

# POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE

Council of the County of Maui

## MINUTES

September 29, 2014

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

**CONVENE:** 9:05 a.m.

**PRESENT:** Councilmember G. Riki Hokama, Chair  
Councilmember Donald G. Couch, Jr., Vice-Chair  
Councilmember Gladys C. Baisa, Member (In 9:28 a.m.)  
Councilmember Robert Carroll, Member  
Councilmember Elle Cochran, Member (In 10:57 a.m.)  
Councilmember Stacy Crivello, Member  
Councilmember Don S. Guzman, Member (In 9:12 a.m.; Out 11:53 a.m.)  
Councilmember Michael P. Victorino, Member  
Councilmember Mike White, Member (In 9:08 a.m.)

**STAFF:** Carla Nakata, Legislative Attorney  
Kimberley Willenbrink, Legislative Analyst (Item PIA-3(6))  
Tammy M. Frias, 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)

Seated in the audience:

Jordan Molina, Legislative Analyst

**ADMIN.:** Michael J. Molina, Executive Assistant, Office of the Mayor (Item PIA-2(36))  
Rowena M. Dagdag-Andaya, Deputy Director, Department of Public Works (Item PIA-52)  
Mark R. Walker, Deputy Director, Department of Finance (Items PIA-76, -53, -49)  
Wayne Y. Fujita, Accounting System Administrator, Department of Finance (Item PIA-76)  
David J. Underwood, Deputy Director, Department of Personnel Services (Item PIA-76)  
Jeffrey D. Amaral, Captain, Department of Police (Items PIA-53, -49)  
Michael P. Ratte, Solid Waste Division Chief, Department of Environmental Management (Item PIA-82)  
Michael L. Kehano, Civil Engineer IV, Solid Waste Division, Department of Environmental Management (Item PIA-82)  
Michael J. Hopper, Deputy Corporation Counsel, Department of the Corporation Counsel (Item PIA-52)  
Moana M. Lutey, Deputy Corporation Counsel, Department of the Corporation Counsel (Item PIA-82)  
Jeffrey T. Ueoka, Deputy Corporation Counsel, Department of the Corporation Counsel

**OTHERS:** Jeff Stark, Zero Waste Campaign Maui (Item PIA-82)  
Rosemary Robbins (Item PIA-3(6))

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Christy Kajiwara-Gusman, nominee, Maui County Cultural Resources Commission (Item PIA-2(36))

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

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CHAIR HOKAMA: . . .(gavel). . .The Council's Committee on Policy and Intergovernmental Affairs shall come to order. This is our meeting of September 29, 2014. Present this morning is our Vice-Chairman, Mr. Couch.

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

CHAIR HOKAMA: Good morning. And we have Committee members Mr. Carroll.

COUNCILMEMBER CARROLL: Good morning, Chair.

CHAIR HOKAMA: Good morning, sir. Ms. Crivello and Mr. Victorino.

COUNCILMEMBER VICTORINO: Aloha, Chair.

CHAIR HOKAMA: The Chair excuses Members Cochran, Baisa, White, and Guzman. If everyone can turn off your phones, please, and other personal devices, during the Committee meeting, that would be appreciated. We shall take testimony. We provide three minutes to an individual wishing to provide comments on any agenda item. We assist you with your time, and when you see the yellow light, you have 30 seconds to conclude, and when the red light, you are to conclude your comments. Address all comments to the Chair, and with that we'll start with Mr. Jeff Stark, who is going to speak to us on Policy Item-82 this morning.

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

MR. STARK: Good morning, Mr. Chairman --

CHAIR HOKAMA: Good morning.

MR. STARK: --and members of the Council. Thank you for voting to initiate the review of the performance of the Solid Waste Division. We think that is an excellent idea. This...it...we think it revolves around the County/Anaergia contract for the waste-to-energy project, and we think it deserves a real close look. I've submitted some testimony so I'll just give you a couple of highlights. The testimony includes two printed reports based as Excel spreadsheets--excuse me--and they are our attempt to try and pinpoint some of the things that are most problematical about this agreement. The first one is titled Presentation Made by Kyle Ginoza on December 2, 2013, and this is an estimate or an analysis of the possible penalties that would be paid under the terms of the agreement as it now stands. The penalties are paid if the County fails to deliver the

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required amount of tonnage to the waste-to-energy facility, and under the current plan, the first seven years would produce a penalty to the County of three million, three-hundred thousand and change. The second spreadsheet shows what the County's liability would be in terms of the, of the tipping fees that the County will now be required to pay to Anaergia as they operate the waste energy plant. And real quick, the bottom line there on the tipping fees over the 20-year period is 144 million. If, if you include in that figure somewhere around \$5 million a year, which I believe is what the Department normally quotes as its annual operating expenses, you can see that we're up to about a quarter of a billion dollars over a 20-year span given current values, and I can't give you whole lot more information on that. My math skills are at their very most challenged point right now, but I can tell you that these spreadsheets were put together by Tom Reed, who's a part of our little gang, and his work is much more authoritative than mine. He, unfortunately, is travelling right now, but I'm sure when he comes home he will be happy to meet with you and discuss all this. There's a lot more that I'd like to say, and I can see that I'm out of time so that I will just end it there. Thank you.

CHAIR HOKAMA: Thank you, Mr. Stark, for your comments and your written submittals. The Chair recognizes Mr. White's presence so thank you for being here.

COUNCILMEMBER WHITE: Good morning, Chair.

CHAIR HOKAMA: Members, questions for Mr. Stark on testimony he has shared with the Committee or on his attachments that he has provided us? Okay. Mr. Stark, thank you very much for your presence this morning.

MR. STARK: Thank you.

CHAIR HOKAMA: We'll ask Rosemary Robbins if you would please come forward and speak to us on your item, Policy-3(6).

MS. ROBBINS: Morning, everybody.

CHAIR HOKAMA: Good morning.

MS .ROBBINS: I was delighted when I read about the submissions that are going in for the State to update, particularly one of its bills and that's the one on obliterating domestic violence. The month of October, in Hawaii, is dedicated to that very purpose so this is very timely. Coming up now, I came in at the end of the week last week and read the bill for the act that's available for anybody to get on the 7<sup>th</sup> Floor. They're wonderful; they give us the books and we get a chance to read it. Particularly, this one is asking that with the, God help us, situation of domestic violence that there be more time for the violated people to be able to get the help that they need, and to be able to have their testifying act together before they would have to go into the second assault on them, and their time, and their sensitivities. So it reads, the purpose of the proposed bill is to give victims of family violence additional time to get help and legal protection before the order for a period of separation expires, and they had to delete some of the stuff that was

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already in that bill, and then add additional, better wording to it. So thank you for those of you who managed to get that together and especially...and let's just keep everybody in our prayers. That would be a wonderful thing to obliterate. So when that bill for the act comes, know that you've got people supporting in you in the community. I certainly heard about that over the weekend. People knowing that I had been involved with Child and Family Services said, did you read it? I said, yeah, I have it; you want to read it? So got it out to the people and they're definitely appreciative of your doing that. Thank you.

CHAIR HOKAMA: Thank you, Ms. Robbins. Any questions for our testifier this morning, Members? The Chair recognizes Mr. Guzman's presence. Thank you for being here.

COUNCILMEMBER GUZMAN: Thank you, Chair.

CHAIR HOKAMA: With no questions for Ms. Robbins, Ms. Robbins, thank you for your comments this morning.

MS. ROBBINS: Welcome.

CHAIR HOKAMA: We'll go to our Hana Office and ask Ms. Lono if there is anyone wishing to provide testimony.

MS. LONO: Good morning, Chair. This is Dawn Lono at the Hana Office, and there is no one waiting to testify.

CHAIR HOKAMA: Thank you. On Lanai, we'll ask Ms. Fernandez if there is anyone wishing to provide testimony.

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

CHAIR HOKAMA: Thank you. And Molokai, we'll ask...

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

CHAIR HOKAMA: I'm glad you didn't wait, Ella. Thank you. So Members, there's no one wishing to provide testimony either in the Chamber or in the District Offices. With no objections, we shall close testimony for today's meeting.

COUNCIL MEMBERS: No objections.

CHAIR HOKAMA: Thank you. So ordered. Thank you, ladies for your assistance this morning.

**...END OF PUBLIC TESTIMONY...**

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**ITEM PIA-2(36): NOMINATIONS TO BOARDS, COMMITTEES, AND COMMISSIONS**  
**(MAUI COUNTY CULTURAL RESOURCES COMMISSION) (CC 13-42)**

CHAIR HOKAMA: May I direct you to Policy Item-2(36) under the heading of Nominations to Boards, Committees, and Commissions. Thirty-six has a subheading of the Maui County Cultural Resources Commission. We are receipt of a Communication dated September 12<sup>th</sup>, from Mayor Arakawa, who is nominating Christy Kajiwar-Gusman for a term expiring March 31, 2015, due to a resignation of a former commission member. This morning we have Ms. Kajiwar-Gusman present so we'll ask her to come forward to the podium and ask her for any comments as she introduces herself to the Committee and community.

MS. KAJIWARA-GUSMAN: Good morning, Chair.

CHAIR HOKAMA: Good morning.

MS. KAJIWARA-GUSMAN: Thank you. Thank you, members of the Council. Most of you know me. My name is Christy Kajiwar-Gusman and I guess I'm just going to do a little brief history about myself. I was born and raised on Kauai, grew up in the small plantation town of Kekaha, and I've spent most of my life in Waimea Valley, working in the taro fields. Upon graduating college in 2003, I moved to Maui and I...my husband and I have a place in Waihee Valley. I became a member of the Waihee Community Association, and started a career in construction as a construction job site inspector. I've worked on various projects throughout Maui County since 2003 where we have encountered such things as grave sites, and heiaus, and all kinds of stuff. In 2008, I became a member of the Board of Directors for our community association where I played a part in preparing our community plan, which was included in the Maui Island Plan, and basically, I'm humbled and honored to be here today to get this appointment to the Committee, and serving our community in any way possible. Thank you.

CHAIR HOKAMA: Okay. Thank you very much. I'll ask the Committee members for questions that they may have for you, but I'll ask Mr. Molina if he has any comments he wishes to share at this time?

MR. MOLINA: Good morning, Chairman. Good morning, Committee members. As Ms. Kajiwar-Gusman mentioned to you, she's currently very involved in her community and also has a background in...as a...currently, she is the Maui manager for Enpro Environmental, which is an indoor air quality company, and she serves as an inspector there, so she has quite an array of experiences that we believe will serve her well and our community well, on the Cultural Resources Commission. And she certainly has a lot of energy, and she's also, if you look on her application, also is involved with the Boy Scouts of America so she does spend a lot of time in the community, but assured us she would be available to attend the once-a-month meetings of the Cultural Resources Commission. So with that being said, Mr. Chairman, the Administration would be very appreciative of your support of Ms. Kajiwar-Gusman. Thank you.

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CHAIR HOKAMA: Okay. Thank you very much. Mr. Couch, questions for the lady?

VICE-CHAIR COUCH: Thank you, Mr. Chair, and thank you, Ms. Gusman for being here. Just...Mr. Molina said that you were willing to put in the monthly...the time necessary for a monthly meeting, but I don't know if he spoke with you about the homework involved before that.

MS. KAJIWARA-GUSMAN: Yes.

VICE-CHAIR COUCH: So you're willing to put in the time and the...

MS. KAJIWARA-GUSMAN: Yes. Definitely, yes.

VICE-CHAIR COUCH: All right. And the other thing would be to say Happy Birthday. Thank you for coming here on your birthday.

MS. KAJIWARA-GUSMAN: Thank you.

CHAIR HOKAMA: Anything else, Mr. Couch? Ms. Crivello?

COUNCILMEMBER CRIVELLO: Thank you, Chair. Thank you for being here.

MS. KAJIWARA-GUSMAN: Thank you.

COUNCILMEMBER CRIVELLO: You mentioned that at present your status of employment is Enpro...

MS. KAJIWARA-GUSMAN: Enpro Environmental, yes.

COUNCILMEMBER CRIVELLO: Can you just kind of explain that.

MS. KAJIWARA-GUSMAN: Enpro Environmental is a company based out of Oahu and what I do is I'm the local manager for the island of Maui. We do inspections, mostly for buildings, interior, specializing in lead, mold, and asbestosis.

COUNCILMEMBER CRIVELLO: Okay.

MS. KAJIWARA-GUSMAN: And so I...my job is to basically go onto the construction sites and oversee, make sure that the contractors are following the laws and such.

COUNCILMEMBER CRIVELLO: Okay. So also...you also graduated with a degree in aquaculture?

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MS. KAJIWARA-GUSMAN: Oh no, I went to school for aquaculture, but my degree is in facilities engineering.

COUNCILMEMBER CRIVELLO: Okay.

MS. KAJIWARA-GUSMAN: Yeah.

COUNCILMEMBER CRIVELLO: So, but you did...

MS. KAJIWARA-GUSMAN: I did a partial, yeah, at UH. I didn't finish.

COUNCILMEMBER CRIVELLO: Okay. So if you were to describe your participation in this Commission, what is your understanding?

MS. KAJIWARA-GUSMAN: I think a lot of it would be based on my personal experiences, not only I am part Hawaiian, and I have attended many trainings and studies through Alu Like, the Kamehameha Schools, and things like that, and then relating that to my personal experience out in the field in the construction industry, and just trying to keep a good balance.

COUNCILMEMBER CRIVELLO: Okay. Well, thank you. Thank you for stepping up.

MS. KAJIWARA-GUSMAN: Thank you.

COUNCILMEMBER CRIVELLO: Thank you.

CHAIR HOKAMA: Mr. Carroll, any questions? Bobby, any questions, Bobby? Okay. Thank you. Mr. Victorino, any questions for the lady?

COUNCILMEMBER VICTORINO: Not so much a question, but a quick comment. I've known Christy for many, many years, and her participation in this community has been stalwart, I mean in many other than what has been mentioned along with our seniors and other programs that she has participated in. So I think she'd be an excellent choice. Her background, her education, and her experiences really bring, what I call, the type of person to the table that we really, truly need. So I wish her nothing but success upon your recommendation, Mr. Chair. We'll look for that. Thank you.

