

# MINUTES

## PUBLIC WORKS AND FACILITIES COMMITTEE

Council of the County of Maui

Council Chamber

July 2, 2008

**CONVENE:** 9:06 a.m.

**PRESENT:** VOTING MEMBERS:

Councilmember Bill Kauakea Medeiros, Co-Chair  
Councilmember Michael P. Victorino, Co-Chair  
Councilmember G. Riki Hokama (arr. at 9:23 a.m.)  
Councilmember Danny A. Mateo  
Councilmember Joseph Pontanilla

NON-VOTING MEMBERS:

Councilmember Michael J. Molina (arr. at 10:10 a.m.)

**STAFF:** Scott Jensen, Legislative Analyst  
Pauline Martins, Committee Secretary

Lei Kihm, Executive Assistant to Councilmember Medeiros  
Stephanie Ohigashi, Executive Assistant to Councilmember Victorino  
Jock Yamaguchi, Executive Assistant to Councilmember Anderson

**ADMIN.:** David Galazin, Deputy Corporation Counsel, Department of the Corporation  
Counsel  
Milton Arakawa, Director, Department of Public Works (Item No. 67)  
David Taylor, Wastewater Reclamation Division Chief, Department of  
Environmental Management (Item No. 67)  
Cheryl Okuma, Director, Department of Environmental Management  
(Item Nos. 67 & 68)  
Anna Ribucan, Economic Development Specialist, Office of Economic  
Development, Office of the Mayor (Item No. 68)

**OTHERS:** Helen Nielsen  
Sue Ferrera  
Catherine Davenport  
David Diven  
Lauren Zirbel, Government Relations, Hawaii Food Industry Association  
Marjorie Bonar, Maui Garden Club and Maui Outdoor Circle

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Hannah Bernard, President, Hawaii Wildlife Fund  
Kuhea Paracuelles, Executive Assistant, Office of the Mayor  
Plus (6) other people

**PRESS:** *Akaku Maui Community Television, Inc.*  
*Melissa Tanji, The Maui News*

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CO-CHAIR MEDEIROS: . . . (*gavel*) . . . Good morning, Members, and good morning, members of the public. We have a quorum present, so the Maui County Council's Public Works and Facilities Committee will come to order. First, I'd like to introduce the Members on the Committee present. We have Council Vice-Chair Mateo.

COUNCILMEMBER MATEO: Good morning.

CO-CHAIR MEDEIROS: We have the Committee Co-Chair Victorino.

CO-CHAIR VICTORINO: Aloha and good morning, Chair.

CO-CHAIR MEDEIROS: Good morning. And we have Member Pontanilla--

COUNCILMEMBER PONTANILLA: Good morning.

CO-CHAIR MEDEIROS: --also present. Attending very shortly will be Council Chair Hokama, who's also a Voting Member of this Committee. I'd like to introduce the representatives from the Administration at this time. From our Corp. Counsel is David Galazin. Good morning, David.

MR. GALAZIN: Good morning.

CO-CHAIR MEDEIROS: From the Department of Public Works is our Director Milton Arakawa. Good morning, Milton.

MR. ARAKAWA: Morning.

CO-CHAIR MEDEIROS: From the Department of Environmental Management, we have the Director Cheryl Okuma.

MS. OKUMA: Good morning.

CO-CHAIR MEDEIROS: And from Wastewater, we have the Chief of the Division, and . . . for some reason it escapes me right . . . (*chuckled*) . . .

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MR. TAYLOR: Dave Taylor.

CO-CHAIR MEDEIROS: Dave Taylor! . . . (*chuckled*) . . . It's too early. Good morning, Dave.

MR. TAYLOR: Good morning.

CO-CHAIR MEDEIROS: From our Committee staff, we have our Committee Secretary Pauline Martins; and our Committee Legislative Analyst, we have Scott Jensen. This morning, the Public Works and Facilities Committee will have two items on the agenda. I will be presiding over the first half of the meeting today, during which we'll be discussing PWF-67. Committee Co-Chair Victorino will preside over the second half of our meeting, during which he will continue our discussion on PWF-68.

At this time, we'd like to make some housekeeping announcements. Public testimony will be accepted for each item on the agenda at this time. Those wishing to testify should sign up at the secretary's desk. Testifiers are requested to state their name for the record and to indicate who they're representing. Testimony shall be strictly limited to three minutes for each agenda item. The yellow light will indicate that you have 30 seconds remaining and should begin to conclude. Please conclude your testimony before the red light flashes to avoid being interrupted by the Chair. Also, I'd like to remind Members and those of you in the gallery to turn off all your cell phones or pagers or any electronic devices that may go off during our proceedings. We appreciate your cooperation. At this time, I'm gonna give the opening statement for the first item (PWF-67) and then we'll proceed to public testimony.

**PWF-67 AUTHORIZING GRANT OF A NON-EXCLUSIVE EASEMENT TO A&B PROPERTIES, INC. FOR UNDERGROUND SEWER LINE PURPOSES (KAHULUI) (C.C. No. 08-8)**

CO-CHAIR MEDEIROS: The Committee is in receipt of County Communication No. 08-8, from the Director of Public Works, transmitting a proposed resolution, entitled "AUTHORIZING THE GRANTING OF NON-EXCLUSIVE EASEMENT ON COUNTY OF MAUI REAL PROPERTY SITUATED AT KAHULUI, MAUI, HAWAII TO A&B PROPERTIES, INC. FOR UNDERGROUND SEWER LINE PURPOSES". The purpose of the proposed resolution is to grant a non-exclusive easement of approximately 11,757 square feet across, through, and under County property, described as a portion of Haleakala Highway, Kahului, Maui, located adjacent to TMK: (2) 3-8-79:013, 015, 016 and 020, for sewer line purposes. At this time, I'll accept public testimony on this item (PWF-67) or the other item on our agenda should the testifier not be able to stay until that item is discussed. Committee Secretary, do we have anyone signed up for PWF-67?

MS. MARTINS: No.

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CO-CHAIR MEDEIROS: Okay. The secretary has indicated we do not. And I would, once again, ask anyone in the gallery if you wish to testify but have not signed up, you are welcome to come forward at this time; give your testimony; and you can sign up after that. Seeing no one coming forward on this item, without objections, at this time, the Chair will close public testimony on PWF-67.

COUNCIL MEMBERS VOICED NO OBJECTIONS.

CO-CHAIR MEDEIROS: Thank you, Members; so ordered. At this time, I would like to ask the Director of Public Works to provide an overview of this matter. Director Arakawa?

MR. ARAKAWA: Thank you, Mr. Chair. As you've noted, this item pertains to a proposed granting of a non-exclusive easement for underground sewer line purposes over, under and across a portion of Haleakala Highway. The item was transmitted to the Council on December 19, 2007 and the Public Works and Facilities Committee last discussed the matter on February 20, 2008 before the County Budget deliberations.

To summarize, the proposed easement is located in a portion of Haleakala Highway near its intersection with Kealani Place and Dairy Road. The location of the easement and the four properties it would service are shown in Exhibit "A", which is in your binders; and as you've noted, the proposed easement is 11,757 square feet in area and 10 feet in width. The sewer easement would serve four properties owned by A&B, and these are TMK: (2) 3-8-79-013, 015, 016, and 020. These properties are shown in your binder, but these are the two triangular-shaped properties at the corner of Kealani Place and Haleakala Highway. The easement also would serve another parcel on the airport side of these two parcels, and the last parcel is located on the airport side of the Costco property. The easement would contain a private gravity sewer line. In your binders, there's also a map which delineates a slightly larger area, which shows what this private sewer line hooks up to. The line links with another private sewer line within Dairy Road which is under State jurisdiction. The private gravity line then extends down Kele Street to a private sewer pump station, and the pump station is located about midway between Dairy Road and Koloa Street. It's the small rectangular parcel on your map. From that pump station, there extends a private force main which extends between two parcels. This is the two parcels, which house that Denny's Restaurant and the Acura dealership. Then it goes across Hana Highway, along Papa Place, and it connects to a County manhole on Alamaha Street. The sewer lines along Alamaha Street are within the County system; and from this point, the County system extends along Alamaha until it reaches the County Treatment Plant along Amala Place.

At the time that A&B properties initiated their request, their intent was to dedicate all of the previously described private sewer lines, the pump station, and the force main to the County of Maui. So typical of any dedication process, A&B proceeded to construct the sewer lines along Haleakala Highway and Dairy Road to County standard. However, in

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discussion with the Wastewater Reclamation Division, the County does not accept sewer lines built to standard unless all of the downstream improvements have been dedicated. Although a subsequent discussion ensued over specific improvements needed to bring the downstream improvements up to County standard, an agreement between A&B and the County was not reached. Therefore, A&B is pursuing an after-the-fact sewer easement for the portion of the sewer line within Haleakala Highway. The Wastewater Reclamation Division has reviewed the easement document and finds the language of the easement satisfactory. A resolution, entitled "AUTHORIZING THE GRANTING OF NON-EXCLUSIVE EASEMENT ON COUNTY OF MAUI REAL PROPERTY SITUATED AT KAHULUI, MAUI, HAWAII TO A&B PROPERTIES, INC. FOR UNDERGROUND SEWER LINE PURPOSES", has been drafted and is in your binders. The Committee's review and consideration of the proposed resolution is respectfully requested.

CO-CHAIR MEDEIROS: Thank you, Director. At this time, I'll ask the Director of Environmental Management, Director Okuma, would you like to add any remarks?

MS. OKUMA: I have nothing further to add, but we're here to respond to any questions you may have. Thank you.

CO-CHAIR MEDEIROS: All right; thank you. Chief of the Wastewater Division, Mr. Taylor, would you like to add any remarks? Okay, thank you. At this time, I'll open the floor to discussion and questions. Members, any questions? Member Mateo?

COUNCILMEMBER MATEO: Thank you, Chairman. Director Arakawa, thank you very much for that information. So because no agreement was met at this point to bring the lower part of the lines up to standard, there is no indication as to when they will be doing that?

MR. ARAKAWA: You guys want to answer that? *(NOTE: He's checking with Ms. Okuma and Mr. Taylor.)*

COUNCILMEMBER MATEO: In other words, has there been follow-up or subsequent communications with A&B so that we are assured that it will get done.

MR. TAYLOR: Thank you, Member Mateo. I don't know if it will ever get done, or if A&B still intends to try to dedicate it to the County. The last communication we in the Wastewater Division had with them was probably more than a year ago when they again sent us a letter asking "would we accept the pumping station", which is really the key to this whole thing. And we responded back saying that we need them to do an, have an independent engineer do an evaluation of a number of engineering facets of the pumping station; send that to us so we can determine what is the condition of this asset that you want to give to us; and once we can see the mechanical, structural evaluation of it. We also asked for a hydraulic analysis, and an analysis of development in the area. Is this pumping station up to all of the Department of Health codes? Does it have adequate capacity for future development? You know, we ask for

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an analysis of “what is this thing you’re giving us?” And we said that once we see that, we can enter into discussions about “is it acceptable”, “do changes have to be made”. So we have never received anything nor have we received any indication from A&B that they are still pursuing such an action. So I don’t know even if or when A&B intends to give any of this to the County.

COUNCILMEMBER MATEO: Is it standard practice, Director, that these . . . these lines as such is normally dedicated to the County?

MR. TAYLOR: It is standard practice that if the County owns everything downstream, then sewer lines built to County standards in County roads are normally dedicated to the County and our Division takes ownership of them.

COUNCILMEMBER MATEO: And when you say ownership of lines downstream, you’re referring to property ownership? Or what is . . . what is your reference to ownership?

MR. TAYLOR: Ownership of the sewer system--if we own all the pumping stations and all the pipelines downstream.

COUNCILMEMBER MATEO: And do we?

MR. TAYLOR: In this case, Director Arakawa mentioned that there’s a private pumping station and a private force main. That force main ends on Papa Avenue near Alamaha. That’s where the County sewer system starts. So we would have to own everything between this location and our current pipeline on Papa Avenue to accept this, so all of that would have to be given to us.

COUNCILMEMBER MATEO: Okay. And so, Director, then the . . . the line, therefore, fronting the courtyard or the hotel site towards the airport. We are going to allow them to . . . the easement--this is already done?

