

**INFRASTRUCTURE AND ENVIRONMENTAL
MANAGEMENT COMMITTEE**
Council of the County of Maui

M I N U T E S

Council Chamber

October 13, 2014

CONVENE: 1:35 p.m.

PRESENT: VOTING MEMBERS:

Councilmember Elle Cochran, Chair
Councilmember Stacy Crivello, Vice-Chair
Councilmember Robert Carroll
Councilmember Donald G. Couch, Jr.
Councilmember Don S. Guzman
Councilmember Mike White (out 3:42 p.m.)

NON-VOTING MEMBERS

Councilmember Gladys C. Baisa (out 3:10 p.m.)

EXCUSED: Councilmember G. Riki Hokama

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

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

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

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

ADMIN.: Kyle Ginoza, Director, Department of Environmental Management
Mark Walker, Deputy Director of Finance, Department of Finance
Carmelito Vila, Motor Vehicle & Licensing Administrator, Department of
Finance, Division of Motor Vehicle & Licensing
William Hankins, Acting Lieutenant, Department of Police
Richelle Thomson, Deputy Corporation Counsel, Department of the
Corporation Counsel

OTHERS: John Thuro, Maui Mountain Cruisers
Kelly King, Pacific Biodiesel
Phillip Feliciano, Owner, Cruiser Phil's Tours

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Rob Parsons
Stella Yasuda, Account Executive, KYD, Inc.
Thomas Arnold
Brittany Smart, Maui EKO Systems, Inc.
Gretchen Leisenring
Pamela Tumpap, President, Maui Chamber of Commerce
Plus (4) others

PRESS: *Akaku Maui Community Television, Inc.*

CHAIR COCHRAN: . . . (*gavel*) . . . Aloha. Will the meeting of the Infrastructure and Environmental Management Committee now come to order? I am Councilmember Elle Cochran, the Chair of the Committee. It is October 13, 2014 around 1:35 in the afternoon. Thank you, Members and public, for being here. Before we begin please silence any noise making devices, cell phones or what have you. And here present with us today is Vice-Chair of the Committee, Ms. Crivello.

VICE-CHAIR CRIVELLO: Aloha.

CHAIR COCHRAN: Aloha. And Vice-Chair of the Council, birthday boy, Bob Carroll.

COUNCILMEMBER CARROLL: Good afternoon, Chair.

CHAIR COCHRAN: Aloha. And Councilmember Don Couch.

COUNCILMEMBER COUCH: Good afternoon and aloha, Chair.

CHAIR COCHRAN: Aloha. Councilmember Mike White.

COUNCILMEMBER WHITE: Aloha, Chair.

CHAIR COCHRAN: And Councilmember Don Guzman.

COUNCILMEMBER GUZMAN: Aloha, Chair.

CHAIR COCHRAN: Aloha. I believe Ms. Baisa, Chair Baisa shall be joining us for some time since her big item about bikes is, we'll be discussing today. And Members, from our Department of Finance in the gallery, we have Lito Vila, oh sorry, I mean from DMV, and also Mark Walker, Deputy Director Mark Walker also here. And we have I believe acting Lieutenant Hankins, Hankins here too from Maui Police Department and Corporation Counsel Richelle Thomson and Legislative Analyst Jordan Molina, and Legislative [*sic*] Secretary Rayna Yap. Thank you for all being here and we shall be taking testimony in a few moments. Anyone wishing to testify, please

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sign up at the front lobby desk and at our District Offices also please sign up with your, the representative there. Everyone will be given three minutes to testify with one minute to conclude. Please state name, any organization you may be affiliated with and please testify to only the items that are on the agenda today. I shall now check in to our District Offices. First with Hana, Hana Office are you there?

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

CHAIR COCHRAN: Aloha, Ms. Lono. Thank you for being there. Our Lanai Office?

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

CHAIR COCHRAN: Aloha Denise, and on Molokai, Ms. Alcon. Molokai, are you there?

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

CHAIR COCHRAN: Aloha, Ella. Thank you for being there. And I shall now, without objections, well first off without objections, I shall introduce Chair of the Council, Ms. Baisa.

COUNCILMEMBER BAISA: Thank you, Chair. Sorry for being a little late.

CHAIR COCHRAN: Not a problem, we haven't officially, officially, really, really begun but we will now that you're here.

COUNCILMEMBER BAISA: Thank you.

CHAIR COCHRAN: So let's open the floor now, Members, for public testimony. I'll start in the Chambers and Mr. Molina, do we have testifiers?

MR. MOLINA: We have three people signed up to testify.

CHAIR COCHRAN: Okay.

MR. MOLINA: The first person who signed up to testify is John Thuro, he will be followed by Kelly King.

CHAIR COCHRAN: Thank you. Please come to the podium.

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... BEGIN PUBLIC TESTIMONY ...

MR. THURO: My name is John Thuro with Maui Mountain Cruisers and thank you, Council member and Chairman for allowing me to testify here. This bill that's being proposed here is basically something that has probably been forthcoming, because there are a lot bike companies that, all they do is that they fight among each other, and they, some of the companies are good, some of them are bad, and some of them actually do some bad things up there and I've actually called those companies up and they just laugh at you, they don't care. They don't want to take care of their problems, they keep the same employees that do the same bad things. So then you have a bill like this that comes up and becomes a permit, and that's basically how you have to get these problems solved sometimes. So I'm not really against this, but I'm kind of happy about some things and I'm sad about others that it has to come to this. But there are things on this bill that really do need to be tweaked a little bit to make it a little bit more fair and a little bit better. And one of the things is when you have a rental bike company who is a business, and he rents a bike, and he throws those people out there on the street, are they addressed safety wise? Do they know how to ride safely? Do they have these things that you are asking for us to have, speedometers, things like that on their, safety-wise, we're talking safety-wise? I probably would guess not. Do they have the proper insurance in case something happens to that person? They're not going to come after the person, they're going to come to the person that owns that bike. That person is a rental company, okay he's a business just like I am. He's making money, renting a bike, and using the County road or State road, okay. A lot of the problems that you're going to see up there is I'm going to tell you right now is the unguided bike companies are bigger than all of the downhill companies put together. You're going to see more, believe it or not, you're going to see more of those unguided up there than you will the guided. The guided you've got supervision, you've got a person that will, a person makes an infraction, you throw them in the van. Unguided, no, that's not going to happen. He's going to do whatever he wants and I actually drove up there to see it on my own, and I had an unguided riding in the middle of the road and he has no concern about getting over to let me by. Even though he may be going the speed limit he doesn't have any concerns about that. That irritates people and I can see that, you know, and that is a problem. But that has to do with the company that issued that bike to that person. Did he tell that person that he's allowed to do that, or did he tell them there's a bike lane and that's where you need to stay for the duration of your tour bike or you know your excursion that you're going on? The three million dollar policy, that's a little steep but you know if that has to be, that has to be, but you know it does affect the economy of bike companies who are now limited to how many we can do. We are not allowed to put up as many as we want. We're only allow two trips per day on a sunrise, that's all. Anybody have any questions?

CHAIR COCHRAN: Thank you. Are you, that's your complete testimony?

MR. THURO: Pretty much, yeah.

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

COUNCILMEMBER COUCH: Thank you, Madam Chair. Thank you, Mr. Thuro, is that how you?

MR. THURO: Yes.

COUNCILMEMBER COUCH: Okay. One of the questions I had, you mentioned you can tell when somebody is an unguided tour, can you explain a little bit more about what that is? I mean you say that there's more of them than there are the guided.

MR. THURO: Right, what they do is basically they'll take you up, they'll put you on your bike, give you a map, and you're on your own. They'll meet you back at their base yard which I think some of them is in Haiku, some might be in Paia, I'm not quite sure. I think one is in Paia. But they just leave you up there, you're on your own. You got a flat tire, you've got to call them, they're gonna come up and get you. You have an accident, there's nobody there to help you, at that point you've got to sit and wait. If it could be a serious one, it could be your life, you know. And I actually was involved in one of those unguided accidents and the gentleman died. He was hit by a 60 passenger bus and when he went around me I could hear the tour guide saying keep up with me, come on. And that was the big case that had happened with the boy scout excursion where they had rented unguided bikes and they took a turn way too fast. But they were passing us, and that's another thing, another thing that these bike riders do, they will pass us because we're going a safe speed where they want to go as fast as they can. They actually pass us going in the up-bound lane going around us.

COUNCILMEMBER COUCH: So they will put a bunch of people in a van with a bunch of bikes.

MR. THURO: Just drop them off there, yeah, there's no van. There's nobody up there watching them. They're on their own.

COUNCILMEMBER COUCH: Okay, and then once you're going down like you said you got behind one person one time, how can you tell that they're actually not John Q. Public...

MR. THURO: You can tell by the type of, number one, their type of bike that they use is a mountain-type bike, we do not use those. We use either chrome Worksman with drum brakes, we do not use the disc brakes. And also, there's no van anywhere around and usually you'll see them in couples, twos and fours, twos and fours, twos and fours.

COUNCILMEMBER COUCH: But they're not identified by some, any kind of sign or anything like that?

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MR. THURO: No, no which they probably should be. They should have a backpack on you know that says the name of their company or something so that if you did have a problem with them you could say hey, I want to call this company and say hey, your rider's in the middle of the road, all the way down the road. There is some spots down there in Kula, one of them is an area where there is a house up there that we usually call it Macnuts or Grandmother's house, it's an old Baldwin estate, the road actually levels out to where you have to pedal for a little bit and there's no really turnout for this hundred yard little excursion, or fifty, it may or might be fifty yards.

CHAIR COCHRAN: Sorry, Mr. Thuro. Mr. Couch, did he answer your question?

COUNCILMEMBER COUCH: Yeah, he did.

CHAIR COCHRAN: Okay, did you have further?

COUNCILMEMBER COUCH: No, I think that's it. Thank you.

CHAIR COCHRAN: Members, any further? Yes, Ms. Baisa.

COUNCILMEMBER BAISA: Thank you very much, Chair. Thank you for the courtesy. Mr. Thuro, thank you for being here.

MR. THURO: Sure.

COUNCILMEMBER BAISA: You know I've heard something and I don't know if it's true about these unguided tours and there is a huge concern about insurance. You know the regular companies that have permits have to have your insurance, but I'm also, I've been told that a lot of these unguided tours operate without insurance. So my question was well how did they get around it? And I've heard this rumor now, this may not be true but I've heard it, that they sell the bike to the person and then they buy it back so that they don't get caught up.

MR. THURO: I've heard the same thing, yeah.

COUNCILMEMBER BAISA: Is that true?

MR. THURO: It's true. I've actually heard that rumor. I'm not sure if it actually is, but yeah, I've heard the same rumor. I'm not quite sure if that is something that can be considered deceiving since you are intentionally going to buy it back and that would be a deception.

COUNCILMEMBER BAISA: Well, you know it really bothers me because that's a scary thing.

MR. THURO: Yeah, it would be.

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COUNCILMEMBER BAISA: It's a real scary thing and I think it's something maybe we can take a look at.

MR. THURO: Well, yeah. Basically that bike hasn't been transferred. You know you can't do it at two in the morning.

COUNCILMEMBER BAISA: I know what you're saying. It's a very interesting way around the problem.

MR. THURO: Yeah, I've heard the same, I have actually heard it, too.

COUNCILMEMBER BAISA: Okay, thank you. I thought that it was just something that I had heard. Thank you.

MR. THURO: No, okay.

CHAIR COCHRAN: Thank you, Ms. Baisa. Members, any further need for clarification from our testifier? Seeing none, thank you, Mr. Thuro for being here and sharing. Thank you.

MR. THURO: Thank you.

CHAIR COCHRAN: Next testifier, Jordan, in the Chambers.

MR. MOLINA: The next testifier is Kelly King, and she will be followed by Phil Feliciano.

MS. KING: I know I look like I'm probably here to testify on the bike bill because of my leg but I'm really not, so. Aloha County Council and, Madam Chairwoman. Thanks for the opportunity to testify. I'm going to testify on the Zero Waste resolution and also sorry that I wasn't here when the panel, you had the panel discussion last time, I was in meetings all day. But as many of you know I work for Pacific Biodiesel and we were actually just named this year as the Greenest Company in Hawaii. So I come from a long background of having recycled and working towards Zero Waste, and I want to support this resolution wholeheartedly. I also wanted to just talk briefly about the fact that there's no, in the resolution there isn't actually a definition of Zero Waste principles, and I took these Zero Waste principles off of the Maui Zero Waste website which uses, which got them off of the U.S. Zero Waste Business Council website. And there are basically four principles: one, changing the rules to support resource recovery; two, producer responsibility to hold industry liable for creating less toxic and more efficient products; three, purchasing for Zero Waste to use our buying power as our voice for Zero Waste; and four, resource recovery infrastructure to build the processing and recovery systems that move us towards Zero Waste. And I think it's real important so that when we talk about Zero Waste we all know that we're on the same page and we're talking about the same thing. Usually when, I deal a lot in, at the State Legislature; in every legislation there's usually a section that defines

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what the terms are, the issue that we're discussing. So that was the first thing I wanted to bring to your attention. The other thing, and the thing that really motivated me to come here and testify was reading the article after the panel discussion last time and the quote, I actually wrote it down, by our Director of the Department of Environmental Management that called that discussion a colossal waste of time is extremely insulting to our community, our community leaders, the businesses that have been involved in recycling, and the people like myself who have devoted our work lives to recycling and renewable energy, because it's the right thing, because we want to be more sustainable and we want that energy security, food security, all the things we're talking about. There was a statement made that there's no funding. But somehow we were able to, our Administration was able to sign an agreement with a multinational company for the management of our landfill which is going to cost millions of dollars because right now the County of Maui goes in to the landfill with our garbage trucks and pays no tipping fee. After this, if this contract goes forward, they will start paying a tipping fee, so there's no funding for that and somehow that was able to, the agreement was able to be signed. So I think if there's funding in the, and I know that there's been funding that has been allocated to the Administration for recycling and garbage and all the landfill operations. It's just how they use it is a decision that's made by the Administration. So before we look at turning our landfill over to somebody else who's basically just going to control the cash register there, the funding should be used for local recycling to support local businesses, to turn our resources into useful products for use here in Hawaii and especially on Maui. And I don't see the agreement with Anaergia moving towards that. I see it moving away from that. And I just also wanted to remind folks that I was here several months ago, probably beginning of this year sometime, testifying on the threat that that agreement was going to pose to local businesses, and now our business is actually our biodiesel production has actually been extricated from the landfill because of that whole operation coming in. We're still able to pick up the grease and the used cooking oil but it's all going off island to be processed somewhere else. So the threat is very real and I wish that we would put a lot more thought into these things before we move forward with them. Because the other thing that was said back then was well, we can all work together and you know we had met with Anaergia a couple of times.