CHAIR HOKAMA: Thank you. Mr. Guzman?

MS. KAJIWARA-GUSMAN: Thank you.

COUNCILMEMBER GUZMAN: Thank you, Chair. Yeah, I've known Christy for the, I think eight years. She also was one of my clients when I was practicing, when I had time to practice. She has, basically, all the qualifications. I believe that she would make a good commissioner. Aside

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from the politics that's going on, you do realize, Christy, that once you become a commissioner you are held to the same standards as --

MS. KAJIWARA-GUSMAN: Oh, yes.

COUNCILMEMBER GUZMAN: --the policy workforce harassment, yeah --

MS. KAJIWARA-GUSMAN: Yes.

COUNCILMEMBER GUZMAN: --you do realize that? Okay. Just to make sure that that's a freedom that some people forget --

MS. KAJIWARA-GUSMAN: Thank you. Yes. Yes.

COUNCILMEMBER GUZMAN: --that when they sign up for government, they become somewhat scrutinized --

MS. KAJIWARA-GUSMAN: Yes.

COUNCILMEMBER GUZMAN: --in the employment policies --

MS. KAJIWARA-GUSMAN: Exactly.

COUNCILMEMBER GUZMAN: --even as a commissioner.

MS. KAJIWARA-GUSMAN: Exactly.

COUNCILMEMBER GUZMAN: So just a fair warning. Thank you.

MS. KAJIWARA-GUSMAN: Thank you.

CHAIR HOKAMA: Okay. Thank you. Mr. White?

COUNCILMEMBER WHITE: I'd just like to say I agree with the comments of my colleagues and I want to thank you for stepping forward, Christy.

MS. KAJIWARA-GUSMAN: Thank you.

COUNCILMEMBER WHITE: Mahalo.

CHAIR HOKAMA: Other questions by the Members? The Chair will ask a few for our nominee. The unique thing about this County is we're made up of multiple islands.

MS. KAJIWARA-GUSMAN: Yeah.

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CHAIR HOKAMA: And like any family that has more than one sibling, you got more than one opinion. So therefore, when it becomes a cultural resource question or policy, and I'll talk about Lanai, that's my home. Ms. Crivello can talk about Molokai, Mr. Carroll can talk about Hana. Are we still part of Maui County? Lanaians like to think we do it the Lanai way; even our kupuna has taught us about the Lanai way, and I can appreciate you coming from Kekaha. It's a special place, too. I understand that place; I have family there. So saying these kind of things to you, Christy, when you have a important decision to make, what does your na`au tell you on how you're going to be guided in making your decision?

MS. KAJIWARA-GUSMAN: Oh, man. I firmly believe in who I am and where I came from, and a lot of the things I do today, in politics or in my community is based on what I was taught by my grandparents. Sorry.

CHAIR HOKAMA: Take your time, take your time, take your time.

MS. KAJIWARA-GUSMAN: So I just...I'm really honored to be here and to be in front of you all today, and especially to have my grandmother here with me from Kauai today, because if it were not for them, I wouldn't be here today. And I truly enjoy what I do, and especially when you talk about Lanai and Molokai, my husband's family is also from Molokai and he has a lot of family there as well, so you know, my decisions, my recommendations on the Committee would mostly be based off of that, because I understand what it is to be born and raised in a small, tight community, and how a community should work so that everybody can get along and, you know, get along, and move forward at the same time.

CHAIR HOKAMA: Uh-huh. Okay, okay. Well, I can say that I am very pleased you are following the footsteps of your grandparents who gave a lot to the community.

MS. KAJIWARA-GUSMAN: Thank you.

CHAIR HOKAMA: Your grandfather was a very, very special man that I got to know. So you are blessed --

MS. KAJIWARA-GUSMAN: Thank you.

CHAIR HOKAMA: --coming from a family that really understands and takes care of one another in a family environment so you had very good teachers --

MS. KAJIWARA-GUSMAN: Yes.

CHAIR HOKAMA: --very good family to help you grow and learn from. Members, any other questions for our nominee? If not, the Chair will entertain a motion to place the name of Christy Kajiwar-Gusman on Exhibit "B" for approval as a recommendation to the Council. Mr. Guzman...Mr. Couch, I'm sorry.



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CHAIR HOKAMA: Members, may I please direct you to Item-52, and this is under the heading of Kapaakea Cemetery and Hoolehua Veterans Cemetery, Island of Molokai. We are receipt of a Communication 12-121, from Mr. Goode, Director of Public Works, relating to the status of acquiring additional land for the Kapaakea Cemetery, and additional niches at the Hoolehua Veterans Cemetery, Molokai, as well as other related documents. This morning we have our Deputy Director, Ms. Dagdag-Andaya, and we would ask her for her opening comments, please, on this item.

MS. DAGDAG-ANDAYA: Thank you, Chair, and good morning, and aloha --

CHAIR HOKAMA: Good morning.

MS. DAGDAG-ANDAYA: --Council members. The item before us was initiated by former Council Chair, Danny Mateo of Molokai, and it involves the status and any updates of the two cemeteries that the Department of Public Works currently maintains on Molokai, and the first one relates to the Molokai Veterans Cemetery located in Hoolehua. For that cemetery, Public Works maintains it similarly to how we maintain the Maui Veterans Cemetery in Makawao and on Lanai. That...the cemetery in Hoolehua, the Veterans Cemetery, I had a recent discussion with one of the chief engineers from Department of Defense, his name is Lieutenant Colonel Neal Mitsuyoshi, and he has been working on the improvements over at Makawao Veterans Cemetery so we've been in dialogue quite a bit. His understanding of the status of the Hoolehua cemetery is that the Office of Veterans Services, they're not concerned, at this time, about the remaining space. They collected data and understand there's about 15 years of space left. The Office also had a recent project at the Molokai Veterans Cemetery. It involved the construction of a columbarium and in your...in the letter that we provided to the Council Chair, we also have a data sheet that shows the number of spaces left, the number of casketed graves that have already been...that we currently maintain, the number of niches available, the amount of spaces left so that's been provided for you as an attachment. The other cemetery in question is one that I know has been a concern for many years, that is the Kapaakea Cemetery, located close to the center of, or near Kaunakakai, and in a recent discussion with our Highways Division staff, our Molokai District supervisor indicated there's about 43 spaces left or about, about 5 years of space remaining. There were some conflicting reports from a previous time that we only had one space left, but there's actually 53, or 43, I'm sorry, remaining. And we had some discussions with Molokai Ranch, our Director David Goode, travelled to Molokai last week and had a discussion with Dathan Bicoy and Clay Rumbaoa about the Maunaloa Cemetery which is one area that they are willing to work with us. I'm not sure what kind of arrangement can be done, but that's something that we can start looking forward to. Another site that we are currently looking into and working with Department of Hawaiian Home Lands is the Homelani Cemetery, and that is about, I believe, 4 or 5 miles away from Kaunakakai. It's pretty central in terms of where the Kapaakea Cemetery is and where the Hoolehua cemetery is, so it's right in the middle, and there's...it's surrounded by Hawaiian Home Lands. The Homelani Cemetery I believe is only available to descendants of Hawaiian ancestry or who live on Hawaiian Homestead land, but again, that's another area that we can look into that's up for consideration. As for the Public...Department of Public Works, I think what we need is some guidance as to how to

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proceed and move forward. We indicated in our letter that questions need to be answered in terms of how much space we need, what kind of facility to provide, and the kind of services that we provide at that cemetery, and then overall, there's a question as to responsibility. In the current, the Maui County Code, there is a section in Chapter 13 about the maintenance of the Veterans cemeteries, but we couldn't find anywhere in the Code about any reference to the maintenance of the public cemeteries whether they're closed cemeteries or currently available for burials. So I think that's one of the discussion items that we need to begin to talk about, whether or not we want to continue maintaining open cemeteries. So that's about what we have so far, Chair, and I'm available for any questions that you have.

CHAIR HOKAMA: First, we thank you for this status update. That was quite well done, Deputy Director, so thank you very much. Maybe you can give us some general understanding first, besides Molokai, are there any other so-called public cemeteries the County maintains in the County?

MS. DAGDAG-ANDAYA: There are, there are in total about seven cemeteries that we maintain, including the Kapaakea Cemetery. I believe there's one in Lahaina that's open for burials and what we do is we just assign the plots. I don't know the exact details as to how many plots are left, but there's that one, and there's about five other cemeteries --

CHAIR HOKAMA: Uh-huh.

MS. DAGDAG-ANDAYA: --on the island of Maui.

CHAIR HOKAMA: Can you tell us how those plots are assigned? Is there a fee to pay the County for the plot?

MS. DAGDAG-ANDAYA: No, Chair, there's no fee. So it's a...there's no revenue being generated from those plots, and we don't have that identified in our budget as well.

CHAIR HOKAMA: So where are you expensing the cost?

MS. DAGDAG-ANDAYA: I'm sorry, Chair?

CHAIR HOKAMA: Where are...where is the Department expensing the cost for these services at current?

MS. DAGDAG-ANDAYA: It's to maintain weed control, any kind of projects, special projects, so say there's a gate that's broken, that's where the expenses are.

CHAIR HOKAMA: Do we dig the hole?

MS. DAGDAG-ANDAYA: No, Chair, we don't dig the hole.

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CHAIR HOKAMA: We just assign the plot?

MS. DAGDAG-ANDAYA: Yes. Yes, Chair.

CHAIR HOKAMA: You have a good...is your Department able to eventually give us information from...regarding the history of these public cemeteries? When it was first being started for use and under what conditions? Was this part of, part of the Veterans program in the past?

MS. DAGDAG-ANDAYA: Well, according to staff, they're not quite sure how the Department of Public Works inherited the maintenance and the upkeep of the cemeteries. One theory is because the Department of Public Works and Environmental Management, at the time, they had the equipment available to maintain it, so that's one reason, but as far as any other history and any connection to the Veterans cemetery, they don't...they're not aware of anything, but we could certainly ask, and maybe go through documents.

CHAIR HOKAMA: Well, I would say maybe if we can work together, Deputy, 'cause I appreciate you asking the Committee for help provide direction and guidance in the future, I think for us maybe some historical information would be helpful on how we got to this point in time, Director, and we can work together to move forward, 'cause it's not something that's an expanding area. I think we want to make this more a community thing than a County thing except for our requirements for veterans that all counties have throughout the country. Comments, Mr. Couch? Any comments?

VICE-CHAIR COUCH: I was just kind of interested in the comments you were making about when you said, who digs the hole, or I mean, do we dig the hole? If we don't dig it, who does, and is it somebody do it for pay on County property? How does that work?

CHAIR HOKAMA: Director?

MS. DAGDAG-ANDAYA: Chair, the current arrangement is that the Department just assigns and marks the plot, and then the family hires someone or they do their own digging. So the plot is measured about 3 feet by 7 feet, and so someone comes in and digs the plot. They have their own ceremony at the site, and that's, basically, how the...how it works.

VICE-CHAIR COUCH: Who follows the...I'm assuming there are State Department of Health requirements with the, with the concrete vault and all that that goes on top --

MS. DAGDAG-ANDAYA: Uh-huh.

VICE-CHAIR COUCH: --is that...is anybody overseeing that or somebody can just dig the hole and...

MS. DAGDAG-ANDAYA: Right. Right now it's just that's how it is. We haven't had any Department of Health issues. It's not regulated by the Department of Health so when we inquired a couple of years ago about if Department of Health had any...or maintained a list of cemeteries or anything,

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they were basically silent on it, but as to date, we haven't had any visits from the Department of Health on this cemetery.

COUNCILMEMBER CRIVELLO: Chair?

VICE-CHAIR COUCH: Okay.

CHAIR HOKAMA: You done, Mr. Couch?

VICE-CHAIR COUCH: Yeah. Thank you.

CHAIR HOKAMA: Ms. Crivello.

COUNCILMEMBER CRIVELLO: Thank you. I'd like to personally, at this time, really thank the Department of Public Works on the oversight, at least with the Kapaakea Cemetery on Molokai. And needless to say that our Public Works supervisor, he was the overseer and everybody else so Department of Health and everything all in one, that's Mr. Arce, who just recently retired. And in the rural areas or country, you know, we all make do, everyone comes together to care for the final celebration for our loved ones. It is my hope that there will be consideration, if it means to bring the community and for my assist to facilitate the dialog. I believe the extension for Kapaakea has been brewing for a long time, and whether you go Kapaakea or Homelani, the challenge is Department of Hawaiian Home Lands. If you'll note, we deal with...we dealt with two commissioners and with the election coming up, we're probably going to have to deal with another commissioner so there may be the need for community to, like Mr. Hokama mentioned, for us to sort of step up to the plate, and I would, as a Molokai resident, I would not consider Maunaloa for open public cemetery. It's just too far out and it's basically been a cemetery for the Maunaloa community instead of the broader community. Homelani may be a consideration because of its central site. However, I think if we plan to be involved with the expansion, there needs to be more heavy dialog with the Department of Hawaiian Home Lands. There's not many other landowners, except perhaps Molokai Ranch, and the possibly, in some section of Kaunakakai when we talk centralization. And when it comes to the Veterans Cemetery, they just recently, I guess, did some improvements, so we're kind of matched with that. It's a challenge we have with the open cemetery, open public cemetery that we have right now for Kapaakea so I would hope that we can continue this dialogue, Chair. We don't have much of a choice on Molokai. I question where they're looking at expanding, I guess, talking with Mr. Arce before his retirement, he was able to designate where it would be, most make sense, with where Kapaakea was looking at, but again, our challenge is, as usual, the Department of Hawaiian Home Lands, and that's a wait-and-see thing before we continue --

CHAIR HOKAMA: Uh-huh.

COUNCILMEMBER CRIVELLO: --the dialogue with the Department. Thank you for bringing this up.