MR. ARAKAWA: Yes. The gravity line has already been constructed and that portion within Haleakala Highway meets County standard. It’s just that the downstream lines do not meet the standard as determined by the Wastewater Division.

COUNCILMEMBER MATEO: So when they were doing this particular phase, there was no continued discussion on the need to get the information and bringing the lower part of the line up to standard? I mean in other words, we’re not using any leverage to make them comply so we’re aware that the systems are up to standard. And the only reason I ask is because of the issue of systems that perhaps are not up to standard where the County can get stuck with these systems that could cost the taxpayers monies to bring up to standard.

MR. ARAKAWA: Do you want to answer that? (*NOTE: He’s checking with Mr. Taylor.*)

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MR. TAYLOR: The history of this particular system is that when they developed the first triangle--where Denny's is and all of that development--they approached the County at that time and asked "would the County take over the pumping station if A&B built it". At the time, I was a Junior Engineer at the time, I just sort of recall this going on. I wasn't involved. But the County gave a list saying "if you built the pump station this way--it was a very certain engineering specification--then we will take it. If you do not choose to build it that way, you have to keep it yourself. There was a lot of discussion at that time and the developer (A&B) made a decision not to build it to what the County had specified because it was too expensive and to keep it themselves. So that's how really this started. They made a decision, you know, more than a decade ago to build the pump station in a certain manner. So our position on these things is that there are a number of privately-owned wastewater systems statewide, as everyone knows; and either we accept them and we're regulated by Department of Health, or Department of Health regulates them directly. So in this case, our role is really to tell the developer, "if you build it to these certain standards that we'll accept, we'll accept it; otherwise, you know, you're on your own with the Department of Health". That's . . . it's really not as much of leverage as those are really the role we play and the authority that we have, so we share that with all the developers.

COUNCILMEMBER MATEO: Well I think the bottom line would be regardless if it's their system or not, the possibility of systems ending up to the County of Maui for some reason or another. And if in fact we know that this system is not up to County standard, then who will bear the burden of bringing it up to standard in that event. I think we've gone beyond the phase of expecting a private developer to own and maintain in perpetuity because it doesn't happen that way. So I just need to express my own concerns why the private systems not being up to standard and we continuously allow connections to it. I'm just worried about down the line, in the event of unseeable circumstances, I hate to get stuck with a bill for somebody else's inability to comply. Thank you, Chairman.

CO-CHAIR MEDEIROS: Mahalo, Member Mateo. Before I call on the next person, I'd like to acknowledge the presence of Council Chair Hokama who's a Voting Member of this Committee. Co-Chair Victorino?

CO-CHAIR VICTORINO: Thank you, Co-Chair Medeiros, for this opportunity. And to ducktail on mister . . . oh, Councilman Mateo's concerns, the proposed courtyard by \_\_\_\_\_ or the proposed development of that triangular area has not occurred as of this time? That's correct, right, Mr. Arakawa?

MR. ARAKAWA: Yes. That's correct, Councilmember Victorino.

CO-CHAIR VICTORINO: Okay. And this proposed sewer line that they put in was specifically for that development in that area?

MR. ARAKAWA: The question before you is for the proposed easement within Haleakala Highway--

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CO-CHAIR VICTORINO: Right.

MR. ARAKAWA: --which would serve four parcels, two of which would be for that hotel.

CO-CHAIR VICTORINO: For that hotel. Okay. So there is still opportunities and I think this is what I'm looking for is an opportunity. If they come before us for these proposed developments, for us to say that part of the conditions in the future would be them developing and dedicating a sewer line that meets our standards. Would that be possible? And I guess that would fall back maybe to Ms. Okuma now, because now that we have Environmental Management, maybe you or Mr. Taylor could answer that question. Do we still have an opportunity before this is built? Because they haven't built it yet, they're gonna have to come and get some of these things with us. So do we have an opportunity to say hey, no. We want something built. Is that a part . . . that, what we can do? Mr. Taylor or Ms. Okuma, I don't know who can answer that question.

MR. TAYLOR: I'm not sure that any of us can answer that question because your question is really "will development of that project come back to Council", and I don't know. Do they have all their zoning approvals and community plan designations? I don't know the answer to that. I don't know whether they're ready to just go pull a building permit, in which case, obviously, it doesn't come back to the Council. So I think the answer to your question lies in . . . what do they need to develop what they plan to develop, and does it come back to the Council through an entitlement process?

CO-CHAIR VICTORINO: Okay. Well that's something maybe we can look into. But again, I agree with Member Mateo. When we allow these--and again, ten years ago (a decade ago) things were different; and we've changed; and I think this Council has changed; and I think the Administration's approach to these issues have changed. I think we're not going to be allowing this in the future. I think that's something we'll work very diligently to make sure it doesn't happen because the people of Maui County shouldn't be stuck with the bill. I mean that's, that seems to be the end result; and we're seeing what's happening on Molokai. We see this happened in other areas on this County and, you know, enough is enough. If they're gonna build something and they want something, then I think it becomes our responsibility to make sure in the future that they stick to it. Maybe this is maybe one of those that we're stuck with right now; but if there's a means or a method of making sure that that's done, then we're gonna look at it. So, I don't know. Mr. Taylor, do you have something you'd like to add to that?

MR. TAYLOR: I would just note that I'm not sure that we would consider it really being stuck. In the sense that the reason we're not accepting it at this time is for exactly the reasons you just stated. We don't want to accept something that three years from now we have to do a \$5 million capital improvement project to completely rip out and upsize and replace the pump station. So the reason that our standards are important to us and it's important to us to make sure we that we understand what exactly it is they want to give us; and how . . . what its condition is, is to avoid exactly what you just said of having to raise rates for everyone to improve such a facility.



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CO-CHAIR VICTORINO: Okay.

MR. TAYLOR: So we try to be careful about not accepting things that are not, that are gonna need major financial help in the near future.

CO-CHAIR VICTORINO: Well then again, my other question is--and again, this is the past. I can't change the past. I can only make the present and the future better. But, you know, maybe we shouldn't allow any easements or any possible privatization of these systems unless they meet our system or our standards because we get stuck somewhere along the line; Molokai, in case, right now. We're gonna be stuck with a system that was built, privatized, and now they cannot. They want to leave town, and we're stuck. Now, I know that's two different issues but it really falls back on the same issue. Once it's done, Mr. Taylor, I hate to mention it; but we're stuck with it. The people of Maui County are stuck with it. And this ain't the first time and it won't be the last time, especially what's been done; but other members in this chamber have worked hard to make sure it wouldn't happen. You know, I can't change, again, the past. But I don't want to see this come forward like this any more, so I'm not in favor of what you, what you're being brought forth and, you know, I agree. I don't want to accept something that's not to our standards because we're gonna pay for it--the people of Maui County--and that's, enough is enough! That's all I have to say. Thank you, Mr. Chair. I'm sorry.

CO-CHAIR MEDEIROS: Thank you, Co-Chair Victorino. Member Pontanilla?

COUNCILMEMBER PONTANILLA: Thank you. So Mr. Taylor, the existing pump station is the one that is in question in regards to accepting the existing lights?

MR. TAYLOR: That's probably the biggest issue. There may be some other issues with the force main and some other lines but the pump station is definitely the--

COUNCILMEMBER PONTANILLA: Main issue.

MR. TAYLOR: --the primary issue.

COUNCILMEMBER PONTANILLA: So as far as the transmission lines coming up from the pump station to the force main, any inspection on that indicating that it's, you know, substandard?

MR. TAYLOR: Our staff informed me that because there was an expectation that these lines may be turned over to the County that our staff inspected the one they put in, while they were put in, assuming that one day we would get them. So as far as we know, the lines themselves meet our structure and hydraulic standards.

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COUNCILMEMBER PONTANILLA: So whenever they come in for construction permit approvals, knowing that, you know, how do we tell the owner of whatever parcels--like say Denny's for instance--that the line that you're hooking up (the sewer line) is not accepted by the County; and should anything happen, that you will be responsible for the repair work or maintenance work? Or do we tell them at all?

MR. TAYLOR: This is a similar situation. Probably only, I don't know what the statistics are but. For example, none of Upcountry is sewerred. There are cesspools. There are septic tanks. There are private treatment plants all over this County, and so the Department of Health signs building permits. There's a line on every building permit for Wastewater. Either we sign it saying the County sewer system will adequately serve you; or the Department of Health signs it saying that it's not a County of Maui system and the Department of Health is your regulator. Any building permit that's signed by the Department of Health, the applicant knows that it's not part of the County system and the County Wastewater Division really has nothing to do with it. So every developer and every builder knows whether or not they're tying into a County-owned system or a non-County-owned wastewater system because it's very clear on the building permit.

COUNCILMEMBER PONTANILLA: Thank you for that information. So if there's a, like say a backup in that one particular area (the triangle) then it would be the responsibility of the State of Hawaii to go fix that problem?

MR. TAYLOR: It's definitely the responsibility of the owner of that line, which is in this case A&B

COUNCILMEMBER PONTANILLA: A&B.

MR. TAYLOR: And A&B--I'm aware this isn't part of our responsibility--but I'm aware that they have a private company that they hire to maintain the pump station and that company also does line cleaning and things, just like a number of other companies. Another, other . . . a number of other property owners that own private sewer systems and pumping stations, they have contracts with these private companies that do the similar services that we provide.

COUNCILMEMBER PONTANILLA: Uh-huh.

MR. TAYLOR: And they do have such a contract.

COUNCILMEMBER PONTANILLA: Okay, thank you. Mr. Arakawa, the easement is for . . . on, on Haleakala Highway only. Right?

MR. ARAKAWA: That's correct.

COUNCILMEMBER PONTANILLA: Okay. And that is part of the sewer line that was, that is up to County standards, which is not being utilized at this time?

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MR. ARAKAWA: That's correct.

COUNCILMEMBER PONTANILLA: Okay, thank you. Thank you, Chairman.

CO-CHAIR MEDEIROS: Thank you, Member Pontanilla. Any further questions on this? Council Chair Hokama?

COUNCILMEMBER HOKAMA: Just quickly.

CO-CHAIR MEDEIROS: Uh-huh.

COUNCILMEMBER HOKAMA: My understanding of the agreement you're asking us to authorize, unless I guess either party notifies the other, there's no deadline or expiration of this agreement. Is that a good understanding on our part?

MS. OKUMA: I would think that it's a perpetual easement--and probably our Corp. Counsel could help with that--but there's no end date of it. Usually, these would be perpetual.

COUNCILMEMBER HOKAMA: Okay.

CO-CHAIR MEDEIROS: Mr. Galazin, would you like to further comment on it?

MR. GALAZIN: Yeah. I mean just to echo what Director Okuma said, yeah. There is no provision in here which provides for an automatic termination. You know, if at some point in the future, A&B wanted to surrender the easement and, you know, of course we would have to deal with the line at that point; but it would be perpetual, otherwise.

CO-CHAIR MEDEIROS: Thank you, Mr. Galazin. Member Hokama?

COUNCILMEMBER HOKAMA: No, I . . . I just would hope we would have made it clear in the agreement, Chairman, that termination will be by "30-days notice; must be by certified mail". If there is compliance issues, if there is regulatory concerns, that that be sufficient grounds for the County to impose--I mean, you know, if we had to go in and do corrective work, which is one of the concerns I am made to understand from some of the Committee's discussion, Chairman, we should have the ability to go and assess or back charge those expenditures to the entity that is asking for this nonexclusive easement from us this morning because no matter what, the way I'm understanding it that we have also use of this easement area.

MR. GALAZIN: Correct.

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COUNCILMEMBER HOKAMA: And if it becomes a hindrance or a detriment for our requirements, and they do not move in a timely fashion, then I would expect us to go in and do the work, and bill them for it.

CO-CHAIR MEDEIROS: Okay.

MS. OKUMA: You know . . .

CO-CHAIR MEDEIROS: Any comments from the Administration?

