

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

M I N U T E S

Council Chamber

June 16, 2015

CONVENE: 1:40 p.m.

PRESENT: VOTING MEMBERS:

Councilmember Don S. Guzman, Chair
Councilmember Elle Cochran, Vice-Chair
Councilmember Don Couch
Councilmember Stacy Crivello
Councilmember Michael P. Victorino (left at 2:48 p.m.)
Councilmember Mike White

NON-VOTING MEMBERS

Councilmember Gladys C. Baisa
Councilmember Robert Carroll (left at 2:30 p.m.)

EXCUSED: Councilmember Riki Hokama

STAFF: Sharon Brooks, Legislative Attorney
Carla Nakata, 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.: Jerrie Sheppard, Deputy Corporation Counsel, Department of the Corporation Counsel
Kaala Buenconsejo, Director, Department of Parks and Recreation
William Spence, Director, Department of Planning
Michael J. Hopper, Deputy Corporation Counsel, Department of the Corporation Counsel

OTHERS: Mercer "Chubby" Vicens
Susan White, Executive Director, Paia Youth Council, Inc.
Lisa Starr, Board Vice President, Paia Youth Council, Inc.

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

June 16, 2015

Sharon Balidoy, Director, Lae`ula O Kai Outrigger Canoe Club
Kamalani Kanaka, Board member, Lae`ula O Kai Outrigger Canoe
Club
Plus (2) other people

PRESS: *Akaku Maui Community Television, Inc.*

CHAIR GUZMAN: . . . *(gavel)* . . . Good afternoon. Welcome to the EAR Committee, Economic Development, Energy, Agriculture, and Recreation Committee. I'm Don Guzman, the Chair of the Committee. It's Tuesday, June 16, 2015. At this time, I'd like to let everybody know, please put your cell phones on silence. I'm going to introduce our Members today. We have our Vice-Chair of the Committee, Elle Cochran.

VICE-CHAIR COCHRAN: Aloha.

CHAIR GUZMAN: Good afternoon.

VICE-CHAIR COCHRAN: Good afternoon.

CHAIR GUZMAN: We have Don Couch.

COUNCILMEMBER COUCH: Good afternoon, Chair.

CHAIR GUZMAN: We have Stacy Crivello.

COUNCILMEMBER CRIVELLO: Aloha, Chair.

CHAIR GUZMAN: We have the Chair of the Council, Mike White.

COUNCILMEMBER WHITE: Aloha, Chair.

CHAIR GUZMAN: And we have Mike Victorino.

COUNCILMEMBER VICTORINO: Chair, good afternoon.

CHAIR GUZMAN: We also have Bob Carroll as well as Gladys Baisa.

COUNCILMEMBER BAISA: Good afternoon.

COUNCILMEMBER CARROLL: Good afternoon.

CHAIR GUZMAN: Thank you. We have here for our Staff, we have our Legislative Attorney, Sharon Brooks as well as our Secretary, Pauline Martins. We have our Corporation

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

June 16, 2015

Counsel Deputy, Jerrie Sheppard, as well as our Director of Parks and Recreation, Kaala Buenconsejo. We'll go ahead and check in with our District Offices. In Hana Office, Ms. Lono, are you there?

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

CHAIR GUZMAN: Good afternoon. Ms. Fernandez, in Lanai?

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

CHAIR GUZMAN: Good afternoon. And Ms. Alcon in Molokai?

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

CHAIR GUZMAN: Thank you. Some brief announcements. If you'd like to testify, please sign up in the Chamber lobby. Anyone that's going to testify, you are limited to today's agenda items. When you testify, you'll have three minutes to testify. Please state your name and/or the organization in which you represent. At this time, I'm going to call for any testifiers in the Chambers.

. . . BEGIN PUBLIC TESTIMONY . . .

MS. BROOKS: The first testifier is Mercy "Chubby" Vicens.

COUNCILMEMBER VICTORINO: Mercer.

MS. BROOKS: Mercer "Chubby" Vicens.

MR. VICENS: Good afternoon, Chairman Guzman, and members of the Committee. I am here, Mercer "Chubby" Vicens. I am testifying as an individual from Spreckelsville, Paia. I'm testifying on EAR-27. I had the privilege of helping them get started many, many years ago when I was employed as the Vice-President of Alexander & Baldwin. Took a very bad situation in the park and building area and have created a absolutely warm, encouraging environment for the kids in Paia. They've surrounded themselves currently with Board members that are well known in the community, excellent people of high integrity and I have to tell you too, like everything else, you've got to go out and see what they do to understand the depth of their commitment. And I think the leaders of that group, some sitting here today, ought to be commended for a job well done because I know personally some of the physical tolls that it's taken on our Director today over the years. But they've paddled on. They've moved the canoe forward and they've created, again, this absolutely wonderful environment for young kids to go to. They're not wondering on the streets of Paia. They're not peddling dope at the street corners of Paia, but they're there at the park. They're learning. Some of 'em learn to cook. They're self sufficient and I think that it's a wonderful, wonderful

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

June 16, 2015

effort on the part of the people that run it and I'd like to recommend that this group help them continue the journey. Thank you very much.

CHAIR GUZMAN: Thank you, Mr. Vicens. Is there, any Members that have any follow-up questions? Seeing none, thank you --

MR. VICENS: Thank you.

CHAIR GUZMAN: --very much.

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

CHAIR GUZMAN: Okay, thank you. I will then turn to our District Offices. Is there anyone that is wishing to testify in Lanai?

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

CHAIR GUZMAN: Is there anyone wishing to testify on Molokai?

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

CHAIR GUZMAN: Anybody wishing to testify in Hana?

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

CHAIR GUZMAN: Okay, thank you, ladies. Without objections, Members, I'll close public testimony.

COUNCILMEMBERS VOICED NO OBJECTIONS.

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

CHAIR GUZMAN: Thank you. Moving on for our first item on the agenda. Sorry. Are you ready?

EAR-27 GRANT PAIA YOUTH COUNCIL, INC. - GRANT OF LEASE OF COUNTY REAL PROPERTY (PAIA) (CC 15-91)

CHAIR GUZMAN: Okay, thank you. EAR-27, Paia Youth Center, Inc. grant of lease with the County Real Property. The Committee is in receipt of the County Communication 15-91 from the Director of Parks and Recreation, transmitting a proposed resolution entitled Authorizing the Grant of the Lease of the County Real Property Consisting of Tax Map Key Numbers (2) 2-5-005:017 (por.) and (2) 2-6-001:001 (por.), Paia, Maui, Hawaii, to Paia Youth Council, Inc., pursuant to Chapters 3.36 and 3.40, Maui County

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

June 16, 2015

Code, and a copy of the proposed lease agreement. The purpose of the proposed resolution is to authorize the grant of a 25-year lease, for \$1 a year, of the facility known as the Paia Youth Center and adjacent area consisting of approximately 1,462 acres, identified as TMK: (2) 2-5-005:017 (por.) and (2) 2-6-001:001 (por.) in Paia, Maui, Hawaii to the Paia Youth Council, Inc., a nonprofit organization, for the purpose of providing a drop-in youth center, like-skills program, and skate park. According to Exhibit 2 of the proposed resolution, the fair market rental value of the premises is 52,600 per year. The Committee may consider whether to recommend adoption of the proposed resolution with or without revisions. The Committee may also consider the filing of County Communications 15-91 and other related actions. Members, before we look at the proposed resolution, we will hear a presentation about the Paia Youth Center, Inc. from Susan White, the Executive Director of Paia Youth Council, and Lisa Starr, the Vice-President of the Paia Youth Council's Board of Directors. I believe the Director of Department of Parks and Recreation is also here to provide additional information. Ms. White, are you here? Yes? Why don't we go ahead and have you tell a little bit about the Paia Youth Center and its history and activities and its needs.

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

MS. WHITE: Hello everybody.

CHAIR GUZMAN: Can you bring that mic closer to you?

MS. WHITE: Okay. Aloha. I want to thank all of you for giving us this opportunity. We are really, really grateful for it. As most of you are aware, 'cause I've met with many of you personally, multiple times, the Paia Youth and Cultural Center, and it is Youth and Cultural Center, not Paia Youth Center, has been in existence since 1993. And up until the last six months, we were, our landlord was A&B Properties. And over the course of these 22 past years, we have, like Mr. Vicens said, completely turned the community around. Not only with what the area looks like and everything but what's available to our children and we've actually built a community. Right now we have averaging, we do our membership over every year, annually, approximately 500 kids per year there and, from the ages of 9 to 19 years old. We have quite the capital investment in the Paia Youth and Cultural Center. We have, over the years, I've been there 22 years so I know the numbers, we have invested over \$205,000 in building repair and renovation. We have put \$150,000 into the skate park. We have \$50,000 put into our multimedia lab, \$20,000 put into our radio station and multiple, about \$30,000 just recently, in the past six months, put into parking lot improvements in the area. So we have been, I believe, really great, wonderful tenants of A&B Properties, all over the past years and had an amazing partnership with them. The area that we operate in, as most of you know, is a very hard area to be in because we are surrounded by a lot of homeless people, mentally ill and drug addicts. And we have managed to maintain a safe little reclus for our children in that area, while at the same time working with the community police and A&B Properties over the years

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

June 16, 2015

to keep the area safe and at a level of doable for our kids. It's tricky even to this day, very tricky, I won't lie about that. But we have some of the most well known programs for youth in the State of Hawaii. We are doing a malama pono project venture, which is evidenced-based and we are an adoption-certified site for that. We have our Paia Bay Kitchen Program, our Hekili Multimedia Lab, if I'm not forgetting the other one, the StoneWave Skatepark, which is the only skate park in Maui County that has an adult presence at all time. We do allow any age in the skate park and that has been an amazing thing because it's created a lot of family involvement because if a child's under eight years old, the parent has to remain there while the kid skates or a guardian. So that's had a really interesting effect for us to have family involvement in the youth center. Then our radio station. Our radio station reached ten years old last week and it is a community-based, low power FM radio station but heard worldwide because it's on the web. We do have listeners even in Europe and a lot of the programming is done by the kids and it's been a really remarkable tool for both the youth center as a PR mechanism but also for the kids as a life skills program. So, then besides our actual programs, we are a drop-in center and we provide art, daily art, sewing, surf and body boarding, sports and, and sports and recreation. So I pretty much covered the program part of what the Paia Youth and Cultural Center is about and Lisa Starr, who's sitting on my right, has been on the Board for 15 years. And we do have a lot of long-term Board members and also long-term staff, like I said I've been there 22 years and I have four staff that have been there ten years with me. So, Lisa?

MS. STARR: Hello, Lisa Starr. And thank you very much, again, for this opportunity. I think everybody's probably served on a board at one time or another and usually the terms are something like 2 years or 4 years and so 15 years and counting and I don't, I'm never looking for the exit door on this Board. It just becomes more and more enjoyable and rewarding as the years go on. We do have, as Chubby said, a remarkable Board, very talented, valuable and dedicated people on the Board and quite an interesting diversity as well. Some of, you know, as you know, every board has their fiduciary responsibilities and, which we try to do our best with. Our ED is absolutely exemplary as far as really managing the fiduciary aspects of the running of the youth center and keeping it, the bottom line, always in a positive condition and she's renowned Statewide for her abilities in this way with foundations, with the State, the County. Another aspect of what we do is the slogan for the school is building community through our youth and we try to take that as, to heart, and look for ways that we can build communities. So beyond just the fiduciary and the overseeing of the operations of the center itself, we have taken, the Board, the staff, the Director, the kids, have all participated over the years in the stewardship of the region beyond our own leased boundaries. So including the dunes, starting with the dune restoration, which has been ongoing from the inception. There has been historically pretty impactful erosion to the dunes and where the long-term repairs have been attended to, it's very significant, and a couple years ago, we asked the Parks Department if they would be interested in us partnering to restore dunes and protect dunes in the Paia Park itself. So with their permission and some kokua and also the kokua of the dune

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

June 16, 2015

restoration people, we actually put in a whole program of dune restoration in the Paia Park and, to the point of even putting trails, cordoning off where people were trampling over the dunes, and it has been well respected. It has good planting, good boundary delineation, paths to the beach and we weren't sure how much people would respect that once we put it in and they have and it's, if you ever are in Paia Park, you should go and take a look at this example of dune restoration. It's really very impressive and beautiful. We also have a program going on with, well, backing up to the Parks Department. So we've been meeting with the Parks Department for some time now in regards to how to better improve the park itself, Paia Park, and there have been discussions about putting in some improvements. And we are, it's one of these things where it's something we all want to get to but both I'm sure Parks as well as the Board and our volunteers, we just haven't quite--I should say I 'cause I'm supposed to be the head of all this to take responsibility--but organizing to get some irrigation and some shade trees and picnic tables and a tiny bit of playground area so that we can really reclaim the park as a family park for all the people that walk to the park to use it. Our Board has spearheaded lifeguard petition. So that's kind of in the works. We have an intention of assisting with the renaming of the Paia Park to be named after the very, very famous and valued Rene Sylva, great environmentalist, marine environmentalist, who's from right there where the park is. And now we're kind of reaching out more and more towards the town itself, and the merchants, and the town owners and we have a goal to get 100 percent participation from every merchant and every owner in Paia Town and we've identified who they are and we're all, we've divvied it up and we're going along and getting, asking everybody's participation, and the goal is 100 percent and we fully expect to get that. I think that's, yeah, does anybody have any questions?

