M I N U T E S

of the

COUNCIL OF THE COUNTY OF MAUI

July 15, 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, JULY 15, 2016, BEGINNING AT 9:02 A.M., WITH CHAIR MICHAEL B. WHITE PRESIDING.

CHAIR WHITE: This meeting of the Council of the County of Maui will please come to order, excuse me.

Mr. Clerk, will you please call the roll.

ROLL CALL

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

EXCUSED: COUNCILMEMBER G. RIKI HOKAMA AND VICE-CHAIR DONALD S. GUZMAN.

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

COUNTY CLERK DENNIS A. MATEO: Mr. Chair, we have eight Members present and one excused. Quorum is present to conduct the business of the Council.

CHAIR WHITE: Thank you, Mr. Clerk. And before we go to Ms. Cochran for her remarks, I'd like to explain the decorations behind me. And we had a absolutely wonderful service yesterday afternoon for Elmer Cravalho, who was the Mayor and the, and the Board of Supervisors' Chair during the time when this building was constructed. And it was felt yesterday that it was appropriate for us to leave these memorial wreaths in the room, because this was his room as much as it was anybody else's.

And being such a, a very positive force of the development of Maui County, I felt it was appropriate to leave them here for our meeting today following the Mayor's proclamation that today is "Elmer Cravalho Day". So following the meeting, these wreaths will be moved down to the lobby. But, I felt that it was appropriate for us to continue his, his, this in his memory just for our meeting this morning.

So with that, Ms. Cochran.

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

OPENING REMARKS

The opening remarks were offered by Councilmember Elle Cochran.

CHAIR WHITE: Thank you, Ms. Cochran.

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

PLEDGE OF ALLEGIANCE

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

CHAIR WHITE: Thank you. And Members and everyone in the audience, will you please turn off your cellphones or put them on silent mode. And with that, we'll proceed with this morning's testimony.

I'm missing something. Mr. Clerk.

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

Individuals who wish to offer testimonies from these locations should now sign up with the District Office staff. Individuals who wish to offer testimony in the chamber,

please sign up at the desk located on the eighth floor lobby just outside the chamber door. Testimony at all locations is limited to the items listed on today's agenda.

And pursuant to the Rules of the Council, each testifier is allowed to testify for up to three minutes with one minute to conclude if requested. And when testifying, please state the name and, your name, and the name of any organization that you may represent.

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

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

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

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

COUNTY CLERK: Mahalo.

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

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

COUNTY CLERK: Thank you.

Mr. Chair, we have five individuals who have signed up to, to testify in the chamber this morning. The first person to provide testimony is Mr. Jim Smith, testifying on County Communication 16-144, Committee Report 16-110, Committee Report 16-111. Mr. Smith will be followed by Sandy Ryan.

PRESENTATION OF WRITTEN OR ORAL TESTIMONY

MR. JIM SMITH (testifying on County Communication No. 16-144, and Committee Reports 16-110 and 16-111):

Aloha, Chair. Aloha, Members.

CHAIR WHITE: Good morning.

MR. SMITH: This is, this is very exciting, because this is why we have a legislative body. And it's the tension between our Charter, okay, and the individual knowing it all that, that makes us a community, and that's where we are today. And we have items on this agenda that change that Charter, or pose to change that Charter on the assumption there's something wrong with the structure, and there is nothing wrong with the structure of our Charter, 1967 forward.

We've had good people, it's been changed 130 times. It's, we've had 40 changes from a Council, we've had 88 from a commission. A commission is the people, the only legitimate voice of the people in Charter revisions in terms of the equation, other petitions are there.

So, I bring to your attention the fact that, on December 8, 2014, the agenda for the PIA Committee had items 18, 118, and had item 126; and this all had to do with the Wailuku Post Office demolition. And Chairperson White was very offended by it, and others were as well, and he proposed an investigation of misuse. And that was a mistake, because this is an agency, this is a legislative branch and there was an abuse of power that needed to have vetting in a circuit court. There should never have been a claim that there was misuse coming from this body. What happened then was, you had 12 requests for, for special counsel, and the issue went away.

But, the issue remains legislative. Decision making has to trump executive. And the Mayor said I'm sorry, and he changed it into a personal issue. But it never was a personal issue, because we rely upon government, and that means you have an office. And that's not you as a person. It's your office you must respect. And that showed very, very much a disrespect for the office; the demolition. And it wasn't even about a misuse of funds at the governmental level. So, I would just keep that in mind.

And here's the, the evidence that you're a legislative body, and you stay in that frame, and you don't take any missteps because of what you're told or how you're treated. You're not a board of directors, you're not a CEO here. You're the representatives who have to stand guard, and if you don't, nobody else will. And we'll be in dysfunction as we are in some places today.

So I would ask you to be very strong, and take this matter of this 16-144, which is the plan for the Auditor. Take it to Committee, and maybe take off the issue of the Wailuku as being a financial issue. Maybe just take it off his, his program, because the issue is legislative now. Thank you very much. That's my testimony on the county communication.

CHAIR WHITE: Thank you. Please proceed.

MR. SMITH: I will now follow with this testimony on Committee Report 16-10 *[sic]*. Now, this Committee Report, okay, I think is a misstep, okay. I think it needs to either go back to Committee or it needs to go away, okay. Because, number one, we've got too many lawyers. We don't need a lawyer. We need a legislator. We need legislators that don't need lawyers who are advanced in intellect, who will lead you wherever you want to go, and that will be in a circle and we'll get nothing in terms of legislation. So, you don't need to hire a special counsel, or you don't need special services, or anything. We have a structure. You can hire special counsel on special need.

You have an Office of Council Services that is to advise you. If the Director of the Office wants to hire a consultant, he gets it financed from the County Council in a budget, and it's done. So, you don't need to change the Charter to get more lawyers hired, from my perspective. So, I think this could be filed easily, easily filed with no sweat.

The second one is a little more difficult, okay. And that's 16-10 *[sic]*, all right. And this brings to mind a lawyer, because there is a change that is sought to be innoculous *[sic]* and it says except as provided in the Charter. And what it does, it repeals restrictions on Council. So, the restriction on Council say basically never interfere. And this says, never except as provided by the Charter, and then you guys can come up and say, well let's do this, let's do that, let's do this.

So in effect, you're changing the structure of government. And you guys rejected that heroically before. And I'd, I'd ask you to reject this less heroically, because it took a minute to come out, and it's serious. So, go back to Committee and rethink this thing. There's no need to change something that's working, and something that's good, and something's been around and connected to our culture for three generations. And that's how culture is confirmed; not one generation, not two, three at a minimum and that comes from Margaret Mead. And, she's a, she was a very, very astute person. She studied Micronesia, all that kind of stuff. That is where her conclusion, culture is confirmed by three generations.

Our Charter, three generations, leave it alone. There's no problem. My perception from Generation X, no, I don't know what generation I'm from, but I know I'm old. That ends my testimony.

CHAIR WHITE: Thank you, Mr. Smith.

Members, is there any need for clarification of his testimony? Seeing none, thank you for being here, and thank you for sharing your thoughts.

MR. SMITH: Thank you.

CHAIR WHITE: Mr. Clerk.

COUNTY CLERK: Next testifier is Sandy Ryan, Program Director, Maui Economic Development Board, testifying on Committee Report 16-09 *[sic]*, to be followed by Mike Moran.

MS. SANDY RYAN, MAUI ECONOMIC DEVELOPMENT BOARD (testifying on Committee Report 16-109):

Good morning, Council Chair--

CHAIR WHITE: Good morning.

MS. RYAN: --Councilmembers. I'm here representing Maui Economic Development Board, and specifically Jeanne Skog, our President and CEO, who isn't able to be here today. And I'd like to read her testimony for you this morning.

Dear Council Chair White and Members of the Maui County Council,

I am Jeanne Skog, President and CEO of the Maui Economic Development Board. First of all, I would like to thank you for this opportunity to testify on the ordinance before you.

In my previous testimony on this subject, I outlined the importance of putting this measure in the context of the origins and history of the research and technology park. I described how our leaders at that time clearly recognized the vulnerabilities built into our economy and the need to diversify. The future clearly demanded new, innovative, and enriching career opportunities for our community. Putting our shoulders to the wheel, we forged dynamic partnerships – creating a consensus to act and develop a bold plan to invest in our residents, especially our children. That vision ultimately crystalized into the reality of the Maui Research and Technology Park. What we have achieved over the last 30 years would not be possible without the support of the public, the private sector, and local government working together.

The basic vision and values have not changed through this ordinance. The ordinance you have before you moves forward the idea and reality of the park as a community. The emphasis continues to be on research and development

activities or as we refer to them – STEM activities. These activities are first and foremost business activities that build prosperity for our families and give our children new opportunities for entrepreneurship and careers. They are integrated into workforce education programs that impact thousands of students from throughout the County – Lanai, Molokai, and Maui.

The update of the Park's Master Plan is an important step in sustaining the Park's vibrancy. As I have emphasized previously, the Master Plan update is the result of extensive research that makes sense of what companies and entrepreneurs are looking for today. MEDB's own work with companies, their leaders, entrepreneurs, and similar tech communities today confirms the wisdom of what is being proposed. The continued success of the Park rooted in its over 30-year history of building opportunities and fulfilling dreams is as vital now as it was then. Thank you very much for your attention.

CHAIR WHITE: Thank you, Ms. Ryan.

Members, any need for clarification of the testimony?

MS. RYAN: Mahalo.

CHAIR WHITE: Seeing none, thank you for being here this morning, Ms. Ryan.

Mr. Clerk.

COUNTY CLERK: Next testifier is Mike Moran, President, Kihei Community Association, testifying on Committee Report 16-109. To be followed by Garrett Marreno *[sic]*.

<u>MR. MIKE MORAN, KIHEI COMMUNITY ASSOCIATION (testifying on Committee Report 16-109)</u>:

Good morning, aloha, Chair.

CHAIR WHITE: Good morning.

MR. MORAN: Happy Aloha Friday to everyone. Mike Moran for the Kihei Community Association on 16-109.

We, KCA had originally prepared testimony, which was basically the same testimony we had given to the Planning Commission, to your Land Use Committee, show, you know, reporting statistics; 1200 homes, a approximately 300-room hotel, much

commercial, translating into thousands of additional cars. And our question always is, where is the infrastructure? And we always quote from the Kihei-Makena Community Plan about the concurrency of infrastructure with building. And in our opinion, it's, it's not happening. We see the building; we don't see the infrastructure concurrently.

But, instead of going, reading all those statistics that you guys know well, I'm just going to ask you to listen to two of your own Members. And I'm certainly paraphrasing, but I'm not quoting. One, I would ask you to listen to your money man. And, excuse the, perhaps crude way your Budget and Finance Committee Chair, who has stated at least, as our understanding a number of times, every time we approve something and we don't condition appropriate required infrastructure to go with it, it means that we're going to pay for it, citizens are going to pay for it.

And we seem to follow that same pattern. And, that's your decision whether who should pay for the, we're going to need these roads. As again, as I understand, Mr. Hokama saying it, you're going to need the infrastructure. You're going to keep building, and all at once you're going to have chaos without infrastructure. So I ask you to please consider what he's often said when votes are taken.

The other, remember, I would ask you to talk to is our South Maui representative, Don Couch. We had a prior, not this large, but a large development, and we had asked for the same thing. Where about the roads. Conditions were not put in, and Member Couch has kept give us, giving us good communication saying he's now working with the developer to get them to voluntarily do it. The answer is no. We're already going ahead, we're not going to do it, so it doesn't happen.

We ask you to please put a condition in for a complete North-South Collective Road to go concurrent with this huge project. We think the project is good. We've had good communication with R&T Park for many, many years. We have no problems with them. They've been most cooperative. But we need this road put in. Thank you very much. Aloha.

CHAIR WHITE: Thank you, Mr. Moran.

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

Mr. Clerk.

COUNTY CLERK: Next testifier is Garrett Marrero, to be followed by Courtlandt Gates. Mr. Marrero, CEO, Maui Brewing Company, to testify on Committee Report 16-109.

MR. GARRETT MARRERO, MAUI BREWING COMPANY (testifying on Committee Report 16-109):

Aloha. Thank you for the opportunity to submit testimony today. And, appreciate all your support over the years as well.

So we, we are a tenant and owner in the Maui Research and Technology Park. We've--

COUNCILMEMBER VICTORINO: Your name please.

MR. MARRERO: Oh, I'm, I'm sorry. Garrett Marrero, Maui Brewing Company; owner, founder, CEO, janitor yesterday. Anyhow, adjust.

You know, we're, we're in the midst of a rapid expansion of course. And, you know, we're creating jobs in the community. And one founding principle of our company has always been sustainability. The, the current agreement that's, the current proposal is actually something that will really help us to persist and to really support that sustainability measure.

Really, for us the setbacks and I think all of the initiatives within this plan are important. But, being able to utilize even some of our own land that we purchased in order to put up things like solar-thermal, solar PV, carports, and other shade structures is what, you know, really directly affects us. And then when I learned it also impacts so many other tenants in the park, like with the school and even bringing more tenants or more business and homes, you know, that's something that I really wanted to get involved in and, and show support for.

You know, I think, I know there are a number of projects that are job creating projects right now, whether it be directly in construction, or once completed, in employment that are being held up. I heard a number somewhere that to the tune of 30, $35 million worth of investment in Maui County, in jobs that are being held up by not being able to move forward due to the way the park is currently structured.