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CHAIR HOKAMA: Okay.

MS. DAGDAG-ANDAYA: Chair?

CHAIR HOKAMA: Yes, Director.

MS. DAGDAG-ANDAYA: I just had one comment. You know, one comment and thank you very much, Council member. If you look on Attachment "A", there's a map there of the Molokai Veterans Cemetery and the location. Next to it, if we're looking right at the 8½ by 11, to the right, there's some open space there, that's actually a DHHL cemetery.

COUNCILMEMBER CRIVELLO: Yes.

MS. DAGDAG-ANDAYA: And so, you know, another consideration that didn't come up in our discussion with Hawaiian, Department of Hawaiian Home Lands was, perhaps, maybe expanding across the street. I don't know what the plans are for any development of the Department of Hawaiian Home Lands or any kind of future development there, but that could be another consideration just to consolidate the area. It could either be for future Veterans Cemetery expansion or also for community expansion, community cemetery expansion. Couple of years ago, Director Goode had mentioned maybe as the Molokai community goes through the community plan process, that might be a good time for the community to come together and start to create dialogue as to determining areas that they'd like to consider for either open space or for cemetery space so that's, that's another thing to consider. I know during the Committee meeting at that time, Council Chair Mateo had indicated, you know, that's kind of a few years away, but that might be an appropriate time to begin discussions or continue discussions.

COUNCILMEMBER CRIVELLO: I appreciate that, Chair, that we would bring that into consideration, and your identification of lands across or abutting the existing cemetery for Hawaiian Homes family, it's already assigned to private leases already with homesteaders when you're talking about across the street from the existing Veterans Cemetery. But I'd be more than willing when I go back home to have a discussion with the project supervisor for the Department of Hawaiian Home Lands and see what we can identify as well as with ranch lands. Thank you.

CHAIR HOKAMA: Good. Thank you very much. Well, Council has already appointed its members to the Molokai Community Advisory Plan. I'm not sure if the Mayor has appointed his 4 appointments, but Council has appointed their 9, our 9, and I would hope the clock is ticking with the Department so I would say timing is perfect on this subject with the community plan process already ongoing. Mr. Carroll, any questions, sir?

COUNCILMEMBER CARROLL: No questions.

CHAIR HOKAMA: Mr. Victorino, questions on this item?

COUNCILMEMBER VICTORINO: No, not at this time. Thank you for the explanation.

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CHAIR HOKAMA: Okay. Mr. Guzman?

COUNCILMEMBER GUZMAN: Nothing further. Thank you.

CHAIR HOKAMA: Mr. White?

COUNCILMEMBER WHITE: Nothing further.

CHAIR HOKAMA: Ms. Baisa?

COUNCILMEMBER BAISA: Nothing further, but I am happy to see that the timing with the Molokai Community Plan might work, and I would urge everybody to get those members appointed so that we can get going. You know, I'm so concerned about these community plans that are taking forever, and Chair, I'd like to apologize for being late. I had some administrative work I had to do.

CHAIR HOKAMA: No apologies, we understand your --

COUNCILMEMBER BAISA: I know you understand.

CHAIR HOKAMA: --responsibilities.

COUNCILMEMBER BAISA: Thank you.

CHAIR HOKAMA: Thanks for being here. Anything else you might want to share, Ms., Deputy?

MS. DAGDAG-ANDAYA: You know, just on a personal note, I do have relatives that are buried at Kapaakea Cemetery, and when I look at the existing conditions I know my Department works really hard, you know, to try to maintain the cemetery, but it's just dirt, and there is water available, but we don't have a big budget for maintaining the cemetery, and we try as much as we can, but you know, in moving forward I would really hope that someday we do, you know, take...I mean, if we're able to provide grass or be able to provide more water up there, and make it a nice place, a nice resting place for our ancestors and our family members. I would really like the Council to consider that in the future as well.

CHAIR HOKAMA: Okay. Thank you for that. Members, any further questions on this update that the Deputy was very good in presenting us the attachments as well as her report? If not, I, the Chair would recommend deferral. I think this is an ongoing thing that we'd like to help Ms. Crivello get squared away for Molokai. So any objections to deferral, Members?

COUNCIL MEMBERS: No objections.

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

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CHAIR HOKAMA: Thank you. We'll defer Item-52. So thank you very much for being here this morning, Deputy.

**ACTION: DEFER pending further discussion.**

**ITEM PIA-76: INTERGOVERNMENTAL AGREEMENT WITH STATE OF HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND FOR A CONFIDENTIALITY AGREEMENT TO CONTINUE TO RECEIVE MONTHLY REPORTS (CC 14-163)**

CHAIR HOKAMA: Now we're going to head off to a series of intergovernmental agreements. First will be Policy Item-76, Members. This is in regards to a Communication 14-163, from the Director of Finance, a proposed bill entitled "A Bill for an Ordinance Authorizing the Mayor of the County of Maui to Enter into Intergovernmental Agreement with the Hawaii Employer-Union Health Benefits Trust Fund, State of Hawaii". And this morning we'll ask Mr. Ueoka if he has some opening comments he wishes to share with the Committee on this matter?

MR. UEOKA: Thank you, Mr. Chair. I did recommend to the Department of Finance that this meets the requirements under Chapter 2.20 as creating a financial obligation on behalf of the County due to the requirements, the reporting requirements and the various matters taken up by this agreement with the State. I am not completely familiar with exactly what the necessity of the information provided is, but I think the Department of Finance could better help you there, but as far as it being an intergovernmental agreement, I recommended that they send an ordinance up to Council for approval before entering the agreement. Thank you.

CHAIR HOKAMA: Okay. I know we have people from Finance here. Regarding this EUTF fund, we noticed on our last attachment that's part of communication dated September 11<sup>th</sup>, Mr. Ueoka, that Mr. Hiromoto, from the Department of Personnel has executed, we have a Mr. Murai, a Deputy of your Department that has executed signatures, tell the Committee what this means if anything.

MR. UEOKA: I was not aware of the...I didn't review anything for the Department of Personnel Services. I'm...it appears to be a very similar agreement. I'm unaware of the difference of advice, I guess I should say.

CHAIR HOKAMA: Uh-huh. So you're unaware of...you know, the Chair's understanding was the Departments were coming to get Council approval to enter into an agreement. They already have signatures that, from our side, seems a willingness to enter into agreement without Council approval, so we're just trying to understand why this document is then. Is this considered an executed document without Council approval? And if it is, under whose authority was it

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executed because then the Chair will consider this an invalid document. And I'm happy to bring up the appropriate parties to answer the questions of the Council.

MR. UEOKA: At this time the agreement I see in front of me, it's signed by the County, but it doesn't appear to be executed by the State as of August 14<sup>th</sup>. Again, I was unaware of this agreement with Personnel Services with EUTF.

CHAIR HOKAMA: I'll ask our Deputy Director of Finance if maybe he can...do you have a comment you could maybe help us understand the situation?

MR. WALKER: Thank you, Chair, Committee members. My basic understanding was that we were sending this up because there were financial ramifications. However, DPS signed the...my understanding was the same agreement, but theirs did not have any financial ramifications, but I would defer, obviously, to the DPS representative to explain their side of it, but that was my understanding why this body did not review that when it was sent up to DPS.

CHAIR HOKAMA: Uh-huh. Well...

MR. WALKER: And again, just...and then we, in a follow-up with the State, we confirmed that they did have the agreement and then, and as you know, in our response to your request they said that that's all the County needed to do so, which is sort of why we wanted to withdraw our request, I guess, for review. Thank you.

CHAIR HOKAMA: Uh-huh. While we have Mr. Underwood present so if you wouldn't mind, join us, sir, we would appreciate it. Okay, Members, for those of you, Mr. Underwood is our Deputy at the Department of Personnel Services. He works for Mr. Hiromoto so I'll ask Mr. Underwood if he has some comments he can bring some light to us our understanding of this matter?

MR. UNDERWOOD: Thank you, Mr. Chair. I'll do what I can. I wasn't...I'm not too familiar with it, but I'll let you know what I do know. We were originally approached by the EUTF in the context of reporting for the Affordable Care Act which kicks in 2016. The reason they approached us now is 'cause they need to program their computers now in order to enable the reporting next year or in January 2016, and they had indicated they would not do so without us signing this confidentiality agreement. We looked at it; it did not look like it was anything that we would not do anyway with confidential information. I believe it was passed through Corporation Counsel, I apologize, I don't know which counsel advised us on it. So we had indicated yeah, go ahead with the programming, we would, we need the information to do the reporting. When the...subsequent to this we met with the EUTF last week who indicated to us that they've chosen a different method. They're going to have their carriers report directly to the IRS so we're not going to receive this information, so based on that we did inform them to...we're not proceeding with the agreement and to rescind it.

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CHAIR HOKAMA: Okay. So this proposal is pretty much being withdrawn from all the counties? Is that a good understanding of our part? All the counties are being withdrawn of the State's request?

MR. UNDERWOOD: As far as the reporting requirements for the Affordable Care Act is concerned, yes. That's a very narrow, narrow usage of that information, but that was the only usage we had for the information so, in that aspect, we do not need the confidentiality agreement anymore.

CHAIR HOKAMA: Okay. Interesting. Mr. Couch, questions? Ms. Baisa, any questions?

COUNCILMEMBER BAISA: No, thank you.

CHAIR HOKAMA: Mr. White?

COUNCILMEMBER WHITE: No.

CHAIR HOKAMA: Mr. Guzman? Mr. Victorino?

COUNCILMEMBER VICTORINO: Not at this time.

CHAIR HOKAMA: Mr. Carroll? Ms. Crivello?

COUNCILMEMBER CRIVELLO: Not at this time.

CHAIR HOKAMA: I can appreciate the request to pull this back, but I think for people like Mr. Ueoka and Mr. Murai, this always puts you guys in a situation of trying to opine something that's you guys tend to not bat so good, so when you come before us, you know, we end up with this continuing discussion of what is should be before us or what shouldn't be before this Committee. I think that's one of the things from this item, I'm going to ask the Staff is to prepare a PAF to adjust the Code, Section 2.20, which is under Intergovernmental Agreements, and adjust the Code where *all* intergovernmental agreements, regardless of financial obligation or not, shall come to the Council for review and approval. Okay, this is a very narrow request. This is only about the agreement, confidential agreement regarding the HIPAA components of the EUTF funds so, Mr. Ueoka, so you would agree with the two Departments' request to withdraw this item which more than likely is a filing action that this Committee would recommend to Council. Is that what the Departments is asking the Committee, Mr. Ueoka?

MR. UEOKA: Not...I think Personnel Services has a different arrangement now with the EUTF, but I think the Department of Finance still needs this confidentiality agreement, that's their understanding with the EUTF, as of right now, but I think they would need to follow up with EUTF to find out if a different arrangement can be reached. Oh no, you guys need this? Oh, Finance still is going to need this confidentiality agreement.

CHAIR HOKAMA: But Personnel doesn't.

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MR. UEOKA: That's my understanding.

CHAIR HOKAMA: So how many agreements will there be for this one item?

MR. UEOKA: With the EUTF and the Department of Finance, just this one for now, I guess. If anything else comes up we'll, again, we'll review it. When it was sent up to me for review, I looked at it and I felt it did create a financial obligation so I recommended the transmittal with the ordinance to the Council.

CHAIR HOKAMA: Mr. White, questions?

COUNCILMEMBER WHITE: No.

CHAIR HOKAMA: Okay. Ms. Baisa, any concerns from your perspective?

COUNCILMEMBER BAISA: Not at this time. Thanks.

CHAIR HOKAMA: Okay. Mr. Guzman?

COUNCILMEMBER GUZMAN: Not at this time. Thank you, Chair.

VICE-CHAIR COUCH: Mr. Chair?

CHAIR HOKAMA: Yes, Mr. Couch.

VICE-CHAIR COUCH: Something that Mr. Ueoka just said sparked a question in me. It's...in the latest, as you mentioned, in the latest transmittal from the Department of Finance it says they asked us to defer this action until it can be confirmed with the EUTF that they have obtained formal approval, et cetera. So are we still...do they still want us to defer it or it sounds like they're wanting us --

CHAIR HOKAMA: Well, there's questions that --

VICE-CHAIR COUCH: --not to defer it?

CHAIR HOKAMA: --there's still question that we have forwarded that hasn't...we haven't gotten a --

VICE-CHAIR COUCH: Right.

CHAIR HOKAMA: --adequate response yet so I'm willing to give them time to work with the State agencies to kind of get this squared away for us.

VICE-CHAIR COUCH: Okay. All right. Thank you.

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CHAIR HOKAMA: So I'm...my gut is to defer this matter, Members, and let them deal with AG and whoever else, 'cause I don't think the State knows what they want to do either, unfortunately, so that makes it hard for our departments to do what they need to do, but I am going to move that proposal forward, Members. I'm going to adjust the Code where every agreement comes before us. I'm tired of this bantering what qualifies or doesn't qualify to come before Council. We'll make it easy; everything comes before Council. Okay. Any other comments for the Chair on this item? If not, no objections, this item is deferred.

COUNCIL MEMBERS: No objections.

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

CHAIR HOKAMA: Okay. This item is deferred.

**ACTION: DEFER pending further discussion.**

**ITEM PIA-53: MEMORANDUM OF AGREEMENT TO SHARE 700-MHZ PUBLIC SAFETY BAND IN PU`U MAHOE, MAUI** (CC 13-348)

CHAIR HOKAMA: Let me please take you to 53, Item-53, Memorandum of Agreement to Share 700-MHz Public Safety Band in Pu`u Mahoe, Maui. This is in regards to a Communication 13-348, from the Chief of Police, where he has transmitted information, a Memorandum of Agreement between the County of Maui and the State of Hawaii, Department of Accounting/General Services, or DAGS, Office of Information Management and Technology and to share 12-channel pairs of the State's assigned channel in the 700-MHz State Pool for public safety trunked radio repeater operations. Today, we have our Captain Amaral, who is our very experienced senior member, from the Department as it regards to our radio system so I'll ask the Captain for his comments, please.

