M I N U T E S

of the

COUNCIL OF THE COUNTY OF MAUI

June 3, 2016

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, JUNE 3, 2016, BEGINNING AT 9:03 A.M., WITH CHAIR MICHAEL B. WHITE PRESIDING.

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

Mr. Clerk, please call the roll.

ROLL CALL

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

EXCUSED: VICE-CHAIR DONALD S. GUZMAN.

DEPUTY COUNTY CLERK JOSIAH 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 very much.

And this morning we have opening remarks from Mr. Carroll.

OPENING REMARKS

The opening remarks were offered by Councilmember Robert Carroll.

CHAIR WHITE: Thank you, Mr. Carroll.

Members and audience, will you please rise and recite the Pledge of Allegiance with me.

PLEDGE OF ALLEGIANCE

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

CHAIR WHITE: Thank you. And if you don't mind, please turn your phones to silent mode before we proceed.

And Members, as you know, we have a very large agenda today. So without objection, the Chair recommends that because the only item on the agenda that is time-sensitive today is our passage of the Budget, so, the Chair's recommendation is that we take up testimony, public testimony on only the Budget items for second reading, second and final reading.

And once we take up the, and then we'll go from testimony on the Budget to passage of the various Budget bills. Following the passage of the Budget bills, we will go to testimony on all other items.

So without objections, Members, that's how we would, that's how I would like to proceed.

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: Thank you.

And, I apologize to those of you who were here to testify on non-budget items, but, but it's important for us to get the Budget out without delay. So, I hope you'll understand.

So with that, Mr. Clerk, proceed.

DEPUTY COUNTY CLERK: Mr. Chair, proceeding with the presentation of testimony on ordinances for second and final reading. We have established limited interactive communication that enables individuals from Hana, Lanai, and Molokai, to provide testimony from our District Offices.

Individuals who wish to offer testimony on ordinances for second and final reading should now sign up with District Office staff. Individuals who wish to offer testimony on ordinances for second and final reading in the chamber, please sign up at the desk located in the eighth floor lobby just outside the chamber door.

When testifying, please state your name and the name of any organization you represent.

Currently, we do not have any testifiers waiting at our District Offices, so we'll proceed with testimony from our chamber.

Mr. Chair, we currently have seven individuals who have signed up to testify in the Council chamber on ordinances for second and final reading.

The first person to testify in the chamber is Rory Frampton, testifying on Bill 59. Mr. Frampton will be followed by Amber Coutsos.

PRESENTATION OF WRITTEN OR ORAL TESTIMONY

MR. RORY FRAMPTON [testifying on Bill No. 59 (2016)]:

Good morning, Mr. Chairman.

CHAIR WHITE: Good morning.

MR. FRAMPTON: I'm here testifying, my name is Rory Frampton, I'm here testifying on the bond authorization bill, and the Council's vote at the last meeting to not include money for the Launiupoko land acquisition.

I'm here testifying on behalf of myself, although, I worked on that project for 10 years. I made the mistake of watching the video of the meeting last week, last night, and I just couldn't sleep. I just wanted to correct a few things for the record.

The property, the transaction involved two properties. One was really for open space, but at the last meeting, you said that this 37-acre piece was only for protection of open space. It wasn't. It was really for future park development. It's by active surf spots, and it was purposely designed to allow for future park development along those roadways, along the shoreline.

Councilmember Hokama said, at the last appropriation two years ago, that he did not vote on it, but he did vote on it. It was unanimously approved. Only Councilmember Baisa wasn't, she was in Mexico, I think, when the vote occurred. But, really what happened when the vote was taken last time, it was the kupuna from West Maui that came out on their own, got a bus together, came out here, and they all said how important this acquisition was. And that led to the 8-0 vote two years ago.

Councilmember Crivello asked why was there delay, why did the monies lapse? All that information was provided to you. But the, the first transaction for property "A" happened 60 days after you guys voted. The second transaction, there were a lot of things that had to happen; final subdivision, SMA approval; a lot of things needed to take place before that final transaction happened.

It happened, they, they did, they did it all within the timeframe, but it happened after the funds lapsed. And apparently the funds were never encumbered. I guess that was oversight by the Administration. Once the Administration found out that the funds had lapsed in August of last year, they submitted a, or, a bill to re-appropriate the monies in August of last year. It sat in Budget and Finance Committee from August until March. There was no action taken on it.

The Mayor put the monies back into the budget. You guys looked at it, and at the last meeting decided not to move forward on it.

Councilmember Cochran said that this isn't coastal land, and that it's just scrub, rocks, and trees. Just up the hill, that's what people said 10 years ago, or 15 years ago, that it was all rocks and trees. Well, look at it now, it's owned by multi-millionaires. This land that's, the 15-acre parcels that are being sold, the land across the street from that, as a real estate agent, you could sell that 15-acres and you can say that land between here and the ocean can be yours, you can control it.

Cause the Council had two options; they said they could keep it privately-owned open space, or it could be used for the public. And, if this guy buying 15-acres thinks that he can control that land that runs right up to the highway, he's going to pay a lot more money. I'll conclude in just a little bit. He's going to pay a lot more money.

CHAIR WHITE: Yea, you're going to have to provide a concluding comment--

MR. FRAMPTON: Yea, yea, and--

CHAIR WHITE: --because we have a long day today. So, everyone's going to be held to the same.

MR. FRAMPTON: Thank you. So, they would pay a lot more if they could control that open space and not have anybody use it versus that land being available for the public.

And, I'll just repeat what Councilmember Carroll said at the last meeting; once it's gone, it's gone.

CHAIR WHITE: Thank you, Mr. Frampton.

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

Mr. Clerk.

DEPUTY COUNTY CLERK: The next person to testify is Amber Coutsos, testifying on Bill 62. She will be followed by Rosemary Robbins.

MS. AMBER COUTSOS, MAUI CHAMBER OF COMMERCE [testifying on Bill No. 62 (2016)]:

Hi, I'm Amber Coutsos with the Maui Chamber of Commerce. I'm here to share the Chamber's testimony on behalf of our President Pamela Tumpap, who could not be with you today as she is en-route to Washington D.C. to serve our members and our community. While I won't be able to answer questions on this as it is not my area, she felt it important for the Chamber to be present at this meeting.

Dear Chair White and Members of the Maui County Council,

Given the winning compromise in last year's budget session, we were surprised to see the CORA industry facing another increase this year, especially when others are not. It leads many businesses, both in and outside of the industry, to question the rationale for another hike and feels as though there is a movement to move these long standing operators, who have made tremendous investments in building their businesses and Maui's reputation, out.

We have yet to hear the rationale for these, for this increase. There seems to be a perception that these operators are making money hand over fist, with rumors of millions of dollars in annual income. But, that has not been our experience. Many CORA operators are small, family-run businesses, who are not making these phenomenal sums and the planned increase is one more nail towards putting their business in a coffin. This industry is deeply impacted by weather conditions and the need for ocean safety and had another challenging year with all the storms we faced. Their stories tell the tales, and they are sharing them, but it feels as if they are not being heard.

All I have met with are hardworking individuals and families who are champions in ocean activities, with years of experience and quality service that greatly contributes to our visitor experience and Maui's top notch ocean activities reputation. While providing excellent instructions to their clients, they have also kept our beaches safe by providing rescues and safety instruction to those who are not their clients to protect our beach environment for visitors and residents alike. In doing so, they have also helped reduce liabilities for the County.

These leaders volunteered their time years ago to come up with rules and regulations to protect our beaches and deter abuse. They are the ones who are operating legitimately, paying for their permits, and paying their taxes, and trying to help the County identify those who are operating under the table and outside of the law. Yet, despite their repeated requests for enforcement, little has been done and others flying under the radar are getting a free ride. This is not what we want to see happen. And, the higher the fee goes, the more incentive there is for others to cheat.

So, why this group for $28,000? We ask the question because other avenues are raising income within the Department do not appear to have been explored. The Parks Department recently rushed a request to ask the Council to change the law to allow for new CORA operators, which the Council did, yet it doesn't appear that those permits have been issued. What was that all about then if we are not going to issue the permits and collect the revenue? Further, enforcement efforts could net the County a significant amount and there is a CORA Activity Fund with nearly 500,000 in it. What is that being held for?

We and the CORA operators have been providing testimony along the way and now we are down to the wire, but this is really important. The proposed raise in permit fees will hurt these small businesses. So, we are asking that you look into the challenges with enforcement, the issuance of new CORA permits, and the large fund, and not increase the CORA permit fees again this year.

Mahalo nui loa for your consideration.

CHAIR WHITE: Thank you very much.

Members, any need for clarification? We all have the written testimony. Thank you for being here this morning.

Mr. Clerk.

DEPUTY COUNTY CLERK: The next person to testify is Rosemary Robbins, testifying on Bills 59 and 60. Ms. Robbins will be followed by Patti Cadiz.

MS. ROSEMARY ROBBINS [testifying on Bill Nos. 59 (2016) and 60 (2016)]:

Good morning, everybody, Rosemary Robbins, concerned citizen.

COUNCILMEMBER VICTORINO: I cannot hear, Chair.

CHAIR WHITE: If you could speak closer to the mic.

COUNCILMEMBER VICTORINO: Can you get closer to the mic please?

MS. ROBBINS: Rosemary Robbins, there we go.

CHAIR WHITE: There you go.

MS. ROBBINS: Thank you. Concerned citizen. Bills 59 and 60 are talking about bonds. Another word for bonds, debts. The cost of playing catchup, chaos, for what has already been accumulated monies that we owe, not that the issues got corrected, but the cost has gone up. And, both of these bills now are talking about assuming more debts. It's, it's just mind-blowing.

Bill 59, an ordinance authorizing the issuance of $29,753,000, altogether for bonds of the County of Maui for the purpose of providing funds to pay all or a part, so they're not even guaranteeing that this is going to cover the cost, of the appropriations for public improvements of and for the County of Maui; fixing the forms of denomination and certain other features of such bonds and providing for their sale; certain details of the bonds; authorizing the issuance and sale of a like principal amount in general obligation bonds anticipating notes in anticipation of the issuance and sale of such bonds; and providing for other actions related to the issuance, sale and delivery of sand, excuse me, of said bonds. Third-graders are going to be able to say, Mr., Ms.,

Ms. So and So, if we already have this much that we owe, why would we get involved in setting ourselves up to have more debt? Valid question from the mouths of babes.

On Bill 60, a bill for an ordinance determining that part of the proceeds, again, not an indication that it's going to solve the whole problem already identified, proceeds of general obligation bonds of the County of Maui heretofore issued is in excess of the amount required for the purposes. Why did folks ask for more money that was in excess of what the cost was going to be? Dot, dot, dot. So that the bonds were initially issued, or may or should not be applied to other purposes. When you get involved in a bond like that, you have to state the purpose for which it's going to be used. So to say, well it might be used for something else, something's wrong.

So please don't let this continue on. This is a vicious trend that our children, grandchildren, great-grandchildren are going to have on their backs. Thank you.

CHAIR WHITE: Thank you, Ms. Robbins.

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

MS. ROBBINS: You're welcome.

CHAIR WHITE: Mr. Clerk.

DEPUTY COUNTY CLERK: The next person to testify is Patti Cadiz, testifying on Bill 62. She will be followed by Alan Cadiz.

MS. PATTI CADIZ [testifying on Bill No. 62 (2016)]:

Morning, Members. Morning, Chair. Thank you very much for hearing me again. I'm Patti Cadiz here to testify on Bill 62. I believe that's the number for the CORA fee increase.

Just a couple new pieces of information. Some of you have met with me and had time, and I know everyone's been super busy. And I really appreciate those of you that have made a little time for me. Here's some of the things that have come out in those meetings.

One is, I notice that they were, we're down to only 15 parks that have CORA permits now. And of those 15 parks, only two have lifeguard towers. So, I just want to emphasize the ancillary lifeguard services that CORA provides at those other parks.

And, that the afterhours at those that do have lifeguard towers, the lifeguards leave at four, and then we're there. We're there till the bitter end usually, as long as there's good conditions.

Also, according to Parks documents that were supplied last March 5 to Mr. Guzman, there are 24 available permits at that time. I know there's been some that were relinquished at renewal time last year, so that number is certainly higher.

And then, of course, with the deletion of Section 7 of 3143 last December, that actually gave the Director the unfettered ability to offer permits to additional locations. Even parks that hadn't been studied, perhaps if he, if he deems that that, that there's room for commercial activity without impeding the public.

So, there seems to be plenty of room for addition, issuing additional permits, which would be a fair way to raise funds for the Department if they needed.

Also, I don't believe any fines have ever been levied, and you've heard many people testify about the prevalence of unpermitted operators in the County parks. So collecting fines another way to raise money.

Might be a little more sensitive, but you could also consider, discuss the possibility of raising camping fees. Our camping fees start at $5 a night, go to $20 a night. On Oahu, they start at 10 and go up from there. Even raising $5 a night on camping permits would raise $1800 additional per camping site for the year. So, that's another possibility.

And then of course there's the, there's the thing that's difficult to understand. There seems to be almost half a million dollars sitting in the CORA Activity Fund. So if there's that much money available, I'm not quite sure why we're raising fees again. Any questions?

CHAIR WHITE: Members, any need for clarification? Seeing none, thank you for being here, Ms. Cadiz.

Mr. Clerk.

DEPUTY COUNTY CLERK: The next person to testify is Alan Cadiz, testifying on Bill No. 62. He will be followed by Jeff Strahn.

MR. ALAN CADIZ [testifying on Bill No. 62 (2016)]:

Thank you for this opportunity to speak. I'll be quick. I just wanted to point out that on 13.04 that there's a Commercial Recreation Activity Fund. And it's the purpose, the purpose relating to the implementation of this article that's 13.04, including, but not limited to the provisions of salaries, the purchase of equipment, the maintenance of County property.

And in the May 30 newspaper, it says there's $497,368 for CORA. And I believe this, I believe all this money was from revenues collected from fees. And my question is, is it fiscally responsible to, to raise our fees when there's all this money sitting there? That's all. Thank you.

CHAIR WHITE: Does that conclude? Okay, thank you, Mr. Cadiz.

Members, any need for clarification? Seeing none, thank you for being here.

Mr. Clerk.

DEPUTY COUNTY CLERK: The next person to testify is Jeff Strahn, testifying on Bill 62. He will be followed by Debby Frey.

MR. JEFF STRAHN, MAUI DIVE SHOP [testifying on Bill No. 62 (2016)]:

Good morning, Councilmembers, Council Chair.

CHAIR WHITE: Good morning.

MR. STRAHN: My name is Jeff Strahn, General Manager of Maui Dive Shop. I've spoken here many times about the CORA issues over the past 15 years or so. It might be more now, I don't remember.

I would just like to speak against raising of the fees. We hold multiple permits. We have eight permits. I get questioned a lot, why we have eight permits. There's, if you go back and remember what the history was, is you use to pay one fee and you could go to any County beach park. And, that's been reduced, and reduced, and reduced down to certain parks, or certain activities in parks.

And, in the ocean environment business, the conditions as I'm sure you're all aware are, are changing. There's safety concerns. There's beach parks that weather is not conducive to do one day. So, we have parks on different sides of the island, different parks. There's also, if a park is crowded, we'll go to a different park to try to avoid the crowds to, to alleviate the concerns. Might be shark attacks. Who, who's knows what it is.

So in order for us to operate, we need to have multiple permits so that we can provide the variety and the safety that, that the public would like to see, and we feel is necessary.

And when you start raising the, the fees, I'm hearing that you're considering a 50 percent increase, over a hundred percent increase of last year. The choices that we come down to is to just have less parks, that's, that's the choice. Maybe that's what the goal is, but I don't think that's what the goal of the public is. I think the public wants operators to operate safely and have variety, and be able to take them to other places. And you're just making it more and more difficult.

You may or may not be aware, but the retail environment right now on a national basis and on Maui is going through some pretty difficult times. Stores like Sports Authority, I don't know if you've heard about the Sports Chalet, 50 stores in California, all of them going bankrupt. And it's, it's a difficult time.

I can speak for Maui Dive Shop. When I spoke to you last year, we had eight retail stores on Maui, and we currently have four retail stores on Maui. So within one-year, we've closed half of our stores.

So I encourage you to reconsider, you know, raising the fees and, and just kind of give us a little bit of a break. Appreciate your time.

CHAIR WHITE: Thank you, Mr. Strahn.

MR. STRAHN: Thank you.

CHAIR WHITE: Members, any need for clarification? Seeing none, thank you for being here.

Mr. Clerk.

DEPUTY COUNTY CLERK: The next person to testify is Debby Frey, testifying on Bill 62. She will be followed by Lehn Huff.

MS. DEBBY FREY [testifying on Bill No. 62 (2016)]:

Good morning, Council and Chair.

CHAIR WHITE: Could you pull the microphone down just a little bit more.

MS. FREY: Down? Okay, good?

COUNCILMEMBER VICTORINO: You're still not close enough.

CHAIR WHITE: Yea, you just, you need to be right in front of the mic. There you go.

MS. FREY: Oh okay. My daughter and I have one surf permit for Kalama Park.

COUNCILMEMBER VICTORINO: Chair, what is the person's name, please? Could you identify yourself?

MS. FREY: Debby Frey.

COUNCILMEMBER VICTORINO: Thank you, Debby.

MS. FREY: Okay. My daughter and I have one surf permit for Kalama Park. We are a very small surf school, and cater to people who are looking for that kind of atmosphere. We love what we do; to be able to share this experience with the tourist. Many say it is the best thing they did on Maui.

In the last 45 days, we have had 79 surfers. We basically have six good months and six very slow months. We don't, by any means, make millions of dollars. It allows my daughter and myself to make a very modest living. Please don't raise the permit prices. Please don't take our livelihood away from us that we have worked years to make. We do a great job at what we do, and the tourists notice and write great things about us all the time. Thank you.

CHAIR WHITE: Thank you, Ms. Frey.

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

Mr. Clerk.

DEPUTY COUNTY CLERK: The next person to testify is Lehn Huff, testifying on Bill 62. She will be followed by Jeff Murray.

MS. LEHN HUFF, MAUI SCHOOL GARDEN NETWORK [testifying on Bill No. 62 (2016)]:

Good morning. My name is Lehn Huff. I am the Director for the Maui School Garden Network. It is my privilege to speak to the Councilmembers at this time.

I'm speaking with regard to Bill 62, the Maui School Garden Network. I thank you for your support into Fiscal 2017, and I ask that there be an amendment made, which I believe Councilmember Elle Cochran will be making, in support of maintaining the Maui School Garden Network under the fiscal sponsorship of Tri-Isle RC&D.

Tri-Isle Resource Conservation and Development Council, Inc., was founded in 1962 by the United States Congress within the United States Department of Agriculture as a rural development program. The main purpose of the Council has been to protect and promote wise use of the islands' cultural resources and natural resources through locally-led community improvement measures, and assisting sustainable agriculture and alternative energy initiatives.

When Federal funds ended in April 2011, the partnerships developed made it possible for the RC&D's nationwide, including Hawaii and particularly Tri-Isle, to continue as independent resource overseers in their locale.

MSGN is currently under the fiscal sponsorship of Tri-Isle, and would like to continue to do so until Fiscal 2018, when it hopes to transfer to the fiscal sponsorship of its partner, Grow Some Good, which this past March 2016, achieved its 501(c)3 status.

MSGN is an active member of both the Maui County Farm Bureau and the Hawaii Farmers Union United, Haleakala Chapter. Under the fiscal sponsorship of Tri-Isle, MSGN is poised to receive funding from grant sources that favor both the Maui County Farm Bureau and the Hawaii Farmers Union United. If MSGN is placed under the Maui County Farm Bureau's line item, there will be a perception of choice by MSGN and this will cause, what will result ultimately in funding losses for the MSGN programs.

I'm asking, again, that you would please support Councilmember Cochran's amendment to the fiscal sponsorship, take it, remove it from the Maui County Farm Bureau, with whom we have an excellent relationship, and put it in a more neutral stand under Tri-Isle RC&D. Thank you.

CHAIR WHITE: Thank you, Ms. Huff.

Members, any need for clarification?

Ms. Crivello.

COUNCILMEMBER CRIVELLO: Aloha, Ms. Huff.

MS. HUFF: Good morning.

COUNCILMEMBER CRIVELLO: Thank you for being here. Can you just, so the umbrella for you--

MS. HUFF: Yes.

COUNCILMEMBER CRIVELLO: --at present, is the Maui Farm Bureau. And, you're requesting for the funds instead to be administered by Tri-Isle?

MS. HUFF: Yes, as they currently have been.

COUNCILMEMBER CRIVELLO: Okay. So, what is the administrative percentage for, are they equal or are they less?

MS. HUFF: Oh, the, the administrative fee coming from Tri-Isle is--

COUNCILMEMBER CRIVELLO: From Tri-Isle. Yes. 16?

MS. HUFF: --is 15 percent.

COUNCILMEMBER CRIVELLO: Is it 15 percent? And, the Maui Farm Bureau?

MS. HUFF: I have no idea.

COUNCILMEMBER CRIVELLO: Do they charge you any administrative costs?

MS. HUFF: I have no idea.

COUNCILMEMBER CRIVELLO: I don't think so. Okay, thank you.

CHAIR WHITE: That's a, that's a good question.

Ms. Cochran.

COUNCILMEMBER COCHRAN: Sorry, Chair. If I can clarify, and Ms. Huff can elaborate. But, currently farm, I mean they're not an umbrella. They're not an umbrella under Maui County Farm Bureau. The funding we did during the budget, Mr. Victorino had proposed the 15,000 to take out of Farm Bureau to go to them, and now they would like to see that funding sitting in its own, under their name. So it doesn't, they're not umbrellaed, but we did deduct some money in regards to supporting their initiatives because it goes in line with what Maui County Farm Bureau does also. So, they're not umbrellaed.

MS. HUFF: That is correct. So, the Maui, the Maui School Garden Network does not have its own 501(c)3, hence, it needs to find a fiscal umbrella. And that's, it has been Tri-Isle. Thank you.

CHAIR WHITE: Ms. Baisa.

COUNCILMEMBER BAISA: Thank you very much, Chair. And thanks, Lehn, for being here this morning. I don't know what this particular arrangement is, but usually when a non-profit goes to Tri-Isle looking for a fiscal sponsor, there is a very modest fee. And they have to charge it, because that's how they survive. So, I think we might want to check that out.

MS. HUFF: Right. And, there's services provided for that fee that--

COUNCILMEMBER BAISA: Correct.

MS. HUFF: --are above and beyond. They do all of our checking, etc.

COUNCILMEMBER BAISA: Like I said, very modest.

MS. HUFF: So, so we're not comparing apples with apples right now.

COUNCILMEMBER VICTORINO: Mr. Chair.

CHAIR WHITE: Mr. Victorino.

COUNCILMEMBER VICTORINO: Thank you. I understand what you said, Ms. Huff. But, have you checked with the Farm Bureau to see if there is any fee to administrate, administrate the money?

MS. HUFF: I have not, no.

COUNCILMEMBER VICTORINO: I think that would have been prudent on yourself to double-check.

MS. HUFF: Yes.

COUNCILMEMBER VICTORINO: I mean, when we made these changes--

MS. HUFF: Yes.

COUNCILMEMBER VICTORINO: --I was under the understanding there was none. But, and if I'm wrong, I stand corrected. And that was one of the reasons why the change was made, and to make the specific money for your organization.

MS. HUFF: Thank you, Mr. Victorino. Our issues have to do with funding from donors.

COUNCILMEMBER VICTORINO: Well, that's a different subject matter now.

MS. HUFF: Yes, it is, isn't it?

COUNCILMEMBER VICTORINO: So now you changed the subject that I, okay.

MS. HUFF: No, we're, we're talking about funding sources in general.

COUNCILMEMBER VICTORINO: Thank you. Thank you, Chair. I won't, I won't elaborate any further. Thank you.

MS. HUFF: Thank you, sir.

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

MS. HUFF: Thank you, Council.

CHAIR WHITE: Mr. Clerk.

DEPUTY COUNTY CLERK: The next person to testify is Jeff Murray, testifying on Bill 62. Mr. Murray is the last individual who has signed up to testify in the Council chamber.

MR. JEFF MURRAY, FIRE CHIEF, [testifying on Bill No. 62 (2016)]:

Aloha, Chair and Members.

CHAIR WHITE: Good morning.

MR. MURRAY: I'm here to speak about Bill 62, our Operating Budget for Fiscal Year 2017. I'm asking to, this body, if you guys would reconsider putting the two Battalion Chiefs for our second battalion back on the budget or at least put the positions back, and you can unfund it if, if you choose to. I think those positions are extremely important. They allow us to have accountability and most, most likely safety for all of our individuals on both battalions.

As you may be aware, this past weekend we have had two incidents that happened at the same time; that happens a lot. So we need the chain of command, and command in control out there on a daily basis, 24 hours a day. And this specific positions affect Wailuku, West Maui, Lanai, and Molokai.

So, I ask that you please reconsider those two positions.

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

MR. MURRAY: Thank you.

CHAIR WHITE: Mr. Clerk.

DEPUTY COUNTY CLERK: Mr. Chair, there are no further individuals signed up to testify in the Council chamber on ordinances for second and final reading. I've also been notified that there's no testifiers at any of our District Offices.

CHAIR WHITE: Thank you, Mr. Clerk.

Members, you note that we have received testimony on the, the budget items. Without objection, we'll receive those into the record.

MEMBERS VOICED NO OBJECTION.

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

1. Pamela Tumpap, Maui Chamber of Commerce;
2. Lehn Huff, Maui School Garden Network;
3. Terry Kristiansen and John Blumer-Buell; and
4. Kamalu Kaho`okele, Nahiku Community Association.

CHAIR WHITE: And we will, at this time, close public testimony only on the ordinances for second and final reading. Without objection.

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: Thank you, so ordered.

Mr. Clerk, proceed.

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

ORDINANCES

ORDINANCE NO._____
BILL NO.___44___(2016)

A BILL FOR AN ORDINANCE AMENDING
THE FISCAL YEAR 2016 BUDGET FOR THE COUNTY OF MAUI
AS IT PERTAINS TO ESTIMATED REVENUES;
HANA COMMUNITY PLAN AREA, GOVERNMENT FACILITIES,
NAHIKU COMMUNITY CENTER;
TOTAL CAPITAL IMPROVEMENT PROJECT APPROPRIATIONS; AND
TOTAL APPROPRIATIONS (OPERATING AND CAPITAL IMPROVEMENT PROJECTS)

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA:

CHAIRMAN, I MOVE THAT BILLS 44 THROUGH 47 (2016) PASS SECOND AND FINAL READING.

COUNCILMEMBER VICTORINO:

SECOND, MR. CHAIR.

CHAIR WHITE: We have a motion to pass the four bills.

Mr. Clerk, can you call up the additional bills?

ORDINANCE NO._____
BILL NO.___45___(2016)

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 (NAHIKU COMMUNITY CENTER)

ORDINANCE NO._____
BILL NO.___46___(2016)

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

ORDINANCE NO._____
BILL NO.___47___(2016)

A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2016 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO ESTIMATED REVENUES; DEPARTMENT OF FIRE AND PUBLIC SAFETY; TOTAL OPERATING APPROPRIATIONS; AND TOTAL APPROPRIATIONS (OPERATING AND CAPITAL IMPROVEMENT PROJECTS)

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, the four bills that the Clerk has read is revisions to the current year, Fiscal Year 2016, that ends in 28 days, this June 30 of 2016.

A couple is for requirements regarding Corporation Counsel's needs for resolutions through litigation.

We have a adjustment under the Highway Beautification Fund, because of balances that the Committee had difficulty consolidating and confirming during the budget process, Chairman. So, we are making this housekeeping adjustments, if I can call it that.

The last one, 47, is regarding the Fire Department. And, we need to transfer $1.9 million because of issues regarding premium pay and operations. And, I'll leave it at that at this time, Chairman. Thank you.

CHAIR WHITE: Thank you, Mr. Hokama.

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

AYES: COUNCILMEMBERS BAISA, CARROLL, COCHRAN, COUCH, CRIVELLO, HOKAMA, VICTORINO, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: VICE-CHAIR GUZMAN.

CHAIR WHITE: Measure passes with eight "ayes"; zero "noes"; one "excused", Vice-Chair Guzman.

Mr. Clerk.

ORDINANCE NO._____
BILL NO.___48___(2016)

A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO INTERGOVERNMENTAL AGREEMENTS FOR LOANS FROM THE STATE OF HAWAII'S WATER POLLUTION CONTROL REVOLVING FUND FOR VARIOUS WASTEWATER PROJECTS, FISCAL YEAR 2017 BUDGET ORDINANCE

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA:

CHAIRMAN, WITH NO OBJECTIONS FROM YOU OR THE MEMBERS, I MOVE THAT BILLS NO. 48 THROUGH 55 PASS SECOND AND FINAL READING.

COUNCILMEMBER VICTORINO:

SECOND, MR. CHAIR.

CHAIR WHITE: Any objections, Members?

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: Okay, thank you.

Mr. Clerk, please call up the remaining bills.

ORDINANCE NO._____
BILL NO.___49___(2016)

A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT FOR A LOAN FROM THE STATE OF HAWAII'S DRINKING WATER TREATMENT REVOLVING LOAN FUND FOR VARIOUS WATER PROJECTS, FISCAL YEAR 2017 BUDGET ORDINANCE

ORDINANCE NO._____
BILL NO.___50___(2016)

A BILL FOR AN ORDINANCE AMENDING SECTION 18.24.010, MAUI COUNTY CODE, TO ELIMINATE THE CONSTRUCTION PLAN REVIEW REVOLVING FUND

ORDINANCE NO._____
BILL NO.___51___(2016)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 3.35, MAUI COUNTY CODE, RELATING TO THE AFFORDABLE HOUSING FUND

ORDINANCE NO._____
BILL NO.___52___(2016)

A BILL FOR AN ORDINANCE TO REPEAL CHAPTER 14.29, MAUI COUNTY CODE, RELATING TO PUMPING OF CESSPOOLS AND SEPTIC TANKS

ORDINANCE NO._____
BILL NO.___53___(2016)

A BILL FOR AN ORDINANCE RELATING TO THE HIGHWAY BEAUTIFICATION AND DISPOSAL OF ABANDONED VEHICLES REVOLVING FUND AND THE LITTER CONTROL REVOLVING FUND

ORDINANCE NO._____
BILL NO.___54___(2016)

A BILL FOR AN ORDINANCE AMENDING SECTION 3.81.050, MAUI COUNTY CODE, TO EXTEND THE ECONOMIC DEVELOPMENT REVOLVING FUND

ORDINANCE NO._____
BILL NO.___55___(2016)

A BILL FOR AN ORDINANCE REPEALING CHAPTER 3.97, MAUI COUNTY CODE, RELATING TO THE POST-EMPLOYMENT OBLIGATIONS FUND

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA: Thank you very much, Chairman. These bills help implement the requirements for the Fiscal Year 2017, as testified, recommended, presented to your Budget Committee through the district meetings, public testimony, and through a survey that the people were also provided. That those that wished to respond in that manner, gave us their comments regarding priorities, and what they felt was, the County was doing well, what they felt the County was not doing well. And, we used those comments back to the Committee as a way of how we presented this budget for the Council's final determination this morning.

I am happy to answer any questions by the Members at this time, Chairman.

CHAIR WHITE: Thank you, Mr. Hokama.

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

AYES: COUNCILMEMBERS BAISA, CARROLL, COCHRAN, COUCH, CRIVELLO, HOKAMA, VICTORINO, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: VICE-CHAIR GUZMAN.

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

Mr. Clerk.

ORDINANCE NO._____
BILL NO.___56___(2016)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 3.48, MAUI COUNTY CODE, RELATING TO THE REAL PROPERTY TAX APPLICABLE TO REMNANT PARCELS

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, I, with and I apologize to the Members, I would ask for a short recess to confer with Corporation Counsel on the impact of this proposed amendment that is required by Department of Finance.

