of the, of lot, of the 140-acre lot, what would the likely valuation have been?

MR. YAMAMURA: I have a problem with that because it was, it was my initial draft to the County, and there's some issue as to whether or not it's a working product or I'm not sure what the terminology is, and so I'm not sure if I'm free to discuss that. Correct me if I'm wrong, but.

CHAIR WHITE: I don't, I don't know. Corp. Counsel?

MR. UEOKA: I haven't seen it, I've really, I'm not familiar with what he's speaking on so I can't say either way, I'm not sure of what he's talking about.

CHAIR WHITE: I think the question is, whether or not he is able to talk about an earlier draft in these Chambers if it's...

MR. UEOKA: I haven't seen them. I'd have to look at it and see what it, what's, was stated, how it was presented. I really don't know without seeing it. I'd hate to opine one way or the other on this.

CHAIR WHITE: That's fine, I think we, with the appraisal that we have from 2007, I think we can probably get a good enough idea of what the bulk purchase approached, it might have resulted in. So it's, I don't want you to, I don't want to put you in a tough spot by asking you to relay what the, what the draft stated. But the important point is that as the negotiations were going on, you provided a draft, and then following the provision of the draft which I assume included a number, then you received instructions to, to appraise the lot as though it was a complete subdivision with roads and all utilities up to County-standards. Is that correct?

MR. YAMAMURA: That's correct.

CHAIR WHITE: Okay. And then, if you're using the subdivision approach for, for valuing property, which means you're getting the retail value of the lots when they're ready for sale, and then, backing out all the costs of development, is it normal to take out just the construction in that approach or are there a number of other costs involved as well?

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MR. YAMAMURA: No, there's a number of other costs involved.

CHAIR WHITE: Okay. So if you only took out the construction cost, would the remaining, or would the resulting value be higher than if you did the subdivision approach and took out all deductions?

MR. YAMAMURA: Okay. Tricky question here now, are we talking about the subdivision approach or the...

CHAIR WHITE: Let me rephrase that. I may have got you spinning in circles with my explanation. If you're using the subdivision approach, which includes valuing the subdivided lots as, at the retail value, in addition to the construction cost, what other costs would be deducted normally in order to arrive at the value at which a buyer would buy it, would buy the parcel knowing that they had to cover the construction and all the other costs of development?

MR. YAMAMURA: Yeah, there's hard costs, soft costs, developers profit, et cetera. So those will need to be included in a subdivision approach, so it wouldn't just simply be construction costs, yes.

CHAIR WHITE: Okay. So my, yeah that's why I'm, I'm asking the question, if you only take out the construction cost, aren't you, isn't your appraisal going to result in a much higher evaluation than it would if you took out all the other elements?

MR. YAMAMURA: If you were doing a subdivision approach, the answer is yes, you know, in fact it's not proper methodology if you were doing a subdivision approach, which we were not doing that here.

CHAIR WHITE: Maybe you can explain that, because your...well.

MR. YAMAMURA: Therein lies the hypothetical conditions that was stated right up front so that the reader would understand what's going on here. We're looking at finished lots. We're not doing a subdivision approach. A subdivision approach, well it's just, it's a totally different kind and methodology of appraisal. In this case we're looking at finished lots, and I cannot mix the subdivision approach with the hypothetical condition that we're valuing finished lots, they just don't, they don't mix. So there are two different assumptions.

CHAIR WHITE: In the subdivision approach, are you not valuing the lots at the retail value in order to come up with the initial revenue number?

MR. YAMAMURA: Yes, that's your beginning point, but then you need to take it out based on your projection of how many years it would take to sell out. Then you need, you know, that's your absorption, so you need to project your absorption. Then ultimately after you deduct all of your expenses, you need to present value that number in the future to today's value. So the subdivision approach is much more intricate. Worse yet, the subdivision approach can give you

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different numbers depending on what's being proposed by the developer. If in this case, it's eight lots, if the developer said no, I'm just going to do three lots, the value would be different. So it's specific to the development that's being proposed and that's the danger of looking at a subdivision approach alone.

CHAIR WHITE: Okay. Members, questions for Mr. Yamamura? Mr. Hokama?

VICE-CHAIR HOKAMA: Not for Mr. Yamamura, and obviously he's very qualified in what he does. Mine is more about the draft information and for me we can go in to Executive Session, and keep that in confidential status. But for me, Chairman, where is the line between the Freedom of Information Act, the Council's ability to review what has been contracted out with public funds? You know my thing is I think this Committee has enough empowerment by Charter and Code to get those answers and to see those documents.

CHAIR WHITE: Corp. Counsel?

MR. UEOKA: Yes, I'm hesitant to say anything about it 'cause I haven't seen what we're even talking about. I've never seen this draft work product, so without seeing it I don't know what it says, I don't know what it's about so I'm not sure. I guess the privacy interest could be addressed. I'd have to check if there's a reason we could go in to Executive Session for something like this. I would say under the UIPA Freedom of Information Act, by disclosing certain draft documents, it may be a frustration of a legitimate government purpose of revealing the government's negotiation position to have it in open session. And like Mr. Hokama said, where is that line drawn between Administration and Council and what information is just for the County? But I guess back to my initial point, without seeing the actual document we're talking about, I really don't know.

CHAIR WHITE: We're going to take a ten-minute recess and maybe you can do a little bit more checking in to what our options are. We'll be in recess for ten minutes. . . .*(gavel)*. . .

RECESS: 10:03 a.m.

RECONVENE: 10:16 a.m.

CHAIR WHITE: . . . *(gavel)*. . . The Budget and Finance meeting will come back to order. Members, there has been a request for us to consider going in to executive session to discuss some matters, and so the Chair would entertain a motion to go in to executive meeting under Section 92-5(a)(8) Hawaii Revised Statutes, to deliberate or make decisions upon a matter that requires a consideration of information that must be kept confidential pursuant to State or Federal Law or a court order.

VICE-CHAIR HOKAMA: So moved.