

# MINUTES

of the

## PUBLIC HEARING HELD ON

MAY 20, 2016

THE COUNCIL OF THE COUNTY OF MAUI, STATE OF HAWAII, CONVENED A PUBLIC HEARING ON FRIDAY, MAY 20, 2016 AT 9:02 A.M., IN THE COUNCIL CHAMBER, KALANA O MAUI BUILDING, WAILUKU, HAWAII, WITH CHAIR MICHAEL B. WHITE PRESIDING, FOR THE PURPOSE OF RECEIVING TESTIMONY ON THE PROPOSED OPERATING BUDGET AND CAPITAL IMPROVEMENTS PROGRAM FOR THE FISCAL YEAR JULY 1, 2016 TO JUNE 30, 2017.

CHAIR WHITE: Good morning. This public hearing shall please come to order.

Mr. Clerk, will you please call the roll.

### ROLL CALL

PRESENT: COUNCILMEMBERS GLADYS C. BAISA, ROBERT CARROLL, ELEANORA COCHRAN, DONALD G. COUCH JR., S. STACY CRIVELLO, VICE-CHAIR DONALD S. GUZMAN, AND CHAIR MICHAEL B. WHITE.

EXCUSED: COUNCILMEMBERS G. RIKI HOKAMA AND MICHAEL P. VICTORINO.

*(Councilmember Hokama was not present when the roll was called; however, he arrived at 9:03 a.m.)*

COUNTY CLERK: Mr. Chair, there are seven Members present and two excused. A quorum is present to conduct the business of the Council.

CHAIR WHITE: Thank you, Mr. Clerk. Was this meeting, or this hearing properly published?

## NOTICE OF PUBLIC HEARING

COUNTY CLERK: Mr. Chair, Notice of this Public Hearing was published on the May 13, 2016 and the May 18, 2016 issues of the Maui News.

CHAIR WHITE: Thank you, Mr. Clerk. And will you all please put your phones on silent mode as we proceed with this.

Mr. Clerk, let's proceed.

*(Councilmember Hokama arrived at the meeting at 9:03 a.m.)*

COUNTY CLERK: Mr. Chair, proceeding with presentation of public testimony. 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 the District Office staff. Individuals who wish to offer testimony in the chamber, please sign up at the desk located on the eighth floor lobby just outside the chamber door.

Testimony at all locations is limited to the item listed on today's agenda. And pursuant to the Rules of the Council, each testifier is allowed to testify for up to three minutes with one minute to conclude if requested. And when testifying, please state your name and the name of any organization that 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.

COUNTY CLERK: Thank you.

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

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

COUNTY CLERK: Thank you.

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

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

COUNTY CLERK: Thank you.

Mr. Chair, we have five individuals who have signed up to provide testify in the chamber. And the first person to provide testify this morning is Richard Dan, to be followed by Patricia Cadiz. Richard.

## TESTIMONY

MR. RICHARD DAN:

Aloha, good morning, thank you all for your very hard work for the County of Maui, I appreciate it. I also appreciate you giving me the opportunity to speak before you today. I'm here to speak about the budget and the fact--

CHAIR WHITE: If you could state, state your name for the record, please.

MR. DAN: My name is Richard Dan.

CHAIR WHITE: Thank you.

MR. DAN: I'm here to speak about the budget and the, in particularity to the Vineyard Street Improvement Project that's been, that's been requested money by the Public Works Department from the County. It appears that you've rejected that and I hope you would reconsider after you hear what I have to say. I've sent my testimony to everybody and it's a real problem on Vineyard Street.

I, my family owns the building at the corner of Market and Vineyard, and I have a store there. And we've had to close the store frequently when it rains. The water comes rushing down Vineyard Street, and right into the building. A lot of the problems we're having are due to the gentrification of Market Street about five, six, ten years ago when they redid Market Street and the water just funnels right in.

I attached to my written testimony a YouTube clip, if you take a look you can see what's going on.

I've, yesterday I went on my lunch walk and walked up Vineyard Street and noticed that Hern & Carin [*sic*], a law firm further up Vineyard Street is, has sandbags in front of their building because of the rain washing, the water washing in.

I would like you to reconsider and please put the item in your budget. It will improve the drainage on, on Vineyard Street all the way down to Market Street. We also have problems in addition to the businesses with pedestrians with the flooding, traffic with the flooding. They go on and on and on and on.

