

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**
Council of the County of Maui

MINUTES

Council Chamber

March 18, 2014

CONVENE: 1:40 p.m.

PRESENT: VOTING MEMBERS:

Councilmember Don S. Guzman, Chair
Councilmember Elle Cochran
Councilmember Stacy Crivello
Councilmember Michael P. Victorino
Councilmember Mike White

NON-VOTING MEMBERS:

Councilmember Donald G. Couch, Jr. (in at 3:45 p.m.)

EXCUSED: Councilmember Robert Carroll, Vice-Chair

STAFF: Kimberley Willenbrink, Legislative Analyst
Carla Nakata, Legislative Attorney
Sharon Brooks, Legislative Attorney
Pauline Martins, Committee Secretary
Rayna Yap, 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)

Kathy Kaohu, Executive Assistant to Councilmember Guzman

ADMIN.: Jeffrey Ueoka, Deputy Corporation Counsel, Department of the Corporation
Counsel (Items 4 & 12)
Brienne Savage, Deputy Director, Department of Parks and
Recreation (Items 4 & 12)
Rowena Dagdag-Andaya, Deputy Director, Department of Public
Works (Item 4)
Mark Walker, Deputy Director, Department of Finance (Items 12 & 16)
Bill Medeiros, Executive Assistant, Office of the Mayor (Item 16)

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

March 18, 2014

Gary Murai, Deputy Corporation Counsel, Department of the Corporation
Counsel (Item 16)

OTHERS: Dennis Morihiro
Courtney Shuster
Marilyn Colvin
Jan Elliott, Treasurer, Na Mamo O Mu`olea
Hilary Harts, Board member alternate, Na Mamo O Mu`olea
Kimberly Thayer, Chair, Maui County Arborist Committee
Mike Moran, President, Kihei Community Association
Jean Pezzoli
Ernest Rezens
Rosemary Robbins
Scott Crawford, Secretary, Na Mamo O Mu`olea
Pomai Konohia, Board member, Na Mamo O Mu`olea
Terry Lee Poaipuni, Board member, Na Mamo O Mu`olea
Plus (3) other people

PRESS: *Akaku Maui Community Television, Inc.*

CHAIR GUZMAN: ...*(gavel)*... The meeting of the Economic Development, Energy, and Agriculture, and Recreation Committee will now come to order. The time is 1:40 p.m. on March 18, 2014. Before we begin, I'd like to ask everyone to turn off their cell phones or put them in silence. I'd like to introduce at this time our Committee members. Member Stacy Crivello, good afternoon.

COUNCILMEMBER CRIVELLO: Aloha, Chair.

CHAIR GUZMAN: Member Elle Cochran, good afternoon.

COUNCILMEMBER COCHRAN: Aloha, good afternoon.

CHAIR GUZMAN: Member White, Mike White, good afternoon and Member Mike Victorino, good afternoon.

COUNCILMEMBER VICTORINO: Aloha and good afternoon, Chair.

CHAIR GUZMAN: Excused from the Committee is Committee Vice-Chair Bob Carroll, as well as Council Chair Gladys Baisa. I'd like to also introduce the, on the Administration branch, it will be Deputy Corporation Counsel, Jeff Ueoka.

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

March 18, 2014

MR. UEOKA: Good afternoon, Chair.

CHAIR GUZMAN: And also Brienne Savage from the Department of Parks and Recreation. We have Kim Willenbrink, our Legislative Analyst, as well as our Secretary, Pauline Martins.

MS. WILLENBRINK: Good afternoon, Chair.

CHAIR GUZMAN: And our Legislative Attorney, Carla Nakata. At this time, I'm gonna go ahead and check in with our District Offices. In Hana, we have Ms. Dawn Lono. Are you there?

MS. LONO: Hello, this is Dawn in Hana.

CHAIR GUZMAN: Good afternoon. And also in Lanai District Office, Ms. Fernandez. Are you there?
Hello?

COUNCILMEMBER WHITE: Are you on mute, like I was this morning?

COUNCILMEMBER VICTORINO: One answered, so it cannot be.

COUNCILMEMBER COCHRAN: Yeah, one answered.

CHAIR GUZMAN: Lanai District Office, Ms. Fernandez, are you there?

MS. FERNANDEZ: Hello, Chair, this is Denise Fernandez on Lanai.

CHAIR GUZMAN: Good afternoon. I thought, we, you were MIA, but that's okay, we found you. On the Molokai District Office, Ms. Ella Alcon, are you there?

MS. ALCON: Good afternoon, Chair. This is Ella Alcon on Molokai.

CHAIR GUZMAN: Thank you. Just brief notes for our testimony today. We'll be, anyone who wants to testify, please sign up in the lobby area. We'll be limiting your testimony to the agenda item on today's agenda and pursuant to the Rules of Council, you'll have three minutes for your testimony and one minute to conclude. When you approach the podium, please state your name for the record and/or the organization in which you represent. Can you please call the first testifier --

MS. WILLENBRINK: Yes.

CHAIR GUZMAN: --Ms. Willenbrink?

MS. WILLENBRINK: Dennis Morihiro, followed by Courtney Shuster.

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

March 18, 2014

... BEGIN PUBLIC TESTIMONY ...

MR. MORIHIRO: Good afternoon. I'm here to testify about the monkeypod...

CHAIR GUZMAN: Excuse me, can you please address the mic, so you can get a little closer to the mic.

MR. MORIHIRO: Can you hear me now?

CHAIR GUZMAN: Yes, thank you.

MR. MORIHIRO: Okay.

CHAIR GUZMAN: Can you please state your name again for the record?

MR. MORIHIRO: Dennis Morihiro.

CHAIR GUZMAN: Thank you.

MR. MORIHIRO: And I'm here to testify about the monkeypod tree. The stand of monkeypod trees represent a forest long lost on Maui. They provide in line all those who passed under its canopy, the importance of shade and wind abatement. Both of these qualities is what is needed to support and maintain our watershed forest and also our ocean environment. Fixed plants and short-lived insects and animals cannot adapt to abrupt changes in the direction and intensity of the wind. This stand of trees remind us what is possible with urban reforestation and what was lost by urban deforestation. I'm here about these trees because I care. These trees, having the ability impress all its different qualities, without saying a word, is in itself, exceptional. Thank you.

CHAIR GUZMAN: Oh, thank you. Excuse me. One moment. Do any Members have any follow-up questions? Seeing none, thank you very much for your testimony. Next please.

MS. WILLENBRINK: Courtney Shuster, followed by Marilyn Colvin.

MS. SHUSTER: Hi, I'm Courtney Shuster. Do I need to introduce these people?

CHAIR GUZMAN: No, that's okay, that's fine. Thank you.

MS. SHUSTER: I'm here also to speak on, I think it's EAR-4 about the four trees and we, they were zero and two when we protested about them being removed and we just came here just to lend our support. Also that, in favor of them being accepted as exceptional trees for Kihei. Thank you.

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

March 18, 2014

CHAIR GUZMAN: Members, have any follow-up questions? Seeing none, thank you so much Ms. Shuster.

MS. WILLENBRINK: Yes, Chair. Marilyn Colvin, followed by Kimberly Thayer.

MS. COLVIN: Hello, my name is Marilyn Colvin. Good afternoon, Chairman Guzman, and members of this Committee, especially those in Hana, Molokai and Lanai. The nominated trees are located at 980 South Kihei Road and they're in Kihei. I have a little photograph, if you can see that far. The trees grow near a street right-of-way, which adjoins the Kihei Maui Schooner Condominium parking lot. The four stately trees form a unique stand along the street that cannot be missed as you walk, drive, bike, or fly along the South Shore. The trees represent an amazing stand of landscape beauty and cooling shade for those who pass by. In preparing to make this nomination, I learned that Maui County documents, there is a procedure for designating a monkeypod species to the exceptional tree list and that example is across the street at Kaahumanu Church. Individually, each of these four monkeypod trees, they are tall and healthy appearing and they are neatly pruned so that it's thick and wide-spread branches and limbs and beautiful foliage and flowers form an amazing, beautiful canopy of shade. Their deep shadiness benefits the entire area, including the sidewalk, roadway and parking lot. However, even more impressing is the effect of the four trees working in tandem following a most impressive stand of trees. In fact, this stand of four trees exemplifies the essence and spirit of the Maui County Exceptional Tree law passed in 1975. This law states that individual trees or stands of trees are valued, and they will be protected based on their historical value, size, age, rarity, esthetic quality, location, value or endemic status. I believe that this stand of four pods affectionately known as the monkeypod quartet meets all this criteria and do deserve the great honor of being designated exceptional trees. If they are so designated, they would also become Kihei's first exceptional tree. Lastly, I just want to restate that in the overall unique beauty and landscape presence of these trees and the benefits that they bring us today and make the, that makes the strongest case for protecting these trees. Please help save our trees for our children and their children to know as we have known, the loveliness of a tree, the joy of climbing a tree and all other important benefits of a tree. We need their beauty, we need their shade, we need their habitat, their protection, and most of all, their inspiration. Please vote yes to designate the exceptional tree status for these four monkeypod trees. Thank you.

CHAIR GUZMAN: Thank you so much, Ms. Colvin. Oh, can you still remain at the podium? I believe you were the person that nominated --

MS. COLVIN: Yes, I did.

CHAIR GUZMAN: --the monkeypod trees. Thank you. For the Members, any follow-up questions? Seeing none, thank you very much.

MS. COLVIN: Thank you, Chair.

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

March 18, 2014

CHAIR GUZMAN: I'm going to go to our District Offices right now. From Hana District Office, Ms. Lono, do you have anyone wishing to testify?

MS. LONO: Yes, our first testifier is Jan Elliott. She's with Na Mamo O Mu`olea.

MS. ELLIOTT: Hello. So I'm testifying ...

CHAIR GUZMAN: Yes, excuse me, can you please state your name for the record?

MS. ELLIOTT: My name is Jan Elliott and I am --

COUNCILMEMBER VICTORINO: Can you make that louder, Chair?

MS. ELLIOTT: --the treasurer of Na Mamo O Mu`olea. I'm testifying on the item about the grant of lease of Mu`olea Point Preserve, that's EAR-16, and I would like to say that we have, Na Mamo O Mu`olea was asked to form, by the County of Maui, for the purposes of managing the Mu`olea Preserve. We were given a set of restrictions and asked to have insurance. This has been going on for about eight years now. We were asked to submit a lease application. Our first lease application was lost. We submitted a second lease application. We were enthusiastically endorsed by the Grants Review Committee. Now I understand that more documentation is needed and this is documentation that we never had. These are internal County documents that we couldn't be expected to have. What I can tell you is that we have faithfully kept up our insurance policies, we have abided by every condition that was, the County has asked. The funders of Mu`olea Point, that would be NOAA and the Trust for Public Land, have inspected the property on regular basis. They're very happy, enthusiastically happy with everything that Na Mamo O Mu`olea has done and I feel that we're sort of in a bureaucratic red tape whirlpool nightmare at this point. I don't know how to move forward with this lease and I hope you can grant us the lease or, if not, give us some guidelines of how we can move forward. Thank you.

CHAIR GUZMAN: Thank you, Ms. Elliott. Any follow-up questions from our Members? Seeing none, if you could, Ms. Elliott, if you're watching on *Akaku* Channel 53, I'm gonna go through an explanation as to why these documents are missing and what we're doing to try to get everything in order but we're on our way. I think we just have a few more details that we need to work out and acquiring some of the missing documents, but I'll be explaining that shortly thereafter the testimony portion is done. Next testifier will be checking in from Hana.

MS. LONO: Yes, our next testifier in Hana is Hilary Harts and she is with Na Mamo O Mu`olea, testifying on EAR-16. State your name.

MS. HARTS: Good afternoon, my name is Hilary Harts. I would like to say that I've been involved with the Na Mamo O Mu`olea group from the beginning. I was actually on the Board at Trust

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

March 18, 2014

for Public Lands and the process when it transferred over and then became part, working with OHA as part of the County and have been on the Board monthly all the way through to the present. I've been impressed with the many activities that Na Mamo O Mu`olea have presented to the community, from working with children, camping, teaching, just bringing educational fairs to the community, bringing knowledge and excellence as to the resources in terms of the land resources, the seaweeds and also the _____ of resources that they're, at Na Mamo O Mu`olea. It's impressive to see the extensiveness of the activities that have been going on, and wish in every way that they continue to be given the work that they have done for the future, and most positive in wanting the EAR-16 to be passed and the lease given to this group. Thank you so much.

CHAIR GUZMAN: Thank you, Ms. Harts. Is there any further testimony in Hana?

MS. LONO: I have no one waiting at the moment but someone did come in and then go out, so there may be another testifier a little bit later.

CHAIR GUZMAN: Okay, we'll just proceed to Lanai District Office. Ms. Fernandez, is there anyone wishing to testify?

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

CHAIR GUZMAN: Thank you, Ms. Fernandez. Turning to Molokai District Office, Ms. Alcon, is there anyone wishing to testify?

MS. ALCON: There's no one here on Molokai waiting to testify.

CHAIR GUZMAN: Okay, we'll turn back to the Chambers and proceed with the next testifier.

MS. WILLENBRINK: Yes, Chair, the next testifier is Kimberly Thayer, followed by Mike Moran.

MS. THAYER: Good afternoon, Chair, Council members. My name is Kimberly Thayer. I am the current Chair of the Maui County Arborist Committee and I apologize if this one speaks up during my testimony. But I am here this afternoon regarding EAR-4, the bill to add the four Kihei monkeypods to the list of exceptional trees. Our Committee approved this nomination on the basis of the aesthetics, location and historical value of these trees. These four monkeypods are a good example of how shade trees, when properly cared for, enhance the beauty of the property, of the sidewalk and of the streetscape. A drive down South Kihei Road is, I think, like taking a stroll down a lane and it's partly because of nice big shade trees, like these four monkeypods. So our Committee voted unanimously to approve this nomination, so we hope that you will approve the addition of these four trees to the list of exceptional trees for the County. Thank you.

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

March 18, 2014

CHAIR GUZMAN: Thank you. Members, any follow-up questions? Kimberly...oh, yes, Ms. Cochran.

COUNCILMEMBER COCHRAN: Hi, nice to see you.

MS. THAYER: You too.

COUNCILMEMBER COCHRAN: Do we know who planted these originally? Is it, like, is there, do we know the planter of these trees?

MS. THAYER: I am not sure completely but I believe it was the property owner.

COUNCILMEMBER COCHRAN: Oh, okay.

