

# POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE

Council of the County of Maui

## MINUTES

October 27, 2014

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

**CONVENE:** 9:01 a.m.

**PRESENT:** Councilmember G. Riki Hokama, Chair  
Councilmember Donald G. Couch, Jr., Vice-Chair  
Councilmember Gladys C. Baisa, Member (In 9:05 a.m.)  
Councilmember Robert Carroll, Member  
Councilmember Elle Cochran, Member  
Councilmember Stacy Crivello, Member  
Councilmember Don S. Guzman, Member  
Councilmember Michael P. Victorino, Member  
Councilmember Mike White, Member

**STAFF:** Carla Nakata, Legislative Attorney  
Kimberley Willenbrink, Legislative Analyst (Item PIA-3(6)) (Out 10:09 a.m.)  
Mark Pigao, Legislative Analyst  
Tammy M. Frias, Committee Secretary  
  
Ella Alcon, Council Aide, Molokai Council Office (via telephone conference bridge)  
Denise Fernandez, Council Aide, Lanai Council Office (via telephone conference bridge)  
Dawn Lono, Council Aide, Hana Council Office (via telephone conference bridge)

**ADMIN.:** Michael J. Molina, Executive Assistant, Office of the Mayor (Item PIA-2(38))  
William R. Spence, Director, Department of Planning (Items PIA-3(6), -1(34))  
Kyle K. Ginoza, Director, Department of Environmental Management (Item PIA-82)  
Michael M. Miyamoto, Deputy Director, Department of Environmental Management  
(Item PIA-82)  
Michael P. Ratte, Solid Waste Division Chief, Department of Environmental Management  
(Item PIA-82)  
Michael J. Hopper, Deputy Corporation Counsel, Department of the Corporation Counsel  
(Item PIA-3(6))  
Richelle M. Thomson, Deputy Corporation Counsel, Department of the Corporation  
Counsel (Item PIA-82)  
Brian Bilberry, Deputy Corporation Counsel, Department of the Corporation Counsel  
(Item PIA-1(34))  
Patrick K. Wong, Corporation Counsel, Department of the Corporation Counsel (Item PIA-  
1(34))  
Edward S. Kushi, Jr., First Deputy Corporation Counsel, Department of the Corporation  
Counsel

**OTHERS:** John Ornellas (Item PIA-2(38)) (via telephone conference bridge; Lanai Council Office)

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Jeff Stark, Zero Waste Campaign Maui (Item PIA-82)  
Tom Reed, President, Aloha Recycling (Item PIA-82)  
Irene Bowie, Executive Director, Maui Tomorrow Foundation, Inc. (Item PIA-82)  
Kelly King (Item PIA-82)  
Rosemary Robbins (Item PIA-82)  
Bradley Bunn, nominee, Cost of Government Commission (Item PIA-2(38))  
Additional attendees (6)

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

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CHAIR HOKAMA: . . .(*gavel*). . . The Council's Committee on Policy and Intergovernmental Affairs shall come to order. This is our scheduled meeting for the 27<sup>th</sup> of October, 2014. Present this morning is our Vice-Chairman, Mr. Couch.

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

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

COUNCILMEMBER CARROLL: Good morning, Chair.

CHAIR HOKAMA: Good morning. Ms. Crivello.

COUNCILMEMBER CRIVELLO: Good morning, Chair.

CHAIR HOKAMA: Good morning. Ms. Cochran.

COUNCILMEMBER COCHRAN: Aloha. Good morning, Chair.

CHAIR HOKAMA: Mr. White.

COUNCILMEMBER WHITE: Aloha, Chair.

CHAIR HOKAMA: Mr. Guzman.

COUNCILMEMBER GUZMAN: Good morning, Chair.

CHAIR HOKAMA: And Mr. Victorino.

COUNCILMEMBER VICTORINO: Good morning, Chair.

CHAIR HOKAMA: Absent and excused is Ms. Baisa this morning. Okay, Members, we have some things we need to take care of for today's business, but before we do we shall take testimony and allow anyone wishing to give their comments on an agenda item. By Rules we provide three

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minutes. We will assist you with your time with a lighting system at the podium. Green means you have part of your two and a half minutes to speak. The yellow lights means you have 30 seconds to conclude, and the red light means please stop. If you have additional comments you will request the Chair for that additional time, and if approved you may continue. Also I would ask everyone please turn off your noise-making handheld equipment. We shall maintain decorum in this Chambers. And also at this time we allow all districts as well as people in the Chambers to provide public testimony. So we'll ask our Hana Office, Ms. Lono, is there anyone wishing to provide testimony on today's agendized items?

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

CHAIR HOKAMA: Thank you very much. Ms. Fernandez, is there anyone on Lanai that would like to give testimony this morning?

MS. FERNANDEZ: Good morning, Chair. This is Denise Fernandez on Lanai and we have one testifier, John Ornellas. He's testifying on Item No. 2(38).

CHAIR HOKAMA: Okay. If he would come forward and speak into the microphone, please.

*...BEGIN PUBLIC TESTIMONY...*

MR. ORNELLAS: Good morning.

CHAIR HOKAMA: Good morning.

MR. ORNELLAS: This is John Ornellas from the island of Lanai and I am testifying in support of Mr. Bradley Bunn to be on the Cost of Government Commission. I think that's PIA-2(38). Mr. Bunn has recently moved full time to the island of Lanai and has shown a good interest in our community. He's the chair of the conference, the business conference here on the island. And can you hear the lawnmower, Riki?

CHAIR HOKAMA: Yes, we can. Thank you.

MR. ORNELLAS: And he'll be a good addition to the Cost of Government since Lanai doesn't have any representation on the Cost of Government. So I would hope that you guys would support his nomination.

CHAIR HOKAMA: Okay.

MR. ORNELLAS: Thank you.

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CHAIR HOKAMA: Thank you, Mr. Ornellas. Any questions for the gentleman, Members? Having none, thank you very much for being there, Mr. Ornellas. Okay, anyone else on Lanai, Ms. Fernandez?

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

CHAIR HOKAMA: Okay. Thank you very much. We welcome our Chair, Ms. Baisa this morning.

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

CHAIR HOKAMA: No problem, we understand. We'll go to Ms. Alcon on Molokai. Anyone wishing to provide testimony, please?

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

CHAIR HOKAMA: Okay. Thank you very much. In the Chambers, we'll ask Mr. Jeff Stark if he would come and share his thoughts with the Committee this morning, please. And after Mr. Stark we'll ask Mr. Tom Reed to come forward and share his thoughts with us.

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

CHAIR HOKAMA: Good morning.

MR. STARK: --members of the Committee. I'm Jeff Stark. I publish the zerowastemaui.net website and have been active in Maui's recycling efforts for quite some time. I'm here to talk today about PIA-82, the audit of the Solid Waste Division. We for most of the last year have tried to get answers to a number of questions regarding activities of the Department. We've been particularly interested in the process that produced the County Anaergia waste-to-energy project. We've been frustrated because our questions have gone unanswered largely, and because we have become aware of what we think are unusual activities regarding that project. We hope your audit will help us discover some answers. I have three points I'd like to make today. First, we hope to have a chance...we hope you have had a chance to review the spreadsheets that I put into testimony two weeks ago. Once again, these spreadsheets are derived from the agreement itself and should be thoroughly examined and reviewed, we believe. Second, we'd like to know why the County Anaergia project has been undertaken without input and oversight from the Council, without input from the Recycling Section personnel, and without financial review by the County's accountants and Purchasing personnel. We believe that excluding these experienced and expert individuals puts the, puts us at a distinct disadvantage. It's particularly galling thus that essentially the entire Recycling Section of the Solid Waste Department was prohibited from participating in this, in the analysis and the other activities involved in creating this agreement. And with...that's like throwing away about 100 years' worth of relevant professional experience, and I don't think we can afford to do that. There are a number of questions that we still have.

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We will endeavor to get them before you through written communications as well as testimony. And unless there are any questions that's about all I have for now.

CHAIR HOKAMA: Okay. Thank you very much for your submittal as well as your public testimony this morning, Mr. Stark. Members, questions for the gentleman on what he has shared with you this morning? Having none, thank you very much for your comments, Mr. Stark.

MR. STARK: Thank you.

CHAIR HOKAMA: We'll ask Mr. Reed if he would please come forward and share his views with us this morning.

MR. REED: Mr. Chair, members of the Committee, good morning.

CHAIR HOKAMA: Good morning.

MR. REED: My name's Tom Reed, I'm president of Aloha Recycling, and I wish to speak on the same issue, the audit issue. During the past year, the Administration and specifically DEM has engaged in activities aimed at dismantling the existing recycling infrastructure on Maui, disseminating misleading information regarding cost of recycling, and signed an agreement committing the County to a costly 20-year contract without Council approval or oversight. So I believe an audit of DEM is in order. I'm concerned about our recycling companies, many of whom have been in business for over 20 years. These companies were formed to help the County solve major solid waste problems in the past. It now appears that the County Administration is working toward terminating these recycling efforts. Cost is purported to be justification for the change. For example, when the contract to process recyclables was up for renewal, DEM decided it would prepare and issue the RFP with no involvement whatsoever from its own experts in Solid Waste who had been doing this work for 20 years. As a consequence the contract entered into was considerably more costly than it needed to be. This high cost is now used as an argument for terminating recycling in its present form. Sometime ago the Mayor indicated he wanted a waste-to-energy program. DEM was charged with finding out at considerable travel expense what might be possible. They didn't bother to look for guidance from their own Solid Waste Division. In fact, a gag order was in place. DEM prepared the RFP, evaluated the responses, selected a winner, and signed an agreement that commits the County to a 20-year contract with Anaergia all without Council approval. The Administration claims they don't need Council approval because the contract is a no-cost contract. This is not the case. I've provided testimony, written testimony that includes two spreadsheets, and attached to this spreadsheet is a list that shows landfill transactions for Fiscal Year '11 and '12. And it suggests if the contract had been in place during that timeframe there would have been a cost of between 5 and \$6 million to the County. There's a clause in the contract regarding guaranteed minimum tonnage called put or pay. It provides payment for, to the contractor if we don't deliver enough trash. This happened in Honolulu just last month. There's a second spreadsheet that shows there's a discrepancy between the amount of minimum trash and what the contract says. It's a three-year running average. That too...I'm on my conclusion. That too is erroneous. In

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conclusion, I believe an audit of DEM is required to review and evaluate procedures used and decisions made mostly behind closed doors which appear to be aimed at achieving a specific goal without oversight or approval.

CHAIR HOKAMA: Thank you for your comments, Mr. Reed. Members, any questions for Mr. Reed on his --

COUNCILMEMBER COCHRAN: Chair?

CHAIR HOKAMA: --testimony or attachment that he has submitted? Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair. And good morning, thank you, Mr. Reed, for being here. So in conclusion what would be your top highlights as in what would help to, I don't know, shed light on areas of concern in your eyes? You know you said believe, review and evaluation of procedures used, decision made, et cetera. So is this like basically management? Just the overall management of the Department?

MR. REED: Yes, yes, primarily. Because it seemed that when DEM came into existence, one of the first things they did was totally ignore the existing infrastructure that exists here. The Solid Waste Division and two of the members of Solid Waste Division as I'm sure everyone is aware have been released, and so there are issues there. And I think that there's a lot of things going on behind the scenes that I don't believe very many people know about.

COUNCILMEMBER COCHRAN: Thank you for your time, Mr. Reed. Thank you, Chair.

CHAIR HOKAMA: Okay. Any further questions for the gentleman, Members? Having none, Mr. Reed, thank you very much for your testimony this morning. We'll ask Ms. Irene Bowie if she would please come up and share her thoughts with us, please.

MS. BOWIE: Good morning, Chair --

CHAIR HOKAMA: Good morning.

MS. BOWIE: --and Committee members. I'm Irene Bowie, executive director of Maui Tomorrow Foundation. Maui Tomorrow supports a performance audit of the Solid Waste Division of Environmental Management, and we believe that the scope of the audit should include personnel issues, contracts as was already mentioned in testimony, not only the Anaergia contract but others that have taken place. Recycling issues, I think we're all aware of the confusion over the last few months that's kind of been happening in the community with the hours of trash pickup and landfill. And I just want to mention that during that period of time driving up Pulehu Road you're starting to see large appliances on the side of the road again, abandoned vehicles. It's like let's not go back, you know, to where we were before. Definitely the Integrated Solid Waste Management Plan. There's been no progress on the computerized refuse routing or disaster debris plan. No current plans for construction and demolition recycling sites, and no current

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plans to expand regional composting sites. And I would also say that I was here when the zero waste panel happened. And that was so informative and so inspiring. And it was so disappointing to see Environmental Management's reaction to that. And kind of just saying the community wouldn't support it when it was so shown that Kauai embraced it, that education is so much a part of it. Get the community to buy into this and all the things that we can do. So again, I just think it is timely to have an audit and I hope it can be a fairly broad scope. Thank you.

CHAIR HOKAMA: Thank you, Ms. Bowie. Any questions for our gentlewoman on her testimony, Members? Having none, thank you for being here. Kelly King? If Ms. King would come down and share your thoughts with us, please. And if there's anyone else after Ms. King, please make yourself known and we shall provide you your opportunity to testify.

MS. KING: Thank you, Chair. My name's Kelly King. I'm obviously involved in some of these issues with Pacific Biodiesel, but I want to make it clear that I'm testifying on behalf of my own person. And part of this reason is the last time I came and testified on anything to do with the landfill, a few days later we got a letter from the Department of Environmental Management telling Maui EKO that Pacific Biodiesel was out of compliance and had to vacate the landfill before the end of the next month or we would be fined \$1,000 a day. So I just want to make it clear that one of the issues that we're facing is the treatment that we've gotten from this Administration, this Department of Environmental Management. I want to really thank the Council for doing your job because as we all know and I've spoken to several of you about this, I've spoken to people in the Administration about the gag order that exists and the fact that Council members cannot go talk to people in this Administration and have meetings without some long, formal process of requesting a meeting. This is really disturbing, and I think the only way you're going to get at the real information is by doing an audit like this. There have been several failures in this Administration as far as the Department of Environmental Management. There's been a failure of openness and transparency. There's been a failure of using expertise in the process of developing these goals, especially the project at the landfill. As was stated earlier none of the businesses, the current businesses that are doing the work of recycling and waste management were consulted in this process before the RFP was put together. And then there was a lack of competency in the review of the RFP and the proposals that came in. The people who were in this committee were not experts on this kind of technology, and so the review in my opinion was skewed. It was not a proper review of that process. So I wanted to also encourage this Council in considering the scope of this audit to make sure one, that there is access by the auditors who I'm assuming will be fair and distanced from County process that there's access to all the employees in the Department of Environmental Management directly without having to go through the Department heads. Because there's been a blockage of information, and also even access to former employees because there's a lot of people who know what's going on there that aren't there anymore. It's very disturbing that there's so many personnel issues related to this Department. And also that there's information from those of us who are working in this Department and have had, witnessed all these things without being able to really talk to the Council about it. There have been multiple public meetings where the County and the contractor have been able to present to the public, but the actual recyclers who are working in the landfill

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and throughout this process have not been afforded that opportunity. So thank you very much. Appreciate it.