. . . END PRESENTATION . . .

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

COUNCILMEMBER COUCH: Thank you, Mr. Chair, and thank you, ladies, for the job you guys do. As you may know, the Members know, I'm on the Board of Directors of the Boys and Girls Clubs of Maui and I know they've worked closely with you on a number of occasions and I know what you guys have to go through so really appreciate what you are doing there. You mentioned the dune restoration. Is that the Hoaloha Aina volunteers, Bob and Lis Richardson?

MS. WHITE: No. We did it ourselves. We, the Paia Youth and Cultural Center staff organized it all and we've done all the planting and all that we were advised by Tara Owens from the ...

COUNCILMEMBER COUCH: Tara, okay.

MS. WHITE: She was there and first we did the Youth Center side from the Youth Center all the way--in the picture, you can see --

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

June 16, 2015

COUNCILMEMBER COUCH: Uh-huh.

MS. WHITE: --the skate park. And that really took off, and then this past year we did the park and it was all done by just our kids and staff.

COUNCILMEMBER COUCH: Excellent.

MS. WHITE: And, yeah.

MS. STARR: Can I show this, a couple things on the map here?

CHAIR GUZMAN: Sure, go ahead.

COUNCILMEMBER COUCH: You need a microphone.

VICE-CHAIR COCHRAN: Maybe that one on the...

COUNCILMEMBER COUCH: No, no, it's for Akaku. You need to have a microphone.

VICE-CHAIR COCHRAN: 'Cause of the video.

CHAIR GUZMAN: Why don't we ...

VICE-CHAIR COCHRAN: That portable, right there.

CHAIR GUZMAN: There you go.

VICE-CHAIR COCHRAN: Okay.

MS. STARR: So, this is a great mural of our area. So there's the youth center.

VICE-CHAIR COCHRAN: Can you take it off?

COUNCILMEMBER COUCH: Take it out.

VICE-CHAIR COCHRAN: Can you take it off the stand?

COUNCILMEMBER BAISA: There you go.

MS. STARR: Can you guys see? This is the youth center with the green roof and I think--can you see the antenna from the radio station?

VICE-CHAIR COCHRAN: You have to put it to your mouth.

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

June 16, 2015

COUNCILMEMBER WHITE: You just need to have it in front of your mouth.

COUNCILMEMBER VICTORINO: There you go.

MS. STARR: Okay, alright. Okay, so, yeah, there's our little antenna there, which I just love the look of that antenna on our old building, I think it's so neat. So there's the youth center and the grounds, the skate park. So what we're talking about is the dune restoration that's all along here, going west and now we have Paia Park. So just to give you an idea if you haven't been there, the proximity of the youth center to the Paia Park. So there's the park, right there. And there's some naupaka and plants. So the dune restoration, we took, starting that way and continuing now down, all the way down this way into the front of Paia Park. So you can see too that down here it's very wooded, ironwoods, naupaka, sort of abandoned old dunes and stuff. There's a lot of inappropriate activity that goes on down there. That's what Susan was referring to, and our partnering with A&B for years to always try to keep, clean it up, keep it clean, return it to being trouble free, especially with the youth being the focus of the center and that's an ongoing effort. So, any questions?

COUNCILMEMBER COUCH: Thank you. And, yeah, I was just curious about how you did the dune restoration, who you guys used.

MS. STARR: Okay.

COUNCILMEMBER COUCH: So, Tara is one of the gems as well. I don't know, Mr. Chair, how you are gonna go through this 'cause there's a couple of questions I had on the lease and whatnot.

CHAIR GUZMAN: Yeah, yeah, we'll get to that. I just --

COUNCILMEMBER COUCH: Yeah, okay.

CHAIR GUZMAN: --need to see whether any other Members have questions, comments? Okay. What about the Director of Parks and Recreation, Mr. Buenconsejo, do you have any comments?

MR. BUENCONSEJO: Not at this time.

CHAIR GUZMAN: Okay, thank you. So we'll go ahead and look at the lease agreement itself and we'll go through if anybody has any questions at this time, we can address those questions. Mr. Couch?

COUNCILMEMBER COUCH: Thank you, Mr. Chair. And more of, it's in the Page 13 of 55, about requirements for employment. Just out of curiosity, do you guys do background checks on your employees?

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

June 16, 2015

MS. WHITE: Yes, I do. I also do FBI.

COUNCILMEMBER COUCH: Okay.

MS. WHITE: Yes.

COUNCILMEMBER COUCH: You may want to mention that in your narrative here.

MS. WHITE: Okay.

COUNCILMEMBER COUCH: Yeah. 'Cause that's kind of important.

MS. WHITE: Right. Well, yeah, by our contracts, my State contracts, we have to do it.

COUNCILMEMBER COUCH: Okay, cool. Thank you.

MS. WHITE: With anybody working with youth, yeah.

CHAIR GUZMAN: Any other further questions? Mr. White?

COUNCILMEMBER WHITE: Yeah, this is a very minor item. But on the map shown in Exhibit B, it's shown as licensed area. This is now going to be a lease. Probably doesn't need to be changed but it's inconsistent with the action being taken.

CHAIR GUZMAN: Yeah, we'll have to ...

COUNCILMEMBER WHITE: It's probably just, probably an old map done by A&B. It's not all that old but it's, anyway we're changing it from --

CHAIR GUZMAN: Exhibit B, yeah.

COUNCILMEMBER WHITE: --a license to a lease.

CHAIR GUZMAN: Yeah. I guess I'll, Corp Counsel, is that possible to change the map itself?

MS. SHEPPARD: ... *(inaudible)* ...

COUNCILMEMBER COUCH: She needs a microphone.

VICE-CHAIR COCHRAN: She's not sitting at her desk.

COUNCILMEMBER VICTORINO: Yeah, she needs a mic.

VICE-CHAIR COCHRAN: She needs to sit at the desk.

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

June 16, 2015

CHAIR GUZMAN: Yeah, do you have a mic over on that side? Staff, can you ...

COUNCILMEMBER WHITE: It's on Page 45 of ...

VICE-CHAIR COCHRAN: Why, this is her seat right here.

COUNCILMEMBER COUCH: It's Corp Counsel ...

COUNCILMEMBER WHITE: She just needs to come up to her chair.

VICE-CHAIR COCHRAN: Yeah.

CHAIR GUZMAN: Ms. Sheppard, can you come up to your chair, please?

COUNCILMEMBER VICTORINO: And she was nice and comfortable.

COUNCILMEMBER WHITE: Yeah. Chair, it's on Page 45 of 55.

CHAIR GUZMAN: Yes, I see that. Yeah, I guess the question is, Ms. Sheppard, is it appropriate or is it, can we change the wording instead of licensed area to leased area? Is that what ...

MS. SHEPPARD: I'm sorry. I'm still getting kind of set up here.

CHAIR GUZMAN: Here's what, you know, Mr. White, I believe what was going on was in the past they were referring it as a license --

COUNCILMEMBER WHITE: Right.

CHAIR GUZMAN: --and then now we've --

COUNCILMEMBER WHITE: Right.

CHAIR GUZMAN: --reverted to --

COUNCILMEMBER WHITE: It probably doesn't need to be changed --

CHAIR GUZMAN: --calling it a lease, yeah.

COUNCILMEMBER WHITE: --but I just wanted to point it out because it's inconsistent.

CHAIR GUZMAN: But that's a good point. Does the exhibits need to be amended, Ms. Sheppard?

MS. SHEPPARD: Okay. The County is recommending that this be a lease and not a license.

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

June 16, 2015

UNIDENTIFIED SPEAKER: Correct.

MS. SHEPPARD: The exhibit was taken from the previous license between A&B and the Paia Youth and Cultural Center, Paia Youth Council. So if you would prefer that it be changed, we can pen and ink it, we can white it out, we can see if we can draw a new map. It's whatever you want. I don't think that that is a critical factor but it is not exactly right.

CHAIR GUZMAN: Right. I guess you have a good point, Mr. White, because in the document itself --

COUNCILMEMBER WHITE: Well, since I brought it up ...

CHAIR GUZMAN: --they're interchanging. They're calling it lease and then sometimes they're calling it a license.

COUNCILMEMBER WHITE: Well since I brought it up and Ms. Sheppard mentioned it, we can white it out.

COUNCILMEMBER COUCH: Oh.

VICE-CHAIR COCHRAN: I get it.

COUNCILMEMBER WHITE: Sorry, but ...

COUNCILMEMBER VICTORINO: I'm really bummed now about that.

CHAIR GUZMAN: Ms. Sheppard, would it be okay for the Corporation Counsel to go through the document and make sure that all reference to license is then changed to lease?

MS. SHEPPARD: Yes, I can do that.

CHAIR GUZMAN: Okay, thank you. Okay, Members, any other questions? I have a few questions if there's...okay. On Page 17 of 55, there's reference to a future lease to the Paia Bay Café and it looks as though it's using the kitchen, leasing it out to a Paia Bay Café for \$500 per month. My question is, is that appropriate to have in the lease or do we need an RFP for this? It seems kind of out of place 'cause this is like a sublease to the lease in itself, right?

MS. WHITE: Well, when ...

CHAIR GUZMAN: Excuse me --

MS. WHITE: Can I?

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

June 16, 2015

CHAIR GUZMAN: --may I ask the Corporation Counsel first?

MS. SHEPPARD: Okay. Mr. Guzman, the, that is the application for the grant. That is not the grant itself. The application for the grant says that was, be something that they have done in the past under their previous ownership and landlord agreement and they have some projections for what they might want to do in the future, but the lease as drafted and the grant as drafted, only acknowledges their drop-in center, their life skills program and their skateboard park. It does not acknowledge this sort of agreement between Paia Youth Council and some outside enterprise. So they would have to come in separately and negotiate that with the County as a sublease. Our lease agreement says in the conditions that they're not allowed to do anything without written prior approval of the County.

CHAIR GUZMAN: Okay. So to make it more clear, what do you recommend that we would put more language in there to specify?

MS. SHEPPARD: No, I believe the grant and the lease agreement say it's for those three purposes only, the youth center, the drop-in--I'm sorry--the drop-in center, the life skills program and the StoneWave Skatepark and it doesn't acknowledge any other use or enterprise. So this would just, to me, be a nullity because it's what they're saying they've done in the past. It does not grant them permission to continue --

CHAIR GUZMAN: Okay.

MS. SHEPPARD: --that sort of agreement with some other enterprise.

CHAIR GUZMAN: Okay. Very good, thank you. Mr. White?

COUNCILMEMBER WHITE: But does that preclude us from making this a part of the agreement?

MS. SHEPPARD: No, because this is the application. This is not the agreement. The agreement is set forth in the grant agreement and the lease agreement, I'm sorry.

CHAIR GUZMAN: No, go ahead, go ahead.

COUNCILMEMBER WHITE: But this is in the grant. Can't we identify that they are able to continue previously, previous activities that have been allowed by their previous landlord?

MS. SHEPPARD: The problem with that would be that that is actually some kind of sublease of our property through their own existing building and they would have to get our agreement to do that, because if they're going to generate revenue and some other person is going to use that and sell outside, there's going to be issues of liability and

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

June 16, 2015

insurance by any user of that premises other than our lessee. And they might have to have some kind of guarantees of safety or how that's going to go. There may also be some tax consequences and revenue generation that may alter other things. So that, to me, is not one of the approved agreements. It is a discussion of what they've done in the past but it's not something that we've authorized in the future. If we're going to authorize that, to me, that has to come up as a separate discussion altogether. This is not saying you have carte blanche to do with what you want. They have to apply or agree to conform with all of our general terms and conditions. Does that make sense?

COUNCILMEMBER WHITE: Yeah, it makes some sense. I'm just...

MS. SHEPPARD: Concessions are governed by a different chapter. This is 3.36 --

COUNCILMEMBER WHITE: No, I understand that.

MS. SHEPPARD: --so concessions are 3.40.

COUNCILMEMBER WHITE: And who would they be negotiating this with? The Department of Parks and Recreation?

MS. SHEPPARD: That's where they would start, yes.

COUNCILMEMBER WHITE: And I guess we need the Director up to see whether we've had any such discussions or, you know, Chair --

CHAIR GUZMAN: Mr. Director?

COUNCILMEMBER WHITE: --my concern is that we have an ongoing operation that's been there for years, operating the way they're operating and for us to basically take the saddle off the horse in the middle of the stream is not exactly fair.

CHAIR GUZMAN: Right. Understood. And let's see what the Director has to say--

MR. BUENCONSEJO: Chair?

CHAIR GUZMAN: --in terms of that issue.

MR. BUENCONSEJO: Thank you, Mr. White. You know as far as from the Department's standpoint, we actually, I had a privilege going out there about a month and half ago or so and take a tour of the facility. And we're in total support of the facility. I think it's a great opportunity for our Paia youth as well as any other communities that want to come out to use the center. I did see the kitchen. There was, you know, the commercial kitchen, there's the radio station, there's a great multimedia use room with the computers and everything else. To answer your question directly though, as far as what, what we can do from the Parks side, I know it's there. As far as what we

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

June 16, 2015

can do legally, I would have to refer that back again to Corp. Counsel to see what our steps are. We currently don't have, that I can think of on top of it from a Parks standpoint, with leases that are also generating revenue from the leases that we are currently holding. So I would have to refer that back to Corp Counsel for now and come back so I can answer.

CHAIR GUZMAN: Corp Counsel, do you have any recommendations?

