M I N U T E S

of the

COUNCIL OF THE COUNTY OF MAUI

August 23, 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, AUGUST 23, 2016, BEGINNING AT 9:01 A.M., WITH CHAIR MICHAEL B. WHITE PRESIDING.

CHAIR WHITE: Will this meeting of the County Council please come to order.

Mr. Clerk, please call the roll.

ROLL CALL

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

EXCUSED: NONE.

DEPUTY COUNTY CLERK JOSIAH NISHITA: Mr. Chair, there are nine Members "present". A quorum is present to conduct the business of the Council.

CHAIR WHITE: Thank you very much.

And, Members, this morning we have opening remarks by Stacy Crivello.

OPENING REMARKS

The opening remarks were offered by Councilmember Stacy Crivello.

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

Members and the audience, will you please rise and join me in the Pledge of Allegiance.

PLEDGE OF ALLEGIANCE

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

CHAIR WHITE: Thank you. And just a reminder to have all of you please put your cellphones on silent mode. And with that, we will proceed.

Mr. Clerk.

DEPUTY COUNTY CLERK: Mr. Chair, there are no individuals signed up to testify in the Council chamber or at the District Offices on the ceremonial resolution. Shall we close testimony on ceremonial resolutions?

CHAIR WHITE: Members, without objection, we'll close public testimony.

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: So ordered.

Mr. Clerk.

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

CEREMONIAL RESOLUTIONS

RESOLUTION
NO. 16-104

EXTENDING CONDOLENCES TO THE FAMILY
OF THE LATE MAYOR ELMER CRAVALHO

CHAIR WHITE: Ms. Baisa.

COUNCILMEMBER BAISA: Mr. Chair, I move that--

CHAIR WHITE: Please turn on your microphone.

COUNCILMEMBER VICTORINO: Your microphone.

COUNCILMEMBER BAISA: I'm sorry. I'm going to get use to this sooner or later.

> MR. CHAIR, I MOVE TO ADOPT THE RESOLUTION ENTITLED "EXTENDING CONDOLENCES TO THE FAMILY OF THE LATE MAYOR ELMER CRAVALHO".

COUNCILMEMBER VICTORINO:

> MR. CHAIR, I SECOND THE MOTION.

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

Ms. Baisa.

COUNCILMEMBER Baisa: Thank you, Chair. I'd like to request that the Clerk would read the resolution in its entirety please?

CHAIR WHITE: So ordered.

Mr. Clerk.

(The resolution was read in its entirety.)

CHAIR WHITE: Thank you, Mr. Clerk.

Ms. Baisa.

COUNCILMEMBER BAISA: Thank you, Mr. Chair. And before I make my remarks, I would like to thank you very much for the honor of presenting this resolution today on your behalf. Elmer Cravalho, as you know, was a lifelong friend and somebody that I'm just, I can't believe that I'm here today. So, I want to thank you.

Former Mayor Elmer Cravalho was a giant in our community who will live on through his countless actions and bold vision. A very nice memorial service was held here in the chambers, but today, the Maui County Council has the opportunity to officially honor Mr. Cravalho's legacy.

Maui County has come a long way since the days Elmer served as Mayor. But, the foundation that he laid can still be felt until today. In fact, it could be said that the Maui County we see today is a direct result of Mayor Elmer Cravalho's leadership.

Sorry, Chair, it's been a, it's been a crazy morning.

From the development of this building and these chambers that we sit in today, to the bolstering of our tourist-based economy that continues to sustain core services for our community, to important social services that improve the lives of residents that have lasted until today, such as Maui Economic Opportunity and Hale Mahaolu, this was all because of Elmer.

To me, however, it was his innate ability to get things done that truly separates him from just being a dreamer to a someone who truly impacted our community. It is not every day that you come across these type of figures, with such vision, commitment, and care for people. And I know I speak for everyone in this chamber, that Maui County is better off because of the dedication and hard work of Mayor Cravalho.

We send our deepest sympathies to the entire Cravalho family. And it is wonderful to see each of them here today, to help us celebrate the life of a wonderful Mayor, banker, friend, uncle, and most importantly, advocate of Maui County. Mahalo, Chair.

CHAIR WHITE: Thank you, Ms. Baisa.

Members, any further discussion?

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, thank you. If you would allow me a few comments regarding the late Mayor Cravalho. You know, much has been said about the late Mayor, the former Speaker, achievements as a government servant, a public servant, one who gave to his community as I can recall from stories I've been told from even high school days.

Maui High at that point seem to have some type of energy of development of leaders. I mean, Patsy Mink came out of Maui High, Elmer Cravalho. Maui High was a, gosh I guess a fertile ground of leadership development, maybe. Whatever they did, they put out leaderships that impacted the whole State.

What I will like to share a few comments on this morning is the man that wasn't the public servant or the elected person, but gave just as much in that other capacity. And I would like to talk about how Elmer Cravalho approached community opportunities through credit unions. The old philosophy of tanomoshi, of the hui's, kompan, when you kompan, when you join together multiple assets to allow someone to achieve something even greater. I think that's something Elmer Cravalho saw in his neighbors, his friends, his family; that ability to achieve even greater things through a combination of assets and talents; that credit union mentality.

I want to thank him for doing that because he showed anyone in this County, regardless of your income, your current background, or your upbringing, you could succeed in this County through various opportunities. And I think he provided, for many of us, more than one opportunity to succeed, whether it was the Immigration Services Office with the County, whether it was the credit unions through the non-prof, well, who does banking for no profit right? Well, for the right purposes.

So I just want to thank the Cravalho family, because within that family, it obviously was an important quality to keep as a family, that trait to give service, to make the betterment of your fellow man even greater. So, to the family I say thank you for sharing his life with us, allowing him to make people of Maui County have a greater opportunity for prosperity and success.

And so, to our late Mayor, I say mahalo. Thank you, Chairman.

CHAIR WHITE: Thank you, Mr. Hokama.

COUNCILMEMBER VICTORINO: Chair.

CHAIR WHITE: Mr. Victorino.

COUNCILMEMBER VICTORINO: And I echo the same sentiments of both my colleagues. And again, my condolences to the Cravalho family.

For me, what Riki has just talked about, we were one of those that benefitted from the credit union. We're a young couple. We were married at just about two or three years, and needed a loan to help us expand our home. And Kula Federal Credit

Union, you go see Elmer, you sit there, and he never really talked about money, but he talked about life and what you intended to do and what you wanted to be. And that was really what Elmer was all about, is knowing the person.

And going back even further as a college student, when we qualified for the national DECA competition in Orlando, Florida, and none of us had the means to get there. When we were asked to go see Elmer, we came here, we saw Elmer, Elmer said, I'll take care of that. And the next day we got a call from Hannibal Tavares, Manuel Moniz, and others saying we'll do this, we'll do that, we'll get you there, and the four of us got there.

And that means of wanting to help others expand and become better individuals, or better citizens, or better people in Maui County was really Elmer's mantra. It didn't make a difference who you were so long as you had that vision, and that Elmer said that's good, I'll take care of it. And you knew once he said that, it was done. So, I can, for the rest of my life, the person I am, a lot I attribute to what Elmer and the way he was. Mr. Cravalho led us to be a better County, better citizens in Maui County. And that's what I want people to remember, is that we are here today because he had not only the vision, but the ability to, like Gladys said, bring people together, get us to focus, and get the job done.

We'll miss him, but he'll always be in our hearts for the rest of our lives, and many generations to come. Maui can be thankful that he was here at the time we most needed him; when we changed from agriculture to our resort, hospitality industry, and he helped make sure that all came to fruition. Thank you, Mr. Chair. And thank you to the Cravalho family.

CHAIR WHITE: Thank you, Mr. Victorino.

Any further discussion?

Mr. Carroll.

COUNCILMEMBER CARROLL: Thank you, Chair. Elmer did a lot for Hana when he was Mayor. And afterwards when he was out of office and with the Kula Credit Union, he still continued to help Hana with our credit union and other things too. He was always there for us.

The first time I met with him at the credit union, he said, Bob you still get up early? I said yea, I still get up early. Good, meet me at five o'clock. So, I got up at two, left at three, got over there at five, conducted our business which took about five or ten minutes, and then stayed over there for an hour and a half talking story.

And I did that through the years, and it was really, I really looked forward to it, it was really nice. That, and I truly miss him. It was, we'd talk about the old days, and what's happened, and all kinds of things from cattle to even fishing. And I really appreciate all that he did for us, and I truly miss him. Thank you, Chair.

CHAIR WHITE: Thank you, Mr. Carroll.

Any further discussion?

Ms. Crivello.

COUNCILMEMBER CRIVELLO: You know, on Molokai, he, he was a conversation piece. So, for me, on behalf of our island and the County, I would like to say my aloha and mahalo to the Cravalho family for sharing Mayor Cravalho with, with all of us. And, I hope his legacy will carry on through all of us in ensuring that we continue to build the bridges for our constituents, and to solidify the bridges that's necessary for us to be of full service to our people. Thank you.

CHAIR WHITE: Thank you.

Any further discussion?

Ms. Baisa.

COUNCILMEMBER BAISA: Thank you very much, Chair. Just a few more remarks about this great man. We talked about a legacy of service with this family. And for those of us that picked up the Maui News, I think it was this morning, will see Kathy Phillips on the front page with the great work she's been doing through AARP, and she's being honored. And so, you can see that this legacy continues. And Kathy's with us this morning with her husband, Al, and so, they'll be coming up later. And it just shows you that it's continuing.

And I just wanted to say, I had an eye-opening experience this morning. I was with some malihini's, and I said I need to hurry, I need to get to the County Council because we're presenting a resolution to Mayor Cravalho this morning in his memory. And they looked at me and said, Mayor Cravalho? And so, I'm really glad we're doing this today, because I think it's important for those who didn't know him, and even don't know of him, to understand that he did a lot of what they enjoy today.

And so again, I really want to thank you for putting this forward. Thank you.

