

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

Council of the County of Maui

MINUTES

October 29, 2018

Council Chamber, 8th Floor

CONVENE: 9:06 a.m.

PRESENT: Councilmember Yuki Lei K. Sugimura, Chair
Councilmember Stacy Crivello, Vice-Chair
Councilmember Alika Atay
Councilmember Robert Carroll
Councilmember Elle Cochran (in 9:42 a.m.)
Councilmember Riki Hokama
Councilmember Kelly T. King

EXCUSED: Councilmember Don S. Guzman
Councilmember Mike White

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

Ella Alcon, Council Aide, Molokai Council Office (via telephone conference bridge)
Denise Fernandez, Council Aide, Lanai Council Office (via telephone conference bridge)
Dawn Lono, Council Aide, Hana Council Office (via telephone conference bridge)

ADMIN.: Edward S. Kushi, Jr., First Deputy Corporation Counsel,
Department of the Corporation Counsel
Michael Molina, Executive Assistant, Office of the Mayor
Keith Regan, Managing Director, Department of Management
John Buck, Deputy Director, Department of Transportation

Seated in the gallery:

Jacob Verkerke, Chief Technology Officer, Department of Management

OTHERS: **Item PEA-4(2):**
Barbara Barry
Amy Halas
Trinette Furtado
Cecilia Reilly

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Lauren Armstrong, Executive Director, Maui Metropolitan
Planning Organization

(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 October 29th. It is now 9:06 a.m. Welcome, everyone. And please silence all your cell phones and noisemaking devices. At this time, I'd like to take roll call. My name is Yuki Lei Sugimura. I am the Committee Chair. And, Vice-Chair, thank you, Stacy Crivello.

VICE-CHAIR CRIVELLO: Aloha, good morning, Chair.

CHAIR SUGIMURA: Thank you. Mr. Carroll.

COUNCILMEMBER CARROLL: Good morning, Chair.

CHAIR SUGIMURA: Good morning. Mr. Atay.

COUNCILMEMBER ATAY: Good morning.

CHAIR SUGIMURA: Good morning. Kelly King.

COUNCILMEMBER KING: *... (inaudible) ...*

CHAIR SUGIMURA: Good morning. Excused is Don Guzman and Mr. White. So, thank you, everybody, for being here. I guess is Elle Cochran excused also? I don't see her or haven't heard about her attendance. Anyway, I look forward to the others joining us. Today on our agenda, we have a full agenda. I'm taking two items, which is boards and commissions, which is for the PEA-2(49), for the Commission on Children and Youth; PEA-2(50), which is for the Kula Ag Park; and the Legislative Package, PEA-4(2), that's the Maui County Legislative Package, PEA-4(2); Maui Metropolitan Planning Organization, PEA-24; as well as the Public Wireless Access Points at Maui County Facilities, and that's PEA-32. Joining us today, we have Mike Molina. He'll be taking up the two commission items. John Buck will be here to...from the Transportation Committee to talk about the MPO. Keith Regan, our Managing Director, will be here to talk about Wi-Fi in public places. Good morning, Mr. Hokama. Thank you for being here. And Michael Hopper for Corp. Counsel will be here, as well as Jerrie Sheppard for PEA-24, which is the MPO agreement. Junior Kushi or Ed Kushi is here, First Deputy Corp. Counsel assigned to our Committee. Thank you. Staff, thank you very much. I have Shelly Espeleta, Legislative Analyst. We also have Leslee Matthews, and she is also a Legislative Analyst; Clarita Balala, Committee Secretary; Hana Office, Dawn Lono; Lanai District Office is Denise Fernandez; and Molokai District Office is Ella Alcon. I've heard from the District

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Offices that there are no testifiers but I will be taking up testimony from the Chambers at this time. For individuals wishing to testify, please sign up on the desk outdoor...outside. And at this time, I would like to take our first testifier, which is on PEA-4(2), Barbara Barry. And I guess she's gonna be talking about the Kula Ag Park, as well as Amy Halas next. And you're limited to three minutes. Is Barbara here? Yeah. Please identify yourself and the organization you're representing. State your name. And thank you very much for being here.

. . .BEGIN PUBLIC TESTIMONY. . .

MS. BARRY: Good morning, Chair, Councilmembers. My name is Barbara Barry. And I'm here to talk about PEA-4(2). I support this because I believe by allowing pre-contact burial sites to be defined as cemeteries, they will be protected as such. I support...also support language to be possibly added that would return iwi to the families that they belong to rather than being held by anyone if that is ever the case. These iwi should be returned to the families for them to bury properly. I'm just really sickened by the blatant desecration of the iwi kupuna by this Administration allowing grubbing permits especially right now in Maui Lani Towne Parkways Phase 6. So, thank you very much.

CHAIR SUGIMURA: Thank you. Anyone have questions for Barbara Barry? Seeing none, thank you very much --

MS. BARRY: Thank you.

CHAIR SUGIMURA: --for being here. Next testifier, Amy Halas? Last testifier in the Chamber is Trinette Furtado.

MS. HALAS: Good morning, Chair and Members.

CHAIR SUGIMURA: Good morning.

MS. HALAS: I'm very moved by Councilmember Atay's efforts to protect the iwi kupuna with this proposed piece of legislation that would be in the Legislative package. I guess one of the concerns some of us have is will the cemetery designation of the wahi kapu interfere with any claims that are filed by lineal and cultural descendants? There have been some instances at the Burial Council where there's individuals who are filing for recognition as lineal and cultural descendants and their iwi are in certain cemeteries here on Maui, and there's a conflict because the iwi in the cemetery proper actually belong to the cemetery owner. I do support this. I just wanted to point out that currently, there's no archaeologist in the Maui State Historic Preservation Office here on Maui. So, I'm not sure how we would properly ascertain and determine because there's just no oversight currently of our burials by the Maui State Historic Preservation Division. And as you know, there's a very, very high concentration of burials over at Maui Lani Phase 6, the Towne Parkway subdivision increment four, which if you request the documents from the Planning Department and Public Works,

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you will see it is actually a burial preserve. And they have been doing mass excavation in this area, and there's at least now up to 185 archaeological sites including probably over 80-85, more than that, iwi kupuna and burial pits and archaeological features. So, mahalo, Councilmember Atay, for initiating this legislation. I just wanna make sure that the lineal and cultural descendants their right to apply to be recognized as cultural lineal descendants is preserved. And I just wanna make sure that unless the County hires an archaeologist that we really need to have our State Historic Preservation Division Maui Office, we really need it staffed with a lead archaeologist as well as the Archaeologist III position. And... 'cause I guess I have 38 seconds to speak, what else can I say? That's pretty much it. So, mahalo and I trust that you all will support Councilmember Atay and his efforts to grant recognition to these ancient pre-contact burials because the... their descendants are among us, and it's the least we can do for the iwi kupuna. So, mahalo nui.

CHAIR SUGIMURA: Thank you. Anyone have questions for her? Ms. King?

COUNCILMEMBER KING: Thank you, Chair. Thank you for being here, Ms. Halas. I just wanted to, because what we're doing today in looking at this is a recommendation to the State Legislature. So, I just wondered if you were aware of any of the other islands, any of our neighbor islands, that have the same issue on their islands happening right now --

MS. HALAS: Well --

COUNCILMEMBER KING: --like the burial grounds being run over.

MS. HALAS: --there are I believe throughout the islands. Unfortunately, the lead archaeologist on the Big Island of Hawaii, on Hawaii Island for example, that individual resigned, as did Dr. Barker Fariss, he resigned last month. His last day in office was September 28. I do know it is throughout the islands of Hawaii there are iwi kupuna. There is burial sites that are imperiled by development. And so, absolutely. I can follow up with some information to you, Councilmember.

COUNCILMEMBER KING: Okay. Yeah, I think that's gonna be necessary to get this to the table at the State Legislature. Thank you.

MS. HALAS: Thank you.

CHAIR SUGIMURA: Thank you.

MS. HALAS: Okay.

CHAIR SUGIMURA: No other questions? Thank you very much for being here. Trinette Furtado, also testifying on the same item. And last is Cecilia Reilly, the last testifier in the Chambers that signed up.

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MS. FURTADO: Aloha mai, Chair Sugimura and Committee Members. My name is Trinette Furtado, and I'm from Haiku. And I'm here to testify on item PEA-4(2), in particular, two items to be included in this package. The first one is the one that you've heard a little bit about from the first two testifiers on iwi kupuna. And it would be redefining, I'm sorry, not redefining, but amending the definition of the term cemetery in HRS 441. As we all are aware of, there has been no protection of iwi kupuna. And at the very least, we could look at is looking at those areas as cemeteries because that's exactly what they are. They shouldn't have any of the bones moved from them. And the same kinds of considerations that are given to projects and development now to allow them to dedicate areas as cemeteries are the same kinds of considerations that we are thinking about with this bill. And I say we because I've been an integral part in helping to craft this piece of legislation. And I'm very hopeful that, you know, we can get something passed, you know. I've heard a lot of how it's very difficult for the County to do anything when the State has jurisdiction. And I believe, you know, if we can start with something very simple, just the recognition of these areas as cemeteries, you know, that does open the door for greater discussion and hopefully, better protections. The second item that I am testifying on is the item also from Member Atay's Office asking for a performance and fiscal audit of the DOE, and not the entire DOE. We're looking at the area from complex area superintendents up to the superintendent level, especially since the Supreme Court has thrown out, so to speak, the question of the Constitutional amendment for the property tax. And we are now left to look at what kinds of funds we have for our schools. Though it may not be considered a County issue, all our children go to these public schools. And it is a community issue. It is an ohana issue. And so, I think it is prudent for us to have a look at where these funds that are currently being spent by the DOE are being spent. And if they're being spent in a...and a most efficient way, are they being spread out through the counties like they should be? Because perhaps we need to look at decentralizing the DOE. Thank you very much.

CHAIR SUGIMURA: Thank you. Any questions for Ms. Furtado? Seeing none, thank you very much for being here. Any other testifiers in the Chamber?

UNIDENTIFIED SPEAKER: . . . *(inaudible)* . . . Cecilia . . . *(inaudible)* . . .

CHAIR SUGIMURA: Oh, I'm sorry. I'm sorry.

MS. REILLY: Aloha. I have come to talk about the iwi kupuna legislation that's looking to go into the package. So, definitely, there's so many things about the way that Western society comes and tries to define something. And the things that I'd like to look at are like, are we looking at something that's going to be a living, sustainable movement of life? Or is it just something that's a little picture show, you know, like dressing up for Halloween. So, that like for cemeteries to be, you know, like Gettysburg, oh you know, let's go and try and build a development on Gettysburg. Who's in? Like, you know, what kind of response do we get about that? All of a sudden they find sacredness there. Do I find sacredness in what happened at Gettysburg? No. Like I don't, you know, I mean the things that have happened in the United States history as far as like criminals, people who are looking to control like these things are not values. They're

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not something to be looked up to or something to be, you know, admired or replicated. So, you know, that we have these burial areas that are Hawaiian history, right? So, we know what happened at Gettysburg. We have like all of these different documentation from all these different people. We know what happened in the Hawaiian burials that are or have . . . *(inaudible)* . . . for the Battle of Kakanilua. So, how does it make it different? Because there's no respect for what happened at the Battle of Kakanilua. That it's...that the United States can't see the value just as we can go into all these different aspects of their ability to see what they want to see, when they wanna see it, and their inability to see what they don't wanna see when it's inconvenient. So, that's what I see as far as what's been happening with the iwi kupuna on Maui. And that the frustration at Burial Council, these developers, the way that they're literally trying to get away with things all the time. That these iwi kupuna need protection and that I think that if we come together in common humanity as far as definitions that we can see how we wanna move forward as a community. I would also like to support the investigation of the Department of Education. I think that any time that we've struggled to bring money to a large organization, and they automatically give bonuses and raises to their upper level management, it's a red flag and we need to investigate. Thank you very much.

CHAIR SUGIMURA: Thank you. Any questions for Ms. Reilly? Seeing none, thank you for being here.

MS. REILLY: Thank you.

CHAIR SUGIMURA: Any other testifiers in the Chamber? Seeing none, any...did the District Office say now they have any testifiers? No, still no testifiers in the District Office. Members, if I could, I'm gonna close public testimony.

COUNCILMEMBERS: No objections.

CHAIR SUGIMURA: Thank you.

. . . END OF PUBLIC TESTIMONY. . .

CHAIR SUGIMURA: So, I also wanted to take items out of the agenda sequence if I can have your permission. I'm gonna be taking up the two areas of the boards and commissions. And then I'm gonna take up as number three, the Wi-Fi. At the last Policy meeting that I had on the 15th, our Managing Director here sat for the whole meeting thinking that we would take his item up. So, I'm gonna move his item up to third with your permission. And then take up the MPO presentation, which I think I had you on my agenda last year, which I never took you up. So, thank you, Lauren, for being here. Maui County Legislative Package is the fifth item on the agenda. So, at this time, Members, I'm gonna ask that we take things out of sequence.

COUNCILMEMBER ATAY: Chair, I'd --

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CHAIR SUGIMURA: Yes?

COUNCILMEMBER ATAY: --like to object on that.

CHAIR SUGIMURA: You object on that?

COUNCILMEMBER ATAY: Just out of sequence. I support, you know, addressing the nominations to the boards then going to the wireless. But if I could recommend that the item PEA-4(2) because that should have been a continuation also. You put the last two items in the County Legislative Package on hold also.

CHAIR SUGIMURA: Okay.

COUNCILMEMBER ATAY: So, I'd...

CHAIR SUGIMURA: I'm open to --

COUNCILMEMBER ATAY: If I --

CHAIR SUGIMURA: --that.

COUNCILMEMBER ATAY: --could suggest that go before this MPO.

CHAIR SUGIMURA: Okay. I was just trying to get the MPO done now. It's a, way overdue from last year. But, Members, I'll take that suggestion. So, I'm gonna take up the two boards and commissions then take up the Wi-Fi in public places, Maui County Legislative Packages, and then last, Lauren, we will be sure we get to yours, which will be on the changes with the MPO. So, Members, we're gonna...at this time, I've closed public testimony. I've established the agenda items.

