

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

**MINUTES**

**Council Chamber**

**November 18, 2014**

**CONVENE: 1:35 p.m.**

**PRESENT: VOTING MEMBERS:**

Councilmember Don S. Guzman, Chair  
Councilmember Robert Carroll, Vice-Chair  
Councilmember Elle Cochran  
Councilmember Stacy Crivello (arrived at 1:35 p.m.)  
Councilmember Michael P. Victorino (left at 3:11 p.m.)  
Councilmember Mike White

**EXCUSED:** Councilmember Gladys C. Baisa

**STAFF:** Sharon Brooks, Legislative Attorney  
Pauline Martins, Committee Secretary

Ella Alcon, Council Aide, Molokai Council Office (via voice conference)  
Denise Fernandez, Council Aide, Lanai Council Office (via voice conference)  
Dawn Lono, Council Aide, Hana Council Office (via voice conference)

**ADMIN.:** Jeffrey Ueoka, Deputy Corporation Counsel, Department of the Corporation Counsel  
Brienne Savage, Interim Director, Department of Parks and Recreation  
David Sakoda, County Arborist, Department of Parks and Recreation  
Michele McLean, Deputy Director, Department of Planning  
Rowena Dagdag-Andaya, Deputy Director, Department of Public Works  
(Item 4)

**OTHERS:** Kimberly Thayer, Chair, Maui County Arborist Committee  
Brittany Smart  
Marilyn Colvin  
Dennis Morihiro  
Courtney Shuster  
Plus (5) other people

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

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CHAIR GUZMAN: . . . (*gavel*) . . . Good afternoon. I'm Don Guzman, the Chair of the Economic Development, Energy, Agriculture, and Recreation Committee. And it shall now come to order, the time is 1:35. Before we begin I'd like to ask anyone in the gallery to turn make sure that your cell phone is turned on silence. I'd like to introduce our Members for today, our Member starting to my left is the Vice-Chair, Robert Carroll, good afternoon.

VICE-CHAIR CARROLL: Good afternoon, Chair.

CHAIR GUZMAN: Elle Cochran.

COUNCILMEMBER COCHRAN: Aloha, Chair.

CHAIR GUZMAN: Mike White.

COUNCILMEMBER WHITE: Aloha, Chair.

CHAIR GUZMAN: And Mike Victorino.

COUNCILMEMBER VICTORINO: Good afternoon, Chair.

CHAIR GUZMAN: Good afternoon. I'd also like to introduce our representatives from the Departments. We have the Department of Parks and Recreation represented, it would be, Brianne Savage. Good afternoon.

MS. SAVAGE: Good afternoon.

CHAIR GUZMAN: And we also have I believe we'll have on standby the Department of Public Works as well we also have the Maui County Arborist, David Sakoda is also on standby. We also have the Chair of the Arborist Committee is Kim Thayer. And also we have for our Legislative Staff we have Legislative Attorney, Sharon Brooks and our Secretary for the Committee is Pauline Martins. I'd also like to introduce Stacy Crivello as one of the Members.

COUNCILMEMBER CRIVELLO: Aloha and good afternoon, Chair.

CHAIR GUZMAN: Good afternoon. A few announcements before we begin, anyone who would like to testify, please sign up in the lobby area and before you testify, please understand that you will only be limited to today's items on the agenda. Pursuant to the Council Rules you will have three minutes to testify and one minute to conclude. When you testify, please state your name

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and any organization which you represent. I'd also like to check in with our District Offices to identify yourselves, Hana Office, please identify yourself.

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

CHAIR GUZMAN: Good afternoon. Also Lanai Office, can you please identify yourself.

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

CHAIR GUZMAN: Good afternoon, Ms. Fernandez. Also on Molokai Office, please identify yourself.

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

CHAIR GUZMAN: Good afternoon, Ms. Alcon. Thank you District Offices. Now can we proceed to the Chambers, Ms. Brooks.

MS. BROOKS: The first testifier will be, Brittany Smart followed by Marilyn Colvin.

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

MS. SMART: Good afternoon, Council. Good to be in front of you today, I'll keep it short and brief. We're glad to see the landscape planting plan to come forward to you today with a presentation. Our only comment is we would really like to see the County being a bit more proactive in using compost in your County projects. So I hope that will be taken into consideration for any landscaping needs that you may have for the County. We have a great partnership going on, we're one of your most successful recycling projects and we would just like to see that continued support from the County and be an end user of our product. Thank you so much.

CHAIR GUZMAN: Thank you. Members, have any follow-up questions? Seeing none, thank you very much.

MS. BROOKS: The next testifier is Marilyn Colvin followed by Dennis Morihiro.

MS. COLVIN: Mr. Chair and members of the Council in this Committee and all who are here, I wanted to speak in favor of the nomination for Monkey Pods on S. Kihei Road to be . . .

COUNCILMEMBER VICTORINO: Mr. Chair, excuse me, could she identify herself.

CHAIR GUZMAN: Oh yes.

MS. COLVIN: Oh I'm sorry, Marilyn Colvin and I'm speaking for myself.

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COUNCILMEMBER VICTORINO: Okay. Thank you.

MS. COLVIN: Welcome. I just want to make sure I'm speaking to the correct thing. The nomination of Monkey Pods on S. Kihei Road and I'm asking this Committee to accept them on the list of exceptional trees in the process of becoming an exceptional group of trees. I just want to make sure, if I'm out of order let me know. I wanted to start by saying that I nominated these trees almost four years ago, in fact it was February 21, 2011, and since then it's been up and down, in and out, lots of meetings, lots of letters and we're here today thank goodness, so we are making progress. These trees are located at 980 South Kihei Road in Maui County, they're next to or adjoined to the Maui Schooner Condominium parking lot. And they're hard to miss if you go down Kihei Road, South Kihei Road either in a car, on a bicycle or walking. The trees have presented an amazing stand of landscape beauty and they enhance the beauty of Kihei. And by the way, I wanted to say that there are no exceptional trees in Kihei as of now, so we hope these trees will be the first. Individually each of these trees are tall and healthy, we had a report made on them by a noted arborist so there is nothing wrong with the trees. And so individually they're fine, they are always neatly pruned and they have thick widespread limbs and beautiful forage, foliage and flowers, and it enhances the whole sidewalk area on that side of South Kihei Road. So the trees exemplifies the essence and spirit of Maui County exceptional tree laws that were passed in 1975, and they're part of the house of, the rules of the State No. 58, one through five.

MS. BROOKS: Three minutes.

MS. COLVIN: One minute left?

CHAIR GUZMAN: Yes.

MS. COLVIN: Thank you. This law states that individual trees or stands of trees should be protected based on their historical value, their size, age, rarity, and esthetic quality. I just want to say that the trees are originally were said to be about 30 years old, in fact they're 40 to 50 years old and I'm pretty sure they're over 50 years old. In conclusion in view of their long functional and extremely beautiful presence in South Maui, these Monkey Pods trees are the most worthy of consideration to become designated exceptional trees. In fact I cannot imagine a more worthy stand of trees anywhere on the island of Maui. Thank you very much.

CHAIR GUZMAN: Thank you, one moment please. Members do you have any follow-up questions? Seeing none thank you, Ms. Colvin.

MS. BROOKS: The next testifier is Dennis Morihiro.

MR. MORIHIRO: My name is Dennis Morihiro and this is in regards to the exceptional tree why that we should pass it. As a whole, the exceptional trees that I picked, that is on the list is partially

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located all over the County of Maui and not in a particular place. But as a beekeeper, I'm representing myself as a beekeeper is that we need all of these trees because they help with the habitat. They help with our micro-climate but they are exceptional in that it represents what people see as what a tree should be. So in that respect we should nominate or we should accept and approve all of these trees as being in its right representative of what we want Maui to be. And for myself I think that, that's what should be done, but we need to expedite the process like Marilyn said a lot of these trees or the process taking three or four years and that's a little long. In fact in four years we haven't seen anything passed, I think we should pass it. But the trees should be looked at as something representative of what Maui County is and what our aina was before and what it should be now. Thank you.

CHAIR GUZMAN: Thank you. One moment, please. Members, do you have any follow-up questions? Seeing none, thank you very much for your testimony.

MS. BROOKS: There are no further testifiers in the Chamber.

CHAIR GUZMAN: Thank you. I will check in with our Hana District Office. Is there anyone wishing to testify over there, Ms. Lono?

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

CHAIR GUZMAN: And on Lanai Office, Ms. Fernandez, is there anyone wishing to testify?

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

CHAIR GUZMAN: And Ms. Alcon on Molokai Office, is there anyone wishing to testify?

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

CHAIR GUZMAN: Okay. Thank you, ladies. We... wait one moment, I believe we have one more testifier in the gallery if you could come forward and please sign up after your testimony. If you can please identify yourself, you'll have three minutes to testify and one minute to conclude.

MS. SHUSTER: Okay. I'm Courtney Shuster and this is my daughter, Bea Shuster and we're just here to lend our support and I guess just um, cheez. I just ran from the elevator, think. We're just here to support the tree, the exceptional tree nomination for the set of trees that are in Kihei. I think that's it.

CHAIR GUZMAN: Okay. Thank you, wait one moment, Members, do you have any follow-up questions? Seeing none, thank you for your testimony. Is there anyone else in the gallery that would like to testify? Seeing none, without objections, Members, I'd like to close public testimony.

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COUNCIL MEMBERS VOICED NO OBJECTIONS.

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

CHAIR GUZMAN: Thank you.

**EAR-4 EXCEPTIONAL TREES (CC 12-5)**

CHAIR GUZMAN: Members today's agenda we have EAR-4 Exceptional Trees. The Committee is in receipt of the following: County Communication 12-5, from the Director of Parks and Recreation, transmitting a proposed bill adding certain trees designated by the Maui County Arborist Committee to the list of exceptional trees to the County, pursuant to Section 12.24A.030(C)(8) of the Maui County Code; correspondence dated January 31, 2014, from Kimberly Thayer, the Chair of the Maui County Arborist Committee, listing additional exceptional trees nominated by the Committee. The Committee is also in receipt of correspondence dated November 18, 2014, from the Department of Corporation Counsel, transmitting a revised proposed bill entitled A Bill for an Ordinance to Amend Ordinance No. 3737 (2010) Related to Exceptional Trees in the County of Maui. The revised proposed bill incorporates revisions to the list of exceptional trees nominated by the Maui County Arborist Committee. The Committee will receive an update from the Maui County Arborist Committee on the status of the list of exceptional trees in the County. The Committee may consider whether to recommend passage of the revised proposed bill received on November 18, 2014, on first reading with or without further revisions. The Committee may also consider the filing of Communications 12-5 or other related actions. I'd like to also pass out a handout I believe that the Staff, have you passed that handout out? Okay, thank you. Members I'd like to refer you to the handout that's been passed out, these are the changes to the current tree designation made by the November 18, 2014 revised proposed bill. Today we'll be looking at adding on to the exceptional tree list, I believe five designated trees, and I believe it was four Monkey Pod trees, another ten Monkey Pod trees, one tree India Rubber Tree that's M-27 and a Bermuda Juniper, that's M-28 and Ohia Lehua which is an M-29. So if you refer to the next page we also are deleting from the exceptional list ordinance is one of the, it's call M-1 Morton Bay Fig and apparently that is in poor health and should be removed from the exceptional tree list. Also, we have a partial deletion which will, you can indicate that on the ordinance itself which would be numbered M-14 that's a True Kamani I think tree I think, it's near Lahainaluna High School. So that's actually, it was two trees but we're only deleting one of the trees so we're only going to be considering one tree in that one for the deletion. And also M-18 that's also previously was two trees and we're deleting from the list one of those trees. The next page, Members, is the full ordinance itself, it's the Bill for an Ordinance to Amend Ordinance No. 2041 (1991), Pertaining to the Exceptional Trees in the County of Maui. So and attached to that are the exhibits of all of

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the exceptional trees that are currently on the list, and included on this is the amendments of the five new trees that we will be considering today. Subsection 12.24A.030(C) [sic] of the Maui County Code establishes procedures for the designation of exceptional trees including nominations by the Maui County Arborist Committee by Ordinance 2041 (1991) the Council designated exceptional trees in Maui County. The list of designated exceptional trees was amended in 2010 by Ordinance 3737. The revised proposed bill received this afternoon is the result of many long hours of work by the Maui County Arborist Committee to update the 2010 Ordinance since it's the original referral almost three years ago. The handout shows the additions and deletions that would be made to the list of the exceptional trees by the revised proposed bill. It is also attaches Ordinance 3737 for the Members' information. Kimberly Thayer, Chair of the Maui County Arborist Committee, will update us on the status of the Committee's work and the revised list of the nominated trees, which has been incorporated into the revised proposed bill, approved by the Department of the Corporation Counsel as to form and legality. We also have with us today, Brianne Savage, the Interim Director of Parks and Recreation; Rowena Dagdag, Deputy Rowena Dagdag-Andaya, excuse me, Deputy Director of Public Works; David Sakoda, from the Maui County Arborist and that will be here today to for answer any questions and present any comments. Ms. Thayer, do you have any opening comments that you'd like to begin with before you start with your proposed lists?