MS. THAYER: Yeah, yeah, it was the property owner.

COUNCILMEMBER COCHRAN: Oh, okay. Thank you. I just asked her --

CHAIR GUZMAN: Oh, yeah, sure.

COUNCILMEMBER COCHRAN: -- the monkeypods that line Wailuku and then the monkeypods that line Olowalu were, it was like a contest, in those planting originally of those trees, but just, if this was part of that contest of --

CHAIR GUZMAN: Oh, could be.

COUNCILMEMBER COCHRAN: --known people that have planted original monkeypods here, but thank you. Thank you --

MS. THAYER: Sure.

COUNCILMEMBER COCHRAN: --for being here.

MS. THAYER: Yeah, thank you.

CHAIR GUZMAN: Congratulations on the baby, Kimberly. I visited your Arborist Committee at least twice this year already, but I think during the time that I visited, you were out on --

MS. THAYER: Oh, yes.

CHAIR GUZMAN: --leave for the baby. I had requested that a new revision of nominated, a list be created. I did receive a letter. It hasn't gone through, I guess, the Parks Department at this time,

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

March 18, 2014

but I'm still awaiting that list of new nominated trees so just to give you an update. Do you have someone from the Arborist Committee that will be able to serve as a resource person today?

MS. THAYER: Yes, well, I can be that person.

CHAIR GUZMAN: Okay, very good, we'll call you up when we need you.

MS. THAYER: Okay.

CHAIR GUZMAN: Thank you.

MS. THAYER: Thank you.

CHAIR GUZMAN: Next?

MS. WILLENBRINK: Mike Moran, followed by Jean A. Pezzoli.

MR. MORAN: Aloha, Chair Guzman and EAR Committee., apologize for my voice. Mike Moran, President of the Kihei Community Association, the KCA, submitting testimony for the Association on EAR-4, Exceptional Trees. Some of my testimony is repetitious but the Association did submit it in writing so I cannot deviate from it, so please bear with me with the repetition of what you've already heard. As you are aware, the Maui County Arborist Committee unanimously approved the nomination of the four monkeypod trees as exceptional trees in the County of Maui based on aesthetics, location, and historical value of their canopy just over three years ago. Somehow the legally prescribed process stalled after that. After waiting a year, the KCA requested a hearing of the appropriate Council Committee to no avail. Thus, we strongly commend Chair Guzman for stepping up to schedule today's hearing to allow a reasonable, informed decision to be made. Thank you, sir. For decades, the KCA has advocated for a walkable, bikeable South Maui community, which we understand the County government generally has as well. Were you to either walk or bicycle along the length of South Kihei Road most any afternoon in spite of the present challenges, most agree that the stretch where the four monkeypod trees are and over a dozen of their brethren, beautify and shade the route like no other segment. While most of us are aware of the numerous benefits provided to our natural environment by large trees, as we note smart planning projects for the various Maui County areas always include them as street trees and in our parks. We continually seem to fail to preserve them even after decades of growth. Last October, Chair Guzman presented the Central Maui Pedestrian and Bicycle Master Plan, which was quite similar to the South Maui Regional Parks and Open Space Master Plan from a decade earlier from the same planning firm. Then the plans are presented and then seemingly just go on office shelves. The trees disappear and we build more and wider motor vehicle transits often without the reasonable routes for walking and bicycling sheltered by canopies of these large old trees. We ask you to help, we ask your help today to positively modify this regressive behavior. And I wish to add on, just speaking as an

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

March 18, 2014

individual, the KCA is a member of the Alliance of Maui Community Associations. I attend those monthly meetings. I am not speaking for the Alliance. I'm just reporting that when the members which cover most of the island, we have several guys from Upcountry, from out almost as far as Hana attending these meetings, when they voted for their top three concerns to be discussed in 2014, more trees and better maintenance of them was among the top three concerns. So I think we see that communities, practically islandwide, are very, very concerned with trees. Thank you very much. Aloha.

CHAIR GUZMAN: Thank you, Mr. Moran. I also attended one of your Association meetings with the Countywide Associations, which was very interesting. In regards to this particular matter, did any Members have any follow-up questions for Mr. Moran? Seeing none, thank you very much.

MR. MORAN: Thank you guys, and the KCA meeting is tonight if anybody wants to come. Aloha.

MS. WILLENBRINK: Jean A. Pezzoli, followed by Ernest Rezens.

MS. PEZZOLI: Good afternoon. My name is Jean Pezzoli and I am here to testify in favor of the four monkeypod trees in EAR-16 *[sic]*. In my opinion, these trees are truly exemplary because Kihei is, as you well know, almost a desert, it's hot. And all of a sudden when you go down South Kihei Road, there's this arbor of shade. It is so enlightening. Many people think the trees cannot stay in the urban forest, but actually that's why these trees are exemptional *[sic]*. They're right along the sidewalk, along the road, and with proper pruning, root barrier, and maybe even rubber sidewalks, these monkeypod trees can continue to exist as they have been. All of us depend upon plants to breathe. You all know, we all learned in the third grade that plants produce oxygen. You can't go into a cave and dig out the oxygen, you only get it from plants. And indeed, it takes four trees, the size of a monkeypod, four monkeypods to produce enough oxygen for one adult to breathe in a day. So not only do they provide the oxygen for us, they also take in carbon dioxide, which, as you know, is the cause of global warming. So you have trees that are reducing carbon dioxide, counteracting global warning and providing shade. NASA is very big into doing data on trees and shade, and they have found that one tree, even in a little parking lot, can reduce temperatures by as much as ten degrees. So these trees are truly exemplary. They're historic because the whole community of Kihei stood up and said we want these trees and pulled together, even protested, to save these trees. They're exemplary, historic and very necessary in this world. I do hope the County looks into, in the future, more trees, because, like I said, it's just getting warmer and we just need more shade than ever. So please, I ask for your vote in favor of this EAR-16 *[sic]*. Thank you.

COUNCILMEMBER VICTORINO: Mr. Chair?

CHAIR GUZMAN: Thank you.

COUNCILMEMBER VICTORINO: Mr. Chair?

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

March 18, 2014

MS. PEZZOLI: Excuse me, losing my voice.

CHAIR GUZMAN: Yes, Mr. Victorino.

COUNCILMEMBER VICTORINO: Yeah, just wanted clarification. You mean EAR-4, right?

MS. PEZZOLI: Oh, EAR-4, I'm sorry.

COUNCILMEMBER VICTORINO: You said EAR-16, so I really had to check on that one.

MS. PEZZOLI: Thank you.

COUNCILMEMBER VICTORINO: I thought I missed something. So EAR-4, the Exemplary *[sic]* Trees, right?

MS. PEZZOLI: Yep, sorry.

COUNCILMEMBER VICTORINO: Okay, got you.

MS. PEZZOLI: It's my East Coast accent.

COUNCILMEMBER VICTORINO: Not a problem, ma'am.

MS. PEZZOLI: Been here 40 years, but I still have it.

COUNCILMEMBER VICTORINO: Yes, ma'am. Thank you.

CHAIR GUZMAN: Thank you. Any further follow up questions? Seeing none, thank you very much for the testimony.

MS. PEZZOLI: Thank you.

MS. WILLENBRINK: Our next testifier is Ernest Rezents, followed by Rosemary Robbins.

MR. REZENTS: Good afternoon. My name is Ernest Rezents. I'm not a member of the Arborist Committee but I was on the Committee for many years, I think from day one, and I'm not quite sure how to or what to cover in my presentation this afternoon. I spent a lot of time preparing but I've since abandoned all my preparations and I'm gonna speak a little bit of, extemporaneously. These four trees are remarkable in the amount of shade they provide and Kihei is a desert, so that shade is very welcomed, and I feel that these trees, along with the ten to their north creates a fantastic forest of 14 monkeypod trees. They provide the shade and coolness

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

March 18, 2014

that you would not expect in such a desert area, but they do. They are truly exceptional. Now I know that the Mayor has talked against these trees and others may feel like against the trees, but these trees are worthy of keeping, and when they are declared exceptional, arbitrary actions cannot be taken against them without coming to the Council first to discuss it. Therefore, that sort of strengthens the need for these four trees to be exceptional. They are unusual and they were planted by the, as far as I can tell, the property owners abutting the road. They were not quite sure where the pins were. This is as far as I can find out from people who lived there for a very long time. And they planted the trees where they did, and they happen to be on County property, so they are County trees. And so the County can do as it wishes. But these trees are truly remarkable as Jeannie and the others presented because they are unexpected shade in such a hot community. That's about all I have to say now and I do not know what the Parks will be saying but I wish I did, then I could rebut you now or maybe later. But you see this is a disadvantage for public testimonies like ourselves, we speak on one subject and then the Administration comes in with a sidetrack and therefore we have to come back again and make our second presentation. But anyhow, that's it for today, but the trees are worthy of saving and Exceptional Tree status will save them. I guarantee you. Thank you very much.

CHAIR GUZMAN: Thank you Mr. Rezens. Sorry. Mr. Rezens, how's the tree planting plan coming along?

MR. REZENTS: I'm embarrassed. It's coming along.

CHAIR GUZMAN: Okay. I think I asked you about that --

MR. REZENTS: I know it.

CHAIR GUZMAN: --two months ago and then six months ago.

MR. REZENTS: You see, this is the *Maui County Planting Plan, Third Edition*, he's talking about. That has taken me 13 years to write.

CHAIR GUZMAN: Okay.

MR. REZENTS: Anyhow, we work with volunteers and I have a volunteer who's doing the typing and she is extremely busy teaching at the college. And I have the final chapter eight to the point that it's good and then hopefully during spring break she can finish it and we get it up to you and also to Jeff for --

CHAIR GUZMAN: Corporation Counsel, right.

MR. REZENTS: --Corp. Counsel.

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

March 18, 2014

CHAIR GUZMAN: Very good, very good.

MR. REZENTS: But it will be, hopefully, in the near future.

CHAIR GUZMAN: Okay, thank you very much. Members, any follow-up questions for Mr. Rezens?
Seeing none, would you mind staying around for, being a resource person to aid Kimberly --

MR. REZENTS: Sure.

CHAIR GUZMAN: --if she needs --

MR. REZENTS: I will.

CHAIR GUZMAN: --assistance --

MR. REZENTS: Thank you very much.

CHAIR GUZMAN: --on the technical portions of the --

MR. REZENTS: I will.

CHAIR GUZMAN: -- I guess, presentation?

MS. WILLENBRINK: Rosemary Robbins, followed by our final testifier to sign up today,
Scott Crawford.

MS. ROBBINS: Good afternoon, everybody. I endorse all of those people who spoke before me endorsing those trees, they're gorgeous. I'm here to talk about EAR-12, the Fees and Deposits Charged for the Use of Park Facilities. We had a wonderfully, specific explanation this morning about motor vehicle realities. I'm hoping that this afternoon's is going to be just as specific when we're talking about Park facilities, and I have a couple of questions people have asked me to ask. Does this include about pools, and does it include about community centers? I couldn't find anything in the materials that were in the binder that would address those so I couldn't answer those. So when people mention the documents are missing, that scares the daylights out of all of us. So keep looking for those, whoever the people in charge of those on all of these issues, and hopefully we will hear this afternoon specifics about community centers and pools included in the Parks.

CHAIR GUZMAN: Thank you, Ms. Robbins. Any further questions from the Members? Seeing none...

MS. ROBBINS: Thank you.

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

March 18, 2014

CHAIR GUZMAN: Thank you.

MS. WILLENBRINK: Scott Crawford.

MR. CRAWFORD: Aloha, Chair Guzman, members of the Committee. My name is Scott Crawford. I'm the Secretary for Na Mamo O Mu`olea and I'm here to testify on EAR-16. At this time, I just want to make myself available as a resource person for later on. I'll stick around so when you get to this item on the testimony, I'll be available to answer any questions you may have. As the Secretary since the organization was founded in 2006, I've been responsible for preparing and submitting and following this lease application. So, you know, hopefully, I understand there's some additional documents that you've received since the last time we had a hearing on this item. So, you know, if I can help answer any questions regarding those that you may still have, then I'll be available later on. I also have a couple letters that I think, that I'd like to submit to the Committee that I believe may not have been included in your original package. This is a letter from 2006 to Mayor Arakawa and in 2007 to Mayor Tavares that were initiating the process of this lease application, just to give you an indication of how long we've been trying diligently to sort of uphold our end of this process and be able to fulfill the requirement in the County's acquisition of this property that a local nonprofit organization be contracted for the management of the property. We've been really diligent and patient trying to do our part to make it possible for the County to do that, and we're just hopeful that that can, that, you know, we can continue to make progress and eventually get the, get the lease approved. So thank you, Chair Guzman, for, for hearing this item and for, you know, for your efforts to try to bring all the documents forward that you feel are necessary for the, you know, the Committee to really consider this in an informed way. Thank you.

CHAIR GUZMAN: Thank you, Mr. Crawford, for being, sticking with us and having the due diligence to try to work with my staff as well, trying to compile all the necessary information to complete this. It's been a long haul and definitely I will do my best as well as my staff to get this pushed out. But we acknowledge acceptance of your letters into the records. Thank you. Any follow-up questions from our Members? Seeing none --

MR. CRAWFORD: Thank you.

CHAIR GUZMAN: --thank you very much. And you'll be sticking around to be a resource person? Okay. Is there any other testifiers here in the Chambers?

MS. WILLENBRINK: Chair, there's no one here in the Chamber but I do understand there is some in Hana.

CHAIR GUZMAN: Okay. We're gonna turn back to our District Office starting with Hana District Office.

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**
Council of the County of Maui

March 18, 2014

MS. LONO: Our next testifier in the Hana Office is Pomai Konohia, testifying on EAR-16.

