M I N U T E S

of the

COUNCIL OF THE COUNTY OF MAUI

December 18, 2015

THE REGULAR MEETING OF THE COUNCIL OF THE COUNTY OF MAUI, STATE OF HAWAII, WAS HELD IN THE COUNCIL CHAMBER, KALANA O MAUI BUILDING, WAILUKU, HAWAII, ON FRIDAY, DECEMBER 18, 2015, BEGINNING AT 9:01 A.M., WITH CHAIR MICHAEL B. WHITE PRESIDING.

CHAIR WHITE: This meeting of the Maui County Council shall please come to order.

Mr. Clerk, will you please call the roll.

ROLL CALL

PRESENT: COUNCILMEMBERS ROBERT CARROLL, ELEANORA COCHRAN, DONALD G. COUCH JR., S. STACY CRIVELLO, G. RIKI HOKAMA, MICHAEL P. VICTORINO, VICE-CHAIR DONALD S. GUZMAN, AND CHAIR MICHAEL B. WHITE.

EXCUSED: COUNCILMEMBER GLADYS C. BAISA.

DEPUTY COUNTY CLERK JOSIAH K.NISHITA: Mr. Chair, there are eight Members present and one Member excused. A quorum is present to conduct the business of the Council.

CHAIR WHITE: Thank you, Mr. Clerk. And, for this morning's opening remarks we have Mr. Hokama.

OPENING REMARKS

The opening remarks were offered by Councilmember Riki Hokama.

CHAIR WHITE: Thank you, Mr. Hokama.

Will you all please rise and join me in the Pledge of Allegiance.

PLEDGE OF ALLEGIANCE

The Members of the Council, and others in attendance, rose and recited the Pledge of Allegiance.

CHAIR WHITE: Thank you. And, just a reminder to please turn off your cellphones; put them on vibrate.

Mr. Clerk, please proceed.

DEPUTY COUNTY CLERK: Mr. Chair, proceeding with ceremonial resolutions.

CEREMONIAL RESOLUTIONS

RESOLUTION
NO. 15-158

CONGRATULATING THE MAUI HIGH SCHOOL "SABER" MARCHING BAND AND COLOR GUARD FOR WINNING TOP HONORS AT THE 19TH ANNUAL MILILANI HIGH SCHOOL TROJAN BANDFEST

CHAIR WHITE: Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair.

I MOVE TO ADOPT THE RESOLUTION ENTITLED "CONGRATULATING THE MAUI HIGH SCHOOL 'SABER' MARCHING BAND AND COLOR GUARD FOR WINNING TOP HONORS AT THE 19TH ANNUAL MILILANI HIGH SCHOOL TROJAN BANDFEST".

COUNCILMEMBER VICTORINO:

MR. CHAIR, I SECOND THE MOTION.

CHAIR WHITE: We have a motion from Mr. Guzman and a second from Mr. Victorino.

Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair. It is my pleasure to bring forth this resolution in hopes that the, oh excuse me, I apologize.

May I request that the Clerk read the resolution in its entirety?

CHAIR WHITE: So ordered.

Mr. Clerk.

(The resolution was read in its entirety.)

CHAIR WHITE: Thank you, Mr. Clerk.

Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair. It is my honor to bring forth this resolution in hopes to congratulate the members of the Band, as well as all the, their advocates in supporting the Band.

The reason why the, the resolution includes the individual names of the Band members is because each of them worked so diligently to accomplish one goal. And, together, when they worked together in concert, achieved that goal under the leadership of Kerry Wasano who has been a great inspiration to this County and to other Counties in seeing what is the top bar, what is the standard when it comes to band performance and putting together a high school band.

Everyone is born to win, but in fact, to become a winner, winners plan, winners prepare, and winners expect to win. And, that's what Mr. Wasano has instilled in these, in these teenage kids.

I would drive by Maui High and pick up my daughter, and late in the afternoon, into the wee early mornings, I see the band practicing and they, with such dedication.

Quality means doing it the right way when no one's watching, and that's what they do. They expect quality, and we are producing quality young adults in this community thanks to the help of programs like this.

So, I congratulate the Band and hope much success for all their future endeavors. Thank you, Chair.

CHAIR WHITE: Thank you.

Members, other discussion?

Mr. Victorino.

COUNCILMEMBER VICTORINO: Thank you, Chair. And, I will echo the same sentiments of my colleague, Mr. Guzman. And, will add that each one of these young adults, putting their social lives on hold while they work hard as a individual to accomplish a group effort, is nothing but short of astonishing.

But, I also want to recognize that to make all of this possible, the family, the friends, the supporters, the boosters, who work endless hours raising money for these youngsters to travel, to participate, you know. They recognize the children's dedication and step forward to make sure it comes to fruition. The dreams are not just dreams, but the reality of participation.

And, you know, being a parent, and been there done that kind of situation like many of them in this room, we feel that we want to make sure our children have those opportunities; that's why we'll go the extra mile, because they go the extra mile. And, one day when they become parents, we hope they will continue that premise, continue that path that we've set forward.

But, I really would like to congratulate, finally, Mr. Wasano and his entire crew. His staff, bar none, has set the bar so high that I understand Mauna Kea has become dwarfed by their bar standing. And, this is not something to laugh at, because I really believe they have set the bar so high for the neighbor islands that all the rest of the bands, and we have some great talented people on this island, whether it's Baldwin, Lahaina, I don't care which school, they will always have to chase Maui High and Kerry.

And, I want to wish them and, and all of their families, all the Band members, everyone connected with the program, the joyous holiday season, continue your good work. I'm sorry to say this, but Ms. Baisa is not here, but for her, I will say

"Go Sabers". And, bottom line is, now we expect more. So the gauntlet has been thrown, now we expect more. Good luck to them.

Thank you, Mr. Chair.

CHAIR WHITE: Thank you, Mr. Victorino.

Members, any further comments?

Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair. I, I'm really impressed though with Mr. Nishita and reading in everyone's name. I believe he did it, yes, excellent. Thank you, Mr. Nishita.

But, Chair, I, I echo all my, the comments from my fellow colleagues, so I don't want to repeat myself. But, I just think this is definitely a miracle to get 140 people, you know, together and winning this award, because I look at us and we're nine. We can't even get us all, you know, walking to the same beat here. So, 140, I think, awesome job, and looking forward to, to more accomplishments from, from the school and our young adults that are here today.

So, thank you very much for this resolution, Mr. Guzman.

Thank you, Chair.

CHAIR WHITE: Thank you, Ms. Cochran.

Any further comments, Members?

I'd just like to congratulate you for the, the hard work and showing for the, for the rest of your life; showing yourself that if you put your heart and soul into something, great things will come of it. It's a great life lesson going through what Mr. Wasano and his staff put you all through. And I know, I know that he makes you work awfully, awfully hard. So, I take my hat off to you.

And, to Ms. Cochran's comment, maybe we should borrow a couple of your instruments to see if that might get us to harmonize a little more.

But, thank you all for being here this morning. And, congratulations on, once again, showing that even though you lost a bunch of seniors, you guys all stepped up and did it again. So, congratulations.

Any further comments, Members? Seeing none, all those in favor of the motion, please signify by saying "aye".

AYES: COUNCILMEMBERS CARROLL, COCHRAN, COUCH, CRIVELLO, HOKAMA, VICTORINO, VICE-CHAIR GUZMAN, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBER BAISA.

CHAIR WHITE: Measure passes with eight "ayes", zero "noes", and one "excused"; Ms. Baisa. Thank you very much.

Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair. May I please request that the Band members, including the Director Mr. Wasano come to the floor to receive accolades, as well as say a few words?

CHAIR WHITE: Yes. Please come on down.

Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair. It's my pleasure to present this resolution, that has been passed before this body, to Mr. Kerry Wasano, the Band Director, for their accomplishments in receiving top honors at the 19th Annual Trojan Bandfest.

MR. KERRY WASANO: Morning, Chair White, Councilmembers. Thank you for this wonderful honor. We are really humbled by your gracious efforts to recognize every single one of our students.

Our 140-member marching band would not be successful without the collaborative effort of our students, parents, booster club members, teaching staff, and design team. And I would like to thank everyone for their hard work in making our success possible.

Our student leadership is with us today. They are the heart of our program. And, they ensure that our daily operations run smoothly. And, they have such great

responsibility as teenagers. The freshmen coming in are 14 years old, and they're expected to, to pretty much jump in with the 17 year old students and, and be just as good. So, I, I really commend each and every one of our members, our leadership here for taking our program so seriously.

This was our most ambitious production to date, incorporating intricate props to tell our story. Our props were designed and built by our Assistant Director Kristin Tanaka. She's, where is she? Oh, hi. That's Ms. Tanaka.

And, each year we've been growing, both in size and, and I'd like to say quality as well. I'm unsure what the future brings. But, I am sure that we'll continue our traditions, and keep growing, and aspire to take our program to the national level.

And, now, I'd like to turn over the microphone to our Head Drum Major, Naomi Tabangcura.

MS. NAOMI TABANGCURA: Good morning, Councilmembers and Chair White. I stand before you today to thank you for the resolution. Coming back from the Rose Bowl Parade and competing at the band festival on Oahu all in one year was very difficult. But, with your help and generosity, you've helped us push through it.

Looking back at this season, we experienced many hardships and breakthroughs. This year, we had a huge prop and drum major scaffolding that we had to ship over to Oahu, along with our usual equipment such as uniforms, instruments, and color guard equipment. Other than that, throughout our whole season, we had multiple days where the weather was not in our favor. There were many occasions where some members couldn't push through the day because our environment limit us to.

Though the constant encourage and push to the end, inspired us all to come together as one band and execute the amazing field show that our band directors, clinicians, alumni, family, and friends, know we could put on. Till today, I still remember looking at all the members on the field from my scaffolding and seeing joy and determination to strive for the end.

Although sometimes the members don't see eye to eye, this past season we came together as one band, and represented the island of Maui well. From this, I am so proud of each and every one of the band members. Overall, all the friendships and memories I've made for the past four years of being in this band program will be carried with me throughout my entire life.

Thank you again for your resolution, and Happy Holidays.

CHAIR WHITE: Thank you all very much.

COUNCILMEMBER VICTORINO: Come on, Mr. Director.

CHAIR WHITE: Thank you, Mr. Guzman.

And, Mr. Clerk, let's proceed with the agenda.

DEPUTY COUNTY CLERK: For the record, RESOLUTION 15-158.

Mr. Chair, proceeding with presentation of testimony on agenda items. We have established limited telephone interactive communication that enables individuals from Hana, Lanai, and Molokai to provide testimony from our District Offices.

Individuals who wish to offer testimony from Hana, Lanai, and Molokai, should now sign up with District Office staff. Individuals, who wish to offer testimony in the chamber, please sign up at the desk located in the eighth floor lobby just outside the chamber door. Testimony at all locations is limited to the items listed on today's agenda.

Pursuant to the Rules of the Council, each testifier may be allowed to testify for up to three minutes. When testifying, please state your name and the name of any organization you represent.

Hana Office, please identify yourself and introduce your first testifier.

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

DEPUTY COUNTY CLERK: Thank you.

Lanai Office, please identify yourself and introduce your first testifier.

MR. STEVEN SELEE: Good morning. This is Steve Selee at the Lanai Office and there is no one here waiting to testify.

DEPUTY COUNTY CLERK: Thank you.

Molokai Office, please identify yourself and introduce your first testifier.

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

DEPUTY COUNTY CLERK: Thank you.

Mr. Chair, we have four individuals who have signed up to testify in the Council chamber. First person to testify in the chamber is Tim Means testifying on Bill 85. He will be followed by Jeff Strahn.

PRESENTATION OF WRITTEN OR ORAL TESTIMONY

MR. TIM MEANS, [testifying on Bill 85 (2015)]:

Good morning.

CHAIR WHITE: Good morning.

MR. MEANS: My name is Tim Means. I am the General Manager of Lahaina Divers. We are a CORA operator and have been since the very beginning, actually before the beginning of CORA.

About, oh, I don't know how many weeks ago, several weeks ago, I sat in this chamber and listened to the representatives of the Corporation Counsel and the Department of Parks repeatedly assure the Members of that particular committee, that the purpose of removing that section in the ordinance, I believe it's Section 7, was simply to eliminate the EA and allow them to reissue vacant permits.

Now, it appears that the long-term goal was to put all permits into the lottery system on an annual basis which will absolutely kill the CORA operators businesses.

Fortunately, there's a fairly easy fix to this. And, that would be to defer the, this bill today and make a simple change to the wording in Section 10-102-11, from "The director may renew permits" to "The director shall renew permits". That would codify the testimony that was given in this chamber several weeks ago to that Committee. Thank you.

CHAIR WHITE: Thank you, Mr. Means.

Members, any clarification needed?

Mr. Couch.

COUNCILMEMBER COUCH: Thank you, Mr. Chair. And, thank you Mr. Means for your testimony. Question for you. You've mentioned Section 10 dash whatever, is that the, there is no section in the bill, so I'm not sure where, what you're referring to.

MR. MEANS: Oh, I'm sorry. It's not in the bill, it's in the Administrative Rules.

COUNCILMEMBER COUCH: Okay, thank you.

MR. MEANS: Yea.

CHAIR WHITE: Any other clarifications required, Members?

Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you. Mr. Means, you mentioned in your testimony that the, there, there was some other alternative intent. Where, where are you getting that type of information from? What is this alternative intent?

MR. MEANS: Well, the--

VICE-CHAIR GUZMAN: Where did you get your, you know, your basis to say that statement?

MR. MEANS: Okay. When the Director may renew permits, they also may not. And, in several instances during that meeting, or that Committee meeting, there was references to yes we should put all permits into a lottery. But, there was assurances from those gentlemen that that would not happen.

If you leave it as a may renew, it opens the door for lotteries, for all permits on an annual basis, which will kill the operators. We don't know if we'll be able to operate year to year, or whether on June 30 our right to operate is gone.

VICE-CHAIR GUZMAN: Thank you, Chair. I, I didn't get that out of that meeting, that that was the intent that, you know, that the Department was moving towards. But, it is what it is. Thank you. Thank you, Chair.

MR. MEANS: Well, we can codify, we can codify the intent that was there that's it's only to eliminate the EA and, correct.

CHAIR WHITE: Okay, Members any other need to clarify the testimony? Seeing none, thank you for being here this morning, Mr. Means.

Mr. Clerk.

DEPUTY COUNTY CLERK: Next person to testify is Jeff Strahn testifying on Bill 85. He will be followed by Patricia Cadiz.

MR. JEFF STRAHN, [testifying on Bill No. 85 (2015)]:

Good morning, Councilmen and Council Chair. My name is Jeff Strahn, and I'm General Manager of Maui Dive Shop. I too would like to speak about Bill 85 in deferring that, and would just like to kind of ask a little bit of a couple of questions instead of making an, a speech here.

But, the information that, that I see here and, and, I forwarded this, this, this email with a time-stamped quotes that Patty Cadiz sent to all of you, last night. I don't know if you've saw it or not, but it seems to me that if the intent is not to make this a lottery system, then why is all of these time-stamped marks from the County Council, Corporate Counsel, right here, saying that this process is a lottery system in the Administrative Rules?