CHAIR WHITE: Okay. Short recess at the call of the Chair.

(THE MEETING WAS RECESSED BY THE CHAIR AT 9:42 A.M., AND WAS RECONVENED AT 9:55 A.M., WITH ALL MEMBERS PRESENT, EXCEPT VICE-CHAIR GUZMAN, EXCUSED.)

CHAIR WHITE: This meeting with please come back to order.

And, Mr. Hokama, I believe we're back to you for a motion, if appropriate.

COUNCILMEMBER HOKAMA: Thank you very much, Mr. Chairman. Chairman, first I will ask the Clerk, is there any main motion currently before the body?

DEPUTY COUNTY CLERK: No, Mr. Chair, there is not.

COUNCILMEMBER HOKAMA: Okay, thank you very much, Mr. Clerk.

MR. CLERK, I MOVE THAT BILL NO. 56 PASS SECOND AND FINAL READING.

COUNCILMEMBER VICTORINO:

SECOND, MR. CHAIR.

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

Mr. Hokama.

COUNCILMEMBER HOKAMA: Thank you. Chairman, as handed out to the Members this morning, I have an amendment that I am proposing regarding the main motion on the floor at this time.

> CHAIRMAN, I MOVE THAT, ACCORDING TO MY HANDOUT DATED JUNE 3, 2016, I MAKE A MOTION TO AMEND BILL 56, INCORPORATING A NEW SUBSECTION 3.48.552 SUBSECTION C, TO READ AS FOLLOWS: "FOR THE TAX YEAR ENDING JUNE 30, 2017, THE CLAIMANT MAY FILE THE CLAIM BY SEPTEMBER 15, 2016."

COUNCILMEMBER VICTORINO:

> SECOND, MR. CHAIR.

COUNCILMEMBER COUCH: Mr. Chair.

CHAIR WHITE: Thank you. Mr. Hokama there's a difference in the written version and your stated version. You changed the word "shall" to "may". Was that your intent?

COUNCILMEMBER HOKAMA: Okay. Mr. Chairman, my, my understanding of this, is the word should be, appropriately should be "shall".

COUNCILMEMBER COUCH: Yea.

CHAIR WHITE: Okay.

COUNCILMEMBER HOKAMA:

> TO QUALIFY FOR THIS, YOU "SHALL FILE FOR AN EXEMPTION".

And I will ask Mr. Teruya, of our Real Property Tax Division, as our administrator; or Mr. Wong, if that would be the appropriate way to interpret the intent of this bill.

CORPORATION COUNSEL PATRICK WONG: Chair, yes.

CHAIR WHITE: Yea, go ahead.

COUNCILMEMBER HOKAMA: Okay, so it should be shall, Mr., Mr. Chairman.

CHAIR WHITE: Thank you. So the motion is as its written in the, in the Amendment Summary Form. Okay, and we have a second from Mr. Victorino.

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, this just makes it very clear. And, I apologize to our community and to the Members, as an oversight on my part, getting this out of Committee. We need to set this date because normally exemptions are due by December 30 of the preceding year, which means, for this to have actually worked for this cycle, the deadline was December 30, 2015, which is five months ago, six months ago.

This allows our community to still have an opportunity to file for this exemption and have the reduced amount for taxation purposes on this remnant pieces that we are providing relief, as well as to minimize further impacts from minimum taxation. Thank you, Chairman.

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

AYES: COUNCILMEMBERS BAISA, CARROLL, COCHRAN, COUCH, CRIVELLO, HOKAMA, VICTORINO, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: VICE-CHAIR GUZMAN.

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

And we're back to the main motion, Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, again we've heard from the community regarding impacts to, especially families with small kuleanas or remnant parcels that has either very limited or no actual beneficial use to the owners, and we're just trying to address it, this to a taxation policy. 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 BAISA, CARROLL, COCHRAN, COUCH, CRIVELLO, HOKAMA, VICTORINO, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: VICE-CHAIR GUZMAN.

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

Mr. Clerk.

ORDINANCE NO._____
BILL NO.___57___(2016)

A BILL FOR AN ORDINANCE AMENDING TITLE 3, MAUI COUNTY CODE, TO ESTABLISH A FIREWORKS AUDITOR FUND

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA:

CHAIRMAN, WITH NO OBJECTIONS, I MOVE THAT BILLS 57 TO 61 PASS SECOND AND FINAL READING.

COUNCILMEMBER VICTORINO:

SECOND, MR. CHAIR.

CHAIR WHITE: Okay, we have a motion from Mr. Hokama and a second from Mr. Victorino.

Any objections to calling up the bills all at once?

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: Thank you.

Mr. Clerk, please proceed.

ORDINANCE NO._____
BILL NO.___58___(2016)

A BILL FOR AN ORDINANCE TO AMEND CHAPTER 13.16, MAUI COUNTY CODE, RELATING TO THE WAIEHU MUNICIPAL GOLF COURSE

ORDINANCE NO._____
BILL NO.___59___(2016)

A BILL FOR AN ORDINANCE AUTHORIZING THE ISSUANCE OF TWENTY-NINE MILLION SEVEN HUNDRED FIFTY-THREE THOUSAND DOLLARS ($29,753,000) AGGREGATE PRINCIPAL AMOUNT OF GENERAL OBLIGATION BONDS OF THE COUNTY OF MAUI FOR THE PURPOSE OF PROVIDING FUNDS TO PAY ALL OR A PART OF THE COST OF APPROPRIATIONS FOR PUBLIC IMPROVEMENTS OF AND FOR THE COUNTY OF MAUI; FIXING THE FORM, DENOMINATIONS AND CERTAIN OTHER FEATURES OF SUCH BONDS AND PROVIDING FOR THEIR SALE; AUTHORIZING THE DIRECTOR OF FINANCE TO DETERMINE CERTAIN DETAILS OF THE BONDS; AUTHORIZING THE ISSUANCE AND SALE OF A LIKE PRINCIPAL AMOUNT OF GENERAL OBLIGATION BOND ANTICIPATION NOTES IN ANTICIPATION OF THE ISSUANCE AND SALE OF SUCH BONDS; AND PROVIDING FOR OTHER ACTIONS RELATED TO THE ISSUANCE, SALE AND DELIVERY OF SAID BONDS

ORDINANCE NO._____
BILL NO.___60___(2016)

A BILL FOR AN ORDINANCE DETERMINING THAT PART OF THE PROCEEDS OF GENERAL OBLIGATION BONDS OF THE COUNTY OF MAUI HERETOFORE ISSUED IS IN EXCESS OF THE AMOUNTS REQUIRED FOR THE PURPOSES FOR WHICH SUCH BONDS WERE INITIALLY ISSUED, OR MAY OR SHOULD NOT BE APPLIED TO THOSE PURPOSES, AND DIRECTING SUCH PROCEEDS TO OTHER PUBLIC IMPROVEMENTS OR AUTHORIZED PURPOSES OF THE COUNTY OF MAUI

ORDINANCE NO._____
BILL NO.___61___(2016)

A BILL FOR AN ORDINANCE RELATING TO THE CAPITAL PROGRAM FOR THE FISCAL YEAR ENDING JUNE 30, 2017

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, thank you. These bills, specifically those in the capital improvement program areas, Mr. Chairman, indicate where the community has expressed their priorities for various types of projects. This Council's Committee has made a reinvestment in our infrastructure.

We appreciate the comments regarding debt service and how we are borrowing money. I can tell you, Chairman, over the last 18 years, we have basically put forth a sound, solid fiscal plan, whereby at this time after 18 years, we have the bond rating, we have the reserves, we have the respect of the agencies that review our finances and give, gives us a rating to borrow money on, and the type of insurance required to pay for such borrowing. That basically right now, I would say from a lender's point of view, they would like the Maui County to borrow money. We are a great credit risk, per say, by our sound fiscal policies.

Yes, there should always be a concern about why we borrow, how much we borrow, and under what terms we borrow. But, if you want a healthy community, if we are going to continue to wait, and for certain things we should, but for major things, I would say we need to consider it.

If we do not borrow and wait till we do have the monies to pay, from experience, although we have a lot of people who request a lot of things from this County, there seems a reluctance to actually pay the bill. So, we may never do those improvements. We're not getting sufficient funds.

The major infrastructures of this County, even the East Maui water system, was a decision by the County government to go to private sector to build EMI. We needed the private sector funding, and engineering, and private companies to construct what is part of the critical infrastructure of this island today, Chairman. That's our history.

So I would say, we have put forth a reasonable spending plan. Yes, we are borrowing, but I believe we are borrowing a reasonable under good terms. And part of the Council's responsibility is to make sure that fiduciarily, we account for this, we report back to the people where their money went, what it was spent for, and what they can expect in return for their investment.

And, I would ask the Members to support the proposal that is presented this morning. Thank you.

CHAIR WHITE: Thank you, Mr. Hokama.

Members, further discussion on these items?

Mr. Couch.

COUNCILMEMBER COUCH: Thank you, Mr. Chair. And for the most part, all of these I agree with. And, I agree with Mr. Hokama on the borrowing comments. Part of the borrowing is that folks who move here later, after today, help pay for the things that we're building today for, you know, especially infrastructure. So, as opposed to just the people who are living here today now.

I do have a problem with Bill No. 59 in that I think it would be a shame, a really big shame for us to lose that Launiupoko land. I would certainly like to see that authorized. I mean, we had long discussions, and you know, sometimes they weren't friendly discussions, but we had the discussions and we made the decisions. So, I think it would be a shame not to have that bond authorized.

And I know we had a three to six vote last time, so I'm not going to waste the Committee's time by, or the Council's time by bringing that back up again. But, I just want to put it on record, that for Bill 59, I'm strongly opposed to the, the bond not being financed for the Launiupoko land. Thank you.

CHAIR WHITE: Thank you for your comments.

Ms. Crivello.

(Councilmember Victorino was excused from the meeting at 10:05 a.m.)

COUNCILMEMBER CRIVELLO: I guess I have a question. As far as us passing Bill 59, this does, this does not preclude Administration to come, come to us to authorize these funds because the, the budget is that. I, I just want to say that in, in, in regards, because we have more than just the Launiupoko in here. And so, in fact, they can come July 1, right?

CHAIR WHITE: Correct.

COUNCILMEMBER CRIVELLO: Right. Okay, thank you.

CHAIR WHITE: Any further discussion, Members?

Ms. Baisa.

COUNCILMEMBER BAISA: Thank you very much, Chair. I too would like to give some light as to why I'm going to be supporting what is before us. It's my understanding, from doing the Committee meetings, that this door is really not closed. That there is an opportunity to negotiate further. And that if the Administration wants to proceed, that we welcome them to come back and put that before us again.

And so on that basis, I'd like us to go ahead rather than turning, turning things all upside down at this point. I, I feel comfortable in supporting it. Thank you.

CHAIR WHITE: Thank you, Ms. Baisa.

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

AYES: COUNCILMEMBERS BAISA, CARROLL, COCHRAN, COUCH, CRIVELLO, HOKAMA, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBER VICTORINO AND VICE-CHAIR GUZMAN.

CHAIR WHITE: Measure passes with seven "ayes", zero "noes", two "excused"; Mr. Victorino and Mr. Guzman.

Mr. Clerk.

ORDINANCE NO._____
BILL NO.___62___(2016)

A BILL FOR AN ORDINANCE RELATING TO THE
OPERATING BUDGET FOR THE COUNTY OF MAUI
FOR THE FISCAL YEAR JULY 1, 2016 TO JUNE 30, 2017

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA:

CHAIRMAN, I MOVE THAT BILL 62 PASS SECOND AND FINAL READING.

COUNCILMEMBER COUCH:

SECOND.

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

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, I am happy to have the floor open to Members that would like to have certain considerations at this time. Thank you.

CHAIR WHITE: Members, I believe there are some requests for amendments.

Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you very much, Chair. And thank you, Budget Chair Hokama, for this opportunity.

I MOVE TO AMEND APPENDIX B OF THE FY 2017 BUDGET BILL AS IT RELATES TO FEES FOR COMMERICIAL OCEAN RECREATIONAL ACTIVITY PERMITS, CORA, TO MAKE THE FEE $1,000 PER PERMIT PER PARK PER ACTIVITY, ANNUALLY, FOR THE FIRST TWO PERMITS ISSUED PER BUSINESS OR ENTITY, WITH EACH PERMIT THEREAFTER $500 PER PERMIT PER PARK PER ACTIVITY, AND TO AMEND THE EXAMPLES ACCORDINGLY, AS NOTED ON THE ATTACHED MARKED-UP PAGE, WHICH ACTUALLY IS ON THE, IT'S A TWO-SIDED PAGE YOU FOLKS HAVE IN FRONT OF YOU, MEMBERS.

COUNCILMEMBER COUCH:

SECOND.

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

Ms. Cochran.

COUNCILMEMBER COCHRAN: And, and thank you, Member Couch.

Members, so, if you flip the page around, you will see the page 25 of the rates and fees, and the marked-up version. The red notating the underscoring to be inserted, the bracketed to be taken out.

And, we heard a few testifiers this morning, in their justifications. And I think the guiding reasoning for me was the point, having looked some things up that, that almost $500,000 pot of money has not been tapped and utilized. And we continue to hear of illegal activities occurring at these parks when, such as the people testifying actually are current with permit, they pay their fees. They're, you know, law-abiding citizens creating a legitimate business. So at this time, I'm looking for some support to assist people with their fees.

And I did talk to Member Guzman, who is not here today, Chair for EAR, and we will, he will be bringing up this item to fully, fully vet and work out the details and have heavy discussion on the matter in his Committee.

So with that Members, looking for your support. Thank you very much.

CHAIR WHITE: Thank you, Ms. Cochran.

Mr. Couch.

COUNCILMEMBER COUCH: Thank you, Mr. Chair. And, I too spoke with Member Guzman to get his commitment to, to hear this. And I think we moved it up last year to this 1,500 in the anticipation of fully vetting out the, the process and, and redoing it and redoing the ordinances. Unfortunately, didn't get, didn't happen last year. I'm pretty sure it's going to happen this year.

So, I'm going to, because we said last year we, we were going to leave it at this until such time as the, the ordinance was reviewed, I'm going to support Ms. Cochran's.

CHAIR WHITE: Ms. Baisa.

COUNCILMEMBER BAISA: Thank you very much, Chair. And I too will be supporting Ms. Cochran's proposal. Between the closing of the budget and today, I had the opportunity to meet with a CORA operator, and it was very enlightening for me. She took the time to come and bring her records, not only her financial records, but her appointment book, and to kind of show me exactly how things work. And, I think that this requires a little bit more attention.

And, I'm really happy that I hear that Councilmember Guzman is going to look into this further. And, I think we can adjust it after that's done. But, I think for now I'm comfortable in supporting the amendment. Thank you.

CHAIR WHITE: Thank you, Ms. Baisa.

Ms. Crivello.

COUNCILMEMBER CRIVELLO: I, I'd just like to comment, Chair, that you know, we do, I guess, question the park rangers as far as, you know, I guess tagging if you want to say it to those that are not in compliance. But, you know, it's often been said they are on other properties other than County.

I, I think too, if Mr. Guzman will hear this further, we need to talk about our, the park rangers, their security there. And, we need to try and see if we want them to start being enforcers, like they do with the DLNR people. So, I think that's, that's a struggle or challenge that we have on that part. And, perhaps we can expand it further.

I, I understand what they're saying as far as the increase of the fees that were, and the struggles that they're having by carrying all the extra permits that, that brings it forth for them. I also note that, actually, with the DLNR or some other, they charge like 2400. And most other, I think Maui, Oahu, does based on RFP's for, for that.

So, I think we have lots of work to go further on this. And I can appreciate the Parks Department in, in their efforts to try and get more manpower perhaps. Or to, for their consideration to give us some plans on how we can have the park rangers be enforcers, cause we know they're not the enforcers per say. Thank you.

CHAIR WHITE: Thank you.

I'll, I'll just add my comments, that I think the, the lack of enforcement is a major challenge. And I think we, if we have people operating side businesses, similar to the way we have the vacation rentals that are operating illegally, we've got to adjust our ordinances to make sure that we have in place, the teeth that the, the park rangers need to enforce. And it's kind of my feeling that if we don't do that first, then we're, we'll really have a hard time justifying that increase when we've got $500,000 balance in the fund.

COUNCILMEMBER COCHRAN: Yea.

COUNCILMEMBER BAISA: Right.

CHAIR WHITE: We have no fines. And, we have a bunch of unissued permits. So I think it's time for the, the Parks Department to come with recommendations as to how to fix the enforcement issue, and also provide us a roadmap as to why they're not issuing permits now. And that would obviously allow them to make additional money.

Any further discussion, Members?

Ms. Cochran.

COUNCILMEMBER COCHRAN: Oh, wait, sorry. Go ahead.

CHAIR WHITE: Oh, Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, thank you, Chairman. And, I appreciate my colleague from West Maui's proposal this morning. I will not support it at this time, Chairman.

You know, the Committee looked at various factors. So, one of the key factors of course is interesting how the State approached it. They approached it at $200 a month, or three percent, whichever is greater. And when I told people about, you know, and they asked me about this 1,000 to 1,500, they thought that was the change per month. When I said that is the annual amount, people have a different view. We're talking about $125 permit a month. It's still $75 less than the State, less than the three percent if it's, goes over it. And yet, what does the State really provide besides saying that they can get into State waters? They don't do any administration. They don't really enter the State park. They don't do any enforcement.

So I would agree with some of the comments by those that speak for the industry about our weaknesses and shortcomings; very solid points.

I would ask the Members, look at how you structured the CORA fund through the ordinance. They cannot use it to fund positions, salaries, wages, fringes. The money cannot be used to fund CORA studies. We bring in approximately, maybe $60,000 a year in revenue. And is that to fund the improvements? Ask every Member who has a park in their district, what it takes to maintain a, one facility.

So for me, Chairman, yes, I think the permittees have valid issues, valid concerns. But that doesn't take away where we need to get this program and this Department in the near future. And this is one of the steps, this Committee's recommending to move this whole Department forward. And for me, it's where I want to get to, under enterprise designation, Chairman.

So I thank you for letting me share that with the Members. And I look forward to see if Mr. Guzman will take it up. Thank you.

CHAIR WHITE: Thank you, Mr. Hokama.

Any further, oh, Ms. Cochran.

COUNCILMEMBER COCHRAN: Yea, thank, thank you, Chair. And in closing, and thank you very, very much Mr. Hokama, for your comments. I appreciate that.

And I want to reiterate that, yes, we will, you know, we will evaluate the fee structure, the administrative rules relate, relating to the CORA permits. So, all the things that I think concerns Mr. Hokama, we can adjust and rewrite, and make sure that we address those things. And, so the CORA permit fees are deposited into the Ocean Recreational Activity Fund, Special Purposes Revenue. And this amendment will

have no effect on producing a balanced budget. So I just wanted to toss that in for closing comments. Thank you, Chair.

CHAIR WHITE: Thank you.

Any further comments?

Mr. Hokama.

COUNCILMEMBER HOKAMA: Second and final, Chairman, thank you. One of the things that I did mention to those from within this industry, and I'll let the Members know what I'm very open to, is the percentage. Obviously, like most visitor activities, and as I've been told by two companies that have done this for many years, the seasonal factor. And of course, to Budget, it's easy to just do a straight line across each month or each period. We understand that.

But this industry goes through seasons, and so I'm open to the percentages, set the base low so that if they don't make money, hey, we don't make money. But during the seasons when they do have great volumes, great clientele, great revenues, then I don't see a problem looking at the percentages, and then taking our share, appropriate share from those computations that if it can be worked out through an agreement, I'm happy to consider it. And that might be fair for the industry, that as the season goes, they pay according to the type of business generated.

So, there's ways to address this, Chairman. There's no silver bullet at this point in time. But, I have told them that I'm open to different ways of approaching this issue. Thank you.

CHAIR WHITE: Thank you, Mr. Hokama.

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

AYES: COUNCILMEMBERS BAISA, CARROLL, COCHRAN, COUCH, CRIVELLO, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: COUNCILMEMBER HOKAMA.

EXCUSED: COUNCILMEMBER VICTORINO AND VICE-CHAIR GUZMAN.

CHAIR WHITE: We have six "ayes"; one "no"; and two "excused"; the "no" being Mr. Hokama. Measure passes.

Mr. Clerk.

DEPUTY COUNTY CLERK: Mr. Chair, we're back to the main motion, unless any other Members have amendments.

CHAIR WHITE: Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair.

AND SO, I MOVE TO AMEND PAGES 14 AND 15 OF BILL 62 (2016), THE FISCAL YEAR 2017 BUDGET BILL, AS IT RELATES TO THE OFFICE OF THE MAYOR, ECONOMIC DEVELOPMENT PROGRAM, GRANTS AND DISBURSEMENTS FOR AGRICULTURAL PROMOTION, BY 1) INCREASING OPERATIONS ("B" CATEGORY) AND TOTAL FOR AGRICULTURAL PROMOTION BY $15,000; 2) INSERTING A THIRD PROVISO UNDER AGRICULTURAL PROMOTION TO READ, "(3) PROVIDED, THAT 15,000 SHALL BE FOR THE MAUI SCHOOL GARDEN NETWORK TO INSTALL SCHOOL GARDENS."; AND 3) STRIKING THE PROVISO AND REDUCING OPERATIONS ("B" CATEGORY) AND TOTAL BY 15,000 FOR MAUI COUNTY FARM BUREAU, INC.

COUNCILMEMBER COUCH:

SECOND.

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

Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you very much, Chair. And thank you, Mr. Couch. The proposed amendment will allow the Maui School Garden Network to secure other necessary funding needed for their program.

If the proviso is not moved, the current placement of the funding in Fiscal Year 2017 Budget may impede the organization's ability to obtain other funds. And because the amendment moves $15,000 from one appropriation to the other, along with the proviso, it will have no effect on producing a balanced budget.

And, for these reasons, Chair and Members, I'm looking for support. Thank you very much, Chair.

CHAIR WHITE: Thank you, Ms. Cochran.

Members, further discussion?

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, you know, I'm going to, if Ms. Cochran would consider, I would love to hear a comment of how this impacts other funding. Cause the way I, you know, I read how we structured it, the purpose and amount of the appropriation does not change. The way I, we placed the language currently, I don't see it in anyway impeding the Network from doing what it is trying to accomplish.

And that's why, for me, one, is this amendment really needed since we really don't change the purpose, amount or anything? Just telling them instead of under Farm Bureau, it needs to be under Office of the Mayor. It's still public money. It still goes through a, a review, appropriate departmental and Corp. Counsel review. So I'm still trying to figure out what is the factor that impacts other funders. If Ms. Cochran, and if she doesn't know, I appreciate that too.

CHAIR WHITE: Ms. Cochran.

COUNCILMEMBER COCHRAN: Oh, thank you very much. Chair, in Ms. Huff's written testimony, it does go in a little more detail, I guess, from her actual verbal testimony this morning. She, her administration, or the pass through grants that she does receive goes through Tri-Isle. And, we're looking to get her the $15,000.

Initially, it's out of the budget from Maui County Farm Bureau. But, her outside funders, I guess, see the practices or support of the Farm Bureau as differing, I guess, in philosophies of how they conduct business, or their growing practices, what have you. So they, I guess, it said that they are contemplating pulling funding to her, to the School Garden Network.

If, the perception is it's coming, technically, from Farm Bureau. But, we are technically giving them the money. So for that sake, to put it just under the general heading of agricultural promotion, with their definite name, her outside funders seem to be more amenable to that. And, and so it's--

COUNCILMEMBER HOKAMA: But, that's their problem, that's not our problem.

COUNCILMEMBER COCHRAN: Thank you, Mr. Hokama. I just hate to put the Maui School Garden Network in a predicament of losing added sources and funding. I know that some of us have issues, perhaps with Tri-Isle type of setup and program, and what they charge these smaller non-profits, what have you. But, I'm hoping that this entity may be able to garner more and more fundings as they grow, to be able to go out on their own, and take care of their own administrative needs, and what have. Not have to do a pass through grant through Tri-Isle or anyone else.

So that's, I think, I hope I'm answering some of your questions, Mr. Hokama.

COUNCILMEMBER HOKAMA: I, I know you're try, doing your best, Ms. Cochran, to move this forward and you know, 15,000 is not going to break our almost billion-dollar budget, so we can always review this next year, Chairman. Thank you.

CHAIR WHITE: Ms. Crivello.

COUNCILMEMBER CRIVELLO: I, I have a question. And, maybe you can answer or Mr. Hokama.

So, actually, this 15,000 that we've provised is actually coming from the Maui County Farm Bureau?

COUNCILMEMBER HOKAMA: Through.

COUNCILMEMBER CRIVELLO: Through the Maui.

COUNCILMEMBER HOKAMA: It's our money.

COUNCILMEMBER CRIVELLO: It's, it's our money that's assigned to provise under the Maui County Farm Bureau. And so we're saying, or Ms. Cochran is saying that she doesn't want it under the Maui Farm Bureau, is that my understanding? You don't want this 15,000 to be provised under the Maui Farm Bureau. And it will be provised under what heading then?

COUNCILMEMBER HOKAMA: The Mayor's Office.

COUNCILMEMBER CRIVELLO: The Mayor's, just completely the Mayor's Office. We're, are we taking this 15,000 out of the Farm Bureau's budget?

CHAIR WHITE: Ms. Cochran.

COUNCILMEMBER COCHRAN: So, I'll answer? Okay. And, thank you, Ms. Crivello. Yes. So, the 15,000 will go into the, that general heading under Economic Development Program, grants and disbursements for agricultural promotion.

COUNCILMEMBER CRIVELLO: Okay.

COUNCILMEMBER COCHRAN: Is?

COUNCILMEMBER CRIVELLO: Yea, okay. Thank you.

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

AYES: COUNCILMEMBERS BAISA, CARROLL, COCHRAN, COUCH, CRIVELLO, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: COUNCILMEMBER HOKAMA.

EXCUSED: COUNCILMEMBER VICTORINO AND VICE-CHAIR GUZMAN.

CHAIR WHITE: I believe I heard one "no" from Mr. Hokama. So, measure passes with six "ayes", one "no", and two "excused.

Mr. Clerk.

DEPUTY COUNTY CLERK: Mr. Chair, we're back to the main motion.

CHAIR WHITE: Members, are there any further adjustments? Any other requests? Seeing none, all those in favor of the main motion, please signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL, COCHRAN, COUCH, CRIVELLO, HOKAMA, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBER VICTORINO AND VICE-CHAIR GUZMAN.

CHAIR WHITE: Measure passes with seven "ayes" and two "excused".

Okay, Mr. Clerk.

DEPUTY COUNTY CLERK: Mr. Chair, proceeding with the presentation of testimony on all remaining agenda items. We have been notified by our District Offices that there are no individuals there to testify at this time.

CHAIR WHITE: Mr. Clerk.

DEPUTY COUNTY CLERK: We currently have--

CHAIR WHITE: I'm sorry. I think we'll take our morning break since it's 10:30. And so, we'll be in recess until 10:40.

(THE MEETING WAS RECESSED BY THE CHAIR AT 10:28 A.M., AND WAS RECONVENED AT 10:41 A.M., WITH ALL MEMBERS PRESENT, EXCEPT MEMBER VICTORINO AND VICE-CHAIR GUZMAN, EXCUSED.)

CHAIR WHITE: This meeting will please come back to order. And, if I could ask the folks that are in the lobby to please, if I could please ask those in the lobby to please keep it down. Otherwise, we'll close the doors so we have everybody's attention in here.

Okay, Mr. Clerk, we're ready to proceed with the second portion of our public testimony.

DEPUTY COUNTY CLERK: Thank you. Mr. Chair, we have, currently, 22 individuals signed up to testify in the Council chamber.

The next person to testify is Mark Hyde, testifying on Committee Report 16-95. He will be followed by Jim Smith.

MR. MARK HYDE (testifying on Committee Report No. 16-95):

Thank you very much for this opportunity to appear before you on this matter. My name is Mark Hyde. What an amazing journey it's been to get to this point today. And, thank you all for bringing discussion of Council Manager government to this point.

It will come as no surprise to you that I support change as recommended by the Special Committee. But more importantly, I support the people's right to decide whether to accept the change in local government by popular vote in November, because that's where the resolution, I believe, belongs.

The people's right to determine the form of government under which they consent to be governed, lies at the root of the American system of government. The Constitution begins with the words "We the people".

More importantly, the Hawaii State Constitution states that Article 1, Section 1, at the beginning of the Constitution that, "All power, all political power of the State is inherent in the people and the responsibility for the exercise thereof lies with the people".

In 2010, this body adopted the Countywide Policy Plan, which called for good government, and exploration of various forms of County government. And in 2011 and '12, the Charter Commission recommended, because it did not have time to take up the issue, full-examination of the issue, through a special committee.

And then as you will recall, this body, by a vote of 8-1 last fall, formed a Special Committee on Governance to do just that. And you populated it with 11 esteemed members of this community, representing every geographic region of the County. And now, we have their report recommending a Charter change to bring professional management of operations to County government.

Now, I know that opinions about the wisdom of change vary among you, among the audience. However, I believe that there is imperative and compelling need for change. The challenges that this County is going to face in the future are going to swamp the executive branch, I believe, if we don't restructure as recommended.

So, what is the role of the Council at this point? I believe it is to assess whether this is a reasonable recommendation or not. If it's a reasonable recommendation, which I

believe it is, I believe it is your duty to refer it to the people, for them to decide on the November ballot. Thank you very much.

CHAIR WHITE: Oh, thank you. You can, you can feel my, my comment coming. No, I was just going to say please provide a concluding remark, and you did just that.

MR. HYDE: I'm done.

CHAIR WHITE: Thank you. Members, any need for clarification? Thank you very much, Mr. Hyde.

Mr. Clerk.

DEPUTY COUNTY CLERK: The next person to testify is Jim Smith, testifying on Committee Report 16-91 and Committee Report 16-95. Mr. Smith will be followed by Jonathan Starr.

CHAIR WHITE: Good morning.

MR. JIM SMITH (testifying on Committee Report Nos. 16-91 and 16-95):

Chairperson White, Members of the Maui County Council, aloha. I've distributed to you two items. One is related to the testimony on the Lanai Community Plan. And, the other is related to the testimony on the service committee.

I'll, I'll start with the Lanai Community Plan and, and say basically that in this system politics is really good, really is good. And what makes it good is this structure, a legislative, an executive, and a judicial. And right now, what makes it good is the underlying trust that good judgement rules, not majority, good judgment rules. And each of you bring to the game good judgment. So, I would say in that sense, politics is necessary.

And Lanai brought to you a Citizen Advisory Committee, and then the citizens came back and you listened. And you took their judgment from different ways, and you responded because it was good judgment shared with you. And, if you look at this proposed update, you recognize that this is a removal of good judgment. This is a political event that takes from it inter-regional issues. It takes from it character as a real thing versus character as the look of a building or a street. And that's, that's the, that's the zoning that they're recommending, is that we have everything look like a character deserves to look. And that's not what a community plan is.

If you look at the distribution that I gave you, this is the first page, this is the table of contents of the Lanai Plan, and there's five sections. Do you know that there are 70 acronyms in the bill you are attending to, you're, you're taking seriously? Can you believe all the political? It's a political platform, really.

You're taking zoning and, and you're doing all these types of things within the context. You're going to say, basically, that it should be studied as to whether a accommodation in a low impact use should be approved, and that's Public Works, that's not Planning. An accommodation is a building. It's not a use. What is this doing? And, you've got laced through this plan, all of these injected political ideological thoughts, and that's not what a plan is.

And that's why the Island Plan took 20 years, or 10 years, and that's why this plan has taken so much time, because the dream and the vision belongs to one man. It's not a calmly held good. It's a vision that's created by the Planning Department, and I'll end my testimony there; asking you to recommit or to make the amendments that I've suggested in my testimony that is written. Thank you very much.

