

INFRASTRUCTURE AND ENVIRONMENTAL MANAGEMENT COMMITTEE

Council of the County of Maui

MINUTES

Council Chamber

September 29, 2014

CONVENE: 1:38 p.m.

PRESENT: VOTING MEMBERS:

Councilmember Elle Cochran, Chair
Councilmember Stacy Crivello, Vice-Chair (in 1:50 p.m., out 2:57 p.m.)
Councilmember Robert Carroll
Councilmember Donald G. Couch, Jr.
Councilmember Don S. Guzman

NON-VOTING MEMBERS

Councilmember Gladys C. Baisa (in 1:50 p.m.)

EXCUSED: Councilmember G. Riki Hokama
Councilmember Mike White

STAFF: Jordan Molina, Legislative Analyst
Raynette Yap, Committee Secretary

Dawn Lono, Council Aide, Hana Council Office (via telephone
conference bridge)

Denise Fernandez, Council Aide, Lanai Council Office (via telephone
conference bridge)

Ella Alcon, Council Aide, Molokai Council Office (via telephone
conference bridge)

ADMIN.: David Goode, Director, Department of Public Works
Mark Walker, Deputy Director of Finance, Department of Finance
Carmelito Vila, Motor Vehicle & Licensing Administrator, Department of
Finance, Division of Motor Vehicle & Licensing
William Hankins, Police Sergeant, Department of Police
Michael Hopper, Deputy Corporation Counsel, Department of the
Corporation Counsel

OTHERS: Dick Mayer
Phillip Feliciano, Owner, Cruiser Phil's Tours
Shelley Maddigan, President, Kula Community Association

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James Cramer, Tour Guide, Cruiser Phil's
Sam Feliciano, Tour Guide/Manager, Cruiser Phil's Volcano Riders
William Campbell, Owner, Maui Easy Riders

Plus (4) others

PRESS: *Akaku Maui Community Television, Inc.*

CHAIR COCHRAN: ... (*gavel*) ... Aloha will the Infrastructure and Environmental Management Committee please come to order. I am Elle Cochran, Chair of the Committee and it is September 29, 2014 around 1:32 in the afternoon. Pardon the delay, Members, and thank you all for being here. Before we begin please silence your cell phone devices or any noise-making devices and let me introduce the Members that are present. I have Vice-Chair of the Council Bob Carroll.

COUNCILMEMBER CARROLL: Good afternoon, Chair.

CHAIR COCHRAN: Good afternoon, and Councilmember Don Couch.

COUNCILMEMBER COUCH: Good afternoon, Chair.

CHAIR COCHRAN: Aloha. Councilmember Don Guzman.

COUNCILMEMBER GUZMAN: Good afternoon, Chair.

CHAIR COCHRAN: Aloha, and excused is Councilmember Hokama and White. And from the Department, looks like I have Director Goode, of Public Works.

MR. GOODE: Good afternoon, Chair.

CHAIR COCHRAN: Aloha, and also Michael Hopper of Corporation Counsel.

MR. HOPPER: Aloha, Chair.

CHAIR COCHRAN: Aloha, and then in Committee Staff members we have Legislative Analyst Jordan Molina, along with Committee Secretary Raynette Yap. Thank you all for being here and at this point anyone who wish to sign up for testimony please do so at the table on the eighth floor lobby, and limit testimony to the agenda items here today, and everyone will be given three minutes to testify with one minute to conclude and please state name, organization, anyone you may be representing. We also have a connection to our District Offices. So residents and

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testifiers from those sites may testify to us and I shall rotate through all the sites. So Members let me check in with these sites at this point. From the Hana Office, Ms. Lono are you there?

MS. LONO: Yes. Good afternoon, Chair. This is Dawn Lono at the Hana Office.

CHAIR COCHRAN: Thank you for being there. On Lanai?

MS. FERNANDEZ: Good afternoon, Chair. This is Denise Fernandez on Lanai.

CHAIR COCHRAN: Aloha, Denise. And then on Molokai Office?

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

CHAIR COCHRAN: Aloha, Ella, thank you for being there. And now I shall proceed with testimony in the Chambers and I guess. Jordan, do we have any testifiers today?

MR. MOLINA: Yes we do. We currently have six individuals signed up to testify.

CHAIR COCHRAN: Okay. Please call our first testifier.

MR. MOLINA: The first person signed up to testify is Dick Mayer, followed by Phillip Feliciano.

... BEGIN PUBLIC TESTIMONY ...

MR. MAYER: Good afternoon, Chair --

CHAIR COCHRAN: Aloha, Mr. Mayer.

MR. MAYER: --and Members. This is a bill that's been off and on for decades, not the bill itself is more recent but the effort to try to get a bill to try to regulate the industry is been going on for a long, long time, dating back to the days when the community plan was being assembled for Upcountry back in the mid '90s. I understand that there were a couple of issues that you were discussing last time after public testimony was over and I just wanna comment on both that. The first of those was the issue of enforcement. Should the Police Department be required to enforce this ordinance or should it be left up to the Finance Department, which the Finance Director and his office to enforce it since the other ones would issue the permit. My feeling is that this should be like all other permits in the County. Maybe the Finance Director who issues the permit but does not have the Staff to enforce it and we rely on the Police to do it. For example, another example would be the Parks Department. I go up and get a permit to use the Community Center and I get a permit and our association can use that facility. But if a riot were to break out, a fight broke out, or somebody got drunk there and did surly behavior, we'd be calling the Police

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Department. We wouldn't call the Parks Department to enforce it. So I think we should be consistent that when permits are being issued, they're really being issued by the director of that department. The Police then would have the responsibility to report to a particular director that there was a violation of a permit and that association may not get that permit again, or in the case of the bicycle tour if the Police would report that something was violated by a company, they should report it to the Finance Director who then can revoke the permit and issue the various penalties if necessary. And so I think that there should be this bifurcation and it should be established, probably, within the ordinance to make clear. With this then you may wanna consider then in other areas where permits are issued by departments that the...and the Police are asked to enforce it. Other departments, for example, the Planning Department has a whole branch on zoning, you know, regulation with inspectors and other departments have inspectors for building permits; they have their...the people who can do that. But in the case of this area where Finance Director is doing it, I would urge you to keep the Police as the enforcers even if they...something they may not want to add to their burden, it is their responsibility under the Charter. The second question regarding the State highways: and is the County taking on increased liability by issuing a permit for the use of State highways? I think the County already issues many permits. For example, the marathon run to Lahaina, there's probably a permit being issued, there may be something for the County Fair Parade, the bicycle race to the sun. There are many permits that are probably issued already on State roads. So I don't think this is necessarily a break in tradition in that respect that there are permits being issued already by the County on State roads. We are requiring, and I think one of the good things about this is, we are requiring that the bicycle companies have \$3 million worth of insurance; and this, by including the County in that coverage, they are protecting the County. I think the key thing that you really wanna get across this here that if anybody is doing the bicycle thing without a permit, they should be severely penalized; and that's why I recommended last time that the penalties be done on a per day basis. In other words, every day that they're violating without a permit, they should be severely penalized for that activity. And I'm gonna thank you very much for giving me the opportunity to testify.

CHAIR COCHRAN: Thank you, Mr. Mayer. Members, any need for clarification of the testifier? Seeing none, thank you for your time, Mr. Mayer.

MR. MAYER: Thank you.