MR. MOLINA: Three minutes.

MS. KING: And it was clear that there was no way to work together, I mean you know with our current business plan.

CHAIR COCHRAN: Thank you.

MS. KING: Any questions?

CHAIR COCHRAN: Thank you, Ms. King. Members, any need for clarification from the testifier?
Mr. Couch.

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COUNCILMEMBER COUCH: Thank you. Thank you, Ms. King, for being here. Do you have the definition of Zero Waste management in writing?

MS. KING: I do and I actually just copied it off the website of the Maui Zero Waste program and which and I asked Jeff Stark who's here also where that came from, and he informed me that it came from the U.S. Zero Waste Business Council website. So if you want I can send it directly to you. But you know.

COUNCILMEMBER COUCH: Yeah, well, it's just for the binders --

MS. KING: Yeah. Yeah okay.

COUNCILMEMBER COUCH: --and for the Committee. So we can get the wording and.

MS. KING: Okay, I can actually just hand over this piece of paper.

COUNCILMEMBER COUCH: Okay, thanks.

CHAIR COCHRAN: Thank you, Ms. King. Members, any further need clarification from our testifier? Seeing none, thank you again, Ms. King, for being here. And Jordan, can we check in to our District Offices? Hana? Dawn, Ms. Lono anyone there to testify?

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

CHAIR COCHRAN: Thank you, and on Lanai, anyone waiting to testify?

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

CHAIR COCHRAN: Thank you, and on Molokai, is anyone there to testify?

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

CHAIR COCHRAN: Thank you ladies. Please e-mail our staff here if you do have anyone walk in for testimony. Thank you, ladies. And next testifier, Jordan, in the Chambers?

MR. MOLINA: The next testifier is Phil Feliciano, he'll be followed by Rob Parsons.

MR. FELICIANO: Good afternoon. My name is Phil Feliciano and most of you have heard me speak before throughout the years about bicycle tours. I want to take you down memory lane a little bit. In 2006 is the bicycle tours came before you. It was a question of insurance and this Council was looking for five million because everybody said we were so bad. We finally settled on three million. The Police did a study. They went up there. Officer Mahoney and I have his

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report here. I'm going to leave it with you guys. He went up there and did a study and then later they actually went up there and did some enforcement. The enforcement was they ticketed several companies for not having lights, reflectors, and some of them were in the middle of the road. The law pertaining to bicycles says you must ride to the far to the right as is practicable if you were not going the speed limit. You're going downhill at 20 miles an hour, the speed limit's 15 or 20, you're okay, should be okay. In this report he also mentioned that what was problematic was the fact that the vehicular traffic was not doing the speed limit. And that's what kind of sticks in my craw a little bit. We're passing laws to regulate a bicycle tour industry because a few people up in Kula are complaining through the years but they're not following the speed limit. So I'm quite, you know I'm not quite getting it. That was PW-42 and that's when it went to three million. This current one is keeping it at three million and I don't have a whole lot of issues with it administratively, what you're trying to do, signage and reel everybody in. But that first ordinance didn't reel everybody in, and I hear comments like well, even though it's not perfect let's pass it anyway. That's really not how it should be. It needs to be perfect so that the people up in Kula can rest assured that they never have to come to another meeting, the bicycle tour industry can rest assured that we got it together. And we don't yet have it together. There are things in there operationally that still need to be tweaked, John Thuro mentioned the, the unguided people. This ordinance doesn't address how the unguided people come down, only the guided tours. So you really could start finding the situation where we all start going unguided. Go through Kula then those people can traverse through before eight o'clock. You know there's still some issues. But I've emailed you, I've sent letters. What we need to do even though you're going to probably pass this today is still have some kind of subcommittee, some open dialogue so we can figure those things out, so we can make this a good bill that everyone can be proud of. Thank you.

CHAIR COCHRAN: Thank you, Mr. Feliciano. Members, any need for clarification from our testifier? Seeing none, thank you, Mr. Feliciano for being here. Next testifier.

MR. MOLINA: The next testifier is Rob Parsons. He will be followed by Stella Yasuda.

MR. PARSONS: Aloha, Chair, Members. My name is Rob Parsons. I'm testifying on IEM-37 on the Zero Waste resolution. And I just want to applaud you, Chair and Committee members, for the progress that you've made in this discussion, bringing this discussion to the community. I spoke with a Member who listened to the Zero Waste panel that was assembled at the last meeting, and she told me she said I just left feeling so hopeful at all the great ideas that were discussed and that have been done elsewhere and particularly inspiring was to see the collaboration between Zero Waste Kauai and Pat Yagen was here from that organization and Allison Fraley, the Solid Waste Division Chief. And in fact last week the Kauai County Council just passed a pay as you throw ordinance to incentivize waste reduction and more recycling, so people have the option of either using a 96-gallon bin or a smaller 64-gallon bin and they pay accordingly so that's great progress and great collaboration. I agree this is a new paradigm and there's a section in the resolution that says implementing a Zero Waste plan requires transforming the existing

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philosophy of “managing solid waste” into a “resource management” paradigm. And anytime we’re talking about a new paradigm, it seems that there’ll be obstacles in the way, mainly we’re accustomed to doing things a certain way. We may have things in our General Plan or Integrated Solid Waste Management Plan that indicate that we’re going to do things another way, and yet I think it’s clear from this discussion that we’re at a point where we ought to be embracing this kind of discussion. And there are actually some elements in the Countywide Policy Plan and the General Plan that are good Zero Waste elements, and I think we only need to take a comprehensive view, and by urging the Department to design a Zero Waste plan I think we’ll see where we are online with some of those elements and where we may be veering off course. I think that the recycling office that we have now if empowered can greatly help with this discussion and continue outreach to our community to tell them why this is important, and you know they have 20 years of outreach already. I have a couple proposed amendments that I will pass out just for clarification, and when this comes up, when the discussion comes up, I hope you can refer to this. And one would be just to update the second whereas to incorporate current per capita waste data, and I’ve got that information from the recycling office. And the other would be to actually insert a whereas that refers to the EPA which we have one here and substitute it with one that better describes the hierarchy, the Waste Management hierarchy of US EPA which lists source reduction, reuse, recycling and bioconversion or composting as most preferred and energy recovery and treatment and disposal by landfill as least preferred methods. You know I thank Kelly King for reading the definition. I found another great definition in a piece from the Houston Zero Waste --

MR. MOLINA: Three minutes.

MR. PARSONS: --Coalition, and I can finish it in a minute, also coauthored by the Texas Campaign for the Environment Fund that has a definition derived from the Zero Waste International Alliance. So this isn’t something that we need to guess what is Zero Waste and what is not Zero Waste. It’s been studied, it’s been performed and we have some guidelines that we can easily follow. And there’s a lot of good information in here on what the elements are of Zero Waste, including in some cases producer responsibility and product bans, and I know that this Committee has also heard the consideration of a polystyrene food service ware ban or partial ban which along with the single use checkout plastic bags is the most common product ban of something that’s designed for one use and then it’s discarded. So I just want to close by saying that in my mind these steps towards sustainability aren’t just a luxury but they’re really a necessity, and I thank you again for addressing them.

CHAIR COCHRAN: Thank you, Mr. Parsons. Member, Members, any need for clarification from our testifier? Yes, Mr. Crivello, then I think Mr. Couch.

VICE-CHAIR CRIVELLO: Thank you, Chair. Thank you for being here, Mr. Parsons. You mentioned that we have a recycling department and if empowered it can be put to use? Can you kind of elaborate more on that?

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MR. PARSONS: Well, I think that it would be necessary if we go down this road of asking Department of Environmental Management to produce a Zero Waste plan to extend that outreach to the office that does the best job of it currently, and I think it would fall definitely in their office, the recycling office. There's good staff that have been there for a long time and I think that's where the outreach and education belongs. And in the Houston plan that I referred to, that's definitely an element is in order for things to succeed there has to be good public education.

VICE-CHAIR CRIVELLO: I ask...Chair?

CHAIR COCHRAN: Yes.

VICE-CHAIR CRIVELLO: I ask you this 'cause the understanding I have from the Department is that it's not feasible for the Department to be involved with recycling. Did I, do I misunderstand?

MR. PARSONS: Well, I heard some of those comments at the last meeting and I think the Director at one point referred to curbside recycling as a feel good program. He said those kind of feel good programs, and I think we need to carefully review how we can make this cost effective, because we've been telling our people for 20 years that recycling materials is the best thing to do, we have a number of businesses in our community that are helping us do that and providing jobs and we're reusing things, and we know that there's a cost, not just right now but the future generations when we landfill and dispose of our materials that way, so.

VICE-CHAIR CRIVELLO: Thank you. I agree with you. I just needed clarification regards to where the Department is coming from and according to your statement, thank you.

MR. PARSONS: Thank you.

CHAIR COCHRAN: Thank you, Ms. Crivello. Mr. Couch, did you have questions?

COUNCILMEMBER COUCH: Thank you, and thank you, Mr. Parsons for being here. I just wanted to clarify that you're speaking on behalf of the Administration on this one?

MR. PARSONS: I'm speaking as an individual. I did notify the ninth floor that I'd be testifying on this but just so there's no blurring of the lines for my advocacy purposes I don't think that I'm constrained by Charter as to my powers, duties, and functions the way the Director of the Department is for instance. So I just checked the box that says I'm testifying as an individual.

COUNCILMEMBER COUCH: Okay, thank you.

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

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MR. PARSONS: Thank you.

CHAIR COCHRAN: Next testifier.

MR. MOLINA: The next testifier is Stella Yasuda. She will be followed by Thomas Arnold.

MS. YASUDA: Good afternoon, Chair Cochran and members of the IEM Committee. My name is Stella Yasuda. I'm a Maui Sales Executive of KYD, doing business as K. Yamada Distributors. Our company is a locally owned, family-run business in Kalihi. KYD started in the 1940s as a distributor for florist supplies. In 1958 we've expanded into a packaging company distributing many other packaging products. And in 2000 KYD, well, I should say in 2000 Hawaii Foam Products which is a sister company of KYD has started to manufacture expanded polystyrene products which is a to-go container. KYD and Hawaii Foam Products provide jobs for nearly 100 men and women and contribute much to Hawaii's economy in the form of payroll and taxes. A majority portion of our business is the production and distribution of the packaging materials all of us see and use every day. It's a food-grade expanded polystyrene food containers, we know it as to-go containers. We supply these containers to food processors, food establishments, supermarkets, hotels, hospitals, and other major institutions throughout the State. During the last few weeks, I've also been a participating member of the Councilmember Victorino's task force regarding the ban on EPS single food containers. We would like to express our appreciation to Councilmember Victorino for his efforts in facilitating a challenging situation. It is clear in my mind that inappropriate litter disposal and the need for more robust litter education initiative and infrastructure are needed. Maui has recently contracted with Anaergia to build and operate a renewable fuel facility that converts Maui waste streams including municipal solid waste, food waste, sewage sludge, oils, and grease into renewable liquefied natural gas and refuse-derived fuel for local energy and to replace imported fossil fuel. In addition to generating cost-effective, renewable fuel from local waste streams without the combustion of solid waste, Anaergia's solution will divert approximately 85 percent of Maui's waste from landfill, reduce over a hundred tons of greenhouse gases each year and create local permanent jobs. The proposed Zero Waste resolution, in its target efforts to reduce and recycle materials, appears to be in contradiction to the volume of the waste stream needed for successful Maui renewable energy facility. It is our understanding that the Aloha+ Challenge includes landfill diversion methods in addition to recycling, reuse, composting, and bioconversion as part of its waste reduction goal. As such, a more systematic and integrated review of Maui's waste streams and litter management that includes Anaergia, the Environmental Management Department, Council members --

MR. MOLINA: Three minutes.

MS. YASUDA: --and--may I, I just have a few seconds, I mean a few sentences --

CHAIR COCHRAN: . . .*(inaudible)*. . .

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MS. YASUDA: --and community stakeholders is recommended to provide Maui with a successful, renewable-fuel facility as solutions to landfill diversion, upstream reuse and recycling opportunities. We respectfully request that this measure be held in Committee. Thank you for the opportunity to provide this testimony.

CHAIR COCHRAN: Thank you. Members, any need for clarification of our testifier? Seeing none, thank you for testifying.

MS. YASUDA: Thank you.

CHAIR COCHRAN: Next testifier, Jordan.

MR. MOLINA: The next testifier is Thomas Arnold. He will be followed by Brittany Smart.