**PEA-2(49): NOMINATIONS TO BOARDS, COMMITTEES, AND COMMISSIONS
(COMMISSION ON CHILDREN AND YOUTH) (CC 17-7)**

CHAIR SUGIMURA: So, at this time, I'm gonna be taking up PEA-2(49), Nominations to Boards, Committees, and Commissions for the Commission on Children and Youth. We are gonna be looking at a proposed resolution submitted to us by the Mayor dated October 19th, relating to the appointment of Justin Bibee to the Commission on Children and Youth, along with committed, sorry, completed application form for the nominee. And this...the purpose of the resolution is to approve or disapprove Justin Bibee to this Commission for a term expiring on March 31, 2021, to fill the vacancy due to passing of Lucy Feinberg. We can approve or disapprove the nominee. So, at this time, Mr. Molina, do you wanna say any opening comments?

MR. MOLINA: Yes, thank you very much, Madam Chair. And good morning, Committee Members. The Administration would like your consideration of Mr. Justin Bibee to be approved to the Commission on Children and Youth. Mr. Bibee is currently employed

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by the Maui AIDS Foundation as a medical case manager. And he did indicate to us that it would be no problem for his employer to allow him to attend the meetings, which are typically held during the late mornings. This particular Commission does not meet as frequently as some of our other commissions, which normally meet once a month. I believe they meet on every other month or on an as-needed basis. So, with that being said, if there are any questions, I'd be happy to deal with the questions, Madam Chair. Thank you.

CHAIR SUGIMURA: Thank you. Members, do you have any questions for Mr. Molina on the nominee? All of you have been given the spreadsheet, which shows the current makeup of the Commission, as well as the vacancy is listed there. So, we are now trying to fill the vacancy.

MR. MOLINA: Madam Chair, if I could --

CHAIR SUGIMURA: Yes?

MR. MOLINA: --just add one more thing, and --

CHAIR SUGIMURA: Yes.

MR. MOLINA: --Mr. Bibee will be replacing the late Ms. Lucy Feinberg, who passed away recently, and all of our condolences to her family as well. And this would be for a term up until March 31, 2020 [sic]. Thank you.

CHAIR SUGIMURA: Thank you, Mr. Molina. Members, do I hear any other questions for him? Seeing none, okay, so, at this time, I'm gonna be taking up or to recommend adoption of the proposed resolution entitled Relating to the Appointment of Justin Bibee to the Commission on Children and Youth.

COUNCILMEMBER KING: So moved.

CHAIR SUGIMURA: Thank you.

VICE-CHAIR CRIVELLO: Second.

CHAIR SUGIMURA: Second? So, thank you, Member Kim...King for the motion, second by Member Crivello for the adoption of proposed resolution. Any discussion, Members? All in favor, say "aye."

COUNCILMEMBERS: Aye.

CHAIR SUGIMURA: Thank you. So, we have what...one, two, three, four, five, six of us and three excused. So, the motion passes. Elle Cochran, Mr. White, as well as Mr. Guzman is not here. So, the motion passes.

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

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmembers Cochran, Guzman, and White.

MOTION CARRIED.

ACTION: Recommending ADOPTION of resolution approving the nomination of Justin Bibee to the Commission on Children and Youth.

PEA-2(50): NOMINATIONS TO BOARDS, COMMITTEES, AND COMMISSIONS (KULA AGRICULTURAL PARK COMMITTEE) (CC 17-7)

CHAIR SUGIMURA: At this time, we're gonna take up the second item, which is Nomination to Boards, Committees, and Commissions for the Kula Ag Park. And this is also a resolution to accept this appointment of James Jones as correspondence came to us October 19th, from the Mayor, transmitting his name to us for consideration. And as you remember, this was because Paul Otani resigned. This position is a tenant of the Kula Ag Park, which I did check. And he is a tenant of the Kula Ag Park and in good standing. So, Mr. Molina?

MR. MOLINA: Yes, thank you very much, Madam Chair. Committee Members, Mr. Jones previously served on the Kula Ag Park a number of years ago and served as its chairman. And he is currently the owner of Pukalani Plant Company. So, his prior service and his knowledge in this field would certainly contribute towards this particular Commission. So, we would respectfully ask for your consideration. Thank you.

CHAIR SUGIMURA: Thank you, Mr. Molina. Anyone have any questions or comments? Ms. King?

COUNCILMEMBER KING: I have a question. Yeah, I'm just looking at the one page of the application that we were given. And first...my first question I guess is, is it not a conflict of interest to sit on the board if you're a tenant? And also, I didn't see any, you know, under the please indicate why you're interested, it just says I was asked if I would help again. So, were there no other applicants for this position?

MR. MOLINA: Madam Chair and --

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CHAIR SUGIMURA: Yes?

MR. MOLINA: --Councilmember, good question. He was I believe asked by Mr. Yamamura who was on the ag park probably due to a prior relationship and because of Mr. Jones I guess I assume very good service on the Kula Ag Park. And of course, the application I was just looking at it, if...as far as a housekeeping measure, we'll see if we can get you a much more legible application. But as far as the he was asked, I assume it may have been Mr. Yamamura. That's who we got the application from. He assisted our office with getting that application. If there's any more details we could ask Mr. Jones to provide a response assuming if this makes it out of Committee and prior to going to Council, we could do that as well. Now, as far as the...if there's any conflict, I know he served before. So, that might be a question better served for Corporation Counsel to respond to. Thank you.

COUNCILMEMBER KING: Okay. And then just --

CHAIR SUGIMURA: So...

COUNCILMEMBER KING: --if you could...did you have any other applicants?

MR. MOLINA: We did have one other person, yeah.

COUNCILMEMBER KING: And you chose to...

MR. MOLINA: Yeah, the recommendation was to go with Mr. Jones.

COUNCILMEMBER KING: Okay.

CHAIR SUGIMURA: So, Members...

COUNCILMEMBER KING: That was your recommendation.

MR. MOLINA: Yeah.

CHAIR SUGIMURA: Thank you.

COUNCILMEMBER KING: Okay.

CHAIR SUGIMURA: Members, if you look at the spreadsheet, it does highlight enabling legislation 22.04A.070, and it talks about the requirements that A, the members of the ag park has to come from...the ag park committee has to come from different sectors. And if you look on page, on...I'm sorry, the second line it says one has to be a tenant of the Kula Ag Park. So, it's not a conflict. It's a requirement of, based on statute.

COUNCILMEMBER KING: Okay. So --

CHAIR SUGIMURA: So...

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COUNCILMEMBER KING: --we don't have any other...none of the other names are tenants currently?

CHAIR SUGIMURA: No.

COUNCILMEMBER KING: Okay.

CHAIR SUGIMURA: Yeah?

MR. MOLINA: Yeah. If I could add that, that may have been a reason why the other person wasn't considered because --

COUNCILMEMBER KING: Okay.

MR. MOLINA: --this...there was a requirement to have a tenant on --

COUNCILMEMBER KING: Oh, okay.

MR. MOLINA: --the ag park committee.

COUNCILMEMBER KING: Okay. Thank you for that clarification.

CHAIR SUGIMURA: Yeah, good question. Any other questions, Members? Seeing none, at this time then I'm gonna entertain a motion to recommend adoption of proposed resolution entitled Relating to the Appointment of James Jones to the Kula Ag Park Committee.

VICE-CHAIR CRIVELLO: So moved.

CHAIR SUGIMURA: Thank you.

COUNCILMEMBER KING: Second.

CHAIR SUGIMURA: Second? Motion by Member Crivello, second by Member King for adoption. Any discussion, Members? Seeing none, all in favor, say "aye."

COUNCILMEMBERS: Aye.

CHAIR SUGIMURA: Okay. Six "ayes." Motion carries. Three excused which is White, Guzman, and Cochran. I guess Ms. Cochran is not coming today. So, that item passes.

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

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmembers Cochran, Guzman, and White.

MOTION CARRIED.

ACTION: Recommending ADOPTION of resolution approving the nomination of James Jones to the Kula Agricultural Park Committee.

CHAIR SUGIMURA: Thank you very much, Mr. Molina.

PEA-32: PUBLIC WIRELESS ACCESS POINTS AT COUNTY FACILITIES
(CC 17-221)

CHAIR SUGIMURA: So, at this time, I'm gonna take up the Wi-Fi. Mr. Keith Regan is here, Managing Director. And I...thank you very much for coming back, Mr. Regan. And I...last time, thanks for sitting through our whole meeting only to find out we lost time so you weren't able to present. So, Committee, this is an item, County Communication 17-221, from myself, relating to matters of establishing public wireless access points at County facilities. This did come to us through our Budget meetings that we had in the districts with Mr. Hokama, as a member from the Haiku Community Association asked that question, could we have public or Wi-Fi access in public facilities for better access for our public? So, this item I had a meeting in February of last year trying to get this to have some feet to get it going. And I really wanna thank Mr. Regan who put out a...he can give you the history, but he put out a request for information and then he put a RFP out. So, thank you very much. Mr. Regan, would you like to share with us where we are and what you've done?

MR. REGAN: Sure. Good morning, Chair. Good morning --

CHAIR SUGIMURA: Good morning.

MR. REGAN: --Members. Thank you very much for having me. You know, we...back in 2017, July of 2017, we, our office was asked to assist the Department of Parks and Recreation with taking over a project that they had start look...started looking into, which was to install public Wi-Fi at their various different facilities. And, you know, it's more in line with what we do anyways at Management because IT comes under our...it's in our wheelhouse essentially. And so, we had no problem stepping in to provide assistance with that. And we did some research between August and

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November and then started to put together a request for information, which was the RFI that you referred to, Chair. And back in December, we actually issued the RFI to kinda see what interest was out there from various different companies to provide free Wi-Fi access or no-cost Wi-Fi access in our various different facilities. We did get six responses from various different companies. Some based in Hawaii, some not based in Hawaii. And based on that information, we decided that it would be prudent for us to move forward with an RFP to see, you know, what kind of real offers we could get to support public Wi-Fi here at Maui...in various different facilities throughout Maui County. And so, that was...the RFI was back in January that we closed it out. And in July of 2018 is when we actually issued the RFP. It took us a little bit of time to put it together because there's some technical components to that particular request for proposal that we wanted to make sure that were included in the RFP, things like the type of equipment that would be installed and the expectations that the, you know, how the service should operate. We wanted to make sure that all those things were included in the RFP. We had some addendums that were issued based on questions that came from the vendors who were interested in submitting a proposal. Bids were due in September. And September 8th is when we actually...well, the bids closed September 7th. On September 8th, we identified only one bid that came in, and that was from a company called Spectrum, which many of you are probably familiar with. They're the cable provider, the primary cable provider here in Maui County. And so, their bid was a no-cost bid to the County, meaning that the County would not have to pay anything to have equipment installed in our facilities. And the agreement that they had, or their proposal was to provide 1 hour of free Internet access within a 24-hour period to any individual who, you know, wanted to access their system for free. Any current Spectrum customers would, you know, be able to access these Wi-Fi access points, without the restriction of the 24-hour or, you know, 1 free hour within 24 hours. And so, also included in the RFP, we identified various different locations where we wanted the vendor to install these units or install access. And we broke it out into two phases to make it a little bit easier for the potential vendor to accommodate those requests. In the first phase, which would be completed within the first three months of, once the notice to proceed is issued, we included the following facilities, Lahaina Civic Center, War Memorial Gym, the Mitchell Pauole Community Center, the Lanai Community Center, Mayor Hannibal Tavares Community Center, and Kihei Community Center. And then the second phase, which was basically within six months of the NTP, we included Iron Maehara Stadium, South Maui Gym, War Memorial Stadium, and Velma McWayne Santos Community Center as the identified locations. And I've asked...some people have asked me questions, well, why those locations and, you know, why that order? And essentially, it has to do with the number of people that are at these different facilities, you know, at any given point in time, the usage that might be or the demand that might be occurring at those facilities, and then even just the locations. Like as an example, our Molokai location, I mean it's really important that we have good Internet access, you know, over there at that particular facility including Lanai as well. So, a number of different reasons came into play in terms of identifying those. And yeah, so, I mean it's a good project. It's currently with Corporation Counsel to review the proposal and help us put together the contract. So, nothing has been finalized or executed at this point. You know, our office has had communications with you as well just to talk about where we are in the

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process. And, you know, we've incorporated a number of different things into this that based on feedback that we've gotten from various different areas. So, Chair, that's kind of it in a nutshell. We're hoping that we can get, you know, get the contract completed by Corporation Counsel here soon. And then once we do that, if everything looks good then we'll execute that contract and get these hotspots, Wi-Fi hotspots, installed. And, you know, hopefully get people on the Wi-Fi in those locations. So, that's pretty much it in a nutshell. Oh, one last thing, so, Baron Sumida from our office is taking the lead on, you know, the installation of these pieces of equipment and coordinating with the Parks Department, through Kaeo at the Parks Department, so.

CHAIR SUGIMURA: Thank you. So, the contract is now...it's still in...with Corp. Counsel. So, does Corp. Counsel have any, I don't know if it's Mr. Kushi or is it Mr. Ueoka that's reviewing it?

MR. KUSHI: Madam Chair, I'm not sure what Deputy is assigned to this. It's not me, so. But I can go and check.

CHAIR SUGIMURA: Okay. I guess Corp. Counsel then has no words. Any questions? Ms. King?

COUNCILMEMBER KING: Thank you, Chair. So, I just wanted to clarify some things 'cause I started making notes and then it didn't make sense to me. But, so, Spectrum is agreeing to allow one free hour out of...does that...is that accumulative hour like if you walked into, you know, Wailuku Community Center and you were there for five hours, you used half an hour the first hour you're there and half an hour the last hour. So, it's a total of an hour and then it's free for all...for as many...it's unlimited for, if Spectrum customers, is that what the deal was?

MR. REGAN: That's correct.

COUNCILMEMBER KING: Okay. And then...

MR. REGAN: At least that's my understanding.

COUNCILMEMBER KING: Okay. Yeah, I just wanted to kinda clarify what that 1 hour in 24 means. And then I think it will be helpful if you had a...if we had a list of the qualifications for choosing those locations, you know, whatever your criteria was for choosing the locations. I assumed that it's access to other Internet wireless systems in some vicinities and not others. But just because I think that's the question that's gonna probably gonna come up the most publicly, so. And I'm not asking for it right now but I just think it would be good to when you announce the contract, you know, when it gets finalized, is to have a list of criteria you use to choose those locations that you chose if that's possible.

