

BUDGET AND FINANCE COMMITTEE
Council of the County of Maui

MINUTES

August 3, 2015

Council Chamber

CONVENE: 9:01 a.m.

PRESENT: Councilmember Riki Hokama, Chair
Councilmember Mike White, Vice-Chair (in 9:06 a.m.)
Councilmember Gladys C. Baisa, Member
Councilmember Robert Carroll, Member
Councilmember Elle Cochran, Member
Councilmember Don Couch, Member (in 9:05 a.m.) (out 9:40 a.m.) (in 9:51 a.m.)
Councilmember Stacy Crivello, Member
Councilmember Don S. Guzman, Member (in 9:12 a.m.)

EXCUSED: VOTING MEMBERS:
Councilmember Michael P. Victorino, Member

STAFF: Jordan Molina, Substituting Legislative Analyst
Yvette Bouthillier, Committee Secretary

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

ADMIN.: Sananda Baz, Budget Director, Office of the Mayor
Butch K. Buenconsejo, Director, Department of Parks and Recreation (BF-32)
Jeffrey Dack, Planner VI, Department of Planning (BF-32)
Mark R. Walker, Deputy Director, Department of Finance (BF-45, BF-38(1))
Jeffrey T. Ueoka, Deputy Corporation Counsel, Department of the Corporation Counsel

OTHERS: Rosemary Robbins (BF-45 and BF-38(1))
Jordan Hart, Chris Hart & Partners, Inc. (BF-32)
Sean Tierney, Hawkins Delafield & Wood LLP (via telephone conference bridge) (BF-45)
Russ Miller, Hawkins Delafield & Wood LLP (via telephone conference bridge) (BF-45)
Christina Togle, Hawkins Delafield & Wood LLP (via telephone conference bridge) (BF-45)
Others (2)

PRESS: Akaku: Maui Community Television, Inc.

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CHAIR HOKAMA: . . .*(gavel)*. . . The Council's Committee on Budget and Finance shall come to order. Members, this is Monday August 3, 2015. And present we have Mr. Carroll this morning.

COUNCILMEMBER CARROLL: Good morning, Chair.

CHAIR HOKAMA: Good morning, sir. Ms. Baisa.

COUNCILMEMBER BAISA: Good morning, Chair.

CHAIR HOKAMA: Good morning. Ms. Cochran.

COUNCILMEMBER COCHRAN: Aloha, good morning, Chair.

CHAIR HOKAMA: Good morning. And Ms. Crivello.

COUNCILMEMBER CRIVELLO: Aloha, Chair. Good morning.

CHAIR HOKAMA: We excuse Mr. Couch--will be here shortly--Mr. White, Mr. Guzman, and Mr. Victorino. We shall keep our handheld devices to the off mode please, or silent mode. And we shall ask if there is anyone wishing to provide testimony this morning; do we have any request in Chambers?

MR. MOLINA: Yeah.

CHAIR HOKAMA: Okay. We'll give her time to come forward. We'll ask the Hana Office at this time if anyone in East Maui would like to share testimony?

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

CHAIR HOKAMA: Thank you, Ms. Lono. We'll go to Lanai and ask Ms. Fernandez.

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

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

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

CHAIR HOKAMA: Thank you, ladies. We'll come back to the Chambers and we'll ask Ms. Robbins, if you would come forward please and introduce yourself and speak on the item of your choice for today please.

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. . .BEGIN PUBLIC TESTIMONY. . .

MS. ROBBINS: Good morning, everybody. Rosemary Robbins, concerned citizen. I'd like to address Budget and Finance 45-1 and Budget and Finance 38(1). The first of those identified is employment of special counsel concerning the 2015 General Obligation Bond Issuance. Remember, we are in financial year 2016 now. And I picked up a lot of conversation over the weekend about this. I did come down last week and got a hold of the resolution about this and this is about hiring another law firm to represent us. And on Page 2 of that resolution, item two says, first one was the name of the law firm that's going to be dealing with this, if it passes today and item two; first one on the top of Page 2 of this resolution says that the cost of this shall not exceed \$70,000. And the minute they heard, the shall not exceed, was the explosion, what are you talking about the last time they did this they started out with saying shall not exceed, different law firm, but shall not exceed \$250,000. And after four exceedings [sic], it got to be 2 million and other hundreds of thousands of dollars. So the credibility is just needing improvement out there. And the third item on, this is now again on Page 2 of the resolution, says that it shall be limited, the money now for this other law firm, the new one proposed, shall be limited to \$2,500 and there's that shall not exceed again. Shall be limited. And the fourth one says that the expenditures of additional funds shall require prior Council approval and I didn't have an answer for this when people asked and they're saying difference between what? If indeed you're being asked to appropriate \$70,000 but the expenditures would be 2,500, that leaves 67,500 or what? I don't know what the difference is, I certainly couldn't answer that but I'm --

MR. MOLINA: Three minutes.

MS. ROBBINS: --just letting you know that that's a question out there. So people are listening about what you're doing with money. They're very happy that you're asking the questions. Okay. And then over to the second item that I asked about on BF-38(1). This talks about putting out money for the post-employment for our folks who have worked in the County and...for five years that hadn't been sent into the people who would be investing that and the auditor's report said that we lost a lot of money for that not having been filed with that Committee. So, people are going to be listening this morning so, that's the good news is that they do care, they are listening. So hopefully you can clarify those things for them. Thank you.

CHAIR HOKAMA: Thank you, Ms. Robbins. Members, any questions for the lady on testimony presented? Having none, Ms. Robbins, thank you for your presence this morning.

MS. ROBBINS: You're welcome.