The Administrative Rules state that these permits are for one year. And, the prescribed process for permits will go through a lottery system. I mean, this is coming in, I can read a few more if you'd like. But, this is coming from, from the County Council's corporate, you know, your, your own counsel, and saying that this is a lottery system. And, if that's the intent of the Department is to make a lottery system, then we should have the ability to, to have input on whether a lottery system is a good idea, because a lottery system is, is a horrible idea. It, it creates a renter's mentality instead of an owner's mentality when it comes to these, to running these businesses.

If I can't, can, you know, have reasonable assurances that if I follow the rules and act in good faith and do all the things that the County wants me to do, that I can continue on, on a basis, on a year to year basis, how can I go to banks and borrow money to have infrastructure or to hire employees? That if, if on June 30 I've got all these employees, and because I didn't bid enough money in a lottery system, we're out of business? That's crazy people, it's crazy.

And, so that's why the industry is, is concerned. It, it really is, it really is concerned. And, we, we need some kind of language that says that there will be a continuity. I have no problem if you want to put new permits out, you know, if there's multiple people that want to, to compete against a new permit that's being open, put that out for a lottery system. But, to put every operator up in a lottery system on an annual basis is not wise at all. And, I'm, I'm very much against it.

And, I would like to request you to defer this bill until we can get a greater clarification on that. Thank you.

CHAIR WHITE: Thank you, Mr. Strahn.

Members, any need for clarification on his testimony? Seeing none, thank you for being here this morning.

Mr. Clerk.

DEPUTY COUNTY CLERK: The next person to testify is Patricia Cadiz testifying on Bill 85. She will be followed by Rosemary Robbins.

MS. PATRICIA CADIZ, [testifying on Bill No. 85 (2015)]:

Hi again. Patty Cadiz here, talking about Bill 85. And, maybe, some of you saw the email that I sent kind of late yesterday afternoon. You know, it took us a while to figure out what was really going on with Bill 85. And, I read the law, the County Code, and I've read the Admin Rules numerous times.

(Councilmember Victorino was excused from the meeting at 9:36 a.m.)

MS. CADIZ: And, what I've sorted out is there is no language in the Code or in the Admin Rules once Section 7 goes away, that gives the Director the ability to exercise his intent of renewing the current CORA permits.

And, every time that question was posed, and I believe Mr. Couch, Mr. Victorino, and Mr. White, and myself, all asked the same question. He heard two different answers. But, we clung to the answers that were offered by Mr. Buenconsejo, which were we have no intent to put the current permits into a lottery system, that's not our intent, we're not going to intend to do that. He did say, several times under his breath, that things could change. And, that's fine, but at the moment his intent is supportive. And, so that sounded great, and we were all good.

But, every time Mr. Ueoka answered the same question, he explained the Administrative Rules state that these permits are for year to year. The prescribed process for permits is to go through a lottery system. He said these are year to year permits.

So, I don't believe that the Director has the legal authority to exercise his intent. I believe that if he were to grant my permit next June 30, that someone could come along and say, hey, I should have had equal access to that, and it should have been in a lottery system, and I'm going to sue. I believe that's true.

And, Mr. Ueoka clarified that numerous times. I mean, I think I've found four, or five, or maybe more times in the testimony where he said, it's year to year. We'd somehow, we all sort of clung, though, to the assurances of Mr. Buenconsejo, that the intent was not like that.

Now, the thing is, Parks Director's come and go; we've seen lots over the years. And, the intent of one may not be the intent of the same, so we need to give them the legal standing to do what it seemed like the Council wanted to have happen, and what the Director said he intended to do.

(Councilmember Victorino returned to the meeting at 9:38 a.m.)

MS. CADIZ: And, the simple way to do that is to change, in the Admin Rules, this is an administrative fix, the word "may" to "shall".

So, I'm asking you to defer passing Bill 85 until Parks Department has the opportunity to make that administrative change, to codify his stated intent; and basically make it that way. Henceforth, I understand that there's going to be discussions about concessions, but that would all be part of that, and be vetted at that time as well. But, for now, we're in a permit system and that's the way to codify the intent of the Director, and deal with the issue that Mr. Ueoka said is out there.

Any questions?

CHAIR WHITE: Thank you, Ms. Cadiz.

Members, any need for clarification of Ms. Cadiz's testimony? Seeing none, thank you very much for being here this morning.

Mr. Clerk.

DEPUTY COUNTY CLERK: The next person to testify is Rosemary Robbins testifying on County Communication 15-305 and Bill 86. Ms. Robbins is the last individual who has signed up to testify in the Council chamber.

MS. ROSEMARY ROBBINS, [testifying on County Communication 15-305 and Bill No. 86 (2015)]:

Good morning, everybody.

CHAIR WHITE: Good morning.

MS. ROBBINS: Had my best wishes to the kids from Maui High; good for them.

On today's agenda, we have nine items that are coming before the County Council, that they're being asked to shift from one category to another; from a category of services to a category of equipment. Whoa, I don't like to think that we're going to decrease the services that we're expecting by the people who are in these jobs so that they can have equipment. Something's wrong with that. Services, that's what we're all here for. Nine of the items are saying, I don't know, we ought to have equipment instead. Please take a good look at that.

Okay, so, on Bill 86, page 6 of today's agenda. There's a bill for an ordinance amending Ordinance No. 4128, from 2014, authorizing the Mayor of the County of Maui to enter into intergovernmental agreements for loans from the State of Hawaii Drinking Water Treatment Revolving Fund for various water projects in the Fiscal Year 2015. We're already halfway through that.

It's been testified by a number of people at this very microphone that are concerned citizens who are constantly reminding us that the Federal and State legislation people have already said that with the violations of the Clean Water and the Clean Air Acts, that they're going to sue us, and have. So, why would we want for ourselves to go begging at the door of these government entities that are more extensive than our own here in Maui County? And yet, we're the ones in Maui County that are getting to foot the bill with the stuff that hasn't happened, and is being defendants in the lawsuits. Where's the logic? Where's the pono?

To be able to go begging to those folks, when we know, and the Upcountry Oversite and Advisory Committee for violations of water worked very hard in the early 2000's. And, that Drinking Water Revolving Fund is Federal money that comes to the State. Folks in the State, both in municipalities and private folks, can go ahead and ask for that money. So, our competition is heavy. And, it's saying in that, in the wording of

that that the, the, there's a specific date by which whatever the proposed reason that we'd be asking for that money, has to be identified. Not a month, not a quarter, but a date. On the "x" date of the "y" month, this is when you have to be ready.

And, the second item I would point out in there is that it's shovel ready. It's not that there's a, a working group looking at this. It's supposed to already be there. We haven't done well. We need to do better. Please be careful of that on Bill 86.

The second one on today's agenda that I'd like to speak to is on page 5 of our agenda, No. 15-305. This is a transmittal of a proposed resolution, I'm quoting here, "PROPOSING AN AMENDMENT TO THE CHARTER OF THE COUNTY OF MAUI FROM 1983, AS AMENDED, TO REQUIRE COUNCIL APPROVAL OF THE MAYOR'S APPOINTMENT OF DEPARTMENT DIRECTORS".

Yesterday's Maui News, pages 1 and 4, identify that, recently, very recently, within the last week, that the Mayor has appointed a new County Director. He was sworn in. He identified that he had never applied for the job. The salary is like 124,000. He's somebody who has, I don't know the man, he certainly sounds honest in terms of what he is saying, that he didn't apply for the job. He was contacted by the Mayor to take it, was sworn in PDQ, "pretty darn quickly", before the end of this year to go ahead and be this new County Director of Environmental Management.

He says he has no background in that level of environmental management. He's done a lot of other stuff, good for him; hard worker. But, in terms of taking on the responsibility of being the Director, whoa, something is terribly wrong. This came out yesterday. People were all over, the community out there, saying what the blank is this? So, please take a good look at this.

I wish this gentleman well in what he's doing in terms of taking on the magnitude of being the Environmental Management Department chief person. We've got, and, and again, this testimony has been given right here, that there are relevant background, higher education opportunities where people can learn how to deal with the specific relative responsibilities that go along with this. Very few pushes on the computer will get you the institutions of higher education that are offering all this accumulated knowledge that has happened, and we're not using it. Why? Got me.

So, please, don't, don't let that go through without having some address of this. This, it doesn't make sense. So, let's be sensible. Let's be pono. Let's make sure that we're not asking anybody to do what he or she is not prepared to do. So, thank you.

CHAIR WHITE: Thank you very much, Ms. Robbins.

MS. ROBBINS: You're welcome.

CHAIR WHITE: Members, any need for clarification of this, the testimony? Seeing none, thank you for being here this morning.

MS. ROBBINS: You're welcome. Happy Holidays.

CHAIR WHITE: Mr. Clerk.

DEPUTY COUNTY CLERK: Mr. Chair, there are no further individuals signed up to testify in the Council chamber. If there are any additional individuals in the Council chamber or at the District Offices who would like to offer testimony, please identify yourself to the appropriate staff and proceed to the testimony lectern or District Office phone at this time.

Hana Office, are there any additional testifiers?

MS. LONO: The Hana Office has no one waiting to testify. And, I just would like to wish you all a very Merry Christmas. Aloha.

DEPUTY COUNTY CLERK: Thank you.

Lanai Office, are there any additional testifiers?

MR. SELEE: This is Lanai Office and there is no one waiting to testify.

DEPUTY COUNTY CLERK: Thank you.

Molokai Office, are there any additional testifiers?

MS. ALCON: There's no testifiers here on Molokai.

DEPUTY COUNTY CLERK: Thank you. Mr. Chair, there are no other individuals in the District Offices nor the chamber who wish to offer testimony.

CHAIR WHITE: Thank you very much.

Members, we have received written testimony. Without objections, we'll enter it into the record.

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: Thank you.

THERE BEING NO OBJECTION, WRITTEN TESTIMONY RECEIVED FROM THE FOLLOWING WERE MADE A PART OF THE RECORD OF THIS MEETING:

1. Mark Hyde;
2. Cheryl A. Bretton;
3. Michael Doe;
4. Barbara Guild; and
5. Roger Simonot.

CHAIR WHITE: And without objections, we'll close public testimony.

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: Public testimony is closed.

Mr. Clerk.

DEPUTY COUNTY CLERK: Mr. Chair, proceeding with minutes.

MINUTES

The minutes of the Council of the County of Maui's special meeting of October 29, 2015, were presented at this time.

CHAIR WHITE: Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair.

I MOVE TO APPROVE THE MINUTES IN THE SPECIAL MEETING OF OCTOBER 29, 2015.

COUNCILMEMBER VICTORINO:

MR. CHAIR, I SECOND THE MOTION.

CHAIR WHITE: We have a motion from Mr. Guzman and a second from Mr. Victorino.

Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair. Nothing further.

CHAIR WHITE: Thank you.

Members, any discussion on this item? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS CARROLL, COCHRAN, COUCH, CRIVELLO, HOKAMA, VICTORINO, VICE-CHAIR GUZMAN, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBER BAISA.

CHAIR WHITE: Measure passes with eight "ayes", zero "noes", and one "excused"; Ms. Baisa.

Mr. Clerk.

DEPUTY COUNTY CLERK: Mr. Chair, proceeding with committee reports.

COMMITTEE REPORTS

COMMITTEE REPORT
NO. 15-172 - BUDGET AND FINANCE COMMITTEE:

Recommending that Resolution 15-159, entitled "AUTHORIZING THE TRANSFER OF AN UNENCUMBERED APPROPRIATION BALANCE WITHIN THE DEPARTMENT OF FINANCE, FISCAL YEAR 2016 BUDGET," be ADOPTED.

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, thank you. I would ask you and the Members, with no objections, that the Clerk also bring up Reports 173, 174, and 175.

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: So ordered.

Mr. Clerk.

COMMITTEE REPORT
NO. 15-173 - BUDGET AND FINANCE COMMITTEE:

Recommending that Resolution 15-160, entitled "AUTHORIZING THE TRANSFER OF AN UNENCUMBERED APPROPRIATION BALANCE WITHIN THE DEPARTMENT OF FINANCE, FISCAL YEAR 2016 BUDGET," be ADOPTED.

COMMITTEE REPORT
NO. 15-174 - BUDGET AND FINANCE COMMITTEE:

Recommending that Resolution 15-161, entitled "AUTHORIZING THE TRANSFER OF AN UNENCUMBERED APPROPRIATION BALANCE WITHIN THE DEPARTMENT OF THE CORPORATION COUNSEL, FISCAL YEAR 2016 BUDGET," be ADOPTED.

COMMITTEE REPORT
NO. 15-175 - BUDGET AND FINANCE COMMITTEE:

Recommending that Resolution 15-162, entitled "AUTHORIZING THE TRANSFER OF AN UNENCUMBERED APPROPRIATION BALANCE WITHIN THE DEPARTMENT OF HOUSING AND HUMAN CONCERNS, FISCAL YEAR 2016 BUDGET" be ADOPTED.

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA: Thank you, Chairman.

I MOVE THAT COMMITTEE REPORTS 15-172 UP TO AND INCLUDING COMMITTEE REPORT 15-175, BE ADOPTED.

COUNCILMEMBER VICTORINO:

MR. CHAIR, I SECOND THE MOTION.

CHAIR WHITE: We have a motion from Mr. Hokama, with a second from Mr. Victorino.

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, we are, your Budget and Finance Committee was aware during the last budget cycle, that upon moving to zero-based budgeting and the "A", "B", "C" accounting format, that the departments would be coming in for some adjustments in the various categories; particularly within the "B" and "C" categories.

I consider this housekeeping. The departments worked very well with Budget Director Baz, and with the, our Committee staff. And, I'm recommending today, that we approve the recommendations of your Committee.

CHAIR WHITE: Thank you, Mr. Hokama.

Members, further discussion on this item, or these items? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS CARROLL, COCHRAN, COUCH, CRIVELLO, HOKAMA, VICTORINO, VICE-CHAIR GUZMAN, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBER BAISA.

CHAIR WHITE: Measure passes with eight "ayes", zero "noes", and one "excused".

Mr. Clerk.

DEPUTY COUNTY CLERK: Relative to Committee Report 15-172, RESOLUTION 15-159. Relative to Committee Report 15-173, RESOLUTION 15-160. Relative to Committee Report 15-174, RESOLUTION 15-161. And, relative to Committee Report 15-175 is RESOLUTION 15-162.

COMMITTEE REPORT
NO. 15-176 - BUDGET AND FINANCE COMMITTEE:

Recommending that Bill 87 (2015), entitled "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2016 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO THE DEPARTMENT OF WATER SUPPLY, ADMINISTRATION PROGRAM - WATER FUND, AND WATER OPERATIONS PROGRAM - WATER FUND," be PASSED ON FIRST READING and be ORDERED TO PRINT.

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA: Thank you, Chairman.

MOVE THAT COMMITTEE REPORT 15-176 BE ADOPTED, WITH ITS RECOMMENDATIONS.

COUNCILMEMBER VICTORINO:

MR. CHAIR, I SECOND THE MOTION.

CHAIR WHITE: We have a motion from Mr. Hokama, with a second from Mr. Victorino.