CHAIR HOKAMA: Thank you, Ms. King.

COUNCILMEMBER VICTORINO: Chair?

CHAIR HOKAMA: Any questions for the lady on her testimony? Mr. Victorino.

COUNCILMEMBER VICTORINO: Thank you, Mr. Chair. And thank you, Ms. King, for being here. Do you have something in writing with specific criteria or specific ideas that you would like to bring forward like Tom and some of them? You know we'd like to get some of your input, what we would like to see done.

MS. KING: Okay.

COUNCILMEMBER VICTORINO: Do you have any specifics that you could give us? You know I don't know, Mr. Chair, if...you know, I'd just like to hear from them what the specific. I mean you're giving overarching. Thank you.

MS. KING: Well, I think it's very important to really do a review of the process of creating the RFP for the landfill. There have been...and one of my biggest issues is that there's been a lot of information presented by the County of what, of the level of material that's coming in that has not been accurately reported. The types of material that come into the landfill that have been reported as being available to the contractor are not owned by the County. Nothing's owned by the County until it comes across the scale, so that was, that's a big issue is, you know, what information is being presented that's accurate and what information is not quite accurate. Because those of us who have contracts to collect that material, we, you know, once we have the material we own the material, it only becomes...and it actually doesn't...there's a process that has been ignored by the Department of how the money comes into the people at the landfill and how it goes out. And so there have been...we've been dealing with this for I want to say probably since the late '90s where, you know, we come, whoever comes across the scale pays a tipping fee, including Pacific Biodiesel's trucks. We get our tipping fee, we get a fee back from the County for keeping it out of the landfill. The material has been portrayed as landfill material, it's not landfill material because it doesn't go into the landfill, it gets processed and kept out of that, the landfill. It's landfill diversion. And so there's a differential between what the tipping fee is for the people who bring this material in and what the tipping fee gets paid to us to process it. And that differential was a profit margin for the County. So it's really important to understand that the County was making money up until this year when the fees were changed by DEM, that the County was making money off of the Maui EKO contract. And, you know, the people who understand...because it comes in from one Division, goes out to another, the people who understand the differential between that have not been allowed to testify.

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COUNCILMEMBER VICTORINO: Thank you, Ms. King. I appreciate that clarification. Thank you, Mr. Chair.

CHAIR HOKAMA: Any further questions for the lady? Mr. White.

COUNCILMEMBER WHITE: Thank you, Chair. Ms. King, could you...I didn't catch the timeframe between the time you testified before the Council and the receipt of your letter.

MS. KING: It was last year in November and it was within a week we received the letter.

COUNCILMEMBER WHITE: Okay.

MS. KING: And it was, you know, I came to the Council with my concerns about the Anaergia contract and it was nothing personal against Anaergia but the process that was used and the process that was being used at that time to try to solidify this agreement. And, you know, so then, and then shortly thereafter we got a letter.

COUNCILMEMBER WHITE: Okay. And then the other thing I was...you brought up an interesting point about people not...I mean the County doesn't own the fats, oils, and grease that you all pick up. Similarly if there are large operators that are recycling cardboard or other items, they're being picked up commercially, would it be right to consider those items as not owned as well?

MS. KING: Right. Those items are not owned until they come across the scale, and even then we brought a lot of material across the scale and we processed it then. It did not, still did not go into the landfill. It was...it should not be considered. The green waste that gets recycled, all the FOG that gets recycled should not be considered landfill waste because it doesn't go into the landfill. I think the other issue that needs to be looked at is there's a tremendous amount of savings that have happened over the last 18 years in this County from the processes that we've been directly involved in and probably other people, too. But the financial benefits to the County have included things like a drop in the wastewater spills, tremendous drop in wastewater spills when we started taking the grease trap out of the system. That's a monetary benefit that's not even counted in that \$200,000-plus per year that the contract was bringing in. There is also a benefit...I've calculated that since we've brought our own trucks in here and started picking up the used cooking oil for free, we've collectively saved the restaurants on this island over a \$1 million. That's a lot of money. I mean there are restaurants here that don't even realize they used to have to pay to have their cooking oil hauled off. And plus we've dropped the grease trap fees. So there are other...those kinds of financial benefits and economic benefits I think need to be included in that audit as well. It's like what benefit does the existing system have to the County versus what the County is trying to do.

COUNCILMEMBER WHITE: Okay. And so with respect to not owned items, that would include things like green waste. Do you have any...since you work with EKO, do you have any idea of what the total green waste is as a percentage of what could go into the landfill?

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MS. KING: Well I think with just what EKO is doing it's about 17 percent of the material, but there's also another green waste operation that operates out of Kihei separately, doesn't bring anything into the landfill. So there's a good amount of material on this island that's recognized as being valuable for something else besides landfill and there are people...I mean we've proven...whoever put that green waste deposits out in Kihei that's working off of that has proven that it's, there's value there and they're willing to pay to find another site to process it if it comes to having to pay the tipping fee to somebody like Anaergia. I mean the tipping fees are all going up under this contract.

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

CHAIR HOKAMA: Okay, thank you. Ms. Baisa.

COUNCILMEMBER BAISA: Thank you, Chair. And thank you very much, Ms. King, for being here this morning. I know you have a lot of good information. One of the things we're trying...I mean the thing we're trying to do here is to determine the scope of the audit that the Council has called for, and as Chair of course I'll be contracting for that audit. And I want to make sure that we do contract for the things that, you know, the Council really wants and needs to know. By any chance, do you have your recommendations in a written form?

MS. KING: Yeah, I can put...I have them on my computer, I can send them to you, Madam Chair.

COUNCILMEMBER BAISA: I would really appreciate that if you could --

MS. KING: Okay.

COUNCILMEMBER BAISA: --do that I...because then we'll have it in front of us. I'm afraid that we'll miss something important.

MS. KING: Okay. Thank you.

COUNCILMEMBER BAISA: So if you can help me I'd really appreciate it.

MS. KING: Absolutely.

COUNCILMEMBER BAISA: Thank you.

CHAIR HOKAMA: Okay. Any further questions for the gentlewoman on her testimony, Members? Having none, thank you very much for your presence, Ms. King.

MS. KING: Thank you, Mr. Chair.

CHAIR HOKAMA: We'll ask Ms. Rosemary Robbins to come forward and share her thoughts with us, please.

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MS. ROBBINS: Good morning, everybody.

CHAIR HOKAMA: Good morning.

MS. ROBBINS: I certainly endorse what the previous two testifiers had to say. I'm not equipped to deal specifically with some of the jobs that are involved in this, but on the larger measure we don't have a great history of welcoming audits in this environment of the County of Maui. And it makes me think about something as vital as these issues, as vital as our health, I would not want to go in and be operated on by somebody who decided to not take any preliminary looks at what my history might be. So for us to go ahead and to not take a look at what the history has been here and continues to be in some cases I think is shortsighted. So I'm really pleased that this is going to happen, and I ask you to be as comprehensive as you can in getting that. And thank you, Gladys, for having asked for those particulars because that should be a big help I think. So the other thing is that we keep talking about transparency. We don't have a great history in view of that perspective either. So room for improvement on that. And knowing that we all want to be dealing in terms of pono I just am endorsing going after this, taking a good look at all of it, facing the facts that might be painful to face. And I have gone over to the other building and done some of those grease measures over the years, scared the daylights out of me when I saw that. So we're making some progress, we need to make it faster and more comprehensive. So thank you for taking this up.

CHAIR HOKAMA: Okay, thank you. And, Ms. Robbins, my apologies, you know the procedure, for the record, please identify yourself.

MS. ROBBINS: Oh. Rosemary Robbins, concerned citizen speaking in terms of PIA-82 this morning.

CHAIR HOKAMA: Great. We appreciate it. Thank you. Anything else you'll be speaking on to the Committee this morning? You had just that one item you wanted to give testimony? Any questions for the lady on testimony provided, Members? Having none, we appreciate your presence.

MS. ROBBINS: You're welcome.

CHAIR HOKAMA: Ms. Lono, anyone by chance in Hana would like to give testimony?

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

CHAIR HOKAMA: Thank you. Ms. Fernandez, anyone additional on Lanai?

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

CHAIR HOKAMA: Thank you. Ms. Alcon, anyone else on Molokai?

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

CHAIR HOKAMA: Okay, thank you very much, ladies. We appreciate your assistance to the Committee. Members, no further requests for testimony, with no objections, we shall call testimony for today's agenda.

COUNCIL MEMBERS: No objections.

CHAIR HOKAMA: Thank you. So ordered.

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

CHAIR HOKAMA: We shall move on to the business.

**ITEM PIA-2(38): NOMINATIONS TO BOARDS, COMMITTEES, AND COMMISSIONS**  
**(COST OF GOVERNMENT COMMISSION) (CC 13-42)**

CHAIR HOKAMA: May I direct you to Policy Item 2(38). This under the heading of Nominations to Boards, Committees, and Commissions. This is a subheading with a County Communication 13-42 regarding the Cost of Government Commission. We have a communication dated October 2<sup>nd</sup> of this year, from the Mayor, who has transmitted a proposed resolution recommending Mr. Bradley Bunn to the Cost of Government Commission for a term expiring March 31, 2018 due to a vacancy. Mr. Bunn has been gracious enough to come forward so he can be visible and we can place his face with his name, as well as for those on Lanai that may have yet to have meet Mr. Bunn. So I'll ask Mr. Bunn if he would come forward to the podium, please, at this time. I would ask if he would give us some comments about his willingness to serve, his ability of time, and to also be available for any questions by the members of the Committee. So, Mr. Bunn, welcome. Thank you for making the effort to be with the Committee this morning and we are happy to hear your comments.

MR. BUNN: Thank you, Mr. Chairman. And thank you, members of the Committee. My name is Bradley Bunn and it is...I would like to thank you for the opportunity to place my face with my name as well, so thank you. And it's also a welcome opportunity to begin to place your faces with your names as well. So I welcome this opportunity to begin that process. In regards to the nomination to the position, I have reviewed the time commitments and am able to make the commitment to attend and to travel over to Maui from Lanai for the meetings. And look forward to the opportunity to serve. I'm at your disposal for questions. Thank you.

CHAIR HOKAMA: Okay, thank you very much. As you will note also, Members, Mr. Bunn in filling out his application did also attach some of his experiences in his previous volunteer work as an occupational experiences he's had in the past. I'll ask Mr. Molina if he has anything else he would like to add regarding the nomination of Mr. Bunn.

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MR. MOLINA: Thank you, Mr. Chairman. And good morning, Committee members. The Administration would like you to consider Mr. Bunn for the vacancy on the Cost of Government Commission. He is of course as you know from the island of Lanai. The Administration is now looking I guess forward to extending, you know, opportunities for Lanai residents as well as Molokai residents in the future to serve on the Cost of Government Commission. Coming back to Mr. Bunn, he is of course a self-employed business consultant, a very good background in business, and also a former city council member from Andrews City in Texas. So the Administration feels the combination of his business and political background could certainly be an asset to the Cost of Government Commission. Thank you, Mr. Chairman, Committee members.

CHAIR HOKAMA: Okay, thank you very much. Members, questions for Mr. Bunn? I have a few, Mr. Bunn. And again because you will be coming from our district of Lanai, let me ask you a few questions. You know one of the things that I would hope this Commission would do because of now the residents of this County has approved to have a County auditor, the professional component. How do you see the Cost of Government Commission, should it be there when we have a professional auditor that does this? We have annual independent auditors do our financials and other things. You have any thoughts?

MR. BUNN: I do. I would advocate for the Commission. I would believe that a commission in an advisory capacity sometimes gives it a little more latitude to look honestly and succinctly at different issues outside of the noise that occurs within County government or in an auditor's, in an official position. I see it as playing a worthwhile role and a necessary role in allowing...gathering the public comment and input as well. The idea of sunset reviews, reviewing different functions of government and programs on a regular basis to determine if they're continuing to deliver a benefit to the citizens for the cost...very crucial and necessary for good governance. And I...it's sometimes hard for an auditor's office to do all those things, so I see a definitely a positive and beneficial role. . . .(inaudible). . .

CHAIR HOKAMA: You don't see it as a more political arm of the Mayor's Office because he's appointing you folks to this position?

MR. BUNN: I've been an appointee of a governor in the State of Texas, dealt with appointed boards, and tend to find that at least from my perspective that I also bring an independent viewpoint and my experience. And that is the purpose of service, to make that contribution, not just to repeat a policy but to actually carry out a charge.

CHAIR HOKAMA: You would be coming from Lanai and regarding our unique County geography and whatnot, there've already been comments by the current Cost of Government Commission and they've sent a request to Lanai about the need of an existence of a Lanai Planning Commission or even a Molokai Planning Commission. What are your thoughts about those things?

MR. BUNN: I can speak specifically to the importance of a Lanai Planning Commission. With all of the changes on the island at the moment and the issues that the community faces, the ability to

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have that local input, and, you know, the process at times, I mean this is called sausage making for a reason. And sometimes it can be a little messy and not pretty and sometimes Robert's Rules of Order gets tossed out, but that's no reason to ignore or to disregard the importance of that local, local input in governance. And it's amazing the nine miles across the channel here, what an impediment that is to come from Lanai to participate. And what a barrier that would be to the citizens there not to have a local planning commission to take input and to help the community come together with the company and work together ultimately with the County. So I am well in excess of 100 percent in a Lanai Planning Commission and would oppose that as a cost-saving measure.