It's not, it's just bad. Also we have very, very poor to none sidewalks, and we're trying to improve and invigorate Wailuku, we can't have this going on. We have to have real sidewalks, we have to have water, and it's a very important thing for commerce or the people as, I think it's your responsibility to see this happen.

Thank you. Any questions?

CHAIR WHITE: Thank you, Mr. Dan. Any need for clarification of the testimony. Seeing none, thank you very much for being here this morning.

Mr. Clerk.

COUNTY CLERK: Next testifier is Patricia Cadiz, to be followed by Bob King.

MS. PATRICIA CADIZ:

Good morning, thank you for seeing me again.

CHAIR WHITE: Good morning.

MS. CADIZ: My name is Patricia Cadiz, I'm here to talk about CORA fees. I sent a letter to each of you and I don't want to take any more of your time just to recap we, I don't think there are any million dollar CORA businesses that you were told at your March 15, meeting at committee.

We need the extra permit locations so that we have safe alternatives in varying weather conditions. We need multiple activities so that we can provide reliable employment to our good instructors.

And I just thought I would offer myself if you have any questions from my letter, before you deliberate cause I know you've all been too busy to see me. Anybody have any questions for me?

CHAIR WHITE: Thank you, Ms. Cadiz. Members, any need for clarification or questions this morning. Seeing none, thank you for being here this morning.

MS. CADIZ: Thank you.

COUNTY CLERK: Next testifier is Bob King, President, Pacific Biodiesel, to be followed by Heidi Bigelow.

MR. BOB KING, PACIFIC BIODIESEL:

Thank you, Chair, Councilmembers.

CHAIR WHITE: Good morning.

MR. KING: I, again I'd like to speak in support of item 16 on the agenda for the fuel tax rate increase. For some of the items, gasoline and diesel, I think is, is appropriate.

CHAIR WHITE: If you could please state your name for the record.

MR. KING: Oh, I'm sorry. Bob King, from Pacific Biodiesel. My apologies. I, I would ask again if we could send a stronger message on renewables by going back to a, an exemption at this time for biodiesel on the tax rate. It doesn't generate a lot of money for the County to have that additional money in there, that additional tax rate in there. Yet the message is, I think very strong when you exempt it like Kauai, like the Big Island. It's important to the fleets to know that this is, the Council is supporting them, who are supporting the renewable fuel.

So, later when we get other, other ways to support the industry, maybe purchasing fuel by the County or other Federal or State incentives, then this won't be needed. Obviously when biodiesel becomes a major portion of the tax base, we, we understand that you're going to have to keep the roads paved by getting, picking up this tax. But right now the price of fuel, petroleum fuel where it is, where the industry is at, I do request that we go back to the exemption for road tax for biodiesel.

Thank you very much.

CHAIR WHITE: Thank you, Mr. King. Members, any need for clarification?

Mr. Couch.

COUNCILMEMBER COUCH: Thank you, Mr. Chair. Thank you, Mr. King.

Question I have for you, does the State exempt biofuel, biodiesel fuel from their taxes, fuel taxes.

MR. KING: The State, the State tax is, I believe it's 17 cents for diesel fuel and 4 cents for biodiesel.

COUNCILMEMBER COUCH: Oh, so they have a little bit of--

MR. KING: They have a, whatever that, 75 percent exemption.

COUNCILMEMBER COUCH: And how about the Feds?

MR. KING: The Federal government gives a, an exemption though a different form, although it comes up, there's a, I'll try to make this easy, sorry. There's a Federal Excise Tax credit, it's not actually called road tax, Federal Excise Tax on, on all fuel is 24 cents a gallon. There's a tax credit for biodiesel \$1.00 per gallon. So we actually get the Federal road tax back for biodiesel. That credit is on a year to year basis so it comes in, it expires, it comes back again, it expires. We just came out of a year of no tax credit and then, and then this year we have it. Next year it's, it's gone again.

COUNCILMEMBER COUCH: Okay.

MR. KING: Up and down on the Federal side.

COUNCILMEMBER COUCH: Thank you.

CHAIR WHITE: Members, anyone else?

Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair. Thank you, Mr. King for being here.

