

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

**M I N U T E S**

**Council Chamber**

**September 1, 2015**

**CONVENE:** 1:38 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  
Councilmember Mike White (arrived at 2:11 p.m.)

NON-VOTING MEMBERS

Councilmember Gladys C. Baisa (arrived at 1:54 p.m. and left at  
2:33 p.m.)

**EXCUSED:** Councilmember Riki Hokama

**STAFF:** Sharon Brooks, Legislative Attorney  
Kit Zulueta, Communication Director  
Pauline Martins, Committee Secretary

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

**ADMIN.:** Jerrie Sheppard, Deputy Corporation Counsel, Department of the  
Corporation Counsel  
Michael Ratte, Solid Waste Division Chief, Department of  
Environmental Management (EAR-1(4))  
Mark Walker, Deputy Director, Department of Finance (EAR-34)  
Sananda K. Baz, Budget Director, Office of the Mayor (EAR-34)  
Robert Parsons, Environmental Coordinator, Office of Economic  
Development (EAR-34)  
Kaala Buenconsejo, Director, Department of Parks and Recreation  
(EAR-34)  
Guy Hironaka, Real Property Manager, Office of the Director,  
Department of Finance (EAR-34)

**OTHERS:** Robert Ferreira, Kaupo Ranch, Ltd. (EAR-1(4))  
Bob Takamatsu, Esq. (EAR-1(4))

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Dale Bonar (EAR-34)  
Butch Haase (EAR-34)  
Plus (2) other people

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

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CHAIR GUZMAN: . . . *(gavel)* . . . Good afternoon. Welcome to the Economic Development, Agriculture, and Recreation Committee. My name is Don Guzman, I'm the Chair of the Committee. Before we begin, may I please ask everyone to place their cell phones on the silence mode. I'd like to introduce our Members for today's meeting. We have our Vice-Chair of the Committee Elle Cochran.

VICE-CHAIR COCHRAN: Aloha. Good afternoon, Chair.

CHAIR GUZMAN: Don Couch.

COUNCILMEMBER COUCH: Good afternoon, Chair.

CHAIR GUZMAN: Stacy Crivello.

COUNCILMEMBER CRIVELLO: Aloha, Chair.

CHAIR GUZMAN: And Mr. Michael Victorino.

COUNCILMEMBER VICTORINO: Thanks.

CHAIR GUZMAN: Very good. Excused...

COUNCILMEMBER VICTORINO: Aloha and good afternoon, Chair.

CHAIR GUZMAN: Good afternoon. Excused momentarily will be Mike White as well as Riki Hokama. I'd like to introduce also our Staff for today is our Legislative Attorney Sharon Brooks, and also our Committee Secretary Pauline Martins. Also we have for Corporation Counsel our Deputy Jerrie Sheppard. Moving on to any announcements, I'm going to go ahead and ask the District Offices to check in. Is, Lanai Office, are you present? Technical difficulties. Good afternoon, Ms. Fernandez, is there anyone wishing to testify?

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

CHAIR GUZMAN: Okay, very good. Thank you. Moving on to Molokai, is there anyone wishing to testify?

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

CHAIR GUZMAN: Thank you, Ms. Alcon. Moving back to the Chambers, is there anyone wishing to testify?

UNIDENTIFIED SPEAKER: No one's here to testify.

CHAIR GUZMAN: No one is here to testify. Okay. That being said, Members, I'm going to close public testimony, without objections?

COUNCILMEMBERS VOICE NO OBJECTIONS

CHAIR GUZMAN: Thank you.

**EAR-1(4) PRESENTATION ON DISPOSAL OF WASTE GENERATED BY AGRICULTURAL OPERATIONS**

CHAIR GUZMAN: Moving on to the first item on our agenda EAR-1(4), the Presentation of the Disposal of Waste Generated by Agricultural Operations. Today we have Mr. Bobby Ferreira from, he's the manager of Kaupo Ranch, and we also have Bob Takamatsu who is an attorney. Excuse me. Can we lower the volume on this? Thank you. Members, for the introduction of the item, pursuant to Rule 7-B of the Rules of the Council the Committee intends to receive a presentation from Robert Ferreira, the manager of Kaupo Ranch, Ltd., in coordination with the State Department of Health on past practices for the disposal of waste generated by agricultural operations and the March 21, 2013 Department of Health notice of finding of violations in order regarding noncompliance with State solid waste disposal requirements under Section 342H-30 of the Hawaii Revised Statutes, Sections 11-58.1-04 and 11-58.1-61(b) of the Hawaii Administrative Rules. Members, we are here today to learn from the experiences of Kaupo Ranch about disposing of waste generated by agricultural operations. Kaupo Ranch encompasses more than 30,000 acres on the leeward side of Maui. It is also a working ranch with approximately 1,800 heads of cattle. It is a major supplier and partner with the Maui Cattle Company, as well as offering hunting on the property. In the past, Kaupo Ranch disposed of their waste by throwing it in the pits on their land; however, in 2012, a complaint was made to the State Department of Health which initiated their journey to compliance and learning better ways to dispose of waste. We are fortunate here to have Bobbie who is the manager to tell the history of what transpired as well as any improvements that we, that our Agricultural District community can learn to become more environmentally sound and also to comply with State laws. We also have Mr. Bobbie Takamatsu who is the attorney for Kaupo Ranch that assisted in this matter that can also serve as a resource person. So we have here today, you can go ahead and start with your opening statement, and I think you have a PowerPoint, is that right?

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MR. FERREIRA: Yes.

CHAIR GUZMAN: Okay. The floor is yours.

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

MR. FERREIRA: Well...

CHAIR GUZMAN: Oh, you can sit down.

MR. FERREIRA: Oh, like me sit down? Okay.

CHAIR GUZMAN: That's all right.

MR. FERREIRA: Aloha, Members, and good afternoon. And I want to thank you for giving me this opportunity that I can come here and share our experience of what we went through in hopes that, you know, it may avoid issues like this with my other fellow ranchers and farmers. It was a very rude awakening for me. Just little bit about myself, I was born and raised on the Big Island in Honokaa. I was involved in ranching from when I could walk and speak. And in 2010...2011, I was awarded the Western Region Grazing Land Stewardship Award. The compromises [sic] of California, Nevada, all our western states. One of two people got that in Hawaii, myself and Greg Friel from Haleakala Ranch. But after this happened to me, I had to take my sign down because I did not feel it was appropriate for me to hold that sign because of what I did and that I was responsible for. Now in going to Kaupo in 2010, when I got there, I needed to make the place right, I needed to clean the place up. There was a dump that was used from the beginning of Kaupo's existence that go beyond 1920-'28 from the Marceau family, and I was dealing with something that was kosher in the past by just dumping 'em in the gulch. And it accumulated to the point that there was no more room there and I had stuff laying all over the ground and I needed to clean this up, I could not stand. So the practice, you know, as growing up in different ranches was find one gulch, you know, one hole and bury the rubbish, that's what I did. I dug two holes and we put rubbish in the hole. It mainly consists of fence material, water system material, your normal fencing ranch operational stuff. We did not put anything that was hazardous we felt to the environment and we covered it up. Well what happened was we had a disgruntled tenant that was actually there for free because they did not have a place to stay and they were there for a couple of years and I needed to have them removed. And when I removed them, they turned us in. And I got a call one day that I had the Department of Health there, officials from Oahu that were wanting to see where the holes were that we buried the rubbish. Well this first item that I got here is the warning letter. We got the warning letter and that they were going to send officials out to come and look at the sites. Immediately we jumped on this because of our, you know, time limit, we had 45 days

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to deal with this, you know, in 60 days receipt of this letter to submit, and you know, basically I really didn't know what to do. So I got the help of Bob and through Bob he steered me to an environmental specialist that came and started to document what we were dealing with. Oops. And this is the documentation that needed to go along with this to start this off of where the sites were, identifying the sites. How come this bottom screen keep popping up over here? You like scroll this for me and then I talk, okay?

COUNCILMEMBER VICTORINO: Mr. Chair, may I make a suggestion? You know if, maybe let Mr. Ferreira explain and then let Kit kind of work the machine, that way may be easier.

CHAIR GUZMAN: Kit, do you want to work the...okay. That's better.

COUNCILMEMBER VICTORINO: Yeah. If you don't mind, Mr. Chair --

CHAIR GUZMAN: Yeah, that's probably more appropriate.

COUNCILMEMBER VICTORINO: --that suggestion?

MR. FERREIRA: That'll go by faster.

COUNCILMEMBER VICTORINO: Yeah.

CHAIR GUZMAN: Okay.

UNIDENTIFIED SPEAKER: You still gotta sit and talk though.

COUNCILMEMBER VICTORINO: You can still talk, Robert.

CHAIR GUZMAN: There you go. There you go.

COUNCILMEMBER VICTORINO: There you go.

MR. FERREIRA: Okay. Anyway, he came and he documented the areas, and we had to put this all in a report that we needed to send to the Department of Health. You can go ahead and scroll. This was another area that were of concern. This is where the old dump was. You can skip that one. We needed time so that we could figure out exactly what we were up against and what we needed to do. So we asked for time and the Department of Health was very, very open to working with us. Then a notice of findings came after we dealt with the issue. Basically after doing the right thing by--the cowboy would like to say--taking the bull by the horns, we wanted to do the right thing. So we said we will clean up the entire ranch, not only the two holes that they were concerned about, so we went after that. Okay. And these were the areas. Dump 3...that was just storage area, but Dump 3, that was where one of the holes

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were. Scroll. Yeah, scroll. That was dump...storage area, another storage area, and that was Dump 1. Scroll please. That was Dump 1. We found...see this dump that was used for years and years and years sat on a gulch slope and right below that is the national park trail and we have people from all over the world come and I was concerned because, you know, that's not right. So we looked at the entire ranch, we looked at where all our problems were, and we were going to put a plan in motion to attack the problems and that's what we did. Okay, you can now. That's the report from the environmental specialist that we had in how we were going to approach this, the areas that we needed to take soil samples, and there were many, many, many, many, many soil samples taken. Luckily we were in compliance with all levels and did not find anything that was of concern. You can keep going through that one. Go back. Go back up. Okay. We found 26 batteries within the entire ranch, this was in storage, in the shops. We found the two batteries that were buried, one was laying on the ground next to the dump, and we had to take samples of all those sites, and that was the receipt of returning, turning in the batteries. You can scroll more. This is all the receipts of all the construction material, all of the metal material, all of the household goods that had to be separated individually and hauled to the right places. You can just go, scroll right through those receipts. This is the handout that I handed out to Councilmembers. This is our HR laws on your dump sites, and this is what helped me the most to understand what I did wrong and what I needed to do. You can go right through that. We had to apply for a solid and hazardous, what they call a RCRA, Resource, Conversation, and Recovery Act. We needed to apply for that, get that through the EPA so we would have a small generated number before we could do anything. We got all that in order and my reason for showing you this is just to show you the amount of paperwork that is involved in this. It is just horrendous, it took so much away from my time, and, you know, it's not something that I'd like to see anybody go through. It's brutal. This is a document of the test results in that area that you seen the battery. And then there's all, more receipts of all of the material that was hauled out. Our tanks, your propane cylinders we took to Gaspro and turned them in, got receipts for that. This is the RCRA, the submittal application. There's more tickets, weight tickets from the dumpsites. This is the receipt for the tires. We found 196 tires on the ranch. Now that may seem like a lot and it is a lot, but I tell you this today, in one ranching in operation I counted every tire that I have on vehicles before I came here. I have 52 tires right now on all of the vehicles that we have, so you can expect that to get turned over at least every 2 years, you're dealing with 52 tires so you better know what to do with 'em. A tire that is found buried or a battery that is found buried is a \$10,000 fine for each one of 'em. Okay. Now if we can go to the other one. Okay. Now this is the guts of it. This is what we went through, this is where we started. We were able to take care of the dump site itself without Department of Health presence. We started to dig. We had to bring this equipment into Kaupo and you guys all know the Kaupo Road, it's not easy for get one big machine like that into Kaupo. So we brought that machine in and we started to go after it, and as you see, the pile starts to grow. That was our...this is looking from the bottom and we had to dig through that pile of dirt and rock and pull out everything that should not be there except dirt and rock. It was tedious. We had cars down

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there and they were worried about if there were oil in the engines and if the engines was leaking or the transmissions was leaking, so under every spot that you see a car or a tank, we had to test the ground. There was a fuel tank there that absolutely I came unglued when that fuel tank came out of the bushes because I'm saying oh my God, but luckily this was not for fuel, this was to store water. That's tires that started to come out. Those are the rings that we make water troughs out of for our cattle that we cut the rings. That's all our metal that had to go to the metal recycling. It started to grow by the hour. Starting to look a lot better, we getting some headway. Still need to go through all that. Now you see that track right there? That come off of a Caterpillar. That was the first Caterpillar that ever went into Kaupo. They brought that Caterpillar on two canoes with planks stretched across. I got the picture. And that is the tracks that came off of that. So everything was all separated, tires one place, metal one place, household debris one place, and construction debris one place. Remember that pile right there 'cause we going come back for the second round. We tried to pull everything off of that pile. That was the next, that was hole number two. Now we went to hole number two and we started to dig hole number two, and that was the rubbish that I buried. We had to hand pick up all that material, put 'em in that bucket and pile 'em, separate 'em all, clean 'em down until we hit bottom and there were no more rubbish. That is number one. We dug that out and this was the sticky wicket that we found in there. That probably was from some past burial time. There was about, they said 30 gallons on the report but there wasn't 30 gallons in there. We were lucky that when the backhoe pulled the tank out, it made a hole in the tank but it made a hole in the tank in a way that the diesel that was left in that tank fell into the bucket and did not touch the ground. If not, everything would have stopped right there and next would be the people in the white suits from Honolulu to come deal with this. Everything had to be...that green tub there with the plastic is where we put the dirt from the bucket, scrape the bucket that was contaminated with oil, and that contaminated soil had to be shipped to the mainland. That's the spot after we were done. Now we said we going clean the whole ranch up. We went to the houses and started to pull all the rubbish from the houses. That was what was coming out of the storage sheds around the houses. That was the house which the people turned us in. That was what was around their house. Household garbage was just thrown in the back of the house. Tanks and paint, all had to be separated and distributed to the rightful places. Now to get rid of the rubbish, this is up at Kaupo's Village, now we gotta go through the whole ranch but we cannot get big trucks up there, so we had to shuttle everything down in smaller trucks. And we piled 'em up next to the County road because I wanted to make one statement. I wanted everybody that passed that road to see that Kaupo Ranch was doing the right thing. That's the trucks, the big semis waiting in the morning. They did two loads each a day for two days. Can you imagine the costs to that? Two loads a day just in fuel is \$250, just in fuel. All gone, all cleaned. That's the 26 batteries. Okay. Now remember I said you see that mound, remember that mound? The Department of Health were concerned over that mound, they said you guys may be hiding something and I said I don't think so, we kind of cleaned 'em up pretty good, they said no, remove that pile. In that pile we found those two items below that pile because that was now, that area was now our cuttings from