MS. SHEPPARD: Yes, thank you. It seems that that was simply a revenue-generating lease agreement to help them offset their rent or whatever expenses they had. With them getting a \$1 per year grant of the lease of real property, their expenses for rent is going to be greatly reduced. So their need for an outside revenue generation using the property to do a commercial lease agreement with some other enterprise, I don't know that the necessity of that, but their life skills program using that kitchen would be untouched by the grant agreement. We're just talking about carving this part of what they used to do out until that is further negotiated through the County, the proper channels. But they could still use their kitchen for all their own programs, for their life skills, nutritional education, all the programs they use.

COUNCILMEMBER WHITE: I understand the distinction. Yeah, thank you. Ms. White, what is your, what has been your lease rent in previous years?

MS. WHITE: It's about \$1,300 a month and the income that we make from renting out the Paia Bay Café at night when we're not using it, 100 percent of that income goes to help buy the food for the Paia Bay Café program so we can feed the kids. And we can't really rent it out to very many people because we use it. So it's a limited amount, catering companies or anybody that can even use that space 'cause they have to be willing to work at night. So anything, it's part of the income that supports the program so.

COUNCILMEMBER WHITE: Right, I agree.

MS. WHITE: Right.

COUNCILMEMBER WHITE: I understand that. But to Ms. Sheppard's point, how does that balance out? How many times you rent it? Is it \$500 per month plus? So are you renting it out every month to Paia Café?

MS. WHITE: No, Paia Bay Café is the name of our program. We were renting it out to a individual that was doing juice, juicing in there at night and providing fresh juice.

COUNCILMEMBER WHITE: So to Ms. Sheppard's point, you're actually coming out ahead if you're giving up, if you're avoiding \$1,300 in rent and losing 500, then you're still ...

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

June 16, 2015

MS. WHITE: Well, one way of looking at it but we're also trying to get off the County/State welfare system of nonprofits and become self sufficient and --

COUNCILMEMBER WHITE: I totally support you guys doing what you're doing.

MS. WHITE: --becomes where, you know, where it becomes more and more impossible to do that with ...

COUNCILMEMBER WHITE: Right.

MS. WHITE: So there's this real big catch 22 there for us.

COUNCILMEMBER WHITE: Yeah.

MS. WHITE: Yeah.

COUNCILMEMBER WHITE: So, Director, do you feel that you will be able to reach an agreement with them to be able to continue to allow them to act in the way that they've been acting with the rental of the kitchen?

MR. BUENCONSEJO: Chair? You know, as far as from the Department's standpoint, if it's, as long as it's legal, as long as we can, it falls within the rules of what's set forth with our County Codes or ordinances, we don't have a problem. We know it is, it's not like they're making a killing and they're trying to make it, it is sustaining themselves and, you know, giving it back to the community. So on a Parks standpoint, you know, as long as it falls within the parameters of our guidelines, we have no problems with it. But, again, that'll come back to looking into it in more depth with Corp. Counsel and making sure that it does fall into play with everything else because it could open up other avenues for other entities or anything else that may want to do the same thing. So as long as we can make sure it works.

COUNCILMEMBER WHITE: Thank you, Chair.

CHAIR GUZMAN: Thank you. I have a question for Corp. Counsel. So if so happen that a subsequent agreement is executed, would it, or prior to it being executed, would there be issues as to it interfering with the grant itself since it's a revenue-generating type of an agreement?

MS. SHEPPARD: The grant itself, Chair, would only basically deal with what they're using it for under our grant agreement. So this other agreement with a private enterprise would be a totally separate thing --

CHAIR GUZMAN: Right, correct.

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

June 16, 2015

MS. SHEPPARD: --and how we would negotiate it, so I don't believe it would impact the grant.

CHAIR GUZMAN: Okay, good.

MS. SHEPPARD: But I do have one correction to make. I picked up the tax assessed value of 52,000, whatever it is, it's actually, that's the tax assessed value, that's not the fair market rental value. The fair market rental value is set forth in Exhibit 2 and that is 4,734 I believe. So there is a correction to be made to the resolution.

CHAIR GUZMAN: Okay.

MS. SHEPPARD: That is also repeated in the grant document itself, but again I believe that because the exhibit is there, that can be corrected.

CHAIR GUZMAN: Okay. But you can make those corrections without having it substantially changed?

MS. SHEPPARD: Yes.

CHAIR GUZMAN: Okay. Members, are there any other questions? Mr. Couch?

COUNCILMEMBER COUCH: Thank you, Mr. Chair. Back to the kitchen thing, which I think it's a great idea to do something like that. My concern would be, I think you mentioned it and it kinda got missed is, if you're leasing that out to somebody, shouldn't you have to have an RFP since it's now County, a County facility? Because if I'm vendor B who doesn't get to rent it out from them, or I'm commercial kitchen C that I charge \$3,000 a month because of my rent payments I have to make. Just want to make sure that we're not in, you know, getting in a situation where we'll be competing with the private sector, et cetera.

CHAIR GUZMAN: Right, correct. Ms. Sheppard?

MS. SHEPPARD: Yes, I believe there would have to be some kind of RFP or we'd have to find out why it wouldn't require that. We'd also have to make sure that the vender that is successful, qualifies under State and Federal law, you know, is qualified as a business venture. I don't know anything about the current lease agreement that they've been having for years. I don't know who this enterprise is or what his credentials are so I can't really speak to whether or not it would be, you know, how it would go about. It would also require the negotiation of using the capital improvement that exists at the youth center because that was created before we got the property. So there would have to be all of those things worked out. It's not something that can happen just by the stroke of a pen. That takes a lot more negotiation.

CHAIR GUZMAN: Mr. Couch?

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

June 16, 2015

COUNCILMEMBER COUCH: So then the question I would have is, is there anything, I note it, I'm assuming it's still ongoing as we speak, a regular occurrence, right? Or is this occasional?

MS. WHITE: Well because I didn't foresee this coming up, we're under negotiations right now with a young man that's got his approval from the State Department of Health and the Youth Center, we got our approval for it. He would be coming in and using the kitchen to cut fish. He's a fisherman and he's going to have a fishing, what do they call that, on the side of the road, fresh fish, that's going to be all licensed and everything by the State and legal. And, of course, in these negotiations I've been having with him, he would have to have a certificate of insurance that, you know ...

COUNCILMEMBER COUCH: Well, I'm sorry to interrupt you.

CHAIR GUZMAN: Mr. Couch?

COUNCILMEMBER COUCH: But the question is, is there an ongoing concern right now that if we go through this whole lease process, that you'll have to stop until you go through the process Ms. Sheppard talked about or are we at a breaking point right now where this is a reasonable ...

MS. WHITE: Well, it could be considered either way, I mean, he's invested a lot of time and energy and money into this and we're halfway through the process but we haven't signed an agreement with him yet so I guess we could consider that a breaking point. The young girl that was doing the juice, she left a month ago.

COUNCILMEMBER COUCH: Gotcha, okay, alright. Thank you.

CHAIR GUZMAN: Mr. White?

COUNCILMEMBER WHITE: Thank you, Chair. You know, I don't think there's anything that says that nonprofits have to go through a RFP.

CHAIR GUZMAN: That's correct.

COUNCILMEMBER WHITE: So ...

COUNCILMEMBER VICTORINO: I don't think so.

CHAIR GUZMAN: But I think the property is owned by the County ____.

COUNCILMEMBER WHITE: But it's leased to a nonprofit.

COUNCILMEMBER VICTORINO: That's right.

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

June 16, 2015

UNIDENTIFIED SPEAKER: Chair?

CHAIR GUZMAN: So ...

COUNCILMEMBER WHITE: I don't believe RFP is required for them to do what they're ...

COUNCILMEMBER VICTORINO: Mr. Chair?

CHAIR GUZMAN: Ms. Sheppard?

COUNCILMEMBER VICTORINO: Yeah, and, go ahead, 'cause I can go _____, I can start going all over the place with this, okay. So you best get a good answer because I'm getting a little tired of hearing what I'm hearing right now but go ahead.

MS. SHEPPARD: All I can tell you is that a sublease requires negotiation and prior written consent by the County before it's negotiated by the tenant. That's what our requirements are.

COUNCILMEMBER WHITE: Well maybe we should relax some of these requirements.

COUNCILMEMBER VICTORINO: I agree.

UNIDENTIFIED SPEAKER: Chair?

COUNCILMEMBER WHITE: But, I mean, I, Chair --

CHAIR GUZMAN: Yeah.

COUNCILMEMBER WHITE: --I'm sorry. But it's sounds to me like the Youth and Cultural Center is going to want to have their old landlord back because dealing with the County is such a pain in the --

COUNCILMEMBER VICTORINO: Yes.

COUNCILMEMBER WHITE: --okole.

COUNCILMEMBER VICTORINO: A nice way of putting it.

MR. BUENCONSEJO: Chair?

CHAIR GUZMAN: Mr. Buenconsejo?

MR. BUENCONSEJO: You know, just to throw in a little bit on that as far as the leases as well. With some of our canoe clubs, which are 501's as well, certain of 'em, you know,

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

June 16, 2015

they've asked or requested in the past to build structures, you know, kitchens and things like that that would kinda be the same token. If we started doing that with other leases out there with long terms, if they start building commercial kitchens out of there for fundraisings or whatever may be, we don't allow that as well right now, currently, with any of the canoe clubs doing any kind of profit generating out of their leased areas throughout Maui County. So, again, a little similar, not exactly, this is already established but I could see if we do one, we have to definitely look into it because it could have a domino effect with other 501's that are leasing out properties from the County and all of a sudden try to do revenue generating off of that lease as well.

COUNCILMEMBER BAISA: Chair?

MR. BUENCONSEJO: Just a little tidbit on that one.

CHAIR GUZMAN: Ms. Baisa?

COUNCILMEMBER BAISA: Thank you very much, Chair. And I just want to declare, I'm not a voting Member of this Committee but I am a Member and I'd like to contribute a little concern that I have. I am all in support of nonprofits being entrepreneurial. I think it's to be encouraged because it helps with the cost of operating but be careful and make sure that your CPA is advising you in regards of unrelated business income --

COUNCILMEMBER VICTORINO: Right.

COUNCILMEMBER BAISA: --because it could jeopardize your nonprofit status so be very, very careful. And you might have to pay taxes on that income if it's unrelated business income. So something to think about.

VICE-CHAIR COCHRAN: Chair?

CHAIR GUZMAN: Ms. Cochran.

VICE-CHAIR COCHRAN: Thank you, Chair, and thank you, ladies, for being here. And your place is wonderful and I think it does wonders for our youth that build a great foundation for productive members of our society. So I'm looking, for Ms. Sheppard, I'm looking at the agreement and Page 53 of 55, 24 does, is just one sentence in regards to subleasing. And so I just want to know what that one sentence, how it relates to what you're trying to explain to us now, if it has any bearing. Lessee may, with written approval of Director, I would assume Director Buenconsejo here, sublease the demised premises, is that --

MS. SHEPPARD: Yeah.

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

June 16, 2015

VICE-CHAIR COCHRAN: --demised meaning ...

MS. SHEPPARD: These premises.

VICE-CHAIR COCHRAN: Oh.

MS. SHEPPARD: These subject premises, yes.

VICE-CHAIR COCHRAN: Okay. 'Cause, you know, like someone's demise is not, the death of, the death of the premises but okay. So just wanting to know. And basically what you're saying, approval of Parks Department and in conjunction with the comments you're elaborating on. Is that what that one sentence is referring to then, Ms. Sheppard?

MS. SHEPPARD: Yes.

VICE-CHAIR COCHRAN: Okay. 'Cause, I mean, it's pretty simple, simplified, I guess, here. Doesn't really go into the details.

MS. SHEPPARD: Yeah, it doesn't explain the how. It requires the prior written approval and then that has its own process.

VICE-CHAIR COCHRAN: Triggers the...okay, okay. Thank you.

CHAIR GUZMAN: So that would, excuse me, I'm sorry, Ms. Cochran.

VICE-CHAIR COCHRAN: No, no, go ahead.

CHAIR GUZMAN: That would trigger an RFP, that sublease?

MS. SHEPPARD: It would depend, Chair, on what it is that they're trying to negotiate and that would require a significant amount of time and effort to review.

CHAIR GUZMAN: Okay.

MS. SHEPPARD: It's not something we can just say, oh, it's like that and agree to it right now. It requires some actual research and thought.

CHAIR GUZMAN: Okay.

COUNCILMEMBER WHITE: Chair?

CHAIR GUZMAN: Mr. White?

COUNCILMEMBER WHITE: You know, I'd just like to point out that we're the policy makers.

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

June 16, 2015

CHAIR GUZMAN: Yes, we are.

COUNCILMEMBER WHITE: So, you know, we can direct, well, we can't direct once it leaves this but we can make the policy that they then need to follow. So, you know, I'm troubled by this discussion because I think we do have to allow our nonprofits ways to generate funds to do some of the things that they want to do and if these, if they've been entrepreneurial in the past and now that we own the property, we're going to shut it down.

CHAIR GUZMAN: I think what we need to do is find out where that policy is that Ms. Sheppard is relying on and we'll make the amendments from there. I'm not sure whether we can make that policy within the lease agreement itself without violating the policy that Ms. Sheppard is relying on and I'm not sure which section she's relying on.

COUNCILMEMBER WHITE: Then maybe we need to defer this to another meeting.