On the production of the biofuels here on Maui or in, associated with Maui. Are, are, is that production of the, the crops, is that done here on Maui?

MR. KING: So currently, the crops you're talking about.

VICE-CHAIR GUZMAN: Yeah, the, the crops that you use for the biofuels.

MR. KING: We, we are currently only farming on the Big Island. We've, we are looking for land to farm on Maui right now actively. We're assuming that, that the game is changing this year and so we're working with several entities to acquire some land. But currently, we are not growing oil crops on Maui.

VICE-CHAIR GUZMAN: Okay. But there could be a possibility of it?

MR. KING: I think it's a tremendous possibility. I think there's, from the work we've done over the past eight years with oil crops in Hawaii, we see a, we see that there's a, a viable path to grow a significant amount of oil crops here and help the farming, the ranching industry as, as well as put a lot of people back to work. So there's, there's several different components, but I think collectively this is the, the economics of that are in fact good right now.

VICE-CHAIR GUZMAN: Thank you.

CHAIR WHITE: Members, any other need for clarification? Seeing none, thank you very much for being here this morning.

MR. KING: Thank, thank you very much. Appreciate it.

CHAIR WHITE: Mr. Clerk.

COUNTY CLERK: Next testifier is Heidi Bigelow, Project Manager, Makila Ranches Inc./Makila Land Co. LLC, to be followed by Jeffrey King.

MS. HEIDI BIGELOW, MAKILA RANCHES INC./MAKILA LAND CO. LLC:

Good morning, Chair, Members.

CHAIR WHITE: Good morning.

MS. BIGELOW: My name is Heidi Bigelow, and I'm the Project Manager for Makila Ranches Inc. and Makila Land Co., and I'm testifying regarding the budget as it relates to the Launiupoko land acquisition. We submitted written testimony, Steve Goodfellow did on May 4, on behalf of the landowners. And he wasn't able to be here today so he asked me to come and just make sure, you know, ask if there's any questions or clarification needed.

Just short recap, in 2013 this body voted unanimously to purchase 185 acres in the Launiupoko area, and to date 148 acres have been purchased. And there's a 37 acre parcel remaining to be purchased that stretches from Launiupoko Beach Park to Puamana Beach Park. And we're asking that this County, that the Council act and include funds in this year's budget to complete the acquisition.

That's it, anybody has any questions?

CHAIR WHITE: Thank you, Ms. Bigelow. Members, any need for clarification? Seeing none, thank you for being here this morning.

MS. BIGELOW: Thank you.

CHAIR WHITE: Mr. Clerk.

COUNTY CLERK: Next testifier is Jeffrey King, owner/operator Big Kahuna Adventures, to be followed by Dustin Tester.

MR. JEFFREY KING, BIG KAHUNA ADVENTURES:

Good morning.

CHAIR WHITE: Good morning.

MR. KING: My name is Jeffrey King, from Big Kahuna Adventures. Good morning, Committee and Chair. Thank you for letting me speak this morning. I'm Jeffrey King from Big Kahuna Adventures in Kihei and I'm here to stand up for my small family business.

I have two permits in Kalama Park, surfing and kayaking. The surf lessons are my bread and butter, and the kayak tours are not very popular there, but I keep the permit just because I cherish it.

Ten years ago this coming January, I, I'm a Navy veteran, I took my life savings and purchased an existing business that had the CORA permits. And it was my dream come true to operate a family business here on this beautiful island. In doing this, I opened up a retail store across the street from Kalama Park to follow the rules of CORA and have a place of business in the vicinity. I try to run a pono business with integrity.

I pay over 5,000 a month in rent and I have a competitor almost across the street from me in the park that has been doing cash rentals for almost ten years now. They have no place of business and they are operating rent free in a County park. And they're even doing the lessons for everyone else. And, but that's just the beginning of it.

And my point is the rules of CORA are not being enforced. Now that the word is out that the County parks can't fine anyone or do anything, there's just lots of "on the lowdown" activity companies popping up. And, and they're, they know all the loopholes and, and they're the ones that are thriving because they're not regulated. We even have mobile units now delivering gear in the parks.

And as you may know, it is crazy expensive to operate a business here on Maui. High rent, the GET tax, Federal and State taxes, payroll taxes, liability insurance, advertising, electricity, the resort commissions, etc., etc. Fees, taxes and bills just take everything. I can't even afford a fulltime employee and pay their health care.