MS. OKUMA: Maybe, just a comment. The easement is really for the purpose of having A&B be able to send their contractors into that easement area for any kind of repair and maintenance work. So, if there is any such provision, we'd really need to take a close look at it because the last thing we would want, I would think, is them being able to say that somehow now they have no easement; so now therefore, they don't need to go in and do maintenance repair. So, you know, just going back to the . . . the purpose of the easement is really so that they have that responsibility to go in and do the repair and maintenances that Mr. Taylor has just explained.

COUNCILMEMBER HOKAMA: Uh-huh. Okay. And again, Chairman, I heard the verbal response from Mr. Taylor, Director Okuma, Director Arakawa; that's fine and dandy. But we all know because we deal with it in the, at the bottom end of the line, when things come to us, it's because it wasn't in the document. It wasn't made clear. So now we have one attorney (which is the plaintiffs') telling our attorney--we the defendants--that that was not part of the documentation or execution of agreement. So for me, it's just my concern, Chairman, that I would like it to be spelled out. If that's exactly what they're saying to this Committee, then you should say the exact same thing in the document.

CO-CHAIR MEDEIROS: Okay.

COUNCILMEMBER HOKAMA: That's my point of view. Thank you, Chairman.

CO-CHAIR MEDEIROS: Thank you, Council Chair Hokama, for your comments. I'd like to ask Corp. Counsel at this time . . . *(end of tape, start 1B at 9:38 a.m.)*. . . incorporation of the grant of easement document. Is this a standard document where the County specifies, you know, pretty much the standards that you put in a grant of easement? Or is it done differently for each particular application?

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MR. GALAZIN: Committee Chair, basically, they're usually pretty standard. This one perhaps, as far as the ones I've seen, is maybe a little more sparse. I will point out that, you know, the terms of the agreement are somewhat clear that in terms of the costs, it will be the grantee--in this case A&B--who would be responsible for the costs, responsible for the maintenance. There's a provision that allows for the County to enforce in court if need be to have those costs and repairs taken care of. But by and large, this is . . . these kind of agreements are fairly standard. This one is more or less along those same lines.

CO-CHAIR MEDEIROS: Thank you, Corp. Counsel. Any further questions or comments from the Members? Okay. At this time, the Chair's going to take a really short recess to consult with our Committee staff. . . . (*gavel*) . . .

**RECESS:            9:39 a.m.**

**RECONVENE:    9:53 a.m.**

CO-CHAIR MEDEIROS: . . . (*gavel*) . . . Members, thank you for your patience. The Public Works and Facilities Committee meeting of July 2<sup>nd</sup> is now reconvened. We are still in the process of requesting some parliamentary and legal advice, and we're waiting for the responses on that. So Members, without objections, I'd like to move this to the end of calendar because we're still waiting on the responses. Council Chair Hokama?

COUNCILMEMBER HOKAMA: You're waiting for our staff or Corporation Counsel?

CO-CHAIR MEDEIROS: For our staff.

COUNCILMEMBER HOKAMA: Well then that's no excuse if it's our staff, Chairman.

CO-CHAIR MEDEIROS: Okay. Any other comments? Member Pontanilla?

COUNCILMEMBER PONTANILLA: I have a fast question, either for Public Works or Corporation Counsel. My question is that because this is an issue regarding the existing facilities, if we were to, like say, deny the request for an easement along the County roadway--I know the County won't accept any liability if we do deny this. If we deny it, can we tell the owner to yank it, since we're not going to accept anything?

COUNCILMEMBER MATEO: Good point, Joe.

MR. ARAKAWA: Councilmember Pontanilla. If the easement is not granted; then basically, the owner does not have an authorization for the sewer line to be there, so I suppose we would ask him to remove it. As far as taking care of wastewater for the four parcels, they would fall . . . (*cleared throat*) . . . excuse me. They would fall under the jurisdiction of the Department of Health. And they would have to either . . . I suppose either do a private, some kind of private

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treatment plant; or do some sort of a septic system or other, some other acceptable means of disposing of their wastewater that would be acceptable to the Department of Health, but it would be out of the County's jurisdiction.

COUNCILMEMBER PONTANILLA: Thank you. One question to Environmental Management, the existing pump station, to retrofit or to make it compliant to the County standards, do you have any idea how much it's going to cost?

MR. TAYLOR: No. We have no idea, which is why earlier in my answer I said that we had asked A&B, if they want to give it to us, to do a thorough engineering evaluation, and send that to us, so we would know the answer to your question. It may be fine. It may need to be completely replaced; or anywhere in between, and we have no idea until they do an independent engineering evaluation.

COUNCILMEMBER PONTANILLA: Thank you. It would be in the best interest for A&B to provide us that information at this time. Right?

MR. TAYLOR: If they want to turn it over to us--

COUNCILMEMBER PONTANILLA: Yeah.

MR. TAYLOR: --they are going to need to do that.

COUNCILMEMBER PONTANILLA: Okay.

MR. TAYLOR: So that's up to them about how they want to proceed.

COUNCILMEMBER PONTANILLA: Thank you. Thank you, Chairman.

CO-CHAIR MEDEIROS: Thank you, Member Pontanilla. Any other discussion or questions, Members? Okay. The Chair is gonna move along on this then; and the Chair would, at this time, like to give a recommendation on this.

CO-CHAIR VICTORINO: Recommendation?

CO-CHAIR MEDEIROS: Thank you, Co-Chair Victorino. The Chair acknowledges the concerns raised by the Members and the responses from the Administration and the departments; but the Chair's recommendation will be to entertain a motion to recommend adoption of the proposed resolution and the filing of the communication.

CO-CHAIR VICTORINO: So moved.

COUNCILMEMBER HOKAMA: Second.

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CO-CHAIR MEDEIROS: It's been moved by Co-Chair Victorino and seconded by Council Chair Hokama. Any further discussion? Seeing none.

COUNCILMEMBER PONTANILLA: Chairman?

CO-CHAIR MEDEIROS: Member Pontanilla?

COUNCILMEMBER PONTANILLA: I'm gonna support the motion with great reservations because, you know, we're hearing from Environmental Management the concerns regarding that one pump station. And you know, if there's no response, then it seems like, in my opinion, big brother is coming down hard again, you know, not even looking at the request from the Department regarding an estimate to see what needs to be done. Or, you know, to make sure that the pump station at that location, should it go bad--like what Member Mateo had discussed earlier--and if the County would bear the responsibility to provide that service, then I would think, you know, A&B has some responsibility in providing that kind of information so that we are insured as well as the property owners surrounding that pump station are ensured that, you know, that the pump station is adequate. Thank you.

CO-CHAIR MEDEIROS: Thank you, Member Pontanilla. Your point is well taken. And I'm sure all the concerns raised by the Members to the departments will put the departments on notice that we need to take care of these things prior to bringing it forward so that we're not left with something later on that we have to correct. Further discussion? Co-Chair Victorino?

CO-CHAIR VICTORINO: Thank you, Chair.

CO-CHAIR MEDEIROS: Followed by Member Mateo.

CO-CHAIR VICTORINO: Yeah. And I also will support it with reluctance. It's an after-the-fact matter and, you know, we always have to deal with these after-the-fact matters and it's not fair to the people and to us. However, it's there. And you know, like I say, I can't change the past. I can only deal with the present and make the future better. But I'd like to let developers know that in the future, things of this nature are gonna have to be addressed. And the County (the departments) are gonna have to let these developers know that you're just not going be cart blanche--come in, thank you very much, here we go--because we're gonna be watching very carefully and saying maybe "no" to some of these things; and maybe come to the day we say "no; take it back out; and do it right". So I think that may come to pass, Co-Chair Medeiros. I think all of us are just not happy with what we see; but again, we're stuck with the problem, so let's deal with it. And hopefully, we don't want to be accused of saying "no" so that they don't have to check the system; and should something go wrong, we and the public would be the ones that were the scapegoats, or the guys who left with the bag. So let's say, we'll accept it with reluctance. Thank you for your consideration, Co-Chair Medeiros.

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CO-CHAIR MEDEIROS: Thank you, Co-Chair Victorino. Member Mateo?

COUNCILMEMBER MATEO: Chairman, thank you very much. I guess I will be also begrudgingly supporting the Chairman’s recommendation with a lot of reservations. I don’t think continuously allowing this type of requests to continue to go on is justifying any means. I believe anything that’s constructed must be up to County standards, whether it comes with an indication or the need to dedicate or want to dedicate to the County, it’s got to be built up to standards; and I don’t know how we can approve, we could have approved prior anything that was not done so. So I think this is just the beginning of us taking a look at how we need or what we need to do to change processes, and I believe this is just the starting point at this time. So, Mr. Chairman, I will be supporting your recommendation with reservations. Thank you.

CO-CHAIR MEDEIROS: Thank you, Member Mateo. Again, you all raise very good concerns and questions; and, hopefully, this can be resolved in the future by somewhat not putting the cart before the horse. So any further discussion or questions? I’d just like to clear something up, just before we take the vote. On the resolution, on Page 2, the second paragraph, it indicates the resolution needs to be approved by two-thirds votes but my inquiry about that indicates that that’s at the Council level, and so this will just be a simple majority vote. Any further discussions or questions? Okay. Seeing none, I’ll call for the question. All in favor of the motion, say “aye”.

COUNCIL MEMBERS VOICED AYE.

CO-CHAIR MEDEIROS: Any “nays”?

**VOTE:**        **AYES:**        **Councilmembers Hokama, Mateo, and Pontanilla; and  
Co-Chairs Medeiros and Victorino.**

**NOES:**        **None.**

**ABSTAIN:**    **None.**

**ABSENT:**     **None.**

**EXC.:**        **None.**

**MOTION CARRIED.**

**ACTION:    ADOPT RESOLUTION AND FILE COMMUNICATION.**



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CO-CHAIR MEDEIROS: Hearing none, the motion passes with five “ayes” and zero “nays”. Thank you, Members, very much for your participation on this item. Even though we did go into a fairly long recess, we’re gonna take another recess at the call of the Chair so that we can change the Co-Chairs’ positions for the next item. So the Committee stands in recess at the call of the Chair. . . . (*gavel*) . . .

**RECESS: 10:04 a.m.**

**RECONVENE: 10:10 a.m. . . . (*end of tape, start 2A*) . . .**

CO-CHAIR VICTORINO: . . . (*gavel*) . . . We’d like to reconvene the Committee on Public Works and Facilities meeting.

**PWF-68 PROHIBITING THE USE OF NON-BIODEGRADABLE PLASTIC BAGS**  
(C.C. No. 07-232)

CO-CHAIR VICTORINO: At this time, we will be receiving testimony on PWF-68; and PWF-68 is a prohibiting of the use of non-biodegradable plastic bags. We have seven testifiers this morning. By the way, I’m Co-Chair Victorino. I thank Co-Chair Medeiros for helping us on the first half of the meeting. At this time, I’d like to call on the testifiers. And before we call upon them, I’d like to set some ground rules. We have three minutes. We allow three minutes of testimony with a minute to conclude. If at . . . after three minutes, you need more than a minute to conclude; then we’ll allow you to come back after everyone else has testified. We have seven testifiers this morning, so I’d like to get started if that’s okay with the Committee. First testifier will be on PWF-68, Helen Nielsen followed by Sue Ferrera.

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

MS. NIELSEN: Good morning, Council Chair, Council Vice-Chair Victorino, and Good morning, Council members. My name is Helen Nielsen and I’m here testifying as an individual. I’d like to thank the Council for, you know, being progressively looking ahead and really trying to correct mistakes that the Council has made in the past. And I really appreciate you, you know, standing up and trying to do the right thing. I’m here to testify in support of banning single-use bags given out at shops. You know, there is just such a redundancy of plastic bags in our society right now. And I don’t think it would be a real hardship for folks who recycle their plastic bags, which I do. But I think there’s just so much plastic out there that we really don’t need to be contributing to this island’s population of plastic bags in the trees and the ocean. Especially being an island community, I think it’s especially important; so I really want to encourage you to go ahead with this ban. I was in Bergen Norway several years ago. I went to the grocery store and at checkout, I had my fruits and my vegetables, and they had no bags to give away; and they have the petroleum right off shore. I mean, you know, their industry

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wasn't telling them to stop giving out plastic bags. I mean there were no plastic bags to be given out, and people adjust. It's okay. I do have sympathy with Administration trying to staff the implementation of this bill. I know it's gonna be a challenge but . . . like all good things, it's gonna be worth the effort. And I also sympathize for the businesses that will indeed suffer some hardship; but again, they will adjust. And again, because it's an island community, I think this is really important. I would suggest that perhaps we can ban all single-use bags in a certain amount of time and in the meantime, people can phase out the bags, perhaps move to paper in the meantime; but I think it's really important to eliminate all of plastic bags, especially since there's no industry standard in biodegradable bags at this time. So I really appreciate you looking into this. Thank you.