CHAIR HOKAMA: What do you see your role in relationship to the County Auditor?

MR. BUNN: It's my understanding this is an advisory commission.

CHAIR HOKAMA: Yeah, it has no real powers.

MR. BUNN: Right.

CHAIR HOKAMA: Well it does but that's what we need to --

MR. BUNN: Right.

CHAIR HOKAMA: --fix.

MR. BUNN: I would say within the charge of the Commission to review those items of government and to issues the reports, to make the recommendations. To expect information from the auditor to support those investigations and then to issue the findings or the opinions, the recommendations.

CHAIR HOKAMA: Well I would hope as a new commissioner should we approve you, you would consider analyzing and seeing whether or not the Cost of Government Commission should exist. Mr. Couch.

VICE-CHAIR COUCH: Thank you, Mr. Chair. And thank you, Mr. Bunn, for being here. Putting on your hat as a former city council member, when you see a situation where we have the auditor and a full department and we're having expenses for that department, and then in the Charter it has something very similar for the Cost of Government Commission to do very, very similar functions. Do you see that that might be a waste of expenses that, I mean we're already doing it in one place and not in the other, and that's, you know, putting that hat on --

MR. BUNN: Sure, sure.

VICE-CHAIR COUCH: --can you take a look at that?

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MR. BUNN: Yeah. And it's interesting to ask me whether or not a commission should be sunset'd before I've served on it as well. It's my understanding the Auditor's Department is relatively a new function here, so it might be that it would be wise to let this run for a year or so and evaluate and see if the input is, if it is helpful or not. I certainly...my experience in government is in another state, the State of Texas. The governor there is relatively weak and he governs through boards, and that can be, you know, very, very effective, and from a financial aspect and then also from just being able to get things done, so boards do have their roles if they function. So, you know, I'd say it's difficult for me to pass judgment on a commission I haven't served on yet. And with a new, with the Auditor's position being so new, perhaps a year from now would be a better time to evaluate that.

VICE-CHAIR COUCH: Okay. Thank you, Chair.

CHAIR HOKAMA: That's why they're called judges in Texas.

VICE-CHAIR COUCH: Yeah.

CHAIR HOKAMA: Other questions for Mr. Bunn...Mr. White?

COUNCILMEMBER WHITE: Thank you, Chair. Thank you, Mr. Bunn, for being here today. I'll be a little more direct.

MR. BUNN: Sure.

COUNCILMEMBER WHITE: The challenge that some of us have had with the Cost of Government Commission over the past year is that following the establishment of the Auditor's Office, the Cost of Government Commission tried to get control over it and first wanted to review them, then just when they were told they couldn't review them, they decided they would investigate them instead. We worked very hard in crafting the Auditor's Charter amendment to provide almost complete independence from both the Council and the Administration. With the Commission tied to the Administration, it was somewhat questionable that they would go after the Auditor's Office. So I guess my question is when you get onto the Commission, will you assist them in pursuing the Auditor's investigation or will you suggest they leave it in a position where as intended it's independent from both the Council and the Administration?

MR. BUNN: It's, that is my understanding, the Auditor's position that you just stated, it's also my understanding that this Commission is advisory in capacity and its role is to review expenses almost in a sunset capacity and to make recommendations. And it's my understanding that that is its role and charge and purpose, and I as a new appointee if I were to join it, that would be my philosophy and that would be my charge to carry out. To cross a line beyond the charge of the committee, as basic philosophy that's not the way I see how the world works --

COUNCILMEMBER WHITE: Okay, thank you.

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MR. BUNN: --to go beyond the regulatory framework, the charge that was established for a commission. Now I don't operate without portfolio is a term I've heard in Hawaii, I don't do that as a rule.

COUNCILMEMBER WHITE: Thank you. 'Cause I think there are a lot of us that believe the Commission has done some wonderful work that they've brought to the Council which has resulted in us changing a number of different things. So I'm one of the, I'm one of those that supports the Commission but just wants them to do their job.

MR. BUNN: Do their job. Right. Or stay within the bounds of.

COUNCILMEMBER WHITE: Right.

MR. BUNN: Yes. Yes.

COUNCILMEMBER WHITE: Thank you. Thank you, Chair.

CHAIR HOKAMA: Okay. Thank you, Mr. White. Other questions for our gentleman from Lanai, Members? Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair. And good morning, Mr. Bunn. Thank you for being here. So my question, you came about the application on your own, were you recommended, suggested to apply for this position?

MR. BUNN: The initial application was made in response to the Lanai Planning Commission. That was submitted many months ago. So the, that was, my initial interest was for the Lanai Planning Commission. So the Mayor's Office has had an application for many, many months, and I was contacted by Mr. Molina on behalf of the Mayor's Office at the end of September, the 1<sup>st</sup> of October if I had an interest in serving on this Commission. And I researched, did some very, very basic quick research on what its charge was, learned that, about the Auditor's Office, the reduction of this to it, an advisory capacity, looked at the meeting requirements to make sure that I would be able to attend the meetings, and indicated that yes I would be interested in serving.

COUNCILMEMBER COCHRAN: Okay. Thank you.

MR. BUNN: You're welcome.

COUNCILMEMBER COCHRAN: And also in your application in regards to your past affiliations and what have you, the eight items on here that don't actually have dates attached to them, are those under a year attended or, you know, as United Way President, Andrews County Housing Authority Director, and there's eight different items that it doesn't show dates of participation in these? Is that...I was just trying to figure out, 'cause the other do have years.

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MR. BUNN: Sure. Right. There were multiple years in several of those, and several of those go back well into the '90s. So it was, for the sake of brevity some of the, those years were omitted I believe off that.

COUNCILMEMBER COCHRAN: Oh, okay. So they're just various amounts of times?

MR. BUNN: Correct. Yes, yes, yes.

COUNCILMEMBER COCHRAN: Okay.

MR. BUNN: It was everybody that, all of us that live in communities know that if you don't learn to say no and you say yes you can get involved in all kinds of things, and the smaller the community even more so. And even more importantly because that's what makes community. And that has been my history, my life. Here I stand, I haven't learned to say no yet, I don't know why. But yes, the housing commission that was, goodness, that was a four or five year, that was a county appointed in Andrews. The United Way was multiple years as board service and then chair and then campaign chair and et cetera, so.

COUNCILMEMBER COCHRAN: Okay. Yeah, thank you very much. And also, Chair, last. Currently are a full-time resident of Lanai?

MR. BUNN: Yes.

COUNCILMEMBER COCHRAN: You're there. And you just recently made that move to full time?

MR. BUNN: Full time over a year.

COUNCILMEMBER COCHRAN: Over a year.

MR. BUNN: Yes.

COUNCILMEMBER COCHRAN: Okay. Thank you, Mr. Bunn.

MR. BUNN: And then...yes, you're welcome.

COUNCILMEMBER COCHRAN: Thank you, Chair.

CHAIR HOKAMA: Okay. Other questions for the gentleman, Members? Are you still doing your own private business, Mr. Bunn?

MR. BUNN: The, all the mainland businesses basically are shuttered. I'm doing a little bit of consulting work on Lanai, a little bit of web design --

CHAIR HOKAMA: Okay.

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MR. BUNN: --freelancing, some photography, some fun stuff for a change, also working as volunteer with the chamber as the chair of the chamber.

CHAIR HOKAMA: Okay, good.

MR. BUNN: And...

CHAIR HOKAMA: Is Pulama Lanai your, a major client of yours?

MR. BUNN: No.

CHAIR HOKAMA: Okay. Do you do any work with Pulama Lanai?

MR. BUNN: No.

CHAIR HOKAMA: Okay. You're in a unique position, Mr. Bunn.

MR. BUNN: And I realize that. And it gives me some latitude to communicate openly across all the different groups.

CHAIR HOKAMA: I'm glad that you recognize that, Mr. Bunn. It's not...it's something many others would like to be in. Other questions for the gentleman, Members, on his nomination? You have anything you wish to add in closing? Any closing comments, Mr. Bunn?

MR. BUNN: Just that Andrews, Texas was a unique little town. It was one town in a county of 1,800 square miles, so out in the middle of nowhere in West Texas. And I was fortunate to do some time on city council there. It had the longest...it was a strong city manager, weak mayor, so it had a city manager and that city manager was the longest-serving city manager in the state. And a small town with not much of a tax base, the old turtle wins sometimes. And was able to build a funded depreciation account of over \$20 million. And the philosophy was you pay as you go, you understand that sometimes investing in facilities, that building the building is cheap, it's what happens over the 50-year life of a building. Collectively we have to come together to supply services, but we do it as efficiently as we can because we're stewards of our community's good will and their trust, and their money. So that's sort of, that's where, that's, you know, the governance that I learned, that's sort of the, where I come from. So am I tight? Yes. But do I agree we all need to come together and provide services? Yes. So I look forward to this and would find it interesting opportunity to serve. So thank you.

CHAIR HOKAMA: Okay, thank you. Any other questions for the gentleman? If not, thank you very much for your presence this morning, Mr. Bunn.

MR. BUNN: Thank you, Mr. Chair.

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CHAIR HOKAMA: Appreciate you coming forward and letting us at least recognize who you are as our nominee.

MR. BUNN: If I might be excused, I have a meeting later today with Teena Rasmussen about some grant money for that Fifth Friday event on Lanai, so.

CHAIR HOKAMA: Good, good, good. Thank you very much --

MR. BUNN: You're welcome.

CHAIR HOKAMA: --Mr. Bunn. Okay, Members, the Chair is going to recommend to you that the Chair will entertain a motion to place the name of Bradley Bunn on Exhibit "B" for approval to be on the Cost of Government Commission for a term expiring March 31, 2018. Mr. Couch.

VICE-CHAIR COUCH: Thank you, Mr. Chair. I move to adopt the resolution entitled Appointment of a Member to the Cost of Government Commission by putting Mr. Bunn's name on Exhibit "B".

COUNCILMEMBER BAISA: Second.

CHAIR HOKAMA: Okay. We have a motion by Mr. Couch, seconded by Ms. Baisa. You've heard the terms of the motion, Members. Any discussion? Having none, all in favor of the motion, say "aye".

COUNCIL MEMBERS: Aye.

CHAIR HOKAMA: Opposed, say "no"? Motion passes with nine ayes.

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

**NOES:       None.**

**EXC.:       None.**

**ABSENT:    None.**

**ABSTAIN:   None.**

**MOTION CARRIED**

**ACTION:     Recommending ADOPTION of revised resolution approving the nomination.**

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CHAIR HOKAMA: And we shall send this recommendation to the Council. So thank you very much, and thank you for being here, Mr. Bunn.

MR. BUNN: Thank you, Mr. Chair.

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

CHAIR HOKAMA: Let me direct you, please, Members, to Policy Item 3(6). This is under the heading of Hawaii State Association of Counties or HSAC. Specifically this is the 2015 Legislative Package consideration. Under 3(6) we have some proposals for consideration today. We have a proposed resolution Approving for Inclusion in the 2015 Hawaii State Association of Counties Legislative Package a State Bill Relating to Zoning. This is a resolution to approve a proposed State bill for an act submitted by the County of Kauai, entitled A Bill for an Act Relating to Zoning which is attached to the proposed resolution as Exhibit “A”. As we understand it, the purpose of the State bill is to distinguish Single-Family Residential use from Single-Family Vacation Rental use and allow amortization by ordinance for single-family transient vacation rentals over a reasonable period of time. This morning we have Mr. Hopper from the Department of Corporation Counsel to share some comments with the Committee prior to us moving forward to our discussion and decision making. Mr. Hopper, if you will, please.

MR. HOPPER: Thank you, Mr. Chair. I was asked to review this ordinance and provide my comments. Not this ordinance, I’m sorry, this proposed legislation and provide my comments. And what I saw essentially was that as you are most likely aware there is a State zoning ordinance that...or basically a State Hawaii Revised Statutes section that authorizes the counties to zone property. And as part of this zoning legislation, there’s an authority for the counties to provide for what they call amortization but which is essentially a phasing out of uses that are nonconforming. Basically uses that were legal at one point and that were made illegal at some time, point in the law, and allows the County to gradually phase out those uses. With one exception however, it does currently state that in no event shall such amortization or phasing out of nonconforming uses apply to any existing building or premises used for residential (single family or duplex) or agricultural uses. Now this at first glance wouldn’t seem to create any problems with respect to transient vacation rentals because those are generally not thought of as residential uses. And the County of Maui currently has a nonconforming uses law in its Zoning Ordinance which provides for the phasing out of uses which would include vacation rental uses. But this ordinance...I’m sorry, again, this law, this proposed legislation has a phrase in it to just make absolutely clear that uses such as transient vacation rental units...well not such as, specifically that transient vacation rental units are, can be phased out. It appears that there may have been some confusion as to whether or not these transient vacation rental uses were considered residential or not and this law makes that very clear. On the last page I found it on 3(6), the very last page has a Ramseyered format of the law and makes very clear that zoning ordinances can provide for the amortization or phasing out of nonconforming single-family transient vacation rental uses or nonconforming single-family transient vacation rental units over a reasonable period of time in any area of any

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zoning classification. This would essentially confirm the County's authority to phase out these transient vacation rental uses over time. Again, the County already does this with respect to all nonconforming uses as it has a Nonconforming Use Ordinance that deals with uses in general. But this I think is a good piece of legislation to clarify the practice that's already going on which I believe is a lawful practice, but this will make that doubly clear. And we have not seen an argument that transient vacation rental use is a residential use, but this appears to have been at least in Kauai a potential issue that they thought important enough to have this included in the State package that it's going to be sending in. And so I saw that as a positive and would recommend that this be adopted, because that further confirms the County's authorities and takes out any ambiguity there may be in a transient vacation rental use being considered a residential use that cannot be phased out.

CHAIR HOKAMA: Okay, thank you, Mr. Hopper. Mr. Spence, since we have your presence would you care to give a comment regarding this since this is a zoning thing in your Planning Department? You have anything you wish to share whether you support the consideration for re-verification of what we know we can already do?

MR. SPENCE: Good morning, Mr. Chairman.

CHAIR HOKAMA: Good morning.

