

**POLICY, ECONOMIC DEVELOPMENT, AND AGRICULTURE
COMMITTEE**

Council of the County of Maui

MINUTES

July 30, 2018

Council Chamber, 8th Floor

CONVENE: 9:04 a.m.

PRESENT: Councilmember Yuki Lei K. Sugimura, Chair
Councilmember Stacy Crivello, Vice-Chair
Councilmember Alike Atay (out 11:03 a.m.; in 11:11 a.m.)
Councilmember Robert Carroll
Councilmember Elle Cochran
Councilmember Don S. Guzman
Councilmember Riki Hokama (in 9:10 a.m.)

EXCUSED: Councilmember Kelly T. King
Councilmember Mike White

STAFF: Shelly Espeleta, Legislative Analyst
Clarita Balala, Committee Secretary

Denise Fernandez, Council Aide, Lanai Council Office (via
telephone conference bridge)

Dawn Lono, Council Aide, Hana Council Office (via telephone
conference bridge)

Kate Griffiths, Executive Assistant to Councilmember Kelly T.
King

ADMIN.: Edward S. Kushi, Jr., First Deputy Corporation Counsel,
Department of the Corporation Counsel
Jerrie L. Sheppard, Deputy Corporation Counsel, Department of
the Corporation Counsel (Item No. 70)
Mark Walker, Director, Department of Finance (Item No. 72)
Guy Hironaka, Real Property Manager, Department of Finance
(Item No. 72)
Andrew H. Martin, Deputy Prosecuting Attorney, Department of
the Prosecuting Attorney (Item No. 72)
Wendy Y. Nobriga, Administrative Officer, Department of the
Prosecuting Attorney (Item No. 72)
Michael Molina, Executive Assistant, Office of the Mayor (Item No.
2(46))
Frederick H. Redell, Economic Development Specialist, Office of
the Mayor (Item No. 70)

Seated in the gallery:

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David A. Galazin, Deputy Corporation Counsel, Department
of the Corporation Counsel (Item No. 72)

OTHERS: Una Starbuck, Clinical Specialist, Child and Family
Service/Maui Sexual Assault Center (Item No. 72)
Paul Tonnessen, Executive Director, Friends of the Children's
Justice Center (Item No. 72)

Willard Haraguchi, Senior Vice President, Title Guaranty of
Hawaii, Inc. (via telephone conference bridge)
Lorrin Hirano, Senior Vice President and Legal Counsel, Title
Guaranty of Hawaii, Inc. (via telephone conference bridge)
Nanette Kodate, Commercial Underwriter, Title Guaranty of
Hawaii, Inc. (via telephone conference bridge)

Charles Buckingham, Vice President, Colliers International
Jeanne Skog
Zandra Amaral Crouse
Jasee Lau
(2) additional attendees

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

CHAIR SUGIMURA: ...*(gavel)*... Good morning, everyone. Welcome to the Policy,
Economic Development, Agriculture Committee. Today is July 30th. It's now
9:04 a.m. I'm going to begin my meeting. I'd like to ask everyone to silence all cell
phones and noise-making devices. I would like to take a roll call. My name is
Yuki Lei Sugimura, I am the Chair of this Committee. Welcome, Stacy Crivello, my
Vice-Chair.

VICE-CHAIR CRIVELLO: Aloha, Chair.

CHAIR SUGIMURA: Robert Carroll.

COUNCILMEMBER CARROLL: Good morning, Chair.

CHAIR SUGIMURA: Alikea Atay.

COUNCILMEMBER ATAY: Good morning, Chair.

CHAIR SUGIMURA: Elle Cochran.

COUNCILMEMBER COCHRAN: Aloha, Chair.

CHAIR SUGIMURA: Good morning. Mr. Guzman.

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COUNCILMEMBER GUZMAN: Good morning, Chair.

CHAIR SUGIMURA: All of you, thank you very much for being here. Today, we have a full agenda and on the first item which is PEA-72, we all call it the Ueoka Building, we have Mark Walker here from the Department of Finance, Guy Hironaka. Thank you for being here.

MR. WALKER: Good morning, Chair.

CHAIR SUGIMURA: Good morning. And from the Prosecuting Attorney's Office, we have Martin, Andrew Martin and Ana Malafu, as well as Wendy Nobriga.

MR. MARTIN: Good morning, Chair.

CHAIR SUGIMURA: Is...you're all here?

MR. MARTIN: Ms. Malafu is on Oahu attending another meeting --

CHAIR SUGIMURA: Oh, okay.

MR. MARTIN: --this morning.

CHAIR SUGIMURA: So she won't be here. Thank you, Wendy, for being here. Also, we have on PEA-2, which is the Boards and Commission, we have Mike Molina here from the Mayor's Office. PEA-70, which is on the electric chargers, we have Teena...we will have Teena Rasmussen, Office of Economic Development, Fred Redell, who is our Energy Commissioner also from the Mayor's Office. And on PEA-72, which is the Ueoka Building, we have representatives from Title Guaranty of Hawaii, Willard Haraguchi, Senior Vice-President of Title Guaranty, who will be assisting Guy Hironaka. In the audience, we have Charles Buckingham, Senior Vice-President for Colliers International representing the sellers, which is Makawao LLC, appreciate that. Corporation Counsel for the Ueoka Building, David Galazin is here. Ed Kushi who is my, who's the First Deputy Corp. Counsel is here for all the items. PEA-70, which is the quick charger, we have Jerrie Sheppard also from Corp. Counsel. Thank you, Staff, who works very hard to assist, Legislative Analyst is Shelly Espeleta, Committee Chair [sic] is Clarita Balala. The Molokai Office is closed today or Ella may be joining us closer to 11:00; Hana District Office, Dawn Lono; Lanai District Office, we have Denise Fernandez. We have three items on our agenda, Members. PEA-72, Authorizing the Acquisition of Real Property Located at 2103 Wells Street and Apartments A, B, and C of the Ueoka Building Condominium. PEA-2(46), which is Nomination to Boards, Committees, and Commissions, Liquor Control Commission Nominee, and PEA-70 is Authorizing an Amendment to Extend the Term and Modify Conditions Relating to the Removal of Equipment for the Grant of a License of County Real Property for Electric Vehicle Quick Chargers and Local Battery Units. At this time, I'd like to thank everybody for being here, and I would like to start with public testimony. In the Chambers, our first public testifier is Una Starbuck. Is Una here? Oh, thank you. PEA-72 and Una is from the Child and Family Services, Maui Sexual

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Assault Center. You have three minutes to testify, at two-and-a-half minutes the light will go on, we'll tell you, you have 30 seconds. So, thank you very much for being here. Please state your name.

. . . BEGIN PUBLIC TESTIMONY . . .

MS. STARBUCK: Sure. My name is Una Starbuck. I'm a clinical specialist, a psychotherapist at Child and Family Service at the Maui Sexual Assault Center, and I've been a therapist there for five-and-a-half years. So, I support the purchase of this building and I support us having a co-facilitation facility for all the community members that work on the sexual assault team for a number of reasons. The first, it will really help children and families have services be more accessible, gas money's hard, taking time off work, all these services will just really allow them to be able to access services in a more efficient way. The second, it will really allow us as a community to collaborate better and be a more united front to prevent and treat sexual assault. And most importantly, and this is important, it will provide a trauma informed facility. It's so traumatic for kids and teens and families to go through sexual assault and when they have to go to the hospital for an exam or go to the Children's Justice Center for an interview with a detective and then come to me for therapy it's really traumatic. So, we want to reduce that trauma, we want to act as a united front, so for accessibility, for it to be trauma informed, and to be a community to prevent and support and treat sexual assault. I really support this co-facilitation facility. Thank you very much.

CHAIR SUGIMURA: Thank you. I have a question for you, and then I'll open it up to the Members.

MS. STARBUCK: Sure.

CHAIR SUGIMURA: So, you would be one of the tenants, I guess?

MS. STARBUCK: We would be one of the tenants, correct. Yes, we would provide crisis services and therapy at that place, yes.

CHAIR SUGIMURA: Thank you. Members, anybody else have any questions for Ms. Starbuck? Seeing none, thank you very much for testifying.

MS. STARBUCK: Thank you.

CHAIR SUGIMURA: The next testifier is Paul Tonnessen also testifying on PEA-72, and right now, Mr. Tonnessen is the last testifier that I have signed up. Please let me know if there's anybody else who would like to testify. Thank you, Mr. Riki Hokama, is here. Thank you, Riki.

MR. TONNESSEN: Aloha. I am here on behalf of the children for the healing process and that's my job, that's what I do every day. To watch what the children go through I

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have to see it all the time and to then to watch 'em being bounced from facility to facility is very difficult for them. I watch them with the duct-tape bumpers and knowing they probably have no gas and they're working two jobs. When they give them a little list of okay, now you got to go here, here, here, here. You know, it's, sometimes we have to buy gas cards, you know, and a lot of times people can't get time off of work, you know, so for me, I've seen the models on the mainland, it's a huge asset to be able to start the healing process in one facility. I'm not here for any political reason, I'm here because on behalf of the children, you know, 67 percent of the children we serve have Hawaiian blood in them, and it's important because when we live in this community that has sort of a suppressed population they become more vulnerable. So, it goes back to the roots of this community also with the, you know, we need to really focus on looking at the cultural healing aspect, as well as not putting all these trauma things back on the family after they've been traumatized. It's just, to me, retraumatizing them. So, for me, there's nothing better than if we can have the medical there, we could have everything there, and just, you know, assist the family in a, like, one-stop shop, so that's why I'm here.

CHAIR SUGIMURA: Thank you. Anyone have any questions for Mr. Tonnessen? Thank you for being here. I just want to thank you. I have seen you work, and I'm impressed that you're like a huge one-stop shop, I mean, and your passion for the children. I just want to publicly thank all that you do. Thank you, Mr. Tonnessen. Any other testifiers in the Chamber? If none, then I will go to our District Offices. Denise Fernandez, is there anybody there to testify from Lanai?

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

CHAIR SUGIMURA: Dawn Lono, is there anybody from Hana?

MS. LONO: Good morning, Chair. Dawn Lono in the Hana Office, and there is no one waiting to testify.

CHAIR SUGIMURA: Thank you. Molokai Office will be joining us eventually, so at this time there's no public testimony in the Chambers, seeing none, Members, I'd like to ask to close public testimony.

COUNCILMEMBERS: No objections.

CHAIR SUGIMURA: Thank you. We will begin our meeting, so thank you...thank you, Members.

. . .END OF PUBLIC TESTIMONY. . .

CHAIR SUGIMURA: The first item that we have on the agenda...oh, sorry, I'm gonna take a quick recess so we can get in touch with the Title Guaranty person. . . .(gavel). . .

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RECESS: 9:14 a.m.

RECONVENE: 9:15 a.m.

CHAIR SUGIMURA: . . .*(gavel)*. . . Thank you, Members. We got Mr. Willard Haraguchi, Senior Vice-President from Title Guaranty of Hawaii on the phone.

PEA-72: AUTHORIZING THE ACQUISITION OF REAL PROPERTY LOCATED AT 2103 WELLS STREET AND APARTMENTS A, B, AND C OF THE UEOKA BUILDING CONDOMINIUM (WAILUKU) (CC 18-117)

CHAIR SUGIMURA: At this time, Members, we're taking up item number PEA-72, and it is Authorizing the Acquisition of Real Property Located at 2103 Wells Street, Wailuku, Maui, Hawaii, and Apartments A, B, and C of the Ueoka Building Condominium. The revised proposed resolution corrects the tax map key numbers to read (2) 3-4-008:048, CPR 0031 *[sic]* (Apartment A), (2) 3-4-008:048, CPR 002 *[sic]* (Apartment B), (2) 3-4-008:048, CPR 003 *[sic]* (Apartment C), and incorporates other nonsubstantive revisions. The Committee may consider whether to recommend adoption of the revised proposed resolution with or without further revisions. Members, you are now receiving a copy of the exhibits for the Ueoka Building from Staff, as well as information that we received from Title Guaranty which is information regarding a sample title insurance, as well as what is title insurance, so that has been passed out to the Members. So, at this time, we are working off the revised proposed resolution dated April 18, from the Department of Corporation Counsel, because we have revised resolutions which were failed to attach in Granicus which are Exhibits "A," "B," "C," and "D," which was included in the proposed resolution, original proposed resolution, so you all have copies of it. Members, for your information, the link to the document on the agenda is not working, but we have passed out the information. At this time, I'd like to ask Director Mark Walker and Guy Hironaka if they'd like to say a few words regarding the project.