CHAIR HOKAMA: Is there anyone else wishing to provide testimony? Okay. We have no other request for testimony, Members, therefore, with no objections, we shall now close testimony for today's meeting.

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COUNCILMEMBERS: No objections.

CHAIR HOKAMA: Thank you. So ordered.

. . .END OF PUBLIC TESTIMONY. . .

CHAIR HOKAMA: We welcome Mr. White.

VICE-CHAIR WHITE: Good morning, Chair.

CHAIR HOKAMA: And Mr. Couch.

COUNCILMEMBER COUCH: Good morning. Don't ask.

COUNCILMEMBER COCHRAN: Everything's thumbs up?

CHAIR HOKAMA: Okay. You're not Tom Thumb, so you're going to be dumb Tom.

**ITEM 32: ACCEPTANCE OF \$468,000 CONTRIBUTION FROM
MAUI TIMESHARE VENTURE, LLC TO CONSTRUCT
THREE TENNIS COURTS IN WEST MAUI (CC 15-76)**

CHAIR HOKAMA: Members, may I direct you please to BF-32. This is the Acceptance of \$468,000 Contribution from time...Maui Time Share Venture, LLC to Construct Three Tennis Courts in West Maui. We'll ask the Department to come forward. We have the Director --

UNIDENTIFIED SPEAKER: Long time no see.

CHAIR HOKAMA: -- Buenconsejo here present. We are in receipt of a Communication 15-76, from the Director of Parks and Recreation. He has transmitted a proposed resolution authorizing acceptance of a donation. Again, this is pursuant to Chapter 3.56 of the Maui County Code and Section 13-8 of the revised Charter of the County of Maui as amended. This is a compliance issue as your Chair understand this regarding condition 67 of a Special Management Area Permit and offsite parking approval for the proposed Hyatt Regency Maui addition located in Lahaina, Maui. This morning we'll ask the Director for opening comments please.

MR. BUENCONSEJO: Chair. Good morning, Chair. Good morning, Councilmembers.

CHAIR HOKAMA: Good morning, Mr. Director.

MR. BUENCONSEJO: So following up on our previous meeting we had with budget regarding this particular issue, we did find...well I did go back, find out a little bit more from the Departments in general and just finding out where these funds, in a

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sense, came from. And what was being correlated between what was currently built at Lahaina Civic Center, to what this 468,000 is being donated to the Department. From what I could find, the price that was given was from the Hyatt Time Share, was not solely for the County of Maui. It was a, in a sense, a payback to what was being taken from the new construction and it could have gone to any single organization that was going to put into a tennis facility for an upgrade or anything like that across the island, not specific for the County. The previous Director's office...sorry, the Director's office prior to me arriving, had negotiated a price, from what was originally presented from the Hyatt group, and from the Department thought it was worth. And this was the number that was, kinda came up. And again if you read the document, it does state that it does not have to go the County, but again, because we did develop those new tennis courts over in Lahaina, of course any proceeds we get to kind of offset those costs is why we came about of accepting it and coming up with a number that both parties were happy with.

CHAIR HOKAMA: Okay. So we're clear, Director, the project costs 2.6 million. So this 468 or close to half a million dollars, that would be deducted from the 2.6 million? Or 2.6 is the County's net cost?

MR. Baz: Mr. Chair?

CHAIR HOKAMA: Mr. Baz?

MR. Baz: Thank you. Yeah. The \$2,609,000 was the cost of construction, which is...was attached to the July 15th transmittal reply to the Committee. And 100 percent of those funds were from the West Maui park assessment pot. So the \$468,000, if accepted, we'd be recommending that that get returned to the West Maui Park assessment pot of Maui so that would be replenished.

CHAIR HOKAMA: Okay.

MR. BAZ: Yeah. But the \$2.6 million was the actual cost of construction, notwithstanding the \$468,000 contribution.

CHAIR HOKAMA: Kaala, I mean, Mr. Director, for Parks. We knew this was going to cost us 2.6 when we agreed to look at this donation?

MR. BUENCONSEJO: Chair?

CHAIR HOKAMA: Director?

MR. BUENCONSEJO: To my understanding, it...I guess the price of what was being built and what was being contributed back, there shouldn't have been a correlation. From my understanding, it was two separate pieces. It was the construction that we were going to build out, ideally we needed to replace or extend our tennis courts, but what the Hyatt was required to contribute on their part of it really had nothing to do with the sense of us rebuilding or extending our tennis courts in Lahaina. That wasn't the

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plan to pay for the entire build out. I think we were planning to receive funds from them, but from what was going to be negotiated from the past and what the current price really is with that 2.4 really doesn't correlate, yes. So I think it was two separate pieces, but again as far as the negotiations of how that was done back in...2009? Back in 2009, again, I couldn't state for that.

CHAIR HOKAMA: Yeah. Did the Planning Commission know exactly what they wanted or this is part of the problem? The Commission wasn't clear in their condition? We're on the record now.

MR. BUENCONSEJO: Yeah. Chair, I would have to go back, and again I can't speak on behalf of Planning.

CHAIR HOKAMA: Expensive mistake on somebody's part.

MR. BUENCONSEJO: Chair, we do have somebody from Planning.

CHAIR HOKAMA: Okay. We'll have Planning...who's from Planning?

UNIDENTIFIED SPEAKER: Dack.

CHAIR HOKAMA: Mr. Dack. Hi, thanks for joining us this morning.

MR. DACK: Yes, good morning.

CHAIR HOKAMA: Introduce yourself, please. And, if you could share some comment Mr. Dack, as you understand this issue.

