

# **AFFORDABLE HOUSING COMMITTEE**

**Council of the County of Maui**

## **MINUTES**

**December 4, 2019**

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

**CONVENE:** 1:36 p.m.

**PRESENT:** VOTING MEMBERS:  
Councilmember, Tasha Kama Chair  
Councilmember, Michael J. Molina Vice-Chair  
Councilmember Alice L. Lee  
Councilmember Keani N.W. Rawlins-Fernandez  
Councilmember Yuki Lei K. Sugimura  
Councilmember Shane M. Sinenci

**EXCUSED:** VOTING MEMBERS:  
Councilmember Riki Hokama

**STAFF:** David Raatz, Supervising Legislative Attorney  
Ana Lillis, Legislative Analyst  
Stacey Vinoray, Committee Secretary

Zhantell Lindo, Council Aide, Molokai Council Office (via telephone conference bridge)

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

Mavis Oliveira-Medeiros, Council Aide, Hana Council Office (via telephone conference bridge)

Don Atay, Executive Assistant to Councilmember Shane M. Sinenci

**ADMIN.:** Mimi DesJardins, Deputy Corporation Counsel, Department of the Corporation Counsel  
Linda R. Munsell, Deputy Director, Department of Housing and Human Concerns  
Phillip R. Anderson, Development Project Coordinator, Department of Housing and Human Concerns  
Jordan Hart, Deputy Director, Department of Planning

John Ritchey, Structural Engineer, John Ritchey Structural Engineer, LLC.

**OTHERS:** Autumn Ness  
Jasee Law  
(2) additional attendees

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

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CHAIR KAMA: . . .*(gavel)*. . . The Affordable Housing Committee shall now come to order on December 4, 2019 at 1:36 p.m. And I'd like to ask you to please silence all your noisemakers. My name is Tasha Kama, I'm the Chair of the Affordable Housing Committee. I'd like to introduce my Vice-Chair, Mr. Mike Molina. Aloha auinala, Mike.

VICE-CHAIR MOLINA: Aloha auinala, Madam Chair.

CHAIR KAMA: Also, Mr. Shane Sinenci. Aloha auinala.

COUNCILMEMBER SINENCI: Aloha auinala, Chair.

CHAIR KAMA: And, Ms. Alice Lee, what do you have for us today?

COUNCILMEMBER LEE: *Sobh bekheir* from Persia.

CHAIR KAMA: From Persia.

COUNCILMEMBER LEE: Yeah, right next to Molokai.

CHAIR KAMA: Okay. And we'll go to Molokai right now. Member Rawlins-Fernandez. Aloha auinala.

COUNCILMEMBER RAWLINS-FERNANDEZ: Aloha auinala, Chair. And next to Persia.

CHAIR KAMA: And we're going to go all the way to Kula, Maui. Aloha, Yuki Lei Sugimura.

COUNCILMEMBER SUGIMURA: Aloha, Chair.

CHAIR KAMA: And so, today we have excused Mr. Riki Hokama. And we have two Committee...two Members of our Council who are not members of the Committee, Miss...our Chair Kelly King and Ms. Tamara Paltin who are though not members are certainly invited to always come and participate with our Committee. We also have from the Administration, from the Department of Housing and Human Concerns, Ms. Linda Munsell. Aloha, good afternoon, Linda.

MS. MUNSELL: Good afternoon, Chair.

CHAIR KAMA: And we have from the Department of Planning Jordan Hart, Deputy Director.

MR. HART: Aloha.

CHAIR KAMA: Aloha. And we have from Corp. Counsel, Ms. Mimi DesJardins.

MS. DESJARDINS: Aloha, Chair.

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CHAIR KAMA: Aloha. And we have with us our own Committee Staff, Analyst, our Legislative Analyst, aloha. And we have Mr. David Raatz, our Supervising Legislative Attorney. Aloha, David. And our faithful Committee Secretary Stacey Vinoray [sic]. Aloha. And we have also with us, we're going to go and visit them later on is our District Offices. From Hana, our Mavis Oliveira-Medeiros, and from our Lanai Office, Denise Fernandez, and from our Molokai Office, Zhantell Lindo. Also, we're going to have here later on this afternoon Mr. John Ritchey who's a structural engineer with John Ritchey Structural Engineer, LLC.

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

CHAIR KAMA: So, before we go to the neighbor office...the neighbor islands for testimonies, do we have any testifiers in the Chambers besides Ms. Autumn Ness? So, we wanted to ask Ms. Ness to please come up. So, Autumn, I think you've been here often that you know the color of the lights and you know what they mean and so I'm going to assume that you understand that you --

MS. NESS: Yes.

CHAIR KAMA: --got three minutes.

MS. NESS: Okay, thanks for having me back.

CHAIR KAMA: Thank you.

MS. NESS: I apologize for my attire, I just kind of ducked in at the last minute. I would have brought handouts and stuff. But anyway, I notice this is on the agenda and this is really, really important to me. So, I'm testifying about the item about matching the Affordable Housing Fund language to, with the 2.97 to make things affordable in perpetuity. Please do that. I'm asking you guys to do whatever you have to do to align 2.96/2.97 with the Affordable Housing Fund language. The most important thing for me is that you protect the intent to make sure that all County affordable housing funds granted to projects from now on go to projects that are going to be affordable in perpetuity or at least a very, very long time. The disagreement of these two sections is something that I worked on under Elle. It's been a longstanding problem and I would argue that every time this body gives funds to a project that is not affordable in perpetuity, you're misappropriating funds because that language is in the Code for a reason. When people invented the Affordable Housing Fund, that line made it into the Code, that was the intent of this money. So, please protect that intent. We've heard for years in this body and from the Administration about why affordability in perpetuity is not possible. We've heard things about it encourages blight, we've heard things that lenders won't give mortgages on properties with long-term deed restrictions. But those things are not true, it's happening all over the US. It can happen, we just have to make it happen. Communities around the US have been building inventories, growing inventories of affordable units for a very long time,

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because they recognize that in markets like Maui that are really volatile, you need two pools of housing. You need an investment pool of housing for the people who want to play the investment game and deal with market volatility, and then you need affordable housing and workforce housing for our people that don't want to play that game. And those units are insulated from market forces. These two properties play by very different rules and if we're going to put taxpayer money which is what the Affordable Housing Fund is, we need to put them into affordable housing units, not investment properties. So, there's a lot of questions that you're going to talk about, about like if we do that, what does that look like? What does the...oh sorry, the next thing I want to talk about is the argument that lenders won't lend on these properties. That's also false. Some lenders will not lend on these properties, but some lenders will. Na Hale O Maui gets loans, mortgages on their properties all the time and they come with long-term deed restrictions. It's which lenders are being chosen. HomeStreet Bank I think is a really creative lender. There's a lot of lenders that will loan. It's also in Fannie Mae and Freddie Mac...yeah, anyway, their lending guidelines nationally that they're allowed to buy these kinds of loans. I can answer questions about what I think is the easiest way to do so, a thing that can be put into the Code that will kind of dictate what kind of a formula will be used. But I only have ten seconds so if anyone cares to hear about that, I'm here for questions. Thank you. The last thing I'll say with my last four seconds is this community deserves it so please don't fall into the "we don't know how to do it" trap. Thank you.

CHAIR KAMA: Thank you, Autumn. Do we have any questions for Ms. Ness?

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

MS. NESS: Thank you.

CHAIR KAMA: Yeah, Ms. Rawlins-Fernandez, go ahead.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. And Member Lee also has a question after she finishes chewing what she has in her mouth. Aloha, Ms. Ness. Mahalo for your testimony today. So, if you did have time and had prepared handouts, what would those handouts look like --

MS. NESS: So...

COUNCILMEMBER RAWLINS-FERNANDEZ: --or would be included in them?

MS. NESS: The biggest question is what is an affordability in long...long-term affordability formula look like, and there's so many ways to skin this cat. I literally have looked through so many different municipalities' formulas, and I think the easiest thing that could actually go into a county code is the first section of Na Hale O Maui's formula. They do a shared-equity model so they use the first formula, the first section of the formula and then they allow the home to appreciate and they split the profits. That's not what I'm advocating for. The first section of their formula says something like...I'm going to use easy numbers 'cause I don't have a handout for ease of

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comprehension, but let's say there's a \$100,000 home on the market and it's subsidized enough where the buyer actually buys it for 75,000, right? So, the buyer has bought 75...they've paid 75 percent of market value for that unit, right? So, that ratio, the 75 percent runs with that property, it's in their deed of their land, right? So, when they go to sell the property, they have the home appraised and let's say the market has appreciated and it's now a \$200,000 property. So, that same ratio, 75 percent is applied to that number and they're allowed to sell it at a maximum sales price of \$150,000. So, that is a forever until the end of time a 25 percent subsidized property. So, the taxpayer that went into that property subsidizes it for every buyer until the end of time. That means if the market fails or it falls through the bottom and it tanks then so be it, that's what happens as a homeowner. But the maximum sales price of that unit will always be only 75 percent of the market price. Do you understand what I'm saying? Okay. There's a legal way to write that, it's in the Na Hale O Maui contracts. I can bring it to you to later but I just wasn't prepared for today. I'm sorry.