CHAIR WHITE: Thank you. Well, Members, I'd like to share that, you know, when, when you look at a man like Elmer Cravalho, you have to be struck by the incredible impact that he has had on the lives of nearly every person living on Maui, because, he not only took care of things like Hale Mahaolu and MEO, and got those started. So he was focused on the social service side, but he was also focused on generating the backbone of the visitor industry which now provides incredible opportunities for so many people not just in the hotels, but in all the various businesses that, that survive because of the hotels. So, when you look at his accomplishments, you simply can't minimize in anyway what he's done for this, this County. And not just on Maui, but Maui Nui.

So, I think we all very much appreciate his efforts, and very much appreciate the fact that the family has shared him with us for all these years. I can't think of another individual on Maui that has had the impact on all of our lives that Mayor Cravalho had, whether it was at the State House, or whether it was here in the County Building. He's just had a magnificent run and life that the family and he can be very, very proud of, and we can all share in that pride.

So, it's with our condolences that we share this wonderful moment with the family, and thank you for sharing him for all these years. And he just touched all the lives of everyone on Maui in ways that most don't even begin to understand. So, hopefully they'll understand a little bit more today.

Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair. I'd also like to give my condolences to the family. I think this is, this is a very meaningful opportunity to say thank you for the family.

I had the opportunity, the great opportunity of sitting down and meeting with him in 2011. I was advised that if I wanted to run for office, I had to meet with the "Godfather of Politics". So, I made an appointment in 2011 at the Kula Credit Union, and went down there, and there he was in the flesh. He was running around as fast as he could, directing people, and he ran that, that office like a very sturdiful *[sic]* captain. He was a good captain of his ship.

I was a little bit nervous. I walked into his office, and we sat down. And he gave me a full history, two hours, I was only expecting half an hour, but it was a good two, I think two and a half hours. And he spoke of the history of Maui and his time when he was in the Leg, to the time when he was a Mayor, and even when the time when he

had run for Mayor and then, you know, somewhat had to leave office. But, it was a great experience.

After I, I won the election, I went back again, and, and thinking it was going to be a shorter conversation, it was another, I think, another three hours. But, he was a, he was as sharp as it could be. His brain was still very, very active. He could, he could remember all the details. And he was just a wonderful man, at least an inspiration for this next generation. And you won't ever see another leader like him in, in my lifetime, I think. He was just an inspiration to, to hear, hear the stories. And I wish there was a book that he had written. It would have been great. But, thank you, thank you.

CHAIR WHITE: Thank you, Mr. Guzman.

Mr. Couch.

COUNCILMEMBER COUCH: Thank you, Mr. Chair. I had the pleasure of meeting him one time, and so I didn't get to know him that well. However, I echo the sentiments of my colleagues that without him we wouldn't be here in this room. I certainly wouldn't be living where I'm living now in South Maui. So, I really appreciate all the, what he's done for Maui County and give my, offer my condolences to his family as well. Thank you.

CHAIR WHITE: Thank you, Mr. Couch.

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

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

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

CHAIR WHITE: Measure passes with nine "ayes" and zero "noes".

Ms. Baisa.

COUNCILMEMBER BAISA: Thank you, Mr. Chair. With your permission, I'd like to call down the family of the late Mayor Elmer Cravalho to be recognized, and to present Rae Landes-Mizukami with a copy of the resolution and to give all of them leis.

CHAIR WHITE: Absolutely.

COUNCILMEMBER BAISA: Members, this morning, we have the honor of having Mr. Cravalho's sister, Theresa Browning, and she'd like to say a few words. And then we'll follow up with his niece. Go ahead.

MS. THERESA BROWNING: What I have to say is just very brief. I thank you for all the accolades, but I think that's one very important thing was kind of missed, maybe I missed it. And that is that although he did the, the tourist industry, and the MEO's, and the social things, he was very, very much an agricultural person. And I teased him often and said you can take the man out of the country, but you can't take the farm out of him.

And he always grew his vegetables and his beautiful flowers and all of that, but he brought the pipeline for the farmers so they could irrigate their crops properly up in Kula. And he started that ag farm on Omaopio Road. So, I think that that's a very important portion of the roundness of his legacy. Thank you very much for all you have said and done. We really appreciate it.

COUNCILMEMBER BAISA: Thank you very, very much. Yes, it's good to remind us that there was, he was a very well rounded man.

MS. BROWNING: That's right.

COUNCILMEMBER BAISA: And, he just was earth, you know, down to earth, just such a great guy to have had the opportunity to know. And I know those of us who did, I can see how the feeling we have about this man.

And now I'd like to introduce his niece, Rae Landes-Mizukami, and these are for you dear, the family, for the family files. And, we'll let you say something.

MS. RAE LANDES-MIZUKAMI: Maybe I should also add to what my Aunt said, is that he also brought the water for the Hawaiian Homes. And he was instrumental in helping to stop the bombing of Kahoolawe. So, he thought about the, everybody.

Okay. Good morning, Council and all. Thank you very much for honoring the late Elmer Cravalho. My family and I gratefully appreciate and accept the condolence resolution for my Uncle Elmer Cravalho. He loved his family and he really loved Maui County's people.

We in Maui are fortunate that he worked tirelessly for the everyday people's best interests. He really was a public servant. Many of the programs he initiated are still improving our lives today.

Mr. Cravalho always remembered his humble roots. He wanted to be remembered that he was one of us.

Thank you very much. Mahalo nui loa.

COUNCILMEMBER BAISA: Rae, would you do us a favor and introduce the family members that are here.

MS. LANDES-MIZUKAMI: Okay. And then I was, just a little caveat. When you all were talking, there's two things that you said that when he said, "I'll take care of it", one of you mentioned, he really did. And the other thing is every time people would come to see him, he would say "what can I do for you". He always did that. And if he told you "I'll take care of it", you knew it would be done. And I think that's part of his character.

Okay, I'd like to introduce to you my wonderful family. All right, right here is Kathleen Phillips who was in the newspaper today, and Deacon Al Phillips. And in the back is Desmond Cravalho, Lee Imada, and his wife who's my cousin, Debbie Imada. This is Rene Dela Cruz, daughter of the Phillips. Karolyn Mossman, who is Terrie Browning's daughter, and Debbie is her daughter.

MS. KAROLYN MOSSMAN: We're sisters.

MS. LANDES-MIZUKAMI: Oh, excuse me, Terrie's daughter. Yea, I don't want to age her.

And if you notice, the ones who are here are the ones who are a little bit older, except for, because some of us are retired and could come today. But, we're really glad that we could make it. So, thank you so much.

COUNCILMEMBER BAISA: Thank you very much. We'd like to thank the family for being here. And once again, our sincere condolences, and thank you for this wonderful, wonderful man that was such an important part of our community.

Thank you, Chair.

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

Mr. Clerk, let's proceed.

DEPUTY COUNTY CLERK: For the record, RESOLUTION 16-104.

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

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

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

Currently, we have no testifiers waiting at our District Offices.

We have one individual who has signed up to testify in the Council chamber. The first person to testify in the chamber is Rosemary Robbins, testifying on Committee Report 16-128 and 16-129. There are no further individuals signed up to testify in the Council chamber.

CHAIR WHITE: Thank you, Mr. Clerk.

Ms. Robbins.

PRESENTATION OF WRITTEN OR ORAL TESTIMONY

MS. ROSEMARY ROBBINS (testifying on Committee Reports 16-128 and 16-129):

Good morning, everybody, indeed everybody. A hundred percent attendance today, how nice.

First of all, on the Infrastructure and Environmental Management Committee, I would encourage folks to go back and look. It's a bright light, excuse me. On the August 1, testimony that was given, including at this microphone, Akaku had gone ahead and made a record of that.

Loads, there were eight pages of documents that got presented on that day. I have them, but you heard them before from others and from me. So, there's the date, August 1, 2016, that had to do with this particular one. I'm sure you're going to be reading this when it gets introduced to you folks at your level. Thank you. And then the other one, I'm definitely in favor of that, personally.

Second item today is No. 16-128 Committee Report. And, it's recommending adoption, yes, adoption of a resolution to authorize the employment of a particular law firm as special representation for our Mayor in terms of Civil Case 16-00381 DKW-KJM, and asking for the amount of $75,000, not to be exceeded. Boy, we've heard that "not to be exceeded" over and over and over again. And then they're always exceeded.

The first one that we dealt with most recently was the one for the Kapalua side of water, difficulties up there. And that has grown from, from 250,000 to 2 million and a couple of hundred other thousand, that was not to have exceeded. So, we're living proof, breathing the same air now that we were when all of this went through. So that didn't turn out to be an accurate statement.

Today's item in here on Committee Report of the Whole, recommending adoption of this seems like a fast move forward. The folks here first learned about the problem on this by way of the only local, locally owned newspaper on Maui. So, we've known about this for a while. And this just seems to have kept growing. The information on that first came to this particular microphone, as far as I'm aware, happened on August 1. And again, Akaku went ahead and made a record of this, so it does exist.

And it talks about the materials that were kept from those of us who were concerned citizens, including the folks who were here in that capacity, by way of having executive session. So, the material that the public was left with was what we got

from the newspaper. But, that also included an audio report, and it identifies some of what is in here.

Our Charter for the County of Maui says that in order to do some of the things that they want to do, the whole Council, nine has to have a two-thirds vote. Yet indeed, they voted 5-0 on this issue. 5-0 is not a two-thirds. So, we're in trouble right away with this. So, I'm encouraging you to make sure that if this is going to go forward, any further, that that correction be made. You're all here, so that might be able to be done now. I don't know exactly how that works in your system. But, the math would, would work out for us.

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

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

MS. ROSEMARY ROBBINS: You're welcome.

CHAIR WHITE: Mr. Clerk.

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

CHAIR WHITE: Thank you, Mr. Clerk.

Have we received any written testimony this morning?

DEPUTY COUNTY CLERK: We have not received written testimony.

CHAIR WHITE: Okay, thank you very much.

Members, without objection, we'll close public testimony for today.

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: Thank you, so ordered.

Mr. Clerk.