MR. AMARAL: Good morning, Chair and Members.

CHAIR HOKAMA: Good morning.

MR. AMARAL: Yeah, this is for a 700-MHz agreement that was necessary. The State of Hawaii maintains the entire spectrum of 700-MHz channels so we cannot go to the FCC and apply for these channels ourselves; we have to go through the State. Our new radio system comprises of some channels that it's necessary for us to use 700 because there's just not enough of these allocations to go around, so that is the reason that this has come before you folks. There is a schedule to put a 700-MHz committee together --

CHAIR HOKAMA: Uh-huh.

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MR. AMARAL: --we currently have a 800 committee that's been in place for many years, but because of the growing use of these types of frequencies, I would say within the next 6 months we should have a 700-band plan for the State of Hawaii, which we already have a 800, and that Maui would have their own allocation assigned to us through this agreement that all of the counties will make along with the State, and then it would make this agreement moot at that point. However, because of our radio system being installed and tested, these frequencies were necessary for us to obtain now. It's at no cost to us; we do not pay the State anything for these channels. We...they're already licensed; they can be used anywhere, and this agreement is necessary for us to obtain these 12 channels for us to use.

CHAIR HOKAMA: Okay. Thank you for that, Captain. Any questions for Captain Amaral, Mr. Couch?

VICE-CHAIR COUCH: Thank you, Mr. Chair, and thank you Mr. Amaral, Captain Amaral, for being here. You just said it was of no cost to us, to the County?

MR. AMARAL: We do not pay the State for the use of these channels.

VICE-CHAIR COUCH: So just as we had a question in the prior item, this seems like one that we wouldn't have to go through, but as long as it's here, I'm fine with sending it through. It's just that it's odd.

CHAIR HOKAMA: Well, you know, we forwarded to Mr. Ueoka's Department the points brought up in paragraph 12 of the agreement where we are required to "indemnify, defend, and hold harmless..."

VICE-CHAIR COUCH: Right.

CHAIR HOKAMA: And...

VICE-CHAIR COUCH: That could end up being a financial...okay.

CHAIR HOKAMA: To me, it ends up with dollars and cents. Somebody's going take us to court so there's dollars and cents for me.

VICE-CHAIR COUCH: Okay, thank you.

CHAIR HOKAMA: I'll ask Mr. Ueoka if he has any comments?

MR. UEOKA: Thank you, Chair. Yeah, upon receipt of the communication from you, we did look into paragraph 12 and that was an oversight on my part, that was a mistake, so we recently, on Friday, we received an electronic version of the State first amendment to this agreement --

CHAIR HOKAMA: Uh-huh.

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MR. UEOKA: --putting in responsibility language subject to appropriation so it removes any perceived financial obligation, and it hasn't been signed by the Mayor yet. We haven't received the hard copy just electronically received it in E-mail signed by the State and the Deputy AG assigned to this matter. Thank you.

CHAIR HOKAMA: So that amendment does exactly what, Mr. Ueoka?

MR. UEOKA: It removes the indemnification provision, and it's a mutual responsibility language, and it requires if any payments to be made that Council approval or Legislative approval is granted first.

CHAIR HOKAMA: Okay. Mr. Couch.

VICE-CHAIR COUCH: Okay. That answers my question, I think. First it was, and now it's not.

CHAIR HOKAMA: It's a unique answer to our question.

VICE-CHAIR COUCH: I know. He should be a politician.

CHAIR HOKAMA: Ms. Baisa, any questions?

COUNCILMEMBER BAISA: No, that clarifies what goes on with 12 for me. Thank you.

CHAIR HOKAMA: Okay. Mr. White?

COUNCILMEMBER WHITE: No questions.

CHAIR HOKAMA: Mr. Guzman?

COUNCILMEMBER GUZMAN: Nothing ...*(inaudible)*...

CHAIR HOKAMA: Mr. Victorino?

COUNCILMEMBER VICTORINO: None at this time. Thank you, Chairman.

CHAIR HOKAMA: Okay. Mr. Carroll, questions? Ms. Crivello?

COUNCILMEMBER CRIVELLO: No, not at this time.

CHAIR HOKAMA: Okay. I believe, then we can file this matter. Is that what you're going to request us to do?

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MR. UEOKA: Yeah. It was transmitted in accordance with 2.204, informational purposes, to the Council.

CHAIR HOKAMA: Yeah. Well, the Chair appreciates the update; the Chair has confidence in the Captain. The Captain has been doing this projects for us for many, many years, and has always done the best of all the counties, so I can say the Chair has complete confidence in the Captain on this matter. The Chair will entertain a motion to file this Communication, this Item. Mr. Couch?

VICE-CHAIR COUCH: Thank you, Mr. Chair. I move to file this Communication, County Communication 14-348...

CHAIR HOKAMA: 13-348.

VICE-CHAIR COUCH: ...13-348.

CHAIR HOKAMA: Yeah.

COUNCILMEMBER BAISA: Second.

CHAIR HOKAMA: Okay. I have motion made by Mr. Couch, seconded by Ms. Baisa. Any further discussion, Members? All in favor of the motion, please say, "aye".

COUNCIL MEMBERS: Aye.

CHAIR HOKAMA: Opposed, say, "no"? Motion passes with 8 "ayes", 1 excused, Ms. Cochran.

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

**NOES: None.**

**EXC.: Councilmember Cochran.**

**ABSENT: None.**

**ABSTAIN: None.**

**MOTION CARRIED**

**ACTION: Recommending FILING of communication.**

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**ITEM PIA-49: MEMORANDUM OF AGREEMENT WITH COUNTY OF KAUAI TO SHARE 800-MHZ FREQUENCIES IN THE NATIONAL PUBLIC SAFETY PLANNING ADVISORY COMMITTEE RADIO FREQUENCY RANGE (CC 13-314)**

CHAIR HOKAMA: If I can now turn your attention to Item-49. This is also with the Department of Police, a Memorandum of Agreement with the County of Kauai to share 800-MHz frequencies in the National Public Safety Planning Advisory Committee Radio Frequency Range. This is from a Communication 13-314, from the Chief of Police, transmitting for our information a copy of an executed MOA between the County of Maui and the County of Kauai to share 800-MHz frequencies for public safety trunked radio system operations. Captain Amaral, if you would please share your comments with us on this item.

MR. AMARAL: Okay, Chair. Again, this is a similar agreement except it's for the 800 channels. As I mentioned earlier we do have a regional planning committee that encompasses the State and all of the various counties. In this case, we needed to expand our 800 allocation of channels of which we used all of the Maui allocation, so the way the plan is set up is we go to our sister county in Kauai which leaves space between us and Oahu and we were able to borrow some of their channels on what we call a "secondary re-use". They maintain primary ownership. We actually go and license it as a secondary which means if we cause any kind of issues interference, primarily, then we would have to stop utilization. We've been doing this for a long time. There's a lot of engineering that goes into this; we've been very successful, and the channels that we use from Kauai are in play. We do not pay the island of...the County of Kauai for this; this is a mutual agreement. They would come to us if they needed help on their county --

CHAIR HOKAMA: Uh-huh.

MR. AMARAL: --and this is this agreement that solidifies this use.

CHAIR HOKAMA: Okay. Thank you for that. Questions, Members, of...for the Captain with his comments? We are in receipt of a communication dated September 5<sup>th</sup>, from Mr. Ueoka to the Committee, approved by Mr. Wong, has his comments. And so we are clear, Mr. Ueoka, it always interests me how we write things. So the first sentence of the second paragraph, I just want to be clear, that says the requirement that the County be responsible for the entire cost, does not create a financial obligation on the part of this County. That's kind of interesting verbiage for people like us because when the regular guy on the street ask us, you just told us you responsible for the entire cost, but that is not one financial obligation, for the regular Joe Blow out there, it's an obligation, so help us understand so if we are asked, we can explain this.

MR. UEOKA: For the purposes of this agreement and coming to...there's a requirement in Chapter 2.20, requiring that if a financial obligation is created by the agreement, it needs Council approval by ordinance before being entered into.

CHAIR HOKAMA: Uh-huh.

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MR. UEOKA: However, this agreement doesn't, per se, create an obligation to the other county. It just says you can use our channels, go ahead and do what you want, but just so it's clear, you'll bear any costs involved; we're not going to pay anything, so the payment really isn't to the county, nor is it created by the agreement. The obligation, the financial obligation, is actually created if we decide to use these channels and on a more practical level, my understanding is the cost involved from Captain Amaral, he knows better than me, but it's the FCC licensing which we're waived from fees, but on a technical level, the agreement isn't creating an obligation. We're not required to pay the County of Kauai by this obligation. We're just being allowed to use their channels through this agreement.

CHAIR HOKAMA: And you know what, that made pretty good sense, you know, Mr. Ueoka. I'm just trying to help us grasp this thing called the requirement that the County be responsible for the entire cost. That's, that's the one that kind of hangs out there for the Councilors, that "requirement", the County be responsible for the entire cost.

MR. AMARAL: Chair, if I may add a comment?

CHAIR HOKAMA: Yeah, please, Captain, if you can help us.

MR. AMARAL: You know, it's a lot of semantics, I think, going on with if they came to us --

CHAIR HOKAMA: Uh-huh.

MR. AMARAL: --and wanted to borrow channels from us, we would do the same thing, because we're going into a space that we really don't know what kind of costs may come up. There might be unknown engineering costs; there might be...they need a consultant to do their licensing cost and so forth, so you know, I think on the face value, yes, we want to help our sister counties --

CHAIR HOKAMA: Uh-huh, uh-huh.

MR. AMARAL: --but we also want to make sure that when we sign the agreement, you know, you take care of all of the costs, whatever they may be, should they come up. I think that's kind of what we're recognizing from doing these agreements.

CHAIR HOKAMA: Okay. I'm not a lawyer so I just ask the questions. Mr. Couch?

VICE-CHAIR COUCH: Thank you, Mr. Chair. Maybe this might help, on Page 3 of the Agreement, number 9, it says County of Maui shall be responsible for the entire cost involved with any FCC license modifications that may be required for a secondary re-use and shall, subject to the Maui County Council approval, indemnify. So it has be done by approval, I think, the way I read it. Maybe I'm reading it incorrectly, but maybe Mr. Ueoka can help with that.

MR. UEOKA: Chair, may I?

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CHAIR HOKAMA: Yes, please.

MR. UEOKA: Oh, thank you. As much as I'd love for it to be that simple, that second "and shall" refers to the indemnification provision so yeah, but, realistically, they would need approval for, via the Budget Ordinance to, you know, it would have to be funds approved through a Budget Ordinance so you'd get your approval there, but again, this agreement doesn't create the obligation. It just allows the uses of the channels, and saying, if you choose to do this, you bear costs and again, if you choose to do this and costs are involved, of course, there will be budgetary concerns which the Council will need to approve in Mr. White's Committee.

CHAIR HOKAMA: Uh-huh. So there is an obligation. We gotta pass one ordinance, that's the obligation. We're required to pass an ordinance. Well, we'll clean that up with that proposal for 2.20 in the future. Okay. So again, this is just a communication of, informing the Council then. You are not required of any Council action since there is no obligation.

MR. UEOKA: Yes, Chair. This was transmittal for informational purposes.

CHAIR HOKAMA: Okay. Interesting, interesting. Members, any questions for either Mr., Captain or Mr. Ueoka on this matter? If not, the Chair's going to recommend filing of Policy Item-49 with its Communication 13-314. Mr. Couch?

VICE-CHAIR COUCH: Thank you, Mr. Chair. I move to file County Communication 13-314.

COUNCILMEMBER BAISA: Second.

CHAIR HOKAMA: I have a motion made by Mr. Couch, seconded by Ms. Baisa. Any further discussion, Members? Having none, all in favor of the motion, please say, "aye".

COUNCIL MEMBERS: Aye.

CHAIR HOKAMA: Opposed, say, "no"? Motion passes with 7 "ayes", 2 excused, Mr. Guzman and Ms. Cochran. And we thank the Captain for his patience in his time with us today. Thank you.

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

**NOES: None.**

**EXC.: Councilmembers Cochran and Guzman.**

**ABSENT: None.**

**ABSTAIN: None.**

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**MOTION CARRIED**

**ACTION: Recommending FILING of communication.**

**ITEM PIA-3(6): HAWAII STATE ASSOCIATION OF COUNTIES (“HSAC”) (2015 HSAC LEGISLATIVE PACKAGE) (CC 13-43, CC 14-176)**

CHAIR HOKAMA: Okay. We have an interesting one. Policy-3(6) under the title of Hawaii State Association of Counties, or HSAC, subheading the 2015 HSAC Legislative Package. I'll ask for comments from Mr. Victorino and Ms. Baisa first. Mr. Victorino, you or Ms. Baisa wants to go first.

COUNCILMEMBER VICTORINO: ...*(Inaudible)*... first.

CHAIR HOKAMA: Ms. Baisa, any comments you wish to share?

COUNCILMEMBER BAISA: These matters were brought up at the HSAC meeting, and of course, they come from our colleagues, who would like us to discuss them, so that they can be taken back to HSAC, and with the approval of the four counties --

CHAIR HOKAMA: Uh-huh.

COUNCILMEMBER BAISA: --be included in the HSAC package. Mr. Victorino probably can explain the intimacies, I mean, you know, the details of what these projects are about, but that's why it's here before us, because we would like to have approval of our Council and then take it back to HSAC so that they have the support of the four counties. Thank you.

CHAIR HOKAMA: Okay. Thank you. Mr. Victorino.

COUNCILMEMBER VICTORINO: Thank you. As you can see, there are five items listed here --

CHAIR HOKAMA: Uh-huh.