MS. THAYER: Just that we appreciate the opportunity to finally be here before Council. There's a number of these trees that predate my time with the committee which is a few years ago so it's nice to be here and hopefully have them seen all the way through.

CHAIR GUZMAN: Okay. So, Members, if you'd look at your packet today, I did at the last meeting ask that the Arborist Committee put together a packet for us to review regarding the, any nominated trees and they, they've done so and provided it for our Members today. And so if you could, Ms. Thayer, if you could go through each of the trees starting with what has been designated as I believe on our first list which would be M-25, it would be the Monkey Pod, four of them, location is 980 South Kihei Road. That would be, Members, the first page here of the packet. And if you could go through the explanation or the description of why this tree is being nominated, these trees.

MS. THAYER: Okay, so this one is actually pretty similar to the second set, that item M-26. So these trees were brought to the committee as a nomination by the community itself, and we, our committee went out and looked at the trees themselves. We always do a site visit to any tree that's nominated. But this was essentially past, or the nomination was approved by the committee on the basis of their size, their location and their esthetic qualities. So like it was mentioned in the testimony before, there are no exceptional trees in Kihei, partly because Kihei is very dry and there are very few trees other than kiawe really in the area. So these are specimens that you don't... especially having shade trees along the road in Kihei is something you don't really see so these stand out a lot for that reason. Like I think South Kihei Road is a nice road to just cruise down just because partly these trees are there to shade this portion of the

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roadway so their esthetic quality and providing some green in a very brown area, the location again having no other trees of this stature in South Maui until you get down, way down into like Wailea or Makena, and their historic value in terms of the community rallying around in bringing these trees to our attention. And in fact if these trees are protected by way of being exceptional status they'll grow even bigger and nicer and better over time. Which is something to keep in mind.

CHAIR GUZMAN: Thank you. Members, I would like to, can we review each tree proposal separately so that we can, or would you prefer that we go through the entire packet and then come back? I would rather that we just go ahead and vote on or at least discuss each of the trees as they come up in the packet if that's okay with you. So if anyone has any questions at this time in regards to adding M-25 to the list of exceptional trees. Yes it would be, Mr. Couch.

COUNCILMEMBER COUCH: I actually would like to talk to the Department, is that --

CHAIR GUZMAN: Oh yeah, yes. Why don't we --

COUNCILMEMBER COUCH: --Public Works?

CHAIR GUZMAN: --before you begin why don't we get a comment from each of the Departments --

COUNCILMEMBER COUCH. Okay.

CHAIR GUZMAN: --to see if and then we can ask the questions. Do we, Ms. Savage, do we have any comments from Parks and Recreation?

MS. SAVAGE: Just general comments, you know we're very appreciative again of all the time and effort that the Arborist Committee has put into this and you know same thing glad that this can finally be another topic again that we're able to discuss. The Department doesn't have any hesitations or concerns with any of the trees on the list, we would defer primarily to Public Works pertaining to the Monkey Pods on S. Kihei Road. Thank you.

CHAIR GUZMAN: Do we have any comments from Public Works, Ms. Andaya? Dagdag-Andaya?

MS. DAGDAG-ANDAYA: Thank you, Chair for the opportunity to be here today. At our last meeting I believe it was back in March or April of this year, one of the concerns that we had was determining whether or not the trees were within the County public right-of-way, and so what we did was we had a survey done to determine where these trees were located. I believe there might be an attachment in your packet showing the 14 trees and their relationship as to where the property boundaries are located. So from that survey we determined that the trees are primarily within the public right-of-way, so we were able to establish that. The other question that we had was whether or not the exceptional tree designation would have any effect on us proceeding with



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a future project, a future reconstruction project, and to date you know we're still, we assume that if these trees are made exceptional, we would still have to go through the environmental assessment process and get comments from the community, quite possibly that could also the exceptional tree designation might trigger some Federal review requirements and have to require us to do an additional analysis on different alternatives for that reconstruction project. We need to try to determine whether or not, you know what's the most feasible, I guess the most feasible action as it relates to the trees. So whether it be cutting them down or we removing them or even trying to replace them so, I mean those kinds of things would need to be further analyzed. At this point we do recognize that they're within the right-of-way, we don't have... well I guess those are just our comments, that if we do have a reconstruction project in the future we would still have to... it would have an effect on how we proceed with the project. But those things would need to be analyzed and evaluated.

CHAIR GUZMAN: Okay. Is there any comments from the Planning Department? Okay, seeing none, okay, Mr. Couch, you may proceed.

COUNCILMEMBER COUCH: Thank you, Mr. Chair. Okay so, Ms. Dagdag I seem to recall last time we had this discussion that the, Director Goode said that those trees would need to be removed if we had to do any kind of roadway work there and that some of them actually are, the roots are coming in under the road and affecting the road right now.

MS. DAGDAG-ANDAYA: Where that, Chair that potentially that could happen. I believe the original plan for the reconstruction of that portion of South Kihei Road, identified that a number of trees would need to be, could remain or that they wouldn't need to be replaced or removed. So but I mean that was about 10 - 15 years ago. So as they grow bigger of course you know they're gonna have some effect on how we reconstruct the project. Now if we were to leave the trees as is then we would need to take additional right-of-way on the mauka side, I mean that would be the alternative and that's something that we had also discussed with our engineering staff, too. So we could preserve the trees, but we would move the project and shift the road to the mauka section and probably obtain right-of-way from those properties.

COUNCILMEMBER COUCH: So we'd have to condense, condemn some land on the other side.

MS. DAGDAG-ANDAYA: Quiet possibly, yes.

COUNCILMEMBER COUCH: Yeah. And also there was a concrete sidewalk there at one time?

MS. DAGDAG-ANDAYA: At one time, yes.

COUNCILMEMBER COUCH: And when we went through and took a look at the trees and did all the studies, dug up the sidewalk and replaced it with a, an asphalt sidewalk.

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MS. DAGDAG-ANDAYA: That's correct.

COUNCILMEMBER COUCH: And why did we do that?

MS. DAGDAG-ANDAYA: We did that, well initially that the roots were interfering with that concrete portion so we removed the concrete, took a look at the roots and then made a determination to put back the sidewalk but use asphalt because it's a little more flexible, I mean we could replace it if need be. That would of, that would have been incorporated into our maintenance of that sidewalk portion. I think the asphalt sidewalk was a little bit more flexible, but again it will you know maintaining that portion does take a lot of maintenance 'cause you need to either you know replace it, remove that portion, redo it, and then come back every so often to make sure that you know that portion is in place.

COUNCILMEMBER COUCH: Yeah it's starting to, the roots are starting to push up again and was on it just a couple of weeks ago. So the asphalt sidewalk is, conforms to County and/or Federal standards if we were to get matching funds?

MS. DAGDAG-ANDAYA: I believe in any case whether it's maintaining or you know we have to go through that DCAB review anyway, so that's something that we're gonna need to do in the future when we propose a new project, a new project is get that Disabilities and Communication Access Board approval.

COUNCILMEMBER COUCH: But asphalt sidewalks are okay?

MS. DAGDAG-ANDAYA: At this point, I believe so. So far it's been okay, we haven't had any concerns or complaints about it.

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

CHAIR GUZMAN: Any other questions, Members?

COUNCILMEMBER COCHRAN: Chair.

CHAIR GUZMAN: Mr. White and then Ms. Cochran.

COUNCILMEMBER COCHRAN: Okay.

COUNCILMEMBER WHITE: She can go first.

CHAIR GUZMAN: Okay. Ms. Cochran I guess, Mr. White is yielding.

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COUNCILMEMBER COCHRAN: Okay. Thank you. And so I guess hearing reconstruction and this and that, I'm just you know with liabilities and litigation that occurs quite often it seems in South Maui, uneven sidewalks and terrain and what have you. When an exceptional tree buckles up a sidewalk or the roadway as you folks were just discussing, what takes precedence? I mean we're gonna protect the tree or are we gonna you know I mean how does that work? Have we had such a situation? I know there's a Monkey Pod in particular in Lahaina, I don't think we've addressed it yet and you know reroute the sidewalk around it and people were talking about cutting it, but it was never deemed I don't think at this point exceptional. But what if it does so then what would be the consequence and how would we move forward? I'm just you know, Chair --

CHAIR GUZMAN: Yeah.

COUNCILMEMBER COCHRAN: --wondering as you know --

CHAIR GUZMAN: Yeah.

COUNCILMEMBER COCHRAN: --about litigation matters and what have you, how does this, how does this play in when a tree is determined exceptional?

CHAIR GUZMAN: Yeah. I think that it's covered under the ordinance when it's designated. If you look under 12.24A.030 Section 8B and I'll read it, it's the committee, on at least an annual basis shall re-examine the designated exceptional trees, and in the event such a tree is found to be dangerous or diseased beyond repair, the County Council, may remove such tree from the list of exceptional trees. But herein lies my question for Corp Counsel, when it speaks of dangerous, I'm not sure what that definition means in comparison to the other section of the Code in the definition section of 12.24A.020, it talks about hazardous trees and when it's been determined by the Director of Public Works as it being encroaching on sidewalks or overhanging or impeding or interfering with pedestrian or vehicular traffic, then you would have the power to I guess remove that tree under that section of hazardous. So I'm not sure what dangerous means versus hazardous in these two sections. Would we then have that right to remove the tree if it was somehow impeding traffic under a hazardous versus a dangerous? 'Cause I couldn't find any definition of dangerous in the Code.

MR. UEOKA: Thank you, Chair. Yeah, I don't believe it's defined as to what dangerous means in this section of the Code. I would hope that if it's a real emergency where we have to do something immediately, I believe the prohibited acts only refer to if someone willfully, maliciously, or negligently mutilates, cut downs, digs up, burns or otherwise injures any exceptional tree. I don't think if it's an emergency situation it would fall under one of those types. I don't think it would fall under the hazardous trees or shrubs, those are a little different and again if we, if it wasn't that immediate type of emergency there would be enough time to send a bill up to the Council for a request to remove the tree from the exceptional list so that the work could be done. Thank you.

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CHAIR GUZMAN: So just basically answering your question, Ms. Cochran, is that if we needed to take a tree off the exceptional list tree it would have to go through ordinance, this body would be authorized to take a tree off the exceptional tree, it would have to come back to us to decide whether to take it off of the list.

COUNCILMEMBER COCHRAN: Okay.

CHAIR GUZMAN: But I'm not sure about emergency situations, you know. Are you saying, Mr. Ueoka, that we would then be allowed, a department would be allowed to somehow cut it back or remove the tree in an emergency situation when it's dangerous?