MS. KONOHA: Mahalo, Council. Thank you for having this technology available so we don't have to drive all the way out, and I wanted to just mahalo Scott for representing us out there. My name, like Dawn said, is Pomai Konohia and I'm representing Na Mamo O Mu`olea, and I could just go on and on and say how frustrating and the long haul that we've kind of held on to this lease and hoping for the best. I'm sure, like every, every different Administration, it seems the same response, you know, new staff, not sure where the paperwork is, they had it before, they only needed these few documents, and we've complete the requirements and every, every year we try our best. And so I just want to let you know that we continue to meet monthly and try to hold our part as being the nonprofit with the liability insurance that we need to pay so that the County isn't liable for any, anything that might happen down there at the property. And I'm proud to say that, you know, I'm part, I have a lineal lines and I think, I thank the Committee for arranging it that way that the Board is compiled of more than half of the families from that area, so I speak on behalf of all the families who also represent that area and we cherish this place. And we thank you for saving it from development and hope that we can, instead of, it seems like we're half okole, excuse me, but we try our best to just maintain the requirements and, like I said it earlier, hope that nothing happens cause the County is actually liable but we're there kind of, yeah, thank you, malama'ing the place as best as we can. And in the meantime, there's a lot of wonderful activities going on. Everybody's heart is in this place and this week we have our youth center going down and learning more about the natural resources that we're so lucky to have in this beautiful place in Mu`olea. And all we can hope for is that you can get your documents together and fulfill the lease application for the second time, I believe this is the second application that was submitted. And I'm not sure how much times we testified the same, same story, but again I just want to thank the families here for their patience, our neighboring communities that are also a part of this organization and all the different Administrations that we went through, I mean, starting with Dave Deleon and, you know, all the different Mayors, for giving us such hope and then we're like, oh ...*(inaudible)*... we get 'em, what, what we need now, I thought, I thought they wanted just the financial information and we don't deal with finances because we don't wanna depend on monies but there's always something else that they need. So, I mean, if we could just be honest and say what, what really is the matter or the issue here, I think that would help out a lot. But in the meantime, no regrets. I thank you folks for trusting us. I don't know if you guys even know who's, you know, a part of this Committee that you guys are depending on to hold up the County's requirements. So, by all means, I mean, you guys --

MS. WILLENBRINK: Four minutes.

MS. KONOHA: --must trust us 'cause after all, it's been how long now, eight, eight years, I guess that we've been trying our best. So again, I want to thank you for having this available here in Hana where we can come and testify on matters important such as this, and also we hope that you can

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

March 18, 2014

get your end of the deal together as soon as possible so wouldn't have to keep revisiting this over and over with the same results, which is more documents needed. Thank you so much. Aloha.

CHAIR GUZMAN: Thank you. Is there any further persons there that would like to testify?

MS. LONO: Yes. The next testifier is Terry Lee Poaipuni, testifying on EAR-16.

MS. POAIPUNI: Good afternoon, Council members, and to ohana there, we thank you for hearing us. As you know, we've been trying to get this lease. I sometimes feel like we own this already. You know, even if we haven't gone through the process, because we've been talking like we do own it, but only because the kuleana falls very strongly on our shoulders. And I am ancestral lineal line. I was born and raised there in _____ and our families all come from there. We went swimming, we went gathering, we did everything. So for me, it's part of our lifestyle and this is something that we're trying to protect and trying to, you know, actually give the County something to really be proud about, and I think our organization has done a wonderful _____. Without, you know, taking up too much of your time, I reiterate what Pomai and the rest of the group said. Thank you, Scott, for being there. I represent our families here and not, you know, my Konohia/Momoa families here, I am from that lineal line but we're glad to know that at least we still have somewhere that we don't feel like we're infringing on other people's rights and that's just part of our, you know, kuleana. We take that kuleana very strongly and now the responsibility of being a lessee, a person who's in charge of the place, knowing that we need to get insurance to cover that and in all that kuleana, I have somehow felt and, you know, that this is our place already. And I know you guys gotta give your guys okay, but I have confidence in what you come up with because I think you folks have that, that thought in mind too, that we can do the job because we've done it for several years like Mayor Arakawa and Dave Deleon in 2006, and more importantly, for me it's always been, we don't want to depend on financial or monies. Monies is not important. Our kupunas never depended on money so we don't look as money, at money as the way to continue this venture. Our thing is, we take it for kuleana, _____ we do what we gotta do, we give the strength that God gave us to do and use and this is what we do. So with all due respect to you all, we thank you for this time that you've given us and I hope you guys come up with a good decision. And again, mahalo.

CHAIR GUZMAN: Thank you very much for the testimony. Members, is there any follow-up questions? Seeing none, can we move ...

COUNCILMEMBER CRIVELLO: Chair?

CHAIR GUZMAN: Yes.

COUNCILMEMBER CRIVELLO: Yeah. Quick question --

CHAIR GUZMAN: Ms. Crivello.

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

March 18, 2014

COUNCILMEMBER CRIVELLO: -- for the testifier.

CHAIR GUZMAN: Yes.

COUNCILMEMBER CRIVELLO: Yeah. Aloha, Terry.

MS. LONO: Oh, hold on just a minute. Question. She was walking out the door but she's coming back in, hold on just a second. Okay.

MS. POAIPUNI: Hello, I'm back.

CHAIR GUZMAN: Okay. One of our Members has a question for you, Member Stacy Crivello.

MS. POAIPUNI: Hi, cuz.

COUNCILMEMBER CRIVELLO: Hi. Aloha.

MS. POAIPUNI: Aloha, Stacy.

COUNCILMEMBER CRIVELLO: Terry, I wanted to ask, so, so you folks have been having oversight as far as to malama the area since 2006?

MS. POAIPUNI: Yes.

COUNCILMEMBER CRIVELLO: Okay. So is it this organization as a whole that has been kind of like the steward, I would say --

MS. POAIPUNI: Yes.

COUNCILMEMBER CRIVELLO: --of all the cultural, historic and the marine resources --

MS. POAIPUNI: Yes.

COUNCILMEMBER CRIVELLO: --of that area? Okay, so since 2006 up until now, what has the process been? Were you folks assigned to be the, I guess I would say, the legal stewards over this aina?

MS. POAIPUNI: Well, you know, we were asked to create this organization, and what we came up with, Stacy, is that we had the lineal lines, which is the families and then we also had the adjacent landowners become part of this Committee. And so we came together, formed a nonprofit, formed the Board of Directors which I sit on --

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

March 18, 2014

COUNCILMEMBER CRIVELLO: Uh-huh.

MS. POAIPUNI: --and we then began to, start the, talk story. You know, we communicated, you know, kinda like took one step at a time, decided where we wanted to go, came up with visions, came up with what would be best for the area, and we all had our, you know, own mana'o which, which everywhere was, but for us, for us it was coming together and coming up with the best plan for the place. And not only that, we also talked to other places. We've talked to different organizations, you know, that did do the same thing, the stewardship programs that we do in Molokai. We have, you know, we have working relationship with them but we started slowly. We created our Board of Directors and then did the nonprofit, did the, you know, the regular stuff.

COUNCILMEMBER CRIVELLO: Right.

MS. POAIPUNI: Eventually we became more, more, what can I say, we became more of what we are today, which is --

UNIDENTIFIED SPEAKER: The stewards.

MS. POAIPUNI: --the stewards, yeah, every, in every sense of the word. We're like taking care of the marine life in the area that we are. We're just about taking care of as much as we can, as a place, 'cause I mean it is beautiful. I'd like to, in fact, invite you guys to come down --

COUNCILMEMBER CRIVELLO: Oh, I would love that.

MS. POAIPUNI: --when you guys here. By all means, come down, visit, holoholo.

COUNCILMEMBER CRIVELLO: Okay, okay, mahalo.

CHAIR GUZMAN: Thank you.

MS. POAIPUNI: Thank you, Stacy.

CHAIR GUZMAN: We do have --

COUNCILMEMBER CRIVELLO: Aloha.

CHAIR GUZMAN: --Mr. Crawford here as a resource person and he's very knowledgeable.

COUNCILMEMBER CRIVELLO: I realize that. I wanted to ask her 'cause of the lineage --

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

March 18, 2014

CHAIR GUZMAN: Okay.

COUNCILMEMBER CRIVELLO: --that she refers to --

CHAIR GUZMAN: Oh, I see.

COUNCILMEMBER CRIVELLO: --and I think that's of most important value is the lineage that goes back from the very beginning, our ancestors. Thank you.

CHAIR GUZMAN: Thank you. Members, any further questions? Seeing none, we'll move on to the next testifier.

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

CHAIR GUZMAN: Okay, thank you. We'll turn to Lanai District Office. Ms. Fernandez, is there anyone wishing to testify?

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

CHAIR GUZMAN: And then we'll turn to Molokai. Ms. Alcon, is there anyone wishing to testify?

MS. ALCON: There's no one here on Molokai waiting to testify.

CHAIR GUZMAN: Thank you. Is there anyone in the gallery that's wishing to testify, please come forward. Seeing none, at this time, Members, without objection, I would like to close public testimony.

COUNCIL MEMBERS VOICED NO OBJECTIONS.

CHAIR GUZMAN: Thank you.

... END OF PUBLIC TESTIMONY ...

EAR-4 EXCEPTIONAL TREES

CHAIR GUZMAN: Members, we have three items on today's agenda. Starting with item number one, we have EAR-4, Exceptional Trees. Members, we're in receipt of County Communication 12-5, from the Director of Parks and Recreation, transmitting a proposed bill entitled A Bill for an Ordinance to Amend Ordinance No. 3737 (2010) relating to Exceptional Trees in the County of Maui. The proposed bill adds four monkeypod trees, located at 980 South Kihei Road, to the list of the Exceptional Trees in the County of Maui. Today we have from our Administrative side is

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

March 18, 2014

Rowena Dagdag from the Department of Public Works, Deputy Director, as well as Brianne Savage, Deputy Director of Parks and Recreation. And we'll turn to Ms. Savage at this moment and have her explain the process for nominating the trees to the list of Exceptional Trees, and I believe she may have a PowerPoint presentation today and before we begin, I'd like to have her, you know, I guess, say a brief opening if you'd like.

MS. SAVAGE: Thank you, Chair. Basically, we just have a very short PowerPoint just to give kind of an overview so that everyone understands the Exceptional Tree process and how it moves through the Arborist Committee and then to Council. Yeah.

CHAIR GUZMAN: Okay. Thank you. We'll take a brief recess to set the Chambers. . . . (*gavel*) . . .

RECESS: 2:30 p.m.

RECONVENE: 2:32 p.m.

CHAIR GUZMAN: . . . (*gavel*) . . . The EAR Committee shall now reconvene. Ms. Savage, you may proceed.

. . . BEGIN PRESENTATION . . .

MS. SAVAGE: Thank you, Chair. So, again, this is just a very brief PowerPoint just to walk us through the process for Exceptional Tree Program. The Exceptional Tree designation is a result of Chapter 58, HRS, and is mandated at the Maui County level by Ordinance 12.24A, which provides for the protection of trees designated exceptional from destruction due to land development or abusive activities. And this program is outlined in Maui County Code 12.24A.030. The tree nomination process can be, a tree can be nominated by any citizen or citizen group. They can petition the Arborist Committee to recommend for designation of a tree, stand or grove of trees as exceptional. The Exceptional Tree criteria is first, historic or cultural value. Secondly, represents an important community resource or is identified as exceptional by reason of age, rarity, location, size, aesthetic quality or endemic status. The Arborist Committee then recommends to the County Council, via the Department and the Mayor, by adoption or addition to the Exceptional Tree list, and then the Committee on at least an annual basis, shall reexamine the designated exceptional trees, in any event, such tree is found to be dangerous or diseased beyond repair, the County Council can allow for removal of the tree from the list of Exceptional Trees. So, again, just a very basic step-by-step overview of how the process works.

. . . END PRESENTATION . . .

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

March 18, 2014

CHAIR GUZMAN: Okay, thank you. We'll go ahead and recess to reset the Chambers. . . . (*gavel*) . . .

RECESS: 2:34 p.m.

RECONVENE: 2:35 p.m.

CHAIR GUZMAN: . . . (*gavel*) . . . The EAR Committee shall now reconvene. Thank you very much, Ms. Savage, for that explanation of the Exceptional Tree Program. Also joining us on the floor is Rowena Dagdag-Andaya, Public Works Deputy Director. Thank you.

MS. DAGDAG-ANDAYA: Good afternoon, Chair.

CHAIR GUZMAN: We'll go ahead and begin first with Deputy Director Savage for Public, excuse me, Parks and Recreation. Can you go ahead and give us any comments in regards to this ordinance and these particular trees if the Department has comments.

MS. SAVAGE: Thank you, Chair. So the process, again, has gone through to the point where the Department has, you know, submitted for these to be reviewed. A few items that I would just make mention of specifically regarding the designation of trees as exceptional is that once they are categorized in that area, if there were any other projects surrounding this location that would require Federal funding, we just have to make sure that any additional requirements are met to show that the trees are protected and preserved. The one other notation that I'd like to make is just that these are street trees and not Parks trees and the difference just being obviously that they're located along the right-of-way next to the streets so the Parks Department still oversees the maintenance of these trees. And this is where we work very closely with Public Works as far as, you know, how they're handled and dealt with and maintained. I guess that's all the comments for now.

CHAIR GUZMAN: Thank you. And we'll open up the floor for any questions that the Members may have for the Department. Seeing...

COUNCILMEMBER VICTORINO: Recommendation?

CHAIR GUZMAN: Ms. Cochran, do you have any questions for the Department?

COUNCILMEMBER COCHRAN: Yeah, is this the same set of trees that buckled up the sidewalk and thereby had issues in litigation matters maybe? Are these the same set of trees that we're talking about? Or no?

CHAIR GUZMAN: Well, you know what, if Parks cannot answer that, we also have Public Works. So --

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

March 18, 2014

COUNCILMEMBER COCHRAN: Ms. Andaya.

CHAIR GUZMAN: --Ms. Andaya, if you'd like to respond.

MS. DAGDAG-ANDAYA: Sure. Yes, Councilmember Cochran, these trees were the subject of some letters that had gone before the County regarding a buckled-up sidewalk along South Kihei Road, fronting the Maui Schooner, and we needed to remove portions of the sidewalk and we needed to kinda determine what mitigation action needed to be done. There was discussion about pruning the roots, but in doing so that would've been detrimental to the tree, so as a, you know we looked into several options as well. The final option that we came up with was laying asphalt. So instead of putting a concrete sidewalk in, we kinda determined that we should put an asphalt sidewalk there to replace that buckled-up sidewalk. So currently there is a sidewalk. It's, it is starting to come up again, buckle up, but what we'll probably need to do is go back and either redo it or find another alternative.

COUNCILMEMBER COCHRAN: Thank you, Ms. Andaya. So just a follow-up, Chair?

CHAIR GUZMAN: Yes.

COUNCILMEMBER COCHRAN: So the Department is in favor of continuing to have these trees, or taking the recommendation of the Arborist Committee?