COUNCILMEMBER VICTORINO: --first of all, the first one that comes up is a bill relating to the Pacific International Space Station Center for Exploration Studies. The purpose of this bill was really to enable Hawaii, especially areas like Mauna Kea, to be able to endeavor and have a facility for future space exploration. Hawaii has been chosen as one of the areas where they feel that this is a very possible area to work with. The landscaping, the ambiance of the different surfaces, like Mars and the lunar...the moon and all those fits real well with the area on top of Mauna Kea, and so they felt that this would be a very important issue, and they're looking for \$1.7 million to get this started on the island of Hawaii. This is from the Hawaii island, Big...the island, Hawaii Island County Council--excuse me--I try not to use the Big Island because that's

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not the proper way of saying it. And so this was their proposal which was accepted by the HSAC Executive Committee, so that's the first one. The second one was a bill for enacting relating to the Hawaii Health System Corporation's Primary Care Training Program. I think many of us remember last year this was...they attempted to bring this forward. It is to really start a program for primary care training here in Hawaii, training doctors to be trained here, to stay here, to work here, and be a part of our health care system. And so again, the executive board passed this out. The third one was a bill for enacting relating to abuse of family and household members. Basically, this is a bill that would extend the time for those victims to seek protective custody and also for the ability of the law enforcement agency and the judicial to be able to put the mandates needed. Many times things happen over a long weekend, and the way it's set up now, time runs out, and we put these victims back in harm's way. So this was something that I think originated out of Maui County and the Big Island, wasn't passed last year, and the Big Island picked it up this year, and asked to bring this forward. From the island of Kauai, the bill for enacting relating to evidence. The purpose of this bill is to authorize non-resident property felon crime victims to testify at proceeding via a two-way video connection. In other words, instead of bringing victims all the way back to Hawaii to testify as witnesses, they could set up a two-way communication video conferencing for which they could then be a witness at a proceeding and be able to give their, you know, their story or their evidentiary statements to the act that was, that had occurred. And I think many of us agree, it is very expensive to bring back a witness to especially property crimes, and not what I call, Class I felons, but other classifications. Without them, a lot of times, they're unable to proceed with their case, and again, excuse me if I'm not really good with the legal terms. My colleague, Mr. Guzman could help me in that area, so I apologize. No, no, no.

COUNCILMEMBER GUZMAN: ...*(Inaudible)*..

COUNCILMEMBER VICTORINO: No, I'm not an attorney so please forgive me.

COUNCILMEMBER GUZMAN: No, no, no.

COUNCILMEMBER VICTORINO: I'm just trying to give you guys the general, general make-up of this. And the final one was a bill for enacting relating to zoning. The purpose of the proposed State bill was to distinguish Single-Family resident use from Single-Family vacation rental use, and to allow amortization by ordinance for the Single-Family Transient Vacation Rentals over a reasonable period of time. Again, Kauai is trying to grapple with their real property issues and they're asking the State via zoning, and I think we've been ahead of the curve on that one, but via zoning to make changes to distinguish between a family vacation rental use and a family, Single-Family Transient Vacation Rental. They're trying to have the State be the one to kind of put those guidelines. I think you're well aware of, Mr. Chair, that we already, here in Maui County, kind of distinguish and have been working on that for quite a while. So those are the five various bills that were brought up at our last HSAC executive board meeting last month, and so I bring this...no, well, actually was this month, we haven't finished September yet, excuse me, Mr. Chair. So I wanted to bring that forward for your, for discussion purposes, and if there's any questions or comments, I am ready to do what I can to answer. Thank you, Mr. Chair.

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CHAIR HOKAMA: Thank you. This is in addition to what we have already supported last year --

COUNCILMEMBER VICTORINO: That is correct.

CHAIR HOKAMA: --in the term, Mr. Victorino?

COUNCILMEMBER VICTORINO: That is correct, Chair.

CHAIR HOKAMA: So we already have a HSAC package in place that we adopted from last term?

COUNCILMEMBER VICTORINO: From last year, it carries over as you're well aware of.

CHAIR HOKAMA: Right. Yeah, yeah.

COUNCILMEMBER VICTORINO: The previous year's recommendations carry over to the next year so that's still in place. These were additional recommendations made by the executive...by the various counties to the Executive Committee.

CHAIR HOKAMA: Okay. Very good. Thank you for that comments. The Chair is going to open it up to the Members. I will say right now, the Chair is just basically open to letters b, c, and d. Proposals a and e, the Chair feels is more appropriate it stays within the respective counties of origin. So for number a, I would say this is something that I understand, it's a big component for the Hawaii County members, but I see this as a Hawaii County issue, not a Statewide county issue. One, I would say I believe this is a issue that should be dealt with at the county level. This is about county structure and governance, and it's within, I would say, their appropriate charters for them to resolve themselves. And that is something that I don't like the State to thinking they can start interfering in our governance structure, and that touching this may want to induce them to want to touch more within, what I consider, is county domain. And we have fought hard over lawsuits and whatnot for the courts to support and uphold the governance of local government and counties in the State. So I'm open to b, c, and e, Members.

VICE-CHAIR COUCH: Mr. Chair?

CHAIR HOKAMA: Yes, Mr. Couch.

VICE-CHAIR COUCH: When you say "b, c, and e", I have it numbered.

CHAIR HOKAMA: Yeah. I'm open...That is under 3(6); it's under the number 2 heading and we have listed a, b, c, d, e, the five proposals from the Executive Committee. It's on your agenda, sir.

VICE-CHAIR COUCH: Oh, on the agenda. Oh, okay, okay. I'm looking through the document itself.

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CHAIR HOKAMA: I'm sorry. I'm sorry for not making it clear. That way too, the general public who has copies of...access to the agenda can follow with us. So on the agenda, it's under number 2; there's five small components under a, b, c, d, and e. The Chair has given his comments about a, and e, and is open to your comments on b, c, and d. So under b., which is the primary care, and of course, Hawaii we all know the need of primary care physicians is a critical issue Statewide, so this County's very much involved. Especially for communities in rural parts of the County, Hana, Molokai, Lanai, primary care physicians are rare and highly valued commodity for our communities. So Mr. Carroll, any comments on b, sir, letter b? Ms. Crivello, anything regarding those primary care training proposal?

COUNCILMEMBER CRIVELLO: Yes. I like what's brought forth on this.

CHAIR HOKAMA: Okay. Mr. Couch?

VICE-CHAIR COUCH: No comment on all three. I agree with your assessment on the order.

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

COUNCILMEMBER BAISA: I support your recommendation, Chair. I was particularly concerned about e, and I share your concern about home rule, so no problem with your recommendation. Thank you.

CHAIR HOKAMA: Okay. Thank you. Mr. White, comments?

COUNCILMEMBER WHITE: Thank you, Chair. I concur with your recommendation as well. Thank you.

CHAIR HOKAMA: Okay. Thank you. Mr. Guzman, your thoughts?

COUNCILMEMBER GUZMAN: Thank you, Chair. I just wanted to maybe explore some of the issues in c --

CHAIR HOKAMA: Sure.

COUNCILMEMBER GUZMAN: --as well as d. The...for number c, the bill for an Act Relating to Abuse of the Family or Household Member, the extension of the time, is it...is there a justification, I mean, has there been stats that show that there are immediate filings of temporary restraining orders, the TROs in that time period? A lot of cases that I've seen, at least in the divorce side of it, as well as being on the Domestic Violence Unit at the Prosecutors' Office, these 24-hour warning citations are given when there are verbal confrontations; there's no physical abuse that's, that has occurred so we call it the "cooling-off period", 24-hours, so the alleged person or whoever seems to be the more violent person verbally will be given a citation and told not to return to the residence in 24 hours. You know, on the divorce side, when I went into private practice, it was being used as a spear so when the 24-hour period was issued, assets

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were being hidden and things like that for a quick TRO to be filed, and then the spouse that was evicted would not be able to return back to the house after the TRO was issued. And so there's some, you know, subsequent issues that would result from this. I just wanted to make sure that all of it has been vetted through. On the other hand, not the other hand, the other issue for number e, excuse me, d, a bill for an Act Relating to Evidence, one of the things that I'm kind of concerned is the right for to confront your accusers, and that's under our Constitutional provisions in the State and Federal laws. Would this allow the defense attorneys to be able to cross-examine their witnesses, and how would the discovery proceedings work, thereafter, if follow-up needs to be taken? There's just some of those type of subsequent issues that I'd --

CHAIR HOKAMA: Yeah. No, I'm glad you --

COUNCILMEMBER GUZMAN: --like to explore.

CHAIR HOKAMA: --brought it up, Mr. Guzman. And I do know that in the handout, if I can refer you, Members, to the September 18<sup>th</sup> document from HSAC, with the HSAC heading, that this, and has copies of the proposals, if you look behind Hawaii County's proposal for their relating to abuse of family or household member, their justification sheet --

COUNCILMEMBER GUZMAN: Yeah. I have it here.

CHAIR HOKAMA: --they have that which stated that law, Session Laws of Hawaii 2013, extended the period from 24 to 48 hours, and until 4:30 p.m. following a weekend or a legal holiday if the incident occurs on such a day, and then this change is needed to address the epidemic of domestic abuse. One full business day is not enough time for a victim to obtain a restraining order and to make necessary arrangements. The proposed bill extends the periods of separation to allow a victim, again, Members, the victim extra time. This is their justification sheet attached to their proposal, and so you are as informed as I am.

COUNCILMEMBER GUZMAN: Yeah, yeah. That's...and a lot of times, Chair, they...the officer that arrives on the scene cannot determine which is the one more at fault verbally, yeah, so they would just, you know, issue at least, most of the time, to the male --

CHAIR HOKAMA: Uh-huh.

COUNCILMEMBER GUZMAN: --person that lives there, and that person would, basically, at that point, doesn't have the time to go and retrieve clothes. They don't get to go grab their wallets, and things like that. They just are issued and they have to leave; it's a cooling-off period for 24 hours. Now if we're going to extend it to 48 maybe we should allow them to at least grab a pillow or something too, or some clothes --

CHAIR HOKAMA: Uh-huh.

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COUNCILMEMBER GUZMAN: --I don't know, but there needs to be some other discussion aside from...or at least numbers to show that the extension is needed, because we've had this 24-hour cooling-off period for years, and years, and --

CHAIR HOKAMA: Uh-huh.

COUNCILMEMBER GUZMAN: --just on this justification, is this enough? I don't know. I haven't heard testimony. I don't know what the agencies are saying.

CHAIR HOKAMA: You know, I wish I could help you more, Mr. Guzman, you know, this is our sister county's proposal, and like you, I have questions regarding this item, and that is why if we're not sure enough to recommend that it be part of the package, then that is part of the decision we're going to need to make.

COUNCILMEMBER VICTORINO: Mr. Chair? Mr. Chair, before --

CHAIR HOKAMA: Mr. Victorino, yes?

COUNCILMEMBER VICTORINO: --you know, and I'm not a legal beagle so I won't even endeavor. the explanation it was there. One of our prosecuting attorneys from our office was there and gave testimony or gave us rationale behind of it. What I would like to recommend is that if we could defer this item and even the other one, and the other one is a pretty, pretty clear-cut, but you know, facing your accuser, to bring somebody back for property crimes is extremely expensive to face your accuser, and I know a fact that many...there are other ways for which the courts now, even with violent criminals, have them, you know, via teleconferencing so there are other ways of doing it and other states have done it. So that one I have no qualms in reputing that fact, but this one, I do agree. When it was explained to us by the Prosecuting Attorney's Office, it made a lot of good sense, but I cannot explain it the way they did, so I would like, if anything, if you want to defer this to our next meeting, and so that we can get this out, and have our prosecuting attorney, Prosecuting Attorney Office come, and maybe even bring the other civil liberty, the--what do you call that?--the other...

UNIDENTIFIED SPEAKER: ACLU

COUNCILMEMBER VICTORINO: No, no, no.

UNIDENTIFIED SPEAKER: ...*(Inaudible)*... talking about.

COUNCILMEMBER VICTORINO: Public defender.

COUNCILMEMBER GUZMAN: Oh, public defender.

COUNCILMEMBER VICTORINO: Public defender, 'cause basically, these are the two that handle these situations on a continuum, and so that would be my request to you, Mr. Chair.

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CHAIR HOKAMA: Okay, okay. Before I answer your request, which is a good request. Timing-wise, Staff, how are we looking at with the, with the calendar.

MS. WILLENBRINK: Chair, if it passes out today, it would go on...

CHAIR HOKAMA: If we defer it; if we defer this HSAC item.

MS. WILLENBRINK: Yes. I'm looking at that right now. The timeline for counties to approve the proposed package is November 14. It looks like...

CHAIR HOKAMA: We have one more meeting?

MS. WILLENBRINK: One more meeting.

CHAIR HOKAMA: Okay, okay. Well...

COUNCILMEMBER BAISA: Chair?

CHAIR HOKAMA: Yes, ma'am.

COUNCILMEMBER BAISA: Could we have some comments from our Corporation Counsel --

CHAIR HOKAMA: Sure.

COUNCILMEMBER BAISA: --before we move forward here.

CHAIR HOKAMA: Sure. Mr. Ueoka, if you're able to give a verbal comment at this time, we would appreciate it. I leave that up to your discretion.

MR. UEOKA: Chair, I apologize to Council Chair Baisa, but typically our office, we don't review the HSAC legislation. Thank you.

COUNCILMEMBER BAISA: That's strange.

CHAIR HOKAMA: Okay. Well, you know what, Members, we do have a little time, not a lot, but I would suggest we defer this item, and we'll make contacts with our Prosecuting Department and others that might help us have a better understanding before a decision is made on this so we'll...I'm going to just defer the whole package then, Members.

COUNCIL MEMBERS: No objections.

CHAIR HOKAMA: Yes, Mr. Couch?

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VICE-CHAIR COUCH: I just had a question --

CHAIR HOKAMA: Yes, sir.

VICE-CHAIR COUCH: --to our colleague. On, on number d of the, of the relating to evidence bill, where it says identification of the person or person who took property, and then right after it says during the entire course of the procedure the attorneys for the defendant and for the State shall have the right to be physically present with the nonresident and full, direct cross-examination shall be available as a matter of right. Would that...does that satisfy the concerns you might have?

