

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

**M I N U T E S**

**Council Chamber**

**October 13, 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 Riki Hokama  
Councilmember Michael P. Victorino (left at 3:15 p.m.)  
Councilmember Mike White (arrived at 3:34 p.m.)

**STAFF:** Sharon Brooks, Legislative Attorney  
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  
Alan M. Arakawa, Mayor  
Kaala Buenconsejo, Director, Department of Parks and Recreation  
Brienne Savage, Deputy Director, Department of Parks and  
Recreation  
Mark Walker, Deputy Director, Department of Finance  
Guy Hironaka, Real Property Manager, Office of the Director,  
Department of Finance

**OTHERS:** Michael Milner  
Blossom Feiteira, Executive Director, Friends of Moku`ula, Inc.

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

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CHAIR GUZMAN: . . .*(gavel)*. . . Good afternoon, welcome to the Economic Development,  
Energy, Agriculture, and Recreation Committee. I'm Don Guzman, the Chair of the

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Committee. Before we begin, may I ask anyone in the audience to please turn off their cell phones or put it in silence mode? I'm going to introduce our Members that we have today starting with our Vice-Chair of the Committee, Elle Cochran.

VICE-CHAIR COCHRAN: Aloha, Chair.

CHAIR GUZMAN: Thank you. Mr. Don Couch.

COUNCILMEMBER COUCH: Aloha, Chair.

CHAIR GUZMAN: Stacy Crivello.

COUNCILMEMBER CRIVELLO: Aloha, Chair.

CHAIR GUZMAN: Riki Hokama.

COUNCILMEMBER HOKAMA: Chairman.

CHAIR GUZMAN: Mr. Mike Victorino.

COUNCILMEMBER VICTORINO: Aloha, Chair.

CHAIR GUZMAN: And joining us later will be Chair of the Council, Mike White. For our Staff, we have Sharon Brooks as our Legislative Attorney as well as Pauline Martins, who's our Committee Secretary. I'm gonna go ahead and check in with our District Offices. Currently, Members, I believe Hana is closed today. So I'll check in with the Lanai Office, Ms. Fernandez, are you there?

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

CHAIR GUZMAN: Oh.

MS. FERNANDEZ: --on Lanai.

CHAIR GUZMAN: Okay, thank you. And, Ms. Alcon, in Molokai, are you there?

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

CHAIR GUZMAN: Okay. Are we adjusted for the mic?

MS. ALCON: Hello?

CHAIR GUZMAN: Okay, yes. We're...we can hear you. Hold on. We gotta turn on the mic. Okay. Thank you, ladies. I'm gonna go ahead and say a few brief announcements. If, wait, let me ask, Ms. Brooks, do we have anyone testifying in the Chambers?

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MS. BROOKS: There's one testifier in the Chamber.

CHAIR GUZMAN: Okay. So if you are wishing to testify in the Chambers today, please state your name and/or organization in which you represent when you approach the podium. You'll have three minutes to testify on the items that are on the agenda only. So I'll go ahead and start with our testifiers that are in the Chambers today.

MS. BROOKS: The first testifier today is Michael Milner.

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

MR. MILNER: Oh, thank you. My name is Michael Milner and I'm here to testify on Chapter 13.04A. The reason I came is I just wanted to let the Council know of a concern I have with the flies that are in the park and the health danger that they propose in Baldwin Park, which I use. There's a lot of flies. If you put food out, especially meat or salad, flies will swarm over it and I believe the flies are there primarily because of dog and human feces that are in the jungle or the woods surrounding the park parking lot. I'd like to see the restrooms open 24 hours. You have a restroom there. It opens at 7:00 and closes at 8:00 or opens at 8:00 and closes at 7:00 and you also have a portable potty right next to it which is always locked. I think that if you could open that up to the public, it would be better. And you might consider following the lead of other countries, like Japan, and not supply toilet tissue and paper to the public, where everybody just brings their own. And I think that could cut down on some of the expense for the County and save us money and cut down on vandalism; also, if you could install cameras and enforce the park rules. To enforce the park rules, I think you, the rangers that work there, they try their best, but I'd like to see...actually, I believe the rangers should be cut back and just have the supervisors and have them work with, instead of having three or four rangers for this whole area of Wailuku, have interns, maybe 20 to 25 interns that would work with the supervisor and the interns could be doing internship --

MS. BROOKS: Thirty seconds.

MR. MILNER: --for credit they would get for like from the city college, work together with the college for kids that want to get credit for their Police Science degree. And they could help the supervisor as more like eyes out there to see the situation. But the problem with the rangers today is it's very dangerous for one ranger to go into a situation without police protection.

MS. BROOKS: Three minutes.

CHAIR GUZMAN: Thank you very much. Hold on a second. Is there any follow-up questions for the testifier? Seeing none, thank you very much for your testimony.

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MR. MILNER: Thank you.

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

CHAIR GUZMAN: Okay. We're gonna go ahead and turn...

COUNCILMEMBER VICTORINO: Chair?

CHAIR GUZMAN: Yes?

COUNCILMEMBER VICTORINO: One ...(inaudible)... could we get that in, does he have that in writing?

CHAIR GUZMAN: Oh, yeah.

COUNCILMEMBER VICTORINO: Yeah. I apologize for not mentioning it. Do you have that in writing?

CHAIR GUZMAN: Do you have that in written statement form?

COUNCILMEMBER VICTORINO: Your testimony?

MR. MILNER: No. I'm sorry I didn't prepare a written statement. I thought I could hear the testimony proposing this bill before I testified.

COUNCILMEMBER VICTORINO: Okay.

MR. MILNER: And I didn't know what the bill was and I've learned that I should've, where it says Communication 15-237, I should have done research and gone down to see what the draft is.

COUNCILMEMBER VICTORINO: Yeah.

MR. MILNER: I'd like to make a comment if I could that, if you can make the communication more transparent to the public instead of just having these numbers, for people who don't know the system, it's a challenge. Thank you.

CHAIR GUZMAN: Thank you.

COUNCILMEMBER VICTORINO: Thank you. Thank you, Chair.

CHAIR GUZMAN: Thank you. So we're gonna go ahead and turn our attention to Lanai District Offices. Is there anyone wishing to testify?

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

CHAIR GUZMAN: Okay. Thank you, Ms. Fernandez. And also, on Molokai District Offices, is there anyone wishing to testify?

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

CHAIR GUZMAN: Okay. Thank you. Thank you, Ladies. Without objections, Members, I'm gonna close public testimony.

COUNCILMEMBERS VOICED NO OBJECTIONS.

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

**EAR-42 ESTABLISH CHAPTER 13.04A, MAUI COUNTY CODE, RELATING TO PARKS  
AND RECREATIONAL FACILITIES, AND AMEND SECTION 6.04.090, MAUI  
COUNTY CODE, RELATING TO ANIMAL CONTROL OFFICERS (CC 15-237)**

CHAIR GUZMAN: Members, I'm going to turn your attention to the first item on our agenda, EAR-42. ...*(phone ringing)*... Okay. Little technical difficulties. EAR-42, Establishing Chapter 13.04A of the Maui County Code, Relating to the Parks and Recreation [sic] Facilities, and Amend Section 6.04.090 of the Maui County Code, Relating to Animal Control Officers. The Committee is in receipt of County Communication 15-237, from the Budget Director, transmitting a proposed bill entitled A Bill for an Ordinance Repealing Chapter 13.04, Maui County Code, and Establishing a New Chapter 13.04A of the Maui County Code, relating to Parks and Recreational Facilities, and Amending Section 6.04.090 of the Maui County Code Relating to Animal Control Officers. The purpose of the proposed bill is to repeal Chapter 13.04, relating to the Recreational Area Regulations; established, and establish a Chapter 13.04A of the Maui County Code. Members, the Administration has submitted a proposed bill which represents a total reconstructing of Maui County Code provisions dealing with the regulation and management of the County Parks and Recreation facilities, including the permitting process, restrictions on park usage, operating policies and the management of program funds. The bill is stamped as draft and it appears to be a structure for, a structure and working process, so it hasn't been approved for form or legality from the Department of Corporation Counsel. I anticipate that we will need several meetings to examine the bill and make further revisions as appropriate. So today, Members, this is just basically a lukewarm review of the bill and introduction of the bill from the Parks Department. Today we have the Deputy Director of the Parks Department, Ms. Savage, who will present the proposed, I believe, the proposed revisions or the new chapter. So, Ms. Savage, the floor is yours.

MS. SAVAGE: Thank you, Chair. Good afternoon, Councilmembers. So I want to start off with just a, an overview of what is being proposed and then, also be able to go into a

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little bit more detail into the definitions and Article 1. So to start off with, this process began about two-and-a-half years ago, a combination of hearing from the public some of the concerns with the permitting process, and internally within the Department also, looking at some of the areas that there had been maybe just again just differences or opportunities to make improvements in different areas. So over the past two-and-a-half years, there's been a significant amount of review, both through focus groups, community meetings, individual meetings with the different permitted leagues and organizations as well as just internally within the Department and other County departments to try to look at what are different ways that we can try to have a system that is maybe a little bit clearer with updated language that's appropriate for the types of permits. So again, the focus for this really started with the permitting process and making improvements for that. The more and more review that was done, looking at the permits, the more it kind of led to other sections within this chapter of the Code, prohibitions and other language that just hadn't been updated for many, many years. And so it eventually led into the concept that this would be a much cleaner and well put together transition if it was instead of trying to rewrite and retool a lot of words in a lot of different places, that it would be cleaner to just repeal the entire chapter and rewrite the entire chapter. And so that's what you'll see as the document before you. There is a comparison document that has been provided, which hopefully will provide us with enough clarity to really be able to work through piece by piece. The first section that you have in front of you is only for Article 1, the General Provisions. So this is not the entire Chapter 13.04A, that, the remaining portion of that will be transmitted to the Committee within the next, before the end of next week, so it'll provide additional time to review the discussion points that we'll get to kind of as we move through the chapter. So I wanna kinda tie this into how these changes impact the overall permitting process and I know these are items that through the last few budget cycles, we've talked about the changes needed in the permitting process. There's also been a new permitting software system that's been implemented within the Department and we're now working on taking some of the online capabilities of that a little bit further, working on some pilot projects that we can use for the PALS registration program that we're gonna test out for this winter session, that we can hopefully implement for the summer session, as well as looking at online requests coming in through the system and then, credit card processing as well. So those are all different components that as we try to make improvements to the overall permitting process, that's kind of one aspect of it. The other is there's been a significant amount of staff training and really focus on shifting to a very customer service focused and oriented permit offices. In addition to that, we have these Code revisions that are proposed and the next phase after Code revisions would be the Administrative Rules process. And this would be where the most significant impact for the community lies is in the Administrative Rules and so, in talking through kind of the process that we're going through now with the Chair, we've identified that as a Department, we'd like to come back to this Committee with the Administrative Rules when we get to that portion as well. Normally, Administrative Rules would just go through a public hearing process, but we understand that this would be the first time that there's ever been Administrative Rules for the entire permitting process and that there's just a lot

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of information that we'd want to make sure is communicated really clearly with the public and the education that goes along with any changes or enhancements that may be made throughout that process. And so our goal would be is that after the Code revisions, we're able to make adjustments and finalization to the Administrative Rules process and then we would come back to this Committee to also vet and discuss those prior to when those would be posted for the public hearing process. I also just want to make note that in addition to these specific Code revisions, there's not a lot of changes made to the core component, that's the last article in this Chapter 13.04A. The only real adjustment was the definitions. We took all the definitions up to the very beginning of the chapter instead of having definitions in multiple places, and then, there's just a few minor, probably maybe six words or so that were changed, just to be consistent with the language in the rest of the document. The Department anticipates that again, once we get through these Code revisions, then we would be talking specifically about CORA and again, be coming back to this body with adjustments and changes to that process as well as craft fair rules. There's an Administrative Rule process for craft fairs and because there's a separate set of Administrative Rules, that again would be a topic that we would handle as kind of a separate concept again after we get through these Code revisions so. Just to kind of preface before we go in some of those larger topics that often come up when we talk about the permitting process. So unless there's any questions at this point, Chair?

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

COUNCILMEMBER COUCH: Thank you, Mr. Chair. The question I would have to begin with is if we're anticipating Administrative Rules, any reason why we wouldn't put 'em in the ordinance? Because ordinance has a little bit more public scrutiny and you can find 'em online, et cetera. Administrative Rules, you have to look at the ordinance and then say what the rules are. So are there things that could be put in the ordinance that, instead of the Administrative Rules?

CHAIR GUZMAN: Department?

MS. SAVAGE: Thank you, Chair. There was, there has been a lot of discussion about that with where do we draw the line between the policy that should be within the Code versus the Department's processes and procedures that would normally be housed in Administrative Rules, and the flexibility was kind of the one piece that came up. And especially with permits, permits are very based on, you know, the culture and kinda what society dictates at the time and so we we'd want to be able to really have that review process every year, that if there was terminology that changed because of technology, that we could go through that public hearing process, you know, and within 30 days, you can make those kinds of changes. So it was really just more of the idea that if we have a really strong policy direction, kind of as the umbrella with the Code and then by having the Administrative Rules that really go more to the specific details, then it would allow just for the system to work a little bit more collectively. That if there was massive changes that needed to be made, we'd have to

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go through both, the Administrative Rules and the Code revisions, but it would give the Department the flexibility to make sure that the permitting system is meeting the community needs and have a little bit more of a quicker turnaround time for those types of changes.

COUNCILMEMBER COUCH: Thank you, Chair.

COUNCILMEMBER VICTORINO: Chair?