CHAIR COCHRAN: Next testifier, Jordan.

MR. MOLINA: The next testifier is Phillip Feliciano, followed by Sherry Maggidan [*sic*].

MR. PHILLIP FELICIANO: Good afternoon, Madam Chair, Members, my name's Phil Feliciano. I'm the owner of a bicycle tour business called Cruiser Phil's Volcano Riders and you've heard me speak before about this subject. You know, first I'd like to start off with a little story. The other day I was driving to work, morning rush hour traffic, and came to a stoplight, looked in my

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mirror. And there was a young lady behind me putting on make-up, actually plucking her eyebrows; and I thought to myself wow, look at all this pressure, pressure on this young lady to be out in the workplace. We all have pressure. County, this Committee, has pressure right now because the State gave it the power to regulate bicycle tours on County and State roadways. But with that pressure comes responsibility, responsibility to get this thing right so we're still not working on it 20 years from now; and, in order to get it right, we really need more than just this type of an atmosphere. You know, we need that little subcommittee where questions can be answered: how do you guys do things, what's the best way to do all this? And we have not yet done that. So how can you look at a study that Kimura did and say, okay, this is it, you know, ten minutes between groups; you can't be here at a certain time; et cetera, et cetera without knowing how it impacts the communities that the bicycle tours impact, how does it impact the industry itself? One of the things I'd like to recommend is with this new beginning that we can somehow formulate is a like a licensing thing. When we go in and get our permit--and you all know that some companies have 'em, some companies don't--each member of that company has to go and get a license like a CDL driver has a license. So they have to take a test. They take a test and these are the standards that the bicycle tour industry has to live up to; somebody is not living up to that standard, then you take action. But I think that's the first step in how we go forward is make the individual tour guide, whether he is on the bicycle or a driver, accountable for their actions. Like a CDL guy, if you don't follow the rules, you can get a ticket you can lose your license, lose your livelihood. That's why I think this needs to start going, and I hope you all take a look at the whole thing and realize that is it enforceable? It really doesn't look like it. The Police don't wanna be up in upper Kula out of their way to go, oh look, this group is only three minutes apart from that group; that's not what they're for. The bike tour industry should be able to do that with some help through some standards. Thank you.

CHAIR COCHRAN: Thank you, Mr. Feliciano. Members, yeah any need for clarification? Mr. Couch?

COUNCILMEMBER COUCH: Thank you, Madame Chair, and thank you Mr. Feliciano for being here. Correct me if I'm wrong, you're saying that it sounded like no one consulted the, your industry with this?

MR. PHILLIP FELICIANO: The first meeting on this item was in March, and in March I was here. There was talk of setting up a subcommittee and I volunteered. I sent e-mails to volunteer and no one ever contacted me.

COUNCILMEMBER COUCH: Okay 'cause it's my understanding from a lot of the documentation that we got that there was that group and somebody from the industry was in it, but I'll double check.

MR. PHILLIP FELICIANO: Okay.

COUNCILMEMBER COUCH: We'll double check on that, thank you.

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CHAIR COCHRAN: Thank you, Mr. Couch. Members, any further need for clarification? Seeing none, thank you, Mr. Feliciano.

MR. PHILLIP FELICIANO: Thank you.

CHAIR COCHRAN: Jordan, next, and then we'll go to our District Office.

MR. MOLINA: The next testifier is Shelley Maddigan.

MS. MADDIGAN: Thank you, aloha, Madam Chair and Committee. I'm Shelley Maddigan, President of the Kula Community Association here once again to ask you to at least get started by passing this ordinance. I can appreciate the position that the owners of these businesses are in. But I don't think they appreciate the position that the community is in and the County. Our roads are not painted properly, they are not designed to have this major industry that is growing and very popular. My understanding is that it's one of the number one choices of things for people to do when they come to Maui. And I'm not in any way saying that we should stop it or anything. But we do definitely need to have some type of control and way of keeping it so that everyone can live with it. This ordinance is not perfect, the study left several things out that we thought as a association really should be included. But, you know, if you don't start somewhere we're gonna be talking the same thing in another ten years. And as far as the County and the Police, the Police are, the Police half the time are up the road at least once a week. The Fire Department and the EMTs are up that road at least once a day. So the highway, Crater Road, is specifically what I'm discussing. I don't even know what happens on Baldwin and the other roads, but I do believe as a group we feel that at least this is a start in making this very popular attraction safer for our visitors and for our community. I assure that we will continue to wish there were other things included and those things will probably come up over the years, but at least if we've got a groundwork to go from. You know, somebody trying to get to school or get to work and you're stuck behind three rows of 15 or 20 people on their bicycle, having a great time and enjoying the cruise. And those people are watching their watches or you're crossing over and possibly gonna have a head-on with some other car to try to get around the bikes. So I understand it's a great industry for the State, for the County. But until our roads are marked properly for this, let's at least get something started to make it safer for everyone. Thank you.

CHAIR COCHRAN: Thank you, Ms. Maddigan. Members, any need for clarification of the testifier? Seeing none, and I'd like to recognize Chair of the Council, Ms. Baisa.

COUNCILMEMBER BAISA: Good afternoon, Chair.

CHAIR COCHRAN: Aloha, thank you for being here; and also arriving at her seat, Vice-Chair of the Committee, is Ms. Stacy Crivello.

VICE-CHAIR CRIVELLO: Aloha, Chair.

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CHAIR COCHRAN: Okay. And then we'll go to the Hana Office. Any testifiers, Ms. Lono, at the Hana Office?

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

CHAIR COCHRAN: Thank you. On Lanai, anyone waiting to testify?

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

CHAIR COCHRAN: Thank you, Ms. Fernandez; and on Molokai, Ms. Alcon?

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

CHAIR COCHRAN: Thank you. Alright we'll go back to the Chambers and return back to you folks, let us know if you do get anyone to testify. Thank you, ladies. Jordan?

MR. MOLINA: The next person signed up to testify is William Campbell, he'll be followed by James Cramer.

CHAIR COCHRAN: Oh, Mr. Campbell's nodding his head no.

MR. CAMPBELL (*from the gallery*) I never signed up.

CHAIR COCHRAN: Okay, no Mr. Campbell then, to testify. Thank you.

MR. MOLINA: The next person is James Cramer, and he's the last person signed up to testify.

CHAIR COCHRAN: Thank you.

MR. CRAMER: Ladies and gentlemen, Madam Chair, Council members, thank you for having this meeting.

CHAIR COCHRAN: And name, sir?

MR. CRAMER: We appreciate the interest...

CHAIR COCHRAN: Sorry, excuse me, your name, sir?

MR. CRAMER: My name is James Cramer.

CHAIR COCHRAN: Thank you.

