

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

Council of the County of Maui

MINUTES

November 20, 2018

Council Chamber, 8th Floor

CONVENE: 9:06 a.m.

PRESENT: Councilmember Yuki Lei K. Sugimura, Chair
Councilmember Stacy Crivello, Vice-Chair (in 11:17 a.m.)
Councilmember Alika Atay (out 10:54 a.m.)
Councilmember Robert Carroll
Councilmember Elle Cochran (in 9:09 a.m.; out 10:50 a.m.;
in 11:17 a.m.; out 12:01 p.m.)
Councilmember Don S. Guzman (out 10:08 a.m.)
Councilmember Riki Hokama (in 9:08 a.m.)
Councilmember Kelly T. King (out 12:01 p.m.)
Councilmember Mike White (in 9:30 a.m.)

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)

Adrienne Nalette, Executive Assistant to Councilmember Don S.
Guzman

Trinette Furtado, Executive Assistant to Councilmember Alika
Atay

Morris Haole, Executive Assistant to Councilmember Robert
Carroll

ADMIN.: Edward S. Kushi, Jr., First Deputy Corporation Counsel,
Department of the Corporation Counsel
Jerrie L. Sheppard, Deputy Corporation Counsel, Department of
the Corporation Counsel (Item 94)
Jeffrey T. Ueoka, Deputy Corporation Counsel, Department of
the Corporation Counsel (Item 93)
Teena Rasmussen, Economic Development Director, Office of the
Mayor (Item 94)
Brian Nagami, Economic Development Specialist, Office of the
Mayor (Item 94)

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Mark Walker, Director, Department of Finance (Item 93)
Michele McLean, Director, Department of Planning (Item 93)
Pamela Eaton, Planning Program Administrator, Department of
Planning (Item 75)
Keith C. Scott, Planner, Department of Planning (Item 93)

OTHERS: Lynne Woods (Item 93)
Peter Cannon (Item 93)
Rick Smith (Item 93)
Joleen Alexander, Emmanuel Lutheran Civics Class (Item 13)
Wyatt Perry, Emmanuel Lutheran Civics Class (Item 13)
Katie Folio, Coordinator, The Coalition for a Tobacco-Free Hawaii
– The Hawaii Public Health Institute (Item 13)
Kawaimalie Apolo (Item 13)
Kiha Kahalehau (Item 13)
Moani Tiare Atay (Item 13)
Josh Ooka (Item 13)
Laksmi Abraham, Community Program Manager, Blue Zones
Project (Item 13)
Joshua Rempfer, Emmanuel Lutheran Civics Class
Brooke Holderbaum, Kamehameha Schools
Joseph Aquino (Item 75)
Ravi Bugga (Item 75)
Lee Allen Chamberlain (Item 75)
Curt de Crinis, Managing Director, C.M. de Crinis & Co., Inc.
(Item 93)
(32) additional attendees

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

CHAIR SUGIMURA: *... (gavel) ...* Good morning, everyone. Welcome to the Policy, Economic Development, Agriculture Committee. It is now 9:06 a.m. And today is November 20th, and it is actually my third to the last meeting for this new year. So, it's a very special Policy, Economic Development, Agriculture Committee. Welcome, everybody. Please silence all your noisemaking devices. At this time, I'd like to take roll call. My name is Yuki Lei Sugimura. I'm your Chair. Vice-Chair Stacy Crivello is excused for now. She'll be coming in a little bit. Bob Carroll.

COUNCILMEMBER CARROLL: Good morning, Chair.

CHAIR SUGIMURA: Good morning. Mr. Alikea Atay.

COUNCILMEMBER ATAY: Good morning, Chair.

CHAIR SUGIMURA: Don Guzman.

COUNCILMEMBER GUZMAN: Good morning.

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CHAIR SUGIMURA: And Kelly King. Mr. White is to be here shortly, Elle Cochran and Riki Hokama. On the agenda to support our items we have from the Planning Department for PEA-75 which is the West Maui Community Plan, is Michele McLean, Planning Director, or Joe Alueta. Or is it Pam Eaton? It's Pam Eaton. So, she's in the audience. Thank you. For PEA-94, the American Job Center Network, which is from OED, we have Teena Rasmussen. And also helping is Brian Nagami. He's the Executive Director for the Workplace Development from the Office of Economic Development. PEA-93, Community Facilities District item, is Michele McLean. Or are you here, Pam Eaton, for that?

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

CHAIR SUGIMURA: Oh, Michele's going to do that, okay. And Joe Alueta. Mark Walker will be here from Finance. And also, we have for the West Maui CPAC in the audience today we have Joseph Aquino, which is one of the nominees, Ravi Bugga, Lee Allen Chamberlain, and these three nominees are here sitting in the back of the Chambers. Thank you. We also have for the last, the other item which is the Community Facilities District, we have Curt de Crinis, Managing Director for C.M. de Crinis and Company. So, they're a consultant for the County for our bonding. So Mr. de Crinis will be here. From Corp. Counsel, thank you, we have Ed Kushi. He's our First Deputy Corp. Counsel. He's our main Corp. Counsel rep for...or Corp. Counsel for this Committee, and helping us with the smoking prohibition as well as the West Maui CPAC. Jerrie Sheppard will be helping us also from Corp. Counsel, and she is with the American Job Center item. And Jeff Ueoka will be with us for the PEA-93. Staff Members, thank you, Shelly Espeleta; Clarita Balala, our Committee Secretary; Hana District Office is Dawn Lono; Lanai District Office is Denise Fernandez; and Molokai District Office is Ella Alcon. Members, we have four items on our calendar today which is PEA-13, the Smoking Prohibition; PEA-75, Establishing the West Maui Community Plan Advisory Committee; and PEA-94, Authorizing the Mayor to Enter into an Intergovernmental Agreement with the Maui County Workforce Development Board and the American Job Corps *[sic]* Network Partners. PEA-93 is the Community Facilities District ordinance, proposed ordinance. Thank you, everybody. We have a full agenda. Welcome, Mr. Hokama, good morning. Welcome, Ms. Cochran.

COUNCILMEMBER COCHRAN: Good morning, Chair.

CHAIR SUGIMURA: Good morning. I'd like to also, before I get into my agenda, I'm so thrilled to have some of our youth here today to visit us. And I wanted to recognize Mr. Joshua Rempfer. Mr. Rempfer in the audience. This is his class. And is Don Guzman's son. Do you want to say a few words?

MR. REMPFER: Oh, no. I'm fine.

CHAIR SUGIMURA: You're fine, okay. They're visiting us this morning and they actually are here to observe government in process, to see his dad, Don Guzman. Neal wants to

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see you in action. And we're really glad that you're participating in this and seeing how really decisions are possibly made, and how important it is for you to be there. We also have with us from Kamehameha High School, Brooke Holderman's [sic] biology class which are freshmen and sophomores. And they are here also for PEA-13 which is Smoking Prohibitions. I understand that both classes may have some of the students testifying, and we appreciate that. To learn how the Legislative process works on the County level. And I'm sure that Mr. Guzman had words of wisdom to share with all of you when you had that class visit, right? Yes. So, let's see. I also wanted to let you know that when we get into the West Maui CPAC, when it's agendized, if we need to, we may have to go into executive session depending on how the conversation goes. If it's starting to look like we need to worry about things that may be of higher evaluation, dismissal, and too personal, then we may go into executive session when we get to that item. So, at this time, I'll be taking testimony and all members have signed up. I have quite a few testifiers. You will have three minutes. When you come up to the podium here, the light will turn green when you can start talking. Then it turns like a traffic sign, then it turns yellow. And red means stop, and you'll have a few time after that to finish your statement. We have established connections with our District Offices. So, at this time the first testifier is Lynne Woods on PEA-93, which is the Community Facilities District item. Good morning, Lynne, nice to see you.

. . .BEGIN PUBLIC TESTIMONY. . .

MS. WOODS: Good morning, Madam Chair. Good morning, Committee Members. My name is Lynne Woods, and I offer this testimony as a private citizen in support of the proposed amendments to Title 3. Over time our County has changed many of the rules governing the development of subdivisions on Maui, thereby placing some infrastructure in our older subdivisions in noncompliance. And I live in such a subdivision. Our subdivision includes a private road servicing some 45 lots, and it is noncompliant given the many changes of the County Code over the last 35 years. After many years of maintenance subsidized and performed by the property owners on the road, we realize we cannot keep up our current efforts as deterioration is now beyond our physical and financial means. To complicate the issue, the County will not assist as the road is designated as noncompliant. This proposed amendment could well be the solution to this issue and to other areas unable to finance repair to their infrastructure using conventional financing means. It does not relieve the owners from accepting the financial responsibility for improvements, but it does equally distribute the cost to all owners by using the mechanism of an assessment on our property taxes to ensure full payment of all costs to the improvements. I am aware the County of Maui cannot possibly afford the financial responsibility to repair every infrastructure issue in our County. But this proposed process which is really a form of public/private partnership will go a long way to improving some of Maui's aging noncompliance issues. I thank you for your time and attention to this issue and wish all of you a wonderful Thanksgiving and holiday season.

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CHAIR SUGIMURA: Thank you. Anyone have questions for Ms. Wood [sic]? Seeing none, thank you very...oh, you do? Mr. Atay?

COUNCILMEMBER ATAY: Thank you. Thank you for being here. Has your organization identified the issues of noncompliance to where the County could then accept your roads?

MS. WOODS: We don't have an organization, but we are different owners on this private road. We certainly have identified what we're looking for, is resurfacing and some drainage issues. That is the people at the bottom of our road have been pretty seriously flooded out this last year with all the additional rain that we've had. So we're noncompliant in terms of the width of the road. And we're noncompliant I do believe, this could be questioned, but I'm...I think we're noncompliant in terms of the road base because back when the subdivision was done, there were no real requirements for depth of road base.

COUNCILMEMBER ATAY: Okay, thank you.

CHAIR SUGIMURA: Thank you. Any other questions? Ms. King?

COUNCILMEMBER KING: Just a question. Thank you. Thanks for being here, Lynne. And in your previous life when you were with the Chamber, did you work on any of this? Did you promote any of this legislation? 'Cause I think we're the only County that doesn't have this facilities district ordinance.

MS. WOODS: No, I haven't worked on this legislation, but I was made aware that it was...this amendment was being worked on. So, I thought it would be...

COUNCILMEMBER KING: Okay, I just didn't know...I just wanted to know if you have any history with it so --

MS. WOODS: No.

COUNCILMEMBER KING: --but thank you for being here.

MS. WOODS: Yeah.

CHAIR SUGIMURA: Thank you. Any other questions? Seeing none, thank you very much for being here.

MS. WOODS: Thank you.

CHAIR SUGIMURA: Nice seeing you. Peter Cannon is the next testifier, followed by Rick Smith, and Joleen Alexander after that, so.

MR. CANNON: Hi.

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CHAIR SUGIMURA: Hi.

MR. CANNON: Good morning, Council. My name is Peter Cannon. I was born here on Maui, but I spent the last 46 years running companies in Honolulu. I've returned back to Maalaea where I was raised. I was born in Paia. I remember the old road to Lahaina, and I remember when...remember the spring in the back of Maalaea Harbor that was...had an opae that only grew there. I'm here to testify in favor of PEA-93, Community Facilities District. This is an extremely well-written addition to the law. And I understand that Maui is the only island that doesn't have this. I hope that the Council has some good projects in mind. But what I'd like to do is tell you about our situation in Maalaea. I grew up on the property that is now the Maalaea Banyan. So my great-grandmother lived...we have four generations of family that lived in Maalaea, including the house that's the last remaining house was a grandaunt of mine. That Maalaea Bay was like Tahiti when I was a kid. It was like Palau, or Bora Bora, Moorea. You name 'em, the Cook Islands. And now it is dead. It's dying, it's gone. It's nothing like what it used to be. On the happy side is that the Maalaea...the Maui Ocean Center actually has the seed stock and could completely replant that bay if we could just clean it up. Here's our problem. Each condominium has a wastewater facility that pumps water in an injection well and, for the kids, the effluent is the leftover water after processing sewage. And this is dirty. And sadly Maui has been on the wrong side of history with the Kaanapali lawsuit, and we know darn well that the EPA is going to be down on Maalaea next because of the situation that's happening there. Two of our condominiums, and actually three I'm told by Department of Health, are under enforcement action to rebuild our injection wells. If we build a new well, is it going to be available to use in two, three years? Will it be outlawed? What we want to do is do a regional wastewater treatment plant, a long-term solution for Maalaea. And we have a budget. Every one of us manages our own wastewater. We don't want to be in the wastewater business. We want to give it to professionals. The facility is halfway built in from the delivery system because there's a pump station from the Triangle that pushes it to their injection wells. The harbor has injection wells. There's 20-something injections wells in Maalaea pushing an effluent that is terrible. We want to be proactive, not reactive. We don't want to wait for the hammer to fall. This is a perfect facility. We had a town meeting with the Department of Health with a wastewater expert and a clean water expert. We formed a steering committee. We're required by the Department of Health to do a feasibility study and Laukoa and Hono Kai have agreed to fund that. And along came Maalaea Triangle, not the Ocean Center, and they're agreeing to help us, one-third each, to fund a feasibility study. And we hope to come to you and find your support to, please, let's get the problem solved. Let's clean up Maalaea Bay and give Maui Ocean Center a chance to get that correct limu and the right corals growing again.

CHAIR SUGIMURA: Thank you. Before I turn it over to the Members, so how many condominiums are there?

MR. CANNON: There are ten condominiums. There's the...

CHAIR SUGIMURA: And all of them are working with you?

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MR. CANNON: Not all, but we've had a town meeting. So, quite...it's become a buzz. And Maui and its lawsuit is a buzz with the clean water community and on the mainland at what's going on there with the EPA. And this, frankly, could be a good solution not only for Maui but other communities could follow. The idea of building a village regional plant, economically feasible, and we pay for it with our taxes until it's paid. Post a bond, and other sources of funding can come in if Maui County will take the lead.

CHAIR SUGIMURA: Thank you. Members, anyone have questions? Ms. King?

COUNCILMEMBER KING: Thank you. Thanks for being here, Peter. I think it's been a great association when you guys resurrected Maalaea. I just wanted to clarify that you are speaking for the Maalaea Village Association. I'm not sure if you have authority directly from your president, but I think she would be here if you weren't here. And I've been in enough of the meetings with you to, you know, know that this is what the direction that they want to go in.

MR. CANNON: Yes, you're correct. I'm a director for Maalaea Community Village Association, a community...we morphed. And I've joined a very well-organized group, and I'm also a board member for the Hono Kai condominium. So, I'm wearing two hats today.

COUNCILMEMBER KING: Okay.

MR. CANNON: And thank you --

COUNCILMEMBER KING: Thank you.

MR. CANNON: --for asking that question.

CHAIR SUGIMURA: Thank you. Any other questions?

MR. CANNON: And nice to meet some of you for the first time.

CHAIR SUGIMURA: Ms. Cochran?

COUNCILMEMBER COCHRAN: Thank you. Yeah, and so Maalaea Community Association is something different from what you're representing? You said --

MR. CANNON: I'm representing --

COUNCILMEMBER COCHRAN: --Maalaea Village.

MR. CANNON: --I'm on the board of both, Elle. I'm on the board of our condominium which is under enforcement action. And by the way, this Department of Health has given us a stay of execution to rebuild our injection well in hopes that this can happen. They

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feel that this is a good community solution. And they could use this as an example with the EPA to be able to show progress. This is a win for the bay. It's a win for the EPA. It's a win for the County of Maui. It's a win for every one of our condominiums. It's a win-win-win situation for us. And this is a well-written law, well done on that.

CHAIR SUGIMURA: Thank you. Any others?

COUNCILMEMBER ATAY: Chair?

CHAIR SUGIMURA: Mr. Atay?

COUNCILMEMBER ATAY: Thank you. Thank you for being here. I'm all in support of moving away from using injection wells, especially near the proximity of our ocean. We have experienced the negatives, detrimental effects of the injection wells on the west side of Maui. But in this regional wastewater treatment plant, where...do you guys have a plan as to where it should be and on whose land?

MR. CANNON: Well, we're not the experts. But there's a couple of choices for land. A&B is on one side, and there's been some properties on the other side of the road. There's two big four-foot pukas, and all you need is this much space going through that puka to low-pressure push the effluent up. That would be ideal. I mean you can...they can gift it. They can sell it. They can lease it. They can have it condemned. There's a number of ways to make it happen. And there's a filthy field full of poison that the rain all comes out and makes the brown water. So, that's a second problem. I'd really like to come and approach you with another reason for this law so that our community can improve the sea level rising, --

COUNCILMEMBER ATAY: Right.