CHAIR KAMA: Thank you. Ms. Lee?

COUNCILMEMBER LEE: Hi, Autumn. Okay, so perpetuity means forever, so what happens when the house reaches economic obsolescence and it's no longer functional and it needs to be replaced? What happens at that point?

MS. NESS: That's a great question and I don't know the answer to that part. So, maybe in the Code could...I mean creative problem solving, I'd love to sit down and talk to whoever wants to talk about this. Maybe when the house is no longer viable then we start over or something like that. But we've had questions like when the house depreciates, and that's just what happens when you're a homeowner, right? If you buy a home that was at one time a \$500,000 or let's say a \$100,000 property in the '50s and you buy it as a teardown right now, the maximum sales price doesn't matter anymore 'cause you're never going to get that anyway. So, that can still run with the land...do you know what I'm saying? I don't know how to explain this. We're not managing that anymore, it's always the maximum sales price of market value. So, let's say the house is a teardown and the lot is a \$50,000 lot, the max sales price that can be charged for that is 75 percent of that. Do you know what I'm saying, does that make sense to you? We're not trying to manage blight or volatility, we're just setting a maximum sales price. I hope that makes sense. I'm sorry.

COUNCILMEMBER LEE: Okay. Oh, I don't have any more questions, I just have a comment when she's done.

CHAIR KAMA: Okay. Mr. Sinenci, did you have a question?

COUNCILMEMBER SINENCI: Yeah, thank you. On the lines of Member Lee, so the applicant or the resident wouldn't be able to like borrow off of the house at that 75 percent? Like in case they would have to fix up the house, would they be able...

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MS. NESS: Great question. And there are different ways to do that. In some cases yes, when you refinance your house the value for a refinance is always 75 percent of the value. And you can do things like capital improvements, certain capital improvements are allowed to be added to that maximum sales price up to 10 percent of the value of the home. But those capital improvements are preapproved. You can't put a pool in your backyard and then add it to the maximum sales price of your house for example. There's a list that I can give you guys of a preapproved, you know, structural, solar, things like that, but yeah.

COUNCILMEMBER SINENCI: Okay, one more question, Chair.

CHAIR KAMA: Yes.

COUNCILMEMBER SINENCI: So, in the case of Na Hale O Maui, so if they, maybe they get the first right of refusal or to buy back the property, does Na Hale O Maui get access to that other 25 percent that they put in into the...

MS. NESS: I don't want to pretend to be an expert on their formula, but in their example and I'm way oversimplifying, that other 25 percent is split between the owner of the home and Na Hale depending on how long the owner has stayed in. So, I'm saying we don't even bother with the 25 percent, we just keep it off the cost and nobody shares that profit, you know what I mean? Yeah, but that's the second part of their formula.

COUNCILMEMBER SINENCI: Okay, thank you.

MS. NESS: Yeah.

COUNCILMEMBER SINENCI: Thank you, Chair.

CHAIR KAMA: Thank you. Mr. Molina?

VICE-CHAIR MOLINA: Thank you, Madam Chair. And good afternoon, Autumn.

MS. NESS: Hi.

VICE-CHAIR MOLINA: Just more of a request if we could have your testimony, a copy of that in writing and any other financial institutions that, you know, could, you know, provide, you know, I guess opportunities for people for loans in spite of this, I guess, conflict between the workforce housing policy and affordable housing.

MS. NESS: Yeah, I'll put together what I have.

VICE-CHAIR MOLINA: That would be helpful. Okay.

MS. NESS: Should I send it to the Committee?

CHAIR KAMA: Yes.

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VICE-CHAIR MOLINA: Yeah.

CHAIR KAMA: Please.

MS. NESS: Okay.

CHAIR KAMA: Thank you.

VICE-CHAIR MOLINA: Okay, thanks, Autumn.

MS. NESS: Yeah.

CHAIR KAMA: Yes, Ms. Lee?

COUNCILMEMBER LEE: Yeah, well, the comment I was going to make earlier is if Autumn would be available for a discussion with, you know, like a roundtable discussion with the loan officers or mortgage brokers and yourself, Autumn, and maybe Cassandra Abdul. Yeah. So then, when we'll get a clearer picture of both sides of the issue.

CHAIR KAMA: Okay.

COUNCILMEMBER LEE: Yeah.

CHAIR KAMA: Sure.

MS. NESS: That makes me so happy, I would love to. I just really want to see this happen. However, whatever it takes for this to happen, I will be there.

CHAIR KAMA: So, just so as you all know, we're not going to take any legislative action today. Today's discussion is always going to be just discussion. Bring up your thoughts, your ideas, and then we'll defer it. And when we bring it back, we'll probably bring it back at that time with some legislative action. I'm not sure but that's the intent to be able to correct this. Ms. Rawlins-Fernandez, did you have a question? Okay, go ahead.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I'm just going to put it out there, Ms. Ness, are you available to stay? Would it make sense for this Committee to ask if she could stay as a resource person --

CHAIR KAMA: Of course.

COUNCILMEMBER RAWLINS-FERNANDEZ: --if she's available?

CHAIR KAMA: Sure.

MS. NESS: I can stay until like 2:55.

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COUNCILMEMBER RAWLINS-FERNANDEZ: 'Cause she was the affordable housing TIG. Okay.

CHAIR KAMA: What was that time?

COUNCILMEMBER RAWLINS-FERNANDEZ: Two fifty-five.

MS. NESS: Two fifty-five. I have to pick up my daughter.

CHAIR KAMA: Okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay, mahalo, Chair.

CHAIR KAMA: Well, so you know, people, it's all up to you, right? Okay, thank you.

MS. NESS: Thank you, appreciate it.

CHAIR KAMA: Okay, thank you very much. Ms. Lillis, do we have any other testifiers in the Chamber? One more. Oh, okay, Mr. Jasee Law.

MR. LAW: Hi, you guys. Aloha auinala.

CHAIR KAMA: Aloha.

MR. LAW: I like Mister...oh, my name is Jasee Law, I'm from Kula. Like Mr. Hokama, this word affordable, I'm not sure what that means. I would like to have been there when you guys were deciding the names of the committees. So, yeah, I hope you put more affordable housing in Kula, because I can't even afford to live at the church up there.

CHAIR KAMA: So, Jasee...and no questions for Jasee? Jasee, will you please fill out a form again before you leave with the gal out front? Thank you.

MR. LAW: If you insist, Madam Chair.

CHAIR KAMA: I do. Thank you. Okay, so if there are no more testimonies in the Chamber, let's go to the neighbor islands. So, let's go to the Hana Office. Mavis Oliveira-Medeiros, are you there?

MS. OLIVEIRA-MEDEIROS: Aloha, Chair. This is Mavis from the Hana Office, there's no one here to testify.

CHAIR KAMA: Thank you, Mavis. And let's go to the Lanai Office, Denise Fernandez?

MS. FERNANDEZ: Good afternoon, Chair. There are no testifiers at the Lanai Office.

CHAIR KAMA: Thank you, Denise. And at the Molokai Office, Zhantell Lindo?



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MS. LINDO: Aloha, Chair. There are no testifiers at the Molokai Office.

CHAIR KAMA: Thank you. So, if there are no other testifiers and without objection, I'd like to be able to close testimony.

COUNCILMEMBERS: No objections.

CHAIR KAMA: Thank you, testimony is now closed.

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

CHAIR KAMA: So, what I forgot to tell you all in the beginning was that we have two items on our discussion for today: the County-Owned Parcel on North Papa Avenue which is AH-8; and the Conflicts Between Chapter 2.96, of our Maui County Code, Relating to the Residential Workforce Housing Policy, and Chapter 3.35, of our Maui County Code, Relating to the Affordable Housing Fund, AH-23. So, the first item that we are going to go into right now is actually on the status of the work that the Administration is doing on those old dorms. And then the second item is just a discussion regarding the conflicts that we talked about in our 2020 Fiscal Year Budget process earlier on this year. And so, I expect as I've said earlier that we're probably going to defer the discussion for another round, bring back Autumn and I think Na Hale and maybe some bankers that you were saying, Ms. Lee, for probably a bigger, more robust discussion to be able to bring forth some really good decision making on that time. So, thank you all for the testifiers, for the testimonies.

**AH-8: COUNTY-OWNED PARCEL ON NORTH PAPA AVENUE (KAHULUI)**  
**(CC 17-213)**

CHAIR KAMA: So, at this time I'd like to be able to ask Ms. Linda Munsell if she's ready to make her presentation. Okay.

MS. MUNSELL: Good afternoon, Chair and Committee Members.

CHAIR KAMA: Good afternoon.

