

# POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE

Council of the County of Maui

## MINUTES

November 22, 2016

Council Chamber, 8<sup>th</sup> Floor

**CONVENE:** 9:07 a.m.

**PRESENT:** Councilmember Michael P. Victorino, Chair  
Councilmember Gladys C. Baisa, Member (In 9:27 a.m.)  
Councilmember Robert Carroll, Member  
Councilmember Elle Cochran, Member  
Councilmember Stacy Crivello, Member  
Councilmember Mike White, Member

**EXCUSED:** Councilmember Don Couch, Vice-Chair  
Councilmember Don S. Guzman, Member  
Councilmember Riki Hokama, Member

**STAFF:** Kimberley Willenbrink, Legislative Analyst  
Tammy M. Frias, Committee Secretary  
  
Ella Alcon, Council Aide, Molokai Council Office (via telephone conference bridge)  
Denise Fernandez, Council Aide, Lanai Council Office (via telephone conference bridge)  
Dawn Lono, Council Aide, Hana Council Office (via telephone conference bridge)

**ADMIN.:** Alan M. Arakawa, Mayor (Item PIA-61)  
Victor K. Ramos, Assistant Chief, Department of Police (Item PIA-61)  
John D. Kim, Prosecuting Attorney, Department of the Prosecuting Attorney (Item PIA-61)  
Caleb P. Rowe, Deputy Corporation Counsel, Department of the Corporation Counsel (Item PIA-61)  
Jeffrey T. Ueoka, Deputy Corporation Counsel, Department of the Corporation Counsel

Seated in the Gallery

Carol K Reimann, Director, Department of Housing and Human Concerns (Item PIA-61)  
Janice Y. Shishido, Deputy Director, Department of Housing and Human Concerns (Item PIA-61)

**OTHERS:** Donna Neuhart, Hawaiian Canoe Club (Item PIA-61)  
Jim Smith (Item PIA-61)  
Diane Ho, Head Coach, Hawaiian Canoe Club (Item PIA-61)  
Joe Gabel (Items PIA-61, -75)  
Brian I. Hauser (Item PIA-61)  
Jen "Kahala" Azuma Chrupalyk (Item PIA-61)  
Randy Wagner (Item PIA-61)

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Lisa Darcy (Item PIA-61)  
Sesame Shim (Item PIA-61)  
Trinette Furtado (Item PIA-61)  
Rosemary Robbins (Items PIA-58, -60, -75, -77)  
Charlene Schulenburg (Item PIA-61)  
Christopher Staten (Items PIA-61, -75)  
Additional attendees (5+)

**PRESS:** *Akaku--Maui County Community Television, Inc.*

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CHAIR VICTORINO: *... (gavel) ...* The meeting of the Policy and Intergovernmental Affairs Committee will come to order. Today is November 22, 2016. And before we start, today is a very historic day and many of us grew up remembering this day. Today was the day that President Kennedy was assassinated, and I think everyone in this room remembers where we were that day. Maybe a few of you weren't born, but I look around, the vast majority was here. And it was a tragic day and it changed history forever. And so with that being said, I will get the meeting started, but I just wanted that to be remembered because all of us, it was a day that we will never forget, you know. A lot of us will never, never forget. Anyhow, let me get started by introducing the Members who are in attendance. So we have bare quorum today. So if anyone has any needs then you gotta let me know and I'll take a quick recess. We're hoping that Ms. Baisa will be here at 9:30. But present right now is Robert Carroll from East Maui.

COUNCILMEMBER CARROLL: Good morning, Chair.

CHAIR VICTORINO: Good morning. Elle Cochran from West Maui.

COUNCILMEMBER COCHRAN: Aloha, good morning, Chair.

CHAIR VICTORINO: Good morning. Stacy Crivello from Molokai.

COUNCILMEMBER CRIVELLO: Good morning, Chair.

CHAIR VICTORINO: Good morning. And our Chair, our Council Chair from Haiku-Makawao-Paia, Mr. Mike White.

COUNCILMEMBER WHITE: Good morning, Chair.

CHAIR VICTORINO: Good morning. And myself the Chair, Michael Victorino. Today we have a number of items we'll be covering, filing, or putting forward the items that would be carried to the next Council. And also we have the desire to finish up our bill regarding the issue of vagrancy and other issues that have come forward. So with no objections, I will get into public testimony.

COUNCILMEMBERS: No objections.

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CHAIR VICTORINO: Okay, thank you. And public testimony will be limited to the items on the agenda. Please sign up on the 8<sup>th</sup> floor in the lobby, and we will check with our District Offices very shortly. Testimony will be limited to three minutes. At two-and-a-half minutes, the light will turn yellow, and at three minutes, the light will blink red. Please state your name and any organization you are representing. Please let us keep on schedule and move right along. So let us check with our neighbor islands first and foremost. Oh, our neighbor islands, our District Offices. Hana Office, Dawn, are you there?

MS. LONO: Good morning, Chair. This is Dawn Lono at the Hana Office.

CHAIR VICTORINO: And, Dawn, do you have anyone wishing to testify at this time?

MS. LONO: There is no one waiting to testify.

CHAIR VICTORINO: Okay. So please e-mail us. At the end, I will call upon you guys one more time, but if anybody walks in, for all three offices, if there's no one there at this time then just e-mail and that we will make sure we cover...get back to your offices. Lanai Office, Denise Fernandez, Denise, do you have anyone wishing to testify?

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

CHAIR VICTORINO: Mahalo, Denise. And our Molokai Office, Ella Alcon, Ella, do you have anyone wishing to testify?

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

CHAIR VICTORINO: Okay, ladies, thank you. Again, I repeat, please e-mail us if there is anyone wishing to testify. Well, I guess we'll get started in the Chambers. Ms. Willenbrink, could you please call the first testifier?

**. . .BEGIN PUBLIC TESTIMONY. . .**

MS. WILLENBRINK: Thank you, Chair. The first person signed up to testify is Ms. Donna Neuhart. She will be followed by Mr. Jim Smith.

CHAIR VICTORINO: Now this does not look like Ms. Neuhart.

MS. HO: No, it's not. She came up to sign up and put her name instead of mine. But...

CHAIR VICTORINO: Could you then identify yourself so that I can now make that change?

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MS. HO: Diane Ho. I'm actually the third speaker. Donna's not speaking at all, and we're speaking on behalf of Hawaiian Canoe Club.

CHAIR VICTORINO: Okay. Diane, you did sign up as the third testifier?

MS. HO: Yes. You want me to do third?

CHAIR VICTORINO: Yeah, yeah.

MS. HO: Okay.

CHAIR VICTORINO: Why don't you just...well, let's keep the order and we'll skip Donna and then move on to our next testifier and then come up to you. How's that?

MS. HO: Yeah, that's fine.

CHAIR VICTORINO: Thank you, Diane.

MS. HO: Thank you.

CHAIR VICTORINO: Okay, next testifier, please?

MS. WILLENBRINK: Mr. Jim Smith, followed by Diane Ho.

MR. SMITH: Aloha, Chair. Aloha, Members of the Committee. I'm going to testify on PIA-61 and that is the bills that criminalize a certain circumstance of life. It's my belief that the term is wrong, homelessness, okay, it should be helplessness. All right. It's not a crime to live without shelter. It's not a crime to live without cleanliness. It's not a crime living without food. All right. So it's homelessness not, it is helplessness. Now our laws extend the sense of community because of our human existence requires more than shelter, it requires more than cleanliness, it requires more than food to be human. These laws are inhuman, all right. So I would ask you please to file the communication, to direct your attention to the sense, okay, of hopelessness that we all deal with and keep it equal and approach it from this way, because this is really a political ideology that is very, very small, very, very small, to separate homelessness from shelter, to separate homelessness from food, and make it a target of criminal prosecution, excuse me. I would ask you to please file this bill. It takes us down the wrong road as human beings. Thank you very much.

CHAIR VICTORINO: Thank you, Mr. Smith. Any questions for the testifier for clarification purposes? Seeing none, thank you, Mr. Smith.

MR. SMITH: Aloha.

CHAIR VICTORINO: And a Happy Thanksgiving to you.

MR. SMITH: To all of you as well.

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CHAIR VICTORINO: Okay, next testifier, please?

MS. WILLENBRINK: Our next testifier is Diane Ho. Diane will be followed by Joe Gabel.

MS. HO: Good morning.

CHAIR VICTORINO: Good morning, Diane.

MS. HO: Good morning. That was good. And good morning, Councilmembers. I'm speaking on behalf of Hawaiian Canoe Club and I'm speaking to PIA-61, especially one and two. These are problems that are ongoing for us. We're not necessarily...what we want is for...there's too much defecating going on in Hoaloha Park. We had a guy doing our maintenance for instance on the canoes who left because every morning he would get there and there would be human defecation all around the park, on the area he was cleaning and on the, in the canoes themselves, and it's gotten worse and worse. I want to tell you that we did open our restrooms that are not made to be open, the canoe club did, and make it available to the homeless and all they did was defecate in them and it was awful. So we had to then close it. So we have tried to work with them. As a solution for Hoaloha Park as far as the defecating is, the County park at one time had a lua out by the gate, and they used the lua and we didn't have the problem of human defecation anywhere. For some reason it's now gone and we can't figure out how to get it back. We talk to people and they talk about money and stuff, but, you know, how hard is it to get some money to give them a Porta Potti so they're not defecating over areas that have 300 kids sometimes and public events like Imua Paddle and so forth. And the problem with the drinking obviously continues on. It's not good. Parents are driving in there, there's needles on the ground, there's drinking, and we've been working hard through two Administrations now and it has not gotten any better. So if, you know, I just want to report that that's what's going down on Hoaloha Park.

CHAIR VICTORINO: Thank you very much.

MS. HO: Okay.

CHAIR VICTORINO: So if I'm correct in saying that the Porta Potti that was there and I know for a long time it was, when was it taken away? When do you recall when specifically...

MS. HO: About a year or two ago, it was taken away, and we've been asking ever since then what happened.

CHAIR VICTORINO: And what was the response from the department?

MS. HO: No money.

CHAIR VICTORINO: I guess Parks and Recreation I would be, I would imagine.

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MS. HO: No money.

CHAIR VICTORINO: No money. Okay.

MS. HO: Yeah, it's not partnerization [sic]. Did you say partner?

CHAIR VICTORINO: No, no, I said --

MS. HO: Oh.

CHAIR VICTORINO: --who --

MS. HO: Parks and Recreation.

CHAIR VICTORINO: --Parks and Recreation. Yes, I'm sorry.

MS. HO: Yeah, it's Parks and Recreation.

CHAIR VICTORINO: Yeah. And they --

MS. HO: Yeah.

CHAIR VICTORINO: --claim they have no money to continue that --

MS. HO: Yes.

CHAIR VICTORINO: --service?

MS. HO: And it has something to do with the Department of Health.

CHAIR VICTORINO: You had mentioned real quickly that you opened your restrooms to the homeless but they defecated all over. Now I don't understand why and maybe you can explain what you think the cause might have been?

MS. HO: No idea, seriously, no idea. I mean down there you have different types of homelessness, I mean you have, and you have some very disrespectful people. And I think really it's not all the homeless down there but there are some that...I don't know.

CHAIR VICTORINO: Okay.

MS. HO: I have no idea.

CHAIR VICTORINO: Strange, yeah? Okay. Questions for the testifier? I apologize, I had a few before I recognized the Committee. I apologize. Okay, seeing none, thank you, Diane, so much --

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MS. HO: Thank you.

CHAIR VICTORINO: --for being here.

MS. HO: Thank you.

CHAIR VICTORINO: Next testifier, please?

MS. WILLENBRINK: Joe Gabel. Joe will be followed by Brian I. Hauser.