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MR. CRAMER: I been involved with the bicycle industry since day one and watched it grow into a very viable part of our community, providing lots of jobs, lots of income for the County. Just the fuel tax alone has gotta be a significant amount. In any case it's very important that as a Council, our elected officials, please pay attention to the fact that we need to do everything we can to encourage any and all business here in the County of Maui. The bicycle industry is one that has been somewhat problematical where there have been some concerns, and certainly those concerns are of importance to us that are in the industry, and we are doing everything we can as an industry to address those concerns. Certainly the traffic issues are one that very, very important to each and every one of us. I think that the company that I'm affiliated with which is Cruiser Phil's from Phil Feliciano, and I know that personally I happen to drive one of the major buses for the tour and then the bicycles take place after sunrise. And as I'm going down and there's traffic, I make it a very, very specific point that if there's traffic behind me during the rush hour in particular, that's usually when I'm on the road, that I actually pull over in a safe place so that the pass, the traffic can pass safely. I guess the point that really needs to be made is that we need to have a few more places so that it will eliminate the traffic congestion, where not only can I pull over with a big bus but I also can expect a bike group where they have twelve cyclists on a bicycle team and a cruise leader, they have a place to get off the road and allow the traffic to pass. We're not trying to impede traffic in any way. It occurs that way somewhat out of necessity from safety. We have to keep that as our number one consideration. So in any case I encourage the County Council to do everything they can to encourage business. Regulating, and overtaxing, or other things, fees and permits is just gonna impede business. And whether it's this business or any other business, it's one that we need to keep in our minds that it's something that can be very negative and we wanna be positive about these things. This is a viable industry that we're talking about today that is meaningful for the County, meaning for each and every one of us, meaning for the people that our employed in the industry, even right down to the insurance and banks and other people that are involved because of our participation. These are important issues and we appreciate your time to hear us out.

CHAIR COCHRAN: Thank you. Members, any need for further clarification of our testifier?
Mr. Couch?

COUNCILMEMBER COUCH: Thank you, Madam Chair, and thank you, Mr. Cramer, for being here. Having said what you said and thank you for your testimony, have you had a chance to read the ordinance and see what kind of things we're talking about?

MR. CRAMER: I have.

COUNCILMEMBER COUCH: And are you okay with what's in it or is it...

MR. CRAMER: Well I feel concerned that there hasn't been more involvement with the industry itself directly. I think that if it's something that the County is going to regulate that it's going to be a

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real burden not only for the Council to put this together but from a legal standpoint. The things that happen in...business is tough on our islands. Very, very difficult for businesses to stay aloft. They just don't have the ability to deal with any, any more regulations. The insurance of \$3 million is unheard of. I don't think that, I mean that's an obligation that is being imposed that is excessive, and I think that there should be some real interest in trying to promote and encourage business in every way we can, whether it be the bike industry or any other industry, a retailer, whatever. I find that there's even difficulties with the Post Office in some certain areas and that are affecting businesses. So I'm here to say that minimize regulation. Do the things that are necessary to keep it safe and sound for the people. Certainly if there are improvements that need to be made on the roads, that's certainly one of the things that you guys can address and can make decisions about, and see that there are facilities to accommodate the needs. I mean if the traffic is such that, and I see it that people can't get to work in a timely way. That's a problem and that means that there needs to be some improvements in the roads or something to accommodate that. I don't think that you can blame the bicycle industry for the traffic in any way. It certainly is a concern, and we certainly as a bicycle industry wanna do everything we can to cooperate and make it as easy for you, as easy for the person that's behind that person trying to pass a bike group.

COUNCILMEMBER COUCH: Thank you. Thank you, Chair.

CHAIR COCHRAN: Thank you, Mr. Couch. Members any need... yes, Ms. Baisa.

COUNCILMEMBER BAISA: Thank you very much, Chair, and thank you very much for being here. I think I missed it, I might have been, thinking about something else, who do, who do you represent?

MR. CRAMER: Cruiser Phil, who was just up here, it's his company. I been in the industry since day one actually profiting from the industry as a printer where I was printing the rack cards for this new activity. So I mean even the printing industry alone is somebody that's actually benefiting from this industry and it has become popular. I appreciate the comments that have been made here this morning that or this afternoon that it has benefit, benefiting lots of people, and I take pride in that.

COUNCILMEMBER BAISA: Thank you...I got the message about the trickle down and how it goes. You know, it's not only the bike company but it's all the services that are ancillary to it. But you know, I heard you say something about involving the industry. You probably know I been here a while, and this problem with the bicycles...

MR. CRAMER: And I know you been Upcountry for a long time, too.

COUNCILMEMBER BAISA: And you know the problem with the bikes has been here for a long time, and we've been trying really hard to solve this issue. And I remember when I was a new

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Councilmember; we spent a lot of time in this Chamber, you know, talking to the industry and working with people, and trying to come up with some solutions. And I find myself here at the end of my fourth term and we're still dealing with the problem. And so I don't know what the answer is here, and I think what this Committee is trying to do is to come up with some rules and to see if that helps the problem. And of course if it doesn't help the problem then of course, we're gonna be sitting here again probably two years from now, you know, dealing with the same problem. I wanna solve it, I don't know how to solve it, it's not an easy problem like you say, you know, we have to do something about the roads. But that's a real major process and why we've talked about pullouts, you know, we talked with when it was higher up, and we're trying to get the State and Federal Government to help us with the pullouts. But that hasn't happened and the County roads as you know are small and very, road changes are very difficult. I mean just the smallest thing cost us millions of dollars. So it's difficult to do. But what we're hoping is that some things that are basically kinda common sense courtesy like, you know, pull over when you see a bunch of cars behind you and don't, you know, have this caravan behind you. I've been in it so I know what it is, and I have a great appreciation for the fact that our tourists and our visitors love this activity. If you ask them, you know, what do you like about Maui, inevitably the bike ride down the Haleakala will be one of those things they'll talk about. They really value it. So other than us both trying to work together and courtesy on both sides, I don't know that we can regulate ourselves out of this situation. But we do have a situation and it is frustrating to the Upcountry residents. I know because my phone rings. When are you gonna fix this? And, you know, we're trying and so I don't know, I don't think there's a magic bullet. But this regulation is an attempt to try to make it better not to punish anyone. Your comments?

MR. CRAMER: I don't have any problems with that at all. In fact, I think that everything and anything that we can do to encourage particularly safety. That was one of my nicknames years ago in the bicycle industry, given to me by the park rangers. Anyway safety I think is our number one concern, and the problem that I see and I see it daily, I mean it's not something that happens every other month or something, it happens all the time. We have visitors that come up for sunrise in their rental cars and they enjoy sunrise and they spend too much time and they have a flight out that same morning, and they come flying down the mountain and they're behind a bike group or even my bus and they're, you know, right on my bumper, and so one of the first things that I do is I pick a safe spot usually if there's paved turnoff which is the best. I'll pull into the paved turnout and let traffic pass, just so that they're not being impeded in anyway, and I have understanding for their concerns, and it's just a way of life. I mean I don't know that we can really change things like that. I take a great deal of pride and oh gee, I don't even think how many years ago it was when we got the aquatics program going here in the County. I think we have the best aquatic program in the State of Hawaii, and it's because of a few people getting together, we formed committees, we formed associations, we built a swimming pool in Lahaina. Then we have one Upcountry in Pukalani. We have a fabulous facility in Kihei, and it's all because of cooperation and working together, and I think that, that's what's maybe one of the things you might wanna try to do with your Committee is to put together a group where we actually are communicating on the very specific issues that these people are addressing now, and

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we want to help, I mean this is viable to us. It's viable to our County, it's viable to each and every one of us.

COUNCILMEMBER BAISA: I think it's in the best interest to all of us to try and make this work. Thank you very much for coming.

MR. CRAMER: Okay well, thank you for having me.

CHAIR COCHRAN: Thank you, Mr. Cramer. Thank you, Ms. Baisa. Members any further need for clarification from our testifier? Seeing none, Mr. Cramer, again thank you very much. Any other testifiers?