So, you know, I wanted to be brief, so and I'll, I'll stop there. But, if any questions, I'm always available to you and I do appreciate everything you all do. So, thank you so much. Aloha.

CHAIR WHITE: Thank you, Mr. Marrero.

Members, any need for clarification?

Seeing none, Mr. Clerk.

COUNTY CLERK: Next testifier is Courtlandt Gates, testifying on, on County Communication 16-147, to be followed by Rosemary Robbins.

MR. COURTLANDT GATES (testifying on County Communication No. 16-147):

Aloha, Chair and Councilmembers.

CHAIR WHITE: Good morning.

MR. GATES: My name is Courty Gates. My wife and I, this is on the subject of the acquisition of four lots in the Haiku Sugar East Subdivision in Haiku. My wife and I own Lot 2, which is in the middle of the land proposed for, for purchase. In some ways, we may be partially responsible for the Open Space initiative. Until we bought our land, most people didn't know it was for sale, and those that did may not have thought the parcels would ever sell.

We are building a home and we are going to live there. We are going to put livestock on the land to remove non-native cane grass and to restore the soil. We're going to gradually restore native species. For the past year and a half, we've been down on our land in that area almost every day. And with respect, we know better than anyone in this room the conditions there. It is not a pastoral park. And it has gotten worse since the death of Alex Bode, who was the caretaker in the area.

We notified A&B when a fire was started on Lot 4, when gates were destroyed at Nahele Road, and on Lots 1 and 4, when people were disassembling cars in Konanui Gulch, I'm sorry, in East Kuiaha Gulch, and when gunshots were fired in Konanui Gulch; and it wasn't hunters. We called Maui PD and Maui Fire to notify them of a public safety issue, when hundreds of people crossed our land and crowded on the cliff edge at Wai Ki Kena Park during this year's World Surfing League competition. We notified the State Historic Preservation Division and DOCARE about serious damage to a pre-contact cultural site by trail bikes and ATV's.

And we're not just talking. We have cleaned tons of garbage, including hundreds of tires and a burned vehicle out of our portion of Konanui Gulch. We have at least two more vehicles to remove. We have fenced off areas most impacted by dirt bikes to permit the land to heal.

We plan on living there for the rest of our lives. We want the same thing that everyone here wants; protection of the natural and cultural resources that make this place so incredible. Our future and our home, and the public experience of the area will depend on how the purchased lands are managed. Because of the central location of our land, we will affect the public experience of the Open Space. It makes sense for all stakeholders to be at the table when planning for the land use takes place. That's what I'm respectfully asking the Council for; a seat at the table. I'm submitting my testimony in written form as well.

Remember, the legacy of this Council is not buying the land, it is creating an incredible place for the public, and protecting natural, natural and cultural resources. Buying the land is just a step. The hard work is cleaning up the land, protecting it for future generations, and keeping it safe. Mahalo for your time and for giving this remarkable land your thoughtful consideration and care.

CHAIR WHITE: Thank you, Mr. Gates.

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

MR. GATES: Thank you.

CHAIR WHITE: Mr. Clerk.

COUNTY CLERK: Next testifier is Rosemary Robbins, testifying on Committee Report 16-110, to be followed by Gene Zarro.

MS. ROSEMARY ROBBINS (testifying on Committee Report 16-110):

Good morning, Chairman. Good morning, everybody on the Council, and just everybody at large.

I just want to say thank you for that wonderful introduction to history that happened under this ceiling last night. That was just fantastic.

Mr. Hokama, I've met your father often on paper, and it was just very nice to hear. I haven't spent a lot of time on Lanai, but to hear you talk about him in a way that most of us, thank God, can relate to. Just good relationships with our parents, so thank you for that.

This morning I'm here to talk about the item from Policy and Intergovernmental Affairs Committee. I came down and went through everything that was in the binder. And I noticed that the declaration on today's agenda talks about eight different directors; nowhere the Water Director that's in view of requiring Council approval of the Mayor's appointment of those directors.

Then there is another category B that says that there should be four directors that the Council would have a hand in removing; nowhere the water mentioned in there.

Meanwhile, we've been up to our eyeballs and then some in dealing with including the State Commission on Water Resource Management, including this week. Day before yesterday, the Water Director was here, here with his attorney and said that that would be handled in a session where the public didn't have access to it. Something's terribly, we're talking about water, by which all things find life in the Constitution insanity; included insanity. So, we need to make sure that we do more on that.

So, I did pick out some other pieces. One of them is from, related to this, and it's from one of the Councilmember's in July of 2015. Talks about the Board of Water Supply. Talks about a lot of the history in there. And it gives recommendations that will be wisely applied to the future; shall provide, not the past. All we have to do is take a look at Oahu and see where we're going here when we're only quoting 1992 decisions from Oahu. Something's terribly wrong with that.

Okay, so also, picked up out of those materials that were there was a request from Mr. Victorino for transmittal of legislative proposal relating to proposed Charter amendments. I'm talking to, one more minute, if I may.

CHAIR WHITE: Please proceed.

MS. ROBBINS: Thank you. And this resolution says very clearly in here that the Director of Water Supply is one of the category's that needs to be addressed; not addressed in the agenda presentation today. Left foot, right foot.

And then we also need to be aware that there was a request to have guidance, attorney's guidance. And over on page 11 of this proposed deal, it says water

should, water supply shall have. So is it or isn't it one of our Committee's, Departments, is it or isn't it to be included since it's the source from which all things find life?

COUNTY CLERK: Four minutes.

MS. ROBBINS: We need to do better. 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.

COUNTY CLERK: Next testifier is Gene Zarro, on behalf of the South Maui Learning Ohana, testifying on Committee Report 16-109, to be followed by Lucienne de Naie.

MR. GENE ZARRO (testifying on Committee Reports 16-109):

Good morning, Chair.

CHAIR WHITE: Good morning.

MR. ZARRO: Good morning, Councilmembers. I have a, a great comment for you guys. You know, Hawaii is unique in the Country in that the kuleana for public education is usually held at this level except in Hawaii; it's at State level.

But, Maui is unique in Hawaii, because this Council has supported, and have always listened and given me your time when I've come to ask about support for public education on the island of Maui. So, I want to thank you for that, because I know this is not necessarily your initial responsibility. But, it is something that you all care for.

So, with that said, I want to, obviously, I am in very much support of 16-109. Our $20 million project is ready to drop the permits in this week. We're ready to go. Thank you again for making that possible. We are proud to say we'll be using the Carpenter's Union and our great local staff to, to build this facility. And there are many, many public school students on our waiting list at every single grade level that

need more space. And we are happy to provide that. So, thank you for that aspect of it.

And of course you know the immense pressure on the citizens of Maui to try and find affordable housing and affordable rentals. I, when I walk through the old neighborhoods of Kihei and I see seven, eight cars in the driveway, I know that that is not a family that has a used car lot in their park, in their yard. This is a family that is serving three or four families in a residence that was designed for one family. And so we need to alleviate the pressure on our citizens of Maui with affordable housing, affordable rents, and this 1250 housing units will go a long way to make that happen. Thank you very much.

CHAIR WHITE: Thank you, Mr. Zarro.

Members, any need for clarification?

Seeing none, Mr. Clerk.

DEPUTY COUNTY CLERK: Next testifier is Lucienne de Naie, on behalf of, of Maui Tomorrow testifying on County Communication 16-147, Committee Report 16-109, and Committee Report 16-111.

MS. LUCIENNE DE NAIE, MAUI TOMORROW (testifying on County Communication No. 16-147, and Committee Reports 16-109 and 16-111):

Mahalo. Lucienne de Naie speaking on behalf of Maui Tomorrow. It was very nice to attend the ceremony here last night. What a, what an uplifting experience, and it's nice to have the presence still here.

On item 16-147, this is a resolution transmitting to Committee the purchase of the four lots, what's called Haiku Sugar East Subdivision, or the Hamakua Coastal Lands. Just want to express the support of Maui Tomorrow and many of the other organizations that couldn't be here this morning who have advocated for this. Very visionary decision by your part and we look forward to offering more input when it comes to Committee. So, thank you very much for pursuing this with the Mayor and moving it forward.

Let's see, my second item is 16-111, I guess. This is concerning the resolution to place on the Charter amendment, on the ballot, for the County Council being able to have its own legal representation. As many of you know, I've been coming to this chamber for like 20 years, so I've seen a few issues come and go.

And, a number of them have really required the County to have its own independent counsel. It is a matter of, I guess, practicality sometimes, because as the bible says, you know, it's hard to serve two masters. So, the Corp. Counsel being under the Mayor's Office, when the Mayor and Council are getting along, that is really great. But, if there are, if democracy is in action and we do have a tug one way and a tug the other, I think it's very nice that this Council is grown up enough to get its own legal advice from its own person who is part of its own Council Services.

We have a number of qualified attorneys in Council Services. They've always hired great attorneys down there. So, it seems like this is something that would benefit this Council in the integrity of their actions for the public. So, I would support your consideration of that. And Maui Tomorrow, as an organization, supports your consideration of that.

On to item 16-109. Are we just starting over again with each item or how, how is this going here? Okay, thank you.

This is the first reading of bill to grant a, a special district zoning, Community Plan Amendment and rezoning from Project District 6, which was the R&T Park in our community plan, our South Maui Community Plan, to the Maui Research and Technology Park. And this concerns around 400-acres in Kihei.

Maui Tomorrow has been very supportive of the general intent of this project. It is good to have housing and commercial activities and, and a, a, a broadening of our economic base by including knowledge industries. It's all good to put those things together. However, we do know that there will be impacts from a project like that.

We know that there will be drainage impacts. Just this morning, Kulanihakoi Gulch, which runs between the new high school and the proposed Piilani Promenade, yesterday it was flooded and muddy water was rushing into the ocean. Why? That water just comes from above, doesn't have any place to go on the way and has a very narrow channel near the ocean. This project has the same thing, just a different gulch. Waipuilani Gulch, same thing; major flood prone area right below it.

It also has traffic impacts. There's going to be, Phase 1 is going to have, you know, 900 units, I think, 800 and something units, plus quite a bit of the commercial and a new hotel.

Yet, there is nothing in, this is the final review, this, this use to be a project district, which means that the Planning Commission would get one more bite at the apple to put on conditions as a project district phase 2 review. Now, it will not be a project

district. It will just be this special R&T Park District on its own. And, you know, as its own like community. So, this is the last review. All permits after this will be ministerial. And ministerial permits, as we well know, do not require compliance with our community plan.

Our South Maui Community Plan is very clear. It says, everything in the community plan that's in our urban growth boundaries here is, is an acceptable place to develop if there is concurrent infrastructure.

I think the thing to weigh is, is there concurrent infrastructure for the size of this project, coupled with all the other projects that are surrounding it? Excuse me, may I have a little time to conclude? There are no conditions to, to, to consider this at all.

I would urge you, in the spirit of Elmer Cravalho, who always made sure he got enough for the people in every deal that he inked, and I, I know many of you who knew him knew that. And, he wasn't afraid to speak up and say there needs to be more. I, I'm for this, but there needs to be more for the people here. All you need to do is just take the language from the Kihei Community Plan about concurrency and put it in as a condition, that there needs to be concurrent infrastructure at each phase of development. Mahalo.

CHAIR WHITE: Thank you, Ms. de Naie.

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

Mr. Clerk.

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

CHAIR WHITE: Please introduce yourself, and proceed with your testimony.

<u>MR. STEVE PERKINS, MAUI RESEARCH & TECHNOLOGY PARK (testifying on Committee Report 16-109)</u>:

Good morning, Mr. Chair, Members of the Council. My name is Steve Perkins. I'm the Project Manager for the Maui Research and Technology Park. I thought it might

be useful, as it's been a while since I've appeared before you folks to, to layout the timeline of updating our masterplan.

When we started back in 2008, when we were looking at ways that we could update the plan for, for better absorption and growth of the park. And, that took, that took amount of time. And in that time, we, we made sure that we aligned with every one of the, then published guidelines to the Kihei Community Association had published. We met with them and other community groups at the time, proceeded with a, a draft EIS.

Finally, I asked the project exactly as presented today for your approval, was adopted into the Maui Island Plan in 2012. We had unanimous approval of the project by the State Land Use Commission, with 28 conditions, including various things for infrastructure, traffic, special historic sites, etc. At that point we went onto the Planning Commission, unanimous approval by the Planning Commission with recommendation for approval by the Council. Appeared before Councilmember Carroll's Land Use Committee last year and this past December, also with unanimous approval of the six additional conditions, including ones for historic sites.

And in traffic, worked through the process. It's a long process getting everything together to appear before you today. It's been eight years. I think it's, in my mind, time that we, we move this project forward and approve the zoning. And I, I appreciate your assistance with that request.

CHAIR WHITE: Thank you, Mr. Perkins.

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

Mr. Clerk.

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

MS. LONO: The Hana Office has no one waiting to testify.

COUNTY CLERK: Thank you.

Lanai Office, are there any additional testifiers?

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

COUNTY CLERK: Thank you.

Molokai Office, are there any additional testifiers?

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

COUNTY CLERK: Thank you.

Mr. Chair, there is no other individuals in the District Offices, nor the chamber who wish to offer testimony at this time.

CHAIR WHITE: Thank you, Mr. Clerk.

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

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: Thank you.