MR. GABEL: Aloha. Aloha, Chair.

CHAIR VICTORINO: Good morning.

MR. GABEL: Aloha, Council. Thank you for allowing me to speak. I'm here on PIA-61.

CHAIR VICTORINO: Joe, if you'd go a little closer to the mic 'cause you're --

MR. GABEL: Sure.

CHAIR VICTORINO: --very soft spoken.

MR. GABEL: Yeah, I know. Thank you.

CHAIR VICTORINO: Okay.

MR. GABEL: I'm...thank you very much. I'm here on PIA-61.

CHAIR VICTORINO: Your name?

MR. GABEL: Joe Gabel.

CHAIR VICTORINO: Okay, thank you. Go ahead.

MR. GABEL: And I'm actually, used to live out here for some time and I live on Oahu. I'm here visiting friends and family, I'm on vacation. And I saw that this was up and I felt like I had to take time away from that for people that I haven't seen in over seven years, to talk about how unjust I feel that this is. I feel that these are human beings, that they aren't homeless, they aren't vagrants. These are people just like you or I that for lack of better circumstances, for lack of better healthcare, for issues that have come their way due to perhaps not their own causing, but they're in this situation currently. And to criminalize this and to make these vague laws that we know actually aren't going to improve the situation isn't helpful. So what I would recommend instead is to try and cause a positive situation, focus on how we could change it positively. Instead of saying what hasn't worked, put some actual legs under this and say well, let's improve it, let's put some more services behind it, rather than incarcerate someone and spend a lot of tax dollars, an exorbitant amount of tax

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dollars to incarcerate someone. Why don't we actually try and improve the situation by putting together maybe a coalition of people that are versed in this, that are versed in mental illness, that know how to deal with people with several different issues and try and improve it. You know I've known people that have been in this situation, I do know them, and they're not hateful people, they're just people and this is where they are right now. And if you don't know anyone that has experienced this...I've also seen it on Oahu currently. I haven't seen any change with the laws. I haven't seen it cleaned up. It's the same areas in Chinatown, in the parks, and in town, and spread throughout. And I don't think it'll do a service to anyone.

CHAIR VICTORINO: Well, thank you, Mr. Gabel. I appreciate your comments. Any questions for the testifier to clarify his testimony? Seeing none, thank you, and thank you for taking the time out of your vacation --

MR. GABEL: Yeah.

CHAIR VICTORINO: --to come in and testify. We truly appreciate that.

MR. GABEL: Thank you.

CHAIR VICTORINO: And enjoy the rest of the Thanksgiving weekend, and Happy Thanksgiving.

MR. GABEL: Yes, Happy Thanksgiving. Thank you.

CHAIR VICTORINO: Thank you. Next testifier, please?

MS. WILLENBRINK: Mr. Brian I. Hauser, followed by Jen "Kahala" Azuma.

MR. HAUSER: Aloha. Good morning, Council. I'm here as a member of the community to discuss these homeless laws that are before you. And...

CHAIR VICTORINO: Would you state your name, Mr. Hauser?

MR. HAUSER: Sure.

CHAIR VICTORINO: I know you but I want everybody else to know who you are.

MR. HAUSER: Sure. My name is Brian, B-R-I-A-N, and my last name is Hauser, H-A-U-S-E-R.

CHAIR VICTORINO: Okay, got it.

MR. HAUSER: Yeah. So, you know, my question, you know, is, you know, we have people who are homeless. For the purposes of this conversation, you know, I want to reveal the fact that I myself was homeless on the mainland at a point in my life. And, you know, I don't think that being ticketed for one more item would have helped me get

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where I am today, but effective programs did help me. And, you know, this is back in New York, you know, I received help from an organization that we have. A community member, Lisa Darcy was working at the time for the Coalition for the Homeless, and they were very instrumental in helping me along. My question is also in watching the previous session about these bills, of course I'm very concerned as a community member and scared myself in seeing groups of people. And we talked a lot about tools that the Maui Police Department has. And my question is, if they had a choice of tools about working programs and services where they can send somebody even if they are arrested, it kind of seems to me like these bills are putting the cart before the horse. You have to have programs where you can send people, effective programs. Oahu is currently doing a lot of work. Of course Maui County is different and needs to look at what programs will work here versus there, but effective programs is...these laws are not sending anyone off island, we're all here. So in some ways criminalizing being homeless is throwing a rock at a beehive. You know it's...many people that I know work as hard as all of the rest of us to get by, not only people who are unemployed but people who are underemployed and just cannot afford housing. So at the end of the day, they've gotten whatever jobs they can and they're trying to feed their family and we're going to criminalize that? Let's try to bring programs that get people back to work and programs that are effective in treating substance abuse and mental illness. Thank you very much. Mahalo.

CHAIR VICTORINO: Thank you, sir. Questions for clarification for the testifier? Seeing none, thank you, Mr. Hauser. Next testifier, please?

MS. WILLENBRINK: Jen "Kahala" Azuma, followed by Ms. Randy Wagner.

MS. AZUMA: Good morning, everyone. Thank you for the opportunity of getting my voice heard. My name is Jennifer Azuma. I have to spell the last name because nobody can read it.

CHAIR VICTORINO: Okay.

MS. AZUMA: That's C-H-R-U-P-A-L-Y-K. I'm better known by the community by my family name Kahala Maui. I am here today and I did hear someone say that I could not represent many of the homeless people and the voters in Maui, but I kind of, I object to that, because many of the people that would have come down here this morning had no place to take a shower, clean clothes to put on so that they could presentable before the County Council. With that being said, I'm here to testify over PIA-61 to say no. That is not a solution to our problems. I've been homeless for the latter part of three years. I finally got a place to live. I've had over this past summer seven children living in my van down Kanaha. Do you know what that is as a single parent? These were not all seven of my children, I have three, but there were four more that had no homes, that had no parents, that had nowhere to eat, take a shower, or rest their head at night. And how dare you criminalize anything that they would be able to use or do to uplift themselves. You know how hard and expensive it is to be homeless? Do you know what it is when you don't have a public bathroom to use, because the Porta Potties are taken away, because we have money to incarcerate individuals but we don't

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have money to help our homeless, we don't have money to properly educate our children, but we have all the money in the world to put people in jail? Oh, how much that cost the taxpayers. You know while it all sounds noble that Maui County should provide a premiere paradise island to appease corporate tourism, criminalizing poverty is not a feasible solution to the compound issues that we're facing here on Maui. Neither are building half-million-dollar homes on poisonous fields that nobody qualifies for or putting pressure on programs such as Mental Health Kokua and the homeless shelters. Have you tried to sign up to go into a homeless shelter recently? There's a three-year waiting list. You get 90 days to get in and out of there and get your life together. Do you think housing is going to happen in 90 days? Do we really think that this is a feasible solution that we should be looking into? You know these programs like Mental Health Kokua working with the homeless advocacy, they don't get enough money to do this. They don't even have enough money to be properly equipped and staffed to deal with this kind of stuff. So where are we getting that by giving these people more fines is going to help anybody? I finally got a place to live. I'm on HUD. I'm on disability. I take my food stamps and I feed the homeless. I take my disability money that should be used for my bills to help them wash clothes, and take my gas money that I don't have to get through the month with my children to go help them get jobs. I don't see the programs in Maui are suitable enough to help our citizens, and I don't think not one way, not any way on any day should this stuff be criminalized. When you're looking at all the items that are on this agenda --

CHAIR VICTORINO: Excuse me.

MS. AZUMA: --for this proposed bill...

CHAIR VICTORINO: I'm going to ask you to conclude please.

MS. AZUMA: Oh, I sure can.

CHAIR VICTORINO: Yeah, please. Thank you.

MS. AZUMA: Thank you. When you're looking at all these items on the agenda, why don't you think about replacing Porta Potties and finding other resources to help these people? Why are we criminalizing that? You're costing your taxpayers and your voters more money. Thank you.

CHAIR VICTORINO: Thank you. And...

MS. AZUMA: Any questions?

CHAIR VICTORINO: Well, wait a minute, I'm the one supposed to ask the question. Okay. You want my job, no problem, and that I'd be more than willing to give up. Let me ask you this question. You've said you've been homeless the better part of three years.

MS. AZUMA: Yes, sir.

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CHAIR VICTORINO: And so you have probably stayed at some of the beach parks and that's...I heard that.

MS. AZUMA: Yes, sir.

CHAIR VICTORINO: Okay. No, no, don't call me sir.

MS. AZUMA: Mile Marker 11 on the Pali, Kanaha Beach Park.

CHAIR VICTORINO: Okay.

MS. AZUMA: Okay. On the roadside, in parking lots.

CHAIR VICTORINO: Okay.

MS. AZUMA: Okay, yeah. And...

CHAIR VICTORINO: Okay. And you said you had four children that not your own --

MS. AZUMA: Yes.

CHAIR VICTORINO: --that have no parents. The parents have...

MS. AZUMA: That had nowhere to go.

CHAIR VICTORINO: No place to go, they've just been "abandoned."

MS. AZUMA: Yes.

CHAIR VICTORINO: Is that what you're saying?

MS. AZUMA: Yes.

CHAIR VICTORINO: Okay. And so these four children and your generosity and your kindness, you've taken them in and helped them. They attend school where, here in Central Maui?

MS. AZUMA: There's one that he's...I've recently put him in Youth Challenge.

CHAIR VICTORINO: Okay.

MS. AZUMA: One I already did put in Youth Challenge and he's now in McKinley Adult School. One is in McKinley Adult School. One is in Maui Waena. I have one child in Hui Malama, and because they had to close down as a school, my other two children here are home schooled so this is their lesson for today.

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CHAIR VICTORINO: Okay, okay. And finally, you mentioned about using your disability and your --

MS. AZUMA: Food stamps and resources.

CHAIR VICTORINO: --food stamps to feed the homeless.

MS. AZUMA: Yes, sir.

CHAIR VICTORINO: So then you don't have enough to take care of your needs when it comes to gas and other issues.

MS. AZUMA: Correct.

CHAIR VICTORINO: And that's admirable. My question, do they, those same people you're helping, do they not qualify for any of these services?

MS. AZUMA: Some of...most of the children that I was taking care of are close to 18 and not capable of doing it on their own.

CHAIR VICTORINO: I see.

MS. AZUMA: And some of them are young adults who were misguided in their youth through, you know, family issues and stuff. And so we're working through those issues to help them get on their feet, get their GED, and get a job so they can get on their own. I have one now who just received her HUD voucher and cannot find a place to use it.

CHAIR VICTORINO: Yeah. And we've heard that many times over. And you're absolutely correct, the... 'cause I am a Vice President at the Homeless Resource Center and we know we have an extensive waiting list. And we've tried really hard to work on it but just not enough facilities, greater need --

MS. AZUMA: Yes, sir. Thank you.

CHAIR VICTORINO: --than availability. So all what you've said I understand. I think many of us feel for that. And no, I have never had that occasion to be homeless. I know what poor means, but I never thought about homelessness because my father no matter how hard things were, always had a roof over our head, you know. We could do that --

MS. AZUMA: Yes.

CHAIR VICTORINO: --when we were younger. Any questions for the testifier, please? Seeing none, thank you very much for being here, and we do appreciate your --

MS. AZUMA: Thank you, sir.

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CHAIR VICTORINO: --testimony. And again, we're trying to do what we think is right all around, just not for the homeless also --

MS. AZUMA: Thank you, sir.

CHAIR VICTORINO: --and to make that perfectly clear. Okay.

MS. AZUMA: Yes.

COUNCILMEMBER COCHRAN: Actually, Chair?

MS. AZUMA: Thank you.

CHAIR VICTORINO: Thank you.

COUNCILMEMBER COCHRAN: Chair, sorry. Ms. Azuma, can I...