MR. CANNON: --improve the beach. Do what I think Kahana might be doing, and what the Waikiki did 30 years ago.

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

CHAIR SUGIMURA: Thank you. Thank you --

MR. CANNON: Thank you.

CHAIR SUGIMURA: --very much. Rick Smith is next, followed by Joleen Alexander, and then Wyatt Perry.

MR. SMITH: Good morning. I am Rick Smith, and I represent the Lauhoa condominiums in Maalaea. And this morning I did bring a letter with 18 copies from Dr. Tom Royer, who is also a resident at Lauhoa, and is an oceanographer. And I won't go into his letter, but I will talk just very briefly about what I know about this 'cause I've been involved in this wastewater treatment plant for Lauhoa for a number of years. And so yeah, the handwriting is on the wall. It's clear that the EPA is against the injection

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wells. I think it's becoming increasingly clear that the State Health Department is. And so now we're at the point where we need to try and get the County on board to make this happen. And this facilities district legislation could help a whole lot, as Peter said, with funding for this project which would be a pretty large project. You know, Lauhoa, we've gone through all the design phases, and we were ready to go to break ground on a new wastewater treatment plant still utilizing injections wells when all of this kind of came to a head. And so we're trying to figure out, well, do we really want to spend that kind of money which was going to be like a million dollars just to have the system, you know, condemned a couple years later. And that just didn't make much sense. So, when we started talking about the regional idea, that really sounded good. And I can attest to the condition of the water. I'm a scuba diver, and I've been diving here for 40-something years. And I have seen the difference in the coral reefs around here. I'll just repeat a little bit what Peter said. This is a total win for everybody if we were to adopt this. The EPA wins. The State wins. The County wins. Maalaea wins. And most importantly, the ocean wins. That's all I have.

CHAIR SUGIMURA: Very good. Any questions? Ms. King?

COUNCILMEMBER KING: Thank you, Chair. Yeah, thanks for being here, Rick. I just wanted to clarify for everybody that you...that the Maalaea Village Association project is a separate project that also needs to come before the Council if and when you get to the point where you have all the details worked out. And that what we're passing today is enabling legislation.

MR. SMITH: Right.

COUNCILMEMBER KING: So, everybody...I think everybody understands that, but I just want to clarify that your board has been... 'cause we had that meeting with Planning Department. So, everybody understands that the details may not all be worked out yet. But we need this first step to enable, and this doesn't approve the Maalaea project. It just enables the process to go forward.

MR. SMITH: Right. And I think that it shows a lot of seriousness on the part especially of Hono Kai, the Ocean Center, and Lauhoa that we are willing to fund the beginning feasibility studies 'cause we believe in this project that much.

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

MR. SMITH: Thank you.

CHAIR SUGIMURA: Joleen Alexander from Emmanuel Lutheran Civics Class, followed by Wyatt Perry, also from Emmanuel Lutheran Civics Class.

MS. ALEXANDER: Good morning. My name is Joleen Alexander, and I'm an eighth grader from Emmanuel Lutheran School. Addiction to nicotine can be a lifelong struggle for many people. I know that along with smoking regular cigarettes, secondhand smoke

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can be pose...can pose a threat to people around. While vaping also affects others, it seems to be a better option than secondhand smoke. When you take away a person's right to vape, it seems to be more of an infringement on personal rights than improving safety for others. In addition, I feel that this is something that might be very difficult to police. There are numerous other laws that I feel officers should be focusing their time and effort on. Thank you for your time.

CHAIR SUGIMURA: Thank you. Any questions for her? Seeing none, thank you. Next testifier is Wyatt Perry, also from Emmanuel Lutheran Civics Class, followed by Katie Folio, and Kawaimalie Apolo is after Katie. This is Wyatt.

MR. PERRY: Good morning, city Councilmembers. My name is Wyatt Perry, and I attend Emmanuel Lutheran School. Yesterday my classmates and I discussed this issue in class. My classmate Kai Ward from Kihei taped this following statement concerning this issue. I am going to read his statement. I understand that those who vape believe that they should have the freedom to use their devices in public areas. They say that they simply emit harmless vapor. However, medical research from the Center for Tobacco Research and Education states, if you are around somebody who is using cigarettes [sic], you are breathing an aerosol of exhaled nicotine, ultra-fine particles, volatile organic compounds, and other toxins. Short-term exposure causes eye, throat, and ear irritation. Long-term exposure can result in children developing asthma. There are at least ten harmful chemicals that have been identified in the aerosol from vaping. Based on this information, I believe that those who choose not to use electronic cigarettes should have the right not to be exposed to these harmful toxins when they are not in public. As of October 2018, 789 municipalities in 12 states have included electronic smoking devices as products that are prohibited from use in smoke-free environments. I'm asking the city Council to expand the definition of smoke or smoking to include electronic devices. Thank you for your time.

CHAIR SUGIMURA: Thank you, well done. Any questions, Members? Seeing none, thank you, everybody. Thank you for the supporters also. Wyatt Perry? Oh, that was Wyatt Perry, sorry. Katie Folio?

MS. FOLIO: Aloha, Chair Sugimura --

CHAIR SUGIMURA: Aloha.

MS. FOLIO: --and Members of the Committee. Good morning. And I just want to say thank you to all the students for coming today. It's amazing to see you guys fill the Chamber. So I'm here representing the Coalition for a Tobacco-Free Hawaii, which is a program of the Hawaii Public Health Institute. We want to thank you for introducing this ordinance to update our Maui County definition of smoking to include electronic smoking devices, otherwise known as ESDs, which would make our County definition consistent with the updates made to our State law in 2015. Federal regulations are extremely limited and do not include where ESDs are used. So, passing ordinances like these are critical in protecting the public from secondhand aerosol which contains nicotine, ultra-fine particles, volatile organic compounds, and other toxins. Finally, we

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want to thank the Council for continuing to protect our youth from the dangers of vaping. The FDA and the CDC now consider youth use of ESDs as a public health epidemic, with the 2018 youth tobacco survey data showing a shocking spike in teen vaping nationwide. From 2017 to 2018 alone, there was a 78 percent increase in current e-cigarette use among high school students, and 48 percent among middle-school students nationwide. We now have a generation addicted to these products, and we want to thank you for your role in helping us to protect them from a lifetime deadly habit. So, thank you for introducing this ordinance, and also for the work that you have all accomplished this year around tobacco and ESD protections for our County. We strongly support the recommended amendments in our County Code. Thank you.

CHAIR SUGIMURA: Thank you. Any questions? Seeing none, thank you very much for your hard work that you do for our kids and the cause. So, thank you, Katie.

MS. FOLIO: Thank you.

CHAIR SUGIMURA: Next testifier is Kawaimalie Apolo, and followed by Kiha Kahalehau. Also both on PEA-13.

MS. APOLO: Aloha, Members of the Policy, Economic Development, and Agriculture Committee. My name is Kawaimalie Apolo, and I would like to thank you for this opportunity to submit testimony as a part of PEA-13, which is the bill that will change the definition of smoking. I strongly support PEA-13 because while I was doing research in biology, I found shocking statistics about teen vaping in Hawaii. I've been doing research for a community awareness project for a club named HOSA at our school. We have been focusing on youth in Maui County vaping. And sadly, we're the second highest state in Hawaii that teens vape. Sadly, while doing this research, we discovered that over 50 percent of teens in Hawaii tried vaping before. This data shows that Maui County middle and high schoolers that vape, and it's a lot of them. What we can do is pass this bill, PEA-13, so that the younger adolescents aren't being influenced by seeing people in the public vaping or smoking. They see people in public vaping and smoking and it's sad to see these things because that is what they look up to, and they think it's fine to do it. So, I hope you'll pass this bill for the people of Maui County and for the future children and teens that will grow up here. Thank you.

CHAIR SUGIMURA: Thank you. Any questions? Seeing none, thank you very much. I'd also like to welcome Chair White to the meeting. Thank you very much.

COUNCILMEMBER WHITE: . . .*(inaudible)*. . .

MR. KAHALEHAU: Aloha mai kakou. Mahalo, Members of the Maui County Council, for giving me the opportunity to speak and share my opinion and my experiences. My name is Kihaapiilani Kahalehau, and I'm a resident of Waiehu and a student of Kamehameha Schools. I support PEA-13, a bill to include vaping and smoking prohibition. I choose to support it because I have a lot of uncles and aunties that smoke, a lot of uncles and aunties that vape, and those that used to smoke and

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changed to vaping because they thought it was a better alternative. But all of them still have many different cardiovascular issues and can all relate in that way. I've actually had three uncles that have died of lung cancer in my family. And I really support this bill because keeping it away from people that don't smoke and out of the public's sight is really important to me. Thank you for giving me the time, and I hope this helps in your decision.

CHAIR SUGIMURA: Well done. Anyone have questions for him? Next is Moani Tiare Atay.

MS. ATAY: Aloha, Councilmembers. My name is Moani Tiare Atay, and I'm a ninth grader at Kamehameha Schools, Maui. I want to start off by saying mahalo for allowing me this opportunity to testify today. When I was in middle school, I went to one event on Oahu with some family friends that live there. On the way to the event, my uncle who was driving, began to vape with the windows up. Soon I started coughing because the whole car was filled with smoke and vapor. I remember the feeling of my lungs filling with vapor and my breath shortening. Although smoking and vaping is illegal in any motor vehicle when a minor is present, I think that it is important that we change the definition of smoking to include the use of an electronic smoking device and to make that applicable to all areas where smoking is already prohibited because some of the effects of secondhand smoke are asthma, ear infections, and even sudden infant death syndrome. This past Thursday, the FDA announced that the percentage of high school e-cigarette usage has jumped 80 percent, and that middle school usage has jumped 50 percent. If we ban the usage of e-cigarettes in places where smoking is already prohibited, we can prevent these numbers from climbing even more because 28 percent of teens that vape have or has a friend and family member that vape. I hope this testimony has encouraged you to pass bill PEA-13 so the future of Maui will be protected from these harmful effects of e-cigarette usage. Mahalo.

CHAIR SUGIMURA: Thank you. Anyone have questions for her? Seeing none, well done, thank you. Next is Josh Ooka, followed by Laksmi Abraham.

MR. OOKA: Aloha, Chair Sugimura, and good morning, Members of the Council. Thank you for the opportunity to add important definitions to the law regarding the regulation of electronic smoking devices proposed in PEA-13 to establish consistency between County and State clean air laws. My name is Josh Ooka, and I'm a senior at Baldwin High School. Every day when I use social media, I see at least one video or image of someone vaping. I see people posting videos of them using vapes at beaches, parks, and in their car doing tricks and vaping with their friends. The use of social media to showcase vaping popularized it and made it widespread. As a result, vaping has become prevalent among teens with about 50 percent of them, high school students, trying vaping and about 32 percent of them regularly using it. Especially in Hawaii, which is nationally ranked in the top 3 percent for youth vaping, changing this law will help the fight against teen vape use. At Baldwin High School it would be an understatement to say that vaping is common. Vapes are small and be easily hidden. So, it's not a surprise to me when I'm walking to my next class, and I would casually see a kid whip out a vape and blow a cloud because it's become so ordinary for me to see. I like to make the joke that they're the air fresheners of our bathrooms. But the

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truth is that every day after recess and lunch the bathrooms always smell fruity and sweet because kids would go in there and vape. Sometimes I would go to the bathroom during class, and I had walked in on kids vaping. I don't know these kids, but they actually had offered me to try their vape and had pressured me. So, these kids that are vaping during school are not only pressuring their friends but other students too. Some may think that it's only the regular class kids or the bad kids that vape. But I'm involved in athletics clubs and take AP and honors classes and vaping is so widespread it affects everyone at every level in every activity. Even in my top-level classes, there are kids hiding their vapes in their hands, occasionally taking a rip because they can't resist. I see my peers vaping when the teacher isn't looking, and they have a trick to breathe it out clear so that it's unnoticeable because they are so addicted that they have to find a way to do it in class. And it's more common in other classes. For my senior project I'm organizing a wellness week at Baldwin High School to celebrate Blue Zones and healthy living. One day is Breathe Aloha Day where the focus is on vape prevention and awareness. Vaping is harmful and dangerous, and many students don't realize it. So, through my activities for that day, I hope to break the culture of vaping at Baldwin High School. A lot of my friends vape. So, I would consider them addicted. And this cause is important and meaningful to me because it's a step towards breaking this dangerous habit for them and other kids my age. Vaping is a new epidemic that's affecting my generation and the generations to follow if nothing is changed or done. Thank you for your time, and I ask for your continued support on this law.

CHAIR SUGIMURA: Thank you. Mr. Ooka?

MR. OOKA: Yes.

CHAIR SUGIMURA: When is your wellness week?

MR. OOKA: It's actually happening next week at Baldwin High School.

CHAIR SUGIMURA: Next week. So, you're going to take up different issues and one of the days is going to be on this Breathe Aloha?

MR. OOKA: Yes.

CHAIR SUGIMURA: Is this your magnet that you gave to us?

MR. OOKA: Oh...

CHAIR SUGIMURA: Oh, it's from Katie.

MR. OOKA: Yeah, that's from Katie but they're actually going to be at my wellness week for that day to help support.

CHAIR SUGIMURA: Thank you. Members, anyone have...

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COUNCILMEMBER KING: I have a question, Chair.

CHAIR SUGIMURA: Ms. King?

COUNCILMEMBER KING: Thank you. Thank you for being here, Mr. Ooka.

MR. OOKA: Thank you.

COUNCILMEMBER KING: I was a little bit disturbed to hear that it seems to be okay to vape at school. Is it not illegal already on campus?

MR. OOKA: It is considered a referable offense but so many kids do it. And they find ways to do it so that they're not caught. So, even though, like, kids are caught, they try to find ways, 'cause they're so addicted, to even do it in class. Like I remember on social media this one kid got caught for vaping in class. So, he had in-school suspension. But he posted a video of himself in in-school suspension vaping because he just couldn't resist.

COUNCILMEMBER KING: Okay. Do you think this will help? If we have a County ordinance will help the schools enforce?

MR. OOKA: Oh, yes, definitely.

COUNCILMEMBER KING: Okay, great. Thank you.

MR. OOKA: Thank you.

CHAIR SUGIMURA: Thank you very much.

MR. OOKA: Thank you.

CHAIR SUGIMURA: Last testifier is Laksmi Abraham from Blue Zone Project.

MS. ABRAHAM: Aloha, Chair Sugimura, Councilmembers. Thank you for your time this morning. I know you're hearing a lot of testimony about PEA-13 so I'll keep it short. I also want to say thank you to all the students that took time out of their classroom and their day to come and support this bill. We really appreciate your support. And it's so, so positive to see so many of you understanding the importance behind vape prevention. So, thank you for your time. My name is Laks Abraham. I am the Community Program Manager for Blue Zones Project, Central Maui. And I am testifying in support of PEA-13 which proposes to regulate electronic smoking devices. It would amend Maui County Code Chapter 8.20 and adds important definition of the law which are critical to establishing consistency between County and State law. First off, I would like to thank Councilmember Cochran for recognizing the importance of this amendment by proposing new language to protect our community. We so appreciate your initiative. Mahalo to Councilmember Sugimura for scheduling this proposal and for always being a champion of tobacco prevention in our community.

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As you know, we are facing a daunting epidemic with one in two teenagers trying vape for the first time, with 32 percent of high school teenagers and 25 percent of middle school students actively using. In addition, we know that kids are now suffering from addiction to nicotine in the classroom. And we're finding a growing need to bring cessation programs to high school. Currently, Hawaii is ranked amongst the top 3 percent nationally for youth vaping. I'm sharing this with you because we must do everything we can to stop the growing epidemic around youth vaping right here at home. Adding ESDs to be included in the definition of smoking in the Maui County Code will be another step in laying the groundwork to protect our keiki from big tobacco. Mahalo for all you do and for your continued support of a tobacco-free Hawaii. Mahalo.

CHAIR SUGIMURA: Any questions? Mr. Guzman?

COUNCILMEMBER GUZMAN: Yeah. Thank you. Do all the electronic devices...do they all require the nicotine substance component within it?