MR. WALKER: Good morning, Chair. Mark Walker, Director, Department of Finance, I believe this meeting this morning is really to discuss the preliminary title report and any questions that are arising as a result of that report, and as you mentioned, we have Title Guaranty on the line who are the experts and who are the insurers or will be the insurers of the title on this property. We have reviewed the preliminary title report and had discussions with Title Guaranty. To be clear, there is no question about the title on the property being purchased, they will guarantee that. There is the one exception that should be noted is exception B3, and I would leave any questions as regards to that to Title Guaranty to fully explain it. But let me just step back and just say, there was an exchange of land with C. Brewer and a party by the last name of Keelan, land, this lot we're buying here in Wailuku and a piece of property in Waikapu. C. Brewer took the property in Waikapu and gave the Keelan interest the property that we know as the Ueoka Building. In the deed for the Waikapu property, there was a reservation that said if someone can come and show that they're the owner of the property that there could be a potential reversion back to this property,

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that was because there was potentially a break prior to 1879 in the title because something hadn't gone through probate. The property has been owned since that time, there's never been anyone coming forward, again, this Keelan purchase was in 1903. It's changed hands a number of times, four or five times since then. We feel that the exception is nominal and we would recommend moving forward with the purchase. Thank you, Chair.

CHAIR SUGIMURA: Thank you. So, basically then what you're talking about, is it a title? Is it title of the land that came up in this Keelan or the Waikapu property exchange or is it something else?

MR. WALKER: What they're saying is on the property that they, that was exchanged, the one in Waikapu, that they could not fully...they can only insure it back to 1879, because prior to that there had been a death and there hadn't been a probate, and so they couldn't insure it past that point, so...and I would, I guess, at this point, I would --

CHAIR SUGIMURA: Defer to TG.

MR. WALKER: --defer to Title Guaranty to fully explain it, but that's, I think that's the issue we're dealing with. From our perspective, we think the risk is negligible, it's been owned all this time and there's been no one, no one's come forward so we think what small risk there is, if any, is acceptable.

CHAIR SUGIMURA: So, based upon the information we have, this is not a land matter, right? This is water, correct? Or is it...

MR. WALKER: No, this...what we're talking about is a potential for a reversion of the property. So, this is not a water rights issue --

CHAIR SUGIMURA: Okay.

MR. WALKER: --that we're discussing.

CHAIR SUGIMURA: Thank you. Thank you. Title Guaranty, Willard Haraguchi, is on the phone. Do you have any comments you would like to make? Were you able to hear the discussion that just went on with Mr. Walker, our Finance Director?

MR. HARAGUCHI: We could hear a little bit. It was kind of muffled but we understand the situation, and we're here to answer any questions.

CHAIR SUGIMURA: So, can you, maybe, Members...explain to the Members then, what is the purpose of title insurance which is what you would be providing us for this purchase or what is your role for this purchase of the Ueoka Building Condominium?

MR. HARAGUCHI: First of all, I need to explain I am here in a room, conference room with Nanette Kodate, who did the search, she's our underwriter; Lorrin Hirano, who is our in-house counsel; and, of course, I'm Willard Haraguchi. In terms of the title

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insurance, we will provide insurance to the buyer subject to all the matters that we have presented in the preliminary report. And according to the records, past owners have taken the property as is including that one inclusion which refers to the water rights and reversion. So, we will insure the property subject to what is shown in the preliminary report.

CHAIR SUGIMURA: Okay. Members, anybody have any questions regarding this? None...okay, so Mr. Guzman?

COUNCILMEMBER GUZMAN: Yeah. Mr. Hokama.

CHAIR SUGIMURA: Oh Mister...who...Mr. Hokama...Mr. Guzman?

COUNCILMEMBER GUZMAN: I'll yield to Mr. Hokama.

CHAIR SUGIMURA: Okay. Okay. Mr. Hokama?

COUNCILMEMBER HOKAMA: For the representatives of Title Guaranty, I think for our Committee this morning the main concern is that break of ownership or title, whatever is the correct term for this conversation. And this Committee is just concerned is that an issue at all? If it is, to what degree should we be made aware of? And your assurance of being the title insurer tells the County that regardless of what occurs in the future you take that financial responsibility, is that a correct understanding of this Committee?

CHAIR SUGIMURA: Mr. Haraguchi?

MR. HARAGUCHI: Sorry, we couldn't hear him clearly. It's muffed.

CHAIR SUGIMURA: So, basically...

MR. HARAGUCHI: Can you repeat it again?

CHAIR SUGIMURA: Basically, what Mr. Hokama is asking is because of this break in title, we just want to be assured for the County to purchase this property that we would be covered. Is that correct, Mr. Hokama? Is there further?

COUNCILMEMBER HOKAMA: I thought that was pretty straightforward.

CHAIR SUGIMURA: Okay. So, that's the question.

MR. HARAGUCHI: The break in title is not on our property that you are looking at right now. It's on the other property in the exchange.

CHAIR SUGIMURA: So the Waikapu property?

MR. HARAGUCHI: In the exchange property.

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CHAIR SUGIMURA: Okay. That's the...

MR. HARAGUCHI: In the exchange, 2000...I mean, 1903 exchange was our property and another property...

CHAIR SUGIMURA: Okay, so...

MR. HARAGUCHI: And the break on the other property, not on this property.

CHAIR SUGIMURA: Okay, thank you. So, that's the C. Brewer, I guess, property in Waikapu that he's talking about has the break in title. So, Mr. Hokama's question and all of our concern is that Title Guaranty then will insure that this purchase will be a clear title and that you would insure the purchase?

MR. HARAGUCHI: Title . . . *(inaudible)*. . . not clear, I mean, we're saying we're going to insure it subject to that reservation.

CHAIR SUGIMURA: Mr. Hokama, you have a question on that? So, he's saying they're gonna...

COUNCILMEMBER HOKAMA: No, I understand what they're saying to this Committee. I understand.

CHAIR SUGIMURA: Okay.

COUNCILMEMBER HOKAMA: It's what I expect from them.

CHAIR SUGIMURA: Okay.

COUNCILMEMBER HOKAMA: So, I'm okay.

CHAIR SUGIMURA: Thank you. Mr. Guzman?

COUNCILMEMBER GUZMAN: Thank you. Can you hear me, the Title Guaranty? So, on...it's my understanding in 1879 there was a provision that said that if there were anyone that claimed title, 'cause it sounds like there's a...the title has color of title to it, there's a cloud there. So, if anyone came forward that claimed title prior to 1879 'cause that's where the cloud is, then they would have a claim but not necessarily...they would then have to go to court to prove their claim. If that, if they were awarded, then a reversion would happen because we've already had the exchange of properties in 1903, because prior to 1879 we didn't own the property, it was C. Brewer and we did an exchange in 1903. Is that correct? Is that my understanding or can you clarify?

CHAIR SUGIMURA: Mr. Haraguchi, did you hear that?

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MR. HARAGUCHI: Yes, we couldn't. It was blurred again, sorry.

COUNCILMEMBER GUZMAN: Okay. Maybe, Chair, you can relay my question to them since you're sitting closer to the mic?

CHAIR SUGIMURA: Okay. I just want to make sure I get your question correct. So, you're basically saying that with 1879, up to 1879...

COUNCILMEMBER GUZMAN: Yeah, in 18...up to 1879, at that point there's a cloud of title because I'm not quite sure but it's my understanding that whoever could claim title prior to 1879 can come forward --

CHAIR SUGIMURA: Okay, so...

COUNCILMEMBER GUZMAN: --and claim title.

CHAIR SUGIMURA: So, Mr. Haraguchi, what Mr. Guzman is saying is that up to 1879 there was a cloud of title, so anyone who had any rights would come before them for, before 1879.

COUNCILMEMBER GUZMAN: Right.

CHAIR SUGIMURA: So, 1879 is a...

COUNCILMEMBER GUZMAN: If they had a claim prior to 1879.

CHAIR SUGIMURA: A claim up to 1879, prior to 1879. Is that correct, Mr. Haraguchi?

MR. HARAGUCHI: Yes, there's a potential break on that chain, but it's on that, again, on the other property, not on our. . .

COUNCILMEMBER GUZMAN: Yeah, it's on --

CHAIR SUGIMURA: Correct.

COUNCILMEMBER GUZMAN: --the Waikapu property.

CHAIR SUGIMURA: Yes.

COUNCILMEMBER GUZMAN: Because...so, my understanding is that if they had a claim on the Waikapu property, when you had the exchange in 1903, then it, then basically the exchange would be invalid, invalidated, and we would have to exchange the properties back as well?

CHAIR SUGIMURA: Mr. Haraguchi, did you hear that? So, there was an exchange of property in 1903 for the Waikapu and the Keelan property which is...but it's not the property that we're talking about --

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COUNCILMEMBER GUZMAN: Because of the exchange.

CHAIR SUGIMURA: --because of the exchange.

MR. HARAGUCHI: Yes. Also, you know, there is a break and we know that, but we cannot do a full search on that property because we don't have a clear tax key to that title and that is part of the problem.

COUNCILMEMBER GUZMAN: Which property is he referring to right now?

CHAIR SUGIMURA: So, Mr. Haraguchi, are you saying that it's the C. Brewer property in Waikapu, you're talking about or are you talking about this Keelan property which is the Ueoka Building?

MR. HARAGUCHI: Waikapu.

CHAIR SUGIMURA: Okay, you're talking about Waikapu.

MR. HARAGUCHI: That property, we don't have a clear tax key for the title, so we cannot do a full search. We have some idea, but we can't do full search, because we still cannot identify what tax key that title belongs to. And the Tax Office, Maui Tax Office is trying to help us identify exactly what parcel we should be looking at.

CHAIR SUGIMURA: Okay.

COUNCILMEMBER GUZMAN: Okay. So, my question is, and let's just say hypothetically, that there is a claim prior to 1879 on the Waikapu property. Since we did the exchange in 1903, would...if it became valid, if that claim on the Waikapu property became valid, would we then revert back to getting the exchange back, would that exchange revert?

CHAIR SUGIMURA: So, Mr. Haraguchi, the question from Mr. Guzman is, hypothetically, if there was a claim on this property in 1879, the Waikapu property...and he's trying, we're trying to find out what is the impact to our property, that's what we're trying to get to. So, if there was a claim, which there wasn't, but if there was a claim in 1879 on this Waikapu property, what is the impact to this land exchange that happened with the Waikapu property and the Keelan property --

COUNCILMEMBER GUZMAN: Correct.

CHAIR SUGIMURA: --or C. Brewer property or the Keelan property in 1903? So, what would be the impact if there was a claim, although there wasn't a claim? So, what is the hypothetical situation that you can give us?

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MR. HARAGUCHI: Well, actually, it's very possible but, I mean, very remotely possible, but it is possible. And we can't be sure, again, because we have not done a complete search on that other property.

CHAIR SUGIMURA: Okay.

COUNCILMEMBER GUZMAN: What's possible?

CHAIR SUGIMURA: So what is possible, Mr. Guzman wants to know?

COUNCILMEMBER GUZMAN: The reversion.

CHAIR SUGIMURA: On the reversion.

COUNCILMEMBER GUZMAN: The reversion is possible, that's what he's saying, remotely, right?

CHAIR SUGIMURA: Oh okay. So, basically, Mr. Haraguchi, you're saying that the reversion is possible, so it could impact this Keelan property?

MR. HARAGUCHI: Again, we have not done the search completely on the other property, so as remote as we think it might be, we're not sure and we cannot actually give a clear answer.