MS. DAGDAG-ANDAYA: Well, I guess, one of the things that we discussed was probably the criteria for Exceptional Trees because when you look at other trees in the County, I know there's some in Olowalu, others on, along High Street and Honoapiilani Highway, you know, our question is more, what about those trees as well? So for the Department, we do, I know, many years back, there was a plan to do a road reconstruction project along South Kihei Road that involved some drainage, curb, gutter, sidewalk, I think there is sidewalks on one side of the road there, and that project would receive Federal funding. Now in the event that this tree, the set of trees do get that exceptional designation, you know, under the Code we're not quite sure how that would affect the, any kind of future permitting, but we anticipate that it probably will trigger the need for additional Federal environmental review, called a 4(f), so that would require some sort of evaluation on alternatives that would, I guess, alternatives that would kind of avoid having to disrupt or disturb the trees. We haven't had a lot of projects that have gone through the 4(f) process, so that might be a little bit complex for us. We haven't tested it. I don't think, to my knowledge, I don't know how that process has gone through with other projects, but there is that possibility for additional Federal environmental review. I don't know exactly what the costs are associated with finding those different alternatives, but we do need to analyze the feasibility, costs, in moving forward with any type of project within, within the right-of-way. I also wanted to add that in the last iteration of that South Kihei Road Project, that Phase 4 project, there was notes on the plan that said that existing trees are to remain. So I think there was one section of plan that said existing monkeypods, pod trees to remain. Two, there was another one, fifteen on

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

March 18, 2014

the makai side. I'm not sure exactly where these trees are or if they're still in existence but there was some notes in the plan that said to keep the trees. Also, the trees are, recent surveyor, the most current survey shows that the trees do belong on private property and perhaps go upon, I know there was discussion that these trees are County owned. They are located on a road-widening lot but that road widening lot hasn't been, I don't think, hasn't been accepted formally by the County of Maui yet. So potentially you might have to bring in that landowner where the trees are located into this discussion as well and I don't, I don't know if that has ever happened.

CHAIR GUZMAN: Members, I just wanted to elaborate in terms of what Ms. Andaya has, Dagdag-Andaya has indicated. I have had meetings with the Department and I've just come to know within the last week that the trees are on private property and that area has not been dedicated to the County so far. And I know this agenda item has been in this Committee for quite some time, but I am just now bringing it forward to start addressing it. And so I believe at this point, I cannot move forward without having the consent of the owners at this point. Just to let you know, I do plan on getting the Members together and doing a site visit on the property as well, and so I figured this would be a good opportunity to talk about the nomination of the trees.

COUNCILMEMBER VICTORINO: Chair.

CHAIR GUZMAN: Yes.

COUNCILMEMBER VICTORINO: So was the Arborist Committee informed of all of this?

CHAIR GUZMAN: They are just being, I just was informed about this information last week.

COUNCILMEMBER VICTORINO: So when they made their approval, they thought it would, they were doing a County-owned set of trees?

CHAIR GUZMAN: Yes, I believe so. That's, the problem herein lies is that there was just attached in the documentation was just the reso, was the resolution.

COUNCILMEMBER VICTORINO: Oh, but when they were doing, and I hate to harp on this, but don't we have Corporation Counsel with Arborist Committee and didn't anyone do any research on the ownership of the property and the right-of-ways and the dedication? I mean, I got a whole mess of 'em in Wailuku.

CHAIR GUZMAN: Right.

COUNCILMEMBER VICTORINO: You know, so, I mean, and it bothers me when you tell me that nothing has been done till this, till one week ago and all of a sudden it comes to light --

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

March 18, 2014

CHAIR GUZMAN: Right.

COUNCILMEMBER VICTORINO: --that we still gotta go to a private owner.

CHAIR GUZMAN: Any maybe we can bring a resource person from the Arborist Committee that would know any information on this.

COUNCILMEMBER COCHRAN: Sorry, Chair.

CHAIR GUZMAN: Yes.

COUNCILMEMBER COCHRAN: Can I, I have a follow-up, though, for Ms. Andaya.

CHAIR GUZMAN: Yes, yes, sure, Ms. Cochran, go ahead and...

COUNCILMEMBER COCHRAN: Okay, sorry, Ms. Andaya, in regards to these trees, to your knowledge, are they interfering with any sewer lines, any water, electrical, in the area, the underground part of it?

MS. DAGDAG-ANDAYA: Not to my knowledge.

COUNCILMEMBER COCHRAN: Okay.

MS. DAGDAG-ANDAYA: That's something you'd probably want to consult with the other Departments, Environmental Management or Water.

COUNCILMEMBER COCHRAN: Okay. Thank you. That's all.

COUNCILMEMBER VICTORINO: Yeah, if we could have clarification --

CHAIR GUZMAN: Yes.

COUNCILMEMBER VICTORINO: --please.

CHAIR GUZMAN: Ms. Skog [*sic*], can you please take the mic.

MS. THAYER: Hi. When the Committee deliberated on this nomination, it was the Committee's understanding that the trees were on County property.

CHAIR GUZMAN: Okay, and did you verify whether the trees were on County property?

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

March 18, 2014

MS. THAYER: Yes. Well, it was, we basically do it by consulting like a TMK map versus looking at where the sidewalk is and where the trees lie in relation to the sidewalk.

CHAIR GUZMAN: Okay, and then I guess I'll have to ask the Department, when did you discover that the trees were, at least when did the Department discover that the trees were on private property?

MS. SAVAGE: The email just came out this last Friday, that was, 'cause when we identified that this was an item on the agenda, then there was some looking into it and so that has come up, but as far as any specific details, I really don't have any more than it's been raised that it's possible that this is not on County property.

COUNCILMEMBER VICTORINO: Mr. Chair, follow up on this?

CHAIR GUZMAN: Yes, Mr. Victorino.

COUNCILMEMBER VICTORINO: Okay. What I'm questioning is not so much what they did, 'cause they, don't you have Corporation Counsel assigned to you, to your Arborist Committee?

MS. THAYER: Yes.

COUNCILMEMBER VICTORINO: Okay. Alright. And so where was the Corporation Counsel's, aren't they supposed to check on things like right-of-ways, easements, dedications? I mean, you're talking way at the end of this whole process, finding out that it's not ours.

CHAIR GUZMAN: Right.

COUNCILMEMBER VICTORINO: So --

CHAIR GUZMAN: Mister...

COUNCILMEMBER VICTORINO: --I'm not happy at this point to figure that out.

CHAIR GUZMAN: Right.

COUNCILMEMBER VICTORINO: Because I thought when we're doing this, departments, you supposed to be checking, Corporation Counsel supposed to be checking. Anything I've done in the past, even with Water, somebody always has to check if we have the ownership of the property, or we have an easement, or is there an easement, is private. So what happened in this case?

MR. UEOKA: Mr. Chair?

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

March 18, 2014

CHAIR GUZMAN: Yes, go ahead and proceed.

MR. UEOKA: Yeah, when, I was the Corporation Counsel who advises them and...

COUNCILMEMBER VICTORINO: And not anything personal, but I just really want --

MR. UEOKA: Yeah.

COUNCILMEMBER VICTORINO: --to know what happened.

MR. UEOKA: No, we, my understanding was when we looked at the TMK map, it shows these, well, as far as we can tell, the trees were on the property but...

COUNCILMEMBER VICTORINO: On what property?

MR. UEOKA: On the County, you know, on the County roadside.

COUNCILMEMBER VICTORINO: Okay.

MR. UEOKA: But, when, you've looked at TMK maps before, they aren't necessarily --

COUNCILMEMBER VICTORINO: Correct.

MR. UEOKA: --they don't show the trees.

COUNCILMEMBER VICTORINO: Yeah, yeah, okay.

MR. UEOKA: So I'm assuming when they did an actual survey, that's when all of these other things came to light.

COUNCILMEMBER VICTORINO: Plus, you know, what the other curious thing is, it was said from the young lady, the chair, that the owners originally planted these trees, at least the best to their knowledge, and I not saying as fact. And I think if I go back some, in the '70s when _____ and all these guys were being built, all of those trees and all of that was planted by them. I remember that. I'm old enough to remember that, okay. And at that time, they were little trees and, you know, they've exponentially grown to big trees, but I'm just shocked that you guys wouldn't have known all of this 'til this point. And there was a lot of litigation and there was a lot of hassles with that, those particular trees, they were in the news. I'm shocked. I mean, you know, I just, sometimes I get blown away that we get to this point and find out something since this was a disputed tree, there was a point that they wanted to dig up the trees 'cause it was doing highway, or roadway problems as well as the sidewalk, right, Ms. Dagdag-Andaya?

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

March 18, 2014

MS. DAGDAG-ANDAYA: Yes.

COUNCILMEMBER VICTORINO: Isn't that true?

MS. DAGDAG-ANDAYA: That's correct.

COUNCILMEMBER VICTORINO: Yeah. And so, Mr. Chair, I'm just shocked that we come to this point and whomb, a revelation like that.

CHAIR GUZMAN: Yeah, I'm quite shocked myself because I inherited this particular item from the previous Chair who had EAR, as I throw Mr. White under the bus.

COUNCILMEMBER VICTORINO: No, no, I not throwing anybody under the bus. No, no, no.

CHAIR GUZMAN: But anyways, I really thought that due diligence...

COUNCILMEMBER WHITE: ...*(inaudible)*...

CHAIR GUZMAN: Yeah, I really thought that all the ducks were lined up and we were ready to move on this but it seems as though that there may have been a glitch where...

COUNCILMEMBER CRIVELLO: Chair?

CHAIR GUZMAN: Yes.

COUNCILMEMBER CRIVELLO: Is it confirmed that it's owned by this other owner or is that under, maybe it has to be more into investigation.

CHAIR GUZMAN: Yeah, that's why I would like to not take action on it today because we need to verify what if in fact it is owned by a private person then we need to at least get their consent or in reading the statute, I mean the ordinance itself, I'm going to ask Corporation Counsel whether we can designate without having consent of the owner.

MR. UEOKA: Thank you, Chair. It's silent on it. I believe it's the Committee's general practice, though, to get the consent of the owner if it is in fact on private property. But it's not in the statute, it's not in the County Code.

CHAIR GUZMAN: Okay, so I am one that is more cautious than risky, so I would rather that we, you know, basically defer this matter for the next meeting, we get that information. I think we also need to get a little bit more information on the tree itself, and maybe do a site visit and see whether, you know, there may be some ADA issues going on there because of the different sidewalk situations nearby. But we definitely need to further investigate this, I guess, this

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

March 18, 2014

location and the trees. Maybe we can get a little bit more information on the nomination of the trees itself because all we have in the record is just the, I guess, the ordinance, and in looking at the ordinance and having reviewed the PowerPoint, there are certain, I guess, elements or components that would then be used to classify the, or least nominate the trees. And I haven't gotten a clear, I guess, understanding as to what exactly, how did these monkeypod trees get nominated and what criteria was being used. I heard, I guess, from Kimberly Skog [*sic*], that they were aesthetic and I believe Mr. Rezens said they provided shades. I haven't, I don't think my Members have any photos of the trees themselves, so they're, I would expect that there would be more of the nomination paperwork that would be attached to the ordinances that come up, and maybe that's something that the Committee can work on. In terms of how these trees got nominated, maybe you can explain further in detail.

MS. THAYER: Yeah, so when, it's, any person can nominate a tree or trees to be on the exceptional tree list. And so what generally happens is someone comes to our Committee and says, like for instance with the monkeypods, to say that there is this stand of monkeypods and they're located here, and here's some pictures of them. And they kinda explain, you know, who planted the trees, how long they've been there, what kind of trees they are, and then our Committee will send a couple of people, like a subcommittee, to go look at the trees and assess how big they are, what kind of health they're in, if they need any kind of work. And they'll come and report back to our full Committee to say, this is what we saw, the trees are healthy, they might need some pruning, but overall they're exceptional trees, whether it be for their historic value, like they were planted at a certain time, which is one of the reasons why these trees were nominated, was for their historical value, their location in Kihei 'cause there aren't very, actually we have no exceptional trees in Kihei right now, and then for their aesthetic value.

CHAIR GUZMAN: Okay, so you've, under the ordinance, they have certain criterias.

MS. THAYER: Certain criteria. And so that's what ...

CHAIR GUZMAN: Okay, so, yeah, so you've named several criterias, can you explain why these trees fit in certain categories? Like, for instance, you mentioned historical. So what's historical about these monkeypod trees?

MS. THAYER: They were planted a few decades ago, back when the, like this area of Kihei was first getting developed with all the condominiums and things. And there's a few other monkeypods that were planted around that time, but it's to mark that time of when this development was happening, there's more people coming in, tourism is growing and it's kinda goes back to the beginnings of that time in Kihei. The aesthetic value is kind of obvious. It provides shade, everyone appreciates walking down that stretch, driving down that stretch. It beautifies that part of Kihei. And the other one was the location, is that there's few nice examples of big shade trees in that part of Kihei, and then we don't have any exceptional trees that have been designated in

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

March 18, 2014

that part of the island. And so for that area, these trees were deemed exceptional and worthy of keeping and being protected.

CHAIR GUZMAN: Okay. And then, you know, I believe when I first took office back, last year in January, I had a meeting with you as well as, I think, another...

MS. THAYER: Bob Hobdy and Jordan Hart, I think.

CHAIR GUZMAN: Yeah, yeah, and we had a meeting and back in February of last year, I requested an updated nomination tree list. And I know that you were going through the pregnancy situation but I didn't receive that, I just, I think I just now received that within three weeks ago, a new nomination list with several trees attached to it. So, yeah, I think that might be, is that in our binder?

UNIDENTIFIED SPEAKER: Yes.

CHAIR GUZMAN: Okay, so, Members, if you look at the, in your binders, dated January 31, 2014, this is a letter to me from the Arborist Committee and they're listing some new updates of nominated trees that would then go to Corporation Counsel for amendments into the ordinance. So since we're at this point, at this stage, we could probably most likely defer this matter right now that we have in terms of the monkeypod trees item on this agenda and get the proper consent and maybe even have my Members do a site visit, and by the time we get that information, we could probably get all of these additional trees on one ordinance. And we could probably go through one full agenda day and go through each one of the trees, 'cause it looks as though you have 1, 2, 3, 4, more than 13, looks like, 13 additional trees.

MS. THAYER: Yeah, 'cause these go back all the way to 2011.

CHAIR GUZMAN: Right.

MS. THAYER: Yeah.

CHAIR GUZMAN: Okay, so we can do that if you would be patient enough to, you and your Committee, be patient enough that we put that all together and --

MS. THAYER: Sure.

CHAIR GUZMAN: --and pass it through in one ordinance.