MR. DACK: Sure. Yeah, Jeff Dack, a Current Planning Supervisor in the Planning Department. I agree with the Parks Director. The negotiation for this donation was totally separate from any particular tennis court improvement. A little bit of history on it, the...in 2008, if I recall right, the Planning Commission was considering a special management area use permit for the construction of the Hyatt Timeshare Tower, which was recently completed. There was a lot of testimony from, I think it was the West Maui Tennis Association at the time, there was concern at that time, from that group, a private group, that there were a lot of tennis courts being removed from West Maui at the time. This project that was being proposed for the Hyatt was going to be also eliminating tennis courts and so they came to the, a number of Planning Commission meetings, testified with concern about the elimination of courts. And ultimately, to remediate that concern the project applicant developer at that time offered to provide to any party who wanted to build three tennis courts, to replace the three that were removed, to come up with the costs of those courts. So, it was almost on the floor, a last minute condition, that didn't go through Staff or anything. It was an offer was made and accepted by the Commission and they offered that condition. So it was...there was no precision on it, it was left to ultimately be negotiated and determined and, as I understand it, the Department of Parks and Recreation staff worked with the consultants and the developers over the last few years to come up

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with what could be a...what they would be able to negotiate and agree upon as a reasonable cost for construction of three tennis courts. I understand the developer originally came in with a cost of something around 200,000, Parks, I think, came up with about 900,000. I can't quote those exact numbers, but and eventually they did negotiate down to this level. So it had no specifics of any particular improvement in mind. But it was based upon combination of Parks' estimate costs and developer's estimate costs for construction of three courts. That's the best I can offer you as the history on this.

CHAIR HOKAMA: Okay. Thank you for that. And I'll have the Committee ask their questions, Mr. Dack, so thanks. So, hearing what you shared with us, before I ask them for their questions, why is the difference \$2 million? They came up with 500...468 we spent 2.6, so help us understand why this figure is a good figure.

MR. BUENCONSEJO: Chair?

CHAIR HOKAMA: Mr. Director?

MR. BUENCONSEJO: So from Mr. Baz as well, the two point something change, 2.4 and change with the tennis courts, wasn't solely for the three tennis courts, there were some improvements, fencing improvements, road improvements, and the build out of those sidewalks. If you've been to Lahaina Civic Center recently, over the past few years, they did kind of put a little beautification area as well with the parking lot that's right behind it. Kind of a comfort station, so there was a little bit more, but again, your concerns are valid, just is as is mine with the cost of that. As far as on a plain and simple standpoint, you know, cost of doing business on a government standpoint and compared to say, the Royal Lahaina Tennis Club privately doing something like that, I mean, it's definitely a big step in as far as revenue or cost. But again, to answer your question, I really...the difference is again, the cost of doing business for government.

CHAIR HOKAMA: Well that's not good for this...good enough for this Committee, Director. We welcome Mr. Guzman to the meeting this morning. So, thank you, sir.

COUNCILMEMBER GUZMAN: Thank you, Chair.

CHAIR HOKAMA: Ms. Cochran, this is your district. This impacts your balances so I'm happy if you have --

COUNCILMEMBER COCHRAN: Right.

CHAIR HOKAMA: --any questions at this time, please proceed.

COUNCILMEMBER COCHRAN: Chair, yeah we discussed this and they...we have the answers to some of the queries from our last Committee meeting on this subject. But I hear your concern and heard the history of how this came to be. At this point, I guess the dollar amount is there and the building is built, and it's something where

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it's, you know, take what we have...what we can get at this point. But, Mr. Baz, I have notes from the past meeting and the refunding of the funds is going back to park assessment? Because I have General Fund also. So I wasn't sure if there's going to be a split there or it was going not back to park assessments and straight back to general fund.

CHAIR HOKAMA: Mr. Baz?

MR. BAZ: Thank you, Mr. Chair. Ms. Cochran, after further research, it was solely funded by park assessments and no General Fund monies went into the construction of it.

COUNCILMEMBER COCHRAN: Okay. And so thereby, this would go back to park assessments?

MR. BAZ: That's what we're recommending.

COUNCILMEMBER COCHRAN: Okay.

MR. BAZ: Correct. Yeah.

COUNCILMEMBER COCHRAN: Okay. Alright, very good. So, Chair, yeah I don't...hopefully we can coordinate these types of efforts better in the future. I don't think...I'm not sure if there's a way to adjust this contribution now at this late date. But if this is what we have to receive then I'm not going to give it back. I'd like to receive it and put it back into park assessments where we can put it to other uses too. So thank you, Chair.

CHAIR HOKAMA: Director, who negotiated this for Department?

MR. BUENCONSEJO: Chair, to my understanding it was the Director's Office from the previous, I believe, during the interim. Our Deputy Director was in communication with Hart and the Hyatt group as well, so it was from this current Administration Director Office.

CHAIR HOKAMA: Have you folks have chance to talk to our subject matter Chair? What the Chair thought was about the contribution? Director?

MR. BUENCONSEJO: Sorry, Chair. You know, as far as...I'm not too positive on what the negotiation of where it went. So I couldn't really comment on that. I could come back with writing as far as who was...

CHAIR HOKAMA: Not necessary.

MR. BUENCONSEJO: Okay.

CHAIR HOKAMA: Not necessary. I was just wondering if you folks touched bases, you would like our support. Ms. Baisa?

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COUNCILMEMBER BAISA: Thank you very much, Chair. Obviously, I don't think that, we might as well call a spade. There's a very expensive lesson here that something went array. And we spent 468, I mean we spent \$2.6 million and we going get 468 back, that doesn't sound too cool. So, I think there is an expensive lesson but I think it should be made very clear that the current Director was not there at the time this happened. And, you know, we can't ask him all the details 'cause unfortunately he wasn't as Director, so he's looking into records and we know how those can be. But it's really, really sad; however, I do support Ms. Cochran's request and Mr. Baz, that this goes back to the Park Assessment Fund. If that's where it came from then I think that's where it should go back. But again, a very, very expensive lesson, Chair, as you mentioned earlier and it's really sad that these kind of things happen. But unfortunately they do. So maybe it's we better build a better mouse trap.