CHAIR GUZMAN: Thank you. Mr. Victorino?

COUNCILMEMBER VICTORINO: Thank you. And, Brienne, thank you for that explanation, and I agree with you wholeheartedly, we don't want to put ordinances that inhibit what you and your Department can do as far as Administrative Rules. Now, my question with, going along that same line, would you say that there are some administrative rules, especially in the area and this is what I was, I'm leaning towards is areas of major violations that we could have that in the Code where there's more enforceability and easier for us to go or the County to go after people for major violations like major vandalism and that's what I'm kind of leading towards, you know, not every administrative rule. I don't want to get into that. But when there are areas where we've had grave concerns, you know, what we, you know, if there's something we can add to the ordinance so that make sure that that is enforced and there is some real teeth, so that if somebody does it, it's not an administrative rule, it's part of the ordinance. So, I guess, that's my questions where we've discussed this and we'll bring it up at a later date. I'm not gonna discuss it today, but you know what I've been concerned about, some of the major issues. If we added it, part of our ordinance, not as Administrative Rules, which those are not the ones we're gonna change very often, would you have any problem with that? Would your Department have any challenges with that idea?

CHAIR GUZMAN: Department?

MS. SAVAGE: Thank you, Chair. I think having those types of things definitely in the Code are what's gonna provide for that enforceability of them. And as we move into Article 6 and Article 7, there was a significant amount of work done with Corporation Counsel, Prosecutor's Office, even checking things through MPD, to really say where are some of the issues we're having now and maybe some issues that we can see coming up in the future and is there language that we can be putting in or tightening up in the Code currently so that we do have the ability to make sure that we're able to enforce those things.

COUNCILMEMBER VICTORINO: And make some additions at that point, too. That's why, when we get to that section, I'll, we'll go more into depth, I guess, Mr. Chair, but you know, just so that I know that there are some of these Administrative Rules that we've



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discussed that I'd like to see as part of the ordinance, not an administrative rule. But when we get to Section 6, then we'll get more deep into that.

CHAIR GUZMAN: Okay.

COUNCILMEMBER VICTORINO: Thank you, Chair.

CHAIR GUZMAN: Thank you, Mr. Victorino. Yeah. I'd just like to remind the Members, that this is a, the Department's presentation.

COUNCILMEMBER VICTORINO: Yeah.

CHAIR GUZMAN: So we have full discretion to do what we do is our job is for policymaking, so, we definitely can make amendments and changes. This is just an intro. This is, I just received this comparison document yesterday, so, it's something that I think we need to just have the Department present it to us. We have an opportunity to defer this today, review what they've presented, we'll come back at the next meeting and work on it line by line if need be to make for, some of the changes. But again, this is an intro of their first portion of the, I guess, the revamp of the chapter. So go ahead, Ms. Savage, you may proceed.

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

MS. SAVAGE: Thank you, Chair. So if we, I guess flip over to the first page, you'll see throughout the comparison document that on the left-hand side is the proposed language. On the right-hand side is the existing 13.04A. And in the red on the existing is what's being deleted from the existing. There's a lot of language that's being deleted, a lot of new language especially when it comes to the definitions, but there's also just the movement of certain things. So there may be language that in the existing Code is located in one section and as we went through and wrote this, we tried to really look at what's kind of the most logical process for a lot of this information to be provided in. And so you'll find that things may not be new or different language, it's just that's it's located in a different location. And so as we go through that, you'll find that there are sections that may be referenced in more than one place in the existing, just so that we can show where those changes took place. So moving into the second page and again, this is just the overview of the Article 1 which is the General Provisions. The first item that was added in, 13.04A.010 is just the purpose, having a purpose of the chapter. And the purpose is in the interest of preserving and protecting County parks and recreational facilities and their recreational, cultural, environmental, social, educational, historical and economic benefit to the community, this chapter establishes policies and procedures regarding the use of parks and recreational facilities. Moving into the next section, 13.04A.020, Applicability and scope. This was something that was, is contained in the existing in the proposed, so you'll just see minor changes, adding of this title in Point A and in

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Point C, just changing from person to individual and that was a change you'll see consistently throughout the entire proposed document. Moving onto the next page you'll also see an inclusion of Item D under Applicability and scope, which just is the director, or the director's authorized representative, shall implement and administer the provisions of this chapter. And as we move into the next section, 13.04A.030, this is primarily where we're gonna see a, the majority of the new information contained and this is the definition section. And so what we did is we took, there were definitions that were listed separately in the CORA section. We've added all of those into the front so that all the definitions are contained at the beginning of the chapter and of the Title 13 document. And so as we kind of move through these, again, a lot of these words are being added in because these were areas where there was a lot of confusion or misunderstanding between the public and the Department when it came to the process. And a lot of times, again, these are gonna be words that on a permitting level, we're using this language every day and we're using it to communicate to the public how to maneuver through the process. And so we wanted to make sure that there was really clear definitions for these so that we all understood the same definition and we can all reference to the same definition as we move through that process. So if they see things again...ADA, just adding a definition of that, and, Chair, would you like me to read through each --

CHAIR GUZMAN: No, no.

MS. SAVAGE: --definition or...

CHAIR GUZMAN: I think the Members can read it on their own. But, Mr. Couch, let me...ask your question.

COUNCILMEMBER COUCH: Are we going through this now as for changes or just an overview?

CHAIR GUZMAN: Oh no, we're actually, I'm just going to have the Department do a little overview --

COUNCILMEMBER COUCH: Okay, perfect. Thank you.

CHAIR GUZMAN: --and then, because I, myself, haven't gotten through this and so, like I said, I just received it yesterday so --

COUNCILMEMBER COUCH: Okay.

CHAIR GUZMAN: --I would like to also have an opportunity to review it on my own, as well as you guys as well.

COUNCILMEMBER COUCH: Okay. Thank you.

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CHAIR GUZMAN: So we'll just go through an overview so that they kinda know what they're looking at when they go back to their offices and review it.

MS. SAVAGE: Perfect. Alright. Thank you, Chair.

CHAIR GUZMAN: You can proceed.

MS. SAVAGE: So, again, as we move through, you can kinda turn to the next page and I'll just kinda highlight some of the ones that are maybe more, a little bit more significant. Business, again, was also one that came both from CORA and there was an existing definition that was slightly adjusted. Business location, camper, camping, cigar, cigarette, you'll see a little bit later on that there was, also, electronic smoking device, that was added in. Commercial activity, commercial ocean recreation activity definitions, community center, consuming of intoxicating liquor, County definition, County property, department, department equipment, department sponsored. This would be one kind of terminology that we'd like to change. Previously in the Code it's or currently in the Code it's referred to as County cosponsored activity and so just changing that terminology to department sponsored. And the reason for this is there's a lot of different sponsorships that can be provided for different activities from each of the separate departments, as well as just for more of an overall administrative level and so just making sure that there's clarification. Sometimes, the public gets confused with who's sponsoring an event and what does that mean. And going through the Department permitting process, sponsorship means something different than if a different department is necessarily sponsoring or running a program. And so this would just be to help with that clarification that it's a Parks Department sponsored permitted activity.

COUNCILMEMBER HOKAMA: Chairman?

CHAIR GUZMAN: Yes, Mr. Hokama?

COUNCILMEMBER HOKAMA: What would be another department's, an example of another department's...

COUNCILMEMBER COUCH: OED?

CHAIR GUZMAN: Yeah, I think it would be Office of Economic Development. They have some sponsors, sponsorships that...can you explain that, what the difference is?

MS. SAVAGE: Thank you, Chair. There can be events that are sponsored by the Office of Economic Development, Department of Housing and Human Concerns has some department-sponsored events, Office of the Mayor has sponsored events. And so, yeah, those would just be a few of the most often examples that we deal with.

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CHAIR GUZMAN: And their definition of sponsorship is across the board, there's no real definition of sponsorship, and so what this language is is defining what the Parks Department sponsorship means, right?

MS. SAVAGE: Correct. 'Cause the Department sponsorship is connected to a permit that's being issued, which means that the event's taking place on Parks' property.

CHAIR GUZMAN: Okay. So, that's a trigger, basically, it has to be on the Parks' property to be sponsored by the Parks Department?

MS. SAVAGE: That's correct.

CHAIR GUZMAN: Okay. I see. Okay. Mr. Hokama?

COUNCILMEMBER HOKAMA: I understand the Director's response and I appreciate that. So just for me, Chairman, I would say when it comes to sponsorships, I think it should be within the parameters set by Council. I don't need ten departments coming up with ten different definitions. So my thing is, they shall work within the definition as provided by Council. I think that will be more fair in its application and execution of the policy. Thank you, Chairman.

CHAIR GUZMAN: Thank you. Thank you for that notes.

COUNCILMEMBER CRIVELLO: Chair?

CHAIR GUZMAN: Ms. Crivello?

COUNCILMEMBER CRIVELLO: Not to get too specific, but I agree with Mr. Hokama because you're going to have all different departments and that's some of the challenges we face on Molokai in dealing with the Parks. So if it just happens, you may have other County property that events are held and it is County-sponsored, so then, you know, you put your community kinda strangling, strangling the community to be able to put forth. So, I think the fact that we've always had County cosponsored activity or whatever the Council would come up with, more meaningful than department sponsors. I just encountered some challenges on behalf of my constituents back home, so to me, this appears like less participation from your community from the support of Parks.

CHAIR GUZMAN: Department, did you take notes on that?

UNIDENTIFIED SPEAKER: Uh-huh.

CHAIR GUZMAN: Okay. You may proceed.

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MS. SAVAGE: So, then, moving into designated parks or recreational facilities, definition for director and dog park, both have existed previously, again, just some minor changes for consistency. The addition of electronic smoking device definition, slight changes to the definition of equipment, just some additional language that we are requesting to remove in that definition. Exclusive use, defining what that is, and the reason the exclusive use definition comes into play is that oftentimes when permits are given, then it's giving a group or an organization exclusive use of a facility, so just making sure that that is defined with when there's exclusive use and when it's non-exclusive use, so you'll see non-exclusive use also defined later on.

CHAIR GUZMAN: Members, let me remind you, just go ahead and ask the questions so that we can take notes as we go along. And so when we come back and we really review it, then, we don't have to go through such, you know, a longer version.

COUNCILMEMBER CRIVELLO: I think we still have to thoroughly review it...

CHAIR GUZMAN: Yeah. Definitely. But if you see something right off the bat, just pipe in. Mr. Couch?

COUNCILMEMBER COUCH: Okay. In that case, back on the beginning of the definitions, 13.04 and if at all possible, next time we have one, could we have numbered pages? Thanks. 13.04, where you talk about advertising material, Maybe we should reference Chapter 16.26, I think, for the definition of signs --

CHAIR GUZMAN: No, that's a good...yeah.

COUNCILMEMBER COUCH: --because otherwise we could get messed up there. But on this page, you're talking about removing the equipment, except any device, conveyance that requires an operating license or permit from the State of Hawaii Division of Boating and Recreation or from the United States Coast Guard. Why are you removing that?

COUNCILMEMBER HOKAMA: What's your referral, please?

COUNCILMEMBER COUCH: Back to the...she was talking about equipment.

COUNCILMEMBER HOKAMA: Okay.

CHAIR GUZMAN: Yeah. Okay. So this is, yeah, it's not numbered here.

COUNCILMEMBER COUCH: Yeah.

CHAIR GUZMAN: So equipment, so it is alphabetical.

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COUNCILMEMBER COUCH: Equipment she's asking to remove all in the red, which basically --

CHAIR GUZMAN: Oh, yeah.

COUNCILMEMBER COUCH: --it sounds like a jet ski or a boat. I know we have, I believe the Parks Department had some jet skis at one time. Oh, yeah, it used to be for the Ocean...

CHAIR GUZMAN: Ocean...

COUNCILMEMBER COUCH: --Safety Officers.

COUNCILMEMBER VICTORINO: They went over to Fire.

CHAIR GUZMAN: Yeah. Department?

MS. SAVAGE: Thank you, Chair. And we can do a little bit more, pull out some of the specific comments about each of these if we need to, but I think it was just as we went through the definitions and looked at it, we didn't see the necessity for having this called out specifically. You know, that Department equipment or equipment can mean any of the tangible business property. I didn't see the reason to identify any exceptions.

COUNCILMEMBER COUCH: Okay.

CHAIR GUZMAN: More general, I suppose. Okay. You may proceed.