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

1. Jeanne Unemori Skog, Maui Economic Development Board;
2. Courtlandt Gates;
3. Sam Bittner; and
4. Alice Shelley.

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

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: Thank you. So ordered.

Mr. Clerk, let's proceed.

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

MINUTES

The minutes of the Council of the County of Maui's public hearings of April 27, 2016 and May 13, 2016 were presented at this time.

CHAIR WHITE: Mr. Victorino.

COUNCILMEMBER VICTORINO: Thank you, Mr. Chair.

I MOVE TO ACCEPT THE PUBLIC HEARING MINUTES OF APRIL 27, 2016, AND THAT OF THE PUBLIC HEARING OF MAY 13, 2016.

COUNCILMEMBER COUCH:

SECOND.

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

Mr. Victorino.

COUNCILMEMBER VICTORINO: No discussion. Thank you, Mr. Chair.

CHAIR WHITE: Members, any further discussion on the minutes? Seeing none, all those in favor of the motion 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 zero "noes", one "excused"; Vice-Chair Guzman.

Mr. Clerk.

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

COMMITTEE REPORTS

COMMITTEE REPORT
NO. 16-106 - BUDGET AND FINANCE COMMITTEE:

Recommending that the correspondence dated November 25, 2015, from the Budget Director, transmitting the following, be FILED:

1. A proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2016 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO ESTIMATED REVENUES; DEPARTMENT OF HOUSING AND HUMAN CONCERNS, HUMAN CONCERNS PROGRAM, (MAUI FAMILY LIFE CENTER, KA HALE A KE OLA); TOTAL OPERATING APPROPRIATIONS; AND TOTAL APPROPRIATIONS (OPERATING AND CAPITAL IMPROVEMENT PROJECTS)";

2. A proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2016 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO ESTIMATED REVENUES; DEPARTMENT OF HOUSING AND HUMAN CONCERNS, HUMAN CONCERNS PROGRAM; TOTAL OPERATING APPROPRIATIONS; AND TOTAL APPROPRIATIONS (OPERATING AND CAPITAL IMPROVEMENT PROJECTS)";

3. A proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2016 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO ESTIMATED REVENUES; COUNTYWIDE, OTHER PROJECTS, ACQUISITION OF SPACEMAX SHELTERS; TOTAL CAPITAL IMPROVEMENT PROJECT APPROPRIATIONS; AND TOTAL APPROPRIATIONS (OPERATING AND CAPITAL IMPROVEMENT PROJECTS)";

4. A proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. 4228, BILL NO. 35 (2015) RELATING TO THE ISSUANCE OF GENERAL OBLIGATION BONDS OF THE COUNTY OF MAUI (ACQUISITION OF SPACEMAX SHELTERS)"; and

5. A Certification of Additional Revenues for FY 2016, dated November 25, 2015, for $1,255,582 in Carryover/Savings from the General Fund.

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, with no objections, I request 16-107 to be brought up at this time.

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: Without objections, so ordered.

Mr. Clerk, please bring up 16-107.

COMMITTEE REPORT
NO. 16-107 - BUDGET AND FINANCE COMMITTEE:

Recommending that the correspondence dated December 22, 2015, from the Budget Director, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2016 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO ESTIMATED REVENUES; DEPARTMENT OF FINANCE, COUNTYWIDE COSTS; TOTAL OPERATING APPROPRIATIONS; AND TOTAL APPROPRIATIONS (OPERATING AND CAPITAL IMPROVEMENT PROJECTS)", be FILED.

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA:

CHAIRMAN, I MOVE THAT COMMITTEE REPORT 16-106 AND 16-107, WITH ITS RECOMMENDATIONS, BE ADOPTED.

COUNCILMEMBER VICTORINO:

MR. CHAIR, I SECOND THE MOTION.

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

Mr. Hokama.

COUNCILMEMBER HOKAMA: No further discussion.

CHAIR WHITE: Members, any 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", one "excused"; Mr. Guzman.

Mr. Clerk.

COMMITTEE REPORT
NO. 16-108 - LAND USE COMMITTEE:

Recommending the following:

1. That Bill 73 (2016), entitled "A BILL FOR AN ORDINANCE GRANTING ROYAL KAANAPALI HOLDINGS, LLC, A CONDITIONAL PERMIT TO ALLOW UP TO 24 RESORT-RELATED OR COMMUNITY-SPONSORED SPECIAL EVENTS PER YEAR WITHIN THE A-2 APARTMENT AND R-3 RESIDENTIAL DISTRICTS, FOR PROPERTIES IDENTIFIED AS PORTIONS OF TAX MAP KEY NUMBERS (2) 4-4-008:009, (2) 4-4-008:010, AND (2) 4-4-013:003, KAANAPALI, MAUI, HAWAII," be PASSED ON FIRST READING and be ORDERED TO PRINT; and

2. That County Communication 15-150, from the Planning Director, be FILED.

CHAIR WHITE: Mr. Carroll.

COUNCILMEMBER CARROLL: Thank you, Chair.

I MOVE TO ADOPT THE RECOMMENDATIONS IN LAND USE COMMITTEE REPORT 16-108.

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. The five-year Conditional Permit granted by this bill would allow Royal Kaanapali Holdings, LLC, to hold a maximum of 24 resort-related or community-sponsored special events per year at the Royal Kaanapali Golf Course and the Kai Golf Course on four specified sites ranging from two to three acres each.

Past events include the annual daytime Keiki Tilapia Fishing Tournament to benefit the Maui United Way, the Kaanapali Fresh culinary festival, and other outdoor events.

Conditions attached to the permit include a requirement that special events on Parcel 10 end by 6:00 p.m., while special events on the other two parcels shall end by 10:00 p.m. Lighting and fire safety conditions are also incorporated.

I ask for the Council's support on the recommendation to pass the revised proposed bill on first reading, and filing of the communication.

CHAIR WHITE: Thank you, Mr. Carroll.

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".

Mr. Clerk.

COUNTY CLERK: Mr. Chair, for the record, BILL 73 (2016).

COMMITTEE REPORT
NO. 16-109 - LAND USE COMMITTEE:

Recommending the following:

1. That Bill 74 (2016), entitled "A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. 2641 (1998), KIHEI-MAKENA COMMUNITY PLAN AND LAND USE MAP, FROM PROJECT DISTRICT 6 (R&T PARK), PUBLIC/QUASI-PUBLIC, AND AGRICULTURE TO MAUI RESEARCH & TECHNOLOGY PARK FOR PROPERTY SITUATED AT KIHEI, MAUI, HAWAII," be PASSED ON FIRST READING and be ORDERED TO PRINT;

2. That Bill 75 (2016), entitled "A BILL FOR AN ORDINANCE AMENDING TITLE 19, MAUI COUNTY CODE, TO ESTABLISH A NEW CHAPTER 19.38, MAUI COUNTY CODE, FOR MAUI RESEARCH & TECHNOLOGY PARK SITUATED IN KIHEI, MAUI, HAWAII," be PASSED ON FIRST READING and be ORDERED TO PRINT;

3. That Bill 76 (2016), entitled "A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM KIHEI RESEARCH AND TECHNOLOGY PARK DISTRICT AND AGRICULTURAL DISTRICT TO MAUI RESEARCH & TECHNOLOGY PARK DISTRICT (CONDITIONAL ZONING) FOR PROPERTY SITUATED AT KIHEI, MAUI, HAWAII," be PASSED ON FIRST READING and be ORDERED TO PRINT;

4. That the County Clerk RECORD the unilateral agreement; and

5. That County Communication 14-311, from the Planning Director, be FILED.

CHAIR WHITE: Mr. Carroll.

COUNCILMEMBER CARROLL: Thank you, Chair.

I MOVE TO ADOPT THE RECOMMENDATIONS IN LAND USE COMMITTEE REPORT 16-109.

COUNCILMEMBER COUCH:

MR. CHAIR, I SECOND.

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

Mr. Carroll.

COUNCILMEMBER CARROLL: Thank you, Chair. Your Committee met on June 17, July 1, and December 16, 2015, to consider the proposed bills.

Your Committee notes portions of the subject property are owned by separate entities, all of which are represented by Maui R&T Partners, LLC for purposes of the proposed land use changes. Maui R&T Partners, LLC currently manages the Maui Research and Technology Park and is responsible for the project.

Your Committee further notes that Maui R&T Partners, LLC proposed to transform the existing and operational Maui Research and Technology Park located on 150 acres in multi-use project consisting of a total of 406 acres. The project would include an employment core, "knowledge industry" expansion, a mixed-use village center, residential areas, and a network for open space and parks.

No more than 1,250 dwellings or dwelling units, including accessory dwelling units, and no more than 500 hotel rooms may be developed. Up to 2,000,000 square feet of new non-residential build-up area would be permitted, with a maximum total generated merchandising build-up area of 100,000 square feet, excluding hotels, eating and drinking establishments, and home-based businesses. Acreage allocations for districts within the Park are also defined.

The State Land Use Commission imposed conditions of approval to mitigate potential impacts of the construction, build-out, and operations phases of the project. According to its Decisions and Orders, the project expected to be substantially completed within 20 years of the 2013 Land Use Commission approval, with backbone infrastructure expected to be completed within 13 years.

Your Committee recommended conditions be added to the Change in Zoning bill relating to traffic improvements, preservation of archaeological sites and traditional beach and mountain access trails, the development of 100 residential workforce housing units for rent, and submittal of annual reports on the compliance with the conditions of zoning.

After an initial recommendation was made your Committee, Maui R&T Partners, LLC informed your Committee three landowners wish to withdraw from the project rather than sign the required unilateral agreement binding them to perform conditions of zoning attached to the project. Maui R&T Partners, LLC requested a proposed bill be revised to delete the four parcels associated with the three landowners, totaling

approximately 16 acres. The project area was thereby reduced to 406 acres to 390 acres.

I would note the delay in issuing a subsequent committee report is due to the complexities involved in obtaining the appropriate signatures and documentation from the various landowners to complete a satisfactory unilateral agreement.

I ask for the Council's support of the recommendations. Thank you, Chair.

CHAIR WHITE: Thank you, Mr. Carroll.

Members, any further discussion?

Mr. Couch.

COUNCILMEMBER COUCH: Thank you, Mr. Chair. And thank you, Mr. Carroll, for making sure that this gets through in, in as timely a manner as possible.

I just wanted to say that, you know, we have conditions in there for infrastructure. To some, it may not be enough. I kind of, I would love to see the North-South Collector Road be done at the same time. And I think it will be by the time Phase 1 gets finished. So, it is being concurrently done. North-South Collector Road is for all the people in, it's for all the people of Maui, but it greatly benefits all the people in South Maui, so it's understandable that that project is going to be paid for 80 percent by the Federal government and 20 percent by the County.

So, I feel confident that the traffic situations, by the time everything gets built, you know, if we were to approve this at the second and final reading, that doesn't mean all 1200 homes and everything will be done. It's, as Mr. Carroll says, it's going to be 20 years. So, I believe that we will have the necessary improvements that are paid for by other projects and the public.

The other thing that's interestingly unique about this project is that it's kind of a hybrid form-based code. Remember, we talked about that in the Planning Committee several times, and this is our first foray into form-based code as opposed to traditional Euclidean zoning. So, all eyes are going to be on this to see how that new type of zoning works.

This project is necessary for the economic life of that R&T Park. I think it'll breathe new, you know, all kinds of new stuff that's going on, that will go on up there, and help attract more high-tech and diversified economic income for this County.

So, I appreciate the, the hard work that the, the applicant has done through this. As you heard, it took eight years. Nothing is simple, so I think it's time for this to go through. So, thank you.

CHAIR WHITE: Thank you, Mr. Couch.

Any further discussion, Members?

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, thank you. I want to thank Committee Chairman Carroll for following through and preserving our process and our integrity in how we process this request.

This morning I speak with reservations. And I'm happy to move this forward for final reading consideration. But, at, for this point in time, I would like to give my concerns regarding this. On the Conditions of Zoning, Chairman, I think they try, it tried to address issues that, potentially, this project may additionally, either create or expand. I felt this Council did some very good yeoman's work with another project, where we had put clocks on for delivery of either employee or affordable housing. Start within two years, complete by five.

I'm disappointed that, with this application, we don't have clocks. Because, I was made aware of a communication because there is another clock ticking on the petitioners that would ask us to consider not following our procedure and pass this anyway. I have a heartburn with that one.

So for me, Chairman, I think what the KCA through Mr. Moran brought up is reasonable request regarding timely conformance and upgrades of infrastructure to meet the needs of the current situation as well as the future impacts of additional development.

So, with number 2, I would say my experience with in lieu payment is it costs the County more down the road, because we take so bloody long to do the project. I prefer the developer put it up front and get it done in advance.

Regarding number 5, I think timing is critical. I think we should have a clock on when those units need to be delivered. How are they going to employ if there's no housing for employees? I don't know. I think we can learn from the old, you know, we talk about the old days, but some of the old days was good practices. The employers knew, without housing, there's no jobs; no jobs, there's no company.

So, I think what the comments I've heard during the testimony was reasonable, and I would say this Council needs to consider those requests. Now, one of the things that I found interesting in testimony, Chairman, that I would ask if Mr. Carroll can give some comment or if you feel appropriate, maybe Mr. Kushi. But, I found it interesting that we, there's no need of compliance with the Kihei Community Plan if we pass this ordinance. And I would like to know if that is an accurate understanding of what is the future if we approve this proposal, Chairman.