MS. THAYER: Sure.

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

March 18, 2014

CHAIR GUZMAN: I think that would be better. Also, what we could do to help our Committee go through each of the trees, the new list of nominated trees --

MS. THAYER: Uh-huh.

CHAIR GUZMAN: --is probably put together a packet, like, we have criterias as part of the ordinance and go through and just make a little box and describe each category --

MS. THAYER: Okay.

CHAIR GUZMAN: --and check which one that tree --

MS. THAYER: Applies to which tree.

CHAIR GUZMAN: --applies to, and maybe a brief descriptions next to those check marks, like if it's historical then why is it historical, it's aesthetic, why is it aesthetic. Photos of the trees, maybe community letters in support --

MS. THAYER: Okay.

CHAIR GUZMAN: --and if you could find out, working with your Corporation Counsel, whether the trees are County versus private. It would be nice to have a packet so that by the time you come on the floor, the Members already have their packets ready and they can review it --

MS. THAYER: Okay.

CHAIR GUZMAN: --so it's not just open ended, asking questions and saying hey, how did you know it was historical, it's already pre-written and, you know, basically submitted as a nomination, yeah --

MS. THAYER: Sure.

CHAIR GUZMAN: --not just an ordinance, yeah.

MS. THAYER: Okay.

CHAIR GUZMAN: Because it's very difficult to make a decision based off of just an ordinance, yeah --

MS. THAYER: Yeah.

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

March 18, 2014

CHAIR GUZMAN: --and that's just words, just saying okay we recommend, but it's really up to this Committee to approve. And so we don't have the information you have, so it would be nice if we could collaborate and build a system --

MS. THAYER: Sure.

CHAIR GUZMAN: --that we could use when, you know, basically, when I'm gone, the next Chair could probably use the same system. So, yes --

COUNCILMEMBER VICTORINO: Mr. White.

CHAIR GUZMAN: --Mr. White.

COUNCILMEMBER WHITE: And Ms. Dagdag would like --

CHAIR GUZMAN: Yes.

COUNCILMEMBER WHITE: --to have a ...

CHAIR GUZMAN: Yeah, I'm sorry. Mr. White.

COUNCILMEMBER WHITE: I would love to see some pictures. I've seen pictures before but I don't recall the distance between the trees and the road, the distance between, you know, how much they encroach on the sidewalk, how much they're on the owner's property versus the County property. I don't, checking on the, on the map, I don't see a road widening lot. We have a couple of road-widening lots on one of our properties and they're identified on the tax map. And I don't know if they normally get transmitted to the, whether ownership actually gets transmitted to the County or not. In our case, they haven't yet. I thought they would be and they had, but they're not. They're still under our ownership. But if Ms. Dagdag can explain the degree to which the trees might encroach. You know one of the, like we have so many places where there's some beautiful trees. I spend a lot of time going out to my family's house in Laie and that's a two-lane road that is constrained in more ways than most roads here on Maui, but one of things that makes it beautiful is the trees and the proximity of the trees to the road. And, you know, they create a canopy over, completely over the road in some places, like they do in Olowalu. So I would love to see some visuals, like you're requesting. I'm not terribly concerned about designating something on private property 'cause most of the trees that I see on the list are on private property.

CHAIR GUZMAN: Uh-huh.

COUNCILMEMBER WHITE: I don't know whether they were done with or without consent but, you know, I guess we can work that out in time but I like your suggestion because I think we, I need

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**
Council of the County of Maui

March 18, 2014

to see new visuals because I don't remember exactly what the distances were. If they're not impeding on the street and they're, then I'm not terribly concerned about naming them, I mean, if they're not impeding, then I'm for protecting them.

CHAIR GUZMAN: Right. I think that you have a good point. But I would rather that we, you know, solidify or get the consent of the owner because once it's designated --

COUNCILMEMBER WHITE: Oh, no, I... *(inaudible)*...

CHAIR GUZMAN: --yeah, as exceptional, they're, it protects that, you know, that area of the tree wherein the owner loses somewhat of their rights to cut it down or have it basically called their own in terms of pruning it and, you know, cutting it completely, you know, half the tree down, things like that, which they wouldn't be able to do, at least...

COUNCILMEMBER WHITE: Well in Kaanapali we have monkeypod trees that are much, much larger than these right against the concrete and right against the asphalt, and we deal with it, so --

CHAIR GUZMAN: And --

COUNCILMEMBER WHITE: --just my two cents.

CHAIR GUZMAN: --is there any other --

COUNCILMEMBER VICTORINO: Ms. Dagdag.

CHAIR GUZMAN: --comments that...

COUNCILMEMBER WHITE: I know Ms. Dagdag wanted ...

MS. DAGDAG-ANDAYA: I just wanted to also add that we don't have any, we don't have plans to cut the trees at this time. So we'll continue working with the Department of Parks. We'll also continue to work with Kimberly and the Arborist Committee, we'll do maintenance as much as we can on the existing sidewalk, and at the same time I wanted to offer that we could also provide you with a survey just to re-verify the limits and where the tree is currently located, so we can offer that. I think it's just the level of coordination before this meeting were to occur, when we were notified of it through the Parks Department, you know, we need to put information together, and it was discovered at that time that the survey that was done years back showed that the trees were indeed on private property. So we'll continue to, we'll provide you with that information.

COUNCILMEMBER VICTORINO: Chair?

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**
Council of the County of Maui

March 18, 2014

CHAIR GUZMAN: Yes, Mr. Victorino.

COUNCILMEMBER VICTORINO: Real quickly and I'm very familiar with the area, I've stayed down there a number of times. I can tell you right now, all those trees were planted on private property and they still are on private property. I know the area well enough to say that. Now, have they encroached and, you know, the roots and everything else was the problem with the sidewalk. So I can tell you where the trees are, that is not a problem, but I think a site visit would be very apropos at this point in time to get everybody else familiar with the area.

CHAIR GUZMAN: Right, right.

COUNCILMEMBER VICTORINO: But that's why I'm shocked that we got to this point and then this is brought up and why wasn't it brought up before. Okay, somebody made a mistake. We'll just take Jeffery outside and, you know, take care of that again. It's all Jeffery's fault.

CHAIR GUZMAN: You know, Members, I, one of the reasons why I put it on the agenda is because it hasn't been on the agenda. So I think sometimes when you do put things on the agenda it puts light to it and then if there are issues that are presented, they need to be flushed out. And this is one of the issues that came out, was basically when I looked at it, I saw that, oh, how do I really approve an exceptional tree when I haven't, you know, I don't know the criteria. What they say it's aesthetic or it's historical but I can't base that off of just an ordinance. So I had asked the Arborist Committee to come in and explain, but I really don't, the explanations aren't detailed enough for me to be convinced that their criterias have been met. And so I really would like to see more of a documentation-type approach in the future, and maybe we can start that by starting that now, wherein the Arborist Committee has a formal nomination form and like descriptions and photos attached to it. And so it's just a process of when you nominate, you fill out that form, attach the photos to it and it goes with the ordinance or the nomination letter, as you've submitted to me, for the new, I guess, 13 new trees that are going to be nominated, and then Corporation Counsel then drafts out the ordinance. And the ordinance, maybe that could be attached as an exhibit as it comes to our Committee and that way it'll give us more of an opportunity to really review it. So that's one of the reasons why I wanted to schedule this item. I knew coming into it we weren't going to take action but the mere fact of putting it on the agenda is a big accomplishment, you know, I believe. So don't fret. We're gonna get this system worked out so that we can work on more of the nominations 'cause it, as submitted by your Committee. I do have in front of me the new 13 nominated trees. So I think it would be better if we worked out the kinks on this, on the monkeypod trees that we have right here and then incorporate into one ordinance, all 13. And in the meantime, if I could ask your Committee to put together that form and descriptions and the criterias with the photos, and submit those with these, with the new trees that you've nominated, so that way we've created a system to follow.

MS. THAYER: Yeah, and...

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**
Council of the County of Maui

March 18, 2014

CHAIR GUZMAN: Would you be agreeable to that?

MS. THAYER: Yeah, yeah. And, in fact, I thank you for the direction. We used to have a staff person a few years ago that would take care of putting all these packages together but we haven't been staffed for a few years now so we're kinda going by feel for how to transmit the nominations to you. So this is good direction as far as what information we as a Committee need to put together to get the trees nominated to you.

CHAIR GUZMAN: Thank you, Kimberly. I did receive a cc on a letter that you wrote to the Department, to the Public, I mean to Parks and Recreation requesting assistance. I know under the ordinance it's required if they request it and if they voted on it. So I'll ask you, did you guys vote on the, in Committee, to have a secretary or need assistance? I guess that's the wording, need assistance?

MS. THAYER: Yeah, so we discussed and voted in the Committee to request assistance, i.e. a staff person from the Department to support our Committee.

CHAIR GUZMAN: Okay. And so I believe, Mr. Ueoka, we've discussed that in terms of the wording is shall. So once they've requested it, I think the Department needs to follow up and do something about staffing their Committee or it's, you know, somewhat, you're gonna be back, kind of in an uncomfortable situation in not complying with the ordinance. Mr. Ueoka, can you read that portion of the ordinance?

MR. UEOKA: 12.24A.060, the department of parks and recreation shall provide staffing and technical and clerical services as may be required by the committee.

CHAIR GUZMAN: Okay, so it's my understanding it says "shall", yeah? Read that over again but little bit slower.

MR. UEOKA: The department of parks and recreation shall provide staffing and technical and clerical services as may be required by the committee.

COUNCILMEMBER VICTORINO: I don't like the "may be required".

CHAIR GUZMAN: How do you interpret that, Mr. Ueoka?

COUNCILMEMBER VICTORINO: Yeah.

MR. UEOKA: Yeah, parks and recreation needs to provide staffing and technical and clerical services. I guess, "as may be required" typically would mean to the Committee's satisfaction.

CHAIR GUZMAN: So I believe, Kimberly, you've taken a vote on whether you need assistance?

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**
Council of the County of Maui

March 18, 2014

MS. THAYER: Yes, yes, we have.

CHAIR GUZMAN: Okay, and that's recorded in your minutes?

MS. THAYER: Yes.

CHAIR GUZMAN: Okay. Thank you. I just wanted to reflect that in the records. And if the Department could, I'm just requesting, I'm requesting that you look into the matter, that would be great. All right. Thank you. Okay.

COUNCILMEMBER COCHRAN: Chair?

CHAIR GUZMAN: Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you. And, Chair, you said that you're looking at a document dated January something or other?

CHAIR GUZMAN: Yeah, January 31, 2014.

COUNCILMEMBER COCHRAN: All I have is a December 12, 2011 listing, so I do not have --

CHAIR GUZMAN: Okay, I guess...

COUNCILMEMBER COCHRAN: --the current --

CHAIR GUZMAN: Can you pass that out?

COUNCILMEMBER COCHRAN: --additional 13 that you're talking about. I don't have that --

CHAIR GUZMAN: The Staff.

COUNCILMEMBER COCHRAN: --in my binder.

COUNCILMEMBER WHITE: Neither do I.

COUNCILMEMBER COCHRAN: Oh, I guess we, none of us do.

CHAIR GUZMAN: Okay.

COUNCILMEMBER COCHRAN: So I'm not sure of what you're --

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**
Council of the County of Maui

March 18, 2014

CHAIR GUZMAN: Okay.

COUNCILMEMBER COCHRAN: --referring to.

CHAIR GUZMAN: I'm gonna give it to Staff --

COUNCILMEMBER COCHRAN: Okay.

CHAIR GUZMAN: --to --

COUNCILMEMBER COCHRAN: Thank you.

CHAIR GUZMAN: --make photocopies.

COUNCILMEMBER COCHRAN: And my next question is in reference to the short PowerPoint about the Committee and I'm figuring, the Arborist Committee, it says on at least an annual basis shall reexamine the designated exceptional trees. And my question, Ms. Skog, or sorry, your new name?

MS. THAYER: Thayer.

CHAIR GUZMAN: Thayer.

COUNCILMEMBER COCHRAN: Okay, Thayer. Is have you been revisiting this list annually, at least annually or...it says at least annually.

MS. THAYER: Yeah. So every year we basically divvy up all the exceptional trees, even on Molokai, and we have different members of our Committee will actually go and visit the tree and take measurements of how tall and the spread and the health of the tree, and then if any of the trees need pruning, for instance, we'll contact the landowner and say, the tree is generally in good health but it could use some maintenance, and thank you for maintaining the tree, yeah.

COUNCILMEMBER COCHRAN: Okay. Thank you. And a follow up, Chair?

CHAIR GUZMAN: Yes.

COUNCILMEMBER COCHRAN: And so on this list I notice, yeah, not all are on State or County, you know, government properties.

MS. THAYER: Uh-huh.

COUNCILMEMBER COCHRAN: There's a lot of private --

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

March 18, 2014

MS. THAYER: Yeah.

COUNCILMEMBER COCHRAN: --and were these primarily nominated by the particular landowner, do you know? Or some from outsiders going, wow you got the coolest tree, can I nominate it?

MS. THAYER: Yeah, so actually, some of 'em, there's a couple on the list that we just submitted in January that are one of our previous members, Bob Hobdy, had been driving by this residence on Baldwin Avenue and had been eyeing these trees for a long time, so eventually he made contact with the landowner and talked to them about the trees and he nominated two of them. So they're in the pipeline now.

COUNCILMEMBER COCHRAN: Oh, okay.

MS. THAYER: Yeah.

COUNCILMEMBER COCHRAN: Okay.

MS. THAYER: So sometimes it's the property owner and sometimes it's some other person.

COUNCILMEMBER COCHRAN: Sure.

MS. THAYER: Yeah.

COUNCILMEMBER COCHRAN: Okay, thank you.

CHAIR GUZMAN: Okay.

COUNCILMEMBER COCHRAN: Thank you, Chair.

CHAIR GUZMAN: Thank you. Members, do you, I'm gonna ask for your opinion as to, would you like to proceed with this independently, these monkeypod trees, or have it incorporated with the 13 new trees that are, that we just received in terms of the letter that will be distributed to you?

COUNCILMEMBER WHITE: Up to you.

COUNCILMEMBER VICTORINO: Up to you. I think just doing 'em one time would probably be the most expedient and get all the other questions answered at the same time. A site inspection, like you have suggested, may be the right thing to do. Then all of us, like the old saying, a picture's worth a thousand words.

CHAIR GUZMAN: Right.