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

MINUTES

The minutes of the Council of the County of Maui's regular meetings of May 20, 2016, and June 3, 2016, were presented at this time.

CHAIR WHITE: Vice-Chair Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair.

I MOVE TO, I MOVE TO ADOPT THE REGULAR MEETINGS OF MAY 20, 2016, AND THE APPROVAL OF REGULAR MEETING MINUTES OF JUNE 3, 2016.

COUNCILMEMBER VICTORINO:

MR. CHAIR, I SECOND THE MOTION.

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

Mr. Guzman.

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

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

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

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

CHAIR WHITE: Measure passes with nine "ayes", zero "noes".

Mr. Clerk.

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

COMMITTEE REPORTS

COMMITTEE REPORT
NO. 16-126 - BUDGET AND FINANCE COMMITTEE:

Recommending the following:

1. That Bill 83 (2016), 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)," be PASSED ON FIRST READING and be ORDERED TO PRINT; and

2. That County Communication 16-145, from the Budget Director, be FILED.

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, with the Members, no objection from the Members, I would request 16-127 also be brought forward.

CHAIR WHITE: Members, any objections?

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: So ordered.

Mr. Clerk.

COMMITTEE REPORT
NO. 16-127 - BUDGET AND FINANCE COMMITTEE:

Recommending the following:

1. That Bill 84 (2016), entitled "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)," be PASSED ON FIRST READING and be ORDERED TO PRINT;

2. That Bill 85 (2016), entitled "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," be PASSED ON FIRST READING and be ORDERED TO PRINT; and

3. That County Communication 16-146, from the Budget Director, be FILED.

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA: Thank you, Chairman.

I MOVE THAT 16-126 AND 127 BOTH PASS FIRST READING AND BE ORDERED TO PRINT, AND ADOPTION OF THOSE COMMITTEE REPORTS.

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, VICE-CHAIR GUZMAN, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

CHAIR WHITE: Measure passes with nine "ayes", zero "noes".

Mr. Clerk.

DEPUTY COUNTY CLERK: Relative to Committee Report 16-126, that's BILL 83 (2016). Relative to Committee Report 16-127, BILLS 84 and 85 (2016), respectively.

COMMITTEE REPORT
NO. 16-128 - COMMITTEE OF THE WHOLE:

Recommending that Resolution 16-105, entitled "AUTHORIZING THE EMPLOYMENT OF SPECIAL COUNSEL KOBAYASHI SUGITA & GODA, LLP IN HARRY DONENFELD V. COUNTY OF MAUI, ET AL., USDC CIVIL NO. 16-00381 DKW-KJM," be ADOPTED.

CHAIR WHITE: Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair.

I MOVE TO ADOPT THE RECOMMENDATIONS IN THE COMMITTEE OF THE WHOLE REPORT 16-128.

COUNCILMEMBER CRIVELLO:

SECOND.

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

Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair. Your Committee met on August 5, 2016, to consider a request by the Department of Corporation Counsel to authorize the employment of Kobayashi Sugita & Goda, LLP as special counsel to represent Alan Arakawa, in his individual capacity, in the case read by the Clerk. Total compensation would not exceed 75,000.

The complaint filed in this case alleges Harry Donenfeld was terminated as the Maui County Film Commissioner in violation of his due process rights under the United State and Hawaii's Constitutions, breach of contract, defamation, and violations of

statutory privacy interests, among other things. Mr. Donenfeld seeks damages including punitive damages.

A Deputy Corporation Counsel said the Department would represent the County and the Mayor in his official capacity. He also said that the counsel is proposed to represent, excuse me, he said special counsel is proposed to represent the Mayor in his individual capacity.

Following an executive meeting, your Committee voted 5-0 to recommend adoption of the revised proposed resolution incorporating non-substantive revisions.

I ask the Members support of my motion. Thank you, Chair.

CHAIR WHITE: Thank you, Mr. Guzman. Members, any further discussion on this item?

COUNCILMEMBER HOKAMA: Chairman.

CHAIR WHITE: Yes, Mr. Hokama.

COUNCILMEMBER HOKAMA: May I have a very short recess please?

CHAIR WHITE: Yes. Recess at the call of the Chair.

(THE MEETING WAS RECESSED BY THE CHAIR AT 9:45 A.M., AND WAS RECONVENED AT 9:48 P.M., WITH ALL MEMBERS PRESENT).

CHAIR WHITE: This meeting shall come back to order. And, we'll, we'll go on.

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, thank you for that recess. I'm ready for the question when you're ready for the decision, Chairman. Thank you.

CHAIR WHITE: Okay, thank you.

Members, any further discussion on this item?

The Chair will just point out that it was brought up by a testifier that the item received a vote of 5-0 in Committee. And the requirement of the Charter is that it pass the Council level with a two-thirds vote; a unanimous vote in the Committee is just fine. So, just wanted to clarify that for folks that are watching today.

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

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

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

CHAIR WHITE: Measure passes with nine "ayes" and zero "noes".

Mr. Clerk.

DEPUTY COUNTY CLERK: For the record, RESOLUTION 16-105.

COMMITTEE REPORT
NO. 16-129 - INFRASTRUCTURE AND ENVIRONMENTAL MANAGEMENT COMMITTEE:

Recommending the following:

1. That Bill 86 (2016), entitled "A BILL FOR AN ORDINANCE AMENDING TITLE 16, MAUI COUNTY CODE, TO ELIMINATE EXEMPTIONS IN THE ELECTRIAL CODE, PLUMBING CODE, AND BUILDING CODE OF THE COUNTY OF MAUI RELATING TO LANDS WITHIN THE CONSERVATION DISTRICT," be PASSED ON FIRST READING and be ORDERED TO PRINT; and

2. That County Communication 13-135, from Councilmember Mike White, be FILED.

CHAIR WHITE: Ms. Cochran.

COUNCILMEMBER COCHRAN: Good morning. Thank you, Chair.

I MOVE TO ADOPT THE RECOMMENDATIONS IN COMMITTEE REPORT 16-129.

COUNCILMEMBER HOKAMA:

SECOND.

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

Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair. Your Committee met on March 16, 2015, March 14, 2016, July 11, 2016, and August 1, 2016, to discuss a proposed bill to eliminate exemptions in the Building Code of the County of Maui relating to lands within the Conservation District and lands designated as Hawaiian Home Lands.

Your Committee expressed concern that the Building Code exemption allows owners of these properties to avoid the building permit process, which prevents the department from identifying any new construction or improvements being made. This has resulted in inaccurate County records, the inability to assess property taxes, and the possible reduction of Federal funds available for the County should a natural disaster occur.

Your Committee decided against eliminating exemptions on lands designated as Hawaiian Home Lands, and agreed that additional discussion is warranted.

To ensure consistency throughout Title 16, Maui County Code, exemptions in the Electrical Code and Plumbing Code for Conservation Districts Lands were also eliminated.

So, I therefore respectfully ask for this Council's full support of the Committee recommendations. Thank you, Chair.

CHAIR WHITE: Thank you, Ms. Cochran.

Members, any further discussion?

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, I want to thank Ms. Cochran, our Chair, Chairman for the Committee, on this great work. But, it doesn't give us the whole apple. I would say I'll take half the apple.

And I would also say that I appreciate the Chair because the State departments themselves support this correction of the ordinance this morning. So, I, I commend

her because under State law, we are able to assess on government lands, improvements and structures that is due to the County for property tax revenue generations.

So, I appreciate this. It's something we still need to go for that other half of that apple, if I can put it that way, Chairman. Because, at the end of the day, it's about fairness to all the taxpayers and not to be subsidized by only certain groups. So, I appreciate the Committee's efforts, and the Chair's dedication to get this passed this morning. Thank you.

CHAIR WHITE: Thank you, Mr. Hokama.

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

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

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

CHAIR WHITE: Measure passes with nine "ayes", zero "noes".

Mr. Clerk.

DEPUTY COUNTY CLERK: For the record, BILL 86 (2016).

COMMITTEE REPORT
NO. 16-130 - PLANNING COMMITTEE:

Recommending the following:

1. That General Communication 15-4, from Grant Chun, Vice President, Maui, A&B Properties, Inc., transmitting the 2015 Annual Compliance Report in accordance with Condition 19 of Ordinance No. 3559, change in zoning for the Maui Business Park Phase II, be FILED; and

2. That General Communication 16-4, from Grant Chun, Vice President, Maui, A&B Properties, Inc., submitting the 2016 Annual Compliance Report in accordance with Condition 19 of Ordinance No. 3559, change in zoning for the Maui Business Park Phase II, be FILED.

CHAIR WHITE: Mr. Couch.

COUNCILMEMBER COUCH: Thank you, Mr. Chair.

I MOVE TO ADOPT THE RECOMMENDATIONS IN PLANNING COMMITTEE REPORT 16-130.

COUNCILMEMBER CARROLL:

SECOND.

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

Mr. Couch.

COUNCILMEMBER COUCH: Thank you, Mr. Chair. Committee Report No. 16-130 recommends the filing of General Communications 15-4 and 16-4, relating to annual compliance reports for A&B Properties, Inc., Maui Business Park Phase II project, pursuant to Condition 19 of Ordinance 3559 of 2008.

Your Committee met on August 20, 2015, and August 4, 2016, to discuss the annual compliance report submitted for the projects by Grant Chun, Vice President of A&B.

Ordinance 3559 granted A&B a Change in Zoning from Agricultural, M-2 Heavy Industrial, and R-1 Residential Districts to M-1 Light Industrial District for the project.

The Council imposed 19 zoning conditions to mitigate project impacts, one of which requires an annual report to the Council.

Mr. Chun reported that A&B has made significant progress since 2008. All required infrastructure, including roadways, drainage, water, sewer, and electrical systems have been completed in Increment I of the project. Sales and marketing of the properties began in 2012 and, and are ongoing.

Most recently, progress has also been made on the affordable housing component of the project. The affordable housing will be located in A&B's Waiale master plan

community. The final subdivision plat for the 40-acre affordable housing site and the new Kahului Community Center was submitted in July of 2016.

I respectfully ask for the Members full support of the, this Committee's recommendation. Thank you, Chair.