MR. SPENCE: I have not reviewed this particular bill that's coming forward. I suspect it's similar to one that was introduced last year in the Legislature by the County of Kauai. I know they have quite a different setup as far as their vacation rentals go, and I think for us I don't think it's going to affect us too much. But as Mr. Hopper points out it's good to offer legislation that clarifies the way we can do things and that certain practices are lawful. I would certainly support Kauai in their need to clarify how they can deal with their vacation rentals.

CHAIR HOKAMA: Okay. There's no concern for you or Mr. Hopper with the phrase "reasonable period of time"? I mean reasonable to what, the financial institutions that deal with the mortgages and those things, or is it reasonable time for government to collect what it needs from the property owner? I mean whose reasonable time we talking about?

MR. HOPPER: Well, Mr. Chair, the reasonable period of time phrase does appear in the current HRS section and the County's already subject to that requirement. In the County Code as far as nonconforming use, it basically allows someone to continue that nonconforming use unless they cease that use within a, for 12 consecutive months, and so that's what we have. And I think that would certainly at the very least be consistent with a reasonable period of time of phasing out. It would basically say if you cease this use for more than a year you lose the right to do the use, but that's the current County requirement. And again, don't see a problem with this. I think this is going to be a bigger issue on Kauai as the Director said, because in Maui County transient vacation rentals were essentially made illegal in every district except for Hotel and Apartment in 1980 and in Apartment in 19...in the early '90s. But on Kauai they were only recently I think around 2006 or 2007 made illegal clearly throughout the county except in certain areas, and so

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they are...they will have more nonconforming uses that were lawful and are now unlawful than the County of Maui, because the County of Maui since, in most districts since 1980 has said you cannot do transient vacation rentals. There's been exceptions to that with the newly adopted short-term rental home and bed and breakfast laws, but they are in a different situation than Maui County as far as the number of nonconforming that were previously lawful but nonconforming transient vacation rental units.

CHAIR HOKAMA: Tell us as my understanding goes, any issues with Interim zoning categories that still exist in this County in this proposal? I mean isn't that one of the things we tell them, you stop your interim use and in 12 months you lose the right to that use if it's Interim zoned?

MR. HOPPER: Well, Mr. Chair, this current proposal...I mean we...it...

CHAIR HOKAMA: No, no, that's why I'm asking. Is there any impacts from this proposal regarding those Interim-zoned lands that has residential use?

MR. HOPPER: Well, Mr. Chair, this specific proposal only targets transient vacation rental units, and so I'm unaware of that being allowed as a use on, in Interim zoning at any point. So I would not see an impact of this legislation on any uses in the Interim District. That would seem to be a bigger issue for the current County Code section dealing with nonconforming uses in general. But this legislation is targeted at vacation rental or yeah, vacation rental units specifically, and doesn't actually touch the general rights of the County to amortize out uses. That's in the existing law as it is.

CHAIR HOKAMA: Okay, very good. Mr. Couch, did your Committee have any comments it wants to, you could share with this Committee?

VICE-CHAIR COUCH: Thank you, Mr. Chair. We had a pre-meeting with the attorneys and staff and because of the time constraints we never had a chance...and noticing issues, we never had a chance to bring it before the Committee; however, Mr. Hopper basically said the same things that he just said here and we figured that having him here at this meeting would suffice because we, because of noticing issues.

CHAIR HOKAMA: Okay. No, I just thought if you folks had some comments or recommendations for us we'd be happy to hear and receive it. So thank you. Okay. Ms. Baisa, any comments?

COUNCILMEMBER BAISA: I...maybe Mr. Victorino would be --

CHAIR HOKAMA: Okay.

COUNCILMEMBER BAISA: --more appropriate to report, but I was at the HSAC meeting on Friday --

CHAIR HOKAMA: Okay.

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COUNCILMEMBER BAISA: --with Mr. Victorino.

CHAIR HOKAMA: Okay.

COUNCILMEMBER BAISA: If...

CHAIR HOKAMA: Mister...yeah.

COUNCILMEMBER BAISA: You know I'll defer to him if he'd like to make the report about this.

CHAIR HOKAMA: Okay, thank you very much. Mr. Victorino, you have anything you could share with this Committee regarding this consideration, please?

COUNCILMEMBER VICTORINO: Thank you, Mr. Chair. And thank you, Ms. Baisa. You know we...the two things that we did agree upon at Friday's meeting was number one, what has been brought in for inclusion would be considered. Those who are received after the deadline were not going to be inclusive.

CHAIR HOKAMA: Okay.

COUNCILMEMBER VICTORINO: And unfortunately...later on we'll be discussing Ms. Baisa's Sunshine issue and that was not inclusive in the HSAC package this year.

CHAIR HOKAMA: Okay.

COUNCILMEMBER VICTORINO: It was decided that to be fair to all if we start saying yeah, we'll take this one but not that one, it would cause a whole mess of challenges as you've known in the past. And so that was what was discussed. As far as this issue I know Kauai is very, very in tune to having this because they feel it's a problem across the State, and I tend to agree at certain points that this would be and as Mr. Hopper confirmed it would only reinforce what we're doing here and I think would reinforce what Oahu is doing also or how they approach it. But I don't want to be speaking for other counties. So I would have to say that I'm in favor of this being included, and I see no reasonable challenge for us here in Maui County because many of these issues we have been addressing through the years. And thanks to your leadership, Mr. Chair, and others in this room, we're in a much better position than Kauai is at this point in time. However, like everything else I think if it fits for all of the counties and it will help enhance the counties' ability to do their zoning as this is bringing, this being brought forward I would be in support of it, Mr. Chair.

CHAIR HOKAMA: Okay.

COUNCILMEMBER VICTORINO: Thank you, Mr. Chair.

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CHAIR HOKAMA: Thank you very much. Ms. Baisa.

COUNCILMEMBER BAISA: Thank you, Mr. Victorino. I just wanted to be sure that we understood what had happened at the meeting, and that they're abiding strictly by the deadline which we would not . . . *(inaudible)*. . . if we made a recommendation at this point.

CHAIR HOKAMA: Okay, understood.

COUNCILMEMBER BAISA: Yeah. Thank you.

CHAIR HOKAMA: Understood. Okay. Any comments, questions for either Mr. Hopper, Mr. Spence, Mr. Victorino or Ms. Baisa regarding this consideration? I have no issues to help support a sister county in their need for clarification and support. We've asked that in the past and we've received it from our sister counties, so I have a, I'm able to recommend that we fully support Kauai County's request. And therefore I'm happy to entertain a motion to include into the 2015 Hawaii State Associations of Counties Legislative Package, the proposal from the County of Kauai, who has a proposed Bill for an Act Relating to Zoning. Mr. Couch.

VICE-CHAIR COUCH: Can I have a short recess?

CHAIR HOKAMA: Okay. Recess. . . *(gavel)*. . .

**RECESS: 10:07 a.m.**

**RECONVENE: 10:08 a.m.**

CHAIR HOKAMA: . . . *(gavel)*. . . Okay. We shall return to order. You have heard the Chair's recommendation and request. So, Mr. Couch.

VICE-CHAIR COUCH: Thank you, Mr. Chair. I move to adopt the resolution Approving for Inclusion in the 2015 Hawaii State Association of Counties Legislative Package a State Bill Relating to Zoning.

COUNCILMEMBER VICTORINO: Mr. Chair, I second the motion.

CHAIR HOKAMA: Okay, thank you. We have the motion made by Mr. Couch, seconded by Mr. Victorino. Members, any further discussion on the motion before you? Having none, all in favor of the motion, please say "aye".

COUNCIL MEMBERS: Aye.

CHAIR HOKAMA: Opposed, say "no"? Motion passes with nine ayes.

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

**NOES:**        **None.**

**EXC.:**        **None.**

**ABSENT:**     **None.**

**ABSTAIN:**   **None.**

**MOTION CARRIED**

**ACTION:**     **Recommendation ADOPTION of revised resolution (State bill relating to Zoning).**

CHAIR HOKAMA: Thank you very much. And thank you, Mr. Hopper. Appreciate it.

**ITEM PIA-4(1):     MAUI COUNTY LEGISLATIVE PACKAGE     (2015 MAUI COUNTY LEGISLATIVE PACKAGE) (CC 13-44)**

CHAIR HOKAMA: Next we have Policy Item 4(1). This is specifically the Maui County Legislative Package in the subheading of the 2015 Maui County Legislative Package. Under 4(1) we have from Council Chair, Ms. Baisa, a consideration. She has a proposed resolution entitled Approving for Inclusion in the 2015 Maui County Legislative Package a State bill Relating to Community Meetings. Attached to that is a proposed bill for an act entitled A Bill for an Act Relating to Community Meetings. And the purpose of the proposed bill, State bill is to allow members of a county council to jointly attend and speak at a community, educational, or informational meeting or presentation of another entity, including a legislative hearing, convention, seminar, conference, forum, debate, or community association meeting. I'll ask Ms. Baisa for her thoughts, please.

COUNCILMEMBER BAISA: Thank you very much, Chair. And as has already been stated unfortunately we didn't make the timeline for or the deadline for HSAC, so I would like us and respectfully ask my colleagues let's push this ahead and let's get it in our Maui County package. And of course what we've done is to revise the section that we had concerns about. And we're proposing that instead of what it read before, we say members of the city council may jointly attend and speak at a community, educational, or informational meeting or presentation of another entity including a legislative hearing, convention, seminar, conference, forum, debate, or community association meeting notwithstanding Subsection E. And essentially what has been removed was the reference to where a fee is charged so that it would be feasible for us to attend.

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It would even affect...I mean it was very broad that if we left the we had to not pay a fee, we'd be in trouble even attending things like HSAC conferences or NACo conferences or any conferences we go to. So this is our proposal and we'd like to move it forward. We did receive verbal support from Kauai at the meeting, and Mr. Rapozo asked that we, he took a copy of the bill, the amended bill with him. We also are trying to seek support from the Alliance of Community Associations, and we have verbally been assured but I don't think they've taken any kind of action on it yet. But they too would like to see us be available to attend their meetings. Thank you.

CHAIR HOKAMA: Thank you. Any other comments, Members? Mr. Couch.

VICE-CHAIR COUCH: Thank you, Mr. Chair. And I thank Chair Baisa for bringing this up and you for bringing it into this Committee. I do have an opinion that I would like to...when this goes I want to provide it from the OIP. Basically, you know, we're now no longer as candidates allowed to go to a forum supposedly and this would change that so to allow us to do something like that. 'Cause I, it just...we all went through the issue when it came up and it just astounds me that we can't, you know, listen to the community, including things especially at a forum where things are going to come up that come before the Council because we're candidates for the office. So I thank you guys for bringing it up and I urge full support of this. Thank you.

CHAIR HOKAMA: Okay, thank you. Any further discussion? Ms. Cochran.

COUNCILMEMBER COCHRAN: Chair? Thank you, Chair. And yeah, I'm in support of alleviating the hardship for us to basically do our jobs and get more educated and awareness about the communities that surround us that we are here to represent. With that being said, there was also an issue in regards to quite a few of us attending a snorkel boat trip, and that was an educational awareness function also. And so I'm just wondering how a trip of that nature would fall into this if it would be addressed? 'Cause I guess there was a, yeah, an issue about us attending and it being a cruise that others I guess paid to get on board or something, we were invited to go to learn more about the reef and the, you know, the marine world issues and then we got called, you know, to, yeah, called to task to explain what it is that we did and why and how and everything else. So 'cause this is in, sounds as in, you know, a forum or indoor setting of a meeting, and that's sort of I guess a meeting but it's on a boat on the ocean meeting.

CHAIR HOKAMA: On State jurisdiction, all the areas.

COUNCILMEMBER COCHRAN: Yes, State waters. Okay, gotcha.

CHAIR HOKAMA: So I say one is be aware of whose jurisdiction, which governmental entity has the jurisdictional responsibilities. The County really has no say in no ocean.

COUNCILMEMBER COCHRAN: Ocean matters. Right.

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CHAIR HOKAMA: It's all State of Hawaii and the Federal government, not County of Maui unless it's our pipe that's in the water. Okay. Ms. Cochran, any...I mean, Ms. Crivello, any comments? Mr. Carroll, comments? Any comments, Bob? No comments? Mr. Victorino?

COUNCILMEMBER VICTORINO: Thank you, Mr. Chair. And, you know, I also support this because as you well know, I was one of the three that walked out of the debate and felt inappropriately pushed out, but I did make our Legislators aware of it that were sitting around us. Ms. Baisa and I made sure they knew that this is what the Sunshine Law is all about, and I think they've gone to a very distasteful as well as unfair disadvantage for us. And this is not only campaigning but this is for other issues, other meetings. I mean if five of us show up at any public forum or any public meeting, Kula Community Association, KCA, Kihei Community...I don't care what association, you know somebody's gotta leave, we gotta make reports. You know I mean this is for information the public is transmitting to the public and we're sitting there absorbing and being updated in what their concerns are whatever they may be. To take the other step about this snorkeling, there really is a connection, and \_\_\_\_\_ the Ethics Board did put the connection with the idea of the possibility of legal actions with our West Maui Treatment Plant. So unfortunately it may be a State issue but it also falls as a County issue because of the fact that this was part of the tour and we had gone out to see this area. However you want to connect it, it's connectable, and that's what the issue was with the Ethics Board as far as why they said we should pay for it instead of, you know, accepting it as an educational. Although Mr. Aila and many other State officials, our Senator from West and South Maui was on the trip, they weren't affected but we as Council members were. So I think hopefully this bill will not only address what we're talking about, public forums, public meetings but these educational meetings that we attend not only here locally but when we go up to NACo, WIR, other conferences, AWWA. Although I've been fortunate most of the time it's just been me but if other Council members would like to attend to pick up vital information on water and water history and water availability and other jurisdictions and how they're taking on this matter, I'd welcome that, but now we gotta make a report, now we've gotta, you know, say there was four of us or three of us. It seems kind of ridiculous. We're trying to do the job of the people and it seems like the more we try to do the job for the people the more OIP is saying no, you need transparency. I'm all for transparency, this is transparency, we have nothing to hide. But I think, you know, we've got to get to a point of being realistic and I think we've gone over the line when you've started to say even campaign forums which we all know items that are being discussed in the County or items that may come up in the near future is going to be asked at these forums. There's no way this is not going to be asked. So I believe at this point in time we really need some revisions to OIP and to our Sunshine Law so that we are allowed to attend when necessary and if we choose to attend these public forums. So long as we're not sponsoring it, we are not the ones putting it on, you know, it's the community associations or whomever the entity may be inviting us to sit there. And if you say I cannot say anything, fine, we'll just sit there and listen, we've done that before. I have no problem, we're there to gather information and that's all. And if they ask us, you know, like in couple of forums that we were at or informational meetings, I remember the Upcountry one, Ms. Baisa. A number of them asked questions to us directly and all we said is unfortunately we cannot comment, we're here to gather information. That was it and we went no further, and most of them who were there said okay, they accepted that and we moved on. So I'm all in support of

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what Ms. Baisa is bringing forward. I think Mr. Couch has brought something forward. I think all of us feel like this is the time, you know, it should have been done years ago. We tried last Legislative Session and actually they got stricter instead of, you know, helping us, you know, and I believe that's one of the real challenges. They don't see the trees from the forest, they just don't see the reality of what we need to do to do a good job for our constituents. Thank you, Mr. Chair.