CO-CHAIR VICTORINO: Thank you, Ms. Nielsen. Before you run off, Ms. Nielsen, any questions from the Members for Ms. Nielsen? Co-Chair Medeiros?

CO-CHAIR MEDEIROS: Mahalo, Co-Chair Victorino. Ms. Nielsen, thank you for being here and for your testimony. I just wanted you to further explain to me how do you describe or identify single-use bags?

MS. NIELSEN: At the grocery store, you are given either plastic, biodegradable, or paper bags. All of those are single-use bags.

CO-CHAIR MEDEIROS: Okay. So that's what you're referring to?

MS. NIELSEN: Uh-huh.

CO-CHAIR MEDEIROS: Okay. Thank you, Ms. Nielsen. Mahalo, Chair.

CO-CHAIR VICTORINO: Thank you, Co-Chair Medeiros. Any other questions for the testifier? Seeing none, thank you, Ms. Nielsen. Ms. Sue Ferrera followed by Catherine Davenport. Good morning.

MS. FERRERA: Good morning, Co-Chair Victorino and Council members. My name is Sue Ferrera. I'm here to encourage you to pass the plastic bag reduction bill. I'm actually a resident of Berkeley California. I've been coming here over twenty years visiting family and I love this Maui very much. And I think the . . . I would encourage you to do this. San Francisco county and city passed a no-bag ordinance in the city and they stopped using plastic bags there, and there hasn't been any big problems from it. In fact, the public just picked it right up and went with it. I read the paper all the time, and there's no controversy over it. So it actually got implemented with no great effort on . . . from, from what I saw; but I wasn't on the merchants' side. And I expect the rest of that bay area will probably go along with it because like you, I think, a lot of people there love their marine habitat; and that's why I'm here today is 'cause I find that very important. Additionally, there were . . . we're working closely with reducing our waste stream. And so as each layer comes in the town I'm in most recently now we recycle.

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They pick up all green waste and recycle that, and the actual garbage that goes to the landfill is reduced significantly out of our households. And so just another measure that will reduce that volume of waste that's gonna sit there is . . . is this just seems to actually get applied very easily. People just say okay; that's just the next thing we're gonna do to reduce waste. So once again, thank you for considering this and I appreciate your listening to me and thank you very much.

CO-CHAIR VICTORINO: Thank you. Before you run off, Ms. Davenport, is there any questions for Ms. Davenport?

MS. FERRERA: Ferrera.

CO-CHAIR VICTORINO: I mean--correction--Ms. Ferrera.

MS. FERRERA: Yeah.

CO-CHAIR VICTORINO: Sorry, I was reading the next testifier.

MS. FERRERA: Yeah.

CO-CHAIR VICTORINO: Sorry. . . . (*chuckled*) . . . Any questions for Ms. Ferrera? Seeing none, thank you very much.

MS. FERRERA: Thank you.

CO-CHAIR VICTORINO: Now, Catherine Davenport--I apologize--and then followed by David Diven.

MS. DAVENPORT: (*NOTE: Speaking away from the microphone.*) Aloha. Thank you all for the work that you do . . .

CO-CHAIR VICTORINO: Can you speak into the mike, please?

MS. DAVENPORT: Oops! Sorry. Thank you. . . . (*chuckled*) . . .

CO-CHAIR VICTORINO: Thank you.

MS. DAVENPORT: Aloha. Thank you, first of all, Committee members and Council members for the work you do. I think political work is the hardest work there is to do. And having been a teacher, I always encouraged my students to please do something with politics. Every, any little bit at all, get in there because I know how scary I think it is and I'm not brave enough to do it myself and you all are; and I really appreciate what you're doing. If everyone does a little bit of something, it will really help. And I think at the County level, we can make a difference, so

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thank you very much. And I wanted you to just . . . I'm here about the prohibiting the use of non-biodegradable plastic bags; but specifically, the grocery store bags. I'd just ask you to imagine that we passed this and we don't have those grocery bags around all over the place. Now imagine that this is actually done and in eight years from now, what our landfills will look like and what our habits will be like. We just have a simple habit of using these bags. I do. I can recycle everything but those bags. For some reason, I keep using those bags. I don't know why. And imagine if this were passed, eight years from now, the ten-year-old today will have a habit of eight years of just not having those bags in their life and having many other options like those wonderful Longs bags I love, I have. The wonderful Ace Hardware bags, I love, I have. But I don't get them into the stores for some reason, but I would. If those grocery bags were not available to me, I would make the effort more. So that's my only request here and I just wanted to thank you. Mahalo.

CO-CHAIR VICTORINO: Thank you, Ms. Davenport. Any questions for the testifier? Seeing none, thank you very much. Next testifier is David Diven followed by Lauren Zirbel.

MR. DIVEN: Hello, my name is David Diven and I am in support of this bill. I would like to see some kind of implementation. It would concern me, for instance, if 80 percent of the businesses were exempt and they were exempt for years of time. I would think that it would cause little change in the island. I would prefer if some businesses were to be exempted, that, perhaps the bottom 20 percent of the businesses or the bottom 10 percent of the businesses might be exempted; but I would be concerned if the majority of the businesses on Maui were exempted. I would feel that it would not be nearly as effective as it could be. I also, just as ideas, the law of unintended consequences. Rather than say "all businesses have x-number of years to comply"; perhaps at a set date, no businesses may purchase new bags for distribution; and then, the stock runs out; the stock runs out. That . . . and . . . but I am in support of this. That I am . . . and I guess I have never been a merchant, so I don't know what . . . what trials they face. I'm sure it's hard to make a profit. That . . . but it seems to me, I don't understand how a merchant's option to sell me a reusable bag is going to be an economic hardship. I think that the assumption that the merchant must provide me a bag out of their overhead, a more expensive bag would be a hardship; but it seems to me that the merchant has the option to sell me a bag. I have several. Some of them cost me a dollar. Some of them I got at Foodland for the swiping the things and they appeared. That to me, I just don't understand the hardship; but as I said, I am not a merchant. I would prefer a merchant to explain it. That's my testimony. Thank you.

CO-CHAIR VICTORINO: Thank you, Mr. Diven. Any questions for Mr. Diven? Seeing none, I will make one comment if I may. I like your idea as another possibility of putting a specific date that no more new plastic bags could be purchased. I kinda like that idea that, you know, you have a date specific so that, you know, you have to run out your stock. And let me assure you that we'll try to limit the numbers that we--and we're not trying to exempt anybody. We're trying to say "if you're under this \_\_\_\_\_, then you have a certain period of time to run out your stock or to run out of use of plastic bags". We're not exempting anybody. That's not been

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our thought process, you know. So you can rest assured. Exemption is not part of what we're dealing with. We're just trying to make it equitable and like you said, for the small businessman (the mom-and-pop operations) trying to make it fair for them, so they are not as adversely affected. The big guys can absorb it. Like you say, you go to Foodland. You go to Longs. You go to the big guys. They can absorb it. But the mom-and-pop operations, for which many of us grew up with, we want to be as sensitive as possible but also make them understand that it's a change that's coming. Let's get to . . . as quickly as possible. Because I agree with the lady before that, ten years, eight years from now, an eighteen, the ten-year-old will be eighteen-years-old, and they got the bad habit already. So let's change it. Thank you, Mr. Diven.

MR. DIVEN: Thank you.

CO-CHAIR VICTORINO: Next testifier is Lauren Zirbel. If I pronounced your name wrong, I apologize.

MS. ZIRBEL: It's okay. . . . (*chuckled*) . . . Good morning. My name is Lauren Zirbel. I'm here on behalf of Hawaii Food Industry Association. We disagree with the premise of this bill under the circumstances of Maui County's composting option, there is no facility permitted to take post consumer food waste or compostable alternative products. Therefore, these products do not solve the problem associated with plastic bags because they do not biodegrade in the natural environment, and they will not be able to be composted. As the previous testifier noted, San Francisco did ban plastic bags; however, they do have a curbside recycling program for compostable wet food waste. Many other counties have been considering this ban, including recently, Los Angeles County, which decided not to ban plastic bags because they do not have curbside-food-waste composting available to them; and it would contaminate their recycling efforts. We believe the same thing would happen in Maui County. Okay. They will also contaminate existing recycling programs and they do not meet functional requirements if stored at temperatures above 100 degrees. Also paper bags produce, production creates 70 percent more air pollutants and 50 times more water pollutants than plastic, and they also do not biodegrade in landfills, nothing does because landfills don't have any oxygen or any of the necessary components for decomposition. According to Maui Earth Compost, Tim Gunther, Maui has no composting facilities to take these products because it is expensive to get permits and they have to have special testing for metals and viruses which are required by Federal laws. If Maui County, he believes that if Maui County did develop these facilities, they would have to charge consumers \$80 a ton to drop off food waste and alternative products. Other factors to consider are the rapidly rising cost of food stuffs, which are used to create these compostable products. The industry has been successful at promoting reusable bags and encouraging recycling, and we would like to see these products further expanded. We would ask the Committee to consider whether it is more reasonable to expect consumers to return their bags to their grocery stores for recycling and use readily available reusable bags, which we are selling at almost all of our stores than to expect them to create their own composting facilities, which have to have very specific requirements for heat and churning to compost these

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alternative products, which will end up costing them more money because they generally. The statistic is that it costs eight cents per compostable bag to produce, as opposed to the one penny for plastic bags, and six cents for paper bags. My time's about up. If you have any questions, please feel free.

CO-CHAIR VICTORINO: Thank you. Thank you, Ms. Zirbel. Questions from the Committee? Before I recognize--oh! Let me recognize the Non-Voting Member that is in attendance. I apologize. I did not recognize Mr. Mike Molina. Thank you for being here, Councilmember Molina. But before I recognize Non-Voting Members, I'd like to recognize the Voting Members first; and then I will. I'll call upon you if that's okay. Mister . . . Councilmember Pontanilla?

COUNCILMEMBER PONTANILLA: Thank you. Ms. Zirbel?

MS. ZIRBEL: Mmmm.

COUNCILMEMBER PONTANILLA: Kinda interesting in regards to what you just said regarding wet food waste.

MS. ZIRBEL: Mmmm.

COUNCILMEMBER PONTANILLA: Can you expound on that?

MS. ZIRBEL: So there's three different levels of permitting required. Number one, it's what we have in some, some neighborhoods on Oahu, where I \_\_\_\_\_, they have this greencycling for your yard waste. That's one level of permitting. But that does not take post consumer food waste, which is anything that's been on a human plate. Anything that is used for . . . that has been in contact with your mouth requires another set of permitting for wet food waste because there's other viruses that need to be tested for compost created from these . . . these products. And then there's a third level of permitting required for these compostable alternative products because they make the compost pile more acidic. So yeah, there's three different levels. And the permitting required for post consumer food waste is a Federal requirement by the EPA.

COUNCILMEMBER PONTANILLA: Thank you. Thank you, Chairman.

CO-CHAIR VICTORINO: Thank you, Councilmember Pontanilla. Other questions from the Voting Members first? Co-Chair Medeiros?

CO-CHAIR MEDEIROS: Mahalo, Chair. Thank you, Ms. Zirbel, for your testimony and for being here. On the food waste that you've been discussing, I'm assuming it's food waste that cannot be processed by an individual's disposal in their home or they don't have a disposal system. Is that what you're referring to?

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MS. ZIRBEL: Yeah.

CO-CHAIR MEDEIROS: I see. And so, and . . . and you did mention that the EPA has requirements regarding that kind of disposal.

MS. ZIRBEL: Uh-huh.

CO-CHAIR MEDEIROS: And so if there's a curbside disposal for those items, then that would be taken care of by whatever municipality does that?

MS. ZIRBEL: Mmmm.