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

March 18, 2014

COUNCILMEMBER VICTORINO: We can get all of these things rectified, and also we can also see what the challenges was, were when these trees were, roots were uplifting the sidewalk. And whatever, ADA, whatever else we need to look at.

CHAIR GUZMAN: Right.

COUNCILMEMBER VICTORINO: I think that would be my way of looking at it, Mr. Chair, but it's up to you.

CHAIR GUZMAN: Is there any objection as to requesting the Arborist Committee to put the nominations in a format type document wherein they would explain the trees and the certain criterias that are met? And do you suggest to add anything more to that form, the nomination form? Yes, Mr. White.

COUNCILMEMBER WHITE: Chair, I think the application should include the criteria that apply to the nomination and I think pictures from different angles would be very helpful. I don't know where the 13 trees are, but if they're all over the place, I'm good with pictures --

CHAIR GUZMAN: Pictures. Okay.

COUNCILMEMBER WHITE: --as opposed to a site inspection.

CHAIR GUZMAN: Okay, pictures instead of site inspection. Any other suggestions? Ms. Cochran.

COUNCILMEMBER COCHRAN: No, oh, I just wanted to say, no, I, no objections to your suggesting the format. And, yeah, the more details, the better. Pictures, obviously, helpful. And, yeah, just looking forward to moving this out.

CHAIR GUZMAN: Yes.

COUNCILMEMBER COCHRAN: So my question, though, is, I mean, there's so many trees. I mean, I heard Ms. Andaya in regards to the whole stand and rows of trees all along Olowalu, the ones just out front here in Wailuku, you know, and there's definitely historical, you know, stories behind those and just the girth of these trees, I mean, they're magnificent. I just, there's a bunch off the top of my head but nobody's come around to wanting to nominate them, you know, I guess they're not clearly in danger of being bulldozed over --

CHAIR GUZMAN: Uh-huh.

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

March 18, 2014

COUNCILMEMBER COCHRAN: --and killed. But, so, yeah, the more details in regards to that, the better. But definitely we need to work out ownership of these trees and all that before we can move forward. So I think deferral at this point is probably in order --

CHAIR GUZMAN: Okay.

COUNCILMEMBER COCHRAN: --'til we can get things in order.

CHAIR GUZMAN: Ms. Crivello.

COUNCILMEMBER CRIVELLO: Yeah, I think if we get all the listing together and some sort of, well, for me, I'd like to know where it's located.

CHAIR GUZMAN: Uh-huh.

COUNCILMEMBER CRIVELLO: It would be helpful. But I will trust the recommendation from the Committee with pictures, but at this time in particular for this particular EAR-4, I think it's deferral time --

CHAIR GUZMAN: Okay.

COUNCILMEMBER CRIVELLO: --till we can get, land ownership especially cleared out of the way and, if not, maybe get the landowner's permission.

COUNCILMEMBER VICTORINO: Chair?

CHAIR GUZMAN: Okay. So, Kimberly --

COUNCILMEMBER VICTORINO: Chair?

CHAIR GUZMAN: --I'm going to...

COUNCILMEMBER VICTORINO: Chair?

CHAIR GUZMAN: Yes.

COUNCILMEMBER VICTORINO: Chair, before you, I still think and I would strongly suggest that instead of pictures, a site visit because this is a very encumbersome area and this area that we're talking about extends across a number of properties for which these trees are going to be discussed. Pictures not gonna always put you what you need to see from the roadway, sidewalk, and their properties, and how these trees all intertwine and hang over and all these different

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

March 18, 2014

issues. So the format is fine, I like that idea, I think that's a great idea. But I think this, in this case a real site visit, if you've never, I mean, you know, how many of us drive by there --

CHAIR GUZMAN: Uh-huh.

COUNCILMEMBER VICTORINO: --but have ever stopped and walked in that area? It's quite extensive, the way this is all set up, and this was done by the landowners when they originally planted all these trees and now they've become a part of Kihei. And I really think a site visit, that would be my preference versus pictures. I mean pictures can help --

CHAIR GUZMAN: Right, right.

COUNCILMEMBER VICTORINO: --you but I still believe that site visit could explain a number of aspects that both Public Works and Parks and Recreation, along with the Arborist Committee could encumber and put together one time.

CHAIR GUZMAN: Okay, so I think what, what I'm gonna recommend is while --

COUNCILMEMBER VICTORINO: Thank you.

CHAIR GUZMAN: --Kimberly folks at the Arborist Committee get your forms and documents together in an organized manner to present with the criteria and photos. While you're doing that, I will schedule a site visit for the monkeypod trees in this item. So by the time we're finished with the site visit, hopefully you guys on the Arborist Committee are finished with your packet. That way we can hear it all, we'll just, I'll take one full agenda day and we'll treat it as a tree nomination Committee day and we'll go through each and every one of them and pass it out. And maybe you can coordinate a tree planting project that afternoon, and after the Committee, we'll all go there and plant a tree. How's that?

MS. THAYER: Yeah, that'd be awesome.

CHAIR GUZMAN: Okay, at this time, Members, without objections, I will defer this item.

COUNCIL MEMBERS VOICED NO OBJECTIONS.

ACTION: DEFER.

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

March 18, 2014

CHAIR GUZMAN: Thank you. And we'll reschedule this item for a site visit. Thank you. We're going to take a short afternoon recess, ten minutes, or, yeah, ten minutes. . . . (*gavel*) . . .

RECESS: 3:21 p.m.

RECONVENE: 3:45 p.m.

EAR-12 FEES AND DEPOSITS CHARGED FOR THE USE OF PARK FACILITIES

CHAIR GUZMAN: . . . (*gavel*) . . . Members, the EAR has now reconvened. I welcome non-voting member, Don Couch. Thank you for coming.

COUNCILMEMBER COUCH: Good afternoon, Chair.

CHAIR GUZMAN: Members, we're going to turn to item number two, EAR-12, Fees and Deposits Charged for the Use of Park Facilities. The Committee is in receipt of a Miscellaneous Communication dated May 29, 2013 from the County Clerk referring the matter relating to fees and deposits charged by the County for use of Park facilities. Members, this is a matter that was referred to the Committee as a result of a request made during the 2014 Budget session. I'm going to allow Mr. Couch to do a brief opening in terms of why this was referred.

COUNCILMEMBER COUCH: Okay, thank you, Chair. I was the one that requested to have this referred because I believe at the Lahaina District meeting that we went out for the Budget hearings, we had a testifier come up with a list of what he figured was pretty good prices for Parks facilities. He's a former Parks employee up there and he asked us to take a look at it and, of course, it was right in the middle of the Budget and so it was really hard to do it at that time, so I asked that it be put on this agenda. But the, he gave us a really nice table of what he thought the increases should be. He said that they were modest and people would be willing to pay from his experience. So he asked that we look at that and that's kinda why this is brought here. I was looking through my testimony and I can't find it. I will have my staff dig into it if you want to tackle this a little bit further --

CHAIR GUZMAN: Yes, yes.

COUNCILMEMBER COUCH: --a little later.

CHAIR GUZMAN: I, we actually, I had my staff look at the minutes for --

COUNCILMEMBER COUCH: Uh-huh.

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

March 18, 2014

CHAIR GUZMAN: --that particular date and we couldn't find anything in terms of ...

COUNCILMEMBER COUCH: It was at the Lahaina District meeting that he brought that up --

CHAIR GUZMAN: Yeah.

COUNCILMEMBER COUCH: --and then during the, the Budget we said, hey, we can't really talk about it right now because it's so long, so could we just have a letter.

CHAIR GUZMAN: Yeah, I do recall that.

COUNCILMEMBER COUCH: I don't remember what date.

CHAIR GUZMAN: I believe it was someone that worked there.

COUNCILMEMBER COUCH: Right. So I have the testimony somewhere, just buried in last year's stuff so we'll bring it out.

CHAIR GUZMAN: Okay, but I think this is a good starting point in terms of at least getting to the root of this issue.

COUNCILMEMBER COUCH: Yeah, to see where we are and what we charge for our facilities and what it costs us to do the facilities and if somewhere we can be in the middle. I don't know if Ms. Savage remembers that --

CHAIR GUZMAN: Yeah, if we can get a comment or --

COUNCILMEMBER COUCH: --testimony or not.

CHAIR GUZMAN: --maybe some kind of opinion.

COUNCILMEMBER VICTORINO: ...*(Inaudible)*... last year. She wasn't even there.

COUNCILMEMBER COUCH: Oh, that's right, she wasn't. That's right, she wasn't.

COUNCILMEMBER VICTORINO: Yeah. It was Matsui yet and so I don't blame her, she shouldn't remember anything.

CHAIR GUZMAN: I think that also, it also related to cost for service.

UNIDENTIFIED SPEAKER: Yes.

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

March 18, 2014

COUNCILMEMBER VICTORINO: Right. The use of the facilities --

CHAIR GUZMAN: Right.

COUNCILMEMBER VICTORINO: --what it actually cost --

CHAIR GUZMAN: Right.

COUNCILMEMBER VICTORINO: --utilities --

COUNCILMEMBER CRIVELLO: Right.

COUNCILMEMBER VICTORINO: --and, I mean he gave us all that breakdown.

COUNCILMEMBER CRIVELLO: But he didn't give a breakdown --

CHAIR GUZMAN: Right, right, right.

COUNCILMEMBER CRIVELLO: --just a suggestion.

COUNCILMEMBER COUCH: Yeah.

CHAIR GUZMAN: Right. So if we can get a, maybe a comment from the Department in terms of, you know, what is the status of your fees that you charge and maybe we can start tackling this issue.

MS. SAVAGE: Thank you, Chair. So relating to the rates and fees schedule for the usage of different facilities, the basic philosophy, I guess, behind rates and fees is to try to identify what are some of the costs associated with operating different facilities and then creating, you know, what is that amount that should be charged for usage of those facilities. I don't know the last time in which the Department's rates and fees were comprehensively really vetted through and the amounts determined. I know there was, a couple of years ago I believe, some increases that had been proposed, I believe implemented, and then pretty quickly repealed or taken back out from implementation. The Department does believe that there should be more information obtained in how much it actually costs to operate our different types of facilities and then to actually have a true assessment done to look at what are the number of users for each of the different facility types, what are the number of permits issued for each of the different facility types, and then look at, you know, what are the rates and fees that we are charging. And just be able to have a clear picture and understanding of what those numbers look like with the current situation and then that would be something that then we would be able to actually do a true analysis on. That's something that we are anticipating doing but it would be after the permitting process has been updated. One of the things that we're looking at trying to shift, currently the types of permits are listed as Type 1, Type 2, Type 2CC, 2R, Type 3, Type 4 and Type 5 permits. And that's

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

March 18, 2014

something we'd like to remove, that categorization of types, and actually call things by the names of what they are, a tournament permit, a special events permit, a political fundraiser permit, a league permit, and break down that category, you know, a private party permit so that they actually, the names and definitions of the permit fits with the activity that's actually taking place in the location. And then once we're able to, I guess, clarify those different definitions and through, you know, the process of working with the Committee and working with different members of the public and the Department, once we're able to agree on those different definitions, then we would look at making that transition into the rates and fees so that they were conveyed in those, on those manners.

CHAIR GUZMAN: Thank you. Anything to add from the Finance Department?

MR. WALKER: No, not at this time.

CHAIR GUZMAN: Okay. Members, I'm going to open it up for the floor. Mr. Couch?

COUNCILMEMBER COUCH: Thank you, and thanks to your crack staff. She found your copy of the testimony and it basically has suggested rates, he asked that they key deposit be moved from \$50 to \$25 and then change some of the rates. He appears to have done some heavy duty work on it and, you know, I suppose we could submit that to the Department, but I understand what they're trying to do. You know, we've got the Type 2, Type 3, Type 2R, and 4 and 5 and they're gonna fix that portion so I'm fine with that. It's just that we want to try and get this sooner rather than later.

CHAIR GUZMAN: Right, later. Yeah, as the Department has mentioned, it seems as though they are on a schedule in terms of, I guess, first addressing the permitting process, and it's my understanding that --

COUNCILMEMBER COUCH: Right.

CHAIR GUZMAN: --thereafter they'll, after the permitting process, what's your next item that you're going to address in the Department?

MS. SAVAGE: The facility maintenance and the permitting process are the two number one focuses and so we're working a lot on right now, it's creating policy, implementing policies, standard operating procedures, best practices internally with how we operate. We're looking at then finalizing those, implementing them, and then after that implementation process and the same with the permitting process then we would be able to move in to doing an actual assessment after we've implemented for a while. As far as a time frame goes for when an assessment on the rates and fees would be done, would probably be around 9, 9 to 12 months from now. So the goal would probably be to try to have that completed prior to Budget being submitted for Fiscal Year '16.

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

March 18, 2014

CHAIR GUZMAN: I guess the question would be, once we, once, if they, you know, once we got to that point and they gathered all the information, what then do we do with that information? Mr. Couch.

COUNCILMEMBER COUCH: Well, you know, they're going to try and, I'm guessing that the cost to operate the facility is going to be a lot more than what the current fees are so I certainly wouldn't want to immediately raise the rates that much. We'd probably have to do some sort of graduated...

CHAIR GUZMAN: Yeah. And I believe we've had, you know, numerous discussions in other Committees --

COUNCILMEMBER COUCH: Right.

CHAIR GUZMAN: --in terms of like, I know, fees for service.

COUNCILMEMBER COUCH: Correct.

CHAIR GUZMAN: Yeah, so I think it all comes down to compiling the data, and then from that point examining if we need to raise the rates and how much does the County really want to subsidize or at least...

COUNCILMEMBER COUCH: Exactly, and that has to be ...

CHAIR GUZMAN: At the pool, yeah, and consideration of the pools, nobody pays for --

COUNCILMEMBER COUCH: Right.

CHAIR GUZMAN: --for service of the pools. So I see where that analysis is going and I think this is a good starting point where we can request the Department, if they could put that as part of your, you know, future agenda or one of your priorities that somehow once you've gotten done with your major goals or your primary goals, we can then start looking at whether we can, you know, somehow increase the fees or if the fees are too low. When was the last time that that type permit fees were changed? In the ordinance it's always been that amount or is that, is it ordinance or is it admin based?

COUNCILMEMBER COUCH: It's ordinance.

CHAIR GUZMAN: Ordinance, yeah.

COUNCILMEMBER VICTORINO: Ordinance.

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

March 18, 2014

COUNCILMEMBER COUCH: It's in the Budget ordinance.

CHAIR GUZMAN: Right, it's Budget ordinance.