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MR. REGAN: Some of them are subjective but mostly it's based on, you know, the usage and the number of people that are at those locations. But I certainly could provide that to you --

COUNCILMEMBER KING: Okay.

MR. REGAN: --if you'd like that.

COUNCILMEMBER KING: That would be good to have. Thank you very much. That's all. Thank you, Chair.

CHAIR SUGIMURA: Any other questions for Mr. Regan? Mr. Hokama?

COUNCILMEMBER HOKAMA: So, on the time regarding the proposal you've shared with us this morning, Mr. Regan, and if possible when the Department can provide it, Chair, I think we would appreciate something visible to look at regarding the general scope. I know they're in contract so there may be some privileged components at this time. But if they're gonna use public facilities, I think we should have a little, at least some say in helping maybe to make sure that the agreement is as beneficial as we would like it to be as well. My point is about this one hour a day. So, if...how does this work? If I don't use it for ten days, I get ten hours?

CHAIR SUGIMURA: Mr. Regan?

MR. REGAN: Like you mean cumulative where it aggregates?

COUNCILMEMBER HOKAMA: Correct.

MR. REGAN: I do not believe that that is what they intend but I can clarify that.

COUNCILMEMBER HOKAMA: Okay. And again, you know, just...let's just go look at some of our activities there, an MIL athletic event, a community-sponsored event, you're looking at in more realistic terms, three hours. So, why wouldn't we look for a three-hour minimum Wi-Fi component for our youth, for our residents then? That makes sense to time they would be at the facility is something I would ask you folks consider 'cause that makes kinda good sense to me instead of frustrating them. They're gonna be using it one hour and all of a sudden they have no signal and do we want them to leave the site? No, we don't. I mean if...so, if they're there for a reason, we want them to stay there. So, something for us to think about, Mr. Regan, that I'd be interested in, in ensuring the minimum window makes a lot more sense. I appreciate you going Countywide. And if Spectrum can perform what they're telling you, I'd be happy 'cause I'm not a happy current Spectrum client, okay, with service. So, that's my comments at this time, Chair.

CHAIR SUGIMURA: Thank you.

MR. REGAN: Thank you.

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CHAIR SUGIMURA: So, that would be a contract question I guess, three hours instead of one.

MR. REGAN: Chair, I certainly could reach out to them and ask if they would be willing to expand that, you know, from one hour to three hours. It doesn't hurt to ask.

CHAIR SUGIMURA: Okay.

MR. REGAN: I do know that there are options for non-Spectrum customers to, you know, log on to the system by paying some kind of daily fee or something like that. I mean it's pretty standard. Not...it's not just, you know, here. I mean anywhere that they have free Wi-Fi, if you want to use beyond that, whatever allocation that they provide, there's usually options, you know, paid options if you're not on their system. But certainly, would be willing to ask them if they could expand that from one hour to perhaps up to three hours, you know, for our citizens.

CHAIR SUGIMURA: Mr. Hokama?

COUNCILMEMBER HOKAMA: Are you using that new tool Council provided, which is the concession portion of the Code to move this forward, Mr. Regan?

MR. REGAN: Yeah, thank you, Chair, I mean thank you, Member Hokama. Chair? So --

CHAIR SUGIMURA: Yes?

MR. REGAN: --yeah, you know, the concession code, it has been something that we've been looking at as a component of this, and primarily as it related to the potential for the County to earn revenue in cooperation, in partnership with whoever the vendor may be. And so, we asked that actually, you know, in the RFP, you know, if vendors could supply us with a revenue-sharing proposal, we'd be very interested in that. In fact, it would get more, you know, points in the review process. But again, we had one response. And Spectrum had mentioned that they may explore that down the road with the County if it made sense from a County side. So, it's in there. And we've used...we've looked at the...that portion of the Code that you provided to us as a tool to be able to do that. In this situation, we have one respondent. But we certainly have told them that we're interested in exploring the revenue-generating component that you mentioned.

CHAIR SUGIMURA: Mr. Hokama?

COUNCILMEMBER HOKAMA: And I appreciate it, and I'm glad you haven't inked anything yet because my thing is maybe we need to rewrite the RFP and put out something else 'cause I know we've got sister municipalities, other counties that are using county data for revenue with private sector. So, I know we have something that they definitely would pay for if we just package it right. And then we can get the benefits of the Wi-Fi services or what have you. But I think we still have opportunities, Chair.

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And I'm...I like where the...Mr. Regan and his departments are trying to move us to. I still think we can get something better for the County within reasonable resources. So, I support us still keep moving forward in this. Thank you.

CHAIR SUGIMURA: Thank you. Mr. Kushi, do you have any comments regarding that?

MR. KUSHI: No comments.

CHAIR SUGIMURA: Okay. So, Members, anything else? Ms. King?

COUNCILMEMBER KING: Just a quick question I thought of, how long is that contract for, Mr. Regan?

MR. REGAN: I believe it's five years. Because they're gonna make a significant investment in equipment and then the installation costs, it's all covered by them.

COUNCILMEMBER KING: Okay.

MR. REGAN: So...

COUNCILMEMBER KING: But they will own the equipment so --

MR. REGAN: Yes --

COUNCILMEMBER KING: --it's not like they could...

MR. REGAN: --own and manage the equipment.

COUNCILMEMBER KING: Okay. Okay. So, but it would take us five years to have to look at doing something different if we sign this contract?

MR. REGAN: Yeah. And then also just for clarification, so, this network that they would build, this Wi-Fi network they would build would not be riding on any County network. It's completely separate. That was part of the requirement of the RFP --

COUNCILMEMBER KING: Okay.

MR. REGAN: --was that they would not be utilizing any of, existing County network infrastructure. So, that there wouldn't be this crossover, this potential for, you know, security issues within our own network. So, you know, we certainly do have some level of access at these various different facilities. It's somewhat limited but we, we meaning the County, and particularly just, you know, our philosophy has been let's carve out the public portion, you know, from the County operation so that we don't run into this particular security issue. So, you know, again, because we're asking them to construct their own network and bring in their own Internet feeds, you know, again, that may be part of the reason why it's maybe that's why we only got one

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vendor who was willing to do it. 'Cause Spectrum has all the infrastructure, right? They've got all the fiber and the cable infrastructure that already exists.

COUNCILMEMBER KING: Okay. And...but I would...just to add my voice to that, I mean I would appreciate it if you did, you know, discuss with them about extending that one hour to two or three hours. Because when you look at using those facilities for meetings, for community meetings, very few of them are just an hour. So, if someone's gonna open it up, they're gonna be closed down in an hour because I'm sure they're just...it's the hour that you're logged on. It doesn't matter how much activity you have on it. So, if they're gonna provide something, they should provide something of true value because they also are building their market. They're building an exclusive market if they're only offering free Internet to people who are signed up for Spectrum. So, anyway, that would be my position on it is, you know, minimum of three hours. And then I think you cover almost any community meeting that's held at those facilities.

MR. REGAN: I certainly will do that.

COUNCILMEMBER KING: Thank you.

MR. REGAN: Yeah.

CHAIR SUGIMURA: Thank you. Any other questions for Mr. Regan?

COUNCILMEMBER ATAY: Chair?

CHAIR SUGIMURA: Mr. Atay?

COUNCILMEMBER ATAY: Thank you, Chair. I'm trying to understand this. So, we, the County, okay, we're using...a vendor is coming in to use County facilities. They're offering us or the public one hour free access to Wi-Fi. At the same time, that vendor will have that opportunity of making money for the other 23 hours. How much money do we get from that?

CHAIR SUGIMURA: Mr. Regan?

MR. REGAN: Yeah, at this point, there is no revenue-sharing agreement in place. But keep in mind that these facilities, you mentioned 23 hours, I mean there's not...these facilities are not 24-hour facilities, right? You know, the Mitchell Pauole Community Center is not open at 1:00 a.m. in the morning, right? So, it's not like there's gonna always be people in these facilities. So, when they are utilized, that's when they have the potential to earn revenue, Member Atay. And, you know, in terms of actually buying all the equipment and doing the installations, we're not spending any money for that. They're taking all that risk. And that was really just part of the RFP. We wanted...we didn't wanna have to manage that. We don't wanna have to have somebody on a phone somewhere, having to make calls or take calls, you know, from people in the public that might be having a problem with their Wi-Fi access. I mean

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that...we just don't have the resources, right, internally to do it, and nor do we wanna have, you know, our own technicians, you know, at 3:00 a.m. in the morning having to monitor some security breach because, you know, someone got on to our network and caused problems. So, all those risks are pushed off, you know, to the vendor, whoever the vendor may have been. It just so happened it's Spectrum. They're the only ones that bid on this. But, so, there is tremendous risk that's being taken by this particular vendor because there will be times when no one's gonna be accessing the Internet at these facilities because there just...there's just nobody there.

COUNCILMEMBER ATAY: What I'm...

CHAIR SUGIMURA: Mr. Atay?

COUNCILMEMBER ATAY: Chair? What I'm trying to follow is in a sense where we currently have a concessions ordinance. And I think being fair to other vendors, if you're coming into a public facility and you're gonna acquire an opportunity to generate income, how does that apply with the concessions ordinance? They're coming in. They're gonna make a concession of Wi-Fi service, free for a little while but we're gonna get an opportunity to make money. I don't see it's a benefit for us to give up our public facility. I'd look for...did we all look for free service to our people? You know, and so I'm kinda still kinda puzzled as why we're so quick. I fully support this. I fully support the need of having Wi-Fi service at our public facilities but I'm not ready. I'm...I don't think we're ready or I'm ready to approve a contract to move forward. I open up the agenda item and I have nothing, you know, there's nothing on Granicus for me to look at and check, and the timeline of, you know, what is the example of the RFP, what was requested, you know. So, Chair, I'm not, you know...

CHAIR SUGIMURA: Thank you.

MR. REGAN: Chair?

COUNCILMEMBER ATAY: I just wanna express that.

CHAIR SUGIMURA: So, just, and I'll ask you to answer, but just so, information for the Committee is that I wanted the Managing Director to present to us information and background as to where we are now. So, that was my request. So, there is no contract to review or other things to look at. Mr. Regan?

MR. REGAN: Chair, thank you. I just wanna address a few things for Member Atay. First of all, the RFP is a public document. It is...it's available publicly. So, if you'd like to look at the RFP, you're more than welcome to do so. It is not a private document that we just created and, you know, tucked away someplace. It's a public document. Everything was done transparently, open. And in that document, we did ask for vendors to provide us with a revenue-sharing proposal. And no one came forward with a revenue-sharing proposal. I hear what you're saying, Member Atay, about that. I wish that we could have gotten a vendor who came in and said, hey, we're gonna do it for you for free and we're gonna, you know, provide the County with this kind of

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revenue stream. That didn't happen. That was in the RFP but no one came back with that kind of proposal. Now, in some of the language from Spectrum, they mentioned that they may consider a revenue-sharing agreement if it makes sense from both parties. So, at least that door is open to explore with that particular vendor. But, you know, Member Atay, I can tell you that we were very hopeful actually, based on the RFI that the...like right prior to the RFP, we did the RFI, based on the responses that we got that there would actually be a vendor who would have a revenue-sharing proposal for us. I mean we were very...I was very excited about that. It didn't happen. It didn't happen. So, the options were one of two things for us at that point in time. Scrap it, go back to the drawing board, wait, you know, redevelop I think, you know, like what you're mentioning, Member Hokama, you know, about maybe going back and reworking some of the language, or moving forward. And frankly, you know, this is something that something is better than nothing. At least, that was kind of our viewpoint. And to get one hour at that point in time. And I can like I mentioned, we'll go back and ask them if they can provide us more. But something is better than nothing. And right now, we have nothing at our facilities. And, you know, quite frankly if it's the will of the Committee for us not to move forward with this proposal, I just need to hear that because it's in Corp. Counsel to draft the contract. And, you know, I...this is a community benefit. And, you know, if the consensus is that we don't wanna move forward with it based on what you've heard so far then please let me know because I certainly would love that feedback and would be willing to withdraw it. It's a lot of work. A lot of time has been put into this. A lot of efforts has been put into this. And, you know, if the Council or, you know, if Members don't feel that this is appropriate, I just need to know.

CHAIR SUGIMURA: So, appreciate all the work that you have done on it 'cause it's been a long haul until you picked up the ball and have run with it. But I guess my question is from what I'm hearing from the Members is, is it a deal-breaker to go back and ask, if the RFP has been put out already and this is the response we got, to go back and ask for could you possibly do it for three hours versus one and see what Spectrum says? Is that appropriate? Mr. Regan?

MR. REGAN: Oh yeah, absolutely. And as I mentioned, I definitely am gonna that, you know. And I also am...my intent was once we got the contract back from Corporation Counsel is to enter into those negotiations with Spectrum and start to talk about things like the revenue-sharing component. What is that gonna look like potentially for us? You know, are there triggers? You know, what is it that they wanna see or and that we wanna see where that occurs? And if we can't come to a meeting of the minds then, you know, we're not gonna move forward with the project. But certainly to go back and talk about those things. But...

CHAIR SUGIMURA: Thank you. Very good. Mr. Hokama, your light is on. Oh, did you have --

COUNCILMEMBER HOKAMA: Yes, it is.

CHAIR SUGIMURA: --a comment?

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COUNCILMEMBER HOKAMA: Yeah, so...

CHAIR SUGIMURA: Oh, sorry, Ms. Cochran is here. Thank you very much.

COUNCILMEMBER COCHRAN: Thank you very much, Chair, aloha.

COUNCILMEMBER HOKAMA: So, currently, under the proposed agreement as you best understand it, Mr. Regan, who controls and owns the data from the system when it is operational? Will it be Spectrum's data or will it be Maui County's data?

MR. REGAN: Well, at this point...Chair?

CHAIR SUGIMURA: Yes?

MR. REGAN: Member Hokama, at this point, it's their data because they're the ones building the network. We're not...it's not our network --

COUNCILMEMBER HOKAMA: Right, right.

MR. REGAN: --right?

COUNCILMEMBER HOKAMA: Okay. Then, yeah, then I'm going to tell you...that, on that point, I get one issue with this agreement. Okay. If it's in our facilities, it should be our data 'cause that for me is a future revenue source of this County. You know, if we're gonna start off into this relationship with the private sector, they are, no, they're gonna have to start paying for this information from the County. I expect this to be a revenue source. So, if they're gonna say we're gonna give you free, it ain't free. They've calculated value in this data. That's why they want the data. Okay. There is value. Someone made a determination that it's a good deal for them. I agree but for me it ain't gonna work from our side, the County's perspective. That should be our data and our ability to make use of that for County benefit. Thank you.