MS. ABRAHAM: You can actually, depending on the device, you can put different types of substances in it which is even more troubling. People use them for marijuana. They also can be used for basically any vapor-type of product that you would like to vaporize. However, it is been proven over and over again that regardless if it says water vape, or if it is a nicotine product, there are traces of nicotine in all vape products. So, no matter what they say on the labeling, they can have a small percentage that isn't required to be adhered to or notifying to the user. But there is nicotine in all vapes.

CHAIR SUGIMURA: Okay, thank you. Any other questions?

MS. ABRAHAM: Thank you.

CHAIR SUGIMURA: Seeing none, thank you. So, I'm going to go to the District Offices. If there are anyone else that wants to testify, you can testify after we do the District Offices. So, at this time, the Hana District Office, Dawn Lono, do you have anyone wishing to testify?

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

CHAIR SUGIMURA: Thank you. Lanai Office, Denise Fernandez, do you have anyone wishing to testify?

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

CHAIR SUGIMURA: Ella Alcon from Molokai, do you have anyone waiting to testify?

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

CHAIR SUGIMURA: Thank you. Anybody else in the Chamber would like to testify? Seeing none, at this time I'd like to ask to close public testimony.

COUNCILMEMBERS: No objections.

CHAIR SUGIMURA: Thank you, Members.

. . .END OF PUBLIC TESTIMONY. . .

CHAIR SUGIMURA: I'm going to take up the first item which I think majority of all the testifiers in the Chambers are here to see.

PEA-13: SMOKING PROHIBITIONS (CC 15-255)

CHAIR SUGIMURA: And it's Smoking Prohibitions, PEA-13. And it is...we look at correspondence dated October 9th, Members, in Granicus from Councilmember Elle Cochran transmitting a proposed bill entitled, A Bill for an Ordinance Amending Chapter 8.20, Maui County Code, Relating to Smoking. And the purpose of the proposed bill is to expand the definition of smoke or smoking to include any lighted or heated tobacco product or plant product intended for inhalation, and the use of an electronic smoking device, and to make that expanded definition applicable to the designated areas in which smoking is prohibited. So, at this time, Ms. Cochran, would you like to open and say a few words regarding this?

COUNCILMEMBER COCHRAN: Thank you, Chair. Thank you for bringing this up. And I don't really have any more to add from all the wonderful testimony from our haumana of the schools. So, I appreciate them getting involved because I've seen their participation. A lot of our legislation and policies just get passed through because when we have our keiki coming here to share their concerns, how can we say no, number one. But I'm here to protect their future and, you know, take action to create healthy environment and lifestyles for them. So, this is another addition to strengthen what we already have on our books to incorporate the e-cigs and the vaping stuff. So I'm totally in support, and again I appreciate all the schools coming together and sharing their thoughts and manao with us this morning. I've seen Butts Off the Beach. We instantly got that passed and many other efforts. So, mahalo to our keiki, teachers, and for you for posting this. So, I'm in support. Thank you.

CHAIR SUGIMURA: Yeah. Thank you. Anyone else? Ms. King?

COUNCILMEMBER KING: Thank you, Chair. I actually have a question because I'm not sure. I'm looking at the...and thank you, Ms. Cochran, for introducing this. There's

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this version then there's a revised version from Corp. Counsel, so which one are we looking at?

CHAIR SUGIMURA: So, we're looking at October 9th --

COUNCILMEMBER KING: Okay.

CHAIR SUGIMURA: --version which is Ms. Cochran's. I think the...maybe the earlier one you're looking at, it's interesting 'cause this actually came from Presiding Officer Pro Temp Michael Victorino transmitting...is the same. But then we've taken up...finishing it off, I guess.

COUNCILMEMBER KING: Okay. Yeah, so the version actually has two sections of changes, the version that we're looking at?

CHAIR SUGIMURA: I'm not sure what...

COUNCILMEMBER KING: In Section 2 and Section 3.

CHAIR SUGIMURA: So, we have under 8.20.010, under Purpose, where it adds in "and the use of electronic smoking devices," underscored --

COUNCILMEMBER KING: Right.

CHAIR SUGIMURA: --in that paragraph.

COUNCILMEMBER KING: Okay, so I just wanted to make sure. And the only problem...I mean I like this bill. The only problem I have with it is calling something a positive danger. I think that's kind of an oxymoron. So, I would trade that word for the word "known." But I can make that amendment proposal when we get there.

CHAIR SUGIMURA: Okay. Where are you seeing it?

COUNCILMEMBER KING: It's in the first...under Purpose. It says, because smoking of tobacco or any other plant and the use of electronic smoking devices is a positive danger. I would rather say something like a "known danger" 'cause I don't think there's anything positive about it but.

CHAIR SUGIMURA: Okay. So, Members, at this time...oops, let me get back to where we are. I'm going to...any other discussion regarding this? Seeing none, okay. So, I'm going to entertain a motion to recommend passage on first reading of the proposed bill, a bill entitled, A Bill for an Ordinance Amending Chapter 8.20, Maui County Code, Relating to Smoking; incorporating any nonsubstantive revisions that may be needed; and the filing of County Communication 15-255.

COUNCILMEMBER KING: So moved.

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COUNCILMEMBER COCHRAN: Second.

CHAIR SUGIMURA: Ms. King...oh, second, okay. Ms. King, thank you, and seconded by Ms. Cochran. Any discussion?

COUNCILMEMBER KING: Chair?

CHAIR SUGIMURA: Yes.

COUNCILMEMBER KING: Just like to move to amend under 8.20.010, the word "positive," and change it to "known" danger, in the first sentence.

CHAIR SUGIMURA: Okay, so that's the first sentence.

COUNCILMEMBER KING: First sentence under that section.

CHAIR SUGIMURA: Because smoking of tobacco or any other plant, insert "and the use of electronic smoking devices," is a positive danger to health and a cause of material annoyance, inconvenience, discomfort, and health hazard to those County employees and members of the public who are present in confined places; and in order to serve public health, safety and welfare, the declared purpose of this chapter is to prohibit smoking of tobacco or any other plant and the use of electronic smoking devices in certain areas in the County. So, you're adding that, deleting the word "positive" and...

COUNCILMEMBER KING: Put the word "known."

CHAIR SUGIMURA: Known.

COUNCILMEMBER WHITE: Second.

CHAIR SUGIMURA: Thank you. So, motion by Ms. King, second by Mr. White. Any discussion, Members? Mr. Guzman?

COUNCILMEMBER GUZMAN: Thank you, Chair. On the use of the electronic smoking device, I realize the language is there, tobacco or any other plant. My question is, is there any other substance that can be utilized in electronic smoking device other than what is listed as plants or tobacco? Are we trying to regulate the device itself, the electronic smoking device and whatever is being smoked in that device?

CHAIR SUGIMURA: Mister...

COUNCILMEMBER GUZMAN: And my question again is, is there any other substance aside from tobacco or plant that can be utilized in that device?

CHAIR SUGIMURA: I'm going to ask Mr. Kushi. I think that might take somebody who kind of understands this industry. And maybe if we could ask Katie Folio who works with it. I don't...do you have any comment on that, Mr. Kushi?

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MR. KUSHI: I wouldn't know.

CHAIR SUGIMURA: Yeah.

COUNCILMEMBER KING: Chair? Just as far, yeah, as far as the proposed amendment goes, it's just applying to whatever is already in there, so. Because we don't know, we probably wouldn't be able to say it's a known danger. The only ones that we know about are the ones in here.

CHAIR SUGIMURA: Okay, so that's your discussion on the amendment on the floor. Ms. Cochran?

COUNCILMEMBER COCHRAN: Yeah. So, I'm just wondering, you know, now we have these CBD oils and different kinds of products. So, it's not technically...I guess it's derived from a plant so I'm wondering is it covered, you know, products like that? But I'm assuming the word "plant" will encompass...if it's derived from a plant, then it's...that's what that's targeting, I'm thinking. I don't...I'm not sure if Mister...

CHAIR SUGIMURA: It's good that we don't have a direct answer. That means we don't smoke this thing. I wonder if...

COUNCILMEMBER COCHRAN: Yeah, I'm not too sure.

CHAIR SUGIMURA: Yeah. Members, if you would allow me, can I ask Cody...Katie Folio to answer Mr. Guzman's question? You are the expert or have been working on this. Or Laksmi.

MS. FOLIO: I can tell you that...

CHAIR SUGIMURA: Come up to the podium. So, the question is about the use...smoking of tobacco or other plant. And I guess Mr. Guzman is questioning "other plant."

MS. FOLIO: So the FDA has deemed ESDs, electronic smoking devices, as tobacco products whether they have tobacco in them or not, which is a little tricky. But all components and parts of ESDs are deemed tobacco products. So, as long as that piece is in there, you know, we can't always say what these kids or what people are putting in that. We've heard stories about them vaping alcohol. But as far as the law is concerned, it covers all electronic smoking devices because it's deemed as a tobacco product.

COUNCILMEMBER GUZMAN: I see.

CHAIR SUGIMURA: That would cover it.

COUNCILMEMBER GUZMAN: So, in a sense, you know...Chair, may I? In a sense we are banning the device itself because anything attached to the device is technically implied to be tobacco. Is that my understanding?

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CHAIR SUGIMURA: Mr. Kushi?

MR. KUSHI: Madam Chair, Member Guzman, first let me address your previous question. Any other plant, I would suspect marijuana or cannabis is another plant. It's not...I don't think it's tobacco. So, if you smoke that, you know, you're covered under here. In terms of banning, I don't think you're banning it. You're regulating it in terms of where you can smoke.

COUNCILMEMBER GUZMAN: Right, right.

MR. KUSHI: You know, there's no, to my knowledge, there's no ban on smoking or using...or vaping. But we can regulate where you do it.

COUNCILMEMBER GUZMAN: You're correct. I see that. We are regulating it in certain areas.

CHAIR SUGIMURA: Defined areas.

COUNCILMEMBER GUZMAN: That's correct. So, it's not a full-on ban. So, we have no commerce clause issues. I got it.

MR. KUSHI: Also, to my knowledge I think the State just recently amended a State law that minors cannot smoke. Not only not buy, they cannot smoke. It's like drinking. I'm not sure what HRS section that is but.

COUNCILMEMBER GUZMAN: Thank you for that, thank you. I'm good. Thank you, Chair.

CHAIR SUGIMURA: You're good. Ms. King, you have a question?

COUNCILMEMBER KING: Yeah, Chair, I just kind of wanted to add that this isn't banning the use of cannabis. We have these, you know, the dispensary permits have been given out, and there's edibles, and there's other forms of it. But even people that I know that are famous, but I won't name them today, understand that the act of smoking is not healthy, you know. So, they use other forms of it but. So, I think what we're doing here is pretty much in line with...that's why I say it's a known danger because the act of smoking is actually...whatever you're smoking is not a healthy act.

CHAIR SUGIMURA: Okay. So, I think we got our questions answered, Mr. Guzman. Thank you, Ms. Cochran. And so we're now...you added the...changed "positive" to "known" danger, right, in the Purpose. So, was it friendly amendment? Do we have to take a vote on it?

COUNCILMEMBER KING: I think we have a motion and a second.

CHAIR SUGIMURA: You made a motion. Okay, so at this time all in favor say, "aye."

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COUNCILMEMBERS: Aye.

CHAIR SUGIMURA: All opposed? None. So, we have eight "ayes." So, that word is changed.

VOTE: AYES: Chair Sugimura and Councilmembers Atay, Carroll, Cochran, Guzman, Hokama, King, and White.

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Vice-Chair Crivello.

MOTION CARRIED.

ACTION: APPROVED AMENDMENT.

CHAIR SUGIMURA: Any other discussion? So at this time, I'd like to take a vote on the main motion. All in favor, Members, say, "aye."

COUNCILMEMBERS: Aye.

CHAIR SUGIMURA: Opposed? Okay, motion carries.

VOTE: AYES: Chair Sugimura and Councilmembers Atay, Carroll, Cochran, Guzman, Hokama, King, and White.

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Vice-Chair Crivello.

MOTION CARRIED.

ACTION: Recommending FIRST READING of revised bill and FILING of communication.

CHAIR SUGIMURA: So all of you who are sitting in the audience, thank you very much. This has now become...to be reported out of Committee and to become law, hopefully pass first and second reading. So thank you everybody in the audience for being here

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for this item, and we're going to go on to the next item. Do you want to...I'm going to take a short recess. . . .(gavel). . .

RECESS: 9:57 a.m.

RECONVENE: 10:08 a.m.

CHAIR SUGIMURA: . . .(gavel). . . Okay. I'd like to call this meeting back to order.

**PEA-75: ESTABLISHING THE WEST MAUI COMMUNITY PLAN
ADVISORY COMMITTEE (CC 18-134)**

CHAIR SUGIMURA: This is...we're going to continue on with the second item on our agenda which is Establishing the West Maui Community Plan Advisory Committee, PEA-75. And we are continuing this from our September 11th meeting where we heard from 11 of the nominees. And today we have three of the four remaining nominees with us in the audience to hear them and to get to know them. The item before us is, Appointment of the West Maui Community Plan Advisory Committee. The purpose of the proposed resolution is to approve or disapprove the applicants for the nine Council-appointed positions of the West Maui Community Plan Advisory Committee. The Committee received timely applications for the positions from Joseph Aquino, Ravi Bugga, Yvette Joyce Celiz, Lee Allen Chamberlain, Karen Comcowich, Lincoln...I'm sorry, Michele Lincoln, Rick Mejia Nava, Kai Nishiki, Dylan G. Payne, Joseph D. Pluta, Leilani Reyes Pulmano, and Leo Joseph Thiner-Brickey. The West Maui Community Plan Advisory Committee shall remain in existence until the enactment of an ordinance adopting the decennial revisions of the West Maui Community Plan. Correspondence dated September 5, 2018 from the Chair of the Committee, transmitting completed application forms for each of the applicant. So, that information is with you, Members. Today I just wanted to kind of briefly go over, just as a refresher, that we had solicited applications from the community from the West Maui area with a press release dated June 1 asking for people to apply by July 6 by 4:30. We did receive 15 West Side applications of which we presented it to the Council. The press release also appeared in West Maui...in the Maui County website, Planning Department's wearemaui.org website, and they also have a Facebook. All of this was posted there which we got 15 applicants, and by the deadline that was requested. All the information has been sent to you. I just would like to remind you that based upon Maui County Code 2.80B.080, Maui County Code, nine of the 13 members of the CPAC, four coming from the Mayor, nine from us, we will be appointing nine. And the Mayor will take care of his four whenever. Applications for the nominees were provided to you on Granicus, and also Staff provided this long...this spreadsheet which also has a good summary of all of the applications received. And I'd like to thank Shelly Espeleta who went through and listened to the September 11th meeting, if you have not already, but kind of did a summary of all the information that was submitted and highlighted from all the different nominees. So, that information is available to you too. I also would like to state that this commitment to be on the Maui County West Maui CPAC is a huge commitment.

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Although that the Maui County Code says it'll be at least seven meetings, public meetings during January to June 2019, what is...what was experienced is actually 25 meetings. And they're like three hours long, requires a lot of studying and a lot of commitment to give back to the community. And the other thing is that the CPAC, once it's formed, does not dissolve until the West Maui Community Plan is ended and enacted by the Council. So, to give you an example, the Molokai Community Plan which we just approved on first reading, I think it took about...is it two years...to go through the review process although it was supposed to be a year. And it does keep you on as a CPAC member all the way until the actual plan is accepted by the Council and becomes public. So, today I wanted to take up the...we have three remaining nominees. One person is a no-show. And so I wanted to ask you to come up in alphabetical order and to give us a little bit information about yourselves. I'll give you three minutes. And then the Members can ask you questions. And let's see, and okay, all of the members have applied by a deadline, so we have the names before us are...or who will be considered. It's not going to be opened up again for other members of the community to apply because all the people who have applied did comply with the deadlines set forth by the Committee. So, we're going to proceed with the candidates, but before I do, I wanted to note that we have Mr. Aquino here. Mr. Aquino's here in the back. Mr. Bugga is here, thank you. Mr. Chamberlain. By any chance do we have Leo Joseph Thiner-Brickey? We do not. So, just for the Members' information, Staff has tried to communicate with him for the September 11, September 17th when we tried to get this group to come back together again and interview the remaining nominees, and he's not here today. So, at this time, I'd like to request for a motion to put him on the disapproval document for not approving him to be part of this.

COUNCILMEMBER COCHRAN: Yeah, so moved.