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, your Committee is recommending passage of first reading and be ordered to print, a bill for an ordinance that would make this transfer within the Department of Water Supply from Administration to Operations proceed.

And, again, this is another adjustment that we are working on between the "B" and "C" accounts. Thank you, Chairman.

CHAIR WHITE: Thank you.

Members, any further discussion? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS CARROLL, COCHRAN, COUCH, CRIVELLO, HOKAMA, VICTORINO, VICE-CHAIR GUZMAN, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBER BAISA.

CHAIR WHITE: Measure passes with eight "ayes", zero "noes", one "excused.

Mr. Clerk.

DEPUTY COUNTY CLERK: For the record, BILL 87 (2015).

COMMITTEE REPORT
NO. 15-177 - BUDGET AND FINANCE COMMITTEE:

Recommending that Resolution 15-163, entitled "AUTHORIZING THE TRANSFER OF AN UNENCUMBERED APPROPRIATION BALANCE WITHIN THE DEPARTMENT OF FIRE AND PUBLIC SAFETY, FISCAL YEAR 2016 BUDGET," be ADOPTED.

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, with no objections from you and the Members, I would ask the Clerk to also bring up Report 15-178.

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: No objections. So ordered.

COMMITTEE REPORT
NO. 15-178 - BUDGET AND FINANCE COMMITTEE:

Recommending that Resolution 15-164, entitled "AUTHORIZING THE TRANSFER OF AN UNENCUMBERED APPROPRIATION BALANCE WITHIN THE DEPARTMENT OF TRANSPORTATION, FISCAL YEAR 2016 BUDGET," be ADOPTED.

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA: Thank you, Chairman.

MOVE THAT REPORTS 15-177 AND 15-178 BE ADOPTED.

COUNCILMEMBER VICTORINO:

MR. CHAIR, I SECOND THE MOTION.

CHAIR WHITE: We have a motion from Mr. Hokama, with a second from Mr. Victorino.

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, thank you. Again, your Committee, working with Budget Director Baz, is recommending approval of the various "B" and "C" account adjustments.

CHAIR WHITE: Members, any further discussion? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS CARROLL, COCHRAN, COUCH, CRIVELLO, HOKAMA, VICTORINO, VICE-CHAIR GUZMAN, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBER BAISA.

CHAIR WHITE: Measure passes with eight "ayes", zero "noes", one "excused".

Mr. Clerk.

DEPUTY COUNTY CLERK: Relative to Committee Report 15-177, it's RESOLUTION 15-163. Relative to Committee Report 15-178, RESOLUTION 15-164.

COMMITTEE REPORT
NO. 15-179 - BUDGET AND FINANCE COMMITTEE:

Recommending that Bill 88 (2015), entitled "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2016 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO THE DEPARTMENT OF PUBLIC WORKS, HIGHWAYS ADMINISTRATION PROGRAM - HIGHWAY FUND, ROAD, BRIDGE, AND DRAINAGE MAINTENANCE PROGRAM - HIGHWAY FUND, TRAFFIC MANAGEMENT PROGRAM - HIGHWAY FUND," be PASSED ON FIRST READING and be ORDERED TO PRINT.

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA:

CHAIRMAN, I MOVE THAT COMMITTEE REPORT 15-179 BE ADOPTED, WITH ITS RECOMMENDATIONS.

COUNCILMEMBER VICTORINO:

MR. CHAIR, I SECOND THE MOTION.

CHAIR WHITE: Thank you. We have a motion from Mr. Hokama and a second from Mr. Victorino.

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, again, your Committee's recommending passage of first reading and be ordered to print, a bill for an ordinance that will allow the Department of Public Works to make the appropriate transfers to move forward on various projects. Thank you.

CHAIR WHITE: Members, any further discussion? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS CARROLL, COCHRAN, COUCH, CRIVELLO, HOKAMA, VICTORINO, VICE-CHAIR GUZMAN, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBER BAISA.

CHAIR WHITE: Measure passes with eight "ayes", zero "noes", one "excused".

Mr. Clerk.

DEPUTY COUNTY CLERK: For the record, BILL 88 (2015).

COMMITTEE REPORT
NO. 15-180 - BUDGET AND FINANCE COMMITTEE:

Recommending that Resolution 15-165, entitled "AUTHORIZING THE TRANSFER OF AN UNENCUMBERED APPROPRIATION BALANCE WITHIN THE DEPARTMENT OF THE ENVIRONMENTAL MANAGEMENT, FISCAL YEAR 2016 BUDGET," be ADOPTED.

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA: Thank you, Chairman.

MOVE THAT 15-15, 180, WITH ITS RECOMMENDATIONS, BE ADOPTED.

COUNCILMEMBER VICTORINO:

SECOND, MR. CHAIR.

CHAIR WHITE: We have a motion from Mr. Hokama and a second from Mr. Victorino.

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, your Committee is recommending adoption of the resolution to assist the Department of Environmental Management to make the appropriate adjustments in their "B" and "C" accounts.

CHAIR WHITE: Members, any further discussion on this item? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS CARROLL, COCHRAN, COUCH, CRIVELLO, HOKAMA, VICTORINO, VICE-CHAIR GUZMAN, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBER BAISA.

CHAIR WHITE: Measure passes with eight "ayes", zero "noes", one "excused".

Mr. Clerk.

DEPUTY COUNTY CLERK: For the record, RESOLUTION 15-165.

COMMITTEE REPORT
NO. 15-181 - BUDGET AND FINANCE COMMITTEE:

Recommending the following:

1. That Bill 89 (2015), entitled "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2016 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO ESTIMATED REVENUES; WAILUKU-KAHULUI COMMUNITY PLAN AREA, SEWER, WAILUKU-KAHULUI TREATMENT PLANT UPGRADES; TOTAL CAPITAL IMPROVEMENT PROJECT APPROPRIATIONS; AND TOTAL APPROPRIATIONS (OPERATING AND CAPITAL IMPROVEMENT PROJECTS)," be PASSED ON FIRST READING and be ORDERED TO PRINT; and

2. That Bill 90 (2015), entitled "A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. 4228, BILL NO. 35 (2015), RELATING TO THE ISSUANCE OF GENERAL OBLIGATION BONDS OF THE COUNTY OF MAUI (WAILUKU-KAHULUI TREATMENT PLANT UPGRADES)," be PASSED ON FIRST READING and be ORDERED TO PRINT.

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA:

CHAIRMAN, I MOVE THAT COMMITTEE REPORT 15-181, WITH ITS RECOMMENDATIONS, BE ADOPTED.

COUNCILMEMBER VICTORINO:

MR. CHAIR, I SECOND THE MOTION.

CHAIR WHITE: We have a motion from Mr. Hokama, with a second from Mr. Victorino.

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, your Committee is recommending passage on first reading, be ordered to print, two bill for an ordinances; specifically regarding the Wailuku-Kahului Treatment Plant. We are, the Committee's recommending to Council to add an appropriation under Bond/Lapsed Bonds, and an appropriation in the amount $3.341.70 million for plant upgrades that is critical for the continued operation and safety of our program. Thank you.

CHAIR WHITE: Thank you, Mr. Hokama.

Members, any further discussion on this item? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS CARROLL, COCHRAN, COUCH, CRIVELLO, HOKAMA, VICTORINO, VICE-CHAIR GUZMAN, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBER BAISA.

CHAIR WHITE: Measure passes with eight "ayes", zero "noes", and one "excused".

Mr. Clerk.

DEPUTY COUNTY CLERK: For the record, BILLS 89 AND 90 (2015), respectively.

COMMITTEE REPORT
NO. 15-182 - INFRASTRUCTURE AND ENVIRONMENTAL MANAGEMENT COMMITTEE:

Recommending the following:

1. That Bill 91 (2015), entitled "A BILL FOR AN ORDINANCE TO AMEND CHAPTER 3.44, MAUI COUNTY CODE, PERTAINING TO THE ACQUISITION AND DISPOSITION OF REAL PROPERTY," be PASSED ON FIRST READING and be ORDERED TO PRINT;

2. That County Communication 13-34, from Councilmember Michael P. Victorino, be FILED; and

3. That County Communication 14-187, from the Director of Public Works, be FILED.

CHAIR WHITE: Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair.

I MOVE TO ADOPT RECOMMENDATION IN COMMITTEE REPORT 15-182.

COUNCILMEMBER HOKAMA:

SECOND.

CHAIR WHITE: We have a motion from Ms. Cochran and a second from Mr. Hokama.

Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair. This proposed bill seeks to streamline the County's processes pertaining to real property transactions. And, the bill enables the Finance Director to acquire or accept conveyances of real property and easements related to County's infrastructure; including the water system, sewer system, roadway and drainage systems, and park systems.

(Vice-Chair Guzman was excused from the meeting at 9:58 a.m.)

COUNCILMEMBER COCHRAN: In addition, the bill allows Finance Director to waive appraisals for acquisitions of small parcels where the appraisal costs likely exceeds the acquired property's value, and for exchanges related to road, bridge, and drainage related improvements.

This bill further seeks to increase the threshold values for real property acquisitions that require Council approval. The current thresholds have not been revised in over 20 years, and do not account for inflation rates and Maui County's current real estate market.

To preserve Council's oversight of real property transactions, your Committee revised the proposed bill to require the Council be notified within five days after any acquisition, exchange, or conveyances made without Council approval. In addition, the Council will receive annual reports of acquisitions made, and conveyances accepted by Finance Director.

(Vice-Chair Guzman returned to the meeting at 9:59 a.m.)

COUNCILMEMBER COCHRAN: These reporting requirements will keep Council abreast of County's real property transactions related to infrastructure and provide data for reviewing the efficacy of County's policies pertaining to those transactions.

Lastly, this bill clarifies the language of Chapter 3.44, Maui County Code, relating to procedures governing the County's acquisition and disposition of real property.

And, your Committee met three times over a year and a half to conduct careful review of this proposed bill. The Director of Public Works conducted numerous individual meetings with Department stakeholders and Members of your Committee to identify the various issues posed by the bill, and to develop proposals to resolve these issues.

And, the Committee made sure the appropriate checks and balances were in place to ensure the bill does not undermine the County's, the Council's ability to retain oversight of real property transactions, while still providing for opportunity to streamline its real property transaction processes.

And, Chair, I do have real minor corrections to this Committee Report. I need to state it on the record. And, Members, if you look on page 3 of this report, at the top of the page, the $3500 amount should read 3,750. And, additionally, on the same page, next paragraph down from that, it mentions $100,000 limit was set in 1986, but it's actually 1998. So, just a couple typos we need to, I need to state on the record.

And, after all that, Chair, I respect, respectfully ask for this Council's support of this, of my recommendations. Thank you, Chair.

CHAIR WHITE: So, the motion is to approve with those minor adjustments?

COUNCILMEMBER COCHRAN: Yes, please.

CHAIR WHITE: Thank you. Any objections to that, Members?

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: Okay, thank you. Any further discussion on this item?

COUNCILMEMBER VICTORINO: Chair.

CHAIR WHITE: Mr. Victorino.

COUNCILMEMBER VICTORINO: Thank you. And, I am, I am truly glad to see this finally come to fruition. When I first came into this Council, there were so many small transactions that needed to be taken care of. And, sometimes it made no logistical sense, and there was no criterias put in place. And, so the criteria that was available at that time was vague and sometimes very ambiguous.

So, I'm glad that the Department has worked on putting together what I call something that's usable that we can now have more clear guidance on acquisition of these remnants and easements, and all these other areas that, for the longest time, was thrown onto this Council's agendas just because it had to be approved by us. I think this is something I like, very much, the clarification. And now, with expediency and efficiency, things can move along quite well.

And, I hope this will, you know, minimize the amount of legisla, or acquisitions that have to come to us in this, you know, what I call miniscule area. I think this is something that when I first brought up my proposal was to move this forward. And, I'm glad it took many years, but it got done. So, thank you, Mr. Chair, and thank you to the Department and the Committee for their hard work.

CHAIR WHITE: Thank you, Mr. Victorino.

Any further discussion?

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, I'm happy to support our Committee Chair on this proposal today, so I, so I speak with support.

But, I do have my reservations, Chairman. I, for one, don't like to ever give up Council authority on anything. And, that's just me. And, saying that, I don't have a problem supporting Chair Cochran in allowing the County to try this. But, as you know, and I know through years of experience, whenever it comes to us it's about something that happens in the Administration.

And, so for me, I understand the, the points Mr. Victorino brings up. And, it's very valid. But, for me, when you look at the uniqueness of this County, what may be very miniscule in one district, may be something very important in another. And, so I don't underestimate the differences of value.

And, again, Chairman, there's a reason why the Charter originally always had things to be done through the Council; especially with this form of Mayor and Council relationship. And, I for one, would rather us not keep giving away Council authority, whether it be through pre-appropriations or certain things to the Administration. Cause part of this transfer of authority comes down to couple of key words for me, and that's trust and integrity, as well as fairness in the application of the policy. I don't have that right now. But, I do have faith in my Committee Chair. And, I'm sure she will follow through if something doesn't work well with her signature on this legislation.

So, again, I state my concerns, and I thank you for that, Chairman.

CHAIR WHITE: Thank you. Any further discussion, Members?

Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair. During the, yea, I also would like to echo the, the same sentiments that Mr. Hokama has put before this body. I do believe in our Chair, Ms. Cochran, and her ability to vet this through.

But, I do have my own reservations. I, anytime that you give up certain authority, it may be an inch or a centimeter, you give it up and you never can tell whether you can get that back or not. But, my issues, when I initially voted, was "no". And that was because of the language that I saw that basically allows other Directors to negotiate the conveyances of property, while in fact, our Council, our body, doesn't have that ability to go in and negotiate the property. So, why does another Director from another department have more authority to negotiate property, than I, this body

put together; cannot. So, I didn't find that equally fair. So, that was my initial opposition to the, the bill itself.

But, I will support Ms. Cochran and, and hopefully we can come up with some language that would allow this body to negotiate. So, thank you, Chair.

CHAIR WHITE: Any further discussion?

Ms. Cochran.

COUNCILMEMBER COCHRAN: And, thank you very much. I, I thank my fellow colleagues comments and thank them for their confidence in me to do the right thing if the, the need arises that there needs to be adjustment to this legislation at some point in time. And that's the purview of this body. And, that's where I find another layer of protection and relief for us to make decisions as we proceed through. Unintended consequences occur, we have that right to address them, and make things right, and change them up.

So, that's where, but something like this, let's see if it does, you know, fulfill its intent, as in streamlining our processes here. And, if it does, wonderful. So, let's, and I'm, I'm thinking it will. And, that is why I'm here today put, putting this forward. So, I thank my fellow colleagues' comments. Thank you, Chair.

CHAIR WHITE: Mr. Couch.

COUNCILMEMBER COUCH: Thank you, Mr. Chair. And, I speak in support of this bill. And, I want to thank Member Cochran for putting a bill forward that cuts out quite a bit of red tape. And, you know, we're here, I, I realize we don't like to give up control of stuff. But, this stuff is a bit of red tape.

And, if it, if there are abuses of the system, I'm sure Ms. Cochran or whoever is here, if those things occurred, depending on whatever happens, this Council can always take that power back. That's the one good thing I'm, unless it's a Charter change, the Council can always get this stuff back. So, I, I want to thank her for streamlining what appears to be some red tape issues. Thank you.