MS. MUNSELL: My name is Linda Munsell, I am the Deputy Director for the Department of Housing and Human Concerns. Thank you so much for having us here to talk about this project. We're...I'm getting pretty excited about some of the forward motion that we've got going here, and I think we're getting really ready to move forward pending approval from this body. So, the project that we're talking about everybody is familiar with, it's the old University of Hawaii Maui dorms. They were built in 1981 to provide housing for college students that were attending the college. We actually found some historic pictures that were kind of cool. The project future that we're envisioning is that we want to repurpose the current buildings to provide permanent housing for homeless families. The project would include some support services. We would be

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partnering with UH. And we've received some Ohana Zone funding in the amount of about \$864,000 to provide those wraparound services. For the construction we're receiving funding from another source. That would be phase one would be the first, the existing buildings, and then the idea would be that we would also look at increasing density on the underdeveloped areas of the property up to maybe as many as 50 additional u\*-nits but that would be in a future phase. So, as you're aware, it's...consists of 12 residential apartments, they're all two-bedroom units. There's a community building with the laundry and the mailboxes as well as green space and parking. We have recently completed the structural assessment, that was completed earlier in November. We're currently pending some executive summary information and other items to tie the whole thing together; otherwise, we would have transmitted the structural assessment to you already. We do have cost estimates and schedules that we're pretty comfortable with so we'll be talking about those. As I mentioned, we have received...we've entered into a memorandum of understanding with HHFDC and have gotten an approval for \$5 million worth of DURF funding for the construction of this project. As we agreed last summer, we waited to forward the budget amendment to this body until we actually had the structural assessment so that you guys could determine how we would want to move forward with this. So, that's been...that was actually transmitted to Council on the 18<sup>th</sup> of November. And just a reminder that we are acting under the Governor's emergency proclamation for the initial rehabilitation phase and the entitlement process. So, the structural assessment just very simply, the recreation building is actually in good condition. Building A and C are considered to be in fair condition, and Building B has the most damage to report. It was indicated that it was in poor condition. There is certainly termite damage in a number of areas, dry rot in some areas as well. According to our structural engineer who is here and can answer questions if you're interested in hearing from him, all of the buildings can be renovated. The necessary structural improvements have been identified in the structural assessment report which you should have here in the next week or so. All the damaged wood or structural beams that need to be replaced can be replaced. All the framing and foundation areas of concern can be repaired and structurally updated to the current 2006 International Building Code so we would be upgrading the buildings to meet current Code. And then post renovation, we would intend to treat the entire project for termites to ensure that there's no future damage such as we're finding currently in the structures. So, we've got three options for revitalization of the property. There's, a first option is to renovate those buildings, the structures as they are. The second option is to demolish them to the slab foundations and to reconstruct them. And then the third one is total demolition and rebuild. So, for renovation which is our first option, renovation would include initial demolition basically down to the studs for removal and replacement of almost everything except the structural framing and some floor and roof sheathing. All the interior and exterior siding and finishes will be replaced except again some second-story finishes. And then the apartments would be updated with in-kind fixture replacement, so essentially you're going to have new units on the older frame. Cost estimate for that is about \$4 million. There's a timeframe of about one year to do that, to complete that project, and so we would anticipate pending approval from this body and approval of the budget amendment that we would get started shortly. And it's possible that we could be in at the end of next year. The second option is demolition to the slab foundation

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and rebuild. Cost estimate for that is about \$5½ million. And they anticipate that the timeframe would take about one-and-a-half years. And the final option is total demolition and rebuild. The estimate...again this is for 12 units, this is not expanding the number of units on the property. Cost estimate for that is \$6.9 million, and we would anticipate that it would take approximately three years because we would need to do the EA, SMA, and things like that in the correct timeframes. Typically, those things are done first. In the first two options, we would be using the Governor's proclamation and we would do some of that stuff concurrently because we would not be doing any ground-disturbing activities. Although, I'm not sure if we demolition to the slab if we wouldn't have to do...yeah, I'll leave that to the planning guy to tell us. Our recommendation would be to do the renovation. It's immediate and very cost effective to do that. These structures would be repaired and completely brought up to Code. Again, interior finishes are all replaced, all electrical and new...electrical and plumbing fixtures. It's fast, we would actually have people in the, these units very quickly. And it's also within budget. I would not be coming back to you and asking for additional funding. Again, the cost estimate for the renovation was about \$4 million, and we've got \$5 million in DURF funding for this project. This would also fit well with our Ohana Zone funding. If you recall, you guys, you had passed an amendment to receive funding from the State, and what the Ohana Zone funding does is provide supportive services. That funding has got a time limit, as well as our DURF funding, so we would need to be a little cautious about that. So, our next steps, we would actually like for you after you've asked the questions and satisfied with the direction that we're headed, to give us a project approval today. We're very quickly going to be then asking you to look at our budget amendment for the \$5 million in DURF funding so that we can begin contracting for that, for those...the construction. We, we'll initiate the contract for the structural design and building permitting pending...we can start some of this...we would have to say it's pending funding approval from this body. We would also contract for the renovation scope, make sure that we've got all of our ducks lined up there, and begin construction hopefully very quickly. And we would also at the same time begin phase two entitlements, some...Jordan has worked...Mr. Hart has worked already on an RFP for the EA, SMA, and the Change in Zoning that would be required for this project. If you recall, that under the Governor's proclamation, one of the requirements is that it has to meet all of the legal requirements for zoning and Code at the end of the proclamation period and so we've got approximately three years to complete this. And this is just a visual drawing of what that process is. Under the Governor's Proclamation, we would be doing this reconstruction or renovation and the entitlements at the same time. And then as soon as those things that is complete, we would begin the phase two assuming that the EA and SMA came back and said that those things were possible. And that's all we had...that's all I have.

CHAIR KAMA: Thank you. Members, questions? Yes, Mr. Sinenci?

COUNCILMEMBER SINENCI: Thank you, Chair. Thank you, Ms. Munsell, for that presentation. I was just curious, you know, what capacity was...were we partnering with the UH you mentioned in the first couple slides?

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MS. MUNSELL: So, we've...so a couple of things. I mean obviously the land is currently leased to UH. They have been working with us to sort out how we would transition the property back to County ownership. But as far as the supportive services, there were a number of things that were identified that the support services would provide. And we would still need to initiate discussions with UH as to which areas that they would be doing. But things like personal financing, there's some...there's helping with...help with resumes, there's job hunting, there's...they've got some nursing students over there and other, you know, other programs that...I'm sorry, that I'm coming...not thinking of at the moment. But those are the kinds of things that we would partner with UH to help us with.

COUNCILMEMBER SINENCI: And they would provide some of these wraparound services at the site?

MS. MUNSELL: Some of the support services, yes.

COUNCILMEMBER SINENCI: Okay, thank you. I believe the, in the past the Council had requested for more...a faster outcome of the project, so I support the renovation. Thank you.

CHAIR KAMA: Thank you. Questions, Members? Yes, Ms. Keani Rawlins-Fernandez, yes?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Okay. Mahalo for your presentation, Ms. Munsell. I have a question on the option number three, total demolition and rebuild. For clarification, you said that we would get 5 million from DURF and this is option three would cost 6.9 million. Where would the 1.9 million come from if this was the option we had to go with?

MS. MUNSELL: So, if we decided to go with total demolition and rebuild, the entire 6.9 million would have to come from the County in some form. The DURF funding I've got us has a limited timeframe that we can use. They are going to expire at the end of, I think it's June 6<sup>th</sup> of 2022. We would not be able to use the DURF funding for this option.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay, so for...

MS. MUNSELL: We would also lose the Ohana Zone funding 'cause that also sunsets.

COUNCILMEMBER RAWLINS-FERNANDEZ: For option three, we would get no additional funding from...or no funding from DURF, no Ohana Zone funding. What about option two? 'Cause that also goes over 5 million.

MS. MUNSELL: Option two, we would have to look at our timeframes. Option two is about a one-and-a-half year estimated completion, and it is possible to meet that assuming we very quickly get through this process and get it started. We have to be actually complete--let me see if I can find it--by June, like I said, 2022 for the DURF funding.

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And the Ohana Zone funding expires, yeah, June 6, 2022 as well. I am not sure...we would not be able to take full advantage of the Ohana Zone funding.

COUNCILMEMBER RAWLINS-FERNANDEZ: What do you mean by full advantage?

MS. MUNSELL: So, the Ohana Zone funding is actually for two years of operations. If you recall, our intent is to put...house homeless families or families who are currently in transitional housing. They don't usually come with the ability to pay rent and so of course a project like this has expenses. We have to pay the water bill, the electric bill, there is the property management. So, as far...there's the maintenance of the facility itself. So, there's the operational requirements and then there's also the wraparound or the...sorry, supportive services that we're going to be providing. So, it would be a two-year funding cycle if we take a year and a half for, you know, to do this then we would be a smaller...we would get a smaller amount of support for that. Ongoing support for the project would have to come through the Council.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay, mahalo. So, for option two...yeah, I guess I have...has your engineers--sorry for the clarification--found that number...option one is possible to go through at this point? It's like a guarantee?