MR. UEOKA: Yeah. If it's pressing safety matter that has to be attended to immediately, I'm sure we could take care of the tree, and you know in the most conservative manner, but if it needs to be removed, I'm sure we would have to remove it for health, safety, welfare purposes. But again if there's enough time and advance notice it would just need to come through the Council to have it removed from the exceptional tree list.

CHAIR GUZMAN: Okay, does that answer your question Ms. Cochran?

COUNCILMEMBER COCHRAN: Yeah, in a way, but I just think there's circumstances where the tree, well I guess the ones in Kihei were purposely grown there with that was when the condo was built, the trees were planted, but I'm looking at certain trees that were there well before some of us were born, Chair and then who's impeding on who here? You know but just I mean there's you know little differences I guess for every, it's case by case basically, but again you know if there's a tree, okay it's not rotted, it's not falling, it's but the roots are as I say impeding and you know making the level of terrain uneven thereby now we're in some type of litigation. To chop down an entire tree 'cause of that I mean is that what would, maybe incur at that time? I mean I know again it's a case by case but or can you just sever the one root and still have the rest of the tree live, I mean I'm not an arborist but we have him here. I... you know what I mean, Chair? And so I think in the future to also if trees are designated that we don't impede on it and build something to where one day we're going to have to face perhaps an impact negatively to that particular tree also I think is in our purview to kind of have that foresight to make decisions of that nature too hopefully. But I don't know it's not like we're facing such a dilemma at this point.

CHAIR GUZMAN: I kind of look at the exceptional tree as the or at least the designation as kind of the safety zone where you have to go to the Council if you want to do something with that tree. It kind of gives that kind of safety about it, a protection about it that you can't just go out there and do whatever you want to it and then you know go on your merry way, you have to Council approval to do something with that tree later on, it comes back to us. Am I correct, Mr. Ueoka?

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MR. UEOKA: Yeah, that sounds correct. I'd just like to basically reiterate what you said and in that you do have to go to Council, and for the matters you initially discussed, Ms. Cochran, if it's impeding a sidewalk or lifting a sidewalk, typically you know we, the County doesn't just go in and fix the sidewalk overnight, it's gonna require usually getting bids and that kind of stuff so there's gonna be a lot of lead time for the Department to come to the Council and ask. I'm thinking more if you know something weird happens and the exceptional tree is like hanging over almost you know on a roadway I think then it would be okay to have it removed immediately, in that situation, because it's you know a hazard, imminent hazard and threat to safety. And in regards to what can be done to like mitigate the damage to the tree, to fix the sidewalk, that's where Mr. Sakoda plays a large role, because he can go in and look at the tree and because he's an experienced guy he can tell if we chop off some of the roots here and there's enough roots left so the tree will be stable, or sometimes he does have to make the call, I don't think on very many exceptional trees 'cause there're not, a lot of them aren't on our property, but he'll make the call saying yeah, we gotta cut the roots back but if we cut the roots back the tree is not going to be stable so the tree has to go. So that's where he his expertise comes in. Thank you.

MS. COCHRAN: Thank you. And so, Chair, we just have determinations on our own property trees, not private property trees? Is that right, Mr. Ueoka or?

CHAIR GUZMAN: Mr. Ueoka.

MR. UEOKA: On what type of determination?

COUNCILMEMBER COCHRAN: Just any, I mean just on a... we only can make decisions upon our own County land trees.

MR. UEOKA: Yes, typically, Mr. Sakoda will look at the County property or County rights-of-way trees, he won't go and give assessments on private property.

COUNCILMEMBER COCHRAN: But if this private --

MR. UEOKA: Oh if it's...

COUNCILMEMBER COCHRAN: --tree is hanging over the edge and gonna crash on the neighbor's house then Mr. Sakoda would maybe make a determination, say, oh sorry, we gonna have to...this tree needs to be removed, it's in imminent danger of crashing on or that's not our call as a County?

CHAIR GUZMAN: Yeah, yeah...

MR. UEOKA: Typically, yeah no --

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COUNCILMEMBER COCHRAN: Okay.

MR. UEOKA: --because private, private.

COUNCILMEMBER VICTORINO: Mr. Chair, you know we have the arborist here and you're asking a lot of questions to Corp. Counsel and maybe the arborist could answer it. I'd like to request that he come up if you know --

CHAIR GUZMAN: Okay.

COUNCILMEMBER VICTORINO: --we have specific questions. please.

CHAIR GUZMAN: Yeah, if --

COUNCILMEMBER COCHRAN: Mr. Sakoda.

CHAIR GUZMAN: --you'd like to come down, Mr. Sakoda. I think, Ms. Cochran, you're referring to all the different type of trees out there, when we're talking about exceptional trees.

COUNCILMEMBER COCHRAN: Yeah but a lot of them are private.

CHAIR GUZMAN: Yeah. Any tree can be designated as exceptional.

MR. SAKODA: Right.

COUNCILMEMBER COCHRAN: Right.

MR. SAKODA: Yeah, so on this list --

CHAIR GUZMAN: Excuse me --

MR. SAKODA: I'm sorry.

CHAIR GUZMAN: --Mr. Sakoda, let me finish. And my understanding is that any anybody can nominate exceptional trees, and once, and there's in your packet you'll see a form there that consents by the owner of the property that it be designated as an exceptional tree. So whether it's on private property or public property, they have a form here that they send out to the private property owners that would basically consent to it. It sounds as though, 'cause I've seen this form in here, and probably Mr. Sakoda could or Kimberly Thayer could explain further on it. But why don't you, if you could rephrase your question again to Mr. Sakoda. Did you have that question?

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COUNCILMEMBER COCHRAN: Oh, in regards to our sort of I guess oversight on private versus County trees?

CHAIR GUZMAN: Yeah, Mr. Sakoda.

MR. SAKODA: Okay. David Sakoda, County Arborist. Within 12.24A they have that section of hazardous trees and shrubs, and also I as the County Arborist do not look at private trees unless the County is potentially impacted by that tree. So the hazardous tree and shrub area would be like if a tree is posing a hazard to the County road corridor or pedestrian travel then we would notify that landowner of that hazard and then they have so much time to eliminate that hazard. That would be the only time that I would be dealing with privately owned trees. But on the exceptional tree list, there are quite a few private trees, and it is the duty of the Arborist Committee to take a look at them and assess them on an annual basis. But I do not do those assessments on private land, because that would be quite a bit of exposure to risk for my liability aspects, and I don't know if I would be covered by the County on that, so I don't really want to get personal insurance to do that either. So that's where our, my role would be as looking over the County-owned trees. And one point I really think I need to clarify is that on these Monkey Pods that are on S. Kihei Road, we did do the survey and the surveyors identified the center of the tree and took a diameter of that tree and I don't know where they took the diameter but when they take a diameter, it's a radius that's equal distant from the center of the tree; however, some of the trees are known even with those survey points to be on the border of the County right-of-way and the lot. So even though the majority may be on the County right-of-way it doesn't matter what percentage of it is, if it's on the boundary or on that adjacent lot the tree is mutually owned. So it's an equally owned asset, equally owned property and so that there are some of those trees that are on the boundary that are on the property both County right-of-way and the lot fronting that Maui Schooner and that other proposal Luana Kai. So that's they're mutually owned.

COUNCILMEMBER COCHRAN: Okay.

MR. SAKODA: And that's an important thing to know because there are parking lots that are on the private side that are right next to the tree you know, and when you do any kind of resurfacing and they're uplifted already, the parking lots are uplifted quite a bit, you've probably seen that. So there are tripping hazards and when they do that resurfacing, they're going to impact the anchor roots on that side. We deferred and put cold mix on the sidewalk because if we were to put cement sidewalk, the way it was proposed they would have to put the form in to pour the cement, which means that they would've basically pruned off half of the roots on the street side. So that would've basically made the tree unstable and it would have become a hazardous tree. So that's why we went with the cold mix to mitigate and minimize the root impacts. But that's a short-term thing, when you have a Monkey Pod growing in a four-foot planting area, it's a foreseeable thing that there's going to be conflicts.

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CHAIR GUZMAN: Any further questions? Mr. Couch, oh wait.

COUNCILMEMBER COCHRAN: So real quick though in follow-up to Mr. Sakoda's comments just now. The mutually owned tree I guess so to speak so we're mutually responsible if there's any litigation or any costs for reconstruction and resurfacing or whatever this tree may mitigation I guess measures. Is that --

CHAIR GUZMAN: Mr. Ueoka.

COUNCILMEMBER COCHRAN: --how it works? No.

MR. SAKODA: No, I don't know that.

CHAIR GUZMAN: Mr. Ueoka, can you respond to that.

MR. UEOKA: At this time, Chair, I don't have a real answer for you. It's all gonna depend on the circumstances and the facts at the time and a better investigation.

COUNCILMEMBER COCHRAN: Okay.

CHAIR GUZMAN: Do we need I guess, Mr. Ueoka, do we need the consent of the landowner to designate it as an exceptional tree?

MR. UEOKA: It's not required by the law and I believe Public Works has stated that it's under our control and management these trees. Thank you.

CHAIR GUZMAN: Okay. Thank you. Mr. Couch.

COUNCILMEMBER COUCH: And just a follow-up if, Mr. White doesn't mind a follow-up to what Mr. Sakoda said. So you're saying that...I guess Ms. Cochran's question was more of those roots are lifting up private parking lot and it's pretty bad and I don't know if we need if to go, \_\_\_\_\_ answer this in open session but is the County liable for that? For repairing that and again it's a, it, that I think would go into this Committee's decision heavily I would think but I don't know if that can be answered in open session or not.

CHAIR GUZMAN: Let me know, Mr. Ueoka.

MR. UEOKA: Chair, I'd rather not get into the liabilities of the County in open session, but just generally speaking, we don't... you can't reach a conclusion at this point, we don't really know what the lifting's from or what the circumstances are, Chair. Thank you.



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CHAIR GUZMAN: Thank you.

COUNCILMEMBER COUCH: Thanks.

CHAIR GUZMAN: Mr. White.

COUNCILMEMBER WHITE: I'm just wondering if there was ever any discussion with the adjacent landowners with respect to moving the trees further into their property and away from the right-of-way? You know, relocating the trees, we relocated three Monkey Pods that are way bigger than these and they survived quite well. I'm just wondering if that was ever discussed.

MR. SAKODA: That's never been brought up to the landowners, no.

COUNCILMEMBER WHITE: Okay. I'm not suggesting that they would be welcoming it, but it is an option. Chair, my concern with this designation is that to me these Monkey Pods do create a nice canopy in a very warm spot, but they do conflict with our, you know our requirements of moving people around and our liability on the sidewalks as has been pointed out, we've had a couple of challenges in the Kihei area. And we have a lot of very exceptional Monkey Pod trees and we have several of them on this list, but Monkey Pods are not native and these are not exceptionally sized trees. So I'm a little torn because I love trees, and we moved three Monkey Pods over just ten feet basically for the same reason, to get them out of a building line and they survived very well. I think they are an asset to the adjacent landowner so one option might be to ask them if they wouldn't mind moving them further into their property so that they don't disrupt our need to upgrade our sidewalks as necessary.

CHAIR GUZMAN: Yes. I can appreciate your response, I, let's go over the criteria just as, I need to know more of a justification as to why this is going to be an exceptional tree. According to the ordinance under that Section I believe 12.24A.030(8)(A), the criteria looks like it's by reason of age, rarity, location, size, aesthetic quality, endemic status as worthy of preservation as an exceptional tree for the County. So, Ms. Thayer, in your packet you've indicated in your description large beautiful shade trees and what, please explain to our Members how this is an exceptional... you know how do we justify it being designated as exceptional trees.

MS. THAYER: Thank you, Chair. So just by way of background, these were nominated before I was on the committee. So I've checked with Jordan Hart, who was the chair at the time that this went through and he explained that in terms of the criteria for determining exceptional tree, the justification for these was reasons of location, size and aesthetic quality. So location being that they are in South Maui in an area where there really aren't any big, large shade trees, yeah, these aren't as big as other Monkey Pods around the island but these are the biggest ones in this area in South Maui at least. Aesthetic quality again is another criteria by which this was passed, we all know that driving down Kihei, it's really dry and there really aren't many shade trees in parking lots or along the streets, so these really stand out for that reason and if these are allowed to stay,

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they will just increase in size, they'll, crowns will spread, they'll be all the more aesthetically pleasing to look at, to walk underneath, to drive by, for the residents in the area, they all value them, I know and those were the reasons.