COUNCILMEMBER VICTORINO: And, Mr. Chair, if I may say, we have changed it a number of times through the years. There's been, when, if I remember correct, when the prior Administration, not Arakawa, but the Apana Administration --

COUNCILMEMBER COUCH: Yes.

COUNCILMEMBER VICTORINO: --there was a tremendous increase based upon the cost of operating our, well, there was, that time, it was just the community centers --

COUNCILMEMBER COUCH: Yep.

COUNCILMEMBER VICTORINO: --there was nothing else. And that was a major backlash on the community. I think, you know, what we need to do, and I agree first and foremost, is get the information, what does it really cost? The public should know --

CHAIR GUZMAN: Right.

COUNCILMEMBER VICTORINO: --what it cost, okay, to operate the pools, the community centers and our ball fields. I'm telling you, those three should be given to us so that we can let the public understand that if we're starting to charge, these lights cost us da, da, da, to use on an average night, you need to know that. The filtration systems on all the pools, the lifeguards, and, what does it cost us? I mean, I don't want to go belaboring the point. I think the message is very clear. The public should understand what it cost because they ultimately pay for it, either Peter of Paul. Paul being the user, Peter being the taxpayers that paid their real property tax, RPT, 'cause which RPT basically covers much of all of this, right? Of course, you know, you got TAT and others, other taxes coming in but RPT is still the primary, and, if, Mr. White, if I'm not, incorrect, is like 55 percent of our total budget is based upon RPT? More or less, yeah?

COUNCILMEMBER WHITE: Yeah, more like 60.

COUNCILMEMBER VICTORINO: Okay, 60.

COUNCILMEMBER WHITE: About two-thirds of the General Fund ...*(inaudible)*...

COUNCILMEMBER VICTORINO: Okay, 66 percent. Okay, thank you. You know, that's why, for every time a need a question answered with numbers, I just call on Mr. White, Mr. Numbers himself and I appreciate that because that helps us to make, make good decisions. So, Mr. Chair,

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

March 18, 2014

I think this is a step in the right direction and I think let the Department do their thing, but I would hope we would put a time limit, like 12 months from now or something, 'cause we don't want to be waiting five years from today and trying figure it out.

CHAIR GUZMAN: Right. We can always...

COUNCILMEMBER VICTORINO: You know, put a time frame that we would like to see it come back.

CHAIR GUZMAN: Okay, yeah, right.

COUNCILMEMBER VICTORINO: Yeah --

CHAIR GUZMAN: We'll just request --

COUNCILMEMBER VICTORINO: --that's what I'm...

CHAIR GUZMAN: --like we would hope that we would receive...

COUNCILMEMBER VICTORINO: Well our request can be like, we would like this by --

CHAIR GUZMAN: Right.

COUNCILMEMBER VICTORINO: --da, da. You give ...(*inaudible*)...

CHAIR GUZMAN: What do you guys think? By what?

COUNCILMEMBER VICTORINO: She said 12 months --

CHAIR GUZMAN: Twelve months, okay.

COUNCILMEMBER VICTORINO: --so I'd give her 12 months.

CHAIR GUZMAN: We'll give --

UNIDENTIFIED SPEAKER: Nine.

CHAIR GUZMAN: --her 12 months. Is there any other items that you wanted to add in my transmittal letter to the Department?

COUNCILMEMBER VICTORINO: Tennis courts.

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

March 18, 2014

CHAIR GUZMAN: We have baseball fields, pool, community centers --

COUNCILMEMBER VICTORINO: Tennis courts.

CHAIR GUZMAN: --tennis courts. I mean, that's a good starting --

COUNCILMEMBER COUCH: Soccer.

CHAIR GUZMAN: --point just to get a ...

COUNCILMEMBER VICTORINO: And all the fields, doesn't have to be only baseball fields, any field --

CHAIR GUZMAN: Field.

COUNCILMEMBER VICTORINO: --baseball, soccer. And the problem comes up, you know, when you say those fields, there's some that are strictly for baseball, if you're talking Iron Maehara --

CHAIR GUZMAN: Uh-huh.

COUNCILMEMBER VICTORINO: --Stadium, that's baseball. But you go right down to KCC or you go to Maui High fields, that, you got soccer in one corner, you got baseball in another corner, and you got something, you got multiplicity of sports being played on the same field.

CHAIR GUZMAN: Okay.

COUNCILMEMBER VICTORINO: What does it cost us to maintain the field? That's what I'm trying to say, doesn't have to be specific sport, sport specific, yeah.

CHAIR GUZMAN: Alright. So, Department, does this sound like we've pretty much, this is a comprehensive list already? We have fields, baseball, soccer, pool, community centers and tennis courts. Is there more or is that, well we'll just start small.

MS. SAVAGE: We would probably also include gymnasiums in there --

CHAIR GUZMAN: Okay, gymnasium.

MS. SAVAGE: --outdoor basketball courts --

CHAIR GUZMAN: Okay, basketball court.

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

March 18, 2014

MS SAVAGE: --and then dog parks, and then probably the football stadium and baseball stadiums would be separate items as well.

CHAIR GUZMAN: Okay, stadium. Okay.

COUNCILMEMBER VICTORINO: That wasn't small. That was ...*(inaudible)*...

CHAIR GUZMAN: Okay, so Staff, do you have that?

MS. WILLENBRINK: I got it.

CHAIR GUZMAN: Okay, we'll go ahead and transmit a request letter. Twelve months would be the preferred or requested due date.

MS. WILLENBRINK: Yes.

CHAIR GUZMAN: Any, anything further from the Members? Yeah, Mr. White.

COUNCILMEMBER COCHRAN: Chair? Oh.

COUNCILMEMBER WHITE: Just a note that if we, if we set it at 12 months, then it's gonna be right up against Budget.

CHAIR GUZMAN: Oh, yeah, that's right.

COUNCILMEMBER WHITE: So I would suggest that it either come in early enough to have a chance of getting into the Mayor's budget or --

CHAIR GUZMAN: Yeah, get it into the Mayor's budget.

COUNCILMEMBER WHITE: --at least a month prior to us going into Budget.

CHAIR GUZMAN: Yeah. What do you think, Ms. Savage? What's good for you? What's a good timing for you guys?

MS. SAVAGE: It's really gonna come down to, I think, prioritization when I, the first thing that comes into my mind are the other projects, you know, that would like to be reviewed, the core Administrative Rules, craft fair Administrative Rules. So those would be items that if rates and fees are more important than that, then we would just shift the order of when those were looked at. It is possible for the rates, I mean, if we're gonna have something ready to be submitted for possible inclusion into the Budget for Fiscal Year '16, then it's gonna need to be completed by the end of this calendar year, around December, and that is a very aggressive timeframe for all

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

March 18, 2014

the things that we are looking to implement. But if that were the case, then just the other items would get pushed off, you know, they would have to then take back seat until --

COUNCILMEMBER VICTORINO: No.

MS. SAVAGE: --the rates and fees --

CHAIR GUZMAN: How about just...

MS. SAVAGE: --were identified.

COUNCILMEMBER VICTORINO: Chair?

CHAIR GUZMAN: Yes, Mr. Victorino?

COUNCILMEMBER VICTORINO: Why don't we do this, you know, in their letter, we can ask for December 31st, but also ask if there is a possibility of dedicated staff to do this. In other words, you know, and if we have to pay a little more for two people or three people to be dedicated, because this is very important. We've let this go for a long time and how much money is not being taken care of, or in other words, not being gotten by the County in whatever, because this is not only talking how our community centers are used. What about the commercial entities that use it, the basketball, The Maui Invitational? We've got many major events that go on on this County, on County property that we should be bringing in much more resources to us that we don't, whether you talking fairs, whether you talking all kinds of stuff that use County facilities. And I really think a comprehensive, dedicated staff to this would be something I'd like to see us recommend to the Mayor and to the Administration, I mean, and the Park's Department.

CHAIR GUZMAN: So, Ms. Savage, did you hear that, this coming up Budget in a week or so? You might get a line item from Mr. Victorino.

COUNCILMEMBER VICTORINO: Yeah, I'd be willing to put something, seriously.

UNIDENTIFIED SPEAKER: LTA.

CHAIR GUZMAN: Alright. Yeah, if we could, yeah I like that suggestion from Mr. Victorino. I'd be willing to go ahead and request maybe the Department to prioritize and maybe the top three could make it into the Mayor's budget next year, prior to the Mayor submitting his budget to us. Trying to get the data earlier enough to our Committee so that we can kinda work on it before that. But we'll go ahead and transmit that letter. Mr. White.

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

March 18, 2014

COUNCILMEMBER WHITE: Thank you, Chair. The other thing, the other option, I know that in our discussions with respect to water rates, which are very complicated, the Water Department has a consultant that does that kind of work.

CHAIR GUZMAN: Right.

COUNCILMEMBER WHITE: And I think it would be appropriate, not only to evaluate our operating costs when we're coming up with the fees, but I think it would also be appropriate to hire somebody who knows what is charged elsewhere because we, you know, we don't charge much at all and there are other communities that charge a significant amount. And I'm not sure any of us wanna go there but at least it would, we would be able to balance out what we're charging based on the much higher charges that other places on the mainland or, I'm not sure about what the other counties in Hawaii do, but to have somebody with that kind of a perspective and some understanding of how the financials come together might be a good aid for the Department, without saddling either existing employees or hiring people that may not have the same level of expertise.

CHAIR GUZMAN: Okay. So, yeah, I like that idea. Maybe that's something the Department would be willing to look at, that would be great. And I think this Committee, it seems as though we would support that, based off of Mr. White's statement. I don't know on the faces of my Members, got a nod here and there, but if you could look into that, I think that could be presented to us and, you know, possibly supported in the Budget. Any other questions?

COUNCILMEMBER COCHRAN: Chair?

CHAIR GUZMAN: Yeah, Ms. Cochran.

COUNCILMEMBER COCHRAN: So, amphitheaters? Is that, I know Lahaina Civic Center and Keopuolani, no? Yeah, is it Keopuolani, they have like a open air, you know, amphitheater-type area that we...Kihei, you have one?

COUNCILMEMBER COUCH: Will.

COUNCILMEMBER COCHRAN: Oh, will have one. So, I mean, obviously fees for service to utilize those spaces, and I guess that could be incorporated if we're looking at adjusting fees of some sort. So amphitheaters to add to the list.

CHAIR GUZMAN: Okay. So, we'll --

COUNCILMEMBER COCHRAN: But anyways, yeah.

CHAIR GUZMAN: --have a plan. Sounds good. Is there any other questions?

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

March 18, 2014

COUNCILMEMBER VICTORINO: Mr. Chair, in closing I'll say this. You know, I think we've given her a long list of things but I agree with Ms. Savage that you may have to pick priorities --

CHAIR GUZMAN: Uh-huh.

COUNCILMEMBER VICTORINO: --and pick the top two or three. Because, again, if you try everything one time, you may come up very convoluted and you may come up with nothing --

CHAIR GUZMAN: Uh-huh.

COUNCILMEMBER VICTORINO: --or something that's so abstract that you don't really accomplish. So if you want to pick your top three and these are the priorities, that these are the three, you know, pools, you know, community centers and, you know, I'm just throwing whatever you think. I think that may be more apropos and, you know, we can do the rest as they come along, but I'd like to see those in particular because those are the most heavily used facilities in this County, our community centers, our pools, and our fields. All the rest, manini, manini compared to those three. And I think if we focus on those three and really put an effort to get those, what I call, retrospect, and so people can understand what it costs and what we need to charge to help offset some of that, I think that would be probably be the best approach. But that's my thinking and I'll leave it in your hands.

CHAIR GUZMAN: Okay. Thank you, Mr. Victorino. We'll go ahead and draft something out and include in our transmittal letter possibly looking into, let's say maybe independent contractor or position to help facilitate the analysis of the costs, and just something to the extent of Mr. White's qualifications in which he stated someone in that fashion, but we'll draft it out and send it forward. So, no other questions, look like?

MS. WILLENBRINK: I have a question, Chair.

CHAIR GUZMAN: Yes.

MS. WILLENBRINK: The document that Mr. Couch was reading from, would you like to have the marked as received and placed in the binders?

CHAIR GUZMAN: Oh, yes, if we could receive that into the record and also generate and attach it to the transmittal that we'll send to the Parks Department.

MS. WILLENBRINK: I will do that.

CHAIR GUZMAN: Okay, thank you. Seeing no other...do you have a further...

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

March 18, 2014

COUNCILMEMBER COUCH: I just, FYI, that document was received already as testimony at the Lahaina, and two Staff members came already and showed me the document.

CHAIR GUZMAN: Okay.

COUNCILMEMBER COUCH: So I can get you a copy somewhere.

CHAIR GUZMAN: Very good. So seeing no other questions, without objections, Members, I'm going to defer this matter.

COUNCIL MEMBERS VOICED OBJECTIONS

ACTION: DEFER.

CHAIR GUZMAN: Thank you. Turning to...thank you very much, Department.