MS. MUNSELL: Yes.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. Thank you.

CHAIR KAMA: Mr. Molina?

VICE-CHAIR MOLINA: Thank you, Madam Chair. And good afternoon, Ms. Munsell. Just a quick question on slide one or the proposal for renovation. One of the bullet points mentions all interior and exterior siding and finishes will be replaced except some second-story finishes. Can you clarify that, why the finishes for the second story would not be I guess renovated?

MR. HART: To the extent I'm able, essentially some locations are in such good shape that there's no need to demolish them and replace them.

VICE-CHAIR MOLINA: Save a few dollars that way I guess yeah?

MR. HART: Yes.

VICE-CHAIR MOLINA: Okay. Okay, thank you.

CHAIR KAMA: Ms. Lee?

COUNCILMEMBER LEE: Oh no, I have nothing.

CHAIR KAMA: Okay. Ms. Sugimura?

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COUNCILMEMBER SUGIMURA: Thank you. Great job. I think we're all waiting for this, to hear what the options are and good work to bring us to this point of all the comparisons. We're waiting for those estimates. What about furniture, so how would you furnish all of this?

MS. MUNSELL: There...

COUNCILMEMBER SUGIMURA: Go ahead.

MS. MUNSELL: Yeah, thank you for asking. There isn't money currently in the budget for furnishings and things like that. These are construction funds alone. So, we would...once we've determined what direction we're going to go, you know, if we're going to demolish and rebuild completely then there's no sense even asking for funding for those kinds of things. But once the determination is made either to renovate or to rebuild, then obviously we would come back to you and say okay, we're going to need some kind of funding to actually furnish these. The...I'm not sure how much furniture someone who's coming from transitional housing will have. So, our estimates include, you know, all of the cabinets and the, you know, all those fixtures and things like that.

COUNCILMEMBER SUGIMURA: Not beds.

MS. MUNSELL: But not necessarily beds. And so, we would have to talk to our experts in terms of, you know, the homeless folks, you know, where...how much stuff we would need to actually provide for them.

COUNCILMEMBER SUGIMURA: So, the DURF funds is 5 million but your estimate and I think things can go up but is 4 million. So, what are you planning on doing or what looks like that additional million could be used for? Or are you just...

MS. MUNSELL: So, one of the things that we included in our proposal to HHFDC was that we would be able to start the phase, the additional, the planning for the additional units. So, if you look in this one, we actually talk about the land use approvals, the EA, the Change in Zoning, the SMA. We put in \$250,000 for that. So, if we do go with a renovation, we would use some of the remainder of that money for this next phase to do the planning for those additional units and also to make sure that this unit is fully compliant with the law when we're finished.

COUNCILMEMBER SUGIMURA: I see. Okay, good. And then landscaping, it's getting pretty dry out there.

MS. MUNSELL: Yeah, I think that there is money in the, in there for landscaping.

COUNCILMEMBER SUGIMURA: Okay, okay. Very good. Come a long way.

CHAIR KAMA: Are there any other questions, Members, that you might have? Yes, Ms. Keani Rawlins-Fernandez?

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COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Okay, so for the structural assessment you said that's forthcoming. Do you know when we can expect that?

MR. HART: We think the next week or so, maybe two weeks. We actually have the technical portions of the reports all done, but there's the cover portion of the report that basically ties all the technical sections together that we're working on right now. But we do have our structural engineer who did complete his technical assessment that's available to answer any questions.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay, mahalo. Okay, and I kind of...I did some...I put some of the timelines to dates to months to see, because you said that the Ohana Zoning funding expires 2022. And option one takes a year to complete. So, none of these options would give us the opportunity to take full advantage of the Ohana funds, Ohana Zoning funds.

MS. MUNSELL: It would be a matter of encumbering those funds and contracting with providers to provide those. So, as long as that is done, then we should be able to...and then there's...and I forget how, you know, you can contract for a certain period of time. So, the second option, I think you can contract for up to a year. But the second, so I think that the second option does not give us the ability to do full, take full advantage of the Ohana Zone funds. But phase one or if we do the renovation, that should allow us to contract for both years of those funding, of that funding.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay, thank you. Mahalo, Chair.

CHAIR KAMA: Thank you. So, if there are no other questions, I have a question for Ms. Munsell. So, Ms. Munsell, for us to be able to approve today's ask, we're not prepared to do that because we don't have any transmittal from the Mayor. So, I think if the Administration could transmit something to us, 'cause I didn't get anything.

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair, would you --

CHAIR KAMA: Yes?

COUNCILMEMBER RAWLINS-FERNANDEZ: --mind explaining what you mean by transmittal?

CHAIR KAMA: Usually we have a reso or an ordinance or something that tells us we're going to take a vote and therefore it approves this or it approves that right? Well, I don't have that.

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair?

CHAIR KAMA: Yes?

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COUNCILMEMBER RAWLINS-FERNANDEZ: We would still need the budget amendment to --

CHAIR KAMA: Correct, correct.

COUNCILMEMBER RAWLINS-FERNANDEZ: --move on with that.

CHAIR KAMA: So...

MS. MUNSELL: Chair?

CHAIR KAMA: Yes, Ms. Munsell?

MS. MUNSELL: We are asking your approval because we said that we would ask for your approval. We technically don't need anything in this Committee. We are coming back to let you know where we are. We would like your approval. We want to work with you rather than against you. The card that you hold is the budget amendment so that's what we're going to be asking you for.

CHAIR KAMA: Okay.

MS. MUNSELL: So, this Committee if you would --

CHAIR KAMA: Okay.

MS. MUNSELL: --please give us your support, and then you can deny us at Budget if that's how you choose to do that.

CHAIR KAMA: So...

MR. HART: Chair, if I could add as well?

CHAIR KAMA: Yes, Mr. Hart?

MR. HART: I think that also there's a phase two of expansion of 50 units, proposed units. This project is located on the transportation-oriented development corridor, and so part of the goal there is to increase density and part of the goal for the County overall is to provide more affordable housing. So, we would be asking the Council to introduce a Change in Zoning for the site so that the land use designations are all in order, in order to pave the way for the further development of the site, you know pending completion of an EA and SMA major. That's further down the road but I...in the context of keeping the Council up to date on what we're up to and what we'll be coming to you for in the future, I just wanted to mention those items. Thanks.

CHAIR KAMA: Thank you for that clarification, Mr. Hart and Ms. Munsell. Okay, so my question now I think is for Mr. Raatz. So, knowing that this actually needs to go to



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EDB, so from here I would defer this, and then how does it get into EDB? Can we just refer it from here?

COUNCILMEMBER RAWLINS-FERNANDEZ: The budget amendment would come --

CHAIR KAMA: Yes.

COUNCILMEMBER RAWLINS-FERNANDEZ: --from the Administration.

CHAIR KAMA: Yes.

MS. MUNSELL: Chair? We've already submitted a budget amendment to the Council. So, it was sent down on the 18<sup>th</sup> of November.

CHAIR KAMA: Oh, okay. Thank you. I didn't know that. Okay, so thank you, Ms. Munsell. Thank you, Mr. Raatz. Okay, and yes, Ms. Lee?

COUNCILMEMBER LEE: It's really hard for us to approve something that we don't have specifically in front of us. So, the best we can do...the best I can do is say I have really no objections to what you're doing and that we look forward to your submittal in the Budget Committee.

COUNCILMEMBER SUGIMURA: Chair?

COUNCILMEMBER LEE: Thank you.

CHAIR KAMA: Ms. Sugimura?

COUNCILMEMBER SUGIMURA: Yeah, thank you. So, do we have the structural engineer here? I wonder, Chair, if they might give us a brief summary, 'cause I think our concerns from last term and, you know, even this term is just the, how sound is the structure. And if they're here and if you would allow --

CHAIR KAMA: Sure.

COUNCILMEMBER SUGIMURA: --them to --

CHAIR KAMA: Mr. Ritchey?

COUNCILMEMBER SUGIMURA: --just give us a brief...

CHAIR KAMA: You want to come down please?

MS. MUNSELL: And...

CHAIR KAMA: Do we have room for him over here?

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COUNCILMEMBER SUGIMURA: Thank you.

MS. MUNSELL: Just to address the question about making decisions, you will definitely have the structural assessment prior to the budget. So, you'll be able to take a look at that, yeah.

MR. RITCHEY: So, you're looking for a summary of the condition of the buildings?

CHAIR KAMA: Can you hear?

COUNCILMEMBER SUGIMURA: Just say your name and introduce yourself and give us a summary.