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the yards, trees that we trim, all our yard stuff we were piling there. There were two pieces of material that wasn't supposed to belong there and that's him pulling 'em out. Now we went after the pile, to break the pile down to see what was actually under the pile, and yes indeed there were more household rubbish underneath that pile. Carpet starting to come up, some ranch material started to come up, so we had to go one more round and clean all that up again. There's my foreman disgusted with having to go through this again. We started to separate everything. Picking everything up by hand, bagging 'em. That's the after product. Now it's all cleaned up, so we finally got it. That's all the different piles, household material, construction material, iron, and there's the trucks coming in for the second round. Bye bye, last truck. Now if you can go to the video. Go to...yeah. Go to the second video now. Restart 'em. That was the end product what you just seen, all cleaned up. That was before we went in for the second pile, but it's all cleaned up. That area now is just used for our yard composting area. All of our rubbish is hauled out. Household goods get hauled out every week. We have a dumpster in Ulupalakua that we share costs with that we can dump all of our household garbage. All of our metals, fencing, rails, wire, gates, pipelines, all of that is piled in one area. All of our construction material is piled up in another area, and our tires is piled in one area. Our oil is all in one place. Our disposal of oil, for oil to dispose when we have the amount required, not over the limit to travel in your car, we will haul it out, so we've cleaned it all up. We even went to where...I just...we purchased the trailer so that we can haul our own material out, so when we accumulate enough for that trailer, we will hook up that trailer and take our rubbish out. But my point here in this video is that when all this was going on, we still had cattle to tend to, we still had fences to repair, waterlines to take care of, and we had Haleakala coming with their goats and sheep because they ran out of feed. We had the feed so we accommodated them. And this was, happened the next day after we hauled that rubbish out. Now you play 'em. ...*(begin video)*... This is what we had come. I got so amazed at watching these goats come through the front yard that I started to shoot the ground, so excuse me if you just see ground because I was in awe. There was 1,400 head of animals there that was brought in the very next day. Make you wonder when going end? I was wondering the same thing too. And we housed Haleakala's goats for about six months out there until they had feed and they could take 'em back out. .. *(end of video)*... Okay, that's it. My point --

COUNCILMEMBER VICTORINO: Thank you. Thank you.

MR. FERREIRA: --in all this is that what I like, I'd like to leave you with is that do the right thing. We gotta protect our environment for future generations. I was wrong for what I did and I'm truly, you know, it, I was never the same after that. Now I am more mindful and really want every one of us to take care of the environment. And also my, most of all my take home message is the Department of Health, they're not the enemy. You look in the mirror, we the enemy. Trust them, no hide. They will work with you, they worked with us and helped us get through this. That's all I got to say.

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



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COUNCILMEMBER VICTORINO: Chair?

CHAIR GUZMAN: Just one moment. Can I ask our Department of Environmental Management representative to come down to the floor. Before we, I open up the floor for questions, I'd like to ask the attorney Bob Takamatsu if you have any opening statements regarding those agricultural farmers that are out there or ranchers that are in similar situations, prior to ever getting hit with a violation, are there certain steps that they can do to clean up or avoid such a dramatic result that Kaupo had to go through?

MR. TAKAMATSU: Yes, Chair Guzman. Let me...

COUNCILMEMBER COUCH: Please use the mic.

CHAIR GUZMAN: Oh yes.

COUNCILMEMBER COUCH: Please use the microphone.

MR. TAKAMATSU: Oh. Chair Guzman...

COUNCILMEMBER WHITE: You may need to take it off.

COUNCILMEMBER VICTORINO: You may take it off or go close. There.

MR. TAKAMATSU: Okay, is this better?

COUNCILMEMBER VICTORINO: There you go.

MR. TAKAMATSU: Okay. So to address the question raised by Chair Guzman, let me just say this, first of all, when this was planned, Bobby was going to make his presentation and Steve Chang who's the chief of Solid and Hazardous Waste Branch of the State Department of Health was going to be here as a co-speaker. Steve called me yesterday to say he was sick, couldn't make it. I asked him whether there was any message he want communicated and he said to let everybody know that they should not hide from the Department of Health. The Department of Health is there to help individuals and businesses. And he says this is a good example of private businesses working collaboratively with the Department of Health in having a successful result. So he wanted to have that message communicated. As far as what can be done to prevent a situation like this, part of what Bobby was trying to do was get the word out to the community. So the first meeting we had was with farmers and ranchers up in Pukalani.

COUNCILMEMBER BAISA: Yes.

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MR. TAKAMATSU: Councilwoman Gladys Baisa was there in attendance. And this is actually I think the eighth presentation that Bobby has made.

COUNCILMEMBER BAISA: Right.

MR. TAKAMATSU: So he's made presentations to other groups here on Maui as well as Kauai, spreading the message that this is an experience we hope nobody else goes through. I think that's an important part of what we're trying to do. Total number of attendees in those presentations about 65, total number of individuals who got the message, well in excess of 100 individuals, so that's what we're trying to do that, you know, if there is a problem, deal with it upfront. Try to work collaboratively with the government agency involved.

CHAIR GUZMAN: Okay. Thank you. I'd like to ask the Department if, do we have any similar regulations regarding landfills for Agricultural District that are comparable to the HRS waste disposal, solid waste provisions that they have?

MR. RATTE: Yes, thank you, Chair. Thank you, Members. In general the Hawaii Revised Statutes and Hawaii regulations are very similar for any type of landfill, so the, I reviewed the letters from the State DOH and the HAR and HRS regulations are very similar to what we have to abide by for all of our County of Maui landfills.

CHAIR GUZMAN: Okay. And that's including landfills that are on agricultural private lands?

MR. WALKER: For those type of lands, they would have to apply for a permit ahead of time, that would be the normal procedure. Prior to disposal of anything, they would need to have a solid waste disposal permit with the State.

CHAIR GUZMAN: Okay. Members, I'd like to...

COUNCILMEMBER VICTORINO: Chair?

CHAIR GUZMAN: Mr. Victorino?

COUNCILMEMBER VICTORINO: Yeah, thank you, Chair. And first of all, Mr. Ferreira, thank you very much, you know, Bobby, for bringing this forward. You know I think if you looked around throughout the State, you'd find a lot of these dumps, a lot of 'em. We grew up with 'em. You know that, Big Island we get choke. I know that for a fact. And they're still discovering many of 'em till today. And so thank you for bringing this forward, making us aware of it. I think Maui has its own fair shares and I think you can find some right up this hill here when the old days when the plantation used to bury a lot of the stuff. So it's not something that's going to go away and I'm glad to hear that the Department of Health would rather work with us than have people hide. So thank you for that message. I think that is probably the most important message

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of all of the messages you gave to us. The first question I have for you real quick, Bobby, is, you know, in 2011, they started burying, you know, everything '29 to '96 and you no can do nothing about it because it was there already, you know it was there. But then they had these new ones that they were establishing, you know, sites two and three, right. And as those sites...what was exactly buried in those sites? You know I saw what, you know, I see what's here, but you said waste from agriculture, some of that is waste from agriculture. What other waste? Is that it?

MR. FERREIRA: That it.

COUNCILMEMBER VICTORINO: That's it, nothing else?

MR. FERREIRA: Yeah.

COUNCILMEMBER VICTORINO: Not like manure and all these other stuff that in many cases --

MR. FERREIRA: No, no.

COUNCILMEMBER VICTORINO: --used to be dumped into the gullies also?

MR. FERREIRA: No, no.

COUNCILMEMBER VICTORINO: 'Cause on the Big Island that was the famous thing for do, in Honokaa especially.

MR. FERREIRA: Yeah.

COUNCILMEMBER VICTORINO: Paauiilo, they used to dump 'em inside there. So that's why I was curious because you were showing this but you didn't show anything else. So that was it?

MR. FERREIRA: It was mainly fencing, waterline, you know, things...

COUNCILMEMBER VICTORINO: Tractors, whatever.

MR. FERREIRA: Tractors, yeah, you know, parts, just that kind stuff.

COUNCILMEMBER VICTORINO: Okay, okay. And then the other question I had for you, as the Department of Health was coming aboard and asking you to clean up, were they in the respect of asking for immediate cleanup or giving you this timeframe to get everything done and where you could take all... 'cause then you had to take this waste someplace, right? And I know our landfill is not exactly acceptable for a lot of this stuff, so where did a lot of this waste end up?

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MR. FERREIRA: This waste ended up in DeCoite's.

COUNCILMEMBER VICTORINO: DeCoite's, that's what I thought you was going say. Okay.

MR. FERREIRA: Ended up in the metal --

COUNCILMEMBER VICTORINO: Recycling.

MR. FERREIRA: --recycling, and ended up in the dump, the household --

COUNCILMEMBER VICTORINO: Right.

MR. FERREIRA: --dump.

COUNCILMEMBER VICTORINO: Whatever could be put in the landfill itself.

MR. FERREIRA: Yeah, yeah. Yeah, yes.

COUNCILMEMBER VICTORINO: And if you are able to disclose this, I would be curious, what kind of expense did you and the ranch go through as far as this cleanup is concerned?

MR. FERREIRA: Over 200,000.

COUNCILMEMBER VICTORINO: Over 200,000. Thank you. And I appreciate that and I thank you and Mr. Haynes and all those others who made it possible.

MR. FERREIRA: What, you know, we, it cost us a lot of money with, you know, cleaning the issue up, but we felt, you know, we needed to do the right thing. And I'm thankful that I work for owners that think like that. And, you know, the hard part for me was after we did all this, you know, again we got hit with the fines.

COUNCILMEMBER VICTORINO: Right.

MR. FERREIRA: And the fines was \$80,600. Well what we did do is we did negotiate thanks to Bob and Steve, we negotiated to what I'm doing for you right now, the educational component to this. Because we said, you know, how do you guys educate? You know what, you know, could be done where we can educate and the figures that we came out with was \$67,000 in educational programs, and I did one at Pukalani which Councilwoman Baisa attended. I did one for Haleakala Ranch, Ulupalakua Ranch, Hana Ranch, Kaonoulu Ranch. I went to my home on Kauai, I did Wellington, Robinson, Princeville, Jurassic Kahili, and \_\_\_\_\_ Ranch, and now I'm doing this for you. And hopefully our slate will be clean, but still got one more portion, we agreed that we would put up a rest shelter down on the bottom of Kipu Kai's property, on Kipu Kai's...excuse me, Kaupo's property --

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COUNCILMEMBER VICTORINO: Yeah.

MR. FERREIRA: --for people coming out of the crater. But I believe that that is a bad idea and we are still in negotiations of that. My idea of what I want to do with that and that is to be the amount of \$35,000.

COUNCILMEMBER VICTORINO: Right.

MR. FERREIRA: We also paid 5,000 in Department of Health fees, penalties. We paid 5,000 to the western region training fund, and we donated 5,000 to a nonprofit of our choice that pertains to conservation. Well I'm, I had one brainstorm of one idea last night that I'm trying to go over with Bob is that Hui Aloha Church in Kaupo just celebrated its rededication. They did a beautiful job out there. I attended, it was like chicken skin watching the mass, listening to them do 'em all in Hawaiian. It's a beautiful church, very well done. The problem they face is the road. The road is in terrible shape. They fixed the road so that they could get the people down there for this weekend but it's going to wash out with the next rain. So I'm trying to see if I may be able to steer this part of the fine into helping Hui Aloha Church, seeing if we can do something down there.

COUNCILMEMBER VICTORINO: Thank you, Bobby. And, you know, I hope one thing, you know, you said earlier that you put that award away, you should bring 'em back out because you've done more than your fair share. And that wasn't forced, you did what was the right thing. You know you found the mistake and you corrected it and I cannot fault anyone for that. But thank you very, very much. I'll let my other Members ask questions. Much mahalo.

CHAIR GUZMAN: Members...Ms. Baisa?

COUNCILMEMBER BAISA: Thank you very much, Chair. And I don't have a question but I do want to thank you very, very much for giving the Committee this time to see the presentation. When I saw it I just couldn't get over it. And I talked with Bobby and I said I'm going to try to get this on the floor because I think it would be really good for the public to see. You know we all think that it's so innocent to throw away an old tire or throw away an old battery or park an old car someplace, but when you see this and you realize what a big deal it can become, it really makes you aware. And I just really was impressed with how they did this and with all the support and community input. And I think it's important that people realize that, you know, you just can't go throwing stuff around, because sooner or later we're ruining an environment and there's hell to pay. And so again, I want to thank everybody and thank you also, sir, for coming, that was really wonderful. And thank you very much, Chair. I think everyone will benefit from this. Thank you.

CHAIR GUZMAN: I think so too. Thank you, Ms. Baisa. Ms. Cochran?

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VICE-CHAIR COCHRAN: Thank you. And yeah, thank you to Kaupo Ranch for moving forward and doing the right thing. And, you know, its past practices were done the way we were...never thought it wasn't, you know, intent to harm or anything but now we know better. And thank you for stepping up to do your share and in cleaning and making it right. But for the Department, I notice the complaint was brought forward January 11<sup>th</sup>, then only like 15 days later, you actually sent people out to the site. What, I mean what did they have to show or prove, was it like photos or video? What enticed people from Oahu to come all the way...maybe...is it Oahu people that came over here? I'm just asking this because in reference to a complaint that was brought forward to myself on a project in West Maui, and Department of Health never really felt the need to come out and inspect and see. So I'm just wondering what made the Department act so quickly on this one.

MR. TAKAMATSU: Well it's hard to say. Bobby probably knows this better than I do. But essentially what happened here was there was a disgruntled former tenant who was kicked out because of some activities that the ranch didn't appreciate and the community didn't appreciate. And that disgruntled former tenant called the Department of Health. And so it started from that. That must have been a very aggressive complaint that was made to the Department, because right off the bat at least from our perspective, the Department was very aggressive on this matter, came out immediately. They had a tough inspector that Bobby had to deal with firsthand, and so it was, we knew it was a serious matter from right off the bat. But Bobby can probably share more of the facts relating to that.