CHAIR SUGIMURA: Okay, thank you. I need a second.

COUNCILMEMBER KING: Second.

CHAIR SUGIMURA: Thank you. So moved by Member Cochran, second by Member King. Any discussions? None, okay. All in favor say, "aye."

COUNCILMEMBERS: Aye.

CHAIR SUGIMURA: So, we have one, two, three, four, five, six of us. We are going to be placing... "ayes" have it so we're going to be placing his name on the disapproval list which is Exhibit "C" of the resolution.

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VOTE: AYES: Chair Sugimura and Councilmembers Atay, Carroll, Cochran, King, and White.

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Vice-Chair Crivello and Councilmembers Guzman and Hokama.

MOTION CARRIED.

ACTION: Recommending DISAPPROVING the nomination of Leo Joseph Thiner-Brickey to the West Maui Community Plan Advisory Committee.

CHAIR SUGIMURA: With that, we have the first candidate we'd like to talk to. And thank you very much, Mr. Aquino. Members, I just want you to know that at our September 11th meeting Mr. Aquino did appear and because we took so long to get to this item that he had to leave before we could get to him. So, thank you for coming back to talk to us.

MR. AQUINO: Good morning, Chair, Committee. Thank you for giving me this opportunity to share my manao. My name is Joseph Aquino. I live in Kauaula Valley in Lahaina. As a Native Hawaiian, I'm concerned about the development and plans of West Maui. So, this is why I applied for this committee. I want more of the local committees' [sic] voices in the future plans of West Maui. I think it's very important. I come with an open mind. I'm a great listener. And I'm also willing to compromise with the diverse community because I believe in growth. I believe in moving forward. But what I truly believe is in smart growth, growth that still going to complement West Maui and its diversity. But I really want the community to get more involved in it, so we can stop all of the finger pointing and all the surprises, and we can try to work as one community in harmony. I know that whenever future plans come up, the community is given a chance to speak. But sometimes it just doesn't work because of whatever obligations they have. So I think this is a great thing. This is an extra link to getting the community more involved, and making the West Maui a community where the locals are happy to come home to. Thank you.

CHAIR SUGIMURA: Thank you. Members, any questions for Mr. Aquino? Mr. White, no? Seeing none, thank you.

MR. AQUINO: Thank you.

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CHAIR SUGIMURA: Thank you very much for...thanks for coming back. The next...not testifier, the next nominee is Ravi Bugga. I think Mr. Bugga was in Japan when we had our September 11th meeting, so thank you very much for being here.

MR. BUGGA: Good morning, Chair, and good morning, Members. I've been living on Maui now for four years since my wife and I retired from our jobs in Washington, D.C. with the World Bank. And I would really, as I said in my application, like to just continue to have Maui as the best place in the world to live and to visit. And I come with no preconceived notions. I don't have an agenda. I don't have an axe to grind. I'm doing this because I think with my background and experience, I can really contribute to the community which I'm doing in other small ways, to really come toward that objective. As an example of my community activities so far, I've been teaching, tutoring voluntarily for the last three years at King Kam Elementary School in Lahaina, at Lahaina Intermediate last year. And in fact, right after this I'm going to Princess to tutor kids in math in fifth grade. I'm also on the board of Whale Trust, which as some of you may know, puts on the annual Whale Tales which...and it's a leading research and educational outfit for whales. I was also on the board of the Vintage at Kaanapali, so I understand some of the issues regarding short-term rentals, community associations, et cetera. And so with my background I've worked with government, private sector, and civil society NGOs for the last 25 years before I retired. I'm very used to working with teams, engineers, lawyers, environmentalists, and others. The World Bank is a leading environmental organization. And I'm also very well-versed in public/private partnerships where governments partner with the private sector. I was heading up the transport group in the private sector arm of the World Bank, airports, ports, roads, railways, airlines, shipping, et cetera. So, whether it's financing a railway in Kenya and Uganda, or the airport in Lima or in Amman in Jordan, we've done that. So, I'm well-versed in that. And finally, I would just like to say, repeat that I just see this as a way to really bring my experience to bear here in Maui. Thank you.

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

MR. BUGGA: Thank you.

CHAIR SUGIMURA: Thank you. And the last nominee that we're going to look at is Lee Allen Chamberlain.

MR. CHAMBERLAIN: Good morning, Chair and Councilmembers. Thank you for allowing me to go ahead and make a presentation on my application for the CPAC. The reason I'm interested in obviously being part of the CPAC is I've lived on Maui for...since 2000. And I enjoyed it very much and still enjoy it, but I think there's an opportunity for some change on the West Side. I've probably met with many of you, and you know what my objective is. I do have an agenda which I have to be honest with you is in regards to alternate transportation, multimodal transportation. And I've worked really hard in trying to implement that in a lot of different places. I have established the Maui Bicycling League. And then I have further gone over and focused on the West Side with the West Maui Greenway. And I've become aware that there is many

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existing plans in support of this kind of concept, but there hasn't been implementation towards that. And my belief is that being on the CPAC I might move further forward in getting implementation towards these things. I can only see the benefit of multimodal transportation, providing independence for our keikis and so on and so forth, be able to commute independently from school to different activities and home and all that via safe bikeways. And the plan's already been established. It just hasn't been implemented. Look back at the Hawaii bike plan. And I believe that there's so many different modes of transportation associated with the bicycle and that it can serve so many different purposes. I don't look at the bicycle as a recreational vehicle, per se. I look at it as a utility vehicle. And there are many different types, and I focus on family-type bikes as well as cargo bikes and substituting the automobile. The automobile is a detriment to society even though it has been productive in a lot of different ways for us. But the fact is, is that we are completely dependent upon on the automobile here on the West Side, or on Maui. And we just need alternative multimodal transportation alternatives. So, that's my whole purpose in trying to get on the CPAC. And I think I can contribute in a lot of different ways. You can see through my resume that I have a lot of background in a lot of different things. And I would be committed to doing this service if I would be chosen. Thank you.

CHAIR SUGIMURA: Thank you. Anyone have questions for Mr. Chamberlain? Ms. King? No? Your light is on.

COUNCILMEMBER KING: Oh, yeah, I guess I do have a question. Thanks for being here, Lee, and willingness to serve. I think the last time we met you were...you mentioned that you were a part-time resident. So, are you full-time now?

MR. CHAMBERLAIN: Part-time resident? How can I be a part-time resident? I'm not quite sure what that means exactly. I'm a resident of Hawaii.

COUNCILMEMBER KING: Okay.

MR. CHAMBERLAIN: I have a Hawaii driver's license. I pay taxes here in Hawaii. And because I don't necessarily live here all time, I do travel a lot. And my life has been traveling. You can see from my resume that I have lived in many countries and have made my life of traveling. I was a pilot, and so I served in South America, Central America, Mexico, many, many...majority of my life I've lived in Europe. And I've lived in New Zealand.

COUNCILMEMBER KING: Okay, I'm not questioning you...I just questioned because, you know, you need to be present at all the meetings. So, that's why --

MR. CHAMBERLAIN: Oh, okay.

COUNCILMEMBER KING: --that was my main concern.

MR. CHAMBERLAIN: Well, I mean I'm telling you that I'm committed to this objective which, of course, my history shows too where I've spent a lot of time and effort moving this

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agenda item. My objective is, of course, multimodal transportation, but I've spent a lot of my own time and money to trying to move this thing forward to implementation --

COUNCILMEMBER KING: Okay.

MR. CHAMBERLAIN: --this concept.

COUNCILMEMBER KING: Thank you.

CHAIR SUGIMURA: Thank you. Any other questions for Mr. Chamberlain? Seeing none, thank you very much for being here.

MR. CHAMBERLAIN: You bet.

CHAIR SUGIMURA: Thank you. So, that's our last nominee that would...that we were looking at. So, this time I wanted to go through the process that we're going to do. So, we're going to be selecting nine nominees to be the Council's representative for the West Maui CPAC. And at this time, I wanted to know if our West Maui Councilmember has any suggestions for your community.

COUNCILMEMBER COCHRAN: I'd like to defer actually with this. So, that's my comments at this time. There's some...there's one name here I think in particular in your opening comments that we may need to go into executive session. There's a particular person here that really ought to not be on this list. But he's still on this list. So, I mean there's things, there's issues here.

CHAIR SUGIMURA: Okay.

COUNCILMEMBER COCHRAN: So, I feel like there's a lot of things to work through. And we're not quite ready to pass this entire slate through at this time, so.

CHAIR SUGIMURA: Okay, so that's your...yes, Ms. King?

COUNCILMEMBER COCHRAN: Yeah, that's my thoughts at this time.

COUNCILMEMBER KING: Chair?

CHAIR SUGIMURA: Yes, Ms. King?

COUNCILMEMBER KING: Thank you. I'm not sure if that was a motion, but I agree with Ms. Cochran because one of my main concerns is if we...talking to Planning, they're not going to be ready to start with CPAC until March anyway of next year. If we approve this, this year, whatever...the six months starts the day that we finalize this list. That's going to take at least two --

CHAIR SUGIMURA: No.

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COUNCILMEMBER KING: --or three months off of...yes, it is. We can hear from...maybe we could have --

CHAIR SUGIMURA: Corp. Counsel.

COUNCILMEMBER KING: --Planning explain where we're at in the process and how this would affect the CPAC process if we approve it ahead of time.

CHAIR SUGIMURA: You know, I'm going to have Corp. Counsel answer. So, Mr. Kushi, what does the Maui County Code say as far as the CPAC period?

MR. KUSHI: My understanding of what the Code says, and it was just recently amended also, that the process starts when the Planning Department makes a request that to fill these positions. And they should've made a written request and also set a deadline. I'm not sure what the deadline is, but I know there was a written request. But again, that's the start. The process is not really laid out in terms of selection. It does say the committee is made up of 13 members, four of which the Mayor appoints, and then nine of which the Council selects. Thirteen-member commission you...committee you have, majority of seven to even operate or organize. So assuming that the Mayor appoints four, then you need to appoint a minimum of three for this committee to even function because then you need seven. You have the opportunity to appoint nine. You had before you 15 or 14 applicants. And in terms of when the committee would be formed, again, once they have quorum they can meet, officially meet, select its...elect its officers, and do business in conjunction with what the Planning Department wants.

COUNCILMEMBER KING: Chair, that didn't really answer my question. So, my question is...and my question was of the Planning Department. When does the six months for the CPAC start? And when are they...and then maybe Corp. Counsel can address, when are they...when do they begin to be subject to the Sunshine Law so they can't meet and talk in public without public notice?

CHAIR SUGIMURA: So, before I...I guess Pam Eaton wants to say a few words. But at the last meeting that we met on September 11th, Joe Alueta who was here, let us know that in his verbal presentation that January is when the Planning Department will start working on the West Maui CPAC. So, that's what we were told, and that's the information that I am going by. Ms. Eaton, do you have any...

MS. EATON: Thank you, Chair. First thing I want to sort of clarify is per 2.80B, the clock, the six-month clock starts when CPAC has their first meeting. They adopt their administrative rules. They elect their Chair and their Vice-Chair. As far as when that first meeting takes place, that takes place when the Planning Department has that draft ready to give to the CPAC for their review. And typically, we'd like to give, you know, two to three to four weeks ahead of time so they can actually review the draft. As far as timing, is where the Planning Department is at. We continue to work in West Maui with having outreach. We're having quite a bit of outreach right now. We've got a public meeting on December 5th. And we're going to continue to have land use

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charettes because we've updated the community plan land use designations, so we're actually working with community members. Based on that and the direct input with the community, I would say we would have a CPAC draft not ready prior to February. And I think that's pushing it.

CHAIR SUGIMURA: So, you're saying the CPAC draft will be ready in February, or in the month of February?

MS. EATON: Between February and March because what we've got to do prior to writing the complete draft is getting the input from folks in terms of designated land use within the urban and rural growth boundaries. And that we plan to do with the public charettes in January. We're having one meeting in December, and then we will start meeting again in early January to have these land use charettes.

CHAIR SUGIMURA: So, you...are you going to be...when do you need the CPAC members then? In February?

MS. EATON: I...yeah, I mean I would say if they were appointed in February, that would be great. I do want to point out though that it's kind of nice right now because we have a pretty solid core group of diverse members from West Maui who've come to all of our workshops and meetings. And it's great because we're not dealing with restrictions of Sunshine Law. So, we're trying to do as much public education and input as we possibly can before those come down. I'm not sure, and perhaps Mr. Kushi knows, at what point in time like when you guys select your nine members, the Mayor selects his four, and there's no meeting that has occurred yet, how would Sunshine Law apply? Because we do plan on having these meetings in January and February. So, I have no idea even when you have a list of 13 names, but they haven't yet had that first meeting, at what point does Sunshine Law apply?

CHAIR SUGIMURA: Mr. Kushi? So, you're actually saying January that you need this done. Mr. Kushi?

UNIDENTIFIED SPEAKER: February.

MR. KUSHI: I'm not sure. Sunshine Law applies when two or more members meet on committee business. Now, if the meetings that you were calling are not committee-related or just public input, that's not a committee meeting. But if two or more members of this committee show up, there's a problem. So, you know, again if they're selected and confirmed by the Council or appointed by the Mayor and all of 'em show up to your meetings, that's a meeting. And then, you know, it's an issue in terms of Sunshine Law.

CHAIR SUGIMURA: Okay, Miss...

MS. EATON: I want to add one more thing real quick since you're asking, Chair. I also want to add that once the 13 names are selected, it takes a bit of time to go back and forth with the committee, the CPAC committee, in terms of scheduling the logistics for date,

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and time, and meetings, and finding a place, and all of that. That also takes time as well, and getting the draft to them, and giving them a good amount of time for review.

CHAIR SUGIMURA: Okay. Members, do you have any other...Mister...okay, anybody have any questions for nominees that you would like to select? Ms. Cochran has none. Anybody? She has none. Right? You have no nominees you're saying from the list? Is that correct?

COUNCILMEMBER COCHRAN: So, that's what I'm kind of...so these all came down from the Mayor, right?

CHAIR SUGIMURA: No, this came...these names came from us. This is our process. The Mayor has his own thing going on which is not part of us at all. So, this came from that process where June 1 we sent out a press release asking for people in West Maui to apply and applications were available online through there. The Planning...wearemaui.org, the Facebook account, the, our Council had it also available, and articles were published in *The Maui News* and *Lahaina News*. So, this is our list. This has nothing to do with the Mayor.

COUNCILMEMBER COCHRAN: So, I submitted names a long time ago and none of those names are here. So, how did that work out?

CHAIR SUGIMURA: So, they had to apply online and apply through this process that we had established. I'm not too sure who you sent the names to.

COUNCILMEMBER COCHRAN: Okay, again that's why I would like to see a deferral at this time. But questions, yeah, there's one in particular that shouldn't be here. There's, you know, I don't think there's well representation here, especially for our cultural aspects. So, just --

CHAIR SUGIMURA: Okay.

COUNCILMEMBER COCHRAN: --a general comment, but...

CHAIR SUGIMURA: Thank you. Mr. Atay?

COUNCILMEMBER ATAY: Thank you, Chair. Just trying to get clarification from what I heard from Planning is that public meetings...I think right now we have a list of 14 names. I think they're all in the running. If they all attend these public meetings whether it be in December and then another one in January, they will not be in violation of Sunshine Law because they're not selected on the committee. I think just getting them educated, getting them prepared, and of the 14, after January then you decide who's actually on the committee. I don't know why, you know, we're going to just choose people now and just get rid of five names. When listening to Planning, I think the process is going through the charettes and allowing these 14 community members that opportunity to get educated into the process and keep them all engaged,

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and then later decide who will be the nine that will move forward. So, I too would be in support of deferment, deferral in this issue right now today.

CHAIR SUGIMURA: Thank you. Anybody else have any comments? Mr. Hokama?

COUNCILMEMBER HOKAMA: Thank you. I appreciate my colleagues' comments. But I reviewed. I was done what was requested by Committee leadership. I reviewed the nominees who applied, and I appreciate those that have. I'm ready to make my choices on nine individuals. I would just say, Chair, it's a hard time where we are in terms. You know, we're going to be transitioning shortly. And so again depends how Council organizes in January, it might be fast, it might be long. At the worst, it'll be end of February, March when the new Council will make their final decision on these names if we defer, okay. 'Cause we took a long time to organize this term. And by the time we did business, it was pretty much March. So I just bring up that point. It may take time. I'm aware of the clock. I'm aware of the impatience of communities trying to update their plans, you know. South Maui has already made comments. They want their turn, and they're ready to go as soon as we're done with West Maui. I mean the districts want to move. I can appreciate their sense of urgency, Chair. But I'm ready to make my decisions. You know, I did what I was...I felt was necessary to make those decisions. I've...I'm going to support people that maybe some people going to raise eyebrows. But I think we have some people who can bring divergent points of view in a discussion arena to have some recommendations on what is best for this proposed district. So, I'm ready to go. Thank you.