CHAIR SUGIMURA: Members, I'm gonna ask Staff to have the RFP available and to be put in Granicus so everybody can see it. And I guess the RFI was also public information. So, Staff, if you can also put that in so that the two documents...Mr. Regan, so, could you go back and discuss with Spectrum based upon the input and see where we go? Any other comments, Members?

COUNCILMEMBER COCHRAN: Chair?

CHAIR SUGIMURA: Yes?

COUNCILMEMBER COCHRAN: And, Chair, thank you, and pardon my tardiness. Thank you, Mr. Regan.

UNIDENTIFIED SPEAKER: Yeah.

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COUNCILMEMBER COCHRAN: I'm sorry I missed if we had a presentation but I caught the tail end here. I'm just going back to when I first had gotten on the Council though and there was a discussion between myself and Mr. Verkerke. I see him here in the gallery. And it was in reference to having free Wi-Fi at all our park facilities. So, I'm trying to jog my memory in reference to, is this written somewhere in our parks, I don't know, facilities manuals or in an ordinance of some kind somewhere in reference to Administration on behalf to supply the community at our centers, facilities, Wi-Fi? And I guess it just never really got off the ground. And so, I'm looking back eight years when this discussion had occur. And I'm sure it's been...I don't...so, I don't know, do you have any comment in reference to what I'm trying to remember here? Or I know Mr. Verkerke is here also but...

CHAIR SUGIMURA: Mr. Regan?

MR. REGAN: Yeah, so, as far as I know, there's no requirement for us to provide public Wi-Fi. It's not a, you know, required utility that we provide to the public. In some places, they do it, you know. In some municipalities, they do it. Others, they don't. They wanna keep it separate. And that's why you have these different agreements that are put into place, these different RFPs. We're not the first community to do this by the way. I mean there's numerous other communities out there that have gone through this process. And so, I think this may have been born, I mean this project may have been born from discussions in the past that we've had where the public is asking, hey, why don't we have a hotspot here, why is there no Wi-Fi hotspot, you know, here at this location X. Other places have it, you know, why don't we? You know, go to Starbucks, or I'm sorry, any coffee place, you get free Wi-Fi, you know. You go to any fast food place, they pretty much have Wi-Fi. Why doesn't the County? And so, maybe it was maybe just our conservative approach to providing access to our network that we don't want to take on that additional risk, if you will, just by opening up our Wi-Fi. 'Cause we do have Wi-Fi throughout this building, this campus has Wi-Fi as an example. There's in fact I think this Chamber probably has Wi-Fi and it's free from what I understand. But, you know, based on those conversations that we've had over the...in, you know, past years maybe eight years ago, seven years ago, I'm not too sure exactly where or when that happened --

UNIDENTIFIED SPEAKER: Okay.

MR. REGAN: --it probably, you know, created this project. Again, this was something the Parks Department was working on. But, you know, they're...they are so busy with other things going on as we all are that when this kind of popped up on to our radar and we started looking at it and started talking with them about, you know what, okay, maybe we can help you with this. And that's how we got involved.

COUNCILMEMBER COCHRAN: Okay. Yeah, very good. I've always been very open and looking forward to having something like this come about. But also having been involved with *Akaku* and the broadband issue and looking at this kind of having certain entities monopolizing I guess this type of service and seeing how the County

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can be involved because I look at this as infrastructure, you know. And this is a County, you know, it can be a resource for this County. You know they have to run lines and cables and thing within public infrastructure. We are the public. And so, I'm not too keen on having to outsource if we don't have to and we be the provider, we be that. You know, I'm looking at airports, free Wi-Fi sitting around in airports, you know. I mean they don't have a security issue seemingly for that. So, anyhow, yeah, I think there's definitely more discussion here. I would not be comfortable in making a decision right here with the information I have in front of me at this time. But that's my comments at this time. Thank you, Chair. Thank you, Mr. Regan.

CHAIR SUGIMURA: Thank you. Members, Mr. Verkerke is in the audience, do you also want him to join in this discussion? Are you fine where --

COUNCILMEMBER KING: Not necessary.

CHAIR SUGIMURA: --we are? We're fine? So, I also had Staff pull...bring to you and pass out the RFI and RFP. Ms. King, did you have a comment?

COUNCILMEMBER KING: Yeah, I do. Thank you, Chair. I just wanted to thank you, Managing Director Regan, for bringing this in front of us and having this discussion. Because I'm fully aware that it's a no-cost contract. So, you don't have to...you're not obligated to share this with the Council. I mean you could go ahead. And I think that there's other contracts that are actually under lawsuit right now because they are cost contracts and they haven't come before the Council, not that you were in charge of. But I'm in support of having Wi-Fi available. And I understand that this is a way of getting it there and you have to give some value to the person who's going to install that equipment for free. I was on the State Board of Education the first time we put computers in the libraries for people to use. So, that was incredibly valuable. And I think this is incredibly valuable. But I think it's a limited value with the one hour. So, that's kinda my push would be on it. But I would support, you know, I would support a five-year contract with a review at some point. I mean that's a...that would just be a suggestion because five years is a long time for technology. Technology is changing almost on an annual basis. And so, that's...five years is a long time for the technology world. So, that's just my comment. But I do thank you for sharing this information with us because I know you don't have to and...but it is important. And the public that doesn't have access to Wi-Fi, I...because I'm also a Spectrum customer and I, and, you know. So, but I see it as a way of...it's kinda the same thing that happened back in education years ago when Apple came into Foodland and started providing iMacs to, you know, the Apple computers to all the schools. And now, that this whole generation that grew up on one type of computer. And so, that is a huge opportunity I think for the provider that needs to be balanced against what we're getting. So, but I just wanted to recognize the fact that, you know, I appreciate your being...willingness to hear our opinions on it.

CHAIR SUGIMURA: Thank you.

MR. REGAN: Chair?

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VICE-CHAIR CRIVELLO: Chair?

CHAIR SUGIMURA: Yes --

MR. REGAN: I'm sorry.

CHAIR SUGIMURA: --Mr. Regan?

MR. REGAN: One thing I wanted to add is that it's my understanding that the DCCA, which is State Department of Commerce and Consumer Affairs, when I guess they approved the transfer of Oceanic Time Warner Cable's franchise from Time Warner Cable to Charter Communications, that part of that decision which is known as Order Number 366, did require them to provide public Wi-Fi access points throughout various different franchise areas. So, within four years after the close of the transfer, which that was, the transfer occurred in 2016. So, they are required to install these Wi-Fi hotspots in different places. But what's very interesting is in that order, it requires them to provide one hour of free service per day per device. So, you know, it's very similar to what is being provided here, right? So, I just wanna kinda put that out there that this is, you know, it appears to be something relatively standard. But again, you know, my intent is to ask them obviously for more. But I just wanna to kinda put that out there, Chair.

CHAIR SUGIMURA: Thank you. Important information.

VICE-CHAIR CRIVELLO: Chair?

CHAIR SUGIMURA: Oh, yes, Ms. Crivello?

VICE-CHAIR CRIVELLO: Thank you. So, thank you, Mr. Regan, for being here. How does this tie in to the I think it's a recent FCC requirement that's gonna come before the, I guess all state and local where they're trying to accelerate broadband for 5G and we won't be...oh, the fees would be very minimum. I just don't know all the details. But is this kinda...is Spectrum in a way just getting on top of it before elsewhere? In other words, we're gonna have to provide the infrastructure that they can put up their I guess wireless broadband or what have you on our easements. And I guess even the utility poles that may be in joint use with MECO and cable and TELCO, so.

CHAIR SUGIMURA: Mr. Regan, do you have information on the 5G --

MR. REGAN: Yeah --

CHAIR SUGIMURA: --also?

MR. REGAN: --I know exactly what Member Crivello is speaking to, you know. And it's something that's extremely concerning for me, and it should be extremely concerning for this body and for the next Mayor because it is...on September 26, the Federal

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Communications Commission actually voted to limit local governments' timeframes that they have and the fees that they can charge as it relates to the siting of these small cell wireless infrastructure components, also known as 5G, right, what we've been talking about. And basically, what this order from the FCC does is that it requires county governments like ours to approve small cells being attached to existing structures within 60 days. So, it sets a timeframe for us. And if it's...if they're putting new poles in, it sets it at 90 days. And that means the reviews, the permitting, you know, all of that needs to be done within that timeframe. And it limits what we can charge for application fees, for permit fees to \$500 maximum. And that can include up to five sites, you know. So, they put all these restrictions in place for local governments like ours without really thinking about how that's gonna impact us. And that means they can put it on existing facilities. They could put it on this building, and we would be required, you know, to process that. And that's really scary to me that the Federal government would step in and say, sorry, local government, you no longer have a say in this. It's not related to what we're talking about by the --

UNIDENTIFIED SPEAKER: Yeah.

MR. REGAN: --way but it is something we should be concerned about. And then even, you know, the recurring charges that the community could...like the local government could charge, limited to \$270 per year, per year. And other municipalities have negotiated like a thousand dollars per year per site. City and County just negotiated one. 'Cause I was...before this order came out on the 26th, I was actually talking to the...my counterpart there and asking him, hey, what's going on with the 5G situation? What is City and County doing? He said, oh, we've already negotiated this contract, you know, we're gonna get a thousand dollars per site, and, you know, it's gonna be a good revenue-producing thing for us. And I was like, wow, congratulations. We need to do that here. Can you send me that documentation? And no soon after I got that documentation, this order came out from the FCC. So, Chair, thank you for letting me kinda vent a little bit on that. But I'm...this is something that I think we should all really be concerned about. Because for the Federal government to step in like this and dictate how County, you know, should be handling it is really bothersome.

CHAIR SUGIMURA: Thank you, Mr. Regan. So, it might be something that Mr. Hokama wants to chime in 'cause it sounds like a NACo might have some input. But is there an opportunity for us to also negotiate or is that the final order? I'm not too sure how Federal government works.

MR. REGAN: Chair, so, from what I understand, there were a number of municipalities that provided testimony against this measure, against them moving forward to support it. And they basically said, the Commission basically said too bad.

CHAIR SUGIMURA: Wow.

MR. REGAN: So, I don't know where it goes from here. You know, I don't know what the process possibly could be. But I'm sure Member Hokama has a lot of insight given his

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years of service with NACo. And NACo by the way was the one's fighting against this. They were really taking a charge against this order. But, yeah, thank you, Chair.

CHAIR SUGIMURA: Thank you. Members, so, just know that this discussion is separate from the RFP that we were...that's on our agenda, but it's related. So, thank you, everyone, for the discussion. Any other questions for Mr. Regan? So, I just wanna thank you for moving this forward because it was a difficult process and I think we have the RFI. We'll put the RFP/RFI in Granicus so the Members can look at it. And we'll hear further your progress. And based upon this discussion, if you could continue talking to Spectrum and see if we can make this happen. So, Members, I'm gonna defer this item and we'll take it up again at the appropriate time.

COUNCILMEMBERS VOICED NO OBJECTIONS. (Excused: DG and MW)

ACTION: DEFER PENDING FURTHER DISCUSSION.

CHAIR SUGIMURA: Thank you very much, Mr. Regan. Thank you, Mr. Verkerke, for being here to listen in from IT. I'm gonna take a ten-minute recess and be back here at 10:25, everyone. Thank you. . . .(gavel). . .

RECESS: 10:13 a.m.

RECONVENE: 10:28 a.m.

CHAIR SUGIMURA: . . .(gavel). . . This meeting for...is back in order for Policy, Economic Development, Agriculture.

PEA-4(2): 2019 MAUI COUNTY LEGISLATIVE PACKAGE (CC 17-9)

CHAIR SUGIMURA: We're gonna be taking up the fourth item, which is the Maui County Legislative Package. Members, as you remember, our last meeting on the 15th, we took up two items of the four from the Maui County Legislative Package. And we have before us two items that are being submitted by Member Atay. And this is...the first item we...if we could take it up one by one is relating to allowing pre-contact Native Hawaiian burial sites to be dedicated as cemeteries. Mr. Atay, would you like to say a few words regarding this?

COUNCILMEMBER ATAY: Thank you, Chair. You know, the proposal I have submitted to the Committee would provide a way through State law for landowners with pre-contact Native Hawaiian burials on their property or who discover these burials on their property to dedicate such property as a cemetery. Currently, Native Hawaiian burials are treated differently from modern-day cemeteries. While traditional Native Hawaiian burial practices are quite different from modern practices, the remains interred in these burials deserve the same level of respect. My proposal redefines cemeteries to include pre-contact Native Hawaiian burials. The caretakers of these burials once

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dedicated as cemeteries would be a lineal descendant of someone in a burial site or a member of the Aha Moku Hawaiian Council. Furthermore, my proposal does not allow for any new burials within the dedicated cemetery unless the burial is just a reinterment of that Native Hawaiian remains that were removed. Should this proposal become State law, I believe we would be able to better protect the graves and remains of our ancestors. Thank you, Chair.

CHAIR SUGIMURA: Thank you. Mr. Carroll?

COUNCILMEMBER CARROLL: Thank you, Chair. I support what's before us today but I do have concerns for Hana. Because Waikoloa we have...the burial place over there is huge. Most people don't realize how big it is because it is pre-contact. But also we have current burials in that cemetery and we plan on having more. So, I think there are certain areas that perhaps need to be addressed for Pacific [sic] areas. And we also have a really large, large cemetery, Waianapanapa, inside if you go toward the airport and another one below. And we're also using those currently for...the last one interred there was Mr. Lono. So, I'm a little concerned about that one part about not having new burials over there. But I think all that can be handled when it comes up. But I feel that it's important just to bring that up that we are concerned about...I don't know if other areas have problems like that over here. I doubt it. But we also have several places, Kaupo, that we have the same concerns. But I will support what's on the floor today. Thank you, Chair.

CHAIR SUGIMURA: Mr. Carroll, so, you've mentioned Waianapanapa, Kaupo, and what was the first item...

COUNCILMEMBER CARROLL: Waianapanapa, Waikoloa, --

CHAIR SUGIMURA: Waikoloa.