CHAIR GUZMAN: I think the question is what procedurally triggers the Department of Health to pursue an investigation. Is it just a written complaint, formal written complaint that triggers an investigation or is it more than that?

MR. TAKAMATSU: My understanding is that, and I may be wrong, it wasn't a written complaint made by that former tenant, they had called the Department of Health and revealed what they knew about what they considered to be illegal dumping.

VICE-CHAIR COCHRAN: Right.

MR. FERREIRA: What happened was these people were involved in drugs and stealing and treating the people in the Kaupo Village very badly, and I needed to remove them, so I evicted them. I gave them 45 days' notice but they didn't want to move, so I had to go and have a sheriff issue a eviction notice, go through the whole process which took eight months, go to court to have them removed. In the meanwhile, we had to live there with them, seeing 'em every day, and they wrote a letter and sent a letter to Department of Health, telling Department of Health that they were on the property and they would show the Department of Health exactly where the spot was. And they showed up one day with the Department of Health and showed the Department of Health the two spots where the rubbish was buried. So the way this going happen is

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like this, now if I get pissed off that I had to go through this and I going say son of a gun, I going turn somebody in, and I going write one letter and say you go to Joe Blow's place and go look, he went bury rubbish, if I know he went bury rubbish. That's how it works.

CHAIR GUZMAN: So is there any remedy to like try to get a permit? I know that you mentioned there's a waste disposal permit. Even...okay, like for instance if you have already buried material, can you go off and get a permit and then not have to worry about that area that you've buried the stuff in to be investigated? So it's almost like a Catch-22, yeah?

MR. FERREIRA: Catch-22, you already did something wrong, you buried 'em. You cannot bury rubbish, period.

CHAIR GUZMAN: So for the advice that you would I guess tell other farmers or ranchers that have buried material in their lands, what advice would you tell them in this position?

MR. FERREIRA: If you know of something that is buried and you know that there is hazardous material in there, then best you do something about it. If it just your normal ranch stuff that is wear and tear, there's no oils, there's no chemicals, no paint, no fuel, I wouldn't worry about 'em right now. I mean I wouldn't go digging up every hole because you going have holes all over the place because we know this was the practice, you know. Get little bit too big and the eyesore, you no like see 'em, dig one hole next to 'em, push 'em inside, cover 'em up. That was how it was done. I mean every ranch that I've been to, every ranch that I know, that was kind of what was the practice. So long as there is no hazardous material underneath there then, but if you look at yourself now and say okay, from here on I going dispose of this rubbish in the rightful places. When you accumulate enough tires, get rid of your tires, pay the fee. When you buy one battery, you go to NAPA and buy one battery, you automatically paying one disposal fee so change the battery, take the old battery to NAPA, you paid for it already, get rid of 'em. Your tanks, your propane tanks, when you go fill 'em up, they going tell you, stay outdated, leave the tank with them. Miyake Store, they'll take your old tanks. Gaspro, they'll take your old tanks. Know what to do with your rubbish, that's my advice.

CHAIR GUZMAN: Mr. Couch?

COUNCILMEMBER COUCH: Were you done?

CHAIR GUZMAN: Oh...

VICE-CHAIR COCHRAN: Yeah, that's fine. Thank you.

COUNCILMEMBER COUCH: That's a nice segue into what I wanted to ask about. I had just gotten a call and an e-mail from somebody just last week who's on, in Kaupo on, and

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they have their own farm and they had 25 gallons of motor oil to deal with from their tractors and whatnot. And there's no place around that will take that. You say know what to do with your stuff, he couldn't get rid of it until I guess one disposal company finally said...they did something that they weren't supposed to do I guess and take it. But he had a heck of a time. I guess there are some...maybe Mr. Ratte knows this one.

CHAIR GUZMAN: Yeah, Mr. Ratte from the Department, would you know?

COUNCILMEMBER COUCH: There's a two-gallon limit that oil disposal locations can only take.

MR. RATTE: There may be areas where commercial people can dispose of, they will pay a pretty penny for that. The County does offer from time to time, I don't have the date of the next event that we have, but the County does offer event-based HHW areas where where we will take household hazardous waste, oils, batteries, tires I believe as well, and some solvents that people have in and around their garages and stuff. So what I would suggest is in the meantime if it's just a few gallons, how much ever it was...

COUNCILMEMBER COUCH: Yeah, it was 25 gallons so.

MR. RATTE: Yeah. If that's amount, I'm not sure what the requirements are for what he can actually hold at any one time or how long they have to hold that, we deal more with residential waste in that amounts. But as far as that's concerned, I can probably get information. If you have the gentleman's name, I can have one of my staff get back to 'em to give them options of where they can properly dispose of that.

COUNCILMEMBER COUCH: Right. Several people have...he in his trying to find it, several people have said oh yeah, that's ranch, you know, whenever I have to change oil on a tractor or whatever, nobody can take it so they end up dumping it.

MR. RATTE: I believe there are options for where it can go.

COUNCILMEMBER COUCH: Okay. If you could send me that, that would...

MR. RATTE: Yeah.

COUNCILMEMBER COUCH: 'Cause he looked on the website, he called around, I called around a little bit and I couldn't find anything.

MR. RATTE: And it depends too, if it's mixed viscosities or if it's mixed with solvents. If it's just straight-up oil, the charge is a little bit cheaper. If it's mixed with solvents...perhaps Mr. Ferreira can echo this, but if it is mixed with things then it becomes a different category and that normally does get shipped out of the State in fact. But we can, if you get me some information --



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COUNCILMEMBER COUCH: Sure.

MR. RATTE: --I can get back to the person. And also for those of you out there that have household hazardous waste, keep an eye on the newspapers, radio, and flyers in your area, and we will have another event shortly. We, I believe we have two per year, and some of those are in outlying areas as well.

COUNCILMEMBER COUCH: Thank you, Chair.

CHAIR GUZMAN: Thank you. I think the issue comes in the amount, I mean of disposable waste that comes out of agricultural lands versus household properties. And I know that your Department handles more of the residential side, but we don't have in our County anything that deals with the amount of waste materials that come out of agricultural lands. And I think that's one of the issues that we need to be looking at as well. I know the State take care of it, you know, through the Department of Health, but we're, at our level, we're kind of void of it in our ordinances. So it's something that we need to look probably look at maybe in Ms. Cochran's Committee, that could shed light on it and maybe research it. But that's, you know, my two cents on the topic. But is there any other questions for the Members?

COUNCILMEMBER CRIVELLO: I don't have any --

CHAIR GUZMAN: Yes?

COUNCILMEMBER CRIVELLO: --questions, just a comment. I really appreciate this opportunity that afforded us to see all the opala and how it was handled, so mahalo. I also can appreciate there must have been strong efforts I guess with the Department as well as yourself, Mr. Ferreira, and I guess your negotiator. Good negotiation to bring forth the education because we take so much for granted, you know, especially I live country and the rural areas, you know. And then, you know, our landfills are not open on a regular basis and, you know, so but I think there's got to be more events or more private partnerships to help us to, you know, malama the aina as we're supposed to. So I think maybe Ms. Cochran's Committee can help us to open up that conversation or discussion where things can be addressed. So I want to mahalo you. I would like for you to put back your sign as far as being the, recognized as the steward that you've proven to be. So mahalo and congratulations. Thank you.

CHAIR GUZMAN: Thank you. Without any further questions, I'd like to thank our...

VICE-CHAIR COCHRAN: Chair? Yeah, real quickly.

CHAIR GUZMAN: Oh yes, Ms. Cochran?

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VICE-CHAIR COCHRAN: Thank you. And for the Department of Health, at some point though in the past there, somehow there was approval or okay to have toxic burial sites done on private land, is that true?

CHAIR GUZMAN: Department?

VICE-CHAIR COCHRAN: No, I mean here, Department of Health.

CHAIR GUZMAN: Oh, okay, okay.

VICE-CHAIR COCHRAN: For Department of Health.

COUNCILMEMBER VICTORINO: Mr. Chair? Mr. Chair? Let me straighten something so that the record, okay. He is not with the Department of Health.

VICE-CHAIR COCHRAN: Oh, sorry.

COUNCILMEMBER VICTORINO: Okay.

VICE-CHAIR COCHRAN: What's your...I'm sorry.

COUNCILMEMBER VICTORINO: He is the private attorney that represents --

VICE-CHAIR COCHRAN: Oh, okay, okay.

COUNCILMEMBER VICTORINO: --various entities.

VICE-CHAIR COCHRAN: I thought...sorry.

COUNCILMEMBER VICTORINO: So I wanted to...no offense --

VICE-CHAIR COCHRAN: I thought you were...

COUNCILMEMBER VICTORINO: --to you, Ms. Cochran, and Mr. White --

VICE-CHAIR COCHRAN: Okay.

COUNCILMEMBER VICTORINO: --asked me the same question. I says no, he's a private attorney.

VICE-CHAIR COCHRAN: Okay, sorry. Sorry, sir.

COUNCILMEMBER VICTORINO: He's not with the Department of Health.

VICE-CHAIR COCHRAN: I thought --

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CHAIR GUZMAN: No, but it's...

VICE-CHAIR COCHRAN: --you were here in place of Mr. Chang.

CHAIR GUZMAN: Yeah but he would know a lot of the --

VICE-CHAIR COCHRAN: Okay. I thought you...sorry.

CHAIR GUZMAN: --provisions in the law.

VICE-CHAIR COCHRAN: I thought you were here on behalf of Department of Health. So that's why I was...

MR. TAKAMATSU: No, it's easily confusing.

COUNCILMEMBER VICTORINO: Yeah.

VICE-CHAIR COCHRAN: Sorry.

MR. TAKAMATSU: But thank you very much, Councilman Victorino.

VICE-CHAIR COCHRAN: Yeah.

MR. TAKAMATSU: Because I'm the attorney for Kaupo Ranch.

VICE-CHAIR COCHRAN: Oh, okay, okay.

MR. TAKAMATSU: I'm actually the in-house attorney for Goodfellow Brothers but couple of the principals at Goodfellow have a trust that's part of the ownership group of Kaupo Ranch. I would not have come here as a public speaker, simply Steve Chang who's with the Department of Health who was going to be a speaker couldn't make it, so that short blurb I said came from Mr. Chang.

VICE-CHAIR COCHRAN: Right, right.

MR. TAKAMATSU: Yeah. But I'm the attorney for Kaupo Ranch.

VICE-CHAIR COCHRAN: Oh, okay, sorry. I was mistaken. Sorry, Chair.

CHAIR GUZMAN: No, that's okay.

VICE-CHAIR COCHRAN: That's why I was kind of directing questions to Department of Health --

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CHAIR GUZMAN: Maybe if --

VICE-CHAIR COCHRAN: --to Mr. Takamatsu...

CHAIR GUZMAN: --if you know the answer to that, if you, you know, if you have any comments to whether you can actually I guess dispose of toxic waste in private agricultural lands?

MR. TAKAMATSU: Yeah, I wouldn't want to speak on behalf of the Department with respect to that issue. I'm generally familiar with the Hawaii Revised Statutes, I think it's Chapter 342H, but I'm a construction attorney, I don't hold myself out as being an expert in the environmental area. So I would hate to make a statement on that.

VICE-CHAIR COCHRAN: Right. Yeah, Chair, that would be...

CHAIR GUZMAN: Maybe our Environmental Management Department.

VICE-CHAIR COCHRAN: I think EPA too would be involved. I'm speaking particularly in a Maui Land and Pineapple case that's why.

CHAIR GUZMAN: Okay.

VICE-CHAIR COCHRAN: I know these things have occurred in West Maui back in the day, and so how that relates to today's practices --

CHAIR GUZMAN: Could be . . . *(inaudible)* . . .

VICE-CHAIR COCHRAN: --I don't know and that's why. But anyway, that could be for another future date to discuss more details about that. But I am aware of places that have such sites.

CHAIR GUZMAN: I know that we have, like I mentioned I think there's a disconnect between the State regulations and what we have here in the County on the, whether you can bury disposable waste on agricultural lands, you know. So I think this is a topic that is right for your Committee.

VICE-CHAIR COCHRAN: Yeah.

CHAIR GUZMAN: And maybe we can pass out some legislation possibly and explore it. So --

VICE-CHAIR COCHRAN: Very good, we can do that.

CHAIR GUZMAN: --are there any other questions that we have from the Members? Seeing none, without objections, Members, I'd like to defer this matter.

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COUNCILMEMBERS VOICED NO OBJECTIONS

**ACTION: DEFER.**

CHAIR GUZMAN: Thank you. I'd like to thank our guests for being here and --

MR. FERREIRA: Thank you.

CHAIR GUZMAN: --having a great presentation.

MR. FERREIRA: Thank you for having me.

CHAIR GUZMAN: Members, I'm going to take a short recess before we begin the next item because we need to reset the Chambers. We'll be in recess for seven-eight minutes. . . .(gavel). . .