So, I would ask Mr. Carroll if he has a response that the applicant, if we pass this ordinance on second and final down the road, can it ignore the Kihei Community Plan?

CHAIR WHITE: Mr. Carroll.

COUNCILMEMBER CARROLL: I will say that, thank you, Chair, that working with Committee, and working with my staff, and working with Corporation Counsel, we have thoroughly vetted every aspect of this application and the motion before us. And it was approved at every level at that time. And I really don't see the need to go into any detail further from that.

It is the Chair's opinion that this is something that should be passed out, and there is nothing that has been left out or not taken care of. Thank you, Chair.

CHAIR WHITE: To Mr. Hokama, I'm not sure whether you could hear Mr. Hokama's question. But, his question was, in his view one of the testifier's stated that the, if we approve this today, that it will not be necessary for this development to follow the Kihei Community Plan. So, Mr. Hokama was asking for your comments as to whether or not that would be--

COUNCILMEMBER CARROLL: No.

CHAIR WHITE: Okay.

COUNCILMEMBER HOKAMA: So, they would still need to comply is our understanding, Chairman?

CHAIR WHITE: That's my understanding.

Mr., Mr. Hokama's question is would, they would still need to comply with the Kihei Community Plan. If we pass this, the development would still need to comply with the Kihei Community Plan.

COUNCILMEMBER CARROLL: Call brief recess.

CHAIR WHITE: Sure. Brief recess at the call of the Chair.

(THE MEETING WAS RECESSED BY THE CHAIR AT 10:01 A.M., AND WAS RECONVENED AT 10:07 A.M., WITH ALL MEMBERS PRESENT, EXCEPT FOR VICE-CHAIR GUZMAN, EXCUSED.)

CHAIR WHITE: This meeting shall come back to order.

And, we'll go back to Mr. Carroll.

COUNCILMEMBER CARROLL: Thank you, Chair, and thank you for the recess. It was brought up because of the question of the testifier whether there was a discrepancy between the community plan and the zoning changes. This bill addresses that and there would not be. And so, again, everything is lined up the way it's supposed to be, and there's no discrepancy between the two. Thank you, Chair.

CHAIR WHITE: Okay. Thank you. Any further questions, Members?

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, thank you. If I can conclude, then, my portion of my comments at this time. Chairman, I thank Mr. Carroll for giving some explanation, because my understanding too, as the testifier brought up, would be correct if we maintain a project district designation, okay. The bill changes and takes away that zoning, and puts it in a new zoning by which Mr. Couch mentioned as form-based, I believe is the phrase. And, Mr. Couch knows I have issues with form-based zoning at this time.

So saying that, Mr. Chairman, you know, again, this is first reading. I'm happy to move this, because I still support the intent and the goal of what it's trying to do. I would like to see us continue to expand and increase the role that technology plays in this County's economy. We're already having a big hit under the agricultural source. Visitor industry is already the big gorilla. I don't need to be the king gorilla.

And so, I would like to see this component move forward, be successful, and become another generator that provides our people with good paying jobs so they can do their other primary job as a family; take care of their own children, take care of their own needs as a family and not going to a second or third job.

So, I support where we're trying to go with this sector, Chairman. But, as a legislator, from what we've seen and experienced from past, through Conditions of Zoning by the Board of Supervisors and now the Council, I have learned that we need to put clocks. Because, we still have a lot of non-compliant land use approvals, decades old, that we still don't have what it takes for full compliance of those approvals. Clocks need to be instituted to ensure the community that the mitigation of potential negative impacts from development can be addressed sooner than later.

I think we owe this to our tax base. It is easier to explain, for people like me, when it comes to budget, why they need to pay a certain share of taxes to perform services and projects to the community's benefit. It's hard to project when it's 20 years down the road, or to take in lieu payment at this point in time. And if this is going to be done 10 years later, you and I know we're going to have to ante up a hell of a lot more money to get it done. And I'm not too sure about the in lieu component at this time. And maybe the right Committee needs to discuss it, whether or not we need inflation factors considered in the in lieu fee schedule and formula, but it needs to be more equitable so that the general fund does not have to take the biggest hit to make up the difference to provide the condition of compliance. Thank you, Chairman.

CHAIR WHITE: Thank you, Mr. Hokama.

Any further discussion, Members?

Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair. And, thank you, Mr. Hokama, for bringing that, those points up. And I agree, in lieu is not my favorite concept either. So, just trying to piggyback though on the comments from the testifier and why, you know, the, the break was called to address it.

I don't think it, I mean Mr. Carroll says it's been vetted and everything stays, I guess, copasetic. But, what I'm hearing what happens once that project district designation is sort of lifted, then any future permits just goes through our directors here, such as planning or public works, and what have you, and it doesn't get any more vetted.

And I did speak to Mr. Couch, that said the plan is, I guess, done to address the proper, you know, what is allowed, so to speak. So then, of course, these ministerial permits will look to that to keep it at those standards, or allowed to only go to that, what's decided in this communication plans, what have you.

But, I guess, but it's still supposedly does not need to technically conform to community plan. And I, and I still, I heard Mr. Carroll's comments, but I'm still

wondering if it is addressing it. I, I don't quite feel a clear solid yes. And that's kind of where I stand, that I still have some, I guess, some questions got jogged up here.

And I don't quite still feel, we haven't heard from Corporation Counsel about that, if he does have any comments either, you know. So, if there's a way to maybe get a confirmation from our legal counsel, is that how it works or not?

CHAIR WHITE: If you'd like to pose a question to Corp. Counsel, I think that's--

COUNCILMEMBER COCHRAN: Yes.

CHAIR WHITE: --that's fine.

COUNCILMEMBER COCHRAN: I would, Chair, if you don't mind.

Mr. Kushi, if you don't mind. I guess the, the question is, we pass this, it's no longer a project district, the ministerial permitting process does not need to follow existing community plan, Kihei Community Plan. Is that how it works?

FIRST DEPUTY CORPORATION COUNSEL ED KUSHI, JR.: I'm not really prepared for the question. Please understand I was not involved at the Committee level, so I can only echo what Chair Carroll says happened. I do know that this is being, this property is being taken out of a existing project district. But, there are further phases to go before the Planning Commission. But, now it's just a, what you guys call a form-based zoning. And it's not SMA area, so I won't see a review by any Commission.

But again, you know, you're asking the wrong person. Maybe you should have the Department of Planning in here.

COUNCILMEMBER COCHRAN: Okay. And, and you know, I appreciate, you know, you being candid and forthright that you don't have the answer, so I appreciate that.

So Chair, you know, for me, I, I still sit here wondering and wanting some direct answers in regards to this at this time.

CHAIR WHITE: I think it's appropriate for us to question and, and be concerned about the--

COUNCILMEMBER COCHRAN: Yes.

CHAIR WHITE: --the passage of this. This is first reading, and I believe we have, we have an adequate time between now and second reading to, to get answers to those questions, and make yourself either comfortable or more uncomfortable.

But, my feeling is that we, you know, we passed the, the Maui Island Plan and we've designated this, I believe, as an urban area. And, and once we do that we're saying that this area is something that can be significantly built out. And so, whether, whether the plans that they come up with are consistent with everyone's perception of what should and what we conceive might go there when we approve for that to be urban or not is, is a, is a question.

But, I think it's, it's something that we can each individually vet between now and second reading, so that we can be comfortable with our understanding of whether we're keeping things reasonably corralled or opening the, opening the gates.

COUNCILMEMBER COCHRAN: Right.

CHAIR WHITE: Mr. Couch.

COUNCILMEMBER COCHRAN: Real, real, sorry, real quick before--

CHAIR WHITE: Oh, I'm sorry, please.

COUNCILMEMBER COCHRAN: So, what in, thank you, Chair. And in regards to that, yea, I mean, I understand on the map it says, you know, red is urban and we all know what urban means. But, I guess with this changing out of project district, it doesn't hold the applicants or the developer to the policies, per say, of our existing community plan. They can, yea, fit the amount of, you know, square footages of this or that, and units, numbers, and dwelling, whatever. But, it's that finer detail of the plan that we all been vetting through for eons to make sure it sticks and it fits, and it's upheld.

So, that's where, I think, still the question lies for me, those details can be sort of overlooked or not, you know.

CHAIR WHITE: No, you, you definitely have to get yourself to where you're comfortable--

COUNCILMEMBER COCHRAN: Right.

CHAIR WHITE: --with that, that question. And I think Mr. Carroll's point was that this is consistent with the community plan. And so, maybe Mr. Couch has a perspective that will help.

COUNCILMEMBER COCHRAN: Thank you, Chair.

CHAIR WHITE: Mr. Couch.

COUNCILMEMBER COUCH: Thank you, Mr. Chair. And thank you for the questions. They're all very good questions and good, good comments.

Just to, wanted to remind Members that ministerial permits are grading and grubbing permits, building permits, you know, electric and, and plumbing permits. Those kind of things that don't require discretion. Ministerial permits have to conform to certain laws. And so, therefore, that's what the directors do. They say, okay, this, it's all conforming to the laws.

Community plan, the community plan is being changed. This is, part of this bill is community plan amendment. And it sets out some, the planned growth area rationale, and it talks about what the MRT, Maui Research and Technology Park zoning category is. So when it, when you do changes in zoning, that's when you have to be consistent with the community plan, or changing the community plan. That's, that's our, that, that's the map for us to follow, that we have to be consistent.

So what we're doing is we're making everything consistent. And then, the people who have no discretion in which permits they give, they just give, if the people follow the law, then they get the building permit. That's the difference between the two. So, when it was a project district, some of the designs had, had to be passed through the Planning Commission again. That step has been, apparently removed out of this, this situation.

Also, any kind of permit, any kind of permits inside the SMA have to go through another whole set of review, another two or three years of review, before it can go any further than that. So, I think there's some confusion as to what a ministerial permit is versus a discretionary permit. So, thank you.

CHAIR WHITE: And we, just so you know, we did call Planning, but no one's picking up right now. So, we may just have to wait until, well, we'll use the interim between first and second reading to get comfortable for what the possible outcomes may be.

Any further discussion, Members?

Mr. Couch.

COUNCILMEMBER COUCH: And one other thing, the project is required to, to follow what was represented to the Land Use Commission, State Land Use Commission as well. So, and all of this was--

CHAIR WHITE: As well as to the Council.

COUNCILMEMBER COUCH: As well as, yea, so.

COUNCILMEMBER COCHRAN: And--

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

COUNCILMEMBER COCHRAN: Thank, thank you, Chair. And lastly, in reference to Mr. Hokama's comments about clocks, definitely want to put some clocks on this. I completely agree with his comments about that. So, thank you, Chair.

CHAIR WHITE: Ms. Baisa.

COUNCILMEMBER BAISA: Yes, thank you, Chair. I'm very grateful for this discussion. I was a little anxious to, you know, have to address this this morning, because I had been asked about the community plan concurrence.

But, you know, at my best recollection when we were doing the general plan, when we said that we were going to, okay, now designate this as a area where development can occur, it's in the urban boundary. I think there was also a lot of talk about, yes, but then, there will be additional checks, because people will have to come in for whatever permits and, and changes, and things that they have to do. So, there will be checks and balances as we go. And that the Council, as a legislative body, will have the ultimate decision as to what we require and what we want to do in that urban boundary.

So, it's before us today. And, I'm really grateful for the discussion. I think that, probably, we want to do a little bit more before second reading. I will support it today so that we can get it out. But, we might want to do a little bit more so that we'll have a better comfort level when we try to put, put this on for second reading.

Cause it's important. You know, every one of these we do sets a precedent. And it's important that we set those precedents carefully. So, I want to thank the Members for the good conversation today. Thank you.

CHAIR WHITE: Mr. Couch.

COUNCILMEMBER COUCH: Thank you. And on the subject of clocks, we did have a discussion in Committee about clocks. And the Land Use Commission has the clock set in there. You know, it's unfortunate that in the binder it doesn't show the land use, I mean the big stack of stuff. But, in the big stack of stuff, there is a clock condition in the LUC Decision and Order. So that's, we didn't want to be redundant.

I believe, I seem to recall that's what the discussion was in the, in the Committee, at the Committee level. So, because we did, I mean, as Mr. Hokama and Ms. Cochran are well aware, we do talk about clocks as in every project so far. And I do recall that it is already in there as far as the, in the State Land Use Commission. So, thank you.

COUNCILMEMBER VICTORINO: Chair.

CHAIR WHITE: Mr. Victorino.

COUNCILMEMBER VICTORINO: And, you know, if that's the case, then between now and second reading, that can be brought forward so that, you know, a specific memo can be brought forth as far as the clock is concerned.

And again, I, I am one of those who would like to see clocks, but I'm also a realist that when interveners come in, what happens to that clock? And we've all seen that. So, don't give me a clock unless that clock has an ability, when interveners set, that clock stops until that intervention is completed one way or the other. So, that would be my only concern.

You know, Land Use has put in, I'd like to see what they put in. I think we can go read it, but I mean really for the public to see it. So, that would be my request to the Committee Chair, if they could have that brought out, or the Project Manager, that could be brought forward. And secondly, if they're going to be a clock, then I would be making sure that in case of any intervention by any group, that that clock stop at that point until that intervention is completed. Thank you, Mr. Chair.

CHAIR WHITE: Thank you, Mr. Victorino.