CHAIR GUZMAN: We could.

COUNCILMEMBER WHITE: But I think this is something we need to get our arms around and have a better understanding of before we ...

CHAIR GUZMAN: I think that would be advisable because there are other issues that need to be amended in terms of the, some of the language in the resolution as well as some issues in Section 3.36.090. I think that's a, would be advisable if we had our team research it a little further.

COUNCILMEMBER WHITE: Well, and --

CHAIR GUZMAN: If that's okay with ...

COUNCILMEMBER WHITE: --maybe we should, maybe we could go through the other, the other items but.

CHAIR GUZMAN: Right. Yeah, why don't we go through some of the other issues that may, that have arisen because of the language in this lease agreement. And I believe Carla Nakata, our Staff Legal, has brought up a couple issues in terms of some sections in the Code with 3.36.090 and 3.40.200. If you could elaborate more on some of the issues that you found.

MS. NAKATA: Yes, thank you, Mr. Chair. Basically referring the Body to the proposed resolution that's been provided. I guess the first question arose on Page 2 of the proposed resolution, the third full "whereas" paragraph, that basically says in accordance with Section 3.40.040, Maui County Code, the term of any contract to

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

June 16, 2015

leased property of the County shall not exceed five years, provided the Council of the County may approve a lease of property for a term exceeding five years when such longer period is deemed necessary and in the public interest. A review of that section actually calls out three additional subsections under 3.40.040(A)(1), (2) or (3) and the question is, which of those subsections the lease would be falling under. And maybe, I think Deputy Corporation Counsel Sheppard is prepared to respond to that.

CHAIR GUZMAN: May I have a response?

MS. SHEPPARD: Thank you. 3.40.040 really doesn't apply to this lease agreement because under 3.40.200 it directs that a grant of a lease of real property be processed under Chapter 3.36. So 04, I mean, 3.40.040's three different requirements just don't even fit. It's actually, you go to 3.40.200, which directs you to 3.36. So this is being processed under 3.36, not 3.40.

CHAIR GUZMAN: As a grant?

MS. SHEPPARD: As a grant of real property, grant of a lease of real property.

CHAIR GUZMAN: Okay, grant of a lease of real property.

MS. SHEPPARD: Yes.

CHAIR GUZMAN: Okay.

MS. NAKATA: So Staff's understanding is that the Department intends to revise the resolution to delete the reference to that section. Staff would point out, however, that last year a similar type of grant of County real property was considered by the Housing, Human Services and Transportation Committee. This related to a long-term lease to Maui Youth and Family Services. In that situation, when the question, a similar question arose, I believe the Deputy's response was to incorporate language in the lease that referenced 3.40.040(A)(1), relating to capital improvements, the requirement that the lease call out an expenditure of the sum of \$25,000 or more. So last year when the question arose, the conclusion drawn was a bit different. So we may want to just take a little bit of time to analyze that a bit further so that the Committee and the Council can have a more uniform response as to the applicability of Chapter 3.40 to grants of County real property for leases in excess of five years. The other question that came up related to Page 3 of the proposed resolution, under the first "be it resolved" paragraph that states that it hereby finds it is necessary and in the public interest to authorize the grant of real property and therefore waives all requirements of bidding and public notice in accordance with Sections 3.36.090 and 3.40.200, Maui County Code. And the question that arose there is those two provisions don't relate to waiver of requirements of bidding and public notice. I believe Deputy Corporation Counsel has a response to that as well.

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

June 16, 2015

MS. SHEPPARD: Yes, I don't think that ...

CHAIR GUZMAN: Respond?

MS. SHEPPARD: Oh, I'm sorry. I don't think that that paragraph is accurate. I think that paragraph should be stricken. I have made a revised proposed resolution that is ready for review but it hasn't gone through yet 'cause this was just brought to my attention today, and I apologize for the error but I don't believe that belongs there.

CHAIR GUZMAN: Okay. I think that's sufficient enough. I think, Members, I'm, without objection, I will defer this matter. I think...excuse me, Mr. Couch?

COUNCILMEMBER COUCH: Yeah, Mr. Chair, I would like to ask, is there a time crunch --

CHAIR GUZMAN: Oh, yes, good question.

COUNCILMEMBER COUCH: --that they have to deal with?

CHAIR GUZMAN: Is there, a time of the essence at all or time deadline that you guys are having to meet?

MS. WHITE: It's already expired.

CHAIR GUZMAN: Ms. Sheppard?

MS. SHEPPARD: The previous agreement was with A&B. There is no agreement between the County of Maui and the current tenant, Paia Youth Council, at that property. I've talked to the Parks Department. We could perhaps do a permit to cover indemnity and insurance requirements and things like that in the interim while this is pending.

CHAIR GUZMAN: Yeah, or a right of entry kind of deal.

MS. SHEPPARD: Yeah.

CHAIR GUZMAN: Okay. I think we can do something temporarily until we...hopefully we will really put some expedited effort in.

COUNCILMEMBER COUCH: Right, 'cause time is of the essence.

CHAIR GUZMAN: Right, right.

COUNCILMEMBER COUCH: We want to get them going. Is there anything we can do, short of the concerns that Staff had? You know, we had the discussion about the concession but if we can pass what we have here out to get them going or is it better to do the right of entry?

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

June 16, 2015

CHAIR GUZMAN: I think it would be better if we just today, right, I think we, I think Corp. Counsel needs time to do a revision on the resolution.

COUNCILMEMBER COUCH: Okay.

CHAIR GUZMAN: We need, also, some time to research some of this concession issues if we can --

COUNCILMEMBER COUCH: Okay.

CHAIR GUZMAN: --at least address those. I think in the meantime, as a temporary, I think they can resolve it by maybe a right of entry agreement or something a little bit more temporary. Director of Parks and Recreation, are you willing to enter into a preliminary agreement?

MR. BUENCONSEJO: Chair, yes. Whatever we need to do to make it happen. Again, we are definitely in favor of the community center --

UNIDENTIFIED SPEAKER: Right.

MR. BUENCONSEJO: --or youth center, I should say. So whatever we can do to get them going but in the meantime, yeah, we definitely be more than willing to work that out.

CHAIR GUZMAN: Okay.

COUNCILMEMBER COUCH: Thank you, Chair. That's, I don't want them stopped at all.

CHAIR GUZMAN: Thank you. Yeah. I agree, too. It's too much of an important --

COUNCILMEMBER VICTORINO: Chair?

CHAIR GUZMAN: --facility.

COUNCILMEMBER VICTORINO: Chair?

CHAIR GUZMAN: Yes, Mr. Victorino?

COUNCILMEMBER VICTORINO: Yeah, thank you. And I'm glad, Mr. Kaala, you know, that you did answer that way. And because, first of all, they had a sweet deal with A&B, everything was going along and then we come in and we muck it all up.

CHAIR GUZMAN: Right.

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

June 16, 2015

COUNCILMEMBER VICTORINO: Well first of all, we better make sure in the future, and I would warn any nonprofit group, when you switch from a private owner to the County, make sure you line up all your ducks 'cause it sound like, unfortunately, you guys weren't told enough, Ms. White, that what was going to happen. And Corporation Counsel, I would ask you guys to make sure that you discuss that with the departments about these changes because that's not unfair, that's really unfair to these people. But most importantly, I think we're going to have to change the rules and make them more applicable to these kinds of changes if they're going to talk concession 'cause I'm all in favor of getting you off the County subsidy and off of other subsidies and be self sufficient and this just seems like a real roadblock that's unnecessary, unwarranted and absolutely crazy. So that's all I have to say, Mr. Chair, I've listened --

CHAIR GUZMAN: Thank you.

COUNCILMEMBER VICTORINO: --all this time and I'm just like appalled at what I've heard so.

CHAIR GUZMAN: Mr. White?

COUNCILMEMBER WHITE: Yeah, I agree with Mr. Victorino and I appreciate your taking another look at this because I don't want them to leave here being able to do less than when --

CHAIR GUZMAN: Right.

COUNCILMEMBER WHITE: --they walked in. And the challenge that I have is we've got Cameron Center, there are a whole lot subleases there. So if we can do it there, we can do it elsewhere. Thank you, Chair.

VICE-CHAIR COCHRAN: Chair?

CHAIR GUZMAN: Okay, thank you. One last one. We gotta move on.

VICE-CHAIR COCHRAN: Yeah, thank you, Chair, I know we want to defer and move on but I just want to make sure we cover all bases because I concur with my fellow Councilmembers saying that we don't want the organization to walk away and have these grand ideas as on Page 17, Item 5, commercial activities, they have a list of things --

CHAIR GUZMAN: Uh-huh.

VICE-CHAIR COCHRAN: --they hope to perhaps do in the future. These are just ideas and if any of these, you know, decisions we make within this document is going to hinder it, then I want make sure that we address it now. They are not saying yeah, yeah, yeah,

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

June 16, 2015

we, we're gonna do this, they're saying these are just ideas for the future that maybe hopefully can bring in some revenue --

CHAIR GUZMAN: Right.

VICE-CHAIR COCHRAN: --to assist. So, such, the lease to, of the Paia Bay Café is mentioned, charging for parking, holding farmer's markets, youth camps, blah, blah, blah. So there's a list here and I think all of 'em are very worthy. I'd love to see them be able to participate in all of these but I don't want us to hinder it in this kind of agreement if it doesn't help so.

CHAIR GUZMAN: Right.

VICE-CHAIR COCHRAN: Just so we take a look a look at that as we go through and when we revisit --

CHAIR GUZMAN: Yeah.

VICE-CHAIR COCHRAN: --Chair.

CHAIR GUZMAN: Yeah, I think this is the first that we've, at least for myself, to see a switch over from private to County.

VICE-CHAIR COCHRAN: Right.

CHAIR GUZMAN: So it is, you know, a learning experience and, you know, when we look at these documents and we realize, wow, these aren't private sector type policies we're dealing with, we're dealing with government policies. We have to, you know, we have to take a second look and say wait, do they, are they really equitable? So I think that's, this is a good start in our first time in attempting to look at this type of document or contract. I think we'll, we're on the road to at least vetting it through and finding some solutions. So without any objections, Members, I would like to defer this matter.

COUNCILMEMBERS VOICED NO OBJECTIONS.

ACTION: DEFER.

CHAIR GUZMAN: Okay, thank you. And we will work on it, and as, I believe that the Department and Corporation Counsel will be more than willing to work with your facility and making sure that you have something temporary until we get this worked out, okay. Thank you.

MS. WHITE: Thank you.

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

June 16, 2015

COUNCILMEMBER VICTORINO: You're welcome.

EAR-28 LAE`ULA O KAI - GRANT OF LEASE OF COUNTY RECREATIONAL SPACE
(KAHULUI A) (CC 15-92)

CHAIR GUZMAN: Members, let's move on to the next item on the agenda. Members, the next item on the agenda is EAR-28, Lae'ula O Kai Grant of Lease of the County Recreational Space. The Committee is in receipt of County Communication 15-92, from the Director of Parks and Recreation, transmitting a proposed resolution entitled Authorizing a Grant of Lease of the County Recreational Space to Lae'ula O Kai and a copy of the proposed lease agreement. The proposed, the purpose of the proposed resolution is to authorize a grant of a 14-year lease, for \$100 a year, of the County recreational space consisting of approximately 6,470 square feet, identified as TMK: (2) 3-8-001:119 (por.), in Kahului, Maui, Hawaii for the purpose of perpetuating the Hawaiian cultural practices and other related canoe club activities. The Committee may consider whether to recommend adoption of the proposed resolution, with or without revisions, and also consider the filing of the Communications 15-92. Members, I'm sure that we're all familiar with the Outrigger Canoe Club, which has operated out of Kanaha Beach Park since 1991. It is known for its dedication to Hawaiian culture, excellence in coaching and its quality of the crews, producing a lot of the winners and State winners and regional winners as well. I know they've been on the Council floor to receive accolades for all the accomplishments. So at this time, we have the Director of, is Jim Bailey is here?

UNIDENTIFIED SPEAKER: No.

CHAIR GUZMAN: No? Okay. And so, Kamalani, okay, is here as well as the Department of Parks and Recreation. So if we can see a presentation in regards to what goes on in the canoe club, we'll, we're ready to begin.

. . . BEGIN PRESENTATION . . .