CHAIR WHITE: Thank you. You have one more item.

MR. SMITH: The second item, okay, is, I've submitted testimony for, and it is this special committee. And I would also submitted to you attachments. One of the attachments is a task, January 15, a task sheet that comes from a facilitator that basically says there are certain things that you need to decide, okay. And it seems as though the, the committee report didn't, didn't include it.

And it is the fact that there, there has to be a realization that there is a common, you know, it, it says basically that, could the current form of government be modified to address what is not working without changing to a County Manager form of government? That's one of the tasks that they set forth, and they didn't complete.

And that to me is significant. It is significant that the six members who supported it said that the County Manager and the, the director, director, Managing Director could be interchanged when it couldn't. The whole nature of it is, you've got a manager over the whole. You don't have a director of a department and you're saying you can use it as you will.

And what that means is, I as a voter, don't know the difference, okay, but it sounds good, it looks good. It's kind of like the character on Lanai in a building, and not in the sole and heart of the member. It looks good, okay. But it isn't known to be good. So, I'd ask you to take this back to Committee and recognize and support the idea that good judgment rules, not majority, okay. Thank you very much.

CHAIR WHITE: Thank you, Mr. Smith.

Members, any need for clarification? Seeing none, appreciate your coming this morning.

Mr. Clerk.

DEPUTY COUNTY CLERK: The next person to testify is Jonathan Starr, testifying on Committee Report 16-95. He will be followed by Steve Goldsmith.

MR. JONATHAN STARR (testifying on Committee Report 16-95):

Good morning--

CHAIR WHITE: Good morning.

MR. STARR: --Chair White, Honorable Councilmembers. My name is Jonathan Starr, and I just spent the last six months serving on the Special Committee on Governance, and also the temporary investigative group that actually drafted the, the language and the process that is before you.

And I want to thank you for that opportunity because it's not often, and probably once in a lifetime that someone gets an opportunity to really change the bones of the way an entity, such as Maui County, functions. And when I started out, I was started out fairly neutral with an open mind.

And as I started talking with people, I spent several hundred hours on this, as did some of the other members, and talked to many people who'd managed other jurisdictions for decades. One person, 35 years they'd been a City and County Manager, and realized that there's a reason why approximately two-thirds of the jurisdictions our size nationwide has switched over to professional management. And it does seem to function better. It gets rid of any last visages of the patronage, and miscommunication, and problems that exist from other systems.

And so, I came away feeling very happy with the work that the Committee did. I feel that the bill as crafted is very clear. We worked with really great resources in Council Services. Two teams of County attorneys who were great. The staff work was fantastic. They put in hundred, thousands of hours on it, and what we came up with, I feel, is something that will really be workable.

There's no question that it's a simple straightforward form, and that was intentional. There could have been a lot more detail in it, but the decision was made, and rightfully so to keep it straightforward. And, several of the long-time managers we spoke to said, if you really want to build something great, over time there should be a Charter commission that operates every two years to make fine tweaks.

But, I really ask you to take a good strong look at it. And, probably the best thing to do would be to let the people decide, because the community has the wisdom and deserves our respect to be allowed to have the final say. Thank you.

CHAIR WHITE: Thank you very much. Members, any need for clarification? Thank you for being here this morning, Mr. Starr.

Mr. Clerk.

DEPUTY COUNTY CLERK: The next person to testify is Steve Goldsmith, testifying on Committee Report 16-95. He will be followed by Ben Wilson.

MR. STEVE GOLDSMITH (testifying on Committee Report No. 16-95):

Good morning.

CHAIR WHITE: Good morning.

MR. GOLDSMITH: I'm Steve Goldsmith. You may have read some of my emails to you, or letters in the Maui News, supporting in letting us vote on county governance.

Let's make history today. Imagine if you had the power to change the lives of generations to come. Today you do. All you have to do is allow the people to vote on this county governance issue.

So what are some of the issues or concerns that I have heard? Number one, if it ain't broke, don't fix it. Let's be more positive. There clearly are opportunities for improvements such as, most studies show that we'd expect a ten percent savings for delivering the same goods and services. Let's put that in numbers, that'll be about 60 to $70 million per year, over a million dollars a week, once we start running the County professionally.

Turnover, the last time I appeared before the County Council in this very spot was at the end of the current Mayor's first term, when the Council at that time approved me

as a new Cost of Government Commission appointee. So, I got out of my sick bed today, cause this is important enough to me, and the first time I've appeared before you since then.

And, I got to see what occurred when our new Mayor Charmaine Tavares Administration took over. There was no long-term planning. Again, these aren't bad people, it's a bad system. No career possibilities as department managers kept changing with each Mayor. And some of the department heads we dealt with were unqualified, to say the least, with no specific goals.

Number two, I've heard, let's leave this for the next Charter Commission. We already did leave it in the last Commission. During my term on the Cost of Government Commission, everyone on that Commission acknowledged the problem was the form of government. Almost every issue we were dealing with could be solved with changing the form. And I, I and others then testified before the 2012 Charter Commission, and they agreed but the topic could not be handled. And then you have the Special Committee, and now the Special Committee has reported to you recommending to put it on the ballot.

So, the other thing I've heard is let's just do a compromise. Well, actually, the current recommendation is a compromise. The current form includes an elected Mayor. If you probably took the best and brightest, put them in a room, they'd say let's not have an elected Mayor, let's just have the Council, have a head of Council, call him Mayor, call him head of Council, have that be the representative. So this already is a compromise by continuing to elect the Mayor.

Fourth, I've heard, but I want, but I want to run for Mayor. Well, now you still can. So, there's no reason not to vote for this.

And finally, I've heard, I'm just not sure. Every open minded person that I've talked to, and I've spent a lot of time on this and educated them about the facts, and let them read studies. Every single one of them agrees that it's time for a change. So, let's get the process started. You're not voting in favor of this, you're just voting to allow the people to decide. So even if you're stank staunch against this, please let the people decide. Thank you.

CHAIR WHITE: Thank you, Mr. Goldsmith.

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

Mr. Clerk.

DEPUTY COUNTY CLERK: The next person to testify is Ben Wilson, testifying on Committee Report 16-95. He will be followed by Louise Corpuz.

MR. BEN WILSON (testifying on Committee Report No. 16-95):

Aloha, Mr. Chair and County Council. I'm Ben Wilson. I'm part of HC&S's unit, ILWU Unit 2101.

I stand against this proposed change. Just because something is a change does not mean that it is a change for the better. The United States Constitution gives people, the people the right to elect their own leaders. And this move would represent a loss of democracy and accountability.

An elected Mayor is accountable to the people. He has authority independent of the Council. He can stand up to the Council if necessary. An elected Mayor can also be voted out next time. But he is not hired and fired by the Council the same way a County Manager is or a City Manager.

A City Manager can be fired every time something goes the wrong way. That can be pinned on him, and they can just hire another one, and this reduces accountability. You might, people, people talk about the efficiency of this. Okay, maybe it's efficient. It mimics the corporate management structure. Are corporate management structures always more efficient; maybe, maybe not. Do corporate management structures always serve the needs of the people?

And furthermore, somebody having a management degree does not necessarily mean having management, corporate management experience or whatever, does not mean that they're necessarily going to serve the interest of the people.

That said, we might have a look at the situation in Flint, Michigan, with the water becoming extremely toxic. That was an emergency manager who was appointed by the government. When that situation happened, they fired him. He turned around and he blamed the person underneath him.

I strongly oppose this on principle. I think that it should, that's, that's my personal opinion. I think that it should be referred back to Committee for further review. Thank you.

CHAIR WHITE: Thank you, Mr. Wilson.

Members, any need for clarification? Seeing none, thank you for being here this morning?

Mr. Clerk.

DEPUTY COUNTY CLERK: The next person to testify is Louise Corpuz, testifying on Committee Report 16-95. She will be followed by Linda Berry.

MS. LOUISE CORPUZ, MAUI ILWU PENSIONERS CLUB (testifying on Committee Report No. 16-95):

Good morning. I'm Louise Corpuz, representing Maui ILWU Pensioners Club.

I oppose on this county government management. All I can say is that I do not want any more changes. I think our original form of government is doing a well, excellent job now. And all I can say, as we elect each officers as the Council, the Mayor, the Governor, the United State President, we all and all the rest of the House and the Congress, Senate, and everywhere would, that takes care of us in our communities. They have to walk the talk and keep their oath to do the best for everyone in United States, and in our own County.

I think you folks are all doing a good job, and learning how to communicate with each other to make everything go. Today, I am very happy to hear Councilman Riki Hokama in the way he say, how do we borrow money? How do we spend money? How do we get things to get operated in Maui County. It is very important of what you have said, Mr. Hokama.

And to the rest of you who can learn to communicate and understand the process of being a very tight management in working together on this Council, we can make Maui grow, and we don't need any more changes.

And I would further request that we have more discussions on this issue, and I am against the change. Thank you very much.

CHAIR WHITE: Thank you, Louise.

Members, any need for clarification? Seeing none, Mr. Clerk.

DEPUTY COUNTY CLERK: The next person to testify is Linda Berry, testifying on Committee Report 16-95. She will be followed by Paul Janes-Brown.

MS. LINDA BERRY (testifying on Committee Report No. 16-95):

Good morning, Council Chair and Councilmembers.

CHAIR WHITE: Good morning.

MS. BERRY: I'm Linda Berry. And I'd like to simply ask you in the name of democracy to allow us, the people of Maui, to vote on the form of our government so that the words "of the people, by the people, and for the people", continue to have meaning for us. Thank you.

CHAIR WHITE: Thank you, Ms. Berry. I don't think there's a need for clarification there.

Mr. Clerk.

DEPUTY COUNTY CLERK: The next person to testify is Paul Janes-Brown, testifying on Committee Report 16-95. He will be followed by Rosemary Robbins.

MR. PAUL JANES-BROWN (testifying on Committee Report 16-95):

Aloha, Mr. Chair.

CHAIR WHITE: Good morning.

MR. JANES-BROWN: Esteemed Members of the County Council. I'm here, I'm, my name is Paul Janes-Brown. I'm the President of Precinct No. 1, the Vice-Chair of District No. 12, and I'm here as a member of the community that voted, and on March 26, for change, for the political revolution.

And I had prepared remarks, but Councilmember Carroll's most eloquent, poignant, and touching opening remarks caused me to jettison those prepared remarks. And I'll ask you to remember what he said. And what he was talking about was the sacrifices that have been made by the men and women who have taken up arms to defend the rights of our government, to defend our constitution and the things that we stand for.

And ladies and gentlemen, I think that none of us in this room would disagree that the most fundamental right that those men and women gave their lives for is the right to determine the form of government that we will be governed by. And I ask you, ladies and gentlemen, to look into your hearts, to find in your hearts, the connection between what Councilmember Carroll spoke and what you are about to do. Thank you very much.

CHAIR WHITE: Thank you, Mr. Janes-Brown.

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

Mr. Clerk.

DEPUTY COUNTY CLERK: The next person to testify is Rosemary Robbins, testifying on Committee Report 16-95. She will be followed by Paul Kailiponi.

MS. ROSEMARY ROBBINS (testifying on Committee Report No. 16-95):

Good morning, everybody.

CHAIR WHITE: Good morning.

MS. ROBBINS: Rosemary Robbins, concerned citizen. Where to begin. I would like to be able to just give a little background. I was going downstairs to run the car around to another space, and I met a young woman, and she said, am I in the right building to go and find out about having a change in government? I thought that's interesting, that's exactly where I was just coming from and going to. And, so I was eager to hear, she's been here for eight years and has decided to try and get involved. That's so, it's so encouraging to see people here to know that they had some interest and perhaps had done some homework.

Just would like to give a quick history now. First of all, a super thanks to the women on the seventh floor who got me so many of these documents to be able to read.

That whole system is not a case of getting rid of the Mayor. I, I'm hearing this out in the community and I'm thinking that's not what this is about. So hopefully, I would just quickly say that the people who are on that Committee making the plans to get us here today, are people who were nominated by their elected Council representative, so that's nine folks. And then there were two at-large, one person who's in the real estate industry, and one person who has lived with the possibility of

a situation different from the one that we've had here. So, they are the 11 people who have been doing that. They have met for months.

I've been at a number of those meetings, they have really bit the bullet and gotten in to find out the pros and cons of all of this. A couple of things I would just bring to our attention. Okay, the First Deputy Corporation Counsel requested that the people who were nominated all be checked out in terms of they're not having any litigation that would be pro or con with this issue coming up. So, I was glad to see that that kind of vetting was being done.

And, would just like to say that I color-copied, just for a quick reference what they did come up with. And, they came up with three possibilities to be able to have a different kind of a government or to keep the government the same style. So, they came up with a format that has a Mayor. We're not getting rid of the Mayor. Have a Mayor, the Mayor has a four-year term, the Councilmembers have a two-year term. The Mayor would have a veto power. Somewhere we need to be able to recognize--

CHAIR WHITE: Thank you so much for your, you'll need to--

MS. ROBBINS: --what the facts are on that.

CHAIR WHITE: You need to conclude.

MS. ROBBINS: So yes, so the folks on the seventh floor are wonderful about getting you any of the paperwork that you would need. And thank you for all the people who were working on that, worked very hard.

CHAIR WHITE: Thank you very much.

MS. ROBBINS: You're welcome.

CHAIR WHITE: Members, any need for clarification? Seeing none, Mr. Clerk.

DEPUTY COUNTY CLERK: The next person to testify is Paul Kailiponi, testifying on Committee Report 16-95. He will be followed by Kelly King.

MR. PAUL KAILIPONI (testifying on Committee Report No. 16-95):

Good morning, Chair.

CHAIR WHITE: Good morning.

MR. KAILIPONI: Good morning, Council. My name is Paul Kailiponi. I'm the Chair of the Cost of Government Commission. Some of, I'm here to talk about item 16-95.

Some of my comments will be ones that are shared with the rest of the Cost of Government Commission. And some others will be done on my behalf as we haven't been able to meet since a lot of these things have come out.

I'd first like to thank the Special Committee. And I appreciate the work that they've gone through in debating this issue. I think that the debate that they have had on this issue is something that's very illuminating, it's something that has been very positive ultimately for this discussion.

Recently, their report came out, which is approximately 56 pages, 50 pages of which are Charter amendment changes. I know that within the Policy and Intergovernmental Affairs Committee right now, you're looking at many, many other different Charter amendment changes. If there is any Charter amendment change that requires careful, honest debate within Committee, it is this Charter amendment change.

Therefore, a recommendation would be to take it to Committee, and make sure that the proper vetting and the proper, proper objective analysis performed by the County Council before any kind of judgment is made as to whether it should go in as amendment or not.

Something that I was somewhat concerned with, and I think that another reason for this is because there's need for additional clarification from that report. Primarily 50 pages of Charter amendment changes, six pages explaining what, all of the rest, two pages of which simply explain what the Special Committee was trying to do. And no more than two pages explaining the why of adopting a County Manager form of government, and what evidence leads to that change.

I would expect additional clarification on those reasons of why. What do they expect to see because of a County Manager? Now, we've heard many, many reasons why. And those issues do exist within their report. What I would like clarification of is what is the underlying objective evidence indicating those things.

And the reason why I asked that is because some of those very things, such as taking out political elements from our government, improving economy and efficiency, are items that, in our report, were not found, looking at those same very issues, and looking at objective research and evidence.

Clarification is needed as to why those kinds of differences exist. And if so, is a Charter amendment needed when it may not result in the very things that proponents of that Charter amendment think that it does.

A second reason for that is because there are additional Charter amendment changes currently up, that to a large degree address some of those items that people say the Council Manager is for. And I think that by having that in Committee, we can understand that there may be compromise to those issues. Thank you very much.

CHAIR WHITE: Thank you very much.

Members, any need for clarification? Seeing none, thanks for being here today.

Mr. Clerk.

DEPUTY COUNTY CLERK: The next person to testify is Kelly King, testifying on Committee Report 16-95. She will be followed by Marjorie Bonar.

MS. KELLY KING (testifying on Committee Report 16-95):

Aloha, Honorable Chair, Councilmembers. Thank you for hearing this very important issue today in Council chambers.

There are a lot of good people in County government. There are a lot of good people in our, in our County, but we have a broken system, and things are not getting done because of it. There's, there's a lack of accountability between the Council and the Administration.

And just looking at the agenda today, there are extremely important issues on there, including affordable housing. There are a lot of these kinds of issues; water quality, water delivery. Overarching above all of these issues is our form of government, and how we get things done.

I was going to, I had a, a formal testimony prepared, but a lot of what I was going to say has already been said. So I wanted to discuss a little bit about the actual structure of having a Council that manages a professional manager that gets things done in our Administration.

Every non-profit I have ever sat on, and I've sat on close to a dozen of non-profits in my, in my years of involvement; every corporation I've sat on, and I've been on at least five different boards of directors, has operated this way. A board of directors

that oversees a CEO, or a manager, or a director, whatever you, executive director, whatever you want to call that person.

I, I served for four years on the State Board of Education back in the 90's. And I can only imagine what a nightmare it would have been if we had a State Superintendent who was elected separately than the State Board of Education, and was operating completely on his own, where the Board of Education is representing the people trying to get things done for the education system.

Every single non-profit that I've been on has been that way. We, I've sat on the Board of Hui Malama Learning Center for ten years, and we've hired three different executive directors. We worked very well together, we got things done. In my first term, we got out of the red and into the black, and it's because we were able to work with our executive administrator, and not separately from that entity.

So this is a, it's, it's a structure that every entity employs, including the ones that oversee some of the people who are against this. I mean, the ILWU works that way, A&B, HC&S, all of these corporations operate the same way. I think it's very important, even for the people who are against this, to put this on the ballot and give them a chance to vote against it if they want.

Let's, a discussion happen in the community. Let's talk about the value of this. This has been an ongoing issue for at least six years, since the Countywide Policy Plan was adopted and said that the County needs to look at potential changes in, in government structure.

So, let's put this on the ballot. Let's not make the community go back out to initiative to get this on the ballot. I ask you, Councilmembers, please do what is right and let the majority rule on this issue. Thank you.

CHAIR WHITE: Thank you, Ms. King.

Members, any need for clarification?

Actually, for the upcoming speakers, I won't ask for, if you have any need for clarification, please make your desires known.

Mr., Mr. Clerk.

DEPUTY COUNTY CLERK: The next person to testify is Marjorie Bonar, testifying on Committee Report 16-95. She will be followed by Ray Phillips.

MS. MARJORIE BONAR (testifying on Committee Report No. 16-95):

Good morning, what's left of it.

CHAIR WHITE: Good morning.

MS. BONAR: Council. Marjorie Bonar. I am obviously in favor of changing our system. Exactly how? The proposal before you to go to the voters which is where it needs to be, is not my ideal, but it's a compromise that potentially I can live with. I fear we're boring the Council here with all of this testimony. But there has been so much misunderstanding of what's going on, and the bottom line here is do you let the voters decide, or do you believe that they no longer have a right to have a voice in their government?

I am in possession of an awful lot of anecdotal evidence that we've tried really hard not to make an issue. We know there are people who are kind of living in fear. We know that there's a lot of missteps that have been gone, that have gone on. And, it's not the people, it's the policies, it's the procedures, it's the form of government that's evolved to something to become very cumbersome and very difficult to deal with.

I'm just asking, send this out. Let's get real information out. I know there's a gut level thing to people who are afraid of change. But, we are running a small government compared to Honolulu. I want to know why is our budget so out of whack compared to theirs. Why are we spending so much money to do things, and we don't seem to be getting them done?

So, please let us vote. That's all.

CHAIR WHITE: Thank you, Ms. Bonar.

Mr. Clerk.

DEPUTY COUNTY CLERK: The next person to testify is Ray Phillips, testifying on Committee Report 16-95. He will be followed by Tony Takitani.

MR. RAY PHILLIPS (testifying on Committee Report No. 16-95):

Good morning, Council Chair. Good morning, Councilmen.

CHAIR WHITE: Good morning.

MR. PHILLIPS: Council people, Councilmembers. Thank you so much for allowing us to testify this morning.

I had the privilege of serving on the Committee for the last six months, and quite a bit of information was presented to us, quite a bit of due diligence was done by the group. And, we had the opportunity to really come back to the basis of what management's all about.

Management in government and business is basically the same; that the executives of a business or government are there to set policy, determine long-range planning, provide overall guidance, exert control, and to set the tone for the future, so as to guide growth and not to merely react to it.

You are the executives of this government. The Mayor is the executive of this government. Basically, the CEO together with the Board of Directors set the policy and planning. An administrator administers. You cannot possibly do what we choose to do without having professional administrators. It's just not possible. You cannot do it in a business. You cannot do it in a government. Simply said, that's what we need, professional administrators.

The choice of government is the most important fundamental ride of every citizen. We've heard it said up here, countless times already. I need not dwell on the fact. What we're asking for and what people need to have is their right to express their opinions, the right to express their abilities, and how they feel about the government in terms of a vote. That's all we need to have here today. So without any other ado, sir, thank you so much for allowing us to speak.

CHAIR WHITE: Thank you, Mr. Phillips.

Mr. Clerk.

DEPUTY COUNTY CLERK: The next person to testify is Tony Takitani, testifying on Committee Report 16-95. He will be followed by Emmanuel Baltazar.

MR. TONY TAKITANI (testifying on Committee Report No. 16-95):

Good morning, Mr. Chairman, Members.

CHAIR WHITE: Good morning.

MR. TAKITANI: I appreciate the opportunity to testify. I just kind of would like to point out that I appreciated Councilman Carroll's opening statement as well today. I thought it was poignant and timing was, was excellent, cause, cause freedom isn't free. It came at a very heavy cost. And with that cost comes significant responsibilities. And voting is one of those responsibilities, I believe. I don't think it's a right, I think it's a responsibility.

What we're talking about doing here is, basically, taking away the people's right to vote for the Mayor. I don't think that's a good idea. We can say that we reached some kind of an agreement that, or a compromise, that we're still voting for the Mayor. But, the Mayor does not have any powers whatsoever. It's kind of a shibai. It's, it's not real. So, I, I think it's basically a really bad idea.

And in the six months that we sat as a Committee, there was, I don't, I don't think there was any, any objective evidence that was ever presented that showed that this would improve the way our County runs its government. There was none. So, I just would like for you to keep that in mind. Thank you very much.

CHAIR WHITE: Thank you, Mr. Takitani.

Mr. Clerk.

DEPUTY COUNTY CLERK: The next person to testify is Emmanuel Baltazar, testifying on Committee Report 16-95. He will be followed by Dave DeLeon.

MR. EMMANUEL BALTAZAR (testifying on Committee Report No. 16-95):

Good morning, Mr. Chair and the respected Members of the Councilmembers.

CHAIR WHITE: Good morning.

MR. BALTAZAR: I'm Emmanuel Baltazar. I'm here to testify to oppose the CR 16-95. I strongly oppose the CR 16-95 to the County Manager form of government. And I strongly suggest that to go for the Committee for further study to discussion and objective analysis. Thank you so much, Mr. Chair.

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

Mr. Clerk.

DEPUTY COUNTY CLERK: Next person to testify is Dave DeLeon, testifying on Committee Report 16-95. He will be followed by Trinette Furtado, with further testimony.

MR. DAVE DELEON (testifying on Committee Report No. 16-95):

Good morning, aloha. Dave DeLeon speaking as an individual.

So six months ago, you sent us out, 11 of us, out to do this research. And I actually did research. I actually did look into objective information. And I admit that I went into the same skeptical. And so the question is, was this another mongoose proposal? And the answer is, possibly it is.

The real problem is the question has never really been answered, what's the problem? What is the problem? You know, as Mr. Hokama pointed out, we have the best bond rating in the State by, by, by quite a bit. We have the lowest tax rate, property tax rates in, in the State, again, by a large margin. The roads get paved, the parks are clean. What's, what's the problem?

So, you know, this is sort of like, my analysis of this is if you took your car into a mechanic's office, into a garage and said, okay it's kind of not running right, can you, can you look at it? Let's just say this is Mark's garage. Anyway, you go into the garage and, and the guy looks into the engine, says well obviously what you need is a new Tesla motor. I mean, you know, you're going to have to take that motor out and put in a whole new motor.

And, there's a minority of the members of this Committee, the Advisory Committee, that suggests that that's not necessary. We, we could be making reforms, and with the current form of government. And that would include Council approval of division heads, I mean department heads. Typing up the qualification for department heads. Amending the Charter so that the communications can happen between Councilmembers and department heads. Cleaning up the ambiguities in the, in the budget process so we don't have more cases like the Wailuku Post Office; cause I think that happened from ambiguities.

There's a, there's a quote that I ran across that, I'm thinking the, the answer, the one thing that has been standing out here, and I'm hearing this thing about well, it's, it's democracy so give it to the voters. My opinion is this thing's not ready for the voters.

It's not ready because there's outstanding questions about this, the civil service law that had been raised by the Corporation Counsel on Kauai. They were looking at the

same thing, and their, their opinion was, no it does not fall under State civil service law to be able to do this.

There's question about Sunshine Law. How would the CEO work with the County Council? Would they be able to speak directly to their board, or would they have to go through Sunshine Law provisions? Salary Commission sets salaries in this, in this County. What are you going to do with them? The middle management is tenured. You're not removing them. So all you're getting is department heads changed.

The, the last point I'd like to point out is that I've never seen this . . . amendment to the Charter. I've never seen anything in the document. So, I have no idea what is proposed there. The voters have no clue. And the people in this room have no clue because we have not seen it.

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

MR. DELEON: So, what are we making a decision on? Mahalo.

CHAIR WHITE: Thank you.

Ms. Baisa.

COUNCILMEMBER BAISA: Thank you very much, Chair. And thank you, Mr. DeLeon, for being here. In summary of, you know, your testimony, what I'm hearing is essentially you're saying the voters are not ready to vote. And so, are you saying then that this should really go to a Committee for further study so that we can educate everybody, ask all the questions, and then do it?

MR. DELEON: I'm saying that the, the, the proposal is not ready for the voters. I'm not saying the voters are not ready. I'm saying that the proposal is not ready. It's half-baked.

As the Cost of Government Commission points out, this needs due, due review, due process. And, these are special Charter Commission. You're talking about rewriting the whole Charter. And, we're going to do that with a Special Committee on a rush job? Now, that's what we're getting here. We're getting a rush job. And, a bum's rush is not really the way to bring, to treat the voters.

COUNCILMEMBER BAISA: Okay. Thank you very much. I think that's important. Thank you.

Mr. Couch.

COUNCILMEMBER COUCH: Thank you, Mr. Chair. I just wanted a clarification. You said that the Committee did not see the full Charter changes?

MR. DELEON: No I have not, I just learned about them about 15 minutes ago.

COUNCILMEMBER COUCH: So, we're being asked to vote on something that you guys haven't had a chance to see?

MR. DELEON: No, we have not seen it.

MR. STARR: That's not true.

CHAIR WHITE: Yea, I'm not aware that that's accurate either. Okay, thank you very much, Mr. DeLeon.

MR. DELEON: Thank you.

CHAIR WHITE: Mr. Clerk.

DEPUTY COUNTY CLERK: Next person to testify is Trinette Furtado, testifying on Committee Report 16-89, 16-90, and 16-95. She will be followed by Stephen West.

MS. TRINETTE FURTADO (testifying on Committee Report Nos. 16-89, 16-90 and 16-95):

Aloha mai, Councilmembers. As you have just heard, there's a lot of things that I'm going to be speaking about today, because there's a lot of things that concern all of us in Maui County.

My name is Trinette Furtado . . . I'm hoping you will think critically before deciding on several of the Committee Reports you will hear today. I hope you'll look at the bigger picture, and at the greater impacts your decisions on County residents will have for many of the issues that you're going to hear and discuss.

I want to share my mana`o regarding Committee Report 16-89, which I've been told is a housekeeping item that will continue to allow housing credits to be bought and sold throughout Maui County. This item has greater implications for our communities and for affordable housing, especially if a developer from one place can buy or sell affordable housing credits to satisfy requirements of another developer in another place. We know Maui County desperately needs affordable housing for our

residents. There's no doubt about that. I want to know how amending Chapter 2.96 of our Code to favor developers would solve that?

I also want to touch upon Committee Report 16-90, which would allow for future County subsidies to Waiale Development to construct internal project specific sidewalks and other infrastructure. Should that not be the kuleana of the developer? Is the County a partner in this development, and could this possibly set a precedent if one has not already been set for developers to shirk their kuleana by passing some of that onto the rest of us?

(Councilmember Hokama was excused from the meeting at 11:25 a.m.)

MS. FURTADO: Finally, I want to talk about Committee Report 16-95, which would put the question of whether to have a County Manager form of government administration on our upcoming ballot. I absolutely believe that we need effective, inclusive, accountable, and transparent operations when it comes to the day to day workings of our government. We need department heads who are knowledgeable, who have some experience, expertise in the areas or departments they lead, and aren't primarily chosen by less than specific guidelines by a popularly elected Mayor.

Our County is in trouble when funding a binding arbitration agreement for our lifeguards is a problem. We are in trouble when our trash services are sporadic, our parks need repair and better maintenance, and more of our people go without shelter and affordable housing. We have a problem. We need someone that can be held accountable to the people, and not corporate or special interest profit.

I urge you to support placing this question on the ballot to allow the people to decide, not a select few. It's not easy sitting through these hours of testimony, I can see that. But, that's why you're in those seats, to hear the mana`o of us all, of everyone who lives on Maui, and who loves Maui.

As we get into the election season, some of you will not return, and some of you are seeking to return. Please take the needs and concerns of everyone into account when making your deliberations and your decisions today. Mahalo for your time.

CHAIR WHITE: Thank you, Ms. Furtado.

Mr. Clerk.

DEPUTY COUNTY CLERK: Next person to testify is Stephen West, testifying on Committee Report 16-95. He will be followed by Daniel Kanahele.

MR. STEPHEN WEST (testifying on Committee Report No. 16-95):

Good morning, Council Chair White.

CHAIR WHITE: Good morning.

MR. WEST: Councilmembers. My name is Stephen West. I'm here to testify on CR 16-95.

I've sat on the Salary Commission before, and there's a number of questions that need to be answered before this is actually posed to the public to vote on. I would urge you to take this into Committee and fully vent all these concerns, because right now, I, I really don't believe the public is ready to make a decision on this.

So, you know, just for the sake of time, I'm going to say I'm opposed to it at this time. And I would ask members of the audience that are opposed to please stand and identify yourself if you're against this. Thank you.

CHAIR WHITE: Thank you, Mr. West.

Mr. Clerk.

DEPUTY COUNTY CLERK: Next person to testify is Daniel Kanahele, testifying on Committee Report 16-95. He will be followed by Albert Perez.

MR. DANIEL KANAHELE (testifying on Committee Report No. 16-95):

Good morning, Chair White.

CHAIR WHITE: Good morning.

MR. KANAHELE: Good morning, Councilmembers. My name is Daniel Kanahele. I'm testifying as an individual, and I'm a registered voter.

(Councilmember Hokama returned to the meeting at 11:28 a.m.)

MR. KANAHELE: And, I'm not here to argue the merits of the Governance of the County, but as a voter, I would like the opportunity to vote on the question. I would like to see it on the November ballot. And I think as a citizen, that I can educate myself on what to do, what to vote for, and what not to vote for.

While you're deliberating on, you know, what you're going to do, I would like you to keep in mind the words of Thomas Jefferson, as they are found in the Declaration of Independence. "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with unalienable Rights, among these are the Right to Life, Liberty and Happiness. That Governments are instituted to protect these Rights, and that they derive their power from the consent of the governed". So, as God is superior to man, in the same way is man superior to government, and should remain master over it and not the other way around.

The people create their government. Government, in a sense, is nothing more or less than a relatively few number of citizens hired by the rest of us to perform certain functions, and to, you know, administer certain responsibilities that are authorized. Government in and of itself does not have power or privilege to do anything. Its source of authority and power comes from the people who create it. In the Preamble to the Constitution of the United States, it says, in brief, we the people ordain and establish the Constitution of the United States.