COUNCILMEMBER GUZMAN: So, we're only, they're only insuring us up to 1903.

CHAIR SUGIMURA: So, are you only insuring us to, up to 1903, Mr. Haraguchi?

MR. HARAGUCHI: No, we have not done a search, a complete search 'cause we have...

COUNCILMEMBER GUZMAN: How far does the...do they guarantee the insurance all the way to 1903?

CHAIR SUGIMURA: So, Mr. Guzman would like to know how far do you guarantee your insurance on this, on your title insurance on this up to 1903? Or do you see a...

MR. HARAGUCHI: No. On the other property?

CHAIR SUGIMURA: No, on our property.

MR. HARAGUCHI: On our property?

CHAIR SUGIMURA: So, you're fine with our property, you're just saying you can't get information on the other, on the Waikapu property, correct?

MR. HARAGUCHI: Right.

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CHAIR SUGIMURA: Okay. So, he's saying he's fine with our property.

COUNCILMEMBER GUZMAN: But we only...we got our property through the exchange in 1903. So, my question again is we're being insured up to 1903, correct?

CHAIR SUGIMURA: So, Mr. Haraguchi, Title Guaranty then is insuring us up to 1903 or can you say that our title is guaranteed or you will be, you know, insuring us period? Right, that's what you want to know?

COUNCILMEMBER GUZMAN: Yes.

MR. HARAGUCHI: Can we do a personal conference here and get back to you real quick?

CHAIR SUGIMURA: Okay.

MR. HARAGUCHI: Okay.

COUNCILMEMBER GUZMAN: Okay, thank you.

CHAIR SUGIMURA: So, I'm gonna...anybody else have any comments regarding that? Mr. Kushi, you have any comments regarding this discussion as you're hearing us and Title Guaranty? Do you have any comments?

MR. KUSHI: Maybe later.

CHAIR SUGIMURA: Okay.

MR. KUSHI: I have some questions for TG.

CHAIR SUGIMURA: Okay. Anybody else? You want me to go into a recess or, Ms. Cochran, you have a question regarding...your light is on. No? Alika?

COUNCILMEMBER ATAY: Yeah, thank you, Chair. I'm sitting here trying to see the importance of this and questioning where we are with our due diligence. You know, thank you to the earlier testifiers. I do want to let them know that I fully support a co-facilitation of services and needs for the children, for crisis service, for therapy; however, I also sit here having to make a decision according to events that have taken from the past and these events will affect the future. My question is, is there a clear chain of title all the way through before we, the County, will be spending over \$1½ million of taxpayers' dollars to possibly be taken to court over this by any lineal descendants with documentation of ownership in the future? Several important points regarding this Ueoka Building I have is our Staff consulted with the former head director of the Native Hawaiian Legal Corporation. According to him, this Schedule B on the title report and impending insurance presents some troubling questions. First, the report specifically states in Schedule B3 that it will not insure this deed. This 1903 deed appears to be the Royal Patent for the original and forever owner. This means that if someone presents this specific deed in challenge of the title

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that the Title Guaranty company will not defend it and they will not defend our purchase. We get kuleana to the taxpayers. We have ability to do due diligence. Listening to Mr. Haraguchi, I cannot consciously allow us to authorize this acquisition because of this question of Royal Patent. The patent family is relatives or any lineal descendants to Kaaui. Are there any Kaaui resident, residential lineal descendants? They have that right to claim. Second, on the point, you know, the former head director of Native Hawaiian Legal Corporation said it was highly unusual to have this many exceptions in Schedule B. In his 40 years of Royal Patent legal work, he mentioned, he said, yeah, you know, sometimes you'll see a request for 2 or 3 exemptions but not 13, so something is not right. More due diligence on the land is needed. Third, this director also said that he seemed to think that the inclusion of the condominium declaration, the turns and provisions of several Bureau of Conveyance documents, the real property mortgage filing, and the financing statement in Title Guaranty Schedule B of exceptions weaken the position of us, the purchaser. There's other points I want to bring up, Chair, but for now, these are my questions and positions that we need to defer this and do more due diligence before we can authorize this acquisition.

CHAIR SUGIMURA: Thank you. Ms. Cochran?

COUNCILMEMBER COCHRAN: Thank you. I'm looking at the handout on, what is this, Page 11, under general notes, number two, and it's stating there is no evidence of Makawao Management LLC, a Nevada limited liability company having been formed or registered with the Department of Commerce and Consumer Affairs of the State of Hawaii. We will require evidence of formation or registration with the application, with the applicable State and County agency prior to issuance of the title. So, has that been rectified? I think that'd be...I don't know if our in-house people know or that would maybe be a follow up to the Title Guaranty people.

CHAIR SUGIMURA: Member Cochran, what page...you're looking at Page 11 of what document?

COUNCILMEMBER COCHRAN: The big, thick Exhibit "A."

CHAIR SUGIMURA: Exhibit "A," okay.

COUNCILMEMBER COCHRAN: And it's sort of in the...Page 11.

CHAIR SUGIMURA: Okay.

COUNCILMEMBER COCHRAN: General notes at the top, number two, states such.

CHAIR SUGIMURA: Okay.

COUNCILMEMBER COCHRAN: So...

CHAIR SUGIMURA: Do you see that...

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MR. KUSHI: Madam Chair?

CHAIR SUGIMURA: Yes?

MR. KUSHI: That would be a standard condition before insurance is issued.

COUNCILMEMBER COCHRAN: Okay.

MR. KUSHI: To confirm that the grantor is a grantor or registered.

CHAIR SUGIMURA: Oh, they...it's confirmation, okay.

COUNCILMEMBER COCHRAN: So, has it been? 'Cause this is saying there is still...

MR. KUSHI: I'm not sure if it's done yet, but it's a condition before they issue a title policy.

COUNCILMEMBER COCHRAN: So, that's one question still. And I thank Mr. Atay for his more detailed questions. And then, what page was this, page...then on Section 2, certification and limiting conditions, appraiser's certification, general assumptions, and limiting conditions starts with Page 12, so Page 14, in the middle, under the legal, engineering, financial, structural, or mechanical nature, hidden components, and soil. Here is, I don't know, I see a lot of presumes and no responsibility and assumes and words of that nature. I don't know if that's just, you know, regular language, but for me, it puts a lot of question marks in my head and I don't...it just kind of seems like no one's really taking responsibility if this or that and we're not, you know, we're assuming, we're presuming, and those kind of words for me aren't definitive at all, and again, more questions.

CHAIR SUGIMURA: So, where are you getting that from? What exhibit?

COUNCILMEMBER COCHRAN: So, Section 2 of this document, under certification and limiting conditions, Page 14. So, I don't know where...I don't know how the numbering of these pages are happening right now but...

CHAIR SUGIMURA: I'm looking at 14 of 18.

COUNCILMEMBER COCHRAN: And it's a pretty thick document here. I'm trying to go through it because it was just handed out to us, so it's quite a bit of information to take in right now, but I'm sure our attorneys know more about what I'm getting at.

MR. WALKER: Chair?

COUNCILMEMBER COCHRAN: Or Mr. Walker.

CHAIR SUGIMURA: Yes, Mr. Walker?

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MR. WALKER: I believe this is just, you know, the appraiser saying I have not inspected this, and so this is his standard language when he hasn't inspected something, which I, relates to engineering.

COUNCILMEMBER COCHRAN: Okay. Well, that's still questions.

CHAIR SUGIMURA: Okay. Anyone else have any questions? Thank you, Ms. Cochran. Mr. Guzman?

COUNCILMEMBER GUZMAN: Yeah, is TGI [sic] still on the line?

CHAIR SUGIMURA: Yeah.

COUNCILMEMBER GUZMAN: Can you ask them, Chair, why so many...

CHAIR SUGIMURA: Mr. Haraguchi?

COUNCILMEMBER GUZMAN: So, why so many exemptions in Schedule B?

CHAIR SUGIMURA: Mr. Haraguchi?

MR. HARAGUCHI: Yes?

CHAIR SUGIMURA: Okay, Mr. Guzman has a question. Why are there so many exemptions in Schedule B which is your appraisal?

COUNCILMEMBER GUZMAN: And is that...

CHAIR SUGIMURA: And is it standard language?

COUNCILMEMBER GUZMAN: Not really standard but has he seen as Mr. Atay has indicated, has he seen that many exemptions in other properties and is this a somewhat of a, does that indicate a red flag with that many exemptions?

CHAIR SUGIMURA: So, Mr. Haraguchi, Mr. Guzman would like to know if on your Schedule, Exhibit "B," the appraisal with your exemptions, is that, like, a concern for Title Guaranty as you insure us with these exceptions?

MR. HARAGUCHI: No, these are standard, not unusual exemptions.

CHAIR SUGIMURA: Okay.

MR. WALKER: Chair?

CHAIR SUGIMURA: Members, did you hear that? Mr. Walker?

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MR. WALKER: Remember now, this is a preliminary title report. The final title report will not look like this. In response to Mr. Atay's questions and concerns, you know, currently, B3 would remain, four would be gone which is, no, I'm sorry, four will stay, it's a condominium so that's, you know, the homeowners, the bylaws, the association because it's a homeowners, I mean, a condominium that will stay. There's a party wall and there's an agreement that's recorded that will stay, but the mortgage and finance, the mortgage will go, the assignment of rents and leases, number eight, will go, the financing statement, number nine, will go. So, I mean, I think it's gonna be distilled down further, but as TG just said, I mean, this is normal stuff, it's a preliminary. When you get clear title, when you give 'em the money they have to remove all of their encumbrances to title, so anyway it'll look quite a bit different than this so there won't be as many. There will still be some which I agree with TG are typical outside of B3 which is, you know, that's just not necessarily typical but it's germane to this transaction.

CHAIR SUGIMURA: Yes, Ms. Cochran?

COUNCILMEMBER COCHRAN: For going back into the historical points to this, what, why was the exchange done to begin with the two properties? Why? What prompted it? How come? What was that exchange about? Does anybody know the history on that?

CHAIR SUGIMURA: Mr. Walker?

MR. WALKER: Little before my time.

COUNCILMEMBER COCHRAN: I know, but we have history books.

MR. WALKER: Yeah, no, yeah, no, I...someone wanted something and someone wanted something and they made a deal. I don't know what the...I'm guessing...they were in the sugar cane business, C. Brewer maybe they got some cane land, I'm not sure.

CHAIR SUGIMURA: Thank you.

COUNCILMEMBER COCHRAN: Okay. Yeah, I don't want...okay, and then my other question then can we wait for the final to make a decision on \$1.6 million to exchange hands? I think that would be the most prudent thing to do is wait 'til the final product is in our hands 'til we give someone 1.6 mil.

MR. WALKER: You don't get a final. You get a preliminary and then it's sold and then there's the title report.

COUNCILMEMBER COCHRAN: Well, this says a lot of questions for me and I'd much rather wait 'til there's a final final that we understand thoroughly from A to Z what's going on here. It's a lot of money, and it's not about what it's being used for or the potential use, that's definitely a given and highly supported, but I don't support the questions that are going on and lack of answers and clarity and transparency here, so, yeah, that's my stance at this point.

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MR. WALKER: Yeah. Again, my point, my recommendation was this property's been held, there's been no, I mean, you can...from 1879 there's been no break in title that we're aware of. The break occurred before 1879, not in the property we're buying, in the Waikapu property. No one's come forward to make a claim, not that they can't, they could, but it's our opinion that as it is TG's said that chance is remote.

CHAIR SUGIMURA: Thank you. Mr. Atay?

COUNCILMEMBER ATAY: I say what? You know, you guys throwing this Waikapu property that's like one shell game, smoke screen to me. I want to go back to Schedule B, in particular B3, yeah. So, you're saying you...the TG is saying that they will insure this with exception to B3 which pertains to February 3, 1903 deed, right? And that deed appears to be the Royal Patent for the original and forever owner. So, should there be any lineal descendants today that are related to Kaauwai and they choose to bring forward this, what assurance do we have of our purchase? You know, I say this because, you know, for...like once again, I said we must be doing our due diligence. At the same time I cannot go forward in authorizing this purchase because the bottom line if we so vote for this, this purchase, if we follow the 1903 deed, this purchase of a yes vote is a vote for stolen land and a continued oppression onto the Hawaiian people, who lineal descendants, I call them, step forward. We cannot allow this, Chair. Thank you.