MR. MOLINA: Yes, Madam Chair. We do have one more testifier, Sam Feliciano. And he's the last person signed up to testify.

CHAIR COCHRAN: Thank you.

MR. SAM FELICIANO: Aloha, thank you for letting me speak today. My name's Sam Feliciano. I work for Cruiser Phil's Volcano Riders, and I've been employed with that company since 1998. I live Upcountry, I mean I live Upcountry and I do the bike tours. And a few things I wanna share is from the beginning of what we call Crater Road, where we tend to get into the residential area, from there until Hanamu Road in Makawao it's seven miles. Within that seven-mile stretch, we have approximately 10 to 12 different safe spots that we pull over to let traffic by as we bike down. Crater Road itself from the first house to the stop sign is 2.1 miles, and we have about four spots in that two mile section that we let traffic by. After that we're on Crater Road going down past Kula Lodge and all that again a total of about 12 different areas to let traffic by. What I propose is maybe some signage on the roads that say this is a opportunity for traffic to pass us in these designated areas, you know, biker pull-off area, or this section it's safe to pass the bikers. The companies would then use these turnouts which we already use daily anyway. But there's signs so that the traffic knows that this is where, you know, I can get by this bike group as they come down. I don't know exactly how you'd do that by putting the name or number on the back of the vehicle that says this is trailer number four, you have a number or something on these signs posted that this company did not pull over and use these turnouts or, you know, I don't know exactly how that would work but to have a few signs along the roadway that wouldn't cost the County so much money to at least let the public know that this is where we're gonna be able to get by this bike group. Within that seven miles just in that section, posted speed limits are 15 miles an hour. There's three sections, there's two sections, that hits 30 miles an hour, one that hits 25. If you live up there and you drive up there you know nobody drives 30 miles an hour on that road, and, you know, as a van driver following behind a bike group, even if we're going 20, 25 miles an hour it doesn't matter if the speed limit was 10 miles an hour and we're going that fast if the traffic sees 10, 12 bikers in the middle of the road they wanna get around you, no matter how fast we're going. So it makes it a little frustrating for us as drivers or as tour guides

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sometimes. When there is an opportunity for us to pull over in a timely fashion to let traffic by, but within that seven miles, you know, 10 to 12 safe spots to let traffic by, it takes you, you know, ten minutes. I live in upper Kula, I get stuck behind the bike tours as I drive down to work as well. And, you know, it does vary between which company you get stuck behind, who's gonna let you by first, things like that so I see it almost every day. Some companies will pull over and let you by, other companies will hold you, has nothing to do with the visitors, it's the tour guides themselves. The visitors riding the bikes, they don't know that we pull over 10, 15 times a day to let traffic by, you know, but it's...so what I'm proposing is maybe just some signage that says this is a safe place to pass the bikers. And the industry itself, use those locations to let traffic by, everybody's happy as we cruise down, so, thank you.

CHAIR COCHRAN: Thank you for your testimony. Members, any need for clarification of our testifier? Seeing none, thank you, Mr. Feliciano. Any other one signed up for testimony?

MR. MOLINA: We have no one signed up.

CHAIR COCHRAN: Oh, thank you, if there is anyone in the Gallery who wishes to, you may come to the podium now. Okay, sir, you can come down and then fill out the forms after please at the front desk, take your time with your crutches.

MR. CAMPBELL: Thank you.

CHAIR COCHRAN: Hope you weren't riding a bike down the hill.

MR. CAMPBELL: Madam Chair, fellow Council members, thank you. I assure you this didn't happen on a bicycle; dodge ball accident in Haliimaile. This is my first time ever speaking at a meeting like this. I'm a little nervous, my name is William Campbell. I'm the owner of Easy Riders which is a downhill bike tour business, and I'm representing myself, my business partner William Petrak. Four years ago we decided to start our own bike tour business after being in the industry for many years mainly because we are in agreement that there...many changes are needed. As far as like some of my I guess fellow company owners go, they don't think that there should be like more regulation and stuff. But personally we do, and we think that the Police should be involved in enforcing rules for bike tours. I've done the bike ride over...maybe close to a 1,000 times. I've never had to call an ambulance. I've never had a serious bike accident on any of my tours. It is a very safe activity when it is done right. I do agree that there are many problems with the traffic in Kula. And not to throw any of their companies under the bus, but I definitely think that a lot of the companies don't pull over to let cars go when they should. With our business it is different. We're a smaller business, we're owner operated, we only have one employee, we take smaller groups. Just kind of as a standard it is much easier for us to let cars go by, go around us, than it is the larger companies. So as far as like designated pullouts up there goes, like I definitely agree that there should be something, and some way to see that companies are abiding to rules and just common, you know, courtesy to let cars go by when they're going

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down the roads. Another subject that I think that is just very important to this matter is it just speaks volumes as to who is here right now as far as like the bike tour industry goes. Me and Phil have two of the smallest companies easily. This people we have six, me and my business partner have six riders signed up this week. I would be willing to bet anything that some of the other companies have well over 100. And some of the other companies that I have in mind, there's nobody here representing them and not only that, they don't have the proper insurance or the permits to do this bike tour. We pay a \$3 million insurance policy and we have six riders this week. I mean our, we're broke, and it's because of this insurance thing, it is not fair and balanced, and there does need to be some sort of subcommittee, it has been needed for a very long time. With the Police I can understand them not wanting to regulate the industry but if they don't who will? My biggest frustration at this point in time is that I had written a letter to the County. Mr. Feliciano had contacted me and asked me to get together with him and one other bike tour owner that the three of us all have our permits and our insurance. So we wrote letters to the County, the DMV, you know, asking them to enforce their laws and Codes for this. I never got any response from them, instead I got a phone call phone from another bike tour company owner saying that he got a letter from the County ratting me out, as opposed to ratting him out. So that really disturbed me. I felt like I was being punished for being a whistle blower. And all I really want is everybody to be held to the same standards. In the four years that my business has been going, we've never had a major accident, never an insurance claim ever. I think that there should be some sort of a balance in that, too. Like those things should be taken into consideration as to far as how much insurance do you really have to carry if you're only taking six people a week as opposed to a company that's taking up to two to three hundred people a week, in the busier times. Um, sorry for all the ums, I guess that's about all I have. Thank you.

CHAIR COCHRAN: Thank you, Mr. Campbell, for stepping up and testifying. Members, any need for clarification of our testifier? Seeing none, thank you again for coming up with crutches and all, good job.

MR. CAMPBELL: Thank you for having me.

CHAIR COCHRAN: Okay. Let's check with our outer districts, Hana did you get any testifiers?

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

CHAIR COCHRAN: Thank you, Ms. Lono. Lanai Office?

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

CHAIR COCHRAN: Thank you, Ms. Fernandez, and Molokai?

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

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CHAIR COCHRAN: Thank you, Ms. Alcon. Okay ladies, thank you for being there and I shall...Members, without objections, seeing no one else coming forward for testimony, we shall now close public testimony.

COUNCIL MEMBERS VOICED NO OBJECTIONS. (EC, SC, RC, DC, DG)

CHAIR COCHRAN: Thank you, so ordered.

... END OF PUBLIC TESTIMONY ...