MR. RITCHEY: Oh my name's John Ritchey with John Ritchey Structural Engineering. Let's see, to summarize the buildings, they are in...as previously mentioned, Building A is in...so I'll go building by building. So, Building A was found to be in fair condition, primarily the superstructure being the stud framing, floor framing, and roof trusses and plywood sheathing was found to be in general intact, in good condition. And then, but then there was a majority of the damage and deficiencies were found at the foundation level with spalls at the face of the concrete due to corroded reinforcing steel. All readily repairable, it's quite common. Building B was found to be the worst of the three dorm buildings. The northerly side of the building there were some...there are existing beams that exhibit...and severe dry rot and termite damage and are basically in a brittle condition and unsafe. But again...and then at the various locations within that building, there was dry rot at the sole plate which is the bottom of the stud wall, termite damage as well. And the siding of various locations was also compromised by dry rot. Again, all remediable via just shoring, temporary support by the contractor, and then removing those defective members and then installing new ones. Building C, that was also found in fair condition with some, I think at various reference in my report...

CHAIR KAMA: Mr. Ritchey, can you show us on the picture what buildings you're talking about when you...just point them out to us when you can as you talk about them.

MR. RITCHEY: This is Building A, Building B, Building C, and the rec center.

CHAIR KAMA: Thank you.

MR. RITCHEY: Those titles originated from the existing dorm architectural drawings. So, yeah, Building C was found to be fair, because we found...encountered dry rot at the sole plates at various locations which is again easy to remove, replace. Recreation center was found to be in good condition if not very good condition. Just on the exterior, on the lanai side, on the northeast side, a corner supporting the roof there was some dry rot damage and then...at the beam. And then the northwest corner column at the base of that, there was some dry rot at that post. Again, shoring would be installed and those would be removed and replaced readily.

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CHAIR KAMA: Any questions, Members, of the structural engineer? Yes, Mr. Sinenci?

COUNCILMEMBER SINENCI: I didn't have a question about the structure but I was just looking at the map, so maybe Mr. Hart could answer. Where would be the addition of the 50 units or would be that outside of the yellow boundary?

MR. HART: Thank you very much, Chair. So, as everyone is, you know, completely aware, the Central Maui dune system is a very sensitive area. This is actually approximately an eight-acre parcel, but this section that's highlighted here in yellow is approximately two acres, and this is an area that's already been disturbed by construction. You can see there is a potential pad on the south end abutting Kaahumanu Avenue and then there is a terraced, previously graded area that is on the west or mauka side of these buildings. And so, that's where I think that there's a potential, but in the RFP that's in draft form right now which is for a consultant team to do the EA and SMA, there's also a scope item in there to do a site assessment and site planning. So, what they would do is basically look at the site, determine where the most practical opportunity to develop structures is, and then they would base...they would...then they would prepare their conceptual-level drawings that would be used to complete the land use applications. I do also think that there's a potential...these units are really large units and so they're very good for families, but there's also an opportunity to build more efficient units in order to get the numbers that we're discussing. And so, I don't think that the...it's not likely that we would get too close to 50 with similar sized units. So, anyway, I hope that answers the questions.

COUNCILMEMBER SINENCI: Yes, thank you. Thank you, Chair.

CHAIR KAMA: Okay. Ms. Lee?

COUNCILMEMBER LEE: So, Jordan, how high do you think we have to go to get to 50 units?

MR. HART: I think that it can be done within four stories in multiple buildings, but I really think that it would take an architect, you know, to look at the site and do that kind of site planning.

COUNCILMEMBER LEE: Okay, thank you.

CHAIR KAMA: Ms. Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Mahalo for your presentation and summary of the three buildings. So, I didn't hear you mention anything about the black mold, asbestos, did you find that in the three? My understanding of a previous report was that they did detect black mold and asbestos in the three buildings. Or are you a structural engineer and that is not included in the structural? So, is there a report that will tell me that it's safe?

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MR. HART: Chair, I may try to answer that. So, part of the proposed scope is the demolition scope and that scope includes remediation. So, that would be, in the renovation that would be proposed to happen.

COUNCILMEMBER RAWLINS-FERNANDEZ: So, you have...do you have an expert or are you the expert that's telling us that it would be safe?

MR. HART: No, I'm not the expert. I'm...what I'm trying to say is that the, that experts would be hired in the next phase to do that kind of work.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. And so, it would be at that point that we will determine what option to go with if...cause my understanding is maybe asbestos can be remediated, but black mold it's much more difficult to completely get rid of.

CHAIR KAMA: Do we need to ask somebody else, Ms. Munsell?

MS. MUNSELL: We actually have Phil Anderson, he's our Development Coordinator here in the audience, and maybe we can have him come down and join Mr. Hart and respond to that question.

CHAIR KAMA: So, when you come on down, Phil, can you please state your name for the record. And I guess we want to know a little bit about you and your expertise in the area of black mold really.

MR. ANDERSON: Well, it's...loud. Phillip Anderson. And I'm not an expert in the mitigation; however, the contractor who's currently been doing the removal of the drywall siding for Mr. Ritchey to do his assessment, they do have a mediation company that has been in and removing the mold that was on the drywall. So, a large part of that has already been completed. So, when they do the renovation, they've already got funds in there to do the rest of it that needs to be taken out. So, that's already part of the cost estimate.

CHAIR KAMA: Are you satisfied with that answer?

COUNCILMEMBER RAWLINS-FERNANDEZ: One follow-up.

CHAIR KAMA: Go ahead.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Mahalo, Mr. Anderson, for that response. Do you have children?

MR. ANDERSON: I have two, yes.

COUNCILMEMBER RAWLINS-FERNANDEZ: Would you feel safe with your children living in those buildings?

MR. ANDERSON: After renovations, of course I would, yes.

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COUNCILMEMBER RAWLINS-FERNANDEZ: Okay, mahalo. Mahalo, Chair.

CHAIR KAMA: Any other questions, Members? Okay, thank you so very much. So, is anyone else like to make any statements or comments? Okay, hearing none, thank you very much, Members. At this point I will defer this. If you don't object, I will defer this item.

**COUNCILMEMBERS VOICED NO OBJECTIONS.** (Excused: RH)

**ACTION: DEFER PENDING FURTHER DISCUSSION.**

CHAIR KAMA: Thank you very, very much. So, thank you, Ms. Munsell, for coming and sharing that with us. Members, it's 2:30 and do you folks want to continue on with our next item? Okay.

COUNCILMEMBERS: No objections.

CHAIR KAMA: Okay, thank you very much.

**AH-23: CONFLICTS BETWEEN CHAPTER 2.96, MCC, RELATING TO THE RESIDENTIAL WORKFORCE HOUSING POLICY, AND CHAPTER 3.35, MCC, RELATING TO THE AFFORDABLE HOUSING FUND (MISC)**

CHAIR KAMA: Okay, so the next item is AH-23, it's the Conflicts Between Chapter 2.96, Relating to the Residential Workforce Housing Policy, and Chapter 3.35. So, I think the Staff is going to distribute to you the memo on this topic. So, Committee Members, to prepare for this meeting today, our Committee Staff has researched this issue and I provided the information that Staff has assembled into a memo for your information. And so, because this is entirely a legal matter of interpretation of the County Code, I'm going to ask our Deputy Corp. Counsel Mimi DesJardins to provide her interpretation of the conflict. And then after that, we'll probably have Linda Munsell comment if she chooses to do so. And then we'll have questions.

MS. DESJARDINS: Okay, thank you, Chair. So, at the onset...

COUNCILMEMBER RAWLINS-FERNANDEZ: Excuse me?

CHAIR KAMA: Yes?

COUNCILMEMBER RAWLINS-FERNANDEZ: Can I get clarification before you begin, Ms. DesJardins, is this a legal matter? 'Cause I thought this was a policy matter of us setting this straight. Is this a legal matter?

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MS. DESJARDINS: So, the question that is posed on the agenda appears to address whether there is a legal conflict between 2.96 and 3.35. So, I am not going to be addressing anything policy-wise but only as far as a legal interpretation between the two ordinances where there may be a legal conflict. But that's the limit of my --

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair?

MS. DESJARDINS: --discussion.

COUNCILMEMBER RAWLINS-FERNANDEZ: It says conflicts between Chapter 2.96, MCC, relating to the residential workforce housing policy and Chapter 3.35, MCC, relating to the Affordable Housing Fund. It doesn't say legal conflicts. So, I'm not sure where someone interpreted legal there but it didn't say legal.

MS. DESJARDINS: Okay. So, it says conflicts. So, as a broader concept of conflicts, if you want to discuss whether there are within the conflicts legal or policy conflicts, I would assume that the word "conflict" could cover any type of conflict. If it said policy conflict, I would totally agree with you, or legal conflicts, we might be more limited. But if you want to --

CHAIR KAMA: Broaden.

MS. DESJARDINS: --look at the discussion of what types of conflicts that you folks have to look at. But in terms of policy conflicts, I don't have any opinion one way or the other, that's your job.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Mahalo, Ms. DesJardins. Yeah 'cause --

MS. DESJARDINS: There are...