CHAIR WHITE: Thank you, Mr. Couch.

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, VICE-CHAIR GUZMAN, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

CHAIR WHITE: Measure passes with nine "ayes", zero "noes".

Mr. Clerk.

DEPUTY COUNTY CLERK: Mr. Chair, proceeding with County Communications.

COUNTY COMMUNICATION

NO. 16-174 - DANILO F. AGSALOG, DIRECTOR OF FINANCE,
(dated August 2, 2016)

Transmitting two reports on the settlement of claims as of June 30, 2016.

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, thank you. I also request the Clerk to bring up Communication 16-176 and 177 please, with no objections from the Members.

CHAIR WHITE: Any objections, Members?

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: Seeing none, please do so Mr. Clerk.

NO. 16-176 - TIVOLI S. FAAUMU, CHIEF OF POLICE,
(dated August 8, 2016)

Transmitting a grant agreement with the State of Hawaii, Department of the Attorney General for the purchase of Portable, Field Presumptive Gunshot Residue and Explosives Detection System in the amount of $7,410.00.

NO. 16-177 - TEENA RASMUSSEN, ECONOMIC DEVELOPMENT DIRECTOR,
(dated August 15, 2016)

Transmitting a copy of the WIOA Bulletin No. 07-16 from the State of Hawaii, Workforce Development Council noting Program Year 2016 Workforce Innovation and Opportunity Act allocations in the amount of $584,109.00.

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA:

CHAIRMAN, I, I MOVE TO FILE COUNTY COMMUNICATION 16-174, 176, AND 177.

COUNCILMEMBER VICTORINO:

MR. CHAIR, I SECOND THE MOTION.

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

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, these are just required reports to the Council from the various departments, and therefore, in review, we are recommending filing this morning. Thank you.

CHAIR WHITE: Thank you, Mr. Hokama.

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

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

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

CHAIR WHITE: Measure passes with nine "ayes", zero "noes".

Mr. Clerk.

NO. 16-175 - DANILO F. AGSALOG, DIRECTOR OF FINANCE, (dated August 8, 2016)

Informing of the acquisition of Curb Ramp Easement R-1, Kehalani Mauka (Large-Lot) Subdivision No. 3-B, TMK: (2) 3-5-001:090.

CHAIR WHITE: Ms. Cochran.

COUNCILMEMBER COCHRAN: Chair, thank you very much. And, Mr. Chair, with no objections, I wish to refer this communication to Infrastructure, Environmental Management Committee.

And I know it must, it looks kind of manini, but in that essence, I wanted to bring it forth just to have further discussion as in, do these little items need to truly come to us. And let's just, you know, kind of work it through and, and figure out, you know, if these types of things can just be done within the departmental decision-making.

So, that's the reason. So if, with no objections, if I can bring that into my Committee for discussion.

CHAIR WHITE: Any objections for the referral, Members?

MEMBERS VOICED NO OBJECTION.

COUNCILMEMBER COCHRAN: Thank you, Members.

CHAIR WHITE: So ordered. Thank you, Ms. Cochran.

Mr. Clerk.

The recommended action is that County Communication No. 16-175 be referred to the Infrastructure and Environmental Management Committee.

NO. 16-178 - ALAN M. ARAKAWA, MAYOR,
(dated August 2, 2016)

Informing of a vacancy on the Maui Planning Commission due to the passing of Jason Medeiros on July 22, 2016.

CHAIR WHITE: Mr. Victorino.

COUNCILMEMBER VICTORINO: Thank you, Mr. Chair.

I MOVE TO FILE COUNTY COMMUNICATION 16-178.

COUNCILMEMBER COUCH:

MR. CHAIR, I SECOND.

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

Mr. Victorino.

COUNCILMEMBER VICTORINO: Yea, thank you, Mr. Chair. I, it saddens me to have this communication come forward. Mr. Medeiros had been a good friend and long-time contributor to this County. Many of us in this room know of him and have worked with him. And his generosity and his big smile was always a big part of our, not only political area, but also as a friend and in the community at large.

We, we will surely miss him. And I know he's in a good place. So, I think that's all I have to say. Thank you, Mr. Chair.

CHAIR WHITE: Thank you, Mr. Victorino.

Members, any further discussion?

Mr. Couch.

COUNCILMEMBER COUCH: Thank you, Mr. Chair. And I too am saddened to see this, and have to have this communication. Mr. Medeiros was a good acquaintance, and very funny to be around. And we will be missing him. Thank you.

CHAIR WHITE: Thank you.

Any further discussion, Members?

And the Chair would just ditto those remarks. Jason was a fabulous guy, and we'll all miss him.

All those in favor please signify by saying "aye".

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

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

CHAIR WHITE: Measure passes with nine "ayes", zero "noes".

Mr. Clerk.

NO. 16-179 - DAVID TAYLOR, DIRECTOR OF WATER SUPPLY, (dated August 5, 2016)

Transmitting the Department of Water Supply's Monthly Source Report and Groundwater Use Report for the month ending July 2016.

CHAIR WHITE: Ms. Baisa.

COUNCILMEMBER BAISA: Thank you very much, Chair.

I MOVE TO FILE THE REPORT.

COUNCILMEMBER VICTORINO:

MR. CHAIR, I SECOND THE MOTION.

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

Ms. Baisa.

COUNCILMEMBER BAISA: Thank you, Mr. Chair. No discussion. This is a routine report that we will file, and it'll be available for anyone who wants to take a look at it. Thank you.

CHAIR WHITE: Thank you.

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

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

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

CHAIR WHITE: Measure passes with nine "ayes", zero "noes".

Mr. Clerk.

NO. 16-180 - DON S. GUZMAN, CHAIR, COMMITTEE OF THE WHOLE, (dated August 15, 2016)

Transmitting the following:

1. A proposed resolution entitled "AUTHORIZING THE EMPLOYMENT OF TORKILDSON KATZ MOORE HETHERINGTON & HARRIS AS SPECIAL COUNSEL IN THE MATTER OF THE INTEREST ARBITRATION BETWEEN BARGAINING UNIT 11, REPRESENTED BY THE HAWAII FIRE FIGHTERS ASSOCIATION, AND THE STATE OF HAWAII, CITY AND COUNTY OF

HONOLULU, COUNTY OF HAWAII, COUNTY OF MAUI, AND COUNTY OF KAUAI"; and

2. A proposed bill entitled "A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO A COOPERATIVE PURCHASING AGREEMENT WITH THE STATE OF HAWAII, CITY AND COUNTY OF HONOLULU, AND COUNTY OF KAUAI FOR LEGAL SERVICES RELATING TO THE INTEREST ARBITRATION HEARING OF THE CONTESTED ARTICLES OF THE BARGAINING UNIT 11 (FIRE FIGHTERS) COLLECTIVE BARGAINING AGREEMENT, AND TO ENTER INTO AN EXPERT CONSULTING AND SUPPORT SERVICES AGREEMENT WITH THE STATE OF HAWAII, CITY AND COUNTY OF HONOLULU, COUNTY OF KAUAI, AND COUNTY OF HAWAII FOR CONSULTATION SERVICES RELATING TO THE INTEREST ARBITRATION HEARING OF THE CONTESTED ARTICLES OF THE BARGAINING UNIT 11 (FIRE FIGHTERS) COLLECTIVE BARGAINING AGREEMENT".

(Councilmember Victorino was excused from the meeting at 10:00 a.m.)

CHAIR WHITE: Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair.

MOVE TO DISCHARGE THE COMMITTEE OF THE WHOLE FROM FURTHER CONSIDERATION OF THE PROPOSED RESOLUTION AND THE PROPOSED BILL AS READ BY THE CLERK.

COUNCILMEMBER CRIVELLO:

CHAIR, I SECOND THE MOTION.

CHAIR WHITE: We have a motion to discharge from Mr. Guzman, and second from Ms. Crivello.

Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair. Your Committee of the Whole met on August 18, 2016, to consider the proposed resolution and proposed bill. According to the Department of Corporation Counsel, the hiring of special counsel to represent the County of Maui and the other Hawaii governmental entities as noted is time sensitive.

Therefore, I am asking the Committee be discharged from further consideration of the proposed legislation.

CHAIR WHITE: Members, any further discussion?

Mr. Couch.

COUNCILMEMBER COUCH: Actually, not until we get to the bill itself. Thank you.

CHAIR WHITE: Okay. 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, VICE-CHAIR GUZMAN, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBER VICTORINO.

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

Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair.

I MOVE TO WAIVE THE REQUIREMENTS OF THE COMMITTEE REFERRAL AND REPORT PURSUANT TO RULE 7(E) OF THE RULES OF THE COUNCIL.

COUNCILMEMBER CRIVELLO:

CHAIR, I SECOND THE MOTION.

CHAIR WHITE: Okay, we have a motion to waive the Rules of the Council from Mr. Guzman, and a second from Ms. Crivello.

Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair. Waiver of this requirement by the affirmative vote of two-thirds of the entire membership of the Council will allow the proposed resolution and proposed bill to be considered by the Council meeting, by the Council today. Nothing further, Chair.

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

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

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBER VICTORINO.

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

Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair.

I MOVE TO ADOPT THE PROPOSED RESOLUTION ENTITLED "AUTHORIZING THE EMPLOYMENT OF TORKILDSON KATZ MOORE HETHERINGTON & HARRIS AS SPECIAL COUNSEL IN THE MATTER OF THE INTEREST ARBITRATION BETWEEN BARGAINING UNIT 11, REPRESENTED BY THE HAWAII FIRE FIGHTERS ASSOCIATION, AND THE STATE OF HAWAII, STATE, CITY AND COUNTY OF HONOLULU, COUNTY OF HAWAII, COUNTY OF MAUI, AND COUNTY OF KAUAI".

(Councilmember Victorino returned to the meeting at 10:03 a.m.)

COUNCILMEMBER CRIVELLO:

CHAIR, I SECOND THE MOTION.

CHAIR WHITE: Okay, we have a motion from Mr. Guzman, and a second from Ms. Crivello.

Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair. Chair, as noted, the proposed resolution, the Hawaii Labor Relations Board has issued an Order Declaring an Impasse and Appointment of Mediator In the Matter of Hawaii Fire Fighters Association's, IAFF, Local 1463, AFL-CIO, and David Y. Ige, et al., HLRB Case I-11-157.

The State, the City and County of Honolulu, County of Maui, and County of Kauai wish to be jointly represented by special counsel herein, within the resolution, to serve as lead counsel.

The County's pro rata share of the total compensation for special counsel's fees and costs shall not exceed $50,000.

I ask the Council's support of my motion.

CHAIR WHITE: And just for clarification, you were, your motion includes both the resolution and the bill?

VICE-CHAIR GUZMAN: I have a second.

CHAIR WHITE: Or is this just on the resolution?

VICE-CHAIR GUZMAN: It's on the, I believe the resolution.

CHAIR WHITE: Okay.

VICE-CHAIR GUZMAN: And, and the bill, sorry.

No, it's the resolution, I apologize. I have to get another motion for the bill.

CHAIR WHITE: Okay. Thank you.

So, Members, we're voting on just the resolution at this time. Any further discussion?

Mr. Couch.

COUNCILMEMBER COUCH: Thank you, Mr. Chair. And, you know, this is one that I would request that our HSAC representatives hear the frustration we had at that

meeting to at least get some sort of legislation that will allow us to at least hear what the issues are. We were extremely frustrated at not being able to even know what some of the things that we needed to know.

So, I, I would like to urge our HSAC folks to get some sort of language in there that, bill in there that we can, at least, be able to converse with our negotiators. Thank you.

CHAIR WHITE: Thank you, Mr. Couch.

COUNCILMEMBER VICTORINO: Chair.

CHAIR WHITE: Mr. Victorino.

COUNCILMEMBER VICTORINO: Just to assure Mr. Couch that yesterday we did meet as a Executive Committee, HSAC, and we did bring it up. And it is being in, I'm putting together something, and I'll be calling upon you for some help in putting it together so that we can present it at our HSAC package for here, Maui County, and take it for next month's meeting at HSAC's Executive Committee in October. I think we have it, no, September 22 is our next meeting. So, we'd like to have something in place so that we can bring it forward. Thank you, Chair.

CHAIR WHITE: Thank you.

Members, any further discussion?

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman. I would ask Chairman Guzman if he can help me with some clarification, please. And this is more about the Members of this consortium. As I understand it will be City and County of Honolulu; Counties of Hawaii, Kauai, Maui; and the State of Hawaii.

You know, the way the State usually stacks it up, the State says when we vote, we carry the number four with us. So, when we vote we say we had four votes. Is that the way it's going to be with this group too? The State is going to tell the rest of the counties we have four votes out of this group of five?

CHAIR WHITE: Mr. Guzman, I, I, my understanding is that this arrangement does nothing to change the actual vote count, and Mr. Guzman can clarify that.

VICE-CHAIR GUZMAN: That's correct. This representation is just as lead counsel. If there are other articles that the jurisdictions need to address, each jurisdiction will have that opportunity to present their specific defense or, you know, issues to the arbitrator in arbitration.

So there, this is just serving as lead counsel, so it's collectively more organized and, you know, one set of discovery or evidence needs to be presented to the one lead counsel. And then that information to be disclosed to the other jurisdiction's counsels, excuse me, attorneys.

CHAIR WHITE: Mr. Hokama.

VICE-CHAIR GUZMAN: Mr. Gary Murai is here also. He may want to add a few comments just to follow up.

CHAIR WHITE: Mr. Murai.

COUNCILMEMBER VICTORINO: Can you put on the mic?

DEPUTY CORPORATION COUNSEL GARY MURAI: Thank you, Mr. Chair. Thank you, Mr. Guzman. To elaborate further, your understanding is correct in that no matter what, the State will always have their four votes, and each of the counties will have one vote.

Although we have not yet actually entered into the retainer agreement, which is why we're before the Council, what you stated earlier is correct in that we negotiate as an Employer Group, and we also litigate the matter as an Employer Group. And as an Employer Group, there may be, for example settlement discussions where we must speak with a unified voice. So, it's extremely important in these kinds of negotiations. And should it proceed to interest arbitration, to that litigation, that the employers remain as unified as possible and present a united front.

Now, as you correctly pointed out, traditionally and historically, that has, this has never stopped each individual jurisdiction from advocating for or against a matter that particularly affects their jurisdiction. And using this as a hypothetical example, if an, if a contested article of the collective bargaining agreement, say affected EMT's, emergency medical technicians. Because only Hawaii County has EMT's, they would naturally take the lead on that and be free to argue their position because they are the most affected jurisdiction.

And there may be situations where because of our operational needs in Maui County, we may take, take the lead on articles that would affect our operations, or impact our operations more than they would in other jurisdictions.

COUNCILMEMBER HOKAMA: And I appreciate your comments, Counselor. I don't like it, but I understand what you're saying. Cause for me, then, why are the four counties paying more than their fair share? We should be paying 50 percent of the total bill, the four counties. We only get half the votes.

DEPUTY CORPORATION COUNSEL: Well--

COUNCILMEMBER HOKAMA: Why is the State being treated equally when we're not equals?

DEPUTY CORPORATION COUNSEL: I can't answer that question. I can just point to other, you know, I guess, inequities or imbalances I should say.

I do want to point out one thing though, this is, because we negotiate and we litigate as an Employer Group, we also take into account that some jurisdictions have more resources than others. And I should point out--

COUNCILMEMBER HOKAMA: So, the State's saying the counties have more resources than them?

DEPUTY CORPORATION COUNSEL: No, no, that's not what I'm saying. The State has not said that. What I can point to, the last, the last collective bargaining interest arbitration where the State paid for the expert consultant and expert witness, and the County of Maui benefitted greatly from the State's generosity where we didn't have to pay anything but the, but the expert.

COUNCILMEMBER HOKAMA: We didn't have to pay in the expert witness, but we paid a hell of a lot through the contract ratification. So, it depends where you want to pay, because I wasn't happy with that expert witness's outcome.

DEPUTY CORPORATION COUNSEL: I understand.

COUNCILMEMBER HOKAMA: No, I'm just trying to figure out why is it still, we're still trying to maintain an imbalance and inequitable situation for the counties versus the State.

DEPUTY CORPORATION COUNSEL: That's something I cannot answer. I'm sorry.

COUNCILMEMBER HOKAMA: Well, I would say, first ask you is the Council a member of the Employers Group?

DEPUTY CORPORATION COUNSEL: I'm not sure I understand the question.

COUNCILMEMBER HOKAMA: Is the nine of, is the nine Members of this body here before you this morning part of the Employers Group?

DEPUTY CORPORATION COUNSEL: I would say I don't think so, because--

COUNCILMEMBER HOKAMA: You don't think so? We're not part of the Employers Group?

DEPUTY CORPORATION COUNSEL: Well I'm not sure what you're speaking to. If you're speaking to who has--

COUNCILMEMBER HOKAMA: Do we represent the employer or do we represent the employees?

DEPUTY CORPORATION COUNSEL: By Statute, Chapter 89, the Mayor of each County is designated as the--

COUNCILMEMBER HOKAMA: Lead.

DEPUTY CORPORATION COUNSEL: --as the representative.

COUNCILMEMBER HOKAMA: But, what is the Members then? What are, what is, what are our role, what is our status? Are we part of employers?

DEPUTY CORPORATION COUNSEL: Well, certainly you are part of the employer. But, I can't, I can't answer your question beyond that. I'm not, I'm sorry I don't know if I'm understanding your question correctly.

COUNCILMEMBER HOKAMA: If we're part of, well, my point is, one, are we part of the Employers Group? If the answer is yes, then my point is, then we should be able to get through appropriate venues, whether it be executive session or whatnot, either Mr. Victorino or Mr. Guzman's Committee, the right to get statuses and find out what is on the table as part of the Employer's Group that eventually the Council has to make the financial decision on whether to pay the contract or not.

So, I'm proposing that the Council has a right and an opportunity to be at least briefed on what is being discussed on the table because we have issues. We always

have to come up with the funds to pay the contracts, yet we have no say of some of our concerns, whatever it may be; comp time, deferred comp, whatever it be, vacation totals, termination. Why wouldn't we be able to one status if, find out, especially for certain departments that have unique challenges?

Each Member Chair's a Committee of standing importance. They know what the ins and outs of that operational is. They have their understandings. Why aren't we being able to express, or be told what is the status as it impacts our County budget and our ability to finance and make a final determination whether to ratify a new contract or not?

I'm just asking what I feel is fair from being a part of the Employers Group. Because eventually, the nine of us, not you with all respect, Mr. Murai, is going to go tell the public why we asking them to pay more money. The nine of us will be doing that.

DEPUTY CORPORATION COUNSEL: Mr. Hokama, I can understand your frustration. Certainly it's not, it's not an intentional or a willful unwillingness. It's more of the fact that the negotiations and interest arbitration by their nature must be confidential.

The worst thing that can happen is for information to be prematurely disclosed. And we are always concerned about the threat or the risk of being charged with an unfair labor practice by disclosing information outside, outside of the negotiations.

COUNCILMEMBER HOKAMA: I think the nine Members know our responsibilities well enough. We've been deposed, disposed, whatever you want to say, we've gone through it, okay.

DEPUTY CORPORATION COUNSEL: No, certainly it's not--

COUNCILMEMBER HOKAMA: So, we have privileged information that we understand needs to remain under certain sealed responsibilities regarding the office. We understand that. But, I think as decision-makers and representatives of the people, we have a right to be able to be informed of information that will impact a final decision.

Thank you, Chairman.

CHAIR WHITE: Thank you, Mr. Hokama.

We had a very spirited discussion in open session the other day in Mr. Guzman's Committee surrounding the same issues. Why is it that as the ultimate funders, we

are left completely in the dark until the, the bill asking for the amount settled upon whether it's through arbitration or through negotiation is dropped in our lap.