CHAIR VICTORINO: Hurry up, please. I'm sorry, I thought I was ready to let her go, please. Go ahead.

COUNCILMEMBER COCHRAN: Thank you, Chair. And thank you so much for being here. I was just curious, someone mentioned, told you that you couldn't, didn't have the right to speak on behalf of homeless or the right to speak on behalf of --

MS. AZUMA: Yes.

COUNCILMEMBER COCHRAN: --you know, your situation for others. Who was that...who tried to tell you you had no right?

MS. AZUMA: Tried sign the paper instead of putting testifying for myself, I put testifying on behalf of, and I put homeless people, the voters, and voters in Maui. Because I speak...I'm out there in the community, I deal with people and many organizations and a lot of people couldn't make it because they have work or they don't, they're not presentable to come.

COUNCILMEMBER COCHRAN: Yeah. Well, thank you. It took courage for you to come and do that. So I --

MS. AZUMA: It did. Thank you.

COUNCILMEMBER COCHRAN: --appreciate that. So thank you very much.

MS. AZUMA: Thank you.

CHAIR VICTORINO: Are you done? Okay. Next testifier, please?

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MS. WILLENBRINK: Ms. Randy Wagner, followed by Lisa Dairy.

COUNCILMEMBER BAISA: Darcy.

MS. WAGNER: Good morning. My name's Randy Wagner and I'm from Kihei. I'm testifying for myself and also for the Kihei Community Association. To me, this, these bills are not about homelessness, they are about behavior and issues that we're confronting in our business and residential center in Kihei. I totally support all the programs that homeless people need and that mentally ill people need, and I'm willing to offer my services as an architect to work in any way I can to provide these sanctuaries that are totally needed. On the other hand, I also am a community advocate and our neighborhood has become an unsafe place to be because of vagrancy. We have certain conditions where we are that attract people who...I don't know what to say. They're not families that are homeless, they're more middle-age men with mental problems and alcohol and substance abuse problems, and they tend to congregate in gangs. And they frighten me and they frighten tourists who are, you know, part of the bread and butter of Maui's economy. And we're losing business because people are refusing to stay, they want to leave the places that they've rented and it's due to vagrancy. It's not due to homelessness, it's due to behaviors that are unacceptable in conventional society. And I compare it to raising my children when I had to teach them this is what acceptable behavior is and this is what it's not. I do not support the three bills for the panhandling, the shopping cart, and the defecation, but I do support the not lying and sitting on, across the public-right-of-way, and not being publicly intoxicated. I do not think that those things apply to homelessness. I think they apply to vagrant and poor behavior in society. And I don't think that these people who are really bullying the community should be allowed to continue to do that. If they, if the police could help us and ask these people to stop this behavior with the laws that we have then I wouldn't want these laws. But I have personally tried to talk to the police and asked them to come and they say there's no law against that, you know, blocking the sidewalk and having a pile of beer cans and yelling at people. I don't think that's...I think homeless people deserve respect and help. I do not think that belligerent, bullying behavior should be tolerated. Thank you.

CHAIR VICTORINO: Thank you very much. And I concur in your understanding and beliefs about the homeless situation. Any questions for the testifier? Seeing none, thank you very much, Ms. Wagner. Next testifier, please?

MS. WILLENBRINK: Yes, thank you, Chair. I apologize, Ms. Lisa Darcy will be followed by the final person signed up to testify, Ms. Sesame Shim.

MS. DARCY: Hi, good morning, everybody. Thank you, Chair. No apology necessary. Yeah, Lisa Darcy. It's really nice to see everybody. I had a chance to review the testimony from October 31<sup>st</sup>, I was off island when I got several calls about what was happening in Maui and why aren't you here. And so I had a chance to review that and I'm really glad I did. We have so much in common. Charlene, I am so happy to meet you. We're on different sides of this issue, but we are totally on the same path. So I just want to say that much of what everybody is saying I personally totally get because I have a

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very unique skill set. I totally understand why Mayor is proposing these issues, I get that. I'm going to read my testimony that I actually submitted online. I have researched the above proposals. I actually spent two days in my pajamas and I didn't leave and I ate cold food so I could review all of the different aspects of this issue, and then found no information indicating passing these bills will help the community in a bigger picture. In fact, there is research indicating the opposite, and I urge the Committee to recognize PIA-61 that the National Center on, of Homeless and Poverty indicates passing these nuisance laws are harmful to communities by creating even larger barriers to individuals who enter the community. I worked with a lot of individuals from Drug Court. If you have a record, getting back in the community, you've just...there's no hope. It's so hard. The amount of resources it takes, just write that person off, okay. In case you did not hear the news on Hawaii Public Radio last week, they rank Hawaii in their top five hall of shame for proposing this and for actually passing this. I also read on the Hawaii Appleseed Center for Law and Economic Justice website that HUD looks unfavorably on the community applying for monies who support these bans and laws. And I just say I reviewed last month's testimony and people spoke about two points in the HUD scale as if it was nothing. We don't...if you knew...I want to know how much...that could be a significant amount of money that these programs are going to lose, and I think you need to check with all the individuals in the Homeless Alliance who may have to have their monies reduced if we actually pass these and what that will look like if the shelter gets a significant chunk of its monies reduced. That's a real issue here. This can definitely unfavorably impact many agencies. Being poor and having addiction and mental illness issues are really complicated. I really haven't met too many people on island that understand the techniques that are necessary to engage this group of people. Packing is a normal human behavior. When you go to a movie, you go and you see your friends, you get together. When you go to and you get tables at fundraisers, you pack. This is a normal behavior for safety and comfort. But there's ways to address it and there's ways to help people, and people do it to feel safe. Kihei needs to feel safe. Hawaiian Canoe Club, God, they're like pioneers of loving and caring under difficult circumstances, but they need the skills and they need people to teach them, and we need community programs that actually have places for people to go so they're not angry, they're not dejected, their mental illness isn't raging out of control. Anyway, so we need monies for that. Individuals who lie in public places, do you know why they lay there? They lay there because they've been beaten up and mugged other places, and if they lay in a public place, they feel safer. They don't do it because they want you to look at them and step over them, and go ugh, you know. It's horrible. I would challenge anyone here to actually sleep in a doorway tonight, and you see how that feels and you understand why people are angry and dejected. It's a safety mechanism. We don't have enough beds, we don't have enough programs so people have to get to this point in their life. Middle-age men that don't have a job, oh, they're always number one on my list. The rates of suicide for this group of people is...I mean we don't --

MS. WILLENBRINK: This is about three minutes.

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MS. DARCY: --we're not even touching this. You know this is such a difficult discussion to have in three minutes. It's been 30 years of my life. And we're not implementing the programs that need to work. I urge you to put the monies that you would use to find people and incarcerate them into...I have a four-point community educational program that over the last couple of months I've put together. I think that would be a great benefit to this community. I would love to be able to implement that to everybody here and to the community so that we actually can get a real clear picture on how to address the real issues.

CHAIR VICTORINO: Okay, thank you, Ms. Darcy. Questions for the testifier? Seeing none, thank you very, very...

COUNCILMEMBER COCHRAN: Chair?

CHAIR VICTORINO: Yes, go ahead, Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you. And good morning. Thank you so, so much for being here and love and hear your passion. You mentioned about people, there's just...write people off if they're just setting foot out of jail and with, you know, convictions or whatever on their record, just write them off. Why is that? Do we not have like a transitional...you see lack of transitional services type efforts out there in order to help these individuals?

MS. DARCY: Yeah, that, it's actually a really good question. When I started Hoomoana and many of you know me from working with Hoomoana. I created a one-stop shop, so anybody who walked in...well, first I was tasked with just my board said go do something that's going to be effective. So I said okay, we'll help people one time, right, okay. Well, that actually I had to go back to the board and say we can't help people one time, because yeah, I may give somebody a bus pass, but then the buses maybe only run every hour, hour and a half, they can't get to their job interview, they can't get there, they can't get to...when they come out of jail, when somebody comes out of jail, they have such a long list of needs, and they're traumatized. We don't even factor any of this, the trauma that people feel and how that actually shows up. It shows up in somebody coming and sitting in your office and maybe even crying for 15 minutes and you just have to sit and be present with. It takes time. They don't even know how to ask for the things they need. I sat and I mean I would, I could spend as much time as I needed with one person and I made sure if they needed the bus pass, I actually drove them, I wrote their resume. I got them to their appointment with food stamps so that they could get over and they could get to the shelter on time. And then you have to make sure if they need the computer to review anything that they need in their life, that they can to the library which only gives you one hour at a time and then they bump you off. So if you're doing an application for Walmart which can take three hours, you have to...I mean it's like so complicated for one person. People here don't know that. But if you come out and you have no...your family's done with your behavior, the behavior's exhausting. You can't use them as resources and we don't have anything that connects which is why I loved working and doing what I did. But I also realized I have to step up and do a bigger role in the community because one

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person at Hoomoana was not going to solve this. And we're here today and I'm really, really grateful for this conversation.

COUNCILMEMBER COCHRAN: Okay, thank you.

COUNCILMEMBER BAISA: Chair?

CHAIR VICTORINO: Yes, miss...and I'll recognize Ms. Baisa for her attendance. Thank you very much. Go ahead.

COUNCILMEMBER BAISA: Thank you, Chair. I'm sorry the dentist couldn't get me out faster.

CHAIR VICTORINO: No problem.

COUNCILMEMBER BAISA: He tried. Ms. Darcy, I am wondering listening to your comments about offenders that are released or offenders that really should be treated while they're incarcerated. Are you familiar with the B.E.S.T. Program?

MS. DARCY: Yeah, yeah. But I also know my office was busy and full with individuals, so...

COUNCILMEMBER BAISA: What I'm trying to tell you is there is a program and it's a very, it was a very successful program. Unfortunately it's totally underfunded.

MS. DARCY: Right, yeah.

COUNCILMEMBER BAISA: When I had that program, it was a \$3 million funding and we could do the work that you're talking about, one on one because that is what is needed.

MS. DARCY: Right.

COUNCILMEMBER BAISA: However, until somebody wants to make an investment in that program, we're never going to be able to meet the needs. You know we had the Justice Reinvestment Task Force come to the State, and they made recommendations that there would be more programs like that instead of incarceration and all of the stuff that we're dealing with because they're not taken care of. But no one has followed through on that. And there's been a lot of publicity about it in the last few weeks. And I think that's a place where all of us could work at the Legislature with Senator Will Espero who is trying very, very hard to find alternatives and to provide those kind of services. So I would ask everybody in the room who cares about this to please get involved because that's the only way we're going to solve it. But I really appreciate what you've done. It takes a village in order to make a difference, and like you say, just helping one person is hard, and I know 'cause I have that personal experience myself. But I want to thank you for what you've done. And I want to ask for more kokua and more people to speak up 'cause it can be dealt with.

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MS. DARCY: Yeah.

COUNCILMEMBER BAISA: And it's cheaper than paying --

MS. DARCY: Much.

COUNCILMEMBER BAISA: --\$70,000 a year to house a convict. Thank you.

MS. DARCY: You're welcome. And if I may point out, Councilmember Baisa, you are correct. There are pieces of programs and there are programs that are working, but they are grossly underfunded and understaffed and undertrained.

COUNCILMEMBER BAISA: Yes, thank you. And that comes --

MS. DARCY: Yeah.

COUNCILMEMBER BAISA: --across...

MS. DARCY: Which is whole nother...you know, we could talk about.

COUNCILMEMBER BAISA: Yeah. Thank you.

CHAIR VICTORINO: Thank you. Thank you very much. Other questions for the testifier? Seeing none, thank you, Ms. Darcy. And --

MS. DARCY: Thank you.

CHAIR VICTORINO: --continue the good work. Appreciate it. Next testifier, please?