CHAIR GUZMAN: The other question I would have is, is there an eminency as to them being removed anytime soon or in the future? Any, anyone in the Departments?

MS. DAGDAG-ANDAYA: Chair.

CHAIR GUZMAN: Yes, Public Works.

MS. DAGDAG-ANDAYA: For our reconstruction project on South Kihei Road, I mean we don't have that identified yet, I mean we don't have a project moving forward in the immediate future, but you know some I would say in like sometime in the next, maybe in the next ten years or so that would be a project that we would need to consider.

CHAIR GUZMAN: Okay.

MS. DAGDAG-ANDAYA: But we don't have any immediate plans at this moment for any kind of removal of trees.

CHAIR GUZMAN: Okay, for any kind of removal. Okay. Mr. Couch.

COUNCILMEMBER COUCH: Thank you, Mr. Chair, and I guess this would be to Mr. Sakoda, I recall from our previous discussion somewhere, that there's a possibility of taking those trees and moving them to a park or something like that. I believe we discussed it, I don't know what the final thought was, is that a possibility? Can that be done?

MR. SAKODA: Yeah, it can be done. I mean they've moved big Monkey Pods too often. It's not the best arboricultural way to grow a tree, it's always better to grow a tree as a small tree and let it grow in place. Trees aren't meant to be relocated all the time so but it can be done.

COUNCILMEMBER COUCH: Okay. I think that was part of a discussion instead of completely removing them if that was necessary for the project that we could move them into a park, and I thought Parks Department was going to look into a certain park that might be able to take them. We discussed this like three years ago or something like that, so. Alright that, so that is a possibility and I know it would be expensive and whatnot, might be better just to condemn across the street and move the road a little bit but you know that's a expensive process too, so thank you.

CHAIR GUZMAN: Yeah, I think under this description you're describing it as the, oh it doesn't even have location on here, historical value, large shade canopy, aesthetic quality specimens. In your

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description you don't indicate location, so are you saying that this, these trees can be relocated? 'Cause it sounds as though, what I'm hearing from you, Ms. Thayer, is that these trees should be left at this certain location because of the shade and the canopy. But in your description for nomination, it doesn't indicate location as, in the statute or in the ordinance it does indicate as one of their criteria location, so you're saying that it could be a possibility with... it would be okay with the Arborist Committee if we need to move these trees sometime in the far or near, the far future it would be okay with the Arborist Committee to relocate these trees.

MS. THAYER: Yeah. I think as long as, provided that they're relocated to somewhere else in Kihei at least that would be okay.

CHAIR GUZMAN: Okay. Very good. Any other questions, Members? Yes, Ms. Cochran.

COUNCILMEMBER COCHRAN: The County Arborist regular meeting minutes, March 10, 2011, is there a page missing? I'm just trying... the as I'm reading you know what I'm talking about in reference to these four Monkey Pods. Call to order, testimony --

CHAIR GUZMAN: Yeah.

COUNCILMEMBER COCHRAN: --meeting business, goes a, Number 3, Items a through d and then d's last sentence kinda gets cut off --

CHAIR GUZMAN: Yeah, I think...

COUNCILMEMBER COCHRAN: --so I was looking to read the rest and it's not there.

CHAIR GUZMAN: Yeah, I believe that what we were just given is the regular minutes pertaining only to that section of their discussion of the Monkey Pod trees which is showing us that they did vote to designate it within the committee and it looks as though the vote was unanimous. But other than that I don't have anything else attached to it as to --

COUNCILMEMBER COCHRAN: Okay.

CHAIR GUZMAN: --how they came up with that deliberation. That's why earlier on I had requested and I also sent a follow-up letter to the Arborist Committee dated April 1<sup>st</sup> and that's in your binders to give us a description of how they, the procedures of their researching, as well as the list itself and explaining why the committee recommended the exceptional trees and also the background information and pictures to be placed in a packet. But I also understand that the Arborist Committee was going through some transitions because they did not have staff, and I know that this Committee had also talked about and discussed and requested assistance from the Department of Parks and Recreation for them to have additional staff or at least staff provided to

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them. And so, I can understand their situation, I think they did the best of their ability to put up, put together a packet and so this is what we have before us.

COUNCILMEMBER COCHRAN: Okay. And in the minutes that we do have though Number 2, Testimony a, Mr. Rezens in regards to I think so towards Mr. Sakoda, Mr. Rezens recommended a...well I guess perhaps lifting or what raising the sidewalk in order to create more room for the roots, and then I don't know utilizing this air spade contraption --

UNIDENTIFIED SPEAKER: They did it.

COUNCILMEMBER COCHRAN: --oh, oh, that has been done, oh okay, very good.

CHAIR GUZMAN: Yeah. I believe that, Mr. Sakoda, all of the necessary I guess components or procedures were completed to save the, or not save but prevent harm from the Monkey Pod trees when you re-did the sidewalks and the roadways. I believe that, that was completed, correct?

MR. SAKODA: Yeah. We did a full assessment on what the potential impacts would be using the proposed cement sidewalk, and you know if they would have gone that route it would have significantly impacted the anchor roots on the roadside where that were directly you know where the sidewalk would go. You're not dealing with too much of a distance away from the trunk so, that we removed the sidewalk, we were able to visually see the anchor roots and see how many would be impacted and it was basically all of them on that side. So there was really no need for an air spade or anything else, I mean we were able to do the visual assessment and that was why the decision to go with the cold mix was done, it was basically a mitigating measure and deferring action but at least there's a sidewalk there: however, like Don said, Mr. Councilman Couch, it's already uplifted.

COUNCILMEMBER COCHRAN: Okay, thank you.

CHAIR GUZMAN: So, Members, if you'd prefer, we, I would go ahead and ask for an adoption of M-25 Monkey Pod trees located at 980 . . .

MR. UEOKA: Chair, quick recess.

CHAIR GUZMAN: Oh, I'm going to call a quick recess, two minutes. . . . (*gavel*) . . .

**RECESS: 2:34 p.m.**

**RECONVENE: 2:36 p.m.**

CHAIR GUZMAN: . . . (*gavel*) . . . The EAR Committee shall now reconvene. The Chair will entertain a motion for a vote that we include M-25, the Monkey Pod trees that are four, located at

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980 South Kihei Road, be included on the exceptional tree list and be designated as exceptional trees. I'm asking for a, to entertain a motion.

VICE-CHAIR CARROLL: So moved.

CHAIR GUZMAN: Moved by Mr. Carroll. Any second?

COUNCILMEMBER COCHRAN: Second.

CHAIR GUZMAN: Second by Ms. Cochran. Any further discussion? Seeing none, all in favor, say "aye".

COUNCIL MEMBERS VOICED AYE.

CHAIR GUZMAN: All not in favor, say "nay".

COUNCILMEMBER WHITE: No.

COUNCILMEMBER VICTORINO: No.

CHAIR GUZMAN: Okay. So, I need a line count. Sounds like some people didn't say, designate either way.

MS. BROOKS: Mr. Carroll? Councilmember Bob Carroll? Yay or nay?

VICE-CHAIR CARROLL: "Aye".

MS. BROOKS: Councilmember Stacy Crivello?

COUNCILMEMBER CRIVELLO: "Aye".

MS. BROOKS: Councilmember Elle Cochran?

COUNCILMEMBER COCHRAN: "Aye".

MS. BROOKS: Councilmember Don Couch?

COUNCILMEMBER COUCH: I can't vote.

MS. BROOKS: Councilmember Mike White?

COUNCILMEMBER WHITE: "No".

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MS. BROOKS: Councilmember Mike Victorino?

COUNCILMEMBER VICTORINO: "No".

MS. BROOKS: And Chair Don Guzman?

CHAIR GUZMAN: "Aye". So, four "Ayes", two "Noes". Motion carries.

**VOTE: AYES: Chair Guzman, Vice-Chair Carroll, Councilmembers  
Cochran and Crivello.**

**NOES: Councilmembers Victorino and White.**

**ABSTAIN: None.**

**ABSENT: None.**

**EXC.: Councilmember Baisa.**

**MOTION CARRIED.**

**ACTION: FIRST READING OF REVISED BILL FOR M-25.**

CHAIR GUZMAN: Moving on, Members. So M-26, we have.

COUNCILMEMBER WHITE: Chairman? Just a question. With, this moves forward to the Council. Is it going to move forward as individual groups of trees as listed on this, or is it going to move forward as a group?

CHAIR GUZMAN: It's going to be moved forward as one exceptional tree amendment to the exceptional tree list. So, in terms of, when it goes to the full Council, it will have, it's just going to come under a one ordinance, which is amending the original ordinance of the list. It's just amending the exhibit list.

COUNCILMEMBER WHITE: No, I understand that, but I, there are trees that I support, and those that I don't believe are exceptional.

CHAIR GUZMAN: Yeah.

COUNCILMEMBER WHITE: So.

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CHAIR GUZMAN: Well we could, we can bring them, we can take them out of our Committee, push them up to the full Council separately, to be inclusive of the list. So we can do that.

COUNCILMEMBER VICTORINO: Point of order, Mr. Chair. I would ask Corp. Counsel on that one.

CHAIR GUZMAN: Okay. Why don't we ask that.

COUNCILMEMBER VICTORINO: Because, I mean, you brought this as one unit, and now you're asking us to go individually, and then you're saying when we go to Council, that we may do it individually. I'd like some clarification if I may?

CHAIR GUZMAN: Okay. Then why...

COUNCILMEMBER VICTORINO: Please.

CHAIR GUZMAN: Is it possible, Mr. Ueoka, if we could separate these, these amend, these additions to the exceptional list --

MR. UEOKA: Uh.

CHAIR GUZMAN: --to be brought forward individually, to be included onto the exceptional list?

MR. UEOKA: Yeah, Chair. You just would...probably, we'd need to draft a new bill and each tree would be, or stand of trees would be an addition. And I'm trying to think of how it would look in the very end because we're going to be adding, I think five and two deletions? So, or something, two, four, five additions, three deletions. So I guess there would be eight different bills then. So we just would need the request to separate it out, and we can take care of that before I transmit it to the Council. Thank you.

CHAIR GUZMAN: Thank you. Is that, it's sufficient?

COUNCILMEMBER VICTORINO: Thank you for the clarification.

CHAIR GUZMAN: Okay.

COUNCILMEMBER VICTORINO: Thank you.

CHAIR GUZMAN: Yeah. I think it would be better that way because if we put it all in one and some Members don't like one or two of the trees we can pass that, at least the ones that are voted on, pass them forward to the full Council. So going, moving on for M-26. This is the Monkey Pod

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trees stand of ten it looks like, location 940 South Kihei Road. So Ms. Thayer, can you walk us through your nomination process?

MS. THAYER: So this one was fairly similar to the stand of four we just talked about. This was brought to the committee by the community and the nomination was voted on, on the basis of their historical value, their shade canopy and their esthetic quality for providing some beautification and shade along this stretch of South Kihei Road and in an area of the island where there is absence of large shade trees.

CHAIR GUZMAN: Okay. Members, are there any questions? Excuse me. I apologize. Administration, is there any comments from the Public Works Department and then we'll proceed with the Parks Department.

MS. DAGDAG-ANDAYA: The only comments that we have are pretty much the same as the other item before, so we'd have, I mean we'd come into that situation where we'd need to evaluate our project in relation to the trees.

CHAIR GUZMAN: Okay. So is that, are you okay with passing it as a exceptional tree?

MS. DAGDAG-ANDAYA: Again, we still have concerns about it because it would impede, I mean there might be some impediments to any future projects that we have, but and I also want to say those are things that we'd probably have to review when we do the environmental assessment and perhaps in the SMA.