CHAIR HOKAMA: Yeah. We'll fortify Mr. Ueoka.

COUNCILMEMBER BAISA: Thank you, Chair.

CHAIR HOKAMA: Mr. Carroll, questions, sir? Mr. Guzman? Mr. White? Oh, Mr. Guzman, question, sir?

COUNCILMEMBER GUZMAN: Yeah. The timeframe of this, Chair, was 2009 through...

CHAIR HOKAMA: It was completed in 2009 so if this was planning and whatnot I would say 2007 --

COUNCILMEMBER GUZMAN: Okay.

CHAIR HOKAMA: --2008.

COUNCILMEMBER GUZMAN: Okay. Thank you, Chair.

CHAIR HOKAMA: Mr. White?

VICE-CHAIR WHITE: Thank you, Chair. You know, I think the contribution is a significant amount of money. The fact that we spent \$2.6 million, in my view, is our bad, not necessarily the developer's concern. I'm a little concerned that the, you know, we may be looking at a project that as Mr. Buenconsejo mentioned includes some roadway improvements and sidewalks and other items. I think I'd be...I agree with Ms. Cochran and Ms. Baisa that we should accept the money and put it towards the Parks Fund. But I'd like to know how we spent the \$2.6 million. I would appreciate if you don't mind pulling the contract, and as importantly pulling the RFP and see who else bid on this. Because if it's 2.6 and it's primarily for tennis courts, that's just a huge amount of money for a couple of tennis courts. And so I realize that up by the Lahaina Civic Center it's anywhere you put something flat is going to require a bunch of grading so I'm sure there's a lot of grading costs in this as well. But I'd like to at

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least get a better sense of whether this is actually the difference between the private sector doing a project and the County doing a project. Thank you, Chair.

CHAIR HOKAMA: Okay. We'll put that the request forward. We do have an attachment that the Director from Parks gave us in his response. That is the IFAS Report regarding Ting and Sons, Incorporated.

VICE-CHAIR WHITE: No, and I do see that, Chair, but..

CHAIR HOKAMA: No, no but we'll still put that request on how it's . . . *(inaudible)* . . . specific narrative...

VICE-CHAIR WHITE: The IFAS Report only says what was, you know, what was finally paid. But I think it would be important to take a look at the RFP and the, and whatever other contracts were that were submitted. Thank you, Chair.

CHAIR HOKAMA: Okay, thank you. Did you get that, Mr. Molina?

MR. MOLINA: Thank you, Mr. Chair. I'll just to repeat for the record, we're gonna request the Request for Proposal for this project as well as all the bid proposals that were received.

CHAIR HOKAMA: And the contract.

MR. MOLINA: And the contract. Yes, noted, thank you.

CHAIR HOKAMA: Okay, thank you. Miss. . . anything else, Mr. White?

VICE-CHAIR WHITE: No. Thank you, Chair.

CHAIR HOKAMA: Okay. Ms. Crivello?

COUNCILMEMBER CRIVELLO: No questions.

CHAIR HOKAMA: Mr. Couch?

COUNCILMEMBER COUCH: Thank you, Mr. Chair. And I agree with my colleagues that we need to put this money back into the West Maui Fund, as well as figure out what the heck this is all, you know, what we spent this all on. Because it looked like there was an amendment for \$452,000 for the tennis courts, that's additional services and as Mr. White, Chair White says, this report just tells us very little as to what was going on. The initial bid or initial cost apparently was 1.9 million, kinda looks like but it...I would love to see what we spent that on. And I know we spent, apparently a comfort station, a new restroom, and that gets expensive as well. But it would be nice to see how three tennis courts became 2.6 mil. Thanks.

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CHAIR HOKAMA: Okay. Any other...Ms. Cochran, any other questions you may have for this resource?

COUNCILMEMBER COCHRAN: No. Not at this time, Chair. Thank you.

CHAIR HOKAMA: Okay, this is what your Chair is going to plan to do then. We're gonna forward the request from the Committee to the Department and await Director Buenconsejo's response. We'll also have Staff work with the Parks Department and Mr. Ueoka. I want a final version of a revised resolution prepared for the next meeting including with the recommendation that the contribution be restored back to the West Maui Park Assessment Fund. Anything else, Members, regarding this item? Yes, Mr. Couch?

COUNCILMEMBER COUCH: Thank you. And I just want to see what the timing is on this. It looks like that the courts were done and then the negotiations for the price were done. I mean I know you mentioned that, years later.

CHAIR HOKAMA: Director?

MR. BUENCONSEJO: Chair, yes, from my understanding. Also, if the Council and the Chair would like to hear a little bit more on the history of where we came from, Mr. Hart who was involved in the negotiation is in the stands. If that's something that you folks would like to entertain today or if not, we can get that in writing as well.

CHAIR HOKAMA: The Chair would prefer not to. I think we've...it's not the first meeting we had on this item.

COUNCILMEMBER COUCH: Right.

CHAIR HOKAMA: I would say let's just defer this, get the Staff working together and then we'll post a final version, because I would like to get this out of Committee. And get the money and put it back into the appropriate fund. Because come budget, I'm sure Ms. Cochran would like that \$400,000. Yes, Mr. Couch?

COUNCILMEMBER COUCH: I guess my question is, if we already knew how much it cost and then we go into negotiation years later...

CHAIR HOKAMA: Understood.

COUNCILMEMBER COUCH: How did we come up with that number? So thank you.