MS. WILLENBRINK: Yes, the next person signed up to testify is Ms. Sesame Shim, to be followed by Ms. Trinette Furtado.

MS. SHIM: Aloha mai kakou. My name is Sesame Shim and I'm here regarding the PIA-61 concerning homelessness. First, I want to thank the previous testifier and this woman right here, I fully support everything that they've spoken about, and I really want to encourage all of us to take those opinions and facts to heart and really think about better solutions. These bills are criminalizing homelessness. I do not believe to criminalize the homeless will help or solve the homeless problem, so I say no to these bills. I believe we need effective programs and facilities to assist the homeless, and instead of spending our tax dollars to incarcerate our homeless, we should be using our money to fund better solutions and support our homeless. And give more financial support to those programs we already have available. I wish I could elaborate as much as they have today, but I support everything that they have said. And these...I mean it's on the agenda that it's, these bills are about homelessness, you know. And I just hope we can all consider that to find better solutions. Mahalo.

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CHAIR VICTORINO: Thank you very much. And I appreciate your support and comments. I really do. Thank you. Any questions for the testifier? Seeing none, thank you very much.

MS. SHIM: Thank you.

CHAIR VICTORINO: Next testifier, please?

MS. WILLENBRINK: Ms. Trinette Furtado, followed by Ms. Rosemary Robbins.

MS. FURTADO: Aloha mai kakou, Councilmembers, Chair Victorino.

CHAIR VICTORINO: Good morning.

MS. FURTADO: I am Trinette Furtado. I am speaking on my own behalf today on PIA-61. I see the need for the first two items. As a whole within a community, within a bill which looks like it could be criminalizing homelessness, I don't see how that's included in there. Because it's not only those that are unsheltered and that is what I prefer to refer to our fellow friends, our citizens, our ohana, those that are out there and currently do not have a house. Many of them are not homeless because they consider Hawaii their home, it has always been their home. I think that the problem here, what needs to be addressed rather than creating bills that make it harder for those who have no home, who perhaps have no way to secure important documents for jobs, secure important documents to even just get the necessary items for day-to-day living that we take for granted. What we need to be doing is looking more at the availability of the services that are provided, having these people get that awareness of these services. Because a lot of people that are being helped by our social workers, by people like Lisa Darcy, they aren't aware of what's going on. As she said, when people come out of jail and even those that are recently made houseless, they're not aware of what's out there for them. And to say that yes, we do have programs out there, that's great, but we need to be able to do more for our people. I'm hoping that perhaps in the next term our Councilmembers will look at more constituency issues and perhaps have a little more input on that, and engage our community a little bit more. Because as Councilmember Baisa had said, it does take a village. We need to take care of each other, all of us. It's a kakou thing, it's not a kou thing and, you know, hey, if once you get to it, you know, you've pulled yourself up by the bootstraps. That's the wrong way to think. I mean this is Hawaii, we've never done that to people, we should not start doing that now. And I hope you will think heartily on this particular bill, because it could set a precedent and it could tell those residents of ours here that those ohana or friends, that it is not okay to be without a home through no fault of your own. And I think that, you know, we need to look at the cost of enforcing the items on this bill, because if we look at that cost versus the cost of what we can do to be more humane about it, I think that you will find it's cheaper to help rather than to hurt. And I ask you to take a look at this in your decisions today and vote no against this bill. Mahalo.

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CHAIR VICTORINO: Thank you. Any questions for the testifier? No, seeing none, thank you very much, Ms. Furtado. Next testifier, please?

MS. WILLENBRINK: Yes, our next testifier is Ms. Rosemary Robbins. Rosemary will be followed by Ms. Charlene Schulenburg.

MS. ROBBINS: Good morning, everybody. Rosemary Robbins, concerned citizen. One hundred percent of the people who have spoken here so far this morning have come in with grave concerns over PIA-61. Those concerns are warranted. I would like to move on from there. I thank all of the folks who have spoken up. I must tell you there are people out in the community that want to know why this got brought up now after the election. My answer is no clue but that fact of timing does remain. I'd like to speak this morning over on Page 5 of our agenda today on PIA-75 and 77. You may recall that last fall, there were folks who were wanting to see how we could improve our format for government here and served on a taskforce doing that. I attended a lot of those meetings, I appreciated the work that went into them. Two of the issues that are on Page 5 of our agenda this morning, one is requiring a larger percentage of real property taxes to be set aside in the Affordable Housing Fund. Our Chairperson for the County Council has spoken about this frequently, valid. The situation as it stands now is that 2 percent of the real property taxes are set aside for Affordable Housing Fund. Our Chairperson and others have been after...it's being increased to 4 percent. I did read both PIA-75 and 77 yesterday. They are part of a nine-item set of suggestions to help us have a better government. Remember when that setup of that task force was not passed into law, it was a split vote. So that was not 100 percent of people saying no, no, no, we gotta stay the same or no, no, no, we have to change. So variety of perspectives on that, we're blessed to have those. Okay. So the PIA-75 is about affordable housing funding increase. PIA-77 is for the one-stop shop for processing permits. We've heard about the permit purgatory that people felt they have been in, including for Upcountry housing, excuse me, water situations. And I know you're very familiar with that, and so am I with having worked on the water stuff all these years, so I was glad to see those in here and I'm supporting both of those this morning. Okay. Then I would ask you to turn over to Page 4 of our agenda today. And on Page 4...

MS. WILLENBRINK: Three minutes.

MS. ROBBINS: Okay, thank you. There are two items, PIA-58 and PIA-60. Fifty-eight is about smoking prohibitions. As somebody who has spent a great deal of her life encouraging people to breathe healthy air, to be able to not only enjoy breathing healthy air but to be able to go into our waters and to be able to enjoy it on top of or under the water because those lungs are working well. Smoking doesn't help any of that. So I'm glad to see that be brought up today. That's PIA-58. And PIA-60 is urging competition for interisland air travel. I also am supporting that. There are ways that that can be done without being discriminating against our visitors. They're an important part of our community even though they're here part-time, and certainly part of our budgeting thing. We keep hearing about how there's no money, there's no

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money. So if we can travel to get to Oahu or elsewhere where meetings are being held and be able to give the communities a look...

MS. WILLENBRINK: Three and a half minutes.

MS. ROBBINS: Thank you.

CHAIR VICTORINO: Okay.

MS. ROBBINS: All the better for us.

CHAIR VICTORINO: Rosemary, I'm going to ask you to stop here.

MS. ROBBINS: I'm done.

CHAIR VICTORINO: Okay. 'Cause I'm going to make, just make you aware of. First of all, all these items you're referring to are going to be passed on to the next Council.

MS. ROBBINS: Thank you for saying that.

CHAIR VICTORINO: We were unable to get to them for whatever reasons or never able to complete 'em. So the next Council coming in will be tasked with trying to find solutions to exactly what you're talking about. Okay. And secondly, you mentioned earlier about why is this homelessness bill being brought up today after the election. I want to remind you that on October 31<sup>st</sup>, we first took this up prior to the election. It is not political, it is a community issue, and I take that as being what we're here for. I've always worked hard along with all these Councilmembers to solve the problems within our community. So it wasn't political, it wasn't something we're sneaking in at the end today...in fact, we're trying to see if there's some finalization. Some of this will be filed today, and I can assure you, I don't agree with some of these bills. But it's not my place to say, it's the Council, the Committee to make that decision. So I just wanted to make sure that you understood, October 31<sup>st</sup> we had the first hearing on this to get this all started. But it's a process, you've been here long enough to understand the process yeah. So...

MS. ROBBINS: I appreciate that, and if I can just say between us we built a bridge. For the folks at home who are saying how come, how come and I did start out with that today. People are asking why. I'm not the person who was asking...

CHAIR VICTORINO: Well, and I'm clarifying that so that --

MS. ROBBINS: Yeah.

CHAIR VICTORINO: --the people who ask how come understand that if you had watched on the 31<sup>st</sup> and earlier, we were already bringing these subject matters up. It's not political, it is really for the basis of our community. We've been listening to all sides of our community. And everyone agrees, homeless is not a great thing to have. We'd like

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to solve it. And I've said for years we need inventory, we need inventory. It fell on deaf ears. Now all of a sudden everybody say oh we need inventory. You know without inventory all of this cannot be solved. We have the homeless that we see and we have the hidden homeless that live within our community, and you're well aware what I'm referring to. Okay. Any questions for the testifier? Seeing none, thank you, Rosemary, for being here. And Happy Thanksgiving.

MS. ROBBINS: You're welcome. Likewise.

CHAIR VICTORINO: The next testifier, please?

MS. WILLENBRINK: Yes, our next testifier is Ms. Charlene Schulenburg. Charlene will be followed by the final person signed up to testify, Christopher Staten.

MS. SCHULENBURG: Good morning, everyone.

CHAIR VICTORINO: Good morning.

MS. SCHULENBURG: I have a little bit of a froggy in my voice so I apologize if I'm clearing. I want to thank the Mayor for bringing these bills to the fore, and I want to thank the Council and Chair Victorino for the discussion before on the 31<sup>st</sup> regarding it so that we could have a substantive conversation about this. My heart goes out...I apologize. My heart goes out to those who are homeless and I try everything in my power as a citizen who has a blessed life to give where I can give. And I'm trying to make a living. And I'm trying to be a good citizen. And I want to clarify as Ms. Randy Wagner did, this isn't truly about homelessness so I think that the, some of the discussion items are a bit of a misnomer. This is about really bad, horrendous behavior that some of us in Kihei especially are dealing with on a daily basis. I too am grateful to meet Lisa. I do think that there's more in common with trying to find ways to solve the bigger issues, and I'm here to help in the ways that I can. And but what I would like to offer is I think a clarification, especially in the sit-lie and the public intoxication aspect of the laws being discussed today. I know that if I were to walk up with a liter of whiskey and I were to chug it and pass out in a public place in front of a nearby business, and I know if Chair Victorino did the same, that we would probably be approached by the police and asked to leave or, you know, remove ourselves from the area. This is not specific to the homeless, it is behaviorisms that don't allow us to live in a civil society, and I think that's what we're all trying to do. So the other clarification that I would like to please make clear is that when I call the police for something like a behavior that I just described, I am not asking these people to be arrested. What I'm asking for is for the police to have some teeth in order to ask these people to leave the premises right outside of my business if they have chugged and passed out.

MS. WILLENBRINK: Three minutes.

MS. SCHULENBURG: For and as an example, I have to ask the police to file a report for them to go to, get into the process. I think the police based on the Lieutenant Chief's testimony last time, they're looking for some teeth too. Reason being...I'm almost

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done. Reason being the homeless have gotten very, very clever and smart about using the words and the laws back onto the police or the lack of the laws back onto the police. So I think that the trick is these laws would be ways that the police could help us.

CHAIR VICTORINO: Ms. Schulenburg, I'm going to have to ask you to conclude.

MS. SCHULENBURG: Thank you for listening.

CHAIR VICTORINO: Okay, thank you.

MS. SCHULENBURG: Thank you.

CHAIR VICTORINO: Questions for the testifier? Seeing none, thank you very much, Charlene. And we do appreciate your testimony. And we're trying to --

MS. SCHULENBURG: Thank you.

CHAIR VICTORINO: --to find resolution all around. And it is not just homeless --

MS. SCHULENBURG: Thank you.

CHAIR VICTORINO: --but everyone.

MS. SCHULENBURG: Yeah, it's big issues --

CHAIR VICTORINO: Thank you.

MS. SCHULENBURG: --and I'm here to help.

CHAIR VICTORINO: Thank you. Next testifier, please?

MS. WILLENBRINK: The final person signed up to testify is Christopher Staten.

MR. STATEN (from the audience): I'm going to pass on testifying.

CHAIR VICTORINO: You're going to pass, Christopher?