I'd just like to conclude with one more quote and a brief comment. The quote is as follows, "the basis of our political system is the right of the people to make and alter their constitution of government", George Washington. I think we should use the wisdom of the founders of the United States of America to guide our decision on this important question.

I would like the opportunity to vote on the form of governance in the County where I reside, and ask that this be put on the ballot. Thank you very much.

CHAIR WHITE: Thank you, Mr. Kanahele.

Mr. Clerk.

DEPUTY COUNTY CLERK: Next person to testify is Albert Perez, testifying on Committee Report 16-91. He will be followed by Kay Okamoto.

(Councilmember Victorino returned to the meeting at 11:31 a.m.)

MR. ALBERT PEREZ, MAUI TOMORROW (testifying on Committee Report No. 16-91):

Aloha, Chair White--

CHAIR WHITE: Good morning.

MR. PEREZ: --Councilmembers. I'm Albert Perez. I'm the Director of Maui Tomorrow Foundation. I'm testifying today on Committee Report 16-91. On my written testimony I wrote PC-11, but that was the Committee number.

Anyway, Maui Tomorrow supports the changes that have been made to the Lanai Community Plan, but we do have some remaining concerns. On page 9-3 in the Land Use section, the relationship of the community plans and the zoning, the most egregious language saying, unless specifically prohibited to zoning, rules over the community plan, that's been removed. And, we support the changes that have been made.

However, we do take issue with the language of the Committee Report stating that "the way the community plans are administered is consistent with the law". Hawaii Revised Statutes, Section 46-4, is quite clear that zoning must be accomplished in a manner consistent with the general plan, of which our community plans are a part. To give zoning precedence over the community plans is to render the efforts of our Community Plan Advisory Committees useless. Instead of being codified, this long-standing practice of the Planning Department needs to be changed to respect the will of the community, as well as State law.

There were two columns that remain, the headings of which remained unchanged in Appendix 9.2. The "Description" column was, was, had been changed to "Envisioned Uses". And the "Corresponding County Zoning District" column was changed to "Typical County Zoning District". So, these changes make the plan, the community plan and zoning relationship less specific, and provide more wiggle room, wiggle room. The effect is to make it easier to approve development proposals that the community may not have had in mind. The changes that remain would set a precedent for all community plans in Maui County. So, we're asking that these column headings be changed back to "Description" and "Corresponding County Zoning District".

Finally, the table of community plan and zoning relationships in Appendix 9.2 will only work if stacked zoning is eliminated. Stacked zoning, essentially, is a free for all where it says anything, almost anything goes in that particular zone. And, one of the really good examples is the light industrial zone.

Also, the misapplication of zoning districts by the Planning Department needs to be corrected. If these two steps are not taken first, the table will not help to achieve the purposes of the zoning code expressed in Maui County Code 19.04.15. If those steps are not taken first, the Planning Department will continue to create uses that do not conform with our community plans.

Maui Tomorrow looks forward to working with the Council to, to correct these ongoing issues.

CHAIR WHITE: Thank you, Mr. Perez.

MR. PEREZ: Thank you.

CHAIR WHITE: Mr. Clerk.

DEPUTY COUNTY CLERK: Next person to testify is Kay Okamoto, testifying on Committee Report 16-95. She will be followed by Kimo Haynes, who is the last individual who has signed up to testify in the Council chamber.

MS. KAY OKAMOTO (testifying on Committee Report No. 16-95):

I didn't realize how short I was, sorry. Good morning every--

CHAIR WHITE: Good morning.

MS. OKAMOTO: Good afternoon, everyone. I'm Kay Okamoto. I am here testifying from the island of Lanai. I represent myself, however, I was a member of the governance committee structure.

I am testifying in opposition to the change of government to a professional manager form. There's always going to be problems no matter what form of government you have cause you're dealing with people, and people don't always act and react the way we think they should.

One of the points that keeps being made is we need a professional. Professional can be just about anybody. But I look at all of the problems that the University of Hawaii has had. They've had professionals in all different departments. These people were vetted by groups that came, professional groups that brought them in. And how much did it cost University of Hawaii when they had to buy out contracts? I brought this up at our Committee and, oh well, we wouldn't do it that way. Well, I don't know why we think that Maui County would be able to structure things in a better way than the University of Hawaii has.

They have had, it has cost them a lot of money. And people who came in were professionals, they were president of the university, they were athletic directors, they were professionals. And many of them were brought in by search groups, they were

vetted properly, contracts were written by professionals, but it didn't help. It cost money.

I just don't think that using that term professional is going to be able to change everything that we want to change. I also feel that we, there wasn't sufficient time to really discuss. We met, I can't remember how many times, but all of us spent hours reading reports, searching things. I happen to come from a small town that had a professional manager. And yes, there was very little change. I don't think the Mayor ever changed for many, many years. My own father was a Mayor. But it didn't make the government run any better or any worse than any other form. It's whatever form you have.

We keep hearing that let the people decide. We can't let the people decide everything, I'm sorry. There are issues that the elected people, you're elected for a reason, and it's for your, your decision making, your ability to look things. I liked one of the earlier speakers who said we should be governed by good judgment, not always majority. If majority always ruled, there'd be people in this room who would never had had the vote, because majority would not have accepted certain people to be voting. Thank you.

(Councilmember Crivello was excused from the meeting at 11:43 a.m.)

CHAIR WHITE: Thank you, Ms. Okamoto.

Mr. Clerk.

DEPUTY COUNTY CLERK: The next person to testify is Kimo Haynes, testifying on Committee Report 16-95. He is the last individual who has signed up to testify in the Council chamber.

MR. KIMO HAYNES (testifying on Committee Report No. 16-95):

Good morning.

CHAIR WHITE: Good morning.

MR. HAYNES: My name is Kimo Haynes. I'm here in support of the Council Manager form of government. I grew up on Maui, I'm raising my kids on Maui. I'm a local businessman, and I was also on the special committee that is proposing this, recommending this.

The reasons that I support this form of government is I, I believe it's the best way to, it's the best structure that will allow us to administrate the County's business. And I know Dave mentioned earlier that we had not seen the proposed changes, but we had. And so I don't know if he didn't get a copy of it. But the rest of had, had got a copy of it and did have a chance to review it.

In the last six months, we've heard from a number of people testifying. We've read volumes of information. We've had special speakers come and, and talk about it. I think initially I was very uneducated on this, and I wanted to kind of learn and find out what was going on.

During this process and, and also I think, we all bring our own specific experiences to this. I've run a number of businesses here in the last 20, 25 years, and I have an MBA in, from USC, so I have a little bit of education in that respect too.

The main reasons that I support this bill, I think, and the, and the issues that I'm talking about are in structure, not people, you know, it's structure. And so, one of the things and this bill allows us with the manager rather than the department heads being appointed, they will be hired. And that disconnects the Mayor's term from the department heads terms. So in practice, currently, the department heads change as the Mayors change. I think in this sense, you're going to see better continuity of leadership in the County, and leadership in, in continuity in running the business.

(Councilmember Crivello returned to the meeting at 11:45 a.m.)

MR. HAYNES: Also in that respect, there is succession planning. In, in any organization, any business, you're going to have to look at succession planning. And we have a structure in place, currently. You have a department head, deputy department, deputy director. And in the current practice, both of those are changed over with every Mayor. Under this, you can actually do some succession planning in as one department head, or a director leaves, there's a deputy director there, so business can continue.

I think accountability and leadership, again, with the appointment process in practice, the tenure of department heads, seems to go in line with the Mayor's tenure. I think if you have these hired by a manager, they're going to be there, and they're going to have to, their, their merit and their longevity will be dependent on their skills and their results. I think there's a number of good department heads that should stay longer, that if they're good, they should be able to continue to do what they're doing.

And I think, the last thing I just want to mention is, this process, I think, brings transparency to the process. Under the current appointment system, there's not a lot of transparency, and I think this will do that.

So again, I'm talking about structure. I'm not talking about people. I think we have great people. But, you know, I urge you guys to look at this, consider it, and put it on the ballot. Thank you.

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

Mr. Couch.

COUNCILMEMBER COUCH: Thank you, Mr. Chair. Thank you, Mr. Haynes, for serving on the Committee by the way. So you say you did see the resolution, the, the 50 pages?

MR. HAYNES: The changes? Yes. I had a chance to review it and, and it's part of the report.

COUNCILMEMBER COUCH: And did the, did the body have a chance to see it and vote on it?

MR. HAYNES: Yea, I believe so.

COUNCILMEMBER COUCH: Okay. The one where it says the Corp. Counsel is number two in line from the Mayor?

MR. HAYNES: I, I'm missing your point.

COUNCILMEMBER COUCH: One, is that the one you saw? Cause that's a change that was in there.

MR. HAYNES: We, we went through, we worked with the support staff to look at what parts the Charter would be changed.

COUNCILMEMBER COUCH: Okay.

MR. HAYNES: We did have a discussion.

COUNCILMEMBER COUCH: Okay. Thank you.

MR. HAYNES: Okay.

CHAIR WHITE: Okay, thank you, Mr. Haynes.

MR. HAYNES: Thank you.

CHAIR WHITE: Mr. Clerk.

DEPUTY COUNTY CLERK: Mr. Chair, it looks like we have someone who's wishing to testify.

CHAIR WHITE: Please proceed.

MR. MARK L. REMIT (testifying on Committee Report No. 16-95):

My name is Mark Remit. I'm from the ILWU retirees. I'm here to say that I strongly oppose this 16-95. I think it should go back to the Committee. Thank you.

CHAIR WHITE: Thank you very much.

Mr. Clerk.

DEPUTY COUNTY CLERK: Mr. Chair, we have no other individuals in our District Offices nor our chamber who wish to offer testimony.

CHAIR WHITE: Okay with that, Members, we'll take our lunch break, be back at 1:30.

DEPUTY COUNTY CLERK: Mr. Chair, if we could accept written testimony and close public testimony please.

CHAIR WHITE: Oh yes, thank you.

Without objection, we'll take in the written testimony.

MEMBERS VOICED NO OBJECTION.

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

1. Jim Smith;
2. Kelly King;
3. Albert Perez, Maui Tomorrow Foundation, Inc.;
4. Anthony Takitani, Kay Okamoto, Doreen Pua Canto, Paula Friel, and David DeLeon, Special Committee on County Governance Members;
5. Pacific Resource Partnership;
6. Corie Tanida, Common Cause Hawaii;
7. Michael Baskin, Paia Inn;
8. Dayton M. Nakanelua, United Public Workers;
9. Vince Bagoyo; and
10. Marilyn McAteer.

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

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: Okay, thank you. We'll be in recess until 1:30.

(THE MEETING WAS RECESSED BY THE CHAIR AT 11:49 A.M., AND WAS RECONVENED AT 1:30 P.M., WITH ALL MEMBERS PRESENT, EXCEPT MEMBER COCHRAN AND VICE-CHAIR GUZMAN, EXCUSED.)

CHAIR WHITE: This meeting shall please come back to order. And Members, we're ready to proceed with committee reports.

Mr. Clerk.

COMMITTEE REPORTS

COMMITTEE REPORT
NO. 16-85 - COMMITTEE OF THE WHOLE:

Recommending that Resolution 16-80, entitled "AUTHORIZING SETTLEMENT OF NADJA VITAVEC NKA NADJA NEIDHART V. COUNTY OF MAUI, ET AL. CIVIL NO. 15-1-0181(1)," be ADOPTED.

CHAIR WHITE: Ms. Crivello.

COUNCILMEMBER CRIVELLO: Thank you, Chair. Your Committee, oh no.

I MOVE TO ADOPT THE RECOMMENDATION IN COMMITTEE OF THE WHOLE COMMITTEE REPORT 16-85.

COUNCILMEMBER VICTORINO:

SECOND, MR. CHAIR.

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

Ms. Crivello.

COUNCILMEMBER CRIVELLO: Thank you, Chair. Your Committee met on May 17, 2016, to consider a request by the Department of the Corporation Counsel to authorize settlement of this case. The Complaint alleges Nadja Vitavec suffered personal injuries on or about May 8, 2013, when a large tree branch fell on her at Puamana Beach Park in Lahaina, Maui, Hawaii.

(Councilmember Cochran returned to the meeting at 1:30 p.m.)

COUNCILMEMBER CRIVELLO: The Council previously authorized settlement of this matter by Resolution 16-64.

A Deputy Corporation Counsel provided a brief overview of the case. He said since he last presented the case to your Committee, the parties had proceeded with mediation before Judge Joel August. Ms. Vitavec issued a new settlement demand, and the Deputy received a written recommendation from the mediator which he wished to present in an executive session.

Following an executive meeting, your Committee voted 6-0 to recommend adoption of the proposed resolution to authorize settlement of the matter, under the terms proposed in the executive meeting.

I ask for the Members support of my motion.

CHAIR WHITE: Thank you, Ms. Crivello.

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

AYES: COUNCILMEMBERS BAISA, CARROLL, COCHRAN, COUCH, CRIVELLO, HOKAMA, VICTORINO, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: VICE-CHAIR GUZMAN.

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

Mr. Clerk.

DEPUTY COUNTY CLERK: For the record, RESOLUTION 16-80.

COMMITTEE REPORT
NO. 16-86 - COMMITTEE OF THE WHOLE:

Recommending that Bill 63 (2016), entitled "A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY FOR SETTLEMENT OF ALLEGED VIOLATIONS AT MAUI RACEWAY PARK," be PASSED ON FIRST READING and be ORDERED TO PRINT.

CHAIR WHITE: Ms. Crivello.

COUNCILMEMBER CRIVELLO:

I MOVE TO ADOPT THE RECOMMENDATION IN COMMITTEE OF THE WHOLE COMMITTEE REPORT 16-86.

COUNCILMEMBER VICTORINO:

MR. CHAIR, I SECOND THE MOTION.

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

Ms. Crivello.

COUNCILMEMBER CRIVELLO: Thank you, Chair. Your Committee met on May 17, 2016, to consider a request by the Department of the Corporation Counsel, to authorize the Mayor to enter into an intergovernmental agreement with the United States Environmental Protection Agency to settle alleged violations of the Safe Drinking Act relating to a large capacity cesspool at the Maui Raceway Park, now known as the Maui Motor Sports Park.

A Deputy Corporation Counsel informed your Committee the USEPA issued a mandate on April 5, 2005, requiring closure of all large capacity cesspools.

The Deputy said on June 3, 2005, by Resolution 05-88, the County accepted the property identified in State Executive Order 4024, which set aside 222.626 acres at the Maui Raceway Park for the purposes of a public and recreational site. The resolution provides that the County shall take over the exclusive management and control of the property.

A second Deputy said that although the County had received notice of the closure mandate and departments had conducted Countywide reviews to identify affected facilities, it appears the closeness in time of the mandate and the Executive Order may have led to the Maui Raceway Park cesspool being overlooked.

Your Committee noted the importance of diligently reviewing properties being accepted by Executive Order to check for regulatory issues that may apply.

A Deputy explained the Department had been able to negotiate to have the penalty reduced, and requested an executive meeting to discuss the terms of a proposed settlement of the alleged violations.

Following an executive meeting of your Committee, your Committee voted 7-0 to recommend passage of the revised proposed bill on first reading.

Chair, I ask for the Members support of my motion.

CHAIR WHITE: Thank you, Ms. Crivello.

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

AYES: COUNCILMEMBERS BAISA, CARROLL, COCHRAN, COUCH, CRIVELLO, HOKAMA, VICTORINO, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: VICE-CHAIR GUZMAN.

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

Mr. Clerk.

DEPUTY COUNTY CLERK: For the record, BILL 63 (2016).

COMMITTEE REPORT
NO. 16-87 - ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE, AND RECREATION COMMITTEE:

Recommending the following:

1. That Bill 64 (2016), entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 22.04A, MAUI COUNTY CODE, RELATING TO KULA AGRICULTURAL PARK," be PASSED ON FIRST READING and be ORDERED TO PRINT; and

2. That County Communication 16-7, from the Economic Development Director, be FILED.

CHAIR WHITE: Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair.

ON BEHALF OF COMMITTEE CHAIR DON GUZMAN OF EAR, I MOVE TO ADOPT THE RECOMMENDATIONS IN COMMITTEE REPORT 16-87.

COUNCILMEMBER VICTORINO:

MR. CHAIR, I SECOND THE MOTION.

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

Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair. Your Committee met on March 15, 2016 and March 17, 2016, to consider a proposed bill to amend Chapter 22.04A, Maui County Code, to revise policies for the Kula Agricultural Park, which is a County program to support diversified agriculture.

And the Office of Economic Development manages the 445-acre Kula Agricultural Park, which supports more than two dozen farmers.

The proposed bill would improve operations at the Kula Ag Park and support the agriculture community in Maui County.

And the Kula Ag Park Committee transmitted correspondence to your Committee expressing support for this bill. So, I'm here today respectfully asking for this Council's support. Thank you, Chair.

CHAIR WHITE: Thank you, Ms. Cochran.

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

AYES: COUNCILMEMBERS BAISA, CARROLL, COCHRAN, COUCH, CRIVELLO, HOKAMA, VICTORINO, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: VICE-CHAIR GUZMAN.

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

Mr. Clerk.

DEPUTY COUNTY CLERK: For the record, BILL 64 (2016).

COMMITTEE REPORT
NO. 16-88 - ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE, AND RECREATION COMMITTEE:

Recommending the following:

1. That Bill 65 (2016), entitled "A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF HAWAII, BOARD OF LAND AND NATURAL RESOURCES, RELATIVE TO THE OPERATION, USE AND MAINTENANCE OF THE CENTRAL MAUI REGIONAL SPORTS COMPLEX," be PASSED ON FIRST READING and be ORDERED TO PRINT; and

2. That County Communication 16-68, from the Director of Parks and Recreation, be FILED.

CHAIR WHITE: Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair.

ON BEHALF OF CHAIR OF THE COMMITTEE, GUZMAN, I MOVE TO ADOPT THE RECOMMENDATIONS IN COMMITTEE REPORT 16-88.

COUNCILMEMBER VICTORINO:

MR. CHAIR, I SECOND THE MOTION.

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

Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you. Your Committee met on March 17, 2016 *[sic]*, to consider a proposed bill to authorize the Mayor to execute the proposed agreement with the State Board of Land and Natural Resources for the operation, maintenance, and the use of completed portions of the Central Maui Regional Sports Complex.

And your Committee notes the State of Hawaii, through its Department of DLNR, is constructing the complex in four phases on the 65.378 acres owned by the State and located along Kuihelani Highway, west of Pomaikai Elementary School, and south of several Maui Lani residential areas in Wailuku. And the property is set, is to be set aside to the County by Executive Order of the Governor of the State of Hawaii when construction is completed.

And the State has appropriated more than $31 million for the complex to date. Phase I, which was completed in March, consists of 24 acres with a multipurpose field, two softball fields, two comfort stations, a concession stand, 200 parking stalls, landscaping, an irrigation well, and a water-storage tank.

And the Director of Parks and Rec. informed your Committee the community has used the complex since that time for various sports practices, softball games, and walking paths.

A Deputy Corporation Counsel said the County has had access to Phase I through a temporary right-of-entry permit, set to expire on June 30, 2016, that requires the County to assume maintenance responsibilities.

So your Committee notes passage of proposed bill is consistent with Maui County General Plan, including the following objective found on page 64 of the Countywide Policy Plan: "Expand access to recreational opportunities and community facilities to meet the present and future needs of residents of all ages and physical abilities."

And the Department of Parks and Recreation express support for the complex and appreciation to the State for its contribution to the enhancements of County residents' recreational opportunities.

So with that, I respectfully ask for this Council's support of your Committee's recommendations. Thank you, Chair.

CHAIR WHITE: Thank you, Ms. Cochran.

Any further discussion, Members? All those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL, COCHRAN, COUCH, CRIVELLO, HOKAMA, VICTORINO, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: VICE-CHAIR GUZMAN.

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

Mr. Clerk.

DEPUTY COUNTY CLERK: For the record, BILL 65 (2016).

COMMITTEE REPORT
NO. 16-89 - HOUSING, HUMAN SERVICES, AND TRANSPORTATION COMMITTEE:

Recommending the following:

1. That Bill 66 (2016), entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 2.96, MAUI COUNTY CODE, RELATING TO THE RESIDENTIAL WORKFORCE HOUSING POLICY CREDIT REQUIREMENTS AND DEED RESTRICTIONS," be PASSED ON FIRST READING and be ORDERED TO PRINT; and

2. That County Communication 16-61, from the Director of Housing and Human Concerns, be FILED.

CHAIR WHITE: Ms. Crivello.

COUNCILMEMBER CRIVELLO: Thank you, Chair.

I MOVE TO ADOPT THE RECOMMENDATION IN HOUSING, HUMAN SERVICES, AND TRANSPORTATION COMMITTEE REPORT 16-89.

COUNCILMEMBER BAISA:

MR. CHAIR, I SECOND THE MOTION.

CHAIR WHITE: We have a motion from Ms. Crivello and a second from Ms. Baisa.

Ms. Crivello.

COUNCILMEMBER CRIVELLO: Thank you, Chair. Your Committee met on May 18, 2016, to consider a bill for an ordinance amending Chapter 2.96, Maui County Code, relating to the Residential Workforce Housing Policy credit requirements and deed restrictions. The revised proposed bill provides for the use of residential workforce housing credits to satisfy residential workforce housing requirements and reduces the time which the County shall exercise its first option to buy back a residential workforce unit from 120 days to 90 days.

The reduction from 120 to 90 days is crucial for favorable financing options available to a potential homebuyer. Freddie Mac and Fannie Mae offer a 0-3 percent, 0.3 percent *[sic]* down, and no requirement for mortgage insurance, but only if the 120-day restriction is reduced. The savings on mortgage insurance is estimated at $400 to $500 a month.

Further, the revised proposed bill allows credits earned from residential workforce housing projects to be used for future development requirements. Housing credits are no longer restricted for use within the community plan area and may be applied countywide.

In reference to the Department stating, State housing credits earned through the development of DHHL projects may be used to satisfy requirements in any county statewide.

The Department transmitted corresponding, correspondence dated June 1, stating that the credits can only be used in the County in which they were earned. For your reference, Members, a copy of the correspondence have, has been distributed.

It should also be noted that Ordinance 4177, which amended the Residential Workforce Housing Policy in order to facilitate more housing construction, has resulted in seven new housing agreements.

Three of the projects are expected to break, break ground in 2016: Kamalani in South Kihei, with 173 affordable units and 460 marking unit, market units; Kalama Kai in South Maui, with 40 affordable units; and Kaiaulu in Kaanapali with 33 affordable units.

Your Committee voted 7-0 to recommend the passage of the revised proposed bill on first reading. And I ask the Members support of my motion. Mahalo.

CHAIR WHITE: Thank you, Ms. Crivello.

Members, any further discussion?

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, thank you. I, I speak in support with some reservations. I appreciate the work of our Chairman, Ms. Crivello working on this, particularly the issue of housing credits, Chairman.

My comments this afternoon is how maybe the County and this Council should look for, regarding this for the future, especially since we deal with Department of Hawaiian Homelands. As per the original State law, I believe the County was asked to give 372 credits for affordable housing future uses in this County because of the Hawaiian Homes projects.

We've been told by our own County department each credit is valued between 80,000 and $100,000 per credit. This Departments owes us approximately $1.1 million in back property taxes, and penalties, and interests.

I would hope we would consider amending the ordinance whereby in the future we can give the Department their balance, but we should take credits to offset the monies due this County and this tax base that the Department has chosen not to pay. And I don't think it's fair that the balance of the tax base makes up this one plus million dollars debt that this Department owes us or this County. And I would say I'm happy to consider 13, 14 of those credits as a way to resolve this issue of nonpayment to the County of Maui. Thank you, Chairman.

CHAIR WHITE: Thank you, Mr. Hokama.

Ms. Crivello.

COUNCILMEMBER CRIVELLO: Thank you, Mr. Hokama. I definitely would like to have noted that our Committee will look into this in, in, relative to the credits and the Department of Hawaiian Homelands. Thank you.

COUNCILMEMBER HOKAMA: Thank you.

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

AYES: COUNCILMEMBERS BAISA, CARROLL, COCHRAN, COUCH, CRIVELLO, HOKAMA, VICTORINO, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: VICE-CHAIR GUZMAN.

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

Mr. Clerk.

DEPUTY COUNTY CLERK: For the record, BILL 66 (2016).

COMMITTEE REPORT
NO. 16-90 - LAND USE COMMITTEE:

Recommending the following:

1. That Resolution 16-81, entitled "APPROVING WITH MODIFICATION THE WAIALE AFFORDABLE HOUSING PROJECT, PURSUANT TO SECTION 201H-38, HAWAII REVISED STATUTES," be ADOPTED;

2. That the resolution, entitled "APPROVING THE WAIALE AFFORDABLE HOUSING PROJECT PURSUANT TO SECTION 201H-38, HAWAII REVISED STATUTES," be FILED; and

3. That the resolution, entitled "DISAPPROVING THE WAIALE AFFORDABLE HOUSING PROJECT PURSUANT TO SECTION 201H-38, HAWAII REVISED STATUTES", be FILED.

CHAIR WHITE: Mr. Clerk, you normally don't--

COUNCILMEMBER VICTORINO: Make, but it's Waiale.

CHAIR WHITE: --miss it, but it's Waiale. You're usually so on it.

COUNCILMEMBER VICTORINO: You got it.

CHAIR WHITE: Mr. Carroll.

COUNCILMEMBER CARROLL: Thank you, Chair.

I MOVE TO ADOPT THE RECOMMENDATIONS IN LAND USE COMMITTEE REPORT 16-90.

COUNCILMEMBER VICTORINO:

MR. CHAIR, I SECOND THE MOTION.

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

Mr. Carroll.

COUNCILMEMBER CARROLL: Thank you, Chair. On May 18, 2016, your Committee met to consider proposed resolutions to approve, approve with modifications, or disapprove an application transmitted by the Director of Housing and Human Concerns for the development of the proposed Waiale Affordable Housing Project on 10.365 acres, on the mauka side of Waiale Road, Wailuku, Maui, Hawaii, pursuant to Section 201H-38, Hawaii Revised Statute. The proposed project would provide 70 single-family residential units for individuals and families with annual incomes between 80 and 140 percent of Maui County's median income.

Your Committee notes the property is owned by Valley Isle Fellowship Church, which has agreed to sell the property to the applicant, Waialae *[sic]* Road 201H, LLC, shortly after the County grants final subdivision approval for the project.

Your Committee modified the project by stating construction of the project shall be initiated within two years and completed within five years of Council approval by resolution.

Pursuant 201H-38 HRS, the Council has until June 20, 2016, to act on the application or it will be deemed approved as submitted.

Your Committee recognized the acute need for affordable housing and voiced support for this project.

Your Committee voted 6-0 to recommend adoption of the revised proposed resolution approving the project with modifications and filing of the two remaining resolutions. I ask for the Council's support of these recommendations. Thank you, Chair.

CHAIR WHITE: Thank you, Mr. Carroll.

Members, any further discussion?

COUNCILMEMBER VICTORINO: Yes, Chair.

CHAIR WHITE: Mr. Victorino.

COUNCILMEMBER VICTORINO: And, it only proves one thing that even our famous Deputy Clerk can make mistakes. I'm just astonished. I don't know if I can handle the rest of the day.

You know, I, I, I'm very thankful for this project coming forward, and again, it could be the beginning of many other such affordable housing projects here in Central Maui, and all over the County of Maui for that matter.

So, I want to thank Mr. Frampton, and Mr. Bagoyo, and all those who were involved. I thank the Chair, Mr. Carroll, for bringing this forward. And I would hope that the Committee Members can support this, because I think this is a good step in the right direction. Thank you, Mr. Chair.

CHAIR WHITE: Thank you, Mr. Victorino.

Mr. Couch.

COUNCILMEMBER COUCH: Thank you, Mr. Chair. And I too thank Mr. Carroll for bringing this up, and the Committee for getting it through.

I had a discussion with Department of Public Works. As you know, they had some small concerns about sidewalks. And we also had a, with Public Works, a discussion with the representative of the project. And they have assured us they are going to have, they even have it in their plans on, on Waiale that they're going to do a sidewalk on Waiale Drive, and we worked on potential rain gardens and things on that, on that section.

As far as Kokololio, they have agreed that they'll put a sidewalk in there as well, if they can get the permission from the property owner, which happens to be the other subdivision there. So, they've agreed to put that in there with that permission, or

when it becomes a County road, if it becomes a County road, and I think it's scheduled to.

That being said, I'd like to see if we can, on Exhibit "B", number "F.4.", whereas the exemption from the sidewalk on Kokololio Road, Street, sorry. Either, and I guess, with Mr. Carroll, with your permission, I guess, we can maybe chat with the representative, either some in lieu, because it is a private road, to put the sidewalk in there.

They've agreed to do it, but we need to, we should have it codified somewhere in there. Either a sum in lieu and we came up with a dollar amount for the sidewalks, or a condition that says when it's available, when, when, when they've gotten permission, then they have to put the sidewalk in. I kind of want to remove that exemption, sort of.

CHAIR WHITE: So are you, are you making a motion, or?

COUNCILMEMBER COUCH: Yea, I think so. At this point, and I, and I will ask Corporation Counsel if I get a second to the motion.

I MOVE TO REMOVE EXEMPTION "F.4." FROM EXHIBIT "B".

CHAIR WHITE: We have a second? I guess it becomes--

COUNCILMEMBER COCHRAN:

WELL, SECOND FOR DISCUSSION, CHAIR.

CHAIR WHITE: Okay, we have a motion from Mr. Couch and a second from Ms. Cochran.

Mr. Couch.

COUNCILMEMBER COUCH: Yea, if Corporation Counsel, if we remove that exemption, because that area where they have the sidewalk, I mean where they, where they can put in the sidewalk is private property and not their property, are they required to by Maui County Code 18.20.040?

CORPORATION COUNSEL PATRICK WONG: Chair, if I may.

CHAIR WHITE: Go ahead.

CORPORATION COUNSEL: Can I clarify your question? You're asking whether or not that private property would be required to install the sidewalks?

COUNCILMEMBER COUCH: This project, which is on a separate piece of property, could they be, can they be required with this? If we leave, you know, does 18.20.040 require them to put a sidewalk on somebody else's property? I would think not.

CORPORATION COUNSEL: It should not. And I'm not aware that, are you suggesting that Kokololio Street is a private road, not--

COUNCILMEMBER COUCH: It's private road, and it, there's a curb gutter on the side that's adjacent to this property. And then there's an eight-foot grass area that is still part of the private, the, the other subdivision. Then their property starts, and that's where their property lines are, and that's where they were putting the houses up too. So, if we remove this exemption, are they going to be required to put a sidewalk on their property that really doesn't abut the road? Cause there's about eight, eight, eight plus feet of area there.

CORPORATION COUNSEL: And your concern is that they would be responsible for installing the road after the--

COUNCILMEMBER COUCH: Sidewalk.

CORPORATION COUNSEL: Excuse me, installing the sidewalk after the project is complete?

COUNCILMEMBER COUCH: Or when it actually becomes public property. It's, it's in a, it's a transition area right there. They've agreed to put it in, to me verbally, and to Ms. Dagdag. I don't know if we need anything in code to solidify that agreement.

CORPORATION COUNSEL: Well, if you remove the exemption then they may be required to put it in prior to dedication to the County.

COUNCILMEMBER COUCH: Correct. Like, are they required to put it on somebody else's property, that's my concern.

CORPORATION COUNSEL: Not unless it's contained within any of your entitlements that you've awarded.

COUNCILMEMBER COUCH: Right.

CORPORATION COUNSEL: So the answer would be no.

COUNCILMEMBER COUCH: Okay, so point is moot then if we remove that exemption or not?

CORPORATION COUNSEL: I, I think it's cleaner if you keep the exemption in, if you prefer that they not be required to provide the sidewalks.