MS. SAVAGE: Thank you, Chair. So, again, moving through we have additional definition for exclusive use. As we get to the fee section, this is one that we expanded a little bit. Before or in the existing Code, there's a definition for fees, but we wanted to separate some of the different types of fees that exist within the permitting system. And so you'll see underneath fee, an application fee, a cancellation fee, a permit fee and a registration fee. And so just as a general overview, you know, the difference between the four of 'em, an application would, an application fee would be a non-refundable fee charged to process a permit application, and that would be something that's paid at the very beginning when an application is received. At this point in time, there are no application fees in the Department of Parks and Recreation, but there has been extensive discussion about if there is a need for this for some of the larger or the more significant permits where there is quite a bit of review and analysis that goes into the paperwork that comes in from the very beginning. And so as we were making the definitions, it was thought appropriate to go ahead and add this in at that point in time. The cancellation fee, again, is a forfeiture of the deposits for failure to provide timely notice of cancellation or for failure to use any issued permit. And as we get a little bit later into Article 3, we'll be able to see a timetable that identifies what that

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cancellation schedule would look like for each of the different permit types. The permit fee, non-refundable fee required prior to issuance of any permit authorizing the use of parks and recreational facilities. All permit fees must be paid by the applicant and, again, as we get into Article 13, there's a table that, again, references the timeframes for when fees would need to be paid in conjunction with each of the different permit types. And then the final fee type would be a registration fee and this is a non-refundable fee required to participate in program services or instructional classes operated by the Department. So this is more of a fee that's based on someone signing up for a specific program or activity that they're paying for on an individual or a group basis. So, again, we just looked at this as this is a good, you know, the word fees oftentimes can mean a lot of different things in different situations, so just wanted to create that clarification on the different types of fees and, so then, they can be referenced more specifically on when they're appropriate to be incorporated and when they're not. Having a definition for fundraising activity, definition for gymnasium, intoxicating liquor, law enforcement officer, adding definition for league, and then again, league is another one that will start to be better clarified if it broke up into the different types of leagues. 'Cause this is a huge part of our permitting process, whether it's the youth leagues, the senior leagues, the ADA leagues or other community leagues that are ran. So to kind of give an overview of each of these, the general definition of a league would be an organized group of teams or individuals that compete against each other over a period of 30 days or longer. And the different types of league, the first is community league, leagues that are organized by an individual or organization which may assess dues, registration or participation fees confirmed by the Director to be used solely to offset operating expenses such as equipment, insurance, officiating, and permit fees. Community leagues shall obtain a general use permit issued by the Department. Next, we have the Department league, which would be a league organized and operated by the Department which does not assess registration or participation fees. So at this point in time, the two examples of Department leagues would be the Menehune Basketball League which is a youth league for both, boys and girls that runs from sixth through eighth grade and there's no registration fees for that. And the other example is the Makule League, which is the Makule Softball League that runs from February.

CHAIR GUZMAN: Mr. Victorino?

COUNCILMEMBER VICTORINO: Before she moves on and I thank you. Just so that we get that, that's Departmental, right? I'm curious on the community league. What examples would you give me 'cause I can figure partnership league, I understand. Recreational, that's like AYSO and all of those, right, recreational where it's not a highly competitive league, right? And so now, you know, what I'm looking at is this community league. Could you explain that? I'm sorry, Chair.

CHAIR GUZMAN: No, no, please, please.

COUNCILMEMBER VICTORINO: Yeah. Before we go on any further.

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MS. SAVAGE: Yeah. Thank you, Chair. So the community league would be, there's a lot of leagues that run that are maybe organized by an individual or an organization and they're assessed currently what are considered like Type 3 fees. So they're running it because there was a lot of leagues that the Department used to be able to run that because maybe there's not enough operations money or the Department can't afford to fully subsidize as many of the leagues as they've ran, there's been individuals in the community that have gotten together to say we can run this league. We'll just get a permit to use the facility and they come up with their own game schedules.

COUNCILMEMBER VICTORINO: I guess...

MS. SAVAGE: So there's lot of the adult leagues.

COUNCILMEMBER VICTORINO: Yeah, softball leagues like that?

MS. SAVAGE: Yes.

COUNCILMEMBER VICTORINO: Okay.

MS. SAVAGE: A lot of those would fit into this category.

COUNCILMEMBER VICTORINO: I guess that's what I was looking for, some examples, so I can correlate what you're saying. I apologize. I just was trying to get my finger on that one. Okay. Good. I got it. I got it. Thank you.

MS. SAVAGE: So as we continue into the partnership league, which would, again, leagues organized by youth, senior or Americans with Disabilities (ADA) organizations which assess dues, registration or participation fees confirmed by the Director to be used solely to offset operating expenses such as equipment, insurance, officiating, and permit fees. Partnership leagues shall obtain a general use permit issued by the Department. And again, these are primarily our AYSO, HYSO, Little League, Bronco League, those types of nonprofit, primarily nonprofit organizations that run a lot of the youth, senior and ADA leagues throughout the County. And then the final one would be the recreation league, which would be a league that's still organized by the Department, but it would assess registration or participation fees that would be used solely to offset operating expenses such as equipment, officiating, and expenses through the Recreational Program Fund. These, the fees for each of these recreational leagues were approved in this last fiscal year's budget and so what it was is there's a fee per the type of activity per game and this would allow for the Department to be able to go back to offering more leagues, but we would be able to be recovering the minimal cost that would go into just providing scorekeepers, umpiring, and the equipment that's needed specifically for that activity. And so this would be that type of a league. It would still be organized by the Department, but there'd be registration fees that would be assessed per team or per individual.



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COUNCILMEMBER VICTORINO: Example? I'm sorry, just an example.

CHAIR GUZMAN: No, go ahead.

COUNCILMEMBER VICTORINO: Please?

MS. SAVAGE: Yeah, so --

CHAIR GUZMAN: Department?

MS. SAVAGE: --right now there are no examples of this, specifically, so this would be, this came up because we did have a lot of individuals and concerns from different leagues that maybe we used to offer a certain program or there's a need for a certain league to exist, but perhaps we don't have enough money in our operating budget to cover all the costs of operating it. And so what we did is we went through and looked at what are the costs if we were to have officials, you know, that we needed to have vendors for or scorekeepers or the specific equipment and we broke it down on a cost per game so that we would have the ability to say, as an example, we're gonna run a adult softball league for 2 months out of the year, we're gonna run it in all of the districts and there's gonna be 12 games per team. We'll be able to take that fee that we calculated times 12 and then that would give us what the per team registration fee would be. And then we would still be covering the insurance through, because it would be a County program through us. And oftentimes for leagues, that can be sometimes the difficulty, is who's providing the insurance. And as Parks and Recreation, I mean, that's what we want to be able to provide, more people opportunities to recreate in one way or the other. So we just saw this as a new vehicle that we could explore where we're not asking for more burden on the General Fund to cover the cost, but we can run programs at more of an at cost.

COUNCILMEMBER VICTORINO: Okay. Okay. Thank you, Chair.

CHAIR GUZMAN: Okay. Thank you. Department, you may proceed.

MS. SAVAGE: Thank you, Chair. So as we move through, again, after that, we have a definition for league schedule. A new definition for non-exclusive use, a definition for nonprofit, a definition for park or parks, a definition for patron and again, this is a definition that was moved from out of where the CORA definitions were into the main definitions. Definition for permit, and again, this is a combination of the definition that existed in CORA as well as the overall Department definition for permit and combining it and just to have one definition of permit for the entire Department. A definition for camping permit, commercial ocean recreational activity, CORA Permit, a community class permit and as we move into these different definitions of permit, you'll see what's being deleted is the types with the numbers. So currently, the Department permitting system is a Type I, a Type II, Type II(CC), Type II(R), Type III,

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Type IV and Type V. And that has been a major point of confusion, again, both with the public and with the Department. And so what we've, what we're proposing is to have actual names for those different permits and so, we would instead of the Type II(CC), have a community class permit. It's not gonna change the essence of the community class, it's just calling it a community class permit instead of a Type II(CC) permit. The Type III permit is what we would propose to be called the general use permit and again, this general use permit is almost kind of like the catchall. There's a lot that falls into this category, whether it's a lot of the leagues, any of the completely free activities and events that don't assess any types of donations, registration or participation fees as well as the majority of the community center rentals all fall into what would, what we're proposing would be the general use permit. After that, it's followed by the government permit, which would replace what is the existing Type I permit. Special events permit and the special events permit would encompass what is currently both the Type IV and the Type V permit. The difference between the two, Type IV permit is pulled by a nonprofit entity and a Type V permit is an individual or organization that's not a nonprofit entity. And I think as we move further through this, there is also the Budget Amendment that was transferred in conjunction with this because these language, vocabulary changes would also need to be reflected on the current rates and fee structure. And so, as you look at that, you're able to see how there's not a change in any of the dollar fee amounts. The people that are running activities now under the existing system would still be charged the same fee structure through the proposed system. It's just a change in the vocabulary and the terminology as to the different types of permits that are being issued. As we continue through, we have the definition of permittee or permit holder, a definition for personal mobility device, recreational facility, definition for rules, smoke or smoking, definition for tobacco products, definition for tournament, vendor, a visiting swim team and youth center. And so as, looking through in the next sections, you'll see that really the only two definitions that are completely being deleted, language and terminology wise, the Type II and Type II(R) definitions that exist, were in the existing Code, those would be combined and covered in the definition for department sponsored. So without them being explicitly stated, they're just inclusive of that definition and, again, on the Budget Amendment, you're able to see how those fit into that rates and fees schedule. And then the definition from CORA, applicable rules was another definition that would just be deleted. So that concludes as far as the definitions, changes with the definitions. Again, a lot of the additional definitions are based on terminology that's used very regularly in the permitting process, just wanting to have that clarity so that everybody's functioning off of the same definitions, we're all playing by the same rules when it comes to applying permit rules and definitions. So as we move down into, again, through the existing, we identified 13.04.030, which is the County cosponsored activity. So this Section A is something that would, is being proposed to be deleted and not be included in the proposed. This Section A, though, does fall into what the definition of department sponsored would be. And as you move into Section B, of 13.04.030, this is something that is being moved into the Article 3, the proposed Article 3. And so, again, as we get to Article 3, this language again will be shown in that comparison document, so we're just looking at moving it into a section that

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pertains specifically to the permits. And then in Section C of 13.04.030, again, this component is being incorporated into 13.04A.050, which is the reporting section and we'll be moving into that one very shortly. So, again, just to show that based on how the existing Code is written, this is where it would come up after the definitions. It's not that we're deleting all of this language, it's just that it's moving to a different section. So as we move into the proposed 13.04A.040, the operating policy, we'd be looking at just adding a general policy statement and this combines some of, in the existing 13.04, Article 3, what's considered the operating policy. So, again, it's shifting what's currently in the existing Article 3, operating policy, moving that up and into the Article 1, General Provisions and naming out operating policy there. So you'll see the similarities between the hours of the operating policy and Item A, the general policy. So it still identifies, unless otherwise permitted by the Director, all parks and recreational facilities shall be open to the public on a non-exclusive, first-come, first-served basis, during designated hours established by the Director. The opening and closing hours for each park and recreational facility shall be posted therein. Any exclusive use requires a permit. And then under that general policy we have what would be two exceptions. So the first exception would be a closed area. And again, this is being pulled from the operating policy that in the existing Code is 13.04.060 under closed areas. And that would identify closed areas, any park or recreational facility or section thereof may be closed to the public by the Director at any time when the Director finds such to be reasonably unnecessary [sic] for the maintenance of property or for the protection, health, safety, or welfare of the public. Closed areas shall be reported pursuant to subsection 13.04A.050(B). And we'll get into that reporting section in just a moment. The other exception to, would be restricted facilities and so these would be community centers or facilities which require special maintenance. And so this is based on the facilities that, again, it's a first-come...not first-come, first-served basis, but it's based on a permit that has to be issued, such as a community center permit that has to be issued, where there's keys issued for the facility. And so that's where that would fit into that restricted facilities category. Next under that, we have the C, the Director's authority section, which is the director's authority. The Director shall determine whether events or activities are compatible with the purpose for which any park or recreational facility was designed. And so all of those three would fit into, again, what's the proposed operating policy for the process. Under the next section you'll see, 13.04A.050, which is the reporting section. And so in this, we have A, which is the annual reporting and this is something that currently exists with the permitting process that we have right now. So, again, it's just kind of reconfiguring and actually calling out a section where we identify what is the reporting that should be taking place. So annual reporting on or before July 15<sup>th</sup> of each year, the Director shall transmit to the council a list of all Department-sponsored activities, whether revenue generating or non-revenue generating, and any activities extending beyond five consecutive days, which have taken place between July 1<sup>st</sup> and June 30<sup>th</sup> of the previous fiscal year. These reports shall include the purpose of each event or activity; the reason for the Department's sponsorship; the organization or entity that conducted the activity; the period of time over which the activity took place; the location of the activity and a breakdown of

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events, distinguishing those free to the public or requiring admission charges. And so, again, you'll see that a lot of this isn't new or additional language. It's language that's currently in the existing and it's listed under currently what's the 13.04.030 County cosponsored activity section. The next component, some of which is being proposed is Section B, which would be special reporting and this would identify that upon finding that an area should be closed for maintenance of property or for the protection of health, safety, or welfare of the public pursuant to Section 13.04A.040, the Director shall state in writing the reason for the closing of the park or recreational facility and shall transmit such reasons to the Council within ten days from the date of closing. Upon request of the Council, the Director shall file biweekly status reports with the Council outlining the current status of the problem within the park or recreational facility, and any actions taken to minimize those problems, effectiveness of actions taken, and any proposed future actions contemplated to be taken until such time as the park or recreational facility is reopened. And with this special reporting section, again, there's pieces of this that exist in the existing Code, but we wanted there to make sure that there's just that follow-up and recently, we've had a series whether it's because of repair and maintenance purposes where there have been facilities that are closed and we know that everyone receives those phone calls. And so that's, would again just be a mechanism to ensure that the Administration, the Department and the Council all have that information to be able to communicate to the public what's going on with facilities throughout the County area. The final section in the General Provisions, Article 1, is the 13.04A.060, and this would be a newly proposed program fund and this would run in conjunction with the additional rates and fees that were added in the Fiscal Year '16 Rates and Fees. Again, as we talked about the recreational leagues, this would be the specific fees that are collected so that they can go into this fund and the Department can then use those monies to directly pay for the cost of running that program as opposed to the monies going into the General Fund and then being reallocated back into the Department. So this would be, there is an established and created fund to be known as the Recreational Program Fund. Fees collected pursuant to this section, as set forth in the annual budget ordinance, shall be deposited in the Recreational Program Fund, shall be deemed appropriated upon receipt, and may be expended for purposes relating to the operation of recreational leagues by the Department. So, again, this would allow for, if we were running a softball league and we collected a registration fee from all the different participating teams, that once that money goes in, we can use those monies to directly write the checks for the officials or the scorekeepers or if there's specific equipment that needs to be provided in order for that league to operate, that's where that money would come from.