And, I'll just point out that, as a person that who's been subject to clocks through the SMA process and the building permit process; clocks sound really good. But you need to have the ability to extend or modify those clocks because of the vagaries and the challenges that any developer or any investor is faced with, which is availability of funds either from the owners to invest, or from the banks to loan; timing of the market, whether you're in a positive market to sell what you're building. So, there's all kinds of, of challenges that we have to be realistic about.

Building and investing is very risky business, and it depends on all sorts of factors coming into play very nicely all at the same time so that the project can move forward, the funding isn't, you know, running into higher loan payments because you don't have the, all the pieces falling in as you expected them to. So, it's, you know, I understand the, the desire for clocks to make people perform. But, quite often that performance is very, very challenging because of external factors.

So--

COUNCILMEMBER HOKAMA: Chairman.

CHAIR WHITE: So, any further discussion?

I believe Ms. Cochran first, followed by Mr. Hokama.

COUNCILMEMBER COCHRAN: Thank you, Chair. And, you know, and thank you for bringing up your perspective and completely agree. And you know, when developers come in then, then just state it that these are the risks, this is what we're facing, please be flexible, help us out, whatever. You, fine, but some, a lot of times that's not what we hear. And, clock runs away and there's still, anyhow.

And, I was going to bring up the point about the comments in the Land Use Commission's conditions, which are somewhere, but it's not here. And, and I think we didn't want to be redundant and all that stuff, but this is the reasoning, is that it's in their documentation but it's not followed through in ours. And so, we're like going, okay, they did set a clock, but we don't see it here today. We, we don't, but we discussed it, then it's not in the binder, it's whatever.

So, that's I think why, that's fine to keep the language moving from one entity to the next, because it keeps it consistent that we're all on the same page at any given moment. So, that's why I never look at, oh, it's redundant cause they already said it and have it written. No, now we, in our departments, can have it at hand. So, that's my comment in regards to that information on the conditions. Thank you, Chair.

CHAIR WHITE: Thank you.

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, thank you for my second and final opportunity. I'm just thrilled we have such healthy discussion, Chairman. Because this is a, a big consideration before the body. It's impact, potential impact is very big on this County

and this island. And so, I appreciate the Members expressing their thoughts or concerns regarding this consideration this morning.

I understand your comments. I understand Mr. Victorino's comments. And that is why, if we think this through, I think the clock can start after the final permit approval. But, the general fund, the general community shouldn't be a pot to make up the difference, in my estimation.

I think this is something that I would hope future requesters of considerations would adjust their game plan, and look at the phasing accordingly so that when it come to us, you can tell us why it's such a good thing, and why there's no deferrals, and why we're not going to ask the general fund to make up the differences.

I for one, Mr. Chairman, would like to see this move forward, as I said, but I think we owe our community the clocks. People need to know when we're going to have performance, when they can expect some of the improvements to make either their daily traffic run, picking up children at schools, going to facilities of recreation, organized programs for activities. We need to know when these things can happen, cause a healthy community needs to be able to have transportation. We're islands; people need to move from one place to another. Transportation is the key component of being, making things successful.

I worked on this from the national perspective. We've got the monies now from the Feds to move the road projects forward. And I would agree with Mr. Couch, the MPO, the Maui, or the Maui's version, potentially with the North-South Collector Road, is looking more of a reality than just a hope down the road. The funds will, I believe, the funds will be there, of the 80 percent of Federal monies, to make this project happen.

Well, let me tell you again, Mr. Chairman, this project could have been already constructed, okay. We had monies years ago, and community concerns brought up enough that we deferred and the project, never did move forward. Okay, now we're trying to get it back on track again. But, it was ready to go for construction money years ago, okay. We deferred it by community request.

So this morning, Chairman, I would ask that we consider what we can do. I have no problems with redundancy, because when if, if and when we may have to go to court, they're going to say the County did not impose any of those conditions. Land Use did from the State, but not the County and its responsibility of zoning, and our ability to downzone as well. So, I would say I have no problem with redundancy cause we've done it many, many times, to be clear, from the County's perspective, that these are priorities that need to be complied with to fulfill the objectives of this request.

So, I thank you for my opportunity, Chairman. And I look forward to potential considerations to make this an even better project. Thank you.

CHAIR WHITE: Thank you, Mr. Hokama.

Any further discussion, Members?

Mr. Couch, I, I, haven't been counting how many times everybody's spoken. Yea, we're, we're past two so make your comments quickly.

COUNCILMEMBER COUCH: Well, I was willing to put an amendment to add a Condition of Zoning to include the exact language that's in the, the LUC if that.

CHAIR WHITE: The Chair is not interested in accepting motions at first reading, because I can tell that there's going to be some, some action at second reading.

COUNCILMEMBER COUCH: Well--

CHAIR WHITE: And, as, as, and I, you know, I believe the County, or the Committee has done very good work and has come up with a good product. And I would like to deal with this motion as it, as it stands today, and, and consider further motions at the, at second reading. But--

COUNCILMEMBER COUCH: Well, Mr. Chair, my concern about that is then that would put off the second reading for another month, or two weeks, or however, depends on where it falls.

CHAIR WHITE: Well, this, this body has been having lots of fun at second reading, and first reading, and doing a lot of Committee work, which, which makes Mr. Carroll break out in a rash. And I, I'm trying to avoid myself breaking out into a rash. But, no, I'm just kidding.

But, but I believe the County, or the Committee has done good work, and, and I think that, I don't think it's necessary for us to be redundant and, and place everything that's already done by the, by the Planning Commission, or not Planning Commission, the Land Use Commission in our ordinance, because it all flows through in the same, the same fashion. It doesn't, our putting it in our document doesn't change anything, except maybe making us feel good, or some of us feel good.

So, I think Mr. Carroll has done a good job on this, and I agree that there may be some, some needs for some adjustment, or at least consideration of adjustment. But, I don't think we have the, the information that we need right now with which to do so if it takes us to a, an additional second reading. I think that's, that's fine with the Chair.

Since I believe everyone except Mr. Carroll, and Mr. Victorino have, and Ms. Crivello have, have time remaining, oh and Ms. Baisa, that's right. Anyway, is there any further discussion?

COUNCILMEMBER BAISA: No.

COUNCILMEMBER VICTORINO: No.

CHAIR WHITE: Thank you.

All those in favor of the motion 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. Guzman.

And thank you very much for a healthy discussion. And, I appreciate the, all the comments.

And, Members, we will take our morning break at this time. Please be back, be back in your seats at 10:45. Thank you. We're in recess.

(THE MEETING WAS RECESSED BY THE CHAIR AT 10:33 A.M., AND WAS RECONVENED AT 10:46 A.M., WITH ALL MEMBERS PRESENT, EXCEPT FOR VICE-CHAIR GUZMAN, EXCUSED.)

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

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

COUNTY CLERK: Mr. Chair, for the record, in regards to Committee Report 16-109, BILL NOS. 74 (2016), 75 (2016), and 76 (2016), respectively.

COMMITTEE REPORT
NO. 16-110 - POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE:

Recommending the following:

1. That Resolution 16-96, entitled "PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), AS AMENDED, TO REQUIRE COUNCIL APPROVAL OF THE MAYOR'S APPOINTMENT OF DEPARTMENT DIRECTORS AND ALLOW ADDITIONAL QUALIFICATIONS FOR DEPARTMENT DIRECTORS TO BE ESTABLISHED BY ORDINANCE," be PASSED ON FIRST READING and be ORDERED TO PRINT;

2. That County Communication 14-313, from Council Vice-Chair Robert Carroll, be FILED;

3. That County Communication 15-305, from Councilmember Riki Hokama, be FILED; and

4. That correspondence dated April 28, 2016, from Council Vice-Chair Don S. Guzman, be FILED.

CHAIR WHITE: Thank you, Mr. Clerk.

Mr. Victorino.

COUNCILMEMBER VICTORINO: Thank you, Mr. Chair.

I MOVE TO ADOPT THE RECOMMENDATIONS IN COMMITTEE REPORT 16-110.

COUNCILMEMBER COUCH:

SECOND, MR. CHAIR.

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

Mr. Victorino.

COUNCILMEMBER VICTORINO: Thank you, Mr. Chair. At its meeting of July 5, 2016, your Policy and Intergovernmental Affairs Committee recommended the passage on first reading of the resolution to propose a Charter amendment relating to the appointments, removal, and qualification of department heads.

The purpose of the resolution is to place on the next General Election ballot the question on whether the Charter should be amended in this following ways: (1) to require the Council approve all department heads appointed by the Mayor. Currently, the Council approves only the recommend, required, for Mayor's appointment I should say, is the Corporation Counsel, Prosecuting Attorney, and Director of Water Supply; (2) to provide that the Managing, Director, Corporation Counsel, Prosecuting Attorney, and the Director of Finance may be removed with, by either the Mayor or the Council by a two-thirds vote following consultation with the Mayor. Currently, only the Mayor can initiate removal of department heads. Council concurrent, concurred that it is currently required for removal of the Corporation Counsel and Prosecuting Attorney; and to allow the additional qualification of department heads to be established by ordinance.

Your Committee noted that the Council, having approval authority of all the Mayor's appointments of department heads would ensure transparency and in appointments process, and in the appointment process, the appoint, appointed a qualified candidate. Also, the Council proposed, processing the, possessing the authority to remove some particular important department heads would provide a better balance of power between the executive and legislative branches.

Finally, the Committee determined that the Council should be allowed to establish specific qualification for directors by ordinance.

After all that's been said, I respectfully request the Council's favorable consideration of the motion. Thank you, Mr. Chair.

CHAIR WHITE: Thank you, Mr. Victorino.

Any further discussion?

Mr. Couch, followed by Ms. Crivello, and Ms. Baisa.

COUNCILMEMBER COUCH: Thank you, Mr. Chair. And thank you, Mr. Victorino, for bringing this forward for us. I wholeheartedly agree with the, the ability for this Council to approve all of the directors. It, it does address some of the concerns that the, the whole County Manager thing brought up. And I think it's the biggest set of concerns. So, I wholeheartedly approve that, and I would encourage the voters to vote for that as well.

My, my biggest concern is the removal. And as we heard from Mr. Kushi during our discussions on the floor about if you don't appoint you shouldn't be able to remove, I, I have major concerns with that. I'm not going to vote against this today, but I have a feeling that this might kill it at, at the ballot, that portion of removal. And I would strongly encourage that we take out the, the removal part, because I think that will kill the whole thing at the ballot time.

So, but I am supportive of it only because I'd like to see it get on the ballot. Thank you.

CHAIR WHITE: Ms. Crivello.

COUNCILMEMBER CRIVELLO: Thank you, Chair. I think during our Committee discussion, I, I, I had concerns about us trying to rush this through, and, and the efforts to get it out before having more vetting with the public.

I don't so much have a problem with us approving the Mayor's appointments, and then that's it period, for me. You know, it, when we start saying we remove you, we can help approve your appointment, but we also will allow ourselves to remove certain directors or, or appointees.

To me, we, we set forth some sort of conflict. And if we look at our places of employment of where, where we've been employed or are being employed, we know our organizational chart and who we report to. I think it's unfair for us to have to ask the, the directors or the appointees have to ask or, you know, where's the beef or who's the boss, you know. That's, that's, to me, it, it doesn't allow us to have a very functional organization.

And, you know, the pay is I think about 15 to 25 percent less, perhaps, than most of the private sector. And, and yet, we are going to be micromanagers instead of strictly our legislative branch and policymakers. And, you know, whose powers or who holds what power. And I think, I don't think we'd appreciate the Administration to come down and micromanage us or our Office of Council Services. That's why we have these separation of powers; we have our executive branch and we have our legislative branch.

Perhaps there can be consideration, again, to allow us to make that stamp of approval. But, you know, Mr. Couch mentioned that he may want to get this through and allow the people to make that decision. We have not had the dialogue with our public enough. I mean, we're becoming the Charter Commission who just meets one time, make a decision, and that's it. And we, we, we throw it out there. I think it's unfair that we're, we're not doing this whole process with strong consideration as to what are the pros and cons really. And, I think we have to be mindful of our role. And I end with that.

CHAIR WHITE: Thank you, Ms. Crivello.

Ms. Baisa.

COUNCILMEMBER BAISA: Thank you very much, Chair. I'm very torn up about this. You know, I've always felt that it was clear, the definition between the branches; what Administration does, what the legislative branch does, and what the judiciary does. But, it seems to be getting kind of confused here, and it's beginning to overlap.

And I listen to both sides of this argument. And as I listen to one side, I, I begin to see their side and think, hey, that's pretty cool. Then I listen to the other side, and I listen to, oh, that's another way of looking at it. And, the more I listen, the more torn I get.

I'm really glad that we're sitting here in this chamber today with a very old dear friend who had no difficultly in making difficult decisions. And looking at his face, and having him look at me, I know what he would say. He would say, you do the right thing. Well, I'm really uncomfortable with this, Chair.

And I just think that we're beginning to mess between the separation of powers. And yea, I did talk about it, and I was here when we talked about consulting with the Mayor before we removed anybody, and whatever. But, you know, again, it's muddying up the lines. And, when it comes to recommending this to the public so that they can vote on it, when I don't feel comfortable with it, I don't think I can do that today. Thank you.