CHAIR SUGIMURA: Thank you. Mr. Kushi, do you have any thoughts on this as our Corp. Counsel?

MR. KUSHI: Yes. I hope Title Guaranty's listening, but my review of the 1903 document is not a Royal Patent. It's an exchange deed, and I urge Title Guaranty to chime in on that. I missed seeing the Royal Patent but it must've been before then. It's gonna exchange deed between two parties, one named Keelan and one C. Brewer Company. My question is after 1903, the property that the Prosecuting Office wants to buy, the Wailuku property, where did that come from? Did it come from C. Brewer or did it come from Keelan, okay, as a result of that deed? If it came from C. Brewer, it seems that the title on C. Brewer side is clear. If it came from Keelan, Title Guaranty in its May 21, 2018 memo, I'm not sure if you have that states that if it came from Keelan there may be a problem with a break in chain of title that is problematic up to 1879. So, again, if I'm correct with my assumptions, if this property came from C. Brewer we have no problem with title. If it came from Keelan, we may have a problem in the break in chain, but that's why you buy title insurance for, okay, and now my understanding, again, the title insurance policy will be for the full purchase amount of 1.6 million, okay. If my assumption is correct that the property came from C. Brewer even though the Wailuku property is clean, there may be an action against the Waikapu property and they may, that may in turn upset the exchange deed and have some heirs of Nahele [sic] claiming that Keelan had no right to convey the property in Wailuku. I think you would have to then...that would have to go through litigation and maybe the, have a value for that, compensation value for that, hopefully it becomes less than 1.6 million. But, again, these are the questions that the title

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company needs to answer. Will they insure against such a possibility of litigation? Okay. The issue about water rights doesn't bother me because this is 1903, Water Code became effective in 1987, and all water rights if any party had they thought they had before 1987 vanished with the Water Code. Water is a public trust so that doesn't bother me. You'd have to look at the State for water reservations, water resources. The only issue here is clear title.

CHAIR SUGIMURA: Okay. So, Finance? Guy Hironaka?

MR. WALKER: Well, again, in answer to Corporation Counsel, yes, your assumption is correct. It's the C. Brewer land that we're insuring with the title report, so that's clear.

CHAIR SUGIMURA: Okay. Members...Ms. Cochran?

COUNCILMEMBER COCHRAN: I'm looking at this thick document again towards the back, I don't know how to even describe where I'm at in this document 'cause it's got...after the Paradise Appraisals, I don't know, reports or says Exhibit "A," Page 6, top like fourth paragraph, Mr. Kushi, you said that there is no Royal Patents or land commission award numbers perhaps, but this is stating that the land upon which said condominium is located is described as follows, that parcel of land be in portion of the land described in and covered by Royal Patent Number 1996, Land Commission Award Number 420. So, it is...it does go back to a land commission and a RP and a LCA. Is that what you were...

MR. KUSHI: What page are you looking at?

COUNCILMEMBER COCHRAN: I don't know...it's like towards the back of this big, thick document --

MR. KUSHI: It's part of the appraisal.

COUNCILMEMBER COCHRAN: --after...yeah, so, I mean, I think in your comments just now to us you said that there's no...this does not relate to a Royal Patent, so I'm trying to figure out what I'm reading in reference to your statement and this is in reference to...so...

CHAIR SUGIMURA: Ms. Cochran, can we...you have it? Okay.

COUNCILMEMBER COCHRAN: Yeah.

CHAIR SUGIMURA: Thank you.

COUNCILMEMBER COCHRAN: After Paradise Appraisals...well because there's so many different documents stapled together we have like a ton of Exhibit A's and B's and...yeah, it's towards...how many pages from the back I'd say maybe about 10 or 15 pages from the back. Page 6 of Exhibit "A" and I guess this is part of Paradise

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Appraisals LLC's documents, Exhibit "A," Page 6...sorry, Page 4, 5, and then number 6, Page 6. And it...so it's towards the top. I can show it to you.

CHAIR SUGIMURA: Mr. Kushi?

MR. KUSHI: Yeah, Madam Chair, I'm looking at the handout --

COUNCILMEMBER COCHRAN: Yeah.

MR. KUSHI: --on Page 10, where it says Schedule C. I'll just read it to you. The land upon which said condominium is situated is more particularly described as follows: all that certain parcel of land (portion of land described in and covered by Royal Patent Number 1996, LC, Land Commission Award Number 420 to Kuihelani) et cetera. Is that what you're talking about?

COUNCILMEMBER COCHRAN: Yes.

MR. KUSHI: Yeah. Yeah, that's it. That is the Royal Patent, but the exchange deed is not the Royal Patent, that's what I'm saying contrary to what Mr. Atay is saying. The Royal Patent, I'm not sure what the date is but, you know, it's gotta be before 1903.

CHAIR SUGIMURA: Okay. Okay.

COUNCILMEMBER COCHRAN: So, we don't take into consideration...

MR. KUSHI: Royal Patents are granted by the government.

COUNCILMEMBER COCHRAN: Right.

MR. KUSHI: Then once you get that you can freely convey that property which they did in 1903 between two private parties, okay.

COUNCILMEMBER COCHRAN: Right. But there's a break.

MR. KUSHI: I'm just confirming that. What's your question?

COUNCILMEMBER COCHRAN: Okay. Well, no, I thought you said there wasn't no reference to real property, RPs, and LCAs.

MR. KUSHI: No, I'm saying this is part of the Royal Patent, but the exchange deed itself is not the Royal Patent contrary to what Councilman Atay is saying.

COUNCILMEMBER COCHRAN: Okay. That's not what I heard. Okay.

CHAIR SUGIMURA: Okay. Anyone else have any other questions on this? Okay, so, I guess, basically, what we want to be sure of is that if we were to purchase this property for

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1.6 million for this Ueoka Condominium Building that we would be insured by Title Guaranty for the purchase? Mr. Walker?

MR. WALKER: Yeah, I mean, back again, yes, they will insure this property subject to this B3 and any other exception that they list.

CHAIR SUGIMURA: Okay.

MR. WALKER: They won't...yeah.

CHAIR SUGIMURA: Okay. Thank you. Any other questions for Title Guaranty? Mr. Kushi?

MR. KUSHI: Madam Chair, if Title Guaranty's on the line, I have some questions.

CHAIR SUGIMURA: Okay. Mr. Haraguchi, are you there?

MR. HARAGUCHI: Yes.

MR. KUSHI: Yes.

CHAIR SUGIMURA: Mr. Kushi, our Corp. Counsel has questions for you.

MR. KUSHI: Yes, Willard. This is Ed Kushi. Deputy Corp. Counsel. Willard, Lorrin's there and Nanette? Are all of you there?

CHAIR SUGIMURA: Do you have Lorrin and Nanette there?

MR. HARAGUCHI: Yes.

MR. KUSHI: Okay. Nanette, I'm looking at your memo dated May 21, 2018, to who, to ladies and gentlemen, anyway it describes the situation about title. Do you remember that?

CHAIR SUGIMURA: Nanette, he's referring to your May 21st letter, do you remember or have that document?

MS. KODATE: I remember and yes, I do have it. Yes, I do have it.

CHAIR SUGIMURA: Thank you.

MR. HARAGUCHI: She does.

MR. KUSHI: Okay. In your last paragraph, you say we will, we, Title Guaranty, will clarify exception number three of the preliminary title report to include the reversionary clause in addition to the reversionary of water reservations, reservation of water rights. We're willing to issue a title report, title policy on the subject property subject to the exceptions contained in Schedule B of the preliminary report and upon compliance

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with all title requirements. So, what exactly in layman's language if you can, what will you be insuring?

CHAIR SUGIMURA: Mr. Haraguchi or Nanette, did you hear that question?

MR. HARAGUCHI: Can you restate that? I mean, there was blurring again.

CHAIR SUGIMURA: So, the...Mr. Kushi is asking in layman's term, can you explain what Title Guaranty will be insuring with the exceptions, right?

MR. KUSHI: Yeah. Maybe, let me lead you on. Will you be insuring clear title to the Wailuku property in the amount of 1.6 million?

CHAIR SUGIMURA: Did you hear that question? It's pretty straightforward.

MR. HARAGUCHI: We will insure the Ueoka Building as the purchase subject to what we have in Schedule B including...

CHAIR SUGIMURA: Subject to Schedule B exclusions.

MR. HARAGUCHI: Yeah, except those they gonna pay off, that will come off.

CHAIR SUGIMURA: Can you say that again?

MR. HARAGUCHI: Yes, some encumbrances that's gonna be paid off, so that's gonna come off the title policy, the mortgage, financing statement, et cetera. So, everything on Schedule B will be an exception except for those that are paid off.

CHAIR SUGIMURA: Everything on Schedule B will be paid off or except for the exemptions?

MR. HARAGUCHI: Everything on Schedule B will be subject to, there are certain ones that in the transaction happening will be paid off, the mortgage, et cetera, so those will be cleared and not show on the policy.

CHAIR SUGIMURA: So, that's pretty standard then.

MR. KUSHI: Yeah, Madam Chair, Willard, Lorrin, and Nanette, if you've been listening the Committee has a concern about the property that was exchanged in 1903, specifically the Waikapu property. Did you catch that discussion?

MR. HARAGUCHI: Again, Chairman, can we...repeat that statement again, question?

CHAIR SUGIMURA: Oh, Mr. Kushi is saying that the Committee, our Committee, Council Committee had questions regarding the property in Waikapu basically that was expressed by Mr. Atay.

MR. HARAGUCHI: I'm sorry. The question on Waikapu was?

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MR. KUSHI: Madam Chair, my question is this, if something happens to the status of title on the Waikapu property after we close this sale and as a result of that action, I guess, the Waikapu property if it has any ramifications on the Wailuku property, will you insure against that?

MR. HARAGUCHI: No, that's an exception.

MR. KUSHI: Okay. No, your answer is no?

MR. HARAGUCHI: Yes, it's no.

MR. KUSHI: Correct. I understand.

CHAIR SUGIMURA: So, basically if somebody comes forward regarding a claim on the Waikapu property then, and if there's a lawsuit that happens, then Title Guaranty will not represent the County?

MR. HARAGUCHI: Correct.

CHAIR SUGIMURA: This is...but this is the purchase of the, well, the Keelan property, this is not about the Waikapu property.

MR. HARAGUCHI: Yes.

CHAIR SUGIMURA: And that if there was a problem with the Waikapu property, then it would affect our title for this Ueoka Building?

MR. HARAGUCHI: It might but it depends on the reversionary clause.

CHAIR SUGIMURA: Mr. Walker?

MR. WALKER: I mean, I would ask him what he means by that.

CHAIR SUGIMURA: What do you mean by the reversionary clause?

MR. HIRANO: Hi, this is Lorrin here. I'm with Willard. I just wanted...the reversionary clause in the exchange document, and I'm not quoting it directly, of course, is that if the title that was exchanged is somehow overturned, then it's possible that the title to the Wailuku property would revert to the owner of the Waikapu property. I mean, we're talking about, you know, the exchange deed from 1903, but what we're saying is that's what the language of the 1903 document actually says.

CHAIR SUGIMURA: Thank you. Mr. Walker?

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MR. WALKER: I would ask him, they're the experts, they see this kind of stuff all the time, we don't, what are the, in their professional opinion, what are the chances of something like this occurring? Is this a good chance? Is it a remote chance?

CHAIR SUGIMURA: Lorrin? Lorrin, you're the attorney, right, for Title Guaranty?

MR. HIRANO: Yes.

CHAIR SUGIMURA: So, Finance is asking you, based upon your experience, what is the chance of this happening?