CHAIR HOKAMA: Okay, thank you. Mr. Guzman, any comments?

COUNCILMEMBER GUZMAN: Thank you, Chair. I probably have questions that may need to go into execution session but not in open public. I do have questions though.

CHAIR HOKAMA: Okay.

COUNCILMEMBER GUZMAN: Thank you.

CHAIR HOKAMA: Mr. White?

COUNCILMEMBER WHITE: No thanks, Chair. The others have stated my position quite well. Thank you.

CHAIR HOKAMA: Okay. Any further...any questions for your Chair or Mr. Kushi or to Ms. Baisa, the drafter of the consideration? Okay. You did mention you may have questions regarding an executive session requirements. I'll take a short recess and I'll let you come forward to the Chair and I'll see if I'll entertain that request. Recess. . . .(gavel). . .

**RECESS: 10:20 a.m.**

**RECONVENE: 10:22 a.m.**

CHAIR HOKAMA: . . .(gavel). . . Okay, we shall reconvene, but I will recess this meeting. We'll take our mid-morning break and then return to finish up this item, so ten-minute recess. . . .(gavel). . .

**RECESS: 10:23 a.m.**

**RECONVENE: 10:38 a.m.**

CHAIR HOKAMA: . . .(gavel). . . We shall return to order. This is the Council's Committee on Policy, our meeting of October 27<sup>th</sup>. We are still on Item 4(1) on the Maui County Legislative Package. It is your Chair's recommendation, Members, that I am open to a motion to send to Council the proposed resolution that has attached A State Bill Relating to Community Meetings, and to support the redrafted proposal, revised proposed resolution for A Bill for an Act Relating to Community Meetings. Ms. Baisa, would you like to make that motion?

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COUNCILMEMBER BAISA: Yes, Chair, I'd be honored to do that. I submit the motion. Thank you.

CHAIR HOKAMA: Thank you.

VICE-CHAIR COUCH: Second.

CHAIR HOKAMA: I have a motion made by Ms. Baisa, seconded by Mr. Couch. Members, we are under discussion. Any further thoughts on the motion before you? Okay. Having none, all those in favor of the motion, please say "aye".

COUNCIL MEMBERS: Aye.

CHAIR HOKAMA: Opposed, say "no"? Motion passes with eight ayes and Mr. Carroll is excused.

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

**NOES:       None.**

**EXC.:       Councilmember Carroll.**

**ABSENT:   None.**

**ABSTAIN:   None.**

**MOTION CARRIED**

**ACTION:    Recommending ADOPTION of revised resolution (State bill relating to Community Meetings).**

CHAIR HOKAMA: Thank you for that.

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

CHAIR HOKAMA: We'll move on to Policy Item 82. This is under the heading of Performance Audit of the Solid Waste Division, Department of Environmental Management. This Committee has been tasked by Council referral to assist the Council Chair in setting the parameters regarding a performance audit of the Solid Waste Division under the Department of Environmental Management. So, Members, again, it is a...not as...it's a request that has parameters, it is not about the whole Department, it's about a Division of the Department. We have a copy of a Communication 14-229 from Ms. Cochran with her proposed resolution, and a copy of

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Resolution 14-98. We shall authorize the Chair to contract for such an audit. That was adopted September 5<sup>th</sup> of 2014. This morning the Chair has requested the Department to be present. We have Director Ginoza, Deputy Director Mr. Miyamoto present, and I believe...well, you let us know when you want to do the presentation. But we're open to your opening comments, Director.

MR. GINOZA: Thank you, Chair Hokama. On this item as I mentioned in a previous session, you know, we welcome the opportunity to have an audit of the Solid Waste Division. As you've witnessed over the last at least few months or years, we've had some operational challenges and we hope that this audit can assist us in shedding light to this body as well as the community as far as what it takes to operate landfills and refuse collection and recycling programs which we feel we're doing to the best of our abilities. I know some of the testifiers had brought up things that in my mind were false, in particular the fact that we kick people out of our landfill. You know when we find out that people don't have permits to operate, we act, and I hope that, you know, that is what is expected by the community that when you either don't possess one or don't go get what you are, what is dictated by not only our agency but by the Fire Department, we take swift action as we do with others in the public. And so, you know, we're here to cooperate in trying to move forward with ensuring that our Solid Waste Division operates to the community's satisfaction as well as to our regulatory satisfaction. And Mike Miyamoto has prepared a presentation that if you don't mind we could go over right now, which will help explain where we're at with the Division and where we could use some assistance and cooperation. Thank you.

CHAIR HOKAMA: Okay. Mr. Miyamoto, any comments you wish to share?

MR. MIYAMOTO: None at this time.

CHAIR HOKAMA: Okay. So we'll get ready for the presentation. We'll be in recess. . . .(gavel). . .

**RECESS: 10:43 a.m.**

**RECONVENE: 10:45 a.m.**

CHAIR HOKAMA: . . .(gavel). . . Okay. We shall bring the Policy meeting back to order. Mr. Miyamoto, if you would please start your presentation.

*Note: Computer-generated presentation.*

MR. MIYAMOTO: Thank you, Mr. Chair. Thank you for the opportunity to provide this presentation regarding our Solid Waste Division's operations. My name is Mike Miyamoto.

COUNCILMEMBER VICTORINO: Mike, move more closer to the mic, Mike.

MR. MIYAMOTO: Okay, we'll start again. My name is Mike Miyamoto --

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COUNCILMEMBER VICTORINO: Close to the mic.

MR. MIYAMOTO: --I'm the Deputy Director for the Department of Environmental Management. We'll provide responses to the 11 questions for this Committee as a part of our submittal for our budget amendment that we're going to be proposing within the next few weeks. As we prepare for the upcoming audit of our Solid Waste Division, I summarized the findings and recommendations from the 2009 audit that was completed. As you can see there were nine recommendations that generally came out of that audit. What I did was provide you with a brief status and update of the actions that the Solid Waste Division has taken since the audit was completed. We have a draft Strategic Plan which was provided to Council in another previous meeting. As the Integrated Waste Conversion to Energy Project is a major change for the Division, the Tactical Plan is under development. One of the key statements in the audit is on Page 15, the third paragraph. It simply states Solid Waste Division has not had the time and/or resources to focus on the future. The Solid Waste Division management time has been spent focused on addressing legacy environmental noncompliance and notices of violation. While the work gets done the paperwork is lacking. That's basically what you'll see in several of the highlighted recommendations. If the work doesn't get done there's financial implications. If the paperwork doesn't get done we still move on with the project, and that's basically the concern that was raised here in this audit. Basically we need more staffing so that we can do both, keep the projects moving and get the paperwork done. The next major document for the Solid Waste Division is the Integrated Solid Waste Management Plan which several of the speakers pointed to. There were 20 recommendations that came out of that document. The significant piece of information coming from the Integrated Solid Waste Management Plan is the estimated cost at the bottom that I highlighted in red. The ISWMP is projecting the spending of \$200 million between 2009 and 2042, and it also recommended that the operating budget for the Solid Waste Division be increased to \$109 million annually. What I've done is provide you a summary of where we are at this point. I won't go into each recommendation, action, and where we stand at this point but just give you a brief summary. In summarizing some of our actions for these recommendations, you can see that we are somewhat increasing the landfill diversion, we have a pilot curbside recycling program that we're evaluating, we continue to expand our automated trash collection, household hazardous waste collection we're working on the RFP at this time for that, and we are progressing with the waste conversion project. Several other recommendations are being addressed by others, for example, the central baseyard, if you're not aware that we...the Mayor's Office is currently looking into developing a central baseyard for all of the County departments. Then you look at construction and demolition materials, whether it be recovery or recycling. That's currently being done and looked at by the private sector so it's not costing us any money. We are looking at our rural landfills such as Hana, Lanai, and Molokai, what are the alternatives instead of just keep burying the trash. That study should be done within the next year. Since 2009 we've developed about \$10 million as you can see in red at the bottom. We've developed about \$10 million of CIP since 2009, and our annual budget is around 29.8. So how have we progressed? The ISWMP was completed in 2009. The plan demands over 200 million in CIP projects and raises the Solid Waste Division's operating budget to 109 million. The result would be a 60 percent landfill diversion. Just to give you an example, in 2014 we have about a 38 percent diversion rate, we've developed about \$2.2 million worth of

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CIP projects, and had an operating budget of about 29.8. So how do we manage our solid waste? Currently we develop our budget looking back what do we need to do, seeing where we are, what have we done, and looking ahead where we want to be. The Solid Waste Division is partially funded by General Fund, as such, we have to compete with other departments for those funds. Our priorities are safety first, regulatory compliance next, resource management, and fourth non-regulatory and expansion of services. So what are our choices when we submit our budget? We can submit a budget filled with contingency funds for the unexpected or we can submit a budget that doesn't have these contingency funds which is currently what we are doing. So what are our challenges in managing our Solid Waste Division? Our core services are the landfill and refuse collection, two activities that their level of regulation is very heavy, relatively heavy. When you look at landfills and refuse, employee attendance is very important. Weather can play, has an impact on how we operate. The amount of trash can affect how we operate. Equipment, whether it needs to go through regular maintenance or if it needs unintended repairs, it can infect our services. And then we have systematic type challenges that are there. For example, not many people realize at our landfill we have two ten-hour shifts that operate daily, so how do you supervise two ten-hour shifts six days a week or five days a week and then one ten-hour on Saturday? At our refuse collection we have both manual and automated trash collection. How do you supervise some people that are on eight hours while other people are on ten hours? So those are some of the challenges that we have. All of these challenges have unpredictable impacts to our operating budget. One of the challenges that we have to account for is employee attendance. This is the minimum amount of vacation that we have to account for each year. This slide basically says that employees earn 21 vacation days per year. They're allowed to carry over 90 days per year from year to year. Anything beyond 90 days the employee will lose. Just looking at the positions necessary for our day-to-day core services operations, here are some statistics that we have to deal with on a regular basis. For example our landfill, all of our County facilities, we have about 45 employees, 25 of those employees will be at 90 or are at 90 already. Look at our refuse collections, we have 35 employees, 9 of which are at or will be at 90 days vacation accumulated. So if you look at Solid Waste there's a total of 80 employees that are involved with our core services, 34 of those people are at 90 or will be at 90 days which basically means next year they have to take 21 vacation days in the year. As a comparison I put up there what our Wastewater Division has. They have 82 people of which 13 are in that category of greater than 90 days. What this means is that when we do our budget we have to account for this 43 percent of our employees are going to take 21 days a year. So that's 21 days that someone will either be temporarily assigned to a higher level position, or someone's going to be getting the overtime to fill the services that that position provided. Given the challenges previously listed, we try our best to develop a budget for the unpredictable. This slide summarizes our budget amendments and Carryover/Savings for the last five years. The first two years we couldn't get the Carryover/Savings into the slide so we'll pass the first two slides. So if you look at 2012 we came in for a budget amendment of 440,000. It looked bad that we had a Carryover/Savings that year of \$810,000. When you look at why we had a Carryover/Savings, basically the revenue that year exceeded the projection that we developed by \$1.25 million. The same thing happened in the year 2013. We came in for a budget amendment of 145,000, we had a Carryover/Savings of 935...934,000-plus. Revenue exceeded the projection again that year by \$1.07 million. Then you look at 2014 the most recent year. We came in for a budget amendment

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of \$864,000. Carryover/Savings...the negative is not totally correct, it's based on the fact that if you were to try to take that out of the Sewer Fund...I'm sorry, not the Sewer Fund but the Solid Waste Fund it would have been a negative \$750,000. The reason being, revenue, we cut the revenue projection to be very close, revenue projection came in only \$114,000 higher than what we had budgeted. So that \$750,000 came from General Fund, that's General Fund money that could have been put somewhere else. So when you...when we develop our budget there are some of the budget items that are unpredictable, for example, Premium Pay connected to staff attendance, equipment functionality, holiday, and weather. As you know we reinstated all holiday services so that's definitely an automatic overtime for all of our employees. Equipment repairs, we have unforeseen breakdowns. For those who didn't know, our landfill equipment is open...our landfill's open six days a week, that equipment works six days a week anywhere between eight and ten hours a day, very little time for preventative maintenance. We have our refuse collection guys that drive to serve on an average 1,500 customers twice a week, 52 weeks a year. So then you look at our service contracts. We have service contracts like testifiers have said, you know, for recycling center which is a weight based. We do our best estimate as to what, when we write the contract what the weight base will be and we have to put a dollar amount there. Cover material, we also have a best-guess estimate on how much cover material we'll need, we have that in the budget. Composting, sludge, fats, oils, and grease are also volume based. We try to do a historical summary of what we have collected in the past year and we try to use that to base our budget on in the future. All have funding limits based on estimated quantities. Should those quantities exceed those limits we now push that for a budget amendment or somewhere we're cutting services. The final thing is tipping fees. Tipping fees is a budget amount, we do, try to do our best on what we're projecting the amount of trash we're going to collect that year. If we collect less we have a shortfall in our budget. If we collect more as has been shown for the last three years, we have a slight Carryover/Savings possibly at the end of the year. After considering all of this we submit our best proposal for next year's budget. Should our final Council-approved budget differ from our proposal, we examine the approved budget and after reviewing this approved budget and assessing our expenses, we determine if we will be able to meet our priorities of safety, regulatory compliance, resource management, and non-regulatory services. So once we determine that we are going to need a budget amendment to meet our goals and objectives, we have three options. The first option being we can continue to operate as is, you know, nothing cut, no services, apply for the budget amendment, and then the challenge becomes finding the money for that budget amendment. Typically what we'll do is we'll wait for the first quarter for the financial reports to come back and then we'll develop our budget amendment. The second option we have is we can continue our operations with internal curtailment of like in previous years we've had to delay like equipment maintenance. So we keep all services and we curtail some of our non-essential type services. We try to curtail landfill diversion. We apply for the budget amendment and we now have a source for the funding for our budget amendment, it's internal. We save some money through whether it be through non-essential services or delayed maintenance. If we're not afforded that opportunity to curtail non-essential services, then we are forced into the third option which is we reduce public service. Landfill closures directly impact refuse collection 'cause if the landfill's closed we can't collect refuse. We apply for the budget amendment and then we have created the funding within the Division so that we don't have to tap the General Fund. And that concludes my presentation.