**EAR-16 NA MAMO O MU`OLEA – GRANT OF LEASE OF COUNTY REAL PROPERTY
(HANA)**

CHAIR GUZMAN: Turning to EAR-16 and that is the Na Mamo O Mu`olea - Grant of the Lease of the County Real Property in Hana. I think we have Corporation Counsel, Gary Murai, that's present, and also Bill Medeiros from the Mayor's Office. Thank you. So the Committee is in receipt of the County Communication 13-219, from the Acting Mayor, transmitting a proposed resolution entitled Authorizing the Grant of a Lease of the County Real Property to Na Mamo O Mu`olea, and a copy of the proposed lease agreement. In 2004, the County received a grant of \$2,011,800 from the National Oceanic and Atmospheric Administration (NOAA) towards partial acquisition of the property, Resolution 04-134. In 2004, the County purchased the property from the Trust for Public Lands for \$3,008,000, Resolution 04-135. The proposed resolution authorized the grant of a 50-year lease for \$50 per year for approximately 73.259 acres to the nonprofit organization, specifically named the Na Mamo O Mu`olea, for the purposes of managing, restoring, and maintaining the natural, cultural, historic, and marine resources of the subject property. The Committee met on this matter on October 15, 2013, discussion occurred, and further questions arose in discussion, and as a result, the Chair submitted a request for source documents to the Administration. After three inquiries over a five-month period requesting the same information, the Committee received a response dated January 31, 2014 and is located in the Members' binders. The Chair was not satisfied with the information contained in the response, so I requested a meeting last month with the representatives from the Na Mamo O Mu`olea, hoping to gather more pieces of documentations and background. In addition, the Staff was able to secure related Council Services archives, providing further information and documents. In addition, minutes from the Grants Review Committee for the grant's application was secured as background. While we are closer to having the essential documents and language

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

March 18, 2014

needed, there still exist some unresolved matters that prevent the body from taking action on the grant of the lease. Members, if you can turn to the last document in your binders, it is the correspondence to the Department of Corporation Counsel requesting the revisions to the resolution and the lease via a markup revision of the documents. As you will read, the correspondence we are missing are two documents, which is basically the grant of the lease between Na Mamo O Mu`olea and the County of Maui and a copy of the restrictions imposed by the acceptance of the Federal funding referenced in the January 31, 2014 correspondence from the Mayor. So if you look in your binder, Members, we've basically inherited this item and I've tried to do my very best to expedite it, but the history behind this is that this particular item has gone through, I think, three Administrations. Arakawa, one, and then for some reason there was, the documentation may not have been transferred to Mayor Charmaine Tavares, and then documents were missing or the application was lost again, and then when Mr. Arakawa came back into office, it was regenerated, the application. So here we are as we sit, and I've, it's another item that I must tackle. And so if you look at the correspondence, I have, at our last meeting back in October, or at least it was, October 18th, I believe, I sent Corporation Counsel or the Mayor's Office certain questions to be asked and documents to be provided. And this is basically, the reason why we need these additional documents is because the original resolution that was submitted by the Administration or, basically the original resolution was missing the two documents that I herein stated. Normally when you have a resolution, you need three components, the reso authorizing it, the grant agreement, and the lease agreement. And the reso that we received it only had the lease. And basically when we're looking at the conditionals, conditions and the restrictions that we were, that the, NOAA imposed on the trust, on the public trust, there was conditions that were imposed on them and when we bought it, when the County bought from the public trust, those conditions ran with the land. And so when we're now going to be creating this grant lease agreement as well as the lease, those same conditions need to be in the lease agreement as well as the grant agreement. And so, to find all those documents has been the missing link. And so, I know that the Mayor's Office and the Corporation Counsel's Office has diligently been trying to find those documents and to, I guess, to no avail at some point. And my office took a stab at it and we've found several of the documents in which Mr. Crawford assisted us. So what we have now is basically, if you look in your binder or I think what was handed out to you, we have the source documents that, we're gonna need the resolution authorizing the acceptance of the grant fund, as well as the, let's see, the lease itself and the various conditions that are, that were imposed on it. Do you have any further comments to add, Carla? Okay. Did I cover most of it so far? Okay.

MS. NAKATA: I believe Deputy Corporation Counsel Murai has some comments to add.

CHAIR GUZMAN: Okay. Deputy Corporation Counsel.

MR. MURAI: Thank you, Mr. Chair. You know, you're correct that this project has spanned several Administrations but actually I think it's more than three. I understand that this started during the Apana Administration, and I do want to start off by saying that one thing, you know, I've been

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

March 18, 2014

involved in this for a little bit less than a year now, when I was staffing the Grants Review Committee that heard this, the application, and made the recommendations. I do want to start off by saying that I do really appreciate the work that Na Mamo O Mu`olea has done and I also appreciate their patience in bearing with us. With regard to your March 17th memo, Mr. Chair, I do have a response, and as far as the four items that you've listed, to summarize briefly, incorporating the proposed grant of lease to the resolution, renumbering the exhibits, incorporating the proposed grant agreement, as far as correctly identifying and making sure we have all of the proper, appropriate terms and conditions, and finally, referencing the TCT number so that it can be properly recorded. I've spoken with Ms. Nakata and Ms. Willenbrink about this and I'll be glad to incorporate the recommend changes, and I appreciate the work that they've done in assisting with this. Now as far as the questions raised about the document entitled Programmatic Special Award Conditions, this is something that I had never seen before but I know that from speaking with people like Scott and Dave DeLeon, who is a former member of Mayor's Staff, I was aware of the terms and I was aware that Na Mamo was largely in compliance with this. There was only one thing that I think they weren't able, they decided not to do and that was put up the sign and because a sign might cause more problems than it cured. The sign might draw attention to the property and may invite trespassers or some concern like that. As far as locating the documents, it's kind of, I was going to say funny, but it's not funny because it's, this morning at about 11:30, I just happen to be in the Mayor's Office and Rob Parsons said hey I saw the agenda and I saw that this matter was on the agenda. I would've loved to come because I had some involvement with this and here's this banker's box full of documents relating to this matter. Because this was like just before the meeting, Mr. Medeiros and I did not have a chance to go through that box but I am crossing my fingers and hoping that the documents we need are in there. Now, I also checked, I went to the NOAA website and I discovered that they have a grants administration office and so I, you know, what I'm gonna recommend to Mr. Medeiros is that perhaps he could, he himself or he could assign a staff member to contact the NOAA grants administration office and request an original copy of the grant agreement. The other thing that I learned today from hearing one of the testifiers was that apparently NOAA has been sending representatives. I'm not sure how often they come, how, when the last time they came, but I'm glad that they are sending someone out because that tells me that apparently Na Mamo is meeting the requirements that NOAA expects. In any regard, getting to the two additional questions you posed, Mr. Chair. As far as, you know, the condition that the property contain the provision that the deed shall vest in the County of Maui subject to disposition instructions from NOAA, and the County shall not dispose of _____ encumbrance title with other interests without the approval of NOAA, you asked whether this provision is adequately covered elsewhere or should the warranty deed be amended. And in reviewing the file, we believe that the County's obligation to hold title and not dispose or encumber is provided adequately for elsewhere in the documents that we do have. However, and I do note that this deed was reviewed by the Corporation Counsel's Office at the time it was executed, at the time of signing, and it was deemed to be appropriate at the time. However, if in consultation with NOAA, they request or insist that the, this provision be part of the record, I believe the appropriate instrument to convey that would be a, I believe it's called a unilateral declaration. In

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**
Council of the County of Maui

March 18, 2014

other words, a declaration that the County records, restating that limitation or that obligation of the County. As far as your question number two, is a proposed 50-year lease considered an encumbrance on title to the property? It's my opinion that the lease is not an encumbrance. My understanding of what an encumbrance is, is generally speaking, well there's two kinds of encumbrances, encumbrance on the title, which would be things like liens, judgments, mortgages and that sort of thing, and encumbrances on the land itself, things like encroachments, easements, and things of that sort. So a lease is not considered, in and of itself, even if it is 50 years, an encumbrance on the property. However, it's also my understanding that at the outset NOAA was aware that this property would eventually be leased to an appropriate nonprofit organization to become the stewards of this property, and, you know, from the, early on in this process that organization was identified as Na Mamo. However, my understanding is that they were not, did not, didn't not, they did not obtain their nonprofit status until, well, you know, that in and of itself was a matter of great perseverance by the organization, and they eventually did get, obtain their 501(c)(3) letter from the IRS. And that's what allowed them to make their applications and then eventually appear before the Grant Review Committee. So, Mr. Chair, that's my response to your March 17th letter and I'll be glad to answer any questions that you or the Committee may have.

CHAIR GUZMAN: Okay. Thank you, Mr. Murai. Yeah, I mean, basically when we first had this scheduled on the agenda and I had various testimony submitted in, I had noticed, on my own volition, that these issues were presented and it didn't look correct, the documentation, so that's why I kept sending letter after letter for a follow-up, I need this and we need that. And just, I think it's no fault of, I guess, this Committee. I think it's just a bad, sorrowful situation that they've had to wait this long, but I think with both our cooperations and what we've analyzed together, I think we can get this pushed out fairly soon. And based off of the March 17th correspondence to your office, Mr. Murai, if we could go along with these changes and find the required documents, which I believe we can, we will be able to complete this process in a timely manner. And our thanks for all those who are participating and our apologies on behalf of the County for the delay. It's been, like what Mr. Murai said, several Administrations that have tackled this, and I want to guarantee one thing, this will get done while I sit on this chair, chairmanship in this Committee. We will push this out. I promise you that much, okay? And that's, I just got chicken skin on that one, so that, it will happen, okay? So at this time, if you have any other further questions, Members, without...oh, yeah, Mr. White.

COUNCILMEMBER WHITE: Just a question on the lease. Under term, it says the lease shall commence upon execution and expire on the 30th day of June, 2063 unless sooner terminated as provided therein. I don't see the provision for any cancellation for cause or lack of cause or anything of that sort, so.

CHAIR GUZMAN: Where are you looking at? What section?

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

March 18, 2014

COUNCILMEMBER WHITE: On Page 3 of the lease. It's just something to note as the drafting continues.

CHAIR GUZMAN: Where are you referenced to? Which section on Page 3?

COUNCILMEMBER WHITE: It's --

MR. MURAI: Paragraph C?

COUNCILMEMBER WHITE: --C, yeah, paragraph C, Term, at the very top of page three.

UNIDENTIFIED SPEAKER: Term.

MS. NAKATA: Mr. Chair?

CHAIR GUZMAN: Yeah.

MS. NAKATA: I believe there are standard terms and conditions attached as an exhibit to the lease and it may be covered --

CHAIR GUZMAN: Yeah, there's --

MS. NAKATA: --under ...(*inaudible*)... the standard terms.

CHAIR GUZMAN: --attached to, as Exhibit 3, would be some general terms here --

COUNCILMEMBER WHITE: Okay.

CHAIR GUZMAN: --conditions.

MS. NAKATA: For instance --

MR. MURAI: Most of the --

MS. NAKATA: --Page 8 --

MR. MURAI: --boilerplate language is --

CHAIR GUZMAN: Yeah, that's all boilerplate.

MS. NAKATA: --paragraph ...(*inaudible*)...

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**
Council of the County of Maui

March 18, 2014

MR. MURAI: --is in the, is an additional, the reservations, covenants, terms and conditions.

CHAIR GUZMAN: And what we were adding as Exhibit 3 are the NOAA conditions on the Programatic Special Award Conditions and as well as the conditions that are in the warranty deed from the Trust for Public Lands deeded, deed. So like I said, these conditions that are in the various documents and deeds need to be followed within the lease agreement and the grant for lease agreement. Is that correct, Mr. Murai?

MR. MURAI: That's correct.

CHAIR GUZMAN: Yes. So that's one thing that, you know, when I looked at the documents, I believe those were some missing elements that we needed to at least address so that we can basically have a very legitimate and very secure document. So with that being said, is there any other questions to the Members? Yes, Ms. Crivello.

COUNCILMEMBER CRIVELLO: So am I to understand, Chair, that in order for us to move forward in trying to get this all resolved is awaiting the explanation from NOAA or public trust?

CHAIR GUZMAN: No, no, if you look at the letter of March 17, 2014 --

COUNCILMEMBER CRIVELLO: I can't find it. Sorry.

CHAIR GUZMAN: --to Corporation Counsel...if you, if the Staff can assist. And just for your information, it's important that we include the, I guess, the conditions that are, that were imposed on the County. We need to place those in the, in the lease agreement as wells as the grant for the lease agreement because those need to run with the land and give notice to the lessee. And if we are held as a County to those standards and the lessee is not and they go off and violate those conditions, then in the end, the County would be responsible for having to pay back a certain amount of money. Is that correct, Mr. Murai? Or give...

MR. MURAI: Well, not necessarily, but we do want the lessee to comply with the terms upon which the County obtained the land --

CHAIR GUZMAN: Yes.

MR. MURAI: --and while I believe, as written, the lease agreement does provide for that. I also agree that it can be more clearly stated as you suggested.

CHAIR GUZMAN: Yes. So, Ms. Crivello, do you have any further questions?

COUNCILMEMBER CRIVELLO: Well, I just hope there won't be further delays.

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

March 18, 2014

CHAIR GUZMAN: No, no.

COUNCILMEMBER CRIVELLO: ...*(inaudible)*...

CHAIR GUZMAN: I think if you look at the March 17th letter --

COUNCILMEMBER CRIVELLO: Right.

CHAIR GUZMAN: --and if, we've basically, attached to that is a markup --

COUNCILMEMBER CRIVELLO: Right.

CHAIR GUZMAN: --behind it, and a markup for the changes and we've included most of the documents. And we're just missing two documents that we're going to add on. And hopefully we can find those two documents and add those in.

COUNCILMEMBER CRIVELLO: And so that would come from Mr. Medeiros and Mr. Murai?

CHAIR GUZMAN: Oh, it'll be a joint effort --

COUNCILMEMBER CRIVELLO: Joint, okay.

CHAIR GUZMAN: --in trying to locate those, those documents.

COUNCILMEMBER CRIVELLO: Okay. Well, I'm just concerned about the, and I'm sure you are as you've promised to make sure that we're going to have this addressed and finalized for the Na Mamo group that I think have been the stewards during this time. I think, more important, I think what you gotta, we have to recognize too is their significant historical values there. And so those are the kind of things that we have to make sure we don't lose because it tells the story --

CHAIR GUZMAN: Right.

COUNCILMEMBER CRIVELLO: --for all generations to come.

CHAIR GUZMAN: Thank you. And it probably, we would've been working on it sooner, at least my staff, but we were waiting for the response from the Admin side, and when we did finally get the response, it, there were still in search, and that was four months back or five months back. So when my staff got on it, we were hustling to find the documents. So we're pretty much set, we just got a few more items and we'll be there. Okay, that being said, no other further questions. Without objections, I would like to defer this matter.

COUNCIL MEMBERS VOICED NO OBJECTIONS.

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

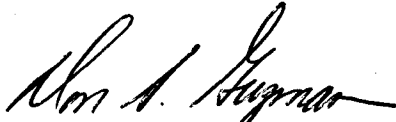
March 18, 2014

ACTION: DEFER.

CHAIR GUZMAN: Thank you. Members, that concludes our agenda for today. I thank the Administration, as well as the hard work from Mr. Murai, and I will, we will be adjourning. Thank you. . . . (*gavel*) . . .

ADJOURN: 4:33 p.m.

APPROVED BY:



DON S. GUZMAN, Chair
Economic Development, Energy, Agriculture,
and Recreation Committee

ear:min:140318

Transcribed by: Annette L. Perkett

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

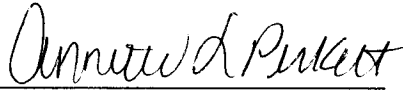
Council of the County of Maui

March 18, 2014

CERTIFICATE

I, Annette L. Perkett, 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 9th day of April, 2014, in Haiku, Hawaii.



Annette L. Perkett
Annette L. Perkett