COUNCILMEMBER HOKAMA: If he wants it, then--

COUNCILMEMBER COUCH: No, we, we, they said that they will provide the sidewalk once they get either permission from the County when it becomes a County road, or permission from the developer, the, the other subdivision. Cause it has to be put on their land.

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA: The technicality, for me is, and I guess from Mr. Wong is, is that property that currently under discussion by Mr. Couch, is that an easement currently? Does it have a utility easement on top of it? Is it some sort of right-of-way component? Cause I'm trying to understand why would we put on somebody else's private property a subdivision requirement, unless it's an easement or a right-of-way.

CORPORATION COUNSEL: Chair, at the moment I don't have any information that indicates that there's a--

COUNCILMEMBER VICTORINO: Mr. Chair.

CORPORATION COUNSEL: --current easement in place. I'm not sure.

COUNCILMEMBER HOKAMA: Thank you, Mr. Wong.

COUNCILMEMBER VICTORINO: Mr. Chair.

CHAIR WHITE: Mr. Victorino.

COUNCILMEMBER VICTORINO: I think we have some people that could maybe answer Mr. Hokama's question. And, they're in, they're here if you would like an answer to that question, Mr. Chair. Cause I think it, it borders on, in my mind, you know, you wanting somebody to do something on somebody's else's property now, or at least take the exemption out. And, I think that's absolutely wrong to try do something like that cause you're setting precedence for future.

If you own the property, and we're going to require it, that's one issue. But, this property hasn't, it's not owned by the people we're dealing with, it's owned by some other entity. You know, and verbal agreements, you know, and you've made it known Mr. Couch, it's on record, and I would hope that down the road because that was, that's my big bugaboo about all of this, is there's still a lot has to be done both on Waiale and the other street before we can even put the, the sidewalks on that side of the, the road. There's a lot of improvements that have to be done.

So anyhow, with that being said, if you want to allow the expert testifier to come down and testify to that issue, I, I would like to have that done.

CHAIR WHITE: Is anyone requesting?

COUNCILMEMBER COUCH: Yea.

CHAIR WHITE: Ask the question. Okay. Could one of the representative's please come forward.

COUNCILMEMBER CARROLL: Thank you, Chair. We had this discussion in Committee. Oh, I'm sorry. Oh, I didn't know you were here.

MR. VINCE BAGOYO: Mr. Chairman, and Members of the Committee, Council. I, I understand the question. But, it is a, that seven or eight-foot easement is owned by the neighboring subdivision. And, and the concerns that we have if we are required to put in a sidewalk would be liability, that's a concern. Are we liable or the property owner, current property owner would be liable? And that's, that's the questions that we have.

CHAIR WHITE: Mr. Victorino.

COUNCILMEMBER VICTORINO: No, I think, for me, I, I think Mr. Hokama had the question, if you want to ask the question, Mr. Hokama, as far as the easement or what that piece of property represents at this time. It's just a strip of land eight-feet wide right?

MR. BAGOYO: It's about eight, yes.

COUNCILMEMBER VICTORINO: And how long is it?

MR. BAGOYO: It's less than a thousand.

COUNCILMEMBER VICTORINO: Less than a thousand feet? And, then what's--

MR. BAGOYO: Yea, from the top, from the top to the bottom.

COUNCILMEMBER VICTORINO: Top to the bottom, and that abuts the high, the roadway and then the property on the other side is, is the other--

MR. BAGOYO: It's the Waikapu Gardens.

COUNCILMEMBER VICTORINO: Waikapu Gardens.

MR. BAGOYO: Yes.

COUNCILMEMBER VICTORINO: Okay, so that's the one we're referring to right now?

MR. BAGOYO: That's, it's their property.

COUNCILMEMBER VICTORINO: I see. Okay, okay. I'm clear with that now. Thank you. Thank you, Chair.

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA: And, and thank you, Chairman. I apologize not having that chance to be in the Committee meeting. But, I'm trying to understand, there's a discussion about a potential construction of a sidewalk that is not going to be placed on this project site, so I'm wondering why we talking about an exemption that is not for this project?

What is, I, I need to know what is the relationship to this request and this project regarding the exemption or the need for this sidewalk. I find it interesting we're looking at somebody else's project and on somebody else's land for another project. So, if someone could give some comment and clear up this mud, that would be great.

CHAIR WHITE: Mr. Bagoyo.

MR. BAGOYO: Yes, normally under the, under the Code 18.200.40 *[sic]*, all the property frontage normally requires you to put it curbs, and gutters, and sidewalk. The reason that we're asking because it's kind of unusual, because the first eight-foot easement is owned by somebody else, and we're pretty much inland of that, of that easement.

And so if we are going to put in a sidewalk outside of the eight-foot that is owned by Waikapu Gardens, we may lose several lots along that, that area. We have about, I

believe, about a dozen lots on that, on that area. And that's why we're asking for exemptions, Mr. Hokama. Thank you.

CHAIR WHITE: Mr. Couch.

COUNCILMEMBER COUCH: And I guess that's my question to Mr. Wong, is if the exemption was, I mean if the exemption was removed, they can't put a sidewalk in anyway because they're not up against the street. I mean, they got eight-feet. They can't put curb, gutter, sidewalk on a street that already has a gutter, and a curb, and grass. So, do they need to be exempt from this Code? Cause they can't put a curb gutters frontage infrastructure, because they're not really frontage. That seem--

CORPORATION COUNSEL: Well, Chair if I may. What I just heard Mr. Bagoyo testify to is that the property frontage sidewalk requirement will eat and creep into their existing lot size, and therefore, they're asking that the exemption, I'm hearing they're asking that the exemption be awarded so that they need not create the sidewalk that they would ordinarily need to do on their property, because you already have the adjacent private property that, that is not owned by--

COUNCILMEMBER COUCH: Right.

CORPORATION COUNSEL: --this project. Otherwise, 18.20.040 may require that their portion of the frontage be obligated to provide a sidewalk. And I'm hearing that that's what their concern is.

COUNCILMEMBER COUCH: Okay.

CORPORATION COUNSEL: They may lose lots.

COUNCILMEMBER COUCH: Okay. Mr. Chair, that's fine, I, I'm not going to ask for the, the exemption to be removed because of the gray area there. I did get assurances, and so did Ms. Dagdag, that they will do what they can, you know, get, to get the permission to put the sidewalk in there. And if, you know, this is one of those situations where if I get assurances and then they, they don't do it, just, you know, the next time they come before us there'll be a different story. Thank you.

CHAIR WHITE: Any further discussion?

COUNCILMEMBER COCHRAN: Chair, real quick.

CHAIR WHITE: Ms. Cochran.

COUNCILMEMBER COCHRAN: Chair, thank you. And thank you, Mr. Bagoyo, for being here. So, I'm looking at your Exhibit "1" preliminary site plan, and looking at that map. And that 15-foot waterline easement that abut all those, I think, as you mentioned 11, a dozen lots, that, is that where, perhaps this sidewalk is slated, would slated to be, or inside of that? I mean, towards your lots versus into the road.

MR. BAGOYO: That is towards our lot.

COUNCILMEMBER COCHRAN: Okay, and that's--

MR. BAGOYO: Yea, this is a waterline easement that will be removed because this waterline, 12-inch line was installed specifically for the church as required under the Fire Protection Code. And that will be, that will be realigned, that, that easement. So, we're going to remove that easement from our property.

COUNCILMEMBER COCHRAN: Okay. And that will not add more space for your lots?

MR. BAGOYO: It will add some space.

COUNCILMEMBER COCHRAN: It will?

MR. BAGOYO: It will make it a full lot of 4,000 or so square feet.

COUNCILMEMBER COCHRAN: But then, putting sidewalk will cut it back down?

MR. BAGOYO: That's correct, if we are required to put in a sidewalk.

COUNCILMEMBER COCHRAN: Okay, just wanted clarification. Thank you, Chair.

MR. BAGOYO: Thank you.

CHAIR WHITE: Any further discussion?

Mr. Hokama.

COUNCILMEMBER HOKAMA: Just a quick. Mr. Bagoyo, so Kokololio Road, I, is that in your project understood as an internal road? Would you, is that how you folks look at with this part?

MR. BAGOYO: Yea, that is, that is the main, one of the main entrance of Waikapu Gardens, Phase 1 project, that Mr. Spencer built. That is a private roadway now.

COUNCILMEMBER HOKAMA: Okay, but that's considered an internal roadway for the project?

MR. BAGOYO: I believe so.

COUNCILMEMBER HOKAMA: Yea. And again, Chair, part of my, you know, I like the project in general, but I find ourselves putting ourselves as well as this project in unique situations, cause if you look at the exemptions, "F." says to give them the exemption from building the sidewalk on Kokololio Road, which is, as Mr. Bagoyo said, an internal road.

But, you look at number 5, we granting them an exemption from doing one of the sidewalks for the internal road. We still expect one sidewalk on the other side of the road, as I read number 5. Cause it says 5-foot-wide sidewalk will be provided on one-side. So--

COUNCILMEMBER VICTORINO: Mr., Mr. Chair.

COUNCILMEMBER HOKAMA: --I'm just trying to find out whether or not we're conflicting each other out or not. And that's my question, is this conflicting each exemption out?

COUNCILMEMBER VICTORINO: I think there's confusion.

MR. BAGOYO: Kokololio is not an access road to our projects.

COUNCILMEMBER VICTORINO: It's not their road.

MR. BAGOYO: It is access road only to Waikapu Gardens. We are not allowed to access to Kokololio Road.

COUNCILMEMBER HOKAMA: So from Waiale to Kokololio, even if it's owned privately, that is not a public road for use by the general community?

MR. BAGOYO: Oh, it is for, for the general community. We are not accessing; our project will not access through Kokololio Road. The only access to our project would be through Waiale Road.

COUNCILMEMBER HOKAMA: And Road A-1. So, that's your access, Road A-1?

MR. BAGOYO: That's correct, yea. That's the only access that we have for the project.

COUNCILMEMBER HOKAMA: Okay, thank you, Mr. Bagoyo.

MR. BAGOYO: Thank you.

CHAIR WHITE: Mr. Victorino.

COUNCILMEMBER VICTORINO: Well, I, and I, and I wanted to, to mention to Mr. Hokama that what they're referring to sidewalks on one-side, that was the internal Road B and road, in that Road B that goes around for the internal part of the project itself, there was going to be sidewalk on one side of the, of the housing. And so, that was discussed and that was agreed upon.

These, this other road, even though it's an internal road, it's an internal road only for Waikapu Gardens. It is not a, for their subdivision at all. And I just wanted that, that made clear, because I understand what Mr. Hokama is asking, but it has nothing to do with this project itself as far as ingress, ingress to this project. It has no effect on this project. Thank you, Mr. Chair.

CHAIR WHITE: Ms. Baisa.

COUNCILMEMBER BAISA: Thank you very much, Chair. You know, this project, when it was in Committee, we really took it apart and we really looked at it and made this recommendation that we have before us, with a whole lot of discussion and, you know, compromising and everybody seriously trying to figure out how to make this go.

And I understand it's not perfect. I understand there are concerns, you know, who's going to build and who's going to pay for it, later on we might need it, whatever. But, at this point, because of what we're dealing with in affordable housing, I would really like to see these houses built as quickly as possible. And for me, I'd rather be giving some breaks to an affordable housing project than to building more homeless shelters. Thank you.

CHAIR WHITE: Very good thoughts.

Mr. Carroll.

COUNCILMEMBER CARROLL: Yea, now's the appropriate time. Thank you, Chair. Yeah, I don't support the amendment. I don't think it's appropriate in this case. I've, over the years we've had--

COUNCILMEMBER COUCH: I withdraw it.

CHAIR WHITE: Oh, okay.

COUNCILMEMBER VICTORINO: He withdrew it.

COUNCILMEMBER COUCH: I withdrew.

CHAIR WHITE: Yea, he's, he's mentioned that he's withdrawn his request.

COUNCILMEMBER BAISA: It's gone.

COUNCILMEMBER CARROLL: Oh, okay. So, or did you, you did withdraw? Then I don't have to say anything.

COUNCILMEMBER COCHRAN: You got it.

COUNCILMEMBER VICTORINO: All right.

CHAIR WHITE: Okay, any, any further discussion on this item?

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, and I appreciate the Members of the Committee providing clarification. And I understand, conceptually, what is being proposed. Go to Kahului, look at Dairy Road. How many of those people that use Dairy Road as a back entrance to their lots within that subdivisions. Okay, it's not a legal driveway, it's not a legal entry, but people are people, and look what they do.

CHAIR WHITE: Okay, any further discussion? Can we move this along?

COUNCILMEMBER COCHRAN: Yes.

CHAIR WHITE: All those in favor, please signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL, COCHRAN, COUCH, CRIVELLO, HOKAMA, VICTORINO, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: VICE-CHAIR GUZMAN.

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

Mr. Clerk.

DEPUTY COUNTY CLERK: For the record, RESOLUTION 16-81.

COMMITTEE REPORT
NO. 16-91 - PLANNING COMMITTEE:

Recommending the following:

1. That Bill 67 (2016), entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 2.80B.070, MAUI COUNTY CODE, TO ADOPT THE UPDATED LANAI COMMUNITY PLAN," be PASSED ON FIRST READING and be ORDERED TO PRINT; and

2. That the Miscellaneous Communication, from the County Clerk, be FILED.

CHAIR WHITE: Mr. Couch.

COUNCILMEMBER COUCH: Thank you, Mr. Chair. Chair if there are no objections, may I request that the Clerk also bring up, at this time, County Communication No. 16-101 as, as it is a proposal to amend the proposed bill referenced in Committee Report 16-91.

CHAIR WHITE: Any objections, Members?

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: No objections. Thank you, so ordered.

COUNTY COMMUNICATION

NO. 16-101 - DON COUCH, CHAIR, PLANNING COMMITTEE,
(dated May 26, 2016)

Transmitting a proposed amendment to the bill to update the Lana`i Community Plan.

CHAIR WHITE: Mr. Couch.

COUNCILMEMBER COUCH: Thank you, Mr. Chair.

I MOVE TO ADOPT THE RECOMMENDATIONS IN PLANNING COMMITTEE REPORT 16-91.

COUNCILMEMBER CARROLL:

SECOND.

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

Mr. Couch.

COUNCILMEMBER COUCH: Thank you, Mr. Chair.

I MOVE TO AMEND APPENDIX 9.2 OF EXHIBIT "1" TO THE PROPOSED BILL BY SUPPLEMENTING THE STATE LAND USE DISTRICTS THAT APPLY TO FOUR OF THE LANA`I COMMUNITY PLAN LAND USE DESIGNATIONS, AS SHOWN IN THE REVISED APPENDIX 9.2 ATTACHED TO THE AMENDMENT SUMMARY FORM ACCOMPANYING COUNTY COMMUNICATION 16-101.

CHAIR WHITE: Ms. Baisa.

COUNCILMEMBER BAISA:

SECOND.

CHAIR WHITE: Okay. We have a motion from Mr. Couch and a second from Ms. Baisa.

Mr. Couch.

COUNCILMEMBER COUCH: Thank you. At your Planning Committee's meeting on May 24, 2016, the Planning Director recommended that the column of the State Land Use Districts be supplemented with additional districts that apply to the Lanai Community Plan land use designations.

He has since advised that the supplementation applies to only four of those designations as noted in my Amendment Summary Form. Attached to the

Amendment Summary Form is a markup of Appendix 9.2 showing the proposed revisions in blue.

I ask that the Council accept the Planning Director's recommendation.

CHAIR WHITE: Members, any further discussion on this item?

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, it's more of a question at this time for clarification. I noticed that we are using all State Land Use classifications except Conservation. Is there a reason why maybe for under Open Space or other components, Conservation is not being considered, Mr. Couch?

COUNCILMEMBER COUCH: Thank you, Mr. Chair. And, it's my understanding from our discussions in the Committee that Mr. Spence felt that Conservation is State Land Use and it's all controlled by the State. Yes, we do get taxes from stuff that's put on State Land Use, but it's all controlled by the State.

I don't think there's a problem if we add that in there, because it is listed on page A-18 of the table. But it should be noted too that, that according to this table that in the Lanai Community Plan land use designations, Conservation is only listed as a State Land Use District, cause we don't have that zoning code or land use code at the County level.

But we can put it in. I checked with Mr. Spence and he did not object to putting that in in those four locations.

COUNCILMEMBER HOKAMA: Chairman, I would say, I just bring it up for the Members to consider. You know, Open Space goes into Conservation areas; that's one of the County's designation, Open Space.

Parks has components within Open Space and Conservation. Agricultural has some components. One, the County is allowed to collect taxation on leases by the State on Conservation land. So, there's a taxation component on Conservation.

I just want to make sure if we're going to go through this bureaucratic process that I'm not thrilled about, that if need be, let's do it at this point in time and take care of all State designations, instead of returning later, or working on a different plan and saying we should have done this for all previous plans.

So, I just bring it up as, is this something we need to consider at this time, or should we take the mentality that it's not an important land use category by, under State designation? Thank you, Chairman.

CHAIR WHITE: Mr. Couch.

COUNCILMEMBER COUCH:

MR. CHAIR, I'D HAPPY, I'D BE HAPPY TO MAKE A MOTION TO AMEND MY AMENDMENT, WHICH I CAN DO, TO ADD THE LAND USE CONSERVATION TO THOSE SAME FOUR CATEGORIES.

COUNCILMEMBER VICTORINO: Second, Mr. Chair, for discussion.

CHAIR WHITE: Is that a, is that a friendly amendment to your motion?

COUNCILMEMBER VICTORINO:

I'LL SECOND THE MOTION JUST FOR THE HELL.

CHAIR WHITE: Okay, okay.

COUNCILMEMBER COUCH: Yea.

COUNCILMEMBER VICTORINO: Just moving along.

CHAIR WHITE: We'll take it as a formal motion. So, we have a motion from Mr. Couch and a second from Mr. Victorino.

Mr. Couch.

COUNCILMEMBER COUCH: Thank you. And I, as I made in the motion, I'm happy to add Conservation to those same four land use districts, State Land Use Districts marked in blue.

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

AYES: COUNCILMEMBERS BAISA, CARROLL, COCHRAN, COUCH, CRIVELLO, HOKAMA, VICTORINO, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: VICE-CHAIR GUZMAN.

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

We're back to the first amendment.

COUNCILMEMBER COUCH: No further--

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

AYES: COUNCILMEMBERS BAISA, CARROLL, COCHRAN, COUCH, CRIVELLO, HOKAMA, VICTORINO, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: VICE-CHAIR GUZMAN.

CHAIR WHITE: Measure passes with eight "ayes" and one "excused". Okay.

COUNCILMEMBER COUCH: Main motion.

CHAIR WHITE: Main motion.

COUNCILMEMBER COUCH: Thank you, Mr. Chair. Your Committee previously reported on this matter through Committee Report 16-21, and the recommendations of your Committee were adopted.

At the public hearing was, a public hearing was held on Lanai on March 12, 2016. After several meetings, the Council referred the proposed bill back to your Committee.

Your Committee met on May 24, 2016, to further consider the proposed bill. At the meeting, your Committee adopted an amendment proposed by Councilmember

Hokama to delete language from Chapter 9 and Appendix 9.2 that stated, "Unless specifically prohibited, the uses permitted by zoning and the standards applicable to the typical zoning district apply to the corresponding community plan designations", as well as similar language that was also found on Appendix 9.2.

Councilmember Hokama's amendment also added a column reflecting the State Land Use Districts applicable to the Lanai Community Plan land use designations. The revised proposed bill attached to Committee Report 16-91 incorporates these amendments, as well as the amendments we just talked about.

I respectfully ask for the Council's support of your Committee's recommendations to pass on first reading the revised proposed bill, and to file the miscellaneous communication. And, I think we're going to do a second motion later to file 16-101.

CHAIR WHITE: Okay, thank you. Members, further discussion?

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, thank you. Chairman, I've handed out a amendment proposal to each of the Members. So, I'm going to refer to that document that says June 3, 2016 Council meeting.

AT THIS TIME, I MOVE TO AMEND CHAPTER 3, 7, 9, 10, AND 13, AND APPENDIX 9.3 OF EXHIBIT "1" TO THE PROPOSED BILL BY INSERTING LANGUAGES FROM THE 1998 LANA`I COMMUNITY PLAN, AS SHOWN ON THE ATTACHED MARKUP OF EXCERPTED PAGES.

COUNCILMEMBER VICTORINO:

SECOND, MR. CHAIR.

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

Mr. Hokama.

COUNCILMEMBER HOKAMA: Mr. Chairman, Members of this Council has heard these comments regarding this proposal for various months from members of our community. It is part of the existing 1998 and current community plan, which in this Member's opinion, is a very solid and still pertinent and viable plan, without being revised.

But, I would ask the Members to consider this amendment. It is something I believe that it is to this, our island's benefit, our community's benefit. And I would ask for your support in moving this amendment forward. Thank you.

CHAIR WHITE: Thank you, Mr. Hokama.

Members, further discussion on this item?

Mr. Couch.

COUNCILMEMBER COUCH: Thank you, Mr. Chair. And I understand what Mr. Hokama is doing, and I'm, I'm fine with it. It's one of those things that it, it kind of, I mean it was discussed in the Committee several times, but if, if the Member from that district wants to put that stuff back in, I'm fine with that.

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

AYES: COUNCILMEMBERS BAISA, CARROLL, COCHRAN, COUCH, CRIVELLO, HOKAMA, VICTORINO, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: VICE-CHAIR GUZMAN.

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

We're back to the main motion, Mr. Couch.

COUNCILMEMBER COUCH: No further discussion.

COUNCILMEMBER HOKAMA: Chairman.

CHAIR WHITE: Any further discussion? Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, thank you. First, thank you, Members for that, your, your decision on the last proposal. Mr. Chairman, this afternoon, I will speak with reservations in support of this revised bill regarding the Lana`i Community Plan.

I've made it very clear. The existing plan is a solid plan. We've been told that even before we worked on this plan, that this was a solid plan; very concise, not overly worded, very clear in the intent of our community, what we felt is important for our island to move forward as part of being truly a true partner within the County of Maui of sister islands.

We, I believe, are doing our part to be responsible regarding revenue generation, be responsible in how we ask for monies in expenses for required services as well as capital improvement projects.

Like many other items, Chairman, this is not a silver bullet plan, okay. And so of course, there'll be people who really like it and there will be those that have concerns about it. But overall, I think it's palatable enough to be considered by this body this afternoon.

I will say though, in going through my third community plan process, Chair, we need to do it better. We try each successive time, and we seem to screw it up worse. It takes longer, it gets more confusing, and at the end of the day we get frustration from people on the CPAC, frustration on the planning commissions, and then we get frustrated here at the Council level. We need to find a way to shorten the length it takes to do a reasonable, responsible review.

And I will say one of the things we should consider is eliminating Planning Department. This is the people's turn to speak on where they want to go. We don't need professionals telling our people where they should go. They know where they want to go. Let them at the, at the Advisory Committee, at the Planning Commission, say what they feel as who they truly are; the nuts and bolts of this community. The maka`ainana as we say, call it. Those that are ma`a about what they do on a day to day basis. And we don't need some non-local to tell us what is ma`a in our districts.

So for me, I'm not happy with the process. I hope we learn, because I would like the next plan, Molokai, to go through a much smoother, a much more comprehensive, and a much more cohesive effort in getting their plan reviewed, revised, and accepted to what they believe is in their best interest that's part of this greater County.

So for me, Chairman, again, with reservations, I will ask the Members to support it. But, the way my bottom line is, I can live with the existing plan the way it is, Chairman. Thank you.

CHAIR WHITE: Thank you, Mr. Hokama.

Members, any further discussion?

Mr. Couch.

COUNCILMEMBER COUCH: Thank you, Mr. Chair. And thank you, Mr. Hokama, for your comments. We did have a discussion on a May 20, Planning Committee meeting about the process. And that discussion is going to be picked up again a little bit later on in the year, cause it is built in, inherently built in a very long process.

Part of the issue with the Lana`i Community Plan and the Molokai Community Plan, as per 2.80B, we are also required to make them an island plan. And that's why a lot, some of that stuff was added, quite a bit of that stuff was added this time. Because, you're right, the, the, the 1998 Lana`i Community Plan was, is a good plan and it works. But, 2.80B requires us to add quite a few of the other chapters that we had to add. So, thank you, Chair.

CHAIR WHITE: Thank you. Any further discussion? Seeing none, back to, on the main motion, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL, COCHRAN, COUCH, CRIVELLO, HOKAMA, VICTORINO, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: VICE-CHAIR GUZMAN.

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

COUNCILMEMBER HOKAMA: Chairman, point of privilege please.

CHAIR WHITE: Yes, Mr. Hokama.

COUNCILMEMBER HOKAMA: I just want to take this time to acknowledge Mr. Greg Garneau. I appreciate his extension of cooperation to the Lana`i community, to work on language on proposals, and his courtesies that he extended to our community. I

want to publicly acknowledge and thank him for those courtesies extended to our community. Thank you, Mr. Garneau.

CHAIR WHITE: So noted. Thank you, Mr. Hokama. And, thank you, Mr. Garneau.

Mr. Clerk.

DEPUTY COUNTY CLERK: For the record, BILL 67 (2016).

COUNCILMEMBER COUCH: Mr. Chair, sorry.

MAY, MAY I MOVE TO FILE COUNTY COMMUNICATION 16-101.

COUNCILMEMBER CARROLL:

SECOND.

CHAIR WHITE: We have a motion to file that County Communication from Mr. Couch and a second from Mr. Carroll.

Any further discussion?

COUNCILMEMBER COUCH: No further discussion.

CHAIR WHITE: All those in favor, please signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL, COCHRAN, COUCH, CRIVELLO, HOKAMA, VICTORINO, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: VICE-CHAIR GUZMAN.

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

COUNCILMEMBER COUCH: Sorry for the interruption.

CHAIR WHITE: It's all right. We're used to it.

Mr. Clerk.

COMMITTEE REPORT
NO. 16-92 - POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE:

Recommending the following:

1. That Bill 68 (2016), entitled "A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT FOR A JOINT TRAINING AGREEMENT BETWEEN COWLITZ 2 FIRE AND RESCUE OF THE STATE OF WASHINGTON AND THE COUNTY OF MAUI'S DEPARTMENT OF FIRE AND PUBLIC SAFETY," be PASSED ON FIRST READING and be ORDERED TO PRINT; and

2. That County Communication 16-81, from the Fire Chief, be FILED.

CHAIR WHITE: Mr. Victorino.

COUNCILMEMBER VICTORINO: Thank you, Mr. Chair.

I MOVE TO ADOPT RECOMMENDATIONS IN COMMITTEE REPORT 16-92.

COUNCILMEMBER COUCH:

SECOND.

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

Mr. Victorino.

COUNCILMEMBER VICTORINO: Mahalo, Mr. Chair. At its meeting of May 23, 2016, by a vote of 9-0, your Policy and Intergovernmental Affairs Committee recommend the, recommended the passage on first reading of a bill entitled "A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT FOR A JOINT TRAINING

AGREEMENT BETWEEN COWLITZ 2 FIRE AND RESCUE OF THE STATE OF WASHINGTON AND THE COUNTY OF MAUI'S DEPARTMENT OF FIRE AND PUBLIC SAFETY", and the filing of County Communication 16-81.

The purpose of the proposed bill was to authorize the Mayor to enter into an intergovernmental agreement with the Cowlitz 2 Fire Rescue Department of Kelso, Washington, to establish a joint training program with the County's Department of Fire and Public Safety.

Your Committee noted the importance of training because of the large amount of fallow land that the Maui, in Maui County, and soon to be increased by the completion of cane production by HC&S.

Your Committee requested an annual status report on these activities and expenditures of the joint training program that was transmitted to the Council.

So, I respectfully request the Council's consideration of this motion. Thank you, Mr. Chair.

CHAIR WHITE: Thank you, Mr. Victorino.

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

AYES: COUNCILMEMBERS BAISA, CARROLL, COCHRAN, COUCH, CRIVELLO, HOKAMA, VICTORINO, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: VICE-CHAIR GUZMAN.

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

Mr. Clerk.

DEPUTY COUNTY CLERK: For the record, BILL 68 (2016).

COMMITTEE REPORT
NO. 16-93 - POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE:

Recommending the following:

1. That Resolution 16-82, entitled "PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), AS AMENDED, RELATING TO ARTICLE 11, INITIATIVE," be PASSED ON FIRST READING and be ORDERED TO PRINT; and

2. That County Communication 15-185, from Council Chair Mike White, be FILED.

CHAIR WHITE: Mr. Victorino.

COUNCILMEMBER VICTORINO: Mahalo, Mr. Chair.

I MOVE TO ADOPT RECOMMENDATIONS IN COMMITTEE REPORT 16-93.

COUNCILMEMBER COUCH:

MR. CHAIR, I SECOND.

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

Mr. Victorino.

COUNCILMEMBER VICTORINO: Again, mahalo, Chair. At its meeting of May 23, 2016, by a vote of 9-0, your Policy and Intergovernmental Affairs Committee recommended the passage on first reading, a resolution entitled "PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), AS AMENDED, RELATING TO ARTICLE 11, INITIATIVE", and the filing of County Communication 15-185.

The purpose of the proposed resolution is to place on the next General Election ballot the question of whether Charter Section 11-5 should be amended to require individuals wishing to withdraw their signatures from a supplemental petition to do so within three days of the receipt of the supplementary signatures by the County Clerk.

Article 14 of the County Charter, sets forth procedures related to amending the Charter. The Council, by resolution, adopted after two readings on separate days, and passed by a vote of six or more members, to be placed on the Charter amendment question on the ballot at our next General Election.

Article 11 provides 45 days for the County Clerk to validate signatures on the original submission of the petition. If more signatures are needed to meet the applicable threshold, a supplemental petition may be submitted.

The Charter does not provide guidance for individuals wishing to withdraw their signatures from the supplemental petition. The purpose of the Charter amendment is to allow withdrawals of a signature from a supplemental petition by written notice within three days of the receipt of the supplemental petition by the County Clerk.

I respectfully request my Members consideration of this motion.

CHAIR WHITE: Thank you, Mr. Victorino.

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

AYES: COUNCILMEMBERS BAISA, CARROLL, COCHRAN, COUCH, CRIVELLO, HOKAMA, VICTORINO, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: VICE-CHAIR GUZMAN.

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

Mr. Clerk.

DEPUTY COUNTY CLERK: For the record, RESOLUTION 16-82.

COMMITTEE REPORT
NO. 16-94 - POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE:

Recommending the following:

1. That Resolution 16-83, entitled "PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), AS AMENDED, RELATING TO ARTICLE 11, INITIATIVE, REGARDING THE TIME FRAME TO REVIEW SUPPLEMENTAL PETITION SIGNATURES," be PASSED ON FIRST READING and be ORDERED TO PRINT; and

2. That County Communication 15-197, from Council Chair Mike White, be FILED.

CHAIR WHITE: Mr. Victorino.

COUNCILMEMBER VICTORINO: Thank you, Mr. Chair.

I MOVE TO ADOPT THE RECOMMENDATIONS IN COMMITTEE REPORT 16-94.

COUNCILMEMBER COUCH:

MR. CHAIR, I SECOND.

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

Mr. Victorino.

COUNCILMEMBER VICTORINO: Mahalo, Mr. Chair. At its May 23, 2016 meeting, by a vote of 9-0, your Policy and Intergovernmental Affairs Committee recommended first reading of resolution entitled "PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), AS AMENDED, RELATING TO THE ARTICLE 11, INITIATIVE, REGARDING TO THE TIME FRAME TO REVIEW SUPPLEMENTAL PETITION SIGNATURES", and the filing of County Communication 15-197.

The purpose of the proposed resolution is to place on the next General Election ballot the question on whether Charter Section 11-5 should be amended to allow the County Clerk 20 days, instead of 10 days, to review the supplemental initiative petition.