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

COUNCILMEMBER COUCH: Mr. Chair?

CHAIR GUZMAN: So, yeah, I had questions on that, too. Mr. Couch?

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COUNCILMEMBER COUCH: Thank you. On that, what is the way that it works now?

MS. SAVAGE: So the Recreational Program Fund and the recreational leagues are a concept that at this point don't exist. Right now, if we run a program in-house, the Department pays for all of the vendors to do the umpiring, the scorekeeping or we do it with staff as much as we possibly can. If there's any equipment needs, all of that comes out of our operating budget. And what we're identifying is that there's leagues that the Department used to run that we cannot afford to run and so this is a concept being proposed that would allow for us to offer more recreational programs at very affordable registration fees to the community users, but then it's not the General Fund subsidy of our operating budget that's bearing the complete burden of the cost of being able to run the program.

COUNCILMEMBER COUCH: Okay. Thank you, Chair.

CHAIR GUZMAN: How...I'm sorry, Mr. Hokama?

COUNCILMEMBER HOKAMA: Thank you, Chairman. Just very quickly, some of my areas that I would like us in the future, Chair, to have more discussion. First, thank you for your proposal. It helps having a document that presents where you would like to take the Department to the next level, so I appreciate the proposal. Some of my comments, Chairman, real quickly is under community class. We bring up the last, in the last sentence, temporary refreshment concessions. I would like to have us consider a definition for concessions because I view this as a revenue source and all vendors will sell only what we allow in our facilities because I expect to get revenues from companies to have the privilege of serving only their product within our properties. So it would be only what we authorize and allow for sale within our properties is what vendors can sell. So if it's, for example, Crivello bottled water is the only thing we can, we'll authorize because Crivello bottling water pays the County "x" dollars for the privilege of being the only provider, I think we should consider those revenue sources to help the Department move its program forward. So that's...

CHAIR GUZMAN: Would they also have to go through an RFP for that?

COUNCILMEMBER HOKAMA: We would.

CHAIR GUZMAN: Okay.

COUNCILMEMBER HOKAMA: It would be an open process, but I would like us to at least, if we're gonna set up the County Code and this chapter, that maybe this might be the right vehicle to set up pouring rights and concessions because recreational facilities is one of the big areas that I think we can get revenues for. So and whether or not we expand it later to all County properties, or even this building, if we serve X, Y, Z soda or whatever it is, it is something that would make sense that we review it and see if it's

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a potential revenue source to lessen the impact on General Fund. So, again, I would say we need to look at vendor, the word, vendor, again, the definition. I appreciate the Department's looking at how to adjust the various categories. The only thing I would say under zero, .050, under reporting, Mr. Chairman --

CHAIR GUZMAN: Yes.

COUNCILMEMBER HOKAMA: --is I think and I appreciate, I think, for me, the one thing I would add as number seven, is a financial report for the event.

CHAIR GUZMAN: Yeah. That's a good one. Yeah, right. Financial report.

COUNCILMEMBER HOKAMA: Because if someone is making tremendous amount of money off the facility, I'd like to know and see if that was fair in what we provided and what they got in return. So I would...

CHAIR GUZMAN: But that would be required under their permit, right? They would, we would require them to produce a end of event finance report kind of deal.

COUNCILMEMBER HOKAMA: I'm not sure, so I just bring it up, Chairman, for consideration at the next meeting, that if this is something, I would like us to consider as a requirement, a financial report. And, then, my last comment for these and I appreciate the Department's proposal, I don't mind having a fund set up, but before I give away my appropriation authority, I want to test the waters first so that when I give it, I know exactly why I gave that authority away on a pre-appropriated approval. I know what they're trying to do and my thing is, we can work with them and ensure that there's timely processing of our request, but at this point in time, I'm not too sure how it's going to be spent yet, Chairman, so, I'm happy to work with the Department and you know, work out the bugs and once we get the confidence, I'm open to then giving them the preapproval appropriation authority. Thank you.

CHAIR GUZMAN: Thank you. Yeah. I had the same similar issues with the Recreational Program Fund. What exactly, do you happen to know the, what is being collected right now for the different fees for the leagues?

MS. SAVAGE: Chair, as far as the outside leagues, we would have to go and, we could put together some of that information to be able to show what the external leagues that are receiving facility permits from us, what they're charging versus what we would be able to charge, but at this point, again, because this fund doesn't exist --

CHAIR GUZMAN: Right.

MS. SAVAGE: --even though the...yeah, the fund doesn't exist, so we haven't implemented any programs that would specifically be this recreational league. I do know that there's interest Upcountry. There used to be adult softball league that ran up there

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and that's a program that we've received a lot of feedback that we would like to start back up again in East, but then again, it's just one of those we're waiting to see if we would be able to use those registration fee revenues to be able to support that, because we know we don't have the money in the operations budget to be able to cover all those cost. But, you know, the Department's open to, if it's testing it out and identifying maybe some projected costs for the first, you know, maybe six months' worth of leagues that we'd like to try out and then working that through a budget appropriation and, then, if it is something that works out and those numbers add up, then, looking at this direction.

CHAIR GUZMAN: Yeah. I think that would be, if we took baby steps and just basically test it out first. I think Mr. Hokama has a point. We should see where it's going first.

COUNCILMEMBER HOKAMA: And one last question and I'm be happy to relinquish the floor, Chairman, so thank you. When you mentioned earlier that the Department helped provide equipment in the past, what kind of equipment are we talking about, like gloves, bats, bases, referee officials, I'm just trying to understand, when you say, we used to provide equipment, what kind equipment did we provide?

MS. SAVAGE: Yeah, so, primarily with the leagues, it's things like, yeah, bases, if there's the chalk.

COUNCILMEMBER VICTORINO: Chair?

MAYOR ARAKAWA: If I may? Because Brianne's relatively new to the Department and a lot of the old programs, she wasn't around for.

COUNCILMEMBER VICTORINO: But you were, right? You and I were around for those old programs, right, Chair [sic]?

MAYOR ARAKAWA: Absolutely.

COUNCILMEMBER VICTORINO: Right, Mayor? Go ahead.

MAYOR ARAKAWA: So the Department actually used to run a lot of different leagues, volleyball leagues, basketball leagues, boxing, a whole series of different things. And basically, they provided all the equipment that was necessary to be able to run those leagues. So with boxing, we had a boxing ring; with basketball, we provide the referees, we provide the, all the management that went to put together the paperwork to run the league and to keep track of all the different teams as to who was on it and all the specifics that you need to run a league. So, that's the kind of, the support that the County had. And the County actually organized everything and put it all together.

COUNCILMEMBER HOKAMA: Thank you.

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COUNCILMEMBER VICTORINO: Chair?

CHAIR GUZMAN: Thank you. Mr. Victorino, followed by Ms. Crivello.

COUNCILMEMBER VICTORINO: Oh, Ms. Crivello, I'll let her go. Go ahead.

CHAIR GUZMAN: Ms. Crivello and then Mr. Victorino.

COUNCILMEMBER CRIVELLO: Okay.

CHAIR GUZMAN: He yields to you.

COUNCILMEMBER CRIVELLO: Thank you, Mr. Victorino. Thank you, Chair.

COUNCILMEMBER VICTORINO: I not letting you go earlier.

COUNCILMEMBER COUCH: No, no, I know.

COUNCILMEMBER CRIVELLO: Okay. Thank you, Department, for providing all this and it will take some time for us to go through it. But I note there's quite a number of removing County sponsored and I hope that would take more into consideration and maybe we can come up with something because like I mentioned earlier, County sponsored can be quite involved with more than one department and depending what the event or the activity is. So, for in a rural area like my island, events that we hold are very, very community participating and as well as our visitors that come from off-island. It may not necessarily be in a ballpark, but it may be held where it makes sense and it's still County. So, one size does not fit all. I think I've mentioned that to you before, so I appreciate us being able to dissect this before we try and make something conclusive. Also, I think the, at least I can say because of my own experience, that I appreciate the focus on customer service. That's a natural, I think, with a lot of our employees, but what's gotta come from your Department as we're applying all these changes, I hope you folks would have something in mind to have the conversation of the dialog with the community. And like Mayor said, there are programs that's been there forever. It's this...also, it goes into the same organization is that and these are all volunteers who put in and put on the different events or what have you and all these changes that come about just have massive confusion. Oh Director says this or Deputy Director says that and sometimes your own staff at the permitting process don't fully understand why all these changes, so then, there's massive confusion. So, I think it's important before we, you know, cement everything, that the community have an input so, because most everything that we do has, it's all community so the conversation to me, or at least the dialogue or presentation, some sort of format to include community. I could appreciate that. Because you did mention that you thoroughly want the public's input, so that being said, I would support you following through with that. Thank you.



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CHAIR GUZMAN: Thank you. Mr. Victorino, I believe you're next.

COUNCILMEMBER VICTORINO: Thank you. And again, I understand, Bri, this is just the beginning and thank you for the extensive work and I know you've made contact with many of us just to give us a head's up and to give our mana'o into what, you know, what you're looking to do. I think change is good if change has the right intent and will make it more efficient and more workable. We have grown and I don't care if you're talking rural or urban, we are growing. The demand on our system, our parks, our community centers, any County facility has grown exponentially [sic] through the years and you can almost, you cannot almost use any of our community centers on any given night because somebody's there already. And so we have to make some changes and I think this is important and change has growing pains, too, so, I think, I agree with Ms. Crivello that we gotta make sure that when we do this, we do it in a systematic manner and we work at it. But that's . . . (inaudible) . . . that's later and I think that's something that we'll address as we get closer. I think the bottom line in this is we need to digest. And I'm one of those. I mean, even though I did go over this, there's even more extensive ideas. I think the other thing I'd like to make sure that we don't forget is the fees. We need to charge appropriate fees appropriately for the various venues. And I think that's something very important. If it's a baby party for a family, that's one fee and I think we've always tried to do that. If it's a political fundraiser, that's another. If it's a commercial entity, that's another. And making sure we have the right fee structure in there, I think that's really going to be pivotal and I think that we'll cover a little bit later. And finally, Mr. Chair, I want to thank you and the Department for this extensive review. I think long overdue, something that needs to move forward and I will support in every way possible and work with you and the Department because our parks are a gem of these islands. Whether you're like Mr. Arakawa, Mayor Arakawa and myself in the makule side of the world or your daughter who's on the youthful side of the world and doing very well in golf. Our golf courses, our softball fields, our volleyball, I don't care what, have to be in great condition so that our children and we, seniors, and anyone in between can utilize it and have fun, but more importantly, grow and develop because some of the athletes that are out there today, my son, Mr. Suzuki, others, they were products of these fields, these gyms, these facilities. They actually used 'em. And so now we want to make sure that others have that same opportunity. And that's why, another thing I want to make sure that sponsors or donations that are being made, we can make 'em more exponential [sic]. 'Cause, you know, my son has had a little problem trying to get his batting cage up in Kihei.

CHAIR GUZMAN: Right.

COUNCILMEMBER VICTORINO: I want to see things like that also incorporated in here. Maybe that's where, instead of an administrative rule, maybe an ordinance so we can push this along. Because, you know, you don't want people who want to give you something getting turned off because you make it so hard for them to give you

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something and I think, Mayor, you agree with me on that one. So, anyhow, I've said too much already. Thank you, Mr. Chair. Thank you for this.

CHAIR GUZMAN: Thank you, Mr. Victorino. Mr. Couch?

COUNCILMEMBER COUCH: Thank you, Mr. Chair. On the 13.04A.040, operating policy, C, Director's authority. The Director shall determine whether events or activities are compatible with the purpose for which any park or recreational facility was designed. I have some concerns with that one in that it leaves it only on the Director, because I seem to recall when I was on, working on the ninth floor, that there were some times when a group of us thought this event would be a good event and the Director said, no, I don't like it, so, therefore, you're not gonna have it. And there had to be some major discussions and I think there was an overturning. So, I'm a little concerned about that. I don't know how we can rephrase it. I understand what the intent is, but there has to be some sort of checks and balance on that one. And I don't know how to do it, I just was wondering...

COUNCILMEMBER VICTORINO: Mr. Chair?

CHAIR GUZMAN: Mr. Victorino?

COUNCILMEMBER VICTORINO: I think we're getting specific with that. I think if you have ideas, Mr. Couch, maybe bringing it forward. I think this is not the time to get into that. I think we all trying to just keep general. I mean, that's my take on this, and that's getting very specific. And I've been there and I understand what you're saying, just like with my son's, there is things we need to work out, but I think it falls right back here in future meetings, Mr. Couch, that we can really get specific on what you would think you'd like to see and others like us and in that respect. So, that would be my only take because I know you have one more major item to cover after this.

CHAIR GUZMAN: What we can do is, let me address Mr. Couch first, is that what we'll do is I have Staff here writing down notes and we'll follow up those issues that were presented by Mr. Victorino and Mr. Hokama.

COUNCILMEMBER COUCH: That's all I wanted to do is get it on the record.

CHAIR GUZMAN: Yeah. And thank you very much for putting that on the record because then, it would've been, had to restart from the next meeting. But we'll put those issues that you've presented in a letter, and for follow up for the Department. And then, so when they come back and present Article 1 again, they will have something at least formulated to address some of those issues and we can, I guess, start working on Article 1. After that, I would expect that the Department would on that same day, present Article 2 as a review. And then, we will come back again at the next meeting and go into more detail on Article 2, and that's how we'll get through this entire revamp of the chapter. Review, discuss in detail the next meeting, review the next

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article, discuss in detail the next, so that we can break it up so it's not one long meeting in a series of long meetings.