COUNCILMEMBER CARROLL: --and then there are several places in Kaupo.

CHAIR SUGIMURA: So, for clarification, you're saying that the way that this legislation would affect these areas...

COUNCILMEMBER CARROLL: We're concerned because we use it for current burials too, where the...those burial grounds are still being used by East Maui residents.

CHAIR SUGIMURA: Thank you.

COUNCILMEMBER CARROLL: Thank you.

CHAIR SUGIMURA: So, they are cemeteries right now you're saying?

COUNCILMEMBER CARROLL: The only one that's recognized as a cemetery, part of it is Waikoloa. And it's not a County cemetery. It's not any, it's just recognized as a cemetery. But it doesn't encompass...nobody really knows where the boundaries are

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because that's a pre-contact one and it goes way up. So, the...that's kinda hard to tell the actual area. We did have something way back in 2002 that there was one Mr. Malaikini wanted the County to take it over because a lot of the older people that took care of it were, you know, having a hard time to try to get more maintenance. But the community rejected it. They wanted just to keep it the way it is.

CHAIR SUGIMURA: Thank you. Ms. Crivello?

VICE-CHAIR CRIVELLO: Yeah, I have a question for Mr. Carroll. So, at these existing cemeteries that you're mentioning in Hana, there also is pre-contact burials --

COUNCILMEMBER CARROLL: Yes.

VICE-CHAIR CRIVELLO: --from ancient times?

COUNCILMEMBER CARROLL: Yes.

VICE-CHAIR CRIVELLO: Okay. Thank you.

CHAIR SUGIMURA: Okay. But of the locations you mentioned, only one is an official cemetery site, which is --

COUNCILMEMBER CARROLL: At --

CHAIR SUGIMURA: --Waikoloa?

COUNCILMEMBER CARROLL: --Waikoloa.

CHAIR SUGIMURA: The rest are...

COUNCILMEMBER CARROLL: It's marked on the map as a --

CHAIR SUGIMURA: Oh, your...

COUNCILMEMBER CARROLL: --cemetery site.

CHAIR SUGIMURA: Can you speak into your mic, sorry?

COUNCILMEMBER CARROLL: It's marked on a map as a cemetery site. But it doesn't...the boundary doesn't encompass the whole site though because it...we know it goes way further up. So, someday gonna have to go over there and try to ascertain the actual boundaries of that site. It's quite large. Even the one, Waianapanapa inside, it's really big.

CHAIR SUGIMURA: Thank you.

COUNCILMEMBER ATAY: Chair?

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CHAIR SUGIMURA: Mr. Atay?

COUNCILMEMBER ATAY: Chair, if I may add, yeah, I'm very familiar with these three sites that Member Carroll has mentioned. And these are all, you know, pre-contact Native Hawaiian sites. And the lineal descendants all recognize that, you know, I mean these are the sites, this is a burial location but not all of them are recognized on paper, on a map as being an official cemetery. But the lineal descendants of the area all know that this is where all the kupuna and iwi kupuna are. So, yeah, it's an interesting thing too.

CHAIR SUGIMURA: So, Mr. Atay, are there other areas besides what Mr. Carroll has mentioned that would be affected by this legislation?

COUNCILMEMBER ATAY: I would assume so, Chair. I mean throughout all of Hawaii nei, there are pre-contact burial locations that a lot of the lineal descendants are well aware where they are. It's just that contemporary times do not recognize those locations.

CHAIR SUGIMURA: Anyone have questions for Mr. Atay? Ms. Cochran?

COUNCILMEMBER COCHRAN: Thank you --

CHAIR SUGIMURA: Your light is on.

COUNCILMEMBER COCHRAN: --Chair. Thank you, Mr. Atay, for proposing this. I'm very much in support of it. And I think it will help assist with the whole sand mining issue that's going on in our central valley here. I think that's the crux of a lot of what's happening and the controversy in what's occurring there too and, you know, the whole Honokahua issue and things. So, thank you for this. I think it has to be written in black and white and put into this form for others to understand what it means to have burials and sites and not...things without headstones, you know, are still considered a cemetery and a burial and need to have its rightful respect and protection it deserves. So, thank you. I completely support this.

CHAIR SUGIMURA: Thank you. Mr. Hokama?

COUNCILMEMBER HOKAMA: Thank you, and thank you. You know, I understand the goal line of what we're trying to achieve. My concern is this proposed route that we would take. So, for me some of the issues is one, of course, I understand the proposal is to go through a State process for a State department to be assigned to do a State, well what we believe is Statewide concern. I don't know who's gonna do it though. DLNR? When you look at their land component, they got one agent for the County of Maui, one agent not for Maui, for the County. I don't know how we're gonna make this work. Hopefully, you know, we can have people who can give recommendation. But for me, some of the more County concerns is does this automatically then change the zoning of the land also if it's designated as a cemetery? Does the County land use

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designations change at all? So, and again, I know we don't have Finance here, Chair, but I think we should ask certain questions. And I thought one of the testifiers' concern about current potential linear [sic] challenges I guess on certain areas, what happens to those cases. Again, I'm not an attorney. I just know that we have to deal with some of these issues if this moves forward, how we would work with the State to get certain things squared away especially in land use zoning and taxation. You know, there's presumptions, preemptions. The one thing that I found interesting is that even if we found a dedication, we are going to exempt them from doing the registration of the bones that I would think would be something that we would want to have if possible for whether or not there are families that can be contacted or not about their role in that area. I believe like many do, the kupuna understand what families were there from the old days. But we may have missed someone that we shouldn't. So, I think registry is still a critical point of discussion that we should be considering, and such records to be properly kept. Again, for many of us, we have a general understanding. But I think for...I would ask people like Mr. Atay and others, maybe we need a better, more specific understanding, and when we talk about pre-contact Native Hawaiian burials. Okay. So, is that everything before the first white guy? Okay. So, that means that's even pre-Kamehameha era. Okay. What is pre-contact? Let's get it all squared away so we all agree on what we're discussing. And so, we can appreciate what we're trying to achieve, Chairman, I would say that. The other areas, again, as we, our...the culture is continually be revived and re-embraced, when we talk about pre-contact burials and protocols, I hope we have, you know, something we can rely back on for authentication and verification, Chair, whether it be the royal or whether it be the women of . . .(inaudible). . ., whether it be University of Hawaii, Hawaiian Studies, I don't know. But I think we should try and get some understanding consistency as we move forward of when we say terms and phrases of our...that we have a general understanding of what we're trying to talk 'cause I'm not sure we all agree on some of those terms at this point in time. So, that's my points at this time, Chair, of I can see being asked by State legislators of what is the County's intent and meaning by this proposal. Thank you.

CHAIR SUGIMURA: Good questions. So, do you think that is something...you didn't mention SHPD or Burial Council or native, you know, DLNR in that way. So, do you think it's something that we should also get their input besides Finance?

COUNCILMEMBER HOKAMA: I think we know what SHPD is gonna say. We're gonna need to ask for personnel and money to have that branch of an important department to do what they're required to do. Maybe it will help them draw the focus of the needs that that program needs to be provided with, Chair. I don't know. But all I know is DLNR has a critical role in State governance. Okay. And maybe they need to have more support like other State departments. But that's something the Legislature is gonna have to wrestle with and come up with better options and results, Chair. Thank you.

CHAIR SUGIMURA: So, do you think that before we move forward, we should ask for Finance to have an input on this from your questions?

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COUNCILMEMBER HOKAMA: Well, eventually, I would like to be able to respond to those that question us on what happens to those lands. Unless we already have an answer we know that has been provided then I would say we just share that information.

CHAIR SUGIMURA: Mr. Atay, on that other question, what is definition of pre-contact? That's another good question in terms of pre-contact for Native Hawaiian burial sites. So, is it before Kamehameha? Is it...

COUNCILMEMBER ATAY: You like the simple answer?

CHAIR SUGIMURA: The...

COUNCILMEMBER ATAY: When did cemeteries begin? So, these burials were not in what we recognize as cemeteries. But obviously, the civilization that was going on way back then had enough respect to have a burial. What we're seeing right now is quite evident, you know, where we're at. We're seeing remains being dug up and not just one but a series of them which would indicate that there was a previous civilization that recognized burial. It's just that on a paper and on map, it's not a mapped-out cemetery. So, yes, pre-contact is when did they arrive to create a standardized location of a cemetery. It's...if you wanna ask if it's pre-Kamehameha or pre the arrival of Captain Cook, whatever the definition that the State Legislature will come up with. For me, I just wanna address this issue of respecting the remains that we are constantly finding daily from our ancestors, and how do we show them respect.

CHAIR SUGIMURA: So, Mr. Atay, just question then based upon what Mr. Carroll mentioned in terms of the three locations in Hana that he considers to be cemetery sites of which one only is an official cemetery. So, what would happen in Kaupo then if the Kaupo community, someone had a home and they end up finding a burial site? If they wanna build something and they would have to go through the process of SHPD and DLNR to recognize...in order to move ground, right? So, what would happen according to your proposal? That site would be designated as cemetery? Is that what you're looking for?

COUNCILMEMBER ATAY: The site would be designated as cemetery. And then as this proposal defines cemeteries, the caretakers of these burials, once dedicated as cemetery would be lineal descendants of someone in the burial site or members of an Aha Moku Hawaiian Council. The Aha Moku Council are residents/sometimes lineal descendants of that specific area. So, these are cultural practitioners that know the history of their area and their lineal...they're connected to the practice of taking care of and showing respect for the burial remains that they have now entrusted on. The practice would be to, you know, hopefully reinter them back into the original sites. What's going on right now is people are digging them up and then they have a person comes in and says, oh yeah, those are remains, those are bones, put them in a cardboard box, stick 'em on a shelf or put 'em in a floor of a backroom office. That's not the kind of respect we need to be giving our ancestors. And basically, this legislation creates the opportunity for the State through its laws to also have an

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opportunity to recognize pre-contact Hawaii burial sites. Definition of pre-contact, I would say before the arrival of Captain Cook.

CHAIR SUGIMURA: Ms. Crivello?

VICE-CHAIR CRIVELLO: I'd like to see somewhat this go through but I can imagine how the State Legislature will basically try and dissect it as such. So, we do recognize that we do have pre-contact Hawaiian burials. There's no question about it. I wanted to know in this who, you know, I think the identification of lineal descendants is number one because the descendants will decide if they want to reinter their kupuna to a different area or they will consider to have it just reinterred at the place of findings. So, I also recognize that it's our kuleana to protect our sense of place. So, question would be, who would subject the DNA...who do we subject the DNA analysis to? Whose kuleana that, does that fall on to confirm the lineal descendants because sometimes it end up hakaka, yeah. And then I think, too, it's who will identify the remains? So, is it the Aha Moku? Are they representative of the lineal descendants? Or is it...are they to say it's government who does that? Is it SHPD? Is it DLNR formulating another department? Now, when we say reinterred to be a cemetery, do we reinter it there and plot it as a cemetery as how we look at it in a contemporary way? Or do we have it plotted that of ancient...of our ancestors? So, those...these are the kinds of questions that I think I'm sure there's many more. Or what was the kanawai from before? What is the Hawaiian law that we dealt with, with our iwi kupuna? So, I just have these questions that I think if we put them all in place, it would be easier or more supportive of passage. I...that's just my concern. But as far as for us to ref it to the State Legislature, should we have all this in place or shall we...or are we just sending it through and not...and just do it that way? That's the other part I wanted to know. Thank you, Chair.

CHAIR SUGIMURA: Good discussion. So, basically, Member King, if I could get to you next, it's interesting that I guess when I think about what I think of cemetery is may not necessarily be pre-contact or types of cemeteries that are cemeteries that we see today where people are gathered at a certain site. So, Mr. Atay, the cemeteries that you're talking about would be what? What kind of cemetery are you thinking it's gonna be? For example, Waianapanapa or Kaupo. And Waikoloa is a cemetery if what I'm gathering from Mr. Carroll. So, what about these other two areas, what would happen to these other two areas based upon what you're --

COUNCILMEMBER ATAY: What's going on --

CHAIR SUGIMURA: --proposing?

COUNCILMEMBER ATAY: --right now? Those examples that Member Carroll shared, we, the residents of that area, all know that those are ancient burial grounds of lineal descendants from many, many generations ago. And so, everyone knows those exist there without having to have a mapping to say that's a cemetery. Everyone knows that. Everyone knows these are the ancient grounds where all the kupunas are. And there are some members of the community of today that also has their...have their

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wishes and desires to be placed next and with their kupuna. It's just a matter of those who are deeply connected to the past, we all know. So, these areas I fully agree, Waikoloa, Honokalani, Kaupo, Waianapanapa, these are all the locations that lineal...we all know they're there.

CHAIR SUGIMURA: Thank you. Ms. King?

COUNCILMEMBER KING: Thank you, Chair. Yeah, I see this bill...this...and it's actually urging the State Legislature to pass this. I see this as a redefining of cemeteries. Because you're right, we have a Western idea of what a cemetery is. It doesn't respect the Hawaiian culture idea of where they...the descendants have been buried. So, I think one of the, and correct me if I'm wrong, Mr. Atay, but I think the main purpose of this is to redefine what a cemetery is so that we respect that there are different ways of interring our descendants that we've used the different, you know, Hawaiian culture has used that needs to be respected as much as our Western-style cemeteries. But the other thing about this bill is I think it needs to be simplified. And I think we're getting way into the weeds of the details. This is to me the kind of thing where we...we're expressing the desire. If we urge them to pass something like this, we should be expressing the desire to expand that idea of what a cemetery is, to respect the iwi kupuna. And then bills like this usually have a procedure written into them, you know, that allows the administration, the State administration to write administrative rules to decide how it's going to be administered. I don't think it's incumbent upon us as a body that's urging the State Legislature to take this up, to work out all the details. Even the State Legislature won't work out all the details if they expect the administration to do that. That's what...that's a lot of what the administration does is they write administrative rules, they're given direction by these types of proposals, they write administrative bills. I mean I've seen it in tax credits. You pass a tax credit and you allow the Legislature...or the administration to write the rules for how that's going to be applied and, you know, what areas it's gonna be applied in, the procedures for giving tax credits and things like that. So, I would actually like to see this proposal be even simplified even more. But the one thing I did want to express to Mr. Atay is that I'm a little bit confused on what portions of this are new and what portions of...it's written in Ramseyer format and usually you do that when you're taking something that's already in a State...a statute and then you're changing it. But it seems to me that this first page is most of it is new. So, if it's new, then all the pieces that are new should be underlined if it's addressing an existing bill. But if it's a totally new bill then there shouldn't be any...and then there's these other pieces that are underlined that are not, I guess are not...if everything's new then everything is new. So, I'm just kinda confused about how it's written, what parts of it. And if it's changing Section 441-1, I think that's a separate bill to revise that statute versus the bill that's...the first page which is new descriptions. So, I just I'm a little bit confused and not...it's not in the format I'm used to seeing State legislation. But I do...I support the concept and I think that if we get too much into the weeds with saying, well what about this detail and that detail, I mean that's how I've seen legislators basically kill bills. So, if we wanna urge the concept of getting outside of our box of what we see as a cemetery and including the cultural aspect of what, you know, in what a cemetery is, which is in our Countywide Policy Plan. You know, our

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Countywide Policy Plan says that we respect the culture. So, I think this is in line with what we should be doing as a Council is urging this kind of legislation. But I just don't wanna see us get so caught up in what happens if this, if we do this, and just, you know, what do we...what...we let the administration do that if it passes the State Legislature. That's my thought on that...this. So, I support the concept. I think it might need another rewrite. And I also wanted to ask Mr. Atay if there is any legislator either a Senator or a State Senator, or Representative that has agreed to take this up? Because then --

CHAIR SUGIMURA: Mr. Atay?