**RECESS: 2:39 p.m.**

**RECONVENE: 2:47 p.m.**

**EAR-34 OPEN SPACE, NATURAL RESOURCES, CULTURAL RESOURCES, AND  
SCENIC VIEWS PRESERVATION FUND (MISC)**

CHAIR GUZMAN: ...EAR-34, Open Space, Natural Resources, Cultural Resources, and Scenic View Preservation Fund. The Committee is in receipt of the following: a Miscellaneous Communication, dated May 26, 2015, from the County Clerk, on the matter relating to the Open Space, Natural Resources, Cultural Resources, and Scenic Views Preservation Fund. This is from our Budget and Finance Committee. The Correspondence, also is the Correspondence dated August 10, 2015, from the Director of Finance, providing information on the fund. Members, the, a little brief background. The Open Space, Natural Resource, Cultural Resources, and Scenic Views Preservation Fund was established by ordinance in 2004, under the authority of Section 9-19 of the Revised Charter of the County of Maui, as amended, for the County to purchase or otherwise acquire land for land conservation purposes. The Charter provisions added by the voters in 2003, require the Council to appropriate in each year's fiscal budget a minimum of 1 percent of the certified real property tax revenues to the fund which is maintained as a separate account by the Director of Finance. Under Section 3.44.015(C), the Maui County Code, the Finance Director has the responsibility for negotiating the purchase of real property in public interest. When the purchase price is more than 100,000, the Council must authorize the acquisition by the passage of a resolution. The fund has assisted the County in acquiring properties and provided grants to nonprofit organizations for the acquisition and stewardship of properties. We have examples of that here today. We have

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representing the Maui Coastal Land Trust is Dale Bonar, as well as representing the Molokai Land Trust, Butch Haase that will be serving as independent sources. The County Council referred this matter with the charge to review Section 9-19, reviews, to review the Charter of the County as well as the Code itself under Chapter 3.88. Members, it is my intention today to examine the history and the intent of the fund, and I have several...just to frame our work, this is going to be one of many meetings that we'll have regarding this fund. I have some questions that you may want to ask to frame the process or the procedures that we're going to go through. So like number one, how is it, how has the fund been used since its creation 11 years ago? Number two is the process of accessing the fund, including the designation and vetting of the potential land conservation properties to receive funds? Number three, the constraints in the use of the fund? Number four, issues that have arisen related to the fund? Number five, improvements that we can make for the process? And number six, any recommendations for the future use of the fund? So those are some questions that will kind of frame our discussion and further meetings on this matter. We also have, I anticipate that we'll have some questions for our independent source and they'll give a presentation as well. I have received a correspondence from the Director of Finance which is in your binders. Let me find it here. Where is it? There's so much stuff on my desk here. Okay. And that is dated August 10<sup>th</sup>, and I would like to have the Administration, the Department of Finance go through this correspondence that I had. And the first question I had was please, detailing the account of all revenues credit to and all expenditures made from the fund since its inception in 2003? I would like that explanation...it just says here attachment Exhibit "1" but I'm having difficulty deciphering Exhibit "1" and I'm sure you Members would also find it difficult to try to comprehend. So I'm going to ask the Finance Department to go through the packet, summarize what has been presented here. Mr. Walker?

MR. WALKER: Thank you, Chair, Committee Members. Before you, you have a two-page, I guess when you're, we're talking about what has gone on with the fund and what you have is a report of our general ledger transactions, money going out, money coming in. I would point out on Page 1, you'll see a big transaction amount, 810,000, that was a grant to the Maui Coastal Land Trust. Below that another fairly large one, 479,000.

CHAIR GUZMAN: Oh, just, I'm sorry, Mr. Walker.

MR. WALKER: Okay.

CHAIR GUZMAN: Can I get a little bit of foundation? How many recipients are there currently in the fund? Maybe Mr. Baz would have that answer or either one.

MR. WALKER: I believe we've funded two grants out of this fund.

CHAIR GUZMAN: For, since 2003? Or was that...

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MR. WALKER: Yeah, '03.

CHAIR GUZMAN: Okay.

MR. WALKER: So two grants and those were the two I just mentioned. You have also in your packets copies of each of those grants for your information. Additionally, the fund has been used primarily for land acquisition and you have an exhibit, I believe it's Exhibit "2" which lists, yeah, properties acquired out of the Open Space Fund which lists I believe six separate land acquisitions that have come out of the fund since its inception.

CHAIR GUZMAN: So six, can you name the six?

MR. WALKER: Yeah, again, on Exhibit "2" that you all have --

CHAIR GUZMAN: Right.

MR. WALKER: --Muolea Point --

CHAIR GUZMAN: Right here.

MR. WALKER: --Kihei Greenway, Waiehu Beach Park, Paukukalo Coastal Wetlands, Central Maui Regional Park, and Launiupoko Makila Ranches.

CHAIR GUZMAN: And what about Waihee Dairy? Is that one of the, Mr. Baz, is that one that we purchased as well?

MR. WALKER: Yeah, go ahead.

MR. BAZ: Yeah, Mr. Chair, yes, that's correct. That was the grant to Maui Coastal Land Trust that you saw on Exhibit "1" under County grant subsidies, Maui Coastal Land Trust, purchase of old and then it cuts off at W but that's the old Waihee Dairy for this.

CHAIR GUZMAN: Okay, okay.

UNIDENTIFIED SPEAKER: . . .*(inaudible)*. . .

CHAIR GUZMAN: Okay.

MR. BAZ: Yes.

CHAIR GUZMAN: Yeah, Mr. Walker, you can proceed.

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MR. WALKER: Near the bottom of Page 1, you'll see basically a recap of the money coming in from the various budget appropriations over the years. As of...when is this? As of 6/30/15, the balance in the fund was almost 8.2 million. During the last budget appropriation, we appropriated a little over two point or you appropriated a little more than 2½ million to go into the fund which would get in its balance in excess of \$10 million. And again, you have copies of the two grant agreements.

CHAIR GUZMAN: On the grant agreements, when I requested to review all the grant or at least the annual reports, your response from the Department says that you're not, you don't manage, your Department doesn't manage the grants. But then when you look within the grant agreements on...and I'm sure these are boilerplate type grant agreements, it basically says that the Mayor, I guess submit the, to the Mayor's Office the annual reports and also each report shall be incorporated into the Director of Finance's quarterly reports to the County Council. So I was wondering whether this has been done over the years and I know I didn't receive any reports because the Department said it wasn't your responsibility, but where are those reports? I'm just kind of curious.

MR. WALKER: I couldn't tell you right at this, as we sit here.

CHAIR GUZMAN: Okay. So would, when we're looking at the grants, the grant agreements, where would we seek those copies from? Which Department is in charge of these open space grant agreements?

MR. WALKER: I believe the Mayor's Office.

CHAIR GUZMAN: The Mayor's Office is, okay. Is that, Mr. Baz, are you aware of that?

MR. BAZ: Yeah, thank you, Mr. Chair. I, that's, reading the grant agreement for the Maui Coastal Land Trust for the old Waihee Dairy purchase on Page 3, it does say that for the first 3 years they are required to provide annual reports to the Mayor or the Mayor's designee. I, so that would have ended in 2007. I am not aware of those files. I wasn't asked to review and look for them, I'm not sure if the front office has that.

CHAIR GUZMAN: Yeah, I just was, the reason why I'm asking that line of questioning is because within the grant agreement, they have management plans as well as access plans, and whether those are being followed through with, I'm not sure. So I don't have any reference to it. But that's something that we could...like I said, Members, this is just the beginning of a few more meetings to examine the fund itself. But we can move forward on...

MR. BAZ: Yeah, Mr. Chair, so if you'd like to request that of the Mayor's Office, Administration, we can look for those reports and provide that to the Committee --

CHAIR GUZMAN: Right.



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MR. BAZ: --with that information on there.

CHAIR GUZMAN: Yeah. So it's just for the Members' information. It's more than just acquiring land, there is a management plan as well as access plans that are, that need to be followed through with. And so...

MR. BAZ: Yeah. So, Mr. --

CHAIR GUZMAN: Yes, Mr. Baz?

MR. BAZ: --Chair, if I might. So the Deputy Director of Finance described to you the responses to your request as far as the details of what the expenditures were for this fund up until June 30, 2015. And in the Budget Ordinance for FY '16, again, \$2,550,842 was added to the fund as per the County Charter requirement that 1 percent of the real property tax revenues go into this Open Space Fund. So along with that appropriation of revenue, there is also items listed in the Budget Ordinance that have been defined as appropriated items that the Council saw fit to fund for Fiscal Year 2016. And these are land acquisition for approximately 9 acres in Ukumehame in the amount of 304,500. The debt service on the approximately 186 acres of land purchased in Launiupoko of approximately 300,000. Land acquisition for land along Honoapiilani Highway in Maalaea and this was only appropriated \$1,000 basically for us to go and investigate that land and availability, and maybe do an appraisal. Basically that was just to start the process rolling. And the fourth item was land acquisition in Kuiaha, Hamakualoa in Haiku area, North Shore of Maui, for approximately 276 acres in the amount of \$3 million, and that's the item that has been requested for further information as well, so we're also working with that. So those are the items that are currently appropriated use of funds for out of this theoretically \$10,751,000 available for Fiscal Year 2016 out of the Open Space Fund. Just to, for the Committee's information, if there is a grant requested, we do follow Chapter 3.88, 050 is the criteria for selection of grants. The grantee organization will request to us through a grant proposal, you know, use of the funds for certain purposes, and 3.88.070 kind of describes what would be in that management plan that you discussed that the...and Mr. Bonar is, has lived this life and he can probably describe this way better than I can. But basically it's the ownership, use, and long-term stewardship of the property acquired for, by a land conservation organization. So Maui Coastal Land Trust is, you know, what we've, like for the old Waihee Dairy, and they're subject to, because of the use of the Open Space Fund for that purchase, they're subject to the regulations and criteria of 3.88 as well. So those are the items. We do have Mr. Rob Parsons here.

CHAIR GUZMAN: Oh yes, Mr. Parsons, can you come down to the floor?

MR. BAZ: Yeah, he will be available too for, he's our, the County's Environmental Coordinator, and he provides direct relationship with organizations and other County

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agencies that deal with environmental resources including open space. So he can provide some other information for you as well. He as well as myself and the Director of Finance did sit on a committee recently, and I forget the exact name of it but it was basically looking at different funding sources for acquisition and management of, this was more related to coastal lands, different things like that. But it is a hot topic that everybody is looking at ways and funding sources to preserve our natural resources, and this is a very timely topic that you bring to Committee for us to review today. So I apologize, I have to leave in about 15 minutes but I'll be available for questions.

CHAIR GUZMAN: Yeah, that was one of my questions I had, Members, was like okay, there's basically, I think there's like two ways we can acquire conservation and open space lands. One, the County acquires it or number two, through the fund we can, a third party, a nonprofit can receive a grant from the fund to purchase property. Is that correct?

MR. BAZ: Yes --

CHAIR GUZMAN: Okay.

MR. BAZ: --Chair, that's basically correct. Use of this fund for acquisition of property is for either the County to purchase it or the County to grant to another organization to purchase it.

CHAIR GUZMAN: And along with that, you need a grant agreement, and the process on, for the thirty party, they would have to apply for the grant?

MR. BAZ: Yeah. So basically Mr. Parsons receives inquiries from land organizations and, you know, if it's something that looks fairly viable, he'll get a grant proposal from them. They get transmitted to my office and to the Mayor that we will review, and Mayor will make ultimate decision if that should be forwarded down to the County Council for review and approval.

CHAIR GUZMAN: Okay. And then you mentioned on the other side, we could either as a Council appropriate monies from the budget during budget session, but the, you had mentioned a group that, I guess a coastal group that you were through the Administration, that you were looking at different properties that you...what is that all about? I mean is that another...

MR. BAZ: No, that...Mr. Chair, thank you.

CHAIR GUZMAN: Yes.

MR. BAZ: That group is specifically looking at the variety of different funding sources that are available to fund these type of purchases, and it included Federal funds that are available in multiple different funding pots, as well as State or private and of course

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the County ones that are mentioned from Mr. Bonar in his presentation he's going to provide as well. Each of the counties have a, I believe each of the counties have a special fund for it as well. Yeah, the State provides a conveyance tax. Hawaii County has 2 percent of their real property tax goes into public access, open space. City and County of Honolulu is ½ percent of their real property tax. Kauai County is ½ percent, and Maui County is --

CHAIR GUZMAN: One percent.

MR. BAZ: --1 percent, yeah.

CHAIR GUZMAN: Right. Thank you, Mr. Baz. Mr. Walker?

MR. WALKER: Thank you, Chair. If I might just add, as part of our typical grant agreement and in, certainly in both cases here, the County is given a perpetual conservation easement on the property that's acquired, so just for your information.

CHAIR GUZMAN: Okay. So that's a conservation easement? Yeah, right.

MR. WALKER: In favor of the County.

MR. BAZ: Yeah, it's a recorded easement with the Bureau of Conveyances in favor of the County for that land.

CHAIR GUZMAN: Okay. Does the...Mr. Parsons, do you have any comments regarding this fund from the environmental coordination perspective?

MR. PARSONS: Thank you, Chair. Rob Parsons, County Environmental Coordinator with the Mayor's Office of Economic Development. Thank you for the opportunity to comment on this. And I'm really pleased to hear that you're interested in taking an in-depth look at this matter. This is something that has served the County and its people very well, but I definitely think there's room for improvement. And it seems like every time a question for potential acquisition comes up, there's some new questions that arise, there's some old questions that arise. And it may benefit everybody to hear Mr. Bonar's presentation and go through the list of six questions or areas that you said you'd like us to focus on. I didn't get number two but how the fund has been used, number three was how the constraints, four, issues that have arisen, five are possible improvements, and six, future recommendations. And I think that we can fine tune this funding process, mechanism to make it a little more or a little less onerous I would say. The acquisition that I've been most closely involved with was the Kaehu 64 acres of coastal wetlands in Paukukalo which was of particular interest to chair or Councilmember Victorino being in his district. And one thing that I would note about this process is that we have as Director Baz noted, kind of a parallel process where we either award land for conservation and preservation protection purposes through the grant process and the two examples of how that's happened in

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the 11 years of this fund. And then also the County itself can acquire. In rereading Maui County Code 3.88, it's implied more than it's crystal clear in my mind that when we acquire that we should go down the parallel process that a grantee would follow. And so we do need to, the County when the Administration sends down a request to the Council for consideration of utilizing this fund, we need to do a tremendous amount of inquiry into is it the highest and best use, would there be a community group that is capable of doing management, what's their track record, what's their vision, what's the management plan? And in some cases years after these properties have been acquired, there still is the need to award a grant or a lease that contains all those. And I know that you've been reviewing Muolea Point and finding that there's a tremendous amount of details that need to be covered to accomplish that. That's all the comments I have right now. Thank you.

CHAIR GUZMAN: Thank you. Thank you, Mr. Parsons. I agree with you in terms of a more formal mechanism and having that third layer at least of public input type process as well. One of the other issues that I have is once we acquire it, the County side, the maintenance. I'm not so worried about whether, when the grantees maintain it 'cause they're under the grant agreements, but when the County owns it, what, which Department maintains that property?

MR. PARSONS: That is the \$64,000 question. We've had this discussion in the past and if you read the purposes of utilizing this fund, it's preservation, protection, conservation, and there is not any one department that I'm aware of that this perfectly fits in. So with Muolea Point, their grant and lease went through Housing and Human Concerns, but that doesn't seem like quite the right fit. Our Parks and Recreation Director is here, and in some cases there are park-like recreational usages, but in others, it's more restoration or just, you know, Muolea Point doesn't invite a lot of people there except for scientific and cultural purposes. So I know that when we were considering the Kaehu property at Paukukalo, there was a meeting with a dozen or so different Administration representatives saying well where will this be managed once we acquire this? And at that time, it was kind of the advice of our Corporation Counsel that since we were moving forward trying to develop the capacity to address environmental protection and sustainability, that that would be the Department that would do that sort of management. And as you heard a couple of weeks ago in the IEM Committee, that has proceeded forward very slowly, so I hope sometime in the near future, that we will have that division of environmental protection and sustainability that the Charter amendment from the 2012 ballot envisioned, and that that would be the, perhaps the most appropriate place.