COUNCILMEMBER VICTORINO: Right.

CHAIR GUZMAN: We just break it up half meeting, half meeting, half meeting.

COUNCILMEMBER VICTORINO: Well I didn't want Ms. Crivello's and some of the other concerns that were brought up also, I want, you know, I'd like to have, make sure all those get in that letter and so we can continue for the record following, making sure nothing is missed in the future.

CHAIR GUZMAN: Yes.

COUNCILMEMBER VICTORINO: Thank you.

CHAIR GUZMAN: We'll do that.

COUNCILMEMBER VICTORINO: Okay.

CHAIR GUZMAN: Okay. Members...oh, yes. Sorry. Ms. Cochran?

VICE-CHAIR COCHRAN: Thank you. So mine's in relation to the definitions of smoke, smoking and tobacco products. So I'm not sure how medical marijuana works. I don't know if those kind of people are allowed to smoke in public places or how does that work?

CHAIR GUZMAN: That's a good point.

VICE-CHAIR COCHRAN: So because we're only focusing on tobacco in e-cig type, you know, smoke?

MS. SHEPPARD: Under...oh, I'm sorry. Mr. Guzman?

CHAIR GUZMAN: Yes, Corporation Counsel?

MS. SHEPPARD: Under the Hawaii Revised Statutes, medical marijuana is not allowed to be used in public places, period, so, not in parking lots, not in parks, not in public places, period.

VICE-CHAIR COCHRAN: Oh, okay. So, yeah, I just wasn't sure if that needed to be as it's becoming more prevalent in other, you know, states and wasn't sure how much it's gonna take on in our County so.

CHAIR GUZMAN: No, that's a good question.

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VICE-CHAIR COCHRAN: Just to be ahead of the ball, but I do see people, they try and beat the system by not being on the high tide in the County lots and they're smoking cigarettes and marijuana just in the shoreline, so they're in, literally in the water drinking and smoking. So technically, they're not in our park or in the high tide, like, okay, you guys got, you know, that's, can't do nothing about there, that, so anyhow.

CHAIR GUZMAN: There's a loophole in everything. Mr. Hokama?

COUNCILMEMBER HOKAMA: Yeah, Chair, I think I, even with the Washington state, are counties there, Oregon, has just implemented, Colorado, all recreational smoking is not allowed in public. It's in private, your private domicile, but nothing is allowed in public.

CHAIR GUZMAN: Public. Okay. Very good.

VICE-CHAIR COCHRAN: And then lastly --

CHAIR GUZMAN: Yes, Ms. Cochran?

VICE-CHAIR COCHRAN: --on the agenda, I'm noticing that it's saying, it relates to Chapter 13.04, but also, 6.04.090 for, relating to animal control officers? So is that what we're supposed to be discussing here today, too?

CHAIR GUZMAN: We haven't gotten to that.

VICE-CHAIR COCHRAN: Oh, okay.

CHAIR GUZMAN: So we're just...we will get to it. It's quite a long chapter, so, but we'll piecemeal this so that we don't get burned out on it. But it's a long time coming and I have to commend the Department for working on it. I know that we've been, they've been working on it for the last couple years now, the last two-and-a-half years. So I think it's a good thing to at least take a look at it and review the chapter and it is somewhat archaic, so, you know, we're gonna try to get through this new process, this new revisions the best that we can. Okay? Thank you.

VICE-CHAIR COCHRAN: Very good.

CHAIR GUZMAN: So, Members, without any objections, I'd like to defer this item?

COUNCILMEMBERS VOICED NO OBJECTIONS.

**ACTION: DEFER.**

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CHAIR GUZMAN: Okay. Thank you. I'm going to take a short recess. Let's come back at 3:05 so that everyone can take a break before we start the next item. Okay? . . .(gavel). . .

**RECESS: 2:58 p.m.**

**RECONVENE: 3:08 p.m.**

CHAIR GUZMAN: . . .(gavel). . . EAR Committee shall now reconvene.

**EAR-2 LEASE AND LICENSE OF COUNTY-CONTROLLED PARCELS TO FRIENDS OF MOKU`ULA, INC. (LAHAINA) (CC 13-304)**

CHAIR GUZMAN: Members, then, turning your attention to the next item on the agenda, EAR-2, the Committee is in receipt of the following: County Communication 11-304, from the Director of Parks and Recreation, transmitting two proposed resolutions entitled, Authorizing the Continued Operation of a Parking Lot Concession by the Friends of Moku`ula, Incorporated, Pursuant to the First Amendment to Lease Dated May 1, 2003; and Authorizing the Continued Operation of a Parking Lot Concession by the Friends of Moku`ula, Incorporated, Pursuant to the First Amendment to License dated May 1, 2003. The purpose of the proposed resolution is to allow the Friends of Moku`ula, Inc., to continue the operation of the parking lot concessions on the properties leased, identified for real property tax purposes as tax map key (2) 4-6-007:001 and licensed under identified real property tax map key (2) 4-6-007:002 (por.) and 036. And correspondence dated October 6, 2015, from the Department of Corporation Counsel, relating to the operation of the parking lot concessions. Members, last month we started our review of the Friends of Moku`ula, operation of the parking lot concessions located on properties leased from the County by the nonprofit. The parking concessions is the, is an incidental use of the lease of the premises to restore and preserve Moku`ula and the ponds at Mokuhinahina [sic]. We will be examining the restoration later as the connection with a separate item that was recently referred to this Committee as EAR-42. But today as we continue our review specifically for the concession of the parking lot, I would like to remind the Members that the amendments to the lease state that if the, if not approved by the Maui County Council such incidence use shall not be permitted, and I'll reference that specifically on the record again as Item No. 10 of the lease and license, the use of the premises, that the licensee shall use or allow the premises hereby licensed to be used solely to restore and preserve Moku`ula and the ponds of Mokuhinahina [sic] as an incidental use thereto, for the first three years of the license term. Licensee shall be temporarily permitted to operate a parking concession on the premises, the net proceeds of which shall be used by licensee for restoration and preservation purposes. Such incidental use to operate a parking concession shall be reviewed, and in its discretion, approved by the Maui County Council by separate resolution at the end of the first three years and then every five years thereafter during the term of the license.

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If not approved by the Maui County Council, such incidental use shall not be permitted. So, we are back on that same discussion. Previously we had at the last meeting, a number of questions came up, which I posed by three letters to the Department of Corporation Counsel, the Executive Director of Friends, Blossom Feiteira, and the President of the Board of Directors of the Friends, Kimo Falconer. The letters, Members, are in your binder. To begin with, I would like to go through or at least introduce on the floor, Blossom Feiteira, the Executive Director of the Friends. Yesterday, we received some responses from the letter that I addressed to the Friends. Unfortunately, their responses came late. We had sent out the letters of the request for certain documents and financial data a month and a half ago and we just received some of them yesterday and I guess sprinkles of those came in today via e-mail. So I apologize, Members, wasn't able to review all of the information that came before or came to me in that quick of time, but what we did supply was some of the documents that was provided for us yesterday and just recently, maybe 30 minutes ago, some other documents, I believe, some other financial documents that came in. So, why don't we go ahead and begin with Ms. Feiteira on the responses to my letter. So, Members, that would be in the, in your binder dated September 22, 2015 to the Executive Director, Ms. Feiteira.

MS. FEITEIRA: Hi. Good afternoon, Chair, Members of the Committee. Thank you for the opportunity to discuss with you the request that the Chair made on a letter dated September 22<sup>nd</sup>. First of all, I'd like to apologize for the delay in getting our documents to you in a timely manner. Unfortunately, when we got that letter, we were already out of the office. We were out for the whole week. Did not get back into the office until the 28<sup>th</sup> and right after that, I got sick. So, we are, I think we finally gotten all the documents you requested to the Council Services, but I need to get back to my office to verify that. Mr. Chair submitted a letter to the Friends of Moku`ula, along with Mr. Falconer, our President, making certain requests. In particular, in the letter...let me see, I'm trying to follow what I wrote here. In your first letter addressed to myself dated September 22<sup>nd</sup>, you requested a copy of our current contract with Kalua O Kiha and Diamond Parking regarding the concession. I believe we have delivered that today. We have a contract with Diamond Parking dated December of 2013 that shows what the minimum amount of revenue will come to Friends of Moku`ula on a monthly basis paid in quarterly payments. That's one. And we also included the itemized spreadsheet indicating all revenue collected from the parking lot concession to date with an itemized list of what the money was spent on. We included the Federal tax returns for Kalua O Kiha from 2006 to 2015. And so, based on some of the questions that you raised, Mr. Chair, one regarding the income and expenses allocated between Friends of Moku`ula and Kalua O Kiha. First of all, I think, I want to get something made clear here is that Kalua O Kiha is a wholly owned subsidiary, a for-profit subsidiary of the Friends of Moku`ula and one of the reasons why we did that was, at the time, the economy was starting to sink very quickly. There is a concern at the IRS when a nonprofit is receiving what they call unrelated business expenses and those, that revenue becomes its sole source of revenue. It puts your nonprofit status in jeopardy. And so what Friends of Moku`ula did, with advice from

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their attorney and their CPA, is they created a for-profit subsidiary that would be the recipient of that revenue and that for-profit subsidiary would then donate a portion of that revenue to Friends of Moku`ula. That's how Kalua O Kiha got set up. Now, to be very frank with all of you, that process was started, but it was never completed in terms of delineating the difference between the two organizations and its function; so, we have started that, I started that about six months ago and we're almost complete in defining what role and relationship both of those organizations will play. The expenses that Kalua O Kiha incurs is based on their assumption of the cost for the maintenance of the site and the parking lot. We do have some cost that we incur in the maintenance of the parking lot such as the utility bills, water bills and some maintenance cost, but the primary cost that Kalua O Kiha incurs is actually maintenance of the site itself. So we have a part-time caretaker on staff at Kalua O Kiha that keeps the place clean and free of all trash and he monitors use of the park from the public that come in and out of there. Other than that, all other profits deemed available by Kalua O Kiha Board is then donated to Friends of Moku`ula. Currently, we carry approximately, we charge Kalua O Kiha approximately 10 percent of our cost for oversight of their personnel for making sure that the bills get paid and addressing any other concerns that the site may incur as a result of the day-to-day activities. There are no other benefits that are provided to either entity. It's cut and dry and the accounts are segregated. So, we have one bank account set up under Kalua O Kiha. We have a bank account set up for Friends of Moku`ula and we have two different set of signatory parties that are established for both of the accounts, so. In other items that listed in your letter to Mr. Falconer and myself, Friends of Moku`ula does not operate the concession. Kalua O Kiha operates the concession. We are a recipient of those revenues. Kalua O Kiha negotiates with the management company and oversees the contract compliance, including the removal of any derelict cars on the property, monitor the stalls, general maintenance and cleaning. And these functions are provided by myself and the site maintenance person on an as needed basis. Mr. Chair, is there anything else you want me to address?

CHAIR GUZMAN: Yeah. I have a...you know, forgive me, Members. I didn't have enough time to go through all the documents, so this is just a preliminary cursory questions that I would, that I have right now until I have a full grasp of all the documents that were submitted. But I had noticed just on a review, that the contract, let's see if I see, the contract between Diamond is a rental, so, Diamond is renting the space at a base cost of 40, I believe, 57,000.

MS. FEITEIRA: Yeah, it's \$46,200.

CHAIR GUZMAN: Forty-six thousand, so that's just, so that's what you receive, I mean, the profit side of...

MS. FEITEIRA: Correct.

CHAIR GUZMAN: The profit organization receives that, right? Correct?

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MS. FEITEIRA: Yes.

CHAIR GUZMAN: Okay. Not, not the full revenue --

MS. FEITEIRA: No.

CHAIR GUZMAN: --portion of it? Okay. Why is that? Why isn't it a...

MS. FEITEIRA: The negotiations that took place established a minimum payment system where it's actually 70 percent of all the revenue derived from the parking lot with a minimum base of \$15,400 a month. So our minimum revenue base is 185,000 approximately for the year, with any added revenue based on the 70 percent revenue share that we've established.

CHAIR GUZMAN: Okay. And then it appears that on the subsidiary, which is the profit side, their board, I believe it's called Kalua, yeah?

MS. FEITEIRA: Yeah.

CHAIR GUZMAN: O Kahia [sic]?

MS. FEITEIRA: Yeah, Kalua O Kiha or KOK.

CHAIR GUZMAN: Okay. So, they, then, determine how much to give as a donation to Friends?

MS. FEITEIRA: That is correct.

CHAIR GUZMAN: Okay. After a board meeting, I believe, it's quarterly.

MS. FEITEIRA: Yeah.

CHAIR GUZMAN: So when I go back in the, what you submitted yesterday, the tax, the income tax documents, the income tax returns of the profit side going back from 2009 to 2014, it appears that on the donation side, it goes from 6,000 from one year donated to the Friends, to like 9,000 and then 2014, 18,000. And there's a lot of different expenses. There's a huge amount of expenses that's indicated on the profit side business.

MS. FEITEIRA: Okay.