COUNCILMEMBER KING: --that would be someone who could help rewrite it.

COUNCILMEMBER ATAY: Thank you for that, you know. So, there were a couple of legislators that were...shared the idea, not specifically, but shared the concept and the idea of we need to be moving this forward to address some of the pre-contact issues. And so, a couple of them have expressed interest and addressing that.

COUNCILMEMBER KING: Okay. 'Cause I, you know, I just thought maybe that would be if there is interest already out there that would be a good source to go to for a rewrite and for advice on what portions of this they would expect the administration to come up with after the fact, after it passes, if and when it passes, and what portions of it need to be worked out before they propose it.

CHAIR SUGIMURA: Thank you. Members, where are we on this? Ms. Cochran?

COUNCILMEMBER COCHRAN: Thank you, Chair. I just wanted to share a little bit more to elaborate I think the importance of this. And no one mentioned Iao Valley. Iao Valley is actually one of the first mausoleums as a burial site for our alii. The caves, the pohaku, everything is that-that sacred and important to protect. And so, it's unfortunate after that big flood of September 2016, the occurrence that had happened to the pohaku there. But also, I had a firsthand, it brings me to an experience yesterday actually in Hamakualoa and learning about the whole cliff side of the valley in that area and the niches and the caves and the burials that are still there today. And then seeing the dumps and the desecration of trash and vehicles and things that are dumped strewn the side of this cliff. Yet when you don't know what's actually there, that's...what a disgrace and desecration is occurring. So, this language will shed light on areas such as I'm speaking about. Because no, it's not a flat, open land with grassy knolls and headstones. This is a cliff side of native flora and fauna, and caves and things that ought not to ever be disturbed. You know, there's a mountainside that was...a road was cut through in Honolua. Should there have been these types of caves and burials that no one knew about, I mean it's gone forever. So, thankfully that particular area...but who knows from here on out? So, this type of bill needs to be put into place for protection of areas that we may just look at as a mountainside, yet people know who's there, who's interred there. And so, I just wanna share that this is very, very eye-opening for me to know that when you look at just a piece of mountainside or some sand dune and think that's all it is, that is not

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the case in many areas. And so, we need to push forward. And I agree, we are getting in the...into the weeds here and the minute discussion because that's...should be left for future, and, but to move it out here, to move it to where it needs to go to get the work on it done. Thank you, Mr. Atay.

CHAIR SUGIMURA: Thank you. So, question on that. In the proposed bill on Page 2, at the very bottom, Mr. Atay, for cemeteries consisting--this is what you added into it--for cemeteries consisting of pre-contact Native Hawaiian burials, the cemetery authority shall be a lineal descendant of a Native Hawaiian person interred in a pre-contact burial in a cemetery or a member of an aha moku. So, this is talking about the cemetery authority. So, you're basically saying that the authority will then be who?

COUNCILMEMBER ATAY: It's a...Chair, you know, probably if I may, I'd like to call out Trinette Furtado as a resource person on this. She specifically worked on this legislation with pertaining to following along the HRS. If the Members don't object, you can call her forward and she could answer that question.

CHAIR SUGIMURA: Members, you have any objections? Okay.

COUNCILMEMBER ATAY: Trinette?

MS. FURTADO: Thank you, Members. I've been listening to your questions in the office. And what the proposal does from our office is just add pre-contact sites to the already defined...to the section that already defines cemetery. So, we're not looking to disallow activity by SHPD or split up cemeteries or any of that kind of thing. What it would disallow of sorts is the addition of new bones to a site that has already been defined as a pre-contact site. So, the taxation, the zoning, Change in Zoning, whatever is occurring now, our office's thought was the same things that are happening to those areas defined as cemeteries now would occur for those that are pre-contact sites. So, as Kelly was saying, we were trying very hard to not get into the details and weeds of this thing because it is a State authority. It's their jurisdiction for all intents and purposes. But the thinking of our office was that we have to put forth something. Because as we can see from the Maui Lani issue and this ongoing litigation, it's a finger-pointing kind of thing. We're seeing one side going well we have no jurisdiction, we can't say anything. And the other side going well we actually don't either. And so, it leaves decisions up to whom, to the developer and/or the project manager, and for our office that's not good enough. We've had a lot of constituents come and ask us what could possibly be done. So, the most basic thing we could find was looking at adding pre-contact burials to the definition in HRS 441. So, it doesn't change anything that, you know, HRS 441 currently does except for instance with the cemetery authority. There's already a definition for cemetery authority in 441. We're just adding that as part of that cemetery authority. There should be a lineal descendant or an Aha Moku rep of that area so they can inform the cemetery authority whomever it is to, you know, what's going on in that area.

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CHAIR SUGIMURA: So, if I could, tied to that then, if bones are found, a Native Hawaiian whatever, a battle area as Ms. Cochran talks about, Iao Valley or, you know, Kepaniwai area, how do you know who the lineal descendant is?

MS. FURTADO: Well, the same way...

CHAIR SUGIMURA: The question is going to Ms. Crivello's question about...

MS. FURTADO: The same way SHPD discovers and locates and finds those things out now for areas that are pre-contact sites. So, you know, the same kinds of protocols they're using for instance for when they found them at Ritz Carlton. Those same kinds of protocols could be used at these other areas to determine lineal descendants. And there are lineal descendants and Aha Moku representatives who have intimate knowledge about bones in those areas, and they would also I know be very helpful in getting a fuller idea of what that area looks like and perhaps how many, you know, iwi kupuna may be located in those areas that SHPD perhaps hasn't had an opportunity to go over and examine.

CHAIR SUGIMURA: Interesting. And so, if bones are...I'm just trying to...this is so interesting, right, because you're talking about lineal descendants which are the important part about finding out who these bones belong to. How do you get there, right? I mean who's gonna be the authority to find that out?

MS. FURTADO: The same authority that finds that out right now. Again, as I had mentioned, the amendments that we have to 441 do not redefine who would be responsible and who has the authority to deem somebody a lineal descendant or not. Right now, as I understand it SHPD and a couple of other entities do that, and that structure would not change.

CHAIR SUGIMURA: Okay. Thank you.

COUNCILMEMBER COCHRAN: Chair?

CHAIR SUGIMURA: Ms. Cochran?

COUNCILMEMBER COCHRAN: Thank you. Thank you, Ms. Furtado. And so, maybe can you shed light on how this...I know things aren't changing the way current practices are but our burial councils and the...this relation with burial councils? 'Cause they're a big decision-making body here, which affects I think the question about lineals. And that's an avenue for them to come and share who they are, where they're from, how they're connected to iwi. So, I guess if you can just maybe elaborate a little more on the connection with our burial councils.

MS. FURTADO: So, just as the burial councils right now, you know, have meetings where they talk about different sites or if a project is occurring and give the opportunity for lineal descendants and aha moku representatives to come and show their palapala, their paperwork, that would not change. Those same things, those same

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considerations could still occur. And, you know, as I had mentioned earlier, that would allow for, you know, a better...a stronger case so to speak that indeed this area isn't being declared a cemetery just because we want a space to put iwi kupuna but that this place is a cemetery because there are already large concentrations of iwi kupuna in there and has been. Though we may not put placards or we may not put lei or flowers there, it is a burial ground and should be revered and protected as such.

COUNCILMEMBER COCHRAN: Yeah. Thank you very much.

CHAIR SUGIMURA: Thank you. Thank you very much.

MS. FURTADO: Thank you.

CHAIR SUGIMURA: Thank you. Mr. Atay?

COUNCILMEMBER ATAY: Chair, I just wanna emphasize that this list...legislation or this proposal was primarily to be added on the Maui County Legislative Package to be pushed forward so that the State body could at least entertain, you know, addressing pre-contact burial sites.

CHAIR SUGIMURA: Yes. Members, this discussion is important...Mr. Hokama?

COUNCILMEMBER HOKAMA: Chair, you know, I've been listening to all the other Members and yourself and your comments and they all are very pertinent to me. All have great merit. So, for me as it regards to Lanai though, I can tell you my mentorship, my influence was from the island kupuna. You know, my mentoring of how we looked at iwi for Lanai was by people like Reverend John Richardson, Reverend Lei Kanipae, Kahuna Nui Tutu Papa Kaopuiki. That's how I took my directions and my approach to island iwi for Lanai. And what's kinda interesting, and I understand what Mr. Atay and others have said, but for Lanai what I was asked to consider and how I was asked to take care of iwi on the island was when we found it, we document it, we made the kupuna aware, and their instruction to us was rebury as best you can where you found it and tell no one where it is. Okay. So, I've reburied skulls, bones, ulnas Palawai, Kahea, Mauna o Umi, Lapa Iki, Polihua, Hookio, where we had the great...but for Lanai that was the battleground for our island with the Kamehameha forces and Kalaniopuu. So, yeah, but our kupuna had instructed for whatever reasons to rebury and don't tell others where it is. Okay. So, I respect that. If the part of this legislation is to allow the island's aha moku to make those kind of decisions, I'm very receptive to that. I don't think it should just be a member of the Aha Moku though. If it's for Lanai, I think the island's aha moku should be the body that takes that joint moku responsibility of the whole island 'cause I think we are better served by the families instead of a single member for our needs on our island. So, that would be my comments as I see it impacting Lanai, Chair. Thank you.

CHAIR SUGIMURA: So, how does Lanai then deal with the Burial Council or the structure I guess with DLNR, which is responsible for...

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COUNCILMEMBER HOKAMA: I would assume like how I was taught, how I learned was, you know, forward it to those that wanna serve on council. They got similar type of training or education. That's what I'm assuming. But those that serve take greater responsibilities because they are the advocates to ensure that as we currently call it, the proper protocols or practice is done pono. So, I am assuming that they've learned like how I've learned from the old ones that knew what they were doing. Thank you, Chair.

CHAIR SUGIMURA: Very interesting. Members, so, the deadline for the Maui County Legislative Package is when the Legislature starts, which is January 16, 2019. So, based upon that, I would like to explore this further so we can get a clear definition, Mr. Atay, 'cause this is so important especially with the opening comments from Mr. Carroll and listening to the questions from Ms. Crivello about the lineal descendants and making sure we get this correct. So, I wanna ask if Council can, not Council, if Staff can send some of the questions that we got appropriately. Is there a aha moku...is there like a overall council person or an organization that we could send this to? I would really like to hear comments back from them. And then also from Lanai and Molokai, you know, if we can get comments back, as well as from DLNR and Burial Council as Trinetta said, you know, that we...that would still be in place. But how would this all mesh together is what I'm hearing. Great discussion. So, Members, I'm gonna defer this --

COUNCILMEMBER COCHRAN: Chair?

CHAIR SUGIMURA: --and my next meeting is...yes, Ms. Cochran?

COUNCILMEMBER COCHRAN: Real quickly before you defer, so, let me just run you through a real life experience with one of our projects and how a lineal descendant has been determined. It's not rocket science here. So, wastewater treatment plant, Lahaina, digging, putting a new infrastructure, came across a burial. You have archaeological monitoring on the site, boom, they find it. They cordon it off, tent it off, and then they put out news releases calling, kahea the ohana of the area. You look at the old maps, the royal patents, the LCAs, what have you, you'll see the names, Shaw family burials here. So, you're gonna reach out to the Shaw family, lots of them in Lahaina. Shaw's are reached out to. Shaw's were asked, yes. So, the...it goes to the whole Burial Council. It still is. Our Burial Council meeting is right down here. And the families are brought in. The families come and testify. The families show palapala. They...but then you also can have a cultural descendant. So, that person may not have the koko or the lineal descendancy to be actually related to Shaw's but cultural-wise, the Hawaiian, the kanaka maoli connection is there. They're also allowed to chime in and share their thoughts and manao on how they want the treatment of the iwi that has been found. No one has said they wanna keep iwi at a wastewater treatment plant. So, iwi has been taken. It is being housed currently until the decision can be made where it will be reinterred. The thought is to Waiola where Shaw families, the land was originally Shaw. So, that's kind of a really quick synopsis of what had occurred with some iwi that was found very recently at our Lahaina Treatment Plant. And that's how lineal descendants were determined. So, I

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mean there's no blood taken from anybody. It is your Shaw ohana. This is Shaw ahupuaa. They know Shaw's were buried there. That's the consensus that occurs. So, that's in process and I've been a part of that. So, thank you.

CHAIR SUGIMURA: Thanks for sharing that. So, Members, at this time...and, Mr. Atay, thank you very much for bringing this forward. And we'll find out more information and talk about it before the year ends with this Committee. So, I'm gonna go on...I'm gonna defer this and take it up again.

COUNCILMEMBERS VOICED NO OBJECTIONS. (Excused: DG and MW)

ACTION: DEFER PENDING FURTHER DISCUSSION.

CHAIR SUGIMURA: And I'm gonna take up the second item, Mr. Atay, that is also yours regarding an audit of the DOE.