Your Committee notes Article 11 of the chapter *[sic]* provides 45 days for the County Clerk to validate signatures on the original submission of the petition. If more signatures, again, are needed to meet the applicable threshold, a supplemental petition may be submitted. The proposal would allow 20 days, instead of the existing 10 days, to validate the supplemental signatures.

The County Clerk received a supplemental petition proposing a ordinance by initiative with more than 9,000 signatures in 2014.

Your Committee determined that the proposed Charter amendment would make a timeline more reasonable and would reduce the potential staffing costs related to an initiative process.

Again, I respectfully request my Members consideration on this motion. Thank you, Mr. Chair.

CHAIR WHITE: Thank you, Mr. Victorino.

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

AYES: COUNCILMEMBERS BAISA, CARROLL, COCHRAN, COUCH, CRIVELLO, HOKAMA, VICTORINO, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: VICE-CHAIR GUZMAN.

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

Chair's going to take a brief, very brief recess at the call of the Chair.

(THE MEETING WAS RECESSED BY THE CHAIR AT 2:34 P.M., AND WAS RECONVENED AT 2:37 P.M., WITH ALL MEMBERS PRESENT, EXCEPT VICE-CHAIR GUZMAN, EXCUSED.)

CHAIR WHITE: This meeting will please come back to order.

Mr. Clerk.

DEPUTY COUNTY CLERK: For the record, RESOLUTION 16-83.

COMMITTEE REPORT
NO. 16-95 - SPECIAL COMMITTEE ON COUNTY GOVERNANCE:

Recommending the following:

1. That Resolution _____, entitled "PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), AS AMENDED, TO PROVIDE THAT THE MANAGING DIRECTOR SHALL BE APPOINTED BY THE COUNTY COUNCIL TO FUNCTION AS THE COUNTY'S CHIEF OPERATING OFFICER, WITH THE ELECTED MAYOR RETAINING THE POWER TO REPRESENT THE COUNTY IN INTERGOVERNMENTAL RELATIONS, APPROVE OR VETO BILLS, AND NOMINATE MEMBERS OF BOARDS AND COMMISSIONS,", be PASSED ON FIRST READING and be ORDERED TO PRINT; and

2. That the correspondence from the Chair of your Special Committee, dated December 17, 2015, be FILED.

CHAIR WHITE: Thank you, Mr. Clerk.

And Members, as you know, this is a, a bill or a committee report of great interest to a lot of people. And I believe that all the Members feel that it's necessary for us to have more time than just this afternoon to, I thought I was talking right into it, have more time to consider this proposal and thoroughly vet it.

And so, my recommendation, without, without objections, is to refer this to the PIA Committee for further review. And with the understanding that, that, Mr. Victorino has agreed that we will do that on a day when all nine Members are present, so that we're all involved, because I don't think anyone should be left out of this process.

COUNCILMEMBER VICTORINO: Mr. Chair.

CHAIR WHITE: Mr. Victorino.

COUNCILMEMBER VICTORINO: Yea, and let me, and let me say first of all yes, and thank you very much. And we already kind of worked this out, and we are hoping June 27 and, because I want to thank Ms. Cochran for giving me her slot also so that we have an all-day meeting, and to discuss those remaining and also to take this up, and hopefully complete it on that day as far as testimony and as well as a recommendation from this Council.

So, I can assure the public, if you mark it on your calendar, June 27 is what we're looking for an all-day Committee meeting to work on this and other items. But, especially to dedicate time for this particular issue. Thank you, Mr. Chair.

CHAIR WHITE: So, any objections with the referral, Members?

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: Thank you.

Committee Report No. 16-95 was referred to the Policy and Intergovernmental Affairs Committee.

CHAIR WHITE: Mr. Clerk.

DEPUTY COUNTY CLERK: Mr. Chair, proceeding with County Communications.

COUNTY COMMUNICATION

NO. 16-99 - DAVID TAYLOR, DIRECTOR OF WATER SUPPLY,
(dated May 19, 2016)

Transmitting water use reports for February and March 2016 received from the State of Hawaii Commission on Water Resources Management for all registered well reporters for Maui County.

CHAIR WHITE: Ms. Baisa.

COUNCILMEMBER BAISA: Thank you very much, Mr. Chair.

I MOVE TO FILE THE REPORT.

COUNCILMEMBER VICTORINO:

SECOND, MR. CHAIR.

CHAIR WHITE: We have a motion from Ms. Baisa, and a second from Mr. Victorino.

Ms. Baisa.

COUNCILMEMBER BAISA: Thank you, Chair. This, there's no really further need to discuss this. It's a routine report that will be available for anybody that wants to take a look at it. Thank you.

CHAIR WHITE: Thank you.

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

AYES: COUNCILMEMBERS BAISA, CARROLL, COCHRAN, COUCH, CRIVELLO, HOKAMA, VICTORINO, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: VICE-CHAIR GUZMAN.

COUNCILMEMBER VICTORINO: Chair. Are we, oh "aye", yea fine, yes. I'm lost. I got it. I got it. Sorry. Sorry, Mr. Chair.

CHAIR WHITE: No problem. No problem.

Measure passes with eight "ayes" and one "excused".

Mr. Clerk.

NO. 16-100 - RIKI HOKAMA, COUNCILMEMBER,
(dated May 23, 2016)

Transmitting the following proposed bills entitled:

1. "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, WATER SUPPLY, IAO WATER TREATMENT FACILITY REPLACEMENT PROJECT; TOTAL CAPITAL IMPROVEMENT PROJECT APPROPRIATIONS; AND TOTAL APPROPRIATIONS (OPERATING AND CAPITAL IMPROVEMENT PROJECTS)"; and

2. "A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. 4227, BILL NO. 34 (2015), AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT FOR A LOAN FROM THE STATE OF HAWAII'S DRINKING WATER TREATMENT REVOLVING LOAN FUND FOR THE IAO WATER TREATMENT FACILITY REPLACEMENT, WAILUKU-KAHULUI COMMUNITY PLAN AREA, FISCAL YEAR 2016 BUDGET ORDINANCE".

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA:

CHAIRMAN, I MOVE TO DISCHARGE YOUR BUDGET AND FINANCE COMMITTEE FROM FURTHER CONSIDERATION OF THE PROPOSED BILLS ATTACHED TO CC 16-100.

COUNCILMEMBER VICTORINO:

MR. CHAIR, I SECOND THE MOTION.

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

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, this request has a clock ticking on it. This is for the Fiscal Year 2016 Budget year which ends in 23 days, 27 days. So, by discharge, this Council can then make a decision upon action and direction it would like to go with this departmental request. Thank you.

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

AYES: COUNCILMEMBERS BAISA, CARROLL, COCHRAN, COUCH, CRIVELLO, HOKAMA, VICTORINO, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: VICE-CHAIR GUZMAN.

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

Mr. Hokama.

COUNCILMEMBER HOKAMA:

CHAIRMAN, I MOVE TO WAIVE REQUIREMENT OF COMMITTEE REFERRAL AND REPORT AS REQUIRED BY RULE 7(E), RULES OF THE COUNCIL.

COUNCILMEMBER VICTORINO:

SECOND, MR. CHAIR.

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

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, if there are six Members that will support this motion, the Council can then make a determination on a proposal this afternoon. Thank you.

CHAIR WHITE: Thank you.

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

AYES: COUNCILMEMBERS BAISA, CARROLL, COCHRAN, COUCH, CRIVELLO, HOKAMA, VICTORINO, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: VICE-CHAIR GUZMAN.

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

Mr. Hokama.

COUNCILMEMBER HOKAMA:

CHAIRMAN, I MOVE THAT THE PROPOSED BILLS ATTACHED TO COUNTY COMMUNICATION 16-100 AND AS READ BY THE CLERK, PASS ON FIRST READING, BE ORDERED TO PRINT, AND COUNTY COMMUNICATION 16-100 BE FILED.

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 held its due diligence on May 31, 2016, and received comments from the Director of Water Supply, Mr. Taylor, regarding concerns and questions from the Committee.

I ask the Members, this afternoon, to consider supporting and moving this request forward. Thank you.

CHAIR WHITE: Thank you, Mr. Hokama.

Ms. Baisa.

COUNCILMEMBER BAISA: Mr. Chair, very quickly. I'm sorry that I was not able to be at this meeting where this was discussed. But, I want to thank Mr. Hokama and the Members for their support. This is crucial for our Water Department. Thank you.

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

AYES: COUNCILMEMBERS BAISA, CARROLL, COCHRAN, COUCH, CRIVELLO, HOKAMA, VICTORINO, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: VICE-CHAIR GUZMAN.

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

Mr. Clerk.

DEPUTY COUNTY CLERK: For the record, BILLS 68 *[sic]* and 69 (2016) *[sic]*, respectively.

Mr. Chair, proceeding with county communications for referral. The following county communications are recommended for referral to the following committee as noted:

NO. 16-102 - TEENA M. RASMUSSEN, ECONOMIC DEVELOPMENT DIRECTOR, (dated May 12, 2016)

Transmitting a proposed resolution entitled "AUTHORIZING A GRANT OF A LEASE OF COUNTY REAL PROPERTY TO TEACH DEVELOPMENT LLC".

The recommended action is that County Communication No. 16-102 be referred to the Economic Development, Energy, Agriculture, and Recreation Committee.

NO. 16-103 - TEENA M. RASMUSSEN, ECONOMIC DEVELOPMENT DIRECTOR, (dated May 25, 2016)

Transmitting a proposed resolution entitled "AUTHORIZING THE GRANT OF A LEASE OF COUNTY REAL PROPERTY CONSISTING OF TAX MAP KEY NUMBERS (2) 2-5-004:014 AND (2) 2-5-004:053, TO TEACH DEVELOPMENT, LLC, PURSUANT TO CHAPTERS 3.36 AND 3.40, MAUI COUNTY CODE".

The recommended action is that County Communication 16-103 be referred to the Economic Development, Energy, Agriculture, and Recreation Committee.

CHAIR WHITE: Thank you, Mr. Clerk.

Members, are there any objections to the referrals as read by the Clerk?

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: So ordered.

Mr. Clerk.

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

CHAIR WHITE: Thank you, Mr. Clerk. And Members and support staff, I want to thank you for a efficient meeting today. I expected it to go a little bit longer than it did. So, thank you very much.

COUNCILMEMBER VICTORINO: Mr. Chair, wait. Point of personal privilege please.

CHAIR WHITE: Mr. Victorino.

COUNCILMEMBER VICTORINO: I wanted to, I know everybody's tired and want to get out of here, but I wanted to announce that on behalf of the, the Maui Portuguese Association and the Maui Puerto Rican Association, they send their mahalos to all of you for your tremendous support through the years.

This morning I was privileged to represent you and the Council at their dedication of the Heritage Hall. And they wished that all of us could have been there, understood what was happening. And I made them, made sure that down the road, the next time they have a major event, not to schedule it on a Council meeting, and to consult with

us first, and so that we could be there to be a part of their celebration. But, they wanted to say a tremendous mahalo for all of our assistance through the years, to make this come to fruition. Thank you, Mr. Chair.

CHAIR WHITE: Thank you, Mr. Victorino.

Mr. Clerk.

DEPUTY COUNTY CLERK: Apologize, Mr. Chair. Just for the record, that's Bill 69 and 70 (2016), not 68 and 69 (2016). Thank you.

CHAIR WHITE: Okay, thank you for the clarification. And with that, Members, we are adjourned.

ADJOURNMENT

The regular meeting of June 3, 2016 was adjourned by the Chair at 2:47 p.m.

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

160603/lks:jm

MAUI CHAMBER OF COMMERCE

OUR BUSINESS IS MAUI BUSINESS

RECEIVED

2016 JUN -3 AM 7: 24

OFFICE OF THE
COUNTY CLERK

Testimony on the Proposed FY 2017 Budget
June 3, 2016 at 9am

Dear Chair White & Members of the Maui County Council,

Given the winning compromise in last year's budget session we were surprised to see the CORA industry facing another increase this year, especially when others are not. It leads many businesses, both in and outside of the industry, to question the rationale for another hike and feels as though there is a movement to move these long standing operators, who have made tremendous investments in building their businesses and Maui's reputation, out.

We have yet to hear the rationale for the increase. There seems to be a perception that these operators are making money hand over fist, with rumors of millions of dollars in annual income. But, that has not been our experience. Many CORA operators are small, family run businesses, who are not making these phenomenal sums and the planned increase is one more nail towards putting their business in a coffin. This industry is deeply impacted by weather conditions and the need for ocean safety and had another challenging year with all the storms we faced. Their stories tell the tale, and they are sharing them, but it feels as if they are not being heard.

All I have met with are hard working individuals and families who are champions in ocean activities, with years of experience and quality service that greatly contributes to our visitor experience and Maui's top notch ocean activities reputation. While providing excellent instructions to their clients, they have also kept our beaches safe by providing rescues and safety instruction to those who are not their clients to protect our beach environment for visitors and residents alike. In doing so, they have also helped reduce liabilities for the County.

These leaders volunteered their time years ago to come up with rules and regulations to protect our beaches and deter abuse. They are the ones who are operating legitimately, paying for their permits, paying their taxes, and trying to help the County identify those who are operating under the table and outside of the law. Yet, despite their repeated requests for enforcement, little has been done and others flying under the radar and getting a free ride. This is not what we want to see happen. And, the higher the fee goes, the more incentive there is for others to cheat.

So why this group for $28,000? We ask the question because other avenues for raising income within the Department do not appear to have been explored. The Parks Department recently rushed a request to ask the Council to change the law to allow for new CORA operators, which the Council did, yet it doesn't appear that those permits have been issued. What was that all about then if we are not going to issue the permits and collect the revenue? Further, enforcement efforts could net the County a significant amount and there is a CORA Activity Fund with nearly $500,000 in it. What is that being held for?

We and the CORA operators have been providing testimony along the way and now we are down to the wire, but this is really important. The proposed raise in permit fees will hurt these small businesses. So, we are asking that you look into the challenges with enforcement, the issuance of new CORA permits, and the large fund and not increase the CORA permit fees again this year.

Mahalo nui loa for your consideration.

Sincerely,

Pamela Tumpap

Pamela Tumpap
President

95 Mahalani Street • Suite 22A •Wailuku • Hawaii •96793 • *t* 808-244-0081 • *f* 808-244-0083 • MauiChamber.com

RECEIVED

2016 JUN -3 AM 7: 24

OFFICE OF THE
COUNTY CLERK

MAUI SCHOOL GARDEN NETWORK

June 3, 2016

TO: Maui County Council Members

FROM: Maui School Garden Network Director and Grow Some Good Board Member, Ms. Lehn Huff

RE: Testimony in Support of Maintaining the Maui School Garden Network Fiscal Sponsorship of Tri-Isle Resource Conservation and Development Council, Inc. for Fiscal 2017

The Tri-Isle Resource Conservation and Development Council, Inc. was founded in 1962 by the United States Congress within the United States Department of Agriculture as a rural development program. The main purpose of the Council has been to protect and promote wise use of the islands' natural resources through locally-led community improvement measures, and assisting sustainable agricultural and alternative energy initiatives. When federal funds ended in April 2011 the partnerships developed made it possible for the R, C&D's, including Tri-Isle to continue as independent resource concerns for their locale.

MSGN is currently under the Fiscal Sponsorship of Tri-Isle and would like to continue to do so until Fiscal 2018 when it hopes to transfer to the Fiscal Sponsorship of its partner, Grow Some Good, which recently achieved 501 (c)3 status this past March 2016.

MSGN is an active member of ~~both~~ the Maui County Farm Bureau and the Hawaii Farmers Union United, Haleakala Chapter. Under the fiscal sponsorship of Tri-Isle, MSGN is poised to receive funding from grant sources that favor both the Maui County Farm Bureau and the Hawaii Farmers Union United. If MSGN is placed under the Maui County Farm Bureau's line item there will be an overall decrease in matching funds available to MSGN due to the fact that several current funders will not continue to fund MSGN coming from a perception of MCFB as being strongly influenced by Monsanto. Consequently, continuing under TRi-Isle R,C, & D for fiscal 2017 represents the most equitable choice.

Mahalo for your consideration and desire to promote a developing curricular and programmatic strand of Ag and NR related education at every grade level P-20 through Maui County's school garden programs. No Child Left Inside.

Lehn Huff, Director
Maui School Garden Network
PO Box 458
Haiku, Hawaii 96708
(808) 250-8323 Cell
msgn@hawaii.rr.com
www.mauischoolgardennetwork.org

Contact Persons for Community Petitioners
Terry Kristiansen P.O. Box 841, Hana, HI 96713, 808-248-7600
<greentoes@alohaservices.net> and **John Blumer-Buell** P.O. Box 787, Hana, HI 96713,
808-248-8972 <blubu@hawaii.rr.com>

RECEIVED
2016 JUN -1 PM 2: 27
OFFICE OF THE COUNTY CLERK

June 1, 2016 (Public Testimony for June 3, 2016)

Council of the County of Maui, Mike White, Chair
Regular Meeting of June 3, 2016
Public Testimony Sent to County Clerk <county.clerk@mauicounty.us> and
Maui_County Council_mailbox <county.council@mauicounty.us>

Subject: BILL NO. 44 (2016)

"A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2016 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO ESTIMATED REVENUES; HANA COMMUNITY PLAN AREA, GOVERNMENT FACILITIES, NAHIKU COMMUNITY CENTER; TOTAL CAPITAL IMPROVEMENT PROJECT APPROPRIATIONS; AND TOTAL APPROPRIATIONS (OPERATING AND CAPITAL IMPROVEMENT PROJECTS)"

Aloha Chair White and Council Members,

We strongly object to the passage of Bill No. 44. We also strongly object to the absence of legal due process and justice for the community and taxpayers.

Corporation Council Pat Wong stated in the records of the Budget and Finance Committee dated May 20, 2016, "In response to concerns raised by testifiers, he assured your Committee there is no doubt the project as presented previously was compliant with the law". "No doubt"? That is misleading and a false representation of the legally required process.

The petitioners have repeatedly asked the council and Mr. Wong to address the legal issues in writing and quote "case law" in his opinion. **Why hasn't the council demanded a written legal opinion? Why has the council accepted a ticky-tacky verbal political opinion?**

The issues include; 1. An Environmental Assessment or Environmental Impact Statement. **Comment: Maui Corporation Council Wong assured the council legal due process has been followed. A FRAUDULENT "Declaration of Exemption" is not legal due process.** 2. A "Change in the Hana Community Plan Designation" is legally required. That legal requirement has NOT been met.

3. A "Change in Zoning" is legally required. That legal requirement has NOT been met. 4. A "SMA Permit" is legally required. That legal requirement has NOT been met. The expired SMA Minor Permit represented the proposed project's value at $450,000.00 **The current proposal is a NEW PROPOSAL WITH A VALUE OF NEARLY TWO MILLION DOLLARS.**

If your intent is to follow the laws, please assure the community the due process issues we have raised repeatedly will be met in a timely manner. Please make that clear and unambiguous as a condition of any funding and inform us in writing. The community has tried to constructively participate in our democracy. Please respond in that spirit.

Following is our eight page letter dated May 12, 2016, to the State of Hawaii Board of Land and Natural Resources, Ms. Suzanne Case, Chairperson. Please include this as part of our public testimony and the public record. **PLEASE TAKE THE TIME TO READ CAREFULLY AND COMPREHENSIVELY.**

Sincerely yours,

Terry Kristiansen and John Blumer-Buell, on behalf of the Petitioners.

Contact Persons for Community Petitioners
Terry Kristiansen P.O. Box 841, Hana, HI 96713, 808-248-7600
<greentoes@alohaservices.net> and **John Blumer-Buell** P.O. Box 787, Hana, HI 96713, 808-248-8972 <blubu@hawaii.rr.com>

May 12, 2016

State of Hawaii Board of Land and Natural Resources
Ms. Suzanne Case, Chairperson
Submitted to Land Board Secretary Ms. Kuulei N. Moses via email
kuulei.n.moses@hawaii.gov

Subject: **Request for Board Ruling the County of Maui Shall Produce an Environmental Assessment (EA) or Environmental Impact Statement (EIS)**

for the Proposed $1,950,000.00 Nahiku Community Center. Request for Support for "Legal Due Process".

Aloha Chair Case and Board Members,

On Friday, June 22, 2007, the Board of Land and Natural Resources "Set Aside to County of Maui for Community Center Purposes, Nahiku Homesteads, Nahiku, Koolau, Tax Map Key: (2) 1-2-002:023". Agenda Item D-6. See attached minutes of Friday, June 22, 2007 (Exhibit 1).

The legal intent of DLNR was clearly stated in the referenced BLNR "Set Aside" document dated June 22, 2007, (Exhibit 2), page 2, under "CHAPTER 343 ENVIRONMENTAL ASSESSMENT: This action before the Board is merely a transfer of management jurisdiction and does not constitute a use of State lands or funds, and therefore, this action is exempt from the provisions of Chapter 343, HRS, relating to environmental impact statements. In as much as the Chapter 343 environmental requirements apply to Applicant's use of the lands, the Applicant **shall** be responsible for compliance with Chapter 343, HRS, as amended".

The County of Maui has not taken responsibility for compliance with Chapter 343, HRS, as mandated. We respectfully ask the State Board of Land and Natural

Resources to review the facts, intervene and enforce the intent of the board order that states the County of Maui "shall be responsible for compliance".

The County of Maui has not only been irresponsible in this matter. The failure to produce an Environmental Assessment (EA), Environmental Impact Statement (EIS) or any meaningful environmental disclosures threatens the future of the Nahiku Community, threatens the unique and fragile environment and threatens a livable future for the historic, small and unique community.

Without question, the proposed Nahiku Community Center does "constitute the use of state land or funds". In this case, the intent to use both Hawaii State land and funds is well documented. The use of state land and funds, in addition to the use of County of Maui funds, triggered the legally required Environmental Assessment process.

Instead of producing an EA or EIS, as intended by the State Land Board, the County of Maui Department of Parks and Recreation previously placed the proposed Nahiku Community Center on the "Agency Exemption List" on January 10, 2007. See Exhibit 3. That exemption list placement was against the State Land Board intent. Oddly and possibly illegally, the date of the County of Maui "Exemption List", January 10, 2007, is BEFORE the State Land Board meeting of June 22, 2007. Please address the legality of that inconsistency. This "cart before the horse" approach goes against the intent of Chapter 343 and the intent of the Land Board "Set Aside". Please declare the January 10, 2007, "Exemption List" improper and null and void. Please order the County of Maui to produce an EA or EIS.

The Declaration of Exemption was signed by Parks and Recreation Director Glenn T. Correa on 4/26/12 or 7/26/12 or 9/26/12 (Exhibit 3). For clarity, this unclear date signature should be clarified for the record.

The "Declaration of Exemption" was characterized as "fraudulent" in writing by one community member (Exhibit 4). To be clear, the definition of fraudulent is "obtained, done by, or involving deception and unjustifiably claiming or being credited with particular accomplishments or qualities".

The Nahiku Community and others have protested the lack of legally required due process since the "Declaration of Exemption" in 2012. More than eighty-five Nahiku community residents, other concerned citizens and taxpayers have submitted two petitions to the Maui Mayor and County Council against the Nahiku Community Center **as proposed** (Exhibit 5).

The proposed community center is subject to an Environmental Impact Statement (EIS) or Environmental Assessment (EA). Other legal processes that Maui Mayor Arakawa's Administration and the Maui County Council have intentionally ignored and bypassed are:

1) The legally required Community Plan Amendment (CPA). Please link to the County of Maui CPA at *http://www.co.maui.hi.us/DocumentCenter/Home/View/* 12028 Under IV. Submittal and Review the CPA states in part under number 4,

"The Planning Director processes the Chapter 343, HRS, environmental document when the Planning Commission is the approving agency or the accepting authority. Number 5 states in part, "After the Chapter 343, HRS, environmental document has been processed and the Applicant has adequately addressed agency comments, the Planning Director deems the CPA application as complete, schedules the public hearing before the Planning Commission, and prepares reports to the Commission". Processing the Chapter 343 Environmental Document is part of the required Community Plan Amendment process. The CPA process insures the opportunity for public participation. Please order the County of Maui to follow the law. If the county refuses, please declare the "Set Aside" null and void.

2) The legally required Change in Zoning (CIZ). Please go to the County of Maui CIZ requirements http://www.co.maui.hi.us/1213/Change-in-Zoning-Permit The CIZ states in part, *"Change in Zoning. Purpose: A Change in Zoning (CIZ) may be required when property is proposed to be used in a manner not allowed under the current zoning of that land. A Change in Zoning must be in conformance with the State Land Use District and Community Plan for the region"*. The current agricultural zoning is not the required zoning for the proposed Public-Quasi Public use. The Hana Community Plan Designation and Zoning must be changed through legal due process. The current community plan designation and zoning are not in conformance "with the State Land Use District and Community Plan for the

Region". Again, this process insures the opportunity for public participation. If the county refuses to perform, please declare the "Set Aside" null and void.

3) The legally required Special Management Area Permit (SMA). Please go to the County of Maui SMA requirements at http://www.co.maui.hi.us/1245/SMA-Use-Permit The SMA Use Permit states in part, *"Purpose: The purpose of the Special Management Area Use permit is to regulate any use, activity, or operation that qualifies as "development", and has a total cost fair market value of $500,000 or more; or has significant adverse environmental or ecological effect within the Special Management Area"*. The SMA Use Permit is a public process. The County of Maui administratively approved the expired SMA Minor Permit (Exhibit 6). The community wants a public hearing in Hana for any SMA permit application. If the

county refuses to perform public actions required for an SMA Major Permit, please declare the "Set Aside" null and void.

Public participation in these important and legal land use procedures has been, essentially, denied. There has not been legally required "due process" for the community. There has not been meaningful and lawful community input for the proposed community center now projected to cost nearly two million dollars of taxpayer money.

Another disturbing fact that needs to be addressed now in an EA or EIS: Several members of the Nahiku Community publicly claim they are lineal descendants and own the proposed center site. Those claims are well documented in the Maui News and public record correspondence. They claim they can prove ownership. Those issues should be resolved in an EA or EIS process. If they do, in fact, own the property, building the proposed center would be a nearly two million dollar gift to them of public funds. If they can prove ownership, that should be the end of the proposed center proposal and taxpayer's expenditures.

The County of Maui administratively approved a SMA Minor Permit on May 23, 2012 (Exhibit 6). The County of Maui Planning Department stated "project has a valuation not in excess of $500,000.00; (Valuation: $450,000.00)". Initially, the State of Hawaii gave $250,000.00 for the project. That was matched by $250,000.00 from the County of Maui. Now, the projected costs are nearly two million dollars. Please note, the SMA Minor Permit has expired. And, the "petitioners", other community residents and taxpayers have requested an SMA5

Major Permit process with a public hearing in Hana. Please support that legally required due process in writing.

Please note, the SMA Minor "Project Description: Replacement structure at Nahiku Grammar School, O Nahiku" is inaccurate and misleading. The proposed project does not qualify for "grandfathering" or replacement of the Nahiku School use. The legal possibility for that exemption expired years ago. Please reference Hawaii Revised Statutes Chapter 205, "§205-8 ***Nonconforming uses.*** *The lawful use of land or buildings existing on the date of establishment of any interim agricultural district and rural district in final form may be continued although the use, including lot size, does not conform to this chapter; provided that no*

nonconforming building shall be replaced, reconstructed, or enlarged or changed to another nonconforming use and no nonconforming use of land shall be expanded or changed to another nonconforming use. In addition, if any nonconforming use of land or building is discontinued or held in abeyance for a period of one year, the further continuation of such use shall be prohibited". [L 1963, c 205, pt of §2; Supp, §98H-8; HRS §205-8] Significantly, the State of Hawaii owned Nahiku School building was destroyed by fire on December 13, 2005.

In the "Declaration of Exemption" the Maui County Parks and Recreation Director claimed "Exemption Class 2". Exemption Class 2 states, *"Replacement or reconstruction of existing structures and facilities where the new structure will be located generally on the same site and will have substantially the same purpose, capacity and density, height and dimensions as the structure replaced. This exemption class includes agency actions intended to meet the agency's goals by replacement in whole or in part, the following, provided there is little or no increase in capacity"*. Please see Exhibit 3. The proposal based on Exemption Class 2 is a fraudulent misrepresentation that will obviously have **major** impacts on the Nahiku Community. Please consider a legal ruling to declare the previous "Declaration of Exemption" illegal and not the intent of the State Land Board directive.

On Friday, April 29, 2016, the Maui County Council Budget and Finance Committee passed the budget amendment to fund the proposed Nahiku Community Center. That was Budget and Finance Agenda item BF-38(22). From

the posted Agenda, "The estimated cost to complete design and permitting of the Nahiku Community Center is $200,000, and the estimated cost for construction is $1,750,000". The cost of the proposed center is now $1,950,000.00. **There is no EA or EIS, no Change of Community Plan Designation, no Change in Zoning and no SMA Major Permit.** This is a new project, not the $450,000 project represented in the SMA Minor Permit. Why $200,000 for completion of design and permitting? The design has already been done. Please require the County of Maui to produce an EA or EIS for the NEW project.

When asked by Council Budget and Finance Vice Chair White if the due process issues we raised were complied with, Maui Corporation Council Pat Wong stated (paraphrase) "The process was complied with in the first round". He gave a "political" opinion to the council, not a written legal opinion addressing each of the legal issues the community petitioners have raised repeatedly. As previously stated, those include; 1) Compliance with the requirement for an Environmental Assessment or Environmental Impact Statement. 2) Requirement for a Change in Designation from Agriculture to Public-Quasi Public in the Hana Community Plan. 3) Requirement for a Change in Zoning from Agriculture to Public-Quasi Public. 4) Requirement for a valid SMA Permit with a public hearing process in Hana.

The council did recognize the issue has severely divided the community. Council Member Victorino suggested the community have a ho'oponopono to try to bring the community together. An Environmental Assessment or Environmental Impact Statement process are intended to be a ho'oponopono. There is public disclosure and the opportunity to ask questions and comment during the process. Everyone can be heard. Alternatives are considered. A consensus can be reached.

The expenses, and every relevant issue regarding this proposal, have never been considered in an EA or EIS.

The previous contract for the center has been declared null and void by the county. The County of Maui is now suing the contractor. That case is the County of Maui v. Maui Kupono Builders LLC, et al., Civil 15-1-0421(1). The case is not settled. The County of Maui intends to advertise to solicit new bids for the new proposal without the required EA or EIS, Hana Community Plan Amendment, Change in Zoning and an SMA Major Permit hearing in Hana.

Following a settlement or trial, the County will put the proposal out for new bids. The County of Maui does not intend to treat this as a new project. However, the public records show that the recently approved amendment of nearly two million dollars is a completely different project. This is not the $450,000 project represented in the SMA Minor Permit. For that reason, we ask you to require the County of Maui produce and EA or EIS document as was the intent of the State Land Board in 2007.

Since the "Declaration of Exemption" there are several new major and significant environmental impacts that need to be considered. One of those is the County of Maui "indefinite" closure of the historic Lower Nahiku Bridge that leads to the Old Nahiku Landing. This has created "chaos" in Lower Nahiku. For example, there are no public toilets. Visitors are relieving themselves on the side of the road and at the Old Nahiku Landing. Toilet paper is visible. Some land owners cannot access their property on the makai side of the closed bridge. Emergency services cannot drive to the old landing. The dangerous overall health and safety situation needs to be addressed in the EA or EIS.

In addition, there is now a severe Little Fire Ants (LFA) infestation in Nahiku. The dangerous situation needs to be discussed in detail and include a mitigation plan. The discussion and mitigation need to be included in the EA or EIS.

The community supports the repair of the historic Lower Nahiku Bridge as the community and budgetary priority. That should be considered as an "Alternative" in the EA or EIS process.

To date, the community and taxpayers have been denied legal "due process". Please support the petitioners and public's requests for the rule of law.