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Thank you for the opportunity to share some insight into how we develop our budget and how we operate within Solid Waste.

CHAIR HOKAMA: Okay. Thank you very much. We'll take a short recess to go back in regular session. Recess. . . .(gavel). . .

**RECESS: 11:01 a.m.**

**RECONVENE: 11:03 a.m.**

CHAIR HOKAMA: . . .(gavel). . . We shall return to session, Members. We are on Item 82 at this time regarding the Performance Audit of the Solid Waste Division, Department of Environmental Management. Okay. We just got the short presentation from the Department on its Division's challenges as well as their recommendations, findings. Any questions on the presentation component before we delve into the, setting the parameters? Ms. Cochran, any questions on what was presented?

COUNCILMEMBER COCHRAN: No, Chair, not right now. I just want to see where this Committee is headed in, as into setting those parameters.

CHAIR HOKAMA: Okay.

COUNCILMEMBER COCHRAN: Yeah, at this point. Thank you.

CHAIR HOKAMA: Okay. Ms. Crivello, any questions?

COUNCILMEMBER CRIVELLO: I do have but not at this very moment.

CHAIR HOKAMA: Okay.

COUNCILMEMBER CRIVELLO: Thank you.

CHAIR HOKAMA: Mr. Carroll, any questions right now? Mr. Victorino?

COUNCILMEMBER VICTORINO: I'll await the presentation to, when we go in executive session, there's questions I have at that point.

CHAIR HOKAMA: Okay. Mr. Guzman? Mr. White? Ms. Baisa?

COUNCILMEMBER BAISA: No.

CHAIR HOKAMA: Mr. Couch? Okay. On October 1, 2014, your Chair sent the Director a letter stating 11 questions or areas of information that I felt was critical for the Committee to do its job regarding this assignment we got from Council. Since I have nothing, a hard copy to share with

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you, I will present this questions to the Directors verbally in this meeting for their response. And we have Corporation Counsel so we'll also have guidance from them. But for us, you know, Director and Deputy, you know, we're trying to...it is the intent of this Committee's Chair to come up with the, some of the recommendations we would give Ms. Baisa regarding this. And as I shared at the previous meeting, I'm looking at three to five achievable points within the Division. In talking to auditors, you know, we need to come to terms with the standards that we would ask Ms. Baisa to follow that is accepted by auditors in the profession, that those findings has a basis and will have the weight of those recommendations that would carry to the Council. And it is my understanding that for us to allow the independent auditors to do their requirements for us, we are looking at approximately a timeframe of nine months to get this audit completed. So yes, it will impact some additional budget requests. It will impact some...okay, the Staff has also going to hand out something we just received dated October 22<sup>nd</sup> and signed on the 26<sup>th</sup> of yesterday in fact, from the Mayor, for transmittal and approval. So you will have that also to review. But one of the things I will also tell you, Members, that you can consider as part of is whether or not by Code we want to also develop and adjust how the County Procurement Officer, Mr. King performs by ordinance of some of the other things we may want to by ordinance structure and set forth more specific language on how the County will procure various items. As well as consider whether or not Council should approve all intergovernmental agreements including non-financial agreements is something the Chair is to open as part of changing the Code to bring better transparency and accountability of where we're putting our assets and commitments to whether it be a short-term or long-term commitment. The Chair is very open to those prospects, that I will continue to pursue those options on the Committee's behalf. Stating that, do you need...do you have a copy of the questions, Director? Do we need to provide that to you and Mr. Miyamoto?

MR. GINOZA: We have it. Thank you.

CHAIR HOKAMA: Okay. At this time, you know, I would advise, I would prefer we deal with things that is not part of Anaergia at this point in time. I want to stay as much as possible in open session. I would like the community to hear this discussion. If it becomes a contractual thing that has privileged information, then the Chair will consider an executive session for the Committee upon the advice of, of course, our attorneys. Okay. So stating that, that is how I'm going to proceed at this time on this matter. As much as possible we'll stay in open session. So for my letter on October 1<sup>st</sup>, Director, you have my first question which is update this Committee on the status of your Division's implementations and findings contained in the document entitled Operational Assessment of the Solid Waste Division, Department of Environmental Management, County of Maui, dated June 1, 2009, by Quality Engineering, or in subheadings the 2009 audit as stated on Page 14. Please outline your vision for the implementation of this findings and recommendations, including how you anticipate to prioritize them and the resources that would be necessary for you to carry them out. Director, if you have some comments, please. Mr. Miyamoto, if it's you, please, your comments.

MR. MIYAMOTO: Thank you, Mr. Chair. As I presented in Slide No. 2 we gave a short update on the actions the Department, the Division has taken relative to the 9 recommendations shown in the

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2009 audit findings and recommendations, Slide No. 2. One of the first things it wanted was strategic, a Strategic and Tactical Plan for the Division. Strategic being a short-term or the five-year plan and the Tactical being more long-range over 20 years. Previously we did provide a Strategic Plan, we did show you the, what our plan were for five years. Obviously our goal is for safety, regulatory compliance, and then resource management, so we have completed that, the Strategic Plan. The second recommendation or findings and recommendation was to update the Engineering staff's position descriptions to reflect more current, currently what they were doing and, you know, what duties they would need to implement the ISWMP. We're currently looking at reorganizing that portion of our Division. We're looking...we...as you saw in the 2015 proposal that we had, we had proposed additional positions in the Engineering area, so we are making staffing increases and we are re-describing those increases as we reorganize that section. The next four recommendations regarded, you know, improving documentation control to manage and monitor our projects and our, for the Capital Improvement Projects, our construction projects, and quality management of those projects. . . .*(clears throat)*. . . Excuse me. So we are working on that. Hopefully with the reorganization and staffing increases, we can improve on those areas where documentation was a real concern for the auditor. The eighth recommendation they had was to develop a business model, you know, how to execute the ISWMP, how were we going to develop 200 million for CIP projects and 109 million for the various operations for our Solid Waste Division. One of the main things that's coming about...I guess that focuses on the ISWMP and we'll get into that in a little while. And then the final findings and recommendation was update the ISWMP capital budget revenue projections and expense assumptions. And this is going to be tackled as part of, you know, we're going to update the ISWMP. So to give you an idea of what the update's going to be is that as part of this waste conversion that we're looking at right now, that's a big change in what the ISWMP wanted. The ISWMP wanted us to wait 'til we got to 60 percent landfill diversion and then look at an ISWMP. We're not waiting because the ISWMP has a significant impact into those diversions. So by putting that forward that changes a lot of the recommendations that comes out of the ISWMP. As you can see from my slideshow, Slides 3 and 4, you know, I try to give you an update of the ISWMP at that point, where we stand in that.

MR. GINOZA: Chair, may I add something?

CHAIR HOKAMA: Please.

MR. GINOZA: So the audit basically...I'm Kyle Ginoza. The audit basically kind of fell into two separate kind of buckets. One is to look at operational efficiencies or operational competency, and the other was how we would implement the Integrated Solid Waste Management Plan or ISWMP. And, you know, that plan was completed in 2009, and Mr. Miyamoto and I started with this Administration in 2011. So one of the first things we wanted to try to understand and, you know, as part of the orientation meetings we have with I think Environmental...Infrastructure and Environmental Management Committee is to see as a going-forward policy at what level are we as a County willing to support funding for the Integrated Solid Waste Management Plan. You know I mean that's, you know, we had that discussion on the zero waste with the Kauai folks, and what they had expressed was what they have in their Integrated Solid Waste Management

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Plan, not what is funded in future years but what is in their Integrated Solid Waste Management Plan. And so we don't look down upon the elements of the Solid Waste Management Plan, ours mirrors Kauai's. It's just a matter of over the last few years, we've been trying to understand what level of funding increase could be supported by this body and the community. As Mr. Miyamoto had highlighted in a slide, the current plan created in 2009 advocated a \$109 million budget or a almost four-fold increase in our annual budget and an associated increase in the CIP projects which, you know, requires a lot from the tax base. And so in light of that we looked at areas where we could try to curtail a lot of those costs or not engage into that level of cost structure. And we're looking for guidance still. We're not saying the direction we're going is set in stone and we can't amend things. It is something that the plan needs to be amended unless we do think that we're going to quadruple our annual budget. Mike and I don't anticipate that'll happen anytime in the near future, but that's something that we would like to discuss whether it's as part of the audit or as part of Infrastructure and Environmental Management or as part of Budget and Finance. But at the end of the day, the plan is unworkable without the budget to implement the plan. We've tried our best to continue the operations of our refuse collection and landfilling and what diversion activities we have, but to expand the programs, to incorporate these other zero waste type programs would require the County to invest, which is why contractors of ours are looking for you guys to put more money into our budget to hand over to them. So that's kind of the framework where we need some guidance as far as how do we best implement parts of the plan as well as maintain operational compliance and satisfaction of our community. Thank you.

CHAIR HOKAMA: So at this point in time you are informing this Committee that the current plan as it currently exists is the way to go forward and that the plan does not need to be looked at for revision itself?

MR. GINOZA: As far as the Integrated Solid Waste Management? We are in the process of amending it because every like five years we should revisit it. So we are in the process of revisiting it in light of how our budget has been over the last five years, you know reflective of kind of marginal increases in some of our programs but not a leaps-and-bounds increase in the budget to implement a lot of these initiatives. And if we are misinterpreting what this body would like to see and what Budget Committee would like to see, I mean we are open to that. But just in light of what has transpired over the last three-and-a-half years that we've been here, you know, we've had to revisit how do we try to get more diversion from our landfill to save the land from just filling it with trash. It is something that, you know, we're looking at not landfilling just because you...or curtail landfilling to not fill our lands with trash that we cannot use again.

CHAIR HOKAMA: And everything that you're sharing with us is of course as the new proposed General Plan is projecting population numbers? Is that what you're comparing it to?

MR. GINOZA: It really isn't even including that. I mean we're looking at the current levels of, you know, roughly right now it's like 150,000 tons per year or like, you know, I mean it's gone up to almost 200,000 tons per year just with the normal population not incorporating even what is

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going up. So that's why we feel it's a critical time to address this before we realize any kind of significant population growth and taxing of our existing infrastructure.

CHAIR HOKAMA: Okay. Questions for the gentleman, Ms. Baisa?

COUNCILMEMBER BAISA: Yes. Thank you, Chair. Director, you mentioned that you need to pretty much quadruple the budget in order to, you know, implement the plan as it is. Is it all of the parts of the budget that need quadrupling, or are there specific areas that, you know, we really have to do?

CHAIR HOKAMA: Director.

MR. GINOZA: It's basically in two buckets. One is the operational increase as far as, you know, ongoing expenses --

COUNCILMEMBER BAISA: Right.

MR. GINOZA: --as well as significant Capital Improvement Program increases to develop the facilities that are kind of dictated in the plan. And so the plan really is a matter of if I gave you a blank slate of what do you want if you could have anything in the world, that's basically what the plan includes and the associated budget with that. And so really it's a matter of trying to figure out how much of that can we really absorb in terms of tax increases or, you know, taking from other departments, because we've tried to incorporate as much as we can without asking for an exorbitant increase in our budget. And so we've tried to incorporate some of these elements in the private sector so that it wouldn't entail the County putting out these significant Capital Improvement Projects.

COUNCILMEMBER BAISA: So following on that and kind of listening to what the Chair Hokama mentioned, it sounds to me like the plan that we've adopted is not very realistic.

CHAIR HOKAMA: That's why we, part of the Committee's question is how relevant is the plan today for us to put . . . *(inaudible)* . . .

COUNCILMEMBER BAISA: 'Cause, you know, if we made a plan and we didn't really factor into it what is actually we are able to do as a community then I don't know if that's very smart, because we're going to continually not be able to meet the plan. If the plan is up here and the budget is here we've got a problem.

MR. GINOZA: That's why we want to update it to reflect, you know, what is happening. The Integrated Solid Waste Management Plan does meet the goals of the ISWMP, but there are other elements that I don't think the County is ready to commit yet in terms of funding and man hours or person hours. And so, you know, we don't want to continue basically putting out this kind of fantasy plan when, you know, we, we're trying to be realistic. And that's what we're trying to as a Department try to come to a consensus of what can you folks support in terms of funding level

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and what can we accommodate. And so that's what we hope the audit will help to kind of show that, you know, it's not smoke and mirrors of we have adequate resources but we're not doing it, it's we're at, you know, at the level of resources or maybe even below what we feel we need and to take on more would be a challenge. And, you know, we want to be an open book and help everyone understand where we stand and move forward, so that's why we welcome the audit.

COUNCILMEMBER BAISA: Thank you. That's very enlightening. I think it's important that we're realistic because if we have a plan and it's pie-in-the-sky and we can't do it, then we better take a look at it. Thank you.

COUNCILMEMBER CRIVELLO: Chair?

CHAIR HOKAMA: Thank you. Yeah, we'll...you will all have your opportunities. Mr. White?

COUNCILMEMBER WHITE: Thank you, Chair. Mr. Ginoza, what elements of the plan did you incorporate into this year's or the 2015 Budget? Did you incorporate anything...I guess did you incorporate anything new to address the ISWMP?

MR. GINOZA: In light of how we got funding for Fiscal '14 and '13 and '12, we didn't incorporate any new elements.