MS. BALIDOY: Thank you, Chairman. Aloha kakou. I'm Sharon Balido. Let's see, I'll get started. So we're Lae'ula O Kai at Kanaha. I'm a co-founder, one of the head coaches and presently a Board member. Ke Kuhua mahu mua ma hope ke kukulu, the foundation first and then the building. So how did Kanaha choose Lae'ula O Kai? It was through our work with the Community Workday and at that time Kanaha was a State park. So we got there through the Adopt a Park Program. It was not very safe or user friendly in the early 90's, it was pretty sketchy but now with Community Workday, with all the volunteers and the various groups and the County work there, Kanaha is widely used. It's a great park. We were incorporated in 1991, got our 501(c)(3) in 2000 and we are all about ohana. I know you know paddling is multigenerational but it's also the ohana of Lae'ula O Kai. We respect each other,

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

June 16, 2015

take care of each other and care about each other. Probably because of our beginnings there and also my family upbringing, we malama aina. So in these pictures, Lae`ula O Kai members planted every single one of those trees except for the ironwood and kiawe. And we used to mow that lawn there for many years. We were very happy when the County took that over and took that as the County campgrounds. It was a bit much for us to maintain. Another County program that got their start at Lae`ula O Kai with the culture program is the Summer PALS. So for many years they would come there and I believe now they're at South Maui. We continue to do work in the community. This is just one of the recent things I could find on us and Ka`a Point is where the kilters are, just down the way by the bridge. So we help with Community Workday, Keep America Beautiful, planting plants. Maliko Gulch. We went up there to help with the Great American Cleanup. A lot of paddlers use Maliko Gulch as a starting point for one of the great downwind runs. So we try to help out in the community as well as in our own area. Going green. Our electricity at the halau wa`a was first generated through wind and now we use solar. There is no electric lines there. And this year, it's a little more expensive for us but we're trying to do our little share to keep plastics and paper out of the landfills. We purchased these items, a plate, a cup, and utensils that all our members are given. So at all the regattas we go to or events that they go to, they take their own plate and then they take it home. So we're trying to teach the kids that too, it's pretty cool. Sunrises, most of the women, we practice in the morning. It's beautiful to see the sunrises and I already heard the Chair quote some of this so I'm not going to do that. But Kanaha is beautiful in the morning, glassy. In the afternoon, it's windy. Our mission inspired by the traditions of our ancestors is to perpetuate the sport and culture of Hawaiian canoe paddling in an atmosphere of respect and aloha. We strive to be lae`ula o kai, well trained and wise in the ways of the lowlands and seas. Lae`ula O Kai translates to well trained and wise in the ways of the lowlands and seas. It's our goal. And we took that name so we're not just at Kanaha but wherever we go, that is our goal, to be lae`ula o kai. So these are all, not all, some of our youngest member, paddling members, babies sit in canoes but they're not paddling yet. They are ages 5 to 10. They have their own little workforce and support group to get the canoes down. They share the bay with the kilters, you can see some of the kilters in the background. That's one of the most protected bays there. We have all age groups, the 12's and 13's. There was some mention about dune restoration with Paia. You can see right, this side of these canoes, the dune restoration work that's been going on there with the County. And Tara paddles with us, it's nice to have her. Some of the happy faces of our kids. We are now, since we've been there since 1991, coaching kids of kids we had. We try to provide them with other opportunities. So this group here paddled from Hanakao`o in Lahaina to Lanai. They camped over and paddled back. It's the Paddle for Life, a cancer awareness paddle. These young paddlers went on OC-1 and OC-2's, the one-man and two-man canoes, Flemings to Kaunakakai, with adult supervision. And year-end awards, everybody gets certificates because they're all great paddlers, great kids. Try to support community events, very happy to be a part of Mo`okiha o Pi`ilani. Here's our canoe in the forefront. So our colors are red, yellow, green. They are not for Rasta reggae, they're for the colors that my great grandmother

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

June 16, 2015

used in her lei, feather lei making. Festival of Canoes, when it was in Lahaina, great opportunity for our kids to go and to learn and to see canoe making from Polynesia. We also do individual at our halau. So last year we focused on the hau, there's a big hau bush right behind the red canoe. Kekai Robinson was our kumu, and Anela in the black, and Alakai, so they stripped hau, and this is the hau bark stripped and then it gets soaked in water. And then you clean it and you get these beautiful fibers, which they made into rope. And then they also, you can't see what they're working on, but they're sanding their fish hooks. And so, some of what they did from start to finish. This year we'll be working with `ohe, bamboo. We're about fun, we're competitive, but it's fun too and in the paddling community we're known as a club where everybody participates from the youngest to the older ones. We work hard but it is fun. And this is at Giggle Hill for fun, yeah, hanging out. We supported St. Anthony School in the MIL and then we also supported Maui High, King Kekaulike and this year the Haleakala Waldorf School. So they use our canoes and our paddles. They meet there, Kekaulike stores their canoe at our halau wa`a, they practice in the harbor though. We have many different groups that come down and use the area. So the Maui Language Institute students, Kamehameha eight graders, these are their leaders and then they come up with a plan with what they want to do and then 110 of them would come down. Other groups that go there, we've had Paia Youth Center kids there and MPD and the SWAT were there this year. Right, today the Junior Lifeguards were there. So aloha kekahi i kekahi and respect for one another--you don't have this slide. We have many people from around the world at Lae`ula O Kai. You will hear Hawaiian spoken because we have a large number of Hawaiian immersion kids there. A few years ago, we had a large group from Micronesia. This year we have a large group of Argentineans and on July 2nd they're going to present at the club. So we're Hawaiian-based humanity but we try to learn from our other paddlers as well. So they will come and share a night about their country and their foods and their culture. This is the blessing of Holomua. You can't see it but there's a canoe under all those kids and people. And here it is in the County Parade. So Holomua means to move forward. We are based in traditions but we're a very forward club. This is carbon fiber, very lightweight canoe. Driving by I heard a little boy say, daddy look at the airplane. It does fly on the water. This other picture is from the County Parade. And I will say, even though we're Lae`ula O Kai, we support MCHCA, which is the Maui County Hawaiian Canoe Association. So all members from all clubs, these are some of the volunteer officials that came to participate. It's fun for all of us to do that. Pupukahi i holomua, united we move forward, yeah. Mahalo.

. . . END PRESENTATION . . .

CHAIR GUZMAN: Thank you.

MS. BALIDOY: That's us.

CHAIR GUZMAN: Excellent. Members, any questions? Mr. Couch?

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

June 16, 2015

COUNCILMEMBER COUCH: Thank you, Mr. Chair. Great club. I know some folks that still go there now and paddled against them way back when. I guess the question is more to you, Chair. Why is the term of the lease only 14 years as opposed to we've been giving 25 and 35 --

CHAIR GUZMAN: Right.

COUNCILMEMBER COUCH: --year leases out so? This is one of the instances where we should, you know, as long as we can give 'em a lease, give 'em the lease and let 'em go.

CHAIR GUZMAN: That's a good question. Is the Director or Corp. Counsel, you have a response for that or ...

MR. BUENCONSEJO: Chair?

CHAIR GUZMAN: Yes.

MR. BUENCONSEJO: You know, I honestly don't have a answer for why that lease was only done for that 14 or 15 years. We can go back and, I mean, we don't have a problem with it, we support the group. So we don't see any reason, to make it a 20 or 25 year, keep it standard across the board with all the canoe clubs out there. So we'll take that back as well.

CHAIR GUZMAN: Ms. Balidoy, is there a reason why it's only 14?

MS. BALIDOY: No, we'd like the longer term.

CHAIR GUZMAN: What is the most common years in lease in these type of ...

MR. BUENCONSEJO: Chair, it's between 20 and 25 if I'm not mistaken with Hawaiian Canoe Club and other clubs around the island, it's at 20 to 25. I will throw out, I'm not sure, again, just total speculation if it was done that way because of our master plan, the Kanaha Master Plan, but again the Kanaha Master Plan doesn't remove anything to do with the canoe hale anyway so it shouldn't make any kind of difference, but, again, just kinda talking out loud.

CHAIR GUZMAN: Is there any legal issues if we were to increase the 14 to 25, Ms. Sheppard?

MS. SHEPPARD: No, it's whatever term the group decides.

CHAIR GUZMAN: Okay. Mr. White, did you have any questions?

COUNCILMEMBER WHITE: No, I was just going to make a comment that I hope that the Kanaha Master Plan doesn't take 14 years to get back to us.

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

June 16, 2015

CHAIR GUZMAN: It's on the agenda.

COUNCILMEMBER WHITE: So if the 14 years was to coincide with the arrival of the Kanaha Master Plan, I'd rather change it to three years.

CHAIR GUZMAN: Yeah, yeah.

COUNCILMEMBER WHITE: Or two years or one year.

MR. BUENCONSEJO: Chair, we're halfway there, though, on the 14.

CHAIR GUZMAN: Did you want to make an amendment to that?

COUNCILMEMBER COUCH: Yeah, I would love to --

CHAIR GUZMAN: Okay.

COUNCILMEMBER COUCH: --change that to when we get to the point. My only question, I noticed it's executive order so it's DLNR land, BLNR land.

CHAIR GUZMAN: Uh-huh.

COUNCILMEMBER COUCH: So is there an issue with that 'cause I know they have to --

CHAIR GUZMAN: Right.

COUNCILMEMBER COUCH: --okay the lease.

CHAIR GUZMAN: Ms. Sheppard?

COUNCILMEMBER COUCH: But we can do the lease first and then they can go okay it --

CHAIR GUZMAN: Yeah.

COUNCILMEMBER COUCH: --right?

CHAIR GUZMAN: Yeah.

COUNCILMEMBER COUCH: Or is that, have they already gone to the BLNR for this one?

CHAIR GUZMAN: Ms. Sheppard?

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

June 16, 2015

MS. SHEPPARD: According to the paperwork I have, it says this was approved by the Board of Land and Natural Resources at its meeting held on June 27, 2014 and December 12, 2014. That is on Page 6 of 28 in Exhibit 1.

COUNCILMEMBER COUCH: So, Mr. Chair, I want them to get this today but if we were to change it to 25 years, would it have to go back before BLNR again?

CHAIR GUZMAN: I guess, that's a good question. Does it, did they restrict it to 14 when it was ...

COUNCILMEMBER COUCH: I don't see that. I think Ms. Sheppard had a comment.

CHAIR GUZMAN: Yeah, Ms. Sheppard?

MS. SHEPPARD: I think if you want to move forward with this, the thing to do would be go forward with it now and amend it, extending the term with a agreement through BLNR, so that that can take up a separate life. We, obviously, have --

COUNCILMEMBER COUCH: Okay.

CHAIR GUZMAN: Okay.

MS. SHEPPARD: --15 years to get that done.

CHAIR GUZMAN: Okay, okay. Why don't, I think that might be the --

COUNCILMEMBER COUCH: Yep, that might be the better way.

CHAIR GUZMAN: --safer route to take.

COUNCILMEMBER COUCH: But don't, you know, encourage the club not to let it drop because, we, you know, have a tendency to move on with our business and, keep poking at us and the Department to get, 'cause you should have a much longer lease. Thank you.

MS. BALIDOY: Thank you.

CHAIR GUZMAN: Yeah, I would agree with that. So, any other questions, Members? Seeing none, I have one question to the Corp. Counsel. The fair market rental value of the lease annually is what?

MS. SHEPPARD: Don't know if I have that information, I'm looking. I don't see a document that cites the fair market value, Chair, so I don't know.

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

June 16, 2015

CHAIR GUZMAN: Okay, okay, can you, on the last item, EAR-27, it had the fair market rental values on it as part of the exhibits. Can you include the fair market rental values for this item?

COUNCILMEMBER COUCH: Mr. Chair?

CHAIR GUZMAN: Yes.

COUNCILMEMBER COUCH: Just a question for Corp. Counsel and you.

CHAIR GUZMAN: Yes.

COUNCILMEMBER COUCH: That was for County land, this isn't County land.

CHAIR GUZMAN: Oh, that's right.

COUNCILMEMBER COUCH: We have management of the land --

CHAIR GUZMAN: Right, right.

COUNCILMEMBER COUCH: --but this isn't County land.

CHAIR GUZMAN: Good point.

COUNCILMEMBER COUCH: I don't know if that makes a difference.

MS. SHEPPARD: Yeah, I wouldn't know the answer to that, I'm sorry.

CHAIR GUZMAN: Okay. But that is a good point, yeah. I may not need that. Okay, that's fine. I'm satisfied with that. So, Members, without any objections, I want to be, I'm gonna go ahead and call, entertain a motion to recommend adoption of the proposed resolution entitled Authorizing a Grant of Lease of the County Recreational Space to Lae`ula O Kai, incorporating revisions and filing of the County Communication 15-92.

VICE-CHAIR COCHRAN: Chair? So moved.

COUNCILMEMBER WHITE: Second.

CHAIR GUZMAN: It's been moved by Ms. Cochran, seconded by Mr. White. Any further discussion? Seeing none, all those in favor ...

VICE-CHAIR COCHRAN: Oh.

CHAIR GUZMAN: Oh, yeah, Mr. Couch?

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

June 16, 2015

COUNCILMEMBER COUCH: So just to get it straight in my mind, we're gonna do it for this amount of time and then they're going to work on getting it, with the BLNR, to get it extended?

CHAIR GUZMAN: Right. I think that's a better _____--

COUNCILMEMBER COUCH: Perfect.

CHAIR GUZMAN: --just because we're unsure as to whether the, it was narrowly stated in there --

COUNCILMEMBER COUCH: Right.

CHAIR GUZMAN: --their grant --

COUNCILMEMBER COUCH: Okay, thank you.

CHAIR GUZMAN: --at the DLNR [sic] stage. Okay, thank you. So all those in favor, say "aye".

COUNCILMEMBERS VOICED AYE.

CHAIR GUZMAN: All those opposed, say "no"? Six "ayes", two ...

COUNCILMEMBER COUCH: Five.

CHAIR GUZMAN: Well so five "ayes", sorry, one non-voting Member. Five "ayes", two excused, Mr. Victorino and Mr. Hokama. Motion carries.

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

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmembers Hokama and Victorino.

MOTION CARRIED.

**ACTION: ADOPT REVISED RESOLUTION AND FILING OF
 COMMUNICATION.**

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

June 16, 2015

CHAIR GUZMAN: Thank you, Members.

MS. BALIDOY: Thank you.

MS. KANAKA: Thank you.