MR. ARNOLD: Aloha, good afternoon, y'all. My name is Thomas Arnold. I've worked in the bicycle tour industry for 16 years now as a driver, a bicycle tour guide, a bicycle mechanic for most of all the companies at this point. For the last 10 years, I've worked with Cruiser Phil right there, good guy to work for, and I'm here to testify about these restrictions on bicycle tour operations, and I've operated in all these different facets of it. Some of this stuff I know over the years as a tour guide we're pretty well restricted on this thing. I don't know if people know what we have here if you know what people think about these tours. Over a million people I believe has done these bicycle tours at a hundred dollars a pop coming down that thing. It is one of the world's great bicycle rides. There's a bunch of them around the planet but this is the one from around the planet people hear about and come here, this ecotourism ride. It is a major thing we have here on Maui. I'm against any more restrictions on this. I know there's a lot of thought on what we do is a dangerous thing to do, but we do a lot of people done this very successfully. I don't think we're held under the same scrutiny as other activities here. I think it's a little bit focused on, easy to focus on the bicycle tour because we operate on the public roadways. But if you were to go on one of my tours and see how many restrictions we put on making this happen on the public roadways there's quite a few. I wanted to address some certain things on here as a bicycle mechanic. It says a speed, a speedometer on the bicycle, on this the last line right there, tour leaders must use a speedometer in conjunction with rules about safe speeds for each segment of the bicycle tour route. And I'm not sure what, how, that's not very clear to me. Are we safe speed too fast, safe speed too slow, I'm not sure what that's directed at right there and why. We actually have a van with us the whole day on the guided bicycle tours with a speedometer on the van. We kind of know how fast we're going on the tours. So I don't understand that part if we were to enact that. The ten minutes between groups, there's seven different companies that operate and like the other gentlemen have testified, the independents are totally out on their own realm so just even trying to keep, we keep space between each other. But there are considerations in that. I mean if you have bike problems, it's a mechanical thing. Things can go wrong with a bike. Inexperienced riders, we deal with that every single day. We don't want

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them to ride, we do really good safety briefings with them. We have a van with us to put them in. Sometimes they'll push themselves and try to go beyond us though and we can't know until we're riding. We may have to pull over in an emergency situation. That's spacing, if it was enacted into law how would we maintain that? It's seven different companies once again. So I don't understand that one really. I'm not really for even though our company does not ride through Paia or Makawao, trying to work with the community, Cruiser Phil does that voluntarily, he could but he just does that to not be in the mix then, muck things up. I wish we could ride --

MR. MOLINA: Three minutes.

MR. ARNOLD: --in both though. We used to ride from the very top 35 miles all the way down to the bottom. If you've ever done this bike ride and done it with a good bicycle tour company the right way.

COUNCILMEMBER CARROLL: You need to address the Chair.

MR. ARNOLD: This is one of the great bicycle tour rides, people love this thing. So I'm all for riding all the way to the beach like we used to. A lot of people we have learned, put families through college, myself included, raised children on this job. It's employed a lot of local people over the years. It's a big money provider for this island and a great business for what we do here and what we're representing Maui as, and it's one of the only places in the world you can do it. But that's all, that was my testify and if anyone has any questions.

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

COUNCILMEMBER COUCH: Thank you, Madam Chair. And thank you, Mr. Arnold, for being there. Question for you, you mentioned you imposed some restrictions on your customers. Are those restrictions required by the State or the County or are those something that you guys do yourself?

MR. ARNOLD: I believe it's just our standard operating procedure. I don't know that we're, there's any restrictions on us that I know of law-wise.

COUNCILMEMBER COUCH: Okay. So in essence it's you guys and not...

MR. ARNOLD: Yes, sir, we strive to make a completely, we don't want to see anyone get hurt. I'm up there, I was up there this morning for a sunrise.

COUNCILMEMBER COUCH: Okay.

MR. ARNOLD: I want to see you make it and I want to see you have a fun time with it and be safe with traffic and share the road as the signs say.

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COUNCILMEMBER COUCH: Right.

MR. ARNOLD: So we do have, that's why we do a guided.

COUNCILMEMBER COUCH: And the other thing is the 10-minute thing I think it just, you have to start 10 minutes apart. You don't have to maintain that 10-minute gap. It's just that you have to start 10 minutes apart.

MR. ARNOLD: We don't all leave from the same area anymore because the park put us outside the park now. We used to have, we used to do that when we left from the top. We had designated stalls we all roll from and we had spacing that we had set up there with the park. Now that they put us outside the park, we're fighting for shoulder space for the public easement out there so we do tend to get spread out over a mile section, mile and a half section at the very top.

COUNCILMEMBER COUCH: Okay, thank you.

CHAIR COCHRAN: Thank you. Members, any further, yes, Mr. White.

COUNCILMEMBER WHITE: Thank you, Chair. How often do you find yourself putting riders back in the van for safety reasons?

MR. ARNOLD: You know it may be, like today someone rode in the van. You know it may be a daily occurrence, it just all depends you know. You know you try to get the people to ride good so they don't have to ride in the van. You try to teach them how to do it properly and safely.

COUNCILMEMBER WHITE: Yeah, for disclosure, Chair, my son was probably up there on the mountain with him this morning, and he stated to me that he puts people in the van fairly often because of safety concerns, and that's one of the, well I'll save my comments for later. But how many safety concerns do you see from the unguided tours?

MR. ARNOLD: Oh god, that's every single day fighting to get by those guys. I think a lot of, we, the guided tour industry takes a lot of the brunt of the criticism because nobody knows those are unguided riders. Those riders get around us, they pass on the right, I see them passing on the right which you can't pass on the right. They're trying to ride in that narrow debris stream shoulder all the way down. They have full face helmets just like us. On guided convoys you don't have to look back. When you look back in a full face helmet like that, it makes you go out of control, like I said the shoulders are narrow, it's tight up there. So pretty much it's a daily concern, the unguided tours. There's no regulation on them. Little children ride with them, things like that.

COUNCILMEMBER WHITE: Okay, thank you. Thank you, Chair.

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CHAIR COCHRAN: Thank you, Mr. White. Members, any further need for clarification? Seeing none, Mr. Arnold, thank you for your time.

MR. ARNOLD: Thank you.

CHAIR COCHRAN: Next testifier.

MR. MOLINA: The next testifier is Brittany Smart, she will be followed by Gretchen Leisenring.

MS. SMART: Good afternoon Council. Thank you for the opportunity to testify in front of you guys today. I'm testifying in support of the Zero Waste resolution before you, I think it's IEM-37. I'm testifying for Maui EKO Systems and we wanted to testify in strong support of the Zero Waste resolution as a starting point. There are a lot of good things about Zero Waste as a goal. The easiest point is the fact that we live on an island with limited resources and it makes sense to use those resources as much as possible prior to their final disposal. Zero Waste can help set those goals and priorities, and I hope that the Council follows through with not only this resolution but other goals and policies that would support this resolution. In terms of an individual, just real quick, just in summary I would like to say that I hope to see the Council move forward with actually adopting a Zero Waste ordinance. There are other islands that have done so and I highly recommend the Council to look at that. We all know that the resolution is a way to support and communicate what the Council wishes to see. But it is also your ability as a policy-making body to adopt certain policies and a directive for the County. Thank you so much for your time. We really hope to see this move forward. Thank you.

CHAIR COCHRAN: Thank you, Ms. Smart. And Members, any need for clarification? Seeing none --

MS. SMART: Thank you.

CHAIR COCHRAN: --thank you. Next.

MR. MOLINA: The next testifier is Gretchen Leisenring and she will be followed by Pamela Tumpap.

MS. LEISENRING: Aloha, Council. I am testifying as an individual and in favor of the Zero Waste policy here having the County adopt those policies is a great idea and I think that there's a couple things that...

CHAIR COCHRAN: Can you just state your name for the record please.

MS. LEISENRING: Oh, I'm sorry. My name is Gretchen Leisenring. And there's a couple things that I think should be clarified. I think that there's been a common misconception that if we have this contract with Anaergia we cannot possibly adopt the Zero Waste principles, and I've been

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reading and rereading the contract with Anaergia and I'm not sure that that is what they are trying to insinuate at all. In fact, I think that there's actually been a discrepancy in the way that perhaps our Director of Environmental Management has interpreted the contract and what that means. In the Zero Waste panel which was a really excellent, excellent discussion, the colossal waste of time comment was made and then there was a conversation that followed about going from a three-bin system or a multiple-bin system to a one-bin system as a necessity for the Anaergia contract to work, and that's actually not the case. That's not in the Anaergia contract. The contract itself calls for the acceptable waste to be source separated, and so there is a way to still go through with this contract that has been signed by the Mayor who also signed the Aloha+ Challenge. Now there's issues with the tonnage should we meet the 70 percent, waste-reduction goal. But in the contract it also states that they have to abide by our County laws and regulations. And so our job is to set those regulations and they will comply with those. So adopting Zero Waste principles is not in contradiction to the contract. In fact there may be possibly a way where everything can move forward, but the primary goal of the County should not be to satisfy a contract. It should be to take care of the land and our resources and our citizens. And clearly adopting Zero Waste principles is a really good idea because we live on an island. I mean, it's, the reasons are clear. But I also want to highlight the fact that there is not, there's not a way that Anaergia and their current facilities are going to be doing anything regarding renewable resources.

MR. MOLINA: Three minutes.

MS. LEISENRING: The natural gas that they are going to be creating is, that's a non-renewable resource and they would be processing renewable resources. But let's please be clear that there is a very big difference between renewable resources and non-renewable resources, so I don't want there to be any issues with us in the way that we're interpreting natural gas and renewable resources which are you know from the earth and then they can return to earth just in the same way that they came from it so. So that's it, thank you.

CHAIR COCHRAN: Thank you. Members, any need for clarification? Seeing none, thank you, Gretchen, for being here.

MS. LEISENRING: Okay. Thank you.

MR. MOLINA: The final testifier is Pamela Tumpap.

MS. TUMPAP: I'm Pamela Tumpap, President of the Maui Chamber of Commerce. I'm pleased to be here with you. Thank you, Chair Cochran, Vice-Chair Crivello and members of the Committee. We appreciate the opportunity to comment on the Principles of Zero Waste As a Management Policy. Having served on the polystyrene task force along with other businesses, many of us clearly saw the need to address litter that was reaching our marine environment and agree that waste continues to grow and needs to be addressed. Like you and as it was noted in the

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resolution, we feel it is important to support efforts to reduce waste in line with economic, social, and environmental considerations. And that would be consistent with the Chamber's view on the triple, bottom-line view of sustainability. We believe the County has an opportunity to refocus solid waste systems to maximize efficiency in capturing, sorting, recycling, and recovering value from trash and believe relatively minor adjustments can be made to the system to prepare for the adoption of the anticipated waste conversion system, whatever that might ultimately end up being. There's discussion on a particular contract today, but we're not sure that that's where we're ultimately going to end up so we want to see where we ultimately end up but feel that we're talking about a broader waste conversion system. We also feel that careful trash management on shore is important to help prevent litter from getting into our marine environment and support structural changes and educational programs to reduce the amount of trash that escapes into the environment. Further, given the County's goals and waste conversion direction, we want to ensure that we avoid any possible and unintended policy conflicts between the resolution and other planned activities. In other words, we think the words really count. We support ensuring the greatest sustainability in terms of both resource and cost efficiency of the solid waste collection, recycling and disposal systems, and promoting environmental protection both onshore and offshore. We believe in aligning any proposed solid waste sustainability policies with the anticipated waste conversion system and existing County solid waste management and sustainability goals to avoid unintended policy conflicts. We want to maximize waste diversion in all forms, recycling, reuse, composting, source reduction, et cetera. We want to minimize the loss of trash and recyclables and unintended litter that could become marine debris. We want to identify opportunities to increase sustainability and reduce consumption of non-renewable energy and resources, and we want to develop integrated education and enforcement programs to promote behavioral changes that will discourage both deliberate and unintentional littering. And we have many groups who are coming together to work on that issue now as the result of serving on the polystyrene task force. We currently are scheduling meetings with Council members to share our ideas and have several meetings in place later this week and next. As this resolution though is currently based on the concept of Zero Waste and we all like that idea, we're concerned because we don't see a definition of Zero Waste. And today we've heard two. So we think that understanding the definition is important for the community so the community can ring in on this proposal and understand what is intended by this body and for our community. And specifically, as Rob reported, you know, there's some things that even he feels might be in context with the general and community plans and some things that might be outside of the scope of that context. So that would be important to us because we want to avoid any unintended negative consequences. So we ask that as this body moves forward with this that we get to a definition so the community can ring in on that. Mahalo.

CHAIR COCHRAN: Thank you. Members, any need for clarification of our testifier? Seeing none, thank you, Ms. Tumpap, for being here.

MS. TUMPAP: Thank you.

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CHAIR COCHRAN: Any further testifiers?

MR. MOLINA: No one else has signed up for testimony at this time.

CHAIR COCHRAN: Okay, thank you. And I'll check back with our remote sites. In Hana anyone there to testify?

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

CHAIR COCHRAN: Thank you, Ms. Lono. On Lanai, anyone there?

MS. FERNANDEZ: Lanai Office has no one waiting to testify.

CHAIR COCHRAN: Thank you, Ms. Fernandez. And on Molokai, Ms. Alcon. Anyone show up for some testimony?

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

CHAIR COCHRAN: Thank you ladies. Members, without further testifiers, anyone in the gallery wishing to testify? I see no one approaching. Members, without objections, I shall now close public testimony.

COUNCIL MEMBERS: No objections.

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

CHAIR COCHRAN: Thank you, so ordered, Members. And I forgot to mention that Mr. Hokama is excused for today's meeting, and we shall now proceed with our items.

... END OF PUBLIC TESTIMONY ...

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

CHAIR COCHRAN: And our first item is IEM-4 and this is the, a County Communication 13-59, from Council Chair Baisa, referring the matter, Bicycle and Bicycle Tour Safety on Maui Roads. We have correspondence dated October 28, 2013, from the Director of Public Works, transmitting a proposed bill relating to regulation of bicycle tour businesses; corresponded dated September 29, 2014 from Committee Chair, transmitting a revised proposed bill entitled A Bill for an Ordinance Relating to Regulation of Bicycle Tour Businesses. And the purpose of this proposed bill is to revise the regulations pertaining to bicycle tour businesses by increasing permit requirements, expanding enforcement capabilities, and establishing an appeals process.