MR. STATEN (from the audience): Yes.

CHAIR VICTORINO: Okay. So anyone else ready and willing to testify or wanting to testify?

MS. WILLENBRINK: No one is willing...waiting to testify; however --

CHAIR VICTORINO: But you already did, you cannot twice. I'm sorry.

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MS. WILLENBRINK: --we lost connection with the other three offices. If you want to take a brief recess, I can call them very quickly.

CHAIR VICTORINO: Well, has any of them e-mailed us that they had anyone waiting to testify?

MS. WILLENBRINK: No.

CHAIR VICTORINO: Okay. With no objections, knowing that we did instruct them and they have not sent any e-mails, so I'm going to believe there is no one waiting to testify. With no objections, I will close public testimony.

COUNCILMEMBERS: No objections.

CHAIR VICTORINO: Thank you very much.

**. . .END OF PUBLIC TESTIMONY. . .**

CHAIR VICTORINO: And I want to thank all those who testified today. Every one of your ideas, opinions and beliefs, and feelings is truly needed because again, it is a real community problem, a community challenge. It's just not one person or one group and not even this Council can solve the problem. Money is part of it but there's a lot more that's involved with it. And so being that I have been around it for a long time, and many of us have, not only in the Council but otherwise, we want to do what we can. And today I'm hoping to be able to bring forward and get some legislation in getting some resolution, especially the first two items yeah. Anyhow, I'm going to take a quick recess to let everyone do what they need to do. And I will ask everyone if they can be back in their chairs at ten after, I'd really like to get going on the agenda. That gives you seven minutes. So please, at ten after I'd like to resume the meeting. So the meeting will now be in recess. . . .(gavel). . .

**RECESS: 10:05 a.m.**

**RECONVENE: 10:13 a.m.**

CHAIR VICTORINO: . . .(gavel). . . The meeting of the Policy and Intergovernmental Affairs Committee will reconvene.

**COMMUNICATIONS FOR REFERRAL TO THE COUNCIL CHAIR  
FOR THE 2017-2019 COUNCIL TERM**

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- ITEM PIA-22: PERFORMANCE AUDIT OF THE DEPARTMENT OF THE PROSECUTING ATTORNEY** (CC 15-125)
- ITEM PIA-25: PERFORMANCE AUDIT OF THE OFFICE OF COUNCIL SERVICES** (MISC)
- ITEM PIA-29: MANAGEMENT OF RECORDS** (CC 09-314)
- ITEM PIA-40: COUNTY OF MAUI PURCHASING CARDS (pCARDS)** (CC 15-156)
- ITEM PIA-42: CYBERSECURITY** (CC 13-226)
- ITEM PIA-50: PROPOSED TRANSFER OF GRANTS MANAGEMENT PROGRAM FROM DEPARTMENT OF HOUSING AND HUMAN CONCERNS TO DEPARTMENT OF FINANCE** (MISC)
- ITEM PIA-55: OLD GOVERNMENT ROADS** (CC 12-181)
- ITEM PIA-56: AUTHORIZING ACCEPTANCE OF SEIZED PROPERTY PURSUANT TO FEDERAL LAW** (CC 13-349)
- ITEM PIA-58: SMOKING PROHIBITIONS** (CC 15-255)
- ITEM PIA-60: URGING COMPETITION FOR INTERISLAND AIR TRAVEL** (CC 15-295)
- ITEM PIA-69: EVALUATION OF A POLICY TO WAIVE FILING FEES FOR APPLICATIONS FILED BY A COUNTY AGENCY** (MISC)
- ITEM PIA-72: CYBER BREACH INSURANCE** (MISC)
- ITEM PIA-73: COST RECOVERY FOR RESCUES** (MISC)
- ITEM PIA-75: REQUIRING A LARGER PERCENTAGE OF REAL PROPERTY TAXES BE SET ASIDE IN THE AFFORDABLE HOUSING FUND** (MISC)
- ITEM PIA-77: "ONE-STOP SHOP" FOR PROCESSING PERMITS** (MISC)

CHAIR VICTORINO: So at this time, I'd like to start off by these are the bills that I want to or I have decided to refer to the next Council which starts on January 2, 2017. I am recommending the following communications be referred to the Council Chair for the term beginning January 2, 2017, pursuant to Rule 23 of the Rules of the Council. First, PIA-22, Performance Audit of the Department of Prosecuting Attorney; PIA-25, Performance Audit of the Office of Council Services; PIA-29, Management of Records; PIA-40, County of Maui Purchasing Cards, or better known as pCards; PIA-42, Cybersecurity; PIA-50, Proposed Transfer of Grants Management Program from the Department of Housing and Human Concerns to the Department of Finance; PIA-55, Old Government Roads; continuing on, PIA-56, Authorizing Acceptance of Seized Property Pursuant to Federal Law; PIA-58, Smoking Prohibitions; PIA-60, Urging

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Competitiveness [sic] for Interisland Air Travel; PIA-69, Evaluation of the Policies [sic] to Waive Filing Fees for Applicants [sic] Filed by County Agencies [sic]; PIA-72, Cyber Breach Insurance; and PIA-73, Cost of [sic] Recovery for Rescues; and finally, PIA...no, I have two more, PIA-75, Requiring a Larger Percentage of Real Property Taxes to be set aside in the Affordable Housing Fund; and finally, PIA-77, one shop stop...oh "One-Stop Shop"--excuse me--for Processing Permits. So with no objections, I would like a motion to refer these to the next, to the Chair for the next Council starting January 2, 2017.

COUNCILMEMBER BAISA: So move, Chair.

COUNCILMEMBER CARROLL: Second.

COUNCILMEMBER WHITE: Second.

CHAIR VICTORINO: It's been moved by Ms. Baisa and seconded by Mr. Carroll. Any more discussions? Seeing none, all those in favor, signify by saying "aye."

COUNCILMEMBERS: Aye.

CHAIR VICTORINO: Opposed? Let the record show one...two...three...four...five...six "ayes," three excused, Mr. Couch, Mr. Hokama, and Mr. Guzman.

**VOTE:       AYES:       Chair Victorino and Councilmembers Baisa, Carroll, Cochran, Crivello, and White.**

**NOES:       None.**

**EXC.:       Vice-Chair Couch and Councilmembers Guzman and Hokama.**

**ABSENT:    None.**

**ABSTAIN:   None.**

**MOTION CARRIED**

**ACTION:     Recommending REFERRAL of communications to the Council Chair for the term beginning January 2, 2017.**

CHAIR VICTORINO: And I won't repeat that as we go on, because I think all three are unable to attend today. Thank you very much. And good luck to the next Council and to the Chair with these bills. I think all of them warrant much more discussion and really some attention by the Council itself and the Committee. And hopefully the PIA Committee will take that up next session.

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**ITEM PIA-61: HOMELESSNESS (PROTECTING AND PRESERVING PUBLIC HEALTH, SAFETY, AND WELFARE) (CC 15-296)**

CHAIR VICTORINO: Moving right along to item number two. Item number two is the Homelessness (Protecting and Preserving the Public Health, Safety, and Welfare), PIA-61. We have actually five different or five ordinances that we would be bringing forward today. This is in receipt of County Communication 15-296, from the Mayor, transmitting five proposed bills entitled one, A Bill for an Ordinance Amending Title 8, Maui County Code, by Adding a Prohibition Making it Unlawful to Defecate and [*sic*] Urinate in or on Public Places, better known as the bathroom bill. I have the Police Department that I would like to call up. Deputy Chief Ramos and I'm not sure, I forgot the other gentleman's name, the other...is he going to come up too? No? Oh, okay. And then maybe Ms. Reimann from the Department or Ms. Shishido, whoever will come up to represent the Department of Housing.

MAYOR ARAKAWA: I'm going to be speaking for . . . (*inaudible*). . .

CHAIR VICTORINO: Oh, okay. By the way, I apologize, I didn't introduce our Mayor. He's been sitting here very patiently. Thank you, Mayor Arakawa, for being here with us. Also Caleb Rowe for, representing the Corporation Counsel. And I did not and I apologize, introduce our valuable Staff, Ms. Kim Willenbrink and Ms. Tammy Frias. And, Tammy, congratulations on your promotion, well deserved. Okay. Go ahead. Between the Mayor and Chief Ramos...well, I'll let you start off, Mr. Mayor, please.

MAYOR ARAKAWA: Well, thank you very much, Chair. Good morning, Councilmembers. First of all, I'd like to point out that none of the bills that we submitted are for homeless. The bills that we submitted are for bad behavior. So you'll notice that in none of the bills are there any reference for homeless at all. They are to address obnoxious behavior by anyone in our community. We do not discriminate against the homeless. But there are a lot of situations that are occurring, especially in some of our parks where people are drinking and swearing, and throwing things at people that are going by. There are situations where we have defecation on many of the areas. We don't know exactly who is doing it or what. There's no clear identification of it. But we know that this is the kind of practice that we really don't want to promote within our community, and it's really just bad manners and bad upbringing. They're not meant to be homeless bills. That's first and foremost. Secondly, we do have a homeless problem that we need to address, and when we submitted the issues to be discussed on homeless, we told everyone that it's not just homeless bills, it's community, the entire community is involved in a lot of this because we have a lack of housing period. Not just...homeless is one category, so we need to be able to address a whole series of these. And we sent that down last November for the start of the discussion, because this is a very comprehensive package that needs to be discussed in its entirety as a comprehensive package, not picked apart little by little. We know this is going to cost well over \$100 million to be able to incorporate a lot of what needs to be done. So this is going to be a very impactful for a lot of the areas. We also sent down suggestions that perhaps we need to consider revving up almost all of our social

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agencies that are dealing with people that are having challenges whether they be homeless or whether they have disabilities or whether they have something that needs to be done psychologically. We need to be able to address all of these different issues. Many of these people are not homeless, but many of these situations need to be addressed. The idea that we have to have housing first, it's not our idea, this is a national program and in order to not jeopardize the funding from the Federal level, we literally have to discuss before anything else, creating housing so that we can take care of our population. Because all the studies have shown that unless you do housing first, the cost to be able to take care of all these other situations almost doubles. So in order to be able to economize and to be able to work within our community, and to be able to keep it relatively reasonable, we have to start looking at housing first. And we have to be able to create those housing. So we sent down a number of proposals on how to start looking at creating housing. We didn't send you solutions, we sent you suggestions on where we need to start the discussion. Some of these being to expand some of the existing facilities like Ke Ala [sic] A Ke Ola, like the West Maui, the shelters that we have there, and purchasing other properties to be able to expand some of the abilities for some of our nonprofits, even creating more space for a lot of the nonprofits that are already dealing with people of these situations. It's not...none of these are specifically for homeless. Homeless is a symptom that we have within our community, that we are having inadequate services supplied to be able to take care of all of these challenges. And I will point out for the record, the Department of Health, the State Department of Health is directly responsible. They are the agency that are supposed to be taking care of all the health concerns within our community. And there is a huge deficit of services being provided and funding being provided from the State. That's the root cause of most of our challenges. And they're literally turning a blind eye at a lot of these situations and forcing the County to be able to address a lot of these situations. Now that being said, the reason that the State has control of all of these areas is because they're generally larger than most counties can handle, and the economic impacts are very large. So we have to be able to petition the State to do their job as well as being able to do what we can from the County to be able to supplement and to be able to try and create programs and set direction. But that requires a lot of discussion. So when we sent the bills down last November, we suggested that we start having dialogue on a lot of these areas to start really expanding as to what we really need to do. Now all of the studies and all of the experts, we convened many of the agencies that are operating within our County on various topics. They are...there are groups that have been convened to be able to discuss a lot of what is going on, and I'm recommending that we tap into a lot of their expertise to be able to learn how to deal specifically with much of these areas. And quite frankly for our County, you know, and I do want to thank the Council for this, we've put in over \$30 million a year, more than almost any other county in addressing many of the problems that the social service agencies have. Because we know that unless we supplement, we're not going to be able to take care of the community at the level we need to. Even with that supplement, even with that supplement we are well underfunding most of the agencies. And the homeless situation is a very symptomatic result. It is showing the deficit in many of the social service agencies' ability to cope with the challenges that we have. Now, it's going to take many, many meetings to be able to discuss these. These bills that you're talking about as if you take them