COUNCILMEMBER VICTORINO: Yeah, and oh...

CHAIR HOKAMA: Who are you, you are...

VICE-CHAIR COUCH: Mr. Guzman.

COUNCILMEMBER VICTORINO: Oh, sorry.

CHAIR HOKAMA: Okay. Mr. Guzman, you want to respond?

COUNCILMEMBER GUZMAN: That, that would be satisfactory, but I just wanted to make sure that, you know, there...it's all done under the provisions of the Rules of Evidence and were not violating any Constitutional rights, so. I'm not sure how much of this has been vetted through the Bar Association.

CHAIR HOKAMA: I'm not sure, sir.

COUNCILMEMBER GUZMAN: So it's just one of those questions out there.

CHAIR HOKAMA: Uh-huh.

COUNCILMEMBER GUZMAN: I don't know what the opinion is on...I mean, you can ask for an opinion from the Bar also.

CHAIR HOKAMA: Uh-huh.

COUNCILMEMBER GUZMAN: Any time you're dealing with legal change in Rules of Evidence, it's probably best to ask the recommendation or opinion from the Bar Association.

CHAIR HOKAMA: Okay. Well, I don't have a problem. We'll forward a communication and we'll see if they respond to our request.

COUNCILMEMBER GUZMAN: Thank you.

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CHAIR HOKAMA: Yes, Ms. Baisa.

COUNCILMEMBER BAISA: I understand where we're going with the deferral, and I'm fine with that, but I am still curious why would we not have our Corp. Counsel take a look at, we, as Council members for Maui County, a reviewing legislation? Why would they not be involved? I don't understand.

CHAIR HOKAMA: We'll send a letter to Mr. Wong, also, for comment.

COUNCILMEMBER BAISA: Thank you. I'd like that protection. Thank you.

CHAIR HOKAMA: Okay. Thank you. We'll do it to Mr. Wong, and Mr. Kim, and other appropriate groups whether it's the Hawaii Bar Association or the Public Defender's Office, we'll seek comment, and share that with the Committee. Okay, with no objections, we'll defer this item.

COUNCIL MEMBERS: No objections.

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

**ACTION: DEFER pending further discussion.**

MS. WILLENBRINK: Excuse me, Chair.

CHAIR HOKAMA: Yes.

MS. WILLENBRINK: Just a couple clarifications. You would have two more Committee meetings to take this up, and also, I wanted to clarify that packages at the Leg are introduced on the odd number years and they carry over to the even number years so there is no HSAC package currently.

VICE-CHAIR COUCH: So why are we doing this then?

MS. WILLENBRINK: It will be introduced at the January session so there are no carryover bills.

CHAIR HOKAMA: That's right. It's a new Legislature.

VICE-CHAIR COUCH: It's a new term. Yeah, that's right. Okay.

CHAIR HOKAMA: Yeah. Good reminder. Thank you for that.

MS. WILLENBRINK: You're welcome.

CHAIR HOKAMA: Thank you for that.

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COUNCILMEMBER VICTORINO: Thank you, Chair.

CHAIR HOKAMA: Okay. Why don't we take a short break, Members, and finish up with the last one 'cause we're going to need our thinking caps on. So we'll take a short, 10-minute recess, Members. . . .(gavel). . .

**RECESS: 10:41 a.m.**

**RECONVENE: 10:57 a.m.**

CHAIR HOKAMA: . . .(gavel). . . We shall return to open session of the Policy Committee.

**ITEM PIA-82: PERFORMANCE AUDIT OF THE SOLID WASTE DIVISION,  
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT (CC 14-229)**

CHAIR HOKAMA: We are now going to move on to our last item of the day, Policy Item-82, and this is under our heading of the Performance Audit of the Solid Waste Division, Department of Environmental Management. We are in receipt, this Committee, of two Communications, 14-229, from our colleague, Ms. Cochran, with a proposed resolution entitled, Authorizing the Council Chair to Contract for a Performance Audit of the Solid Waste Division, Department of Environmental Management, as well as a copy of Resolution 14-98, entitled, Authorizing the Council Chair to Contract for a Performance Audit of the Solid Waste Division, Department of Environmental Management, that was adopted on September 5<sup>th</sup> of this year. Also Members, we have made available for you, two things; one, with the help of the Division and the Department, with Mr. Ratte's assistance, we have a contract in the amount of \$90,000, Contract No. C4430 to Quality Plus Engineering which was to do a review and performance assessment of the Solid Waste Division. And we have also a copy from Quality Engineering, Plus Engineering with a head cover June 1, '09 under the heading of Operational Assessment of the Solid Waste Division, Department of Environmental Management, County of Maui, for your review and use, Members. What I had wanted to do to assist our Chair regarding the contracting of the audit is to just bring up some things so we have some general understanding. It is my hope we will help provide some direction, a little bit more clarity in the parameters that we would ask Chair Baisa to contract the audit for. It is your Chair's opinion we should not, we should not just say, "audit the whole Division", you know, that's like shooting BB guns into space and hoping to hit something good. I would hope that we would look at three to, between three to five measureable components of the Division that makes sense for us to review and to assist the Division in moving forward with efficiencies, and ready to hit the mission marks. The Chair will though, at this time, give an advisory because it's also within this Committee's purview, we do have litigation issues, Members. So as your Chair, I believe it's my responsibility as an advisory to, please, caution you to be aware of what can and should not be said in open sessions, including references to agencies or individuals that may impact one way or another, the litigation, so please be aware of those cautionary advisories that I give, as well, I believe, Mr. Wong has given in the

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past. So with that, some of the things I just wanted to start off with is, I had a good suggestion from the Auditor, Mr. Taguchi. He just recommended for consideration by this Committee that we would base ourselves and look at a type of auditing standards that is accepted by industry or professionals, and he believes that would be something he recommends that we seriously consider on the, on how we're going to measure or make the decisions about performance. And the Chair supports that suggestion that we consider, I believe he mentioned something called the "Yellow Page standards of auditors", and I've asked our Committee Staff to, you know, try and confirm that, but that would be one of my points of suggestion to the Committee and to our Chair is that we seriously consider adopting or referring to a accepted auditing standards as part of this performance audit. The other things I would also ask you folks to consider is part of the handouts we gave you is so that you get a sense of what was happening in 2009 under then Director Okuma, that was part of, I believe, Mayor Tavares' Administration, and what they were looking for in their report, 2009 report. And so with that, the Chair will open up for comments, and I'll allow Ms. Baisa to give any opening thoughts she may have.

COUNCILMEMBER BAISA: Thank you very much, Mr. Chair, and thank you for scheduling this item. I am very happy to have the opportunity to listen to the folks that are here as resources, as well as my colleagues, because I think it's really important that when we decide to contract for an audit that we have a very good idea of what we want out of that audit. What are we looking for? And that's the specificity that I'm looking for, because if we're looking for say, for instance, possible financial concerns, or management concerns, or personnel concerns, or whatever it is, procurement concerns, it'd be nice to have those clearly outlined in the scope of the audit so that the auditors will be directed. I agree with you that to do a total audit of the whole Division probably is not useful, because I suspect that the request for an audit is based on some concerns that folks have, and so if...as specific as we can get in an open session, I would like to have that direction so that when we draft the audit agreement that we address the concerns and come out with the results that we're looking for.

CHAIR HOKAMA: Uh-huh.

COUNCILMEMBER BAISA: So again, thank you very much, and I ask my colleagues to please try to focus their input in that area of what do we want to see come out of this audit, again, within the, the confines of legal things to have in open session. Thank you, Chair.

CHAIR HOKAMA: Okay. Thank you. And the Chair will make a correction. The standard the Chair was trying to get across is called the "Yellow Book standards of accounting".

COUNCILMEMBER BAISA: Yes.

CHAIR HOKAMA: And so that would be one of the things the Chair would ask you for consideration as part of the standards of the audit reporting is to consider using the Yellow Book as that standard. Mr. Couch, comments at this time?

VICE-CHAIR COUCH: I'll wait. Thank you.

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CHAIR HOKAMA: Okay. Ms. Cochran, any comments at this time?

COUNCILMEMBER COCHRAN: Thank you, Chair, for the promptness of putting this onto agenda. I think it's quite important at this juncture, and yeah, I think to do an overall, general, broad-based audit is not needed and would be overkill, and to just hone in as the last few weeks have brought up concerns, and issues, and what have you, and sort of hone in on what are the root causes or what stem...you know, to avoid such situations in the future, I guess --

CHAIR HOKAMA: Uh-huh.

COUNCILMEMBER COCHRAN: --and where we need to go to look into, you know, the causes of it, and I think it probably ties into some budgetary things. But you know, looking over, I think, Mr. Young, Kalbert Young's handout here from back in 2009, and there's one bullet point in regards to review overall the Division's services and mechanisms to deliver overall services, I like that bullet point. And so, I mean, there's others, and I think this is just the start of discussion, would like to hear other people's concerns and comments too at this time. That's it for now. Thank you, Chair.

CHAIR HOKAMA: Okay. Thank you. Ms. Crivello?

COUNCILMEMBER CRIVELLO: Thank you, and I do have some input, but I think will wait as we go along, 'cause I can't determine if it's something that we talk in executive session or in the open.

CHAIR HOKAMA: Okay. Thank you. Mr. Carroll, any questions, comments at this time?

COUNCILMEMBER CARROLL: No, Chair.

CHAIR HOKAMA: Mr. Victorino?

COUNCILMEMBER VICTORINO: Chair, I think at this in point in time, I welcome the opportunity to ask the questions, but I would like more direction so I'll wait to see everybody at the end, and then maybe some direction from Corporation Counsel, because I don't want to astray as far as the questions asked of the Department. So I'll wait 'til a little moment to get into that more deeply, sir.

CHAIR HOKAMA: All right, all right. Mr. Guzman, any comments at this time? Questions at this time?

COUNCILMEMBER GUZMAN: Thank you, Chair. I just, I get the feeling that we're going into executive session. Is that why everyone's \_\_\_\_\_ for their questions?

CHAIR HOKAMA: I am not convinced we need to.

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COUNCILMEMBER GUZMAN: Okay.

CHAIR HOKAMA: So we'll do as much as we can in open session and if we...and that's why I gave my advisory, be aware of the litigation issues, potential litigation issues because I would like that, those issues to stay out of the audit. I think there is...it would make it a lot more difficult for us if the audit was addressed to the litigation issues.

COUNCILMEMBER GUZMAN: Uh-huh, uh-huh.

CHAIR HOKAMA: So I would say even other auditors, not necessarily our auditor, County Auditor, that I've talked to, made those same conclusion and recommendations that might be wise for us to stay away from the litigation issues at this time of the audit.

COUNCILMEMBER GUZMAN: Thank you.

CHAIR HOKAMA: Okay. So I share that with all Members in open session.

COUNCILMEMBER GUZMAN: Okay. Thank you. I will narrow my scope of question then. I would agree with my colleague, Ms. Cochran, in the bullet point of concern regarding the assessment of services, and the cost --

CHAIR HOKAMA: Uh-huh.

COUNCILMEMBER GUZMAN: --and the financial portion of funding those services. I believe that we are in this situation because of the shutdown or the reduction of the services so I would like to get to the bottom, the bottom line, the bottom question, or the bottom answer. Why were these services reduced? Was it required because of the financial situation? And it appears that, based off of Chair Baisa's and the Mayor's, I guess, statement to resolve this, it appears that the Administration said that they were going to, were going to be forced to come back for a budget amendment because they would eventually run out of money, in so many words. So I would like to, you know, verify that. Are they going to be in desperate need of money and be required to actually go for a budget amendment? And so those are the questions I have and I think that's what the general public is asking, that those are the calls that I received from the constituents. So on behalf of my constituents, I am laying those questions on the floor. Thank you, Chair.

CHAIR HOKAMA: Okay. Thank you for that. Mr. White?

COUNCILMEMBER WHITE: Thank you, Chair. You've provided us with the details of how the 2009 audit was structured. Do we have a copy of the 2009 audit?

CHAIR HOKAMA: We should have a copy for each of you.

UNIDENTIFIED SPEAKER: Yeah. It's in the binder.

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COUNCILMEMBER WHITE: Oh, it is. Okay.

COUNCILMEMBER VICTORINO: It's in the binder.

CHAIR HOKAMA: It's on the September 25<sup>th</sup> cover letter from Mr. Ginoza and then the second page is the Operational Assessment.

COUNCILMEMBER WHITE: Okay. I'll take a look at that.

CHAIR HOKAMA: ...*(Coughs)*... Excuse me.