I work really hard, I work six days a week, and, to provide fun memories, safe and fun memories for our island guests. Matter of fact, my wife's running the shop right now, single handedly. We're definitely not a million dollar entity. Far from it.

And every year our permit fees are raised, and they're even questionable, you know, if, like the rumor to disappear. So, I honestly feel sometimes that you guys don't want us to succeed. It's hard for me to look into the future and feel secure because I'm, I'm cautious to invest because I don't know if these permits are going to be there every year. And it's hard to grow a business like that.

You know, I want to be successful. I want to hand over a thriving family business to my son one day. Please do not attack us CORA operators for trying to run a pono and legit business. Go after the businesses operating illegally and enforce the rules.

In conclusion, please do not raise our fees again and seek commissions. We're not all million dollar entities. Please see that the rules can be enforced. Mahalos for listening to my opinion and Happy Aloha Friday, God Bless America. Aloha.

CHAIR WHITE: Thank you, Mr. King. Members, any need for clarifications? Seeing none, thank you very much for sharing your thoughts this morning.

Mr. Clerk.

COUNTY CLERK: Next testifier is Dustin Tester.

MS. DUSTIN TESTER:

Tough to follow over there. Thank you for that, it was great. And thank you to County Councilmembers for listening to our testimony again.

I just wanted to make you folks clear of the condition of Ukumehame Beach Park, kind of more of my focus on this one. I testified last time and in the last year after our fees were raised, we received barely any services. I, I'm submitting today, pictures of rebar sticking out of park benches, downed trees, deteriorating barbeque pits, and an overall disregard of Ukumehame Beach Park.

Our instructors are always picking up trash after weekend users, especially after the holidays. What is our park fees really going for if we barely receive services? Why bother, why am I bothering paying a permit when our park is in shambles and there is minimal enforcement of illegal schools.

There are over 30 surf schools online when you google surf lessons Maui. There's, I haven't confirmed with permit holders with the parks yet, but I believe over half of those schools are illegal. Why do I go through all the efforts to be legal, pay my fees for 16 years now, and I have to compete with 15 illegal surf schools island-wide online?

Why am I bothering paying my permit and the permit hikes every year when illegals are getting the same services that I do. If you continue to raise my CORA permit each year, I'd appreciate park services and regulation.

So I just took some photos of our beach park recently. I think all the beach parks on Maui have water but Ukumehame Beach Park. My customers everyday are like can we shower after the class? I'm like, I'm sorry we don't have water here. And I'm happy to provide on my own, so that's what I've been doing. And there's no grass, it's pretty bad. So I just wanted to, and it's actually dangerous, there's some rebar coming off that someone can walk by and gouge themselves on. So, yeah, would you guys like these.

CHAIR WHITE: Sure, please provide them to the staff please. We'll make copies and distribute them.

MS. TESTER: Thank you.

CHAIR WHITE: Members, any questions for the testifier.

Mr. Couch.

COUNCILMEMBER COUCH: Thank you, Mr. Chair and thank you, Ms. Tester for being here. And thank you for being one of the early adopters of pre-CORA permitting.

MS. TESTER: Yeah, sure thing.

COUNCILMEMBER COUCH: So I know you've been the, the person who did the right thing from the very beginning.

MS. TESTER: Thank you.

COUNCILMEMBER COUCH: Drove by Ukumehame yesterday and there was a bunch of trailers full of kayaks parked on the side of the highway.

MS. TESTER: Yes, yeah, aware of those.

COUNCILMEMBER COUCH: Are those permitted or not permitted? And do we ever see park rangers come by and talk to those guys.

MS. TESTER: Yeah, I've been there all week, my instructors have witnessed that too. I think there's corporate groups in town. I think actually the kayak tours do have a permit because I see them more frequently down there. And, and then Maui Beach Boys is down there with a big corporate group this week as well.

So we had a lot of activity at Ukumehame, the numbers aren't good. I counted probably about 16 to 18 students in the water and I think our permit regulates to 14 total. So even if they are legal permits, they're not following the rules or CORA.