CHAIR GUZMAN: Thank you very much. I'd like to hear from our Department of Parks, our Director there. I know that we have some properties that we have bought through the fund designated as park, open space parks, and I wanted to ask your opening statement as well as how you handle those type of properties in regards to maintenance.

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MR. BUENCONSEJO: Chair, thank you, Chair. Regarding the open space designated for parks itself, currently, you know, we are in a sense for the Department aspect, not maintaining it. I mean at this point when we purchased these properties, you know, with the list that we have here with Launiupoko, Central Maui Regional, I would say out of those properties right there, Central Maui Regional is the only park that we are planning for. Launiupoko was purchased a couple years back, a year or two back. Those properties are purchased and put under Parks; however, no funding or manpower or any kind of other sources are made available to the Department to maintain. The issues that we come across with parks, with some of our Paukukalo areas, Waiehu Beach Park areas again is some of the squatting that goes on, and again, without the manpower, the funding, and all of those issues, it's hard to maintain. So I think that's the part. We are totally in agreeance from the Department, with achieving open space and getting those two parks; however, if we're not going to maintain 'em how it should be on a standpoint of funding it, again, those are some major issues. And we come across that with River Mouth where Paukukalo. Ukumehame has a big problem there. Launiupoko at least they have the houses there so that's not an issue as of yet. But again the parks that are being designated as parks, open space, we're all for it, let's just figure out a way how we're going to maintain and police that until we can develop it. Thank you.

CHAIR GUZMAN: So yeah, I have other questions but I'm going to open up the floor for the Members on the administrative questions, and then after we've asked those questions, I'm going to have the Maui Land, Coastal Trust as well as Molokai Trust do a presentation on. And 'cause we have two ways of acquiring lands and so the County side and also grantee, granting the lands through the, granting the funds through a third entity to manage and go forth with it. So, Members, I'm going to open up the floor for questions. Ms. Crivello and then Mr. Victorino.

COUNCILMEMBER CRIVELLO: Thank you, Chair. I have a question for Director for Parks and Recreation. Is it the Department's...let me go back. Is the open space funding being managed or, through your Department?

MR. BUENCONSEJO: Chair?

CHAIR GUZMAN: Yes.

MR. BUENCONSEJO: No. So the parks, it comes down from Administration or from our open parks...open space funding which we have allocated, but as far as the Parks Department, no, it is not, we don't go out and designate hey, we want this piece of property for parks. So to answer your question, no.

COUNCILMEMBER CRIVELLO: So who manages that, Mr. Baz?

MR. BAZ: So, Mr. Chair and Member Crivello, that's a good question. So what, basically what happens is that our Environmental Coordinator Mr. Parsons works with the

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Mayor and me directly to if you want to call it manage the funds, but the, Mr. Parsons is the one that's tasked with working with the environmental groups and all that if there are requests. And he was the one that receives the grant proposals and reviews them and then sends them up to the Mayor for review and approval.

COUNCILMEMBER CRIVELLO: Okay. I ask that because as you'll see, Mr. Haase is here from the Molokai Land Trust. At the time we applied, we had to go through Parks and Recreation.

MR. BAZ: Yeah. Thank you. Mr. Chair? And I believe that the prior Administration had it in the Department of Parks and Recreation as they were managing the funds, but when Mayor Arakawa came into office, he relieved the Parks Department from those duties and brought it up to the Mayor's Office.

COUNCILMEMBER CRIVELLO: Okay. Thank you.

CHAIR GUZMAN: Thank you very much. Is there any...Mr. Victorino, I'm sorry.

COUNCILMEMBER VICTORINO: Thank you, Chair. And first of all, I want to thank Mr. Parsons for the clarification, and I think that has been one of the bigger challenges and I think that's something that we need to...and I understand what Dale Bonar and that group, the Coastal Land Trust 'cause we've worked on other projects. And it's a multifaceted group so that makes it easier to work with them or some entity that would like to take over and be the stewards of that particular land. And Kaehu Bay was supposed to have had and I think they do have and they've been working at putting a group together. Mr. Sevilla and a number of others have, you know, 'cause I've met with them so I know that's happening. But I guess the question really amounts to this, we put these monies aside and we buy these open spaces which is really good, and I think many times we buy it because we know in the future if we don't, somebody else will, as aka Makena had demonstrated to us that we ended up paying more for one lot that we could have got ten. And so that's been our history. And I think that what has predicated the Councils for doing this. But I think you're right, Mr. Chair, we need to have it in a department for which we can then go and...and everybody knows that's where the money's at, this is where the applications need to go. But not to Parks and not to Environmental Management and not here and not there but one. Even a division, if you want to call that. I think the time has come that we have enough money and we expended nearly \$16 million, 14.1 million directly for the purchase of this open spaces and we can do a lot more if managed properly. So I guess the question I have for you, Mr. Baz, if you were to say or counsel, where would, what department would you want this to go into? Because Parks I know at times would be ideal. Environmental Management may be ideal at times, but this doesn't work every time so we have this quandary. So my question to you from the Administration side and again, we're only talking, right, at this time --

CHAIR GUZMAN: Yes, yes, just discussion.

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COUNCILMEMBER VICTORINO: --we're just conceptual.

CHAIR GUZMAN: Yeah.

COUNCILMEMBER VICTORINO: What, where would you like to see this money managed from and being where everything, any application would go there for that purpose of open space? And then decide later what department would be involved in helping steward there the land.

MR. BAZ: You know as Mr. Parsons described, it is something that could cross multiple departments, and I think that's why Mayor Arakawa decided to pull it from the Parks Department and run it out of the Mayor's Office, and that's where he, that's why he felt it was the best to be in the Mayor's Office. I'm not sure if that's the best place. It, I, my opinion it probably is currently best place to have it stored, because then you'll have some oversight over all the departments, you know, from the Mayor's Office in providing that. The, for continuity and for the ultimate establishment of the Environmental Protection and Sustainability Program within Department of Environmental Management will probably be the best place once that's established and once that's their purpose and their main focus. In other jurisdictions that I've looked at, it's in the department of...like one jurisdiction it's called, their department is called the department of environmental protection. They do wastewater, they do solid waste, and they do all the environmental protection stuff. It's kind of like what we were looking at. And so if that's the case then I believe that that fund being managed by that program would probably be the best. But at this point, I'd say the Mayor's Office is the best recommendation I have.

COUNCILMEMBER VICTORINO: Thank you for your candor and, you know, I appreciate that, and I think more discussion will be held for it. So I'll let others ask questions. I have a few more but I'll let others ask and then we can come back later.

CHAIR GUZMAN: I think, you know, Mr. Victorino, at NACo they have this, I think one of the jurisdictions even called it a land conservation division. I think that's one of them too. So yeah, it's...

COUNCILMEMBER VICTORINO: And they have public lands and they have --

CHAIR GUZMAN: Yeah, yeah.

COUNCILMEMBER VICTORINO: --all kinds of...

CHAIR GUZMAN: Yeah, public lands division.

COUNCILMEMBER VICTORINO: Yeah.

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CHAIR GUZMAN: Right.

COUNCILMEMBER VICTORINO: Yeah, yeah. So, you know, we could take this in many directions but I wanted to hear what the Administration was...

CHAIR GUZMAN: Right before Mr. Baz leaves, I just wanted to ask one last question was what do you perceive as three major issues in the fund that could be improved on?

MR. BAZ: Three major --

CHAIR GUZMAN: Or at least one. One...

MR. BAZ: --issues with the fund?

CHAIR GUZMAN: Yeah.

MR. BAZ: Well if we had dedicated resources to the management of the fund I think that would be helpful. Mr. Parsons does a good job in trying to do that along with a million other things that he does. But if we did have dedicated resources to that I think that would be the, a good thing. The fund...if, yeah, if we had a department of, like the State has Department of Land and Natural Resources, right, I mean --

CHAIR GUZMAN: Right.

MR. BAZ: --that would be wonderful if we had that. Somebody to manage County properties that are otherwise not necessarily accounted for in other departments, it's not a parks issue, it's not a harbors issue, it's not a beach issue, right, but it's a just general land issue. So if we had something like that in our County I think that would be beneficial as well.

CHAIR GUZMAN: Very good. Ms. Cochran, did you have any questions?

VICE-CHAIR COCHRAN: Yeah. Thank you, Chair.

CHAIR GUZMAN: I think you have to leave right, Mr. Baz? Okay, thank you.

VICE-CHAIR COCHRAN: Okay. I think your question in regards to the annual reporting --

CHAIR GUZMAN: Yeah.

VICE-CHAIR COCHRAN: --if we can --

CHAIR GUZMAN: Yeah, we'll follow...

VICE-CHAIR COCHRAN: --remember to follow up on that, that's number one.



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CHAIR GUZMAN: Thank you.

VICE-CHAIR COCHRAN: And then number two, I think probably this is going to be answered or sort of spoken about in Mr. Bonar's PowerPoint here, but I think we had a testifier from Maui Tomorrow who mentioned do we have kind of more of a proactive approach to open space purchases? Because when the whole, you know, the Hamakualoa properties came up it was sort of like reactive and oh my God it was subdivided and oh we need to preserve this. Well do we have a way to just go look at everything in the, you know, the bigger picture view and then figure out who are the landowners, where would be strategically beneficial to the community if it's a park or if it's an open space for environmental/cultural protection, whatever the case may be. So that's where I think he's sort of asking to create a committee of some sort to vet through, to figure these things out ahead of time versus we all of a sudden get bombarded with hours of testimony going oh my God please save this.

CHAIR GUZMAN: Right, right. Like...

VICE-CHAIR COCHRAN: So I think that makes sense because this money is sitting here for that purpose in particular. My other question I guess is in reference to already purchased areas and it falls into the Parks Department. We purchase them in intent to have them as parks of some kind and that maybe, where is the plan for that? And I mean, you know, Director states that --

CHAIR GUZMAN: Director?

VICE-CHAIR COCHRAN: --we need money, we need management or, you know, a plan we need, but we're not presented with anything so we during budget time don't know what the Department needs for these particular areas. And I'm sure if there's something organized and written out for us to look at and thereby help fund to implement it, that would be very helpful. So...

CHAIR GUZMAN: Or do we...is there a needs assessment to add on another park? I'm not sure.

VICE-CHAIR COCHRAN: That too.

CHAIR GUZMAN: Maybe Department . . . *(inaudible)* . . .

VICE-CHAIR COCHRAN: But I'm kind of focusing on the two, the regional park and then of course the Makila properties which we purchased and I understand we sort of placeholder or save them for now until we can get to it. But when is that day when we get to it --

CHAIR GUZMAN: Right.

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VICE-CHAIR COCHRAN: --I guess is the thing, 'cause we did fork out quite a bit of millions here. So for Department if there's any comment, please.

MR. BUENCONSEJO: Chair? Thanks. Yeah, so for Central Regional Park, the Central Maui Regional, we are taking that in phases, so we are actually doing a parks needs assessment to get some conversations going as far as what is needed there. Again it's about 206 acres will be designated for the park space specifically for that use. So again getting the needs, I mean we all know what is out there, but in getting a true assessment if we should be substituting one area for another, making an aquatic site or making, you know, soccer fields, softball, baseball, all of those things. And facilitating that and seeing what we can consolidate with what we have in other areas and make it one central complex. Kind of similar to the Patsy Mink Field, the Marine Corps over in Waipio where they have tennis facilities, aquatics facilities, all of your fields from softball, baseball, and soccer. So again, getting that assessment as well, and we are actually starting that plan already for the Central Maui Regional. And then again for Launiupoko I don't believe or Makila, I don't believe we've gotten to that stage yet, but again, I'll be more than happy to start going out there. If we're going to start getting funding for it and come to Council and approach for funding, I'll start that immediately if that's the case.

VICE-CHAIR COCHRAN: Okay.

MR. BUENCONSEJO: Thanks.

VICE-CHAIR COCHRAN: Thank you. Thank you, Chair. Those are comments and just some questions I have.

CHAIR GUZMAN: Thank you. Mr. Couch?

COUNCILMEMBER COUCH: Thank you, Mr. Chair. And I know at least from the intent on the Ukumehame purchase because I was heavily involved in that one, the intent was to preserve that land for the ultimate realignment of Honoapiilani Highway. And then once that got done then deal with mainly passive parks but possibly campgrounds. And I think that's what we discussed a little bit on the floor for the Launiupoko purchases to have the land so that when they decide to move the Honoapiilani Highway that we have, control everything that was going to be makai of the highway for the most part. So yeah, the intent was eventually and in a long term eventually to do some sort of passive parks, campgrounds for Ukumehame. And in no time in either discussion, I don't think, did we talk about active, you know, baseball fields, soccer fields, that kind of things in those kind of parks, they were going to be more of a passive park type situation. Not completely ignored but --

CHAIR GUZMAN: Right.

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COUNCILMEMBER COUCH: --you know, finally get some paths in there, some bike paths, and I think there was some discussion at Launiupoko and possibly leasing our for equestrian type center or I mean there are all kinds of possibilities. But nothing was we gotta do this next week kind of thing. It was mainly just to make sure that we have all the land makai of any possible realignment of Honoapiilani Highway. Thank you.

CHAIR GUZMAN: Thank you. Mr. White?

COUNCILMEMBER WHITE: No questions for the Administration. I have questions for the trust . . . *(inaudible)* . . .

CHAIR GUZMAN: Okay. So if we're finished with our questions --

VICE-CHAIR COCHRAN: Oh, okay. I...

CHAIR GUZMAN: --I'm going to move on. Ms. Cochran?

VICE-CHAIR COCHRAN: Sorry. Thank you. I do have a question but maybe Mr. Baz but perhaps Corporation Counsel.

CHAIR GUZMAN: Go ahead and tell, ask your question.

VICE-CHAIR COCHRAN: It's the usage for this fund and I'm trying to see in the purpose section perhaps I, A, item seven, for beach access purchases is what I'm referring to, and I think Mr. Baz commented during a budget session and said probably. But in West Maui as we all know we have beach access issues, and they've been definitely hounding my office in regards to this and what can we do, what can we do? So I'm wondering if this is, could be a solution in looking at purchasing which I know is not going to come cheaply. But if there's some funding source to get from, that maybe this could be it. I'm not sure.