COUNCILMEMBER RAWLINS-FERNANDEZ: --we're the policymaking body so we decide how to --

MS. DESJARDINS: Right.

COUNCILMEMBER RAWLINS-FERNANDEZ: --you know, remediate or resolve conflicts within the policies that we create. And so, I'll let Ms. DesJardins --

MS. DESJARDINS: Yeah, I don't have --

COUNCILMEMBER RAWLINS-FERNANDEZ: --complete...

MS. DESJARDINS: --any intention of telling you how to do your job. What I did is I just kind of looked at the two ordinances to try to determine whether there was anything from a legal point of view that could be resolved. And I will tell you upfront, I don't think there are conflicts between the two with each other. I think there are some

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internal legal conflicts within 3.35 itself. But when you look at the purpose and scope of 2.96 for example, that covers developments and the requirements of developments and what has to happen anytime there is a development. And so, it's a broad ordinance that addresses a number of things. Three point three five however specifically addresses just affordable housing funds from the Affordable Housing Fund. Two nine six projects don't necessarily have to have anything to do with the 3.35 Affordable Housing Fund. Sometimes 3.35 funds are used in 2.96 projects and they are limited in their use to what 3.35 requires. But what I would just note for your discussion when you're looking at ways to try to resolve it or if you feel like there's resolution that needs to be required, I would look at the fact that there is language in there about in perpetuity, but there also is reference within 3.35 of the 2.96 deed restrictions on the sale units. On the rental units, there are deed restrictions of 30 years in 2.96 but they're not referenced in 3.35. What's referenced is only the, how much you can charge for rent. But other than that I don't...I think that 2.96 can be completely independent on its own, or you folks could decide you want to amend it for whatever reason. But as far as there being legal conflicts between the two, I don't really see a legal problem with the two working together. But I do think that within 3.35 there are some legal issues that you might want to look at and address in terms of how you want to resolve them. But thank you, Chair.

CHAIR KAMA: Ms. Lee?

COUNCILMEMBER LEE: So, what are those legal issues in 3.35?

MS. DESJARDINS: So, for example if you look at 3.35.060(b)(3) talks about in perpetuity, but then if you look at 3.35.050(a), it refers to ownership housing units must be subject to the restrictions of 2.96.060(b). That's the deed restrictions that are required in a 2.96. So, I guess the conflict would be on the one hand, it appears that this housing fund is contemplating an in perpetuity restriction in grants and loans, but at the same time, it's asking you to also look at the deed restrictions that are set forth in 2.96. So, those two things seem to be sort of contrary within 3.35, not related to 2.96 on its own. So, that would be one place to look for some sort of legal cleanup. And then there also appears in 3.35 there is reference like I said to deed restrictions for sale units that seem to clash with the notion of in perpetuity. But then when you look at the rental units, it doesn't apply to rental units. So, I'm not sure how that happened, I tried to do some legislative research on it, but there wasn't very much in the minutes that reflected why that ordinance ended up being the way that it was. So, those I think are...I see as sort of the major internal legal conflict with 3.35.

CHAIR KAMA: Ms. Lee, are you done with your questions?

COUNCILMEMBER LEE: Yeah.

CHAIR KAMA: For now? Okay.

COUNCILMEMBER LEE: Yeah.

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CHAIR KAMA: Mr. Molina?

VICE-CHAIR MOLINA: Yeah, no, I appreciate what Ms. DesJardins has presented to us. So, if we could have that in writing. I guess now because we're not taking legislative action on this --

CHAIR KAMA: No.

VICE-CHAIR MOLINA: --today right so --

CHAIR KAMA: Right.

VICE-CHAIR MOLINA: --maybe at a future meeting then we can do what needs to be done with the cleanup of the language itself which I guess we would have to amend if we...if need be. Yeah. Okay.

CHAIR KAMA: If need be.

VICE-CHAIR MOLINA: Yeah.

MS. DESJARDINS: Yes.

VICE-CHAIR MOLINA: Okay. All right, thank you.

CHAIR KAMA: Ms. Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. And mahalo for scheduling this item again. As Members may remember, this item was referred to the Affordable Housing Committee as reflected in the EDB Committee Report 19-49 from Fiscal Year '20 Budget Session. The referral of this matter stemmed from discussions pertaining to the appropriate use of Affordable Housing Fund. During budget deliberations and several times since then, I have expressed interest in wanting to preserve the original intent of the Affordable Housing Fund as we move forward in approving projects. The original intent of the fund was to provide affordable housing in perpetuity as noted by Ms. DesJardins in Section 3.35.060 under Criteria. Corporation Counsel agreed that there has been a lot of piecemealing from the fund, and as was noted by the Budget Director during deliberations, the last affordable housing project that came from this fund was Kulamalu. It is largely acknowledged that 2.96 is not working as well as we need it to, and so I think it would behoove us as the forward-thinking and hard-working Council that we are to work proactively in addressing the solutions before us to incentivize the type of development we wish to support. Two point nine six could use an overhaul as well, but for today's purposes and for the intent of this Committee matter referral item before us today, we have an opportunity to clean up the conflicting areas within the Affordable Housing Fund that Ms. DesJardins pointed out. Dovetailing off of sentiments expressed by Member Lee in the previous meeting that it's time the County focus our energy on subsidizing lower AMI affordable housing projects 80 percent and below. I propose the following



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amendments to the Affordable Housing Fund to preserve the intent of not only increasing our affordable housing supply but also maintaining that affordable housing supply for longer periods of time. Staff will now distribute my proposed amendments. By cleaning up the conflicting language, we will incentivize the appropriate use of the fund and thusly the types of projects we would like to support being planned and subsidized by the fund through qualification standards. So, what you have before you is...are my proposed amendments of Chapter 3.35. There are three areas of amendments. So, in 3.35.010 under Purpose, A, it's in red, the revenues of [sic] unencumbered balance in the fund shall be used for provision, protection, expansion of affordable housing and suitable living environments for residents, would strike "of very low" and..."of very low to gap income," and we would in its place insert "with a gross annual family income of 80 percent or less of the area median income as established by the US Department of HUD or as adjusted by the Department, for Hana, Lanai, and Molokai." On the next page under 3.35.025(b), under Definitions, we would strike that. B defines what gap income is and it's defined here as gap income shall refer to those households where gross annual family income is more than 140 percent, but not more than 160 percent of the area median income as established by US HUD or adjusted by the Department of Housing and Human Concerns for Hana, Lanai, and Molokai. And explaining that, we've learned from experience, one recently in West Maui, the Carr Development where the houses that are around 140 percent are too close to market for people to be interested in disclosing their financial records to apply for those houses and be restricted. The last proposed amendment is under 3.35.050, Term of Affordability. A, we would strike "ownership housing units financed by the Affordable Housing Fund shall be subject to the restrictions of Subsection 2.96.060(b) of this Code. Rental housing units financed by the Affordable Housing Fund shall be subject to the restrictions of Subsection 2.96.070(c) of this Code." We would strike that entire thing. And in its place we would insert "housing projects subsidized by this fund must directly advance the objective of providing affordable housing in perpetuity under the Director's supervision. Models of affordability in perpetuity include but are not limited to managed appreciation formulas that insulate the housing from market-rate appreciation, shared equity formulas, and projects that are owned by a community land trust." And as you'll recall, that was something that our testifier Ms. Ness spoke to. Those formulas are currently being used by Na Hale O Maui so it's not just something that I'm grasping out of thin air, it's actually being used and practiced. And the language "not limited to" would allow for flexibility in new models of affordability in perpetuity to be included as they are created. Mahalo, Chair.

CHAIR KAMA: Thank you, Ms. Rawlins-Fernandez. Comments anyone? Yes, Ms. Lee?

COUNCILMEMBER LEE: Were you planning to take a vote on the proposal today?

CHAIR KAMA: No.

COUNCILMEMBER LEE: Oh.

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CHAIR KAMA: Today's, today we are just going to discuss and just bring out whatever it is that you felt like you wanted to respond to today's...on the agenda. And then what came out during testimony time was your thought about bringing back Ms. Ness and at some later time maybe lenders or bankers or...and even Na Hale to talk about this. So, the intent is to defer this to come back another time, also have a deeper, more probably robust, enriching discussion.

COUNCILMEMBER LEE: Okay.

CHAIR KAMA: And then maybe at the same time all the papers that you were given are really good reading stuff. So, I think everybody should take it back and read it and look at it and get a clearer understanding of the complexity of 2.96 and 3.35, so.