COUNCILMEMBER WHITE: The, thank you, the other thing that I would like to have included in the review is a validation of the budgets that were submitted to the Administration by the Department compared to the budget that were then presented to the Council by the Administration, because one of the senses that I've gotten is that the Administration may have made some adjustments to reduce the Department's budget for which the Council was subsequently blamed, for lack of a more artful term, and I think that's something that we need to be aware of so I'd like to have that involved in the review. I would also like those numbers for both this past budget, 2015 Budget, and the 2014 Budget. The reason I ask that is that shortly...well, the same day we were presented the 2014 Budget, the announcement was made that all the recycling centers were going to be shut down. There was a significant uproar from the community and they were kept open, and as result the Administration came back to us with a Budget Amendment which we all approved, and it was our understanding that that was an amendment necessary to make sure that they had the funds to operate along with the recycling centers, but it does bring up the question of if you're going to close something down the day that you present the budget, then why weren't those things adjusted for in the budget? So fast-forward to the 2015 Budget, we passed, as this Committee will recall, we passed out--well, let me back up. We received a budget with money for the Department in three places. We had it in the Solid Waste Operations budget, I believe around 10,000 or \$10 million. We had about 4.6 in the Environmental Protection Sustainability Program. Then we had just under \$2 million in Equipment which was in the Bond. So those three sums of money could not be interchanged the way the budget was presented to us by the Administration. As you will recall, when the Committee, the Budget and Finance Committee passed the Budget out, we had taken all three of those, for lack of a better word, buckets of money, and put it all into one bucket. That would give the Department all the flexibility they needed to use the funds interchangeably as they saw fit. As you will also recall, and that budget was voted out 9-0. As you will also recall, between the time the Budget Committee sent the, sent the Budget to the Council and the time that it was brought up at first reading, there was an announcement made by the Department to all the recycling and diversion contractors that they deal with, that due to Council budget cuts, which only amounted to about \$140,000, that somewhere in the neighborhood of 2 to 2.5 million dollars in contracts was simply not going to be authorized. They were authorizing six months only of these one-year contracts. As you'll recall, the Council at first reading chose to proviso the money, essentially putting it back into the same three buckets that we were presented by the Administration, so not much of a change, only about \$140,000 reduction, and yet, we're holding

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off on a significant amount of contractual obligation that puts the recyclers and diversion contractors into a real pickle because we didn't authorize, I believe, four positions out of the requested ones. So those are the kinds of things that I'd like to have included. I think it would also be important to include a review of the personnel needs, because we authorized two positions on August, I mean, I'm sorry, June 7<sup>th</sup> or 8<sup>th</sup> and they may have been advertised by now, but they were not advertised for filling by last week. So if there's a significant need for those positions, then why have we not advertised in order, which is something we have to do prior to filling those positions? Another question that I think we need an answer on is if these Solid Waste positions are so critical to operations, then why did the Administration ask for us to transmit or to transfer a Wastewater position that was vacant to Public Works instead of to Solid Waste where they're saying there's a very critical need for compliance and other issues. The other item that I would like to have reviewed is that we've now been presented with two, two very different lists of compliance issues. The...we've been in receipt of one recently that doesn't include some things or that no, that includes things that were not included in the same list that we were given at Budget time so I think it's important for us to get a better handle on that, as well. Thank you, Chair.

CHAIR HOKAMA: Thank you. Some of the things I would just say the Members, in preparing for this item, your Chair believes this is going to take, I was told most responses is between 6 to 9 months, leaning more to the 9 months side of the scope for them to do a good job to be able to report, have the time to report findings and take care of all their management and notes to us, so also just be aware of that. It's going to take some time to get this thing completed and submitted to us for, for then review and public information. I would say that the thoughts that you have shared with me so far is pretty much in the areas that I've been looking at. I think, you know, definitely since we adopted the Integrated Solid Waste Plan, I don't know, I think Ms. Baisa and Mr. Victorino was on that subcommittee--what?--4 or 5 years ago?

COUNCILMEMBER VICTORINO: It was, actually, it was myself and Mr. Medeiros at that time.

CHAIR HOKAMA: Mr. Medeiros. Okay.

COUNCILMEMBER BAISA: Somebody else ...*(inaudible)*...

COUNCILMEMBER VICTORINO: Yeah. Yeah, yeah. It was the two of us that was on that committee.

COUNCILMEMBER BAISA: ...*(Inaudible)*...

CHAIR HOKAMA: Yeah. Yeah. Well, you know, enough time has gone by where, you know, they should be able to get one assessment out of that, where we are with that. You know, we did the green, blue, brown bins program. We should be able to get an assessment on that. So you know, I think there's enough things for us to scope the audit on specifically, Members, and I'm just awaiting to hear your thoughts so that we can kind of craft the guidance to Ms. Baisa so she can

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contract appropriately and timely for us. Thoughts, Members? You know, you've shared some thoughts. I've gave you some ideas of things. Ms. Crivello?

COUNCILMEMBER CRIVELLO: Thank you, Chair. My thought is I'd like to support Councilmember Cochran's attempts to have some sort of performance --

CHAIR HOKAMA: Uh-huh.

COUNCILMEMBER CRIVELLO: --audit, I guess, for Solid Waste. If, of course, you know, I guess you have the normal with financial, management operations, and I'd like to include the recycling, but I'd also without trying to interfere with any kind of litigation, I think any kind of policies or procedures or work instructions or delegation of authorities that comes with management of personnel at this point --

CHAIR HOKAMA: Uh-huh.

COUNCILMEMBER CRIVELLO: --as far as what is in place and what is inconsistent with the operation of our Solid Waste Division.

CHAIR HOKAMA: Okay. Thank you for that. Any other comments, Members? Any other questions you have? Mr. Ratte, any comments?

COUNCILMEMBER COCHRAN: Sorry.

CHAIR HOKAMA: Sorry. Yes. Yes, Ms. Cochran?

COUNCILMEMBER COCHRAN: Just, I guess for you, Mr. Chair, the audit that was contracted out in 2009 --

CHAIR HOKAMA: Yes, ma'am.

COUNCILMEMBER COCHRAN: --do you know the reasons for that at the time? And...I wasn't sure if you were here ... (*inaudible*)...

CHAIR HOKAMA: I was around. I can tell you I'm...

COUNCILMEMBER COCHRAN: But you weren't part of that?

CHAIR HOKAMA: I, I'm...

COUNCILMEMBER COCHRAN: Okay.

CHAIR HOKAMA: I gotta recall. I cannot recall if there was a pressing, very outstanding issue at that time.

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COUNCILMEMBER COCHRAN: Right. Okay.

CHAIR HOKAMA: ...*(Inaudible)*...

COUNCILMEMBER COCHRAN: Looks like Mr. Couch kind of has an idea.

CHAIR HOKAMA: Yes, Mr. Victorino.

COUNCILMEMBER VICTORINO: And I don't, you know, I don't think there was any pressing. I think was a audit that was requested because we had had a period of time for which we had converted Environmental Management from Public Works. I think that was the issue I think at that time. How was it working out? Remember now, in 2007, we had separated Public Works from Environmental...Environmental Management separated, and there was some other questions that came up, and I think...I'm not sure, Ms. Baisa, you and I were here and I remember that discussion, but I don't know all the specifics, but that was part of the question was to see how the resulting change had benefitted the people of Maui County. And there was some other issues, but I'd have to go back and look at the minutes, Mr. Chair, 'cause it's, that's...my memory doesn't go back that great in 2009, but I don't remember anything being pressing now. And I apologize if I'm incorrect, but I do not recall that, Mr. Chair, but I remember that was part of the precedence because we wanted, at that point, to see how the two-year period had derived and how the change was benefitting the people of Maui County by taking Public Works and separating 'em out from Environmental Management, because you remember at one time, Public Works was one humungous --

CHAIR HOKAMA: Uh-huh.

COUNCILMEMBER VICTORINO: --Department. It had everything in there pretty much, you know, and so that change was mandated by the Charter in 2006, for which we got it done in 2007. You were here at that time, Mr. Chair, and that wasn't an easy task at that point. So if I'm wrong, I apologize, but I remember the discussion flowing along those lines and maybe, maybe some other things came up --

CHAIR HOKAMA: Uh-huh.

COUNCILMEMBER VICTORINO: --but I cannot address that at this point.

CHAIR HOKAMA: I'll ask the Department people if they have any thoughts about that? Mike?

MR. RATTE: Yes. In regards to, I think you're referring to the Hutchins study, the 2009, I think Councilmember Victorino is correct in what he said. In addition to that, I think it happened along the same time frame as the ISWMP took place so it may have had something to do with, I wasn't in the Division at that time either, but I talked to a lot of the staff in the Division. I think it may have had something to do with where the Division was at in its ability to effectively

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address the ISWMP, and the resources that the Division had at the time, and where we were at with some of that to actually implement the ISWMP.

COUNCILMEMBER VICTORINO: Mr. Chair?

CHAIR HOKAMA: Yes.

COUNCILMEMBER VICTORINO: Could you give the public and us what that means specifically? You guys use acronyms all the time, and the public and I sit here and say, okay, I think I know what it is, but could you please? Thank you.

MR. RATTE: This is the study that I think we've all talked about recently, the one that was done by GBB also in February of 2009, I believe you guys may have copies of this. If not, we can certainly provide, but this is the study that Councilmember Victorino was involved with and certainly a very comprehensive study back then, for sure.

CHAIR HOKAMA: Okay.

MR. RATTE: ISWMP does stand for Integrated Solid Waste Management Plan. Sorry.

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

CHAIR HOKAMA: And that is what is part of, I guess, our, the County's compliance component of a State policy.

MR. RATTE: Correct.

CHAIR HOKAMA: So maybe you can tell...can you tell us this morning either of you two gentlemen, maybe so we can, within the scope of our topic this morning, the performance audit, what the Division has done to implement those 2009 recommendations?

MR. RATTE: Sure. I'll give you what I am aware of that we have done.

CHAIR HOKAMA: Okay.

MR. RATTE: We have certainly looked that over, reviewed it, looked at the resources necessary to actually implement it. The challenge of that plan is the actual resources that they identified to bring some of the different options about with the plan. And just to give you a rough idea of the cost of some of these, there's about five different scenarios that the plan outlines, and the yearly budgets in that plan range from about \$50 million a year upwards of \$200 million a year for operations budget as well as CIPs that the plan recommended. So although the plan is very informative and very detailed, I think that, not to speak for the Department at that time or the Division at that time, but I think that the resources are just much, much more limited than what that plan would actually call for for us to even come close to it. So not speaking to what had

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transpired up until the last couple years when I was transferred into the Division, but since that time, we have looked at that plan closely, we've also looked at the Hutchins plan as well, from '09, and in our 2015 budget we've attempted to submit a plan that would essentially be a phased budget-friendly kind of plan that we could slowly move towards that. Something that we feel as a Division now, obviously, things have changed over the past few years, but some of the components of those studies, some of their projections, unfortunately, have come to fruition, and the Division has faced some difficult and challenging issues that we've...that were identified in the past. That being said, what we've done in the last couple of years is take a close look at these plans, look at our Division, and look at the priorities of the Division, and in the FY '15 Budget we re-crafted the goals and measures for Council into identified and measureable goals and measures so that's certainly something to review with Council if we can get a chance to do so, because that does show, and I think that's been a major disconnect, perhaps, in the Budget between the Mayor's Budget to Council and what Council would also see as goals and measures, and if those aren't on the same page then this disconnect will continue for sure. So I think that's what important for us, at the Division level, is to know, okay, what are the goals and measures that it's agreed upon, in general, so we can move forward with whatever they are. So I think there's definitely great benefits of an audit; we welcome the audit, frankly. The challenge that we see with it, I think, is that we may be missing a critical step that we potentially could rectify with Council in the short-term which is basically sitting down with us to review what we've done over the last couple years, there's nothing we can complete right here with Council. Some of it we could talk about in executive session as well, but giving us a chance to outline what we've done, the Division plans, the five-year plan that we have, the new crafted goals and measures that the Division's had in the last couple of years, review the communications that we've provided the Council during Budget. Some of it's complicated, some of it I think the message may not have been clear enough, and I think that the Division is more than willing to provide additional clarification to Council so that at the very least, before we move forward with the audit that at least the facts are on the table and we can air out some of the differences that there may be in the Division priorities. Because if the Division has certain priorities and Council has certain priorities and Environment has priorities, recycling, and the community, and community service, somehow we got to get those on the same page before we move forward with whatever vision or whatever plan we want to take. So that's what we've attempted to do with our plan in the FY '15 Budget and the goals and measures. I think those are real key to get on the same page with and then we can move forward with whatever, with whatever those are, whatever those priorities are, and I think we're definitely want to have a win-win plan for everybody. The challenge with some studies and audits is that they can be expensive and what the findings are of those audits sometimes aren't funded afterward. The ISWMP cost, I think, about \$555,000 which is extensive, and it is a comprehensive study, for sure, but when we say we adopted it, that's a challenge for me to totally agree upon because the adoption of that would also mean adoption of the proper funding and resources to make it happen, and that certainly didn't happen. And it's not anyone's fault that's here; it's just, it is the nature of the, of those plans that they represented. They're very good, and very lofty goals, but to pay for 'em, very, very expensive so compared to, you know, a \$200 million a year budget compared to what the Division has now, 25 to 30 million over the past few years, we gotta put that in perspective and realize what we have for resources now and what these plans call for. So for us, we would definitely appreciate an

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opportunity to try to clarify some of the misunderstandings to Council, show what our five-year plan is in a little more detail, and provide what the components of our budget were so that at least we can move forward on the same page. If after that discussion, there's still some benefit to the audit, certainly, you know, we can proceed with that, and we'd be more than happy to cooperate with that, and help with, what would hopefully be a win-win for the Council, as well as the Division to move forward. And I can just stress at the end, whatever findings are happening with that audit, or you know, upon further review of the '09 audits that were done is that when those resources are identified, you know, we have to come together as a team, that means County and Council, to make sure that we implement the plan and not just identify things that are necessary, and feel all good about that, and not have the money to actually fund it and move forward. So that's the, I think, the crux of this for the Division, because we are the ones that are going to be holding the torch, so to speak, after this is done, and have to pick up the pieces and move forward. Certainly, the Division has a lot of improvement that we can make, and I think that the audit could show some of the things that we've already identified so, certainly, giving Council now, before the audit scope would be completed, what we have and an opportunity to explain or answer questions, a lot of the questions that a few Council members asked this morning, we could answer right away, actually, with documentation. So to make the most benefit of the audit we would recommend maybe meeting first, whether it be some type of sit-down or an executive session, we're certainly willing to do that with all the components that we provided in Budget, and our plan moving forward.

CHAIR HOKAMA: Thank you for that, Mike. Yes, Mr. Couch.

VICE-CHAIR COUCH: Thank you, Mr. Chair. The question, the way I understood the question you had asked, was more of, of these recommendations that Q+E made, how many of them have you been able to implement? For instance, you've got project management manual, construction management manual, quality management manual, a lot of operating procedures. Have you been able to come up with those recommendations that they've brought up?

MR. RATTE: I can only speak for the last couple of years. My understanding is that there has been some movement in that direction, but as far as firm plans and firm SOPs, and firm manuals that would identify all the steps of construction management or project management or contract management has not been done. I think that the Division lacks some resources to even produce such documents. It's not that we couldn't do it; it's not that we don't have that knowledge. It's a matter of the past few years, for sure, we've been fighting fires and fighting issues that are so pressing and so day-to-day and week-to-week that the plans and the reports that you're referring to, although they're very important and necessary, we agree with that totally, we haven't had the opportunity, at least in the last two years, to spend resources on that versus just looking at compliance issues that we have, safety issues that we've identified, and things that are very pressing in the short-term, unfortunately, and we do agree that that is very unfortunate.