CHAIR WHITE: Any further discussion, Members?

Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS CARROLL, COCHRAN, COUCH, CRIVELLO, HOKAMA, VICTORINO, VICE-CHAIR GUZMAN, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBER BAISA.

CHAIR WHITE: Measure passes with eight "ayes", zero "noes", and one "excused".

Mr. Clerk.

DEPUTY COUNTY CLERK: For the record, BILL 91 (2015).

Mr. Chair, proceeding with county communications.

COUNTY COMMUNICATIONS

NO. 15-298 - DAVID TAYLOR, DIRECTOR OF WATER SUPPLY, (dated November 23, 2015)

Transmitting the water use reports for September 2015 received from the State of Hawaii Commission on Water Resources Management for all registered well reporters for Maui County.

CHAIR WHITE: Mr. Victorino.

COUNCILMEMBER VICTORINO: Thank you, Mr. Chair. And, with no objections, I would like to also have the Clerk call up 15-299.

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: No objections. So ordered.

NO. 15-299 - DAVID TAYLOR, DIRECTOR OF WATER SUPPLY,
(dated December 3, 2015)

Transmitting copies of the Department of Water Supply's Monthly Source Report and Groundwater Use Report for the month ending November 2015.

CHAIR WHITE: Mr. Victorino.

COUNCILMEMBER VICTORINO: Thank you, Mr. Chair.

I MOVE TO FILE COUNTY COMMUNICATIONS 15-298 AND 15-299.

COUNCILMEMBER COUCH:

SECOND.

CHAIR WHITE: We have a motion from Mr. Victorino and a second from Mr. Couch.

Mr. Victorino.

COUNCILMEMBER VICTORINO: Thank you, Chair. These are monthly reports that are available and no further discussion is necessary. Thank you, Mr. Chair.

CHAIR WHITE: Thank you.

Any further discussion, Members? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS CARROLL, COCHRAN, COUCH, CRIVELLO, HOKAMA, VICTORINO, VICE-CHAIR GUZMAN, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBER BAISA.

CHAIR WHITE: Measure passes with eight "ayes", zero "noes", one "excused".

Mr. Clerk.

NO. 15-300 - MIKE WHITE, COUNCIL CHAIR,
(dated December 10, 2015)

Transmitting a proposed resolution entitled "APPROVING PROPOSALS FOR INCLUSION IN THE 2016 HAWAII STATE ASSOCIATION OF COUNTIES LEGISLATIVE PACKAGE".

CHAIR WHITE: Mr. Victorino.

COUNCILMEMBER VICTORINO: Thank you, Mr. Chair.

I MOVE TO ADOPT THE RESOLUTION "APPROVING THE PROPOSALS FOR INCLUSION IN THE 2016 HSAC LEGISLATIVE PACKAGE", AND THE FILING OF THE COMMUNICATION.

COUNCILMEMBER COUCH:

SECOND.

CHAIR WHITE: We have a motion from Mr. Victorino, with a second from Mr. Couch.

Mr. Victorino.

COUNCILMEMBER VICTORINO: Thank you, Mr. Chair. The, this matter relates to the State measures submitted by the four County Councils for inclusion in the 2016 HSAC Legislative Package.

The Legislative session starts next month, so time is of the essence. The proposed package includes three State bills previously submitted by Maui County Council, relating to financial investments, Sunshine Law, and the disability cards.

This resolutions also, this resolution also includes four measures submitted by other Councils: 1) A bill from the Kauai County Council that would allow Counties to phase out nonconforming, single-family transient vacation rentals over a reasonable period of time; 2) A bill from the Kauai County Council that would make permanent, the legal immunity currently provided for County lifeguards on a temporary basis; 3) A bill from the Honolulu City, City Council that requires safety inspections for mopeds; and 4) A resolution from the County, Hawaii County Council, urging the Hawaii congressional delegation to propose a constitutional amendment clarifying the, the

corporations are not people, and unlimited campaign spending is not a right of free speech.

And, on behalf of the HSAC Executive Committee, I request our Council adopt these resolution, and the filing of this communication. Thank you, Mr. Chair.

CHAIR WHITE: Thank you.

Members, any further discussion on this item?

COUNCILMEMBER HOKAMA: Chairman.

CHAIR WHITE: Yes, Mr. Hokama.

COUNCILMEMBER HOKAMA: If I may, to Mr. Victorino, if he may help us understand. This last one, regarding the State constitutional consideration, can you tell us what's the driver of this?

CHAIR WHITE: Well this, this, this is actually how our legislative, our Federal legislation, our Hawaii delegation in Washington DC, we are asking them to clarify the constitutional, to propose a constitutional amend, amendment clarifying that corporations are not people, and that unlimited campaign spending is not free speech. This is on the Federal level.

COUNCILMEMBER HOKAMA: Yea, and so there's nothing we can do at the State level--

COUNCILMEMBER VICTORINO: I think--

COUNCILMEMBER HOKAMA: --to partially accomplish the goal of the--

COUNCILMEMBER VICTORINO: The State has accepted, and all the four Counties have accepted this resolution already. But, this now must go to the Federal level, so we are urging our congressional delegation to, to please push this forward.

COUNCILMEMBER HOKAMA: Okay, thank you.

And, then the other one I wanted to ask you, of course, you know, makes sense regarding tort liability, this request for the single-family transient vacation rentals, is this, this is the Big Island's proposal, sir?

COUNCILMEMBER VICTORINO: No, Kauai.

COUNCILMEMBER HOKAMA: Kauai?

COUNCILMEMBER VICTORINO: Kauai.

COUNCILMEMBER HOKAMA: Okay. And, only Kauai has that unique zoning component that, regarding single-family vacation rental?

COUNCILMEMBER VICTORINO: I think at this time, yes.

COUNCILMEMBER HOKAMA: So, it's--

COUNCILMEMBER VICTORINO: So.

COUNCILMEMBER HOKAMA: --this just fits them then?

COUNCILMEMBER VICTORINO: In essence yes, but they're asking us to, to all, for all of us to support this at the State Legislature.

COUNCILMEMBER HOKAMA: Can you share with us what might be Maui's advantage regarding this subject, Mr. Victorino?

COUNCILMEMBER VICTORINO: To be perfectly honest, I really didn't, I didn't think it helped us an awful lot, but I, I felt, I, I think we had adopted this originally. And, the Executive Committee took the approach that we wanted to give each County that opportunity that would help most of the Counties, if not all of us, to bring forth this legislation. And, so this is why we felt, Honolulu felt they could benefit from this. The Big Island, Hawaii County, thought they could benefit. And, we may, when and if this ever comes to fruition, benefit from it.

However, there is no, at this point, I, I myself, still have some reservations, but in the area of trying to, because if one of us say "no", then this bill doesn't move forward. The resolution doesn't move forward without our inclusion. And, three of the other four really wanted it to, to come out. And, so I felt that was only my duty to help them, because I think in the overall scheme of things, we're looking as a State, not just one County.

COUNCILMEMBER HOKAMA: Thank you so very much. Thank you so much.

Thank you, Chairman.

CHAIR WHITE: Any further discussion, Members?

COUNCILMEMBER COCHRAN: Chair.

CHAIR WHITE: Yes, Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you. Thank you. And, so along the same lines on this discussion, this is saying to, I guess, eventually phase it, allow it, I mean, with or without permits. I mean, they're existing, we all know that we're trying to address it here in our County. But eventually, it just gets automatically within some reasonable period here, just accept it and we don't even, we know it's here and it just phases into this, it's all okay now after "x" amount of years.

COUNCILMEMBER VICTORINO: No.

COUNCILMEMBER COCHRAN: Is that?

COUNCILMEMBER VICTORINO: No, I, I don't--

COUNCILMEMBER COCHRAN: What does this?

COUNCILMEMBER VICTORINO: I don't believe that is what the intent is. I think the intent really is to give all the Counties time to phase it in, and not be mandated by the State. And, so we're hoping that the, the State will allow us, really, more home rule actually, to be able to implement these changes.

COUNCILMEMBER COCHRAN: Okay. But, I thought we were doing that already? Okay, thanks.

CHAIR WHITE: Mr. Carroll, followed by Mr. Couch.

COUNCILMEMBER CARROLL: Thank you, Chair. I am familiar with this, and the motion before us, I support it. Thank you.

CHAIR WHITE: Okay

Mr. Couch.

COUNCILMEMBER COUCH: Thank you, Mr. Chair. Maybe I can help explain. This allows Counties to, you know, if there is a, a, a class of nonconforming use right now we, we allow it to be used as, in perpetuity. This allows the Counties to say you can only be nonconforming for a certain amount of time. It gives them the opportunity to do that. It doesn't automatically do it.

So, I think Kauai County wants to phase out the nonconforming use of short-term rental home, transient vacation rentals in their single-family residence, and they feel that they can't do that now. So, this just allows them to be able to phase out a nonconforming use to make it, if you're nonconforming after a certain amount of years, too bad, you can't do it.

CHAIR WHITE: Thank you. Any further discussion?

COUNCILMEMBER HOKAMA: Chair.

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, my, my point would be, I can see if they was asking us for the, the broader issue of legal nonconforming use. It's a phrase that's kind of interesting by itself; legal nonconforming use.

But, it's, for this County, the issue is just, would be more than just their transient vacation rental area. For our, within our County, we've got a lot of, Lanai got a lot of house lots that do not make minimum square footage for an R-1. And, so they're all legal nonconforming properties, currently, until they'll want to make certain changes that the code will kick in and then force them to make appropriate adjustments on their property.

So, that is already occurring. So, you know, again, I really don't understand Kauai's thing just on this vacation rental thing. I'll support. I think, you know, I understand what Mr. Victorino said and, you know, I'm sure Kauai has their need, and I'm happy to support Kauai.

But, I hope we would look at it in a more general sense, because for me, there's other areas of the zoning code that we should look at for nonconforming use, and the issues that that presents. You know, on Lanai, I can tell you, it impacts a lot of house lots on nonconforming use. And, anybody that deals with plantation camps can understand what I'm saying. Thank you, Chairman.

CHAIR WHITE: Thank you.

Any further discussion, Members? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS CARROLL, COCHRAN, COUCH, CRIVELLO, HOKAMA, VICTORINO, VICE-CHAIR GUZMAN, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBER BAISA.

CHAIR WHITE: Measure passes with eight "ayes", zero "noes", and one "excused".

Mr. Clerk.

COUNCILMEMBER VICTORINO: Mr. Chair. Mr. Chair.

CHAIR WHITE: Yes.

COUNCILMEMBER VICTORINO: Thank you. And, I want to thank all my colleagues for the discussion. I did take some notes, and I will, at the next HSAC Executive Committee meeting, bring these concerns up. I think they are valid and need to be addressed. So, I will bring it up at our next Executive Committee meeting. Thank you, Chair.

CHAIR WHITE: Thank you. And, we've got a long way to go before the end of the legislative session.

COUNCILMEMBER VICTORINO: Yes.

CHAIR WHITE: So, plenty of time for clarification from Kauai, and on the other issue.

COUNCILMEMBER VICTORINO: Thank you.

CHAIR WHITE: So, thank you for doing that.

Mr. Clerk.

DEPUTY COUNTY CLERK: For the record, RESOLUTION 15-166.

Mr. Chair, proceeding with County Communications for referral. The following County Communications are recommended for referral to the following Committees as noted.

NO. 15-301 - DANILO F. AGSALOG, DIRECTOR OF FINANCE, (dated December 4, 2015)

Reporting on transfers from the General Fund and Department of Water Supply Revenue Fund to the Bond Fund as of October 31, 2015.

The recommended action is that County Communication No. 15-301 be referred to the Budget and Finance Committee.

NO. 15-302 - KA`ALA BUENCONSEJO, DIRECTOR OF PARKS AND RECREATION, (dated November 25, 2015)

Transmitting a proposed resolution entitled "AUTHORIZING ACCEPTANCE OF A DONATION OF MATERIALS AND SUPPLIES TO INSTALL THREE BACKBOARDS TO THE DEPARTMENT OF PARKS AND RECREATION, COUNTY OF MAUI, PURSUANT TO CHAPTER 3.56, MAUI COUNTY CODE".

The recommended action is that County Communication No. 15-302 be referred to the Economic Development, Energy, Agriculture, and Recreation Committee.

NO. 15-303 - DAVID C. GOODE, DIRECTOR OF PUBLIC WORKS, (dated November 23, 2015)

Transmitting a proposed resolution entitled "RESOLUTION GRANTING PERMISSION TO PLACE UTILITY POLES ALONG A PUBLIC HIGHWAY FOR THE KAHOMA VILLAGE PROJECT".

The recommended action is that County Communication No. 15-303 be referred to the Infrastructure and Environmental Management Committee.

NO. 15-304 - MICHAEL P. VICTORINO, PRESIDING OFFICER PRO TEMPORE, (dated December 11, 2015)

Transmitting a proposed resolution entitled "URGING THE DEPARTMENT OF PUBLIC WORKS TO INSTALL SIGNAGE RECOGNIZING WAILUKU RIVER".

The recommended action is that County Communication No. 15-304 be referred to the Infrastructure and Environmental Management Committee.

NO. 15-305 - RIKI HOKAMA, COUNCILMEMBER,
(dated November 30, 2015)

Transmitting a proposed resolution entitled "PROPOSING AN AMENDMENT TO THE CHARTER OF THE COUNTY OF MAUI (1983), AS AMENDED, TO REQUIRE COUNCIL APPROVAL OF THE MAYOR'S APPOINTMENT OF DEPARTMENT DIRECTORS".

The recommended action is that County Communication No. 15-305 be referred to the Policy and Intergovernmental Affairs Committee.

NO. 15-306 - GLADYS C. BAISA, COUNCILMEMBER,
(dated December 1, 2015)

Relating to water conservation.

The recommended action is that County Communication No. 15-306 be referred to the Water Resources Committee.

CHAIR WHITE: Thank you, Mr. Clerk. Members, are there any objections to the referrals to Committee as read by the Clerk?

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: Okay. Thank you very much.

Mr. Clerk.

DEPUTY COUNTY CLERK: Mr. Chair, proceeding with General Communications for referral.

GENERAL COMMUNICATIONS

NO. 15-11 - BLANCA L. LAFOLETTE, CMBY 2011 INVESTMENT, LLC, (dated November 24, 2015)

Submitting a copy of the 2015 Annual Compliance Report for State Land Use Commission Docket No. A13-797/CMBY 2011 Investment, LLC: TMK (2) 3-8-008:019.

The recommended action is that General Communication No. 15-11 be referred to the Planning Committee.

CHAIR WHITE: Thank you, Mr. Clerk. Is there any objection to referral to the Planning Commission, or Planning Committee?

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: Okay. So ordered.

With that, Members, we'll take our morning break. Please be back in your seats by 10:35.

COUNCILMEMBER HOKAMA: Generous.

CHAIR WHITE: We're, we're in recess.

(THE MEETING WAS RECESSED BY THE CHAIR AT 10:22 A.M., AND WAS RECONVENED AT 10:35 A.M., WITH ALL MEMBERS PRESENT, EXCEPT MEMBER BAISA, EXCUSED.)