COUNCILMEMBER LEE: Okay. May I also further comment? Yes, it makes for good reading but there are a couple things I think whether Corp. Counsel or Staff should look into is what do you do with a house that is no longer economically viable? What do you do with a house that has reached it's, you know, limit on functionality, you know, obsolescence? So, that's one. Two, is, yes it's true that I don't really have a problem with perpetuity on the low end. But if we're gonna do that, I would also like to propose that we allow...well, the County would deal specifically with 80 and below of median income and all County funds would be directed toward that group. So, I don't have a problem with that. But, we need to release developers to provide housing that don't have, you know, 30 and 40 years deed restrictions on the 100 and 120 and 140 percent of median income so we can require them to provide housing in those ranges but not impose long-term deed restrictions 'cause it'll be harder on the families to qualify if we did that. So, I believe that the County abdicated its duty by requiring the developers in the last 15 to 20 years to provide for the low-end. That shouldn't be. I don't think that should be our policy. I think we, as a County government, need to subsidize and provide that subsidy for the lower end so that we don't depend on developers who may or may not come and develop, that there will always be that money there for that low-end to be subsidized. So, I'm hoping that we brought in our thinking on, as Ms. Rawlins-Fernandez says, you know, at some point we do have to look 2.96. As the Housing Director when that passed in 2006, I strongly, stridently opposed that, that bill. And it was proven to be a mistake 'cause it was actually based on 50 percent requirement which was a total failure. So, I think now we have the opportunity, we have a track record to look at, and we have a different perspective with this new Council. Let's try something that will work, yeah?

CHAIR KAMA: Yes.

COUNCILMEMBER LEE: Okay. And prioritize the low-end. Thank you.

MS. DESJARDINS: Chair?

CHAIR KAMA: Thank you. Yes?

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MS. DESJARDINS: Just a quick comment, you know, 2.96 requires you to review it every two years so there's probably a reason, you know, that they put in that it would be every two years.

COUNCILMEMBER LEE: Yeah, and we...and I can tell you we haven't.

MS. DESJARDINS: Yeah. So, it --

CHAIR KAMA: We will.

MS. DESJARDINS: --is required and so just so you know.

CHAIR KAMA: That's on the Housing agenda's next meeting to review 2.96, the one on the 18<sup>th</sup>.

COUNCILMEMBER LEE: Yeah. You know and that took, honestly it took about two years to go through inch by inch by inch in it, and Danny Mateo put a lot of time in it and his staff, and I still remember her name Gayle Revels. And they worked really hard on it. But most of us who had a little bit more experience felt it was too stringent and it was so detailed, that ordinance is so detailed that we had a hard time coming up with administrative rules because they covered everything. So, yeah, it's going to be a beast to deal with, but I think we have to, and I think you're going to need to allow for a lot of time to work on that one.

CHAIR KAMA: That's the only item on the agenda.

COUNCILMEMBER LEE: Yeah. Well, if it took him two years --

CHAIR KAMA: And it'll come back, it'll come back.

COUNCILMEMBER LEE: --you know, it's probably going to take you --

CHAIR KAMA: Yeah.

COUNCILMEMBER LEE: --a few months yeah?

CHAIR KAMA: Yeah. Thank you. Mr. Sinenci, did you have a question or a comment?  
Mr. Molina?

VICE-CHAIR MOLINA: No, I appreciate my colleague Ms. Rawlins-Fernandez submitting these proposals for future discussion. With regards to the Affordable Housing Fund, one of the groups that we were targeting when creating this fund was the gap group, because now if memory serves me correct, the gap group income folks are people with specialized skills like your police, fire, nurses, teachers, and at that time there was a big demand for housing, 'cause otherwise if we don't provide housing for these individuals in these specialized skilled areas, we lose them, they're gonna move elsewhere. So that was part of the intent, the driving force of this Affordable Housing

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Fund and just, I saw on the news the other night with teachers. Governor Ige is making a big serious commitment to provide more income for teachers. Now, hopefully that may be one way to keep them here but ultimately it's housing. It all falls on housing. So, yeah, I'd just like to see how the discussion goes on the, you know, deletion of the gap income definition to see how...if this has any effect. And maybe an update, are more...people in gap group, are they having more opportunities to buy homes in terms of the affordability factor? I'm not sure yeah. So, but anyway, but I appreciate the, you know, maybe, you know, times change with laws, you know, so maybe we need to review. If we need to change, we need to change. But I certainly would hope that we don't leave the gap group folks out of this whole, you know, providing opportunities for them as well. So, but yeah, but I agree, there is a definite need for people way on the lower end, you know, the 80 percent and so forth. With regards to 2.96 and, you know, I appreciate Member Lee reminding us who initiated that policy. And it took someone with courage to drive it, because again there was a big need for housing and something needed to be done. Something like what this Council is doing, we want to set the tone, we want to, you know, be the driving force. And that was Mr. Mateo's intent, he took the lead on it so, you know, he's no longer with us but I just want to applaud him for what he did because someone had to take the lead.

CHAIR KAMA: Yeah.

VICE-CHAIR MOLINA: And granted it may not have been perfect, but it was something that generated a lot of discussion. And I was part of that Council, I supported it. And it seemed like the right thing to do at the time, at that snapshot in time. Now, yeah, okay as time goes by, it didn't pan out. I believe the former, our former Mayor and Mayor Tavares who was on the Council at the time, she had talked about maybe 80 percent, but then we brought it down to what we thought was a manageable number which was 50 percent and of course now that number has gone down significantly. So, sometimes in making laws, and that goes for all Councils like ourselves, what may look good today may not work out tomorrow. So, I just wanted to state that for the record. So, we thought at that time 2.96 it would work, and it didn't quite work. So, well, you know, adjustments had to be made. But that's what laws are like, evolution, things change, laws change over time and mindsets and economic conditions as well. The housing market in 2006 was quite different from what it is now. But the bottom line, there still is a need for housing so we'll adjust accordingly as we move forward in time. Thank you.

CHAIR KAMA: Ms. Sugimura?

COUNCILMEMBER SUGIMURA: Thank you. I feel lonely over here.

CHAIR KAMA: I'll be there.

COUNCILMEMBER SUGIMURA: Hey, how are all of you down there? But, when you do take this up again, I would love to hear if the Department has some data they could share with us, I think that's what we're hearing the Councilmembers say. And it's

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interesting to have Ms. Lee's perspective right 'cause she's been on both sides, the director or the administration side. Interesting her honesty, you know, from what she just said, I appreciate that. And also there's 2.97 so is that also something that we want to discuss or does...is...it was brand new passed last term.

CHAIR KAMA: Last term, yeah.

COUNCILMEMBER SUGIMURA: So, I just want to throw that out there. I'm not too sure, I haven't heard of it being used very much yet.

CHAIR KAMA: Two point nine seven is the County's 201H.

COUNCILMEMBER SUGIMURA: Yeah.

CHAIR KAMA: Yes.

COUNCILMEMBER SUGIMURA: Oh, so it doesn't...

CHAIR KAMA: So, probably not.

COUNCILMEMBER SUGIMURA: Oh.

CHAIR KAMA: Ms. Lee?

COUNCILMEMBER LEE: Yes, and that's another thing I think we should talk about in our next discussion on this topic is yes, I think for most of us our priority is, are the families who are really struggling at the lower end of the spectrum, but we cannot forget the gap group as Mr. Molina said and others in between. And perhaps...I don't know if the fund is used together, but we can have the...we can separate out if it needs to be separated out the first-time homebuyer program so at least we can help the other groups with down payments so everybody has, you know, some help. But, you know, the priority may be the lower end.

CHAIR KAMA: Right.

COUNCILMEMBER LEE: And as time goes by it may shift toward the middle end and so forth, and that's what takes a good Council is to be flexible.

CHAIR KAMA: Yeah.

COUNCILMEMBER LEE: Okay, thank you.

CHAIR KAMA: Yes, thank you. Ms. Munsell, would you like to comment?

MS. MUNSELL: I really appreciate this conversation. I understand Mr. Molina's concern about the gap group. I think that there is a fundamental difference between the folks who are in the 80 percent and above AMI income levels and those that are below. I

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appreciate trying to target these funds to those lower income groups just if only because what we're seeing in our need study says that we have a desperate need for those units in the lower AMIs and they are simply not being built by the market. So, making a change now to 3.35 doesn't preclude you from making a change again in the future if this isn't targeting the income or not producing the results that you would like. I also appreciate Ms. Ness' comments about defining and the attempts to define perpetuity. By saying, you know, I'm always going to be uncomfortable with that word, I much prefer long-term affordability. And what Ms. Ness was describing in that, a shared appreciation model is a long-term affordability model. But eventually that unit will, you know, assuming the market continues to go up, will become unaffordable at some point. That doesn't mean that the Department couldn't then invest funds in that unit to bring that back down into affordability. So, I think there are a ton of models out there that we can take a look at if that's what this body wants to do. I also think that there's ways to manage homes that are not being maintained. I've seen a model that actually says okay, there's a shared appreciation, but when we go in and do the appraisal and we find significant damage, that damage repair has to come out of the owner's equity portion of that shared appreciation. So, there are some ways to manage that. And when we do have a conversation about it, I would love for us to be part of it to look at the opportunities and what other places have done. So, I appreciate that very much. And I do believe, Mr. Molina, that we do need to take a look at 2.96 as well. In the past when it was a 50 percent requirement, there was nothing being built. Under 2.96 now as it exists there are projects being built and so we can actually look at the sales of those units, how that ordinance is actually working, whether it is, if there's issues, and so I...and I'm a data person, I love data. So, I will really...I really look forward to having this conversation with you. Thank you very much.