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And who I have here in the gallery should we need some input from is Maui Police Department and Department of Finance are both here along of course with Corporation Counsel. And Members, the intention today is to take action. And Ms. Baisa, you know it's been around for a long time and we've had a lot of discussion, we've had a lot of input from the community, the effect, the direct community that are affected on a daily basis and you know we've done the public outreach and so forth. So personally and I think I can, you know, we'll get further discussion but I think there's been more than sufficient discussion throughout the years and this is why I do want to take action. And yes, someone mentioned it's not perfect, I understand we and Mr. Victorino is not here but that's one of his common statements to make every time we discuss policies and things on this floor. And we do move things out because we, the Council, this body has the power and duty to address, to adjust and to tweak and revise and all those other things if need be. If it's something that's drastic and needs direct you know needs, we need to address it you know right then and there we have that choice to bring it back. So, Members, I have again mentioned that we have departments here if we want to continue the discussion with them, and do go into your binders because we have, I had questions put out to the Maui Police Department and they did respond. So we have that to discuss if need be, and at this point I'd like to open up the floor for comments from you folks, and also if you would like to have Maui Police Department to come down and perhaps go through or reiterate the feedback from their Department. But you folks know what my intent is here today. And so with that I can open up the floor for you folks to chime in and let me know, or this body know, what your folks' thoughts are. Lieutenant Hankins, are you the chosen one to be with us today or.

MR. HANKINS (*from the gallery*): Yes.

CHAIR COCHRAN: You have three officers here so I wasn't sure.

MR. HANKINS (*from the gallery*): No, I'll be here for you.

CHAIR COCHRAN: Okay, thank you. So we have Acting Lieutenant. Did you want him to come down? Mr. Lieutenant, could you join us, please?

MR. HANKINS: Yeah.

CHAIR COCHRAN: Thank you. Thank you, Mr. Hankins. And I guess, Mr. Hankins, if you don't mind, the letter was sent to us quite recently, and if you can just go through it and highlight some points that you might want us to sort of know at this point.

MR. HANKINS: Okay. Thank you, Chair. Good afternoon, Council. I'm not exactly sure what letter that you have. I have the response that I sent up.

CHAIR COCHRAN: Oh, okay. From, yes this is from you sir. Yeah, William Hankins, yes. That's the letter that we have.

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MR. HANKINS: Just briefly I'll go over, currently the Maui Police Department, we don't have a section dedicated to inspecting business permits as required by any County ordinances. We believe that by burdening existing Police resources with inspecting business permits specifically for bicycle tour companies is going to take away from the greater need of protecting the life and property. However, if this is something that the Council wishes the Police Department to do, then we could set up a specific unit to address business permitting, and that would require one supervisor and four officers they'd need funding for. But thinking outside the box, why do we need to create four positions when there's somebody that can already help take the lead with this and are Park Rangers? Years ago, the Kihei community had issues with the ocean activities and the Park Rangers were developed specifically to deal with the permitting of these ocean activities. They could help with this, and I would recommend that the Council explore the idea of letting them take the lead on this with the Police Department as a secondary role. We've worked with them down in Kihei on the ocean activities and it's been a very good partnership between the two of 'em.

CHAIR COCHRAN: Okay, thank you, Lieutenant, that's, okay thank you very much for your comments. Members, comments? Yes, Mr. Couch.

COUNCILMEMBER COUCH: Thank you, Madam Chair; and thank you, Lieutenant Hankins, for being here. Do we say Lieutenant or Acting Lieutenant?

MR. HANKINS: Either/or.

COUNCILMEMBER COUCH: Well good luck on, for the promotion. You had mentioned that you feel that the Rangers, the County Park Rangers could do this. The question I would have is do they have the authority to pull say the van over, the bike riders over and issue citations?

MR. HANKINS: The answer to that, Mr. Couch, is no. They do not have the authority to execute traffic stops. However, based on this bill, we wouldn't have the ability to stop a van and just check for a permit either. This would be what we would consider a secondary offense. Now if we had some bike riders or something in the tour group or they were committing other violations, we could stop them and this is something that we could cite for if this were passed. The oversight of going to the businesses and checking these businesses and making sure they have permits is something that the Park Rangers are well versed in, in dealing with the ocean activities operations in Kihei. They could take the lead with that, and they have called when they've needed law enforcement support, and we go over there and we work in a partnership with them. That's why I'm recommending you know instead of coming up with funding for a supervisor and four officers, again thinking outside the box it would probably be best to use the resources that we already have available to us.

CHAIR COCHRAN: Okay.

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COUNCILMEMBER COUCH: Thank you, Madam Chair. A follow-up?

CHAIR COCHRAN: Yeah. Go ahead.

COUNCILMEMBER COUCH: You've mentioned that in Kihei, in your letter here and you've kind of talked about it now, you had a situation where the community police officers were going, having to deal with the commercial operations and permit checking, and that once the Park Ranger program came in, what happened with that?

MR. HANKINS: Once the Park Ranger program came in, the community police officers were able to put more of their attention back on what they're out there for and working with an entire community as opposed to one specific tour group ocean activities permit section. You know they can serve the greater good of the entire community.

COUNCILMEMBER COUCH: Okay, thank you, Chair.

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

COUNCILMEMBER BAISA: Thank you very much, Chair; and thank you, Lieutenant, for being here. I'm trying to grapple with the conversation we had about the unescorted or the unguided people, and I like your idea about, you know, using existing resources. I think it makes sense. But I'm worried about this unguided tour business and it's going on right now. It's going on right now. I can tell you Saturday morning I was on the highway, Kula Highway, and I saw a mom and dad with two little kids, I think the kids might have been maybe eight or nine and I'm being generous. And they were on bikes and the parents were on bikes. And I was terrified to see that because I thought oh my God, you know, this is really not a place for children. And is that something that we have to legislate or can you folks do something about it now?

MR. HANKINS: There's laws on the books now for bicycle operations on the roadways and most of these bike tour companies, they know these laws. They have to ride to the right side of the road, all these things like that. They have to have you know head lamps and tail lamps and all these things. As far as a mom and pop that want to take their kids up to the crater and ride down the crater, there's really nothing that we can do to stop them from doing that. You know they have the right as taxpayers to use the roadway just like everybody else provided that their bikes are taxed, their bikes are licensed as required by you know County ordinances with the bike tax.

COUNCILMEMBER BAISA: And really there's no way to know that until you stop them and you take a look to see if the bike has the tax. You can't see it from far.

MR. HANKINS: You cannot see it from far.

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COUNCILMEMBER BAISA: I don't know. This unguided tour thing, Chair, is a real, real problem. And I hope that you know we are somehow addressing that in the bill because it's a major part of the problem, and I agree with the operators, the big operators that you know we watch them and we make them go through permitting and we make them have insurance and we make sure that they do safety videos and you know all these things. But if we're going to let these people that are unguided or unlicensed or whatever it is that they're doing go, I don't know that we're going to solve the problem. I mean we may lessen it and I'm really grateful for all the work you and the Committee have done on this bill and we want to move something. I'm really in sync with you that it's time. But I'm really worried about these unguided people and do we have anything in here that's going to help with that?

CHAIR COCHRAN: Thank you, Chair. Yes, Mr. White, then, Mr. Guzman.

COUNCILMEMBER WHITE: Thank you. I agree with the Chair that you know I see on my ride to and...mostly in the morning, I see both guided and unguided and I find unguided people all over the place and sometimes help them get back on track.

COUNCILMEMBER BAISA: Yeah.

UNIDENTIFIED SPEAKER: Guide them.

COUNCILMEMBER WHITE: Yeah I provide the guidance I guess. But I'd like to know if Mr. Feliciano would be able to come down and share his thoughts on what we might be able to do to fix some of the challenges that he sees, because I do feel that the unguided folks are probably creating most of the safety issues and most of the annoyance, because instead of having one group of twelve or so people going down guided and all in a set length, you've got I don't know how many people they, you know, they start off with but let's say it's twelve. But by the time they get down to the bottom of the hill, it's probably either six groups of two or a couple of four and a couple twos. I'm like Ms. Baisa, I'm a little concerned that we may not be addressing the unguided nature of the tours, or of some of the tours. And if you don't mind I'd like to have Mr. Feliciano come down and provide us some --

CHAIR COCHRAN: Yeah, we'll...

COUNCILMEMBER WHITE: --assistance at some point.

CHAIR COCHRAN: Okay, yeah, that's not a problem. We'll get to Mr. Guzman and any other comments and questions we might have, and then we can bring resource, if Mr. Feliciano is up for it. He's nodding his head yes, so he's here for assistance. Mr. Guzman.

COUNCILMEMBER GUZMAN: Thank you, Chair. I think the, I think it can basically solve the issue whether the guided or non-guided just by changing the definition of the bicycle tour on Page 2.

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So on Page 2, the second definition there listing bicycle tour means...then you would delete “a group of two” and then replace with it “one”. So it would read, “bicycle tour means one or more persons organized for traveling”, and then you would delete “together”, “by bicycle from place to place for enjoyment, pleasure, or sightseeing, whether or not a guide is present during the tour.” So that would encompass guided or unguided tours.

CHAIR COCHRAN: And real quick, and Members, just to point you on the correct version, it is the dated October 2 bill. That’s the most updated version that we have, that we’ll be working off of today. Mr. Guzman, is that the one you were looking at?

COUNCILMEMBER GUZMAN: Sorry.

CHAIR COCHRAN: Sorry, I meant to say that in my opening comments.

COUNCILMEMBER GUZMAN: Okay, would be...

CHAIR COCHRAN: So yeah, if we could go to the communication --

COUNCILMEMBER GUZMAN: Yeah.

CHAIR COCHRAN: --dated October 2nd.

COUNCILMEMBER GUZMAN: Yeah, it would still be on Page 2.

CHAIR COCHRAN: And this would be our, I believe it’s still the same as you mentioned.

COUNCILMEMBER GUZMAN: Yeah, it’s still on Page 2.

CHAIR COCHRAN: Yeah, okay.

COUNCILMEMBER GUZMAN: So you would read it, it would read, “bicycle tour means one or more persons organized for traveling by bicycle from place to place for enjoyment, pleasure, or sightseeing, whether or not a guide is present during the tour.”

CHAIR COCHRAN: Good, I believe so. So we’ll mark that. Did you want to make a motion on that? But wait, okay well, Mr. White, you had some comments.

COUNCILMEMBER WHITE: Yeah, I’m not sure that solves the problem with the unguided people because they’ll still be considered a tour; and, yet, they’re not really part of a tour. They’re just on their own.

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COUNCILMEMBER GUZMAN: Well that's according to Mr. White's definition. But if you change the definition what a bicycle tour is, it's either one person or more, and then you get rid of "together" so that could just be one person going down the hill; and that's defined as a bicycle tour, because you've rented the bicycle to go from place A to place B and someone's picking up the bike. So that's a tour, that's exactly what I've changed in the language there.

CHAIR COCHRAN: Okay, and maybe Corporation Counsel might have comments to chime in on the language proposal. Ms. Thomson.

MS. THOMSON: I don't necessary have any specific comment on the number of riders that would constitute a tour. But it, the way that I read this ordinance it's primarily aimed at regulating the businesses, not necessarily the riders themselves. So "bicycle tour", the definition of "bicycle tour" is identifying really the riders, and bicycle tour business is the, are the entities that are trying to be regulated by ordinance.

CHAIR COCHRAN: Thank you, Ms. Thomson. Was it Mr. Couch next?

COUNCILMEMBER COUCH: I think Mr. White had...

CHAIR COCHRAN: Or Mr. White, you had further discussion?

COUNCILMEMBER WHITE: I think the two Upcountry folks have a little better idea of what an unguided bicyclist might be. I guess I'm against calling them a tour. So that's why I'm waiting for Mr. Feliciano to come up here.

CHAIR COCHRAN: Okay, Mr. Couch.

COUNCILMEMBER COUCH: And that kind of goes to my question I was going to have. So I go to a bike rental place in Kihei. My wife and I don't own a bike, and we rent a bike because we want to ride the new, you know the nice bike trail on Mokulele and then hit the new bike path to go by Paia and then come back home. Is that all of a sudden a regulated industry here in this because I had to rent the bikes because I don't own a bike?

MS. THOMSON: Chair, the, you know, the definition of "bicycle tour" is very broad. I mean it actually could include recreational riders whether you rent a bike; own a bike; you know, bring your own from the mainland; have your own in your garage or otherwise. It's very broad.

COUNCILMEMBER COUCH: Right, but you mentioned that it, that this ordinance is based on the businesses that do bicycle tours. So I'm renting from a business.

MS. THOMSON: Yes, so I think that that business would be subject to regulation under this ordinance.

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COUNCILMEMBER COUCH: And so if I somehow don't follow some of the rules here, but all of these rules essentially look like they point towards downhill tours, because they talk about the times going through Kula and distances apart, et cetera. But if Lieutenant Hankins, if it came under the Police or the Park Rangers or whatever and they see you know we're going too fast on Mokulele Highway, and by the way is there a speed limit on a bike path because there's a separate bike path there? I mean it just...it can go wide open; or is it a situation where we're going to say here's the rules, you guys can enforce them as they need to be enforced kind of thing? I guess that's, you know, you got the extremes. I just wanted to point out potential extremes that that might cause some issues. I guess if the Lieutenant or Corp. Counsel has a comment I would appreciate it.

CHAIR COCHRAN: Yes, any comments for devil advocate Donald Couch?