CHAIR SUGIMURA: Thank you, Mr. Hokama. Members, so my intention is to move forward with this list, and to fulfill what we have told the applicants that we were going to do, and to come up with a slate of nine, if possible. I am ready to go into executive session if need be on, I would guess it would be on certain nominees and not all. So, at this time, let's see, what I would like to do then if Ms. Cochran doesn't have any nominations, Members, do any of you have any nominations you would like to take up? Mr. Hokama?

COUNCILMEMBER HOKAMA: What is the process you want? You want somebody to nominate nine people? And then you vote it up or down?

CHAIR SUGIMURA: So, I wanted...

COUNCILMEMBER HOKAMA: And then...'cause I mean, you know, a Member may say, I can support six, but I'm not going to support the other three so I'm going vote no.

CHAIR SUGIMURA: Yeah, that's fine.

COUNCILMEMBER HOKAMA: So, what is the process you're asking us on...to move names forward?

CHAIR SUGIMURA: So...

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COUNCILMEMBER HOKAMA: One at a time? Or nine...all nine and do a shotgun approach? Or we're going to do ballots? What is your recommendation?

CHAIR SUGIMURA: Okay, so, Mr. White?

COUNCILMEMBER WHITE: Thank you, Chair. Like Ms. Cochran, I have one individual that I think because of certain items, probably should not be considered. But like Ms. Cochran, I think it's appropriate to discuss that in --

CHAIR SUGIMURA: Executive session.

COUNCILMEMBER WHITE: --executive session.

CHAIR SUGIMURA: Okay.

COUNCILMEMBER WHITE: And I think it's probably best if we thin the group first.

CHAIR SUGIMURA: Okay.

COUNCILMEMBER WHITE: And if we can do that as a start, I think that might help.

CHAIR SUGIMURA: Okay. Mr. Kushi, you have something to say?

MR. KUSHI: Maybe for some clarification. Because the ordinance...the Code is silent in terms of procedure, unlike Mayor nominates to you and then you have certain duties to perform, and if you don't do it it's automatically confirmed, this is a whole different process. Talking to Chair and Staff the other day, we...I proposed this. Defer to the sitting Councilperson from West Maui to make his nominations like how we always do. We heard what she said. Then I think the Chair's proposing that all Members have an opportunity to nominate one of nine, or nine, whatever it is. If there's still vacancies, then the Chair would then fill out the nominations to a slate of nine, okay. Then we put 'em all on one vote. If any Member has a question or concern about any proposed member, they can make a motion to separate. I think that's the only logistical way to get through this. But again the...you heard about the timing, I don't think it's a rush. However, you know, it's before you. And my only concern is that you should at least pick three to have the committee formed, assuming that the Mayor has chosen four.

CHAIR SUGIMURA: Because of quorum. So, Members, at this time then if...do you understand?

COUNCILMEMBER COCHRAN: Chair?

CHAIR SUGIMURA: Ms. Cochran?

COUNCILMEMBER COCHRAN: So, first off, yeah, I was confused as to when you kept saying you wanted nominations from me. I'm like, nominations as in this list as presented to us? Or my... 'cause I have a whole other list as far as I'm concerned that can

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incorporate some of these, yes. But there's a slew of names, and I can't just as well pull those people out because I didn't follow through to ask them personally or find out are they...can they be committed to this role. So, if that was the case, that would have been nice to know way ahead to prepare for today. So, then the other thing is where is the Mayor's four? That would be nice to have it here on the table too with us to...you know, how many should we really choose out of this list versus the four, however. I mean I don't...it just seems really kind of dysfunctional right now. And I'm still very confused on how we're going. I heard Mr. Kushi so again that's more reason why I'm still, you know, on the side of deferral at this time and having the new sitting Councilmembers to vet this through. There is time as being said to work through these issues. And...but I do agree with whittling this list down at this time. So, executive session is in order in order to do that. And we'll, you know, just kind of take it step by step I suppose.

CHAIR SUGIMURA: Okay, so you have things that you think needs to be in executive session to talk about all the nominees?

COUNCILMEMBER COCHRAN: There is something, yes.

CHAIR SUGIMURA: One person. Is it one person or --

COUNCILMEMBER COCHRAN: And Mr. White also...

CHAIR SUGIMURA: --is it all...all the...

COUNCILMEMBER COCHRAN: I believe it's one but if other people have comments about that, we can talk about it in executive session.

CHAIR SUGIMURA: Okay, so when we get to that name, maybe we can go into executive session. So, Members...yes, Ms. King?

COUNCILMEMBER KING: Chair, at this point I'm not in favor of moving forward with this. I don't know where the Mayor is with his...maybe I can...maybe Planning knows where the Mayor is at with his. But, you know, maybe the Mayor is allowing the next Mayor to make those designations. And I think we should give the next Council the same consideration since it's taken this long to get to this point to appoint. And, you know, my conversation...we're not going to be ready to meet with...to seat the CPAC until March anyway. But I mean at this point three of us are in favor of deferral. You don't have support to move forward with any appointment. So, you know, we can just save a lot of time by deferring the issue.

CHAIR SUGIMURA: So, Members, I would like to look at you in terms of the responsibility of the Council in us, the steps we have taken to be transparent for the people who have applied. And we have sent out press releases. We've published in *Lahaina News*, *Maui News*, and these are the people...Facebook...and these are the people who have taken the time to apply, right. So, it wasn't a secret. It's not something that only one Member, two Members, three Members...it was the whole community answered our

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call for...to who wanted to apply. And if there are people who didn't see it, or if you didn't even know about it which I'm surprised that you wouldn't because you are part of this process. And it was published, and it was, you know, made known through the Planning Department, the County Council, the newspapers, Facebook, you know, all the different avenues of us communicating with the majority of the community. So, it's not a select few. But this is the process. And I would like to move forward with this, Members. I...are we having Mr. Guzman come back? I'm going to take a short recess, yes.

COUNCILMEMBER WHITE: Just a suggestion. Maybe we move this to the end of the agenda and we deal with the other items?

CHAIR SUGIMURA: Okay, okay. Okay, so I'm going to take that suggestion. I'm going to Council's support on this which is PEA-94, Authorizing the Mayor to Enter into an Intergovernmental Agreement...oh, is it on? Oh, it's in recess. We go back then...wait. Thank you.

COUNCILMEMBER HOKAMA: Are we in recess, or are we in order?

CHAIR SUGIMURA: It's supposed to be in order.

COUNCILMEMBER HOKAMA: I would pound the gavel in recess.

CHAIR SUGIMURA: Would they come back if I pound the gavel?

MS. BALALA: Don't hit the gavel.

CHAIR SUGIMURA: Thank you. Sorry about that. Okay, don't hit the gavel, okay. So, at this time we're going to continue on with the meeting. Thank you, Mr. White.

**PEA-94: AUTHORIZING THE MAYOR TO ENTER INTO AN
INTERGOVERNMENTAL AGREEMENT WITH THE MAUI
COUNTY WORKFORCE DEVELOPMENT BOARD AND THE
AMERICAN JOB CENTER NETWORK PARTNERS (CC 18-399)**

CHAIR SUGIMURA: So PEA-94, Authorizing the Mayor to Enter into an Intergovernmental Agreement with the Maui County Workforce Development Board and the American Job Center Network Partners. And with us we have Teena Rasmussen from the Office of Economic Development. And then we also have Brian Nagami working on this item, and Jerrie Sheppard from Corp. Counsel. And the Committee is in receipt of County Communication 18-399, from the Economic Development Director, transmitting a proposed bill entitled, A Bill for an Ordinance Authorizing the Mayor of the County of Maui to Enter into an Intergovernmental Agreement with the Maui County Workforce Development Board and the American Job Center Network Partners. The purpose of this proposed bill is to authorize the Mayor to enter into a Memorandum of Understanding with the Maui County Workforce Development Board and the American

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Job Center Network Partners to confirm the parties' understanding regarding the operation and management of the American Job Center in the County of Maui consistent with the Workforce Innovation and Opportunity Act. So, Ms. Rasmussen, Mr. Nagami, would you like to say something regarding this?

MS. RASMUSSEN: Okay. Thank you, Chair Sugimura, Members. So, this American Job Center has come to us from the complete overhaul of the Federal Workforce Development program. It was overhauled in 2014, and it is now called the Workforce Innovation and Opportunity Act. And within that Federally...that Federal law, every community was mandated to start an American Job Center. The purpose and the vision was that all of these organizations who work with unemployed people, we're talking many different facets, you know, veterans, youth, Native Hawaiians, you know, unemployment insurance, Perkins, Wagner-Peyser, all of those partners, were all located in different locations. And so when a client came in, they were bounced around from office to office, and it created a very frustrating experience for the person who was looking for a job. So, this law mandated the American Job Center. They did allow for each of the partners to use Federal funds to help defray the cost of the center. However, Maui has been experiencing a decrease in those Federal funds because our unemployment rate is so low. These funds are given out across the country based on unemployment. So, when you have low unemployment, you don't get a lot of workforce development funds. So, due to that constraint because our unemployment is so low right now, like I said, when we came into office, we were getting over a million dollars in this fund because our unemployment was around 9 percent. But today we're getting under \$400,000 because our unemployment rate is hovering just over 2 percent, maybe about 3 percent. So, with that, we realized that there was no possible way even though we worked on it for two years and worked on all kinds of scenarios, we were not going to be able to open up a standalone American Job Center. So, we started looking at ways to combine things that were also existing. And the best one we landed on was to combine it with our Maui Business Resource Center. We had a training room there. We had extra offices there. We have a private consultation room there. We had a receptionist already in place. And it was by far the cheapest scenario. So, the good thing for the County of Maui is that all the partners are now helping defray the cost of...or will if we're allowed to do this MOU. They will all help defray some of the cost of the CAM and the rent down at the Maui Mall office. So, I have Brian Nagami here. He's the Executive Director of our workforce...the board, WDB. There's so many acronyms. And he has...he can go into more details about the partners and the funds. But basically, that's what we're here today to allow our office, or our...the County of Maui to enter into this MOU so that we can complete. Currently, we have 14 of our 16 partners who have already signed the MOU. So, that's where we're at. Thank you.

CHAIR SUGIMURA: Thank you. Mr. Nagami, you want to give a brief summary? And then we can have Corp. Counsel weigh in, if need be.

MR. NAGAMI: Sure. I'll just comment on the packet of information that we passed out. If you look at the diagram that we have here, it kind of shows how the funding and how our programs work together. On the bottom right you have a large group of 16

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different programs. They're all different shapes because we all do different types of programs and services. And WIOA requires that all of these partners are required partners. So, they have to not only participate in the job center but also monetarily provide input into the center as well. And so if you can see...you can see them connecting to the American Job Center. The American Job Center is overseen by the Maui County Workforce Development Board. One of the hurdles we've had doing the American Job Center is that all of these partners that we do similar work in the community related to workforce development, our funding comes down in different ways. So, you can see through the color of each of those shapes where the funding comes from. So, some of it...some programs are funded Federally. Some are funded through State departments. And others come through our local Workforce Development Board. And I know it's a lot of acronyms, so we've included a legend which is the second piece of information. So, if you want to know what any of those programs are, there's descriptions for them in the next page.

CHAIR SUGIMURA: Thank you. Members, if you look at the document that was transmitted to us, probably knowing that Council is going to worry about how much is this going to cost on the Memorandum of Understanding, there is a spreadsheet here prepared by Brian which talks about all the partners and what their contributions would be. So if you look at this, in the American Job Center what this did, I think it started with President Obama and implemented through administrations, that this will then create American Job Centers throughout the whole nation. So, you could go to any state and ask for the American Job Center and you should be directed to an agency that is consistent nationwide. So, that's the advantage of this. I want to commend Ms. Rasmussen and Mr. Nagami for tediously putting this together and bringing all these people to come to an agreement to participate in it. And I think it's a really good use of the Business Resource Center in Maui Mall and to have that office space utilized not only with what you're doing there, but to add to it with this, and have other people help pay for the rent. So, in terms of Council, that's kind of a...

MS. RASMUSSEN: And can I say one more...

CHAIR SUGIMURA: Yes.

MS. RASMUSSEN: I wanted to say one more thing. We have recently been able to renovate the Maui Business Resource Center. If you have not been down there, there's this really wonderful renovation that has taken place. And it's all been paid for by Federal money to bring us up to the kind of center that they had envisioned which was really customer-centered design. And it really transformed the place. So, if you have a chance to go down there, that would be great for you to see that.

CHAIR SUGIMURA: Thank you. Corp. Counsel, Jerrie, do you have any comments you want to make?

MS. SHEPPARD: Thank you, Chair. I'll just say that this one of the better memorandums of understanding that I've seen in my tenure here with Corporation Counsel. It was painstakingly developed. I think it compartmentalizes all the duties, functions, and

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responsibilities that are required by the Federal law. I think it ticks the box that is the Federal mandate to have this Memorandum of Understanding. I think bringing the last two partners on board is something that Brian has been working diligently on. And I think there's good hope for that to be achieved in the near future. So, I just think that the Memorandum of Understanding is well done, and it's approved as to form and legality.

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

COUNCILMEMBER HOKAMA: So, we can...well, from a structural and the chart that they present to us, under local they show the Mayor, then the Mayor appoints the Maui County Workforce Development Board. So, if the County is in charge of the appointment, why are we entering as them a partner for them to be an intergovernmental agreement?

CHAIR SUGIMURA: Ms. Sheppard?

MS. SHEPPARD: Thank you, sir. It is a mandate that we contribute infrastructure costs to the operation of the American Job Center. So, there is a financial obligation on the County of Maui to that extent. And because we have Maui County Code 2.20.020, any Memorandum of Agreement or intergovernmental agreement between the State, the County, the Federal government requires Council approval. I'm not sure if I answered your question.

COUNCILMEMBER HOKAMA: So, the Maui County Workforce Development Board is a creature of the State?

MS. SHEPPARD: It's a creature of this Federal legislation. They set up both at State level workforce development and --

COUNCILMEMBER HOKAMA: No, who do they represent --

MS. SHEPPARD: --County.

COUNCILMEMBER HOKAMA: --the Federal government?

MS. SHEPPARD: Yes.

COUNCILMEMBER HOKAMA: Although the Mayor appoints --

MS. SHEPPARD: Yes.

COUNCILMEMBER HOKAMA: --this Federal board.

MS. SHEPPARD: It's a local board. But it's appointed by the Mayor. It fulfills a requirement under the Federal law.

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COUNCILMEMBER HOKAMA: I'm just trying to understand why a board that the Mayor controls we got to have an intergovernmental agreement with.

MS. SHEPPARD: Because of the function that the American Job Center proposes to accomplish. And the funding contribution that the County has to put in for the infrastructure costs.

COUNCILMEMBER HOKAMA: Okay, so this is an annual request, 319,256?

MS. SHEPPARD: I'd have to defer to Office of Economic Development on the finances.

COUNCILMEMBER HOKAMA: Is that the budget?

MR. NAGAMI: Yes, that's the budget for the Maui County Business Resource Center, and we're adding in the AJC there.

COUNCILMEMBER HOKAMA: Okay, so out of 319-320,000 you're looking at the County to pay 260,000. I thought we were partners. Why are we paying the lion's share?

MS. RASMUSSEN: Well, because we're also doing...we're still doing the entire County function down there. So, we are still doing the...the Maui Business Resource Center side that the County has down there is still completely functioning. So, what this does is...we've been paying the whole bill for the center. So, what this does now is add partnerships that will help defray some of the cost of the rent and the CAM. So, we actually are rolling back the expense that the County is incurring.

COUNCILMEMBER HOKAMA: And how much we receiving for our 260,000? A couple of hundred thousand from the Federal government currently?

MS. RASMUSSEN: We'll be...what was our...this year, how much did we receive?

MR. NAGAMI: It's around 400,000.

MS. RASMUSSEN: About 400,000 we received.