CHAIR GUZMAN: So, my...it's just odd at this point because I'm just looking at cursorily that it looks like the profit side is actually the parent corporation and the subsidiary is the Friends. And that the parent, the profit side is, the employees even have



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contribution benefits and there's a lot of different other expenses for equipment, supplies. If this was a shell company that was supposed to be a pass-through, why does it have so many different expenses? It should be the parent company, which is the Friends that has more expenses, but it seems like all of its getting expended on the profit side and, then, there's little amount of revenues that were generated from, I mean, the revenues that were generated from the parking lot, which is about 144,000 estimated per year, is being dwindled down to 6,000, 8,000, 18,000 that's actually given to the Friends. While the lease agreement says that all revenues, you know, granted you have business expenses, but from 136,000 one year to donating that money to 6,000 to the Friends just, I can't explain that just by, you know, I don't have any other documents that I've actually reviewed. Maybe I need to go further into it, but I'm a little bit confused.

MS. FEITEIRA: Okay. So am I. I'm looking at the, I'm sorry, I'm looking at the 2014 tax returns. So you're talking about item, line Item No. 19, where it says, charitable contributions?

CHAIR GUZMAN: Yeah. So you're saying that the profit company, which is supposed to be the subsidiary of Friends, how you guys are set up is that the profit company makes a contract with Diamond and, then, Diamond pays a rent of 46,000. The profit company collects it and, then, according to the documents, the board of the profit company then makes a determination of how much money to donate to Friends, while the lease says that with the revenues, you know, in the lease and license of the County between you and, between the County and Friends, says that the revenues are supposed to go for restoration purposes only. So I don't know why the other, I mean, it's just a substantial amount of business expenses being exhausted by the profit side and then very little going over to the Friends. So I might need in, some further assistance in accounting because I don't have a real grasp of the documents before me, but that's all what I can deduct in such a short period of time. I will probably ask the Members for assistance in reviewing this at this short a period of time or I could ask also for the Members to consider us doing a resolution for a professional audit because I can't get all of these, to have the documents piecemealed to me and have my staff try to put it together is very difficult. I think we need some professional assistance, but I'm open to some questions that could, that you can generate, that before you, that you have the documents before you, asking for your assistance or recommendations or questions that you may have at this point.

COUNCILMEMBER CRIVELLO: Well, I have a question or comment. In regards to requiring some expense on our part for a professional audit or what have you and I realize since the last meeting, but I think, you know, if September 22<sup>nd</sup> was your request and perhaps then, maybe, that can put forward that we give the Friends of Moku`ula a timeframe to be able to outsource. You know usually you have to have some financial statement professionally if that's what you want or some kind of management audit. So, I'm trying to understand, what is the problem with a nonprofit having a subsidiary for-profit?

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CHAIR GUZMAN: There's nothing really wrong with it. It's just how are they, according to what their agreement was, the Friends with the County, was that the revenues of the parking lot were to be used specifically for the purpose of restoration, we're trying to track the money. Where did it go? I mean, where, how is it being spent? And the way...and this is just cursory, I could be wrong, you know. I didn't really have that much time to review, but just based off of the tax returns off the profit side, it looks as though there's a lot of business expenses from the profit side and that the board, according to the audit of 2013, the board of the profit side determines how much to give to the Friends' side. And my understanding from the 2010 audit, it was supposed to be a shell. The subsidiary was a pass through company, which was to avoid some of the tax consequences, but there's so much business expenses on the profit side that it's leaving little or almost very minimal amount to the Friends' side for the restoration purposes. And I need to know if that's verifiable or I'm incorrect, but that's what I see right now and I apologize if I am wrong. I haven't had enough time to review everything, but I know that Blossom has been working very hard and very diligently to just supply us the documents and I guess there, on their side, they've gone through a lot of different struggles in keeping the documents straight. I have been trying to get these, the information for the last several months, so, at this, I'm at an impasse at this stage.

MAYOR ARAKAWA: Mr. Chairman? I'm sorry to interrupt, but I have to leave.

CHAIR GUZMAN: Yes, Mr. Mayor.

MAYOR ARAKAWA: Thank you.

CHAIR GUZMAN: So, Mr. Hokama?

COUNCILMEMBER HOKAMA: Chairman, never an easy task. And so I understand because if you look at their 1120 Form for 2010, their gross income was 144,000, after their deductions, their taxable income is \$57,000, you know, which is about an \$87,000 reduction from gross income. And so my thing is, the question I think we should be asking is, is this vehicle working for the intent and purpose the Council gave its original approval? And I think the Department needs to assist us in telling us now according, under the current structure, is this to the County's and the restoration of Moku`ula's benefit or should we cancel the permitted use and go out and run the facility ourselves and make an annual appropriation to Friends through the County budget where we know exactly what is coming in and then we will make the appropriation that fits and helps Moku`ula achieve its task of finishing its reconstruction.

CHAIR GUZMAN: I think that's, why don't we refer that question to the Department with the added...yeah, I believe, Mr. Hokama, we did give them 500,000 for the restoration the last couple budget here.

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COUNCILMEMBER HOKAMA: Well, that's what I mean, see.

CHAIR GUZMAN: Right.

COUNCILMEMBER HOKAMA: Maybe we should just change how we approaching this and make this a budget consideration and terminate this parking agreement.

MR. BUENCONSEJO: Chair? So on the Department's standpoint, you know, that'll be something that would be coming from a Council thing. If it was a straight-up where we take the parking lot and then do the same process of leasing it out or being...vending it out to a Diamond Parking or any other parking structure out there and doing it that way, whatever the 70/30 split is. Again, for me to make a decision on that personally right now, I would have to go back and talk story with everybody else, but as long as it wouldn't take away from our Parks Department personnel, you know, we don't have the manpower to manage it. But if a management company like Diamond Parking, that's a potential option to consider or the biggest thing is, again, working with Moku'ula, Friends of Moku'ula and getting them back on track and if again, it still continues not to work, then, definitely, it's something that the County would have interest in taking that over.

COUNCILMEMBER HOKAMA: Well, my thing is, if we do this right, we can put this out as a concession proposal and have people bid what they willing to pay us to run one parking concession, Chair. I think I see this as a potential revenue generator, not an expense to the Department.

MR. BUENCONSEJO: Chair? Chair?

CHAIR GUZMAN: One second, Mr. Buenconsejo. On the audit that was done in 2013 mentions that Mokuhinia Pond is to be maintained by the profit side, the Kalua. So I find that kind of strange why that's in there, why the auditor says that because if it's, I thought Friends were supposed to take care of the pond and apparently the parking lot covers the pond, so how do you, you know, you're supposed to be restoring the pond, but yet, the parking lot is on the pond and that also is a cash revenue source for the profit side. So what is the incentive to, I don't know, I am, it's all conjures, assumptions at this point. Mr. Couch?

COUNCILMEMBER COUCH: Thank you, Mr. Chair. And I have some history on this one because I worked on it, again, when I was on the ninth floor very early on. The intent was to lease them the parking lot, they could raise funds to work on the restoration. First thing was to move the parking lot to further mauka because part of the pond was in the parking lot, so that was the first thing. And I, it's my understanding that they were having some issues with Salvation Army, because that's the property --

CHAIR GUZMAN: Oh, I see.

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COUNCILMEMBER COUCH: --right there, and there are some property concerns. I believe they, the intention was eventually to buy the Salvation Army part, because I think that's part of it as well, but anyway, that being said, that was the intent and yes, the funds were supposed to be to, for Friends of Moku`ula to restore the pond. My question here today is who are the employees of this KOK versus who are the employees of Friends of Moku`ula?

MS. FEITEIRA: Okay. So we have a site maintenance person, Gary Kauhane.

COUNCILMEMBER COUCH: Who's we?

MS. FEITEIRA: Kalua O Kiha, I'm sorry.

COUNCILMEMBER COUCH: KOK?

MS. FEITEIRA: Kalua O Kiha, yes, employees Gary Kauhane, who is our site maintenance person. He works part-time. And, then, you have under Kalua O Kiha, I provide 10 percent of my time for management and oversight.

COUNCILMEMBER COUCH: Okay. Now that's the question I would have for either accountants or lawyers or anything is having a nonprofit head also head the for-profit, so, I'm not sure how that works. If can, that's fine.

MS. FEITEIRA: Yeah, I work part-time at Kalua O Kiha.

COUNCILMEMBER COUCH: Okay. So, I'm looking at some of these reports and yeah, Mr. Chair, unfortunately, they just came in. There's, for instance, on one of your June 30, 2013, Consolidated Statement of Financial Position, it's on the...oh, by the way, I have to put a little bit of disclosure, I am the IT Manager for Levin & Hu, LLP, who apparently is, I had no idea they were doing, that's how compartmentalized they are. I had no idea they were doing this audit, so, just to give you that.

CHAIR GUZMAN: The 2013 audit.

COUNCILMEMBER COUCH: Yeah. Anyway, there's a construction in progress of 332...\$333,000. What is that?

MS. FEITEIRA: The Friends of Moku`ula received a grant from the County of Maui to do, take care of the planning and permitting for the new parking lot. Okay. So, I'm not sure if those numbers are correct because when I came on board in 2013, there was a balance left of about \$168,000 that we returned back to the County of Maui.

COUNCILMEMBER COUCH: Okay. Well, that's as a, that's a June 30, 2013 audit, so I'm not, I mean...

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

COUNCILMEMBER COUCH: Yeah. That may not have, I don't know when you turned everything back to...

MS. FEITEIRA: December of 2013.

COUNCILMEMBER COUCH: December of 2013. Okay. Yeah, Mr. Chair, I mean, because we got everything so last minute and because there are some concerns, I'm not sure, maybe we can take some time and go through it and maybe our financial folks, analysts can maybe go through it and see what's going on. I'm not sure I want to spend funds yet to do any kind of audit unless we can have a little bit more time to look at it with our staffs. You know, on first glance, yeah, it's kinda --

CHAIR GUZMAN: Right.

COUNCILMEMBER COUCH: --trying to figure out who's got what, so.

CHAIR GUZMAN: Right. I agree and I apologize if it was --

COUNCILMEMBER COUCH: No, no.

CHAIR GUZMAN: --you know --

COUNCILMEMBER COUCH: I understand.

CHAIR GUZMAN: --it's a cursory review because --

COUNCILMEMBER COUCH: Yeah.

CHAIR GUZMAN: --I only had a couple hours to look at it. But let me ask the Department, who has the oversight of these, of the concession? Is it the Parks Department and do you have annual reports of how the concession is being operated? Because I did request documents and I didn't receive anything from the Department.

MR. BUENCONSEJO: Chair, no, we have no records on the concession from the, as far as from Moku`ula, we work with them, but we personally don't receive the reports, which is what I was gonna bring up as well. If we were to, and Jerrie and I were just briefly talking, regarding the parking for the concession, you know, it has been, it's a State property that was EO'd, but for the use of Moku`ula to run a concession, so in the event say the County was to take over the concession, we may need to go to the State, to their board and change that up, too. So again, it's not County property. It is EO'd, but it's for the concession use for Moku`ula, not for the County of Maui to generate revenue.

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CHAIR GUZMAN: Yeah, I understand that. And I believe that it's as simple as getting an approval.

MR. BUENCONSEJO: Yeah. So whatever it is.

CHAIR GUZMAN: Or just a review process.

MR. BUENCONSEJO: Yeah.

CHAIR GUZMAN: Yeah. Can I ask the Finance Department to come down?

COUNCILMEMBER CRIVELLO: Chair?

CHAIR GUZMAN: Yes?

COUNCILMEMBER CRIVELLO: May I ask a...

CHAIR GUZMAN: Yes, Ms. Crivello.

COUNCILMEMBER CRIVELLO: So, you wouldn't reference, I notice they have a financial and auditor's report for June 2013.

CHAIR GUZMAN: Twenty thirteen, correct.

COUNCILMEMBER CRIVELLO: Yeah. And looks that it was actually submitted if I look at the actual letter from the auditor or the CPA, it's dated May 28, 2014, so, it...my past experience with nonprofits when you ask for the, if I want a financial report, it usually doesn't, like 2014 will probably we...if I were to...probably won't get it 'til 2016, you know, instead of 2015.

CHAIR GUZMAN: Right.

COUNCILMEMBER CRIVELLO: So, if you look at the most updated financial, it does give the breakdown and it mentions, and the subsidiary. So, I think we have before us information that we can work with though that involves more than just...

CHAIR GUZMAN: No, I actually reviewed that, too, and it...they consolidated so, you...it's an audit on a consolidation, so I don't know where the subsidiary is actually passing through the money. The way that I looked at it was like, okay, let's look at the Federal income tax and see exactly how much is being donated from the profit side to the Friends' side and my question was, we have to go back to what is our assignment? Our assignment is to review the lease and the concession and whether the language that was provided in the lease and license, that the revenues that were to be generated from the parking lot is to be used specifically for the restoration. Well granted, we can

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probably give some leeway for some business expenses for the pass through company, which was supposedly created to run the parking lot. But if you look at the income taxes, there's substantial amount of business expenses from that company, so, I guess we gotta get back to what Mr. Hokama said is this something that is achieving the goal that we set out for, you know, the Council did in the past and according to Mr. Couch, his historical perspective is yeah, this money was supposed to be generated for restoration, not for computers and all that other, the business expenses that were in the income tax. So, I'm not sure what, you know, what this Council wants to do with it, but I would like to ask the Finance Department if they could assist since the Parks Department doesn't have any previous documentation on oversight of this concession, can you lend your assistance to review these documents that were presented and see whether they're in conformity, the numbers are in conformity with the objective of the lease and license that we are assigned to review and what is before us, this Committee, is approving whether they can continue to have this concession or not?

MR. WALKER: I mean, we can assist, you know, obviously it's not our place to determine whether or not they're in conformance with...