MR. HANKINS: I kind of agree with what you're saying, Mr. Couch. It's, by changing the wording to one person, I understand that the intent is to regulate the downhill bike tours, but by changing the wording on this, there's groups that travel the Pali, you know. There's exercise groups out there that travel the Pali. There's people who come here to compete, so they bring their own bikes with them. So now by saying, you know, one person riding for enjoyment or, you know, the way it's written here, you're opening up a whole new can of worms with things like that. That's not something that I would want to go down that road. As far as regulating the unguided tours, it can be done. And the problem is exactly like what the bike tour companies were telling us is they're marked head to toe. We know what tour company is operating, where they're at, everything else. It's the unguided tours. That might be something, you know, if you were going to use the Park Rangers they could meet these tour companies at their pickup locations and things like that and because this, the way it's written, they can issue the citations for these unregulated tour companies at their pickup locations.

CHAIR COCHRAN: Okay. Mr. Couch, did you have further?

COUNCILMEMBER COUCH: No, I'm good. Thank you.

CHAIR COCHRAN: Then Mr. Guzman...

COUNCILMEMBER GUZMAN: Chair, why don't you just put in language to specifically, if the problem is unguided tours down that certain area, that specific road, why don't you just state it specifically that unguided tours are not allowed on that road since we can regulate bicycle activity? Why don't you just say, no unguided tours on that road, and name it in the ordinance? Because we have the right, we have the authority to do so under State. They're giving us that authority. So say, no. Say, no, to unguided tours. That's another issue altogether. You're going to get all the unguided tour guys coming over here.

CHAIR COCHRAN: That's right. Ms. Thomson. Corporation Counsel has something to say.

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MS. THOMSON: You know, the...as the Lieutenant was saying, the laws are on the books regarding safety and operating bicycles on roadways. So it sounds like the real issue is, how do you enforce traffic safety laws for unguided bicycle tours? If that's what you're getting at, and that may be a police manpower issue for, you know, more enforcement personnel during certain hours, things like that, the ability to make stops if they're not following the laws. So, you know, perhaps looking at it as an enforced, from an enforcement angle rather than through legislation. Currently this, I don't know that it would do what you're looking for, the way it's written.

CHAIR COCHRAN: Right. Thank you, Ms. Thomson. Mr. White.

COUNCILMEMBER WHITE: Thank you, Madam Chair. I think the gentleman from Kahului has a reasonably good idea. And, you know, the guided tours have enforcement people with them. The guides enforce issues; they enforce speed; they enforce, you know, unsafe behavior by putting people in the van. So I don't know how we can achieve a modicum of safety with the unguided because there is, we don't have the enforcement power with either the folks in the Police Department or the people that are Park Rangers in reality, and we have over 500 people in the Police Department but we have I think six Park Rangers. So anyway I'll just wait until Mr. Feliciano comes down here.

CHAIR COCHRAN: Okay thank you, Mr. White. Yes, Ms. Thomson.

MS. THOMSON: I'm sorry there's one more thing I've got to add to the mix. The way that the definition of "tour" is written right now it would include both experienced riders and non-experienced riders; and, you know, as some of the testifiers were saying, we do have a pretty large market of experienced professional bike riders who use that road fairly frequently and they need to go up and down.

CHAIR COCHRAN: Thank you, Ms. Thomson. Members, any further discussion? But we'll get Mr. Feliciano down here as a resource person and bike tour operator, business. And before Mr. Feliciano chimes in with us, as a past concierge and booking all these tours and actually doing them all also, I do recall it was a key point for us, we couldn't, we didn't push the unguided. Basically all these tours have, you have choices of guided or unguided. Of course the guideds are less expensive and but we never just due to we know safety but yeah you can't regulate. I mean you're going to trust that the people who are not being guided and watched are going to do the right thing as they go their merrily way down the mountain side. And I've been on guided where we do merge with the unguided and 'cause they're lost and they're not sure where they're going, and so we've had to, as you say, guide them back on track and get them pointed in the right direction. So I understand all that, but what I also do recall this bill and this issue had come about because of the large groups, the twelve-man groups that were blocking the roads. And traffic was starting to pile up behind the van with the group, with the bikes; and so we were trying to figure out a way to address that. So now we're throwing in well the single-guy

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riding bike, the couple, the two couples. So, again, it's like we have something written here that was drafted back in the day, Ms. Baisa knows, for one issue, and now we're...got all these others compiled onto it; and this one primarily was about those group-guided tours, and I do know the issue of the unguided. And you know, Mr. Feliciano, so the main and maybe this is my question to you when you start your talk. Are there companies that only do unguided? Or is there that option still till today from all the businesses you can purchase unguided tour or you can do the group tour?

MR. FELICIANO: There are two companies, Haleakala Bike Company and Maui Sun Riders that are unguided exclusively. They do not offer a guided version. My company offers an unguided version. We do it in the daytime only and a company called Mountain Riders does the same thing. You've got two choices.

CHAIR COCHRAN: Okay. That clarifies in my mind what there is more so now today since when I was actually booking the tours.

MR. FELICIANO: I'd like to before Mr. White asks me a question is clarify on the unguided, Ms. Baisa said something about the rumor that they sell the bicycles. They have a contract or an agreement like we do and to the best of my knowledge they're not selling the bicycle and you buy it back. You know you pay a fee, you meet them at their facility either in Paia, Sun Riders is in Paia at the Paia Plaza, and Haleakala Company is in the Cannery Mall. So you drive to their facilities and then they take you up, you watch the sunrise and then they drop you off at the, what we call the staging area because the bikes can't go in the park anymore. Drop you off there and they give you instructions, I'm sure they're giving their people instructions. The biggest instruction that I believe they need to give them is the State laws on how a bicyclist that's not part of a group should proceed down the hill. Because I believe if they were riding to the far right as is practicable you would probably have less complaints. And if, and I know it's a matter of enforcement for the Police because you know we're way up there. If those laws were enforced by the Police as consistently as they could, the unguided people would be going back to Haleakala Bike or Sun Riders and saying, I got a ticket, I got a ticket, you told me I could ride in the middle of the road and the Police came and gave me a ticket. I don't want to pay for this tour. And once the word got out to the concierge that those people are being ticketed because they're not proceeding down in a proper manner, the process would change. It's probably a slow and painful process but it could change.

CHAIR COCHRAN: Thank you. Members, did you have some pointed questions for Mr. Feliciano? Mr. White.

COUNCILMEMBER WHITE: Yeah, I guess my question was, do you feel that the unguided tours provide a less safe event coming down the hill than the guided ones?

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MR. FELICIANO: I wouldn't say that it's less safe because generally the person who's going to go sign up for an unguided tour deems himself as a good cyclist and that's why they're doing that, they're adventurous. What makes it unsafe is the fact that they're in a bus with 24 people, they get out and then 24 bikes are going down whether they're with two or four or six, you know, their group, mixing with other groups, stopping where they want to stop, and then mixing in oftentimes with the guided tour groups. They'll actually get in our groups because you know they feel maybe a little bit more comfortable because we're pulling over at a specific time to let the cars go by. So you know they're probably more adventurous but they may not know exactly what they're getting themselves into, because as you say, you've had to help guide them back to the right path. They continuously, the guys that are supposed to go to Haiku continuously go down towards King Kekaulike High School and not know how to get back. The guys who are supposed to go to Paia do the same thing and you see them going down Haleakala Highway. Those companies are identifiable to the trained eye because one company uses specific bikes, specific color than the other one, and same with the helmets. So our experienced crews can know who is who. But it's a daily battle with them to, when they're trying to conduct their tours to have the unguided people mixed in.

COUNCILMEMBER WHITE: Are you aware of any difference in complaints that you get from the public regarding your guided tours versus your unguided tours?

MR. FELICIANO: The difference in complaints or the amount of complaints?

COUNCILMEMBER WHITE: Amount of complaints.

MR. FELICIANO: In the last couple of months I fielded a couple of complaints but it was not about my company. It was actually a concierge who had called who lives up there complaining about another company that they're just not as courteous as they could be. You know I couldn't tell you because I think the traveler down through Kula, the local people don't know the one company from another. The guided tours, our names are all over our vans, all over our trailers, so they have the possibility or the ability to note that. But the guy that's just coming down on their own, they don't know who to call and there's no. I don't know if there's a fix for that.

CHAIR COCHRAN: Okay.

COUNCILMEMBER WHITE: I'll let others ask their questions. Thank you.

CHAIR COCHRAN: Thank you, Mr. White. Members, any other questions for Mr. Feliciano? No, okay. We have it solved.

MR. FELICIANO: Madam Chair, if I may, just --

CHAIR COCHRAN: Yes?

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MR. FELICIANO: --one clarification?

CHAIR COCHRAN: Yes.

MR. FELICIANO: On the ten-minute thing that, Mr. Couch, you had asked the question about. You know I believe in looking at this, and the intent of this is to make things better for the public traveling down that hill. The ten-minute rule, if we say we're all going to start at ten minutes but then we don't care what happens further down, it doesn't really make sense because that's where the problem is, further down, right there in that Kula, the tree lined area there. And there are ways to solve that simply by putting in a mandatory stop before we get to those houses, if every group stopped. And that's why I keep calling for some kind of open dialogue, so we can fill you in and maybe even a site inspection, you know, to see how that could work. This could work and we could if we had an open dialogue with those unguided owners to figure it all out. You know, they need to stop or maybe they need to ride in groups of a certain size and then it could work. And I want to help you all make this work. Thank you.

CHAIR COCHRAN: Thank you, Mr. Feliciano. Members, yes, Mr. White.

COUNCILMEMBER WHITE: You had mentioned earlier in your testimony that there were a few fixes that you had come up with, what were those?

MR. FELICIANO: Well early on in 2006 when the Police did their first report, we immediately put our tour, our guides, the leader to wear a safety vest and the last rider to wear a safety vest; so when you pass them, you'll see the first rider you pass has a safety vest and then you'll see another one with a safety vest so their light bulb will go off and go okay, that's the group. I don't have to worry about another cyclist out there. So one, that helped us. Two, we stopped riding through Makawao and Paia towns. We listened to that and we stopped doing that, and it's more work for our guides because we have to load them up, put them back in the van, load up those bicycles, ride through Makawao and then stop lower and then get them back on the bicycles. But it stopped us from having accidents in Makawao, in that area. The steepest part of that whole route is that little hill coming down, what is that, Olinda Road right at that stop sign at that intersection at Makawao town. And there's been more incidents at that little stop sign because groups are coming down and somebody can't stop and they go out there; so that's the danger point. So we can eliminate that and the ordinance addresses that. The only issue there would be you've got an unguided company who's in Paia so their riders have to ride through Makawao town. The other guy's in Haiku; their riders have to ride through that intersection there. So those are the things that need to be addressed. I think we talked about signs that say that this is a mandatory pullout. Because the concern is we're blocking traffic, and you get behind one group, they let you by, two minutes later, you get behind another one. So things like that, the proper signage and designated pullouts. And that one mandatory stop before you get to those houses, everybody has to comply. It could solve a lot of problems.

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CHAIR COCHRAN: Mr. White.

COUNCILMEMBER WHITE: I still have a --

CHAIR COCHRAN: Then Mr. Couch.

COUNCILMEMBER WHITE: --follow-up to that. Would you recommend that the unguided tours be asked, the companies that have the unguided tours be required to pick up their folks before Makawao and drive them through Makawao like everyone else?

MR. FELICIANO: If that was in the ordinance then yes, but again you're trying to legislate somebody's freedom, you know. They're renting those bicycles and basically they're told, you know, it's their day, they can go wherever they want to. So to say, because they rented this bicycle from XYZ Company and you can't ride through there, I don't know how you do that.

COUNCILMEMBER WHITE: Okay.

CHAIR COCHRAN: I'm going to go to Vice-Chair Crivello and then you, Mr. Couch. Ms. Crivello.

VICE-CHAIR CRIVELLO: I don't have a question for him. I have a question for Corporation Counsel, after you're done with him.

CHAIR COCHRAN: Oh okay, Mr. Couch, you had for Mr. Feliciano?

COUNCILMEMBER COUCH: Yeah, you know we talked about, you made a suggestion about stopping just before you get to the Kula houses and then everybody going off in ten minutes and there's seven of your company.

MR. FELICIANO: There's five guided tour companies --

COUNCILMEMBER COUCH: Five.

MR. FELICIANO: --and the two unguided.

COUNCILMEMBER COUCH: Okay, so if you required at least the five, if we required the five guided tours to do that, so you're talking a 40 minute difference from the first to the last.

MR. FELICIANO: If they all stopped for three minutes at that...

COUNCILMEMBER COUCH: So you're saying three minutes, not ten.

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MR. FELICIANO: Three minutes.

COUNCILMEMBER COUCH: Oh, okay.

MR. FELICIANO: You stop for three minutes. That section there till, well, that's Crater Road that stop sign there and then the highway is only a two-mile section and I've done it before. If you stop for three minutes, the guy in front of you will be almost to that stop sign, barring any, you know, bicycle issues or anything like that, they'll be almost to that stop sign and they could be a mile and a half ahead of you.

COUNCILMEMBER COUCH: Okay. Alright, thank you, Chair.

CHAIR COCHRAN: Thank you. Okay, I think, is that it for Mr. Feliciano at this point? Okay, thank you, Members. Thank you, Mr. Feliciano, for your time again.

MR. FELICIANO: Thank you. Thank you, Members.

CHAIR COCHRAN: Yes, Ms. --

VICE-CHAIR CRIVELLO: Thank you, Chair.

CHAIR COCHRAN: --Ms. Crivello.

VICE-CHAIR CRIVELLO: I understand where you're coming from as far as the purpose and intent of this bill. What I'd like to have clarified, I keep hearing about unguided tours, if Corporation Counsel can clarify for me if 5.22.060 and 5.22.070 addresses the unguided tours?