It was, I think, the strong feeling of the Committee that that's simply not right. And it's not right because we have the responsibility to fund. In other words, we are the ones that have to come up with the money to pay for it, and yet we have no input and no information during the process.

And I'm, I'm troubled more by the fact that not only do we not know what's going on in the process, or what's being asked for at any stage of the game, whether it's prior to going into arbitration or, or afterwards. The public has no idea. And it's because, as was pointed out, that we sign confidentiality agreements with each of the unions prior to the start from negotiation. Well, I think the public deserves to know what the unions are asking for and what the State and the various counties are offering in the initial stages, especially.

Because, you know, I'm assuming that what's going to happen this time is largely what happened during the last go around, that the, that the raises that were provided are significantly higher than those given in the private sector. So, it's, it is a challenge.

And the votes at the State level are a challenge, especially when we have very little involvement in the fire fighters contract by the State, cause they have only those fire fighters at the airports. And those are all special funded. They're not funded out of general funds, like the counties. And yet, they have four votes, and the Counties have four votes. The police, there are no members, no State members in the SHOPO contract, and yet, the State, once again, has an equal number of votes.

Those are the items that I believe Mr. Victorino brought up at HSAC yesterday. And they're all very touchy subjects for those of us that have been involved for a while.

Ms. Baisa.

COUNCILMEMBER BAISA: Thank you very much, Chair. Yes, and I do want to assure you that the concerns that this Council has expressed were very appropriately and well expressed yesterday at the HSAC meeting. And I believe that there will be a strong follow-up. We have to. And we have to raise all these questions that we're asking here at that level.

And I have to say that on an off the record conversation with one of our Senator's, I was informed that Senator felt very strongly that there was no reason why we could not be given information in executive session. So, I think there are other opinions,

but we're going to have to dig into this. And better as through HSAC, because then we would have the power of four Counties. But, we're seriously doing it. And Mr. Victorino did a great job.

CHAIR WHITE: Yea, and I would just add that looking at it from a business standpoint, when I negotiate with the ILWU, I'm in the Mayor's position. And I'm the, I'm the one that makes the final decision.

COUNCILMEMBER BAISA: Right.

CHAIR WHITE: But, my boss knows roughly what the scope of the negotiations are, and has the ability to provide input. And so I would agree with that Senator. And it's nice to know that we have some like-minded souls in the, in the square building that often only has round things coming out of it.

COUNCILMEMBER VICTORINO: Mr. Chair.

CHAIR WHITE: Mr. Couch.

COUNCILMEMBER COUCH: Thank you for that. I also wanted to, for Mr. Hokama's benefit as well since he wasn't at the meeting, and this, while the funding, the fact that we are the funders is extremely important, the other thing that is, is I think even more important, is we're the ones that set the policy for this County. And to be able to not know where we are in negotiations, that's one of our primary jobs is setting the policy, and we can't even do that in there. So, that is something I hope that the HSAC is going to bring up and, and hopefully advocate for. Thank you.

CHAIR WHITE: Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair. And, yea, I've, Mr. Hokama rehashed all those frustrated feelings we had.

But, you know, I have a dear friend, a Mayor from California that visits annually. So, when I saw her the other day I asked her this question, because they go through this too obviously. And she says they, they're open, transparent, and they, she explains to her councilors who are in charge of funding this bill about the negotiations. She goes, I, they know exactly what I'm doing and what. And I, she, same thing the skyrocketing costs of their fire and what have you.

And I said, what happened in the end? She goes, they reasoned with us. They came down and came to a fair price with us. I think perhaps because public and everyone's eyes are on it during this, that they are sort of, you know, tapered down to

some reasonable fairness, you know, throughout the community. So, I'm like, oh all right, that's how it worked there. I wish it would be the same here.

So, other States have a way of approaching this. But, number one is the open dialogue communication that everyone is available to be a part of, and to understand where the, you know, how the process is rolling out and negotiations are taking place. So, that was eye-opening for me. And I hope to see one day that we're also, you know, able to do that.

So, as Mayor, so I'm not sure if it, our Mayor is prevented from doing the same practices with us, but there in California, their Mayors are able to talk to the funders of their, their government. So, just thought I'd throw that out there. Thank you, Chair.

CHAIR WHITE: Yea, I think the point that Mr. Hokama made early on in his comments about us being able to receive that in executive session, I think is, is critical. I don't see any way or any reason why the Mayor could not share what the, what's happening in the process with us in executive session. But I, at the same time believe that the public has a right to know the general scope of negotiations, not necessarily all the details, but they should know what's being asked of and what's being discussed in a broad sense.

Mr. Victorino.

COUNCILMEMBER VICTORINO: Chair. Thank you, Chair. And all my colleague's frustration when you, if you were down there yesterday, you would've seen the same frustration amongst other colleagues from other Counties.

We have some unique situations here that you do not have in other States. First of all, that Mayor, your friend, never has to consult the State in what they're doing. The State's not involved in their negotiation. We're one of the few States that the State actually gets involved in fire fighters, police. Why? According to someone in the Administration I talked to yesterday, his answer to me was that's the way it has been. That's the way it's been. Why, when, who, where it started? You'd have to go back historically, but it's been happening for a long time.

And it doesn't happen in California, it doesn't happen in other States. Right, Mr. Hokama? In most other States it doesn't happen. So, your Mayor, your friend, has nothing to worry about a State, cause she's only dealing with whatever she has to deal with her County.

We have a unique situation. All four counties negotiate with SHOPO at the same time, just like the fire fighters. That doesn't happen in a lot of other counties. So, I just want you to know, just to say that it may sound easy because someplace else does it, but we have some unique situation.

But that put, being put aside, Mr. Chair, I agree with you; it's time for a change. And that's what we're going to be pushing for. If it is not in the stature *[sic]*, it is not part of HRS, then we should be able to be at the bargaining table, whether we send a representative, or you want to send all nine. I don't know if you want all nine of us sitting in the same room, but have a representative there to know what's going on, to report back to us. And in executive session, the Mayor also can report back to us. So, there's many aspects that could be done.

But the first thing is making sure that the State gets off their, and the unions get off of that, you know, we've done it this way for, forever and ever, and let's do it the right way, and having the public involved. I think that's very important; that transparency, I agree, wholeheartedly. And I think if the public knows what's going on, and you as our bosses, we as our bosses, know what's going on, we can help, hopefully have a better resolution instead of like this already.

They're into arbitration. You and I both know once it gets into arbitration, there's no negotiation. That comes down from a mediator. He goes there and looks at everything, and goes through all the expert witnesses and say this is what you're going to get. And again, arbitration was set for these emergency services, if I'm correct, so that they cannot strike. Because we cannot have police, fire, would, you know, that was one of the things that we long ago decided not to have strikes in those particular areas, those emergency areas.

But, Mr. Chair, this a good healthy discussion, I like it. But I'm just saying that what we need to do is really focus on our challenge. Our challenge is to get, unless there's a law, a statute in place saying we cannot, then to say we should be and will be there at the table. Whether it's you as the Chair, or whomever representing the Councils, the four Councils at these meetings along with these experts, I think that's something that we need to accomplish.

And that's what HSAC is going to be pushing for, is to make sure that we are there to understand what's going on so when we have to fund it, we at least have an understanding and more importantly, we concurred with the decisions that were made, were made, I should say. Thank you, Mr. Chair.

CHAIR WHITE: Thank you, Mr. Victorino.

Any further discussion, Members?

VICE-CHAIR GUZMAN: Oh yea, I agree with Mr. Victorino. I think, I think what we need to be focusing on is the, the ability for the Mayor to disclose in executive session to the Council prior to, yea, Mr. Victorino is correct. There isn't anything in the HRS, but prior to any negotiations, as you mentioned, there's confidentiality agreements that were signed by the unions as well as all the employers. So, that is what is preventing, I guess, the full disclosure to the Council, because within those confidentiality agreements, only the, they are to report only to the Mayor.

And so, we need to be, at least, apprised of or at least a legal opinion brief to see whether the Mayor can disclose to us in executive session. Cause I think that's just, right there, that's the heart of the issue right now that we're facing.

But, I don't have anything else to add, Chair.

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

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

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

CHAIR WHITE: Measure passes with nine "ayes" and zero "noes".

Back to Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair.

MOVE TO PASS ON FIRST READING THE PROPOSED BILL, ENTITLED "A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO A COOPERATIVE PURCHASING AGREEMENT WITH THE STATE OF HAWAII, CITY AND COUNTY OF HONOLULU,

AND THE COUNTY OF KAUAI FOR LEGAL SERVICES RELATING TO THE INTEREST ARBITRATION HEARING OF THE CONTESTED ARTICLES OF THE BARGAINING UNIT 11 (FIRE FIGHTERS) COLLECTIVE BARGAINING AGREEMENT, AND TO ENTER INTO AN EXPERT CONSULTING AND SUPPORT SERVICES AGREEMENT WITH THE STATE OF HAWAII, CITY AND COUNTY OF HONOLULU, COUNTY OF KAUAI, AND COUNTY OF HAWAII FOR CONSULTATION SERVICES RELATING TO THE INTEREST ARBITRATION HEARING OF THE CONTESTED ARTICLES OF THE BARGAINING UNIT 11 (FIRE FIGHTERS) COLLECTIVE BARGAINING AGREEMENT", AND TO FILE COUNTY COMMUNICATION 16-180.

COUNCILMEMBER CRIVELLO:

CHAIR, I SECOND THE MOTION.

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

Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair. The proposed bill would authorize the Mayor to enter into an intergovernmental agreement with the State, City and County of Honolulu, County of Kauai for legal services in connection with the Hawaii Fire Fighters arbitration.

Pursuant to the proposed resolution, those legal services would be provided by the Torkildson Firm.

The proposed bill would also authorize the Mayor to enter into an intergovernmental agreement with the State and other Counties in Hawaii to retain Patrick Kilbourne of Berkeley Research Group for consulting and support services estimated at a total cost of 85,000 to be shared equally among the employers.

I ask for the Members support of this motion.

CHAIR WHITE: Thank you, Mr. Guzman.