COUNCILMEMBER HOKAMA: And we put out 260 for that 400. Okay, thank you, Chairman.

CHAIR SUGIMURA: Thank you. Anybody else? Seeing none, so, Members, I would like to commend OED for putting this together. And then at this time, I would like to recommend passage on first reading the proposed bill entitled, A Bill for an Ordinance Authorizing the Mayor of the County of Maui to Enter into an Intergovernmental Agreement with the Maui County Workforce Development Board and the American Job Center Network Partners; incorporating any nonsubstantive revisions that may be needed; and the filing of County Communication 18-399.

COUNCILMEMBER WHITE: So move.

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CHAIR SUGIMURA: Thank you. I need a second.

COUNCILMEMBER HOKAMA: Second.

CHAIR SUGIMURA: Second, thanks. Motion by Member White, second by Member Hokama.
Any discussions?

COUNCILMEMBER HOKAMA: Chair?

CHAIR SUGIMURA: Yes.

COUNCILMEMBER HOKAMA: I'm going...I can count. So, I'm going to vote with
reservations. I really don't know if this is a good deal for us.

CHAIR SUGIMURA: Okay. Anybody else? So, Members, I just want to say that I think I
worked...when I worked with OED, I remember JoAnn Inamasu did this. And it was a
huge task. And what I like seeing right now is that what the Federal government is
pushing all the states to do including us and the counties is to put it all under a
one-stop shop so that our residents can be helped more easily instead of them going
from office to office to office. So, we're doing the heavy lifting for them. So, thank you
very much for this. All in favor, Member...I would like...all in favor say, "aye."

COUNCILMEMBERS: Aye.

CHAIR SUGIMURA: Opposed? Seeing none, so I have one, two, three, four, five "ayes" and
four...so four excused. Thank you. Member [sic] passes.

**VOTE: AYES: Chair Sugimura and Councilmembers Carroll,
Hokama, King, and White.**

NOES: None.

ABSTAIN: None.

ABSENT: None.

**EXC.: Vice-Chair Crivello and Councilmembers Atay,
Cochran, and Guzman.**

MOTION CARRIED.

**ACTION: Recommending FIRST READING of bill and FILING of
communication.**

CHAIR SUGIMURA: Thank you. Thank you very much.

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MS. RASMUSSEN: Thank you.

COUNCILMEMBER KING: Chair, I need to take a break.

CHAIR SUGIMURA: Okay. You can take a...we'll take a three-minute break. . . .*(gavel)*. . .

RECESS: 11:02 a.m.

RECONVENE: 11:17 a.m.

CHAIR SUGIMURA: . . .*(gavel)*. . . Okay, the meeting comes back to order.

PEA-93: COMMUNITY FACILITIES DISTRICTS (CC 18-398)

CHAIR SUGIMURA: So, what I'm going to do is I'm going to take up the next item which is PEA-93, Community Facilities—oh, I'm sorry. I'm going to take up the next item which is Community Facilities Districts. Thank you, Member Crivello for making our five so we can reconvene this meeting. I'm going to take up CFD and spend some time on it, but my real goal is to take up the names that I would like to recommend for the West Maui CPAC. So, I'm going to spend, I don't know, ten minutes on this if I could, ten, fifteen. And then I'm going to switch over. I'm sorry. This is really important, and I think we heard that there were supportive testimonies for trying to do this CFD, Community Facilities District. I think the Planning Department sees this also as a vehicle for the Kahana Bay situation. And then there are other people like Ms. Woods that testified that they can see it for their communities in the Maalaea area too. But at this time, what this is being proposed is the vehicle for enabling legislation so that we can help these communities. And so, Mr. Walker, this is your...another tool in the toolbox legislation.

MR. WALKER: Excuse me. Thank you, Chair. I apologize in advance for my hoarseness. Yes, correct. I mean a Community Facilities District ordinance would be another tool in the toolbox. As I think most of the Members know, we currently have a Special Improvements District ordinance that's in the Code. There are differences between these two. Every other county in the State has a CFD ordinance. We think it could be beneficial given the right project. And we've, as you know, Chair, met with you and the Planning Department on numerous times in the last six months and have discussed and gone back and forth and edited this proposed bill. So, I'm happy today to say that Finance is in support of this. We have also here Mr. Curt de Crinis, our municipal advisor who has done many, many of these districts in other places. He's a real expert, and he's available to answer questions as well. Thank you.

CHAIR SUGIMURA: Thank you for being here. Gosh, you're losing your voice. Mr. Ueoka, do you have any comments regarding the CFD proposal?

MR. UEOKA: No comments, Chair. If you guys have questions, I'm available to try and answer them. Thank you.

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CHAIR SUGIMURA: Thank you. Planning, do you have any comments regarding this?

MS. McLEAN: Thank you, Chair. Really briefly, I think Members are familiar with the Special Improvement District bill that was adopted many months ago. And this is a cousin of that approach, but more applicable to the kind of project that we're talking about that Planning has been involved with in Kahana Bay. And so this is a type of tool in the toolbox as you said, Chair, to be able to move those kinds of projects forward with the County as an administrative partner. Thank you, Chair.

CHAIR SUGIMURA: Thank you. So Mr. de Crinis is here. You want to say anything regarding bonding on the legislation, proposed legislation?

MR. DE CRINIS: Thank you, Chair. Curt de Crinis, municipal advisor. With respect to bonding, using a CFD would...it helps in the bonding of these types of districts using...I mean the bonds can be issued under a Special Improvement District too. I mean that is also done, but I think investors are more likely to be interested in purchasing bonds from a Community Facilities District. There has been one bond issue, issued in Hawaii by the County of Kauai in...some years ago using this legislation. So, there is a history of this ordinance being bonded. So, and those bonds were successfully sold. And for example, in the project on Kauai, it was the Kukuiula project which is a high-end project on the south...over on the south side of Kauai. And it was...they were able to finance a number of infrastructure projects including, you know, some traffic mitigation and, you know, various road improvements and many different things that the developer was required to put in. And I think that this type of financing was used there. And that's more common in California when these CFD financings are used. They're widely used in California and we're involved --

CHAIR SUGIMURA: Thank you.

MR. DE CRINIS: --in a couple projects there now, one for a retirement community in Rancho Mirage...

CHAIR SUGIMURA: Mr. de Crinis, I'm going to ask you to stop.

MR. DE CRINIS: I'm sorry.

CHAIR SUGIMURA: Because I want to...I really want to move on this.

MR. DE CRINIS: Okay, I'm sorry.

CHAIR SUGIMURA: I understand you have good examples but --

MR. DE CRINIS: Excuse me.

CHAIR SUGIMURA: --if you don't mind. So, Members, do you have any questions for Finance regarding this legislation? Ms. King?

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COUNCILMEMBER KING: Yes, I have a question just following up on Mr. de Crinis' comment. When those bonds are issued, are they issued to the private entity, or the quasi-private entity? Are they issued to the County, and then the County funds it for the entity?

MR. DE CRINIS: No, they're sold to investors, directly sold by the County to investors, mutual funds, individual investors through brokerage firms. So, just as the County sells its general obligation bonds, these bonds would be issued by the County of Maui and sold to investors. Now, the County of Maui in these districts is not responsible for the repayment of those bonds. The only way investors get paid back with this type of bond issue is from the taxes or assessments collected within the district.

COUNCILMEMBER KING: So, it's actually a County project? Because this is like, you know, in the case of Maalaea, these are private entities getting together wanting to put this together. But in essence it would still be a County facility?

MR. DE CRINIS: Well, yeah, in order to issue tax-exempt bonds in most all cases, and particularly in cases such as this, the improvements being financed have to be public improvements. So, a public entity has to own them. And so private improvements owned by private parties cannot be financed with tax-exempt bonds.

COUNCILMEMBER KING: Okay, but does this, in your opinion, does this legislation then preclude a private entity trying to fund...so it would have to be a private entity asking the County to come in and own the facility?

MR. DE CRINIS: Yeah, a private...an example would be a private developer is required to put in some massive flood control project in order to build their project. And they would come to the County and say, well, would you be willing to form...or the County would say, well, we would be willing to form this Special Improvement District, or this CFD, to allow for tax-exempt financing to build the flood control project because the flood control project is something that will be owned by the County 'cause it's a County improvement, public improvement. So, it's a way to get cheaper financing to...and financing that's nonrecourse back to the borrower 'cause it's secured by taxes to get something financed. Otherwise an entity or group of entities or developer would have to go to a bank to get the financing.

COUNCILMEMBER KING: Okay, but the taxes are still, for that particular project, are still only coming from that district?

MR. DE CRINIS: Yes.

COUNCILMEMBER KING: The boundary?

MR. DE CRINIS: Yes, they're specific to the...to those parcels within the boundaries of the district. They're subject to the assessment or the tax.

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COUNCILMEMBER KING: Okay, that's...yeah...so I guess it's...we would deal with it when it gets there to approve individual projects.

MR. DE CRINIS: Yes.

COUNCILMEMBER KING: But basically, what you're saying that they...it wouldn't be a privately-owned facility. It would be a County-owned facility.

MR. DE CRINIS: Yeah, again the improvement that's financed needs to be a public improvement.

COUNCILMEMBER KING: Okay.

MR. DE CRINIS: So, for example, you couldn't do this and finance a house or something that's owned by a private entity.

COUNCILMEMBER KING: Right.

MR. DE CRINIS: Or it would have to be...like you couldn't use this to finance a golf club house for a private golf course, for example.

COUNCILMEMBER KING: Okay.

MR. DE CRINIS: But you could use it to finance, you know, the roads and the flood control and the infrastructure that...or the major highway work that was needed to construct that.

COUNCILMEMBER KING: And you could use it finance a wastewater treatment facility, something like that, as long as the County were willing to own it?

MR. DE CRINIS: Yeah, if for example, and this is done in California, if for example, there was a big development...and one of the requirements was to put in a wastewater reclamation plant or something like that. The private...the CFD could finance those improvements, and then the people that buy in...eventually buy in to the subdivision that needed that, they'd be the ones paying it back. So, it wouldn't be paid back countywide. It would be paid back specific to those properties.

COUNCILMEMBER KING: But it has to be owned and maintained by the County?

MR. DE CRINIS: Yeah, it can't be privately owned and privately maintained. It has to be a public...dedicated to the County and owned by the County in order for it to be done.

COUNCILMEMBER KING: Okay, but maintained by the County.

MR. DE CRINIS: Yes.

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COUNCILMEMBER KING: So, you're not talking about continuing to pay taxes on it to maintain it from that district.

MR. DE CRINIS: That...this legislation that is in Hawaii would not allow taxes to be levied for maintenance, only for capital improvements.

COUNCILMEMBER KING: Okay.

MR. DE CRINIS: So, the maintenance would have to be funded either through an HOA or in some other way.

COUNCILMEMBER KING: Okay, or the County.

MR. DE CRINIS: Or the County, yes.

COUNCILMEMBER KING: Okay, thank you.

CHAIR SUGIMURA: So, Mr. Walker, or, Mr. de Crinis...I guess Mr. Walker, in relationship to the Kahana Bay problem, then could the CFD be used because it's not a County...oh, is that Mister...

MR. UEOKA: Chair, if I may?

CHAIR SUGIMURA: Okay.

MR. UEOKA: Without seeing the specifics of what's proposed, I wouldn't want the Director or Mr. de Crinis to speculate on that.

CHAIR SUGIMURA: Okay.

MR. UEOKA: But they are in the talks discussing it. But the specifics haven't been nailed down. This is the first step with this bill to allow for it, but...

CHAIR SUGIMURA: Discussion.

MR. UEOKA: Thank you.

CHAIR SUGIMURA: Okay, respect that, thank you. Mr. Hokama?

COUNCILMEMBER HOKAMA: If we did a taxable bond, Director, can we keep it private?

MR. WALKER: So, not a tax-exempt bond?

COUNCILMEMBER HOKAMA: Yeah, not a tax-exempt bond. It's a taxable bond. Can we...can a project then remain private?

MR. WALKER: Chair?

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CHAIR SUGIMURA: Yes.

MR. WALKER: Let me defer to Mr. de Crinis on that, Mr. Hokama, if I might.

CHAIR SUGIMURA: Mr. de Crinis?

MR. DE CRINIS: That's...there's two issues there. One is a State law issue. There's a Federal tax law issue. We'll talk about that first. A private improvement, there is not...could be financed with taxable bonds. However, whether this State...the legislation would allow a financing of a private improvement is questionable because the intent of the State legislation is to finance public improvements. So, there may be...there's...that was one of the things that was looked at with respect to even talking about the Kahana project. But it's not clear, legally speaking, whether this type of legislation could be used to finance private improvements even if they didn't have a tax...even if there wasn't a Federal tax issue.

COUNCILMEMBER HOKAMA: No, I understand where Congress is going 'cause states and counties did have to build NFL stadiums, a few other things with bonds. So, I know there's a concern in Federal government about this, you know, this type of consideration. But if findings of fact prove that the private thing is for public benefit, what's the problem? We're basing it on findings of fact. So, we have situations where the private thing has a public benefit. You know, not to use the testifier's example, but there was a reason why to move that forward it was kept private. That was agreement. But it's a road that serves not only resident but general public access to those people in those lots. So, I'm asking the question if there is a finding that there's a public purpose, what is the issue?

MR. DE CRINIS: Mark, you want me to address that? Thank you. I think that's a case-by-case analysis, and again it's really...it's really a legal decision by a bond counsel firm that would have to determine whether there was enough of a nexus to...between a private improvement that has a public benefit and whether the legislation would specifically allow you to do that, or whether it could be amended to allow you to do that, and so forth. So I don't know that...generally speaking, you cannot finance private improvements with these types of mechanisms. But there are cases where, and circumstances, where, you know, maybe legally...against a legal issue and it's...because in order for investors to buy those bonds they need a legal opinion from a major bond law firm telling them that the taxes can be legally collected to pay them back. So, that would have to be looked at I think on a case-by-case basis.

COUNCILMEMBER HOKAMA: Well, I don't know what's the difference. The State allows Young Brothers, the utilities, they're all private companies, that serve a public purpose, okay. But by the Public Utilities Commission, they're given a minimum profit abilities, percentages. Okay, serving a public purpose, but yet they're a private company that is responsible to provide stockholders a return of investment. But we help fund harbor improvements and other things. So, I'm just asking if there is a nexus of the private thing serving a public purpose, what is the issue? The State has

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done it. Now, they're telling us we cannot do it? If we can find findings of fact that it is a public purpose? Chairman, you know, I'm open to another tool. Yeah. You know, in this County I can count at least three times we've talked about special improvement or facilities districting, okay. And so, but in this point in time, I'm open to it. I still have a concern though that only those districts that have sufficient affluency will get benefits in those types of projects 'cause the others cannot afford it. Okay. And so I want it clear that this is in addition to the property tax, this assessment. This does not replace the initial property tax. The property owner is required to pay the County and the General Funds and through what we're pass in the budget as property tax rates. This is in addition to, okay. I just want our people to be aware because we supported I think something in Paia-Haiku, okay. We moved it forward. Upon finding what their assessment would be, they chose not to go forward. Okay, so let us be clear that this does not replace anything. We're asking them to pay twice to the...well...so once we fund, we're saying that we accept the improvement? That's the only way we can fund is we're agreeing already to accept the improvement?

CHAIR SUGIMURA: Mr. Walker? Who can answer that question?

COUNCILMEMBER HOKAMA: Mr. Ueoka?

MR. UEOKA: Thank you, Chair. I don't know if we...depends on what the ordinance would say 'cause you would create the Community Facilities District via ordinance.

COUNCILMEMBER HOKAMA: No, but if...

MR. UEOKA: So, if you go...

COUNCILMEMBER HOKAMA: Mr. de Crinis said earlier on the nontaxables that we have to manage, or control, or regulate it, then by...agreeing to fund we're saying we're going to accept the improvement?

MR. UEOKA: I guess that was thing. By going through that whole process, you would know what's going to be constructed. So, I would...I guess the Council at the end could say no, it might really mess with the tax-exempt status of the bond. But I wouldn't see why you'd go down that road and then not accept it in the end. So, I'm not...I don't see anything in here that says the Council wouldn't have an option at the end. But everything would be laid out prior to the Council adopting the Community Facilities District. So, it would be a lot better if the Council did choose to adopt the facility at the end.