COUNCILMEMBER WHITE: Okay. But we basically respond to what is presented, and the only change that we made this year was a reduction of \$140,000 out of a, you know, multimillion dollar contract, so...or budget. I'm just, you know, you were talking about implementing the plan to some degree, and so what you're saying is that you presented us with what you felt was a realistic approach to addressing the plan?

MR. GINOZA: Yes. In light of the funding levels that we've gotten in the past, I think it would be foolhardy for me to actually ask for the increases that are in the plan, and even not getting what we wanted in the first place, what we feel is necessary operationally.

COUNCILMEMBER WHITE: What were you awarded in the 2014 Budget compared to what you were requesting?

MR. GINOZA: I don't recall offhand.

COUNCILMEMBER WHITE: Because my recollection is we gave you the budget pretty close to the budget that was requested. The challenge was that right when we got the budget you guys announced that you were going to close down the recycling centers, and I'm assuming that you wanted to close them down because of the cost. And then you came back to us with a budget amendment because you realized the public wasn't going to go for them being shut down. So I guess I'm just a little bit puzzled because you're saying that it's our lack of willingness to fund, but I think if I recall, Chair, the plan that we were provided in 2014 was significantly funded, and I'll go back and check. And then of course this year the change that we made was simply a

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reduction of about \$140,000 on a budget. I think it ended up between 15 and \$16 million. So again, you know, our job is to fund but your job is to present viable and effective methods of moving ahead with the plans.

MR. GINOZA: Which we did on February 13<sup>th</sup> in Infrastructure and Environmental Management earlier this year to help understand what level of support we might get from the Budget Committee knowing that many Members are on the same Committee. And that, you know, we expressed these are the type of programs that are available now and that, you know, we want some guidance as to what would be supported. Knowing that, you know, many Members are reluctant to, you know, raise any kind of fees, understandably so. I just think, you know, you folks also have the opportunity to insert anything into the budget, so, you know, we look for that direction of we're here to help support whatever initiatives can be funded. And, you know, if it were up to us we would fund a lot more than we actually put in. Knowing that, you know, it puts you guys and the Mayor in a difficult position to ask for a lot more tax dollars to implement programs that are really discretionary in our perspective. That yes, you know, we do want other programs but in the context of other programs that affect health and safety conditions for our employees and our community, they may not rise to the top of the priority level. I mean it is something that we tried, I mean in the Infrastructure and Environmental Management Committee, in that orientation line item to try to understand, look, these are the types of things we could do. If it could be supported we'll research it more. We're already taxed with the existing resources. If that's something, I mean if you're saying next year that you want to see more things, we'll put it in the budget, but it's something that, you know, when we look at trying to manage the system when we're not funded to where we feel we need to, we're going to have to cut discretionary programs which has been difficult this year because you guys proviso'd our discretionary programs. And so that's why it was so critical this year that we had to do something as far as, you know, trying to figure out rather than put you in a position early next year that you either approve a budget amendment or we're going to cut services drastically. So we do want that continued cooperative discussion, and yeah, I'm happy to come every week if you need.

COUNCILMEMBER WHITE: I guess my point is that if I were the one presenting the budget to my board and I got more than 99 percent of what I asked for, I'd be happy. I guess, Chair, I'll be interested in the response to the next question which relates to what the amount of the budget was that was presented to the Mayor and what remained when it came to the Council. I understand where the Director is coming from, I just have a little bit of a difficulty with the . . . *(inaudible)* . . .

CHAIR HOKAMA: I think we all understand the Director's response, and it is true, through the budget process and in your Committee we can add on additional things to support the Division. I just want to know if then the Committee can take this, that response by saying then that means the Administration didn't support it to be entered into the submittal?

COUNCILMEMBER WHITE: Right. Yeah. So that's why I'm interested in the next question. Thank you, Chair.

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CHAIR HOKAMA: Ms. Crivello, you had a question?

COUNCILMEMBER CRIVELLO: Yes, I do. In regards to your plan, Mr. Ginoza, you know, you have lots of findings and recommendations and in fact quite a list. I would think, I would like to know what sort of measurement tools that your Department use to see...for instance, safety is one of your priorities, so what sort of goals have you set with your staff and employees to meet those kinds of priorities? 'Cause lost time is lost monies. And, or I should say do you have any kind of measurement tools that we could reference to in regards to this plan?

CHAIR HOKAMA: Director.

MR. GINOZA: Yes. Those metrics are in our performance measures as part of the fiscal year budget. I don't have it in front of me but we do have metrics in the fiscal year budget.

COUNCILMEMBER CRIVELLO: So for, say for instance, safety compliance from this 2009 audit 'til today, have there been improvements or you're still falling back on that, your overtime chart, costs.

MR. GINOZA: To address those types of issues is why we asked for additional staffing particularly at the outer landfills to address health and safety type issues for the landfill operations.

COUNCILMEMBER CRIVELLO: And are, is, did I hear you right, that's why you need more manpower?

MR. GINOZA: That's not the only reason but that helps address other issues as well.

COUNCILMEMBER CRIVELLO: Okay. I'm sorry, I don't understand. If you were to...you're actually looking for manpower to have safety as well as overtime, cut costs or reach certain goals?

MR. GINOZA: Yeah. So for instance at one, at all three of our remote landfills, we have one equipment operator. If that person is sick or on vacation which he or she is entitled to roughly two and a half months of that a year, we cannot open the landfill, and until we get someone either from Maui or from somewhere else. And it's that type of...we felt that the community did not want us to curtail the hours of the landfill because of lack of staffing, but if that is something that, you know, you feel is not necessary, that we should just operate with one equipment operator and if he or she is not there that we just close the landfill, we can do that.

COUNCILMEMBER CRIVELLO: You have been doing that on my island, and you open at 8:00 and you close at 2:30 even when you're fully staffed. I look at your overtime basis just for Molokai and I question, I mean you have one dozer operator, and with 13 tons of household goods, you have contracted your green waste, you contract your metal and abandoned vehicles. You

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contract your recycling. So you need to have full coverage of that many employees to take care of just about 13,000 [sic] tons of refuse...household.

MR. GINOZA: Unfortunately that's what it takes to take, to have an operation on a...it's like saying you open a bank branch on Molokai, are you going to do it just with one clerk and have nobody else even if there's only a couple people that come per hour? I mean that is a function of just having an operation in an area that may not have the throughput as someplace like Kahului or Wailuku. Is it something that we can go without an equipment operator? No, we cannot, because we'd be out of compliance with our permits. And so either we decide to just curtail the hours to just open for a couple hours a day, then that person is fully engaged for, to the public for that, or we get another person to be able to handle these other issues as they come up. Or I mean that's what we're looking for guidance and we hope that the audit will help to really reinforce the options that we've been trying to express to yourselves and the public is that we need, our first and foremost is health and safety and regulatory compliance. People think that we can just open the gate because there's at least one person there but that is not the case.

COUNCILMEMBER CRIVELLO: I agree with you on that part but then, you know, if that's the case, if we should ever meet your requirements or your request as far as having additional manpower, would we be assured in the remote areas that you will give us full hours and appropriate days when people will utilize the landfill to the fullest or have it open? We're only open five days, we're open six-and-a-half hours and that's it, you know, that's all we have on the island. And you have three to four employees. So I question if we will meet your request, will we have more hours to serve our community? As well as relooking, I would like to have an audit to relook at the kind of days that you're providing or not providing the kind of service that we need. Thank you, Chair.

MR. GINOZA: Sure. I'd love to have that discussion but I feel like it should be in Infrastructure and Environmental Management which is...I mean if we have to do it through the audit that's fine, but we've been trying to have that discussion of what is important. Is it to minimize the amount of resources both financial and human resources out and about? Or is it to just have access for the public to our facility? And what it is is it's kind of one or the other. That's what we're finding is we've tried to optimize with the amount of staff we have to keep our landfills and our facilities open, but we've run up against because of sick, vacation, and holidays and as Mr. Miyamoto expressed, you know, over half of our employee or a bunch of our employees have 90-day vacation balances meaning they'll have to take at least a month off every year. That's the kind of operational challenges we are trying to work with you. You know I don't want to seem antagonistic because I do want to just work through this. It's something that it's challenging and that's why, you know, the request to have an audit will help us to engage another set of eyes which will help express, you know, whether we're wrong or we do need help. I mean I don't know what to say outside of that. Thank you.

CHAIR HOKAMA: Okay. We appreciate that comment, Director. Mr. Victorino?

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COUNCILMEMBER VICTORINO: Thank you, Mr. Chair. You know I'm going to take a little different approach on this. I agree the audit I think will bring to light a number of issues, and may bring to light the Integrated Solid Waste Plan that no one in this room except myself was a part of. It was 17 well-meaning citizens just like the GPAC who put the pie in the sky and that's what we were told, they were told that. I was sitting there saying oh, I don't know how we're going to pay for this, oh, I don't know how we're going to pay for this, but they just were told put everything together and bring it forward and this is the plan to be presented to the County. And that was during the Tavares Administration. And no offense to no one, just like the GPAC today we're seeing the reality, the reality of the fiscal issues that come about. Well-meaning citizens, I have no qualms, and I sat there and I listened to a lot of their concerns, a lot of their ideas, fantastic. But could, would, should we pay for this? Somebody pays for all of this. It's not mana from heaven. We do not have money falling from the sky. Would be nice but it's not happening. So how does this all come about? Now, Mr. Ginoza, you come in and you inherit this plan, and anybody in the future who comes in will inherit this plan. The problem is and I'm thankful for this audit because maybe this audit will show the flaws in the plan not because they were not well-meant, but because no one took the fiscal impact to what these provisions and these ideas and these discussion matters would provide for this County. It costs money. So, Mr. Chair, I'm all for doing this audit. I don't know how it wants to be set up. I'd like to get all the specifics and, you know, but they are somewhat hamstrung, their hands are tied, because that Integrated Plan really was extensive. It was well meaning but very extensive, and it's going to cost a lot of money to do it. Secondly, regulations are constantly changing. You know that, Mr. Chair. EPA and other environmental sections of our Federal government constantly changing their parameters and their, and what they feel and what they need to have done or what they would like to see done. They take something that may be a million, 10 million per parts and then all of a sudden go thousands per parts or whatever it might be. I'm not a scientist so I can't explain that, but they've made major changes. The waters of the US and other issues are still hanging out there that we don't know what impact that would have on you and these islands and the State. So, Mr. Chair, I won't belabor the point. I believe an audit would be good for all parties concerned. I agree with Mr. White, if there are things that you need to get done then bring it forward, and if we hamstring you in some area or another then let us know. I mean, you know, and you know what I think the bad thing about all of this, we bring it up during budget and let me be honest, I think a number of us would agree, you come late in the budget and we're all tired and we've worked on it and we've hammered ourselves and we're doing this and we're doing that and there's not your Department only, there's many other departments that are coming at us, it becomes difficult, Mr. Chair. You know and I know Mr. White does a great job and other Budget Chairs before that. Not a job I long to go after anymore after learning what they gotta go through. But realistically it is our responsibility to make sure the funding needed to get these different plans, GPAC is one of 'em, and that's all part of you and what Environmental Management has to deal. And the Solid Waste Integrated Plan that was brought forward a number of years ago for which this Council--some of us were here--accepted. So I see the dynamics, I see the problem. I can see that there's a lot of blame to be shifted around. You know you wanna play the blame game, we can play that all day, but really what it comes down, I think this performance audit may address and highlight the real challenges we face, and then maybe the public and us and the Administration can finally say this is where we need to go, are we

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willing to pay for it? Are we willing to pay for it I think is the bottom line in all of this. How far do we need to go? How far do we need to go? So I want to thank you for giving me that chance. Again, I believe that this is all well-meant and I want to see this done. I think it's going to help everybody, you, Mr. Ginoza, and the Department, this Council have a better understanding, and the general public at large so they understand the dynamics, our recyclers, all of the people. Because when we did this, Anaergia and all of this was not in the picture. So I mean again I'm staying away from it, Mr. Chair, you asked to stay away from it, but it was not part of our discussion. That was not part of it, so we had the diversion plan put in. Now we may be changing that so now we have to look at others. Thank you, Mr. Chair.

CHAIR HOKAMA: Thank you. Mr. Couch?

VICE-CHAIR COUCH: Thank you, Mr. Chair. Mr. Ginoza, I have a kind of a follow-up on Mr. White's question. He mentioned that and we can see in the budget that you were given 99 percent of what you asked for but you still felt the need to cut, and you also mentioned that the proviso, we did some provisos. Why again did you have to cut? I mean like you said, you know, you get 99 percent of what you ask for, I would think that would be a good thing.

MR. GINOZA: Ninety-nine percent...oh.

CHAIR HOKAMA: Go ahead, Director.

MR. GINOZA: Ninety-nine percent of what we asked for is looking at it from a Solid Waste Division total budget. That to not get 100-something thousand dollars out of 29.whatever million is 99 percent. However, if you look at what that 100-something thousand actually impacts, it impacts Solid Waste operations. And so Solid Waste operations is comprised of a portion of that \$29 million. I think it's something like \$6 million or something is Solid Waste operations, and you guys proviso'd \$3½ million of that. So we're left with \$2.5 million. So all of a sudden the 100-something thousand becomes closer to, I forget what it was, like, something like 8 percent of the budget which has an impact. So if we're talking apples to apples, it's what is impacting our Solid Waste operations itself. All of that impacted Solid Waste operations. And so it's because of that that, you know, we felt that in the past we had the flexibility of borrowing from the diversion programs but because of the proviso on the 3.5 million we cannot borrow from it anymore. But it's because of that level of not getting that money part of that operations budget that caused that shortfall.

VICE-CHAIR COUCH: Okay. I look forward to the audit as well.

CHAIR HOKAMA: Well, I know what the Director said but just that why they don't ask us for those program monies, performance monies. We don't line item like we used to. If we did I can really defend the Director, but we don't line item it like we used to. We let them make those discretionary adjustments in their pots. Mr. White.