CO-CHAIR MEDEIROS: Okay. All right. Thank you for your testimony this morning. Thank you, Chair.

MS. ZIRBEL: Thank you.

CO-CHAIR VICTORINO: Thank you. Any other questions, first of all from Voting Members? Seeing none, then I will recognize Chair--Councilmember Molina.

COUNCILMEMBER MOLINA: Okay. Thank you, Mr. Chairman. Good morning, Ms. Zirbel.

MS. ZIRBEL: Good morning.

COUNCILMEMBER MOLINA: Thank you for your comments. I note that you provided us some written comments as well. A couple of things I wanted to make real clear. I guess if the Members want to look at maybe the--one, two, three--fourth paragraph. It says, the "industry has been very forthcoming with educational programs in schools and in the community at large, encouraging people to remember their reusable bags and explain the importance of recycling". Well that may be true but keep in mind that your industry--and I'm not picking on you. Okay? Just to be clear. Your industry didn't act until we introduced legislation. So my question to you--if you can answer it--why didn't the industry act on this much sooner? They had all these years. Plastic bags have been part of our environment since the early 1980s. So for the industry to suddenly say oh, look at us, "we're doing this and that". Why has it taken the industry so long?

MS. ZIRBEL: I can't really answer that question.

COUNCILMEMBER MOLINA: Yeah.

MS. ZIRBEL: I've only been working here less than a year. . . . (*chuckled*) . . .

COUNCILMEMBER MOLINA: Sure. I . . . (*inaudible*) . . . that.

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MS. ZIRBEL: . . . (*chuckled*) . . .

COUNCILMEMBER MOLINA: But do you see my point?

MS. ZIRBEL: Mmmm.

COUNCILMEMBER MOLINA: And I know the industry, in my opinion, is putting out all these scare tactics to get people worried and, you know, put the fear of God into everyone, into all the retailers.

MS. ZIRBEL: Mmmm.

COUNCILMEMBER MOLINA: I think it's been exaggerated. And this is of course my opinion. And also in the first paragraph, it says "not only will this bill not help the environment solve the problem of flying bags or ingestion of bags by sea creatures; but also, it will hurt consumers, who will ultimately bear the burden in the form of even higher prices". Now we've . . . in, we modeled this bill after a bill in San Francisco; and to date, we have not had any, you know. We've caught, we've kept in close contact and we have not heard anything negative in terms of the bill hurt . . . their bill hurting their environment.

MS. ZIRBEL: Mmmm.

COUNCILMEMBER MOLINA: And if anything, it's helped. And we haven't heard anything about businesses closing and so forth, so I just wanted to make that point clear.

MS. ZIRBEL: Uh-huh.

COUNCILMEMBER MOLINA: And you mentioned the issues of contamination, can you provide us the research and the data to . . .

MS. ZIRBEL: Yeah.

COUNCILMEMBER MOLINA: It would help the Committee.

MS. ZIRBEL: Absolutely.

COUNCILMEMBER MOLINA: So . . .

MS. ZIRBEL: There's a few articles actually that will--I . . . I don't have it. I provided you with it the last time--a CNN article about how compostable bags, when put into the recycling programs which make plastic lumber, make the product not viable anymore because the plastic structure is corrupted; but I can forward you that.



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COUNCILMEMBER MOLINA: Thank you. And one last question. You provided us a couple of pictures of our landfill on the back of the third page.

MS. ZIRBEL: Uh-huh.

COUNCILMEMBER MOLINA: Now, these pictures were taken by whom? Was this by you or someone from the industry?

MS. ZIRBEL: I think Derek Kurisu took the second picture.

COUNCILMEMBER MOLINA: Oh, okay. And now these words, it says here . . .

MS. ZIRBEL: That was Derek.

COUNCILMEMBER MOLINA: First picture, August 2007, “this was accomplished without a ban on plastic or paper bags, so don’t say it can’t be done”; and then you show a picture here of the area that looks cleaned up in June 2008, so that’s about a year apart. And it’s ironic the bill was introduced first (back in the summer) you know.

MS. ZIRBEL: Mmmm.

COUNCILMEMBER MOLINA: So again, my point is, only now the industry is starting to get their act together. So for them, for the industry itself to come out and condemn this bill or condemn our actions to make an attempt to clean our environment, I’m really, really appalled at that to be honest with you.

MS. ZIRBEL: Mmmm.

COUNCILMEMBER MOLINA: So please, if . . . you know, you can get the word to your industry. They had all this time to get their act together. So it forced the hand of our County to start looking at legislation because it costs our County almost \$200,000 a year to clean up the plastic bags in our landfill. So understand, you know, our point of view as to why, you know, at least, why this legislation is being considered. And we don’t have the kind of facilities that can get rid of these plastic bags, any type of incineration facility like Oahu has. So Maui is a unique place compared to Oahu, so I really want to make that clear to you, as well as Mr. Botti. I know he’s been very adamant about his stance on this matter as well.

MS. ZIRBEL: Yeah.

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COUNCILMEMBER MOLINA: So I'm hoping to work together and I'm hoping that the industry is really showing some, at this point--just based on this letter that was authored by you or Mr. Botti, it is now suddenly again taking a position of being really anti . . . in my opinion, very anti-environment so to speak or . . . or resistance to change.

MS. ZIRBEL: Uh-huh.

COUNCILMEMBER MOLINA: So I'm hoping that we can find some kind of middle ground and . . . otherwise, you know, like Chairman Victorino said, "some change is gonna come".

MS. ZIRBEL: Uh-huh.

COUNCILMEMBER MOLINA: Thank you. Thank you, Chair.

CO-CHAIR VICTORINO: Thank you. I appreciate your comments, Member Molina. I know you've worked hard on this and I agree with you that--but I'll take it one step further! It's not a matter of "if"; it's a matter of "when". And I think the industry has to understand that "we're not going to tolerate no more". Sorry; it's over, and we're gonna ask you guys to change. And if you don't change, then we'll mandate the change. So it's . . . you can go back and tell them that it's not a matter of "if"; it's a matter of "when". And I think the consumers understand that there's always some cost in change, but the cost can be very minimal. So let's remember that. You know, the scare tactics don't need to be done. Let's keep the facts in there. It is being ingested by the mammals, by our sea life. It is a big, big challenge, with this wind on this island, yes, very much so. And you must have been very, you must have had . . . Ka Lima had just gone in there and cleaned up that place because I rarely ever seen that place that clean.

MS. ZIRBEL: Mmmm.

CO-CHAIR VICTORINO: It must have been a perfect day! No wind or whatever, but I'll leave that one alone. Okay. Well thank you, and you're a young lady, so please go back and tell your industry that we're working on this; and let's get our act together. We'll work together. But if you don't, we'll mandate it. No problem. Okay?

MS. ZIRBEL: Thank you.

CO-CHAIR VICTORINO: Thank you very much. Next testifier is Marjorie Bonar; and after Marjorie, we have Hannah Bernard.

MS. BONAR: Good morning, Council members. I'm gonna ask for a little forbearance. And towards the end, I had some questions from Councilman Medeiros that I've got answers to and a couple of rebuttals here. But amongst my three minutes, first, I would like to thank all of these Committee Members, who found time to speak with me in the past week. It has really broadened my appreciation for the complexities of any kind of legislation. I'm still, most . . .

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you know, impacted now by what we can do to implement this plastic bill to get rid of the wayward plastic from everything. And it's not just the plastic bags of course when we're looking at what's happening with South Point, a way to get rid of all of the plastic would be ideal. That's the pono thing to do. Do it tomorrow, but it's not gonna happen. It's not realistic. I've spoken to a number of merchants and come to learn that smaller businesses are rarely those who have been stockpiling large quantities of plastic bags. It's some of our larger merchants. Up to one I spoke to, who spends \$40,000 at a pop for a container load of plastic bags that last them close to a year, so I've come to realize that maybe we're looking at something very artificial in looking at financial thresholds. I've also been given a lesson in realities of County processes mostly thank you to Director Okuma. Though I wish it were different, this is not something you can vote on it right away, we need a vote on implementation right away, but we're looking at a long-term process here. But because of that time, it's gonna be a pretty effortless or pretty painless transition. Based on what I have learned, I would like to make a suggestion: that there simply be an across-the-board ban on using single-use disposable plastic checkout bags; that we don't have any threshold for who may be exempt or for phasing in time; that the idea of phasing it in is going to create more administrative problems than anything else; and that what we really want to do is look for a very nice date. I have been told this is realistic--1/1/11 as the day when there are no more plastic bags being handed out at checkout in any business on Maui. That's a long time. But that gives the time for you to establish a position because I know it needs to go in--I'm sorry--getting into next year's Budget, to be able to staff that position; to be able to write the implementation; and to do it right. This gives us the time to develop and implement a consumer education program as well as a merchant education program. And anyone that can't get rid of what they've got in stock now in the next two to two-and-a-half years, needs to sell them to somebody or the County needs to say, "I'll buy `em". We just gotta get rid of this stuff! We can use all of the help the chamber. The chamber has reversed their position, actually the market industry also.

CO-CHAIR VICTORINO: Ms. Bonar, can I ask you to conclude, please?

MS. BONAR: Can I come back later?

CO-CHAIR VICTORINO: Yes, you can.

MS. BONAR: Okay.

CO-CHAIR VICTORINO: Okay, if you want.

MS. BONAR: I'm just gonna say that two-and-a-half years is way longer than I wish; but two-and-a-half years, we could do it right.

CO-CHAIR VICTORINO: And what we'll do is, if Ms. Bonar comes back, we can ask her questions at that time, if that's all right with the Members. Okay. Ms. Bonar, we'll let . . . allow you to come back after the next testifier.

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MS. BONAR: Okay.

CO-CHAIR VICTORINO: She's the last testifier, and that's Ms. Hannah Bernard.

MS. BERNARD: Good morning, Chair--

CO-CHAIR VICTORINO: Good morning.

MS. BERNARD: --and Council members. A special mahalo to Mike Molina for his leadership and Mr. Victorino for your leadership in this effort; it's very much appreciated. And Ms. Bonar, I mean the work has been done. The due diligence has been done. My name is Hannah Bernard. I'm the President of Hawaii Wildlife Fund, and just a reminder that this program--we have six programs and one of them that Marjorie mentioned earlier is South Point. We've been cleaning up marine debris on Ka Lae (South Point), Waiohinu, Kamilo beaches for the last four years. We've taken out a hundred tons of debris. That's 17 Matson containers (17) and that's donated (those containers) to help us do that, and ship them. But, you know, we're all tired of cleaning up. It's time for us to stop the mess, and so that's what this is about. Compromise is where you're at--I looked that word up this morning because it seems to be the word of the day, and it's . . . it, one of the definitions is "its mutual agreement after concession on both sides". Well I feel like the consumers . . . the environment, you know, we have made concessions, enough already; and we're asking for . . . I see that there is on the table the gross-revenue concession, that maybe if we can change it from . . . *(NOTE: Loud feedback.)* Oh, dear! That was me.

CO-CHAIR VICTORINO: No, go ahead.

MS. BERNARD: Okay. From the \$250,000 annual revenues (gross annual revenues) to \$500,000, that already was a compromise because we're already losing 58 percent of the businesses for five years if we do that. I think going back to what Marge said, if we go ahead and just set the date, make it two-and-a-half years. Say, let's just make it an easy year to, date to remember, and the County will have time to get the administrative procedures in place, January 11<sup>th</sup> . . . *(end of tape, start 2B at 10:40 a.m.)* . . . that could be the date. It gives the businesses time to reduce their stock. And it's not the small businesses that are going to have a problem reducing their stock. They don't stockpile to the degree that the large businesses do. And they can sell them back to the consumer. They can, they can offer them for a fee at the checkout counter so there wouldn't be a business hardship. What we're talking about here is two years already for the County to be able to get up to speed; to hire somebody; and to implement the ban. So let's just set the date. No bags! Make it no bags, no single-use bags at the checkout counters and then we'll circumvent all of the issues that have been addressed already; and we'll have less of that junk that we have to clean up. I guess I'm out of time. Mahalo for your patience.