VICE-CHAIR COUCH: Thank you, Chair.

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MR. RATTE: I guess I could add, I apologize, I could add that we have looked big picture at the Division as far as putting together a pretty detailed five-year plan as far as the different components of the Division and where resources should be spent. So in general, I would say that we have looked at what Councilmember Couch just mentioned as far as things that need to get done, and have identified those, and planned what we should do. So I think, in general, we have fairly good vision for the Division right now. We have fairly good ideas and plans to implement portions of the ISWMP and the Hutchins study. It's a matter of doing that first and then identifying, okay, what resources are going to be necessary to even do some of these things, and then try to prioritize that first.

VICE-CHAIR COUCH: Thank you, Chair.

CHAIR HOKAMA: Okay. Ms. Baisa.

COUNCILMEMBER BAISA: Thank you very much, Chair. And thank you very much, Mr. Ratte, appreciate your comments, but I did have a question, Chair, and I don't know if this, we can get this easily, but I'm curious to know what did this Q+E audit cost us?

CHAIR HOKAMA: Ninety-thousand dollars.

COUNCILMEMBER BAISA: How much?

COUNCILMEMBER COCHRAN: Ninety.

CHAIR HOKAMA: Ninety.

VICE-CHAIR COUCH: Ninety-thousand.

COUNCILMEMBER BAISA: Ninety-thousand dollars. I assume then that what we're going to do will probably cost us more because this is five years down the road, so I think, you know, I'm very much in support of audits, and you know, getting facts on the table because I think it's really important. There's just too much concern and questions, and people were raising issues and whatever, and maybe one of the ways to do it is with an audit, but that's a lot of money. And what I'm hearing you say is maybe there could be a venue before we contract the audit to try to settle some of the...or answer the questions that would be answered in an audit, and that kind of intrigues me, Chair, but you know, I understand that the Members want an audit so something to think about.

CHAIR HOKAMA: Uh-huh. Well, I would say that, you know, we can approach this two ways, Ms. Baisa. One, of course, is that formalized performance audit that the Council voted for, but there's also a component I think for some of the Members clarification of questions, we can do it outside of the audit also. So I see us doing, you know, multi-tasking, because I think Mr. Ratte brought up a very good comment and I would say I'm open to both ways of getting information back to the Membership. Ms. Cochran.

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COUNCILMEMBER COCHRAN: Thank you, Chair, and I completely agree. You know, I mean, I think I feel like through my Committee I've been asking questions and I've been wanting to receive answers and haven't 'til today, and that is why we're here discussing this audit. So by all means, Department is ready to be open, and again, you know, you mentioned executive session. I feel a lot of things can be discussed right here in the literal open. Why do we have to go into executive session all the time if there's no litigation attached to what we're discussing? I just really have an issue with that. So I would like to make sure that we can discuss things openly, transparently, in public, clear view, great. That is what I want, and so I completely appreciate Department willing to go there, Chair, and you also, and I'd...whatever we can hash out and discuss, and clear the air on outside of an audit, great, with documentation backup, yes. I'm good on that, you know.

CHAIR HOKAMA: Uh-huh.

COUNCILMEMBER COCHRAN: So that's my comments thus far. Thank you, Chair.

CHAIR HOKAMA: Okay. Thank you. Yes, Mr. Ratte.

MR. RATTE: Thank you, Member Cochran, do appreciate that as well. And something that you brought up kind of reminded me of the questions that you did ask in your Committee, I think it was IEM-56, there was nine questions there that we have...it's taken some time to put together the responses, but we actually have those completed from the Division. They just have to be reviewed, but we expect those to get to Council within a matter of days, and I think, those were, they were great questions, by the way, all of 'em, and the asking of some of them made me realize, wow, you know, more information needs to go back and forth, because some of the questions I had thought, you know, were understood, and they're not, and for whatever reason how we got to this point, it doesn't matter, it doesn't matter to me anyway, and I would just as soon move forward, and I think the transmittal of those questions, Mr. Chair, will actually answer a lot of additional questions that were even asked this morning, and hopefully that helps to clear some of the light upon this as well, and I apologize for in taking so long to get, to get back to you with some of the responses, but certainly, we wanted to do a good job of the response. So I would expect before the end of the week you'll have those, and some of the responses in there may be necessary, if you had questions, may be necessary in executive session because they relate to various compliance issues, but certainly I didn't mean to misunderstand, misrepresent earlier about needing to go to executive session for everything. It's just I wanted to offer that out because certainly we want to get information out there and if that's one way to do it, certainly, and if we do it on the floor, that's great too.

COUNCILMEMBER COCHRAN: Thank you.

CHAIR HOKAMA: Good, very good. Other questions for your Chair or our resource people, Members? Additional comments about what you want to have the audit directed to? Mr. White?

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COUNCILMEMBER WHITE: I'm okay doing it either way, but I think it's important for us to feel comfortable that we're getting the right information.

CHAIR HOKAMA: Uh-huh.

COUNCILMEMBER WHITE: And I think the challenge that I've had is that we provided the Solid Waste Division the vast majority of their request, unlike some of the other departments where we significantly reduced what was requested. I don't know, and maybe Mr. Ratte can tell me this morning what was the difference between the budget submitted to the Mayor by Solid Waste versus what was given to the Council by the Administration. Can you...was it exactly the same dollar amount or were there adjustments made to the Solid Waste budget?

CHAIR HOKAMA: Okay. Division Chief, Mr. Ratte.

MR. RATTE: I don't have the actual dollar amount, of course, in front of me. I can say that the Mayor's budget reflected a good percentage of everything that we did submit. There was a few things that were removed from it. None of those, however, were critical components that we would see as affecting our goals and measures that we provided to a major extent. I think --

COUNCILMEMBER WHITE: Can you...

MR. RATTE: --the things that were provided to Council gave us that first step towards building a foundation, and I think there was some misunderstanding about, well, if we had given that little extra amount of budget monies or that extra few percentage points that were not approved by Council that everything would be great, and we'd be 100 percent in compliance, and no issues, and everything would be addressed. That's never been stated to my knowledge, and I think that what we had spoke about before is the Division really needs to be in a process of building a foundation, and building a long-term plan.

COUNCILMEMBER WHITE: And I appreciate your answer, but I...the question is, can you give us some idea of what the items were that were cut and the dollar amount attached to them?

MR. RATTE: I'm not aware of the dollar amount or the specific items.

COUNCILMEMBER WHITE: Give us a...can you give us...you don't remember any of the items that were eliminated?

MR. RATTE: I think there may have been an additional clerk position at the Central Maui Landfill that we did request that was cut by the Mayor's Office. It was down our list of priorities, but there was actually, potentially two additional positions that were cut by the Mayor before Council saw that budget.

COUNCILMEMBER WHITE: So a total of three?

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MR. RATTE: I think there was two, but I would have to double check that, two additional positions in addition to the six that we requested.

COUNCILMEMBER WHITE: Okay. And any operating expense items that were cut?

MR. RATTE: I'm not aware of any. There may have been, but I'm not aware. We did a pretty massive re-appropriation of line items to try and be more in line with a responsible budget moving forward, but I'm not aware of any significant financial cuts.

COUNCILMEMBER WHITE: Okay. Because the concern I think that this Council and the Budget Committee have had is that we provided you probably about 99.4 percent of what was requested, and it was an increase of about \$405,000 to the Division over what was provided last year, and the concern that I would have is that if the Mayor, if the Administration cut a couple of positions before it came to us, then I think they share some of the credit, or blame, or whatever you want to call it, that is all being focused on the Council now because we didn't approve all the things that you requested. The other concern that I have is that there are many other ways that you can or you could have addressed the issues with the budget that passed out of the Finance Committee because it combined all the, all the monies into one bucket, and you could've used the money from one area to pay for positions that were outside people. You could've also used the, the contract, my understanding is that the \$200,000 that was proviso'd for the service center at the landfill probably would have alleviated some of the challenges that might have been...but that you might have been planning to alleviate with some of the other positions. But Chair, I'm comfortable doing it either way. I'm most interested in...

CHAIR HOKAMA: Well, what I'm going to propose to the eight of you is we can defer this, send our written questions to the various divisions for response, and you know, I mean, I've heard at least three to four questions from the Members so I would say if we are to help our Chair, Ms. Baisa, I would say, getting the responses to the questions is pretty critical.

COUNCILMEMBER BAISA: Thank you.

CHAIR HOKAMA: And so I would say, as your Chair, I'm open to deferring this matter. I'm happy to repost it once we get the responses, and ask at that meeting for make a decision to get the audit moving forward, again, depending how the responses are replied to the questions. But you know, what the Chair will do is if we defer this item, I'll allow the Members another day to touch base with Staff for additional questions that you may want forwarded for a response, and then we're going to give Mr. Ratte and the appropriate people reasonable time to come up with a very good response for us to take into consideration, and then we'll make a decision after we receive those responses. Any comments about the Chair's intentions?

COUNCIL MEMBERS: No objections.

CHAIR HOKAMA: Mr. Ratte, you have a comment you want to share?

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MR. RATTE: I think after reviewing the--what is it called?--IEM-56 questions and answers provided it might help Council, in addition, before they finalize their questions to look at those responses first 'cause a lot of them are very much related to some of those asked today so that might help move us in a positive direction as well before finalizing Council's questions.

CHAIR HOKAMA: We appreciate that comment very much so thank you for that. Any other questions for the Chair or our resource people including Ms., our Corporation Counsel? None, Members?

COUNCILMEMBER COCHRAN: No.

CHAIR HOKAMA: Any questions from you, Mr. Ratte or your colleague?

MR. RATTE: Just in general, we want to appreciate Council's willingness to hear us out and meet with us, and our main focus is very similar, I think, to Council's and hopefully the community's in the best interest of the environment, the community, community service. The Division truly wants to move forward in a positive way. We want to build sustainability for the Division. We're okay with as much, you know, positive criticisms and as much helpfulness that we can get to move in that direction. We ask that you look at what we've done, look at what we have. Let's fill in the holes where they are, and you know, we want to produce a win-win. I just think that we need to remember that there's no magic bullet here for this Division, and I think internal audit, external audit, regardless, will show, historically, that the Division has probably been potentially underfunded and under-resourced since the inception of the Division where we had, basically, dumps on this island where no oversight and no, you know, addressing of compliance things. And that dates back, you know, 20, 30, 40, 50 years in the past, so taking a good grasp of where we are now and how we got here I think is important, and just know that there's no magic bullet here, and regardless of what the outcome of our plans are, we need to be steadfast to make sure that we have the resources to, to see 'em through, and our team is willing to definitely do that.

CHAIR HOKAMA: Okay. Thank you very much for that comment. Mr. White.

COUNCILMEMBER WHITE: Thank you, Chair. I think it would be appropriate for us to request a reforecast of their budget for the remainder of 2015, because it appears to me that Mr. Ratte's sense of what his budget requirements are far exceeds what the Mayor's budget presented to us was, and far exceeds what we gave him. And I think we all recognize the significant challenges that Solid Waste faces, but I can tell you that when we received the budget and gave them all but \$140,000 we felt that we were covering the, you know, covering their needs to a very significant degree. So I'd like to know if they can, well, if they can give it to us or not, but I think it's important for us to get a sense of what was presented to the Administration, what their views are now, just what, we're about three months past the final passage of the Budget, but these are a lot of things that either they're not communicating well or we're not listening well, or something. But I'd also like to know if, why the recycling contracts and diversion contracts were authorized for just six months of the year 'cause that's a significant dollar amount. It's in the neighborhood of 2 to 2.5 million dollars and so what was the rationale for that? If it was a significant cash need

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by the end of year that we're not aware of, and we weren't aware of during Budget then that's something that we need to understand much better than we do now, so thank you, Chair.

CHAIR HOKAMA: Okay. We'll forward those questions and allow the Department sufficient time to respond accurately and appropriately.

COUNCILMEMBER WHITE: Yeah. I don't need those answered today. Thank you, Chair.

CHAIR HOKAMA: Okay. Anything else? Yes, Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair. And just in closing, I just want to...I like...I appreciate Mr. Ratte's closing comments in regards to, you know, no silver bullet, but then to look back in history on the progress the Department has made, 'cause we are definitely a far cry from outfalls out of Mala and that rotten egg smell by Olowalu, I don't know if that came from the landfill there back in the day, but you know, I mean, we are definitely light-years ahead of where we were just a few decades back. So I appreciate the Department and the way they've moved forward and progressed, and by all means, am here to assist in any way possible today to make sure that we move forward, you know, for the betterment of everybody, community, environment included. So with that, Chair, you know, I'm happy to hear the discussion today. Thank you.

CHAIR HOKAMA: Okay. Thank you. Anyone else? Okay, if not, Members, the Chair's going to, with no objections defer Item-82.

COUNCIL MEMBERS: No objections.

**COUNCIL MEMBERS VOICED NO OBJECTIONS.**

CHAIR HOKAMA: Okay. Item-82 is deferred.

**ACTION: DEFER pending further discussion.**

CHAIR HOKAMA: The Chair shall do his requirements upon the Committee's discussion and requests, and work with the divisions and the Department, appropriate departments for responses, and then we'll repost and have our next discussion on this matter. So any comments, questions, Members? Okay. No further business of...before the Committee. This meeting is adjourned. . . .(gavel) . . .

**ADJOURN:** 11:56 a.m.

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APPROVED:



G. RIKI HOKAMA, Chair  
Policy and Intergovernmental Affairs Committee

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Transcribed by: Julie Zaner

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**CERTIFICATE**

I, Julie, 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 21<sup>st</sup> day of October, 2014, in Wailuku, Hawaii.

  
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Julie Zaner