CHAIR GUZMAN: Why don't we ask Corporation Counsel. Either in the Charter itself, Section 9-19 or under Section, I believe 3.88.040 of the Maui County Code, would acquiring I believe beach access or --

VICE-CHAIR COCHRAN: Yeah.

CHAIR GUZMAN: --easements to --

VICE-CHAIR COCHRAN: Beach...yeah.

CHAIR GUZMAN: --beach access --

VICE-CHAIR COCHRAN: For beach access to public beaches.

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CHAIR GUZMAN: --would that be appropriate to use the fund for?

MS. SHEPPARD: Thank you, Chair.

CHAIR GUZMAN: Thank you.

MS. SHEPPARD: Under Maui County Code 3.88.020, the purposes are very specific what this fund can be used to acquire, and that would include public outdoor recreation and education; preservation of historic or culturally important land areas; protection of significant habitat or ecosystems including buffer zones; preserving forests, beaches, coastal areas, and agricultural lands; protecting watershed lands to preserve water quality; conserving lands for the purpose of reducing erosion, floods, landslides, and runoff; and improving disabled and public access to and enjoyment of public land, open space, and recreational facilities.

VICE-CHAIR COCHRAN: Right. So that's where I stated item seven, that last one that you mentioned doesn't particularly say beaches, but I'm figuring public access to public land, public beach, public, you know, open, would that be --

MS. SHEPPARD: Well the beaches...

VICE-CHAIR COCHRAN: --similar in saying beaches?

MS. SHEPPARD: Well the beaches are State property but there are many, many places where we abut the State property beach, so it would probably depend on the specific location.

VICE-CHAIR COCHRAN: Okay. So...

CHAIR GUZMAN: Ms. Cochran, if you have a particular piece of property that you would like to...we could follow up with a request for Corp. Counsel for an opinion. We can probably go --

VICE-CHAIR COCHRAN: Okay.

CHAIR GUZMAN: --for that.

VICE-CHAIR COCHRAN: Yeah, all right.

CHAIR GUZMAN: 'Cause it sounds as though Corp. Counsel is going, is saying that it's fact based, you know, case-by-case basis it sounds like.

VICE-CHAIR COCHRAN: I guess I'm looking at the point that beaches are public, and it's not owned per se, it's yeah, we have jurisdictions, high-water mark, you know, ocean, but I think where this easement or land will take, you can access to, becomes a public

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area which is a beach or a shore, rocky shoreline to go throw net, fish, whatever it is. So that's where I'm trying to figure out, you know, is that --

CHAIR GUZMAN: Yeah.

VICE-CHAIR COCHRAN: --fit into this...

CHAIR GUZMAN: No, I totally get where you're going --

VICE-CHAIR COCHRAN: Yeah. But that's all.

CHAIR GUZMAN: --but I think it needs a little bit more in-depth analysis on the part of Corporation Counsel.

VICE-CHAIR COCHRAN: Okay.

CHAIR GUZMAN: 'Cause the language is so vague that it could almost...

VICE-CHAIR COCHRAN: And that's fine.

CHAIR GUZMAN: I mean not vague but it's specific to the point where I think they need to have more analysis on a case-by-case basis. So if you have a piece of property we can inquire about.

VICE-CHAIR COCHRAN: Well...

CHAIR GUZMAN: Maybe they can use that as a basis.

VICE-CHAIR COCHRAN: Honokeana access.

CHAIR GUZMAN: No, but we'll go ahead and...

VICE-CHAIR COCHRAN: 'Cause, you know, I mean there's areas --

CHAIR GUZMAN: Yeah, yeah.

VICE-CHAIR COCHRAN: --in the upper north, you know, in the Kapalua, Napili, Kahana area, Honokowai which no access.

CHAIR GUZMAN: Yeah, we'll follow up with --

VICE-CHAIR COCHRAN: So people want it --

CHAIR GUZMAN: --a letter to --

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VICE-CHAIR COCHRAN: --and I'm wondering if this is --

CHAIR GUZMAN: --Corp. Counsel --

VICE-CHAIR COCHRAN: --a way for us to --

CHAIR GUZMAN: --to follow up on a --

VICE-CHAIR COCHRAN: --gain public access.

CHAIR GUZMAN: --response. Okay.

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

CHAIR GUZMAN: Okay, thank you. So, Members, without any more questions for Administration, I would like to turn your attention...in our ordinances under 3.88.040, the Council may also make appropriations from the Open Space Fund to provide grants to any nonprofit land conservation organizations. Today we have Dale Bonar who has served for 11 years as the executive director of Maui Coastal Land Trust, a recipient of open space funds. Mr. Bonar has also, he's going to present a PowerPoint presentation concerning the history of the fund and the land trust experience with the fund. We also have Butch Haase here today, he's the executive director of Molokai Land Trust who will also present their experience with funds in the open space funding. So why don't you go ahead and begin your presentation, Mr. Bonar.

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

MR. BONAR: Okay, thank you, Chair. And this, the PowerPoint that's here is very brief and you have a copy of it there. And so it'll be more of a reference rather than just squinting to read letters on there.

COUNCILMEMBER COUCH: Is that on?

VICE-CHAIR COCHRAN: Is the microphone working?

MR. BONAR: Is this on?

COUNCILMEMBER COUCH: Yeah, you have to get close to it.

MR. BONAR: Oh. But can you hear? Is it...

CHAIR GUZMAN: Yeah, kind of get a little closer to it. I mean, Staff, can you adjust the mic for him?

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COUNCILMEMBER VICTORINO: Better to...yeah.

CHAIR GUZMAN: There you go.

MR. BONAR: They...kiss the microphone. They asked me to give a brief history of this, how this came about. I arrived in Maui in 2002. I had previously been involved with both a, one particular land trust I was president of the board of in Washington. I ended up working for the National Land Trust Alliance and worked with land trusts primarily throughout the Northwest. And so during all of this, had the access to an awful lot of the types of structures they were using in the different states, the different counties for land preservation. When I got down here, one of the first things on my plate after I walked in the door was the fact that the Charter Commission was underway and there was a movement to put an open space funding provision in the 2002 Charter election which ultimately did go in and got passed. This was supported in great part by Trust for Public Land, The Nature Conservancy, we got actively involved in it helping spread the word, helping work on details that would go in there, providing them a lot of examples from around the country where there's similar types of programs. That same year Kauai did theirs. The following, two years after that I believe it was, we had the other counties, Hawaii County stepped in and eventually Oahu about two years after that, Oahu came in with their Open Space Fund. And on the handout that you have of this PowerPoint are the links to those particular funds, so if your Council Services gets assigned these things, at least they can find the major ones there. All of these work in a similar manner but there are some specific differences, and that's the sheet there that if you take a look at, you can see the comparison. In addition, the State of Hawaii in 2005, established the Legacy Lands Conservation Fund, and the fund itself was actually established as a land conservation fund in 1978. It was never funded, and it was in 2005 that the ordinance finally went through the State that assigned part of the conveyance fee going to this Legacy Land Fund. At the time, I was the chair of the Natural Areas Reserve System Commission, and the law included that the Natural Areas Reserve System chief should also be the head, the chairman of the Legacy Lands Commission. Finally got them to change that but it was after I, the year I termed out. It was nice, got a lot of air miles. The, what we learned from doing those things was what was working really well, where there needed to be corrections, what the challenges were. The Waihee which the County supported was put together like virtually all our projects as matching with other funds coming from Federal sources, foundation grants, from private donations, things that were put together. The County had previously by the time I arrived, indicated their interest in Waihee and would offer a million dollars to go to that one day. So that was by 2002. When we got the money for, identified from US Fish and Wildlife for other parts, for some of our private donors because the total cost was well over 4 million, had come back to the County, the open space funding was in the process then, and so we ended up with one of the first grants there. I should mention that if we look over the years at what the land trust has done, what the, now the Hawaii Islands Land Trust, the, if you look at the amount that we had to spend on either purchasing land or purchasing the easements on land, that the match there comes to about a ten to one. We spent...during the 11 years I was there,

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we preserved over 16,000 acres, most of it on Maui here but also on Molokai as well, that we spent a total of just over \$11 million. The conservation value alone of those lands, so this doesn't count the underlying fee value that's still there, this residual fee value, that conservation value is somewhere between 130 and 150 thousand or million dollars, 130 to 150 million dollars that we got for 11 point something million dollars. And this is the kind of leverage that you typically see in a good organization that has good contacts, knows about where all the funding sources are, and works carefully with a whole variety of sources. Almost all of the Federal agencies, most foundations, most other things want to see the matching monies there. A lot of those things were ended, we ended up adapting. As we put the administrative rules together for the Legacy Lands Commission, one of the concerns there as it was here is that the money was actually spent on the land, you know, being able to acquire the land--that's one of the really challenging parts--and that it be designated for acquisition and not for management. There's a limited number, a limited percentage, a very small percentage that could be used for management of a property previously obtained through the land legacy funds. That's one thing we should think about here. And the same was true worrying about Administration wanting to take off more off the top and so there's a limit to it there. And that's worked very successfully. One of the other things that as we compared what the other counties were doing, one of the other things is that all the other counties and now the Legacy Land Fund have commissions, and those are commissions, local commissions that represented the whole area that's being covered there, and those run as a typical commission does. It's got set term limits, it's got staggered terms, the chair is selected from the group itself, the commission itself. That's turned out to be quite successful because it does encourage turnover, it gives good representation of all areas there. Now the other suggestions here which are up there and you also have with you is that we do set up a commissioner structure. Draw them around the County the way other commissioners are done, commissions done with the term limits. Suggest adding in our ordinance that for the non-governmental organizations anyway that they be required to show some matching funds. And to, limiting the administration's cost to, you know, something, it could be less than 5 percent, it could be whatever, but it keeps from having too much money going to just administrative stuff that probably shouldn't need to. The other thing is that as both the Molokai Land Trust and our land trust have done is when money is given to a nonprofit to purchase land, the County holds that backup conservation easement and there's also the provision in the grant agreement that should that nonprofit fold, the land transfers over to the County. I would like to make one point is that a very good expenditure of funds like these are not necessarily for acquiring the land, but sometimes it's for acquiring the easements, 'cause easements are only worth a portion of the value of the land. We have been very fortunate in that many of the donations or many of the properties that we have protected come from folks who want to see their land protected, and that's more important to them than money. That's why we were able to get all of this conservation value for \$11 million. Those things have tax benefits for those folks at the Federal level, and in some states they have other tax benefits too, and that's something that we might consider down the road, not part of this bill. So the benefit we've had, when I was looking at this list and talking to



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Butch and realizing we've actually asked very little of the County for all these monies that have come through here, and part of it is because of our ability to successfully discover the other funding sources and to be a reservoir where the people who own the land can be comfortable that it's going to be protected forever. And so the 11,000 acres of Ulupalakua Ranch up there in which they basically gave up virtually all the development rights. And that was here's a donation, we're giving you this conservation easement that will never get developed, it will always look like that. And I mean those are the things that just stop my heart. Now one of the very important things that we did in the Legacy Lands Commission which I would encourage you to think about--it's in the contracts that we had with the County--was having a good management plan, because the Legacy Land Commission gets things from all over the State, from both jurisdictions and from nonprofits. And a lot of times you've got this good-hearted community nonprofit, you know, who wants to get this land and they'll use it and they'll always take care of it and we're all volunteer run and we will handle it. And what we've seen all too often both in our jobs not only in Hawaii but elsewhere is that volunteer-run organizations often have a hard time stepping up to what's required to do appropriate management. And so when we would ask for a management plan and this would be part of their application, you know, it didn't have to be hugely detailed but it had to show how are you going to pay for this in the future, you know, how are you going to pay for things that need done. And those are very important things to know. The point that was made about, you know, what are we going to do with the lands that the County has acquired now but there isn't a budget for taking care of 'em and the departments are getting swamped with oh here's more things but they don't have the resources to address them there? From a land trust point of view, we would much rather hold a conservation easement on your land so that you had to take care of it but it limits what could happen to the land in the future. As a last resort which was what Waihee was, we'll go out and purchase the land, 'cause now we're the landowner of a large chunk of land and responsible in perpetuity for its care there. So I encourage the, looking at the thing with an eye to how do we ensure that in the future these lands will be taken care of? If you look around the different counties here, typically the monies are running through a certain department and it's usually finance. We don't have a lands division unfortunately. You know DLNR is the land division for the State. My personal view would be, I think the best thing to do--and I think I saw Guy over there unless he dashed out--is to have this be the Finance Department and have somebody in it that's responsible for overseeing lands. I mean after all our Finance Department is technically the one that shows the assets or holds the assets for all the property that the County owns, and so I think, that's my personal belief that would be an appropriate thing to work with. Those are the major points. Happy to answer questions or pass it on and let Butch do it and then you can ask us both. But...

CHAIR GUZMAN: Yeah, I'm going to have the Members reserve their questions until Mr. Haase is finished with his presentation. Again we have Mr. Butch Haase here, he's the executive director for Molokai Land Trust, and he's going to give their

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perspective on the fund as well as their experience and any suggestions for improvement in regards to the ordinance or the fund.

MR. HAASE: Mahalo, Chair.

CHAIR GUZMAN: Thank you.

MR. HAASE: I'd like to thank the Council for having me come over and be able to present to you guys. I didn't realize until we were looking over this list, that there were only 2 grants in 13 years of this program to NGOs for conservation, I was quite surprised by that. Being someone in the land trust field that goes out and looks for money for conservation programs and management programs, to know that there is a pot of money sitting here at the County and there is not other NGOs pounding at the door for this money, that kind of surprises me. So...

UNIDENTIFIED SPEAKER: No, we spend it all.