MR. HIRANO: I, obviously, it depends on facts and circumstances and that's why we were trying to search back through to see what we could narrow any issues on the Waikapu property and we weren't able to quite do that. The question, are there challenges out there? Yes, I mean, on other properties the answer is it has happened, you know, it's not extremely common but, you know, it's not a zero possibility.

CHAIR SUGIMURA: Okay. Ms. Cochran?

COUNCILMEMBER COCHRAN: Thank you. I don't know if it's for Department or Title Guaranty or whoever, but is there a way to get more information on that Waikapu property that we're talking about and any of the 1903 exchange documents, agreements, or whatever it is?

CHAIR SUGIMURA: Mr. Walker?

MR. WALKER: Thank you, Chair. Member Cochran, you know, I think as you heard them say they had been working with our Real Property Assessment Division to try to get some old documents, and I'm not exactly sure where that stopped. We can certainly go back with them and maybe I'd ask Title Guaranty to respond on what more they would need, but I think we've given them everything we can give them from our records and I'm not sure what else could be done, but maybe I would defer to them to explain that more clearly.

COUNCILMEMBER COCHRAN: So, real quickly though back to Mr. Walker or our Department, do we...I just want to see where this Waikapu property is, do we even know where it is, what it is at all, like, any clue?

MR. WALKER: I don't happen to know. Guy?

COUNCILMEMBER COCHRAN: No?

MR. WALKER: I mean, TG may know.

CHAIR SUGIMURA: Title Guaranty, do you know where this Waikapu property is?

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MR. HIRANO: Generally speaking, but there's one portion of the Waikapu property that on the tax map was shown between two different plats and didn't have a tax key number assigned to it, so we're not quite sure how to, you know, how to search that.

CHAIR SUGIMURA: Okay.

MR. HARAGUCHI: We are working with a lady at the Tax Office, Dawn Matney, and trying to figure out exactly what the tax key could be on that one parcel.

CHAIR SUGIMURA: Okay. But you haven't been able to get a definitive tax map key number, I think that's what you said in the beginning.

MR. HARAGUCHI: No, she's trying.

CHAIR SUGIMURA: Okay. So you're still working on it. Members, any other questions? Members, I guess, we're, you know, are we feeling that we would have clear title for this purchase to spend the 1.6 million? Mr. Hokama?

COUNCILMEMBER HOKAMA: Well, for me this morning, for our insurance side, if it becomes a litigation issue and the County is not, doesn't prevail, will our insurance cover the County's cost of this acquisition?

CHAIR SUGIMURA: Mr. Walker, did you hear the question?

MR. WALKER: Yeah...

CHAIR SUGIMURA: Or is that Mr. Kushi? Sorry.

MR. WALKER: Yeah, I would think, maybe Ed could help me with that one.

CHAIR SUGIMURA: So if title insurance doesn't cover, then will our insurance cover this?

COUNCILMEMBER HOKAMA: No, that wasn't the question.

CHAIR SUGIMURA: It wasn't?

MR. KUSHI: What was the question?

CHAIR SUGIMURA: Mr. Kushi...Mr. Hokama, please restate your question.

COUNCILMEMBER HOKAMA: The question is with this proposal and Title Guaranty, if we do not prevail in litigation on this acquisition, will the insurance that they provide take care of our costs or is this County looking at additional resources?

CHAIR SUGIMURA: Mr. Kushi?

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MR. KUSHI: Madam Chair, Member Hokama, in the usual sense, I say if there wasn't an exchange deed, like this historical background for this property, I would say yes. Once you get title insurance, a title insurance policy, the company would defend, indemnify you up to the policy limits as far as title is concerned. In this case, it's a little quirk. They would insure title in terms of the Wailuku property, but they're not gonna insure any ramifications on the Waikapu property if the estate, if there are the problems of clear title becomes an issue on the Waikapu property which then affects the exchange property. And as Mr. Hirano said, the reversionary clauses or rights if any, so that's the outside concern that I would say this Committee would have. But as far as title for the Wailuku property, yes, the insurance would cover.

COUNCILMEMBER HOKAMA: So, how much is this quirk gonna cost us potentially?

MR. KUSHI: How much for the insurance premium?

COUNCILMEMBER HOKAMA: The quirk, this quirk of --

CHAIR SUGIMURA: The problem.

COUNCILMEMBER HOKAMA: --Waikapu. I'm trying to figure out what does Waikapu have with this Wailuku acquisition, okay, because if it doesn't, you know, I can look at the last, what, three, four, five property owners, each one has gotten title insurance, has gotten Title Guaranty, so banks have lend, institutions have lend money on these documents based on legal understandings of real estate law, so I'm thinking what is my issue today regarding the Wailuku acquisition. So, that's what I want to know, is there a legal thing that prevents this County from moving forward?

CHAIR SUGIMURA: Mr. Kushi?

MR. KUSHI: Madam Chair, I can only respond like this, so as I understand the situation, anybody making a claim on title issues to the Wailuku property, this property we're considering buying, Title Guaranty will defend us on that. It's a question of whether there's a claim on the Waikapu property which is subject to the exchange. Again, in my experience, again, based on the time, there's a, according to the title report, there's a probate done in the late 1800s and that caused the broken chain. To prove title issues way back then is not a slam dunk. As the landowner as you know, the landowner has various defenses, affirmative defenses including adverse possession, latches, to defend against title, so it's not an automatic slam dunk. I'm not saying that there's no claim, but again, that affects the Waikapu property, not the Wailuku property. If something should happen and there is a claim on the Wailuku property as a result of a adverse position or a title claim on the Waikapu property, I'm sure the insurance company would say, no, it's accepted as we have this discussion this morning, then we'd have to defend title on that.

CHAIR SUGIMURA: Mr. Hokama?

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COUNCILMEMBER HOKAMA: So, just so I understand what we actually buying, we buying three property regimes which is a portion of a parcel, right? Or are we, I mean, I don't see things like we are buying in fee "x" amount of square feet and this and that, I'm just being told we buying three property regimes or two property regimes?

MR. KUSHI: My understanding is you're buying the entire fee simple condo property. There's three apartment units, the common areas make up the rest of the fee simple title unless I'm wrong.

COUNCILMEMBER HOKAMA: Okay.

MR. KUSHI: They just condominiumized.

COUNCILMEMBER HOKAMA: Okay, fee, so somebody already assuring us that they have the right to sell us in fee a parcel, is that a good understanding?

CHAIR SUGIMURA: Anybody else?

COUNCILMEMBER HOKAMA: Chair?

CHAIR SUGIMURA: Yes?

COUNCILMEMBER HOKAMA: One quick...more question, you know, 'cause I know we talked about this in Budget, yeah, and, you know, for some of us we were thinking whether or not this was the better site or not. Again, as the others have mentioned throughout your Committee, the program, what we're trying to assist with has, is not the question, it's been site and location and pricing. So, again, is this a temporary thing? For me, if we get our money back somehow, you know, we looking at another site if that makes better sense and get away from this title concern, if that's what it is and that Department's gonna need to tell us if that's the option the County wants to do and it's three years in the making we're gonna need to look for space of "x" amount of size, da, da, da, da, this and that. 'Cause I really don't need to pay rent and potential mortgage, go borrow money on things we're not gonna make decisions for couple years, Chair. Thank you.

CHAIR SUGIMURA: Yeah. Ms. Crivello?

VICE-CHAIR CRIVELLO: Thank you. So, at the present time, are we renting that building in full use?

CHAIR SUGIMURA: So, Prosecuting Attorney?

MR. MARTIN: Yeah, so currently as you folks know, we've been renting the upper floor, and the second floor, I believe, since 2000...at least since 2014. You know, the location of this particular building, the location of this particular project and idea is absolutely key to this model working properly. Again, the whole idea, as you folks know, I know you have no opposition whatsoever to the idea of this co-location project, is to have

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this one-stop shop for the victims in order to minimize retraumatization. The model in which we are operating under functions and works in this building so very well because, number one, our Department's already housed there with respect to our Sex Assault Unit and our Victims Unit. It gives room for the Maui Police Department Sex Assault Unit to come in, the CJC, our medical team, CFS, but ensures that we are near the courthouse, okay, that's one limiting factor and also allows us to be closer to Child Welfare Services. Most models throughout the country include child welfare services in their co-location project because in interfamilial sexual abuse, obviously, they are very involved in these cases. Our model allows us to operate more affordably and under a smaller footprint because Child Welfare Services is just down the street. And so, finding another location and I understand Mr. Hokama's point well, but it will not be easy to necessarily find simply just any other location that is in proximity to the courthouse, to the services and to our office, so moving to a different location wouldn't just require us finding another location, it requires finding another location and absolutely moving our office, our divisions, as well as within this limited range of this area that really functions and makes this model work, okay. We are...because this process has obviously been going on for some time, us attempting to acquire this building and there's a variety of reasons for that, one of which is making sure that we get fair-market value for the price or for the building. You know, the seller has understandably become, gotten to the point most recently in June where they were ready to pull out, but we were able to discuss with them the possibility of us leasing on a month-to-month basis, the lower floor which we are currently doing and ready to put into use, but obviously that is not just going to go on perpetually and infinitely.

VICE-CHAIR CRIVELLO: Right.

MR. MARTIN: Okay, and there's a limit to that. I'm a prosecutor, I'm not a real estate attorney, I'm listening to everything that's being said here and, of course, what I have to say is this, it's been 115 years since this exchange deed. You're going back to the exchange in the break on the Waikapu property, it's been 139 years, you will never, I don't believe, just speaking as an attorney find a transaction that is 100 percent risk free. I understand completely the Councilmembers who has expressed concern for the County's resources and for the reason stated why they are doing so, but let's take into account the actual risk that is posed given the incredibly lengthy amount of time that has taken place since that 1879 issue which is now 139 years passed and the difficulty in even identifying the property itself there, 115 years since this exchange deed. Certainly, our Department wants this matter approved. I understand the concerns expressed by all the Council, but I think they've certainly been addressed by TG and Department of Finance who I know is recommending that this matter move forward.

CHAIR SUGIMURA: Thank you, Mr. Martin. Did you get your answer? So, in a . . .*(inaudible)*. . . we have right now access to the whole building. You are correct.

VICE-CHAIR CRIVELLO: Yeah, I recognize that, Chair. I think...well, for me, I understand about the clear titles and the Royal Patents, I mean, this is not the only piece of land that may have in question and if the heirs of the hundred somewhat years back step

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forward, then we know we have to respond to that. And if the title insurance company is insuring us that there will be coverage in the event that the claim moves forward. If I look at the need and we recognize that it is our, I myself as a Hawaiian, recognize that it's our Hawaiian population, our keiki, our youth that are in need of the kind of case management and the healing process and everything else for these are, these children are the ancestors of the descendant, they are the descendants of those that go back 139 years as it was stated for the land exchange. So, how can we make sure that we are looking after our people that are in need without jeopardizing their tomorrows in this society? And at the same time, should the rightful people of claim comes forward, I think we have the coverage from our title insurance. So, for me, is how we going malama our people today? Today, how we going take care? Because if I had to look where our ancestors come from, it's to take care the ohana, take care the family, take care of our children, and this is where I see my rationale, my reasoning's to support our efforts to bring forth this one-stop centralized location where we have all of the hearts and hands that want to take care. So, I think we should move forward but to be assured that as owners of this policy of title insurance that we are well protected in a situation that may occur, you know, should someone or some people step forward to do their claim, but for now, let's take care of the healing and the needs of addressing today's children in whichever way, yeah. Thank you.

CHAIR SUGIMURA: Thank you. Ms. Cochran?

COUNCILMEMBER COCHRAN: Thank you. For Prosecuting Attorney's Office, so how much more...I've been into that, I went to visit the floor and the area and the work you folks do is outstanding and sure beats having the children being questioned in a vault at the other building, so I understand the need for this and the better, you know, environment and stuff. How much more...so, are you bringing other, I don't know, programs or other offices from the existing prosecutor building into this main building, is that the need for the expansion or I'm just wondering if all this space is needed? Because I noticed there's a beautiful home just around the corner up for sale and, I mean, what a nice, even that much more, you know, appealing, kind of, environment for this real sensitive type of situations, you know, and perhaps we could look at something like that. But I just...the question is, do we need to utilize the entire building and that's the need to push forward with this sale?