CHAIR WHITE: This meeting of the County Council will please come back to order.

Mr. Clerk, may we proceed with the agenda.

DEPUTY COUNTY CLERK: Mr. Chair, proceeding with ordinances, second and final reading.

ORDINANCES

ORDINANCE NO._____
BILL NO.___80___(2015)

A BILL FOR AN ORDINANCE AMENDING
THE FISCAL YEAR 2016 BUDGET FOR THE COUNTY OF MAUI
AS IT PERTAINS TO ESTIMATED REVENUES;
WAILUKU-KAHULUI COMMUNITY PLAN AREA,
GOVERNMENT FACILITIES, ACQUISITION OF REAL
PROPERTY AT 2154 KAOHU STREET;
TOTAL CAPITAL IMPROVEMENT PROJECT APPROPRIATIONS; AND
TOTAL APPROPRIATIONS (OPERATING AND CAPITAL IMPROVEMENT PROJECTS)

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, with no objections from you and the Members, I would request that Bill 82, excuse me, 81, also be brought up since it relates to the same property.

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: So ordered.

Mr. Clerk.

ORDINANCE NO._____
BILL NO.___81___(2015)

A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. 4228,
BILL NO. 35 (2015), RELATING TO THE ISSUANCE OF
GENERAL OBLIGATION BONDS OF THE COUNTY OF MAUI
(ACQUISITION OF REAL PROPERTY AT 2154 KAOHU STREET)

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, thank you.

I MOVE THAT BILL 80, 81, OF 2015 PASS SECOND AND FINAL READING.

COUNCILMEMBER VICTORINO:

MR. CHAIR, I SECOND THE MOTION.

CHAIR WHITE: We have a motion from Mr. Hokama, with a second from Mr. Victorino.

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, these bills put into place, and within our budget, the consideration of the proposal of acquisition of real property at 2154 Kaohu Street. And, for those that need to have a kind of location, it is directly across Ichiban's Restaurant on Kaohu and the HGEA building.

This would allow the County to move forward in its long-range planning for the needs and services that the County provides the people of this County; and, also would make sense. It is something that the County has been looking at for, I would say at least 35 years. And, we've come to terms with the property owner, and this is a, I would say a friendly purchase and sale.

And, so I would ask the Members to support the consideration of us moving this campus forward. Thank you.

CHAIR WHITE: Thank you, Mr. Hokama.

Members, any further discussion?

Mr. Victorino.

COUNCILMEMBER VICTORINO: Very, very quickly. Thank you, Mr. Chair. And, thank you, Mr. Hokama and the Committee for bringing this forward. Like you said, Mr. Hokama, this has been many years in the makings, and this will complete that last remnant lot that we need to continue our, our campus expansion and reconfiguration.

So, thank you and I hope my Members will support this resolution, I mean this bill, excuse me.

Members, any further discussion on this item? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS CARROLL, COCHRAN, COUCH, CRIVELLO, HOKAMA, VICTORINO, VICE-CHAIR GUZMAN, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBER BAISA.

CHAIR WHITE: Measure passes with eight "ayes", zero "noes", and one "excused".

Mr. Clerk.

ORDINANCE NO._____
BILL NO.___82___(2015)

A BILL FOR AN ORDINANCE AMENDING
THE FISCAL YEAR 2016 BUDGET FOR THE COUNTY OF MAUI
AS IT PERTAINS TO APPENDIX A, PART I, GRANT REVENUE -
SCHEDULE OF GRANTS BY DEPARTMENTS AND PROGRAMS,
OFFICE OF THE MAYOR (STATE OF HAWAII - KULA
AGRICULTURAL PARK EXPANSION)

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA:

CHAIRMAN, I MOVE THAT BILL 82 (2015) PASS SECOND AND FINAL READING.

COUNCILMEMBER VICTORINO:

MR. CHAIR, I SECOND THE MOTION.

CHAIR WHITE: We have a motion from Mr. Hokama, with a second from Mr. Victorino.

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, thank you. Bill 82 places within the County's budget an amount of $5 million, Chairman, that would be added under a, to a new grant entitled "State of Hawaii - Kula Agricultural Park Expansion". This will allow us to purchase property abutting the existing Kula Agricultural Park, and be able to provide additional critical mass for the operations and tenants use to expand our program up in the Kula Expansion Program. Thank you, Chairman.

CHAIR WHITE: Thank you.

Members, any further discussion on this item? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS CARROLL, COCHRAN, COUCH, CRIVELLO, HOKAMA, VICTORINO, VICE-CHAIR GUZMAN, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBER BAISA.

CHAIR WHITE: Measure passes with eight "ayes", zero "noes", and one "excused".

Mr. Clerk.

ORDINANCE NO._____
BILL NO.___83___(2015)

A BILL FOR AN ORDINANCE AMENDING
THE FISCAL YEAR 2016 BUDGET FOR THE COUNTY OF MAUI
AS IT PERTAINS TO ESTIMATED REVENUES;
MAKAWAO-PUKALANI-KULA COMMUNITY PLAN AREA,
OTHER PROJECTS, KULA AGRICULTURAL PARK EXPANSION;
TOTAL CAPITAL IMPROVEMENT PROJECT APPROPRIATIONS; AND
TOTAL APPROPRIATIONS (OPERATING AND CAPITAL IMPROVEMENT PROJECTS)

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA:

CHAIRMAN, I MOVE THAT BILL 83 (2015) PASS SECOND AND FINAL READING.

COUNCILMEMBER VICTORINO:

MR. CHAIR, I SECOND THE MOTION.

CHAIR WHITE: We have a motion from Mr. Hokama, with a second from Mr. Victorino.

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, this legislation before Council today is providing one, one additional million dollars to the total capital improvement project component of our County budget. This will allow us, again, to complete the purchase of the Kula Agricultural properties. And this, with the preceding legislation is critical to accomplish that. Thank you.

CHAIR WHITE: Thank you.

Members, any further discussion on this item? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS CARROLL, COCHRAN, COUCH, CRIVELLO, HOKAMA, VICTORINO, VICE-CHAIR GUZMAN, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBER BAISA.

CHAIR WHITE: Measure passes with eight "ayes", zero "noes", one "excused".

Mr. Clerk.

ORDINANCE NO._____
BILL NO.___84___(2015)

A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. 4228, BILL NO. 35 (2015), RELATING TO THE ISSUANCE OF GENERAL OBLIGATION BONDS OF THE COUNTY OF MAUI (KULA AGRICULTURAL PARK EXPANSION)

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA:

CHAIRMAN, I MOVE THAT BILL 84 (2015) PASS SECOND AND FINAL READING.

COUNCILMEMBER VICTORINO:

MR. CHAIR, I SECOND THE MOTION.

CHAIR WHITE: We have a motion from Mr. Hokama, with a second from Mr. Victorino.

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, I am making a motion to amend at this time. So, I would ask the Members to please refer to the handout that has, should be received by each Member at their desk at this time.

I MAKE A MOTION TO AMEND SECTION 2, BILL 84 (2015), BY INSERTING AN APPROPRIATION OF $1.220 MILLION UNDER THE WAILUKU-KAHULUI COMMUNITY PLAN AREA, GOVERNMENT FACILITIES, FOR THE ACQUISITION OF REAL PROPERTY AT 2154 KAOHU STREET AND A FORMATTING REVISION, AS REFLECTED IN THE ATTACHED MARK-UP COPY OF BILL 84 OF 2015.

COUNCILMEMBER VICTORINO:

MR. CHAIR, I SECOND THE MOTION.

CHAIR WHITE: We have a motion to amend from Mr. Hokama, with a second from Mr. Victorino.

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, this amendment will just incorporate the reference of the acquisition of real property of the 2154 Kaohu Street property, by this Council through the passage of Bill 81, which we've done just previously, Chairman.

CHAIR WHITE: All right. So, this is a, basically, a housekeeping measure?

COUNCILMEMBER HOKAMA: Correct, sir.

CHAIR WHITE: Members, any further discussion? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS CARROLL, COCHRAN, COUCH, CRIVELLO, HOKAMA, VICTORINO, VICE-CHAIR GUZMAN, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBER BAISA.

CHAIR WHITE: Measure passes with eight "ayes", zero "noes", one "excused".

COUNCILMEMBER HOKAMA: Chairman, now--

CHAIR WHITE: I'm sorry, the amendment passes.

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chair, Chairman, I would ask that the Members approve it. Again, we have just placed, and we just took care of the bond authorization component of the purchase we've just approved. So, again, this is a housekeeping measure, and I ask you to approve the motion as amended.

CHAIR WHITE: Any further discussion, Members? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS CARROLL, COCHRAN, COUCH, CRIVELLO, HOKAMA, VICTORINO, VICE-CHAIR GUZMAN, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBER BAISA.

CHAIR WHITE: Measure passes with eight "ayes", zero "noes", and one "excused".

Mr. Clerk.

ORDINANCE NO._____
BILL NO.___85___(2015)

A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. 3143, RELATING TO CHAPTER 5.24, MAUI COUNTY CODE, RELATING TO OCEAN RECREATIONAL ACTIVITY BUSINESS PERMITS, AND CHAPTER 13.04, MAUI COUNTY CODE, RELATING TO RECREATIONAL AREA REGULATIONS

CHAIR WHITE: Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair.

MOVE TO PASS BILL 85 (2015) ON SECOND AND FINAL READING.

COUNCILMEMBER COCHRAN:

CHAIR, SECOND THE MOTION.

CHAIR WHITE: We have a motion from Mr. Guzman, with a second from Ms. Cochran.

Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair. Your Committee met on November 3, 2015, and November 17, 2015, to consider a bill to repeal outdated transitional provisions of Ordinance 3143, relating to the ocean recreational activity business permits, and Chapter 13.04 of the Maui County Code, relating to recreational area regulations.

The bill will allow the Department of Parks and Recreation to issue the vacant, vacant permits for commercial ocean recreational activity without requiring an environmental assessment.

The bill will allow those others than the current permit holders to have the opportunity to obtain a permit under Chapter 13.04, Maui County Code, not to exceed the current cap limit. The Director of Parks and Recreation put forth this measure to repeal, and also stated that no other Hawaii County requires an environmental assessment for CORA permits. Respectfully, ask the Council's full support of this measure. Thank you.

CHAIR WHITE: Members, other discussion on this item?

COUNCILMEMBER COUCH: Chair.

CHAIR WHITE: Mr. Couch.

COUNCILMEMBER COUCH: Thank you, Mr. Chair. You know, we've received some testimony that talks about, you know, the discussion we had here. I recall the discussion that we asked the Parks Director whether or not he would do a lottery for the existing CORA permit holders. And, he said no, that he would not. But, the testimony and the testifier also said that it's their belief that he doesn't have the legal authority to do that.

I would like to ask Mr. Wong, given the comments, possibly, that you may have read in the testimony and you've heard here, does the Director have the ability to say the, those with existing permits, we don't have to do a lottery for them?

CORPORATION COUNSEL PATRICK WONG: Chair, if I may. Sorry. The current ordinance and the current Administrative Rules provide, provide the Director with the discretionary authority to extend the current permit holders for an annual basis. So, the quick answer is yes.

COUNCILMEMBER COUCH: He, he can basically extend the permits of the existing permit holders, as he swore to us he would do on the floor?

CORPORATION COUNSEL: Without getting into whether he affirmed or did not affirm any additional unintended benefit, the current ordinance and the Administrative Rule provides the Director with the discretion. As referenced in the earlier testimony, the Director may extend for another year, a permit that is currently held by a permit holder. So, to the extent that the Director is able to extend for another year on an annual basis, the Director is capable of doing that currently.

COUNCILMEMBER COUCH: Okay.

CORPORATION COUNSEL: Does that help you?

COUNCILMEMBER COUCH: Yea.

CORPORATION COUNSEL: I can read the provision for you if you wish.

COUNCILMEMBER COUCH: Yea, that would be nice.

Mr. Chair, if that's all right?

CHAIR WHITE: Certainly.

CORPORATION COUNSEL: The Administrative Rule Section 10-102-11, "Permit Renewal. The director may renew a permit for additional one-year periods provided the permittee is in compliance with all applicable rules."

COUNCILMEMBER COUCH: Okay. Thank you, Chair.

CHAIR WHITE: Further discussion?

Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you. I have a grin on my face because, you know, I tried my very best to vet everything through my Committee very thoroughly, and I, I think the issues before us were basically, if you can bifurcate everything and, and, and really see what the issue is here. The issue is only, and I repeat, only about repealing Section 7 that requires an environmental assessment for those who are applying for a permit.

It was stated by the Parks Director that there has been vacant permits for several years, almost a decade, that haven't been, people haven't been able to apply for those permits because of the fact that they would, the County would have to do environmental assessment. So, it basically protects those who are already in the

system, who already have the permit, to hold onto their permits, but disallowing those who want to get a permit.

And, repealing Section 7 does not in fact hinder or repeal the cap of the amount of permits that are currently allowed. So, years ago, when we did the study on CORA activity, we determined that Maui County could handle or accommodate a certain amount of, of permits, and we've, and capped it. So, those who were with, during that legislation period, those who were operating, existing operators, were already allowed to operate and got a permit. So, they didn't have to get an, an environmental assessment. So, over a period of time, there had been vacant permits that came up. And, those haven't been filled, even though they haven't reached the cap.

The current Section 7 says that, you know, basically, that we as a County would have to do a self-imposed environmental assessment. So, clearly, my understanding from the Department Director was that they were going to only focus on those vacant permits.

And, the original legislation, what is current, whether we repeal Section 7 or not, the Director always had the power to whether, to grant renewals or not grant renewals. He always had the power to have a lottery. It's just that those who could get into the lottery, or could renew it, had to go through a qualification; are you qualified to receive a permit? And only, the only way you can qualify is if you have an environmental assessment. So, those who already currently have their permit are exempt from it.

This is basically focusing on the vacant permits that are being allowed. All this other stuff about lottery and whether it can be renewed, it's outside the scope of what we're talking about in repealing this Section. That will be dealt with when the Departments, as stated on the floor in the Committee, will address the revamping, or the rewriting, or redrafting of the CORA section under the Chapter 13.

And, I don't know when that, when that will happen, Chair, because the revamping of the entire Chapter took two, two and a half years. So, if, if that is any indication of when we will get to CORA, and these specific issues that are presented by the testifiers, I don't know. I mean, they said, Director said four months, but I anticipate maybe a year.

So, in the meantime, we have vacant permits, and how do we deal with those? We can continue to keep those open, and, and, and there, there's a balance here. You know, we can either deal with this two years from now and not have any revenue for those, those permits that are vacant, or deal with it now. I, I really don't see the

issues that have been presented here; the lottery system, and the, and the renewal issues as being the, as being relevant to what we're talking about right now.

Let's talk about renewal. Okay, I have a driver's license. It's not an entitlement. It's like a license, it's a permit. It, what they're asking for is an administrative rule change, which we have no jurisdiction over. And, they want the word "shall", "shall be renewed". Wow, and, I'm not entitled to a driver's license every time I shall be up for renewal. Why, I wish I could, you know. But, sometimes you have to take a test and go through that. Well, it's, it's a privilege. Permits are privilege. They're not entitled. So, the word "shall" is very strong. That means every year, you, you absolutely get a renewal.