And, my, my school is small, I have a four to one ratio. And my, my customers noticed that and they are like wow, what's going on. And you know, we get a busy season too, where we run our surf camps. And I organize our camps in phases so, I don't know, I feel like if there's a corporate group in town and they have a legal permit like I do, you know, make it smaller more frequent groups.

They're not organizing it right and it's just, it's dangerous. The boards flying at my instructors. There's not enough instructors in the water. And so it's stressful being an instructor out there and watching all that happen and we have, no one was there, I didn't see one CORA enforcer down there.

COUNCILMEMBER COUCH: Okay. Thank you, Chair.

MS. TESTER: Park ranger.

CHAIR WHITE: Members, anyone else with concerns.

MS. TESTER: Yeah, it's, it's frustrating just having that raise in the hikes every year and not having enforcement. Or the down tree issue was two months that no one cleared that tree, and it's still kind of tripping people up and kiawe everywhere. So, I feel like it could be a liability for the County if no one comes and cleans things up, and my, and my business, they could sue me too--

CHAIR WHITE: Thank you for sharing.

MS. TESTER: --for accidents.

CHAIR WHITE: Can you, of the 15 or so surf schools that you mentioned, is there any way that you can verify whether they are all operating out of County facilities as opposed to operating out of some other--

MS. TESTER: They've got like the loophole thing, they've gotten around it. I think they, they enter the water at the State side of Ukumehame, but when they get in the water they come over in front where we are legal to teach, and we can't of course regulate the ocean. But you know they are in our way too and in front of the park in the ocean. So they go around the park.

And the County park rangers that I've spoke with said that they are in touch with the DLNR. And I've called and I hate to be the whistle blower, but I've had to call and say hey, there's some illegals down here and then oh, same question, are they on, are they in the park. And I say no they're on the other side of the park, well, we'll contact the DLNR. And then I'm waiting around and no DLNR shows up.

So it's just business as usual. And they've grown, and they are competing with me on mine and it's been really frustrating. If they're a small school it's like okay, but like they're getting really big.

CHAIR WHITE: Appreciate your perspective and thank you for sharing.

MS. TESTER: Sure, sure thing.

CHAIR WHITE: Thank you very much, I think.

MS. TESTER: Okay, thank you.

CHAIR WHITE: And, Mr. Clerk, next testifier.

COUNTY CLERK: Mr. Chair, there are no further individuals signed up to testify in the chamber. If there is 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.

COUNTY CLERK: Lanai Office, are there any additional testifiers?

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

COUNTY CLERK: Molokai Office, are there any additional testifiers?

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

COUNTY CLERK: Mr. Chair, there is no other individuals in the District Office nor the chamber who wish to offer testimony.

CHAIR WHITE: Thank you, Mr. Clerk.

Members, we've received written testimony. Without objection, we'll receive that into the record.

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: Thank you.

THERE BEING NO OBJECTION, WRITTEN TESTIMONY RECEIVED FROM THE FOLLOWING INDIVIDUALS WERE MADE A PART OF THE RECORD OF THIS PUBLIC HEARING.

1. Richard Dan;
2. J. Stephen Goodfellow, Makila Ranches Inc.;
3. Dustin Tester;
4. Torsten Durkan;
5. William Knowlton;
6. Gary Weiss;
7. Paige Alms;
8. Mike Ottman;
9. David Dorn;
10. Suzanne Dorn; and
11. Pamela Tumpap, Maui Chamber of Commerce.

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

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: Okay, thank you. So ordered.

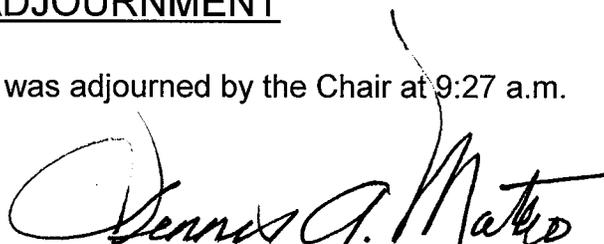
Mr. Clerk.

COUNTY CLERK: Mr. Chair, there is no further business for the Council.

CHAIR WHITE: Thank you, we will adjourn, and Members please be back here at 10:00 for our next hearing or meeting, rather. We're adjourned.

### ADJOURNMENT

The public hearing of MAY 20, 2016, was adjourned by the Chair at 9:27 a.m.



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