CHAIR WHITE: Just for clarity. You're speaking of the removal portion, or the entire--

COUNCILMEMBER BAISA: Actually, it's the removal portion that really makes me crazy. I don't have a problem. I mean, I'm not, it wouldn't be my ideal, but the ability for us to review the appointments and, and vet them, and listen to them, so that we feel comfortable, I think would be okay. I think it would be very helpful, and people would

hear the resumes of the candidates, and they would understand why the Mayor is trying to make that appointment.

And, I don't know if ultimately saying yes or no is correct. But, at least being able to vet and listen, I think would be helpful. Also, I think it would promote a higher level of accountability. I don't think that the Mayor would be sending down names to us that would sit here in this chamber and be embarrassed.

I think it would, everybody would be careful because they know they're going to come here and have to tell all the details, like, you know, we can put people through a lot of stuff. I was here with the last batch, and it got pretty hot and heavy. So, having the vetting and, and the review is okay. The ultimate approval, disapproval, I'm not sure I'm comfortable with that. But, I, I do like the idea of, you know, having us have the ability to at least vet the people.

CHAIR WHITE: Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair. And, what struck me, initially, during Committee and this question is how wordy it is. I know we want to list all the different directors, and you know, that runs into a long laundry list. But, there's sort of three parts to this in the one question. And I'm hearing Mr. Couch saying the removal portion, and Ms. Baisa too, feeling that part can agree or it'll kind of probably kill the entire question. So, my thought always has been to, if there was a way to separate it out in three-way, three questions. It'll even help, I think, the issue with Ms. Crivello in reference to educating the community as to what this is asking of them to vote on in a little simpler manner.

This, I love the part too for us to add additional qualifications for the department directors. That, that ending portion of this question is awesome. Then the, the top part of it is good. And the removal part, yea, I mean, I, I like it.

I mean, overall I'm going to vote for this, this charter. But, I think there is difficulty in trying to get the general public to understand truly what all this really means when it's worded this way. But, that's what we're faced here today to vote on. And, I'll, I'll be in favor of it. And we'll just see how it does get past the voting community. Thank you, Chair.

CHAIR WHITE: Okay, further discussion, Members?

Mr. Couch.

COUNCILMEMBER COUCH: Thank you, Mr. Chair. Also, it was mentioned in testimony that the, the Director of Water Supply isn't included in that, in this. And, the reason why the Director of Water Supply isn't included in this, is that he's already included in our approval. So, it's not that we're leaving out the Director of Water Supply for anything. The Director, there's already a whole Charter section there that's has his approval procedures.

You know, hearing, hearing some of the Members discuss this a little bit, I would like to propose an amendment to remove the removal section in this.

SO, I MOVE TO AMEND THIS RESOLUTION TO, BY REMOVING ALL OF THE, THE LOCATIONS WHERE IT DISCUSSES THE REMOVAL.

It's pretty straightforward in there. So, that's my motion.

CHAIR WHITE: Do we have a second?

COUNCILMEMBER HOKAMA:

SECOND.

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

Mr. Couch.

COUNCILMEMBER COUCH: Thank you, Mr. Chair. You know my position on the removal. If you need the exact locations, it's basically wherever it says, "or by resolution approved by a two-thirds vote of the entire membership of the council following consultation with the mayor"; that's in page 3 of the reso, page 4 of the reso, page 4 of the reso, again, and page 5 of the reso. So, that's what I'm ask, asking to be removed. Thank you, Chair.

CHAIR WHITE: Members, further discussion? The Chair's feeling is that this is an appropriate thing to do, because I think we can be very comfortable if we're able to provide some guidelines as to qualifications, and then have the ability to approve the appointments through vetting their qualifications, or resumes, and so forth. But, that's a very significant step forward, and I think it's a very positive step forward.

The Chair's concern with the removal is that, you know, in a, I'll use a hotel contract context. The owner has a responsibility to keep out of the operations, there's a clause of quiet enjoyment. So, the owner doesn't get to jump in and, and participate by telling the administrator or the management company what to do.

I see this similarly. As much as I would, you know, I think it will be good to have at some point, I really don't see using it very often. And if you have a department head that is enough of a renegade that he's got, or he or she has got the Council upset, the Administration is going to do something about it. I, I can't, I can't imagine there's any Administration that would simply ignore an open, an open sore or a serious objection.

And furthermore, I think my, my other concern is that if you have a, if you have the ability for any Councilmember to essentially make life very difficult for one department head, just simply by drafting a reso and introducing it, that starts the ball rolling, and then there's no stopping it until we make a final, final vote or a final decision on it. I don't think that's something I'm comfortable supporting, because I just think it would, it would provide too much of an easy opportunity for one Councilmember to make life real miserable for one department head.

And so, I, I'm obviously speaking in support in the motion. And I think it's a responsible, responsible thing, it's a responsible adjustment to what is otherwise, I think, a very good bill.

Any further discussion, Members?

Ms. Baisa.

COUNCILMEMBER BAISA: Chair, for my second opportunity. I just want to say, you know, we can talk about removing and hiring and all of this stuff, which of course, I think some of us view as administrative duties. For me, the buck stops on the ninth floor. The, he hires, and he fires at this point. So, he's held accountable or should be held accountable for the actions of his department heads. If they don't do what they're supposed to do, then it falls on his desk.

It's strange that we see this, and complain about the department heads, and say I don't like this director, I don't like that director, but then we forget about that, and we re-elect the Mayor. Ultimately, if we don't like what the Mayor is doing, then we have a choice every time there's an election. We re-elect him and say good job, let's stay. Or we say, we think we'd like somebody else, a different change. And we don't, we don't, he doesn't stay.

You know, I was, this was pointed out to me a long time ago by Mr. Souki, when I was arguing at him about term limits, and I wanted term limits. And he said, no I don't want term limits. And I said, but why. And he said, don't you understand you have term limits already? If you don't like what people are doing, don't re-elect them. And, so that's kind of in the back of my mind too, you know. We can build all of this, but essentially, it's an administrative responsibility to make sure we put the right people in the right places, and that they perform. That's something I wanted to share.

CHAIR WHITE: Thank you. And, I want to thank Mr. Victorino for trying his best to combine the, the, you know, combine several measures. But, after hearing discussion and thinking through it, I think this is an appropriate piece to, to remove and, and let the remainder of it fly on its own.

Any, Ms. Cochran.

COUNCILMEMBER COCHRAN: Yea, thank you, Chair, and I, I hear your folks concerns. And you know, I guess I beg to differ that, you know, I've seen directors, you said renegade or rogue or whatever. And you know, in certain aspects I've seen it happen personally. And, I have seen it not being addressed. And you know, don't appreciate that in a way a lot of times, yes, their hands are tied. Try to address things via the budget, try to address, I mean, how we can, and you know, at times it just to no avail.

And this is one way, I think, to try and say, listen we have a say now. It does take two-thirds, this is asking that it would take two-thirds vote of this entire Council. That's a lot of people trying to get this passed through. So as you stated, one person can wreak havoc on the Administration. Sure, one, it'll take one person to initiate and start the dialogue rolling. But in the end, it's going to take two-thirds of this Council to even pass it through. And that's a whole lot of convincing.

CHAIR WHITE: Right.

COUNCILMEMBER COCHRAN: So, you know, I'm still okay with it, and that's just my, my thoughts on this. Thank you, Chair.

CHAIR WHITE: And, yea, Ms. Crivello.

COUNCILMEMBER CRIVELLO: Thank you. I can appreciate this motion to move the item "B" and "C". I think in respond to much of the concern when it, the discussion came about County Manager, I think this is one way of us to address, address that, at least

now having the people. I still feel we, we've just made a decision in, within Committee.

And we haven't allowed the, a more intense dialogue with the public. But, I think if we, we support removal of the item "B", allowing the Council to remove the Managing Director and Corporation Counsel, etc., and then maybe work out the additional qualification from another proposal of some sort.

But, for now, to just deal with the fact that, allowing us to give that stamp of approval from the Administration, or the Mayor's recommendation. I think that's sort of a fair approach and, and you know, not so much being the powers if we're trying to, to be the powers to be, but trying to do our recognizing that there's one place of report for these appointees. And then we are able to go over the resume and all of the qualifications or what have you. And, and that way we either support the Administration with their approval or we don't. So, I think we, we create some sort of discussion on that part by removing the rest. So, I can support removal of, of these items.

COUNCILMEMBER VICTORINO: Mr. Chair.

CHAIR WHITE: Mr. Victorino.

COUNCILMEMBER VICTORINO: I've tried to listen very carefully. Mr. Couch's amendment was to remove both the disapproval, or the removal I should say, of the following department heads, as well as allowing us qualifications of directors to be established by ordinance. Is that what he's proposal?

COUNCILMEMBER COUCH: Yea, yea. Just, just the removal, Mr. Chair.

COUNCILMEMBER VICTORINO: Well, that's what I thought it was, just the removal, not the other part.

COUNCILMEMBER COUCH: Just the removal, correct.

COUNCILMEMBER VICTORINO: So, I'm confused at that point.

CHAIR WHITE: Let Mr. Victorino finish.

COUNCILMEMBER CRIVELLO: Well, I have my opinions--

COUNCILMEMBER VICTORINO: Well, wait a minute. What is the amendment?

CHAIR WHITE: Well, wait.

COUNCILMEMBER BAISA: Yes.

CHAIR WHITE: You have the, you yea.

COUNCILMEMBER VICTORINO: Yea, I'm asking what is the amendment. That's all I'm asking, Mr. Chair.

CHAIR WHITE: The amendment is to remove all of the removal portion of the language. Now, there is, there is some challenge with the, with the amendment that's being offered, because evidently there, it, current language allows for removal of the, well, let's take a, a brief recess.

(THE MEETING WAS RECESSED BY THE CHAIR AT 11:11 A.M., AND WAS RECONVENED AT 11:37 A.M., WITH ALL MEMBERS PRESENT, EXCEPT FOR VICE-CHAIR GUZMAN, EXCUSED.)

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

Members, staff has distributed both a clean version of the resolution, and a another version showing the track changes to show what exactly has been removed and what remains in the clean version.

So, we'll go back to Mr. Couch.

COUNCILMEMBER COUCH: Thank you, Mr. Chair. That is exactly what I was looking for. Thank you.

CHAIR WHITE: Okay. Further discussion, Members?

The motion is to amend by removing the items noted in red in the track change version, just so that we all know that, what we're voting on. The, the motion is to remove the red items noted in the red and black copy.

Any further discussion? Do you need time to read it?

COUNCILMEMBER BAISA: Yes, please. A few minutes.

CHAIR WHITE: Okay, we'll take another recess at the call of the Chair.

(THE MEETING WAS RECESSED BY THE CHAIR AT 11:38 A.M., AND WAS RECONVENED AT 11:43 A.M., WITH ALL MEMBERS PRESENT, EXCEPT FOR VICE-CHAIR GUZMAN, EXCUSED.)

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

We're back to Mr. Couch. Or if you're done, I will--

COUNCILMEMBER COUCH: Thank you, Mr. Chair. No, I'm, I'm fine. This looks good. It, this isn't anything new. I had mentioned this during the Committee meeting. So, thank you.

CHAIR WHITE: Members, any other questions on the amendments as written?

Ms. Baisa.

COUNCILMEMBER BAISA: Chair, I'm going to support this with reservations. And the reservation I have is, I don't mind the vetting, I think it's important. I also like the change in having the Mayor do the removal. I do like the idea of additional qualifications. I think that is very important. And, I think it led to some of the things that happened this year in trying to change the system, because people were concerned about qualifications.

But, the actual approval of everybody by the Council is uncomfortable for me. But, I will support it with those reservations.

CHAIR WHITE: Yea, actually we're, we're only voting on the amendment to remove the--

COUNCILMEMBER BAISA: Okay. All right.

CHAIR WHITE: --to remove the removal language.

COUNCILMEMBER BAISA: Okay, fine.

CHAIR WHITE: No, no problem.

Any other discussion, Members? Again, the vote is just on the amendment to remove the removal section of the resolution.

COUNCILMEMBER BAISA: Perfect. Let's go.

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

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

CHAIR WHITE: Those opposed say "no".

NOES: COUNCILMEMBERS COCHRAN AND VICTORINO.

EXCUSED: VICE-CHAIR GUZMAN.

CHAIR WHITE: Okay, we have, well, I believe we have two "noes". Is there a third "no"? Okay, we have six "ayes", two "noes", and one "excused"; Mr. Guzman.

So, the amendment passes and we're back to the main motion. Any further discussion on the main motion? 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. Guzman. Thank you, Members.

Mr. Clerk, please proceed.

COUNTY CLERK: For the record, RESOLUTION 16-96.

COMMITTEE REPORT
NO. 16-111 - POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE:

Recommending the following:

1. That Resolution 16-97, entitled "PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), AS AMENDED, RELATING TO ATTORNEYS WITHIN THE OFFICE OF COUNCIL SERVICES," be PASSED ON FIRST READING and be ORDERED TO PRINT; and

2. That County Communication 14-165, from Councilmember Don S. Guzman, be FILED.

CHAIR WHITE: Mr. Victorino.

COUNCILMEMBER VICTORINO: Yes, Chair.

I MOVE TO ADOPT THE RECOMMENDATIONS IN COMMITTEE REPORT 16-111.

COUNCILMEMBER COUCH:

SECOND.

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

Mr. Victorino.

COUNCILMEMBER VICTORINO: Chair, at the meeting of July 5, 2016, your Policy and Intergovernmental Affairs Committee recommended the passage on first reading of the resolution to, to propose a Charter amendment relating to the authority of staff attorneys appointed by the Council to serve as, serve in the legislative branch.