CHAIR KAMA: Thank you, Ms. Munsell. Member...yes, Ms. Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Mahalo for your comments and perspective, Ms. Munsell. Since you're a numbers and data person, I was hoping you could share with this Committee and remind us about what percentage of the need for housing is in that lower end and not so much the gap group. And it's not that I don't care about the gap group, but will you also share with us what you've seen as a trend with the AMI gap group with affordable housing flipping out of affordability into market, because people are not applying for those gap group AMI housing, Ms. Munsell?

MS. MUNSELL: So, I mean obviously I don't have the numbers in front of me, but the vast...when we took a look at projects that were being constructed or were proposed to be constructed now, I mean obviously not all of them are going to be. When we look at the distribution of AMIs that were being built, it appeared that the units above 80 percent, if we continue to approve projects like we, you know, on a regular basis, that should be pretty well taken of. We had a small problem I think between 80 and 100 percent, but for the vast majority of them, the market was going to take care of it with the 2.96. The problem was below and it was gigantic, it was huge, and so this proposal again I...to target the funds for 80 percent and below and with our efforts to

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also leverage our funds so that we're bringing in, you know, funding from outside to develop more units I think is a good progress for the 80 percent and below. What you're talking about for the gap group, you know, 2.96 requires certain numbers of units to be built in different AMI levels, I think it's 20 percent, you know, 50 percent, and then, you know, or 30 percent --

CHAIR KAMA: Twenty, 50, 30.

MS. MUNSELL: --you know, you know what it is. And what we're seeing and again the ones that we saw the most dramatic difference in were the multifamily projects where the people, that the upper income AMIs were so close to the market price of other projects that they were not willing to enter into a unit with a deed restriction. And so, a lot of those units were not sold as intended because they were too close to market. Now, I'm not sure that that's true for the single-family units, we have to still look at that. We haven't had...at least no one raised the red flag saying oh, holy cow, look at this on those but that's something that we need to look at. And we do gather that data. So, when we do start this conversation, I will make sure that we bring that to you. But we're seeing a lot of the upper AMI multifamily units not being sold with deed restrictions.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay, mahalo, Ms. Munsell. I really appreciate your comments on that. I hope everyone takes, you know, those comments to heart. So, you know, as we heard from Ms. Munsell like it's important that we...and Ms. Lee that we prioritize the lower end. And that was the intention of creating the Affordable Housing Fund. I understand in briefly looking at your memo, Chair, that there's a section that says perhaps the provision was meant to be broader in scope and the choice of language is indirect on purpose. If it was clearly meant to be limited in perpetuity project, it could have read housing in perpetuity. I disagree with that assessment. I think, you know, the...as everyone, you know, is really uncomfortable with the word perpetuity because it's such a strong word. I don't think that it was unintentional to choose such a strong word as perpetuity. I don't think it's vague, I don't think it's meant to be broad, I think it's meant to mean perpetuity. And because of what we're seeing, because we see so much...so many houses being flipped out of affordability and we're continuing to try to solve a problem that's not solvable because we're...the houses are becoming unaffordable. And the problem is never solved, we're never solving it. And I think, you know, for the Council that created this fund was very forward thinking in identifying the problem which is what it is, that the houses are flipping out of affordability and we're continuing to build housing for ten years and then it flips out of affordability into market and it's increasing everyone's property taxes, people can't afford to buy here. And it's...we're just not solving the problem by doing this. And by staying true to the intent of, in creating this fund, in leaving in the word perpetuity I believe was the intent even though legislative history wasn't identified. I would like to remind this Council that we did adopt language that I proposed to include in Chapter 3.35 in the demonstration, experimental housing fund that we created. So, we've done it before. That affordable housing, the Affordable Housing Fund has rules to it. Developers don't have to request money from it. And if they would like to, these are our rules in using this fund because it's for a very specific

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purpose, to solve the problem and not continue to kick it down the road. And, you know, the developers, you know, don't have to request the funding. And so, I guess, you know, so we're discussing and we're discussing, and I'd like to see action taken. In the next meeting when you schedule this, are you thinking about taking action? Because as the EDB Chair I don't feel comfortable continuing to approve projects with this conflict with Affordable Housing Fund.

CHAIR KAMA: Absolutely.

COUNCILMEMBER RAWLINS-FERNANDEZ: I don't want to continue to approve any projects using affordable housing funding if we don't clear up and resolve this conflict.

CHAIR KAMA: Absolutely.

COUNCILMEMBER RAWLINS-FERNANDEZ: So, I'm putting everyone on notice now.

CHAIR KAMA: Thank you.

COUNCILMEMBER RAWLINS-FERNANDEZ: Yeah. So, I would like --

CHAIR KAMA: . . .*(inaudible)*. . .

COUNCILMEMBER RAWLINS-FERNANDEZ: --to solve this. I think Member Lee was on board. And, you know, if at the next meeting we could have a bill that we can take action on to resolve these conflicts, I think that would be wonderful. And if not, I would be happy to propose this and have it referred to the Affordable Housing Committee.

CHAIR KAMA: Thank you.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair.

CHAIR KAMA: Yes, Ms. Munsell?

MS. MUNSELL: I really appreciate your comments. And I agree with you that the use of perpetuity was probably very deliberate in the ordinance. I also understand that sometimes there are unintended consequences for our uses of words that directly conflict with what our goals are. I also know, you know, you had mentioned that people don't have to apply for these funds and that's true, they don't. But the whole idea behind these funds is to encourage the kind of building that we want to have built, in the AMIs that we need to have built. And so, what I would like is for us to find ways to make it work for our developers so that we are getting what we want. And I think that there's ways to achieve that. You know we didn't...our intent when they passed the 2.96 with the 50 percent requirement was to encourage the building of workforce housing, and essentially what it did was stop it in its tracks. Now, I know that there were other issues associated with that and it wasn't all just the 2.96, but sometimes when we're doing things, we do have unintended consequences, and I



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would really like for us to find a way to make this fund achieve the long-term affordability that you're all seeking without discouraging the building or the construction of the units that we need. I understand what you want, I want to find a way to partner and make it work for all of us. So, thank you.

CHAIR KAMA: Members, are there any other questions? Okay, seeing as how no one has any other questions and this is the last item on our agenda and we have nothing else to talk about, I would like to be able to close this meeting. And so, because we have come to the end of our meeting I not only am going to close it but I'm going to adjourn and I'm going to defer these items. No object...

**COUNCILMEMBERS VOICED NO OBJECTIONS.** (Excused: RH)

**ACTION: DEFER PENDING FURTHER DISCUSSION.**

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair, before --

CHAIR KAMA: Yes?

COUNCILMEMBER RAWLINS-FERNANDEZ: --you close, I guess I asked a question.

CHAIR KAMA: Yes.

COUNCILMEMBER RAWLINS-FERNANDEZ: Would you mind responding to my question that I asked regarding whether --

CHAIR KAMA: Bringing forth a bill?

COUNCILMEMBER RAWLINS-FERNANDEZ: --at the next meeting --

CHAIR KAMA: Absolutely.

COUNCILMEMBER RAWLINS-FERNANDEZ: --that you'll --

CHAIR KAMA: Yes.

COUNCILMEMBER RAWLINS-FERNANDEZ: --propose a bill --

CHAIR KAMA: Yes.

COUNCILMEMBER RAWLINS-FERNANDEZ: --that we can vote on.

CHAIR KAMA: Yes.

COUNCILMEMBER RAWLINS-FERNANDEZ: And then we can move forward.

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CHAIR KAMA: Sure.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay, great. Because if you would like me to propose this bill, I mean I guess I proposed the amendments --

CHAIR KAMA: You did propose already.

COUNCILMEMBER RAWLINS-FERNANDEZ: --already.

CHAIR KAMA: Thank you.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay, so then...

CHAIR KAMA: But we'll take that up, we'll take them, we'll include that. We're also going to probably have the discussion that you wanted with the financial institution, Na Hale O Maui and those guys too. Okay, we can do that too. Thank you.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair.

CHAIR KAMA: Thank you, Ms. Keani Rawlins-Fernandez. This meeting is now adjourned.  
...*(gavel)*...

**ADJOURN:** 3:08 p.m.

APPROVED:

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TASHA KAMA, Chair  
Affordable Housing Committee

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Transcribed by: Daniel Schoenbeck

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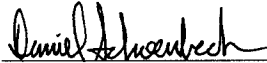
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CERTIFICATE

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

DATED the 23<sup>rd</sup> day of September, 2019, in Kula, Hawaii



Daniel Schoenbeck