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independently are not going to resolve all of the issues that we have. But again, these bills were not meant to address homeless, they are meant to address social habits. We have a problem in a lot of our park restrooms where people would prefer to use the bathroom right next to the toilets rather than use the toilets. We have situations where people are damaging a lot of the County properties rather than using the facilities. In Kanaha, one of the reasons and I'll mention this, one of the reasons that we're having some challenges is because the Department of Health has deemed that all of the restrooms that are on cesspools near the ocean have to be closed, so we've closed a lot of those. But we generally put Porta Potties in the areas; however, they may not be right next to every single area, because we quite frankly don't have the budget to be able to do every single area where people would like to have them. We have to be able to select where is the most practical for the most people. Ideally, we would have a Porta Potti, you know, about every 100 feet or so along the coastline because people use the parks but that's not practical. So we're trying to deal with it but we need your...the Council to be able to have a lot of the discussion. Because this is a very, very complex situation and we're dealing with society as a whole with many, many challenges. There are many people that are houseless that actually work. There are many people that are trying to get housing that cannot get housing even with the vouchers that we have because there's no supply. And yet every time we have discussion on creating housing, we have a lot of challenges that come up on virtually every housing project. So unless the County is going to fund most of the housing projects that need to be built, and we have deficits of well over 3,000 units right now, unless the County is willing to fund it and I don't think we have the budget do it, we have to work with private sector. So it's not something that's going to be ideal in the sense that we can just demand whatever we want, because private sector won't build it if it's too onerous. We have to try and work compromises. But we need to have those discussions as to where those levels need to be which is why, you know, we have in our ordinance such things as funds to be able to pay for parks in areas, provide for schools in areas. We're looking at trying to be able to create funds to be able to do our roadways and other infrastructure. A lot of those bills are pending before the Council and need to be addressed if we're going to be specifying how we're going to categorize and what we're going to categorize to certainty for people to be able to contribute to, for the totality of projects to create housing so that it is reasonable within costs. But it's going to take a lot of work. And we've been waiting since November at least to be able to try and get into a lot of these topics. If you were to pass a lot of these bills independently today, I would probably veto them because we know that if it's looked as discriminatory for homelessness and you're titling it for homelessness, they'll be illegal. But for the general public when we're looking at what is generally acceptable behavior for the general public, most of these bills would be agreeable. We are not trying to pinpoint just homeless. But quite frankly we get a lot of calls from people in the public that's saying we have to clean up our front porches because people are using the bathroom there. We have storefronts where people are using the bathrooms at the storefronts. We have problems when handicapped accessibility when someone's sleeping on the sidewalk. There are many challenges that go along with normalcy within a community that need to be kept normal, and the Police Department has some challenges in how the laws are which is why these are specifically looked at. But they have to come along with all the other things that I've been talking about. They have to

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come along with the expansion, social services capability to make sure that those that are less fortunate, that cannot take care of themselves are getting the proper help that they need. They have to come along with the ability to have housing so you're not standing there with a voucher that's worthless because you can't get into a house. We have to be able to create housing for those that cannot afford anything because they are homeless, and give them someplace to be able to take a shower, be able to use the bathroom, be able to sleep, be able to store all their goods, be able to handle their animals. All of these kind of things we need to have the discussions about. So our Administration is waiting for the Council to start the ball going in your meetings so we can have the discussions that need to be done. If you take any of these things independently, we're not going to solve the general problem that we have which is very, very broad. Thank you very much.

CHAIR VICTORINO: Thank you, Mr. Mayor. I appreciate your comments and your insights. And again, I remind, we've had more than just one meeting, Mr. Mayor, and we have been discussing this quite extensively from our October 31<sup>st</sup> meeting. And we've had one subsequently. What we are looking today, Mr. Mayor, just so that you understand is after meeting with the Prosecuting Attorney and the Police Department, and the Department of Human Concerns, your Director and a few others, Corporation Counsel, we came to the conclusion--and we will discuss this a little more in detail--that some of these extensions of or what you were bringing forward already exist in present law. And we will discuss this very, very soon. So some of this may not be necessitated, changes may not be necessitated, because both J.D. and Chief Ramos and Carol Reimann, we reviewed all these bills along with Corporation Counsel Kushi. And we feel that under the current laws, many of these situations are covered. Now the public intoxication, the first two they agreed needed to have some strengthening, but the last three they believe that they have the laws in place to enforce. It's just a matter of now getting the police and others to get out there and do it. But not making this just for homelessness as you said, but it's a community problem all around.

MAYOR ARAKAWA: And again, I would appreciate that if it's clarified so that when we get complaints, the police can go there and they can address these situations. That's all we're trying to get to.

CHAIR VICTORINO: Thank you, Mayor. And exactly what we're all trying to ascertain --

MAYOR ARAKAWA: Yeah.

CHAIR VICTORINO: --at this --

MAYOR ARAKAWA: Thank you.

CHAIR VICTORINO: --point. And just to let you know, I did meet with the ACLU in Honolulu and went over a lot of these issues, and they were very favorable in trying to find a common resolve but not make homelessness a criminal issue. And I think we heard that today by many of those in the audience. Even those who favor some

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strengthening of the laws, they're not oblivion [sic] to the problem of these people who don't have a house to live in, they don't have somewhere to live.

MAYOR ARAKAWA: And again, you heard me say I do not believe homelessness is a crime.

CHAIR VICTORINO: No. Thank you.

MAYOR ARAKAWA: What I want to do is I want to find solutions, and the Housing First program, creating housing first is a good step in the right direction. Funding all of the nonprofits that are handling these areas that can expand their staffing, because they're the experts in it, that is the best way to be able to handle a lot of these challenges. So that's what we recommended from the very beginning and we'll continue that recommendation.

CHAIR VICTORINO: Okay. Thank you, Mr. Mayor. So if I...if you may...if I may, I'd like to now turn over and since we're on number one which is the bathroom bill, Chief Ramos, if you and...J.D. was supposed to be here but I guess, Caleb, are you taking Mr. Kim...

COUNCILMEMBER COCHRAN: He's in the back. He's right there.

CHAIR VICTORINO: Oh, you are in the back. Oh, sorry, J.D. Would you come up, please? Sorry, I didn't see you.

COUNCILMEMBER COCHRAN: Chair? I have a question.

CHAIR VICTORINO: Yes?

COUNCILMEMBER COCHRAN: Before we move on because it's in the title heading, Homelessness (Protecting and Preserving Public Health, Safety, and Welfare). I'm just trying to recall 'cause Mayor's saying it has never been about homelessness and I'm just wondering where that verbiage came from in just the title and heading of this item? Where did that come from? I see October 7<sup>th</sup> letter to Ms. Reimann and the subject heading is Homelessness, PIA-61. So how did that word even become a part of this if everyone's saying this isn't about homelessness?

CHAIR VICTORINO: Ms. Willenbrink?

MS. WILLENBRINK: Thank you, Chair. Yes, that was Staff, we did that. We can acknowledge that. I think probably it came up after the first meeting when the Governor was wanting to...had his proclamation with homelessness and then the bills came and that's how we titled it.

CHAIR VICTORINO: Okay. Are you understanding --

COUNCILMEMBER COCHRAN: Okay.

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CHAIR VICTORINO: --on how that came about, Ms. Cochran?

MS. WILLENBRINK: I think also in the, the first time we met was just on the sidewalk bill, and then subsequently we got information from the Department of Housing that they wanted work on Housing First --

COUNCILMEMBER COCHRAN: Okay.

MS. WILLENBRINK: --'cause there's no place --

COUNCILMEMBER COCHRAN: No, I...

MS. WILLENBRINK: --for homeless people to go right now.

COUNCILMEMBER COCHRAN: Okay. Yeah, thank you. I just, 'cause the testifiers, I mean I understand why they're speaking on behalf of it because it says it in our title.

MS. WILLENBRINK: Thank you for the question.

CHAIR VICTORINO: And I...unfortunately it's been there and I am unable to just remove it. But I will say really the bill should have read or the topic should have read protecting and preserving the public health, safety, and welfare of the community, and PIA-61. So since it's here and I will, I take a little gunk in that one but that's the way it came down from the Staff and from everyone that I had been given the information from. Okay. Mr. Kim, I will start with you and then I will go over to Mr. Ramos. Go ahead. If you'd introduce yourself, please? You gotta put it on, J.D.

MR. KIM: J.D. Kim, Prosecuting Attorney for the County of Maui. On item number one, I believe we had a meeting regarding this proposed legislation. And our Department opined that this is currently covered under disorderly conduct, so...no, we're talking about the bathroom bill first.

CHAIR VICTORINO: We're talking about the bathroom bill, right? We're starting out with that, number one. That's the number one, yeah. Please?

MR. KIM: Okay. And so the issue is whether or not there's a complainant and a witness to the act so such that they created a hazardous condition or obnoxious condition. And so and that's, you know, that's the only way to enforce the disorderly conduct law that's currently on the statutes.

CHAIR VICTORINO: So it'll fall under disorderly conduct --

MR. KIM: Right.

CHAIR VICTORINO: --Mr. Kim?

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MR. KIM: Section D, 711-1101, Section D, creates a hazardous or physically offensive condition by any act which is not performed under any authorized license or permit.

CHAIR VICTORINO: Okay. Questions for...oh, I'll let Mr. Ramos go ahead. Deputy Chief Ramos, please. Assistant Chief Ramos I should say, sorry, excuse me.

MR. RAMOS: Victor Ramos, Assistant Chief, Patrol. I concur with J.D. We do have the existing laws that we can use to enforce. And it really doesn't matter, even if this ordinance was passed we still need a complainant to document any kind of criminal incident.

CHAIR VICTORINO: Questions for either J.D. or Assistant Chief Ramos? Yes, Ms. Baisa?

COUNCILMEMBER BAISA: I want to be clear, what I just heard is that we could do what we need to do without this bill. Because we --

CHAIR VICTORINO: That is absolutely correct.

COUNCILMEMBER BAISA: --already have laws that would facilitate us enforcing these things?

MR. RAMOS: From the police point-of-view, that is correct.

COUNCILMEMBER BAISA: How about from J.D.'s point?

CHAIR VICTORINO: Prosecuting Attorney?

MR. KIM: That is also correct.

COUNCILMEMBER BAISA: Okay. So, Chair, that kind of gives it a different perspective.

CHAIR VICTORINO: And exactly where I'm going with this today. Okay?

COUNCILMEMBER BAISA: Yes, thank you very much. Very clear to me.

CHAIR VICTORINO: Okay. Any other questions from any of the other Members? Yes, Ms. Cochran?

COUNCILMEMBER COCHRAN: Thank you, Chair. And thank you, departments, for being here. So this is not only government or I guess areas? Can this be on say church grounds? If the church complains then you folks have a law in place to arrest or whatever you need to do for this public urination/defecation? So it's not only on government facilities and things of that nature, it's pretty much anywhere?

MR. KIM: That's correct.

COUNCILMEMBER COCHRAN: Okay.

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MR. KIM: The complete statute says a person commits the offense of disorderly conduct if with intent to cause physical inconvenience or alarm by a member or members of the public, or recklessly creating a risk thereof, the person, D, creates a hazardous or a physically offensive condition by any act which is not performed under any authorized license or permit.