MR. MARTIN: Every square inch of this building will be utilized without a doubt. Not only with the addition of the other agencies that are coming in to make this co-location model work, but also with the, basically by it freeing up additional office space that we currently occupy upstairs because the interview rooms that we have upstairs will now be downstairs and will be utilized and shared by the varying agencies. Our current situation at 157 South High Street, the Old Courthouse is, we are at absolute max capacity, so to the extent that we can also possibly move additional personnel over to the second floor of 2103 Wells Street that will support this co-location model that will occur and is necessary from a departmental point of view, but every square foot of this will be utilized. It...if the question is is all this space necessary, the answer is yes.

COUNCILMEMBER COCHRAN: Okay. And one follow-up for...and this is --

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CHAIR SUGIMURA: Yes.

COUNCILMEMBER COCHRAN: --all County or this gonna be subleased to other, you mentioned, agencies, so I'm wondering, you know, like Mr. Tonnessen or others but is this strictly for County use?

MR. MARTIN: The Children's Justice Center is a division of the Judiciary, and they will be subleasing their space.

COUNCILMEMBER COCHRAN: Okay. Thank you.

CHAIR SUGIMURA: Mr. Guzman?

COUNCILMEMBER GUZMAN: Yeah. Just speaking from experience, this would be the first of its kind in the whole state. Back in the day when I used to give interviews in the vault it was very difficult and when the Children Justice Center came onboard you then had a facility that did help prep the children in front of a video and there were very other, there's various other agencies out there that help with mental as well as the physical abuses. And those, to have everything in one location is very convenient for the children just because the fact that once you do an interview you then do a referral and then from that referral goes another referral, so depending on whether the child has access to transportation and the guardian is willing to bring them and take time off it could take months and months for them to at least make three appointments. So, to have a one-stop shop and all the agencies in one location is very valuable, especially the fact that when a case needs to go to trial within six months you don't have a lot of time and everything is rushed at one point, and so it's important that we do take care of the youngest of our community. My question would be, I heard one of the testifiers say 67 percent would, of Hawaiian ancestry is being serviced out of that agency, could there be more type of assistance for the Hawaiian community in the building? I know that it sounds as though everything's maxed out, but could you facilitate more, I guess, resources for our Hawaiian community?

CHAIR SUGIMURA: Mr. Martin, do you have a comment?

MR. MARTIN: I think that's an excellent point and, you know, it's...to emphasize, I suppose not only is it a matter of convenience which is important for the victims, right. It's also a matter of making sure that we limit retraumatization of our victims, and I think that's where the possibility to greater serve the Native Hawaiian community will be of significant advantage. You know, just this last week, a seven-year-old girl walked into a courtroom right across the street to testify against her father, she made it about four questions in before she stopped testifying, a recess was taken, the judge gave us 'til the morning to try and decide what to do, she did not take the stand again. Her father was facing extended life in prison for sexually molesting her while she was just four or five years old. He walked out of the courtroom last week a free man. The opportunity to envelop our children and particularly those within the Hawaiian community as Mr. Tonnessen pointed out are two-thirds, 67 percent represented within that

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community. To envelop them in support immediately, right away, I'm not saying it would've prevented what happened last week but I'm saying it would've put us in a better position to make sure that she had the strength and support to be able to answer more than just four or five questions before she completely shut down and that is what this co-location is all about. And it is an absolute necessity on this island and in this community right now. This is the gold standard across the nation and we as Hawaii, you know, led with the nation with respect to the Children's Justice Center and the Children's Advocacy Center and we have fallen behind and mostly on the other islands because their multidisciplinary teams don't get along and we do here on Maui, we work, it works here on Maui. Statewide, this is the only opportunity for this to happen and our hope is that it is a model for the rest of the State to see how advantageous this can be to their communities. I hope that answers your question.

CHAIR SUGIMURA: Very moving, thank you. Members, any more questions? You know, we still have TG on the line. Do we have any more questions for Title Guaranty? Seeing none...oh, do you, Mr. Atay?

COUNCILMEMBER ATAY: Chair, I don't have any questions for Title Guaranty.

CHAIR SUGIMURA: So, Mr. Haraguchi, thank you very much for sticking with us here through our meeting. We have no more questions for you.

COUNCILMEMBER COCHRAN: Oh, wait, hang on.

CHAIR SUGIMURA: Oh, one more question, sorry.

COUNCILMEMBER COCHRAN: The Makawao, that one first...the Makawao Management LLC that's determined to be a legal whatever bona-fide company here? 'Cause I see documents but there's no signatures and that was still an outstanding question at the beginning of this document?

CHAIR SUGIMURA: Mr. Haraguchi, are you still there?

MR. HARAGUCHI: Yes, we're here.

CHAIR SUGIMURA: Okay. So, Ms. Cochran wants to know if Makawao Management LLC is a bona-fide company --

COUNCILMEMBER COCHRAN: In Hawaii.

CHAIR SUGIMURA: --in Hawaii.

MS. KODATE: They are not, but we will require verification of a certificate of good standing from Nevada, that's one of our requirements.

COUNCILMEMBER COCHRAN: So, sorry, so no, they are not?

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MR. HARAGUCHI: We're asking for documentation from Nevada to confirm that they are.

COUNCILMEMBER COCHRAN: Okay.

CHAIR SUGIMURA: You will be getting documentation from them that they are, certification that they are. Is that correct?

COUNCILMEMBER COCHRAN: We're waiting.

MR. HARAGUCHI: Yes.

CHAIR SUGIMURA: Okay. Ms. Cochran, are you...you're fine? Anybody else have any more questions for Title Guaranty? Mister...

COUNCILMEMBER HOKAMA: No, not for them, --

CHAIR SUGIMURA: Oh, not for them.

COUNCILMEMBER HOKAMA: --more for our representatives.

CHAIR SUGIMURA: Okay. So, thank you very much. You can stay on the line. We're gonna continue on with the meeting and go into further discussion. So, thank you, Mr. Haraguchi, Lorrin, and Nanette from Title Guaranty for participating in this meeting. Mr. Hokama?

MR. HARAGUCHI: You're very...

CHAIR SUGIMURA: Oh.

MR. HARAGUCHI: You're very welcome.

CHAIR SUGIMURA: Thank you.

MR. HARAGUCHI: And we'll continue to look at the other property and a resolution.

CHAIR SUGIMURA: Thank you. Thank you very much. Mister...

MR. HARAGUCHI: You're welcome.

CHAIR SUGIMURA: Mr. Kushi...Mister...

COUNCILMEMBER HOKAMA: My question for our representatives so whether it's Mr. Kushi or Mr. Walker or Prosecuting Attorney, is there anything with the 13 points as part of Exhibit "A" that Title Guaranty brings up in our discussion this morning that you would feel is disadvantage to the County? And, I don't know, if we can either revise it or negotiate it or delete it, but are there terms of the 13 points that's not to this County's satisfaction?

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MR. WALKER: Your question is A or B?

COUNCILMEMBER HOKAMA: Well, you know, we've talked about the 13 points, the Committee has brought up the 13 points that's part of the exemptions, exceptions...

MR. WALKER: Yeah, B. Okay, B. I'm sorry, I thought you said A.

COUNCILMEMBER HOKAMA: So, for those 13, is there something that is not to our favorable position that we would ask for some type of consideration, whether it'd be to delete it or adjust it or revise it?

MR. WALKER: Chair?

COUNCILMEMBER HOKAMA: I just need to know whether this is a take it or leave it kind of consideration.

CHAIR SUGIMURA: Mr. Walker? Mr. Walker, do you hear the question right?

MR. WALKER: Yes, thank you, Chair. Member Hokama, I already mentioned the items that will be deleted just as a matter of course when the property closes all the...

COUNCILMEMBER HOKAMA: No, and I appreciate that.

MR. WALKER: Right.

COUNCILMEMBER HOKAMA: Are there...that's why I said, are there any that's listed --

MR. WALKER: Yeah.

COUNCILMEMBER HOKAMA: --that's not to our advantage or would be detrimental to this County?

MR. WALKER: Well, obviously, we would, you know, it would be better if we didn't have B3 but, I don't, the title company's not gonna allow for that. I could ask them what it would cost to insure over that and/or if they would insure over that exception and that exception goes, could go away. I'm not sure if they're willing to. I could ask that, but other than that, I don't know anything else that they would change for us.

COUNCILMEMBER HOKAMA: Okay. Thank you --

COUNCILMEMBER COCHRAN: Chair?

COUNCILMEMBER HOKAMA: --very much, Mr. Walker. I appreciate your comments.

CHAIR SUGIMURA: Mr. Kushi, did you want to add to that? Did you...

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MR. KUSHI: Yes, Madam Chair. If the Title Guaranty is still on the line...

CHAIR SUGIMURA: Oh, I think they hung up. Should we get 'em back? Sorry, we'll get them back.

MR. KUSHI: That's okay.

COUNCILMEMBER HOKAMA: Well, you know what, Chair, I would prefer Mr. Kushi states his question or concern on the record and have Staff follow up --

CHAIR SUGIMURA: Okay.

COUNCILMEMBER HOKAMA: --once we know specifically the question.

MR. KUSHI: Oh, yeah. I had a question if they can respond to it. Since they're saying that they're looking at the property that was exchanged in 1903, if they do find out what and where this property is, can they also find out if that property also has title insurance?

CHAIR SUGIMURA: Okay. Did you get that? Okay. Any other questions?

COUNCILMEMBER COCHRAN: Yeah. Chair?

CHAIR SUGIMURA: Ms. Cochran?

COUNCILMEMBER COCHRAN: And so, in the property in question there's a family name and I'm told that there are existing family members. So, how the notices were put out there for them to come and claim and to chime in, I don't know how that was done and how widely and thoroughly, but I have found out there are families. So, how are these families to come and claim and to show what they have in connection to this right now? Who do they come to, Department of Finance, TG, Bureau, where do they need to go right now? And how do they move forward with that?

CHAIR SUGIMURA: Mr. Kushi?

MR. KUSHI: What was your question now? Family members claiming what?

COUNCILMEMBER COCHRAN: Claims. Remember this whole thing has to do with the person died, there was no probate, nobody, they put out notices, nobody came to claim, well there are families. So, where do they claim? Where do they come? Who do they come to?

MR. KUSHI: They go to Circuit Court if they have an issue of title.

COUNCILMEMBER COCHRAN: Okay. Okay.

MR. KUSHI: And you talking about the Waikapu property.

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COUNCILMEMBER COCHRAN: Yes, because that's our concern if this exchange has tie to that and that somehow...

MR. KUSHI: Affects this.

COUNCILMEMBER COCHRAN: Right.

MR. KUSHI: Correct.

COUNCILMEMBER COCHRAN: Right. So, they go to what...they just pull up this sale, I mean, where...they just go and just get the Royal Patent, LCAs, whatever they're tied to and just go to the Second Court and say here we are, we're here to claim and here's our paperwork and then they go through this whole court process?

MR. KUSHI: Well, you know, they would make a claim of title against the current owners of the property which would be C. Brewer or the successors of C. Brewer.

COUNCILMEMBER COCHRAN: Who...and we don't even know where the land is, so --

MR. KUSHI: I don't know.

COUNCILMEMBER COCHRAN: --we're gonna have to figure out --

MR. KUSHI: Title Guaranty's looking at it.

COUNCILMEMBER COCHRAN: --so that could be Atherton or someone in that vicinity. Okay. Thank you.

CHAIR SUGIMURA: Okay, Members, any other discussion? I think we've had a really good discussion about this, and Staff will get in touch with C. Brewer. So, Members, at this time, we have no more questions for anybody. I would like to entertain a motion to proceed with this for adoption of the revised proposed resolution entitled Authorizing the Acquisition of Real Property Located at 2103 Wells Street, Wailuku, Maui, Hawaii, and Apartments A, B, and C of the Ueoka Building Condominium; and filing of County Communication 18-117. We need a motion.