MS. THOMSON: Yes, those two sections address the businesses who offer such bicycles for rent. So not the person operating the bike, but at the address the companies who offer those bikes for rent to people on unguided tours.

VICE-CHAIR CRIVELLO: On unguided tours.

MS. THOMSON: Either way, guided or unguided.

VICE-CHAIR CRIVELLO: Okay, I'm just trying to find where in this that instead of us have to put in the amendments or what have you if there's something specific that addresses the unguided tours that is much of the concern in today's discussion.

CHAIR COCHRAN: I guess, Ms. Thomson, the words unguided is not actually written here, but the tour business, tour bike tour business in the way that it's defined and worded will include it. Is

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that, because it's as general like you said and so it would incorporate unguided, guided or what have you.

MS. THOMSON: I think that, so the definition of bicycle tour, the very last part of it says whether or not a guide is present during the tour, and then bicycle tour business includes the term bicycle tour so it applies to, the permitting requirements apply to the bicycle tour businesses but the people taking the tours so the actual riders have to comply with State law or they're subject to the citations.

VICE-CHAIR CRIVELLO: Right.

CHAIR COCHRAN: Right.

MS. THOMSON: Such as that.

CHAIR COCHRAN: Thank you, Ms. Thomson. Okay, Members. It's kind of that time of day for a midday break. So with that let's digest what we've talked about and heard and we'll take ten minutes and come back. We are now in recess. . . .(gavel). . .

RECESS: 3:10 p.m.

RECONVENE: 3:30 p.m.

CHAIR COCHRAN: . . .(gavel). . . Will the Infrastructure and Environmental Management Committee please reconvene. Thank you, Members, for the break and we are now back on our item, IEM-4; and let me just reel us kind of back in and remind us that the bill is an ordinance relating to the regulation of bicycle tour companies. So currently we have bicycle tours operating, whether they're guided or unguided, and we would like to make sure that everyone is permitted out there through this County; and right now some are, some aren't. And so that is what we're trying to do is regulate, standardize, get everybody on an even playing field so to speak and getting regulated by this County. And then we had discussion with Lieutenant Hankins in regards to the enforcement aspect of that and there's a section for appeals and what have you. So again I'll go back to my opening comments where I believe we've really, really come a long way and we have addressed many, many of the issues that have come down to this body throughout the years and I feel extremely comfortable with what we have here. And we need to remember this is about permitting. And then from there we can tweak, we can adjust however we need to because that is in our purview to do as Council members. So, Members, with that you folks know what my intent is here with this bill today. I do want to pass something out and I'll open the floor up for you folks to chime in and if you had some minor adjustments, 'cause again I think a lot of work has been put into this. So, Mr. Couch, you had some comments on the break. Did you want to talk about anything in particular?

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COUNCILMEMBER COUCH: Yes, Madam Chair. I guess in, I'm looking at page 5, 5.22.050 Inspection of Permit. It talks about vehicles providing transportation of riders, and trailers providing transportation of equipment, for a bicycle tour business must be identified with the business name, permit number, et cetera. Can we add something in there saying that at least for the unguided tours that the participants have to wear some identification of the company, for instance maybe a safety vest with the company's name, and require every, all tours to have the people wear helmets? Is there something?

CHAIR COCHRAN: Yeah.

MR. MOLINA: Madam Chair, I think those kind of requirements that would come after they've already been permitted are more appropriate in section, on page 4, 5.22.025 Restrictions on bicycle tour operations.

COUNCILMEMBER COUCH: Yeah, I was thinking about that as well and I just, you know, because of the vehicle, the identification thing I kind of wanted to keep it there. But I think, yeah, Mr. Molina is correct somewhere in 025, I would like to add something that requiring everybody on a tour, whether it's guided or not, has to wear a helmet and the guided tour, I mean the unguided tour folks have to wear a safety vest with the name of the, at least the name of the company.

CHAIR COCHRAN: Yeah I'm, I mean I'm good with those things.

COUNCILMEMBER COUCH: Is that something.

CHAIR COCHRAN: I believe the tours already mandate the --

COUNCILMEMBER COUCH: The tours themselves.

CHAIR COCHRAN: --helmets, with helmets? Yeah, I believe they all, that's already sort of a safety feature with all.

COUNCILMEMBER COUCH: But there can be a rogue tour that says that I don't care. So if we mandate it, that's good.

CHAIR COCHRAN: Right.

COUNCILMEMBER COUCH: Especially the...yeah.

CHAIR COCHRAN: Yeah. I mean I completely agree.

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COUNCILMEMBER COUCH: And I think the guided tours it's obvious because you've got the van and the trailer and the guys are in between so you know who's on that tour. It's the ones that are unguided that you need to know so the Park Rangers or whoever is going to do the enforcement, somebody says, hey, somebody on such and such tour did this because it was on the back of their vests. If we could get some comments from either the Corp. Counsel or the Police Department as far as an enforcement kind of thing if that's. It's not necessarily that the Police Department would enforce it but somebody could.

MR. HANKINS: Anybody who's gonna...oh, excuse me.

CHAIR COCHRAN: No, go ahead.

MR. HANKINS: Anybody who's going to enforce it for these unguided tours, we have to know who we're enforcing --

COUNCILMEMBER COUCH: Right.

CHAIR COCHRAN: Right.

MR. HANKINS: --you know or who we're going to be citing. So to have these unguided tour companies at least have some kind of identification, visual identification as to who they are. Mr. Feliciano said, you know, to the trained eye you know they know which tour company belongs to which. I could tell you 25 years of doing this, I don't. I couldn't tell you which tour company has what color helmet or anything. But if it's smacked on the back of them with a safety vest or something along those lines and there's a problem with something let's say in Kula, at least the community knows which tour company and what exactly they can direct us or whoever is going to enforce things in the right path to take some kind of action, and I think I answered your question.

COUNCILMEMBER COUCH: Yeah.

CHAIR COCHRAN: Okay.

COUNCILMEMBER COUCH: So, Madam Chair, I'd like to make that, would you like a motion or can we do it friendly that D should be that everybody has to, everybody on a bicycle tour whether it's guided or unguided needs to wear a helmet, and then E would be unguided tours participants must wear a safety vest with the some sort of identification of the company who provided the bicycles, whether, and they can figure out or if you we need Corp. Counsel to say it needs to be the name of the company or a logo or something. But it has to be identifiable as to which company it was.

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CHAIR COCHRAN: Right, would that be, Corporation Counsel would you need to come up with some language or can we do that through Staff?

MS. THOMSON: Probably just through Staff. You might mirror the same type of information that you've got in 050, business name, permit number, and perhaps business telephone number. Probably what you're looking for is a font size so that it can be visible you know a little farther away. You don't want it in teeny tiny type so you can't see it. So maybe a font size.

CHAIR COCHRAN: Okay, so you just suggested to put it in .050 versus the...

COUNCILMEMBER COUCH: No, the same information, similar information --

CHAIR COCHRAN: Or similar, got it.

COUNCILMEMBER COUCH: --to 050, and I would say the company name at least, not necessarily, because there's so many things you can't fit it all on the back of the thing so I would say company name at least, visible from 40 feet away.

CHAIR COCHRAN: Okay.

COUNCILMEMBER COUCH: Is that reasonable?

CHAIR COCHRAN: I believe so.

COUNCILMEMBER COUCH: Do we want to.

CHAIR COCHRAN: Do we have a bike expert --

COUNCILMEMBER COUCH: Well, but these guys are, these guys are the...

CHAIR COCHRAN: --bike company that kind of knows a little more.

COUNCILMEMBER COUCH: These guys, well I mean it's fine. But they're the guided tours and we already know who they are because they're all.

CHAIR COCHRAN: No, no, I know but as in what would work.

COUNCILMEMBER COUCH: Okay.

CHAIR COCHRAN: And have, be in a bicycle going down the hill --

COUNCILMEMBER COUCH: Sure.

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CHAIR COCHRAN: --at 20 miles an hour and what kind of font would look good --

COUNCILMEMBER COUCH: That would, yeah.

CHAIR COCHRAN: --going down the hill like that.

COUNCILMEMBER COUCH: If they can come up that would be great.

CHAIR COCHRAN: Mr. Feliciano's on his way down.

MR. FELICIANO: So your question is, do I want to see added cost to my competitor? The answer is yes.

CHAIR COCHRAN: Well.

MR. FELICIANO: The safety vest is a great idea. That way each individual going down on the so-called unguided tours would have that, and I think it would be enough just to have the name. Or you could specify I mean there's only two of them for now, one would wear orange and one would wear green or whatever. But the name on the back, that way if they are involved in an incident you know we would know who to call immediately. Yeah, it would be a good idea and to take it a little bit further, Don, then the guided people incorporate the language that their leader should--because my company does it voluntarily but perhaps they all should, the leader--wear a vest and the last rider wear a vest. So again you know that a group is contained.

COUNCILMEMBER COUCH: So section E would be then a safety vest is required on guided tours where the leader and the trailer, is that what they call the last person?

MR. FELICIANO: The, no the leader is the first guy on the bicycle.

COUNCILMEMBER COUCH: Right. What do you call the last person?

MR. FELICIANO: Caboose. The biggest guy, generally that's the rule of thumb. But yeah, the last participant in the tour.

COUNCILMEMBER COUCH: Oh it's not one of your employees, it's just the last participant in the tour?

MR. FELICIANO: Correct.

COUNCILMEMBER COUCH: Oh okay.

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MR. FELICIANO: The leader is an employee but the last participant generally is a male and we generally line them up smallest to biggest.

COUNCILMEMBER COUCH: Okay.

MR. FELICIANO: So yeah.

COUNCILMEMBER COUCH: So the leader of the tour and the last person in the tour wear a safety vest. On unguided tours, anybody in the unguided tour must wear a safety vest and the safety vest must be, must have the company name and be visible from 40 feet away.

CHAIR COCHRAN: Does that 40 feet thing make sense to you, Mr. Feliciano?

MR. FELICIANO: It'll probably still be hard to read you know from afar. But remember when you're in that car going past the bicyclist, you're really only about four or five feet away from them right? And those that are the guys that are, would probably make the complaint is the motoring person. So yeah, 40 feet, that's kind of the PUC thing right now for lettering on the side and all that. That's the rule of thumb.

CHAIR COCHRAN: Okay. Thank you. Okay.

COUNCILMEMBER COUCH: So do you need a motion or we can just have Staff put that in there if everybody's agreeable?

CHAIR COCHRAN: Staff, what would prefer?

MR. MOLINA: Can I get a brief recess --

CHAIR COCHRAN: Sure.

MR. MOLINA: --to discuss?

CHAIR COCHRAN: We are in a brief recess. . . .(gavel). . .

RECESS: 3:42 p.m.

RECONVENE: 3:58 p.m.

CHAIR COCHRAN: . . .(gavel). . . Will the Infrastructure and Environmental Management Committee now reconvene. Members, thanks for that recess. And we have some newly written language that Rayna is handing out to all of us. Thank you, Jordan. And it's a new, it's an amendment I believe is going to be presented by Mr. Couch. Mr. Couch, when you're ready.

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COUNCILMEMBER COUCH: Thank you, Madam Chair. Members, we passed out proposed amendment section 5.22.025 in section C a second sentence should read safety equipment shall include helmets, and I guess, Corp. Counsel, you were concerned about making it a mandatory use of helmets?

MS. THOMSON: You could include the word mandatory in there if you want the tour company to instruct the riders that use of a helmet is mandatory.

COUNCILMEMBER COUCH: Okay. That's up to discussion for the you know, I think it should be mandatory but I don't know what the other members think. So if it were mandatory, safety equipment shall include mandatory use of helmets. If everybody's agreeable.

CHAIR COCHRAN: So my question because this is in regards to just bicycle tour businesses and not only the downhills, this is going to pertain to all?

COUNCILMEMBER COUCH: I believe that is a good question.

CHAIR COCHRAN: Ms. Thomson.

COUNCILMEMBER COUCH: This is a bicycle tour business obtaining a permit issued shall comply with the following.

CHAIR COCHRAN: You know what I'm saying, Mr. Couch? So, Ms. Thomson is that the reason for your adjustment to the amendment?

MS. THOMSON: No, it was a suggestion that if you want helmets to be like not just provided but that you want these tour companies to tell their riders that the use is mandatory then you might want to spell it out that way.

CHAIR COCHRAN: Okay.

MS. THOMSON: But yeah as to Councilmember Couch's comment, that would mean that it's mandatory across all areas of the island, not just on Haleakala Crater Road.

COUNCILMEMBER COUCH: So I guess we may want to add, well the question is to you as the basically the crafter of this whole bill, when you talk about before conducting a bicycle tour the permit holder shall provide safety training and equipment to all riders on the tour, are you talking about just Haleakala Highway tours or any tours? Pretty much guided tours at this point are only on Haleakala Highway but.

CHAIR COCHRAN: Right.

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COUNCILMEMBER COUCH: So, as the crafter of the bill, are you wanting to restrict number C to just Haleakala Highway tours?

CHAIR COCHRAN: I think that's the intent, right?

COUNCILMEMBER COUCH: Yeah.

CHAIR COCHRAN: Isn't that your intent, Mr. Couch?

COUNCILMEMBER COUCH: My intent, yes --

CHAIR COCHRAN: 'Cause I think --

COUNCILMEMBER COUCH: --for the helmets, yeah.

CHAIR COCHRAN: --the people riding around the head of Maui and riding through South Maui and riding through Lahaina, it's up to them if they want to have --

COUNCILMEMBER COUCH: Right.

CHAIR COCHRAN: --helmets. I mean I don't see them currently wearing them but we don't have a helmet law. But I think the bike tour companies downhill all require that. It's mandatory from, and I see the two gentlemen here who have companies nodding their head, yes.

COUNCILMEMBER COUCH: It's mandatory for them, probably for their insurance.