CHAIR HOKAMA: Mr. White?

VICE-CHAIR WHITE: I just have to add to that that if we're looking at putting the full burden on a developer, the cost to do a County project to replace three tennis courts in an area of our choosing, that's our choice, to put it where there's a lot of grading and other improvements that may need, that may have needed to be done. So, I think it's,

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you know, for me it's not easy to say the developer's all wrong here, or the County that negotiated it was all wrong in not asking for the full amount. You know 468,000 bucks is a lot of money for some paving and some fencing and some striping. So if we can't do it with that then I think that's a challenge.

CHAIR HOKAMA: Well we'll sharpen our pencils and rulers because...at least we don't need to put AC in our school classrooms. You heard the State's budget estimate. Anything else on this item, Members? You've heard the Chair's recommendations, any questions? If not, any objections to deferral?

COUNCILMEMBERS: No objections.

ACTION: DEFER pending further discussion.

CHAIR HOKAMA: Okay. We'll defer it and get it ready for next meeting. Mr. Dack, thank you so much for your presence. And, Mr. Buenconsejo, anything else? You want to share?

MR. BUENCONSEJO: Chair, no thank you. Have a good day.

CHAIR HOKAMA: Thank you and good luck. I hear you have 600 zone swimmers at Kihei Aquatic for a big meet, so good luck on logistics and hope you have a very successful meet 'cause there's a lot of out-of-state swimmers here and I think that's great that they came to Maui for a zone meet. Is this one enterprise activity for us?

MR. BUENCONSEJO: Chair --

CHAIR HOKAMA: Just asking.

MR. BUENCONSEJO: --no. It's not, it's a County co-sponsorship, we look forward to it, and again, as long as this weather holds up, it should be a great great week.

CHAIR HOKAMA: Thank you, Director. Congratulations on that meet. Okay. Members, we're going to move forward.

MR. MOLINA: Mr. Chair?

CHAIR HOKAMA: Yes, Mr. Molina?

MR. MOLINA: Staff would request a one-minute recess to connect with our resource people --

CHAIR HOKAMA: Okay.

MR. MOLINA: --for the next item.

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CHAIR HOKAMA: Thank you. We'll be on a short recess. . . .(gavel). . .

RECESS: 9:33 a.m.
RECONVENE: 9:35 a.m.

CHAIR HOKAMA: . . .(gavel). . . We shall bring this Committee meeting back to order.

**ITEM 45: EMPLOYMENT OF SPECIAL COUNSEL HAWKINS
DELAFIELD & WOOD LLP FOR 2015 GENERAL
OBLIGATION BOND ISSUANCE (CC 15-202)**

CHAIR HOKAMA: May I please direct you to Item 45? Item 45 for this Committee this morning is the employment request of a special counsel, Hawkins Delafield and Wood LLP, as regards to the new 2015 GO Bond Issuance. We have a communication from Mr. Agsalog, Director of Finance, who has sent us a proposed resolution. And as we have maintained over the last few years, this is considered a special counsel; therefore, this Committee is vetting the request for a special counsel for the purpose of representing the County of Maui in a new bond issuance program. Present is from the Hawkins Delafield and Wood law firm, we have Sean Tierney, our chief spokesman for the firm, Russ Turner and Christina Togle, also assisting Sean Tierney. Mr. Tierney has represented the County various times in the past regarding our issuance of bonds. I have personally met the gentleman and can assure you of his qualifications and professionalism in representing the County and the interest of our County as we move forward on this request. So at this time, first I'll ask Mr. Walker, Deputy Director of Finance, to give any opening comments to the Committee.

MR. WALKER: Thank you, Chair. Good morning, Committee Members. Mark Walker, Deputy Director of Finance. This item before you today is the hiring of...or the recommendation for hiring of our bond and disclosure counsel. We've gone through the RFP process and Hawkins Delafield and Wood were the winning bid. As the Chair mentioned, we have much experience with this firm, they handled our 2010, 2012, and 2014 issuances. And they have done a good job and I would recommend approval of this item. Thank you.

CHAIR HOKAMA: Okay. Thank you very much, Mr. Walker. Mr. Tierney, I know you're on the phone, we can hear you. So if you or any of your associates would like to make some opening comments please?

MR. TIERNEY: Yes, sir. Thank you, Chair. Yes, Maui is a very important client to the Hawkins' Firm. And we've worked very hard to represent the County's interest over the years. And we would, you know, we appreciate your being our client. And we think we've done a good job for the County and had a number of successful bond issues with low rates and...that were, you know, as part as the team process we contributed. I think they were done very well. And yeah, we would, we also have kept in touch with the County in between issues and helped with advisement. So we appreciate your consideration of this and we'd be happy to answer any questions.

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CHAIR HOKAMA: Okay. Thank you very much, Mr. Tierney. I'll ask the Committee at this time if they have questions, I'll ask Mr. White first. Any questions for Mr. Tierney or his associates from the firm of Hawkins Delafield and Wood?

VICE-CHAIR WHITE: Thank you, Chair. And, Mr. Tierney, how does the \$70,000 fee that is in the resolution compare to your fees from last year? . . .*(inaudible)* . . .

CHAIR HOKAMA: Mr. Tierney, did you hear the question?

VICE-CHAIR WHITE: . . .*(inaudible)* . . .

MR. TIERNEY: Yeah, I think I did. This year we used a scale that was similar to previous responses. I think in the last particular response we made a fix, probably lower amount, it depends on the features of the transaction. I think, so that was probably lower, it was a fixed number and is, you know, sorta special circumstances to a certain degree. This one is more consistent with what we've done over the...we've responded three or four times to RFPs over the course of our engagement. And I think this one's more consistent; whereas, based on, you know, the size and the other specific features of the deal that might require more work. So that's how I'd answer that question.