CHAIR GUZMAN: Is there comments from the Parks Department, Mr. Sakoda or Brianne Savage?

MR. SAKODA: Pretty much the same situation as the other one. They're Monkey Pod trees that are planted in a very narrow planting strip, it's foreseeable that we're gonna have more conflicts with the hardscape around it and the adjacent parking lot on the private side, and some of those trees are also on the boundary and on the private lot, so they're mutually owned.

CHAIR GUZMAN: Members, are you have any questions? Mr. Couch.

COUNCILMEMBER COUCH: Thank you and I'd like to ask Ms. Thayer, when you say the community came out what, who are you talking about?

MS. THAYER: This was brought to us by, Elaine Malina, who is a member of the Maui Outdoor Circle, she's also a certified arborist.

COUNCILMEMBER COUCH: And that's all who came out about this?



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MS. THAYER: Oh, well, she was the one who technically presented the nomination itself, but we've had testimony over time from various members of the community speaking in support of them.

COUNCILMEMBER COUCH: Okay. Thank you.

CHAIR GUZMAN: Any other further questions, Members? I have a question, in relation to the first set of Monkey Pod trees, the four that were located at 980 South Kihei Road, is this the 940, the ten that we're talking about now is that on the, what is, what's the location, is, that where's the coordination of that, I'm trying to get a sense.

MR. SAKODA: Just north, on the same side of South Kihei Road, makai side and just north adjacent to Maui Schooner.

CHAIR GUZMAN: Okay.

MR. SAKODA: So that's Luana Kai.

CHAIR GUZMAN: Thank you. Members, do you have any other questions? Seeing none, I'm going to go ahead and call for the, call of the question. I would like to entertain a motion to include M-26 to the list of exceptional trees and it be designated, those trees be designated as exceptional trees. Those trees are located at 940 South Kihei Road. I'd like to entertain, I'd like to request an entertainment of, a motion for that? Seeing, seeing none, no motion being made. So it looks as though that this...no motion. Okay. Moving on to M-27 the India Rubber Tree so, Ms. Thayer.

MS. THAYER: Okay so this India Rubber Tree, a ficus is located on a private residence on Baldwin Avenue. This nomination was actually brought forth by Bob Hobdy who is a pastor of the committee. His background on these trees was that he'd you know drive up, up and down Baldwin Road all the time and always wanted to pay a visit to the trees themselves, and he made contact with the landowner, suggested that they could be of exceptional status and they allowed him to come on the property. He was able to actually measure the trees or this tree, sorry, there's another one on the property that's also nominated. But as he said this is a large and magnificent specimen that is at least 90 years old, it's one of the largest of this size on the island. And he was pressed to bring it forward for nomination.

CHAIR GUZMAN: Thank you. Do we have any comments from Public Works Department?

MS. DAGDAG-ANDAYA: No comments.

CHAIR GUZMAN: And any comments from Parks and Recreation?

MR. SAKODA: No comments.

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CHAIR GUZMAN: Any comments from Planning? No comments. Any questions from the Members? Seeing none, I'll call for the question. I'd like to entertain a motion that M-27, India Rubber Tree, located on Souder residence, 3145 Baldwin Avenue, be included on the exceptional tree list and be designated as an exceptional tree.

COUNCILMEMBER WHITE: So moved.

CHAIR GUZMAN: Moved by Mr. White. Seconded by?

VICE-CHAIR CARROLL: Second.

CHAIR GUZMAN: Mr. Carroll. Thank you. Any further discussion? Seeing none, all in favor, say "aye".

COUNCIL MEMBERS VOICED AYE.

CHAIR GUZMAN: All opposed, say "nay"?

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

**NOES: None.**

**ABSTAIN: None.**

**ABSENT: None.**

**EXC.: Councilmember Baisa.**

**MOTION CARRIED.**

**ACTION: FIRST READING OF REVISED BILL FOR M-27.**

CHAIR GUZMAN: So we have six "ayes", one excused, no "nays", sorry. Mr. Couch is not a voting member. Thank you. Okay. Motion carries. Thank you, Members. Moving on to M-28, Ms. Thayer, we have a Bermuda Juniper, can you please proceed in your explanation of the nomination.

MS. THAYER: Yes. So this is a similar story to the India Rubber tree this is on the same residence on Baldwin Avenue. This was also spotted by our past chair, Bob Hobdy. And in the same time that

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he looked at the India Rubber Tree, he also noticed the Bermuda Juniper which again is one of the largest of this tree on the island, it's also very, very old and it's outstanding for this species and yeah very old and also deemed worthy by himself and the committee as being an exceptional tree.

CHAIR GUZMAN: And are these the most current pictures, Ms. Thayer, on the, in the packet?

MS. THAYER: These photos were taken by, Mr. Hobdy himself when he did the site visit to the property.

CHAIR GUZMAN: Okay. Thank you. Any comments from Public Works Department?

MS. DAGDAG-ANDAYA: No comments.

CHAIR GUZMAN: Any comments from Parks and Recreation?

MR. SAKODA: No comments.

CHAIR GUZMAN: Any comments from Planning? Seeing none, Members any questions? Seeing none, I would like to entertain a motion to include M-28, the Bermuda Juniper, to be included on the exceptional tree list and be designated as an exceptional tree.

COUNCILMEMBER WHITE: So moved.

CHAIR GUZMAN: Moved by Mr. White.

VICE-CHAIR CARROLL: Second.

CHAIR GUZMAN: Seconded by Mr. Carroll. Any further discussion? Seeing none, all in favor, say "aye".

COUNCIL MEMBERS VOICED AYE.

CHAIR GUZMAN: All in favor, say "aye".

COUNCIL MEMBERS VOICED AYE.

CHAIR GUZMAN: Okay. All opposed, say "nay"?

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

**NOES:    None.**

**ABSTAIN:    None.**

**ABSENT:    None.**

**EXC.:    Councilmember Baisa.**

**MOTION CARRIED.**

**ACTION:    FIRST READING OF REVISED BILL FOR M-28.**

CHAIR GUZMAN: That's seven. Wait, sorry. Six "ayes", one excused, no "noes". Motion carries. Thank you, Members. Moving on to M-29, Ohia Lehua and, Ms. Thayer, can you proceed with the presentation of the nomination?

MS. THAYER: Yes thank you, Chair. This is our, one of our most recent nominations. This was brought to us by, Pat Bily of The Nature Conservancy. This is an Ohia Lehua tree which is a native tree, it's a very important tree in our watersheds. This essentially provides the backbone of all of our native forests. So this specimen is in Waikamoi Preserve which is Haleakala Ranch land but it's managed by The Nature Conservancy via perpetual conservation easement. This tree is aged over 600 years at least, it is the largest and oldest known specimen on Maui of this particular species. It's remarkable. Our, one of our members, William Jacintho went out on the site visit to this tree and he couldn't say enough good things about it and so.

CHAIR GUZMAN: Ah, it's beautiful. Any comments from Public Works?

MS. DAGDAG-ANDAYA: No, no comments.

CHAIR GUZMAN: Any comments from Parks and Recreation?

MR. SAKODA: This is an outstanding tree and it deserves to be listed as an exceptional tree. I'm reminded of Heidi Bornhorst though and with common names it's always a little bit different but ohia is the tree and ohia lehua is the flower of that tree, but.

CHAIR GUZMAN: Beautiful. Any comments from Planning? Seeing none, any questions from the, Members? Ms. Cochran.

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COUNCILMEMBER COCHRAN: I've seen the tree also and it is just spectacular and others in the Waikamoi Preserve actually, so I'm just curious and I know Pat Bily. Has it ever been like a collective, I know you probably have to introduce each individual tree, but because it is a protected area and a watershed preserve and what have you, there's other trees here I believe there's even one I forget the name, it's an endangered species that I think Mr. Rezens had planted in there and it's purposely fenced in from the feral pigs and what have you to protect it. So there's just... and the canoe, the biggest koa you ever seen in your life around here up there also so it's just I'm just curious I don't believe I see any of the other trees in our list currently, has there ever been a way to just collectively say the bigger, older Hawaiian native trees in these preserves are all exceptional or something to that?

CHAIR GUZMAN: Is there anyone on in Admin that can answer that question?

MR. UEOKA: Chair, if I may, you can do groves and stands of trees, it's just we've had a difficult time because the Code also requires the Arborist Committee to go and do an annual inspection of each tree so. I've always cautioned them, be careful how many you add on to the list. Thank you.

COUNCILMEMBER COCHRAN: Okay. Right I see that point definitely but myself and, Kathy Kaohu who did do the maile trail loop, and it's quite, very you know easy to do but anyways I guess I can follow up with Mr. Bily and he can pursue perhaps if he wanted to protect the others but I just concur with this, this vote. Thank you.

CHAIR GUZMAN: Mr. Couch.

COUNCILMEMBER COUCH: Thank you, Mr. Chair and I agree with Ms. Cochran that almost any tree up there would be exceptional especially in that area and this one definitely. But you mentioned, or Mr. Ueoka mentioned something that the Arborist Committee has to go look at every one of those trees and do they every, once a year? Holy cow, lots of field trips.

CHAIR GUZMAN: Yeah, it's annual. Ms. Thayer, do you, would you like to respond to that question?

MS. THAYER: Yeah, sure. So we essentially divvy up the island amongst the different members 'cause we all kinda live in different parts of the island to yeah visit the trees every year, one of our guys goes out to Hana to look at the Kamani out at the old school. We have past members that also help out, there's been certified arborists on the committee in years past so some of them will take care of like the Lahaina trees or the trees at Puu Mahoe or even on Molokai, there's a past member that helps us with that, so it's good.

CHAIR GUZMAN: Thank you. Any other questions from the Members? Okay. Seeing none, I'd like to ask for, entertain a motion to include M-28 *[sic]* Ohia Lehua in, as, on the exceptional tree list and be designated as an exceptional tree.

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COUNCILMEMBER VICTORINO: So moved, Mr. Chair.

CHAIR GUZMAN: Moved by Mr. Victorino.

COUNCILMEMBER WHITE: Second.

CHAIR GUZMAN: Seconded by Mr. White. I'm sorry.

COUNCILMEMBER WHITE: Could we . . .

CHAIR GUZMAN: M-29, I believe.

COUNCILMEMBER WHITE: And Chair, if we could have a friendly amendment --

CHAIR GUZMAN: Yes.

COUNCILMEMBER WHITE: --to take out the word "Lehua".

CHAIR GUZMAN: Oh, yes.

COUNCILMEMBER WHITE: Because it is an Ohia tree, as pointed out by the arborist.

CHAIR GUZMAN: Lehua tree?

COUNCILMEMBER WHITE: No, Ohia.

CHAIR GUZMAN: Ohia, oh, just without the...okay, deleting that section, Ohia tree

COUNCILMEMBER COUCH: No, delete Lehua.

CHAIR GUZMAN: Oh, Lehua, okay, we'll delete Lehua. Okay, that's a friendly amendment.

COUNCILMEMBER WHITE: Let's get you out of town more often.

CHAIR GUZMAN: Okay. So, Members, any further discussion? Seeing none, all those in favor, say "aye".

COUNCIL MEMBERS VOICED AYE.

CHAIR GUZMAN: All those opposed, say "nay"?

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

**NOES: None.**

**ABSTAIN: None.**

**ABSENT: None.**

**EXC.: Councilmember Baisa.**

**MOTION CARRIED.**

**ACTION: FIRST READING OF REVISED BILL FOR M-29.**

CHAIR GUZMAN: Six "ayes", no "noes". Motion carries. Thank you. Thank you, Members. Moving on...I believe...yes if we, can I have...if you look on that we have a deletion to the exceptional tree list so I would like to call on I believe our Corporation Counsel to explain why this is going to be deleted, it looks as though... oh at least maybe I'll ask, Mr. Ueoka and then we'll go to, Ms. Thayer.