CHAIR COCHRAN: Yeah, but I think it's important. To bike downhill, crashing without a helmet, not too pretty. So personally I wear them. I'm not too fond of helmets but I wear them on the bike downhill.

COUNCILMEMBER COUCH: Correct. But if we don't specify downhill companies then anybody doing a bike tour through.

CHAIR COCHRAN: Yeah and that I don't know if it's all that fair if we did it that way.

COUNCILMEMBER COUCH: Corp. Counsel is that an issue if we just limit it to the Haleakala Crater?

MS. THOMSON: I don't think so. But you know as with this entire bill, it's going to go through a much more in-depth review at our office before we give a final comment on it so we can take another look at that --

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COUNCILMEMBER COUCH: Okay.

MS. THOMSON: --before the...

COUNCILMEMBER COUCH: So if possible then I would like to just restrict at least the helmet portion to, provided that the tour is conducted on Haleakala Highway. And if there's no objections from the Members, then I'll go to the next one.

CHAIR COCHRAN: Mr. Guzman?

COUNCILMEMBER GUZMAN: Yeah, why don't you just take that section there and put it, that language safety equipment shall include helmets and place that language right after safety vests. Like wear a safety vest and helmet --

COUNCILMEMBER COUCH: Okay. Okay, that's fine.

COUNCILMEMBER GUZMAN: --with business name affixed to the back and visible, or I mean sorry, sorry, to wear a helmet and safety vest, sorry.

COUNCILMEMBER COUCH: Yup, that'll work.

COUNCILMEMBER GUZMAN: That way it's right there, it's applying to the Haleakala Highway. See that sentence there --

COUNCILMEMBER COUCH: Yup.

COUNCILMEMBER GUZMAN: --in the amendment? Yeah.

COUNCILMEMBER COUCH: So then, Members, the new section D would read, "any bicycle tour business conducting an unguided tour shall require all riders to wear a safety vest with the business name affixed on the back and visible from 40 feet and a helmet, provided that the tour is conducted on Haleakala Highway."

COUNCILMEMBER GUZMAN: Correct.

COUNCILMEMBER COUCH: And then also, "any bicycle tour business conducting a guided tour shall require the tour leader"...oh yeah, that's it, that's good. Then, "any bicycle tour business conducting a guided tour shall require the tour leader and the last rider in the tour to wear a safety vest affixed with the business name on the back that is visible from 40 feet provided that the tour is conducted on Haleakala Highway." That way, because of their insurance requirements, I'm sure they're required to have helmets so that's not an issue there. It's the

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individual folks that should be required to have a helmet and everybody should be required to have a vest --

COUNCILMEMBER GUZMAN: Right.

CHAIR COCHRAN: Yes.

COUNCILMEMBER COUCH: --under those, okay.

COUNCILMEMBER GUZMAN: Yeah, perfect.

COUNCILMEMBER COUCH: Okay?

COUNCILMEMBER GUZMAN: I'm agreeable to that.

CHAIR COCHRAN: So is that consensus?

VICE-CHAIR CRIVELLO: Yes, consensus.

CHAIR COCHRAN: Okay we...Jordan?

MR. MOLINA: Sorry, can I get clarification so that...

COUNCILMEMBER COUCH: So C is...

MR. MOLINA: The helmet?

COUNCILMEMBER COUCH: We don't change C.

MR. MOLINA: The helmet for guided tours will not be mandatory?

COUNCILMEMBER COUCH: It most likely is mandatory by their insurance.

MR. MOLINA: It won't be codified that it is.

COUNCILMEMBER COUCH: Correct, it won't be.

MR. MOLINA: Okay, thank you.

CHAIR COCHRAN: Okay.

COUNCILMEMBER COUCH: So I think you have consensus on that --

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CHAIR COCHRAN: Yeah.

COUNCILMEMBER COUCH: --adding that.

CHAIR COCHRAN: So we have consensus to add that in?

VICE-CHAIR CRIVELLO: Yes.

CHAIR COCHRAN: Are we clear on the language or do we need it read in its entirety or are we all good?

VICE-CHAIR CRIVELLO: Good.

CHAIR COCHRAN: Staff, are you okay? Thumbs up.

COUNCILMEMBER COUCH: Okay, everybody's good.

CHAIR COCHRAN: Okay, yay, are we --

COUNCILMEMBER COUCH: Thank you, Chair.

CHAIR COCHRAN: --moving right along all merrily down our way. Okay yes, Mr. Couch.

COUNCILMEMBER COUCH: One other question that I know the Department had. On Page 3, Number 6, it says, "the dates and times when the bicycle tours will be conducted", what is the intent there? It's talking about the application --

CHAIR COCHRAN: Right.

COUNCILMEMBER COUCH: --shall be in writing, properly verified under oath, and filed with director and shall include the following, and Number 6 says, "the dates and times when the bicycle tours will be conducted". So are they allowed to only conduct tours on especially the dates, I mean are they going to have to put a every day or just say Monday through Friday or Saturday through Monday or Friday, something like that. I don't know what the intent is there.

MR. MOLINA: Madam Chair?

CHAIR COCHRAN: Staff?

MR. MOLINA: Yeah, that language came from the original proposed bill from Public Works. Unfortunately they were not asked to attend today. But I would assume that it came from the

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study as well. Probably would help, as far as enforcement, to identify where these companies are operating, but that's all I would comment at this point.

COUNCILMEMBER COUCH: Yeah, that was a question the Department had, if you want to bring up Mr. Walker.

CHAIR COCHRAN: Finance?

COUNCILMEMBER COUCH: Yeah.

CHAIR COCHRAN: Mr. Walker, Deputy Director of Finance.

MR. WALKER: Madam Chair?

CHAIR COCHRAN: Yes, thank you for being here, Mr. Walker.

MR. WALKER: Thank you. Committee Members, well I think again it's the question that Member Couch asked. I'm not sure what, if a tour company came and said well we're going to operate seven days a week, 24 hours a day, is that okay or is that not okay? I'm, again, not sure what the intent was. If you're legislating the hours that they can work, not sure, so if it was information that anybody could use then I mean if it could be seven days a week, 24 hours a day do we really need the information?

CHAIR COCHRAN: Well I'm, yeah, I see your line of questioning --

MR. WALKER: That, I guess that's just our comment.

CHAIR COCHRAN: --Mr. Walker; and probably they wouldn't want to do it 24/7. But looking at the other description, map, areas, location, routes, I see that description, registration numbers that's what we're talking about you know have some type of numbering system, permit, expiration dates, what have you. And then so would it be helpful to your Department to have the companies state we are a Monday through Friday company, we operate sunrise midday tours and these are the hours of those tours. I mean does that, does it matter one way or the other as in permitting I guess? Would it be a needed I guess detailed, you know, information for you to keep on record just in case for something to look back on.

MR. WALKER: Chair, no. I just, you know, I don't believe so unless it's a law you could only operate during certain hours then obviously that would be something that would be more enforcement driven. But from a permit perspective I don't know what the benefit is unless again unless you're codifying certain times that they can operate.

CHAIR COCHRAN: Okay.

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COUNCILMEMBER COUCH: You know, Madam Chair, you wanting to get something out, maybe if we pull that out and then see if that's needed at a different.

CHAIR COCHRAN: At a later time?

COUNCILMEMBER COUCH: Yeah.

CHAIR COCHRAN: Do you feel okay with that at this point, Members?

COUNCILMEMBER COUCH: I'm fine. I don't know why it's needed unless it's...

CHAIR COCHRAN: Yeah, I take it it's from the study which.

COUNCILMEMBER COUCH: 'Cause if I were applying for a permit, I would say 24/7 just so I have the flexibility unless we want to codify when they can and cannot do those trips.

CHAIR COCHRAN: Right. And Mr. Walker, you don't have any ideas as in how or even enforcement certain times a day, I mean we already are trying to delineate we don't want them below a certain area, you know by 8:00 a.m. and we want staggering to happen and all that, so we're kind of working out the regulating part within this document. So the dates and times, personally, I think it's up to the company and I believe they're pretty much seven days a week, maybe even holidays I'm sure. We get most of our visitors come in on holidays so.

MR. WALKER: Yeah again, Chair, yeah again I don't know the reason for that information.

CHAIR COCHRAN: Okay, well Mr. Couch...

MR. WALKER: You know if the Committee you know has an overwhelming need for that then I, you know we can, that can be on our permit form, but I'm not again just not sure what we're going to use it for.

CHAIR COCHRAN: Okay.

MR. MOLINA: Madam Chair?

CHAIR COCHRAN: Well here's the...yes?

MR. MOLINA: Yeah the permit restrictions do not restrict the operator to those times he puts on his application; so, yeah, there's nothing binding at this point.

CHAIR COCHRAN: Okay. So we're good to...well go ahead, Mr. Couch.

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COUNCILMEMBER COUCH: I would say we strike it until we figure out if it's necessary at a later time.

CHAIR COCHRAN: Okay. Is that consensus, folks, Members? Yes, Mr. Guzman?

COUNCILMEMBER GUZMAN: Yeah that's fine.

CHAIR COCHRAN: You're okay?

COUNCILMEMBER GUZMAN: I have another issue though.

CHAIR COCHRAN: Okay. No, no, no more. Okay. Yes, Mr. Guzman.

COUNCILMEMBER GUZMAN: Yes, Chair. Chair, I get on Page 4, letter D the review of the application, in that section it's actually requiring the Department of Police to review the application. Why not have the, you know, like the DMV review the application? That's where you --

CHAIR COCHRAN: That's where...

COUNCILMEMBER GUZMAN: --register the bicycles anyway. Why would MPD have to review the applications? It would be, wouldn't you go to DMV to register your bike anyway and get your little license and all that stuff, and why can't Finance Department handle the application portion of that review instead of MPD? And then that way that all the records are kind of together, you know, they're registering their bicycle so those bicycles that are being used and those businesses you'd also have the registration for the permits for the bicycle tours as well. Just trying to make it more efficient.

CHAIR COCHRAN: Yes. And I see in E, also, issuance of permit, director, so it's I believe director is DMV.

COUNCILMEMBER GUZMAN: Yeah, upon and then upon issuance of the permit.

CHAIR COCHRAN: And then it says the information will be given to Police, Department of Police and DOT.

MR. MOLINA: Madam Chair?

CHAIR COCHRAN: Mr. Vila, yes?

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MR. MOLINA: Just a comment. The, I believe the requirement to solicit comments from the Police Department has to do with the matter that these businesses are creating you know traffic impacts so as the traffic enforcement arm to get their comments prior to an application or permit being approved was likely the intent there.

CHAIR COCHRAN: Okay and we have Mr. Vila on the floor, too. Yes?

MR. VILA: Yeah, good afternoon, Madam Chair, Council members. As with the other business licenses per se, it's normally when Finance receives the application and the application once it's complete and all of the necessary items are included, it's customarily routed to the enforcement department for review and comments. That holds true for the vendor, current vendor ordinance, the bicycle tours, and based upon the comments for example if routes are specified on the bicycle tour that it's unsafe or it becomes so then it shouldn't, it could exclude that area.

CHAIR COCHRAN: Very good.

COUNCILMEMBER GUZMAN: Okay.

CHAIR COCHRAN: Okay.

COUNCILMEMBER GUZMAN: Can we add the Parks Department as well because at some point you would probably want to have...

CHAIR COCHRAN: In reference to the Rangers?

COUNCILMEMBER GUZMAN: Yeah, in reference to the Rangers and maybe some tours go through parks and stuff so that that would be an option if you put in language that would also allow Parks and Recreation.

CHAIR COCHRAN: Application review --

COUNCILMEMBER GUZMAN: Yeah.

CHAIR COCHRAN: --for Parks and Rec?

COUNCILMEMBER GUZMAN: Yeah, cause if you're at some point going to allow Rangers, Park Rangers to enforce this you would also need to have their Department involved in it, in this review, right?

CHAIR COCHRAN: We'll get comments from Mr. Vila.

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MR. VILA: Yes, that would be a very good recommendation. At this point, if it's not added as part of the ordinance it could be added later on. So if the enforcement is going to be joined up by Maui Police and the Rangers then both enforcement Departments should be included in the review process within the 20 days. So my office will be responsible for accepting the application, make sure all of the components of the application is intact. Once that is all of the necessary elements are complete, then it gets routed to the respective departments for review within 20 days; and based upon the comments that we receive, we would then recommend issuance or denial of the permit to the Director.

COUNCILMEMBER GUZMAN: Very good. So, Chair, I also agree. It would be good if we could add in language so that you would have that bicameral type of review from both Departments.

MR. MOLINA: Madam Chair?

CHAIR COCHRAN: Yes.

MR. MOLINA: I would just comment that if we're not going to designate Parks as an enforcement entity at this time, it might not be appropriate to have them reviewing permits.

COUNCILMEMBER GUZMAN: Yeah, you know, but, Chair, here's my point. If we don't put language in here to include or at least give an option for Parks to be allowed to use Park Rangers, during Budget we will never have a nexus to be able to ask for more money for Parks to allow more employees under the Parks Rangers Division. And that's my point is if we leave it out we will never have that nexus to come back during Budget and say look, this ordinance allows us to have more Park Rangers because we need more enforcement. If we leave it out, it's going to get lost like everything else. So I would request that we put language in here to at least give us that option to come back and argue to Budget, in Budget and Finance that we do need more Park Rangers. Thank you.

CHAIR COCHRAN: Okay, thank you, Mr. Guzman. Mr. Couch?