COUNCILMEMBER COCHRAN: Okay.

MR. KIM: So it doesn't, it's not specific as to any location, it can happen just about anywhere.

COUNCILMEMBER COCHRAN: Okay. And so what were...what would the steps be? Someone sees this occurring, they'll give a call into MPD, MPD will show up, figure out what the...and then what?

MR. KIM: Take a statement, document the incident, and then arrest the suspect. The suspect will then be taken to jail, processed, given over to bail, if they cannot bail then the officer then has to write out what's called a judicial determination of probable cause of a warrantless arrest. That is then reviewed by a judge within 48 hours of the arrest. If he finds probable cause, that person is now taken to a court of competent jurisdiction to address that issue.

COUNCILMEMBER COCHRAN: Okay. No, thank you. Thank you.

CHAIR VICTORINO: So this law is presently on the books, and it is the opinion of this Chair that after meeting with all the parties concerned, there's nothing necessitated for change and the existing law when done properly, and again, when done properly does does, it has an effective result. And it's not just made for homeless people, it is made for anybody that does it anywhere. Okay. Moving right along...

COUNCILMEMBER WHITE: Chair?

CHAIR VICTORINO: Oh, I'm sorry. Mr. White?

COUNCILMEMBER WHITE: Just a question. In this item that you handed out with disorderly conduct at the top of the page.

CHAIR VICTORINO: Yeah.

COUNCILMEMBER WHITE: I'd like to ask Mr. Kim, what is the effect of the note at the bottom which says urinating or defecating in public repealed December 31, 2016. What is the net effect of that? Was that something that was put in and is now going to be repealed as of the end of this year or, and what effect does that have on enforcement if it's specifically called out and then is looking as though it's going to be repealed?

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MR. KIM: I'd have to look into that with respect to Act 84, Section 2 of legislation in 2004. Oh no, I'm sorry. It would be Act 35 on legislation 2015 and what happened to that. I didn't do that research though.

COUNCILMEMBER WHITE: Okay. Chair, it seems as though we're covered by the disorderly conduct law, but I'd just like to be sure that we're not moving ahead thinking we're okay if in fact there was a specific act that removed public urination and defecation.

CHAIR VICTORINO: Yes. Yeah. We'll follow up on that right now and see if we can get some clarification on that.

COUNCILMEMBER WHITE: Okay, thank you. Thank you very much, Chair.

CHAIR VICTORINO: Because it is my understanding that that doesn't totally repeal what we're discussing but we'll find out and get clarification.

COUNCILMEMBER WHITE: Yeah, that's fine.

CHAIR VICTORINO: Okay?

COUNCILMEMBER WHITE: That's all I'm asking.

CHAIR VICTORINO: Thank you.

COUNCILMEMBER WHITE: Appreciate that.

CHAIR VICTORINO: Yeah, not a problem. All right. Moving on to number two while we're, we'll have the Staff look into that portion of the bathroom bill. Bill number two is A Bill for an Ordinance Amending 8.21, Maui County Code, Relating to Liquor in County Parking Lots and Other Public Areas, better known as the liquor law. And I will start with Mr. Kim and then Mr. Ramos, Assistant Chief Ramos. Mr. Kim?

MR. KIM: With respect to this proposal, we, historically we have no public intoxication law or ordinance on the books, and so the example brought up during the meeting was if I'm a police officer on duty and I see someone stumbling out of a bar and it's obvious to me that that person is intoxicated, I cannot stop that person from getting in his or her vehicle and then driving off. I basically would have to wait until they get into the car, start it up, start their operation, and if it looks they're impaired and then stop them and from...and then go through the impaired driving investigation. And so basically it's almost too late by that time. So we would be better off with an ordinance that would assist the police in investigating persons who are under the influence of either intoxicating liquor, drugs, any type of substance that would endanger themselves or prevent them from making sure that they could keep themselves safe or keep property safe, or safety of others. And so I believe there's an attachment to the Chapter 8.21 and a proposed amendment, Part C. And I would reserve comment with respect to what's been identified as toluene.

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CHAIR VICTORINO: Assistant Chief Ramos?

MR. RAMOS: That would definitely be nice to have a public intoxication, but that speaks to internal possession of drugs and alcohol. With this ordinance specifically we actually do have an HRS that applies to this, 281-78 that does say that you are not allowed to drink on the sidewalk, public roadway, and it gets very specific in what we can do to enforce this particular violation. So long story short, we do have existing law that we can currently enforce instead of this ordinance.

CHAIR VICTORINO: Okay, thank you. You all have a copy of the proposed amendment for the ordinance itself, 8.21, and so if you have specific questions, it's in front of you. Now is the time that, you know, I will allow you to ask the department, both. And this verbiage was worked on by the Police, by the Prosecuting Attorney's Office, and myself and along with Corporation Counsel. So I feel relatively confident this covers the area of "the liquor bill" if that's what you're referring to. Okay? Yes, Ms. Crivello?

COUNCILMEMBER CRIVELLO: Thank you, Chair. So, Chief, you're saying that we already have in place what you can enforce, intoxication laws, but the amendment or item C is amenable to add stronger enforcement?

MR. RAMOS: Yeah, I'm sorry, I didn't see this.

COUNCILMEMBER CRIVELLO: Okay. This is his...I guess, Chair, he hasn't seen it yet so he can answer that later.

CHAIR VICTORINO: No, we'll answer it now. Go ahead, Chief Ramos, if you would look it over. Because again, this was the discussion we had and with Mr. Kim so I would like you to comment if you may, please. Assistant Chief Ramos, any time you're ready.

MR. RAMOS: Pressure.

CHAIR VICTORINO: No, no, no pressure. Sorry. No, no, no, no, no.

MR. RAMOS: Definitely this ordinance is a lot more specific. Two eighty-one seventy-eight covers intoxication, liquor intoxication, it looks like this particular ordinance would allow us to cover more areas of intoxication, drugs and alcohol.

CHAIR VICTORINO: I think that's what the intent was, if I'm correct, Mr. Kim?

MR. KIM: That's correct, Chair.

CHAIR VICTORINO: Yeah. Ms. Crivello?

COUNCILMEMBER CRIVELLO: Thank you, Chair. The reason I ask 'cause he said everything was pretty much suffice, so --

CHAIR VICTORINO: Yeah, okay.

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COUNCILMEMBER CRIVELLO: --thanks for that clarification, Chief.

CHAIR VICTORINO: You're welcome. Ms. Crivello? Ms. Baisa? Sorry.

COUNCILMEMBER BAISA: Thank you, Chair. Again, I want to be straight. So in spite of what we already have, is recommended that we would want to pass the language we have in front of us which would give it more teeth?

CHAIR VICTORINO: Mr. Kim?

MR. KIM: That's correct.

COUNCILMEMBER BAISA: Okay. I just want to make sure, you know, about what we want to add and what we don't need to add, because I'm not about just making laws to make laws. But, you know, if this helps you do your job then I'm all for it. Thank you, Chair.

CHAIR VICTORINO: And again, it broadens the --

COUNCILMEMBER BAISA: Yeah.

CHAIR VICTORINO: --entire gamut of public intoxication.

COUNCILMEMBER BAISA: Good.

CHAIR VICTORINO: And I think that's why we wanted again, to make sure it was broad enough and enforceable enough on their part.

COUNCILMEMBER BAISA: Thank you.

CHAIR VICTORINO: Mr. Carroll, do you have anything you'd like to add? Ms. Cochran?

COUNCILMEMBER COCHRAN: Thank you, Chair. Thank you, Department. So this has not been signed off? This is not signed off by our Corporation Counsel?

CHAIR VICTORINO: No, not at this time.

COUNCILMEMBER COCHRAN: Okay. But it's been, I guess, helped you write it with Mr. Kim, but looks like Maui Police Department didn't have a chance to actually look at it until just now.

MR. KIM: That's correct. There was a misunderstanding between my Department and Council Services. We did propose an ordinance, but when we wrote it out, it was in such a form that it appeared that it was existing law. Actually we took that from I believe State of Illinois or Georgia, and what you have before you is also a law that comes from the State of California. And so there were some spelling errors --

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COUNCILMEMBER COCHRAN: Publix.

MR. KIM: --in the second line, it says publix. I believe that should say public.

COUNCILMEMBER COCHRAN: Right.

MR. KIM: And then they also identified Toluene which is an inhalant used for making I believe paints and glue, and some other substances used for what police or vice officers identify as huffing to get high. We would suggest any other intoxicating substance that would also include, we've had incidents where people would come in impaired, obviously impaired, weaving all over the road, stopped, failed the field sobriety maneuvers, taken into the police station, and when they blow on the Intoxilyzer, it's .001 or .002. And when they're questioned, the suspect, the person was drinking kava. And so when you do your research on kava, it masks the symptoms of alcohol so we don't have a DUI because they blow under. Point zero zero five is the limit. But they're still intoxicated and they're still impaired such that they put at risk the other drivers on the roadway. So that's why I would suggest instead of toluene any other intoxicating substance. There are other non-controlled substances that's not in the schedule under the Hawaii Revised Statutes or the Drug Enforcement Administration that still impair, can impair people from taking care of themselves or taking care of others.

COUNCILMEMBER COCHRAN: Okay. Well, thank you for your input. So it looks like it needs some work. And the other question is just trying to define the words, I guess, or the terms in here, unable to exercise care. And then I guess somehow this is trying to tie in, interferes with, obstructs or prevents the free use of any street, sidewalk, or other public way. So is that trying to say you're passed out due to intoxication or you're sitting there getting intoxicated on a sidewalk or public way of sorts? And currently existing language cannot accomplish this so you need to write it here?

CHAIR VICTORINO: Mr. Kim?

MR. KIM: That's correct. We don't have any laws prohibiting that.

COUNCILMEMBER COCHRAN: Wouldn't that...so that would not fall into disorderly conduct of any kind?

MR. KIM: No.

COUNCILMEMBER COCHRAN: Okay. And the...okay. 'Cause I know in Lahaina you can't just wander around with open containers and what. There's already existing law for that.

MR. KIM: That's under the Municipal Code regarding historic --

CHAIR VICTORINO: Right.

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MR. KIM: --districts and so it's not specific...I mean it's not general enough to apply that ordinance to places like Paia Town or anyplace, in Hana or, you know, if you're outside the historic district, you can just...that kind of behavior is allowed.

COUNCILMEMBER COCHRAN: Okay. That's all, Chair. Thanks.

CHAIR VICTORINO: Okay.

MR. KIM: Thank you.

CHAIR VICTORINO: Thank you. So anyhow, so you're suggesting on that one piece to eliminate toluene, or whatever you call it, and putting in or leaving that out and just any combination of any intoxicating liquor, drug, controlled substance, and take that, or toluene and take that out?

MR. KIM: I would suggest that anytime you see the word toluene in this --

CHAIR VICTORINO: Yeah.

MR. KIM: --proposed legislation, to in its place put in any other intoxicating substance.

CHAIR VICTORINO: Okay. Did you get that, Staff?

MS. WILLENBRINK: Yes, I did.

CHAIR VICTORINO: Okay. Any other...okay, very good. Any other questions for the...yes, Mr. White?

COUNCILMEMBER WHITE: Thank you, Chair. So it's my understanding by establishing this, that the application will be not only on, in public, you know, County-owned property, you know, parking lots and parks and so forth, but it'll also allow the police to enforce intoxication on private property.

MR. KIM: In any public place, open to the public.

COUNCILMEMBER WHITE: Right. Any public place but not, obviously not inside an establishment or --

MR. KIM: That's correct.

COUNCILMEMBER WHITE: --inside a home but out on a sidewalk even though it's a private sidewalk or in a private parking lot or something of that sort. Is that correct?

MR. KIM: That's correct. If the conditions are met.