MR. HAASE: I'll be back in another year or so with a fabulous project for you guys. I threw together a quick little PowerPoint for you guys last night after finding out I was coming over here. We received \$480,000 from the Open Space Fund in 2009 for the purchase of 196.4 acres, a narrow watershed, most of an ahupuaa on East Molokai. We worked together with another local nonprofit through the EZ or the EC which was Ke Aupuni Lokahi which Stacy Crivello worked with at that time as well, so we partnered together in the application process for this. The initial fund request was put in before I was hired as executive director. I've been with the organization for over seven years now, so I wasn't familiar with exactly the process for the initial request of funds; however, when it came around, it was designated in the Mayor's Budget, the money was set aside and allocated for this project. So when we went about to exercise the match on this, there had been a change in Administration, there had been a change in the process, and this program was handed over to the Parks Department. So I understand why Councilmember Crivello was asking Parks Department about this process. I have not applied for funding for this program in seven years or six years, so I'm not sure what the process is, but as with any funding process I'll contact, you know, the County in this case and find out when we do. So at that time, it was we were the first organization to go through the Parks Department for this funding process, and the Parks Department having just received this, you know, this job, didn't have a really thorough process in place. So it was a really rough bumpy road I think for both parties. We got through it and, you know, within 12 months of reapplying and going through the process, we were able to close on the property. So that was really good. These land deals, we matched it with Legacy Lands, they paid 767,976 for the, their portion of the project, and I have to say when you're dealing with the State funding and you're dealing with the County funding and maybe you have private funds, maybe you have Federal funds in there, when it comes time to close on these things, this stuff has to happen like magic and it has to come down to the second where they all come together. And that in itself was a miracle. I was really

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surprised that we were able to actually close on this project coming up on Christmas of that year. So I'd like to remind the County that as far as the public investment goes into these types of programs, even if it is a grant to a land trust, whether it be for a purchase of an easement or a purchase of fee ownership, fee title, the County receives a conservation easement which is actual tangible, you know, ownership in that property to an extent so that the public is really receiving permanent tangible ownership in these lands and guaranteeing the protection of these lands. It is important too that with the provisions written into these grant agreements that should there ever be issues down the road that these, that public investment, that ownership in those lands reverts back to the initial funding source on those, and the State has the same type of language through the Legacy Lands Fund. So that's a key ingredient. One of the things that, you know, I'd like to just point out also too is that it was about a two-year process for us to utilize this program and to close on this property, and there was a change in the whole process along the way. So I'm not certain that two years is the minimum requirement of going through this. I would love to see at some point an official mechanism set up, assigned to a permanent division or department with, you know, some continuity to the program, and I think what that would do is that would make it a much more smooth process not just for folks like ourselves, like Dale and I but also for the County as well with their acquisition. I know that from our standpoint...I'm just going to kind of throw out a few concepts here. We have to submit a management plan, we have to actually map out to the County, to the public, you know, how are we going to take care of the public's investment in this case, and I'm just wondering when the County is purchasing lands with this fund, do you guys prepare a management plan? You know I mean 'cause I hear a lot of questions and I'm kind of new to a lot of the other side of the fence thing here. Over on Molokai, I tell you, you know...

UNIDENTIFIED SPEAKER: No excuse.

MR. HAASE: But I, you know, I hear a lot of, you know, I don't know and, you know, and I just think, you know, this is a wonderful conversation to have here to kind of nail down a lot of open-ended questions that I've been hearing for seven years on this funding project or source. But also too, to help, you know, just streamline and make more efficient the internal dialogue within the County in the use of the public funds and, you know, how are these things going to pan out for the future. 'Cause I would love to see, you know, more open space preserved, more County parks, especially on Molokai we have a, you know, there's not a lot of County parks on Molokai. But more so funding to help maintain and manage those parks and make those facilities available for our population over there. So back to Kawaikapu, one of the things that we really focus on out there is, you know, the public benefits that we address in the application for this. You know it was a major watershed area, very important watershed area. Also, you know, scenic view plane, so even from, you know, Maui or even over if you're on Lanai, you know, that portion of East Molokai is quite visible and, you know, it is not marred by a lot of construction or development. So that was one of the main focuses of helping us apply for these funds was preserving those open

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scenic view planes. Also too, a lot of major land sections on Molokai are in large landowner holdings, and they have restricted public access and they've had restricted public access for over a hundred years in some cases. So with the use of this fund and the organizations like the land trust are able to go in there and open up these areas and provide for public access where there had been restricted access in the past. We have an access system that we have opened to community members free of charge for going up hunting, gathering. On our Mokia Preserve we have beach access, we have fishing passes out there as well. We really support any kind of subsistence activities out in those areas. And then for our organization we're a little bit different than what Maui Coastal and later Hawaiian Islands Land Trust is, is that our mission requires us to restore our land. So we're actively out there working to reverse the environmental changes that have been brought on by the introduction of alien plants and animals and poor land management practices over the last 150 years. So that's where my specialty is, my background is in, you know, this type of native Hawaiian restoration work. And so not only at Kawaikapu are we doing ohia/hapuu forest restoration, out at Mokia we have one of the largest dune restoration projects in the entire the State being undertaken right now, as well as interior lowland, dry, highly eroded sites for watershed restoration for some of these west and south slope areas which are often neglected and overlooked when people think watershed restoration. But they remember it when the floods come, because those are the areas that are contributing the most sediment to the near-shore reef destruction and the habitat degradation that we see on the news after these big events. So anyhow, one of the other ways that we involve the community in this is we've initiated an entire service learning and community outreach program. We work with every single school on the island. We have an official partnership with Molokai Middle School. Even seventh grader on the island comes out and participates on an annual basis with us doing service learning programs that tie back into their STEM programs. So we try to tie, we try to figure out how we can integrate data collection and analysis and through the science curriculums at school into real life activities out in the field and real life science. And so the kids just eat this stuff up. On top of that, we get them to pull some weeds and plant some plants and basically, you know, kick back and contribute. And this year we had, the senior class has caught on now at the high school, we have, you know, we have one high school on Molokai and one middle school, so when we get a class and we're talking the whole island's population now. So this year the senior class is starting to, they're coming out and doing their community service projects with us too. So we hope to see this type of activity continue. The community is an important and a critical component for our organization especially for going out and carrying out and conducting these types of activities. Restoration is an incredibly, I mean Dale would call it a huge liability. We've had lots of conversations about this. It does force myself as an administrator for a nonprofit to go out and raise and develop funds and develop programs that will allow us to carry out our mission, and this is not cheap or easy. So in that sense it is a challenge; however, we've been able to make incredible strides in the last seven years. And the organization is something that I'm incredibly proud to be part of. The Kawaikapu property of course was not the only and last time that our organization will be coming before the Council for assistance

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with conservation on Molokai. There are other major land hole, there's major holes in the protection of the east and south slope of the island. We're currently working with Trust for Public Land in the State of Hawaii on almost a 1,000-acre conservation easement project at Kaluaaha which is the dark orange area that you see on the map there. But there are other large land sections primarily to the east directly that we will be working with landowners on future projects. And one of the funding sources that we are looking at for a portion of that project is the Open Space Fund. So when we come to you guys we're looking at big sections. We know that the needs for this fund far outweigh the availability of the funds. So we'd like to be judicious when we come and make our request. And we hope that when we do, that it's a, the type of program that everybody can say yes. These are some photos of some adjacent lands and some other areas that we're working on landowners with right now on working and developing proposals to come together and start bringing in the funding sources for this. These are not marginal lands, these are some of the best, most beautiful remaining pristine systems on the island. So the need is great. Yeah, what's the next slide? Oh yeah. This is, this photograph is at, this is Kaluaaha Fishpond down at the base of that conservation easement project we're working on. One of the reasons that for our organization it's very important to implement these types of programs is a lot of large landowners on Molokai are land rich and cash poor, so it's challenging for them to do good management. By partnering with our organization that focuses on restoration work and then the partners that we are tied very close to like the East Molokai Watershed Partnership, Nature Conservancy, the Molokai Invasive Species Committee, the Molokai Plant Extinction Prevention Program, and many others, we work together to go about turning around that environmental degradation that's continuing on these large blocks of land. And even though they may be protected from houses popping up on them, there's nothing stopping the march of strawberry guava or the march of goats or deer or clidemia or any of those other habitat-altering mechanisms that continue to munch and chew away at that, you know, tenuous native forest edge, pushing it up the mountain further and further. So that's why an organization like ourselves, you know, with the track record we have, are able to go in and help maintain the water quality at the base of these watersheds so that not just the mauka areas are protected but also the makai sections. So yeah, that's...I think, did I answer all the questions that you guys wanted?

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

CHAIR GUZMAN: Okay. So thank you very much, Mr. Haase. I'm going to open up the floor --

MR. HAASE: Okay.

CHAIR GUZMAN: --for some questions for you and Mr. Bonar to field in regards to any questions that they may have. Mr. White? And followed by Mr. Victorino and Mr. Couch.

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COUNCILMEMBER WHITE: Thank you, Chair. This has been a very good discussion. I really appreciate the thoughts of creating a commission. And I think we all know that we require plans of others but we don't have plans of our own. And, you know, I, one of the things, the question I have for the two gentlemen is how can we best get land trusts involved so that we better leverage the amount of money that we're spending?

MR. HAASE: Yeah.

CHAIR GUZMAN: Yeah, either one or both.

MR. HAASE: All hardball questions Dale will take and I'll take the softballs.

MR. BONAR: No, it was when there was the mention that there's the work group and I think, Rob, you had mentioned it or someone mentioned that there's a work group looking, okay where are all the different funding sources? You have sitting in front of you two people who probably know more than anyone else in the State. And I don't know, perhaps Ted or Scott from the land trust were involved in that discussion. But I think utilizing a lot of the community experience, you know, to help contribute to these things can help provide a lot more specifics there. So that's one thing. I believe Councilperson Cochran asked about do we have a vision of what we want to protect in the island here or on the islands? That's a process that's called greenprinting which Trust for Public Land has been very actively involved in on Oahu in particular. The Hawaii Islands Land Trust has done a survey of the different islands. I mean we're doing the work. And especially from Molokai it's identified. Okay, here's the priority projects we see as meeting the kinds of mission that we're after here. And I, Butch can speak to how much of that Molokai has done. But, you know, trying to identify how is the best way we can spend those monies.

MR. HAASE: Well I know for Molokai our organization Molokai Land Trust, you know, it's made up of a lot of long-time residents of Molokai who are, and families who have very deep roots there. So through that kind of community-based process we were able as an organization to identify what our priority lands are. I was paying very close attention to the greenprinting process on Oahu, and of course when you brought that up that was the first thing I whispered over to Dale, oh that sounds like greenprinting. And Trust for Public Land did an excellent job on Oahu working together with various community groups over there and regions on putting together basically a map, and it has many different layers with many different resource concerns, that it's the most comprehensive and complex planning document that I have ever seen. And it's also one of the most complex processes that it takes to get there. So it's not just this little thing like hey, let's just do this greenprinting thing, you know, it's you gotta really talk to these guys and get the lowdown. For someplace like Molokai it was brought to my attention and we discussed it and it wasn't really appropriate for us on that scale of that island without those development pressures. Maui on the other hand might want to consider at least having a dialogue and taking a look at it, because it's a different

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story over here. So I would definitely encourage at least taking a look at that program and getting an idea of what it can offer and then coming back and having a dialogue, whether or not you think it's right for you.

MR. BONAR: A quick point that the Trust for Public Land had gotten a good size grant from the Duke Foundation I believe and, you know, they needed some local matching funds, but I think the whole study ended up being like \$120,000 or something. It was extensive. They met with sort of all the communities around the island and big community discussion. So...

COUNCILMEMBER WHITE: I guess my question is more focused on getting the biggest bang for our buck, because...and let me flesh it out a little more so you know where I'm coming from. We have the ability to do transfer of development rights for lack of a better term, because we can do a Council-initiated change in community plan, Change in Zoning, change in whatever we want to do without an EA or an Environmental Impact Statement. So to put it in perspective, for Launiupoko we threw out the idea, the Administration didn't pick up on it, but we threw out the idea that we could take a Rural designation in the Maui Island Plan and we could provide the zoning ourselves without any difficulty and change...and just by assigning a specific level of zoning in that Rural designation we could have provided the owners, the same owners a cash value of between 5 and 10 million. And then if we went all the way down to 2-acre Rural zoning designation, we could be giving them 30 to \$40 million of value. So that was never, you know, no one picked up on that, but that to me is something that is, has got to be in the quiver of whoever's doing these kinds of deals. You guys understand all the Federal and State buckets of money, that's another item. And then you all understand all the tax benefits that private landowners can take advantage of. If they're doing something with the land trust and I don't think they're going to get any from selling it directly to Maui County, but they may be able to do it in your, you know, in your arena. So those are the kinds of things that I think, you know, having a commission that has at their disposal all these tools with a willing Council and with a willing Administration, we can make our money go a whole lot further than we are. You know I don't have to tell Mr. Bonar that I, we might have been able to get Launiupoko for a whole lot less had we just employed some of these various things. But, you know, we have the willingness and the excitement to go and do stuff, but I don't think we're doing it the right way because we're spending too much money when there are other pots available and other benefits that can be conferred to the landowner without costing the County taxpayer anything other than...well it's not going to cost the County taxpayers.

MR. BONAR: No, no, I would agree, and I mean both Butch and I have worked in both the purchase of development rights and transfers of development rights. In fact there was a study that Chris Hart's group did for the County--I think it was while Michele Anderson was still here or maybe, no, Jo-Ann Johnson had them, had 'em do it while she was on the board--to look at those programs, how they could be adopted here, how they work around the country, 'cause we'd helped provide a lot of the information

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to Hart. And as far as I know that's sitting on a shelf somewhere. If the landowner sells to the County...

COUNCILMEMBER WHITE: But it doesn't have to be a specific transfer of development rights program or ordinance or anything of that sort, because we can initiate it ourselves.

MR. BONAR: Yeah.

COUNCILMEMBER WHITE: It just, we just need to have a, you know, a group that's willing to look at things a little bit...

MR. BONAR: Yeah. Just as one little clarification, for the Federal tax benefits there are for a landowner, if they either donate or they sell a bargain sale to you, that difference to what the full value would be is deductible from their Federal income taxes. So the County does have that additional little carrot.

COUNCILMEMBER WHITE: Thank you.

CHAIR GUZMAN: Thank you. Mr. Victorino, followed by Mr. Couch, followed by . . . *(inaudible)* . . .

COUNCILMEMBER VICTORINO: I was going to yield to Ms. Crivello because she needed to ask a really important question.

CHAIR GUZMAN: Oh yes.

COUNCILMEMBER CRIVELLO: No.

CHAIR GUZMAN: And then, and I know she was very much a part of the Molokai Land Trust.