CHAIR GUZMAN: Right. But can you...since, I'm getting a feeling that the Members would like to hold off on getting a professional audit done, but for our, you know, for being equipped in reviewing these documents, could you lend your assistance in the Finance Department to assist in reviewing these documents and putting it together?

MR. WALKER: When you say, putting them together?

CHAIR GUZMAN: Or...

MR. WALKER: I mean, come back to you with --

CHAIR GUZMAN: Yes, with a report.

MR. WALKER: --just sort of a, an overview of what we think is going on or...

CHAIR GUZMAN: Yes.

MR. WALKER: Yeah, we could do, we could put something together, I'm sure.

CHAIR GUZMAN: Okay.

MR. WALKER: Given, we're right in the middle of our CAFR, so, I mean, we're going to need some time to do that. We can't obviously just drop everything.

CHAIR GUZMAN: Right.

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MR. WALKER: We have our auditors in town, et cetera, so, if we're given a proper amount of time, I think we can assist.

CHAIR GUZMAN: Okay. Members? Ms. Cochran?

VICE-CHAIR COCHRAN: Thank you, Chair, and yeah, I think I'd like to get back and highlight Mr. Hokama's comments. I completely agree that we need to look at the real fundamentals of this, which is, is it fulfilling the mission? This license and lease, who is it written to? Is it KOK? No, it's the FOM. And you're saying it looks like as you're sifting through this last minute information that has been given, that you see it as the parent company, KOK, you know, donating or trickling down a few bits and pieces of money to FOM, whose sole mission is to restore Moku`ula and Mokuhinia. There's something going on here, and, Chair, I totally disagree in having our, this audit or whatever, compiling the information and paperwork done in-house. I want a third-party outside entity doing this audit because unfortunately, I have had meetings with departments, Mayor included and things aren't panning out. So, I'm not going to say untrustworthy, I'm not gonna say...but I'm just saying, I think we're due an outside independent set of eyes to look through all this paperwork because as...and I looked through it and I'll tell you, I got 22 years' worth of information on this and yeah, to piece it together it's quite an undertaking. I don't think it'd be fair or what have you to put it upon Department of Finance amongst as he said, he's trying to put together CAFR and what have you. So I think this deserves its own set of eyes as an independent outside auditor. I have a trillion, gazillion questions, but I'm not gonna go there, but that is my in a nutshell comment in regards to the juncture we're in on this subject matter. Thank you, Chair.

CHAIR GUZMAN: Thank you. I, when I reviewed the 2013 audit, it indicated that some of the walking tour is part of the expenses for FOM, but I can't determine whether the revenues that were transferred from the profit side to FOM for the purpose of restoration, whether that money was being used for the tour side or the educational side. Because if we're looking at clearly the language, the strict language that's in the lease and license, it's for the purpose of restoration and I might need Corporation Counsel's opinion whether the walking tour and all the educational part falls under restoration or not. So those are some questions I had, just on the surface, because I haven't had an opportunity to review all of it. But I see where you're coming from, Member Cochran. I'd like to have a better consensus of whether the Members feel there's a need to organize this or have an audit, an auditor, an independent auditor organize all the documents. Mr. Couch?

COUNCILMEMBER COUCH: Thank you, Mr. Chair. And my comments were that if we can have our own internal Council Services staff take a look at it first before we expend the money. I do, I would like to have somebody look at it and if that doesn't work, then I would go to the outside auditor. That being said, I'm very concerned about you had in one of your questions in your October 6<sup>th</sup> letter, I'm concerned on the whole reporting. You know, Section 10, Use of Premises, basically says that the first three years it shall



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be reviewed and in its discretion approved by the Maui County Council by separate resolution at the end of the first three years and then, every five years thereafter. I don't know that the Council has seen any report. Who's responsible for getting the report? If it's something that the Council is, needs to poke somebody, then, that's fine. I need to see that, but normally that doesn't happen. Normally, it's either whoever has the lease, which I believe is the Department of Finance, is supposed to come up and say, alright, your three years is up, take a look at this. So, I'm a little concerned that we haven't had any of these reports at all.

CHAIR GUZMAN: I kind of, when I looked at that, I kind of put it in the same context of, you know, when developers have conditions and they have to put...and those, you know, there's requirements for them to put in reports, I would say the burden is on the licensee to submit reports because just like developers, it's in their condition for them to submit reports. It's not us as a County go chase down developers. This is, this language is in their license and lease that there should, there is every three years or every annually, sorry, annually reports to be submitted and according to the Department of Parks, there are no reports to be found.

COUNCILMEMBER COUCH: Right

CHAIR GUZMAN: I am a little bit befounded in, dumbfounded or whatever the language could be.

COUNCILMEMBER COUCH: Mr. Chair, while you say that and I understand that, usually if that's the case, there are consequences if they don't do that. Here in the response back from Corporation Counsel, yes, from Corporation Counsel, it says, the lack of review by Council at the designated three and five-year markers does not automatically negate the lease or license. If the matter was not on the Council agenda for review at the designated review period that is merely an oversight and will not connote a breach by FOM. I think that's more than a breach, I mean a, merely an oversight. Maybe it's not clear in the lease who is supposed to do this, initiate the three and five-year thing and maybe that's why the language is like that, but I think this is very, this one is an important one because I agree with your, the premise of your questions. It's like, they haven't done any of these reports, so, or at least Council hasn't seen any of these reports, so therefore, they shouldn't be allowed to continue, but I'm not sure. Thanks.

CHAIR GUZMAN: I think Corp. Counsel wanted to, do you want to respond to that? Yes, Ms. Feiteira?

MS. FEITEIRA: Okay. So now, I'm very confused. The Friends of Moku`ula has been submitting an annual grant report to the Parks and Recreation Department since the execution of the license and the lease. That grant report requires us to submit financial statements, minutes of the board meetings, as well as a layout on what our

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activities and proposed activities are gonna be. So I'm not sure what reporting you're talking about.

CHAIR GUZMAN: Yeah, let's get...Department, do you...

MR. BUENCONSEJO: Chair, yeah, so the question I was asked was the concession report, it was asked if we had backup of...not talking about the P&Ls or the financial report from Moku`ula. It was the concession and from our, you know, from digging up true reports, again, not something that was, again, I haven't gotten what you folks are looking at right now as far as --

CHAIR GUZMAN: Right.

MR. BUENCONSEJO: --whatever you folks have. But we do have the current fiscal year, that, again, we had to...I believe it falls under us as a grant, through our Grant Department. Does it come in a timely manner? I think that's something that we're working on. We're pushing on that. What triggers it is our Grant Manager goes into it, looks at the contracts and goes and gets it down. Does it automatically should be given, ideally, yes, you would like them to follow up and give it to us. With the Friends of Moku`ula in general, they've had a lot of change over from Executive Director to Executive Director, with...on-going for years, so I think with that being said, there's always been that gap of has it been sent, was it sent and then again, with the cultural aspect of it, you know, we always question that, turnaround and go back to that so. We do have certain things, but for the concession part of it as far as financials for concessions, I don't have a history of true year to year with exact concession amounts.

CHAIR GUZMAN: And I guess my...let us refocus because it's really the language here in the license and lease. I'm trying to track where the money is being spent because according to the license and lease, the money that's being generated from the parking lot is supposed to be going to restoration and all of the audits and the documents that I have before me does not give me a clear picture on how that money is being spent for the restoration purposes. And that's why I need a little bit of professional help to identify what monies were actually being spent for the restoration purposes. Mister...Ms. Crivello? Sorry.

COUNCILMEMBER CRIVELLO: I just want to ask that we take into consideration, oh, what, going back to what Mr. Couch said, the Committee that I had, you know, we addressed what requirements that's supposed to come back to Council and it becomes to me the kuleana of the Committee to get the reports as, if it's supposed to come to Council. And there were complete oversights to receiving reports from the Department. Also, I think of instead of us expending and we can ask Friends of Moku`ula if they would consider bringing in an independent auditor for a management audit as well as a complete financial audit separating the actual FOM and the subsidiary and the organizational structure so that we can understand what's allowed under the nonprofit rulings and the IRS. I think we need to have some sort of

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explanation for the nonprofit and the for-profit. And instead of us expending, perhaps they could afford to get a complete audit.

CHAIR GUZMAN: Yeah. I agree with you. Maybe, we could...would you guys be willing to do that?

MS. FEITEIRA: Actually...yeah. We are actually, I have a appointment with Levin & Hu to do a contract, negotiate a contract for another audit, so, if you would like, I will try and accelerate that process. And just to be clear, we want a management audit and from all of the...

CHAIR GUZMAN: What we will do is we'll send a follow-up letter and we'll, we're taking copious notes, so.

MS. FEITEIRA: Okay. So, but just to clarify, based on all the concerns and questions I think that the Council has in regards to where all this money's gone over the years, I would put forth an offer to ask for a forensic audit which will come in and do a comprehensive audit on our books, on our files, board minutes, policies, the whole nine yards, to help allay any of the concerns that this Council has for the Friends of Moku`ula. You know, I started, again, like I said, I started in 2013 and a lot of the issues that are coming forward that you're bringing forward, we are experiencing in the office. And trying to get to them in a timely manner is running into problems since it's just me, so.

CHAIR GUZMAN: Okay. Thank you. Mr. White?

COUNCILMEMBER WHITE: Thank you, Chair. I think it's good for us to evaluate what expenses were covered under the Kalua O Kiha versus under Friends of Moku`ula. I don't know what is proper to be covered under Kiha as opposed to Friends of Moku`ula, but it appears that there may be legitimate expenses at that level that reduced the taxable income, so, I think whatever is appropriate is probably okay. There's little doubt in my mind that those expenses, although they're lodged under the for-profit section are focused on the restoration because that's what the whole organization's focus is. Whether they've been as effective as all of us would like them to be is another question and, you know, these have been issues that have been around for quite some time. So I think it's important that we get to the bottom of where the money is being collected and how it's being spent. I think Mr. Hokama brings up a, you know, an interesting perspective because in looking at this 1120, \$30,000 or little bit more than \$30,000 is actually being paid out in taxes. So, instead of the County collecting it from Diamond Parking in which case it wouldn't be taxed at all, there would be \$30,000 more that could go towards this function, so I think this is an appropriate thing to take a look at. I would caution everybody that while this parking lot is a functioning and revenue-generating entity now, once the restoration starts, the parking lot, a good portion of the parking lot goes away because part of Moku`ula Island is under the parking lot. So, it's, you know, this is a, we're gonna

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have to transition to a, you know, an allocation to them for the purposes of restoration at some point anyway, so, you know, again, I think it's good that we take a look back, but at some point, we have to start taking a look forward, too.

CHAIR GUZMAN: Forward, right.

COUNCILMEMBER WHITE: Because --

CHAIR GUZMAN: I think you have a really good point there.

COUNCILMEMBER WHITE: --we got a big, big job to do. You know, they've been trying and sometimes not so successfully to get things done. They've had challenges from other members of the community. They've had challenges of a variety of things, but we as the Council have a responsibility to figure out with the Administration, what way forward is the best way because this has been languishing for 20 years. You know, I don't think it's anything that any of us can be proud of. But we need to use whatever information we've got now and plot an appropriate way forward and I don't know that we know exactly what that way forward is right now, but we hope, I hope that at some point we can get a good focus on how best to achieve the restoration because we're a long way from being where we need to be.

CHAIR GUZMAN: Right.

COUNCILMEMBER WHITE: Thank you, Chair.

CHAIR GUZMAN: So if we're looking at the long-term goals --

COUNCILMEMBER WHITE: Right.

CHAIR GUZMAN: --it's whether we really don't...I mean, maybe we shouldn't just approve this and just start thinking about how are we going to appropriate certain monies just for restoration in the next budget and maybe just, you know, get rid of this whole parking lot concession. I mean that's what I'm hearing. It's like we should start planning ahead and looking whether there's a different avenue of appropriations for them.

COUNCILMEMBER WHITE: This is just my sense, but, Chair, the restoration in my view is best done through a nonprofit because they're not subjected to the same level of, you know, procurement that the County is subjected to, so therefore, there's probably less time and expense that's gonna go into it if it's done through a nonprofit, but you know, we've gotta get going.

CHAIR GUZMAN: Yeah. I agree. Mr. Couch?

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COUNCILMEMBER COUCH: Yeah. I agree with Mr. White. I mean, you know, we mentioned that the, part of the pond is under the parking lot. I still think that there's...and maybe things have been discovered since then, that there's an ability to move the parking lot so that you can still, because of, A, we need parking in that area, right, Ms. Cochran? There's...we kinda need parking in that area and then, B, it's a way to get revenue for the organization. So, I still think we should look into the possibility of moving that parking lot if it doesn't encroach upon the pond or the restoration process. That way, we don't have to be continually providing funds for them.

CHAIR GUZMAN: We'll add that in the letter to Corp. Counsel to see whether that's a viable option to move the parking lot, Sharon. And so, is there any other questions? I'm gonna go ahead...

VICE-CHAIR COCHRAN: Chair?

CHAIR GUZMAN: Ms. Cochran?

VICE-CHAIR COCHRAN: Yeah. I, again, want to just refocus on is this the right entity to be carrying out this mission, what it's been built to do? But what I'd like to ask of this Committee is, can we do a site inspection? I'd like all of you to go and walk this land and go and see the condition that it's in and think back when it was initiated, organized, and put together and how far it's come or the lack of. You folks make that determination with your own eyes and your own spirit 'cause that's what I think is needed. We can look at these drawings and lines on a piece of paper, but I'll tell you what, it's going to be worth a million, trillion words when you go over there. And I would highly recommend us all to go and walk the land and get a tour, you know. Maybe experience this Maui Nei Walking Tour that they make a profit on. You know, and see how it works. I don't know, just a recommendation, Chair.