**ITEM NO. 39: APPROVING THE ACQUISITION OF REAL PROPERTY
(PILI STREET) FOR THE WAILUKU MUNICIPAL PARKING
LOT (CC 14-62)**

CHAIR COCHRAN: And we shall now move into our work which, Members, I am switching the calendar around, I have...we are going to do IEM-39 first and this is the APPROVING THE ACQUISITION OF REAL PROPERTY (PILI STREET) FOR THE WAILUKU MUNICIPAL PARKING LOT. So we'll go to this item first and this is County Communication 14-62, from Director of Public Works, and the purpose of this proposed resolution is to declare that Pili Street has been surrendered for public use and adopted as a County highway. And I wanted to point out an error in the meeting agenda, it says that the Committee is in receipt of a proposed bill; this is incorrect, it should read that we are in receipt of a proposed resolution. And with that being clarified, I shall now turn the floor over to Director Goode for any opening comments or anyone that you need to represent this matter, Mr. Goode, it's all yours.

MR. GOODE: Okay. Thank you, Madam Chair. Members, before you, as Chair describes, is a resolution to accept Pili Street, basically, as an abandoned roadway. That may not be the best term, a surrender of a public highway. Pili Street is the little road that connects Market Street and Church Street, and goes right through our parking lot. The parking lot parcel, parcel itself is actually made up of a number of small lots, including Pili Street, and we were in the process of consolidating all of these lots into one lot. And during a title search it was determined that Pili Street, over a 100 years ago, was a privately owned street. And as near as the title company could discern, an individual received title to it and died like four days later and it was never probated. This was around 1907, I believe, fast forward 55 years or so, the County and the State at that time around 1962, 1963, bought out certain parcels and created the Municipal Parking Lot which this Council appropriated funds for me to repave, or our Department to repave, I should say this year. And, Pili Street, the title shows that this last vested and this individual who died, it was not probated, fortunately there's a statute in HRS, that says we can declare it to be a public roadway. No one has stepped forward within the five years, which would have expired in 1912, to claim ownership of the roadway. We've of course used it as a parking lot. And so what we're asking today is that you recognize this surrender if you will, and then by resolution adopt; it and

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Pili Street will then be folded in as a County Lot, and then we will consolidate it with the adjoining lots that make up the Wailuku Municipal Parking Lot, into a single lot. That's it, Chair.

CHAIR COCHRAN: Thank you, Director Goode. Members, any questions, comments for Director or anyone? Mr. Couch?

COUNCILMEMBER COUCH: Just a question for Corp. Counsel. Is this a one reading or a two reading resolution, because it appears to be I'm guessing it's sort of a condemnation or just an acquiring of a property that wasn't ours, or isn't ours.

MR. HOPPER: Well, if it was a condemnation, Madam Chair, it would say for eminent domain purposes, it's really not. There's a HRS section actually on this that talks about surrender of public highways. It's separate from the eminent domain statutes that are also in HRS. I think it is different than that. It's essentially a surrender, whether it's a one or two reading resolution, I think it's an acquisition of real property type resolution. It's more similar to a 3.44 type of resolution and so I don't think there would need to be two readings as an eminent domain resolution unless there's some other requirement in the Council Rules, none of which I am aware that would require two readings. But it's a bit different than that, an eminent domain, because it's not under that statute. There's actually a separate statute in HRS that talks about surrender of public highway. So I don't think it's the same thing as eminent domain and there's other requirements in the eminent domain process. That's where you can actually identify an owner. In this case no one has exercised any kind of ownership interest in the road since 1906 I think, 1906, 1907, and the requirement for abandonment is five years. So it's a bit different, eminent domain would be a case where generally somebody has title to the property and you would be giving them just compensation. So...

COUNCILMEMBER COUCH: Okay. Thank you, Chair.

CHAIR COCHRAN: You're welcome, Mr. Couch. Members, any further questions or comments for Department? Okay. I do, Mr. Goode, and the reason for consolidation again of the properties is?

MR. GOODE: There's a few reasons, one is in general I'm a big proponent that we clean up various matters that we have in the Department as far as land ownership goes and this was certainly one example. Another one is that we're gonna cut out a road-widening lot along Vineyard Street, if you kind look at your map there you can kinda see where the parking lot, you know, appears to stick into the road, a bit. So we're gonna clean that up well as we consolidate all the lots, to create the road-widening lot. Another reason is I mean technically and we're gonna go ahead and repave the parking lot and we'd be repaving a portion that we don't own. So that's something we should clean up. And then finally, you know, if and when a parking lot structure ever gets built, it ideally would be on one piece of property rather than a multiple piece of property. So for all those reasons and it's time to press forward and get this done.

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CHAIR COCHRAN: You're welcome.

ITEM NO. 4: BICYCLE AND BICYCLE TOUR SAFETY ON MAUI ROADS
(CC 13-59)

CHAIR COCHRAN: Okay. Moving on to the hot topic of the day; it is IEM-4, and it is the County Communication 13-59, from Council Chair Baisa, referring the matter BICYCLE AND BICYCLE TOUR SAFETY ON MAUI ROADS, and the correspondence dated October 28, 2013, from Director of Public Works, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 5.22, MAUI COUNTY CODE, RELATING TO BICYCLE TOUR BUSINESSES". And the purpose of this proposed bill is to revise the regulations pertaining to bicycle tour businesses by increasing permit requirements, expanding enforcement capabilities, and establishing an appeals process. And with that I guess, Mr. Goode, are you on deck to discuss this one also?

MR. GOODE: Madam Chair, I'm certainly here to provide some, I guess, historical context as to the bike study that our Department was tasked with. But I think pursuant to the last meeting seemed like most of the issues had to do with the Finance Department and the Police Department. 'Cause we, we're not listed as a Department that would be regulating this.

CHAIR COCHRAN: Okay. We do, it looks like Mr. Lito in the gallery and also Mr. Walker here, too. But I believe at the last meeting, Mr. Hopper, you had requested that perhaps we need to go into executive session to discuss some concerns Department may have concerning this bill.

MR. GOODE: Yes, Madam Chair. We would request a brief executive session when the time is appropriate. You can certainly discuss any aspects of the bill you'd like. But I, there were some advice that I'd like to provide in executive session regarding several aspects of the bill.

CHAIR COCHRAN: Thank you, Mr. Hopper. So Members, at this time let me put it towards the body to ask are you folks wanting to go into executive session, seems like quite briefly in order to address what Mr. Hopper would like and then we can come back to open session for our main discussion? Members, no objections?

COUNCIL MEMBERS: No objections.

CHAIR COCHRAN: Okay. So at this time then I shall entertain a motion to enter into executive session pursuant to Section 92-5(a)(4), Hawaii Revised Statutes, to consult with legal counsel on questions and issues pertaining to powers, duties, privileges, immunities, and liabilities of the County, the Council, and the Committee.

VICE-CHAIR CRIVELLO: So moved, Chair.