The purpose of the revised proposed resolution was to pass on the, on to the next General Election ballot the question of whether the Charter should be amended as follows: (1) to allow attorneys within the Office of Council Services, in addition to the attorneys within the Department of Corporation Counsel, to serve as legal advisors to the Council and its members; and (2) to allow the Council to designate by a two-thirds vote on its, by its entire membership, attorneys within the Office of Corporation, Council Services, excuse me, the Office of Council Services, as special counsel to

serve as legal representatives in any special, on any matters presenting a real necessity for such employment.

Currently, the attorneys within the Office of Council Services assist the Council in legislative duties, including staffing of Council committees, interfacing with the public, drafting legislation, memorandums, and other works, working documents, and concluding legal research, but they cannot provide formal legal opinions under the current status, oh correction, current structure.

The Council and its Members sometime need to have ready access, ready access to independent legal advice, such as when there is an actual or potential conflict or disagreement between the executive and legislative branches.

I respectfully request the Council approve this motion for their, for today's agenda. Thank you, Chair.

CHAIR WHITE: Thank you, Mr. Victorino.

Members, any further discussion? 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"; and that's Mr. Guzman.

Mr. Clerk.

FIRST DEPUTY CORPORATION COUNSEL: Mr. Chair.

CHAIR WHITE: Yea.

FIRST DEPUTY CORPORATION COUNSEL: Clarification. And I ask this not being facetious. If that, this proposal is approved, do you still need our Office to be here for, for meetings? I ask this because I schedule the attorneys.

CHAIR WHITE: I think we, we will still continue to operate as is, and we will use the, use this when there is, there are areas of significant difference.

FIRST DEPUTY CORPORATION COUNSEL: Okay, understood.

CHAIR WHITE: Okay. Thank you.

I believe we took the vote, didn't we?

COUNCILMEMBER VICTORINO: Yes.

COUNCILMEMBER COUCH: Yes.

CHAIR WHITE: Yea, thank you.

Mr. Clerk.

COUNTY CLERK: Mr. Chair, for the record, RESOLUTION 16-97.

Mr. Chair, proceeding with county communications.

COUNTY COMMUNICATION

NO. 16-136 - CAROL K. REIMANN, DIRECTOR OF HOUSING AND HUMAN CONCERNS, (dated June 27, 2016)

Transmitting a grant award letter from the U.S. Department of Housing and Urban Development (HUD), for the Section 8 Housing Assistance Program and a notice regarding the increase of the Administration Fee Proration.

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, I request this be referred to Committee.

CHAIR WHITE: Any objections, Members?

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: So ordered.

Mr. Clerk.

The recommended action is that County Communication No. 16-136 be referred to the Budget and Finance Committee.

NO. 16-137 - TIVOLI S. FAAUMU, CHIEF OF POLICE,
(dated June 27, 2016)

Informing of the acquisition of a 2006 Honda Civic EX valued at $6,700.00 from the State Department of the Attorney General.

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, with no objections, I would request the Clerk to include up to 16-142.

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: No objections. So ordered.

Mr. Clerk.

NO. 16-138 - TIVOLI S. FAAUMU, CHIEF OF POLICE,
(dated June 30, 2016)

Transmitting a copy of the budget approved by the Wireless Enhanced E911 Board for Fiscal Year 2017 in the amount of $2,251,000.00.

NO. 16-139 - TIVOLI S. FAAUMU, CHIEF OF POLICE,
(dated June 30, 2016)

Transmitting a copy of the grant agreement with the State of Hawaii, Department of Health for the Emergency Medical System (EMS) grant for Fiscal Year 2017 in the amount of $376,865.83.

NO. 16-140 - TIVOLI S. FAAUMU, CHIEF OF POLICE,
(dated June 30, 2016)

Transmitting a copy of the grant agreement with the Office of National Drug Control Policy for the High Intensity Drug Trafficking Areas (HIDTA) grant for Fiscal Year 2017 in the amount of $118,000.00.

NO. 16-141 - TIVOLI S. FAAUMU, CHIEF OF POLICE,
(dated June 30, 2016)

Transmitting a copy of the grant agreement with the Office of Youth Services for the KALO Program for Fiscal Year 2017 in the amount of $89,000.00.

NO. 16-142 - JOHN D. KIM, PROSECUTING ATTORNEY,
(dated July 1, 2016)

Transmitting a copy of the notice of grant award from the Department of the Attorney General, Crime Prevention and Justice Assistance Division, for the Domestic Violence Investigations Project in the amount of $53,382.00.

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, thank you.

I MOVE TO FILE COUNTY COMMUNICATION 16-137 UP TO AND INCLUDING 16-142.

COUNCILMEMBER VICTORINO:

MR. CHAIR, I SECOND THE MOTION.

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

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, I want to thank the Budget Office Director Baz, and Finance Department Director Agsalog. They are ensuring compliance to the Budget Ordinance under Sections 12, Subsection A.2, whereby written notice to the Council shall be provided regarding notification of a grant that is being accepted by

the County. So, I want to give the Budget Office and Finance Department a mahalo for ensuring compliance to our budget requirements. Thank you.

CHAIR WHITE: Thank you, Mr. Hokama.

Members, is there any further discussion on this measure? 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 is passed with eight "ayes", and one "excused".

Mr. Clerk.

NO. 16-143 - MICHAEL P. VICTORINO, CHAIR, POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE, (dated July 7, 2016)

Transmitting a proposed resolution entitled "RELATING TO THE APPOINTMENT OF DAVID COURSON TO THE BOARD OF ETHICS".

CHAIR WHITE: Mr. Victorino.

COUNCILMEMBER VICTORINO: Thank you, Chair. May I request consideration for County Communication 16-143. Is that okay with you?

OKAY, I MOVE TO DISCHARGE THE, FROM THE POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE FROM FURTHER CONSIDERATION ON THE PROPOSED RESOLUTION ATTACHED TO COUNTY COMMUNICATION 16-143, ENTITLED "RELATING TO THE APPOINTMENT OF DAVID COURSON TO THE BOARD OF ETHICS".

COUNCILMEMBER COUCH:

SECOND.

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

Mr. Victorino.

COUNCILMEMBER VICTORINO: Chair, this matter is time sensitive because of the deadline for the Council's approval or disapproval is August 1, 2016. I note our next Council meeting is scheduled for August 5, therefore, I am requesting this discharge.

CHAIR WHITE: Thank you.

Members, any further discussion 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. Victorino.

COUNCILMEMBER VICTORINO: Thank you.

I MOVE TO WAIVE THE REQUIREMENT OF COMMITTEE REFERRAL AND REPORT FOR THE PROPOSED RESOLUTION ATTACHED TO THE COUNTY COMMUNICATION 16-143, PURSUANT TO RULE 7(E) OF THE RULES OF THE COUNCIL.

COUNCILMEMBER COUCH:

SECOND.

CHAIR WHITE: We have a motion from Mr. Victorino, and a second from Mr. Couch to waive Council Rules.

Mr. Victorino.

COUNCILMEMBER VICTORINO: Chair, as you're well aware of, we need a two-thirds vote for, from the entire membership for the Council so that we can consider this and the time sensitivity that is related to this. So, that is, that's all I have to say about that.

CHAIR WHITE: Thank you.

Any further discussion, Members? All those in favor 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. Victorino.

COUNCILMEMBER VICTORINO: Thank you, Chair. And, thank you, Members.

I MOVE TO ADOPT THE PROPOSED RESOLUTION ATTACHED TO THE COUNTY COMMUNICATION 16-143, TO APPROVE THE APPOINTMENT OF DAVID COURSON TO THE BOARD OF ETHICS FOR A TERM EXPIRING MARCH 31, 2021, AND TO, TO FILL A VACANCY.

I would like to thank Mr. Courson for his volunteering to serve on this very important Board. I respectfully request the Council's favorable consideration for this motion. Thank you, Mr. Chair.

COUNCILMEMBER VICTORINO: Thank you, Mr. Victorino.

COUNCILMEMBER COUCH:

I SECOND THE MOTION.

CHAIR WHITE: We have a, yea you--

COUNCILMEMBER VICTORINO: Yea, yea well, I read it all off, yea.

CHAIR WHITE: Yea, you rolled right into it, so--

COUNCILMEMBER VICTORINO: Yea, just figured I'd get it done sorry.

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

Any further discussion, Members?

Oh yes, Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, thank you. I am, I don't know this gentleman personally, but I will not support the motion this morning, Mr. Chairman, basically due to my basic philosophy of, you know, this man is already on a County board. I personally don't support having individuals sit on multiple County boards at the same time.

So, for me it's just continue my, my basic foundation of what I've been supporting through my years of service on this body. So, thank you.

CHAIR WHITE: Thank you, Mr. Hokama.

COUNCILMEMBER VICTORINO: Chair.

CHAIR WHITE: Mr. Victorino.

COUNCILMEMBER VICTORINO: To address Mr. Hokama's concern, we did specifically ask the gentleman if he had the time to do both, and he said yes. And he also said, if you remember, that if it became a in, conflict or there was, you know, a problem with that that he would step down from the other committee. So, yea, unfortunately he had to leave. He was unable to stay. He was here early this morning, and stayed through most of our deliberation, but he had to get back to his church for some work. So, he did, he did tell us that if you remember in our Committee deliberations, I should say, excuse me. Thank you, Chair.

CHAIR WHITE: Thank you, Mr. Victorino.

And, without objection, we will add to the motion the filing of the county communication.

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: Thank you.

Ms. Baisa.

COUNCILMEMBER BAISA: Thank you very much, Chair. I would like to support the confirmation of Mr. Courson. You know, I'm understand totally where Member Hokama is coming from, and normally I would say yes, you know, serving on two boards maybe not a good idea.

However, because of the board that is involved, the other board, he is also on the Commission on Persons with Disabilities, and it's my understanding from Mr. Molina, that they have a terrible time trying to recruit people to serve on that board, and to have a quorum so that they can perform.

So, based on Mr. Courson's promise that he will do everything he can to attend, I'd like to give him a try. And I'm sure that he understands that, you know, he has to show up or this is just not going to work. And he has voluntarily said he would resign. So, based on that, I am going to support the appointment.

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

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

CHAIR WHITE: Those opposed say "no".

NOES: COUNCILMEMBER HOKAMA.

EXCUSED: VICE-CHAIR GUZMAN.

CHAIR WHITE: We have seven "ayes"; one "no", Mr. Hokama; and one "excused", Mr. Guzman.

Mr. Clerk.

COUNTY CLERK: Mr. Chair, the following, that would be RESOLUTION NO. 16-98.

The following county communications are recommended to the following Committees as noted:

NO. 16-144 - LANCE T. TAGUCHI, COUNTY AUDITOR,
(dated June 29, 2016)

Transmitting the plan of audits proposed to be conducted during Fiscal Year 2017.

The recommended action is that County Communication No. 16-144 be referred to the Budget and Finance Committee.

NO. 16-145 - SANANDA K. BAZ, BUDGET DIRECTOR,
(dated July 1, 2016)

Transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2017 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO APPENDIX A, PART I, GRANT REVENUE – SCHEDULE OF GRANTS BY DEPARTMENTS AND PROGRAMS, DEPARTMENT OF ENVIRONMENTAL MANAGEMENT (GLASS RECOVERY PROGRAM)".

The recommended action is that County Communication No. 16-145 be referred to the Budget and Finance Committee.

NO. 16-146 - SANANDA K. BAZ, BUDGET DIRECTOR,
(dated July 7, 2016)

Transmitting the following proposed bills entitled:

1. "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2017 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO ESTIMATED REVENUES; DEPARTMENT OF ENVIRONMENTAL MANAGEMENT,

ENVIRONMENTAL PROTECTION AND SUSTAINABILITY PROGRAM – SOLID WASTE MANAGEMENT FUND, DEPARTMENT OF FINANCE, COUNTYWIDE COSTS; TOTAL OPERATING APPROPRIATIONS; AND TOTAL APPROPRIATIONS (OPERATING AND CAPITAL IMPROVEMENT PROJECTS)"; and

2. "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2017 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO APPENDIX B, REVENUES – FEES, RATES, ASSESSMENTS AND TAXES, DEPARTMENT OF ENVIRONMENTAL MANAGEMENT, SOLID WASTE MANAGEMENT FUND, CHARGES FOR CURRENT SERVICES, FEES – REFUSE DISPOSAL".

The recommended action is that County Communication No. 16-146 be referred to the Budget and Finance Committee.

NO. 16-147 - DANILO F. AGSALOG, DIRECTOR OF FINANCE,
(dated July 6, 2016)

Transmitting a proposed resolution entitled "APPROVING THE ACQUISITION OF 4 LOTS IN THE HAIKU SUGAR EAST SUBDIVISION AT HAIKU, MAUI, HAWAII".

The recommended action is that County Communication No. 16-147 be referred to the Economic Development, Energy, Agriculture, and Recreation Committee.

(COUNTY COMMUNICATION NO. 16-147 WAS LATER REFERRED TO THE BUDGET AND FINANCE COMMITTEE. See pages 65 through 67.)

NO. 16-148 - DAVID C. GOODE, DIRECTOR OF PUBLIC WORKS,
(dated June 23, 2016)

Transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 10.48.040, MAUI COUNTY CODE, RELATING TO STOPPING, STANDING, AND PARKING".