VICE-CHAIR WHITE: Yeah. I didn't quite hear the difference in the fees. It sounded like this year's RFP was...had fewer features required. So is the fee lower this year than last year or is it higher?

MR. TIERNEY: Well it's a little bit apples and oranges. We responded in the last RFP with just a number and it was pretty low. We felt like under the circumstances that we made a decision to make a low fixed bid. This time we reverted to a different form of bidding that responds more to the size of the transaction and the complexity of the transaction, which is more typical. So I mean it's hard to...it depends on the features of the transaction whether this is a higher or lower bid. Whereas, the other bid was just fixed and didn't change depending on the transaction. So this may be a little bit higher, but I think it's, you know, you have the other bids to judge it by objectively. I believe it was the lowest bid. And, you know, we believe that our fees are very competitive and reasonable based on, you know, the services provided and the expertise of our firm.

VICE-CHAIR WHITE: We don't have the other bid in...or the other fee from the previous bond issue and I still haven't gotten you to answer the first question, what was the fee last issue?

MR. TIERNEY: I don't remember off of the top of my head.

CHAIR HOKAMA: Mr. Baz?

VICE-CHAIR WHITE: Maybe Mr. Walker can help us out?

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CHAIR HOKAMA: Mr. Baz? If you can --

MR. BAZ: Yeah. Thank you, Mr. Chair.

CHAIR HOKAMA: -- you think you can maybe share some information?

MR. BAZ: Yeah. I don't have the last issuance but we have used Hawkins and Delafield for a number of issuances. In 2006 they charged us about 81,000, 2008 they charged us 70,000, 2010 they charged us 70,000 as well. I'm still looking at the...to see if we can find the 2012 total cost but it's a bunch of different transactions. So I'll look that up.

VICE-CHAIR WHITE: And we have one for 2014?

MR. BAZ: Correct. Yeah. Yeah.

VICE-CHAIR WHITE: If I'm not mistaken. Okay.

MR. BAZ: I'm working my way up there. So 2006 was 81, 2008 was 70, and 2010 was 70 as well. So I think when he said he reverting to the traditional costs that's probably what he's referencing.

MR. WALKER: I'll...Mr. Chair?

CHAIR HOKAMA: Mr. Walker?

MR. WALKER: If memory serves, it was in the \$20,000 range, but I'll let Sandy confirm that, last year.

VICE-CHAIR WHITE: Well that answers the question of why Mr. Tierney was hesitant to give us a --

MR. TIERNEY: Yeah. Our bid was --

VICE-CHAIR WHITE: --number.

MR. TIERNEY. --extremely low last time. And I guess my, you know, you never know what your competitors are going to do. But I think I had a feeling that people might bid very low. Turned out not to be the case, but I think that, you know, it's just a decision we made. And I don't...I think that was below market. And the County was able to benefit from it.

VICE-CHAIR WHITE: Okay. Thank you, Mr. Tierney. Mr. Walker, what were the other bids?

MR. WALKER: This year?

VICE-CHAIR WHITE: Yeah.

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MR. WALKER: I don't have that in front of me but, you know, the difference was probably three or four thousand dollars.

VICE-CHAIR WHITE: Okay. Chair, if we can get that information I would appreciate it.

CHAIR HOKAMA: Okay. We'll forward the request to the --

VICE-CHAIR WHITE: Thank you, Chair.

CHAIR HOKAMA: --to the Department. Mr. Guzman, questions for Mr. Tierney first? Any questions for the firm first and then we can have our resource people present as the secondary request for questions.

COUNCILMEMBER GUZMAN: Thank you, Chair. Mr. Tierney, the...when you're talking about the detailed or the complexity of each transaction, are you billing per transaction? Or is this a set fee of 70 grand?

MR. TIERNEY: I think the...I'm sorry, it's hard for me to hear.

CHAIR HOKAMA: Yeah. Mr. Tierney, the question from Mr. Guzman was whether you charge by per each transaction separately or it's just a flat fee for whatever is the amount of work.

MR. TIERNEY: Yeah. Well the...we charge at the time of closing of the bond issue on a contingent basis, as from...and are paid from bond proceeds. I think occasionally, for other specific services we would charge a fee but by far the...and what's being approved now is in connection with the issuance where we get paid at closing from bond proceeds.

COUNCILMEMBER GUZMAN: Okay. Can you explain that process of the contingency and the receiving of the bond proceeds?

MR. TIERNEY: I'm sorry.

CHAIR HOKAMA: Sean, can you give comment about the last part of your response regarding the compensation coming out of bond proceeds?

MR. TIERNEY: Oh sure. Well it's we don't have to be paid from bond proceeds, that...I mean that's up to the County, they...you could use your other funds if you wanted to. But the typical or customary approach is that cost of issuance including bond attorney fees are paid from the proceeds of the issue as part of its costs and are capitalized into the transaction. That's just customary. But if you wanted to use other...appropriate other monies, that's, you know, that's perfectly fine. It's up to the County.

COUNCILMEMBER GUZMAN: Thank you very much, Chair.

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CHAIR HOKAMA: Okay. Thank you. Mr. Carroll, any questions? Ms. Baisa?

COUNCILMEMBER BAISA: Thank you, Chair. The more I listen the more confused I get. I, you know, I'm really a simple person. And simple for me is what did we pay you last year so that we can kind of figure out if this 70,000 is close. And that's been kind of, you know, all kinds of things talked about. But what did we...we were at way back at, when was it Sandy, 2010? Have you had a chance to catch up? I know it's hard, Sandy can find anything if he has time.

MR. BAZ: Thank you.