MR. UEOKA: Thank you, Chair. I was just informed that the trees were sick or bad shape that's why they should be removed. That's I was informed then two of them just I'm sure Ms. Thayer will go over it better but they were initially in as a pair in the list but only one of them is not doing so well so the remaining tree is still on the list but the other one is, they're asking for it to be removed. Thank you.

CHAIR GUZMAN: Thank you. Ms. Thayer, as to the reasons why we're deleting M-1 Morton Bay Fig tree from the exceptional tree list.

MS. THAYER: Oh yes, so this one is at the old Baldwin House in Haiku. This tree essentially fell over after a storm so it's not in any livable condition anymore.

CHAIR GUZMAN: Thank you. Any comments from Public Works Department?

MS. DAGDAG-ANDAYA: No comments.

CHAIR GUZMAN: Any comments from Parks and Recreation?

MR. SAKODA: No comments.

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CHAIR GUZMAN: Any comments from Planning? Seeing none, any questions from the Members? Seeing none, I'd like to entertain a motion to delete M-1, the Morton Bay Fig tree from the exceptional tree list.

COUNCILMEMBER WHITE: So moved.

CHAIR GUZMAN: Moved by Mr. White.

VICE-CHAIR CARROLL: Second.

CHAIR GUZMAN: Seconded by Mr. Carroll. Any further discussion? Seeing none, all in favor, say "aye".

COUNCIL MEMBERS VOICED AYE.

CHAIR GUZMAN: All opposed, say "no"?

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

**NOES:    None.**

**ABSTAIN:  None.**

**ABSENT:    None.**

**EXC.:      Councilmember Baisa.**

**MOTION CARRIED.**

**ACTION:    FIRST READING OF REVISED BILL FOR M-1.**

CHAIR GUZMAN: We have six "ayes", no "noes", one excused. Motion carries. We're going to the partial deletions, the M-14. The, Ms. Thayer, can you explain what's going on here why the partial deletion?

MS. THAYER: Yes. So for this M-14 there were two True Kamanis on the Lahainaluna High School Campus. One of them was not doing well at all and deteriorating in health so it, as a result actually of one of our annual visits to the trees, it was deemed that this one should be taken off the list for very poor health.



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CHAIR GUZMAN: So, Ms. Thayer, do, is there specific I guess description to identify which one of the two is not going to be on the list or at least it's going to be deleted? Because you have two right and then one is going to be deleted off the list.

MS. THAYER: Correct.

CHAIR GUZMAN: Do we know which one exactly?

MS. THAYER: Yeah, we do.

CHAIR GUZMAN: Okay, I'll get comments from Public Works Department?

MS. DAGDAG-ANDAYA: No, we have no comments.

CHAIR GUZMAN: Okay, from Parks and Recreation?

MR. SAKODA: No comments.

CHAIR GUZMAN: Any comments from Planning? Seeing none, any questions from the Members?  
Ms. Cochran.

COUNCILMEMBER COCHRAN: And so did it become diseased or did it, what happened? Why is it no longer?

MS. THAYER: Well, what it looks like is it was improperly pruned at some point. We don't know by who but it's basically the improper pruning that did the tree in.

COUNCILMEMBER COCHRAN: Okay. And so how do we, I guess there's no repercussion for someone...I guess wasn't there a clause...I know no one purposely mutilated it or anything but I guess it was whatever lack of experience at pruning. Is there some recourse to...I guess?

CHAIR GUZMAN: Mr. Sakoda --

COUNCILMEMBER COCHRAN: I don't know, how does that work?

CHAIR GUZMAN: --anyone from Admin can explain?

MR. UEOKA: If I may, Chair, the Code does provide protection for the trees, and if it's I believe it's like willfully or maliciously hurt or damaged, but it is a criminal item so we would have to refer it to the Prosecuting Attorney's office and again it, that's a conclusion reached by the Arborist Committee. I'm not sure...it'd be...I guess the Arborist Committee could or this would be the

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Arborist Committee or the Council could refer this to the Prosecuting Attorney's office for prosecution but that would be the recourse under the law right now.

COUNCILMEMBER COCHRAN: Okay. And so as Arborist Committee, you folks just determined it in what...you know improper pruning thereby deemed just remove, the tree removal and not pursue it any further than that?

MS. THAYER: Like in terms of repercussions, no, it kinda looked like they cut back the tree to, I don't know make room for something else or reduce the canopy somehow. But as far as it being like maliciously I don't know lopping the tree, it didn't look like it was like that. But in the end the tree wasn't able to recover from all the branches that were cut off. So we, we just decided to take it off the list rather than like starting an investigation and going through that whole process.

COUNCILMEMBER COCHRAN: Okay. Well, I mean I just, that's why you put trees on this list of exceptional trees to give it that much more added protection and hopefully survival you know for many years to come, but unfortunately I guess either the people or person or whatever it was that had pruned it improperly weren't explained that this was a particularly special tree and that it should extra care should be taken or what have you or hire outside professional or I mean unfortunately this is a you know unfortunate I guess lesson to learn in a sense, Chair. So hopefully in the future we can make sure that something like this doesn't reoccur, I mean I just thought what is, sort of defeats the purpose of making it an exceptional tree in the end.

CHAIR GUZMAN: Yeah, Mr. Ueoka.

MR. UEOKA: And I was reminded and I looked at the list and these are at Lahainaluna High School.

COUNCILMEMBER COCHRAN: Right.

MR. UEOKA: So it'd be difficult for us to pursue anything. I'm sure the Arborist Committee...did you send them a letter?

MS. THAYER: Well, when the trees were designated like, yes, there was correspondence.

UNIDENTIFIED SPEAKER: Oh, about the cutting.

MS. THAYER: Oh about the cutting? I think our member talked to the administration but it was probably a groundskeeper that didn't realize that this was the exceptional tree.

COUNCILMEMBER COCHRAN: Okay. Yeah, again I mean just hopefully that we can just make sure even though it's a private landowner or a public entity or whatever so.

MS. THAYER: Yeah, most of the --

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COUNCILMEMBER COCHRAN: That's all I'm hoping to learn from this.

MS. THAYER: --yeah, most of the time when any kind of landowner wants to like prune the tree for any reason, keep it healthy, cut off the dead wood, they'll ask us if it's okay, yeah, before they go ahead and do it.

COUNCILMEMBER COCHRAN: All right, well very good. Thank you, Chair.

CHAIR GUZMAN: Just to note, Ms. Cochran, that you know if under 12.24A.100 whoever shall willfully, maliciously, or negligently mutilate, cut down, dig up, burn or otherwise injure an exceptional tree would be basically fined as a misdemeanor, one, up to one year in jail and \$1,000, looks like. But just for the general public to know that, thank you. But okay, so moving on, any other further questions? Seeing none, we'll go ahead and I'll entertain a motion to partially delete one tree under M-14.

COUNCILMEMBER VICTORINO: So moved.

CHAIR GUZMAN: Moved by Mr. Victorino.

VICE-CHAIR CARROLL: Second.

CHAIR GUZMAN: Seconded by Mr. Carroll. Any further discussion? Seeing none, all those in favor, say "aye".

COUNCIL MEMBERS VOICED AYE.

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

**NOES: None.**

**ABSTAIN: None.**

**ABSENT: None.**

**EXC.: Councilmember Baisa.**

**MOTION CARRIED.**

**ACTION: FIRST READING OF REVISED BILL FOR M-14.**

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CHAIR GUZMAN: We have six “ayes”. All those not in favor, say “no”? No “noes”.

COUNCILMEMBER VICTORINO: Mr. Chair. Just one, one little point.

CHAIR GUZMAN: Yes.

COUNCILMEMBER VICTORINO: Could we make sure we send them a letter, and make sure they take the right tree out?

CHAIR GUZMAN: Yes.

COUNCILMEMBER VICTORINO: Okay, just --

CHAIR GUZMAN: Now, Ms. Thayer --

COUNCILMEMBER VICTORINO: --just since there was a challenge in the beginning this may be the best way as we send them a letter, saying this is the tree that needs be removed --

CHAIR GUZMAN: Right.

COUNCILMEMBER VICTORINO: --maybe a picture just to make sure there is no confusion.

CHAIR GUZMAN: Right.

COUNCILMEMBER VICTORINO: Thank you, Mr. Chair.

CHAIR GUZMAN: Very good, why don't we do that. Thank you very much. Okay. Motion carried. Moving on, we have another partial deletion for one of the two trees under M-18. Ms. Thayer, can you please explain what's going on in this partial deletion on the exceptional tree list?

MS. THAYER: Okay. Yes. So this was a pair of trees, there was a male and female of this species that were on the list. It's the female that is being taken off, for reasons of sickness and deterioration in health, such that it's no longer really viable.

CHAIR GUZMAN: What is the name of it, I can't, *Afrocarpus falcatus*?

MS. THAYER: Yeah. *Podocarpus* is the common name of this tree. It's in the Puu Mahoe, it's at Puu Mahoe in the arboretum.

CHAIR GUZMAN: Okay. Any comments from the Public Works Department? As seeing none, on the Parks and Recreation Department, any comments?

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MR. SAKODA: No comments.

CHAIR GUZMAN: Planning? No comments. Any questions from the Members.

COUNCILMEMBER VICTORINO: Chair.

CHAIR GUZMAN: Yes, Mr. Victorino.

COUNCILMEMBER VICTORINO: I'm not a tree officiano [*sic*] at all but if you take and there's a male and female plant that I guess there was a reason for that. If you take the female away, what happens to the male? Do they, can it continue to thrive or would you have to replace a female with it and I'm just asking the question, I have no idea.

MS. THAYER: No, that's a good question. I believe these were probably planted in the arboretum just to have two or a specimen in each to have an example in the arboretum. It's only necessary for the trees to reproduce to have the two of them but the male one on its own will live a healthy life on its own.

COUNCILMEMBER VICTORINO: Yeah, continues to thrive without the female.

MS. THAYER: Yeah. It just won't make any babies.

COUNCILMEMBER VICTORINO: Some of us male would have a hard time to thrive without . . . (*inaudible*) . . . Just a real question that I really have, I apologize if that sounds funny but it really came to my mind like does he survive you know, okay. Thank you for that clarification.

MS. THAYER: Sure. Thank you.

CHAIR GUZMAN: Thank you. Any other questions? Ms. Cochran.

COUNCILMEMBER COCHRAN: So these two situations it looks like trees were put onto the list as pairs and what, I mean 'cause every, well I guess we just did the four Monkey Pods --

CHAIR GUZMAN: Yes.

COUNCILMEMBER COCHRAN: --so that was quadrupled, okay, never mind. Well I was just, okay, a stand, that's right a stand of trees, a grove what have you. Okay, never mind, answered my own question.

CHAIR GUZMAN: Okay any further questions? Seeing none, I'll call for the question. I would like to entertain a motion to partially delete M-18 Podocarpus.

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COUNCILMEMBER VICTORINO: So moved.

CHAIR GUZMAN: Moved by Mr. Victorino. Is there . . .

COUNCILMEMBER WHITE: Second.

CHAIR GUZMAN: Seconded by Mr. White. Any further discussion? Seeing none, all those in favor, say "aye".

COUNCIL MEMBERS VOICED AYE.

CHAIR GUZMAN: All those opposed, say "no".

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

**NOES: None.**

**ABSTAIN: None.**

**ABSENT: None.**

**EXC.: Councilmember Baisa.**

**MOTION CARRIED.**

**ACTION: FIRST READING OF REVISED BILL FOR M-18.**

CHAIR GUZMAN: Six "ayes", no "noes", one excused. Motion carries. Thank you, Members. That will conclude our item.

COUNCILMEMBER COCHRAN: Chair, I have a question.

CHAIR GUZMAN: Yes.

COUNCILMEMBER COCHRAN: If you don't mind.

CHAIR GUZMAN: Ms. Cochran.