COUNCILMEMBER WHITE: Yeah. Okay, thank you. Thank you, Chair.

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MR. KIM: I believe when we research...I'm sorry, Mr. White. When we researched this issue, there were ordinances or state laws where public intoxication was completely prohibited and that's without any other action, just sitting there being intoxicated. And that was frowned upon by the various state supreme courts, and so those legislatures tagged in not only the public intoxication but with some other behavior. And so that's why it's added on for, or unable to exercise for his or her own care or safety, safety of others, or by being under the influence obstructs or prevents the free use of any street, sidewalk, or public way. And so not only do you have the condition of that person, but they also have to be doing an additional act. So a person couldn't just be arrested or prosecuted or cited just for being intoxicated in public.

COUNCILMEMBER WHITE: Okay, thank you. Thank you, Chair.

CHAIR VICTORINO: Okay, thank you very much. Any more questions for the...yes, Ms. Cochran?

COUNCILMEMBER COCHRAN: Thank you. So how...and this is fine, you know, on public areas, what have you. How does this fit in if at all for private though, areas?

MR. KIM: It would not. I mean if you're drunk...

COUNCILMEMBER COCHRAN: So how...but where's the rights of a person on public...private, their own private property and you have these things that occur, how is that person able to counter or bring in authorities to address those situations at this time or any other time?

MR. KIM: I suspect you're saying that if I have a party or you have a party and I come to your party and...

COUNCILMEMBER COCHRAN: No, I'll give you the real scenario.

MR. KIM: Okay.

COUNCILMEMBER COCHRAN: Church grounds, people come on property and they drink, and they become intoxicated.

MR. KIM: If it's a public place and...

COUNCILMEMBER COCHRAN: And that's a private, well, no, it's private land.

MR. KIM: But it's open to the public. If it's open to the public then we can enforce this.

COUNCILMEMBER COCHRAN: So it does apply to a church property?

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MR. KIM: Any private area that's open to the public. For instance, I'll give you a for instance, Kaanapali Parkway, private land. You drive without a license, I can't tag you for that because you're not on a State highway. So --

COUNCILMEMBER COCHRAN: Good. Yeah.

MR. KIM: --I've had a case where the person got, riding a motorcycle in Lahaina on that parkway, hulis, he's found to be drunk. He doesn't have a license but we can't enforce that, but we can, we prosecute him for DUI at that, in those days. So that's the difference.

COUNCILMEMBER COCHRAN: Right. Okay.

MR. KIM: If it's open to the public, there's certain laws that we can apply on private land.

COUNCILMEMBER COCHRAN: Okay, thanks. Yeah, thanks for bringing that. Kaanapali Parkway, it's on the next item. Thank you.

CHAIR VICTORINO: And again, just for clarification, open to the public. And I believe every church ground is open to the public. It is still private but the public has accessibility, and if I'm wrong, J.D., you correct me. But I believe when you keep talking about church properties, they are generally open to the public. So all right, let's move on then if there's no more discussion on this part. Let's go on to number three, and number three was the sidewalk bill. Members, at our last meeting, you may recall that the bill was deemed unconstitutional, because unlike Oahu, there are no alternative spaces for homeless people to take shelter currently available on Maui. On your desk is a revised proposed bill that the Staff has prepared in conjunction with Ms. Reimann and Chief Ramos for your consideration. I think this bill addresses some of those concerns, if not most of them. I have added camping to the bill. Chief Ramos, I have a few questions about streets, and so at certain points, I will be bringing them up. But you also have a list of streets that are connected with the bill itself. And so at this point I will ask Chief Ramos, you know, there's a number of streets that I have concerns with. One, which end of Dairy Road are you referring to? Because Dairy Road kind of extends from, if I'm not mistaken, from Hana Highway all the way now to the airport exit access road, right? I mean it's changed since then...so am I incorrect? But I'm asking the question about Dairy Road. I guess the question, which end of Dairy Road are you referring to when you put this bill in when you said Dairy Road? And I think you put down...Ms. Willenbrink, what did he put down on the Dairy Road one? I don't have the paper right in front of me, please. 'Cause there was a concern we discussed.

MS. WILLENBRINK: Under Kahului --

CHAIR VICTORINO: Yes.

MS. WILLENBRINK: --number ten, it says Dairy Road from Keolani Place to end, and we're not such which end.

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CHAIR VICTORINO: Yeah, okay. So, Chief Ramos, from Keolani Place to which end?

MR. RAMOS: To be clear, I didn't indicate any of these streets. This is the first time I'm seeing them. My comment was specific to setting up campsites along the sidewalks.

CHAIR VICTORINO: Okay.

MR. RAMOS: As we discussed last month, end of October --

CHAIR VICTORINO: Yes.

MR. RAMOS: --we were looking at this ordinance to apply curb, the curb to the property line to prohibit people from setting up makeshift camps along the sidewalks.

CHAIR VICTORINO: Okay. Okay. Very good. I guess I don't know where that Keolani came from because...so anyhow, I will open up the floor for discussion. Because we've covered South Maui, West Maui, Central Maui, and even areas of the Upcountry area. We've tried to cover where I guess sidewalks were prevalent and the probability or possibility of camping on those sidewalks like what's occurring in Oahu were what we discussed. So I'll open the floor for questions. Yes, Ms. Cochran?

COUNCILMEMBER COCHRAN: Thank you, Chair. So this one too has not been signed off by Corporation Counsel at this time?

CHAIR VICTORINO: No.

COUNCILMEMBER COCHRAN: Okay. And but you said you, it's been worked through Staff, yourself, and Housing and Human but not with Police?

CHAIR VICTORINO: Police were there.

COUNCILMEMBER COCHRAN: But I guess just not Mr. Ramos who's here today. But with Mr. Kim? Public Defender's Office had a chance to work on this?

MR. KIM: We're the prosecutors.

COUNCILMEMBER COCHRAN: I mean sorry.

MR. KIM: Sorry.

COUNCILMEMBER COCHRAN: Prosecuting Attorney's Office.

MR. KIM: Yeah, we discussed this regarding the act of camping on public ways and prohibiting that instead of the sit-lie, the lie law where it was not specific to place and time. And to answer or to clarify Dairy Road from Keolani Place to end. Keolani Place is the old access, airport access road, it's called Keolani Place, and so where Krispy

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Kreme, that corner of Krispy Kreme ends and then goes all the way...then Dairy Road starts, goes across the street, Hana Highway, and then it goes up to the airport access road past the motorcycle shop. So I believe that's the geographical area, Dairy Road from Keolani Place to end.

CHAIR VICTORINO: Thank you for --

COUNCILMEMBER COCHRAN: Okay.

CHAIR VICTORINO: --that clarification.

COUNCILMEMBER COCHRAN: Yeah, I have...and so under prohibitions, Page 2, 8.36.020, all of these will pertain to only the hours of 11:00 p.m. to 5:00 a.m.? Is that what this is saying?

MR. KIM: Yes.

COUNCILMEMBER COCHRAN: So any other working daylight hours so to speak, it's all okay to do this? People can still sit, lay, lie, camp. Only during these hours are they not allowed?

MR. KIM: That's correct.

COUNCILMEMBER COCHRAN: Okay, interesting. And then, Chair, if you don't mind, I also have questions about the Lahaina area and the different roads that are discussed here. Mr. Kim brought up on the last item in regards to Kaanapali Parkway, number 11, that is, this would be able to be enforced on that? And also Kai Malina Parkway, number 13...12.

MR. KIM: If those...

COUNCILMEMBER COCHRAN: And I'm thinking maybe Office Road too, number 14.

MR. KIM: I would have to look at that to make sure they were not dedicated to the County or became a government road.

COUNCILMEMBER COCHRAN: Well, Kaanapali Parkway, you are aware of that one that you just shared.

MR. KIM: Well, that was back in the day when I was a young deputy, 1989 I think when I prosecuted that case.

COUNCILMEMBER COCHRAN: Yeah, nothing's...

MR. KIM: So since then it may have been dedicated, I don't believe so --

COUNCILMEMBER COCHRAN: No.

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MR. KIM: --but yeah, that was an oversight.

COUNCILMEMBER COCHRAN: Yeah, it has not.

MR. KIM: Yeah, it's still private.

COUNCILMEMBER COCHRAN: So I think there's a lot of work at least as I'm looking into the Lahaina area. Shaw Street is not on here, Kenui Street is not on here. I believe these are really key roads also. If we're going to encompass possible areas this can occur, I think these streets ought to be labeled in here, and then again Kupuohi, Ulupono, those are in an industrial park so I believe, I'm not sure if..just I have questions, that's all, if these are private kind of road systems. So anyhow, yeah, I, personally I just think there needs to be work still on this. And I don't agree. Those are my comments. Thank you.

CHAIR VICTORINO: Thank you very much for your comments. I appreciate it. And, you know, I will be...you know at this point I will say this, I'm going to stop conversation here and go refer all of this to the next Council so you can work on it and put your manao in there. I tried my very best with the Department to come up what I call reasonable and workable, and I believe that there is a lot of laws that exist that don't need to be changed. But I will allow the other, the next Council to work with this whole issue. I want to thank Chief Ramos and J.D. Kim, and Corporation Counsel, Mr. Rowe for stopping by today and helping us go through all of this. So with no objections, I am going to defer this matter and refer it to the next Council pursuant to...excuse me, I will have the exact wording in a moment. I will entertain a motion to add this to the agenda for, to the Council Chair for the term beginning January 2, 2017, pursuant to Rule 23 of the Rules of the Council.

COUNCILMEMBER BAISA: So move.

COUNCILMEMBER CRIVELLO: Second.

CHAIR VICTORINO: Any discussion? If not, all those in favor, signify by saying "aye."

COUNCILMEMBERS: Aye.

CHAIR VICTORINO: Opposed?

<b>VOTE:</b>	<b>AYES:</b>	<b>Chair Victorino and Councilmembers Baisa, Carroll, Cochran, Crivello, and White.</b>
	<b>NOES:</b>	<b>None.</b>
	<b>EXC.:</b>	<b>Vice-Chair Couch and Councilmembers Guzman and Hokama.</b>

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**ABSENT: None.**

**ABSTAIN: None.**

**MOTION CARRIED**

**ACTION: Recommending REFERRAL of communication to the Council Chair for the term beginning January 2, 2017.**

CHAIR VICTORINO: Thank you very much. Thank you, J.D. and Assistant Chief Ramos, and Caleb. And Happy Thanksgiving to all of you. Thank you for your mana'o. And also, Jan, thank you for being here to assist. Okay. And I think that was the last item right, Ms. Willenbrink? Yes. So I will say we have one more meeting which I have a few more items that we'll be cleaning up. And I want to thank everyone for being here today. This has not been an easy process. And I hope everyone knows that we have tried real diligently to listen to all parties and we're very...try to be very objective. I want to thank the Mayor and you, the Prosecuting Attorney along with the Police Department. I want to thank the public for your input. I appreciate it very, very much. I want to thank you, Members, for your help today. Unfortunately we didn't have a full quorum and that makes it even more difficult. And I will say in this manner, those who think they can do a better job, then I wish them well, I really do. You know I really wish them better...good luck. And this meeting of the Policy and Intergovernmental Affairs Committee is now adjourned. . . .(gavel). . .

**ADJOURN:** 11:09 a.m.

APPROVED:



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MIKE WHITE, Council Chair

pia:min:161122:ds

Transcribed by: Daniel Schoenbeck

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CERTIFICATE

I, Daniel Schoenbeck, hereby certify that the foregoing represents to the best of my ability, a true and correct transcript of the proceedings. I further certify that I am not in any way concerned with the cause.

DATED the 16<sup>th</sup> day of December, 2016, in Kula, Hawaii

  
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Daniel Schoenbeck