Any further discussion, Members?

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, just some clarification please. On page 2 of the proposed bill for an ordinance, that first sentence, Chairman, "The Employer Group", which was defined in the earlier portion of this proposal, and it says "and County of Hawaii wish to retain Patrick Kilbourne of Berkeley Research Group". Is there a reason why we're stating it that way; "Employer Group and the County of Hawaii"? I thought they were a part of the Employer Group?

DEPUTY CORPORATION COUNSEL: Mr. Hokama, for the purposes of the reso and the ordinance--

COUNCILMEMBER HOKAMA: Yes.

DEPUTY CORPORATION COUNSEL: --the Employer Group was initially described as all the jurisdictions except Hawaii County, because Hawaii County with regard to hiring Mr. Katz as special counsel, just didn't have the money. So, they could not participate to the extent they wanted to.

COUNCILMEMBER HOKAMA: Okay.

DEPUTY CORPORATION COUNSEL: Now, depending on how the matter develops, and this is something I apologize that we discussed in executive session at the COW meeting last week, depending how it develops, the County of Hawaii may choose to anti-in or pony up and pay some money to retain Mr. Katz for full joint representation. At this point, they're planning just proceeding being represented by their own counsel.

However, with regard to retaining Mr. Kilbourne, the County of Hawaii does have money for that. So, for retaining special counsel, it's basically the four employers excluding Hawaii County, although, they may decide to chip in later.

With regard to the hiring of the consult, expert consultant, they've already decided that that's something that they want to do.

COUNCILMEMBER HOKAMA: Okay. Well, thank you for that explanation, Mr. Murai. I didn't know they were in that kind of financial situation. So, again, it's understandable how they're approaching this situation.

One last question. As, so that we, I'm clear at least, Mr. Murai. We are at a point where already both sides have final offerings on the table, and that the arbitrator will be picking one or the other. That's where we are at? Both sides have final offers on the table?

DEPUTY CORPORATION COUNSEL: Well, you know, I, I have not seen, actually I was mistaken. I thought the deadline for exchanging final offers was last week. And they may have been exchanges, just that I have not seen them yet. But, the filing, the exchanges either just occurred or imminent, I don't know how the arbitrator is going to decide.

I don't think the arbitrator, well, I can't predict but there was a brief discussion last time of the different types of arbitration where the arbitrator will just pick one or the other. In other words, all or nothing. And, but most arbitrators will, you know, some will split the baby. In other words, if you want four percent, I want six percent, arbitrator may come up with five or something else.

To explain a little bit, the, by statute these arbitration panels are consist of three members.

COUNCILMEMBER HOKAMA: Correct.

DEPUTY CORPORATION COUNSEL: There's the, you know, the employer's representative, the union representative, and the neutral arbitrator. So, you know, both sides do have some influence on the decision. And they do have, of course, they're both going to try to influence the neutral arbitrator.

(Councilmember Cochran was excused from the meeting at 10:34 a.m.)

COUNCILMEMBER HOKAMA: So, those arbitrators have been chosen already, Mr. Murai?

DEPUTY CORPORATION COUNSEL: We're going through the selection process now.

COUNCILMEMBER HOKAMA: Okay. When is it going to be decided whether or not a final offer is on the table or is not on the table?

DEPUTY CORPORATION COUNSEL: It's required by, you know, it's a procedural requirement by statute. And as I said, I, I believe it was last week sometime, but I've not seen them yet. But, I know that the exchange of final offers is imminent.

COUNCILMEMBER HOKAMA: Because this was requested for the status by the employees represented, representative, correct?

DEPUTY CORPORATION COUNSEL: I'm sorry, you mean the Declaration of Impasse?

COUNCILMEMBER HOKAMA: Impasse and move towards arbitration.

DEPUTY CORPORATION COUNSEL: Yes. The, the union requested that the Hawaii Labor Relations Board declare an impasse, and they did.

COUNCILMEMBER HOKAMA: Okay. And for the record so we're very clear, how many months or years are left in the current contract?

DEPUTY CORPORATION COUNSEL: Current contract expires June 30, 2017.

COUNCILMEMBER HOKAMA: So, we're over a year away?

DEPUTY CORPORATION COUNSEL: Yes. No, I'm sorry.

CHAIR WHITE: Ten, ten and a half months.

DEPUTY CORPORATION COUNSEL: Yea, yea.

COUNCILMEMBER HOKAMA: Nine months. Is this a normal period to already declare impasse in a negotiation process this early before the contract deadline?

DEPUTY CORPORATION COUNSEL: I don't know if it's normal, but it's certainly within the statutory, the statutory guidelines.

COUNCILMEMBER HOKAMA: So has our representatives refuse to talk and that's why we're at impasse? I'm trying to understand why we're already at arbitration this ahead of the contract termination. Why aren't we talking?

(Councilmember Cochran returned to the meeting at 10:36 a.m.)

DEPUTY CORPPORATION COUNSEL: That, I'm not privy or party to those discussions, so I can't say. I just don't know.

CHAIR WHITE: Wouldn't you love to know, Mr. Hokama?

COUNCILMEMBER HOKAMA: Well, I just come from my experience representing employers from the private sector, Mr. Chairman. I grew up in a union house, but my experience as an employee has always been to represent management and employers in the private sector.

So, my understanding of contract negotiating and how we did it in that sector, Mr. Chair, is interesting how a public sector is approaching similar contractual requirements. The difference is, you know, the public pays on this bill.

DEPUTY CORPORATION COUNSEL: Mr. Hokama, I don't know to what extent this has any bearing, but we are in a rare situation where all 14 bargaining units are coming up for, they're all in negotiation at the same time.

COUNCILMEMBER HOKAMA: I understand it's a unique situation for all of us. So, I understand and appreciate your comment, Mr. Murai. That is why more than ever, appropriating bodies need to have a sense of what's going on. If all 14 contracts come up with x percent of increases at one time, the nine of us is the one's that going to have to ask the people out there in our communities to make up the difference.

Whether, it's the business group, the residential group, the agricultural group, commercial group, I mean, it doesn't matter, a bill has to be paid. And we're just saying that we should have some ability to understand what is the status and ability to give comment on whether or not we think that's a fair proposal or if things should be viewed in a different perspective. To be told at the end of the day this is what it is, and just vote it up or down. And then when Council takes its time to due diligence and do its appropriate financial analysis, we get blamed for holding back agreements, we get told that we're disrupting the whole process.

(Councilmember Crivello was excused from the meeting at 10:38 a.m.)

COUNCILMEMBER HOKAMA: But, that's our only time in the process to become involved. Think about it. That's the only time we get asked, at the end of the day, at the eleventh hour and fifty-nine minutes. The only time Council is asked what do you think. But, we hope you voted up because we don't want to go back to the table, we don't need to go to this, this, this. That's a hell of a position for nine councilors to be in a corner at the eleventh and fifty-ninth minute. And this is a bill, so go figure out how you're going go get the money from your community. I think we can do it better, Chairman.

And again, I know you're just a face today, Mr. Murai.

DEPUTY CORPORATION COUNSEL: Mr. Hokama, please, you know, I hope you don't mistake my silence as disagreement with what you're saying. It's just that--

COUNCILMEMBER HOKAMA: No, no, I understand the role you have to play for us. I'm saying that you have heard from the councilors directly, things that I think Personnel Services should be hearing, Civil Service Commission should be hearing from the County's perspective. Because, at the end of the day when we get back to budget, we don't need to hear directors or chiefs tell us, well, you know, if it was done in the

contract we could have done this or done this, but you know, we cannot now; too late.

And I, we got to live with it for the length of the contract. Well, we need to know that at least our demands, our issues have been at least put on the table, there was a discussion, and for whatever reason that was the out, whatever is the outcome, but there was some consideration. That is the main thing we're asking for is at least discuss the issues that we feel is critical to this County's ability to perform through operations and programs. You know, part of our job is the efficiencies and reasonable levels of financial requirements and revenues through taxation. And, and that's where I come from.

Yea, I'm a pain in the butt on the money. It's a curse and a blessing for me. But as a Councilor, your primary, our primary job is appropriators. We got to understand the money, because that's our primary job, is to deal with the money.

(Councilmember Crivello returned to the meeting at 10:41 a.m.)

COUNCILMEMBER HOKAMA: So, again, I just bring our perspective forward, Mr. Murai. I would also need you to help the State understand that we don't like those that have no kuleana to impose their decision. I think that's not fair.

DEPUTY CORPORATION COUNSEL: Mr. Hokama, I hear you.

COUNCILMEMBER HOKAMA: Thank you, Mr. Murai. And I appreciate your, your comments this morning. Thank you.

DEPUTY CORPORATION COUNSEL: You're welcome.

CHAIR WHITE: And we all share Mr. Hokama's frustration.

Any further discussion, Members?

Well, I would be remiss not to bring up the fact that we do have 14 contracts that are under negotiations. They've all begun negotiations, even though they're all ten and a half months from expiring. Therefore, I would be remiss in not reminding the folks at the State level and the other Counties that on one hand we see what frustration we have in controlling costs at the County level. And yet, what happens with the TAT? They hang on to it.

So, they don't help us control costs, and they withhold revenues. That's just simply not fair. I had to bring it up before we take a vote.

COUNCILMEMBER VICTORINO: And if you hadn't, I would've been disappointed.

CHAIR WHITE: That's right.

COUNCILMEMBER BAISA: We would have been surprised.

DIRECTOR OF COUNCIL SERVICES DAVID RAATZ: Mr. Chair.

CHAIR WHITE: Any further discussion?

Oh, I'm sorry, and I did get a message from staff that the, there is a typo in the bill that it should say "agreements" instead of "agreement", because the Mayor is needing to execute, I guess, multiple agreements.

So, the motion will include the ability, or without objection, Mr. Guzman, the motion will include the ability to make non-substantive changes, and change that one in particular.

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: Okay, thank you.

No further discussion. All those in favor please signify by saying "aye".

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

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

CHAIR WHITE: Measure passes with nine "ayes", zero "noes".