We request this item be placed on your agenda as soon as possible. If it is possible to correct the current lack of due process administratively, please do so. There are numerous additional document available to you regarding this situation. We have limited the number of "Exhibits" in describing and clarifying the situation.

Please express your support in writing for legal due process in addressing the required EA or EIS, the required Change in the Hana Community Plan Designation, the required Change in Zoning and the required SMA Major Permit.

Again, if the County of Maui will not cooperate, we request you declare the "Set Aside" null and void.

Please support your actions with a legal opinion and case law.

We sincerely appreciate your careful consideration and help in achieving due process for the community and taxpayers.

Mahalo ,
Terry Kristiansen and ***John Blumer-Buell,*** on behalf of the Petitioners

Nahiku Community Association

RECEIVED
2016 JUN -3 AM 7:47
OFFICE OF THE
COUNTY CLERK

June 2, 2016

Dear: Council Chairman Michael White
Budget Chairman Riki Hokama
East Maui Councilman Robert Carroll
Council Members: Don Couch, Michael Victorino, Elle Cochran, Don Guzman,
Stacey Crivello & Gladys Baisa

RE: Ordinances Second and Final Approval Bill No 44(2016),Bill No 45(2016)
Agenda-Regular Meeting of June 3, 2016 Maui County Council

We are in Full SUPPORT of the passing of this ordinances in its second and final reading:

Amending the fiscal year 2016 budget of the County of Maui Capital Improvement project Nahiku Community Center & the amending of ordinance 4228 Bill No 35 (2015) the issuance of general obligation bonds of the County of Maui for the Nahiku Community Center.

Thank you all, The Maui County Council members for the opportunity to submit written testimony on this measure being heard in chambers today. We are in FULL SUPPORT of the passing in its second and final reading of these two **Bills no 44 and Bill no 45.** We the Nahiku Community Association and the **MANY** residents of EAST MAUI and resident/property owners of Nahiku are in full support of this funding to complete this long awaiting facility as it has been planned and designed in 2013 for the many benefits to the EAST Maui Community as mentioned in the numerous of testimonies, petitions and legislation in the last 10 years.

We thank you all for your continued support and we all are looking forward to the completion of this Community Center in 2017.

Respectfully submitted,

Kamalu Kaho`okele, President
Nahiku Community Association

CC: NCA Board Of Directors-Lihau Kekahuna, Crystal Kekahuna, Cheryl Kekahuna, Secretary Louise Alina, Treasurer Corinna Kekahuna, Vice Chair Mapu Kekahuna

Our Mission Statement
Protect, Preserve & Perpetuate

Jim Smith
99 Kapuai Road
Haiku, Maui, Hawaii 96708

RECEIVED
2016 JUN -2 AM 8:02
OFFICE OF THE
COUNTY CLERK

June 3, 2016

Chairperson Michael White and
Members of the Maui County Council
200 S. High Street
Wailuku, Maui, Hawaii 96732

TESTIMONY: Related to Report of Special County Governance

Dear Chairperson Michael White and Members of the Council,

This Council has received a report proposing a change to our political structure. It is transmitted to the Council by a group that is neither a standing committee nor a subcommittee. This creates a problem.

This Group, the special committee on county governance, was established by Resolution 15-155 on December 4, 2015. And on December 10, 2015, the group convened and elected a Chairperson and Vice Chairperson. (See attached Agenda - item 3) These positions are to be assigned at the time of establishment by Council of standing and subcommittees. The underlying wisdom of your rules should be respected.

Rule 7(B), Rules of Council (2015) provides that the purpose for having standing committees is to provide well considered recommendations to the Council; and that Council Rule 7(E) provides that ordinances and resolution having the force and effect of law shall be transmitted to a standing committee. The rules establish integrity, and by that public trust.

The Agenda for today's meeting contains a proposal that a Resolution be heard on first reading, and this proposed legislation is identified, erroneously, as Committee Report 16-95 under Section H COMMITTEE REPORTS. The proposed legislation is separated from the Special Committee's Report. The special committee's report is not received: the advice the Council sought by establishment of this group is not received. This indicates the Council is asked to vote on the merits of a contentious

question, without its own investigation and thoughtful review of all aspects that may make the decision harmful.

The special committee's effort to advise this Council has proven divisive: 5 members of the special committee signed the proposed Resolution proclaiming non-concurrence; minutes reflect that a committee member, who advocated for adoption of the Resolution, publicly admonished the appointed facilitator for improper performance of duty; A thesis written by an executive assistant for a Council Member is reference as material in support of approving this Resolution. (The document can charitably described as propaganda).

The record of committee proceedings puts in question the validity of advice sought by this Council. For example, in its TIG report the group decided the term "managing director" could replace the word "manager". The term managing director is used in the proposed resolution. But, the term and words have a different meaning. Manager means responsibility for the whole picture; a manager manages the whole while a director provides management of individual parts.

In the TIG report dated 04_21_16 to the full committee, no factual basis is identified for finding as fact the assertion that the election cycle should be eliminated for executive administration of policy in Maui County. Without stating the factual basis for it conclusion of law, the TIG found evidence that the conclusion is justified, but hides that evidence. How will a voter distinguish between what our structure does now and what can be expected by a proposed change? Are the results the same? If so, then a vote doesn't matter, change doesn't matter. But, they are different and Council deliberation may protect voters from being fooled.

A Council Committee should take control of this proceeding. I hope the Council makes referral of the report to the Policy and Intergovernmental Affairs Committee for needed review. I ask this Council to act with care, and if it errors, error on the side of caution.

Thank you

signed: Jim Smith
Dated: 06_03_16

PUBLIC MEETING NOTICE

SPECIAL COMMITTEE ON COUNTY GOVERNANCE

COUNCIL OF THE COUNTY OF MAUI

www.MauiCounty.us/governance

Voting Members:
Pua Canto
Dave DeLeon
Renee Kehau Filimoe'atu
Paula Friel
Kimo Haynes
Kay Okamoto
Tamara Paltin
Ray Phillips
Madge Schaefer
Jonathan Starr
Tony Takitani

Thursday, December 10, 2015
1:30 p.m.

MEETING SITE:
Council Chamber
Kalana O Maui Building, 8th Floor
200 South High Street
Wailuku, Hawaii

RECEIVED
2015 DEC -4 PM 1:42
OFFICE OF THE
COUNTY CLERK

AGENDA

1) Public testimony

2) Introduction of facilitator

3) Electing the Chair and Vice-Chair of the Special Committee

4) Review of Council resolution establishing the Special Committee

5) Overview of Code of Ethics and Sunshine Law

6) Overview of the County Manager form of government

7) The Special Committee's schedule

REMOTE TESTIMONY SITES

Hana
Council District Office
Hana Community Center
5091 Uakea Road
Hana, Hawaii

Lanai
Council District Office
Lanai Community Center
8th Street
Lanai City, Hawaii

Molokai
Council District Office
100 Ainoa Street
Kaunakakai, Hawaii

MORE →

CONTACT INFORMATION	Office of Council Services 200 South High Street Wailuku, Hawaii 96793 **www.MauiCounty.us/governance**	(808) 270-7838 (phone) (800) 272-0098 (toll-free from Lanai) (800) 272-0026 (toll-free from Molokai) (808) 270-7686 (fax)
	Committee Staff: Kimberley Willenbrink, Sharon Brooks, and Clarita Balala	
TESTIMONY	For information on testifying please visit **www.MauiCounty.us/how-to-testify** or contact the Office of Council Services. If written testimony is submitted at the meeting site, 16 copies are requested to ensure distribution at the meeting.	
DISABILITY ACCESS	People with disabilities requiring special accommodations should contact the Office of Council Services at least three working days prior to the meeting date.	
LIVE CABLECAST	Available on Akaku: Maui Community Media, Channel 53.	

AGENDA ITEMS ARE SUBJECT TO CANCELLATION.

s-cg:151210:csh/dmr

Special Committee on County Governance

Options #1 **Council-Manager, elected Mayor separate from the Council**

Options #2 **Council-Manager, elected Mayor who serves on the Council**

Options #3 **Council-Manager, no elected Mayor**

Issues	Option #1	Option #2	Option #3
Elected Mayor	Yes	Yes	N/A
Mayor's responsibilities	Mayor is an official representative of Maui County whose responsibilities include: - Speaks for County government; - Face of Maui County's government; - Fulltime advocate for the people of Maui County; - Helps resolve issues between Maui County and external agencies and entities; -Performs intergovernmental and ceremonial duties on County's behalf; - Assists the Council and the Managing Director as they may request.	Mayor is an official representative of Maui County whose responsibilities include: - Speaks for County government; - Voice and face for Maui County's government; - Fulltime advocate for the people of Maui; - Helps resolve issues between Maui County and external agencies and entities; - Performs intergovernmental and ceremonial duties on County's behalf; - Assists the Council and the Managing Director as they may request.	N/A
Mayor's veto power	Yes	No	N/A
Council voting by Mayor	N/A	2 votes in Council	N/A
Mayor's term	4 years	4 years	N/A
Councilmembers' terms	2 years	2 years	2 years
Councilmembers	9	10 (including Mayor)	9
Who holds title of Mayor	Elected Mayor	Elected Mayor	N/A

Attachment "1"

Special Committee on County Governance

Options #1 **Council-Manager, elected Mayor separate from the Council**

Options #2 **Council-Manager, elected Mayor who serves on the Council**

Options #3 **Council-Manager, no elected Mayor**

Issues	Option #1	Option #2	Option #3
County budget responsibility	Preparation - Managing Director Administration - Managing Director Approval - Council	Preparation - Managing Director Administration - Managing Director Approval - Council	Preparation - Managing Director Administration - Managing Director Approval - Council
Managing Director's title	Managing Director	Managing Director	Managing Director
Managing Director's employment status	Contracted employee by written employment agreement	Contracted employee by written employment agreement	Contracted employee by written employment agreement
Managing Director hired by	Selected by Council	Selected by Council	Selected by Council
Appointment process for Managing Director	Applicants vetted by professional, independent recruiting firm. Recruiting firm to narrow applicants to three final candidates, and submit candidates to the Council. Final selection by the Council, and may include citizens' advisory committee in final selection.	Applicants vetted by professional, independent recruiting firm. Recruiting firm to narrow applicants to three final candidates, and submit candidates to the Council. Final selection by the Council, and may include citizens' advisory committee in final selection.	Applicants vetted by professional, independent recruiting firm. Recruiting firm to narrow applicants to 3 final candidates, and submit candidates to the Council. Final selection by the Council, and may include citizens' advisory committee in final selection.
Prepares job description and preferred qualifications	Prepared by Department of Personnel Services with assistance from professional, independent recruiting firm.	Prepared by Department of Personnel Services with assistance from professional, independent recruiting firm.	Prepared by Department of Personnel Services with assistance from professional, independent recruiting firm.
Managing Director's term	No term limit.	No term limit.	No term limit.

Attachment "1"

Special Committee on County Governance

Options #1 **Council-Manager, elected Mayor separate from the Council**

Options #2 **Council-Manager, elected Mayor who serves on the Council**

Options #3 **Council-Manager, no elected Mayor**

Issues	Option #1	Option #2	Option #3
Managing Director's powers, duties, and functions (Section 8-1.3)	The Managing Director performs highly responsible management, administrative, and professional duties as the chief operating officer of the County. Plans, directs, and controls the administrative processes necessary to carry out the effective operations of Maui County.	The Managing Director performs highly responsible management, administrative, and professional duties as the chief operating officer of the County. Plans, directs, and controls the administrative processes necessary to carry out the effective operations of Maui County.	The Managing Director performs highly responsible management, administrative, and professional duties as the chief executive officer of the County. Plans, directs, and controls the administrative processes necessary to carry out the effective operations of Maui County.
Appointment and removal of board and commission members currently appointed by the Mayor	Appointed and removed by the Mayor with the approval of the Council	Appointed and removed by the Mayor with the approval of the Council	Nominated by committee with the approval of the Council.
Appointment and removal of the Corporation Counsel	Hired and terminated by the Managing Director with the approval of the Council	Hired and terminated by the Managing Director with the approval of the Council	Hired and terminated by the Managing Director with the approval of the Council
Appointment and removal of the Prosecuting Attorney	Hired and terminated by the Managing Director with the approval of the Council	Hired and terminated by the Managing Director with the approval of the Council	Hired and terminated by the Managing Director with the approval of the Council
Appointment and removal of the Director of Water Supply	Hired and terminated by the Managing Director with the approval of the Council	Hired and terminated by the Managing Director with the approval of the Council	Hired and terminated by the Managing Director with the approval of the Council

Attachment "1"

Special Committee on County Governance

Options #1 **Council-Manager, elected Mayor separate from the Council**

Options #2 **Council-Manager, elected Mayor who serves on the Council**

Options #3 **Council-Manager, no elected Mayor**

Issues	Option #1	Option #2	Option #3
Appointment and removal of department directors and deputy directors currently appointed by the Mayor	Hired and terminated by the Managing Director	Hired and terminated by the Managing Director	Hired and terminated by the Managing Director
Management of County operations by Managing Director	Managing Director to utilize best practices including a strategic plan, specific goals, priorities, tactical plans, and benchmarks to implement policies in the Maui County Code and the Hawaii Revised Statutes.	Managing Director to utilize best practices including a strategic plan, specific goals, priorities, tactical plans, and benchmarks to implement policies in the Maui County Code and the Hawaii Revised Statutes.	Managing Director to utilize best practices including a strategic plan, specific goals, priorities, tactical plans, and benchmarks to implement policies in the Maui County Code and the Hawaii Revised Statutes.
Performance evaluations for Managing Director	Using best practices, at least annual written performance evaluation of the Managing Director to be performed by the Council Chair	Using best practices, at least annual written performance evaluation of the Managing Director to be performed by the Council Chair	Using best practices, at least annual written performance evaluation of the Managing Director to be performed by the Council Chair
Performance evaluations for department directors and deputies	Using best practices, at least annual written performance evaluation of department directors and deputy directors to be performed by the Managing Director	Using best practices, at least annual written performance evaluation of department directors and deputy directors to be performed by the Managing Director	Using best practices, at least annual written performance evaluation of department directors and deputy directors to be performed by the Managing Director
Emergency response contact for the County	Mayor	Mayor	Managing Director

Attachment "1"

Special Committee on County Governance

Options #1 Council-Manager, elected Mayor separate from the Council

Options #2 Council-Manager, elected Mayor who serves on the Council

Options #3 Council-Manager, no elected Mayor

Issues	Option #1	Option #2	Option #3

Attachment "1"

April 20, 2016

MEMO TO: Members of the Special Committee on County Governance

F R O M: Kimo Haynes, Chair
Temporary Investigative Group

SUBJECT: **TEMPORARY INVESTIGATIVE GROUP OF THE SPECIAL COMMITTEE ON COUNTY GOVERNANCE (FORMS OF COUNTY GOVERNANCE)** (CG-3)

The Temporary Investigative Group of the Special Committee on County Governance, having met on April 5, 2016, April 15, 2016, and April 18, 2016, makes its report as follows.

Purpose and Scope

The TIG was established on March 31, 2016, by the Special Committee pursuant to Section 92-2.5(b)(1), Hawaii Revised Statutes, to recommend three structures for a county manager form of government.

Membership

The group included Kimo Haynes, TIG Chair; Renee Kehau Filimoe`atu; Tamara Paltin; Ray Phillips; and Jonathan Starr.

Resources

The TIG consulted with Richard Wittenberg, former County Executive for Santa Clara, California, and Ventura County, California, and reviewed the following.

- International City/County Management Association materials:

    1. A blog post entitled "Reconsidering Best Practices in Local Government," dated October 22, 2013;
    2. A section on the ICMA website entitled "Recruitment Guidelines for Selecting a Local Government Administrator";

RECEIVED AT CG MEETING ON 4/21/16

3. A model employment agreement template for administrators of municipal governments, entitled "Model Employment Agreement";
4. A section on the ICMA website entitled "Voluntary Credentialing Program Overview"; and
5. A summary of a survey entitled "Municipal Form of Government, 2011."

- A University of Hawaii master's thesis, entitled "Structural Change for Maui County Governance," dated November 12, 2015;

- Sample charter provisions from various cities and counties; and

- Sample employment agreements.

Findings and Recommendations

Voters approved the first Charter of the County of Maui in 1967, establishing a mayor-council form of government, which took effect January 2, 1969. Since then, the County's population has increased dramatically, rising from 46,414 in 1969 to 163,108 in 2014.

The TIG found County governance must be capable of addressing the complexities of Maui County's culturally and economically diverse community, as well as efficiently managing an annual budget exceeding $600 million.

The TIG found there is a need for continuity of leadership, separate from election cycles, and an assurance that best management practices will be implemented across all County departments.

The TIG determined the "county manager" position can be referred to as "Managing Director."

Having examined several forms of government widely used across the United States, the TIG suggests consideration of three options:

OPTION 1 - A Managing Director functions as the chief operating officer. An elected Mayor represents the County in other capacities, has veto power, and nominates members of boards, committees, and commissions, unless

otherwise indicated by the Charter, the Maui County Code, or the Hawaii Revised Statutes.

OPTION 2 - A Managing Director functions as the chief operating officer. An elected Mayor represents the County in other capacities, serves as the 10th member of the Council, has two votes on the Council, has no veto power, and nominates members of boards, committees, and commissions, unless otherwise indicated by the Charter, the Maui County Code, or the Hawaii Revised Statutes.

OPTION 3 - A Managing Director functions as the chief operating officer and reports directly to the Council. There is no Mayor.

A matrix summarizing the features of the three options is attached.

In all options, the Managing Director carries out policies established by the Council and reports to the Council.

The TIG would suggest the Managing Director be selected by the Council from candidates vetted and proposed by an independent, professional recruiting firm with experience and expertise in these matters. The Council may form a citizens' advisory committee to assist in the final selection process. The Managing Director would be evaluated by the Council Chair at least annually.

The Managing Director would have the ability to hire and fire all department heads, except the Corporation Counsel, the Prosecuting Attorney, and the Director of Water Supply, whose employment or termination would be subject to the Council's concurrence.

The Managing Director would be responsible for preparation and submission of an annual budget to the Council for approval.

Preferred Option

The TIG recommends Option 1 because it would put the right person with the required skills and experience in the position to manage the County's operations, while retaining a Mayor with significant responsibilities and maintaining checks and balances between the legislative and executive branches.

Also, Option 1 would serve to: (a) insulate County management from political influence; (b) encourage implementation of best management practices in all departments; (c) provide continuity of departmental leadership; and (d) ensure performance-based employment for key positions.

Finally, Option 1 would require fewer Charter changes.

cg:cr:TIGreport:kcw

Attachment

RECEIVED
2016 JAN -8 PM 3:01
OFFICE OF THE
COUNTY COUNCIL

January 8, 2016

MEMO TO: CG-1 File

F R O M: Tony Takitani, Chair
Special Committee on County Governance

SUBJECT: **TRANSMITTAL OF DOCUMENT RELATING TO A PROPOSED PLAN OF ACTION (CG-1(7))**

The attached document pertains to Item CG-1(7) on the Committee's agenda.

cg:ltr:001(7)amc01:kcw/sb

Attachment

Special Committee on County Governance
Proposed Plan of Action
January 14, 2016

Task 1: Consider whether establishing a County Manager form of government would improve management and operations for Maui County (*January – February*)

1. Examine the current structure.
   a. William Crockett – Historical perspective on why and how Maui's form of government changed from a Board of Supervisors to a "Strong-Mayor" form of government.
   b. Mayor Alan Arakawa – An overview of how the current structure works.
   c. Questions to address:
      i. What is Maui County's current form of government?
      ii. What is working and not working in Maui County management and operations?
      iii. What parameters are used to measure effectiveness of County management and operations?
      iv. Could the current form of government be modified to address what is not working without changing to a County Manager form of government?

2. Research the experience of other counties and cities regarding the Mayor-Council or County Manager forms of government, using a temporary investigative group ("TIG") composed of not more than 5 committee members. (TIG 1) TIG report due to the Committee on February 11, 2016; Committee action may be taken February 25, 2016.

   TIG purpose and scope:
   a. Examine at least 10 counties or cities that have recently changed their form of government to or from a County Manager form of government. Council Services Staff to provide list of these Counties and Cities. Provide answers to the following questions:
      i. What prompted the change in the form of government?
      ii. How did they transition – what specifically did they change? What did they keep the same?
      iii. If applicable, what function does the Mayor have?
      iv. What services do they provide in their communities?
      v. How are the department directors determined? What are their demographics – population, age, income, occupation, dominant industries, etc?

vi. What significant improvements have been seen since the change? What data or performance measures show this improvement? How is effectiveness measured?

vii. What areas have need for improvement?

viii. What words of wisdom do they have as we determine solutions to become more effective as a County government?

ix. From the information gathered, what concepts/modifications could Maui County consider incorporating?

b. Examine counties and cities that are demographically similar to Maui County and that won the 2015 International City/County Management Association's (ICMA) Local Government Excellence Award. Provide answers to the following questions:

i. What is the history of their form of government?

ii. What are the functions of the Mayor; County Council, Commission, or Board of Supervisors; and, where applicable, County Manager?

iii. What County services are provided?

iv. How are department directors determined?

v. What are the County demographics – population, age, income, occupation, dominant industries, etc?

vi. How is effectiveness of County governance measured?

vii. Are there any areas that need improvement? Is there anything they would want to change to become more effective?

viii. What words of wisdom do they have to help Maui County become more effective as a County government?

ix. From the information gathered, what specific concepts/modifications could Maui County consider incorporating?

3. Research how a County Manager form of government could be best implemented in Maui County and implications of the change for County government, using a TIG composed of not more than 5 committee members. (TIG 2) TIG report due to the Committee on February 11, 2016; Committee action may be taken February 25, 2016. TIG shall examine a potential change to County Manager form of government and provide answers to the following questions:

i. How could a County Manager form of government be structured optimally in Maui County? Provide several possible variations, listing the advantages and disadvantages of each, with factual support.

ii. How would a County Manager form of government improve management and operation of County governance, if at all? Describe how it would meet the policy objectives stated by Section 3-9, Revised Charter of the County of Maui (1983), as amended.

iii. What would be the procedure, cost, and time required to implement the change?

iv. What would be the impacts of the change on individual components of the current County government?

Task 2: Make written recommendations to the Council on whether the Charter should be amended, and if so, how the form of government should be structured (March – April)

1. Draft a proposed recommendation on whether the Charter should be amended to establish a County Manager form of government, and if so, how it should be structured. Include an assessment of positive and negative impacts this recommendation would have on the existing County organization.
2. Obtain public input on the proposed recommendation.
3. Obtain input on the proposed recommendation from County officials and employees that would be impacted.
4. Evaluate the impact of the proposed recommendation on County finances and services.

Task 3: Prepare a proposed Charter Amendment IF this is the recommendation. (May)

1. If a County Manager form of government is the Committee's recommendation, prepare appropriate Charter Amendment(s) and submit them to the Corporation Counsel for review and approval as to form and legality.
2. Submit Committee recommendations to the Council before June 1, 2016.

RECEIVED
2016 JAN -8 PM 3:11
OFFICE OF THE
COUNTY COUNCIL

January 8, 2016

MEMO TO: CG-1 File

F R O M: Tony Takitani, Chair
Special Committee on County Governance

SUBJECT: **TRANSMITTAL OF DOCUMENT RELATING TO A PROPOSED PLAN OF ACTION (CG-1(7))**

The attached document pertains to Item CG-1(7) on the Committee's agenda.

cg:ltr:001(7)amc01:kcw/sb

Attachment

TESTIMONY
C Rpt. 16-95
Jim Smith

3. A model employment agreement template for administrators of municipal governments, entitled "Model Employment Agreement";
4. A section on the ICMA website entitled "Voluntary Credentialing Program Overview"; and
5. A summary of a survey entitled "Municipal Form of Government, 2011."

- A University of Hawaii master's thesis, entitled "Structural Change for Maui County Governance," dated November 12, 2015;

- Sample charter provisions from various cities and counties; and

- Sample employment agreements.

Findings and Recommendations

Voters approved the first Charter of the County of Maui in 1967, establishing a mayor-council form of government, which took effect January 2, 1969. Since then, the County's population has increased dramatically, rising from 46,414 in 1969 to 163,108 in 2014.

The TIG found County governance must be capable of addressing the complexities of Maui County's culturally and economically diverse community, as well as efficiently managing an annual budget exceeding $600 million.

The TIG found there is a need for continuity of leadership, separate from election cycles, and an assurance that best management practices will be implemented across all County departments.

The TIG determined the "county manager" position can be referred to as "Managing Director."

Having examined several forms of government widely used across the United States, the TIG suggests consideration of three options:

OPTION 1 - A Managing Director functions as the chief operating officer. An elected Mayor represents the County in other capacities, has veto power, and nominates members of boards, committees, and commissions, unless

Jim Smith
99 Kapuai Road
Haiku, Maui, Hawaii 96708

RECEIVED
2016 JUN -2 AM 10: 54
OFFICE OF THE
COUNTY CLERK

June 3, 2016
Chairperson Michael White and
Members of the Maui County Council
200 S. High Street
Wailuku, Maui, Hawaii 96732

TESTIMONY: Related Planning Committee Report PC 16-91

Chairperson Michael White and Members of the Council,

It seems a delay in complying with our charter requirement that proposed revisions to Community Plans be considered in 10 year cycles is unacceptable. But, at last the problem becomes definable in the proceedings to adopt the Lanai Community Plan Update. I hope a solution can be derived from this proceedings.

It seems clear that the requirement of our charter is being seized, as an opportunity to execute a political mission whose aim is to replace a statutory scheme. The proposed ordinance and committee report make this an obvious and plausible assessment.

I request that the Council refer the proposed ordinance back to committee; that you amend the existing code to provide an extension of six month for consideration of the update; or, in the alternative that any unnecessary verbiage and proposed revisions be removed: specifically, renaming of categories, statements related to legal theory and that use of the term "strategies" be removed, and reestablishment of the category **Interregional Issues**. Without these changes, the existing community plan remains superior, and dysfunction gripping this community continues.

Thank you

signed: Jim Smith
Dated: 06_03_16

TESTIMONY
Sign Sec
Comm. Ref. 16-91

TABLE OF CONTENTS

Page

PART I

INTRODUCTION TO THE LANA`I COMMUNITY PLAN 2
A. Purpose of the Lana`i Community Plan 2
B. The Role of the Community Plan in the Planning Process 2
C. The 1993 Community Plan Update 2

PART II

DESCRIPTION OF THE REGION AND ITS PROBLEMS AND OPPORTUNITIES 4
A. Planning Area Description 4
B. Identification of Major Problems and Opportunities of the Region 30
C. Interregional Issues 33

PART III

GOALS, OBJECTIVES, POLICIES, IMPLEMENTING ACTIONS, AND STANDARDS FOR THE LANA`I REGION 34
A. Intended Effects of the Lana`i Community Plan 34
B. Goals, Objectives, Policies and Implementing Actions 35
C. Planning Standards 58

PART IV

IMPLEMENTATION CONSIDERATIONS 60

PART V

LAND USE MAP 73
A. Land Use Categories and Definitions 73

atmosphere provides an excellent family environment, fostering strong family units. Such an environment encourages the return of former Lana`i residents with their families. The "*ohana*" attitude which creates a supportive network of neighbors and residents, is viewed as an opportunity to facilitate problem solving which can benefit the greater community.

c. LAND USE. The existing land use spatial pattern of Lana`i City provides an opportunity to enhance a country town lifestyle unique in the State of Hawaii. The town's spatial orientation, with Dole Park at its focal point, encourages face-to-face gatherings among residents and provides a centrally located, pedestrian-oriented core. The compact nature of Lana`i City promotes the delivery of government and commercial services which are in close geographic proximity to the majority of the island's population.

d. SINGLE MAJOR LANDOWNER. While unique conditions are acknowledged with a single major landowner, it is also recognized that a single landowner may be viewed as an opportunity for residents. Community needs may be brought to the direct attention of the landowner. Such needs may be negotiated without involving a multiplicity of parties, which may otherwise stall required action.

C. Interregional Issues

In the consideration of possible amendments to the Lana`i Community Plan, there are several issues which affect other regions or require a Countywide or islandwide analysis. This section discusses these issues which need interregional, island-wide or County-wide comprehensive policy analysis and formulation.

1. **Interisland Transportation:** The Island of Lana`i is highly dependent on sea transportation for the provision of goods and services to sustain the local economy. It is recognized that the reliable provision of shipping services is highly dependent on goods and services from the neighbor islands. In this regard, the need to provide adequate commercial harbor facilities on Maui is recognized as a means of ensuring reliable ocean transportation service to Lana`i.

2. **Interisland Visitor Links:** Visitor day trips to Lana`i from Maui are provided by several tour operators. The impact of this daily visitor traffic from Maui is manifested in employment opportunities for Lana`i residents, as well as environmental concerns related to visitor-related activities. In considering

Testimony to the Maui County Council
In SUPPORT of Charter Amendment ballot initiative
Kelly Takaya King
June 3, 2016

Today I testify in favor of putting the question of a council-managed government on this year's ballot for the people of Maui to decide. Mahalo to Council Chair White for bringing this issue back to the full council as it does indeed encompass the same members as the PIA Committee and the move will expedite the ability to get the issue on the ballot this year.

The change in governance issue is not new, and the Countywide Policy Plan adopted by our County in 2010 actually proposed a review of county governance and called for examination of different forms of local governance. Most of the people I know in this county are in favor of changing to a system that brings more professionalism and accountability to our administration. In fact, this was one of the hot button issues that inspired me to run for the County Council. And while about one out of 10 people I speak to about a council-managed government may disagree on the benefits, all agree that Maui voters have the right to decide.

Since becoming active in our community a few decades ago, I had experienced challenges and even roadblocks when dealing with county departments, but there did used to be the desire to assist with problems and much more cooperation. Back in the early nineties, a group of us parents were able to work with our county to get the first real public playground equipment purchased and installed at Kalama Park in a public/private partnership. My husband worked with the Maui County Landfill Diversion office to build America's oldest commercial biodiesel plant to recycle our county's waste cooking oil. When I served as Maui's Board of Education representative, I worked with the county on issues like traffic lights near schools and local school bus service. Even as chair of the non-profit Hui Malama, I felt there was access to and support from both the Council and administration.

Over the years, our County government has developed a lack of transparency and accessibility, and the relationship between the Council and Mayor has devolved such that the Council often seems to be ruling by budget constraint. As a resident voter, business person, former policy maker and non-profit supporter, I feel the urgent need for systems thinking and a change in governance structure under which many other improvements can be realized.

Now the Council has an opportunity to offer your constituents a chance to decide on this important governance change. Please put this issue on the ballot, let the conversation happen within the community, and let us decide what direction is best. And let the majority rule as it should in a true democracy.

Mahalo for your attention to this important matter.

Kelly T. King

Mike White, Chair
Maui County Council

Albert Perez, Executive Director
Maui Tomorrow Foundation, Inc.

June 3, 2016

Re: PC-11 Lānaʻi Community Plan

Chair White:

Aloha, my name is Albert Perez, and I am Executive Director of the Maui Tomorrow Foundation.

Maui Tomorrow supports the changes that have been made to the Lānaʻi Community Plan, but we do have some remaining concerns

1. Page 9-3

Relationship of Community Plan Designations and County Zoning (page 9-3)

The most egregious language has been removed, and we support the changes that have been made. However, we do take issue with the language of the committee report, stating that "the way the community plans are administered . . . is consistent with the law." HRS 46-4 is quite clear that zoning must be accomplished in a manner consistent with the general plan, of which our community plans are a part. To give zoning precedence over the community plans is to render the efforts of our Community Plan Advisory Committees useless. Instead of being codified, this longstanding practice of the Planning Department needs to be changed to respect the will of the community, as well as state law.

2. Appendix 9.2
The "Description" column heading was changed to "Envisioned Uses."
The "Corresponding County Zoning District" column was changed to "Typical County Zoning District.