CHAIR HOKAMA: Mr. Baz?

MR. BAZ: Mr. Chair. Okay. Just a clarification, the transactions that I'm looking at are out of 907,600 which is our bond floatation cost, which is money that's appropriated by the Council for floatation costs in our Countywide expenditures program. So the transactions that I'm seeing would not be paid for out of the bond issuance so I'm unclear as to Mr. Hawkins' or Tierney's...I'd have to go do some more research to figure that out. But 2012 was 20,772 and 2013 was 12,542 out of this bond. So if there's additional costs that are coming out of the bond issuance, I'm not aware of those.

COUNCILMEMBER BAISA: I see, because I'm trying to compare what you're telling us with 70,000.

MR. BAZ: Yeah.

COUNCILMEMBER BAISA: You know we heard the testifier who said is this 70,000 just the beginning? 'Cause, you know, we hear this a lot with special counsel. So I understand where that concern is coming from. I'm just trying to get an idea about are we in the ballpark or aren't we? And it's difficult because Sandy can only give us a piece of it. Do we have to decide this right now?

CHAIR HOKAMA: I would --

COUNCILMEMBER BAISA: Are we time sensitive?

CHAIR HOKAMA: --say we...your Chair's perspective is it's, we're at a critical juncture.

COUNCILMEMBER BAISA: Okay.

CHAIR HOKAMA: If we want to capture what we now know is the current interest. We can wait.

COUNCILMEMBER BAISA: No. No, I'm not --

CHAIR HOKAMA: Yeah. Yeah.

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COUNCILMEMBER BAISA: --I don't suggest we wait, Chair. But I just wanted to know if this was something we had to decide.

CHAIR HOKAMA: Yeah. I would like...

COUNCILMEMBER BAISA: We should decide.

CHAIR HOKAMA: I...my recommendation is if we can, I would like to send this to Counsel sooner than later.

COUNCILMEMBER BAISA: Thank you, I understand.

MR. BAZ: Yeah. Mr. Chair, if we do...if you do approve recommendation for this, in the meantime I can do some more research and find out if there was additional payments from the bond proceeds as well.

CHAIR HOKAMA: Okay. We can...

COUNCILMEMBER BAISA: That's good.

CHAIR HOKAMA: You can do that as well as --

COUNCILMEMBER BAISA: That's good.

CHAIR HOKAMA: --I think for the Committee, just give us a response please, Mr. Baz, in consultation with Finance the compensation way we deal with this. 'Cause I know what Mr. Tierney said, and yes we can do it that way. We can capitalize the cost, I understand that. We're doing it some, something else then I would like the Committee to be fully aware before Counsel makes that final decision.

MR. BAZ: Yeah. We will, Mr. Chair. Thank you.

CHAIR HOKAMA: Okay. Ms. Cochran? I'm sorry, Ms. Baisa, any further questions?

COUNCILMEMBER BAISA: No, thank you very much.

CHAIR HOKAMA: Thank you.

COUNCILMEMBER BAISA: I'm ready to support this. Thank you.

CHAIR HOKAMA: Ms. Cochran?

COUNCILMEMBER COCHRAN: Thank you, Chair. And so we're looking to approve 70,000 to employ this company? And on item three the reso expenses be limited to 2,500. So that's 70 plus 2,500? Is that what we're looking at?

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CHAIR HOKAMA: Mr. Walker?

MR. UEOKA: Thank you, Chair. Just a quick clarification, this might be a real technicality, but actually you guys are approving us hiring special counsel and the money amounts, you're not approving the actual dollar amounts. We're just including that for your information, just for clarification. It is our understanding that the 70, will be the fees and they might have \$2,500. I believe that was a max on extra expenses. And just as a general comment too, this firm, they specialize in these types of special bond counsel or bond counsel and disclosure counsel types of things. So it's been a pretty smooth ride with them the last few times we worked together, excellent to work with. They know what they're doing. So typically the 70,000 would cover it, you know, there might be...I doubt there'll be anything else, but we'll come back to you guys for more money if necessary. But I don't believe we'll need to. It's...they know what they're doing. They do this all the time so we usually get through it pretty smoothly. Thank you.

CHAIR HOKAMA: Thank you. Ms. Cochran?

COUNCILMEMBER COCHRAN: Okay. Thank you. And just if it can be a brief comment the whereas where they were the highest scorer of the applicants. What was your criteria?

CHAIR HOKAMA: Mr. Walker?

MR. WALKER: Mr. Chair, Committee Member, I think there were five different criteria, I don't happen to have them in front of me. But, you know, experience, experience in Hawaii, experience with the County, pricing. I think that covered most of them but I could get you...I think there were five different criteria.

COUNCILMEMBER COCHRAN: Okay. No, that's fine. Just curious if you had off the top of your head. Okay. Thank you. That's all, Chair. Thank you.

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

COUNCILMEMBER CRIVELLO: No, thank you.

CHAIR HOKAMA: Okay. One thing the Chair will say for our community is do not get confused between special counsel for litigation and special counsel for a bond authorization float. Two different things. Two different things. Okay. Any other questions for either Mr. Tierney and his associates, Mr. Walker or Mr. Baz, Members? If not, the Chair's going to recommend and entertain a motion to send to Council a revised...a proposed resolution Authorizing the Employment of special Counsel Hawkins Delafield and Wood LLP, for the County of Maui 2015 General Obligation Bond Issuance; filing of all appropriate communications, as well as allowing the Staff to make all, any nonsubstantive changes to the resolution as may be warranted.

VICE-CHAIR WHITE: So moved.

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COUNCILMEMBER COUCH: Second.

CHAIR HOKAMA: Thank you. I have a motion made by Mr. White, seconded by Mr. Couch. Members, any further discussion or questions? Having none, all in favor of the motion, please say "aye"?