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CO-CHAIR VICTORINO: Thank you, Ms. Bernard. Any questions for Ms. Bernard? Go ahead, Councilmember Molina.

COUNCILMEMBER MOLINA: Okay.

CO-CHAIR VICTORINO: Nobody else has responded.

COUNCILMEMBER MOLINA: Okay. Thank you, Mr. Victorino. Good morning, Hannah, and thank you for your comments. I know with your expertise in the marine life issue, can you tell us, provide us just some brief statistics as to, as to what impacts these plastics have on the marine life?

MS. BERNARD: More than two . . .

COUNCILMEMBER MOLINA: Locally, especially.

MS. BERNARD: More than 200 marine species are impacted by marine debris, either getting entangled or ingesting. Plastic bags are entangling around the necks of many species of marine life as well as being ingested. They're choking them. As they get older and grow, bags and other pieces of plastic are constricting their ability to feed and to breathe, so they are killing them that way. And then there's the indirect--the plastics floating in the ocean--they're displacing the other marine life, the zooplankton, the phytoplankton that would be there. I don't know if you've seen the research with the Agalita. Maybe we can get you some of this information from the Agalita Research Foundation. There are tows in the mid-pacific, just northwest of the northwestern Hawaiian islands. There's more marine debris that they're pulling up than phytoplankton, than the algae in the sea. That's an alarming statistic! So we're talking about hundreds of species, meaning hundreds of thousands of marine life--of animals--fish, birds, marine mammals. If it swims or flies and feeds off the ocean, it's ingesting plastics or getting entangled in them.

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

CO-CHAIR VICTORINO: You're welcome. Co-Chair Medeiros?

CO-CHAIR MEDEIROS: Mahalo, Chair. Ms. Bernard, thank you for being here and your testimony. I have two questions. How does the plastic bags damage or injure our reefs?

MS. BERNARD: Well it can happen several different ways. One is direct entanglement--their being pulled off the reefs in the underwater recovery events, so it can smother the coral. The coral itself can be covered over and entangled, and it can prevent the coral from growing. So it can prevent the coral from getting the sunlight that it needs because it does have an algae that lives in its tissues that does need sunlight, and it can also keep it from feeding, corals from feeding. In addition, when it breaks down, the plastic fibers--as it gets smaller and breaks down--that

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can also just lay around like a, sort of a fine . . . sort of a mess (a goopy mess) and cover the bottom.

CO-CHAIR MEDEIROS: And my second question is . . . you recently or you did a cleanup of South Point and collected 17 shipping containers and that's . . .

MS. BERNARD: It's over four years.

CO-CHAIR MEDEIROS: Oh, over four years.

MS. BERNARD: Uh-huh.

CO-CHAIR MEDEIROS: Now, is that . . . South Point on Maui? Or South Point--

MS. BERNARD: It's on the Big Island.

CO-CHAIR MEDEIROS: --on the Big Island?

MS. BERNARD: Yeah.

CO-CHAIR MEDEIROS: On the Big Island?

MS. BERNARD: It's on the Big Island.

CO-CHAIR MEDEIROS: Oh, okay.

MS. BERNARD: There are places on all the main Hawaiian islands that are catchment areas, where the marine debris is sort of in a gire, an eddy, where it's actually just getting trapped up against particular areas of the coastline. And the Hawaii Wildlife Fund (the nonprofit that I represent) we work statewide but our marine debris project has been focused on the Big Island. We haven't tackled it to the same degree on Maui. What we've done on Maui is supported it through one of our programs called the Maui Reef Fund, and it's been hosted by a number of the marine dive operators and now the fishing community, to clean up debris on the reefs, through diving--actually going in the water instead of taking it off the beaches--so trying to get it off the reefs before it kills them. I just want to say one more thing about the reefs. As you probably know, I know you know this. If we lose the coral reefs, then we lose our fish, and we lose everything.

CO-CHAIR MEDEIROS: And just for my information, would you again state, you're the President of Hawaii--

MS. BERNARD: Wildlife Fund.

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CO-CHAIR MEDEIROS: --Wildlife Fund.

MS. BERNARD: We're . . . we were founded on Big Island and Maui in 1996 and we work all over the state.

CO-CHAIR MEDEIROS: Okay. Thank you so much, Ms. Bernard--

MS. BERNARD: You're welcome.

CO-CHAIR MEDEIROS: --for your testimony. Thank you, Mr. Chair.

CO-CHAIR VICTORINO: Any other questions from the Members? Thank you, Ms. Bernard.

MS. BERNARD: Thank you.

CO-CHAIR VICTORINO: And now I'll call back Ms. Bonar.

CO-CHAIR MEDEIROS: . . . (*chuckled*) . . .

CO-CHAIR VICTORINO: Bonar . . . (*chuckled*) . . . Bernard. We got all these names, yeah.

MS. BONAR: They're actually . . . they're spelled quite different.

CO-CHAIR VICTORINO: Yeah, but they sound the same thing.

MS. BONAR: Well.

CO-CHAIR VICTORINO: Yeah.

MS. BONAR: Bonar, Bernard.

CO-CHAIR VICTORINO: Eh.

MS. BONAR: Eh, nobody gives a crap.

CO-CHAIR VICTORINO: Let's not go there.

MS. BONAR: What I . . .

CO-CHAIR VICTORINO: Can you bring microphone down--

MS. BONAR: Oh!

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CO-CHAIR VICTORINO: --close to your. . .

MS. BONAR: Okay.

CO-CHAIR VICTORINO: There you go.

MS. BONAR: Yeah.

CO-CHAIR VICTORINO: Thank you.

MS. BONAR: Sure. What I really wanted to get at, at this point, is that we have an educational program. We know no matter when or how this is implemented--and that educational program is already working in small ways. The bags that are being distributed by most of the major supermarkets, by our major drug chain, by major hardware stores, that the idea of going to a reusable bag and forgetting any stopgap measures, any little bits of "okay, we'll use this kind or that". No matter what we do, we generate waste. And this is really about just taking care of the land. Let's get rid of a lot of this waste. And making people realize what they're doing. What did they do before the plastics industry got a hold of the supermarket industry? And I have to say it's not fair to blame the supermarket industry because in a way they are victims too. It's the plastic companies, which is why I wanted--oh!

By the way, I hope you all read this morning's paper in the very nifty little letter to the editor by Dot Buck, who likened getting rid of these plastic bags and waiting for people to exhaust their supply to being, waiting. If you're gonna quit smoking, wait till you finished a carton of cigarettes; or an alcoholic waiting until they'd finished every bottle left in their liquor cabinet. Because they don't seem to be publishing my letters, one of which was to correct the error made in an editorial Saturday before last, where they got confused about which Michael was sponsoring what bill. But . . . (*chuckled*) . . . you see? And you're looking at me like, "oh really".

But I . . . I did want to mention that this matter of scare tactics is what's happening from the plastics industry. It's not from the retailers. And that the . . . the question Mr. Medeiros had for me the other day was that, about the Oakland ban, which then wound up in the courts. I've spoken to staff people in Oakland. The scare tactic is that they are faced, they've had a judge rule against them because there's a California law that they invoked, thinking it would exempt them from an environmental assessment if they went to alternatives to just plastic bag. The plastics industry brought suit. They have had to toss out the law because of wording, and they would have been fine if they had just gone to reusable bags. But because they were preferentially specifying another product, they've thrown it all into chaos. They have also threatened almost every municipality in California under that same thing, where they have specified certain other bags. So what we're seeing is that everybody that's got legislation out there is pulling it back and almost uniformly going to reusable bags out of fear of lawsuits; and I think that that's the reasoning for why we need to be looking at that same thing. Let's give it



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a date. Let's let people start implementing it. Let's, you know, I'm . . . I'm available. I used to teach. I'll help design whatever program. Because I know that our resources are really limited within the County right now, and that there are a lot of things that people see as much more important; but we need these manini steps, and we really need to get this into the Council, so people know it's coming down the road. Mahalo.

CO-CHAIR VICTORINO: Thank you, Ms. Bonar. And I'd like to open up the floor to questions if I may. I love your passion! I mean, you know, it's like you really don't really care about this. Do you?

MS. BONAR: Not at all!

CO-CHAIR VICTORINO: That's what I thought. . . . (*chuckled*) . . .

MS. BONAR: Not at all! . . . (*chuckled*) . . .

CO-CHAIR VICTORINO: I got that feeling. Thank you. I open the floor to questions to the Voting Members first of all. Do you have any questions for Ms. Bonar? Mr. Medeiros?

CO-CHAIR MEDEIROS: Mahalo, Chair; and Ms. Bonar, thank you for being here. I just want to thank you for doing the research and providing the information that I was, you know, asking. And I appreciate, you know, the information and your recommendations; but I just wanted to make a comment to that, that thank you for being here, and for providing this information.

MS. BONAR: I'll provide anything I can. I really see this--we . . . we spend a lot of time talking about malama the aina. We talk about what's being, the land being so precious and this is the beginning to look at that . . . because this is not about the retailers. I mean they're not gonna be--if everybody has to have reusable bags, everybody needs them. It's not gonna cost anybody and in fact will ultimately be cheaper for the consumer too, as well as no burden on these retailers, but now that you know . . . (*cleared throat*) . . . excuse me. I understand that I have to temper my passion on this and it's not gonna happen tomorrow, but I think we just need to get it done and get it done as simply and as correctly as possible. The implementation problems for the Environmental Department [*sic*] get to be almost overwhelming and just invite hardship for everyone.

CO-CHAIR MEDEIROS: Okay.

MS. BONAR: So, that's what we need to do.

CO-CHAIR MEDEIROS: And when you first testified, I'm not sure if I heard--because I know you have an affiliation with the Outdoor Circle.

MS. BONAR: I'm on . . .

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CO-CHAIR MEDEIROS: Are you representing them?

MS. BONAR: Yes.

CO-CHAIR MEDEIROS: Okay.

MS. BONAR: I'm on the board of the Outdoor Circle and this is an official, *now* an official Outdoor Circle project.

CO-CHAIR MEDEIROS: Okay.

MS. BONAR: Yes. I'm also President of the Maui Garden Club. As that, I can just speak for them; but the Maui Garden Club has never been active in any kind of legislative activity like the Outdoor Circle is.

CO-CHAIR MEDEIROS: Okay. Thank you, Ms. Bonar. Thank you, Chair.

CO-CHAIR VICTORINO: Thank you. Any other questions for the testifier? Seeing none, thank you, Ms. Bonar. I do appreciate your comments and I like your 1/1/11. I think that's a, kinda nice even number. Nobody has to guess.

MS. BONAR: No. Well and that's, that's not mine. We we arrived at that as I was sitting with Kuhea and Cheryl, and we . . . I think that that's the kind of compromise, that that's the kind of accommodation that can make everyone comfortable. Having enough lead time doesn't preclude people from eliminating those bags earlier.

CO-CHAIR VICTORINO: Yes.

MS. BONAR: There's nothing that says they can't start being responsible *sooner*, but we want to say this is the day where you *must* be responsible.

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

CO-CHAIR VICTORINO: I think that's fair enough. Thank you very much. Okay. That was the last testifier. Before I close any public testimony, is there anyone else that would like to offer public testimony on PWF-68? Seeing no rush to the podium, at the . . . it is the wills . . . with, it is the Chair's desire to close public testimony with no objections.

COUNCIL MEMBERS VOICED NO OBJECTIONS.

CO-CHAIR VICTORINO: Thank you. Okay.

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CO-CHAIR MEDEIROS: Chair?

CO-CHAIR VICTORINO: Yes.

CO-CHAIR MEDEIROS: Before you move forward, can there be an introduction of the person that has joined us? I'm not familiar with that person.

CO-CHAIR VICTORINO: Okay. Ms. Okuma, would you introduce the staff member that has joined us?

MS. OKUMA: Actually, I should . . .

CO-CHAIR VICTORINO: I'm sorry. I was gonna do that.

MS. OKUMA: She . . .

CO-CHAIR VICTORINO: But thank you very much, Mr. Medeiros?

MS. OKUMA: I'll let her do her introduction because she's from the Office of Economic Development.

CO-CHAIR VICTORINO: Oh, okay.