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substantive changes. Most of the revisions adhere to the Legislative Drafting standards, and some of the major changes, let me just bullet point these out that have been incorporated. Eliminating the range of penalties to make it easier for Finance Director to administer. Cleaning up the definition Section and terms used throughout the ordinance such as bicycle tour business and bicycle tour, and Mr. Hopper, you know, at the appropriate times you may, you're gonna vet through all this and return back to us. Expanding the requirement to identify vehicles to include the permit expiration date and to have trailers identified as well. Also minor restructuring of the, minor restructuring of the provisions of the, in the chapter and I do have a highlighted version on my behalf if everyone, if anyone would like, you know, point by point be explained; otherwise, like I said, this isn't the final, end-all copy so we can forgo that portion and have Corporation Counsel vet through, dissect, and divide it as he would like. But at this point we do have, looks like Police Department here, DMV, and Finance here. If we have any questions that we might want to get through today with them at this point at least, you know, hear some further comments until we can bring this back up on the table to, you know, work down into the nitty-gritties of everything. So I would personally like to get Police down. Because I think the enforcement portion of this bill is very, very, it's a difficult part of this whole thing. And I think that's why we kinda at a standstill and a stalemate is because we definitely all have the intention and in mind to make it safe and, you know, welfare of the community but for business and residents alike, visitors and everyone included. But, in the meantime, who is gonna be there to enforce these rules, regulations, policies, whatever it is that this body comes up with to try and address that and to standardize, to make it, everyone on the same page and following the same guidelines and all that kind of stuff so... if, Members, if you don't mind if I may ask Police Department to come and join us on the floor, to sort of address any type of questions we might have in reference to enforcement. Aloha, thank you, Officer, please identify yourself and thank you for joining us.

MR. HANKINS: Good afternoon, I'm Sergeant Hankins, with the traffic section.

CHAIR COCHRAN: Thank you, Mr. Hankins, Officer Hankins. And so, yeah Mr. Hankins, I guess you might have had the opportunity to look through this or follow along. I know Lieutenant Uedoi has been with us on many occasions, and last I heard his concerns are in regards as we discussed briefly to this is a State highway and we are County, you enforce County laws and thereby, therein lies I guess the difficulty on this issue. And so I'm just, and last it was mentioned that there weren't gonna be enough resources in order to have enough enforcement out there to be the eyes and ears on the ground, I guess so to speak, to enforce whatever policies and laws we put into place, up in the Crater area and what have you. So just wondering if you had any comments if, you know, we are to have you folks as enforcement agency to do it, and what type of resources would you need additionally in order to accomplish that?

MR. HANKINS: Well, looking at this, the revisions here that I can see--I haven't had a chance to really go over everything--I can tell you now that this is not a priority for the Police Department. We don't have the resources to maintain when a bike tour would be able to leave within ten minutes of each other. We don't have the resources to do those things. This law doesn't fall under the

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protection of property and life which is more important to us. So if we were to be tasked with enforcing this, this would definitely fall under the realm of a lower priority for the Police Department to enforce. You're basically gonna to be taking beat officers away from traffic enforcement and handling calls for service to go do business checks. And this is all under the business realm, to see if this business is permitted and see if they have their documents, and all of these things. This is not something that we would wanna task the patrol officers or any of the officers with being responsible for as a priority.

CHAIR COCHRAN: Okay. And alright well, I understand property and life and I think a lot of people feel that there can be life, you know, life threatening situations in regards to whatever improper, improper whatever, you know, complying with the laws. I mean just actual roadway laws and what have you, so I think Mr. Guzman mentioned that perhaps in traffic Codes to address that to incorporate some of the things that are in this ordinance to try and make it to where it would be part of the Police enforcement type Codes and so I mean again this is up for discussion. But you know I understand your comments, and I guess at this point I'll turn the floor over to the Members if they have any further questioning or comments to your comments. Officer, thank you for being here. Members, any comments or questions for our officer here on the floor today? Yes, Chair Baisa?

COUNCILMEMBER BAISA: Thank you very much Chair, and again I apologize I haven't been able to attend all of these meetings, but, you know, I been with this ordinance for a long, long time, and the whole situation, and I understand the Police concern about time and manpower. It seems though in listening to the testimony earlier and what we been discussing this is a seven-mile stretch of road in an isolated area, it isn't, you know, all over the island. It's very targeted and it seems that the biggest problems are at just certain times of the day. It isn't like somebody has to be there all the time. But I think that an occasional Police presence, you know, I don't know about anybody else but if you wanna be honest when you see a Police car what do you do?

CHAIR COCHRAN: Slow down.

COUNCILMEMBER BAISA: Your foot automatically goes to the brake and your eyes go to the mileage, and to see, oh my god, am I going faster than I'm supposed to. It's kind of an automatic thing and I understand that nobody can, you know, station a police officer to be monitoring this all the time. But I think an occasional presence would be helpful and having the laws would be helpful. As it is now we don't have the enforcement because we don't have the policies and the rules. But if we do we have them. So I mean, I certainly don't wanna put, you know, a lot of stress on the Police Department but I don't know how else we do this thing. We've been talking about it for years, and years, and years, and what I'm afraid of is, if this goes on unregulated, one of these days there will be a major accident and there will be a big disaster, because people get upset and they follow these along for a while and then they take the chance and they pass and they pass on the wrong place and they pass at speeds they shouldn't be going, and one of these days something's gonna happen. So it is kind of a preventive measure and I know it's not an

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easy one, but I'm just concerned because the people in Kula have been asking for this forever, and forever, and forever, and I just, you know, I represent them and now fortunately I don't have to deal with it a lot because I'm in Pukalani. I'm not at the top of Kimo Drive which was meant I was behind it every single day. But I can understand their frustration that they want something done and so it's a tough one and I don't know, I'm not very wise, but I certainly know that I think we need to do something even if it isn't perfect and even if we don't catch everybody who's doing everything. Maybe you catch one or two and it will be enough to make everybody else act with courtesy, and that was what was mentioned earlier by the testifier. A lot of this could be solved by people just being courteous and I think that's all it takes. Thank you and I wanna thank you for continuing to stay with this, it's really, really important Chair and I hope that we can bring it to some kind of resolution, 'cause if we don't do it in this term it will probably get kind of sidelined again and it's not a good thing. Thank you.

CHAIR COCHRAN: Yeah, thank you, you know, thank you, Ms. Baisa, and you too for persevering and sticking it out, and I too have the same intent to, you know, we wanna eventually put something through and it will be a work in progress, but we need to do something to address it and then, you know, improve upon what we implement, so. Mr. Couch?

COUNCILMEMBER COUCH: Thank you, Madam Chair, and thank you, Sergeant, for being here. Question I have is, you know, you guys...it's my understanding you guys enforce the, some other permitted activities like food trucks. That's kind of the same Department that has permits. At least the guys down in Makena have been doing that. But like you say, it's a lower priority only when they have some time. Would a, something like a community police officer, would that be something that they could potentially do as part of their beat if there was an assigned community police officer up there?

MR. HANKINS: I know exactly what you're referring to and this all started back in Kihei back when they had the food trucks and all the stuff with the ocean activities going on. And at that time they had the community police officer, Alan Brown was down there and he worked on that program and he got things set up. As far as the Police going out and actively checking on permits for food vending trucks, that's not something that's regularly done as part of these officers' duties, there so busy running from place to place. As far as whether that would be something the community police officer could do, I think a community police officer could work with these bike tour companies and work with the Council representatives and work with the citizens up there to try and come find some kind of common ground. Our biggest concern is we don't want to be tasked with going out and checking permits for all of these complaints, that's something that we just do not have the resources for. With regard to what Chair, Member Baisa said, yeah, she's absolutely right, a police presence can make a difference up there provided we can get an officer up in that area just to drive by or keep an eye on things. If there's people doing things up there that are illegal or dangerous they're gonna get stopped, we have every right to stop them, ask for license, you know, write reckless driving citations, whatever the case may be. We can enforce the laws that are on the books for that. But to go up and just start stopping bicycle tours or maintaining

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when they're on time, you know, it, we just can't do that. We just do not have the resources available to do something like that.