CHAIR GUZMAN: No, and that's...maybe if we can get a consensus, then we can do that. And we'll send a poll out to see if the Members would like to do that. Mr. Hokama?

COUNCILMEMBER HOKAMA: Chairman, just a few maybe questions and comments. I got involved in the 1990s with this project under the late Akoni Akana, a great visionary, a great warrior of the culture. And in his mind it was so clear where he wanted to go and what he wanted to accomplish and he was very good in communication and I bought in to his vision of the restoration very early. For me, Chairman, and why I think we should be looking and I appreciate all the comments from the Members, we should be looking forward, but my thing is if we allow them to currently go as they have over the last "x" amount of years, how long will it take under this projections of this type of funding for the restoration to really reach completion? Twenty years? Twenty-five years? Is that a reasonable expectation for the County, our resources, as well as our Native Hawaiian community? If we want things to achieve at a certain, a point in time, and give it the integrity and the respect it deserves, then I think we need

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to look at how we're gonna help it reach that completion date at a more reasonable time. And if it needs for the County to take back its assets and find budgeting from a certain other perspective, then let's be open to that. 'Cause I will tell you, if you look back 'cause I was sitting on the Council, where was the County's financial position in 2000, 2002, it wasn't as good as it is today. Our, you know, our cash flow, our debt ratios was not what I would call healthy or what I would have called acceptable. Okay. So we made great strides in those early years to change the financial discipline of this County to allow us now to look at more ways to finance things. This is one of the options of a County that didn't have cash, a lot of cash in that time and era. Okay. We had big debts. We borrowed the hell out of our credit cards and we showed carryover savings, but we didn't show the smoking screen of the debt. Okay. Times have changed and this may not have necessarily flown if our financial profit and loss sheets was a lot better than what it was then. So I give you a different perspective with the historical component that that's what we did at that point in time under those situations. I think we have the opportunity to look at now, different options and I think we can expedite and help this project go forward and complete it sooner because I think it's something worthy for us to help and get completed sooner than later, Chairman. And so, I just appreciate you letting me share those few words. Thank you.

CHAIR GUZMAN: I think you're on point there. And I think everyone that has contributed to the discussion has very good points. And the...I think we're all on the same page in trying to make sure that the ultimate goal is to make sure the restoration is completed. And maybe, you know, when this type of methodology of funding the restoration was done at a time where, as Mr. Hokama said, like the County didn't have the cash flow, maybe it's time for us to take a different perspective and see whether this is not the right vehicle to fund the restoration. Maybe it's a different way of funding, but we've gotta do something. This is our chance and opportunity to make it happen, so. Ms. Cochran?

VICE-CHAIR COCHRAN: Thank you, Chair. And again, thank you, Mr. Hokama, for bringing in that perspective because I feel that there's a lot of focus on the revenue of this parking lot when I know there's a much bigger, bigger sums of money that can be gotten outside of our little town, outside of this State, outside of this country even. This is an internationally renowned spot. It has been documented and shown and when Dr. Christiaan Klieger was here, he had to hire a PR person to keep up with all the stuff they had to address internationally with this project. You know, all that sort of died away and it's, you know, kind of sitting idle in a sense, so, I think there's room for revitalizing and getting it out there and garnering outside interest to fund. And I think this body, this County can reach out and get assisted by people of this nature. So, I, you know, I think just keep focusing on parking lot, parking lot, parking lot, I don't think we have to, so, maybe, you know, it's time to look at other modes and methods to move it forward. Thank you, Chair.

CHAIR GUZMAN: Thank you. Mr. White?

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COUNCILMEMBER WHITE: Thank you, Chair. And I forgot to mention that one of the reasons why it should be marshaled by a nonprofit is that if it is a County project, the funds that Ms. Cochran is talking about coming from outside, you know, foundations and so forth, simply won't come because they won't contribute to a County-funded project. If it's...or a County-managed project. If it's managed by a nonprofit, then they will provide funding to assist in the, with the completion and the focus of the project. And I, you know, I agree, we need to...we can't be focused on the parking lot alone. We need to focus on the fact that we've got a significant amount of work that has to be done. We're in the process of doing the archaeological inventory survey. I don't know where we are with the fencing. Do either of you know where the fencing contract is?

MS. FEITEIRA: I think it's, I'm not sure, it's at the Mayor's Office, so it's been, I know it's been delayed, so.

COUNCILMEMBER WHITE: But you know, to me, Chair, the, right now, I don't, I really don't care about the parking lot. I care about the fence because we're doing work in the area, the very, very sensitive area and if we don't put the park, parking lot...if we don't put the fence up, we're not doing our job to protect the integrity of the site. So, I would like us to move beyond the parking and focus on what it is that we need to do to accomplish the goal of restoration and get moving.

CHAIR GUZMAN: I know that you referred to our Committee Item 42, which is the restoration, but that is a separate item. So, right now, we're tasked or charged to just determine on the two resos before us is whether we're going to approve the continuation of the concession or not. So, I completely understand where you're coming from, Mr. White, is that...but I have this before us and so, cart before the horse or the horse before the cart.

COUNCILMEMBER WHITE: No, you're absolutely right.

CHAIR GUZMAN: I'm not sure how we would like to address this, but I think there's, you know, it's a two-prong analysis. We've gotta figure out moving forward, is this the best type of vehicle to be used for appropriations for the restoration or not? And if it's not, and we have a plan, we've developed a plan to replace this type of funding, then, I'm open to hearing that plan because then I will put this to a vote right now. And as long as we have a forward plan and how we're going to appropriate monies for the restoration and so that we can do away with this parking lot concession. But what we have before us is, you know, I'm gonna have to ask the Friends for an audit and that will give us enough time to formulate a forward plan. And if that forward plan looks good, hey, we have an audit anyway, we can look at it to see if that's viable or not. We can still make that decision to allow them for a temporary time...well no, they'd be the next, we would have to wait another five years to review the concession again 'cause it's every five years we review under the license and lease. So, really, this is the time if

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we're really talking about, you know, let's make that forward plan and how we're going to appropriate or do away with the concession, this is the time now because we're going to have to wait another five years to review the concession. But anyways, I'm gonna, without any other questions...

COUNCILMEMBER CRIVELLO: She has her hand up.

CHAIR GUZMAN: Okay.

MS. FEITEIRA: Yeah. I just wanted to address the Committee, if I may, Mr. Chair. I'm taking a little bit offense here at some remarks made about the capacity and the capability of the Friends of Moku'ula in getting the job done. First of all, in regards to the parking lot concession and the revenue derived from that, one of the reasons why it would not be a good idea for the County to do an annual appropriations to the Friends, because it's government dollars and government dollars chase away private dollars. The way it's set up right now and I, like I said, I just came in, I've only been there for two years, but from a grant writing perspective and a nonprofit perspective, you need the private dollars in order to be able to attract public dollars. Okay. So, right now at the going rate that we are currently getting revenue from the parking lot concession right this past year was barely enough to cover the cost of the AIS. Okay. That's the reality. Excavation and archaeology work costs money. So, anybody want to know what I've been doing the past two years, the Friends of Moku'ula, besides trying to figure out how to work the filing system. Councilmember Cochran is very correct. Okay. The international community is very well aware of the existence of Moku'ula. They have not come forward because nobody went back and talked to them. So this past year, we've made contact with Sacred Sites International. They're gonna come for another visit. This past month, I met with several national foundations seeking support for Friends of Moku'ula, Ford Foundation, Kresge, Coulter, as well as Harold Castle Foundation in Hawaii, so they are now back on line. I am trying to figure out how I am going to be able to write out my grants and get them out into the community by the end of the year so that we can start getting some of this money into our project by next year. The fencing has been delayed. According to the Mayor's Office, we may not see the fence in until probably the first quarter of next year, which means nothing happens until after March, which kinda gives us a good timeframe for the funding sources because once the archaeology works ends, we can move in immediately to start and finish off what they started. One of the issues that Friends of Moku'ula has been facing over the years is every time there's an excavation done there's not sufficient funds to follow up with restoration, so everything gets reburied. What we are attempting to do starting next year, is not just excavate, but actually restore in sections so that we can start working. I understand the frustration, not only of the County Council and its Administration, but the community as a whole that it's too long already. It's been too long. And we need to figure out a way to get, to move dirt at Malu Ulu Olele in a timely manner, so that we can continue to build the support that we need for that project to completion. I'm perfectly capable of raising the funds necessary to do that and I have been consulting with experts in the field in



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archaeology and anthropology, not just Dr. Klieger, as well as museums on what we need to put in place in order to start work. I think that the Friends of Moku`ula are ready to proceed. We have identified our experts that we are going to bring on site as soon as we start, but I need to be able to restore any confidence of this Council in the Friends of Moku`ula in order to start moving the project forward as we all want to do. So, the commitment that I will make to the County Council is that I will initiate a proposal for a management audit. I will wait for you to send me the specifics that you want covered in that audit and we'll get that going right away. In addition to that, I can also submit a comprehensive report on the plan that we put together to move that forward to the County Council and come back to you and do a presentation and commit to doing follow-up meetings and reviews with the Council at your leisure.

CHAIR GUZMAN: Okay. Thank you very much. We will count on that and will do the follow-up. And we'll be working also with the Department so that we can get everything...

MS. FEITEIRA: Oh, yeah, and I'll also work with Kaala.

CHAIR GUZMAN: Okay. So without any...one last one. Mr. White?

COUNCILMEMBER WHITE: Just one more thing. Can you give us an update on the fencing and why it's not able to get done until first quarter of next year?

MR. BUENCONSEJO: Chair? I'd have to follow up on that. That came from, that was an Administration, the \$50,000 came from upstairs, so it didn't come from the actual Parks Department budget, so I can get back to you folks on that one.

COUNCILMEMBER HOKAMA: We rushed that appropriation.

VICE-CHAIR COCHRAN: Chair?

COUNCILMEMBER WHITE: Yeah, we rushed it.

MR. BUENCONSEJO: Yeah. That was through Wendy guys, Wendy Taomoto.

COUNCILMEMBER WHITE: Oh, that's right.

MR. BUENCONSEJO: Yes.

CHAIR GUZMAN: Ms. Cochran?

VICE-CHAIR COCHRAN: Thank you, Chair. So, as far as I, my office was updating regards to that 50,000, we appropriated in order for this fencing, bids came in way high. Bids came in three times, four times as much as that amount. So, they went back out and started to re, I don't know, survey, check boundaries, what have you to get a better, I

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don't know if to downsize the fence line or what, but they're putting out the bid again. And the bids just came in way too high, the 50,000 does not even cover, you know, part of it. So, as far as that's what the delay is right now.

CHAIR GUZMAN: I see. Well, we can...

VICE-CHAIR COCHRAN: That's the update.

CHAIR GUZMAN: I can bring down that item and put it on my agenda, the restoration item that Mr. White referred to this Committee as well.

VICE-CHAIR COCHRAN: Okay.

CHAIR GUZMAN: Okay.

COUNCILMEMBER HOKAMA: Chairman, one --

CHAIR GUZMAN: Mr. Hokama.

COUNCILMEMBER HOKAMA: --question for Ms. Feiteira, please. And I appreciate your candid comments. It's good to deal with straightforward and so thank you. Is the Friends able to utilize, since we heard the issue with the fencing finance, to utilize Kamehameha Schools Maui, Lahainaluna, maybe it's their history or civics classes or even UH Maui Hawaiian Studies to utilize that type of potential labor?

MS. FEITEIRA: Yes, it is, actually. However, I want to preface that with saying that we intend to recruit Kamehameha Schools, Lahainaluna High School, Maui Prep Academy junior and senior classes to come and work with us on site. The issue is is that we have to make sure that they're fully trained in the work that needs to be done. It's not just going with shovels or with toothbrushes or spoons, right?

COUNCILMEMBER HOKAMA: I understand.

MS. FEITEIRA: So, we have built in a training component into the program. We're turning the project into a program because we need to start training our people, our young people up for this kind of work. So, yes, that is part of our plan and I am gonna be talking to the new Chancellor at UH-MC to see if there's a possibility of using Moku`ula and Mokuhinia as a field school.

COUNCILMEMBER HOKAMA: Tremendous.

MS. FEITEIRA: Yeah.

COUNCILMEMBER HOKAMA: Tremendous. Thank you.

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CHAIR GUZMAN: Okay. Members, without any objections, I'd like to defer this item?

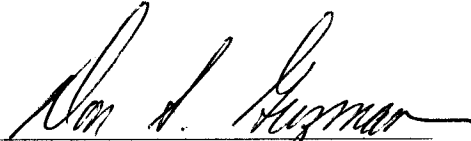
COUNCILMEMBERS VOICED NO OBJECTIONS.

**ACTION: DEFER.**

CHAIR GUZMAN: Thank you. Thank you very much. Thank you, Department. Thank you, Corporation Counsel. Thank you, Finance Department. This will conclude our items on today's agenda. Thank you. . . .*(gavel)*. . .

**ADJOURN: 4:20 p.m.**

APPROVED BY:



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

ear:min:151013

Transcribed by: Joanne Bista

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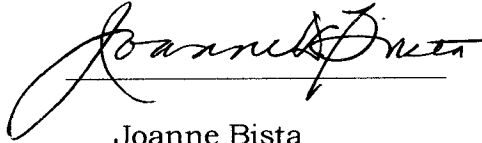
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CERTIFICATE

I, Joanne Bista, 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 5th day of November, 2015, in Kahului, Hawaii

  
Joanne Bista