COUNCILMEMBER CRIVELLO: Thank you. You know I think when we talk about management of the lands and go ahead and pick up these lands for conservation, blah, blah, blah, we all see it as a means of we're just going to take these lands. As one of the founding members of the Molokai Land Trust, the mantra we always said was make sure you can manage the lands, don't go ahead...I mean you have land trusts that goes for conservation easements to protect the development rights. But I think what's most appropriate and I'm going to ask Mr. Haase if he agrees that management of the lands that we acquire is, should be something that should be included in application for these open fund monies.

MR. HAASE: Oh yeah, absolutely. And I believe...I can't remember when we applied if that management plan requirement was in place for the Open Space Fund, it was for legacy so we did have to put one together.



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COUNCILMEMBER CRIVELLO: Right.

MR. HAASE: I will tell you this, as the administrator for the NGO that is doing this management, it has severely impacted the pace at which we acquire land be it easements or fee, because I have to go back and look at our mission which is to restore these lands.

COUNCILMEMBER CRIVELLO: Right.

MR. HAASE: And when you're doing restoration you are literally out in the field actively managing these areas.

COUNCILMEMBER CRIVELLO: Right.

MR. HAASE: And there is a capacity issue that you come across very quickly when you do that, so yes.

COUNCILMEMBER CRIVELLO: So with inclusion of some monies to manage the lands also be something that we should consider as part of the grant.

MR. HAASE: Well Dale brought this up and he of course has something to say on this but I want to say something first. Okay yeah.

COUNCILMEMBER CRIVELLO: Well you actually have to follow your mission so that's why . . . *(inaudible)* . . .

MR. HAASE: Absolutely. And let me tell you, every time I see a pot of money that could potentially help that out I get very excited. I, you know, I looked at the rules and the language with the State's legacy lands program and I believe 5 percent of the fund can be used for management. They haven't written the rules. Was that...did it finally get done? Okay. They, it's never been exercised and it's never been funded, and one of the things that maybe, Dale, you . . . *(inaudible)* . . .

COUNCILMEMBER CRIVELLO: I'm talking about these County open spaces.

MS. HAASE: This is why, this is the story I'm going to get at here is that basically there was concern that the Lands Division at DLNR would then look at oh, we can use...because they can use the fund to buy land for the State too, and if they can use the money for management then all of a sudden they can start using that money to fund salaries and deplete that. So I want to say that yes, Councilmember Crivello, that you should have some language in there that should allow for some management, but be real careful because there might be other agencies and divisions within your bureaucracy that will start raiding that fund. And so I believe that that would be something to be careful and have appropriate language in place to protect.

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MR. BONAR: And I think the other part of that is you want to make sure an organization is capable of doing that type of management and raising the funds in the future, not coming back every year with their hat out.

COUNCILMEMBER CRIVELLO: Right.

MR. HAASE: Yeah. No, I absolutely agree. And, you know, one of the things that I've really strove very hard at was to make sure that when we say we're going to do something, we do it and we do it really well. The thing that I'm challenged by is being surrounded by other organizations and other nonprofits out there who say they're going to do stuff and they just never really put...they spend the money real well but go back 18-24 months later and look at the results, is there anything really left? And so I want to make sure that...and so yes, please include language in there about track record. Look at the experience and history of those applicants and make sure that they have the capability and capacity to pull that off.

MR. BONAR: Okay. One other little thing is that the suggestion of follow up there. In our contracts it talks about providing reports. At one time I remember calling, okay, who does this report go to? And well, just send it to the Mayor's Office. So, you know, for Sandy I have no idea where that went. And a land trust job on lands that they're overseeing or, you know, if I have a conservation easement on your land is at least yearly you gotta go out and you monitor, you talk with the landowners, make sure the right things are being done. If the wrong things are being done, you address it. You, if you need to enforce, you do. There, the County has never had a formal visit out to Waihee to examine, but neither has DLNR for that matter and they also share the easement with the County. And so...although with Fern Duvall and a couple of others are out there often enough and they know what's happening. So another reason for having a identified responsible part of our County government that can do that periodic checks.

CHAIR GUZMAN: Mr. Victorino, did you have a question?

COUNCILMEMBER VICTORINO: I yield to Mr. Couch 'cause he's been waiting with  
...*(inaudible)*...

CHAIR GUZMAN: Okay. Mr. Couch, followed by Mr. Victorino.

COUNCILMEMBER COUCH: I wasn't waiting for anything. Did I get, hear you correct, Mr. Bonar, that say I have a piece of land and I want to give you 1,000 acres or make a conservation easement. I pay you money for it or you pay me for it? And then but I still have to maintain it and you just kind of oversee. Is that how that works?

MR. BONAR: Yeah. It's just like I could buy an easement from you.

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COUNCILMEMBER COUCH: Okay.

MR. BONAR: So let's say for example when we got our first easement which is out on Hana Ranch's land at Makaalae, that land went in value for them from approximately \$8 million down to about \$300,000, and so they were able to write down, they take that much of a donation deduction as part of their Federal taxes there.

COUNCILMEMBER COUCH: Okay. So --

MR. BONAR: And so if...

COUNCILMEMBER COUCH: --they didn't pay you or you didn't pay them for the land at all?

MR. BONAR: No. But had they said well look, you know, I know there's 8 million, I'll tell you what, for a million dollars we'll sell you the easement. So they could then claim the deduction minus that million dollars on their taxes there.

COUNCILMEMBER COUCH: But who actually takes care of the land and who manages it?

MR. BONAR: They do.

COUNCILMEMBER COUCH: They do.

MR. BONAR: They do.

COUNCILMEMBER COUCH: So what is...just the tax benefit is to them. What does your organization do then?

MR. BONAR: We monitor and enforce.

COUNCILMEMBER COUCH: Enforce?

MR. BONAR: The easement itself.

COUNCILMEMBER COUCH: Okay.

MR. BONAR: 'Cause the easement itself says for example for that property you can have no buildings, you could have small ag things but no buildings, you can't block the view there, it's meant to be used for grazing, open grazing with a good management plan. If they want to change the agricultural use, they at least have to clear it through us first, the goal being to make sure there's no erosion, none of that. And so it's those kinds of things. Whatever is specified in the conservation easement we work to make sure that those are followed.

COUNCILMEMBER COUCH: Okay. Thank you, Chair.

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CHAIR GUZMAN: Thank you. Mr. Victorino, followed by --

VICE-CHAIR COCHRAN: And then I'll be last.

CHAIR GUZMAN: --Ms. Cochran.

COUNCILMEMBER VICTORINO: Everybody wants to say something so I've been letting 'em go. And then the good thing is I'm going to let Ms. Cochran go 'cause I just want to finish this up, that's why. Go ahead, Ms. Cochran.

VICE-CHAIR COCHRAN: Okay, all right.

CHAIR GUZMAN: Okay.

VICE-CHAIR COCHRAN: My second go-round.

CHAIR GUZMAN: You yield, he yields to Ms. Cochran.

VICE-CHAIR COCHRAN: Okay. Thank you, Mr. Victorino. And so I'm coming up on Mr. White's question of course we want our, the best bang for our buck, but I guess my line of querying and thank you for bringing up the greenprinting aspect of it, is because we've done a lot of reactive purchasing lately. So if this greenprinting can help us assist in looking at the bigger picture view, suss out all the huge landowners, you know currently fallow pineapple fields or currently active cane or whatever it is, and look into these, you know, the whole, all these purchases, the Launiupoko, all this stuff. I mean they were subdivided. The whole Lipoa Point thing, it was like oh my God, there was this Lipoa Point master plan and everyone jumped, got up in arms about that. So I'm just trying to figure out a way to look at things now as things lay out on the land and, you know, purchase it while they're still in ag and they've not already been rezoned into something else at a higher market value type thing. So that's where I'm trying to figure out is there a way, does this greenprinting address that aspect too, and I think that would be helpful to us in utilizing our monies in a better way rather than the whole reactive oh my God, let's jump on it now because it's going to be sold to the, you know, offshore investors and what have you. So that's kind of where my train of thought is going and hopefully we can nip that in the bud ahead of time rather than that.

MR. HAASE: That's a great program to take a look at.

VICE-CHAIR COCHRAN: Okay.

MR. HAASE: 'Cause that answers every single question that you have about --

VICE-CHAIR COCHRAN: Okay.

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MR. HAASE: --what you brought up.

VICE-CHAIR COCHRAN: All right. Excellent.

MR. HAASE: And I'd just like to just reiterate bang for the buck for the County, you know, for us at Kawaikapu the County spent \$480,000 and permanently preserved 200 acres and a whole valley and has an easement, has interest in the ownership of that land but has no management responsibilities. I think that's a pretty good investment. So I would just like to remind the Council to keep in mind that when organizations like, you know, Molokai Land Trust or Hawaii Islands Land Trust comes to you with projects, you know, pay extra special attention to these projects, because chances are I think they're going to be a great return on the public's investment. You know I wish every single project that you guys considered had that same kind of, you know, leveraging ability, but please keep the projects we bring to you in mind when it comes to that.

CHAIR GUZMAN: Thank you. Mr. Victorino?

COUNCILMEMBER VICTORINO: Okay. Thank you, Chair. And many of the questions that I had, have been asked, answered, so this can be very quick. I guess the question I have for you, Mr. Bonar and Mr. Haase, is that do you believe by partnering and like what Mr. Parsons has put forward that we get a group together and include somebody from the Council, somebody from the Administration, and a department that is assigned to manage this, and when I say manage not so much manage the land but manage what...and the plans that will be used for that \_\_\_\_ along with the money. That we could really like Mr. White said, get our best bang for the buck, because I believe a lot that has come forward is valid. And again, I use the other chronology that we had opportunities years ago, Makena and other areas in this County and we just didn't do it. A lot of it because we didn't have the funds, now we have this Open Space Fund, that's why a lot of it becomes, has the ability. And we've been able to partner up with the various groups.

MR. HAASE: That's what I really want to reinforce there.

COUNCILMEMBER VICTORINO: Thank you.

MR. HAASE: Because it's this hybrid system of ownership and management that I think is going to be the most successful down the road. It's not your traditional, you know, I own it, I manage it, you know, kind of thing, because we've all seen it's just getting way too expensive to do that.

COUNCILMEMBER VICTORINO: Right.

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MR. HAASE: So that's one of the things I was just looking at when I was approached by a landowner about a piece of property that they wanted to use for public park, and, you know, it didn't really meet the criteria for us to own and manage it. However, there was a role for us in there because this piece of property had great public access and it would be an excellent opportunity for us to do demonstration projects with restoration that would allow the schools and the community easy access and easy visibility. Where right now our preserves are behind locked gates and miles of four-wheel-drive road.

COUNCILMEMBER VICTORINO: Right.

MR. HAASE: It's impossible to get big groups out there, and, you know, the regular community driving down the highway never gets to see what's going on down there. So, you know, for us as an organization, I would be very interested in looking at some sort of, you know, a hybrid relationship where we're partners on something, we all have something in stake in it, but then each party can bring additional funding sources and resources together to help manage and turn that vision into a success. So...

COUNCILMEMBER VICTORINO: Yeah, thank you, Mr. Haase. And I think --

MR. HAASE: All for it.

COUNCILMEMBER VICTORINO: --you've taken exactly what I've always said, it's not about me, it's about we, and we get we, we always succeed very, very judiciously. Thank you very much.

CHAIR GUZMAN: I have one question and it has to do with liability. You mentioned liability. So on the, I know when the County purchases property we're held to a higher level of liability, but when a trust, a land trust purchases or at least controls the land your liability is less I think, I believe in terms of insurance wise. Is that true? Or is there --

MR. BONAR: I don't know. I mean we --

CHAIR GUZMAN: --difference between liabilities?

MR. BONAR: --all have...well, yeah, we pay a bunch. I mean we carry I mean not only directors and operators but the liability insurance, I think we have a 2-million-a-year policy. I mean we're all protected somewhat by the State public access ordinance, which number I don't remember. You know that if you're allowing public access without costs then you get relieved of a lot of liability. But, you know, if they point out how you were defective because you didn't fix that trail and someone fell down. So...

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MR. HAASE: And that's where people partner . . .*(inaudible)*. . . if we partner then there's multiple organizations and, you know, muscle behind each one of those that will come together because we're overseeing each other.

CHAIR GUZMAN: Very good. So, Members, this will be the first of a few other meetings on the subject matter. We look forward to working with Mr. Haase as well as Mr. Bonar in conjunction with the issues that were brought forth and some of the resolutions that we could try to attempt to work together and create. So at this time without any objections, Members, I'd like to defer this matter.

COUNCILMEMBERS: No objections.

**ACTION: DEFER.**

CHAIR GUZMAN: Thank you. Members, this will conclude the items on today's agenda. Thank you very much for an interesting discussion. And we'll conclude...one more thing, Ms. Cochran?

VICE-CHAIR COCHRAN: Yeah. Just real quick.

CHAIR GUZMAN: Real quick.

VICE-CHAIR COCHRAN: Real quick before we close. In regards to the greenprinting that the gentleman...

CHAIR GUZMAN: Yes.

VICE-CHAIR COCHRAN: Is there a way to look that up and to discuss it more?

CHAIR GUZMAN: We...I...we are going to follow up on all of the issues that were brought up and all the suggestions for the modifications --

VICE-CHAIR COCHRAN: Okay.

CHAIR GUZMAN: --including looking at a division for the --

VICE-CHAIR COCHRAN: Commission.

CHAIR GUZMAN: --County.

VICE-CHAIR COCHRAN: Oh, okay.

CHAIR GUZMAN: And we have our trusty Staff here that has written down all the notes, and we will follow up and try to get some of that documentation for the green plan.

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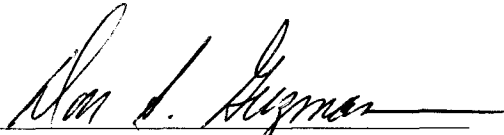
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VICE-CHAIR COCHRAN: Great.

CHAIR GUZMAN: So, Members, this will adjourn, I will adjourn this Committee. Thank you.  
... (gavel) ...

**ADJOURN: 4:26 p.m.**

APPROVED BY:



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

ear:min:150901:ds

Transcribed by: Daniel Schoenbeck



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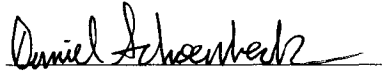
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CERTIFICATE

I, Daniel Schoenbeck, hereby certify that the foregoing represents to the best of my ability, a true and correct transcript of the proceedings. I further certify that I am not in any way concerned with the cause.

DATED the 22<sup>nd</sup> day of September, 2015, in Kula, Hawaii



Daniel Schoenbeck