COUNCILMEMBER HOKAMA: Right, right. How did you guys get to that value-to-lien of five to one ratio? And why is it five to one? You know, for me it's like seven to one I would be pretty comfortable. Five to one, how are you folks recommending this ratio to us?

CHAIR SUGIMURA: Mr. Walker?

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MR. WALKER: Again, I defer to Mr. de Crinis. I think we looked at other samples of legislation throughout the State, and this, I believe, seemed to be the norm. But I would defer to Curt.

MR. DE CRINIS: Yeah, the value-to-lien ratio is designed to help protect the issuer of the bonds, which would be County, because you wouldn't want to issue bonds that where the property that's being taxed or, in this case, taxed would be worth much less than that. You want to have a high enough value-to-lien ratio so that you, the County, don't have to worry so much about bonds that have been sold not having...the property values aren't high enough to make sure that the property owners actually end up paying the taxes because the last thing you want to do is to issue bonds for a project and then have the underlying property owners not pay their taxes because the land is not worth it. Like the project isn't worth it. So, that's the intention.

COUNCILMEMBER HOKAMA: Well, we couldn't sell the bond so there's not sufficient assets to cover the borrowing.

MR. DE CRINIS: Well, that's why...

COUNCILMEMBER HOKAMA: So, that wouldn't even move forward. So, but what makes the five to one minimum the right ratio?

MR. DE CRINIS: Well, it could be --

COUNCILMEMBER HOKAMA: Why not higher?

MR. DE CRINIS: --four to one. It could be five to one. Having that type of ratio in the legislation is...that's standard in California, for example. And it's something that is...

COUNCILMEMBER HOKAMA: The five to one is their standard?

MR. DE CRINIS: Well, the CFD law in California is three to one, for example. I think some of the other CFD ordinances in Hawaii have five to one. I think that's where this was picked up.

COUNCILMEMBER HOKAMA: So, Chair, why...this is your recommendation, five to one?

CHAIR SUGIMURA: It is the Department of Finance recommendation.

MR. WALKER: Yes, I think it is. I mean we could discuss that further, but it's certainly more conservative.

COUNCILMEMBER HOKAMA: No, no, no. I have no problems with being conservative, Director. I'm just trying to understand why this is the good ratio for us.

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MR. WALKER: Chair, again you know, I think we looked at the other ordinances in the State. We looked at what California did, and we wanted to err on the side of being conservative.

COUNCILMEMBER HOKAMA: Right, right. So, worse comes to worst, and there's a default, the County then moves forward on foreclosure of those properties that we put up for the bond?

MR. WALKER: Yes, that's my understanding.

COUNCILMEMBER HOKAMA: No, I just want to be clear to the property owners. That if this fails, we're going to go and foreclose.

MR. DE CRINIS: All the property owners would be voting on...these districts, once they're formed, have to be approved by the property owners.

COUNCILMEMBER HOKAMA: Well, we've heard things before in Council, and it still didn't go forward, Chair, okay. Again, they're going to need to find out through the assessments what the bill is going to be actually.

CHAIR SUGIMURA: Mr. Ueoka?

MR. UEOKA: . . .*(inaudible)*. . .

COUNCILMEMBER HOKAMA: Is this a normal bond term?

MR. UEOKA: I believe that would vary, Mr. Hokama, depending on what's agreed to. But in regards to payment of the special tax, normally for real property taxes, I believe it's three years. Then we can go foreclosure without...you know, we can just go the nonjudicial foreclosure route.

COUNCILMEMBER HOKAMA: Okay.

MR. UEOKA: On this one I believe it's three months or something we can step in if they stop paying the special taxes. It's a lot faster because if there is bond issuance, we need to make sure the debt service is paid. So, it's a even faster process than the normal real property tax one.

COUNCILMEMBER HOKAMA: And you plan to tie this in to the General Fund bond float? Or this will be a separate float, independent?

MR. WALKER: Separate.

COUNCILMEMBER HOKAMA: So, have its own additional bond cost. Okay.

MR. WALKER: Right, which will be rolled into the bond. So, right.

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COUNCILMEMBER HOKAMA: Right. But your Department will be in charge of the collection and payments of the bond?

MR. WALKER: Yeah, I mean we would work it through Real Property Assessment.

COUNCILMEMBER HOKAMA: Okay, thank you, Chairman.

CHAIR SUGIMURA: Thank you. Anyone else have any questions? Ms. Cochran?

COUNCILMEMBER COCHRAN: So, this entire thing is brand new? I mean this is...this whole thing is a new...is new?

MR. WALKER: Chair?

CHAIR SUGIMURA: Yes.

COUNCILMEMBER COCHRAN: This entire...

MR. WALKER: It's new for the County of Maui. It's not new in the State or elsewhere in the country.

COUNCILMEMBER COCHRAN: Okay, and so something like Hui F Road could fit into this process? Hui F Road, right --

MR. WALKER: I'm not --

COUNCILMEMBER COCHRAN: --that would be --

MR. WALKER: --that familiar --

COUNCILMEMBER COCHRAN: --an example.

MR. WALKER: --with that. I know they have title issues. I'm not...I don't understand the issues fully. Maybe Corporation Counsel could weigh in.

CHAIR SUGIMURA: Mr. Ueoka?

MR. UEOKA: Thank you. Again, similar to the Kahana Bay situation, I'd hate to say a specific situation worked, but road improvements and stuff could be paid for via these Community Facilities Districts. It is one of the allowed things in the bill. Thank you.

COUNCILMEMBER COCHRAN: Right. Also, public parking facilities such as the Wailuku civic hub. Looks like that could possibly be incorporated too. Shoreline restoration and beach nourishment projects, as stated. So, that would be the Kahana example. So this is saying 25 percent of the people within this special area district would need to buy in to this. But then there's another portion about protests which is 55 percent. So, how does that --

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CHAIR SUGIMURA: Mr. Ueoka?

COUNCILMEMBER COCHRAN: --those percentages relate to each other?

MR. UEOKA: Thank you. My understanding is to initiate the creation of a CFD, you need 25 percent to come forward. Or the Council, I believe, can also do it. But once that process has started, then I believe you have to ask all the people affected in the Community Facilities District. And if 55 percent of the land...I guess they go like...if 55 percent of the acreage-wise owners say no, or 55 percent of the number of owners, like total number of owners, says no, then it fails due to protest. You want me to...I guess...let me say if you have 100 acres in the area, but 99 acres are owned by one person, and the other acre is owned by nine people, if that one owner says...the owner of 99 acres says no, then it's done because he owns more than 55 percent. However, also on the other hand, if six of the owners of that one acre, you know, the rest of the land, say no, then it also fails because that's the six, you know, it's more than 55 percent of the number of owners in the area. So, it's a two-prong approach for the protest just so a big landowner can't push something through and the plurality of landowners can't push something through on the big landowner either. It just...I think it's to achieve fairness.

COUNCILMEMBER COCHRAN: Okay, and on Page 7, 3.75.030, superiority over conflicting provision of other ordinance. What does that mean? It's saying this chapter shall prevail over other provisions of ordinance. So, what is that telling me?

MR. UEOKA: If I may, Chair?

CHAIR SUGIMURA: Yes.

MR. UEOKA: My understanding is that provision is included because you will be adopting Community Facility District ordinances, like specific ones like...it'll be an ordinance so the project X area ordinance. So, if something in that ordinance that's adopted for whatever reason conflicts with 3.75 which is the, basically, the enabling legislation, 3.75 prevails. That's what that's there for. 'Cause you're going to be passing other ordinances so, you know, technically those have a lot of effect, force and effect. But this one will always trump them, the specific community facility district ordinances.

COUNCILMEMBER COCHRAN: But why would those ordinances be allowed if it's...this is going to trump it to begin with?

MR. UEOKA: Well, let's say that one has something that doesn't quite align with something that's in 3.75.050, one of the allowed purposes, and somehow it slips through and Council passes it. If it comes up later, it's going to be...well, no, you weren't supposed to do that, and this has superiority. But that's a major one. There might be other minor things in here that there might be questions. However, this would overrule. It's just a superiority clause. It's, you know, this is the law, basically. We need to follow 3.75. Things happen, so.

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COUNCILMEMBER COCHRAN: Okay, 'cause I was trying to reflect on Mr. Hokama's comments in reference to taxation. So, you know, with our property tax parameters and then this special levied type tax for the Special Improvement District type. You know, so it doesn't override. It's not one or other, but it will be...they'd be paying a combo --

CHAIR SUGIMURA: Mr. Ueoka?

COUNCILMEMBER COCHRAN: --of taxes?

MR. UEOKA: No, there is...our property tax overrides the special tax. But you will, in the CFD, you will pay both, or you'll be subject to other problems. But the real property tax is still number one. It's the superior lien.

COUNCILMEMBER COCHRAN: Okay. So, that would be...all right, that's...I wanted clarification. Thank you.

CHAIR SUGIMURA: Okay, thank you. Members, you have any other questions?

COUNCILMEMBER KING: Chair, I have a follow-up question.

CHAIR SUGIMURA: Oh, yes.

COUNCILMEMBER KING: Thank you. So, just in looking through the definitions and looking through the table of contents of this, I don't see an actual definition of what public benefit is. So, you know, for instance, what the Maalaea Village Association is working on is a wastewater treatment facility for these specific condos. Is that...would that be considered a public benefit? I mean how would you differentiate if it's a group that needs a road improved or, you know, a new facility? How does...how will we be determining if it fits under this? If it's a public benefit, or if it's a private benefit?

MR. UEOKA: Thank you, Chair. I think part of that would be this...the Council when approving the ordinance for the area. And the other test would also be when...and I think the big difference here is when you're bond-financing these things, then to be tax-exempt then a lot of the public things, public purpose requirements kick in. So, in order for us to issue bonds, bond counsel usually has to issue their...is it called qualified? Or they issue an opinion. And they won't issue that opinion if it doesn't meet the parameters to meet the IRS requirements for a tax-exempt bond, if we're trying to issue a tax-exempt bond.

COUNCILMEMBER KING: Okay, so that's the...that's basically the Code we go by, is that that opinion because, you know, otherwise if it's just this Council and the Council changes as we know, then it's up to the Council to decide if something is a great enough public benefit. 'Cause it's usually, you know, like you said it wouldn't apply to the Kahana condos because that's private property. You know, and yet, you know, they come and they say, well no, it's the beach. It's everybody uses the beach. So,

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you know, I hate to think that it's going to be that arbitrary. That it's going to be, you know, that there's not some kind of guideline to say, yes, this project meets the requirements of a public benefit.

CHAIR SUGIMURA: Mr. Ueoka?

MR. UEOKA: Yeah, Member King, I understand you. It's kind of hard to create hard and fast rules on public benefit and stuff in these types of things 'cause you're going to be faced with multiple projects. I'd like to think that before Finance, or whoever, or Council decides on it, or the private group comes in, there are long, hard discussions about how this will work. And, you know, opinions are sought from, you know, the powers that be and the people that will be required to sign off on these things before it comes to Council so that Council will be presented with facts and an educated decision can be made. So, it's going to be a case-by-case basis.

COUNCILMEMBER KING: Okay, so if it's deemed a taxable bond, is that more likely to not be a public benefit?

MR. WALKER: Again, you know, we're really looking at tax-exempt bonds. I'm not familiar with taxable bonds in this situation. Curt, I don't know if you have any experience.

MR. DE CRINIS: Well, generally if an improvement can be financed with...again there's two issues. One is a State, what the State law lets you do. And one is what the Federal tax law lets you do. So the Federal tax law has very specific requirements about anything financed with a tax-exempt bond cannot be privately owned and cannot be used in a trade or business of a private entity too. So there are a number of Federal tax laws that control what is tax-exempt, or not. And the estate law may have its own requirements as to what is a public improvement. Can you finance a private improvement with a governmental measure like the special tax that we're talking about here? And that probably...you probably cannot. There may be cases where, as Mr. Hokama pointed out, there may be specific cases where there are enough, there's enough evidence that there is an overwhelming public benefit. A bond lawyer may get comfortable that it could be done, but generally not. So you may find...you may be...there may be cases where you could sell...you could finance a quasi-public/private improvement but it...and it's allowed under State law, but the Federal tax law requires bonds to be taxable. So you can have a situation like that. So I think as Mister...that it's a case-by-case analysis to determine on a project-by-project basis what could be financed and whether it would be tax-exempt or taxable. But if it's...if the improvement is owned by a public agency whether it be the County of Maui or the State of Hawaii, for example, that by definition is a public benefit, right, 'cause it's owned by the public, so.

COUNCILMEMBER KING: Okay, so that...and so what we're really looking at is tax-exempt status.

MR. DE CRINIS: I think the vast majority of these type of financings would be tax-exempt.

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COUNCILMEMBER KING: Okay. And then just one last question, Chair, unless you want me to yield and then ask it after.

CHAIR SUGIMURA: No, go ahead.

COUNCILMEMBER KING: Okay. Can you...so which of the counties' laws, or are all the other counties the same, was ours fashioned after? And is it exactly the same, or are there differences for some of them?

CHAIR SUGIMURA: Mr. Walker?

MR. WALKER: I think we initially looked at the Kauai CFD.

COUNCILMEMBER KING: Okay.

MR. WALKER: And then made some adjustments to the language there.

COUNCILMEMBER KING: Okay. Is there...is it...I mean is there significant adjustments? Is there adjustments based on the fact...

MR. WALKER: No, I think they're very similar still.

COUNCILMEMBER KING: Okay.

MR. WALKER: But we made some. I couldn't tell you what those are right at this moment, but I could get back to you on that.

COUNCILMEMBER KING: Okay, yeah, I'd like to see what the differences between... 'cause I have looked at the Kauai one, and this looks very similar. And I think it's smart to use that because they did have a successful project. So, thank you.

CHAIR SUGIMURA: Thank you. Mr. Hokama?

COUNCILMEMBER HOKAMA: Chair, just one general question because we've been focusing on the borrowing, okay. But let's say this district, for discussion sake, cannot pay the project price. But for us, you know, it may be doable. So, if we choose to consider cash, go into a cash contractual agreement with the district, or whoever it is, and use our cash to pay for the improvement and work out a payment schedule with the interest all built in like a regular bond, is that another doable option? Because we're not borrowing from nobody now. We're using our own cash.

CHAIR SUGIMURA: Mr. Walker? That's a good question.

MR. WALKER: Again, I'm not an expert in this. I'm a newbie. But I don't know, Curt, have you ever seen anything like that?

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MR. DE CRINIS: There are cases, very, very rare cases where--and I've seen it in California--where a public city or public agency will and has acquired its own bonds. And then been paid back...had those bonds paid back by the underlying district.

COUNCILMEMBER HOKAMA: No, no, we're not looking at borrowing nothing, Chair, okay. We have cash.

MR. DE CRINIS: Well, you're using the cash to fund the project. This is a way for you to get paid back. The other way you could do it is you could build the public improvement with public money, and then levy a tax over a period of time to --

COUNCILMEMBER HOKAMA: No, I'm just asking --

MR. DE CRINIS: --pay yourself back.

COUNCILMEMBER HOKAMA: --if my options is a doable option, Chair.

CHAIR SUGIMURA: Mr. Ueoka? Mr. Ueoka?

MR. UEOKA: Yeah, Mr. Hokama, I believe you could create the Community Facilities District. The County could "loan" the money to the Community Facilities District, and it could be paid back through the special tax. I believe that would be a workable system. Thank you. And of course, it would be a tax, and we still have to collect it.

COUNCILMEMBER HOKAMA: No, I understand what we're going to need to do. I just want to know if that's a financial option for us to consider down the road, to use cash.

MR. UEOKA: Chair?

CHAIR SUGIMURA: Yes.

MR. UEOKA: Yeah, I believe...

COUNCILMEMBER HOKAMA: That's one of our benefits of our fiscal philosophy for 20 years. Our ability now to consider options through cash. Thank you, Chair.

CHAIR SUGIMURA: That's strong. Members, Ms. Cochran?

COUNCILMEMBER COCHRAN: Chair, thank you. So, I'm looking...there's a portion about reimbursement. So, the special district people pay in and then there's a certain time, or what? There's an opportunity for them to get reimbursed by this County at a certain point for a certain reason?

CHAIR SUGIMURA: Mr. Walker?

COUNCILMEMBER COCHRAN: How does that work?

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CHAIR SUGIMURA: Mr. Ueoka?

MR. UEOKA: Member Cochran, what section are you in?

COUNCILMEMBER COCHRAN: God, where was that?