COUNCILMEMBER COUCH: Okay. Yeah and I'm sure that that probably isn't gonna be expected, but you never know who might be calling you and saying that if that came up. If these laws were in, if we, you know, adopted this ordinance that gives you another tool in your belt per se is if you're up there and happen to see something that, then you can...

MR. HANKINS: It's kinda like a secondary violation and I know exactly what you're talking about. If I stop somebody for speeding and they don't have their license on them but they have a license the secondary violation could be no license on person. So if we have a violation of one of the tour companies or, and there's, you know, a legitimate reason to stop these folks on, with enough probable cause and they don't have their permits and they don't have these things then, yes, that's something an Officer could cite for.

COUNCILMEMBER COUCH: Okay. That may be all that we're asking for at this point. And I understand your concern about where it might lead to, so I think we can keep that very much top of mind to see what we can do to not put a burden on them, as well. Besides you can also do a, the Department can also enforce if somebody complains and says hey these guys are doing this regularly and they send somebody to take a look. Then they can pull the permit, right, that I think that's one of the penalties that they can actually pull the permit so it's not only the Police Department that would have to be able to do that I would think. Thank you.

CHAIR COCHRAN: Thank you, Mr. Couch. Members, any further questions for Officer?

COUNCILMEMBER COUCH: Sergeant.

CHAIR COCHRAN: Sergeant. So, Sergeant I guess what Mr. Couch mentioned about a community officer. What did you say citizens? Would that be like an outsourcing contracting of a person or is that something different? 'Cause I'm...

COUNCILMEMBER COUCH: That's a community police officer.

CHAIR COCHRAN: Community...

COUNCILMEMBER COUCH: The actual police...

CHAIR COCHRAN: but that's an actual police officer...oh, okay. So is that ever done, I mean could that be a type of venue where like you said you just don't have enough resource as in people. Could there be a community, or I don't know an outsourcing of sorts for a person to regulate or...be enforcement?

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MR. HANKINS: I honestly couldn't tell you what the responsibilities are of the community police officers. They're scattered throughout the island there's, you know, there's one in Kula, there's couple in Kihei, there's, they're all over. What exactly their responsibilities and roles are in working with the community I wouldn't be able to tell you. But to throw that upon them I wouldn't be able to give you an answer as yes, they could or couldn't do it. I know in the past getting back to what Mr. Couch said, when we had the ocean activities, we had such a problem down in Kihei, with the Parks that they needed to do something and they started by using the community police officer to get the ball rolling. It became such a problem that we couldn't enforce it, because one entity was complaining against the next entity and the next entity was...it became such a competitive thing with these companies it turned into a nightmare. That's why now part of the reason you have the Parks enforcement out there, that's what the Parks folks do. The park rangers, they monitor those permits and things, we no longer handle that on a regular basis. It's in the books, yeah we can enforce it, but it's not something that the citizen patrol officers go out and do regularly. If that's something that they wanted to do, the community can talk to that police officer and express what concerns they have, and they can up with some ways to work, you know, to resolve the issues that are up there. Especially if, like Council Baisa is saying, if it's a specific time, then maybe they can get the community police officer up there every now and then at a certain time. But I wouldn't be at liberty to tell you, yes, that's something that can or couldn't be done. I just don't have that information.

CHAIR COCHRAN: Right. Well, thank you, Officer, I was just trying to get ideas of what could possibly, I mean I know you're not the say-all for them in particular, but just trying to figure out. Because, you know, when this body passes an ordinance, it is in the Charter that your Department is the enforcement arm of the ordinances regardless of what it is and what it says. And but of course we're working out the kinks and details to make it workable, and we don't wanna overburden anybody by any means, but in the end it is the sole duty of enforcement to enforce these ordinances. So we are trying to figure out ways to make that happen, and as I mentioned Mr. Uedoi said that you folks are lacking in staff and operational resources. So I'm here asking, how much staff if needed. And I'm sure you haven't vetted through the numbers and things, you know, budget amounts and what have you, but I think it's a question that I would like to get answered in reference to...this becomes an ordinance and it is your Charter duty to enforce, then how are we gonna make it happen? You know, and I don't think it's anything impossible. I think it's something, yeah, like you state, it's not gonna be of a high, high priority list, but I think for some people who have to travel and traverse this road every day it's pretty high priority for them. And, you know, these are the people that Ms. Baisa represents, that we all represent, and I'd like to make sure--and the businesses alike--I wanna make sure that it's something that's, you know, profitable and successful and fun for visitors but yet definitely, above all else, health and safety and well-being of this community. And so, you know, just trying to figure out what it is the Department may need to enforce an ordinance like this. And, you know, I'd like to work together because again I think we need to start somewhere, and so hopefully we can implement some workable solutions. But I kinda want Mr. Guzman to chime

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in in regards to--I know you didn't want to but I'm gonna make you, I'm the Chair--to chime in as our legal-beagle-minded person on the Council.

COUNCILMEMBER GUZMAN: But you have Corporation Counsel here.

CHAIR COCHRAN: No but I mean not in reference to that but just as, you know, I just would like your mana`o as in what perspective you have, and it doesn't, I'm not saying give us legal advice, I'm just saying be a Council member and...

COUNCILMEMBER GUZMAN: Yeah well, I mean I agree with Council Chair Baisa, in terms of if we don't have the regulations in place then it's actually an unsafe situation that we're dealing with. So I think it is a balancing of interests that we have to decide as a policymaking body what is more important: the safety and welfare of our citizens versus maybe regulatory issues that we spoke about in executive session. I believe, as representatives of our County, we owe a duty to our citizens to look at the public welfare and the safety. So if it has to do with okay well, we're gonna put a little bit more burden on our Police Department or any other Department, well that's what our jobs are. That's what we do, that's what we're here to do, as a government body, as government employees, is to look after the safety of our citizens. It may not be the top priority in some circumstances, but at least there are rules and regulations that are on the books, that will be placed on the books. So I know that everybody doesn't follow the laws all the time, but at least there are laws and that people are aware of those laws. There could be a very good educational campaign that could be provided subsequently after passing this. An educational campaign for all tourists, tourism based out of the hotels, this is how we run our tours here in Maui, and these are the...maybe the bureau of tourism could help promote some of those brochures. As long as there's a legitimate purpose to print out those brochures, and there wouldn't be a legitimate purpose unless we have laws on the books. And if you just look at it at the social policy of it, this is what will trigger the expansion of those educational programs, you know, the awareness to the people. Without regulations you won't have any legitimate purpose to do those things, and that's where I stand, thanks, Chair.

CHAIR COCHRAN: Thank you. Thank you, Mr. Guzman. Okay Members any further need for questions or comments from Police Department? Okay. Thank you, thank you, Sergeant, for being here and we shall definitely talk again.

MR. HANKINS: Okay.

CHAIR COCHRAN: And I do...if Mr. Walker doesn't mind. We have Mr. Mark Walker from Finance here. Just had a question for him and if any of the Members have some questions, too. Aloha, Mr. Walker.

MR. WALKER: Madam Chair, Members.