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COUNCILMEMBER COCHRAN: I'm trying to figure out you know the stand of Monkey Pods since we're on the hot topic of Monkey Pods that line Honoapiilani in Olowalu, were those ever designated as exceptional? 'Cause all the other rows here, entering into Wailuku seem to be on the list and others.

CHAIR GUZMAN: Is there anyone that can answer that? Ms. Thayer.

COUNCILMEMBER COCHRAN: Is that on our list, I couldn't figure out if that's on our list.

MR. UEOKA: Chair, if it's not in the list this M-1 through --

MS. THAYER: Currently.

MR. UEOKA: --or the ...(*inaudible*)... it is not an exceptional tree.

COUNCILMEMBER COCHRAN: Okay, is Ms. Thayer, Chair, can Ms. Thayer --

CHAIR GUZMAN: Yeah, Ms. Thayer, can you.

COUNCILMEMBER COCHRAN: --chime in, I think she wants to say.

MS. THAYER: Yeah, so the trees right here from kinda like Wailuku Elementary School all the way up to Maalaea those Monkey Pods on the side of the road, they're, they've been nominated, we're clearing up some land ownership questions to confirm who the underlying landowner is for those. So those have been approved by the Committee but as far as gathering the paperwork necessary to bring it to Council, we're working on those. But for the Olowalu Monkey Pod trees, there was a member of the community, called me gosh, must have been last year now wanting to nominate those trees, but she wanted to find out first more of the history behind why those trees got planted, 'cause she heard a few different stories but wasn't sure of like the actual story behind those trees. So those are on our radar for nominating and bringing to this body to be added to the list.

COUNCILMEMBER COCHRAN: Okay. Excellent. So is it safe to say that person is pursuing and hopefully gonna continue --

MS. THAYER: Yeah.

COUNCILMEMBER COCHRAN: --discussion?

MS. THAYER: Yeah and if she doesn't get back to us then someone on our committee can step forward and bring the nomination if they can find out all the information behind how those trees got planted and the history of them.

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COUNCILMEMBER COCHRAN: Yeah, actually, Chair, if I can chime in now in regards to that.

CHAIR GUZMAN: Sure.

COUNCILMEMBER COCHRAN: Through a program called, Na Hoaloha, I was the, it's the neighbor helping neighbor and my neighbor was a man named, Kenneth Sharp, who passed away about a year ago and his father had planted those. And the other his, I guess rival in planting Monkey Pod trees planted the ones that front along our roads coming into Wailuku. So he planted, forgive me I don't know his name but, Kenneth Sharp's father or grandfather perhaps planted them and it was sort of a competition, whose trees can outgrow the other and whose trees can...and so prior to passing he thought his grandfather's trees sure looked a lot better than the others but anyways. So I know that has a little story line behind that and it could be through the Sharp family that she can gather further information or I could pursue it also if.

CHAIR GUZMAN: That would be good if you guys could --

COUNCILMEMBER COCHRAN: Yeah, it would be an interesting thing to pursue.

CHAIR GUZMAN: --communicate.

COUNCILMEMBER COCHRAN: But I'll leave it up to Arborist Committee how you would like me to proceed with that.

MS. THAYER: We'll be in touch.

COUNCILMEMBER COCHRAN: Okay, very good.

CHAIR GUZMAN: Okay, thank you, Members. Thank you, Administration for those who are, were called on for that subject matter. We're gonna move on to the next item on the agenda, Members, EAR-22 the Landscaping Planting Plan, and before we begin with that, I'm gonna take a about a five-minute recess so that, Ms. Thayer can set up her presentation. So we're going to be in recess for five minutes. Thank you, Members.

**RECESS: 3:11 p.m.**

**RECONVENE: 3:31 p.m.**

**EAR-22 LANDSCAPE PLANTING PLAN (CC 13-325)**



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CHAIR GUZMAN: Okay, Members, the EAR Committee shall now reconvene we're on EAR-22 Landscape Planting Plan. The Committee is in receipt of County Communication 13-325, from your Chair, referring the matter relating to the County Landscaping Planting Plan. The Committee will receive an update and presentation from the Chair of the Maui County Arborist Committee on the progress of the County Landscaping Planting Plan. No legislative action will be taken. The purpose of Chapter 12.24A of the Maui County Code is to encourage the establishment of the landscape planting and to protect, preserve and encourage the planting of trees in the County. The Chapter provides for a landscape planting plan, which is advisory and serves as a guide for the care, preservation, pruning, planting, replanting, removal and disposition of planted material in public areas throughout the County. Section 12.24A.030(C) tasks the Maui County Arborist Committee with the preparation of the plan for review by the Mayor and the County Council. The Maui County Arborist Committee, with input from the Department of Parks and Recreation, has been working hard on the revised planting plan. We are here today to receive an update on the progress of the plan. I'd like to introduce to the Members and also to the general public the Chair of the Arborist Committee, Kimberly Thayer who will present the update. Kimberly.

**... BEGIN PRESENTATION ...**

MS. THAYER: Yes, thank you, Chair. So we have a PowerPoint that was full disclosure prepared by, Mr. Ernie Rezens, who is a past member of the committee and he is very involved, he attends all of our meetings and provides a lot of good input. He's a certified arborist and teaches the certified arborist class, he knows a lot about the history of trees in Maui County and he's the one that prepared this PowerPoint. But this will take us through the history of the Arborist Committee and its responsibility for preparing the plan and then it'll go into the contents of the plan itself. So in 1975 Hawaii Revised Statutes estate law required each county to have an Arborist Committee for the protection of exceptional trees. And today all four Counties in Hawaii have an Arborist Committee, but only Maui County's Arborist Committee does more than simply protect our exceptional trees. So in 1983, Mayor Hannibal Tavares established the County Arborist Committee, at that point it was seven members but it now, we now have nine members on our committee and we are responsible for writing a tree plan, particularly the Maui County Planting Plan and to identify and preserve exceptional trees. So the first edition of the planting plan was published way back in September of 1991. It was produced in-house and included street trees, park trees, and perhaps exceptional trees. The second edition of the plan came three years later in 1994 and it was reprinted again in the year 2000. So the second edition as opposed to the contents of the first, the second edition applies to all County roads, parks and used in private and public parking lots. The copies were distributed to the libraries for public access, and now 21 years later the reference is still used by landscape professionals all around and is available on-line. But one thing with the second edition is that it included invasive species or species that we now know are invasive and problematic, and it does not have a parking lot shade tree chapter, so the committee felt that an update was essential. So the third edition, all

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tree and plant information is expanded and updated with new knowledge about growth and habitat of trees. There are no invasive species anymore, there were some trees that people really liked but they are invasive and very bad for our watersheds so those were taken out. And a note that this third edition has been widely reviewed by both County agencies and pertinent members of the public so the reviewing bodies in the public include the Maui Association of Landscape Professionals, the Maui Outdoor Circle which is now Maui Green and Beautiful, Landscape Architects from around the County and around the State, Corporation Counsel right here and the Departments of Planning, Water, Parks and Rec and Public Works as well. And a note we will be meeting with the Directors at our upcoming meeting in December to go over their comments and how we have incorporated them into the plan. So as far as guidance on planting in the County, the third edition as in the second edition divides the County into five planting zones with plant material and selection of species according to each zone. So the planting zones are wet areas for the windward parts of the island; cool, dry areas in higher elevations; lowland areas that are warm and hot; lower elevations that are wetter due to proximity to rain clouds on the mountains; and then salt spray in coastal areas on the windward side in particular. So this is an example of how these zones are illustrated in the island so the intent is that anyone could be able to pick up this document and see where they live or where their business is, wherever they're gonna be planting trees and know what species to choose for wherever their location is, Lanai, Molokai. There's also tables that list a plants preferred growing location, so depending on elevation low, medium or high. So using a specimen's planting zone and elevation you're able to choose the best native species or ground cover, shrub or tree, whatever you're looking to plant. So a word on the extensiveness of this document, there are almost 200 types of trees, 24 types of palms, dozens of shrubs, 18 kinds of turf grass, introduced ground cover as well as native ground cover for a total of 412 species listed here. So essentially there is for whatever kind of planting you're doing there is a species that is recommended for it. The third edition of this plan advises of mixture of tree types as opposed to a single species being planted say all inside of a parking lot or all along the side of a tree mostly because monocultures or single species plantings are often devastated by newly introduced pests that just jump from tree to tree to tree. So if you have a mixture they'll, the pests will be contained. So this is an example of a table. Does this have a laser pointer on it? No. Okay, so an example of a table so this one is for street trees, on the left hand column gives the species name, common name and the family of the tree. And moving across the columns from left to right, there's the expected mature height and spread that's given, and we know that in ideal conditions the trees will probably go larger than this, but being planted in an urban environment this is the size that would be expected for each tree. Crown density, growth rate, wind tolerance, salt tolerant, basically all different considerations for your environment and where you're gonna be planting the tree. So similar process for park trees and palm trees, ground covers also we have tables for, and I'll note that this also indicates whether they're native species or non-native species. Turf grasses are included in the planting plan, of course they're not trees but they provide some benefit in terms of preventing soil erosion and are used in landscaping projects all over the place, so we felt they would be best included to be in the plan, so there's tables for that as well. Proper pruning is something that is also included in this document, guidelines for proper pruning with illustrations included. Proper pruning of coconut

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trees was also included as recommended by the Aloha Arborist Association, so just an example of the way comments from various entities were incorporated into this document. So another example of a diagram showing how best to dig the hole for the tree, how best to plant it, so in essence if you follow this plan, you should have nice healthy trees wherever you plant them. So there's even like advice on how big the hole should be in relation to the tree itself. For parking lots, again this is a new chapter in this plan. What was needed was a definition of what a large crown shade tree is because the County ordinance requires one large crown shade tree for every five parking stalls. So here's an example, this is a Monkey Pod in this picture if you can see. So this is an ongoing concern that comes up, we have a kind of a subcommittee that goes over tree concerns in the County, and one thing that gets brought to our attention both by members and by people who testify is proper pruning of trees so these are meant to be shade trees, but they are essentially over pruned to the point that they don't provide any shade. So the guidelines in this plan for proper pruning attempt to educate residents or readers of the plan as to what healthy and proper pruning is to keep trees maintained and growing nicely to the expected heights and spread and shade that they are meant to be. Okay, so I'll go through parking lot trees, just an example of what we're shooting for with the advice in this plan. Providing like a large enough growing area around the tree so the space the tree is planted in provides for the expansion of the trunk over time, the trees are spread apart nicely so the crowns can spread and touch each other and you can see the entire parking lot is shaded and beautified as a result of this. Any questions?

**... END OF PRESENTATION ...**

CHAIR GUZMAN: Any questions, Members? Yeah, Mr. White.

COUNCILMEMBER WHITE: Thank you, Chair. Do you have a list of the trees that are considered invasive?

MS. THAYER: Yes, there's an invasive species list, we don't have it in this document but they are available.

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

CHAIR GUZMAN: Thank you. I believe the... what's the current status, how many pages is the document at this current stage?

MS. THAYER: So the document including all the tables and illustrations and everything is over, it's about 260 pages I believe. It includes like yeah, like I said illustrations, tables, instructions for how to choose trees, how to plant them, how to fertilize them, prune them over time, trees for different locations so it is a very, very extensive document, but it's meant to be so if you, if you're planting a park tree you can go to the park tree chapter, if you're planting a street tree you can go to that chapter. Yeah.

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CHAIR GUZMAN: Yes, Mr. White.

COUNCILMEMBER WHITE: Just one follow-up, so what makes a tree invasive? Because you know Monkey Pod is all over the place but I don't see it and I think generally it has to be planted where as other trees seem to propagate much more readily, so how do you, how do you determine what goes on the invasive list?

MS. THAYER: No, yeah, so we didn't create this invasive list, there are entities like the Department of Land and Natural Resources or like --

COUNCILMEMBER WHITE: So that's their determination?

MS. THAYER: --yeah.

COUNCILMEMBER WHITE: Okay.