VICE-CHAIR CRIVELLO: So moved.

CHAIR SUGIMURA: Thank you. I need a second.

COUNCILMEMBER HOKAMA: Second.

CHAIR SUGIMURA: Thank you. So, motion by Member Crivello, second by Member Hokama for recommending adoption of the revised proposed resolution. Thank you. I would now like to entertain a motion to amend the revised proposed resolution by replacing the last four pages of the documents with Exhibits "A," "B," "C," and "D" in its

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entirety, which all of you got copies of this huge document. So, I would need a motion for that.

VICE-CHAIR CRIVELLO: So moved.

CHAIR SUGIMURA: Thank you.

COUNCILMEMBER HOKAMA: Second.

CHAIR SUGIMURA: Thank you. Member Crivello and second by Member Hokama to amend the revised proposed resolution. All in favor, say "aye," Members.

COUNCILMEMBERS: Aye.

CHAIR SUGIMURA: All opposed?

COUNCILMEMBER ATAY: No.

COUNCILMEMBER COCHRAN: No.

CHAIR SUGIMURA: Okay. So I have five opposed [sic], and --

COUNCILMEMBER HOKAMA: On the amendment.

CHAIR SUGIMURA: --we're doing an amendment so two opposed. Motion carries.

VICE-CHAIR CRIVELLO: Can you correct your count again, please?

CHAIR SUGIMURA: Oh, I'm sorry, what?

VICE-CHAIR CRIVELLO: You said five opposed.

CHAIR SUGIMURA: Oh, I'm sorry. I meant five "ayes" and the motion carries and two opposed. Two excused would be King and White. The motion passes.

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VOTE: AYES: Chair Sugimura, Vice-Chair Crivello, and Councilmembers Carroll, Guzman, and Hokama.

NOES: Councilmembers Atay and Cochran.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmembers King and White.

MOTION CARRIED.

ACTION: APPROVED AMENDMENT.

CHAIR SUGIMURA: So, now I'd like to go back to the main motion, as amended. Members, any discussions? All in favor, say "aye."

COUNCILMEMBERS: Aye.

CHAIR SUGIMURA: Opposed?

COUNCILMEMBER COCHRAN: No.

COUNCILMEMBER ATAY: No.

CHAIR SUGIMURA: Okay. So, motion carries. We have five "ayes," two "noes," and Cochran, I'm sorry, King and White are absent or excused.

VOTE: AYES: Chair Sugimura, Vice-Chair Crivello, and Councilmembers Carroll, Guzman, and Hokama.

NOES: Councilmembers Atay and Cochran.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmembers King and White.

MOTION CARRIED.

ACTION: Recommending ADOPTION of revised resolution and FILING of communication.

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CHAIR SUGIMURA: So, Members, we are moving this forward. We will get the question answered for first reading when this comes up. Thank you very much for doing this. I'm going to take a short recess, Members, so we can take a little break. Come back in five minutes. . . .(gavel). . .

RECESS: 10:47 a.m.

RECONVENE: 11:03 a.m.

CHAIR SUGIMURA: . . .(gavel). . . Welcome back to the Policy, Economic Development, and Agriculture Committee. Thank you, everybody.

PEA-2(46): NOMINATIONS TO BOARDS, COMMITTEES, AND COMMISSIONS
(LIQUOR CONTROL COMMISSION) (CC 17-7)

CHAIR SUGIMURA: We will now continue with the second item of our agenda. There's three items. So, this is Nominations to Boards, Committees, and Commissions for the Liquor Control Commission, PEA-2(46) is for Relating to the Appointment of Roberto Andrion to the Liquor Control Commission for the County of Maui, and along we have his completed application. And the purpose of our resolution is to approve or disapprove the nomination of Roberto Andrion to the Liquor Control Commission, for a term expiring on March 31, 2022, to fill a vacancy due to the resignation of Nicole DeRego. Members...Mr. Molina, would you like to...

MR. MOLINA: Good morning, Madam Chair and Committee Members. The Administration would like your consideration of Mr. Roberto Andrion as the nominee to the Liquor Commission. Mr. Andrion would be replacing Nicole DeRego, who recently resigned and the term expiration would be March 31st of 2022, so you're looking at roughly about a three-and-a-half year commitment. Mr. Andrion is an agent for the ILWU and has recently been promoted to the, I guess, the director of the local Maui affiliate for the ILWU, and he did state to us that time would not be a problem for him to attend the once a month Liquor Commission meetings. Thank you.

CHAIR SUGIMURA: Thank you. Members, I also contacted Mr. Andrion and just to ask him that same question just because of his recent increase of responsibilities and he said that would not be a problem. And I do remember that we've had members of the ILWU before for different commissions and that's never been a problem. So, are there any other questions regarding this application? You have been passed out the Liquor Control Commission, the makeup currently of the commission which shows you where he would be placed. So, at this time, if there's no further discussion, Members, I would like to entertain a motion to recommend adoption of the proposed resolution entitled Relating to the Appointment of Roberto Andrion to the Liquor Control Commission

VICE-CHAIR CRIVELLO: So moved.

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COUNCILMEMBER CARROLL: Second.

CHAIR SUGIMURA: Thank you. Motion by Member Crivello, second by Member Carroll to recommend adoption of the proposed resolution. Any discussion, Members? Seeing none, all in favor, say "aye."

COUNCILMEMBERS: Aye.

CHAIR SUGIMURA: All opposed? So we have no opposed. We have two excused which is King and White.

UNIDENTIFIED SPEAKER: Three excused.

CHAIR SUGIMURA: Oh, and oh, Mr. Atay is not here so six "ayes," two excused, and...or three excused. Thank you. Motion carries.

VOTE: AYES: Chair Sugimura, Vice-Chair Crivello, and Councilmembers Carroll, Cochran, Guzman, and Hokama.

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmembers Atay, King, and White.

MOTION CARRIED.

ACTION: Recommending ADOPTION of resolution approving nomination of Roberto Andrion to the Liquor Control Commission.

CHAIR SUGIMURA: So Mr. Andrion is...thank you, Mr. Molina for being here.

COUNCILMEMBER COCHRAN: Sorry. Sorry.

CHAIR SUGIMURA: Yes?

COUNCILMEMBER COCHRAN: Mr. Molina, again the demographic dispersion, disbursement, I noticed doesn't seem to be a South Maui here and it's pretty much heavy, you know, established restaurant, bar establishments that liquor is dispensed a lot from West Maui, South Maui, so did we not have any applicants or...

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MR. MOLINA: Councilmember, certainly, there may have been one or two people but in the end, it was the Mayor's decision to go with someone to replace the ILWU representative in that slot, but we'll certainly be very mindful and to consider the demographic, spreading it around, so to speak, geographically, and you certainly bring up a good point, especially in those regions.

COUNCILMEMBER COCHRAN: Thank you.

MR. MOLINA: Thank you.

CHAIR SUGIMURA: Thank you for that.

**PEA-70: AUTHORIZING AN AMENDMENT TO EXTEND THE TERM AND
MODIFY CONDITIONS RELATING TO REMOVAL OF EQUIPMENT
FOR THE GRANT OF A LICENSE OF COUNTY REAL PROPERTY
FOR ELECTRIC VEHICLE QUICK CHARGERS AND LOCAL
BATTERY UNITS (CC 18-115)**

CHAIR SUGIMURA: Okay, Members, I'm gonna take the last item on our agenda. Can we have Mr. Redell and Jerri Sheppard? Please come up forward. Thank you. So, last item on our agenda is Authorizing an Amendment to Extend the Term and Modified Conditions Relating to the Removal of Equipment for the Grant of a License of County Real Property for Electric Vehicle Quick Chargers and Local Battery Units, PEA-70. We are looking at a proposed resolution Authorizing a Second Amendment to Extend the Term for the Grant of a License of Quick Real Property...for County Real Property for the Electric Vehicle Quick Chargers and Local Battery Units. The proposed resolution is to extend the license agreement dated December 17, 2014 between the County and Hitachi Advance Clean Energy Corporation as amended to be March 31, 2020; and to remove one of the locations covered by the agreement. The license agreement relates to electric vehicle quick chargers and local battery units for the use of the public on County real property at the Lahaina Aquatic Center, the vicinity of the Kalana Pakui Building, and Haiku Community Center, and the Kihei Aquatic Center. We're looking at correspondence dated January 23, 2018, from the Department of Corporation Counsel, transmitting the proposed resolution. And at this time, I would like to...we don't have...do we have...we don't have anybody from OED here...oh, you're gonna be representing Teena Rasmussen, I'm sorry, Mr. Redell. He is our Energy Commissioner. So, at this time, Mr. Redell, would you like to give us opening comments to walk us through the resolution?

MR. REDELL: Yes, thank you, Chair. Just as a bit of background, of course, as you all know this is assets that were part of the JUMPSmart Maui project that were subsequently transferred to MEDB and then still operated by HIACE, the US subsidiary of Hitachi. The asset is a, you know, supports about 300 to 320 electric vehicle users and is currently being operated at all these facilities and these are some of the high charging points in the network, meaning that they get the most charges per month. So, if there's any questions, I'm happy to take them.

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CHAIR SUGIMURA: Ms. Sheppard, do you want to say anything regarding the legal documents?

MS. SHEPPARD: Thank you, Chair. The documents will not only extend the term of the license agreement but it adds a couple of additional conditions which were requested by Mr. Redell and the grantee of the license.

CHAIR SUGIMURA: Which are?

MS. SHEPPARD: They're expressed on Page 2 of Exhibit "3" and they include clarifying the term or extending the term, that would be paragraph two of the new license agreement amendment. Paragraph 5 which we added subsections A and C corrections, and then we also in Section 4, we added new sections F and G, and those were all at the request of Mr. Redell and the licensee being the Hitachi Company. And then we also added a new paragraph 17 which in Section 5 which updates the Exhibits "C," "D," and "E" and those show the current as-built documents.

CHAIR SUGIMURA: Thank you. Mr. Redell, can you...oh, I also wanted to recognize Jeanne Skog who's here to represent MEDB in case there's any questions that come up regarding this project, so she's in the gallery if we have questions for MEDB. Mr. Redell, can you explain to us about this, about the \$98,000 or these additions?

MR. REDELL: Yes, Chair. The payment to the County of \$98,650 is to remove a condition where the licensee would have to restore the facilities meaning when they're done with the license agreement they would normally remove the facilities and restore the condition of the system. The option that we worked on here was to find out that amount of money, we got quotes from Haleakala Solar for the removal of the equipment. They're the company that actually installed the equipment and Hitachi agreed to give us that amount of money in exchange for removing that equipment. The way I see that condition is very beneficial to the County is that if Hitachi was to stop operating this in, at the end of 2020, it's unlikely that we would remove that equipment, but we would use the 98,000 to repurpose those facilities after Hitachi would be done operating the system.

CHAIR SUGIMURA: Okay. Thank you. Members, anyone have questions? Mr. Hokama?

COUNCILMEMBER HOKAMA: Thank you for doing that, Mr. Redell. I appreciate it. So, I can see how you got that value. There's no other value before Hitachi or EV advocates that has value for this County to consider?

MR. REDELL: Chair?

CHAIR SUGIMURA: Mr. Redell?

MR. REDELL: I'm not sure I understand the question but let me see if I can clarify a few things. So, the system currently when Hitachi stopped operate or stopped the

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experiment in 2017 and it was transferred to MEDB, Hitachi didn't have an obligation to continue operating this system but they have continued when in negotiations with MEDB to continue that operation. They currently operate at a deficit of about \$12,000 a month, and so their goal right now is to finish up the project and come to a clean conclusion.

COUNCILMEMBER HOKAMA: Okay. Thank you for that. I have one area I'd like to ask about and this is about charging stations especially on our County property or County assets and advertising since that is a thing that has been offered. I have an issue with advertising especially if it's political advertising on County assets such as these charging station sites. Is there anything in our current revised documents that would address this issue?