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COUNCILMEMBER WHITE: Thank you, Chair. You know I have to challenge the Director's comments there, because the budget that we were given had their monies for Solid Waste segregated into three buckets. One was in Solid Waste operations, the next was in the new sustainability, Environmental Protection and Sustainability program, so all the diversion and recycling monies were in that program. Therefore they could not have been used in Solid Waste operations, they had to be used just for those programs. And the remaining amount was in equipment. And that was in a bond fund, so that couldn't be used for Solid Waste operations either. When that came to Committee, the Committee put all those three buckets back into Solid Waste operations, so for the Director to sit there and say we proviso'd the money is bologna. We simply put it all back in, I mean we proviso'd it in the end, but when it came out of the Finance Committee or Budget and Finance Committee it was all in one big bucket for equipment, for operations, for diversion, for recycling and so on and so forth. So we were giving them total flexibility over a much larger budget than they had submitted to us for operations because we put the equipment in there. So if they felt they didn't have to buy one truck, they could have used that for some other programs. But what happened was once we passed it out of Committee, between passing it from Committee and first reading at the Council level, they sent out letters to all the recycling and diversion contractors saying because of budget cuts by the Council we're going to only authorize six months of your contracts. And I know that's one of the questions that's in here. But, you know, this is just, this is bologna. They're misleading the public by saying that we've proviso'd them. What the budget that they gave us proviso'd those same funds, so they've put the handcuffs on themselves. We released them, but then after their actions we put them back on. So that's the facts. Thank you, Chair.

CHAIR HOKAMA: Well, I would say that's why our second question from the Committee was, is an important question. What did the Division and Department ask the Administration for? And what was not supported or inserted on their behalf? 'Cause we know they go through an internal review also. You know what, Members, I'm looking at all of you and everything you folks...I want you to participate, but I'm looking at time and I would like to give Mr. Wong an opportunity because of this litigation matter we have posted that my understanding is coming up for a November date with the court. I would like to have some time for that matter. One of the things I would like you to think about because I will post this for November 6<sup>th</sup> to make a determination is whether or not the 11 questions that I've posed to the Department, and I appreciate the verbal responses so far from the Deputy and Director 'cause I believe Mr. Ginoza is truthful in that he wants to have this information out so he can either verify or adjust the needs of the Division. I'm open to all 11 questions going to the auditor or to the Chair for consideration to go to the auditor, but I will recommend that I will give you some time. I'm willing to post November 6<sup>th</sup>. Six of you have agreed to attend and I know we can have the full Committee, but I'm going to look at that date for the final determination of the audit scope to recommend to Ms. Baisa what the final contract parameters should be. Mr. White.

COUNCILMEMBER WHITE: Just briefly. I'd like to have answers to these questions before we formulate what goes into the audit, because I think they're...it would help us narrow down what the --

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CHAIR HOKAMA: Okay.

COUNCILMEMBER WHITE: --the challenges are. And I know from previous experience scoping an audit is, it has to be fairly narrow; otherwise, you know, 'cause we can't chase, send 'em chasing down after a...

CHAIR HOKAMA: Yeah, we don't want to chase, yeah, a, you know, dust storm. You know we need to have the parameters so that the auditors can focus and get the appropriate work done to report back to Council, and then of course that becomes the people's product for the people, the taxation. So I will tell you then that I will adjust the agenda for November 6<sup>th</sup> to make sure you have the time for us to go through this questions with the Director again. He can choose if he wants to again submit in advance in writing; if not, I will tell the Director that he will be asked and he will respond on the floor in front of all of us in an open meeting that, what can be said in open meetings. Mr. White.

COUNCILMEMBER WHITE: Specifically I'd like to have some documentation on the response to Item 2.

CHAIR HOKAMA: Okay. We'll remind the Director that that is a question that we will continue to ask for clarification and responses to.

COUNCILMEMBER VICTORINO: Mr. Chair?

CHAIR HOKAMA: Mr. Victorino.

COUNCILMEMBER VICTORINO: Yeah, thank you. And I, unfortunately I will not be here as you well know.

CHAIR HOKAMA: Yeah, I understand.

COUNCILMEMBER VICTORINO: And I'm not happy that I cannot be here because of a prior commitment, and I thank you for appointing me the chair of the RAC Committee. But, you know, it was scheduled before you made the special meeting, so I'm not, you know...but I'm willing to allow you and the Committee to finish up. But I would really, really, really like to see as Mr. Ginoza and others have said in this room, the total package as far as how this has affected especially the Solid Integrated Plan. How is this affecting the operational part, because I think it has a profound effect. And I'm beginning to see the telltale.

CHAIR HOKAMA: I think that's one of the questions we would like the auditor to work on, Mr. Victorino.

COUNCILMEMBER VICTORINO: I really want that one --

CHAIR HOKAMA: Yeah, yeah.

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COUNCILMEMBER VICTORINO: --to be honed in on because all the rest, yeah, I mean I have no problem with that, but that's one of them that I knew would come to fruition sooner or later. I'm kind of glad it came now.

CHAIR HOKAMA: But I will tell you, Mr. Victorino, as well as the other Committee members, yeah, we will be reporting back to the Chair via the Council agenda, so you will have that opportunity when it hits the Council's agenda to make any additional comments and whatnot and work with the Council Chair on the specific contract itself. Because she is empowered as our Chief Procurement Officer of the Legislative Branch, she has that authority by State law on how to contract the specific requirements of the audit.

COUNCILMEMBER VICTORINO: Thank you, Mr. Chair.

CHAIR HOKAMA: Yeah. So again, Members, we will, we are assisting the Chair, she makes the final call as Chief Procurement Officer of the Council of this County. Okay, any further things? But I think the questions we've asked of the 11 is important. I think it will help Ms. Baisa especially with the recycling components, the blue-green-brown containers component. I believe that there was important public testimony. I think it's important for us to get the procedures and processes reviewed and clarified regarding RFPs, and that is why I say part of what I hope the auditor will come back is if need be make those appropriate recommendations to amend the Maui County Code. 'Cause I have no problem to amend the ordinances in the Code if we need to to reflect the current times. You know we wrote that Code, I mean if you look at the Code and the date of the enactment, some of it is over 50 years old. So do we need to make an adjustment for current day's practices? Especially in procurement or whatnot, but, you know, we will have that discussion not today, Members, not today. Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair. And just real quick, I know we need to move on. But I just want to say that I believe this body--I can mainly speak for myself--during Budget cycled provisos, all the pots that Mr. White had mentioned and what have you was to increase, to make a positive impact on this Department, in return positive impacts on this community. I believe we did this in clear conscience. And provisos were for items that were asked of the Department. So I just want to make that clear right here on this floor right now, and it was never to hinder, to, you know, hogtie or whatever, hinder, you know, progress and any type of services to this community. So I just want to state that. And also it was because of certain things, testifying, what have you in the community that had distrust or unclear, you know, motives or whatever was occurring. And that is what that was done for on my behalf, I can speak for that much. And it was just about that. And so here we are. And yes, I am very looking forward to this audit, Chair. Thank you for bringing this up and this opportunity.

CHAIR HOKAMA: Okay, thank you. Any further discussion, Members, or questions you need on this item at this time? Mr. White.

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COUNCILMEMBER WHITE: Just one last question. Did the Department give you a reason for not responding by the October 17<sup>th</sup> deadline you placed on your letter with the . . .(inaudible) . . .

CHAIR HOKAMA: I will just say that I can support the Director and Deputy, they have done their, they have fulfilled as best they could the request from this Committee. It is not in their jurisdictional control to release that information. It goes through their administrative procedures that the Mayor has set up, and until the Mayor approves the transmittal we will not get their written communication.

COUNCILMEMBER WHITE: Okay, understood. Thank you.

CHAIR HOKAMA: But once on the floor this is an official meeting, it's by minutes, it's by attorneys, so they can choose how they want to respond. But I appreciate the Director, so far the Director and Deputy has been very upfront to me in answering our questions on the floor today, and I appreciate their willingness to help us make this improved Division. Because I agree with Ms. Cochran, Council does not do things to hinder or hurt the community, we are, our job is to improve and assist the community, and we do it in open meetings. Okay. I don't know what goes on in an administrative process but we do it in open meetings, so I can defend our decisions and our practices. Anything else?

COUNCILMEMBER COCHRAN: Chair?

CHAIR HOKAMA: Yes, Ms. Cochran.

COUNCILMEMBER COCHRAN: Just in the handouts that were given to us --

CHAIR HOKAMA: Yes.

COUNCILMEMBER COCHRAN: --earlier.

CHAIR HOKAMA: Yes.

COUNCILMEMBER COCHRAN: It seems to be a discrepancy in one packet to the other, question No. 2 is not in October...cover sheet says October 1<sup>st</sup>, the other cover sheet is October 22<sup>nd</sup>. So is there a reason for that or is that just an oversight?

CHAIR HOKAMA: We'll follow up.

COUNCILMEMBER COCHRAN: Okay, thank you.

CHAIR HOKAMA: We'll have Staff follow up, and, you know --

COUNCILMEMBER COCHRAN: Thank you.

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CHAIR HOKAMA: --it might just be an oversight.

COUNCILMEMBER COCHRAN: Okay.

CHAIR HOKAMA: So we'll allow the, we'll let Staff follow up and get that response for us.

COUNCILMEMBER COCHRAN: Thank you.

CHAIR HOKAMA: Anything else, Members, on this? Again, it is your Chair's intent to post this for November 6<sup>th</sup> for final discussion and decision making on this item. So with no objections, this item shall be deferred.

COUNCIL MEMBERS: No objections.

**COUNCIL MEMBERS VOICED NO OBJECTIONS**

CHAIR HOKAMA: Okay, the item is deferred.

**ACTION: DEFER pending further discussion.**

CHAIR HOKAMA: Director, Deputy, thank you on behalf of the Committee for your willingness to come forward and participate with us today.

**ITEM PIA-1(34): LITIGATION MATTERS (SETTLEMENT AUTHORIZATION: DOUGLAS LEONE, ET AL. V. COUNTY OF MAUI, ET AL., CIVIL 07-1-0496(3); AND WILLIAM L. LARSON, ET AL. V. COUNTY OF MAUI, ET AL., CIVIL 09-1-0413(2) (CONSOLIDATED)) (CC 13-41)**

CHAIR HOKAMA: We need to do one more item, Members, and that is agenda item...hold on, it's Policy Item 1(34) under the heading of Litigation Matters. The subheading is Settlement Authorization: Douglas Leone, et al. v. County of Maui, et al., Civil No. 07-1-0496(3); and William L. Larson, et al. v. County of Maui, et al., Civil No. 09-1-0413(2) (Consolidated). Okay, Members, we've gone through this item a few times. We have a correspondence dated October 20<sup>th</sup> from the Department of Corporation Counsel who has given us a proposed resolution authorizing settlement request. And then we'll let Mr. Wong and his deputies to give us the pertinent information, and you will also notice Mr. Spence from Planning Department is available if need be for comment and clarification. Mr. Wong.

MR. WONG: Thank you, Chair, Committee members, for noticing this matter today. By way of update, currently we still have pending before the Circuit Court of the 2<sup>nd</sup> Circuit before Judge Cahill a settlement conference set for November 21. In terms of the procedural process, currently we have engaged with the plaintiffs, well with one plaintiff quite frankly in active mediation and negotiations. That's I think the extent that I can discuss in open session. And at this time I'd

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request that we go into executive session to get into the details of the negotiations and the recommendations for strategy moving forward.

CHAIR HOKAMA: Okay. You heard the, Mr. Wong's request for executive session, Members. The Chair would like to give him at least an opportunity today. So if, Mr. Couch.

VICE-CHAIR COUCH: Thank you, Mr. Chair. I move to go into executive session pursuant to HRS 92-5(a)(4) Hawaii Revised Statutes, to consult with legal counsel on questions and issues pertaining to the powers, duties, privileges, immunities, and liabilities of the County, the Council, and the Committee.

COUNCILMEMBER VICTORINO: Second, Mr. Chair.

CHAIR HOKAMA: Okay. I have a motion and...by Mr. Couch, seconded by Mr. Victorino. Any discussion, Members? All in favor of the motion, please say "aye".

COUNCIL MEMBERS: Aye.

CHAIR HOKAMA: Opposed, say "no"? Motion passes with eight ayes, one excused, Ms. Crivello.

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

**NOES: None.**

**EXC.: Councilmember Crivello.**

**ABSENT: None.**

**ABSTAIN: None.**

**MOTION CARRIED**

**ACTION: APPROVE; RECESS open meeting and CONVENE executive meeting.**

CHAIR HOKAMA: We shall stand in recess and prepare for executive session on Policy Item 1(34).  
...*(gavel)*...

**RECESS: 12:02 p.m.**

**RECONVENE: 12:46 p.m.**

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CHAIR HOKAMA: . . .(*gavel*). . . The Policy Committee shall return to general session. We are in open meeting at this time. So, Members, we have one less item to take care of, that is Policy Item 1(34) under Litigation Matters. The Chair is going to, is open to entertain a motion to recommend to Council adoption of the proposed resolution under the terms and conditions as discussed in executive session. And of course this is regarding the case of Douglas Leone, et al. v. County of Maui, and William L. Larson, et al. v. County of Maui. Mr. Couch.

VICE-CHAIR COUCH: I move to adopt the resolution as you mentioned.

COUNCILMEMBER BAISA: Second.

CHAIR HOKAMA: Okay. I have a motion by Mr. Couch, seconded by Ms. Baisa. Any discussion, Members, on the motion? With none, all in favor of the motion, please say “aye”.

COUNCIL MEMBERS: Aye.

CHAIR HOKAMA: Opposed, say “no”? Motion passes with nine ayes.

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

**NOES:**        **None.**

**EXC.:**        **None.**

**ABSENT:**     **None.**

**ABSTAIN:**    **None.**

**MOTION CARRIED**

**ACTION:**     **Recommending ADOPTION of resolution.**

CHAIR HOKAMA: No further business before this Committee today. Thank you very much, Members. This meeting is adjourned. . . .(*gavel*). . .

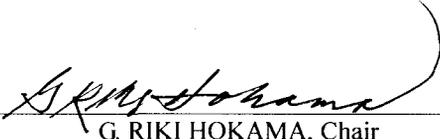
**ADJOURN:** 12:47 p.m.

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APPROVED:



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G. RIKI HOKAMA, Chair  
Policy and Intergovernmental Affairs Committee

pia:min:141027:ds

Transcribed by: Daniel Schoenbeck

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CERTIFICATE

I, Daniel Schoenbeck, 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 20<sup>th</sup> day of November, 2014, in Kula, Hawaii

A handwritten signature in black ink, appearing to read "Daniel Schoenbeck", is written over a horizontal line.

Daniel Schoenbeck