And, I'm not out about that, you know, hurting anybody. But, I'm trying to find solutions and, and I work with the Department. I worked with the Parks and Recreation; that is the, the jurisdiction of my Committee. And, if I don't trust the Director and the Deputy Director, Buenconsejo and Savage, there's a breakdown in, in the relationship. So, they haven't proved otherwise not to trust what they've put forth on the, on the floor.

And, they've, they given assurances that they will not touch the existing holders. And, and I haven't seen any evidence to contradict their word. Until I do, I have to go on what has been presented in the Committee, and the evidence that was presented. And, I can't come back and say, okay, because of this new testimony, which I see is not new evidence, which I would then bring back to Committee.

I don't find speculation or anything like that to, to dictate it being referred back to the Committee. I, I understand completely where they come from, and I think they understand where we come from in, in making sure that they are not harmed. They, meaning the existing permit holders. We don't want to harm any businesses that have been in business for 20 years plus. I mean, they, they are, they are an asset to this County, helping us revive and maintain our tourist industry. We don't want that, but we need to start looking forward to solutions in our own codes and regulations. We cannot stay status quo.

And so, whether this, this Council votes it down or up, you know, it, it really is all about sticking to the issue. And, the issue is just plainly, are we going to allow these vacant permits to continue on, or are we going to fill them? And, we're not going beyond the cap. Thank you, Chair.

CHAIR WHITE: Members, other discussion on this item?

COUNCILMEMBER VICTORINO: Chair.

CHAIR WHITE: Mr. Victorino.

COUNCILMEMBER VICTORINO: Thank you. And, my colleague has pontificated very well what the issue was so I don't have to discuss it any further. But, I will add one item that I understand their concern. We have promises from those that are here, but next year, or the year after, when someone else comes in, that promise is no longer valid.

If in the Administrative Rules, or it's, it's in its policy stated clearly, then they can rest assured that they're protected somewhat. I agree, there's no automatic getting your permit each and every year, because something could have happened during the year that made us change, or made us say, wait a minute, you're not conforming to what we really think you should be doing. So, there's got to be some happy medium.

For the sake of concurrency and getting it done today, I will vote yes with reservations. But, I would hope that, between Mr. Guzman, the Department, that maybe some written policy can be put in so that "shall not", "may", I don't know what word you want to use, but the Director, because the same Director is not there all the time. And, when they change, attitude may change, priorities may change, who knows what may change. So, I think there is some validity in that statement. And, I think that's the only statement that I will hang my coat on with the testifiers.

And, so, but for the sake of moving this forward, for the sake of the vacant permits that are out there, I will support it. But, I will also be requesting the Chair and the Department work on this issue so that they can feel that they will be treated fairly, that they don't have to go through the whole rigmarole just because maybe some Director down the road may have a different take on all of this. And, remember, promise made by one does not follow through the other; not normally. And, that's what I find in this world. Thank you, Mr. Chair.

CHAIR WHITE: Thank you, Mr. Victorino.

I have a question for Corp. Counsel. The, the way it is written under Section 10-102-12, "If the director determines that the count of permits issued allows for issuance of an additional permit, the director shall publish in the newspaper" blah, blah, blah. So, the, the way the rules are written, it appears that a lottery is only supposed to be, or can only be used when there are one or two openings. Is that an accurate read of this? Or, if, if the Director, as was brought up, decides not to renew all the permits, can a lottery be used under the way it is currently worded in the Rules?

CORPORATION COUNSEL: Chair, I'm, I'm going to, Chair, I'm going to try to answer it this way. Your, I believe your take on the read of 10-102-12 is accurate. The Director, in the event that there is, as it says here, the need for the issuance of an additional permit. So, in terms of practicality, if all the permits as it is today, of five permits, three are already being held. There's two additional permits that should be issued because they are vacant, as Member Guzman suggested, then the lottery process under 12 would be implemented.

The operation of the Rules, and the operation of the ordinance automatically, as everybody knows when every permittee applies, applies for a permit, they, they know it's automatically expired on an annual basis. The Director may, and still has, the capacity to renew an expiring permit, which has been the case for many years.

It is the vacant permits that are up for lottery. And, the process defined in Subsection 12, in the event, as you described Chair, that one of the currently held permits are not renewed, that permit becomes vacant, then that permit becomes subject to, as an additional permit under Subsection 12.

CHAIR WHITE: Well, my, my question is if, and I don't know what the number of permits, the total number, let's just call it 80 permits. If all 80 permits are not renewed, this permit drawing does not seem to apply to that situation. And, I think that the discomfort is that these individuals who are running their business, and many have been running their businesses since before the CORA rules came out. The discomfort is to be subject to a lottery if there was a wholesale nonrenewal as opposed to simply not getting it renewed based on noncompliance or an operator misbehaving.

So, is there a way that the lottery can be implemented if there is a nonrenewal of, of half or all of the, the permits, existing permits?

CORPORATION COUNSEL: Chair, you're suggesting that the Subsection 12 would be triggered in the event the Director decides not to renew an individual permit for that permit. My read of the rules would suggest that that permit would then become a available vacant permit, and that permit would then be subject to, or can be subject to Subsection 12.

CHAIR WHITE: No, but my question is, the way this is written, it applies to only, it says, "If the director determines that the count of permits issued allows for the issuance of an additional permit, the director shall publish". So, that doesn't seem to refer to a significant number of, of non-renewals.

And the concern is the Director can refuse to renew. So, the question is, if they're all subject to non-renewal, are they all going to be filled by lottery? That's the concern. I, you know, I'll, I'll say, I'm, I'm concerned about the situation putting these businesses at risk. I realize, and they realize that they need to renew every year. But, if you're doing your business in honest, upfront, compliant way, then you should be able to earn a renewal.

I realize that there are, there are those of us who are comfortable moving in a direction of, of examining whether concessions make sense. One of the reasons I feel that might be a good way to go is that, for lack of a better analogy, if you go to a ski resort, you don't see vans pulling up to the bottom of the ski lift and everybody unloading their rental equipment, and at the end of the day loading it back into their vans and driving away. There are facilities provided for that purpose at the bottom of the lifts.

Similarly, if we move to a concession, then it's going to provide these operators an opportunity to have a place to store all their equipment and a place out of which to operate. And, it just simply takes the, the level of operation significantly higher.

My, my discomfort is that if we, if you can't tell us that in the process of going through that evaluation that these people are not at risk of being subject to a lottery, then I'm, I'm going to have a hard time supporting this. But, you're, you don't seem to be saying that the lottery could not be used.

CORPORATION COUNSEL: Chair, if I may. I believe your, your thoughts on providing the current permit holders and the industry with greater comfort may be correctly moving towards a concession contract scenario. Concession contracts are viable contracts that the County can award for extended periods, I believe not to exceed 15 years, and the applicant and or permittee may have greater business comfort in that regard.

As it relates to the CORA permits, Chair, as I sit here today, my read of Subsection 12 tells me that if there is an additional permit, then the Director shall follow the process identified in Subsection 12. In the event--

CHAIR WHITE: Okay, so that, that, you're saying that that would apply to a wholesale non-renewal as well, making 80 permits available?

CORPORATION COUNSEL: Conceptually, it, on the strict read of, of the Administrative Rules, that could be done; however, Chair, I'd like to suggest that Subsection 11, in the renewal provisions, it does provide the Director with guidance on when the, when the applicant and/or permittee shall, should be renewed. And, it says, "may renew a permit for additional one-year periods provided the permittee is in compliance with all

applicable rules." And, it further provides additional requirements for State and Federal compliance.

I believe that the intent of those Rules was meant to provide some assurance that as long as the permittee is in compliance, that that permittee should be renewed. The suggestion by the testifier earlier, in some of the discussion, on whether or not to amend that Administrative Rule, I believe Councilmember Guzman is accurate.

The body doesn't have the control, or this body does not have the control to amend the Administrative Rules. And the Department would be required to follow Chapter 91 in its hearing process on reviewing those rules. And, I believe the timetable that Member Guzman suggested of one-year is an accurate depiction of how much effort it would take to amend the, the Administrative Rules. And, Chapter 91 requires that if you repeal and/or amend any Administrative Rules, you must follow Chapter 91.

CHAIR WHITE: Right.

Mr. Couch.

COUNCILMEMBER COUCH: Thank you, Mr. Chair. And, I agree with your concerns about a wholesale or even selective non-renewal of permits. And, I do understand what Mr. Guzman says, hey, you know, you've got a driver's license, you're not, you're not guaranteed you're going to get it the next year. Actually, with a driver's license there are multiple years.

So my question to Mr. Wong is, is there a way we can, not necessarily today, but I mean, if I choose to put in a requirement that the permit can, has to be three years, that would override the Administrative Rules. Is that correct? If we, if we were to pass an ordinance and say, hey look, you got a permit but you get it for three years, and it can be revoked for cause. Would that be allowable in the, the way the current law reads? Cause I would commit to submitting something like that if this passes.

CORPORATION COUNSEL: Chair.

COUNCILMEMBER COUCH: Three or five, whatever.

CORPORATION COUNSEL: Chair, the automatic expiration provision in the ordinance is what you may be referring to. You're suggesting that, in the Code that you remove the automatic termination provision, and you allow for an extended period?

COUNCILMEMBER COUCH: Correct.

CORPORATION COUNSEL: Okay. In that scenario, I would suggest that we may end up back with the Chair's suggestion that it be viewed as a concession. To allow a permit to extend for three years, we may be moving in closer towards what a concession should look like. And, we all, we currently have provisions in our Code that deal with the award of concessions.

COUNCILMEMBER COUCH: And, and, Mr. Chair, I bring that up in that, you know, we want to allow for the new vacant permits, or if somebody happens to drop out, to be issued without the whole EA process. But, we also want to protect the existing businesses, cause one of the testifiers says, hey look, if I don't have assurances of some sort, I may not be able to get a loan to upgrade my equipment or whatever. And, and I totally understand that.

So, were this to pass today, I know Mr. Guzman's intent is to take a, and the Department's intent is to really revamp the whole CORA system. So, we're looking at one to maybe two year process. So, in that gap, and this is a kind of a stop gap thing, we could probably potentially put in an ordinance to say, hey look, if you got the permit now, you get it for three years or until the new law comes out. And then that might appease, you know, get us the new permits, the new revenue and help with the folks that are doing a good business, and a good job at their business, and give them some comfort. So, I would commit to doing that if it can be done.

Yea it may or may not be a concession, but we also already have rules and ordinances that can deal with that. So, that, that's a commitment I would make, that if this bill passes, we'll at least give them the opportunity to have a, you know, whatever number of years we discuss in Committee so.

CHAIR WHITE: My, the Chair's other discomfort with this is that I was told by the Department that there would be no changes to CORA until they're done with getting the, the overall permitting and parks bill that we're working on now in Mr. Guzman's Committee. So, then this comes out of the blue, and I'm, it's my understanding, I haven't asked this question, but it's my understanding that the operators have not been involved in this measure. I don't know the, whether that portends well for their being included in future discussions.

And so, I, you know, I'm at the point where I don't have assurances that a lottery wouldn't be used. And, once we eliminate the need for an EA, then it's wide open for the Department to be able to, to not renew all the permits, and then they don't have to do a, an, an environmental assessment in order to move ahead with granting them all new. And, it sounds as though it would have to go through a lottery.

So, I, hearing that, I, I won't be supportive of this for a number of reasons. One is, I don't think it's fair to put people at risk at, in that way. And, I, and I feel that the, you know, the assurances that we've been given, I want the trust as well. But, at the same time, I was told there would be no changes to CORA until we're done with the other. And, I'm more than happy to have that conversation; the rulemaking takes, takes longer.

But, for them to come back to the Council for changes in CORA, whatever they are, doesn't take that long. Because, before you can do the Rules, we have to provide the direction from Council upon which those Rules would be, would be crafted. So, at this point, I won't be supporting this measure.

I, you know, I give, give Mr. Guzman a lot of credit for the hard work that he's put into it. But, I'm, I'm just not comfortable that we're providing a, the appropriate level of, of, for lack of a better term, protection to the industry while we go through a discussion of whether a concession makes sense or whether we should in, with your recommendation I, I would agree with that we extend the permit period. A one-year permit is absolutely appropriate when we're starting a program. But, after 20 years, a one-year renewal, I just don't think it's fair.

So, I'd like to see the, all these discussions happen with the industry, in Committee, before we make a change to something that may put people at risk.

Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair. I wish you were on the Committee. And, and, we're, actually you are on the Committee.

CHAIR WHITE: I am on the Committee. And I, and I heard the same thing.

VICE-CHAIR GUZMAN: I, I, I wish those issues would have been brought up prior to Council. But, as I stated, I think a lot of these issues that came up after the fact are, let's just draw everybody back into what is before this Council.

Section 7, repealing it, we're only dealing with the environmental assessment self-imposed by the Council. We're not dealing with renewal permits. We're not dealing with all that other administrative stuff. We're dealing with, basically, removing the requirement of a permittee, an applicant to go through an environmental assessment so that that vacant permit can be acquired.

So, on the other side of it is like, what is the detriment of those permit, those current holders if we were to remove that, that requirement for the environmental assessment? I, I really don't see it right before us, a detriment. So, what they're talking about and what you're talking about, Chair, is a speculation of what may happen. And, I cannot go on a basis of speculation that basically they're going to get hurt.

I don't, the issue is not ripe in my mind because of the fact that I have no, I have had no proof or no signals that the Administration is going to go through with a so-called wipe them all out and let's start all over. The Committee was only geared or, and what was represented in, in our research was clearly what is the effect of removing the environmental assessment requirement? And, I didn't see, no, no evidence pointed that it would affect the current holders other than the speculation that the, you know, the Administration is going to wipe them all out.

I, you know, I, I'm sorry, Chair, I can't go off of that. I have to go with what has been presented. And, it's up to the body, if they want to, you know, vote to not pass it out or, or go forward on it. I, I just have to say that I, I tried my very best to present the issues that were explained by the Department, and the Department's wishes that they wanted to move forward on this and make, they drafted this repeal.

We had the CORA industry here at all the meetings. In fact, I requested them to put their issues in writing. We did put those issues in writing, and presented to the Committee. And, also sent those written issues to Corporation Counsel, as well as the Department. They responded in, in written form, and that's all in everyone's binders. And, then they went and explained their answers. And, I believe Ms., that as was, was here Cadiz was here during the explanation, and served as a resource person, and had agreed that this was the right thing to do. Or at least, not the right thing, but you know, she wasn't going to, you know, you know, was somewhat agreeable to it on, with the understanding that the Department was not going to affect the current permit holders. And then all of a sudden, when it goes to first reading, these new issues come up, and then we respond to those new issues. And then, second reading comes up, oh no, now it's the renewal process.

So, let's not get caught up in the forest, like you always say, Chair. Let's focus on what is before us, not things that may or may not occur. And, and we have that legislation power to create laws, I guess, what Mr. Couch is stating. We have that prerogative, or discretion to do so right this instant.