These changes make the community plan less specific, and provide more wiggle room. The effect is to make it easier to approve development proposals that the community may not have had in mind. The changes that remain would set a precedent for all community plans in Maui County. These column headings should be changed back to Description and Corresponding County Zoning District.

Appendix 9.2 will work only if:

a) stacked zoning is eliminated
b) the misapplication of zoning districts by the Planning Department has been corrected.

If these other two steps are not taken first, the table will not help to achieve the purposes of the zoning code, as expressed in MCC 19.04.15. If these other two steps are not taken first, the Planning Department will continue to create uses that do not conform with our community plans.

Maui Tomorrow looks forward to working with the Council to correct these ongoing issues.

Airport Level
PC-11

APPENDICES

Appendix 9.2 Comparison of Lāna`i Community Plan Land Use Designations and Typical County Zoning District

In lieu of repeating in detail the allowable land uses within the Lāna`i community plan area, this Appendix 9.2 sets forth each community plan land use designation and identifies the zoning district or districts that would typically allow the uses envisioned by the community plan. In the event that a land use designation does not have a typical, matching or corresponding zoning district, a new zoning district(s) will be established in the Maui County Code.

Pursuant to Section 2.80B.030(B), MCC, if a property's community plan land use designation and zoning do not correspond as listed in the table below, the property's zoning regulates the uses and standards allowed on the property when only ministerial permits or approvals by government agencies are required. Discretionary actions by government agencies, such as a change in zoning, shall conform to the community plan; during the change in zoning process, the typical zoning districts listed below should be established to correspond with and implement the community plan.

LĀNA`I COMMUNITY PLAN LAND USE DESIGNATIONS	STATE LAND USE DISTRICTS	USES ENVISIONED	TYPICAL COUNTY ZONING DISTRICTS
Agriculture	Agricultural	Envisions agricultural uses and related and compatible uses.	Agricultural District.
Airport	Urban	Envisions general and commercial aviation airport facilities and support services, and related and compatible uses.	Airport District.

LĀNA'I COMMUNITY PLAN LAND USE DESIGNATIONS	STATE LAND USE DISTRICTS	USES ENVISIONED	TYPICAL COUNTY ZONING DISTRICTS
Business Commercial	Urban	Envisions retail stores, offices, entertainment enterprises, and other commercial services, and related and compatible uses.	B-1 Neighborhood Business District; B-2 Community Business District; B-3 Central Business District; B-R Resort Commercial District; B-CT Country Town Business District; and Service Business Residential (SBR) District.
Heavy Industrial	Urban	Envisions major industrial operations with potentially noxious impacts from noise, airborne emissions, or liquid discharges. May also include light industrial and business commercial operations, and related and compatible uses.	M-2 Heavy Industrial District; and M-3 Restricted Industrial District.
Hotel	Urban	Envisions transient accommodations and commercial uses predominantly intended to serve guests; includes hotels, condominiums, and apartments having more than two dwellings; single-family, duplex, and 'ohana dwellings; and related and compatible uses.	H-1 Hotel District; H-M Hotel District; H-2 Hotel District; and Hotel District.

LĀNA'I COMMUNITY PLAN LAND USE DESIGNATIONS	STATE LAND USE DISTRICTS	USES ENVISIONED	TYPICAL COUNTY ZONING DISTRICTS
Light Industrial	Urban	Envisions warehousing, light assembly, service, and similar industrial operations; also may include business commercial operations, and related and compatible uses.	M-1 Light Industrial District.
Mixed-Use Residential	Urban	Envisions primarily single-family and multi-family dwellings, but also includes a mix of park, commercial, and public/quasi-public uses; and related and compatible uses. Light industrial and heavy industrial uses are excluded.	*Until a new Mixed-Use Residential zoning district is established in the Comprehensive Zoning Ordinance, a mixture of existing residential, apartment, park, business, and public/quasi-public zoning would correspond with and implement this community plan land use designation.*
Multi-Family	Urban	Envisions apartments and condominiums having more than two dwellings; also includes single-family, duplex, and 'ohana dwellings, and related and compatible uses.	Two-family (Duplex) District; A-1 Apartment District; and A-2 Apartment District.

LĀNA'I COMMUNITY PLAN LAND USE DESIGNATIONS	STATE LAND USE DISTRICTS	USES ENVISIONED	TYPICAL COUNTY ZONING DISTRICTS
Open Space	Urban	Envisions areas that are inappropriate for intensive development because of environmental, physical, or scenic factors, including shoreline and landscape buffer areas, drainageways, view planes, flood plains, and tsunami-inundation areas.	OS-1 (Passive) Open Space District; OS-2 (Active) Open Space District; and Urban Reserve District.
Park	Urban	Envisions recreational uses, including public and private active and passive parks, and related and compatible uses.	General Park (PK) District; and Urban Reserve District.
Park/Golf Course	Urban	Envisions golf courses and related and compatible uses.	Golf Course (GC) District.
Project District	Urban	Envisions a variety of land uses and development standards that are unique to a particular project; specific uses are established by a project district zoning ordinance.	*Implementing the Project District designation requires uses and standards for a particular project district be established in the Comprehensive Zoning Ordinance. Lāna'i currently has two project districts: 1) the Lāna'i Project District I (Mānele) set forth in Chapter 19.70, MCC, and 2) the Lāna'i Project District 2 (Kō'ele) set forth in Chapter 19.71, MCC. Additional project districts may be developed over time.*

LĀNA'I COMMUNITY PLAN LAND USE DESIGNATIONS	STATE LAND USE DISTRICTS	USES ENVISIONED	TYPICAL COUNTY ZONING DISTRICTS
Public/Quasi-Public	Urban	Envisions schools, libraries, fire and police stations, government buildings, public utilities, hospitals, churches, cemeteries, community centers, and related and compatible uses.	P-1 Public/Quasi-Public District; and P-2 Public/Quasi-Public District.
Rural	Rural	Envisions small farms intermixed with low-density single-family dwellings, and related and compatible uses.	County Rural; RU-0.5 District; RU-1 District; RU-2 District; RU-5 District; and RU-10 District.
Single-Family	Urban	Envisions single-family, duplex, and 'ohana dwellings, and related and compatible uses.	R-1 Residential District; R-2 Residential District; R-3 Residential District; R-0 Zero Lot Line Residential District; Two-family (Duplex) District; Service Business Residential (SBR) District; and Urban Reserve District.
None	Conservation	Indicates lands designated Conservation District by the State Land Use Commission.	None.

MINORITY REPORT

RECEIVED
2016 JUN -2 PM 1:35
OFFICE OF THE
COUNTY CLERK

FROM MEMBERS OF THE MAUI COUNTY COUNCIL'S

SPECIAL COMMITTEE ON COUNTY GOVERNANCE

May 9, 2016

The following statement is offered by the five members of the County Council's Special Committee on County Governance (the Committee) who voted to not support the draft charter amendment proposed by the six-member majority. This statement is being offered because we, the minority, do not support the accepted Committee proposal and want to place our objections on the record.

Committee Establishment and Findings

The Committee was established to research the question of whether *"establishing a county manager form of government for the County of Maui would improve management and operation of County government"* and to *"make written recommendations to the Council on whether the Charter should be amended to establish a county manager form of government and, if so, how the form should be structured..."* In its report to the Council, the Committee found that *"County governance must be capable of addressing the complexities of Maui County's culturally and economically diverse community, as well as efficiently managing an annual budget exceeding $600 million" and that "there is a need for continuity of leadership, separate from election cycles, and an assurance that best management practices will be implemented across all County departments."*

Fundamentally, the minority does not agree that changing our form of government is necessary to achieve improvements in our County government nor that such a major re-structuring will necessarily result in improved management, governance or continuity of leadership. Indeed, there was no objective evidence offered to the Committee that supports the contention that changing to a council manager form of government will improve the management and the operation of the County. The Committee did receive testimony from a number of citizens, many of whom offered their opinion that a change in governmental structure was called for; that the council-manager form has worked well in numerous mainland communities and therefore, it should work well here; and that the council-manager structure will result in a more efficient, more effective, and less costly government. Those statements were counter-balanced by other citizens who held the opposite opinion. Generally, these were statements of opinion and no objective evidence was given to support those positions. Seeking a more objective analysis of the question, the Committee reviewed the available academic research on the topic. Detailed reviews of the academic literature on this topic showed that changing our form of government would not necessarily improve the quality of government and could instead lead to a decrease in civic engagement.

Reviews of the Academic Literature

Probably the most authoritative statement on this topic in the current academic literature comes from Professor Jered B. Carr, chair of the Department of Public Administration at the University of Illinois at Chicago. The scholarly Public Administration Review published Carr's 2015 paper What have we learned about the performance of council-manager government? A Review and Synthesis of the research.

Carr's review of the existing literature basically states that while the research to date shows some balance of strengths and weaknesses between council-manager and mayor-council forms, in the end the existing academic research *"does not support the contention that there is a difference in the general operational effectiveness of the organizations attributable to the form of government."* In other words, *"Studies do not show a strong correlation between effectiveness in core functions and form of governance."*

The same finding is expressed in a 2015 study published by the Cincinnati Research Institute, entitled Governing Cincinnati: Considerations and Opportunities (Kimberly Nelson and Carl Stenberg, University of Cincinnati):

"There has been a considerable amount of research on form of government and its relationship to various aspects of local government performance, but there is little conclusive evidence that one form is superior to another. Research is also lacking on whether institutional choices other than form influence performance, such as the way council members are elected or the presence or absence of mayoral veto authority. Basically, form of government is only one of a number of factors that affect municipal performance outcomes and influence public opinion."

In a 2004 article in the magazine Governing, Senior Editor Alan Ehrenhalt points to a cyclical pattern in municipalities seeking the right form of government. He points to mid-sized cities that had recently shifted from council-manager systems to a mayor-council form (Oakland, Cincinnati, Hartford, St. Petersburg, Richmond, Sioux Falls and Spokane, and San Diego, and to El Paso, which went the other way.)

"What's clear from all the recent charter reform developments – and especially those in El Paso, San Diego, and Dallas – is that the disparate advocates of urban charter reform are pleading for the same thing: a local government with the virtues of a successful modern private enterprise. The paradox is that they offer wildly different schemes for how to create it."

"The truth is there is no perfect system for all cities and all seasons. Almost any set of rules can work under the right circumstances. Phoenix has done extraordinarily well under a rather strict system of city-manager government. Chicago has prospered under the relatively benign political autocracy of the Daley family.

"Political problems, being largely problems of human nature, no arrangement of duties is going to solve them all. In a great many cities, 'reform' is always going to consist of whatever system hasn't been tried there lately."

The Maui County Cost of Government Commission has also issued its findings on this subject, with which the Committee's minority wholeheartedly agrees. While the Commission's report deserves a thorough review by the Council, the well written statement basically focused on "the cost of government" aspects of the proposal and says there is no objective evidence to support the claim that changing the County's form of government will "necessarily result" in a more efficient, effective and less costly government.

Various Aspects of the Majority Proposal

In their verbal presentation of a Temporary Investigative Group's findings, TIG members (who were exclusively members of the majority) spoke of the guidance they received from the Richard Wittenberg, former County Executive for both the City of Santa Clara and Ventura County. Wittenberg warned them that the chances of getting a perfectly operating government from such major change on the first try would be remote. The County should be prepared to make continual refinements to the structure over an unspecified period of time. Wittenberg reportedly recommended that the County consider establishing the equivalent of a permanent Charter Commission to be able to make adjustments every election.

By contrast, the minority wishes to offer its support for making adjustments to the government we currently have, such as:

- Council approval of all department heads.
- Tightening the qualifying criteria for departmental director appointments.
- Amending charter requirements that all communications between the Council and the Administration go through the Mayor, so that Council Members will be able to speak directly with department heads without first receiving approval from the Mayor.
- Clearing up ambiguities in the budget process, while being cautious to not add unnecessary inefficiencies to the management of departments.

As the Cost of Government Commission points out, the review of this topic has lacked the type of due process that such a major change in government requires. Without adequate review, if adopted, the proposal could result in a variety of unintended circumstances. If the Council wishes to pursue such a major change in government, then it should appoint a special Charter Commission to study the proposal and thoroughly review its Charter implications, the Commission opined.

One such circumstance is readily apparent in the majority's proposal: The major feature of a council-manager system is that the County will seek the best available talent nationwide and compensate them commensurately to their qualifications. That implies that the County Manager would determine how much these management recruits would be paid. However, in Maui County, that decision is made by the Salary Commission. If that Commission does not support significant increases in salaries, the keystone of the council-manager concept will not be achieved. Clearly the majority had not considered this key element of the question in its proposal.

Such a key oversight is indicative of others to follow if this proposal were to be approved without proper, thorough vetting.

Maui County Is Too Complex For Its Current Form of Government

The majority report justifies its proposal, in part, by making the statement that *"County governance must be capable of addressing the complexities of Maui County's culturally and economically diverse community, as well as efficiently managing an annual budget exceeding $600 million."*

That seems to imply that the County is managed poorly and does not respond well to its cultural and economically diverse community and that a shift to a council-manager will fix that. Indeed, Maui is a complex, physically large county (1,162 square miles on three islands), in the middle of the Pacific Ocean. But, as noted earlier, a number of equally diverse, complex metropolitan areas have shifted their form of government back to a mayor-council arrangement because, for some, there was a need for stronger political leadership.

It seems ironic that some of the same members of the majority who approved this statement also pointed to much smaller, less complex, more homogenous communities, such as Thousand Oaks, Ca. and Simi Valley, Ca. as examples of how well council-manager governments work. Indeed, numerous social science studies have noted for decades that council-manager systems have done relatively well in small, homogenous communities in the Midwest, the South and Western states. But the comparison of Southern California bedroom communities to Maui County is truly one of apples to guavas. Those Californian communities are backed up by larger county governments, which supply Civil Defense Management and even Parks Departments. Water is supplied by autonomous water districts that are independent of the municipality. Thousand Oaks encompasses 53 square miles. Simi Valley has 42 square miles.

A major review of this topic: The Changing Structure of American Cities: A Study of the Diffusion of Innovation (H. George Frederickson, Garry Alan Johnson and Curtis Woods, in Public Administration Review, May/June 2004) characterized the leadership of typical council-manager city governments as: *"Primarily white male business leaders who live in middle-class and upper class neighborhoods. Specific responsiveness to minorities and ethnic groups, as well as the representation of poor neighborhoods, has been an issue over the past 30 years."*

Echoes of these findings have been in circulation for decades. William Crockett, the vice chairman of the 1967 Charter Commission, that wrote the charter proposal that became our current form of Maui County government, told the Committee that Charter Commission had been warned by social science faculty from the University of Hawaii that council-manager systems work best in homogenous communities. Mr. Crockett said that was one of the considerations that helped move the commission away from proposing a council-manager system 49 years ago.

Continuity

The majority's report argued that there is a need for *"continuity of leadership, separate from election cycles."* This has been a key argument for restructuring the government: under the council-manager system, elections happen but the management team stays in place because the professional managers are not tied to the political structure. The concern raised by some is that whenever there is a transition

in administrations, the government effectively stops functioning. But the math does not back up the argument that a council-manager form of government would produce longer continuity. In a presentation to the Committee, David Mora, representing the International City/County Management Association (ICMA) reported that professional county managers average seven years in their positions. Since the establishment of the current mayor-council system in Maui County, the seven mayoral administrations that have been elected over that time have also averaged seven years in office. (Cravalho 11, H. Tavares 10, Lingle 8, Apana 4, Arakawa (1) 4, C. Tavares 4, Arakawa (2) 8= total 49 years= 7 year average). The perception is that we have had less continuity because we recently had three administrations in a row fail to be re-elected, giving the impression of a revolving door. But the three administrations before them served for a total of 29 years. There is no viability to the argument that Maui County will have better continuity in executive leadership if those leaders are not tied to the election cycle.

Another point on this topic is the fact that the appointing authority for the county manager would be the County Council, a body that is up for re-election every two years. It is conceivable that new Councils would not support the county manager appointed by their predecessors.

And there is the fact that Maui County's middle management has a long service record. The Division heads are essentially the operations managers for the county. They make sure that there is water in the pipes, the trash is picked up, and the fires are put out. They are essentially tenured by their Civil Service status. This reality reflects on the functionality of the council-manager proposal. A manager would, ideally, be able to pick his own management team to run the departments. In one of studies the Committee reviewed, this comment was offered: *"the manager should be able to fire all employees who are not direct staff to the council."* That may be possible in Ohio, but it is not in Hawaii. Government in Hawaii is unique in that even its middle management comes under collective bargaining contracts. On the positive side, that means there is always someone in-charge – whether an election just happened or not – who knows how the systems work. On the down side, the middle management can be seen as having taken ownership of their responsibilities and can be less than hospitable to appointed management.

Checks and Balance

The majority's choice to include a form of "mayor" in its proposal, will lead to confusion for the average Maui County voter. When the term "mayor" is used in Maui County, it implies an elected Chief Executive Officer, the executive who provides the community political leadership and oversees the function of the government. The term "mayor" in this proposal implies an elected leader without any significant power or leadership role. The proposal would give this mayor the authority to veto Council's actions. However, the Council could readily override such actions. So what is the purpose of including such a position?

One reason would be to provide the appearance of a proper check and balance. A main selling point of the council-manager system is that it will eliminate the friction created by having two contending branches of government. The council-manager form is ideally more efficient because the Council and the manager the Council appoints are on the same unified team. That comes at the cost of not having a

true check to the Council's authority. The addition of a "mayor" with veto authority is meant to provide such a check. Such a check, however, is highly limited compared to the power of a full Mayor CEO who can take a variety of actions to block Council policy directives. The friction caused by such a balance of powers is fundamental to the American form of government. Mr. Crockett said this was also a key reason the 1967 Charter Commission chose the mayor-council form of government. The members of the minority concur: balancing power in government is essential to a well performing democratic institution.

There is also evidence that the lack of a strong mayoral contest on the ballot leads to weaker voter turn-out. (see Carr.) One of the characteristics of the council-manager system is to distance policy makers from politics. That causes policy makers to be insulated from the traditional forces of political accountability. Voters are less able to identify who is in-charge and how to successfully affect policy. In some well known, infamous cases (Bell, California; Ferguson, Mo.; Flint, Mich.), when there is a disconnection between the government and the people the government is meant to serve, the consequences can be severe. That is not to say that all council-manager governments will fail. It is to say that, simply because Maui County changes its form of government, such a change will not necessarily result in a government that will function any better than the one we currently have. And indeed, such a government could perform worse.

What Is The Problem?

Typically, when a community starts this discussion about governance, and what changes are needed to have government perform better, there is an obvious catalyst, an issue that needs be addressed. The minority has not found one, and nor does the Committee's recommendation adequately identify an issue or series of issues that relate to the government's structure, which must to be addressed. There are complaints about the performance of the current administration or the administration's relationship to the Council, but no true structural issue has been identified. In fact, by two objective standards, the County's current government structure is performing quite well. Maui County has the highest municipal (AA+) bond rating in the state and the lowest property tax rates in Hawaii. Neither of those facts would be true in a community suffering a poorly functioning government.

Conclusion

The five minority members of the County Council's Special Committee on County Governance respectfully state that the need for major changes in the way our community governs itself, proposed in the Committee's recommendation, is not supported by objective evidence. We find no reason to believe that such a change would necessarily improve Maui County governance or the quality of life our citizens, and believe such a major disruption in our form of governance could have the opposite, negative effect. We believe that comparatively small, incremental steps, such as requiring Council approval of departmental appointments, are logical, supportable actions that can be taken to improve our government.

The five minority members of the Special Committee on County Governance would like express our gratitude for this opportunity to serve the Council and the broader community in this discussion about our community's future.

This document was submitted with the approval of Special Committee on Governance Members: Anthony Takatani (Chair), Kay Okamoto, Doreen Pua Canto, Paula Friel, and David DeLeon.

Mahalo.

RECEIVED
2016 MAY 24 AM 9:39
OFFICE OF THE
COUNTY CLERK

Testimony of
Pacific Resource Partnership

Council of the County of Maui
Mike White, Council Chair
Don S. Guzman, Council Vice-Chair

Friday, June 3, 2016
10:00 A.M.
Council Chamber
Kalana O Maui Building, 8th Floor
200 South High Street
Wailuku, Hawaii

Aloha Chair White, Vice-Chair Guzman and members of the Council:

We support the application for the development of the proposed Waiale Affordable Housing Project. This proposed project will offer the following benefits:

- Provide relief to the current overall shortage of housing on Maui creating homes priced for a range of consumer groups, including the workforce housing segment
- Provide short-and long-term employment opportunities
- Create a mix of land uses which is an essential component to providing alternatives to driving such as walking and biking
- Provide open space, parks, cultural preserves
- Is in compliance with the Countywide Policy Plan which provides the policy framework for the development of the Maui Island Plan

Thank you for the opportunity to voice our opinion and we humbly ask for your support in moving the Waiale Affordable Housing Project forward.

About PRP

Pacific Resource Partnership (PRP) is a not-for-profit organization that represents the Hawaii Regional Council of Carpenters, the largest construction union in the state, and more than 240 of Hawaii's top contractors. Through this unique partnership, PRP has become an influential voice for responsible construction and an advocate for creating a stronger, more sustainable Hawaii in a way that promotes a vibrant economy, creates jobs and enhances the quality of life for all residents.

PRP
PACIFIC RESOURCE PARTNERSHIP

THE POWER OF PARTNERSHIP
WWW.PRP-HAWAII.COM
PHONE → 808.528.5557 1100 ALAKEA STREET / 4TH FLOOR HONOLULU / HI 96813 | TWITTER: @PRPHAWAII | WWW.FACEBOOK.COM/ PACIFICRESOURCEPARTNERSHIP

HAWAII
COMMON CAUSE
Holding Power Accountable

Council of the County of Maui
Chair Mike White, Vice Chair Don S. Guzman

Thursday 06/03/2016 at 9:00 AM
Committee Report No. 16-95 Special Committee on County Governance

TESTIMONY — SUPPORT
Corie Tanida, Senior Organizer, Common Cause Hawaii

RECEIVED
2016 JUN -2 AM 10: 54
OFFICE OF THE COUNTY CLERK

Dear Chair White, Vice Chair Guzman, and members of the Council:

Common Cause Hawaii asks that the Council pass Committee Report No.16-95 from the Special Committee on County Governance and place the proposed charter amendment on the November 2016 General Election ballot.

One of Common Cause Hawaii's biggest concerns is ensuring that government remains accountable and responsive to the people. Placing the proposed charter amendment on the November 2016 ballot, will allow citizens to select which management system, council-mayor or council-manager, would best serve their needs. We encourage you to allow the democratic process to happen and let the people have their say.

Thank you for the opportunity to offer testimony supporting Committee Report No. 16-95.

307A KAMANI STREET, HONOLULU, HI 96813 | 808/275-6275
HAWAII@COMMONCAUSE.ORG | WWW.HI.COMMONCAUSE.ORG
TWITTER.COM/COMMONCAUSEHI | FACEBOOK.COM/COMMONCAUSEHAWAII

Paia Inn

93 Hana Hwy

Paia, Hawaii, 96779

RECEIVED

2016 JUN -2 PM 1:35

OFFICE OF THE
COUNTY CLERK

Michael Baskin
michael@paiainn.com
808.870.1800
June 3, 2016

Aloha Maui County Council. I am Michael Baskin, owner of the Paia Inn and 12 other properties in the Paia area. As a real estate/business owner in Maui for over 40 years I have firsthand experience and documented examples to **strongly support** Maui's right to vote on the County Manager system of governance.

We are a good case study on why there is a need for a new County Manager structure. I've paid huge fines and hundreds of thousands in legal fees based on politically aligned favoritism. The Mayor appointed one of his friends as the Chair of the Maui County Charter Commission. The chair owns the property next to my Paia Inn which is leased to Flatbread Pizza. The chair did over $1 million dollars worth of construction work on their property without any building permit and no SMA permits or inspections. He completed the construction and received NO violations. Meanwhile, when I did construction on the Paia Inn **with** building permits I was hit with multiple violations and stop work orders because the permitting department claimed our SMA permit had expired, even though all departments had signed off and given us a building permit.

Keep in mind our buildings are right next to each other, yet we were treated differently simply based on the names attached to the projects. When we went to see the Mayor he said not to make any complaints against Flatbread. The Mayor also said he would get us meetings with Department Heads to resolve our issues. However, this never occured and we were repeatedly denied meetings with County officials. Maui needs a County Manager in order to see equal treatment for safety and compliance ordinances as the enforcement

is selective and unequal.

Another example of failure in our current form of governance is linked to the current deputy planning director. I almost hired her husband as a contractor, but once I discovered he was an unlicensed contractor giving building proposals we refused to give him an important job for a celebrity. I believe this has prompted her attacks on my properties and her husband's threats and assaults. The Deputy Planning Director then came on my property with 7 inspectors. The intensity and targeting of which is unprecedented and with nearly all the claims now deemed for work we we did not do. It has resulted in immeasurable losses to my business. I believe that without accountability there is a real danger of people overstepping their discretion and power. These problems could be solved with the a County Manager system of governance.

I hope that others will also come forward with their testimony over the next few months to prove there is absolutely good reason to find a more professional way of governing that helps business and citizens-not just the selective few that are politically aligned.

We could have better used these lost resources to improve our business and hire many employees and improve the local economy.

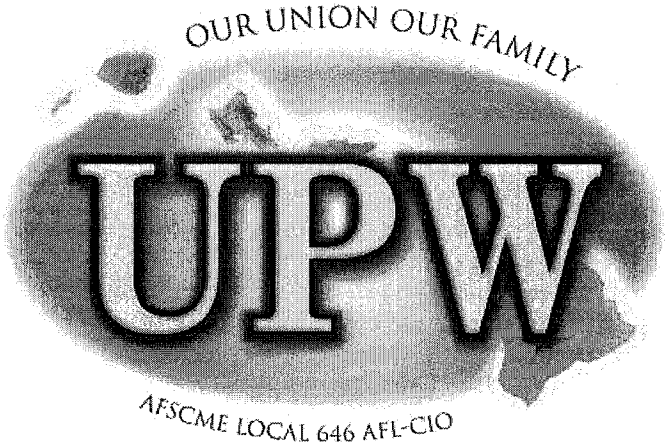
Currently, our County Departments have constant director turnover leading to inconsistent policies with each administration. This creates an unnecessary hardship on local business owners that are simply trying to comply. The Manager system will establish better qualified, long-term department directors that are no longer subject to election years. This change will take out a significant distraction in their job security and open potential for new initiatives not possible with shorter term directors. For accountability, citizens can expect more objective judgement of department functionality over mayoral affiliation. Additionally, business owners will have peace of mind that the rules they've built their organization under won't be undermined

by election cycles.

Politics stems from the debate on which policies are best to govern under in terms of budget and laws. The day-to-day operations that the County Departments are tasked with are not up for debate. However, the distribution of building permits are constantly tied back to politically aligned favoritism. Currently it is not *what* project gets approved, it is a battle of *whose* project gets approved. This has led to enforcement policies of punitive targeting instead of increasing the County Department's ability guide its citizens back into compliance. Example of how my personal business has suffered are attached for further analysis on why we need change in Maui.

By having a professional County Manager in charge that is selected based on education and skill there is more incentive for Maui County Departments to act independent of politics. Creating a more level playing field will help Maui's up and coming entrepreneurs be encouraged to enter into local business ventures and not leave their island home. Our future beyond sugarcane requires diversifying our economy with innovation based in a community mindset. Let's not lose this opportunity to allow the people to decide what is best.

Michael Baskin
Owner/Operator
Paia Inn



RECEIVED
2016 JUN -2 PM 3:06
OFFICE OF THE
COUNTY CLERK

Council of the County of Maui
Council Chamber
Kalana O Maui Building, 8th Floor
200 South High Street, Wailuku, Hawaii

DATE OF HEARING: Wednesday, June 3, 2016
TIME OF HEARING: 9:00 a.m.
PLACE OF HEARING: Council Chamber

TESTIMONY IN OPPOSITION TO RESOLUTION PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983) AS AMENDED, TO PROVIDE THAT THE MANAGING DIRECTOR SHALL BE APPOINTED BY THE COUNTY COUNCIL TO FUNCTON AS THE COUNTY'S CHIEF OPERATING OFFICER WITH THE ELECTED MAYOR RETAINING THE POWER TO REPRESENT THE COUNTY IN INTERGOVERNMENTAL RELATIONS, APPROVE OR VETO BILLS, AND NOMINATE MEMBERS OF BOARDS AND COMMISSIONS.

By Dayton M. Nakanelua,
State Director of the United Public Workers,
AFSCME, Local 646, AFL-CIO

My name is Dayton M. Nakanelua, state director of the United Public Workers, AFSCME, Local 646, and AFL-CIO (UPW). The UPW is the exclusive representative for approximately 12,000 public employees, which include blue collar, non-supervisory employees in Bargaining Unit 01 and institutional, health and correctional employees in Bargaining Unit 10, in the State of Hawaii and various counties.

The UPW strongly opposes the proposed change in the form of government from Council-Mayor to Council Managing Director. Our current form of democratic government is based on separation of powers to ensure that there is check and balance in government. This proposal will shift significant administrative powers to the County Council who will also have control over the

appointed Council Managing Director. In the long run, we believe that it is not in the best interest of the public to have a non–elected government official with tremendous administrative powers and ability to expend tax funds without being directly accountable to the tax paying public. For this reason and others the UPW opposes the proposed Resolution.

Thank you for the opportunity to submit this testimony.

BAGOYO
DEVELOPMENT
CONSULTING GROUP

RECEIVED
2016 JUN -3 AM 8:06
OFFICE OF THE
COUNTY COUNCIL

June 2, 2016

Honorable Robert Carroll, Chair
And Members of the Land Use Committee
Maui County Council
200 S. High Street
Wailuku, HI 96793

Subject: Proposed Waiale Affordable Housing Project Pursuant to 201H-38, HRS
Located at Waiale Road, Wailuku, HI
TMK: (2) 3-5-002:012 por (LU-2)

Dear Chair Carroll and Committee Members:

First, in behalf of the applicant I want to thank the committee for the support of our proposed Waiale affordable housing project that will help to meet the critical housing need of Maui's working families.

It has recently come to our attention that 201H project may have to comply with the requirements of Chapter 104-2, HRS. Based on our review of HRS 104-2 applies only to *"public work "*projects and for which State or County funds are being used. Our proposed Waiale affordable housing project is a privately-owned project and it is privately funded and will not use any State or County funds. In order to avoid potential questions of the applicability of Chapter 104-2 HRS on our Waiale project, we humbly ask the committee's consideration to include the following exemption to give clarity that HRS 104-2 does not apply to our 201H, HRS Waiale affordable housing project:

> **EXEMPTION FROM 104-2, HRS: An exemption from Chapter 104-2, HRS, <u>Applicability, wages, hours, and other requirements</u> under this chapter, shall be granted to exempt the project from 104-2, HRS.**

Thank you and we sincerely appreciate your favorable consideration to our above request and we are available to respond should you have any questions.

Sincerely,

Vince Bagoyo

Cc: Waiale Road 201, LLC
Mr. William Frampton

1500 KILINOE PLACE
WAILUKU, HI 96793
(808)357-3842
VBAGOYO-DEVGROUP@HAWAII.RR.COM

Office of the County Clerk at county.clerk@mauicounty.us
Council of the County of Maui
NO.16-95

June 3, 2016

I am in favor of putting the Special Committee on Governance's recommendation supporting a form of council-manager government on the ballot in November.

.

I would like to see a Managing Director appointed by the County Council who will be responsible for the County's daily operations, the appointment and removal of department heads, and the implementation of County policy.

I want to see the County Manager initiative on the ballot this November.

Marilyn McAteer
4790 Lower Honoapiilani Road,
Lahaina HI 96761
alohaoceanus@yahoo.com
808 633-4572