CHAIR GUZMAN: Members, do you want a five-minute recess before we take on the last item or do you want to --

VICE-CHAIR COCHRAN: Sure.

CHAIR GUZMAN: --plow through --

VICE-CHAIR COCHRAN: No.

CHAIR GUZMAN: --the last item?

VICE-CHAIR COCHRAN: A couple minutes, yeah.

CHAIR GUZMAN: Excuse me?

VICE-CHAIR COCHRAN: A few minutes, yes.

CHAIR GUZMAN: Five minutes? Okay, we'll take a five-minute recess. Thank you.
... (gavel) ...

RECESS: 2:58 p.m.

RECONVENE: 3:19 p.m.

EAR-7 ROADSIDE STANDS AND FARMER'S MARKETS IN THE AGRICULTURAL DISTRICTS (CC 13-85)

CHAIR GUZMAN: ... (gavel) ... The EAR Committee shall now reconvene. Members, I'm going to turn your attention to EAR-7, the next item on the agenda, Roadside Stands and Farmer's Markets in the Agricultural District. The Committee is in receipt of the following: (1) County Communication 13-85, from Councilmember Elle Cochran, transmitting a proposed resolution to refer to the Planning Commissions a proposed bill relating to the roadside stands and farmer's markets in the Agricultural District. (2) Correspondence dated September 10, 2014, from Committee Chair Don S. Guzman, transmitting a proposed bill relating to commercial Agricultural structures in the Agricultural District. (3) Correspondence dated June 9, 2015, to the Department of Corporation Counsel, transmitting a revised proposed bill entitled A Bill for an Ordinance to Allow Commercial Agricultural Structures in the Agricultural

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

June 16, 2015

District. The purpose of the revised proposed bill is to enhance economic viability of the agriculture industry in the County by allowing commercial agricultural structures for selling agricultural products, including value-added agricultural products, within the County Agricultural District as an accessory uses and special uses, subject to appropriate restrictions and standards. The Committee may consider whether to recommend passage of the revised proposed bill on first reading, with or without further revisions. The Committee may also consider the filing of County Communication 13-85 and other related actions. Members, this item has been before the EAR Committee for over two years. Based on the recommendations for referral from the Council's Planning Committee, this is the fifth time we have met to consider this topic. The proposed legislation has been through many changes. The original bill was vetted through the Agricultural Working Group, a group composed of Maui farmers organized to address the challenges facing the agricultural industry in the County of Maui. It then subsequently went to the Planning Department for additional revisions and then was referred to the Planning Commission for review and comments. The intent of the bill is to broaden the scope of the sales permitted by farmers at roadside stands and farmer's markets in the Agricultural District by allowing commercial agricultural structures for selling agricultural products, including value-added agricultural products within the County Agricultural District as accessory use and special uses, subject to appropriate restrictions and standards. On April 4, 2014, the revised bill was sent to the Planning Commission for review by Council resolution. On December 11, 2014, the Planning Director transmitted the comments from the Lanai, Maui and Molokai Planning Commissions. The comments were incorporated into what we have today before you, a revised proposed bill. We, my office has worked diligently with the Department of Planning, with Mr. Will Spence and Mr. Joe Alueta, in producing and drafting the revisions that would address the Planning Commission's concerns and we believe that we have done so. This, in doing, in presenting it to you now, you have now the full version of all the input from the Ag Working Group, from the, and as well as the Planning Commission input as well as the Department of Planning Commission. By far, this has been the most vetted piece of legislation that I have seen since I've been here. But in doing so we have one more revision that has just come to my, to the table within the last hour and a half and that was a revision by Corporation Counsel, Deputy Corporation Counsel, who also added their input and so I would have Mr. Hopper review that section in which they're proposing amendments to. I would like to go over the bill with all of you here. Before I do so, I want to refer your attention to this document that's called Roadside Stands and Farmer's Markets in the Agricultural District (EAR-7). It is the, it has blue print on there--I don't know if you can see that--it says issues raised by the Planning Department and Planning Commissions addressed in the revised proposed bill. So if you go through that document, and I'm not going to go through it right now, it's for your reference, these are the issues that were presented by the Commission, by the Planning Commission, as well as the Department of Planning, and I've listed those issues and I have also, in the blue print, indicated how the proposed bill was revised to address those particular issues. So this could be used as an outline as to how those issues were addressed within the current bill. And so I'm going to go ahead and

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

June 16, 2015

reference all of you to the bill itself and as a background--do you have the bill in front of you? The bill title is the Bill for an Ordinance to Allow Commercial Agricultural Structures in the Agricultural District. In the first part of it ...

COUNCILMEMBER COUCH: Mr. Chair?

CHAIR GUZMAN: Yes?

COUNCILMEMBER COUCH: Is that the June 9th Request for Legal Services? That's the latest one that I've seen.

CHAIR GUZMAN: Yeah, that's the June 9th. That's the revisions from, incorporated within are the Planning Department as well as the Planning Commissions and the Ag Working Group, all of their input. I'll go through that first.

COUNCILMEMBER COUCH: Is it this one?

CHAIR GUZMAN: Yes. And then we'll have Mr. Hopper go through his revision that has been signed off as in form and legality. I think there are some minor changes that Mr. Hopper's version has indicated based off of the actual State statute, which is HRS §205-2 and Act 203. And there were, which basically is the basis of this legislation, because this legislation that we have is just enabling the State statute to be implemented at the County level. And so there were a little minor revisions, legally, that Mr. Hopper wanted to address in the final version, or at least his proposed version. So we'll go ahead and get started. I'll try to be as fast as I can for a brief explanation. I know that all of you have been through this, these, this draft several times, not this draft but this topic subject matter, at least five meetings so. Section 1 is the purpose and intent and it's very self explanatory. I mentioned most of that during my intro, my opening statement. The first change in Section 2, Section 19.09.040 [sic], the Maui Code, is by amending and deleting the definition of agricultural products stand. Now the reason why we deleted that was because we renamed, we actually renamed it to what we would call a commercial agricultural structures.

COUNCILMEMBER COUCH: Excuse me, Mr. Chair?

CHAIR GUZMAN: Yes.

COUNCILMEMBER COUCH: Just point of order. Did you say 19.09.040 or .04.040?

CHAIR GUZMAN: Oh, yeah, .040, sorry.

COUNCILMEMBER COUCH: Okay, .04.040?

CHAIR GUZMAN: Yeah, .9, wait, Section 19.04 --

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

June 16, 2015

COUNCILMEMBER COUCH: Okay.

CHAIR GUZMAN: --.040 --

COUNCILMEMBER COUCH: Alright. I just wanted ...

CHAIR GUZMAN: --for the record.

COUNCILMEMBER COUCH: Okay, thank you.

CHAIR GUZMAN: Okay. So what we've done in the definition is we have one definition that's called commercial agricultural structure. Now a commercial agricultural structure has within it an agricultural product stand, that's one, a farmer's market, that's two, an agricultural retail structure, that's three and four, a agricultural food establishment. All of those are commercial agricultural structures. So we're going to the second page and we'll see that agricultural food establishments, that's a structure, means a building or structure owned and operated by a producer and permitted under Title 11, Chapter 12 of the Rules of the State Department of Health that prepares, serves food at retail using agricultural products grown, raised or caught in the County, value-added products that were produced using agricultural products grown in Hawaii and other food items. Number two, the next commercial agricultural structure is agricultural product stands and everybody knows what these are. These are the little stands that we usually see alongside the road. And those are, means a building structure, or place that is partially enclosed by walls, at least 25 percent open to the outside, owned and operated by a single agricultural product producer for the display and sale of agricultural products grown, raised or caught in the County, and value-added products produced using agricultural products grown, raised, or caught in Hawaii. Number three structure would be an agricultural retail structure. It means a fully-enclosed building or structure owned and operated by a single producer for the display and sale of agricultural products grown, raised, or caught in the County, value-added products that were produced using agricultural products grown, raised or caught in Hawaii, logo items related to producer's agricultural operations, and other food items. Okay, now we go to the commercial agricultural structures, which is all the structures that I've named and including another structure would be a farmer's market and there's a definition as to a farmer's market. It means either (1) a temporary use of the land that is managed by a single producer who leases space or stalls for the outdoor sale or agricultural products grown, raised, or caught in the County or value-added products that were produced using agricultural products grown, raised, or caught in Hawaii. Or it's a building or structure managed by a single producer who leases space or stalls for the display and direct sale of agricultural products grown, raised, or caught in the County, value-added products that were produced using agricultural products grown in Hawaii. So there's a distinction. There's one that's just on open land and one that's enclosed structure. Those are the two distinctions between the two types of farmer's markets. Now we have a definition

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

June 16, 2015

of a logo. What is a logo item that some of these structures can sell? A logo item means an item meant for direct sale by a producer that has the producer's business logo permanently affixed to it. Logo items include, but not limited to, clothing, cups, glasses, stationery, and writing instruments. Other food items, that is another definition, means a food item that is not an agricultural product grown, raised, or caught in the County or value-added product that was produced using agricultural products grown, raised or caught in Hawaii, basically hot dogs, yeah. Producers, mean, that's producers, the meaning of that is, means the owner, lessee, or licensee of land located within the Agricultural District who is engaged within the County in the growing or production for sale of any agricultural product or value-added product. There's going to be a definition of total floor area. That is going to be needed because that will be used in, as part of, I believe, the ability to sell added-value products. I think that's going to be determined by the total floor area. It does not include areas used for parking or agricultural product production. Value-added refers to raw agricultural products whose market value has been increased by special manufacturing, marketing or processing. Okay, the next section, Section 4, Section 19.30A.050 of the Maui County Code is amended to read as follows. The only amendments that we have here is No. 3, we're just changing Hawaii, just respelling that, I suppose. And then going to the next page, we have--I believe, let's see--okay, B, accessory uses. Uses that are incidental or subordinate to, or customarily used in conjunction with, a permitted principal use, as follows, okay. Now we're gonna go down to No. 3 where it says a maximum of two commercial agricultural structures per lot, subject to parking requirements of this Section 19.36A.010. What that means is that on a lot you are only, the maximum that you can have in the structures are only two. So you can have an agricultural retail structure and a commercial agricultural structure or any combination thereof but you can only have two on one lot. So that's a minimum [sic] of two commercial agricultural structures per lot and it has to be subject to parking requirements. The rest of that is going to be deleted. That is the original language from the ordinance that is in existence currently. Number 4 is deleted. Number 5 is retained but renumbered, yeah, renumbered and Nos. 6, 7, 8, 9, 10, 11, 12 are all renumbered. There are minor changes to the spelling of Molokai and Hawaii on Page 5. Turning to the next page, No. 6, you also have on the top of the page some renumbering amendments. In the middle of the page, we have Section 5, Section 19.03A.060, Maui County Code, is amended to read as follows. This is special use uses. So if the structures that are going to be built, the commercial agricultural structures, and if they do not meet the standards and restrictions of this chapter, then they need to get a Special Use Permit. And then E and F are renumbered [sic] because of the addition of C. Going to the next page, on Page 7, you have on the top of the page, re-lettering of the provisions because of the inclusion of number C, I mean, letter C. Going to the bottom portion of Page 7, we have Section 6, Chapter 19.30A of the Maui County Code, is amended to add a new section to be appropriately designated to read as follows. So this is, this whole 19.30A.072 is a new section and it's about the commercial agricultural structures requirements. All commercial agricultural structures are subject to the following requirements and restrictions. Number 1, commercial agricultural structures may sell agricultural products or value-added

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

June 16, 2015

products that are not grown, raised, caught or produced on the lot that they are located on, so long as an active agriculture operation is present on (1) the lot where the commercial agricultural structure is located and the lot where the agricultural product or value-added product is grown, raised, caught or produced. That language looks confusing but it's actually coming from the Planning Department. So let me explain what's going on here. So in, if you, in order to have a commercial agricultural structure and you want to sell agricultural products on it or value-added products, then the lot that is being, that you're selling on must have-- . . .(inaudible) . . .--the lot where the agricultural structure is located. You must have active agricultural operations present on that lot and if, you have to have agricultural operations on the lot where the agricultural products or value-added products is produced, are produced from, which is very simple. You know, you're growing corn and you're selling it on someone's property that has a papaya farm on it so there's a nexus. It's not just some vagabond guy coming in and selling products off of open land that is not being productive in agriculture so there's a nexus there. Number 2, No. 2 requirement would be the proof of an implemented farm plan shall be provided to the Department of Planning before a commercial agricultural structure commences operation. Agricultural products stands that are less than 300 square feet in total floor area are exempt from this requirement. So if you want to have, you know, do this commercial agricultural structure, then you submit to the Planning Department that look, you are a legitimate, bonafide farmer because you already have a farm plan on file and then you would be exempt from doing that, submitting that information, if your product stand is less than 300 square feet, which is all these little, the little roadside stands that we have out there. So you wouldn't need to have a plan, a farm plan implemented if your agricultural product stand is less than 300 square feet. B, B requirement would be agricultural product stands. An agricultural product stand that is more than 1,000 square feet in total floor area shall require Special Use Permit. So if it's, if your agricultural product stand is more than 1,000 square feet, then you have to go in and get a Special Use Permit. This was one of the issues that the Planning Commission had was in our original draft we didn't have size restrictions in there. And so they were worried about, oh, all these, like, almost like a mall-type shanties being developed and so what we do is, what we compromised was, okay, we can put size restrictions on it and 1,000 square feet for one product stand is, you know, is reasonable. Anything more than that, a Special Use Permit is required. Now, number C, a farmer's market. All farmer's market are subject to the following requirements. Number 1, a farmer's market that is more than 3,000 square feet in total floor area shall require a Special Use Permit. Number 2, all farmer's markets shall operate only during daylight hours and shall not operate on parcels less than five acres. I believe those two provisions are also from the Planning Department and are consistent with what is in our current ordinances. I believe that they wanted to, the size restriction was included and could be changed by this Body if it wanted to, but that was, the 3,000 square feet was what the Planning Department recommended. The, D, the agricultural retail structures, that's another structure. Agricultural retail structures are subject to the following requirements. Number 1, an agricultural retail structure that is more than 1,000 square feet in total floor area shall require a Special Use