MS. THAYER: Yeah. But there's considerations for like growth rate and how they reproduce, their propensity to take over an area, choke out other species yeah, things like that.

CHAIR GUZMAN: Okay.

COUNCILMEMBER COUCH: Thanks. Thank you, Chair.

CHAIR GUZMAN: Yes, Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair and so at the ending in regards to the parking lot trees and it says, Council action on parking lot shade ordinance needs to come first. Chair, are you looking into pursuing that and following up?

CHAIR GUZMAN: Yeah, actually what the reason why I was asking for the update is because for the adoption of the Landscaping Planting Plan under 12.24A.040, Subsection B Adoption, they have to go through a public hearing. But before they go through a public hearing, they have to present the plan to the Council for its review and comment and so that's I'm trying to get a little bit of an update as to when that's gonna happen, because like I said they're gonna have to submit to us first for review and comment before they can have their first public hearing on it, and then after the public hearing it looks as though they can make amendments to it the committee and then it goes to the Mayor for approval on Section 3. So I'm just trying to get everyone's feet wet in terms of or at least get an update on where we are and when that's gonna be submitted to the Council.

MS. THAYER: If I can comment on that.

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CHAIR GUZMAN: Yes.

MS. THAYER: Okay, so by way of background this update started long before I was on the committee, this is essentially like 15 years in the making to get to where it is now. So at this point we have circulated the draft for comments to all of these landscape professionals around the State, we've gotten comments from County departments and incorporated all of those into the working draft we've had. And we came up, came to a final draft that we deemed complete and finished and handed that to the Department, and just as a final review that has been circulated to Public Works, Water and Planning and Corporation Counsel as well. And so at our last meeting in October, the committee received an edited version of that final plan that we had, that had everyone's changes in it that are very, very extensive. So our next meeting is actually tomorrow afternoon and that's when we'll be sorting through all of these comments and changes that have been made, and in December, the Parks Director has arranged for those other departments to attend our meeting to have a chance to discuss comments and changes and how to incorporate everything, all the information that we deemed necessary but that makes all of the other departments happy and satisfied that there's not additional or unnecessary regulations that are being put forth by this document. So after December, I'm hoping we'll be able to arrive at something early in the next year, very early if possible, but there's been countless, countless volunteer hours by people like Mr. Rezens, by past members of the committee that have put in lots and lots of time into this. So we'll be happy to see it through.

CHAIR GUZMAN: So hopefully, Members, by maybe early next year or mid-next year we'll see this come to us, to the Council, because it's part of the ordinance we review and make comments, and then they have their public hearing on it. So, Mr. White, did you have a question.

COUNCILMEMBER WHITE: Chair, just, it sounds like it's gonna have really good information in it, maybe the Department should have it printed professionally and sell it.

CHAIR GUZMAN: Sell it...Mr. Ueoka, you're shaking your head over here, do you have any comments from the Department or . . .(inaudible). . .

COUNCILMEMBER WHITE: He's always raining on our parade, Chair.

CHAIR GUZMAN: Yeah, Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, was this called the tree planting plan and not Maui County Planting Plan?

MS. THAYER: By ordinance it's the Landscape Planting Plan.

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COUNCILMEMBER COCHRAN: Landscape Planting Plan so of course incorporating trees and everything else, the 412 species that you're mentioning here. And so how does this really...I know you have...so these are...you have your zones and you're figuring out what grows best in the different zones, and what are, you know, noninvasive and what have you, how does that relate to what's sold on the market? As in stores and that they sell lovely things like lantana and stuff, how I mean is there a way to...I don't want to say regulate, ban or use any of these words we're all tossing around every day, but yeah, I mean it's starts from what a person purchases, puts it in the ground and then it spreads and then it infects everything else, so how are we, is this gonna, is this addressing that anywhere?

CHAIR GUZMAN: Mr. Ueoka.

MR. UEOKA: Yeah, thank you, Chair. I kinda, I think I know where you're going so stop me if I'm going the wrong way, Ms. Cochran, but the Code provides for what the Landscape Planting Plan is supposed to contain. It says it's supposed to be advisory and shall include but not be limited to the following: objectives and policies of the County for establishment of landscape planning and the preservation of protection of trees in the County---so that's more aspirational language--guidelines for the establishment of landscape planting on streets and in parks; guidelines for the maintenance and care of landscape planting and exceptional trees in public areas; contain an official list of street trees; designate the types of trees which are suitable for planting in the various geographical locations of the County as delineated in the General Plan; identify the types of street trees for planting within the rights-of-ways, avenues, roads or highways under the jurisdiction of the County; and identify the types of park trees for planting within public parks and recreational areas under the jurisdiction of the County. So it's kinda more that way, it's a guidance document and it needs to be followed because I guess for subdivisions they're required to do landscape planting proposals and submit them, and they or I'm not sure if it's subdivisions or one of those types of processes, and if it's inconsistent with the planting plan they need to get approval from the Director of Planning after the Arborist Committee's review and recommendations, so it's advisory and you kinda need to follow it so it's interesting document.

COUNCILMEMBER COCHRAN: Okay.

MR. UEOKA: But it doesn't say what can and can't be sold, and it doesn't really apply necessarily to like you for instance if you just want to go and plant a tree in your backyard it doesn't, the Landscape Planting Plan isn't designed to prohibit you from doing anything, it's just there to give you guidance like you might not want to plant the giant Monkey Pod tree right next to your house and I think the plan will advise you of that. Thank you.

COUNCILMEMBER COCHRAN: Okay, thank you. And so in regards to trees in parks, I know it was mentioned and this is probably prior to you, Kim, edible trees? Are there, is this, has this been incorporated, was that discussed in edible landscaping whatever?

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MS. THAYER: Yeah that's been discussed as part of this, and it was a discussion that went on for quite awhile as to whether those should be included or not. But I think in the end there was I guess the desire to err on the side of caution because a lot of times like fruits fall on the pavement and people slip and fall or you know it's a ball that falls down and someone steps on it and twists their ankle but concerns like that, they were not included.

COUNCILMEMBER COCHRAN: Okay. So it wasn't the concern of people trying to climb a tree to go get the fruit, falling down, hitting their head or you know things of that nature? So that, too?

MS. THAYER: There was that, too.

COUNCILMEMBER COCHRAN: Also if I recall previous participants in that discussion, there's a group that was willing to go ahead and plant certain types of fruits, edible trees, whatever, and then Water Department was willing to add in the extra irrigation in order to water these areas and they were contained, you know they were contained they were going to be overlooked by this particular entity and what have you. And so unfortunately I guess it all fell through and I guess that's not on the table anymore for discussion. Are you aware of such dialog occurring?

MS. THAYER: I am not privy to that.

COUNCILMEMBER COCHRAN: Say this was about a couple years back. When this is in the process, maybe Mr. Ueoka was around then during the proceedings?

CHAIR GUZMAN: Mr. Ueoka.

MR. UEOKA: Thank you, Chair. I don't really, I have heard that discussion, I wasn't directly involved, but I would say that from what I understand, what you're talking about unless it is in a park it may not necessarily be subject to the Landscape Planting Plan, and even if the edibles are not listed in the Landscape Planting Plan, the proposal would just be, need to be reviewed by the committee, and the Director of Planning would ultimately have the final say if, assuming the project needs to have a landscaping proposal. So it's not a, because it's not included in the planting plan does not mean it's a no.

COUNCILMEMBER COCHRAN: Okay.

MR. UEOKA: It just means you have an extra step, these are the recommended trees and stuff. Thank you.

COUNCILMEMBER COCHRAN: Okay.

CHAIR GUZMAN: I kinda see it like you know when I pass by some of the medians that we drive by and I'd say wrong kinda of plants in some of that heated areas you know and like who makes

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that decision you know and they end of dying really fast, so I think that's the part of the guidelines is like these are, they'll specify in this area in Kihei what is recommended for this type of plant to survive, look at these guideline, they have recommendations for the type of plants that should be there and that would grow without least amount of water to be expended by the County. That's what should go there instead of this, you know, fern in the middle of the roadway that desires more water. And who makes that call and they've gotta look at a guideline and I think that's what that's all about, am I correct, I mean in most part, in general?

MS. THAYER: Yeah so it this is an advisory document in that sense, and in theory if you are saying planting in a dry area and you choose a plant that is suitable for that location, over time you'll have less expense and less maintenance, because it will require less water, it'll grow on its own, it'll be less fertilizer, it'll be less follow-up over time and in the end it'll be better for everyone. Yeah.

COUNCILMEMBER COCHRAN: Yeah, I'm, thank you, Chair and thank you. I, that's excellent, you know, drought tolerant where it needs to be and what have you is common sense. Thank you, Chair.

CHAIR GUZMAN: I have a question on the, in the plan does it designate or specify how trees are to be pruned on the public right-of-ways, like sometimes I'll drive by some of the stores that are on County right-of-ways and the trees look like lollipops at that point where they just prune the heck out of 'em. Does it designate how to prune or at least cut the trees in that plan?

MR. UEOKA: Can I jump in here, Chair?

CHAIR GUZMAN: Yeah, sure.

MR. UEOKA: Thank you. It does give some guidance and it also recommends going to a certified arborist.

CHAIR GUZMAN: Okay, good.

MR. UEOKA: However, again it's advisory so it's not law as you understand. Thank you.

CHAIR GUZMAN: Any other questions? Oh yeah, go ahead.

MS. THAYER: Just another note on that. So one thing for street trees, the listed trees are species that have a narrower spread, so you would have less of a risk of hanging over the roadway. So that is considered as part of this plan.

CHAIR GUZMAN: As like what type of tree should be there.



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MS. THAYER: Yeah.

CHAIR GUZMAN: Okay, good, good. Any other questions, Members? Ms. Cochran.

COUNCILMEMBER COCHRAN: So speaking of pruning, I just went by the Kaunoa Senior Center in Lahaina and oh, looks like the picture you just had on that slide. So currently we don't have practical pruning practices currently, 'cause that surely doesn't look like it was, I hope the trees live, I'm assuming the person who did it knows, but it's just bare branches, that's all, just stumps actually, nearly stumps. So I don't, I hope they come back but right now they look like not so much but I'm not a tree expert either, so but it defeats the purpose of, you know, so many trees per stall for shade is my point right now.

MS. THAYER: Yeah, so that's one provision that the committee wanted to include in this document was advocating for rather than a count of like one tree for every five stalls to have a percentage of shade required. So maybe you have fewer trees but they have larger spread in that sense so that would encourage proper pruning overtime to allow the trees to grow up and spread out wide without lopping them. I was just there too and that took me aback, but just for the record, that is not proper pruning, and we know that there's some like landscaping companies out there that will say, oh the trees, the branches are supposed to be chopped off and that's not the case. If a tree is properly pruned, you won't be able to tell that it was pruned in effect. But yeah so that's why there's sometimes been in this document illustrating and describing what proper pruning is.

COUNCILMEMBER COCHRAN: Okay. Very good, thank you.

CHAIR GUZMAN: Any other further questions, Members? Seeing none, I'd like to thank Ms. Thayer and the Department for their presentation, we look forward to reviewing the Landscape Planting Plan as it will get completed and submitted to us for review. At this time without objections, I'll defer this matter, Members.

COUNCILMEMBER COCHRAN: No objections.

**ACTION: DEFER.**

CHAIR GUZMAN: Thank you. And this will conclude our agenda for today. Thank you, Members for all your patience and your assistance as well as my Staff and this will adjourn our meeting. Thank you. . . . *(gavel)* . . .

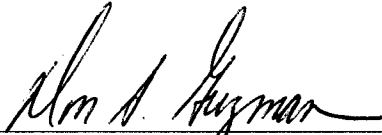
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**ADJOURN: 4:01 p.m.**

APPROVED BY:



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

ear:min:141118

Transcribed by: Cheryl von Kugler

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CERTIFICATE

I, Cheryl von Kugler, 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 12<sup>th</sup> day of December, 2014, in Kihei, Hawaii



Cheryl von Kugler