COUNCILMEMBER COUCH: And I totally agree with, Mr. Guzman that I believe the conversation has gone that we would like Park Rangers to be able to enforce on this. I believe that's the way the conversation's been going so we need to be able to put it in here that they're allowed to enforce on this. And I know they're allowed on the core of permits and any other permits that are issued, I'm guessing that are issued by the Department or at least they're specified in CORA, so we might want to be able to specify in this because this is a commercial activity, it's not a commercial ocean recreation activity but it's still a commercial activity that DMV is the one who gives the license or actually the Department of Finance and that they should be allowed to check up and be the eyes and ears for the Police if they need to be. So and Mr. Guzman is right, if we don't say that in here somewhere then everybody will forget when it comes Budget time that we

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wanted this. So I want it, I just want it on record I think this Committee is very supportive of having Park Rangers be the enforcement arm, one of the enforcement arms on this.

COUNCILMEMBER GUZMAN: Yeah, and Chair, this is just an option you know. I mean we either have MPD or Park Rangers and let the Departments work it out. Let MPD be able to talk with the Parks Department and see what kind of manpower they need; and so without, if we leave that language out, it's all on MPD. We need to give them an option. Thank you, Chair.

CHAIR COCHRAN: Okay. Thank you. Members, any further discussion? Staff?

MR. MOLINA: I just would comment about assigning written enforcement responsibility to two different departments to share jointly. I think it's appropriate to designate one as the lead enforcement agency just for clarity.

CHAIR COCHRAN: Yes, Ms. Crivello.

VICE-CHAIR CRIVELLO: Just...

CHAIR COCHRAN: And then Mr. Vila.

VICE-CHAIR CRIVELLO: For whatever it's worth, I don't...I think we're being premature as far as adding in the Park Rangers without the discussion with the Department as well as we don't know what their job description actually is about and it may involve having the conversation with their respective bargaining unit.

CHAIR COCHRAN: Thank you, Ms. Crivello. Mr. Vila, did you have your hand up?

MR. VILA: If I may add another comment since we're discussing the application. What's not discussed here and perhaps later on or maybe at this time is a year...permit is going to be valid for a year. What happens upon renewal? Is there another review? If there are violations outstanding or that tour company has not been operating in good standings and enforcement has taken a lot of action, will there be an opportunity for the enforcement division to recommend to the Finance Department to say no based upon these items we recommend denial because they are not conforming to the intent of the ordinance? And that's just a question for the body.

COUNCILMEMBER COUCH: Madam Chair?

CHAIR COCHRAN: Yes.

COUNCILMEMBER COUCH: In response to Mr. Vila's comments, we threw in 5.22.090 Rules, the director may adopt rules to implement this chapter. Would that be something that would be a

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valid rule or would you rather it be in the ordinance itself? I would think this is, when we get down to that kind of detail, you may want to adjust the rules that you might be comfortable with.

MR. VILA: Madam Chair?

CHAIR COCHRAN: Yeah.

MR. VILA: At this point, as the initial startup, I believe there would be enough clarity within the proposed bill to allow us to issue the license or deny the license and subsequent renewal if that additional clause is in there, and so the rules itself, there's a lot of other areas for example, you know, what is the capacity of the roads. I mean that goes with a lot of, a lot more study. This is just a general --

COUNCILMEMBER COUCH: Okay.

MR. VILA: --licensing of the business, get it to the next step as I overheard the Council, the direction you folks wanted to go.

CHAIR COCHRAN: Yes.

COUNCILMEMBER COUCH: Then I'm fine with putting it in the ordinance as well. That's what you're suggesting, you rather see it in the ordinance.

MR. VILA: Yes.

COUNCILMEMBER COUCH: Okay.

CHAIR COCHRAN: Okay. So, Members, I feel that I'd like to keep it as is with the Department of Police currently. I would feel much more comfortable if we had Department of Parks and Rec here to chime in and give comment. Because to just toss on responsibility to them right now as they're trying to just get things in order with what they got I think is for me seemed unfair at this point. But and, Mr. Guzman, you know I stand by my word and this is something that we can revisit and we can adjust as we go and I agree with you on that. But I think, at this juncture, I...yeah, I'm not comfortable in inserting that currently; but further down the road, definitely. But again I would like to get comments at least from that particular department who is going to be solely affected and whose kuleana it will be to carry this out. And we heard from Police, and they're more than willing to work with and you know do, band together in enforcing and what have you. But I surely would like to have Director and that Department to speak their piece on it too. So at this point, Members, further discussion, comments needed? We have departments still here with us. Mr. Couch?

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COUNCILMEMBER COUCH: Just Mr. Vila's comments about how did you want that phrased? I would think that it would go in to 5.22.030 or maybe 5.22.035, a new section .035 as far as renewal of permit?

MR. VILA: I recollect the aquatic life, I think that's well written in that Code where if upon...it would be the verbiage should be tailored after that section.

COUNCILMEMBER COUCH: In which...

MR. VILA: The aquatic license permit.

MR. MOLINA: Madam Chair?

CHAIR COCHRAN: Yes?

MR. MOLINA: That section of Code has two subsections, is titled Renewal of Permit, Subsection A says a permit may be renewed on or before its expiration date. Subsection B applications for renewal shall be processed in accordance with section 5.26.040 which is the permit application process for those permits.

COUNCILMEMBER COUCH: So Madam Chair, replacing 5.22.030 with that language should do, yeah?

CHAIR COCHRAN: Mr. Vila, is that what you recollect, what Mr. Molina just read out?

MR. VILA: I would believe so and once that's recompiled and I guess the full scope of the proposed revisions will be reviewed by Corp. Counsel.

CHAIR COCHRAN: That sounded appropriate to me.

COUNCILMEMBER COUCH: Yeah. So Staff, I mean first of all are we on agreement and is Staff clear as to what we want?

MR. MOLINA: So you want that in addition to the term of the permit, not in replace of right?

COUNCILMEMBER COUCH: Yeah, that's fine. Then would be 5.22.035.

MR. MOLINA: Right, yeah.

COUNCILMEMBER COUCH: Okay.

CHAIR COCHRAN: Members? Consensus on that?

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COUNCIL MEMBERS: No objections.

CHAIR COCHRAN: No objections, okay.

COUNCILMEMBER GUZMAN: Are we going to draft this out and then show the written version?

CHAIR COCHRAN: You want to see that in writing?

COUNCILMEMBER GUZMAN: Yeah, I'd like the clean copy of all the revisions. Wouldn't you...I'm not going to, Chair, I'm not going to vote on this if this is...I mean you guys are making amendments on the floor. I'd like to see it, you know, at least written out. I mean one more meeting isn't going to kill anybody. It's not going to hurt anybody. I know you want to push this out, but this type of process, you know, making amendments on the floor, making revisions here and there, that's not how I operate, you know. I'm not going to vote on this if I don't see a clean draft in front of me.

CHAIR COCHRAN: Well, that's why we, I mean we can do the official move, votes, oppose, all that; but we've been doing all this --

COUNCILMEMBER GUZMAN: Amendments.

CHAIR COCHRAN: --consensus, consensus versions. And I mean, technically, I don't see any overwhelming, glaring, huge changes, so personally. I mean I know we've been adjusting and my intent was never to go this far to begin with; but we have, and I just felt like a lot of the things we're doing are little minor tweaking of it in a sense where it's still very palatable for all, and nicely we have all the Departments that are going to be in charge and taking all the applications and...

COUNCILMEMBER GUZMAN: Let me ask Corp. Counsel, let me ask Corp. Counsel, are the amendments that we've made so far on the floor, are they substantive or nonsubstantive?

MS. THOMSON: Both, sorry.

COUNCILMEMBER GUZMAN: Both, and the substantive revisions, have they been written out in form?

MS. THOMSON: Councilmember Couch's amendment to 5.22.025, adding the new section, that was substantive and that was written out. I think it depends on whether they are succinct enough to be fully understood.

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COUNCILMEMBER GUZMAN: And then the new provisions that they're going, I guess one of the Council members have proposed for an amendment, adding an aqua section of it? What provisions was it, renewal section. Is that substantive or nonsubstantive?

MS. THOMSON: I think it's really the body's pleasure whether they feel more comfortable seeing it in print versus doing them orally.

COUNCILMEMBER GUZMAN: Let me see it in print. I would request to see it in print.

CHAIR COCHRAN: Okay. I still have got more item, too, and it's 4:30, Members. Mr. Couch.

COUNCILMEMBER COUCH: Madam Chair, if your intent is to get this out it might be prudent to first of all see if you are...if you have the votes, and from what our discussion, I'm fine with passing on something today and then prior to first reading...and the only reason we're saying this is because of the time crunch of how many more meetings this term has, it's only a few. Unless, if we carry it one more meeting then we have to do a waived Committee report and I'm not sure that we really want to do that. So if we pass it out, if you have, you think you're going to have the votes and want to pass it out today and prior to first reading when it comes out if there are any really big gotchas, then we can certainly either tweak them on the floor or just say, you know, we've got to do this next term. I'm willing to work on that basis if that's the issue is because of the crunch at the end of the term.

CHAIR COCHRAN: Ms. Crivello.

VICE-CHAIR CRIVELLO: Chair, because we've had such heavy discussions and it's been since 1:30 after testimonies and I can understand my colleague, Mr. Guzman, would like to see things in writing; I, too, so that I can have a better clarity on what we're amending and I didn't get a direct answer from Corp. Counsel when Mr. Guzman asked the question. So I, too, would rather have things in print, and just for that reason of because of the ongoing discussion we've been having. It's so much changes our discussion going back and forth in this. I think if we have a clean copy, I think be better for us, for me anyway, Chair.

CHAIR COCHRAN: Okay. Okay, and I normally know how Mr. Carroll feels on first readings and second readings, too. So I can count the votes and I, and it's true, you know. Again, I think we had...this is extremely healthy and we're pretty much down to I believe...distilled down to what we all can live with; and so that's fine, we can defer until next. But I do, I really, really want to stress, and on behalf of Ms. Baisa, I know she agrees, to get this out this term. It's been sitting around for way, way, way too long. And at this point, again, I think today we really vetted through quite a bit, and so I will honor your folks' recommendation in that we shall defer and I will bring it back up the next chance that we get another meeting. Yes, Mr. Guzman.

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COUNCILMEMBER GUZMAN: Yeah, thank you, Chair. I want to let you know that you're almost there, and if you just be patient I think it's almost there. So I know we have some technical, at least for me, I feel that we need to review it in its full entirety.

CHAIR COCHRAN: Right.

COUNCILMEMBER GUZMAN: So thank you.

CHAIR COCHRAN: And that's fine.

COUNCILMEMBER GUZMAN: Thank you very much.

CHAIR COCHRAN: And that's good and I agree. Yes, Ms. Crivello.

VICE-CHAIR CRIVELLO: I do support all of your efforts to get it through just as long as we have a clean write-up and we'll be good to go.

CHAIR COCHRAN: Alrighty, sounds good then. And we'll get Corporation Counsel, too, to really vet through it and hopefully agree with every single thing.

COUNCILMEMBER GUZMAN: Chair.

CHAIR COCHRAN: Yes, Mr. Guzman?

COUNCILMEMBER GUZMAN: Is it possible at your next meeting if you could call Parks and Recreation just for that, or at least write a letter to them and see if --

CHAIR COCHRAN: Yeah, perhaps we can draft a letter --

COUNCILMEMBER GUZMAN: --there could be some type of communication.

CHAIR COCHRAN: --to get a comment.

COUNCILMEMBER GUZMAN: Yeah, a comment on.

COUNCILMEMBER COUCH: Bring 'em.

CHAIR COCHRAN: Okay.

COUNCILMEMBER GUZMAN: Well, in fact, they're on the floor in my Committee tomorrow on updates for Parks and Recreation so we could --

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CHAIR COCHRAN: Okay.

COUNCILMEMBER GUZMAN: --we can ask them on the floor as well.

CHAIR COCHRAN: I don't know if we can do that, but...

COUNCILMEMBER GUZMAN: I don't know.

CHAIR COCHRAN: Okay. Alright. So, okay, this is closed for the day, this particular item is deferred.

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

ACTION: DEFER pending further discussion.

CHAIR COCHRAN: So Members, it is 4:35 now and we didn't even get to the second item on this agenda which is IEM-37, and it is in regards to the County Communication sent forward by Councilmember Victorino, and let me just take a brief recess, real brief. . . .(gavel). . .

RECESS: 4:35 p.m.

RECONVENE: 4:37 p.m.

CHAIR COCHRAN . . .(gavel). . . The Infrastructure and Environmental Management Committee will now reconvene.

**ITEM NO. 37: PRINCIPLES OF ZERO WASTE AS A WASTE
MANAGEMENT POLICY FOR THE COUNTY OF MAUI**
(CC 13-33)

CHAIR COCHRAN: Members, we are over time on, and I know we've got other responsibilities to attend and what have you. I am extremely sorry and apologetic to our, the public that came to testify in regards to Zero Waste. I thank you for your testimony but this item is going to be deferred because we will be losing quorum, and I will bring it up on my very next meeting, both items actually will be coming up. So we can finish them up and get them moving forward into the future, and again apologies to the public that have come and listened to us all day and, but thank you for your testimony and participation.

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

ACTION: DEFER pending further discussion.

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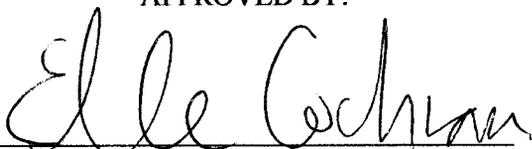
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CHAIR COCHRAN: So Members, with that, we are, no further business, we are now adjourned.
... *(gavel)* ...

ADJOURN: 4:38 p.m.

APPROVED BY:



ELLE COCHRAN, Chair
Infrastructure and Environmental
Management Committee

iem:min:141013:mt

Transcribed by: Marie Tesoro

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CERTIFICATE

I, Marie Tesoro, 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 3rd of November, 2014 in Wailuku, Hawaii

A handwritten signature in cursive script, appearing to read "Marie Tesoro", written over a horizontal line.

Marie Tesoro