MR. UEOKA: I know there is some language in here if the tax ends up being too high to pay something, there's a chance to lower it and reimburse but...sorry so...

COUNCILMEMBER COCHRAN: Yeah, I'm trying to...is it 16, 3.75.280? I don't know. I just saw the word reimbursement in here. But I'm just trying to see what that...I mean are you aware of situations where reimbursement would be enacted at all here of some kind? Like we take full ownership of this whatever improvement, something and...I don't know.

MR. UEOKA: Well, if I may...

CHAIR SUGIMURA: Yes.

MR. UEOKA: If I may, Ms. Cochran? So I guess the way this works is a project is proposed to the Council. There's usually a general idea of how much it's going to cost. And then Council creates a special...a rate for that special tax in the creating ordinance. So, I guess if valuations go up really high and the rate stays the same, therefore more money than is necessary for the debt service is collected, maybe there's a reimbursement provision in there. That's one of the ways I could imagine it. But as far as the project costs what the project costs, so we'll collect what we need to collect to pay it back. I can't imagine if the County takes it over that we'd have to pay the people back for the facility 'cause the idea was they were going to pay for it. So, I guess...I'm confused there. Thank you.

CHAIR SUGIMURA: Thank you.

COUNCILMEMBER COCHRAN: Okay, let me try find that. The other one is the treasury establishing a trust or another fund when they want to do early termination. And somehow the treasury would need to set up some kind of special fund that has enough money in there to pay the debt service. Then that would be 3.75.510. I'm sort of wondering what is that about? And are you folks prepared to set up for something like this? And how does that work with our annual budget and everything else?

MR. UEOKA: If I may, Chair?

CHAIR SUGIMURA: Yes.

MR. UEOKA: This is the contents of a proposed ordinance of early termination. So if the CFD is going to early terminate, I believe there's going to be certain things in there that need to be clarified, such as the establishment of a trust or other fund. Then the County treasurer with the balance sufficient to pay the debt service outstanding after

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the early termination of district. So, I guess that's to say if you want to early terminate, go ahead, but you're still going to have to make sure that the payment is made. So, maybe there'll be a big influx of cash, and they can just pay it off early. They may just want to say, let's just pay it off now and terminate the district so there won't be the continual assessment. But in here it will have to state how it's going to be paid off. That's made clear in the ordinance for early termination.

COUNCILMEMBER COCHRAN: Okay, and obviously this fund and the monies in it would be via the entities, the group. Not our general tax base, right?

CHAIR SUGIMURA: Mr. Ueoka?

MR. UEOKA: Correct.

COUNCILMEMBER COCHRAN: Okay, I just wanted to make sure. Okay.

CHAIR SUGIMURA: Okay. Any other questions, Members? So, at this time, I would like to propose that we take up this item and propose passage of the Bill for an Ordinance Amending Title 3, Maui County Code, Relating to Community Facilities District; making any nonsubstantive changes that may be required.

VICE-CHAIR CRIVELLO: So move, Chair.

CHAIR SUGIMURA: Thank you.

COUNCILMEMBER WHITE: Second.

CHAIR SUGIMURA: Thank you. So, motion by Member Crivello, second by Member White. Any discussions?

COUNCILMEMBER KING: Oh, I have a discussion.

CHAIR SUGIMURA: Ms. King?

COUNCILMEMBER KING: The last thing I wanted to just ascertain is that the district boundaries are determined by the entity that's being created for this, right? And it doesn't have to be contiguous necessarily?

CHAIR SUGIMURA: Mr. Ueoka?

COUNCILMEMBER KING: 'Cause I think that came up in our meetings with the Planning Department with the Maalaea Visitors [sic] Association. So, it doesn't necessarily have to be one contiguous area.

CHAIR SUGIMURA: Mr. Ueoka?

COUNCILMEMBER KING: Do you know, Mr. Ueoka?

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MR. UEOKA: Thank you, Chair. Yes, yes, Member King. It doesn't have to be contiguous and it has...but it has to be stated in the ordinance creating the CFD.

COUNCILMEMBER KING: The exact boundaries?

MR. UEOKA: Yes, thank you.

COUNCILMEMBER KING: Okay, I just wanted to ascertain. Thank you.

CHAIR SUGIMURA: Okay, good question. Ms. Cochran?

COUNCILMEMBER COCHRAN: Chair, and in reference to that, the annexation portion of this. This is...annexation, is that not eminent domain? Is that...there's a difference there with this --

CHAIR SUGIMURA: Mr. Ueoka?

COUNCILMEMBER COCHRAN: --portion of annexation in here.

MR. UEOKA: Thank you, Chair. Member Cochran, I believe that's if more people want in for whatever reason they can annex in additional properties to the CFD. That's what that portion is for. Thank you.

COUNCILMEMBER COCHRAN: Okay.

CHAIR SUGIMURA: Okay, any other discussions? All in favor, Members, say "aye."

COUNCILMEMBER KING: I don't think...oh we do have a motion, okay.

CHAIR SUGIMURA: Oh. Opposed?

COUNCILMEMBER KING: No, I'm sorry. I didn't realize...I forgot there was a motion on the floor, so.

CHAIR SUGIMURA: Yeah. Okay, so all in favor say, "aye."

COUNCILMEMBERS: Aye.

CHAIR SUGIMURA: Okay. Opposed? None. So we have seven "ayes," two excused, Alika Atay and Mr. Guzman. Motion carries.

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

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmembers Atay and Guzman.

MOTION CARRIED.

ACTION: Recommending FIRST READING of bill and FILING of communication.

CHAIR SUGIMURA: Thank you very much. You just got your other tool for your toolbox, Mr. Walker.

**PEA-75: ESTABLISHING THE WEST MAUI COMMUNITY PLAN
ADVISORY COMMITTEE (CC 18-134)**

CHAIR SUGIMURA: At this time, I have the last item on the agenda, which is the CPAC which is PEA-75. And, Members, can you...it is now 12 o'clock. Can you stay for this? Anybody? Okay, so I'm going to proceed, Members. Just let me know if anybody has to leave. We are looking at...we took this up earlier and went through all of our explanations, and I just wanted to present to you some names that I would like to recommend for the CPAC. Thank you, Pam Eaton, Michele, Mr. Kushi. So I would like to recommend approval of the following names for the West Maui CPAC which is Joseph Aquino, Ravi Bugga, Yvette Joyce Celiz, C-E-L-I-Z, Donald Gerbig, Dawn Hegger-Nordblom, B-L-O-M, Rick Nava, Dylan Payne, Joseph Pluta, Leilani Pulmano. How many is that, Shelly? Shel?

MS. ESPELETA: Nine.

CHAIR SUGIMURA: Nine. Can you repeat it? Joseph Aquino...

MS. ESPELETA: Madam Chair, Joseph Aquino, Ravi Bugga, Yvette Celiz, Donald Gerbig, Dawn Hegger-Nordblom, Rick Nava, Dylan Payne, Joseph Pluta, and Leilani Pulmano.

CHAIR SUGIMURA: Okay, that's nine.

VICE-CHAIR CRIVELLO: I'm sorry. Can you...I'm sorry. Say it slowly for me, please.

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CHAIR SUGIMURA: Okay.

MS. ESPELETA: All right. The first name, Joseph Aquino, Ravi Bugga, Yvette Celiz, Donald Gerbig, Dawn Hegger-Nordblom, Rick Nava, Dylan Payne, Joe Pluta, Leilani Pulmano.

CHAIR SUGIMURA: So, Mr. Kushi, when they're looking through the names, then we're going to take up each name and vote on it, correct? Mr. Kushi? Members, anybody have any objections to the names? Mr. Hokama has a question?

COUNCILMEMBER HOKAMA: No, I was going to ask if you want to take the motion, then we can make either pass it or make amendments.

CHAIR SUGIMURA: Okay, Members, at this time I'd like to ask for a motion to approve the names that I have proposed for the West Maui CPAC. So, you got the names.

VICE-CHAIR CRIVELLO: Chair?

CHAIR SUGIMURA: Yes.

VICE-CHAIR CRIVELLO: I'll make the motion, and we'll have further discussion.

CHAIR SUGIMURA: Okay. Okay. So motion by Member Crivello.

COUNCILMEMBER HOKAMA: Second

CHAIR SUGIMURA: Second by Mr. Hokama. We have the main motion on the floor for the names that I read. Mr. Hokama?

COUNCILMEMBER HOKAMA: Chairman, I move to amend. I'd like to...again, this is tough because, you know, these are people who are volunteering to serve, and I appreciate every name. But I'm going to make my motion to amend is to delete the name of Dylan Payne and replace it with Kai Nishiki.

CHAIR SUGIMURA: Okay. Motion. That's your motion?

COUNCILMEMBER HOKAMA: Yes.

CHAIR SUGIMURA: Okay, I need a second.

COUNCILMEMBER HOKAMA: Yes, that's my motion to amend.

CHAIR SUGIMURA: Okay, so I don't have a second.

COUNCILMEMBER HOKAMA: Okay, thank you.

CHAIR SUGIMURA: Okay, thank you. Members, any other comments? Ms. Crivello?

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VICE-CHAIR CRIVELLO: I'm sorry Member Cochran isn't involved. And I wasn't here earlier if there were any other discussions. I think it would be...has she made any kind of recommendation? I respect the district's representation. And then are they to be full-time residents out in that district?

CHAIR SUGIMURA: Yes.

VICE-CHAIR CRIVELLO: Okay

CHAIR SUGIMURA: That's a requirement.

VICE-CHAIR CRIVELLO: Okay.

CHAIR SUGIMURA: Or residents of the district. So, to answer your question when we opened up the discussion, we asked for Member Cochran's recommendations, and she had none.

VICE-CHAIR CRIVELLO: Okay.

CHAIR SUGIMURA: Right, and she wanted to actually defer this to the next Council. But I just wanted to express that we have gone through a process to get these nominations. And it was publicly, you know, advertised, and we went through everything including the Council's, you know, website and Planning, so. Anyway, these are the names. Mr. White?

COUNCILMEMBER WHITE: Brief recess.

CHAIR SUGIMURA: Okay.

COUNCILMEMBER WHITE: Very, very brief.

CHAIR SUGIMURA: . . .*(gavel)*. . .

RECESS: 12:08 p.m.

RECONVENE: 12:10 p.m.

CHAIR SUGIMURA: . . .*(gavel)*. . . Okay, call back to order.

UNIDENTIFIED SPEAKER: Your microphone.

CHAIR SUGIMURA: My microphone is not on. Okay. Call back to order. Mr. White?

COUNCILMEMBER WHITE: Thank you, Chair. You know, I agree with Mr. Hokama's motion. I just wanted to get a sense of which of the folks on the list that you've recommended might be the most...well, might be the one to replace.

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CHAIR SUGIMURA: Okay.

COUNCILMEMBER WHITE: So, if...I'll make the motion that Mr. Hokama had made a bit ago and replace...move to replace Dylan Payne with the name Kai Nishiki.

CHAIR SUGIMURA: Okay.

COUNCILMEMBER HOKAMA: Second.

CHAIR SUGIMURA: Okay. So, the motion is to add Kai Nishiki, and take off Dylan Payne, right? Correct? Okay, Members, are you...all in favor say, "aye."

COUNCILMEMBERS: Aye.

CHAIR SUGIMURA: Okay. Opposed? None. So five, this passes.

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

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmembers Atay, Cochran, Guzman, and King.

MOTION CARRIED.

ACTION: Recommending Dylan Payne be replaced with Kai Nishiki.

CHAIR SUGIMURA: So, now our list looks like this, Joseph Aquino, Ravi Bugga, Yvette Celiz, Don Gerbig, Dawn Nordblom, Rick Nava, Kai Nishiki, Joseph Pluta, Leilani Pulmano. So, is that nine, Shel? It is. Okay, Members, that's the slate. At this time, I'd like to vote on the slate. Do I have to take another motion?

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

CHAIR SUGIMURA: Oh, we have to make Exhibit "B." Put this on Exhibit "B." So, Members, what's going to happen now is that because we have Exhibit "B" which is approved and "C" which is to not approve, I'm going to take a recess so that Staff can...yeah, so that Staff can put the names that we just mentioned on "B," Exhibit "B" for approved, and all the rest of the names will go on Exhibit "C" for disapprove.

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COUNCILMEMBER WHITE: Yeah, but can't that just be the motion?

CHAIR SUGIMURA: I mean...you don't have to see it?

COUNCILMEMBER HOKAMA: Chair, I make the motion as read by you.

CHAIR SUGIMURA: Okay.

COUNCILMEMBER HOKAMA: Nine names...the nine names as you recommended with the amendment, as amended, to be placed on the appropriate --

CHAIR SUGIMURA: Okay.

COUNCILMEMBER HOKAMA: --Exhibit "B" and all others on the appropriate --

CHAIR SUGIMURA: Okay.

COUNCILMEMBER HOKAMA: --Exhibit "C" for...

CHAIR SUGIMURA: Great. So, you don't need to see it then, right? So, you're fine.

COUNCILMEMBER WHITE: Second.

COUNCILMEMBER HOKAMA: It's on the record, Chair.

CHAIR SUGIMURA: Okay, fine. So, Members, we are going to then vote. All in favor of the names that we mentioned with that amendment of adding Kai Nishiki, all in favor say, "aye."

COUNCILMEMBERS: Aye.

CHAIR SUGIMURA: Opposed? None. Okay. Five ayes, motion carries.

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

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmembers Atay, Cochran, Guzman, and King.

MOTION CARRIED.

ACTION: Recommending that Joseph Aquino, Ravi Bugga, Yvette Joyce Celiz, Donald Robert Gerbig, Dawn Hegger-Nordblom, Rick Mejia Nava, Kai Nishiki, Joseph D. Pluta, and Leilani Reyes Pulmano be placed on Exhibit "B" for approval to the West Maui Community Plan Advisory Committee; and that Lee Allen Chamberlain, Karen J. Comcowich, Paul I. Laub, Michele L. Lincoln, Dylan G. Payne, and Leo Joseph Thiner-Brickey be placed on Exhibit "C" for disapproval to the West Maui Community Plan Advisory Committee.

CHAIR SUGIMURA: We now have the slate for the nine members from the West Maui CPAC from the Council, and then therefore, the Council you can...Planning Department, you can start your work. Members...oh, I thought that was the main motion. Okay, we have to...main motion. Let's vote for the main motion which is...sorry about that. So, we're going to be...the main motion, appointment to the West Maui CPAC advisory committee, and are we filing any County Communication 18-134? Okay, all in favor, Members, say "aye."

COUNCILMEMBERS: Aye.

CHAIR SUGIMURA: Opposed? Great. So, motion carries with five ayes, and we are done with our agenda.

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

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmembers Atay, Cochran, Guzman, and King.

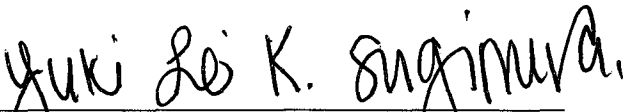
MOTION CARRIED.

ACTION: Recommending **ADOPTION** of revised resolution approving the nominations of Joseph Aquino, Ravi Bugga, Yvette Joyce Celiz, Donald Robert Gerbig, Dawn Hegger-Nordblom, Rick Mejia Nava, Kai Nishiki, Joseph D. Pluta, and Leilani Reyes Pulmano to the West Maui Community Plan Advisory Committee; and disapproving the nominations of Lee Allen Chamberlain, Karen J. Comcowich, Paul I. Laub, Michele L. Lincoln, Dylan G. Payne, and Leo Joseph Thiner-Brickey to the West Maui Community Plan Advisory Committee; and **FILING** of communication.

CHAIR SUGIMURA: Thank you, everybody, for staying on and completing this big task. We look forward to hearing more about the CPAC and your good work. Meeting is adjourned. . . .(gavel). . .

ADJOURN: 12:14 p.m.

APPROVED:



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

pea:min:181120:rlk

Transcribed by: Reinette L. Kutz

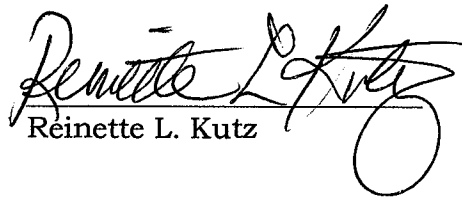
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CERTIFICATE

I, Reinette L. Kutz, 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 this 7th day of December 2018, in Makawao, Hawaii.


Reinette L. Kutz