MS. RIBUCAN: Good morning, Members. My name is Anna Ribucan. I work with the Office of Economic Development and I'm here on behalf of Deidre Tegarden. So I am here to assist in any way I can. Thank you.

CO-CHAIR VICTORINO: Thank you, Ms. Ribucan, for being here.

COUNCILMEMBER HOKAMA: Chair?

CO-CHAIR VICTORINO: And I think we introduced everybody else earlier, so I didn't want to be redundant, yeah. If I may, I'd like to make an opening statement.

COUNCILMEMBER HOKAMA: Chairman?

CO-CHAIR VICTORINO: Yes.

COUNCILMEMBER HOKAMA: Before you do that--

CO-CHAIR VICTORINO: Chair Hokama.

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COUNCILMEMBER HOKAMA: --I would like to request a very short request to confer with you please.

CO-CHAIR VICTORINO: Surely! We'll call for a recess at the call of the Chair. . . . *(gavel)* . . .

**RECESS: 10:53 a.m.**

**RECONVENE: 10:58 a.m.**

CO-CHAIR VICTORINO: . . . *(gavel)* . . . The Committee on Public Works and Facilities will reconvene. At this time, I would like to make an opening statement in regards to the matter of PWF-68. The Committee is in receipt of County Communication No. 07-232, from Councilmember Michael J. Molina, transmitting a draft bill prohibiting certain businesses from providing non-biodegradable plastic bags and requiring the use of environmentally-preferred alternatives. The Committee is also in receipt of correspondence dated November 6, 2007, from Councilmember Michael Molina, transmitting correspondence from the Department of Corporation Counsel, as dated November 6, 2007, transmitting a revised proposed bill entitled "A BILL FOR AN ORDINANCE ESTABLISHING A NEW CHAPTER 20.18, MAUI COUNTY CODE, PERTAINING TO PLASTIC BAG REDUCTION". The purpose of the revised proposed bill is to prohibit certain businesses from providing non-biodegradable plastic bags and requiring the use of environmentally-preferred alternatives.

As you recall, the Committee met on March 12, 2008 and also June 18, 2008. At the March 12, 2008 meeting, a panel discussion allowed by the Committee to explore various aspects of the revised proposed bill. The Committee also received public testimony at both meetings. As you may well note, on the agenda, Councilmember Molina has requested revision to the defining, divisions, or section of the revised proposed bill and also provides justification for small business income thresholds and effective dates contained within the revised proposed bill.

At this time, I would ask for a brief introduction and remarks from Non-Voting Member Molina as, after which, either of the representatives from Administration may comment. Member Molina?

COUNCILMEMBER MOLINA: Thank you, Mr. Chair. I appreciate you, again, once again, bringing this matter for . . . to the forefront in your Committee. I did submit a letter to the Committee dated June 30, 2008, which basically clarifies how we came up with the proposed \$250,000 threshold, which has been, I guess, a focal point of the most recent discussions. And to just summarize, basically, we got our data from the Business Research Library, which shows how much businesses there are that would be impacted by the \$250,000 threshold, as well as how much businesses would be impacted or not impacted if the threshold were to be raised to the number of \$500,000, which was discussed at the last meeting. So again, I just, my--although I'm a Non-Voting Member of the Committee--I feel it's important that I provide you and the

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rest of the Committee Members with as much information as possible for you to make whatever decision you decide. And I, the issue of getting rid of the threshold, I find that's something of interest as well. I think that's something that could be considered rather than establishing financial parameters, if you will. Just go ahead and set a specific date where all businesses will have to comply. If I could use one example, we had the grease trap issue several years ago. A date was put forth and people didn't go out of business. So change can be made and with a, maybe a longer time to implement, I think it might be a little easier for people to . . . or businesses to digest; and realistically, we all know it's not gonna, this kind of change will not gonna happen overnight. It's gonna take time for people to change their behavior when it comes to the use of plastic bags; so I'm, for myself, I'm open to getting rid of the threshold and instead just put a specific date when the bill would come into play if that is the Committee's decision. So those are my comments. And by the way, we did get a call from Long Beach (the city of Long Beach) they want to take a look at our bill as well. So this is a movement that's occurring, not only nationally, but also across the world. And recently, we heard that China, they put in their ban on plastic bags and it's a lot more restrictive than what we're considering as well. But the bottom line is the business aspect is important but we gotta keep in mind that it's also the environment; and the environment and the business go hand in hand, especially in an island community like ours. If we keep the water and the aina dirty, then you know, that's gonna impact the perception visitors have of this place as well as the residents own quality of life. So again, I thank you for bringing this matter for discussion again, Mr. Chairman.

CO-CHAIR VICTORINO: No, you're welcome mister . . . Councilmember Molina. And again, you're aware too that you and I, when we were up at NACo that Utah that King County in Seattle is working on this and they're forwarding information, and you're right. The movement's all over and I think this is something that you have just made all of us step forward and take care of this issue and do something we can make this environment not only good for our generation but generations to come. At this time, I'd like to call upon the Administrative representatives--Ms. Okuma from Environmental *[sic]*, if you would start off; and then, Ms. Ribucan from the Office of Economic Opportunity *[sic]*.

MS. OKUMA: Thank you, Committee Chair and Committee Members. As we have indicated before, we support the intent of the proposed bill. We hope that you do have in front of you our transmittal as we were . . . the Committee had requested our comments and we did provide those comments. It should have come down to you yesterday, I believe. So I'm here to respond to any other questions you may have. Thank you.

CO-CHAIR VICTORINO: You would find that in the last portion of your binder, dated July 1, 2008, from the Department . . . from the Honorable Charmaine Tavares. Have you all found it, Members? Okay. Any questions for the Department head from Environmental *[sic]*, first of all? Well, Ms. Ribucan, if you want to make an opening statement, go ahead. I think some of the Members are reading over this last memo that came down from the Administration.

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MS. RIBUCAN: Okay. Yes. As I stated, I'm representing Deidre Tegarden, and you also have before you some information that was sent down with . . . regarding a survey that was done of some businesses, and some of the results of those survey, and I'm also here to answer any questions that you may have regarding that communication; or to expound if you need more. If you would like me to give that information, I am happy to do so.

CO-CHAIR VICTORINO: Thank you. Are there any questions? I know you guys are the . . .

COUNCILMEMBER HOKAMA: Chair?

CO-CHAIR VICTORINO: Go ahead, Council Chair Hokama.

COUNCILMEMBER HOKAMA: Chairman, just to assist the Committee.

CO-CHAIR VICTORINO: Yes.

COUNCILMEMBER HOKAMA: What I recall from the original bill proposal (bill for an ordinance proposal from Mr. Molina) and the one that is attached to, I believe, Ms. Okuma's last submittal, there has been some revision. And I'm wondering if your preference for the Committee's work--deliberations this morning--is on the attachment to the July 1, 2008 document from Director Okuma? Or you prefer us to work on the communication as presented by Mr. Molina? I just ask for your direction on this.

CO-CHAIR VICTORINO: It's the same. (*NOTE: Speaking to Mr. Jensen.*) I was informed by staff that it's actually the same one. It's just that these are the comments from Ms. Okuma and also comments from--yeah, from Ms. Okuma. So where, it is still actually the same bill. It hasn't changed. And the one from Ms. Tegarden, also, is just responding to the bill. So the one that we last discussed at our last meeting, the Chapter 20.18, the one that you're seeing in front of you now--a plastic ban reduction--that's the current bill that we're reviewing right now.

COUNCILMEMBER HOKAMA: Okay. And I just bring it up because I notice that the . . . on the original one, under the violation and penalties, it was under Subsection 070.

CO-CHAIR VICTORINO: That is correct.

COUNCILMEMBER HOKAMA: And part of the proposal was that for those businesses that continue to distribute bags that we may legislate as inappropriate and illegal, that their business licenses would be suspended.

CO-CHAIR VICTORINO: I think though we addressed that--

COUNCILMEMBER HOKAMA: Yeah. And I thought that was for . . .

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CO-CHAIR VICTORINO: --because it was a State issue, yeah.

COUNCILMEMBER HOKAMA: Yeah. And I know we brought it up--

CO-CHAIR VICTORINO: Yeah.

COUNCILMEMBER HOKAMA: --that it was a State jurisdictional issue. But you know, so for me, I'm just trying to follow because you chose to eliminate that whole 070, do the renumbering. And so I just wanted to be sure that we are clear on what is being retained and what is being kept for further consideration . . . because you simplified it, and now you just referred to a specific section of the Code. And I'm not sure that the Committee is well briefed on what that section of the Code actually says under penalties and violations.

CO-CHAIR VICTORINO: Okay. Let me call upon our Legal [*sic*] Analyst, Scott Jensen. Mr. Jensen?

MR. JENSEN: Yes, Mr. Chair. That has been a confusing matter and I think we attempted to clarify it at the last meeting. The bill that's attached to the communication from the Department of Environmental Management is the same bill referenced in the agenda, and it has undergone the changes that Council Chair Hokama referenced. As you're aware, that separate matter of the proposed bill currently was assigned to the Policy Committee that was related to this, and I think that's part of the confusion. There was the draft bill submitted by Councilmember Molina. Then there was a proposed bill, which incorporated certain matters that were further revised into this bill that's before the Committee now, referenced in the agenda. So there are those three different versions--a draft and two proposed. This revised proposed bill is the one currently under consideration. But Chair Hokama's question is relevant for discussion if the Members wish to further explore with the penalties that would apply, and that may be a question to direct to the Office of Corporation Counsel.

CO-CHAIR VICTORINO: Thank you, Mr. Jensen. At this time, I'd like to ask Corp. Counsel if you could expound on that . . . on that portion of the violation and penalties. I guess that's the concern because we had a little ambiguity on that area.

MR. GALAZIN: Yeah. The proposed bill that's before you right now in Section 20.18.060 contains the violations and penalties and currently references the civil penalties and enforcement procedures available under Title 19 of the Code, specifically in Section 19.530.030. And that section basically allows various Departments right now to utilize Administrative enforcement in order to find violators of certain titles, you know, 12, 14, 18. We're looking to amend that right now, as staff mentioned, in terms of allowing the Director to utilize these enforcement provisions. But basically, if you look at Title 19, in 19.530.030, it sets out what you can fine; the terms of how they appeal; what kind of decision and order would be issued. And this kind of thing is utilized a lot, for example, in our . . . our Building, Plumbing, Electrical Code Inspectors going out noting violations and just administering fines, rather than taking

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everything to court. So the reason for putting that citation into 19.530.030 is really kind of a shorthand just to allow, rather than writing out in this entire bill how fines would be imposed, just linking basically to that provision. And then of course the separate bill, which would allow the Director to utilize that in terms of enforcing this bill.

CO-CHAIR VICTORINO: Chair Hokama, you have questions?

COUNCILMEMBER HOKAMA: Chairman, you know, for me, it's just more a matter of trying to connect the lines.

CO-CHAIR VICTORINO: Uh-huh.

COUNCILMEMBER HOKAMA: Title 19 is a zoning chapter, and enforcement is regarding zoning violations and permitted uses. So I'm trying to understand how we're linking zoning enforcement conditions to a violations and penalty portion that, to me, is not part of--since you're tying it to the zoning chapter a zoning matter. I know we are talking about an operational or material use, and we're tying it to the environment of a sort. You know, I prefer, you know, just my thoughts, Chairman.

CO-CHAIR VICTORINO: Yeah.

COUNCILMEMBER HOKAMA: I don't have a problem with duplicating it; but I would not like to refer it to the zoning chapter. If that's what the Committee's preference is on the level of parameters regarding the financial penalty--whether it be not more than, not less than hundred and not more than thousand, state it that way--but refer it to this specific title or chapter of the Code instead of a zoning component. And second, I would prefer that the Committee consider that if there are fines to be collected, instead of going to the open space fund, that we consider legislating it so that it goes back to the specific enforcement component of solid waste management to assist them in further ability to perform and check on compliance with this proposal should it become an ordinance. I think that might be more appropriate to help us find funding sources to take care of the enforcement portion of this policy provision. We all know that many parts of the Code, we have very good policy. We just don't have the enforcement follow-up. So that would be a suggestion that I offer the Committee and you, Mr. Chairman, as another way to address it.