COUNCILMEMBER ATAY: Once again, thank you, Chair. You know, through this proposal, the State Auditor would be required to perform a comprehensive audit of the Department of Education's administrative offices. This last...this past Legislative Session, the State Legislature passed SB 2922, a Constitutional Amendment that would have established a surcharge on investment real property for the purposes of public education. However, the Legislature passed this proposal without first closely examining the department's current funding and practices. The Department of Education has received over 1.5 billion in funding from the State General Fund since Fiscal Year 2016. For Fiscal Year 2019, the Department's total funding is almost and nearly 2 billion. Since the Department already receives a significant level of funding, the Legislature should have first conducted an audit to ensure the Department's funding is being used effectively and that taxpayers' money from the surcharge would not be wasted. This Constitutional Amendment has since been invalidated by the Hawaii Supreme Court; however, I still believe the Department of Education may not be spending its funding efficiently. As such, an audit of the Department could still help the State more wisely expend taxpayer dollars, and definitely improve education for our keiki. So, I, you know, introduce this to push this forward on our Legislative package. Thank you, Chair.

CHAIR SUGIMURA: Thank you, Mr. Atay. Mr. Carroll?

COUNCILMEMBER CARROLL: Thank you, Chair. I support this. It...what came up the first time was, to me was ridiculous, tax our people more and we wouldn't even know where the money is going. And as Mr. Atay said, how is the money being spent now? That's a fantastic amount of money that we give to education. And I support education strongly. I've been with education my entire life. But they really need to go over there and find out how this money is being spent. It just doesn't add up. It doesn't add up. And I hope that this audit will make it clearer. And I'm very thankful that the courts went in and invalidated that because all of the rhetoric came out, the

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bottom line was that they wanted to tax our people more and not necessarily give any improvement of services. Thank you, Chair.

CHAIR SUGIMURA: Thank you, Mr. Carroll.

COUNCILMEMBER KING: Miss...Chair?

CHAIR SUGIMURA: Ms. King?

COUNCILMEMBER KING: Thank you. I just wanted to point out that we did pass a resolution, I think it was last month, urging the State Auditor to conduct a performance and fiscal audit of the Hawaii State Department of Education. So, I'm assuming that this is taking what we had originally urged the State Auditor to do and then urging the State Legislature to pass this to require the State Auditor. And I just wanted to ask Mr. Atay if this was...because it's a pretty lengthy resolution that we passed the first time, but was the information as far as the expenditures in the Department of Education, was that taken out of our previous resolution that we passed that was proposed by Chair White?

CHAIR SUGIMURA: Mr. Atay?

COUNCILMEMBER ATAY: Chair? Member King, I really don't know because I think it was a simultaneous push because my goal was to get this item on our Leg package. And I think in a different committee or, you know, we were addressing the same thing of the whole result. But yeah --

COUNCILMEMBER KING: Okay.

COUNCILMEMBER ATAY: --you know, for me it's I'm questioning management practices and fiscal practices.

COUNCILMEMBER KING: Okay. So, yeah, because there was no bill attached to the previous --

COUNCILMEMBER ATAY: Yeah.

COUNCILMEMBER KING: --resolution. It was just a resolution urging the State Auditor to do something. Okay. Thank you.

CHAIR SUGIMURA: Thank you. Mr. Hokama, wasn't that your proposed audit?

COUNCILMEMBER HOKAMA: Yes, we did. We pushed it out of Council's Committee of Budget and Finance, Chair. It was Resolution 18-156. And yes, we went straight to the Auditor, as the Constitution delineates the responsibility of that position as it regards to State programs and services and projects. I can appreciate this. It doesn't hurt to reiterate the County's position. The big advantage of our resolution that we already passed was it went straight to the Auditor, okay, for the Auditor to make a

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determination, which the Auditor can whether or not to take up our formal request regarding the Education Department. This will go through a Legislative process. And again, depending upon the reorganization of the House and Senate for the upcoming term and the standing committee chairs, if I read my signals right, we may not even have a hearing. Okay. Because that is not the direction or attitude of the Legislature, of the current Legislature. So, which is good and bad. But I do not think that they can escape the Statewide sentiment of what is going on with education. Okay. We're seeing the effects now of their health decisions when transferring to a third-party vendor. And we have mix of results. Okay. So, now we have this question regarding education. I think the questions that the bill proposes is still commendable. Do I wanna wait two years though for the Legislature to do this audit and report back by 2021? Okay. We're gonna go through more than likely another election. I would hope we would try and find ways to sharpen the scope of the audit 'cause the sharper we help the audit be shaped, the faster and quicker do we get responses to our efforts. The wider and broader the scope, it will take a lot more money and take a lot more time what can fall within those parameters, and that's our experience in our own audits. The sooner...the better we can craft it, the better the response is, Chair. So, if the key is to get regarding a specific component of the Department, then I would agree and ask Mr. Atay to fine-tune it a little bit more if there's a specific area. If it's the upper management component of overhead he's concerned of, I can understand that and I will be supportive of that 'cause I wanna know how much overhead is going not to teachers, not to facilities, not to students, and definitely what is not going to instructional material. Okay. 'Cause we've all had the request of our alma maters for supporting of books, classroom supplies, funding for travel or programs, we all have it, you know. I get every year. Okay. Well, it just tells you about the Department's attitude about how they're approaching their responsibilities. So, I'm open to this. I would just ask Mr. Atay if he would look at fine-tuning it 'cause I don't wanna wait that long for a result, people. I think we all deserve better responses. Thank you.

CHAIR SUGIMURA: Mr. Atay?

COUNCILMEMBER ATAY: Thank you, Chair. Thank you, Member Hokama. Most definitely, you know, I'm, you know, with time permitting and we still have time to craft a more specific target. You know, earlier in my testimony I think back when we were doing this earlier ordinance crafting, my inquiry on an audit of the Department of Education is to more specifically audit management and expenses for any position above a principal. I would recognize the structure as it is where any position from a principal on down including all the teachers, these are the people that are in the trenches serving our children. But I'd like to find out how many positions and at what cost are above a principal? These are positions that are not face-to-facing with our children. If you're given a close to \$2 billion budget, what's the efficiency and the efficacy of your long-term spending in education? And so, yeah, I'll, you know, I'm open towards crafting a more specific targeted audit to assist the State Auditor because I also firmly believe that our State Constitution allows us and the State Auditor to do such reports.

CHAIR SUGIMURA: Okay. So, I guess I don't know if it's, who has the experience of how the Legislature works. So, it might be you, Mr. Hokama. So, basically, you're saying if

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this legislation then could be combined with what your previous legislation or resolution stated with this and it...actually broaden this. 'Cause I think you said from the district complex up, right?

COUNCILMEMBER ATAY: Up.

CHAIR SUGIMURA: Yeah, superintendent up. So, actually, I think you folks are both talking about the same thing, you know, just more comprehensive audit.

COUNCILMEMBER HOKAMA: I think Mr. Atay is able to help us focus it better. And I would say if we're open to a deferral then let's work on a redraft --

CHAIR SUGIMURA: Yeah, let's work on it.

COUNCILMEMBER ATAY: Yeah.

CHAIR SUGIMURA: Okay.

COUNCILMEMBER HOKAMA: --for the next meeting that we, you know, hopefully, we can push out. Because like I said, the better we help set the parameter or do you trust the Leg to set the parameter?

CHAIR SUGIMURA: Okay.

COUNCILMEMBER HOKAMA: Because it may be an indictment on themselves, okay, where the Department is, so.

CHAIR SUGIMURA: Okay.

COUNCILMEMBER ATAY: I'm --

CHAIR SUGIMURA: All right.

COUNCILMEMBER ATAY: --okay.

CHAIR SUGIMURA: Okay. Good. So, we're gonna defer this. And if we can work on this, Mr. Atay, until I schedule this again. Is that all right?

COUNCILMEMBER ATAY: Thank you.

COUNCILMEMBERS VOICED NO OBJECTIONS. (Excused: DG and MW)

ACTION: DEFER PENDING FURTHER DISCUSSION.

CHAIR SUGIMURA: Okay. Good discussion.

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PEA-24: MAUI METROPOLITAN PLANNING ORGANIZATION (GC 17-2,
CC 8-379, and CC 18-380)

CHAIR SUGIMURA: So, I'm gonna take up the last item, Members, which is on the Metropolitan Planning Organization. And do you wanna come down, Lauren? So, we're taking up two things, which is a proposed entitled bill on County Communication 18-379, from the Director of Transportation, transmitting a proposed bill...our Director of Transportation, A Bill for an Ordinance Authorizing the Mayor--oh, Mr. Buck is here--of the County of Maui to Enter into an Intergovernmental Agreement with the State of Hawaii Fulfilling [sic] Federal and State Transportation Planning Requirements Relating to the Maui Metropolitan Planning Organization. And the purpose of the bill is to rescind the prior MPO Comprehensive Agreement entered into on July 18, 2016, between the State and the County, to replace it with a new Comprehensive Agreement in compliance with Chapter 279D, Hawaii Revised Statutes. And the second item is County Communication 18-380, from the Director of Transportation, transmitting a proposed bill entitled A Bill for an Ordinance Amending Section 2.35.040, Maui County Code, Relating to the Policy Board Membership. And the purpose of the proposed bill is to amend Section 2.35.040, Maui County Code, to increase the number of policy board members from seven to nine. Members, if you remember it will include someone from the State Legislature, House, and the Senate, and require the policy board membership to include at least one member from the State and what I just said, and to be appointed by their respective leaders. So, would be this Senate President or the Speaker would appoint. So, at this time, do...John Buck, do you wanna say a few words from Department of Transportation?

MR. BUCK: Thank you, Madam Chair. I'm gonna refer all the questions and comments regarding the two bills to Lauren our...the Executive Director for the MPO and also to the MPO Chair, Stacy.

CHAIR SUGIMURA: Okay. So, Stacy Crivello...okay. You wanna...Lauren, do you wanna...it's your show.

MS. ARMSTRONG: Good morning, Chair. Good morning, Councilmembers. Thank you for having me. So, as you know, the Maui MPO is responsible for the continuing cooperative and comprehensive transportation planning for the island of Maui. So, we carry out our work in accordance with Federal regulations, specifically Title 23, United States Code Section 134. And that is for the Federal Highway Administration who provides many millions of dollars of transportation funding to Maui every year. Our specific work that the MPO carries out is approved annually in our Unified Planning Work Program. And we report on the performance and our progress in our annual reports to the State Legislature, which are also transmitted to this body. As you'll note in the 2016 Annual Report, the policy board executed a number of agreements between the State of Hawaii and the County of Maui, identifying the MPO process according to State and Federal law. One of those documents was our Comprehensive Agreement that was executed in July of 2016. So, as the MPO evolved, we noted, so staff and myself, noted some changes that were needed to this agreement to bring it

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into compliance with the Federal regulations. One of those items is on the first page to include the Maui MPO as a party to the agreement along with the State and the County. Another important change is to more clearly identify the roles and that is in a chart on the final page of the current agreement that's before you. So, that really outlines the technical responsibilities of the State, the County, and the MPO in carrying out this work. And as our Chair mentioned, in July of 2018, the State Legislature passed Act 72, and that's regarding the membership of the policy board. So, that's another key change that's reflected in the updated Comprehensive Agreement that is before you today.

COUNCILMEMBER KING: Excuse me, Chair?

CHAIR SUGIMURA: Yeah?

COUNCILMEMBER KING: Could you just...

CHAIR SUGIMURA: Yes?

COUNCILMEMBER KING: Could you let us know what document you're referring to because we don't have any hardcopy --

CHAIR SUGIMURA: Oh. So, in --

COUNCILMEMBER KING: --in front of us.

CHAIR SUGIMURA: --Granicus --

COUNCILMEMBER KING: Right.

CHAIR SUGIMURA: --it is what she's talking about is County Communication 18-379 --

COUNCILMEMBER KING: Okay.

CHAIR SUGIMURA: --which is the intergovernmental agreement. So, it's A Bill for an Ordinance Authorizing the Mayor of the County of Maui to Enter into an Intergovernmental Agreement with the State of Hawaii to Fulfill Federal and State Transportation Planning Requirements Relating to the MPO.

COUNCILMEMBER KING: Okay.

CHAIR SUGIMURA: So, that's the --

COUNCILMEMBER KING: Thank you.

CHAIR SUGIMURA: --first document. And the second one would be changing the County Code to comply with this.

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MS. ARMSTRONG: Yeah, thank you. And the MPO Policy Board did approve the Comprehensive Agreement. It's also been reviewed by our Corporation Counsel.

CHAIR SUGIMURA: Thank you.

MS. ARMSTRONG: So, I'm happy to take any questions at this time.

CHAIR SUGIMURA: So, we're gonna take up the first, the intergovernmental agreement. And if this does pass then we can then look at County Communication 18-380, which talks about membership and adds on the State, two components would be House and Senate member to then sit on the MPO. So, that's the two documents we're looking at today. Member Crivello...

VICE-CHAIR CRIVELLO: So, Chair, thank you. So, as you mentioned, we look at the proposed bill relating to policy board membership, and this is because of the State of Hawaii Act 72, as Lauren mentioned earlier. So, the purpose of this proposed bill is to comply with that act, which amends Section 279D-2, HRS, requiring at least one member of the policy board to be a resident of Maui island and appointed by the Senate President, and at least one member of the policy board to be a resident of Maui island and appointed by the Speaker of the House. And if approved, the policy board will be composed of nine members instead of the current seven members that we have. So, I guess this goes into effect after the elections. 'Cause then that would be...that would fully certify and confirm who the State representative and Senate representative will be in accordance to the appointment from the leaders of Senate President and the Speaker.

CHAIR SUGIMURA: Okay. Thank you for that clarification. Members, any questions regarding that? And any more comments, Ms. Armstrong, regarding the intergovernmental agreement? So, Corp. Counsel, Mr. Kushi is here on this. As I said earlier, it would be Jerrie Sheppard but she's not available at this time. So, any discussion, Members?

VICE-CHAIR CRIVELLO: Yeah, Chair, I think --

CHAIR SUGIMURA: Yes?

VICE-CHAIR CRIVELLO: --our MPO Corporation Counsel or Mr. Hopper I think thoroughly --

CHAIR SUGIMURA: Oh, and Mr. Hopper --

VICE-CHAIR CRIVELLO: --reviewed all this --

CHAIR SUGIMURA: --is not available.

VICE-CHAIR CRIVELLO: --yeah.