COUNCILMEMBERS: Aye.

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

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

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmember Victorino.

MOTION CARRIED.

ACTION: ADOPTION of resolution; and FILING of communication by C.R.

CHAIR HOKAMA: Mr. Tierney, thank you very much for your presence with your associates. We look forward to a very successful bond issuance with your firm.

MR. TIERNEY: Thank you, Chair. Thank you, Committee Members. I appreciate it very much.

CHAIR HOKAMA: Thank you. And, Mr. Walker, thank you for your assistance this morning.

MR. WALKER: Thank you, Chair, Committee.

CHAIR HOKAMA: Okay. We have completed this item. Thank you, Members.

ITEM 38(1): AMENDMENTS TO THE FISCAL YEAR 2016 BUDGET (POST EMPLOYMENT OBLIGATIONS FUND) (CC 15-164)

CHAIR HOKAMA: We have one final item to go through and that is on BF-38(1). This is Amendments to the Fiscal Year 2016 Budget (Post-Employment Obligations Fund). We are in receipt of a communication dated July 14, 2015, from Mr. Baz, Budget Director, with a proposed bill. A Bill for an Ordinance Amending Appendix A of the

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Fiscal Year 2016 Budget for the County of Maui as it Pertains to Part II, Special Purpose Revenues - Schedule of Revolving/Special Funds for Fiscal Year 2016, Post-Employment Obligation Fund. And the purpose of the bill is to add a proviso to the budget bill, that under Post-Employment Obligation Fund, that one...14,930,000 shall be disbursed by the Hawaii Employer-Union Health Benefit Trust Fund for payment of the County's benefits obligations. Mr. Baz, any opening comments please?

MR. BAZ: Thank you, Mr. Chair. And good morning again, Committee Members. This is the authorization for us to transfer \$14,930,000 from our coffers to the employer union health benefit trust fund. This amount is related to the unfunded liability portion of our annual required contribution. So we'd appreciate getting this approved expeditiously and we do have the money sitting in our treasury ready to send off. So as soon as this approved by Council we'll make that payment and start earning a higher interest rate on our money as well.

CHAIR HOKAMA: Thank you. So Director Baz and Director Aagsalog has, have both heard the comments from the Committee and the Council and are working with us this year to get the, our payment done by the first quarter which we can do if we move this out to Council. Specifically, the way the Chair has set it up for you, Members, is that we'll go through this process so you'll know exactly when we making the authorization to payment to the State. And again, working with Mr. Baz and Mr. Aagsalog we are making this happen in the first quarter of the year, so I can...I will ask for your support. But before that I'll ask if you have any questions on what we're trying to get accomplished today. Mr. Carroll, questions, sir? Ms. Baisa?

COUNCILMEMBER BAISA: No question, just a quick comment. I'm glad we're doing this quickly and, I guess, it's up to us to get it out of here. Thank you.

CHAIR HOKAMA: Thank you. Ms. Cochran?

COUNCILMEMBER COCHRAN: No questions.

CHAIR HOKAMA: Mr. Couch?

COUNCILMEMBER COUCH: No questions.

CHAIR HOKAMA: Ms. Crivello?

COUNCILMEMBER CRIVELLO: No questions.

CHAIR HOKAMA: Mr. White?

VICE-CHAIR WHITE: No questions, thank you.

CHAIR HOKAMA: Mr. Guzman? Thank you. Mr. Walker? Nope? I love this items. Budget should be like this all the time. Therefore, Members, the Chair will entertain a motion to move to Council for first reading the bill for an ordinance that has been proposed by

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Director Baz; filing of all appropriate communications, as well as allowing Staff to make any nonsubstantive changes that may be required for processing.

VICE-CHAIR WHITE: So moved, Chair.

COUNCILMEMBER COUCH: Second.

CHAIR HOKAMA: Motion made by Mr. White, seconded by Mr. Couch. Any discussion, Members, or questions? Having none, Mr. Couch?

COUNCILMEMBER COUCH: Did you say filing? Or are we gonna leave this open for subsequent budget years?

MS. BOUTHILLIER: I'm sorry. Yeah, there's no filing of the communication.

CHAIR HOKAMA: Okay. We won't file anything.

COUNCILMEMBER COUCH: Okay, great. Thank you.

CHAIR HOKAMA: Thank you for that.

MS. BOUTHILLIER: Thank you.

CHAIR HOKAMA: Thank you for that, Mr. Couch. So yeah, we are not filing any communications but everything else stands regarding nonsubstantive changes and moving the bill for an ordinance forward. Okay. Having no discussions, questions, all in favor of the motion, please say "aye."

COUNCILMEMBERS: Aye.

CHAIR HOKAMA: Opposed say "no." Motion passes with eight "ayes", one excused, Mr. Victorino.

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

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmember Victorino.

MOTION CARRIED.

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ACTION: FIRST READING of bill by C.R.

CHAIR HOKAMA: And, Members, this has completed the day's agenda for your Committee.
We are adjourned. . . .(gavel). . .

ADJOURN: 9:59 a.m.

APPROVED:



RIKI HOKAMA, Chair
Budget and Finance Committee

bf:min:150803:tc

Transcribed by: Tiare del Castillo

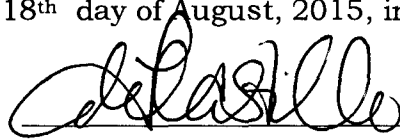
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CERTIFICATE

I, Tiare del Castillo, 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 18th day of August, 2015, in Pukalani, Hawaii

A handwritten signature in black ink, appearing to read "Tiare del Castillo", written over a horizontal line.

Tiare del Castillo