I, I as the Chair, felt that it's been vetted through. And, if I, if the Department chose otherwise their, their intent, then it's something that we can move on. But, I haven't seen any signs that they're, they're going to go after the current permit holders. Until

I, until it's proven otherwise, I, I have to base my, my vote on what has been presented in, in Committee.

So, thank you, Chair. I appreciate it.

CHAIR WHITE: Sure. You know, I, part of my reason for feeling the way I do is that individuals were told by someone in the Administration that they are going to cancel all the permits. So, you know, I'm, and you're right, we shouldn't speculate but we often speculate. And, and I voted in favor of this in Committee and at first reading.

But, at this point, I'm, I'm going to oppose it simply on the basis of erring on the side of caution. Because it's clear to me now that this could be, if, it could be a situation where they're, they're all not renewed and then they have to go through a lottery. And, I, I, I can't, I can't imagine that happening. But, to err on the side of caution, I'm, I won't support it.

COUNCILMEMBER HOKAMA: Chairman.

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA: I speak in support of the motion, and I support my Committee Chair. A couple of things I would like to state. For me, it is a, this is more narrow than people have tried to expand, the scope. My reading is, we're just dealing with the environmental assessment component of Section 7, that's how I read the bill.

(Councilmember Victorino was excused from the meeting at 11:21 a.m.)

COUNCILMEMBER HOKAMA: This discussion about whether the Director can or cannot, within the authority of Code or Rules, do what he can. Whether we pass this or not, he still can wipe out all the permits tomorrow if he wants to. It doesn't, that wouldn't stop. If he wanted to terminate every bloody permit tomorrow, he can do so within his authority. That doesn't solve anything.

You know, for me, I'm more interested in, from a, from the Budget Committee's standpoint, I want those empty permits filled. I want that revenue, especially because we tend to forget we're talking about the people's resource, this is the public property, the public's assets. This is not private property. So, I don't see this in a, the normal private sector business sense. You're dealing with public assets that belong to the public first for their needs, not a business needs, their needs.

And, I, you know, my thing is, I'm not into giving guarantees either, Chairman. And, I do, I would say I agree. I think there's some time, that the time has come for review and revisions. But, what is before me today is very clear and simple, and black and white. So, I'm ready to make the call. Cause, if not, then this should have been all brought up in, as my colleague to the right of me says, do it in Committee. Why the hell are we doing it here? Thank you.

CHAIR WHITE: Ms. Crivello.

COUNCILMEMBER CRIVELLO: Thank you. I too will support Committee Chair Guzman on, on this issue, because it's very basic, to me, that we were dealing with the requirement of the environmental assessment. And, it, so my understanding is, those with the permits today did not have to deal with the environment assessment. And, those that are on the waiting list, or wherever, whatever bucket they're in, if we don't repeal this, they would have to go through that process.

So, and, and with those thoughts and following what Mr. Hokama is saying, I, I will support this ordinance, or whatever, this bill that we need to . . . Thank you.

(Councilmember Victorino returned to the meeting at 11:24 a.m.)

CHAIR WHITE: Okay. Any further discussion, Members? Seeing none, all those in favor of the motion please signify by saying "aye".

AYES: COUNCILMEMBERS CARROLL, COCHRAN, COUCH, CRIVELLO, HOKAMA, VICTORINO, AND VICE-CHAIR GUZMAN.

CHAIR WHITE: Those opposed say "no". Chair votes "no".

NOES: CHAIR WHITE.

EXCUSED: COUNCILMEMBER BAISA.

CHAIR WHITE: I believe I'm on my own on that. Seven "ayes", one "no", and one "excused". Measure passes.

Mr. Clerk.

ORDINANCE NO._____
BILL NO.___86___(2015)

A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. 4128, BILL NO. 32 (2014), AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO INTERGOVERNMENTAL AGREEMENTS FOR LOANS FROM THE STATE OF HAWAII'S DRINKING WATER TREATMENT REVOLVING LOAN FUND FOR VARIOUS WATER PROJECTS, FISCAL YEAR 2015 BUDGET ORDINANCE

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA:

I MOVE THAT BILL 86 (2015) PASS SECOND AND FINAL READING.

COUNCILMEMBER VICTORINO:

MR. CHAIR, I SECOND THE MOTION.

CHAIR WHITE: We have a motion from Mr. Hokama and a second from Mr. Victorino.

Mr. Hokama.

COUNCILMEMBER HOKAMA: Mr. Chairman, we, your Committee is recommending final approval of this bill for an ordinance. We had to make some adjustments regarding the Water Treatment Revolving Loan Fund through the State of Hawaii.

And, those adjustments are basically, we had to increase by over 25 percent for the project of the Omaopio 2.1 Million Gallon Tank Replacement, and more than 50 percent more for the Wailuku Heights Tank 30 Booster, whereby we had to temporarily eliminate at this time the Lahainaluna Road Booster-Phase 1 project.

I would just say that, Chairman, it is always interesting, to me, when the economy is down, the private sector, particularly our construction industry, begs us to put projects in to help them get back on their feet and to restore some cash flow within the community. Well, the times are great, and now we're taking it in our okole, okay.

The rail project on Oahu is impacting this County tremendously. You know, I had no doubt in our discussion through Ms. Crivello's on affordable housing, that the contractors like the Federal dollar, and it's all on Oahu at this time. And, here we have, by two projects, see the impact of what rail is having on this County with CIP;

25 percent on one, and 50 percent more on another project. There comes a time when the bidding, again, our estimates were, I thought, was very good. And, looking through the bidding, this is the type of response we get.

I hope we don't forget when the times change again, how the construction industry has treated this County, and placed the burden, again, on our residential tax-base and our business tax, other business tax-bases to come up with ways of finding 25, 50 percent more for something that we should have been able to afford at a reasonable price.

But, I ask the Members to pass this. This is critical projects. I am going to continue to work to ensure that West Maui gets their projects squared away in the future. And, I can tell you that, again Members, these are things we need to have a discussion on. And, maybe at HSAC, Mr. Victorino can share this, because all Counties get impacted by the environment of the rail project on Oahu. Thank you, Chairman.

CHAIR WHITE: Thank you, Mr. Hokama.

Any other comments on this bill?

COUNCILMEMBER COCHRAN: Chair.

CHAIR WHITE: Any further. Yes, Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair. And, yea, I mean, I was, you know, not very happy having to forgo the Lahainaluna Road Booster-Phase 1 project in West Maui. I mean, after seeing how much that end of the island does put into the overall budget for this County.

But, thank you to Mr. Hokama for putting into perspective in relation to another island's needs, you know, being reflecting on us here. And, thank him for also reiterating that he will work on putting West Maui projects forward.

I mean, currently, you know, we always talk about West, Upcountry and that area, lack of water and, but there's a project in West Maui as I can see is good to go, but has no water. So, it is at a standstill. It's a project that has over 50 percent affordable in it, and everything else that we all talk about. So, you know, in West Maui, additional source and water improvements surely can be needed right now in order to put jobs, housing, all those things we talk about everyday here, online.

So, just some comments, Chair, in regards to this, but looking forward to upcoming budget to make sure that we can get all of our water needs addressed, infrastructure-wise. Thank you.

CHAIR WHITE: Thank you, Ms. Cochran.

Any further discussion on this item? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS CARROLL, COCHRAN, COUCH, CRIVELLO, HOKAMA, VICTORINO, VICE-CHAIR GUZMAN, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBER BAISA.

CHAIR WHITE: Measure passes with eight "ayes", zero "noes", and one "excused".

And--

COUNCILMEMBER COUCH: Mr. Chair. My, my apologies. Can I have a really short recess?

CHAIR WHITE: Yes. Recess.

(THE MEETING WAS RECESSED BY THE CHAIR AT 11:29 A.M., AND WAS RECONVENED AT 11:32 A.M., WITH ALL MEMBERS PRESENT, EXCEPT MEMBER BAISA, EXCUSED.)

CHAIR WHITE: This meeting will please come back to order. Well, Members, we have come to the end of this year.

And, I would like to first thank Arthur Suyama for making this place look absolutely gorgeous once again this year. So, we'll come back to a chamber, after the end of the year, that will look much less festive, but nonetheless, it will still look nice.

With that, I would like to thank all of you for a wonderful year, and wish all of you and everyone out there watching a Mele Kalikimaka and a Hau`oli Maka Hiki Hou.

And, if any of you would like to make--

COUNCILMEMBER VICTORINO: Mr. Chair. Yea, I was going to ask your permission, Mr. Chair.

CHAIR WHITE: If all of you would like to--

COUNCILMEMBER VICTORINO: If you'd allow all of us to give a, at least 30 seconds greetings to the constituents and the people watching, if that would be allowed by you.

CHAIR WHITE: Please, please go ahead.

COUNCILMEMBER VICTORINO: Thank you. And, I would like to wish everyone a Mele Kalikimaka, Feliz Navidad, Merry Christmas, happy and prosperous and healthy New Year.

We've challenged many things this year, and we have many more on the horizon. But, again, with my nine colleagues, eight colleagues, I should say, myself included, I think you said earlier that you wish we had more like the band, cohesiveness, working together. But, I think, I differ with you in this one sense. We do work together. We do have different opinion, and we do vote differently. But, we do work well together. I think we are very, very good harmonizing band. Not singing, cause I tried that yesterday and failed miserably, and I apologize for that.

But, I want to wish the entire, all my colleagues, all those in our staff, our Council staff, a very Merry Christmas and a safe and healthy and prosperous New Year. Thank you, Mr. Chair.

CHAIR WHITE: That was 60 seconds for the record, but.

COUNCILMEMBER VICTORINO: So you can give everybody 60 seconds. Thank you.

CHAIR WHITE: Thank you. And, by the way, you weren't the only one that had a hard time with the singing yesterday.

Mr. Guzman.

VICE-CHAIR GUZMAN: Thank.

CHAIR WHITE: Not to mention that you were one of those, but.

VICE-CHAIR GUZMAN: I, I, I, I've been hearing a hana hou from Mr. Hokama, to be singing next, I think, on the, on the floor. He's got a really beautiful voice.

But, I just wanted to wish everyone a Merry Christmas. It's been a, a great year. I, I think I learned a lot in my second term under your leadership, as well. I, I, I thank everyone for the friendship, and the colleagues we've, we, all the, the, I guess, difficulty that we went through and, and the happiness that we will share and continue to share among each other.

And, for those out there in TV land, our constituents, be safe, drive safe, and Merry Christmas, and I'll see you in the New Year.

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, thank you. Quickly, I want to say thank you very much to all the Counties, especially Hawaii's Counties that worked hard.

I think our Christmas present this year is that the Federal government finally got wisdom and passed a transportation bill that gives us five years of dedicated funding to move our projects forward, to improve our community's lives. And, so I think that was a great Christmas present, early for us.

But, I want to thank all the people of this County that makes us so unique and special that even though for those of us on Lanai, we had a difficult year, the miracle of Christmas for us to look forward to better things, better days ahead, is something that we take with great pride and cherish within our hearts.

And, I also would like to say that on behalf of the Lanaians, we thank all our men, women, that serve this Country in this difficult times. And, though they may not be at home, they are in our hearts. And, so to our service people, armed services, the non-profits that take care of those in need on a daily basis, I say thank you, thank you very much and may God bless all of us. Thank you, Chairman.

CHAIR WHITE: Thank you, Mr. Hokama.

Ms. Crivello.

COUNCILMEMBER CRIVELLO: Thank you. Thank you, Chair. I too would like to ditto all of the greetings that we send out to our constituents. And, from Molokai, I'd like to say Mele Kalikimaka, Hau`oli Maka Hiki Hou.

And, with, with, back to Mr. Hokama's opening statement, I appreciate the reminder for why we have, why we celebrate the season. And, I, I think we do this throughout the year. And, it is my hope that 2016, we continue to carry what truly dwells in our heart, and that's caring bunch of people that I work with here, hard workers. I want to thank the Office of County Services *[sic]* for, they putting up with people like me. And, I also appreciate Administration. Though we may not always be in harmony, I think at the end, we all beat the same drum, and that's to take care of Maui, Maui No Ka Oi, Moloka`i No Ka Heke, and Lanai, and Kahoolawe. So, I think we're really blessed to have a group like this.

Thank you for your leadership. I appreciate working with all of you. And, my, my sincerest wishes to you and your family for this Christmas celebration, as well as for 2016. And, may we all think of those that have health challenges; remember them in our prayers. And, may we also be blessed with the wealth of good health. Thank you.

CHAIR WHITE: Thank you, Ms. Crivello.

Mr. Couch.

COUNCILMEMBER COUCH: Thank you, Mr. Chair. I'll see if I can keep it to 30 seconds. I want to echo all my colleagues sentiments, especially Mr. Hokama made a, a good point, there are people who are serving our Country outside of this, outside of their home. And, you know, want to give our sincerest thanks.

Want to thank all of the colleagues, you know, just like any other family, we, we have our issues, but we, I think, all, as I said in my opening remarks last meeting, we all have the, the County's best goals at heart. We do live in the best County in the world, so I, I appreciate everybody's hard work.

And, I want to wish everybody Happy Holidays, Merry Christmas, and a very happy and prosperous New Year. Mahalo.

CHAIR WHITE: Thank you.

Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair. And, I concur with every single word my fellow colleagues have stated thus far, so I won't repeat it, cause I only got 30 seconds.

But, I want to thank Mr. Hokama for his opening comments as in what the reason for the season. And kekahi I kekahi comes to mind, you know, love one another, and it's something that we, it's not just let's remember this today or this season, but an everyday occurrence.

And, it's, and yes, to remember the people that are away from families, even incarceration, you know, these people cannot be side by side with loved ones, family, and people overseas and what have you.

So, I think, I'm looking forward to the New Year. And, we always have, one wants to do those resolutions, those dreaded resolutions. But, good luck everyone with those, if you intend to have those again.

And, for us, this Council, of course, we always learn day by day with one another, by one another. And, looking forward to further improvements in learning, and accomplishments in the New Year. And, thanks everyone for our, yea, you know, we all may walk to the beat of our own drums, but together we come to this floor to hopefully move forward in, in unity for the greater good of this community and Maui County as a whole.

And, I believe we got voted second in domestic travel, Chair. I didn't hear who's number one, but we all collectively, community and all of us included decision-makers, have made it number two at least, for best place to come to visit. So, thanks everyone for making that happen. And, thank you, Chair.

CHAIR WHITE: Thank you, Ms. Cochran.

Mr. Carroll.

COUNCILMEMBER CARROLL: Thank you, Chair. Even though I gave Mr. Victorino my 30 seconds, I'd still like to say a few words. I'd like to thank all the people that work for the County, because it's all one organization, the County of Maui; and that's Maui, Molokai, and Lanai. And, I'd like to thank them all.

And, I'd also like to thank all of those who participate from the public that go on our commissions, our committees that serve for free, and the non-profits that work to serve our people. Because it's all, all of us together that make Maui what it is.

And, I'd like to wish everybody a Merry, Merry Christmas, and a happy and prosperous New Year. Aloha.

CHAIR WHITE: Thank you very much, Mr. Carroll.