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CHAIR SUGIMURA: Yeah.

VICE-CHAIR CRIVELLO: Already reviewed all of this --

CHAIR SUGIMURA: Oh, thank you.

VICE-CHAIR CRIVELLO: --according...yeah.

CHAIR SUGIMURA: So, he's...they've already agreed to. Okay. So, no other discussion. So, at this time then I would like to entertain a motion to agree to this, recommend passage of this intergovernmental...a bill for an ordinance authorizing the Mayor to enter...the County of Maui to Enter an Intergovernmental Agreement with the State of Hawaii to Fulfill Federal and State Transportation Planning Requirements based upon the MPO. So, I think it's been explained, Members.

VICE-CHAIR CRIVELLO: Yeah, so moved. Are you --

CHAIR SUGIMURA: Okay.

VICE-CHAIR CRIVELLO: --recommending a motion? So moved, Chair.

CHAIR SUGIMURA: Thank you.

COUNCILMEMBER KING: Second.

CHAIR SUGIMURA: Thank you. Member Crivello made the motion, second by Member King. Any discussion? All in favor, say "aye."

COUNCILMEMBERS: Aye.

CHAIR SUGIMURA: Okay. Motion passes with seven "ayes," two excused, Member...

COUNCILMEMBER HOKAMA: No.

CHAIR SUGIMURA: Oh, Mr. Hokama is one "no." So, it will be six "ayes," one "no," and White and Guzman are excused.

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

NOES: Councilmember Hokama.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmembers Guzman and White.

MOTION CARRIED.

ACTION: Recommending FIRST READING of bill (intergovernmental agreement) and FILING of County Communication 18-379.

CHAIR SUGIMURA: So, then we have to take up the second item, which is a proposed bill for an Ordinance Amending Maui County Code, Section 2.35.040, Relating to the Policy Board Membership. So, what this basically does, it includes the House and Senate representative into Maui County Code. Any discussions, Member?

COUNCILMEMBER ATAY: Chair?

CHAIR SUGIMURA: Mr. Atay?

COUNCILMEMBER ATAY: I support the policy board; however, I see that State will gain three votes. So, I'd like to entertain an amendment to add three votes from the County Council --

CHAIR SUGIMURA: Oh.

COUNCILMEMBER ATAY: --so that we have...

VICE-CHAIR CRIVELLO: . . .(inaudible). . .

COUNCILMEMBER KING: Chair?

COUNCILMEMBER ATAY: If that's...

CHAIR SUGIMURA: So...

VICE-CHAIR CRIVELLO: Is that...

COUNCILMEMBER ATAY: If that's possible?

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VICE-CHAIR CRIVELLO: Is that, is that...

CHAIR SUGIMURA: Ms. Crivello, you wanna answer that?

VICE-CHAIR CRIVELLO: Yeah, we do have three Councilmembers --

COUNCILMEMBER ATAY: No, I'm --

VICE-CHAIR CRIVELLO: --on the --

COUNCILMEMBER ATAY: --suggesting --

VICE-CHAIR CRIVELLO: --policy board.

COUNCILMEMBER ATAY: --three more.

VICE-CHAIR CRIVELLO: I may not agree with you on that because that will be six Councilmembers or six...and I think we flow quite evenly with what we have. And the Legislature passed this. It's not that we are all applauding how it will be. But I think we had a couple meetings. One major meeting with all our State representatives, and it's a learning process on how they interpret how the budget is appropriated to the Hawaii State Department of Transportation. So, I not necessarily see the vote. I see the opportunity for us to have a more collaborative working relationship when it comes to the funding and the priority of our...what comes out of the TIP and the STIP from community outreach. 'Cause sometimes there's some confusion. Our State representatives would want to appropriate and prioritize what they look as a priority project as opposed to perhaps where we've decided in representation of our outreach. So, we're going through still many of our learning pains, but we're getting there. And this is with the hard work of our Executive Director, as well as the different departments that are involved and as well as our Members on the policy and the TAC, technical--we have all kinds of jargons that--the Technical Advisory Committee. So, I appreciate your consideration but I don't think it's a matter of the votes that's important. I think it's more important how we collaborate and have a better understanding on our role as an MPO. I think sometimes the...and I just add this in, you know, what it does say that without the MPO, you won't have these funds coming down from the Federal Transportation. And that's why we decided to organize ourselves as a MPO on the recommendation and work of our Transportation Department. Thank you, Chair.

CHAIR SUGIMURA: So, Ms. Crivello, maybe you can share with the...with all of us who are the members of the...current members of the MPO?

VICE-CHAIR CRIVELLO: We have from the Hawaii State Department of Transportation, Jade Butay; and we have Councilmember Kelly King; yourself, Yuki Lei Sugimura; Department of Public Works, David Goode; and actually and Department of Transportation Director, Don Medeiros; as well as Department of Planning, Michele McLean; and myself as a member, one of the three Councilmembers.

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CHAIR SUGIMURA: Thank you. And Mr. Hopper is our Corporation Counsel.

VICE-CHAIR CRIVELLO: That's correct.

CHAIR SUGIMURA: And of course, Lauren is always there. So, that's --

COUNCILMEMBER KING: So, Chair?

CHAIR SUGIMURA: --basically the makeup. Yes?

COUNCILMEMBER KING: Yeah, I just wanted to point out, we actually do have six votes to the State's three votes because Department of Planning, Department of Transportation, Department of Public Works, each has a vote plus the three Councilmembers. So, right now, we only have one State person on the board who has a vote. So, bringing the two legislators on will give them three, a total of three votes. But I think it's also important that while we can define the TIP and, you know, the transportation items that are priorities, we don't fund those. Those have to be funded at the State level. And so, we need our State legislators to buy in to these projects so that they can go and make sure the funding comes into the State. And that's why I think it's a really smart move to add these two. They're actually our two legislators on the Oahu MPO or the Oahu [sic] MPO, and we haven't had that. So, that's what...I mean I fully support this. And I don't think we have a choice anyway because it's State --

CHAIR SUGIMURA: Yeah.

COUNCILMEMBER KING: --law. So, we're just kind of getting our County Code in line with what State law is.

CHAIR SUGIMURA: Ms. Crivello?

VICE-CHAIR CRIVELLO: No.

CHAIR SUGIMURA: No? Okay.

VICE-CHAIR CRIVELLO: Ready for your recommendation.

CHAIR SUGIMURA: Okay. So, I recommend passage of the proposed bill entitled A Bill for an Ordinance Amending Section 2.35.040, Maui County Code, Relating to the Policy Board Membership; and incorporating any nonsubstantive revisions that may be needed; and filing of County Communications 18-380.

VICE-CHAIR CRIVELLO: So moved.

COUNCILMEMBER KING: Second.

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CHAIR SUGIMURA: Thanks. Motion by Member Crivello, second by Member King. Any discussion?

COUNCILMEMBER COCHRAN: Chair?

CHAIR SUGIMURA: Yes?

COUNCILMEMBER COCHRAN: Thank you, Chair. Having been a past MPO member, I...it was definitely a worthwhile endeavor to be on it at a certain time. So, I thought it was a wonderful mixture, yes, of State entities with County because that's very rare that we all get to the same table. So, this was a way for everyone to come and push forward, you know, with a unified voice on items that pertain to this County. So, State typically, you know, we don't hear much with them. So, it was a nice way I think of bringing us all to the table. But what I always have had issue with and maybe this is Mr. Hokama's thing too but, you know, the way the Federal government has drawn that line to urbanize us from Waihee-Waiehu, all the way clear across to Paia, and then determining that population size makes us, you know, puts us into this MPO mandate so to speak. So, I was reading where the population size varies from 50,000 to 200,000. And I mean that 200,000, we don't even hit that as the Countywide. So, if they drew a circle around all of our islands, we'd still be under that 200,000-population mark. And I mean, I don't know, I...they're gonna urbanize all our islands put together with the oceans in between, it's kind of a crazy thing. I don't know if the Feds really...I mean obviously, they looked at our map and they drew the lines how they drew it but it's just kind of odd, so.

MS. ARMSTRONG: Chair --

CHAIR SUGIMURA: Yes?

MS. ARMSTRONG: --could I comment?

CHAIR SUGIMURA: Lauren, would you like to --

MS. ARMSTRONG: I think that's a --

CHAIR SUGIMURA: --answer?

MS. ARMSTRONG: --really excellent point. And another thing to note is that being a small MPO, so under a population of 200,000, our responsibilities are different from those of a large MPO, for example, Oahu. We receive less funding. We have I would say a more cooperative role with the State DOT and our State legislators. And so, I think the MPO is looking, you know, both at the 20-year, so the long-range needs of the island and also, how do we implement that in our four-year budget? Thank you.

COUNCILMEMBER COCHRAN: Well, thank you, Lauren. I remember vetting through with who's gonna be the Executive Director and you're there. So, thank you for your efforts.

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CHAIR SUGIMURA: Thank you. Mr. Hokama?

COUNCILMEMBER HOKAMA: Thank you, Chair. I appreciate your efforts and the other Members' efforts who serve on the MPO. I'm gonna vote no. And mine is just an outright protest of how I felt. See, this has become part of now our existence. I don't see cooperative and comprehensive efforts. Okay. This was shoved down on this County by a Federal bureaucrat. Okay. We've had former Secretary Foxx agreeing that he felt that maybe Maui and the way the line was drawn wasn't the best or most appropriate way to get an MPO established, not for this County. Okay. For me, Chair, you know, for all the rah-rah we talk about this thing, this entity, if it's so great, how can one person, Deputy Director of DOT, shut down a whole long-range project for us, called the West Side Expansion, the Pali option? Okay. The Department made a call. What happened to the MPO and your folks' priorities? I found it interesting that one person can change a whole long-range plan especially when we know the issues of West Maui, geographically, environmentally, historically. And I can get a bureaucrat in downtown Honolulu make a big change in how we're gonna address our infrastructure for ground transportation. Thank you very much.

CHAIR SUGIMURA: Thank you. Just kinda for the public's information what we're talking about is that with the Census, then it defined the MPO to be created by including Central Maui, Kahului, Wailuku, and they threw in Paia to make that 50,000-population threshold. So, the next time this would be looked at will be at the next Census when they will look at the population base, and then they'll redraw the lines, and work with the, you know, MPO in terms of future guidance. Lauren, do you have your...do you have any more comments?

COUNCILMEMBER HOKAMA: Chair, we're under discussion on the motion.

CHAIR SUGIMURA: Oh, that's right, sorry. Any more discussion on the...

COUNCILMEMBER COCHRAN: Chair?

CHAIR SUGIMURA: Yes?

COUNCILMEMBER COCHRAN: So, if we, I mean we're...head first into this MPO program, but is it the thought that if we had not taken it, we would not be privy to Federal funds? Was that kind of because the Federal bureaucrat administration had drawn these lines and created this MPO area here, it made us have to get onboard to be in this program in order to seek their funding via the Federal level? Was that kinda how, as Mr. Hokama was saying, kinda shoved this on --

CHAIR SUGIMURA: This --

COUNCILMEMBER COCHRAN: --us?

CHAIR SUGIMURA: --is --

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COUNCILMEMBER COCHRAN: Is that...

CHAIR SUGIMURA: --what happened. Ms. Crivello?

UNIDENTIFIED SPEAKER: I would defer to...

COUNCILMEMBER COCHRAN: Oh.

CHAIR SUGIMURA: Oh, wait. This is our discussion.

COUNCILMEMBER COCHRAN: So --

CHAIR SUGIMURA: This is not...

COUNCILMEMBER COCHRAN: --yeah, I...it was just to clarify...I mean yeah, I feel the heartburn here with this and felt it then too. But it's one...we're here, we're in it and let's make the best of it, you know. Hopefully, we can make the best of it and move forward and get some good things happening for us all is I guess we have to look at it that way at this time. I mean there's no way to --

CHAIR SUGIMURA: Get...

COUNCILMEMBER COCHRAN: --lobby the powers that be to say, hey maybe not, but then these Federal dollars will be lost.

CHAIR SUGIMURA: Right.

COUNCILMEMBER COCHRAN: Yeah.

VICE-CHAIR CRIVELLO: Chair?

CHAIR SUGIMURA: Ms. Crivello --

COUNCILMEMBER COCHRAN: Right?

CHAIR SUGIMURA: --and then I have a comment.

VICE-CHAIR CRIVELLO: So --

CHAIR SUGIMURA: Go ahead.

VICE-CHAIR CRIVELLO: --if we read our agreement, it says, you know, it makes mention that the consequences of not having a MPO for the island of Maui include a portion of Federal Highway Administration and Federal Transit Administration funds being withheld, and processing and approval of Federally-required documents cannot be completed. So, yeah, this is something that has come down to us because of the

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metropolitan designation that we've had throughout our County. But is this a disadvantage? Or, you know, the disadvantage if we didn't have one is just what I just stated.

CHAIR SUGIMURA: Thank you. I think that answers the question. All right, Members, so, I'm ready to take a vote. All in favor, say "aye."

COUNCILMEMBERS: Aye.

CHAIR SUGIMURA: All opposed?

COUNCILMEMBER HOKAMA: No.

COUNCILMEMBER ATAY: No.

CHAIR SUGIMURA: So, two "noes," and two excused. One, two...five, it passes. So, motion...we change our Maui County Code. So, this passes.

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

NOES: Councilmembers Atay and Hokama.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmembers Guzman and White.

MOTION CARRIED.

ACTION: Recommending FIRST READING of bill (policy board membership) and FILING of General Communication 17-2 and County Communication 18-380.

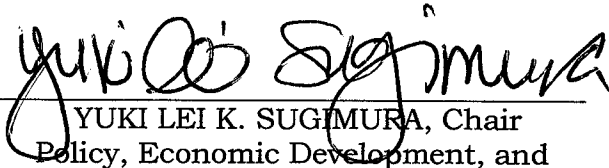
CHAIR SUGIMURA: Members, this is the end of our meeting. Any more discussion? All in favor...we are adjourned. Thank you very much. . . .(gavel). . .

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ADJOURN: 11:50 a.m.

APPROVED:


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

pea:min:181029:acqp

Transcribed by: Ann Carmel Q. Pugh

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CERTIFICATE

I, Ann Carmel Q. Pugh, 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 14th day of November, 2018, in Kihei, Hawaii

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

Ann Carmel Q. Pugh