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

June 16, 2015

Permit. Number 2, all agricultural retail structures that serve food shall require a permit as required under Title 11, Chapter 12 of the Rules of the State Department of Health. E, agricultural food establishments. All agricultural food establishments are subject to the following requirements. Number 1, an agricultural food establishment that is more than 1,000 square feet in total floor area shall require a Special Use Permit. Number 2, all food must be prepared and served on premises. The Planning Department, the Planning Director shall have the discretion to allow an exemption to this subsection. This was also a recommendation from the Planning Department. Number 3, the agricultural food establishment must have a dining area that is used primarily for the consumption of food and b, activities that are incidental to the consumption of food. This was, those provisions were also recommended by the Planning Department. F, registration. Producers who produce, producers who propose to own or operate a commercial agricultural structure, that's all of them, shall register the structure with the Department of Planning. The registration form shall include the following information. Number 1, the name, address, contact information of the producer; 2, the tax map key number of the lot on which the proposed commercial agricultural structure is located; 3, a verification that the producer is the owner, lessee, or licensee of the lot on which the proposed commercial agricultural structure is located. If the producer is the lessee or licensee, authorization of the owner shall also be provided. A lessee or licensee must have a lease with a minimum duration of five years for the portion of the lot that the structure is or will be located on. That language was incorporated to avoid people just coming, fly-by-night operations coming in for a week and then leaving and, we needed more consistency with monitoring so a five-year minimum duration for the lease was proposed. Number 4, the type of commercial agricultural structures being registered, that's what needs to be in the registration form, the signature of the proposed, of the producer certifying acknowledgment of and compliance with the requirements of this chapter and all other applicable laws, regulations, including those of the State Department of Health and Department of Public Works. Now this is, this is basically a testimonial or a, an oath or a signature that's saying, look, we are in compliance as a producer of all the rules and regulations and the Department of Health. Number 6 is an additional information requested by the Planning Director. So if additional information is required by the Planning Director, then they'll appropriately place that on the registration. The database. Now the Department of Planning shall maintain a database of all commercial agricultural structures registered pursuant to this chapter. And this is for tracking and for our filing system, for the Department's filing system. H, enforcement. Failure of the producer to register a commercial agricultural structure may be enforced pursuant to Chapter 19.530 of this Title. Separate registration. Each commercial agricultural structure shall require a separate registration. J, area. Within a commercial agricultural structure, other food items and logo items shall occupy no more than 49 percent of the total floor area. Now this was also proposed by the Planning Department because there was no way of determining what other food items, how to limit the other food items. So it was determined that it was easier to enforce, it was more enforceable if they did it by floor space and to restrict other food items and logos to only 49 percent of the total floor area and that was recommended

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

June 16, 2015

by the Planning Department. K, exemption. Agricultural product stands that are 300 square feet or less in total area are exempt from the registration requirements of this section. So if it's 300 square feet or less, you don't have to go through registering your agricultural product stand. L, rules. Additional regulations of commercial agricultural structures shall be established by applicable rules. So there will be administrative rules aside from what has been set forth in the ordinance. M, setback. All commercial agricultural structures shall comply with all applicable setback requirements. Section 7, Section 19.36A.010, Maui County Code, is amended to read as follows. This is, was included at the recommendation of the Planning Department to comply with our parking laws in the County and so 19.36A.010 designated number of spaces, was included in this ordinance. Unless otherwise provided in this chapter, the following minimum numbers of accessible off-street facilities for the parking of self-propelled motor vehicles shall be provided on private property in connection with the use of any land or erection or remodeling of the building or structure. The number of off-street parking spaces required shall not be less than the sum total of the spaces, the number of the required parking spaces for each component's use of the land, building or structure herein specified. So the only amendments that we had for the parking ordinance that is currently in existence is to add the commercial agricultural structures as defined in Section 19.30A.072 and that is on the bottom of the Page 10. So we added to the existing parking ordinance the commercial agricultural structures and at the recommendation of the Planning Department, we drafted the language. One parking space for every 200 square feet of floor area building, provided that the minimum shall be two parking spaces, further provided that for agricultural food establishments, the parking requirements for restaurants, bar, night clubs and amusement facilities shall apply. So for agricultural food establishments, you're gonna be using the same requirements as they do for restaurants, bar, night clubs and amusement facilities. So that's just the, we could not avoid incorporating the parking provisions because that's, that is our existing ordinance for parking so we had to incorporate it to our agricultural structures. So that's it in terms of--oh, wait, sorry, next page, almost done, 14, Page 14. This is also amendments to the parking provisions is 19.36A.080, that's paving, and we're just including commercial agricultural structures within the, that paving section. 19.036A.160, that's also including or including commercial agricultural structures as defined in the section and also B, the Planning Director or, in the case of the island of Lanai, the Lanai Planning Commission, may waive or defer to 50 percent of the required parking for agricultural product stands. So those are the only amendments that we've incorporated within the existing parking provisions. So that's what we have so far.

COUNCILMEMBER COUCH: Mr. Chair?

CHAIR GUZMAN: Yes?

COUNCILMEMBER COUCH: Sorry, again, point of order, you were reading of, not what we were looking at 'cause they had just made some changes?

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

June 16, 2015

CHAIR GUZMAN: Yes, yes, yes.

COUNCILMEMBER COUCH: Can we get a copy of that?

CHAIR GUZMAN: Yes, we're gonna go ahead and hand out--I just received this, approved as to form and legality by the Department of Corporation Counsel, the version of what has been at least presented by Corporation Counsel as being legally in form and in substance. So why don't we go ahead and pass that one out and I can have Mr. Hopper explain what amendments he's made within that version.

COUNCILMEMBER CRIVELLO: So is his amendments different from what you've read off?

CHAIR GUZMAN: I think it's some minor changes and I haven't had a real opportunity to review it as well as you. I just received it maybe 30 minutes ago so, or a little longer but I wanted him to briefly explain what type of amendments he made to the final version that was actually signed off as to form, form and legality. So Mr. Hopper?

MR. HOPPER: Have the changes been passed out? Do we have them? Okay, so it sounds like everyone has a copy of the bill that's approved as to form and legality. As the Chair said, there's not a whole lot of substantive changes. One, though, that I did want to bring your attention to is ...

VICE-CHAIR COCHRAN: I'm sorry. Wait. Are we waiting for the copies?

MR. HOPPER: Do you have the copies?

VICE-CHAIR COCHRAN: Oh, we have 'em, oh?

MS. MARTINS: I've already inserted it in the binders.

VICE-CHAIR COCHRAN: Oh, that's what you did put in. Okay.

COUNCILMEMBER CRIVELLO: But what he read is not noted on, like on Page 9.

COUNCILMEMBER COUCH: Yep. There was stuff ...

COUNCILMEMBER CRIVELLO: Just --

COUNCILMEMBER COUCH: Where in the binder?

COUNCILMEMBER CRIVELLO: --in following in what we, what I have here on Page 9.

MR. HOPPER: Yeah, some of those were deleted and I can go through the reasons for that. Some of them were deleted because they're basically...

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

June 16, 2015

COUNCILMEMBER CRIVELLO: No, even if there were additional verbiage, it's not what ...

CHAIR GUZMAN: What's, so --

COUNCILMEMBER COUCH: Can we have short recess?

CHAIR GUZMAN: --the version...yeah, we'll --

COUNCILMEMBER COUCH: Find out where ...

CHAIR GUZMAN: --do, quick, quick recess. . . . *(gavel)* . . .

RECESS: 3:51 p.m.

RECONVENE: 3:53 p.m.

CHAIR GUZMAN: . . . *(gavel)* . . . Okay. Now we shall reconvene. Mr. Hopper, can you go through the proposed bill that has been submitted by Corp. Counsel in terms of the revisions?

MR. HOPPER: Certainly, Mr. Chair. Like I said, most of them are nonsubstantive changes. The one substantive change, though, that I wanted to bring your attention to. You were also given out, in addition to the revised bill, a section of the State law, which is HRS §205-2, that establishes which agricultural, they call them agricultural-based commercial operations, which of those are allowed in the State Agricultural District. Remember the State has the ability to allow the counties to, through zoning ordinances, allow certain uses in the State Agricultural District. Otherwise, those uses are restricted. And on that page that was handed out, HRS §205-2, there's a Subsection A and a bunch of other subsections under that. The agricultural-based commercial operations are in Section 15, that's on Page 5 of that section and the important part there is that, that goes over basically three different types of agricultural-based commercial operations, the roadside stand, retail activities in an enclosed structure, and retail food establishments. For the most part, our bill here mirrors those. However, one exception is that the definition of the agricultural food establishment and our ordinance--this is on Page 2 at the very top--you see agricultural food establishment. At the very end of that, it states, and other food items. So basically it talks about that the agricultural food establishment prepares and serves food at retail using agricultural products grown, raised, or caught in the County and value-added products that were produced using agricultural products grown in Hawaii and other food items. That phrase "other food items" does not appear to be allowed by the State law. The State law distinguishes between retail activities in an enclosed structure and a retail food establishment. This agricultural food establishment appears to essentially mirror the retail food establishment section and the agricultural retail structure, which is two definitions down, appears to mirror the retail activities description in the State law. The State law in the retail activities in an

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

June 16, 2015

enclosed structure section talks about logo items related to the producer's agricultural operations and other food items being allowed to be sold from that type of establishment. However, when we read the retail food establishment section, it says in full, a retail food establishment--this is the State law definition--owned and operated by a producer and permitted under Title 11, Chapter 12, of the Rules of the Department of Health, that prepares and serves food at retail using products grown in Hawaii and value-added products that were produced using agricultural products grown in Hawaii. It does not contain the description of logo items related to the producer's agricultural operations and other food items in a different subsection that talks about retail activities. Therefore, it does not appear that other food items may be served at agricultural food establishments. They need to be either grown in the State of Hawaii or value-added products that were produced using agricultural products grown in Hawaii if you are running a retail food establishment or agricultural food establishment. So that other food items line at the very end of the agricultural food establishment definition on Page 2 has been deleted in order to allow our office to sign off as to form and legality. The agricultural retail structure does allow for the logo items and other food items to be sold. However, the agricultural food establishment does not because the State law does not appear to allow for that. So that was the, I think, major change that was made in the bill. I can go over the other, which are generally really nonsubstantive changes, some changes in format and the deletion of some redundancies in the ordinance. But that was the major change and I don't see how that would be allowed as a, how other food items would be allowed to be sold as part of an agricultural food establishment in accordance with the State law. So that's what I'm reading here. I don't know if, Mr. Chair, if you would like me to go over the other changes?

CHAIR GUZMAN: Yeah, why don't you go over that.

MR. HOPPER: Okay. There weren't too many more. On Page 3, at the very top, I kind of rephrased the producer definition. I don't think the meaning has changed at all but the rephrasing is, producer means an owner, lessee or licensee of land located within the Agricultural District who is engaged in the growing or production for sale of any agricultural product or value-added products on such land. And I don't think that's a huge substantive difference but I thought that the phrasing of the original was a bit awkward so --

CHAIR GUZMAN: Okay.

MR. HOPPER: --that change has been made and I don't think there is necessarily a problem with that. If there is I think that's a nonsubstantive issue that I could work out with Staff if we need to. And, like I said, there weren't a whole lot of other changes. The only other ones I had were on, I believe, it's Page 9 of the ordinance. The enforcement section H says failure of a producer to register a commercial agricultural structure may be enforced pursuant to Chapter 19.530 of this Title. This subsection is unnecessary because any violation of any regulations in Title 19, including this

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

June 16, 2015

section, are enforceable by 19.530 of this title. That section says so. So it's redundant to say that in this section. We don't go through every single section of the zoning ordinance and say, by the way, this is enforceable in this section, so is this, so is this. If you did, you would say that after every single paragraph and that's not something that we typically do. In subsection...so H has been deleted. That's why you see a renumbering of the sections. J, when it talks about area for square footage, we basically changed that to reflect that it doesn't apply to commercial agricultural structures because that's every type of structure. We changed it to clarify that it only applies to agricultural retail structures, which, in accordance with State law, are the only structures that are allowed to sell the logoware and the other food items. By the way, this is the section, I should back up a little, that says you can only have, you cannot have more than 49 percent of the structure selling the logoware or the other food items. Basically, we made clear that that only applies to agricultural retail structures 'cause the other types of structures do not allow them. And there was an omission on my part, I did delete the end logo items section. I believe that the retail activities, yeah, the Agricultural retail structure allows for logo items to be sold. So I should, that should be put back into that subsection. I inadvertently took that out so I think where you have, I think it's now a different subsection, which is Subsection I, it should read, within an agricultural retail structure, other food items and logo items shall occupy no more than 49 percent of the total floor area. That was an omission on my part and I apologize for that. And then the, and under rules it says, additional regulation of commercial agricultural structures shall be established by applicable rules, changed the "shall be" to "may" because the Director may or may not generally adopt administrative rules. This is typically the authorization section and so that's something, whenever we have this section, that's generally how it is worded. And applicable rules, I changed to administrative rules because that's, they're essentially administrative rules that the Department's authorized to have. And under the last section, which was setback, I deleted that because the setback is one type of development standard that agricultural buildings are required to comply with. There's building heights, minimum lot size, et cetera. There wouldn't be a reason to specify all the structures have to conform to the setbacks because the structures have to conform to all of the development standards, not just the setbacks. So we deleted that and we didn't want to have any confusion as well as to whether or not someone may have to, oh they have to comply with the setback but maybe not the other items. So those are the entirety, I believe, of the changes that I had made in order to sign off as to form and legality. The most substantive, of course, being the other food items deletion, which I couldn't find a way under the State law to allow, to have the County's authority to allow for other food items to be sold at a retail food establishment if they're not listed here. So that's what I, those are my changes and I can answer any questions on those.