CHAIR SUGIMURA: Ms. Sheppard or Mr. Redell?

MR. REDELL: Give me one moment, I don't believe there is something that would prevent them from, a party from advertising on those units about...although I don't think it's explicitly allowed in the original agreement, so I'm not sure it was actually...the purpose of the use of the property wasn't for advertising so I don't think it would be allowed but I'll leave that to Corporation Counsel.

CHAIR SUGIMURA: Ms. Sheppard?

MS. SHEPPARD: Thank you. I'm looking real quickly at the original license agreement to see if there was anything that addressed advertising one way or the other and I'm not finding anything, that doesn't mean we can't build a condition into this second amendment that specifically addresses that. We do have one correction to make in this second amendment. There is a date that is wrong on Page 3 of the proposed new second amendment which is Exhibit "3." So, if you go to Page 3 of Exhibit "3," at the top of that page in subparagraph A toward the end of that paragraph we have the date 2016, the sentence reads, the licensee's facilities were donated to MEDB in 2016, that date should be 2017, so we're gonna be making that correction to begin with, but if there is an additional term or condition that we need to add, this hasn't been signed yet, so we can certainly add something more. We do have a lot of information in Chapter 11 of the Maui County Code regarding advertising in buses and we could incorporate a condition with that same concept if that's desirable.

COUNCILMEMBER HOKAMA: Well, I would ask you to review it, Chairman. I understand some of the stations are on private property. Okay, they can exercise their appropriate freedom of speech rights, that's fine with me. On County public assets, I have a concern and issue there.

CHAIR SUGIMURA: Okay.

COUNCILMEMBER HOKAMA: So, I would ask that we allow the attorneys to address it and make sure that, you know, we're very clear and fair about --

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CHAIR SUGIMURA: Okay...

COUNCILMEMBER HOKAMA: --it's not gonna be a permitted activity on County assets.

CHAIR SUGIMURA: Okay. Ms. Sheppard?

MS. SHEPPARD: And would that be for any kind of advertising whatsoever or would it only be for political advertising?

COUNCILMEMBER HOKAMA: I would say my concern is the political impact on these County assets. You know if XYZ wants to propose the use of their, this vehicle because it's all electric, well fine with me, you know, so long as it's a fair playing field and others of similar can have access and the same opportunity, I don't have an issue with that.

CHAIR SUGIMURA: But no political. Okay, so you'll take care of that.

COUNCILMEMBER HOKAMA: Well, I find it that especially a body like this that makes the policy, funds the programs, and authorizes agreements --

CHAIR SUGIMURA: We shouldn't be advertising on...

COUNCILMEMBER HOKAMA: --you know, I just would prefer us not to even be in that situations.

CHAIR SUGIMURA: Okay. Any other Members have any questions regarding this? None.

COUNCILMEMBER COCHRAN: Chair?

CHAIR SUGIMURA: Oh, Ms. Cochran?

COUNCILMEMBER COCHRAN: So, thank you, yeah, and so Hitachi is, well has handed it over, so to speak, to MEDB to be managing, is that what you meant, you said earlier?

MR. REDELL: Oh, I'm sorry. Let me...

CHAIR SUGIMURA: Oh, Mr. Redell?

MR. REDELL: Yes, the structure of it is that the asset itself was transferred to MEDB but the operations of that asset is still Hitachi, and so the license agreement would still be with Hitachi. Hitachi leases then the equipment from MEDB.

COUNCILMEMBER COCHRAN: Okay.

MR. REDELL: It's just a structural change of how Hitachi is linked to the equipment but they're still the operator of the charging system.

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COUNCILMEMBER COCHRAN: And the systems are on County-owned properties, the systems, the charging stations themselves, right?

MR. REDELL: Three of 14 locations are on County property.

COUNCILMEMBER COCHRAN: And so this, in our agenda, they're looking to pay us \$98,650, so they do not have to remove them at this point?

CHAIR SUGIMURA: Mr. Redell?

MR. REDELL: Yes, at the termination of the agreement the exchange would be that their...well, they'll be giving us this \$98,650 upon execution of this agreement and at the termination of the agreement they wouldn't have the requirement then to remove the facilities which give us then the option to repurpose those facilities for our own purposes.

COUNCILMEMBER COCHRAN: Okay. And is there a final report or any findings on their behalf that they've gathered through these years of having them installed here and usage or lack of usage or what, is there any final product, outcome, learning of the use of these?

CHAIR SUGIMURA: Mr. Redell, are you...

MR. REDELL: Yes, there was a final report that was made about a year ago or so by Hitachi that described the usage, and ultimately, this was an experiment to create a, what's called, a virtual power plant. They were trying to show that they could provide grid services through the aggregation of electric vehicles. The side benefit, of course, of this was that many electric vehicles came to the island and now, of course, are in need of charging.

COUNCILMEMBER COCHRAN: Okay. And so, are they moving forward with that experiment, I mean, it sounds like they're pulling out and, I guess, perhaps it's determined to not to be feasible to do that major grid tie in that you just mentioned?

CHAIR SUGIMURA: Mr. Redell?

MR. REDELL: Yes, so that, as I understand it, the purpose of their experiment wasn't, was never to be a long-lasting experiment. They...so there would be the possibility in the future with a lot of electric vehicles that they could do this benefit, so that portion was an experiment. That experiment ended and they did find that there is benefit to that, but they don't have the access or there's not an open program with MECO to actually provide those services at the moment and there isn't in the near future that available program so they don't have someone to sell it to.

COUNCILMEMBER COCHRAN: Okay. All right. Thank you.

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CHAIR SUGIMURA: Mr. Redell, so the JUMPSmart Maui project then, is it still continuing or is it officially turned...well, it's turned over to MEDB to continue, Hitachi sounds like is still here to maintain the equipment if I understand what you said but the experiment portion is completed, correct?

MR. REDELL: Yes. The experiment completed in 2017, and so what was left after that experiment was the charging systems. There were other assets. There was a battery electric, you know, battery electric storage system that is located at the Kihei Wastewater Treatment Plant that we received as a donation from the experiment. There were other assets throughout the island and all of those have been either removed or turned over to another party, and so the charging stations, the public charging stations, you know, are living on through what's branded as EV Ohana and the EV Ohana, you know, brand, MEDB is the owner of that although Hitachi is the operator of the system.

CHAIR SUGIMURA: Thank you. Early on I remember, Members, that Hitachi when they started this project they actually through NEDO which is their comparable to Department of Energy had allocated, like, \$50 million of funding to do this project, I mean, it was huge and I think that for our community we're grateful to be participating as we have evolved now in seeing more electric vehicles in, on our roads. So, thank you, Mr. Redell. Do you want to say anymore comments or, Ms. Sheppard, do you have any more comments regarding this? You're fine? Okay. So, at this time, I see Ms. Skog is in, Jeanne Skog is in the audience. Do you have any comments that you would like to add for this as you've been actively involved in this project in your retirement? You're fine? Okay. So, Members, no further discussions, I would like to entertain a motion to recommend adoption of the revised proposed resolution transmitted by correspondence dated July 27, 2018, entitled Authorizing an Amendment to Extend the Term and Modify Conditions Relating to Removal of Equipment for the Grant of a License of County Real Property for Electric Vehicle Quick Chargers and Local Battery Units, including any nonsubstantive revisions, and the filing of County Communication 18-115.

VICE-CHAIR CRIVELLO: So moved, Chair.

COUNCILMEMBER CARROLL: Second.

CHAIR SUGIMURA: Thank you. Motion by Member Crivello, second by Member Carroll to recommend adoption of the revised proposed resolution. At this time, Member...oh, Mr. Hokama?

COUNCILMEMBER HOKAMA: So, am I assuming that we're gonna have a redraft for Council?

CHAIR SUGIMURA: Yes, with your suggestions.

COUNCILMEMBER HOKAMA: No, I just wanted to be, you know, clear, Chair, what our understanding is of our action before the vote. Second, I believe, for your Committee

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Report I think it's clear if this is the Committee's intention, Chair, from hearing from Mr. Redell regarding this \$99,000, more or less, you should have gone and just rounded it out, Mr. Redell. If the purpose is that that is the seed money for any future use regarding these charging stations and sites, unless we make it clear, it's gonna go into General Fund and it's gonna disappear, nobody's gonna be remember what this \$99,000 was ever about and then when Mr. Redell says no we made sure there was, you know what, good luck in finding it. Okay, so if it's that important, then it needs to be clear and Finance is gonna need to ensure that it's in the appropriate T&A account or subaccount to ensure that that's where the money goes and its purpose is already predetermined by Council if you want to ensure the use of it, Chair, so just a suggestion. Thank you.

CHAIR SUGIMURA: Okay. So, Mr. Hokama, in your expertise in Budget and Finance, then do we have to do anything specific with...

COUNCILMEMBER HOKAMA: Well, I think if you make it in the Committee Report it's very clear without real detailed specific legislation.

CHAIR SUGIMURA: Okay.

COUNCILMEMBER HOKAMA: And, you know, you can follow up and make sure that Finance implements Council's policy.

CHAIR SUGIMURA: Okay.

COUNCILMEMBER HOKAMA: Thank you.

CHAIR SUGIMURA: So, the Committee Report is sufficient then. Shelly, you got that? Okay. Thank you. So, good discussion on that, we'll make that clear in the Committee report. At this time, I'd like to amend the revised resolution to attach Exhibits "1," "2," and "3." Need a motion to amend.

VICE-CHAIR CRIVELLO: So moved, Chair.

CHAIR SUGIMURA: Thank you.

COUNCILMEMBER HOKAMA: Second.

CHAIR SUGIMURA: Thanks. Motion by Member Crivello, second by Member Hokama. Any discussion regarding that? All in favor, say "aye."

COUNCILMEMBERS: Aye.

CHAIR SUGIMURA: Opposed? Any opposed? None. So we have seven "ayes" and two excused which is Member King and Mr. White. So that passes.

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VOTE: AYES: Chair Sugimura, Vice-Chair Crivello, and Councilmembers Atay, Carroll, Cochran, Guzman, and Hokama.

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmembers King and White.

MOTION CARRIED.

ACTION: APPROVED AMENDMENT.

CHAIR SUGIMURA: I'll go back to the main motion. So, we are now going to be voting on the main motion which is authorizing the adoption of the revised proposed resolution and Authorizing an Amendment to Extend the Term and Modify Conditions Relating to Removal of Equipment for the Grant of a License of County Real Property for Electric Vehicle Chargers and Local Battery Units, including any nonsubstantive revisions and the request of the amendment to be included. All in favor, say "aye."

COUNCILMEMBERS: Aye.

CHAIR SUGIMURA: Opposed? Motion carries. So, that's seven "ayes" and two excused.

VOTE: AYES: Chair Sugimura, Vice-Chair Crivello, and Councilmembers Atay, Carroll, Cochran, Guzman, and Hokama.

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmembers King and White.

MOTION CARRIED.

ACTION: Recommending ADOPTION of revised resolution and FILING of communication.

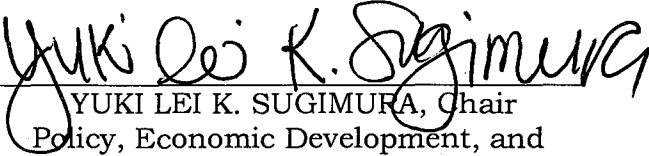
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CHAIR SUGIMURA: Members, we are done with our agenda. Thank you. We will include the changes that were requested for this electric vehicle. Thank you, Members, for this great meeting and we are adjourned. . . .(gavel). . .

ADJOURN: 11:27 a.m.

APPROVED:


YUKI LEI K. SUGIMURA, Chair
Policy, Economic Development, and
Agriculture Committee

pea:min:180730:mb

Transcribed by: Michelle Balala

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CERTIFICATE

I, Michelle Balala, 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 21st day of August, 2018, in Kihei, Hawaii

A handwritten signature in cursive script, appearing to read "Michelle Balala", is written over a horizontal line.

Michelle Balala