The recommended action is that County Communication No. 16-148 be referred to the Infrastructure and Environmental Management Committee.

NO. 16-149 - DAVID C. GOODE, DIRECTOR OF PUBLIC WORKS,
(dated June 23, 2016)

Transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 10.60.042, MAUI COUNTY CODE, RELATING TO CROSSWALKS ESTABLISHED".

The recommended action is that County Communication No. 16-149 be referred to the Infrastructure and Environmental Management Committee.

NO. 16-150 - DAVID C. GOODE, DIRECTOR OF PUBLIC WORKS,
(dated June 27, 2016)

Transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 10.48.040, MAUI COUNTY CODE, RELATING TO PARKING PROHIBITED ON CERTAIN STREETS AND HIGHWAYS".

The recommended action is that County Communication No. 16-150 be referred to the Infrastructure and Environmental Management Committee.

CHAIR WHITE: Thank you, Mr. Clerk.

Members, are there any objections to the referrals as read by the Clerk?

COUNCILMEMBER HOKAMA: Chairman.

CHAIR WHITE: Ms. Baisa.

COUNCILMEMBER BAISA: I don't have a, an objection, but I'd like clarification on number 16-147. I think he said IEM, and I thought that would be going to EAR or even Budget.

CHAIR WHITE: No, yea, it is scheduled to go to EAR.

COUNCILMEMBER BAISA: EAR, okay. I thought, I must have heard wrong.

CHAIR WHITE: Ms. Cochran.

COUNCILMEMBER COCHRAN: And Chair, yea, and then for the other three, 148, 149, and 150, did I hear to Committee IEM? Was it stated? Okay, so I did, I did hear IEM's, okay. Thank you.

CHAIR WHITE: Okay, thank you.

Mr. Hokama.

DISCUSSION AND ACTION RELATING TO COUNTY COMMUNICATION NO. 16-147

COUNCILMEMBER HOKAMA: Chairman, I would ask the Members to consider 147 for Budget. One, if there are concerns about the appraisal, plus I also believe there's an opportunity for us to get even a better price than what is being proposed with the landowner. I prefer that, because if you look at the documents, Members, there's a clock, and basically this body will have one month only to deal with it. And, I prefer a nine Member committee if we deal with it.

So, I would ask you to consider Budget and Finance. As your Committee Chair, I would commit that I would work to make sure we meet the deadline. Because the deadline for us to get it past Council would be first thing September, if we are going to make the September deadline for recordation, which needs to be done before September 30. So I just ask for your consideration of this, Members. Thank you.

CHAIR WHITE: Members, the reason that it was sent to EAR is that it's consistent with what we have done in, with past purchases of this nature when the money has been set aside in the Budget Committee for, the example is the 209-acre parcel that we bought for the, for park use. In 2013, the, the money decision was made by the Budget, Budget and Finance Committee, but the resolution approving the acquisition was actually put through the EAR Committee.

So, that is the Chair's recommendation, but it's up to you how you would like for that to proceed. My feeling is we are, I'm comfortable with it staying in EAR and moving, moving forward on a timely basis.

Mr. Couch.

COUNCILMEMBER COUCH: Thank you, Mr. Chair. I would support Mr. Hokama's concern because of the fact that: (a) it's a nine-Member committee; and (b) there is a time-constraint as we've run into on the floor here before. If there's a seven Member

committee and the two Members that weren't there have concerns, it drags this meeting out a little bit long, longer. So, I would prefer it to go to a nine Member. Either that or PIA, which according to our Rules, if it could go to two, it could go there as well.

CHAIR WHITE: Ms. Crivello.

COUNCILMEMBER CRIVELLO: Thank you, Chair. I, I support Mr. Hokama's consideration for us to deal with this in Budget, especially with the deadline approaching us. And, I think we'd like to have this addressed and--

CHAIR WHITE: Mr. Hokama, would you like to make a motion.

COUNCILMEMBER HOKAMA: Thank you, Chairman.

I MOVE THAT COUNTY COMMUNICATION 16-147 BE REFERRED TO THE COUNCIL'S COMMITTEE ON BUDGET AND FINANCE.

COUNCILMEMBER CRIVELLO:

SECOND.

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

Any further, oh I'm sorry, Ms. Baisa.

COUNCILMEMBER BAISA: That's okay. Originally, when I looked at it, that's, I thought I had heard one thing, and you know, heard another. But, I assumed this was going to go to Budget because of the nature of the, what it's about, and also the timetable and the nine Members.

It's really hard when we put this in a seven Member committee and we wind up with four people on the floor trying to deal with something and then pass it on. It's very difficult. So, I think the nine will give us a better chance. 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, AND VICTORINO.

CHAIR WHITE: Those opposed say "no".

NOES: CHAIR WHITE.

EXCUSED: VICE-CHAIR GUZMAN.

CHAIR WHITE: Measure passes with seven "ayes", and one "no"; myself, and one "excused".

Mr. Clerk.

Oh, are there any further objections to these as read by the Clerk?

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: Seeing none, thank you.

Mr. Clerk.

COUNTY CLERK: Mr. Chair, proceeding with general communications.

GENERAL COMMUNICATION

NO. 16-5 - BLANCA LAFOLETTE, PROJECT COORDINATOR, CMBY 2011 INVESTMENT, LLC, (dated June 21, 2016)

Submitting the Conditions of Zoning Compliance Report for Ordinance No. 4220, CMBY 2011 Investment, LLC: TMK (2) 3-8-008:019.

CHAIR WHITE: Mr. Couch.

COUNCILMEMBER COUCH: Thank you, Mr. Chair.

I MOVE TO FILE GENERAL COMMUNICATION 16-5.

COUNCILMEMBER VICTORINO:

SECOND.

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

Mr. Couch.

COUNCILMEMBER COUCH: Thank you, Mr. Chair. This is a report that's done by condition of zoning, and there isn't any substantial, in my opinion, I looked at it, there isn't anything substantial that needs to be discussed.

But, if the other Members have concerns, we can certainly refer it. 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 zero "noes".

Mr. Clerk.

COUNTY CLERK: Mr. Chair, the following general communications will be referred to the Planning Committee.

NO. 16-6 - KATHRYN S. MATAYOSHI, SUPERINTENDENT, DEPARTMENT OF EDUCATION, STATE OF HAWAII, (dated June 24, 2016)

Submitting the 2016 Annual Report in accordance with Condition 3 of Ordinance No. 4135, Kihei High School change in zoning.

The recommended action is that General Communication No. 16-6 be referred to the Planning Committee.

NO. 16-7 - GRANT CHUN, VICE PRESIDENT, MAUI, A&B PROPERTIES, INC., (dated June 29, 2016)

Submitting the 2016 Annual Report in accordance with Condition 3 of Ordinance No. 4146, Kihei Residential Project change in zoning.

The recommended action is that General Communication No. 16-7 be referred to the Planning Committee.

CHAIR WHITE: Members, any objections to the referrals?

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: Thank you. So ordered.

Mr. Clerk.

COUNTY CLERK: Mr. Chair, proceeding with unfinished business.

UNFINISHED BUSINESS

ORDINANCES

ORDINANCE NO._____
BILL NO. 71 (2016)

A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM INTERIM DISTRICT TO R-3 RESIDENTIAL DISTRICT (CONDITIONAL ZONING) FOR 14.59 ACRES AT KAWELA, MOLOKAI, HAWAII

CHAIR WHITE: Mr. Carroll.

COUNCILMEMBER CARROLL: Thank you, Chair. May I ask the Clerk, that the Clerk advise whether the Bureau of Conveyances has recorded the unilateral agreement for this matter?

CHAIR WHITE: Mr. Clerk.

COUNTY CLERK: Mr. Chair, we have not received the unilateral agreement.

COUNCILMEMBER CARROLL: Thank you. Mr. Chair, may I request that Bill 71 (2016) be postponed to the Council meeting of August 5, 2016?

CHAIR WHITE: So ordered.

Mr. Clerk.

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

CHAIR WHITE: I want to thank all the Members very much for their attendance today. And, enjoy the rest of "Elmer Cravalho Day". We are adjourned.

ADJOURNMENT

The regular meeting of July 15, 2016 was adjourned by the Chair at 12:09 p.m.

Dennis A. Mateo

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

160715/lks:jm

maui**economic** DEVELOPMENT**BOARD**

Maui County Council
200 S. High Street
Wailuku, Hawaii 96793

Attention Council Chair Michael White and Members of the Maui County Council

Subject: Testimony on Item No. 16-109 of the Land Use Committee, July 15 2016 Meeting of the Maui County Council

Dear Council Chair White and Members of the Maui County Council,

I am Jeanne Skog President and CEO of Maui Economic Development Board. First of all, I would like to thank you for this opportunity to testify on the ordinance before you.

In my previous testimony on this subject, I outlined the importance of putting this measure in the context of the origins and history of the research and technology park. I described how our leaders at that time clearly recognized the vulnerabilities built into our economy and the need to diversify. The future clearly demanded new, innovative, and enriching career opportunities for our community. Putting our shoulders to the wheel, we forged dynamic partnerships - creating a consensus to act and develop a bold plan to invest in our residents, especially our children. That vision ultimately crystalized into the reality of the Maui Research and Technology Park. What we have achieved over the last thirty years would not be possible without the support of the public, the private sector, and local government working together.

The basic vision and values have not changed through this ordinance. The ordinance you have before you moves forward the idea and reality of the park as a community. The emphasis continues to be on research and development activities or as we refer to them - STEM activities. These activities are first and foremost business activities that build prosperity for our families and give our children new opportunities for entrepreneurship and careers. They are integrated into workforce education programs that impact thousands of students from throughout the County - Lanai, Molokai, and Maui.

The update of the Park's Master Plan is an important step in sustaining the Park's vibrancy. As I have emphasized previously the Master Plan update is the result of extensive research that makes sense of what companies and entrepreneurs are looking for today. MEDB's own work with companies, their leaders, entrepreneurs, and similar tech communities today confirms the wisdom of what is being proposed. The continued success of the Park rooted in its over 30-year history of building opportunities and fulfilling dreams is as vital now as it was then. Thank you very much for your attention.

Sincerely,

Jeanne Unemori Skog
President & CEO

Testimony of Courtlandt Gates to Maui County Council
July 15, 2016
Re: Resolution No. 16-147 "Approving the Acquisition of 4 Lots in the Haiku Sugar East Subdivision at Haiku Maui, Hawaii"

Dear Councilmembers:

My name is Courty Gates and my wife and I own Lot 2 in the middle of the land proposed for purchase. In some ways we may be partially responsible for the Open Space Initiative. Until we bought our land, most people did not know it was for sale and those that did may have thought the parcels would never sell.

We are building a home and will live there. We are going to put livestock on the land to remove non-native cane grass and to restore the soil. We are going to gradually restore native species. For the past 1 1/2 years, we have been down on our land almost every day and, with respect, we know better than anyone in this room the conditions there. It is not a pastoral park. And it has gotten worse since the death of Alex Bode who was a caretaker in the area. We notified A&B when a fire was started on Lot 4, when gates were destroyed at Nahele Drive and on Lots 1 and 4, when people were disassembling cars in East Kuiaha Gulch, and when gunshots were fired in Konanui Gulch. We called Maui PD and Maui Fire to notify them of a public safety issue when hundreds of people crossed our land and crowded on the cliff edge at Wai Ki Kena Park during this year's World Surfing League competition. We notified the State Historic Preservation Division and DOCARE about the serious damage caused to a pre-contact cultural site by trail bikes and ATVs. We are not just talking. We have cleaned tons of garbage including hundreds of tires and a burned vehicle out of our portion of Konanui Gulch. We have at least two more vehicles to remove. We have fenced off areas most impacted by dirt bikes to permit the land to heal.

We plan on living there for the rest of our lives. We want the same things that everyone here wants, protection of the natural and cultural resources that make this place so incredible. Our future in our home and the public experience of the area will depend on how the purchased lands are managed. Because of the central location of our land we will affect the public's experiences of the Open Space. It makes sense for all stakeholders to be at the table when planning for the land takes place. That is what I am respectfully asking the Council for, a seat at the table.

I am submitting my testimony in written form as well.

Mahalo for your time and for giving this remarkable land your thoughtful consideration and care.

Reply all | Delete Junk |

Thank you!

B bittnes@gmail.com on behalf of Sam Bittner <sam@tradewindevents.com>

Reply all |

Today 2:15 PM
County Clerk <County.Clerk@co.maui.hi.us>

Hello County of Maui!

Thank you for your efforts in **support of the Agenda item 16-147, to release funds to purchase the 267 acres in the 4 Kuiaha lots.**

This means a lot to my family and community!!!

Maui County Rocks!!!

Much Aloha,
Sam

--
Sam Bittner
Tour Director
AmericanWindsurfingTour.com
Trade Wind Events LLC
PO Box 791701
Paia, HI 96779
(808)280-4419

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COUNTY CLERK

Reply all | Delete Junk |

THANK YOU - Mayor & Council Members

AS

Alice Shelley <aliceshelley@yahoo.com>

Reply all |

Thu 7:51 PM

County Clerk <County.Clerk@co.maui.hi.us>

To the Mayor & Council Members-

Thank you for moving so quickly on Agenda Item 16-147 to release funds to purchase 267 Acres in the 4 Kuiaha Lots. I am in support of this and to Protect Pe'ahi!

Sincerely,
Alice Shelley

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