Thank you all for your wonderful comments. And, I think I, I need to say, on behalf of Ms. Baisa, Mele Kalikimaka and Hau`oli Maka Hiki Hou, and Feliz Navidad since she's currently enjoying her vacation in Mexico. And, I can't imagine that she's watching, but if she is, I hope you'll, she does occasionally, so.

Anyway, with that, I look forward to seeing you all back here after the New Year. With that, we are adjourned.

ADJOURNMENT

The regular meeting of December 18, 2015 was adjourned by the Chair at 11:41 a.m.

DENNIS A. MATEO, COUNTY CLERK
COUNTY OF MAUI, STATE OF HAWAII

151218/lks:jm

County Clerk

From: Mark Hyde <hydem001@hawaii.rr.com>
Sent: Sunday, December 13, 2015 9:54 AM
To: County Clerk
Subject: 12/18/15 Council Agenda Item 15-305

I submit the following comments regarding Agenda Item 15-305:

The proposal to change the county charter to require council approval of all executive appointments at the department head level may make some sense in the current environment given (1) the quality of recent appointments by the mayor and (2) the existing county government structure. I believe, however, that this measure will further exacerbate the poor and seriously broken relationship between the executive and legislative branches of government and represents a classic "workaround" of the core problem: county government structure places management of operations in the hands of politically elected mayors lacking the skills, background, knowhow and experience to manage a complex enterprise.

What is needed, instead, is to put a skilled manager in charge of operations who knows what to do, including recognition of the importance of picking quality department heads to do/lead the work at hand. A skilled manager would know to create job descriptions and to define minimum job requirements fitting the work to be done. Once these are in place, candidates would be screened for suitability, then interviewed for fit, hired to do a professional job free from politics, and assessed on an ongoing basis predicated on job performance measured against explicit goals and objectives. The council's role would be to manage the manager, not micro-manage department head appointments.

What is needed is restructuring of our county government that will result in county operations being led by a seasoned manager charged with appointing department heads reporting to him or her. Hopefully the recently appointed Special Committee will come up with a set of solutions that will make special legislation like 15-305 unnecessary.

Mark Hyde
4320 E. Waiola Loop
Kihei, HI 96753
874-3839

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County Clerk

From: Mark Hyde <hydem001@icloud.com>
Sent: Monday, December 14, 2015 11:01 AM
To: County Clerk
Subject: 12/18/15 Council Agenda Item 15-305
Attachments: Outcome Needing Improvement.docx

Attached is additional commentary on Agenda Item 15-305.

Mark Hyde
4320 E. Waiola Loop
Kihei, HI 96753
874-3839

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Outcome Needing Improvement[1]:

Mayoral selection and appointment of people to key executive positions in Maui County government when those selected have little or no subject matter knowledge, education, background or experience in the areas they are to lead[2], resulting in loss of employee morale (people being "led" by those who have less understanding of what needs to be done and how to do it), missed opportunities, lack of direction, and government inefficiency.

Diagnosis of Cause:

People:

- Mayors without management knowhow, education or training elected to serve as both chief executive and chief operating officers of the county, yet empowered to make key executive appointments in a political atmosphere with political rewards.

Process:

- A chief executive selection process based on politics without regard to management knowledge, experience or ability.
- Inadequate job descriptions[3], opening the door to political appointments.
- A managing director
    - with limited authority under the charter,
    - who does not appoint directors (they are appointed by the mayor),
    - is selected and directed by a politically-elected and motivated mayor,
    - necessarily focusing the managing director on the mayor as a the primary customer,
    - for whom there is no adequate job description, and
    - who has been given no visible measurable goals and objectives.
- Overall lack of accountability in government leading to lax management of the peoples' business.
- No clear executive branch goals and objectives (lack of transparency).

---

[1] The Charter states that no appointing authority "shall appoint any person to any office or position exempted from civil service until satisfied by proper investigation that the person to be appointed is *fully qualified by experience and ability to perform the duties of the office or position.*" (Article 6, Section6-2.2.)

[2] For example, a director of parks and recreation with no education, background or experience in parks and recreation; a director of housing and human concerns with no education, background or experience in housing and human concerns.

[3] Including that for the mayor (CEO/COO) in addition to all other director level positions. The mayor need only be a resident and able to vote, then is given responsibility for a $700 million enterprise.

- Little or no measurement, masking inefficient government performance and enabling re-election and retention of poorly performing county mayors/CEOS/COOs.
- No routine reporting of progress toward what are essentially non-existent goals[4].
- Mayoral focus on re-election, encouraging political favoritism over professionalism and operational excellence.
- Mayoral accountability at the ballot box after the first term, won or lost on political acumen not operational success, with no accountability in a second term of office.

---

[4] The Implementation Chapter of the Maui Island Plan was approved by the council without any milestones required by county ordinance. The Implementation Chapter cannot be located on the county website. There are still no milestones three years after passage of the Maui Island Plan. One person works in the planning department's division assigned to implementation versus over 30 in the mayor's office. Additionally, although the charter requires the Planning Director to make annual progress reports to the county council, he does not and the obligation is unenforced by the council.

Aloha Councilmembers,

This correspondence is in regards to a bill up for a vote on Dec 18th. I ask that you revisit the verbiage. The currently written bill will be disastrous with unintended consequences for family-owned businesses doing business under existing CORA permits. Current permit holders have 20 plus years of operation, many years of building community good will and respect, a good business and personal reputation, substantial capital commitment to equipment and employee training, and many employees whose families livelihoods depend on continuing employment.

Bill # 85 proposes the deletion of section 7. Discussions with Parks Department Chairperson Buenconsejo, confirmed his intention and understanding is that the deletion of section 7 **will not** affect CORA permit holders, in good standing, from renewing their current permits. However, at the Council meeting on Dec 17th, Corporation Council Ueoka stated that his opinion is:

~ if section 7 is deleted, via the Administrative Rules, the result will force the Parks Department to put all permits up for a lottery drawing system as they come due for renewal; even if, the permit holder is in good standing.

The interpretation by County Counsel, contradicts the stated understanding and intention of the Parks Department. The inadvertent consequence can be avoided by changing one word in Section 10-102-11 of the Administrative Rules from "May" to "Shall". Thereby; the Parks Department will follow the preferred course by renewing, permits to existing permit holders, without putting them up for lottery. A lottery drawing system jeopardizes decades of hard and diligent work at irrational risks of being destroyed, affecting not only the business owners but all of their employees as well.

The unnecessary result of the interpretation by County Counsel cannot be overstated. Postpone the vote on Bill # 85 until the Administrative Rules can be changed in a way that deleting section 7 will not have the dual effect of conflicting with Parks Departments stated intentions, and also destroying many long term local businesses that are in good standing with the Parks Department and CORA Administrative Rules.

Thank you in advance for your understanding. The conflicting consequences of passing Bill 85 prematurely is not necessary. The Administrative Rules can be changed to reflect the intentions of the Parks Department and save many local businesses and jobs.

Yours truly,

Cheryl A. Bretton, MAI
P.O. Box 100 PMB 466
Mammoth Lakes, CA 93546
(760) 709-0496

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2015 DEC 18 AM 8:09
OFFICE OF THE
COUNTY CLERK

County Clerk

From: Maui_County Council_mailbox
Sent: Friday, December 18, 2015 7:35 AM
To: County Clerk
Subject: FW: Bill#85

FYI - Email was sent to county.council@mauicounty.us and each Councilmember. Not sure if you needed a copy for today's Council meeting. Thanks.

-----Original Message-----
From: Michael Doe [mailto:mrdoe225@aol.com]
Sent: Thursday, December 17, 2015 7:40 PM
To: Mike White <Mike.White@mauicounty.us>; Maui_County Council_mailbox <county.council@mauicounty.us>; Donald S. Guzman <Donald.Guzman@mauicounty.us>; Gladys Baisa <Gladys.Baisa@mauicounty.us>; Robert Carroll <Robert.Carroll@mauicounty.us>; Elle Cochran <Elle.Cochran@mauicounty.us>; Don Couch <Don.Couch@mauicounty.us>; Stacy S. Crivello <Stacy.Crivello@mauicounty.us>; Riki Hokama <Riki.Hokama@mauicounty.us>; Michael Victorino <Michael.Victorino@mauicounty.us>
Subject: Re: Bill#85

Hello Councilmember,

It has come to my attention that a bill will be coming up for a vote on Dec 18th that could have disastrous consequences for many businesses under the existing CORA permits. I sincerely hope that you will postpone the vote on Bill #85 until the Administrative Rules can be changed in a way that deleting section 7 will not have the dual affect of conflicting the Parks Departments stated intentions and also hurting long term local businesses that are in good standing with the Parks Department and CORA Administrative Rules.

Yours truly,
Michael Doe

Sent from my iPad

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2015 DEC 18 AM 8:09
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County Clerk

From: Maui_County Council_mailbox
Sent: Friday, December 18, 2015 7:37 AM
To: County Clerk
Subject: FW: For Dec. 18th Council Mtg. (tomorrow) Bill # 85 Urgent request!

FYI – Email was sent to county.council@mauicounty.us and each Councilmember. Not sure if you needed a copy for today's Council meeting. Thanks.

From: Barbara Guild [mailto:barbg1@mac.com]
Sent: Thursday, December 17, 2015 5:59 PM
To: Maui_County Council_mailbox <county.council@mauicounty.us>; Mike White <Mike.White@mauicounty.us>; Donald S. Guzman <Donald.Guzman@mauicounty.us>; Gladys Baisa <Gladys.Baisa@mauicounty.us>; Robert Carroll <Robert.Carroll@mauicounty.us>; Elle Cochran <Elle.Cochran@mauicounty.us>; Don Couch <Don.Couch@mauicounty.us>; Stacy S. Crivello <Stacy.Crivello@mauicounty.us>; Riki Hokama <Riki.Hokama@mauicounty.us>; Michael Victorino <Michael.Victorino@mauicounty.us>
Subject: For Dec. 18th Council Mtg. (tomorrow) Bill # 85 Urgent request!

Dear Maui Co. Council Member,
Please **seriously consider** Bill #85 on tomorrow's Council Agenda (Friday Dec. 18th). To vote on this bill, before understanding the impacts it will have on the longtime local businesses involved, could jeopardize Maui's economy.

You must **seriously consider any change made to the Administrative Rules,** for permits that designate and approve business licenses, for this **important service provider** to **Maui's beach/tourist sector**.

If you vote to delete Section 7 of Bill #85, it will force **all** permits to be issued year-to-year via a **drawing/lottery system**. What long-term responsible business could possibly operate under an annual drawing/lottery system of granting/issuing permits? It makes no sense.

Modify the rule, but don't be ridiculous about it!

Please change the rule as proposed:

Deleted word is crossed out and added word is underlined:

> *Administrative Rule §10-102-11 Permit renewal. The director ~~may~~ shall renew a permit for additional one-year periods provided the permittee is in compliance with all applicable rules. Permit renewal shall also be contingent upon the permittee renewing or attaining any necessary state and federal permits. A renewed permit shall be subject to the terms and conditions of these rules and any subsequent amendments. [Eff 9/1/09] (Auth: HRS §91-2, MCC §13. 04.220) (Imp: Mce Chap. 13.04, Art. X)*

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County Clerk

From: Nicole Kahinu
Sent: Friday, December 18, 2015 7:34 AM
To: County Clerk
Subject: FW: Bill 85

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COUNTY CLERK

FYI – Email was sent to county.council@mauicounty.us and each Councilmember. Not sure if you needed a copy for today's Council meeting. Thanks.

From: Tiki Team Adventures Maui [mailto:kayak@southpacifickayaks.com]
Sent: Thursday, December 17, 2015 5:52 PM
To: Maui_County Council_mailbox <county.council@mauicounty.us>; Mike White <Mike.White@mauicounty.us>; Donald S. Guzman <Donald.Guzman@mauicounty.us>; Gladys Baisa <Gladys.Baisa@mauicounty.us>; Robert Carroll <Robert.Carroll@mauicounty.us>; Elle Cochran <Elle.Cochran@mauicounty.us>; Don Couch <Don.Couch@mauicounty.us>; Stacy S. Crivello <Stacy.Crivello@mauicounty.us>; 'Victomichael.victorino@mauicounty.us' December 17 <Victomichael.victorino@mauicounty.us>; Riki Hokama <Riki.Hokama@mauicounty.us>
Subject: Bill 85

Please table less this. Seems thus is being rushed without consideration for current Cora permit hilders
Thank you

Roger Simonot

Aloha Councilmember,

Re: Bill # 85 December 18, 2015

At the Council Meeting on November 17 several council members and CORA operator, Patricia Cadiz, asked questions to clarify how the deletion of section 7 might affect existing CORA permits. Parks Department Chairperson Buenconsejo repeatedly assured us that the department has no intention to disrupt the renewal of existing permits and that this proposal was strictly to make available the 2 to 5 permits that have been vacated. We were all quite comfortable with those assurances.

However, each time Corporation Council Ueoka responded to the same questions he explained that the process would be a lottery/drawing system for all permits once section 7 is deleted. Here are his quotes with time stamps from the recording: "…process [is a] lottery system in the admin rules." (37:55-38:35) "…the administrative rules state that these are permits for one year and the prescribed process for permits is to go through a lottery system - so these are year-to-year permits." (44:00-44:12) 'Yes, we should be using a lottery system every year (46:45-47:00) (Section 7 is the reason a lottery has not been used.) "Well that's interesting because technically, theoretically, if you remove this, all of the permits will become available at the end of the year…48:30-49:00) "[Permits are] good until end of the year." (49:30-33)

Somehow we all clung to the assurances of the Director and missed the express explanations of Mr Ueoka that County law and rules indicate that the permits expire annually and future permits will be allocated using a drawing system (aka lottery).

The good news is there is an easy administrative fix to codify the Director's intent. Section 10-102-11 of Administrative Rules says the director "*may*" renew permits (if there has been compliance). Simply changing that word from "may" to "shall" provides the legal basis to renew existing permits without going through the

drawing (lottery) system. After this change is made by the Department we can support the deletion of section 7 by the Council. But unless this change is made, deleting Section 7 will force **all**permits to be issued year-to-year via a drawing/lottery system.

We ask that Council **defer passing Bill 85** until Department has made this one-word correction to Administrative Rules. This not only provides continuity for existing permit holders but also for the new permit holders that will start up when section 7 is deleted. It codifies the stated intent of Parks Director and gives him the legal basis to renew permits. *Without this change the Department will be obligated, as explained by Corp Council, to put all permits - not just the vacated ones - into the drawing system.* A year-to-year permit does not provide the atmosphere for any permit holder (old or new) to invest in quality gear, vehicles, leases, loans or instructor training that makes for a superior service company.

Deleted word is crossed out and added word is underlined:

Administrative Rule §10-102-11 Permit renewal. The director may shall renew a permit for additional one-year periods provided the permittee is in compliance with all applicable rules. Permit renewal shall also be contingent upon the permittee renewing or attaining any necessary state and federal permits. A renewed permit shall be subject to the terms and conditions of these rules and any subsequent amendments. [Eff 9/1/09] (Auth: HRS §91-2, MCC §13. 04.220) (Imp: Mce Chap. 13.04, Art. X)

Thanking you in advance for your careful consideration,

Thanks,