Mr. Clerk.

DEPUTY CORPORATION COUNSEL: Thank you, Mr. Chair. Thank you, Members.

DEPUTY COUNTY CLERK: For the record, RESOLUTION 16-106, and BILL 87 (2016).

(Council Vice-Chair Guzman was excused from the meeting at 10:43 a.m.)

NO. 16-181 - DANILO F. AGSALOG, DIRECTOR OF FINANCE,
(dated August 5, 2016)

Transmitting a copy of the notice of grant approval from the State of Hawaii, Department of Transportation for the PMVI, CDL, Motor Vehicle Registration and State Identification Programs for the period of July 1, 2016 through June 30, 2017 in the amount of $1,527,813.00.

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA:

CHAIRMAN, FILE COMMUNICATION 16-181.

COUNCILMEMBER VICTORINO:

SECOND, MR. CHAIR.

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

Mr. Hokama.

COUNCILMEMBER HOKAMA: No further discussion.

CHAIR WHITE: Okay, 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 with that, Members, we're going to take our morning break. Please be back here in, can we do it in five minutes?

COUNCILMEMBER HOKAMA: Sure.

COUNCILMEMBER COCHRAN: Sure.

CHAIR WHITE: Okay. So, we'll be back in five minutes.

(THE MEETING WAS RECESSED BY THE CHAIR AT 10:44 A.M., AND WAS RECONVENED AT 10:50 P.M., WITH ALL MEMBERS PRESENT, EXCEPT COUNCILMEMBERS COCHRAN AND VICTORINO, EXCUSED).

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

Mr. Clerk, may we proceed with the agenda.

DEPUTY COUNTY CLERK: Mr. Chair, proceeding with county communications for referral. The following county communications are recommended for referral to the following Committees as noted:

NO. 16-182 - SANANDA K. BAZ, BUDGET DIRECTOR,
(dated August 12, 2016)

Transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING APPENDIX A OF THE FISCAL YEAR 2017 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO PART II, SPECIAL PURPOSE REVENUES – SCHEDULE OF REVOLVING/SPECIAL FUNDS FOR FISCAL YEAR 2017, ANIMAL MANAGEMENT REVOLVING FUND".

The recommended action is that County Communication No. 16-182 be referred to the Budget and Finance Committee.

(Councilmember Cochran returned to the meeting at 10:50 a.m.)

NO. 16-183 - SANANDA K. BAZ, BUDGET DIRECTOR,
(dated August 12, 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 C – CAPITAL IMPROVEMENT PROJECTS, DEPARTMENT OF POLICE, COUNTYWIDE, COUNTYWIDE POLICE FACILITIES".

The recommended action is that County Communication No. 16-183 be referred to the Budget and Finance Committee.

NO. 16-184 - SANANDA K. BAZ, BUDGET DIRECTOR,
(dated August 16, 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 POLICE (STATE AND FEDERAL ASSETS FORFEITURE PROGRAM)".

The recommended action is that County Communication No. 16-184 be referred to the Budget and Finance Committee.

NO. 16-185 - DON COUCH, COUNCILMEMBER,
(dated July 28, 2016)

Transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 6.04.040, MAUI COUNTY CODE, RELATING TO ANIMAL REGULATIONS FOR DOG RESTRAINTS, AND SECTION 6.04.090, MAUI COUNTY CODE, RELATING TO ANIMAL CONTROL OFFICERS".

The recommended action is that County Communication No. 16-185 be referred to the Housing, Human Services, and Transportation Committee.

NO. 16-186 - DON S. GUZMAN, COUNCIL VICE-CHAIR,
(dated August 10, 2016)

Transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 6.04.040, MAUI COUNTY CODE, RELATING TO ANIMAL REGULATIONS"

The recommended action is that County Communication No. 16-186 be referred to the Housing, Human Services, and Transportation Committee.

NO. 16-187 - DAVID C. GOODE, DIRECTOR OF PUBLIC WORKS,
(dated July 14, 2016)

Transmitting a draft 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. 16-187 be referred to the Infrastructure and Environmental Management Committee.

NO. 16-188 - MIKE WHITE, COUNCIL CHAIR,
(dated August 4, 2016)

Relating to the West Maui Recycled Water Project – 1.0 million gallon tank, pipeline and reuse pump station upgrade.

The recommended action is that County Communication No. 16-188 be referred to the Infrastructure and Environmental Management Committee.

NO. 16-189 - ANNA M. FOUST, EMERGENCY MANAGEMENT OFFICER,
(dated August 8, 2016)

Transmitting a proposed resolution entitled "APPROVING THE INSTALLATION OF SIRENS IN THE COUNTY OF MAUI RELATING TO THE HAWAII STATE EMERGENCY OUTDOOR SIREN WARNING SYSTEM".

The recommended action is that County Communication No. 16-189 be referred to the Policy and Intergovernmental Affairs Committee.

CHAIR WHITE: Thank you, Mr. Clerk.

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

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: Okay. They'll be referred as, as read.

Mr. Clerk.

DEPUTY COUNTY CLERK: Mr. Chair, proceeding with General Communications for referral. The following general communication is recommended for referral to your Planning Committee.

GENERAL COMMUNICATION

NO. 16-8 - SHARON M. SUZUKI, MAUI ELECTRIC,
(dated July 19, 2016)

Transmitting the "SIXTEENTH ANNUAL STATUS REPORT" in accordance with Condition No. 6 of Ordinance No. 2879, New Central Maui Generation Site Subdivision, Waena Generating Plant.

CHAIR WHITE: Members, any objections to referring that to the Planning Committee?

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: Okay, so ordered.

Mr. Clerk.

The recommended action is that General Communication No. 16-8 be referred to the Planning Committee.

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

ORDINANCES

ORDINANCE NO._____
BILL NO.___77___(2016)

A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE OFFICE OF THE AUDITOR, STATE OF HAWAII, TO AUDIT THE SCHEDULE OF ALLOCATIONS OF THE EMPLOYEES' RETIREMENT SYSTEM OF THE STATE OF HAWAII (ERS)

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, I would ask you and the Members, if there's any objections, I'd like the Clerk to bring up all bills including Bill 81.

MEMBERS VOICED NO OBJECTIONS.

CHAIR WHITE: So ordered.

Mr. Clerk.

ORDINANCE NO._____
BILL NO.___78___(2016)

A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE EMPLOYEES' RETIREMENT SYSTEM OF THE STATE OF HAWAII RELATING TO THE ACQUISITION OF A GOVERNMENTAL ACCOUNTING STANDARDS BOARD STATEMENT NO. 68 REPORT

ORDINANCE NO._____
BILL NO.___79___(2016)

A BILL FOR AN ORDINANCE AMENDING
THE FISCAL YEAR 2017 BUDGET FOR THE COUNTY OF MAUI
AS IT PERTAINS TO ESTIMATED REVENUES;
DEPARTMENT OF WATER SUPPLY,
ADMINISTRATION PROGRAM – WATER FUND;
TOTAL OPERATING APPROPRIATIONS; AND
TOTAL APPROPRIATIONS (OPERATING AND CAPITAL IMPROVEMENT PROJECTS)

ORDINANCE NO._____
BILL NO.___80___(2016)

A BILL FOR AN ORDINANCE AMENDING
THE FISCAL YEAR 2017 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)

ORDINANCE NO._____
BILL NO.___81___(2016)

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 PUBLIC WORKS, GENERAL FUND,
SPECIAL REVENUE/TRUST AND AGENCY FUNDS,
SUBDIVISION CONSTRUCTION PLAN REVIEW FEES

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA:

CHAIRMAN, I MOVE THAT BILLS NO. 77 THROUGH 81 PASS SECOND AND FINAL READING.

COUNCILMEMBER COUCH:

SECOND.

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

Mr. Hokama.

COUNCILMEMBER HOKAMA: Mr. Chairman, most of these are your housekeeping adjustments as requested by your Departments.

We just note that on Bill 79, the Council is recommending an appropriation to help move a affordable project forward in the Mokuhau, Wailuku area. Thank you.

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

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

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBER VICTORINO.

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

Mr. Clerk.

ORDINANCE NO._____
BILL NO.___82___(2016)

A BILL FOR AN ORDINANCE AMENDING SECTION 10.60.042, MAUI COUNTY CODE, RELATING TO CROSSWALKS

CHAIR WHITE: Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair.

I MOVE TO PASS BILL 82 ON SECOND AND FINAL READING.

COUNCILMEMBER HOKAMA:

SECOND.

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

Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you. The purpose of the proposed bill is to establish a mid-block crosswalk on Lower Main Street, approximately 400 feet north of its intersection with Mill Street, Wailuku, Maui, Hawaii.

Establishing a crosswalk in this area will allow patrons of Tiffany's Bar & Grill to safely cross the street to the parking lot, and allow for better ingress and egress for neighboring properties.

Tiffany's submitted the request, and plans for road markings, warning signs, and lighting for the crosswalk. Tiffany's will also bear the cost of installation.

The County, however, will be responsible for maintenance of the crosswalk.

I respectfully ask for Council's support of this bill. Thank you, Chair.

CHAIR WHITE: Thank you.

Any further discussion on this item, Members?

VICE-CHAIR GUZMAN: Chair.

CHAIR WHITE: Mr. Guzman.

VICE-CHAIR GUZMAN: Yea, thank you. I'd like to thank Member Cochran for bringing this forward. I had one of my dear friend's mother was actually hit in that area. And so, took a long time for her to recover. So, I, I thank her, I thank Ms. Cochran for bringing this forward.

I know I've been there a few times. At late at night, the lighting is very dark in that area. So, I'm very happy to see that there'll be a crosswalk there. Thank you.

CHAIR WHITE: Thank you, Mr. Guzman.

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

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

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBER VICTORINO.

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

Mr. Clerk.

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

CHAIR WHITE: Thank you very much.

Members, I want to thank you all for being here this morning. And with that, we will adjourn.

ADJOURNMENT

The regular meeting of August 23, 2016 was adjourned by the Chair at 10:58 a.m.

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

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