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CHAIR COCHRAN: Thank you for being here. And so the one thing and maybe this goes to both yourself and Corporation Counsel, it's in regards to application fees...or would that be Mr. Lito? I don't know. Is there a dollar amount like a maximum, minimum, maximum-type figure that can apply to this type of permits? Like what can we, as a body, do...how do we determine that, where does it come from, and how do we figure that one out?

MR. HOPPER: Well, Madam Chair, a fee would have to be, by law, before it becomes an unlawful tax, would have to essentially be to reimburse the County for the cost to process the permit, generally. So that's what...in your annual budget when the Council passes its fees, it would generally be based on staff time to process the fees and other administrative costs related to the processing of that permit. And I think the Planning Department, for example, did a whole fee study over all of the different types of fees and cost they incur and suggested a new fee structure for their Department, and something like that would be kind of the most direct way of looking at how much...what the maximum amount of the fee could be. And then the I think Department has a lower percentage than a 100 percent cost recovery in those cases; so it could cost the Department X but it will charge Y which is maybe only 20 percent of the amount broken down by the time it takes for staff to process the permit. So that's the theoretical maximum. How much that's in the budget currently for the fees, I'm not sure, maybe Mr. Walker would know that; but there should be an amount set forth in the annual budget for the permit fees.

CHAIR COCHRAN: Thank you. Did you have any follow-up, Mr. Walker?

MR. WALKER: I concur with what he said.

CHAIR COCHRAN: Okay. So I guess my follow-up question to the cost to processing fees. What about the cost of enforcement? Can we add in the cost of enforcement to that?

MR. WALKER: I mean we haven't done a study. I was outside with the Administrator of DMV, and I said well what, you know, what would the manpower requirements be? And he did a little bit of math in his head and counted some fingers and he thinks he would probably need five people. I mean when you have vacations...well depending what everybody...what you require. What do you mean by enforcement, is enforcement someone's on the job all the time? You have vacations, you have holidays, you have sick. Anyway, that was his off-the-cuff number of...and again what does enforcement mean, and what...you know, again we're not...we're an Administrative body, we're not set up to enforce. So, you know, again that's an off-the-cuff number we could...if we had to come back with something, I would ask that we be allowed to prepare something more formal.

CHAIR COCHRAN: Okay. So wait, you said, so five bodies is that what you're saying that, like five salaries worth is that what...

MR. WALKER: I think he said, five bodies.

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CHAIR COCHRAN: Okay so then that would be in relation to what would the salary be per person and on and on the number goes. So that would be a really hefty permit fee.

MR. WALKER: Oh, you mean as a permit fee? I thought...

CHAIR COCHRAN: Yeah. I'm trying to figure out the...so Mr. Hopper mentioned that we can charge the cost of processing the fee, the processing I mean the fee would be the amount to process the permit.

MR. WALKER: Right, right.

CHAIR COCHRAN: So then my follow-up question was, can we throw in what it costs for enforcement into that fee?

MR. WALKER: I see.

CHAIR COCHRAN: So I'm like, yeah that was my follow-up question.

MR. WALKER: I would defer to...

CHAIR COCHRAN: And I think right now it's at a 100 bucks.

MR. HOPPER: Yeah, Madam Chair, I'm not sure. I'd wanna look at the numbers we're talking about here, and I'm not sure of the Hawaii case law on allowing for enforcement as part of the fees. But, generally, if we're gonna look at becoming close to the maximum amount of cost recovery, we would generally want to see some type of a study or some numbers that go into how much it actually costs the Department to process the fees. I mean if it's a \$100, I think that it's safe to say that through staff time to review compliance with the permits it's gonna be at least that. But if we're talking about a higher number, generally, that's something the Department will need to be confident in saying, yeah, it's costing us at least this much to process. Adding in enforcement costs, I'd note that I don't know how much enforcement Department of Finance would actually be doing if the Police Department's gonna be doing the actual on-the-road enforcement unless Finance has a specific budget that it has for enforcement of this and other permits. I'm also not sure if enforcement is factored in to other permit costs. I'm not sure if the Planning Department's study had that factored in. I mean that would be an interesting thing to look at, but I don't think that is currently factored in to most of the County fees that it charges. And I'm unaware of...I think, in most cases, County fees are well below 100 percent cost recovery, meaning that most fees don't actually fully reimburse the Department to...for the cost of actually processing the fees. So if we're gonna go near a 100 percent cost recovery, we'd wanna be clear that that's a supportable number based on either some type of a study or at least departmental data that would show what the actual cost is.

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CHAIR COCHRAN: Thank you, Mr. Hopper. Members, any further discussion, questions, comments for departments that we have here? Okay well seeing none, as I mentioned earlier, no decision making will be done today, and without objections...

COUNCILMEMBER COUCH: Madam Chair?

CHAIR COCHRAN: Yeah, Mr. Couch?

COUNCILMEMBER COUCH: That's the question I had, was for you, is any chance that why not just pass it out and prior to first reading, that it's checked for form and legality if you think it's pretty close already?

CHAIR COCHRAN: Yeah, Mr. Couch, that is kind of one of the things because it was just put onto the floor today and Corporation Counsel has not literally had a chance to look through it, I would be probably more comfortable to have them have it for some time --

COUNCILMEMBER COUCH: Okay.

CHAIR COCHRAN: --to get at least a once, you know, a look over, and then we vote, you know, to pass it out or not. So at this point, yeah, I'd much rather just go that route, clean it up, have them vet through, and then we come back. And I think we're almost there; we're at the point where no, it's not in its perfect, perfect final, final form, but it definitely is a start. I think a little more than just a start 'cause there's been a lot of discussion. And I know the company that's here today has concerns in regards to not everyone being brought to the table, but I do recall all the other meetings, we've had quite a few other companies show up and share their mana`o with us too. And so we've had a pretty broad spectrum, I think, of people from the community, from the Associations, from personal residents and what have you. So with that, Members, without objections, this item shall be deferred.

COUNCIL MEMBERS: No objections.

COUNCIL MEMBERS VOICED NO OBJECTIONS. (EC, RC, DC, DG)

ACTION: DEFER pending further discussion.

CHAIR COCHRAN: Thank you, so ordered and I shall put it on our next IEM when...as soon as possible. So we shall definitely get this done, Ms. Baisa, during our terms. With that, Members, no other business on the agenda, we are now adjourned. ... (*gavel*) ...

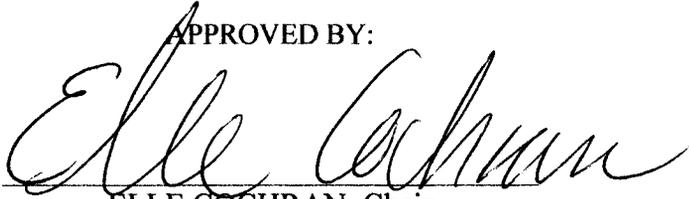
ADJOURN: 3:31 p.m.

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APPROVED BY:

A handwritten signature in cursive script, reading "Elle Cochran". The signature is written in black ink and is positioned above a horizontal line.

ELLE COCHRAN, Chair
Infrastructure and Environmental
Management Committee

iem:min:140929:jp

Transcribed by: Jean Pokipala

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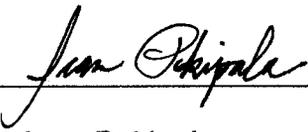
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CERTIFICATE

I, Jean Pokipala, 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 17th day of October, 2014, in Wailuku, Hawaii



Jean Pokipala