CHAIR GUZMAN: Thank you. Mr. Couch?

COUNCILMEMBER COUCH: Thank you, Mr. Chair, and thank you for getting this through. I do have some concerns with the other food items 'cause when you're cooking at a

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

June 16, 2015

food, you know, agricultural food establishment, if you don't grow, if they don't grow mushroom, or I don't know what doesn't grow here that people use in their food, cinnamon or something like that, then you can't use that, is that what that's saying?

MR. HOPPER: In reading Subsection C, HRS §205-2(A)(15)(C), it talks about agricultural-based commercial operations including, and they distinguish between retail activities in an enclosed structure and a retail food establishment.

COUNCILMEMBER COUCH: Right, and I do see that, that they have those distinctions. So I guess that's a potential flaw in the --

CHAIR GUZMAN: In the State statute.

COUNCILMEMBER COUCH: --State statute.

CHAIR GUZMAN: Yeah.

MR. HOPPER: Well, if we wanted to try and get an opinion, either from the Attorney General's Office or delve into the legislative history more, I suppose that's an option. But when you read a statute, generally, and it has A, B, C, A allows something, B says two of the three things that A allows --

COUNCILMEMBER COUCH: Right.

MR. HOPPER: --but the fourth or fifth thing aren't there, generally you would say, oh they meant to do that 'cause in the previous paragraph you'd think they would've said for retail food establishments, logoware and other food items.

COUNCILMEMBER COUCH: Right.

MR. HOPPER: And what they list is, using products grown in Hawaii and value-added products that were produced using agricultural products grown in Hawaii. Now I don't know if the meant to say, hey, as long as there are some products that are grown in Hawaii that your serve here, okay for the rest, but that's not what they said.

COUNCILMEMBER COUCH: Yeah.

MR. HOPPER: In fact, in the previous section, they said, other food items --

COUNCILMEMBER COUCH: Other food items, yeah.

MR. HOPPER: --and logoware and when they talk about, for whatever reason, food establishments, it says no. So it doesn't list them anywhere. It's silent on them.

COUNCILMEMBER COUCH: Yeah.

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

June 16, 2015

MR. HOPPER: So that's the concern that I had with --

CHAIR GUZMAN: I had the same.

MR. HOPPER: --the writing.

COUNCILMEMBER COUCH: Right, so, I, yeah, so that's something that, I guess, we would have to figure out because it's going to severely limit any chef. But, okay, so that was one of the questions and I have others but I know other people have questions too. Thanks.

CHAIR GUZMAN: Any other questions?

VICE-CHAIR COCHRAN: So, Chair?

CHAIR GUZMAN: Ms. Cochran?

VICE-CHAIR COCHRAN: Thank you, Chair. And so, you know, I was the initial initiator, I guess, of this and it was basically to try and address, encouraging and making sure that roadside stands and the farmer's markets and what have you, that we all stand by and want to see it proliferate throughout our County, fall within our, you know, zoning codes and what we're discussing here. And so it just seems like it has grown to such a enormous scale now from what it originally started to be, which I knew that first step wasn't going to be the final either. But I'm sitting here and I'm just trying to digest everything through and I know you put forward a lot of this through the community working group and it's been vetted, as you stated, all the many hours and meetings and Maui Planning Commission and I've read through all their comments and Department. But I'm hearing from community right now that they, too, would like to take a revisit, just a once over kind of glance, to see what this is all about where now it triggered the parking code, and I think, Mr. Spence, in your comments during Planning Commission, you wanted to address certain aspects of the code to avoid. Because I think we're now stating you want concrete and you want something asphaltic [sic], asphalt-type material, but you were more wanting to say gravel is good enough but is that still in the parking details of this bill, that people need to actually create parking stalls and, you know, lining of asphalt and what have you, which is ...

CHAIR GUZMAN: There's a paving section.

VICE-CHAIR COCHRAN: Right. The paving area.

CHAIR GUZMAN: Yeah. The paving section actually allows the Director to, at his discretion. That was one of the issues that we had to ____.

VICE-CHAIR COCHRAN: Right.

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

June 16, 2015

CHAIR GUZMAN: We need that, have these guys have road, dirt roads. So there's that paving section there that 19.36A.080. Let's see, where does it say?

VICE-CHAIR COCHRAN: 'Cause I believe the comments, Mr. Spence, in your, the Commission level, was that you folks --

CHAIR GUZMAN: Yeah.

VICE-CHAIR COCHRAN: --have to ...

CHAIR GUZMAN: The Planning Director may allow or require other surface material consistent with approved regional or other, or community-designed guidelines.

VICE-CHAIR COCHRAN: Okay. So, alright. Well, I don't know, maybe Mr. Spence can --

CHAIR GUZMAN: Yeah.

VICE-CHAIR COCHRAN: --comment?

CHAIR GUZMAN: Sure.

VICE-CHAIR COCHRAN: And maybe clarify what I was reading in, I guess, Planning Commission, if it got vetted through at this final product.

MR. SPENCE: Oh, and, Mr. Chairman? And ...

COUNCILMEMBER COUCH: Mr. Spence?

MR. SPENCE: The proposed --

COUNCILMEMBER COUCH: Mr. Spence?

MR. SPENCE: --amendment to 19.36A ...

CHAIR GUZMAN: Can you get a little closer to the mic?

MR. SPENCE: The proposed amendment to 19.36A.080, paving, where it says, every off-street parking space or area other than for a single family dwellings, bed and breakfast homes, farm dwells, guest houses, servant's quarters and commercial agricultural structures as defined in, you know, 19.30A, of this title shall be paved. So it's other than, pavements required for other than these proposed agricultural structures. So --

VICE-CHAIR COCHRAN: So --

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

June 16, 2015

MR. SPENCE: --I think...

VICE-CHAIR COCHRAN: --no it doesn't need it?

MR. SPENCE: Yeah, no need.

VICE-CHAIR COCHRAN: Okay.

MR. SPENCE: I'm totally an advocate of paving where it needs to be paved but out in the Ag District, you know, that's part of being in the Ag District, you're not built to commercial standards, you know, like, you know, the Walmart parking lot or anything. So you should be able to do just gravel. But you should have space for parking. That's, I think that's really important --

COUNCILMEMBER COUCH: Yep.

MR. SPENCE: --that, you know, we have enough problems with stuff happening just alongside of the road. You gotta have space to get people off of the roadway.

VICE-CHAIR COCHRAN: Okay. Well, good. Yeah, I was trying to find the spot and I know it was, you're saying a new category--oh, so this is the new category? That, this is how you're addressing for --

MR. SPENCE: Yeah. There's...

VICE-CHAIR COCHRAN: --to alleviate the need for forcing them to create parking, we added it into...okay. Okay.

MR. SPENCE: Right.

VICE-CHAIR COCHRAN: Yeah, as long as it doesn't hinder and create more, you know, trying to make it easy and keep it the way people, it's working for them but --

MR. SPENCE: Right.

VICE-CHAIR COCHRAN: --of course they need to be in compliance and follow through with, okay. Okay, well, very good, that's all I have for now, Chair. Thank you.

CHAIR GUZMAN: Is there any other questions, Members? Do you need more time to go through the bill? Or ...

UNIDENTIFIED SPEAKER: Yes.

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

June 16, 2015

CHAIR GUZMAN: Okay. So why don't we do this. We'll go ahead and defer this matter and then I'll put it on the first item on my next Committee meeting and whatever amendments you have or you see fit to change, then we can bring those up at that time or please let me know prior to the next Committee meeting so that I can make the appropriate changes so that we can have a full hard copy of the bill. So I'll have you go ahead and review this final version that was presented by Corporation Counsel and approved as to form and legality and we'll go ahead, without objections, defer this matter to the next meeting. I would hope that at our next meeting that we go ahead and I call it to a vote. I've had this in my Committee for more than two years now so I think it's vetted quite a bit and I would like to have some type of closure to it at some point.

VICE-CHAIR COCHRAN: Yeah.

CHAIR GUZMAN: So, yes, Ms. Cochran?

VICE-CHAIR COCHRAN: And thank you, Chair. And I, you know, I agree. I just, and it has been two years, you know, when I first initiated this and moved it forward. And but I appreciate the intense work that's gone into it. The Planning Commission vetted it, we went through it, sent it to Planning, it's back to us now and we've got a lot of extra documents and other things to support it. And so for me to be comfortable in it, myself, not just the community constituents that are also voicing their concerns, would like this time. So I appreciate your willingness to defer for now. But definitely, I, too, want to move it forward. And, obviously, the community too but making sure that everyone's comfortable and understands it.

CHAIR GUZMAN: Okay.

VICE-CHAIR COCHRAN: So, okay.

CHAIR GUZMAN: Perfect.

VICE-CHAIR COCHRAN: Thank you very much.

CHAIR GUZMAN: So I'll put this on next agenda item and most likely I will call for a vote at that time, okay.

MR. SPENCE: Mr. Chairman?

CHAIR GUZMAN: Yeah. Without...yes, Mr. Spence?

MR. SPENCE: I just wanted to --

CHAIR GUZMAN: Yes?

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

June 16, 2015

MR. SPENCE: --say thank you for the opportunity to work with your Staff and with you on this bill. I think it has made a much better ordinance.

CHAIR GUZMAN: And I, too, am very grateful for seven, eight, ten meetings that we've had together.

MR. SPENCE: It's been long.

VICE-CHAIR COCHRAN: Oh, sorry.

CHAIR GUZMAN: And appreciative to that working group as well as the --

MR. SPENCE: Yeah and ...

CHAIR GUZMAN: --the Planning Commission for all their input as well.

MR. SPENCE: It's been a lot of effort by a lot of people.

CHAIR GUZMAN: Yes. Thank you. So ...

VICE-CHAIR COCHRAN: Chair? Real quick.

CHAIR GUZMAN: Ms. Cochran?

VICE-CHAIR COCHRAN: Sorry. The, and just remembering some of the minutes. Zip lines and zorbas, was there a, you folks said we're discussing, I mean, that in, as, you know, this is what happens on Ag --

CHAIR GUZMAN: Oh, the --

VICE-CHAIR COCHRAN: --agricultural lands now.

CHAIR GUZMAN: --you mean the Ag tourism bill? We're still --

VICE-CHAIR COCHRAN: Well, it's some definitions ...

CHAIR GUZMAN: --working on that one.

VICE-CHAIR COCHRAN: Yeah.

CHAIR GUZMAN: Yeah.

VICE-CHAIR COCHRAN: So.

CHAIR GUZMAN: I think we have one that I haven't quite worked out yet but.

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
AND RECREATION COMMITTEE**

Council of the County of Maui

June 16, 2015

VICE-CHAIR COCHRAN: Will that be for the Ag tourism --

CHAIR GUZMAN: Yeah, it's --

VICE-CHAIR COCHRAN: --and no affiliation here --

CHAIR GUZMAN: --it's an Ag tourism bill --

VICE-CHAIR COCHRAN: --that lists ...

CHAIR GUZMAN: --but it has nothing to do with this --

VICE-CHAIR COCHRAN: Okay.

CHAIR GUZMAN: --right, this bill.

VICE-CHAIR COCHRAN: It's not in that list of definitions and what have you?

CHAIR GUZMAN: Right.

VICE-CHAIR COCHRAN: Okay. Alright.

CHAIR GUZMAN: That's a separate, and I'm working with Mr. Couch on that bill so. Okay, so without any further matters on the agenda, I'd like to defer this, without objections.

COUNCILMEMBERS VOICED NO OBJECTIONS.

ACTION: DEFER.

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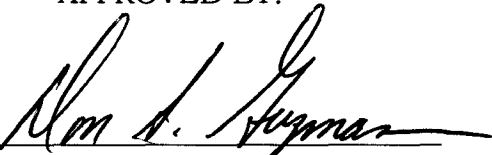
Council of the County of Maui

June 16, 2015

CHAIR GUZMAN: Thank you. Thank you, Members. Thank you for all your hard work.
... (gavel) ...

ADJOURN: 4:15 p.m.

APPROVED BY:



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

ear:min:150616: alp

Transcribed by: Annette L. Perkett

**ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE,
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Council of the County of Maui

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CERTIFICATE

I, Annette L. Perkett, 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 6th day of July, 2015, in Haiku, Hawaii.


Annette L. Perkett
Annette L. Perkett