CO-CHAIR VICTORINO: Okay, thank you, mister--I mean Chair Hokama. I think you know you bring up some real good points. First of all, I'll ask Mr. Galazin and also Ms. Okuma to respond to that. I think, you know, when you're talking zoning versus enforcement of plastic ban on plastic begs let's say, we may have two different . . . or a little conflicting. But Mr. Galazin, how did you arrive at that? And what do you think of the suggestion Chair Hokama has brought up?



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MR. GALAZIN: Well, I can understand, on the surface, all of the disconnect between making something that's in Title 19 to something that's gonna be in any other different title . . . be it, you know, 20, 12, 14, what have you. Under the Hawaii Revised Statutes, if you look at HRS 46-1.5, you know, it sort of delineates a lot of the County responsibilities delegated by the State, you know. Specifically, in Subsection 24 of that, allows the counties to adopt this kind of administrative enforcement provision, which really, you know, helps streamline the process, allow enforcement of, you know, ordinances . . . *(end of tape, start 3A at 11:17 a.m.)* . . . process of going to court every time. Now, over time, we've just developed this--initially under Title 19--because it was used by, I would assume at first to deal with zoning violations. However, over time, you know, we've linked that in as the County's basic administrative enforcement provision for all sorts of violations. And you know, it currently, I can tell you, it references Titles 12, 14, 16, 18, 19. So, while it may be embedded within Title 19, there is no legal problem with the fact that it allows administrative enforcement for other titles, and allows it for other situations outside of a planning or zoning context. So that wouldn't be an issue necessarily. If you wanted to sort of restate, you know, the entire administrative enforcement provision within this bill, I mean that's certainly a possibility; but you know, it would be sort of a redundancy at that point.

CO-CHAIR VICTORINO: Okay. Thank you, Mr. Galazin.

MS. OKUMA: Okay. Yeah, I . . .

CO-CHAIR VICTORINO: Ms. Okuma?

MS. OKUMA: I guess I just want to express that whatever direction it goes in, we want the enforcement authority wherever it goes legally. And what I am now aware of is that these chapters that Dave has just mentioned that are in Title 19, as far as enforcement, which goes to the Board of Variances also includes our Wastewater activities. Our pretreatment program, which is not necessarily tied to zoning, but over time, it seems to evolve, so it's all ended up in Title 19. And I know that in that process, it ultimately, these appeals, these cases go to the Board of Variances. That just seems to be the process. I think it's fine what's being discussed. I just need to know that wherever it ends up, if it gets, if it ends up being in this particular proposed bill, whatever that is, that we have that process; and somehow we haven't inadvertently dropped something simply because we've now put it in another vehicle rather than the existing vehicle, so that, that's just a comment.

CO-CHAIR VICTORINO: Thank you, Ms. Okuma. At this time, I'd like to call upon Mr. Jensen because he has something he'd like to refer to.

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MR. JENSEN: Thank you, Mr. Chair. Just to direct the Members attention to the document in their binders dated November 6, 2007. That was a memo from Deputy Corporation Counsel to Michael Molina that was subsequently transferred to Member Mateo as Chair of the Policy Committee, which describes the rationale for the linkage with Chapter 19, Section 19 of Maui County Code. So if people wanted to review that history, that document describes the nexus that he had created. Again, November 6, 2007.

CO-CHAIR VICTORINO: Have all the Members found that document? That was a memo to Michael Molina from Mr. Galazin. Yes, Ms. Okuma, I'm sorry.

MS. OKUMA: Can I just maybe make a comment as something to think about? Maybe this is a little too complex to try to change the process at this point. I understand Council Chair Hokama's comments and I, you know, I see the logic in that. But perhaps, for the time being, we may want to consider just continuing the process as it is under Title 19; and I think we do, as a Department, perhaps want to look at whether that's really where it needs to go, and this would apply for our Solid Waste as well as our Wastewater activities. The question becomes "why is that tied to the zoning provision for enforcement purposes?" But having said that, we know that that process involves going to the Board of Variances; so if there's any other process as an optional alternative, we need to look at that and see what kind of resourcing that's going to need. But we can't come up with that answer today. It's gonna require some time to really take a close look at that and to work closely with our Corp. Counsel.

CO-CHAIR VICTORINO: Thank you, Ms. Okuma. Questions from the Members? First of all, I'd ask mister . . . Council Chair Hokama--do you have any further questions or any other comments' you'd like to make to the Department?

COUNCILMEMBER HOKAMA: No, Chairman, I just present it to you and the Committee Members, as well as Mr. Molina--the author of the proposal--some thoughts on how we might want to consider this as another option. And while I'm well aware of Corporation Counsel's thoughts, which I appreciate, we make the policy; so it's what we want in the end, Chairman. Thank you.

CO-CHAIR VICTORINO: Thank you, Chair Hokama.

COUNCILMEMBER PONTANILLA: Question.

CO-CHAIR VICTORINO: Member Pontanilla?

COUNCILMEMBER PONTANILLA: Thank you. For Corporation Counsel, in regards to Section 19 on violations and penalties, I understand that previously we had some concerns in regards to how do we appeal on certain provisions; and there were no provisions in regards to appeals for certain things that we wanted to do; and we cited Title 19. How many of those do we have that cite Title 19 for, you know, penalties and violations as well as appeals . . . because I think we had this issue with the Water Department at one time?

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MR. GALAZIN: You know, I'm not intimately familiar with how many different departments are making use of this currently. You know, I can speak for the departments that, you know, I represent. In terms of Public Works, you know, a lot of the violations that they're sending out (noticing) are all based on these provisions in Title 19. All the Administrative Rules that Planning or that Public Works has right now, in terms of enforcing, all their provisions are all tied to this section in Title 19. You know, Planning is the same. I don't know exactly what other departments do it; but it is, you know, it has developed as the County's shorthand way of administering that provision of the HRS that allows the County to do this. So this is, the section just kind of evolved as this vehicle to do this.

COUNCILMEMBER PONTANILLA: Thank you. Yeah. And most of the issues that came out in regards to that was appeals, you know, how do we appeal; or how do applicants appeal?

MR. GALAZIN: Yeah. And that is spelled out. For most things, you know, it goes to the Board of Variances and Appeals as Director Okuma noted and, you know, appealing a Director's decision or a variance from a strict application of the Code.

COUNCILMEMBER PONTANILLA: Thank you. Thank you, Chairman.

CO-CHAIR VICTORINO: Thank you, Member Pontanilla. Other questions for the Administration or Corp. Counsel? Council Chair Hokama?

COUNCILMEMBER HOKAMA: Chairman, I just have one that they brought up. And of course, they were . . . it was a question back to the Committee. So I'm just wondering if the Department had a proposed recommendation on the phrase "old growth fiber". I think that was something that they've asked to help them administer the program once it gets, you know, some--

MS. OKUMA: Right.

COUNCILMEMBER HOKAMA: --some form gets adopted.

MS. OKUMA: Thank you. That's an example of where we may find that there would need to be outside expertise to be able to define that for purposes of enforcement because to enforce, you need to know what is it you're enforcing. And actually the language we have proposed, we've set it forth on Page 2. We don't have any better definition of that at this time; but we're suggesting that instead of a "shall" it would be a "*may* include the following considerations of: 1. contains no old growth fiber; 2. is one hundred percent recyclable". Right now, the proposed bill states that we "*shall* include the following considerations". We would ask that we have flexibility in this area, so that we may include considerations as we understand what old growth fiber is and perhaps other factors as they become known to us. We wanted a little more flexibility in that area.

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COUNCILMEMBER HOKAMA: Okay, thank you. You know, if . . . I'm open to Mr. Molina if he has any recommendations for us, to help us with the work, Chairman.

COUNCILMEMBER MOLINA: Okay.

COUNCILMEMBER HOKAMA: Chairman?

CO-CHAIR VICTORINO: Yes, go ahead.

COUNCILMEMBER HOKAMA: And Chairman, one last thing.

CO-CHAIR VICTORINO: Yes.

COUNCILMEMBER HOKAMA: I think what the Department and Director has proposed for consideration is very appropriate; and I just want to say that I am very supportive that the County should go and ask for a Bill for an Act at the Legislature to eliminate State taxation on this type of efforts. Instead of us paying them that whatever cents per transaction or per use, I think it's something that we should consider as a component of this consideration is . . . we'll consider proposed legislation that we may want to introduce at the State level to further assist all County's efforts, Chairman. Thank you.

CO-CHAIR VICTORINO: Thank you, Chair Hokama. Member Molina?

COUNCILMEMBER MOLINA: Yeah. Thank you, Mr. Chair, and just to follow up on Chairman Hokama's comments. By all means, if . . . with regards to the definition or the suggested language from the Department, yeah. If it adds more clarity, more specificity to the particular aspect of enforcement, then by all means, you know, whatever the Committee would, you know, agree to work on and that would help the Department, it's fine by me. If I may ask a question on the, I guess, bullet-point-number five to the Department, where it states "We recommend a three-year plastic bag source reduction project, which would require that all merchants charge 25 cents (24 cents of the bag and 1 cent for state tax) for every bag requested and require that all merchants inform the public at the point of purchase that there are charges for single-use carry out bags. The merchants would keep the charges collected." Can you add, give us a little bit more detail as to why you're making this recommendation?

MS. OKUMA: Okay. Thank you for that. Basically, we see that in this concept, it's a several-prong approach in order to reach a goal of plastic bag reduction. So that several-prong approach would definitely include education. I think that's an important component, and so we would hope that this program--we're not prohibited from doing an education program in this area. But the other component would also be perhaps looking at a mechanism to accomplish source reduction. And source reduction would be the concept of merchants being able to charge x-amount to consumers. They would be able to keep those charges; but the whole idea is to

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discourage--at the source--the use of plastic bags. Now of course, with a successful education program, this shouldn't really be an issue too. So that's why we say that this is really a several-prong approach that we're looking at, and it's simply a concept we wanted to put out there as a thought.

COUNCILMEMBER MOLINA: Okay. The number 25 cents--I know some. I think it was Ireland; I think they charge like 15 cents a bag or something. Can you tell us how you came up with the number?

MS. OKUMA: Well, you know--I'm sorry. We had to respond so quickly to this--I'm sorry. I need to get back to you on what's behind that number, but I think that's at least the concept.

COUNCILMEMBER MOLINA: I can definitely say a quarter would definitely deter me from . . . (*chuckled*) . . . taking a plastic bag. That's for sure! . . . (*chuckled*) . . . So, I was just curious as to how you came up with the number and so forth. Thank you.

CO-CHAIR VICTORINO: Thank you, Member Molina. Other questions for the Department? Seeing none.

CO-CHAIR MEDEIROS: Co-Chair?

CO-CHAIR VICTORINO: Yes. Oh, I'm sorry.

CO-CHAIR MEDEIROS: Yeah.

CO-CHAIR VICTORINO: Go ahead, Co-Chair Medeiros.

CO-CHAIR MEDEIROS: Thank you, Chair. I just wanted to . . . in putting together the proposed bill for the ordinance--and Council Chair Hokama brings up, you know, the old growth fiber. Does that come from model legislation that is in place, that . . . why we use that term, but we really can't define it? Anybody, I'm not sure, maybe Member Molina in his construction of the bill for the ordinance may know; but was that suggested by people that are familiar with disposable bags and so forth? Nobody knows what old growth fiber is? Okay.

CO-CHAIR VICTORINO: Mr. Jensen, would you have any idea?

MR. JENSEN: No. I believe the, Mr. Chair, that the answer could best be provided by the original drafter of the bill in this case . . . (*inaudible*) . . .

CO-CHAIR VICTORINO: Mr. Molina?

COUNCILMEMBER MOLINA: You know, let me . . . I'd like to do a little bit more research on that?

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CO-CHAIR VICTORINO: Okay.

COUNCILMEMBER MOLINA: You know, I've . . . I'm not as, I guess, if I say, a Ms. Bonar, who's done some really in-depth research on the specifics of what these compostable bags are made out of. I can get back to Mr. Medeiros, and the Committee could provide some answers too.

CO-CHAIR VICTORINO: Well you know, we have Ms. Bonar still in the audience if . . . if she can--with the permission of the Committee--I could bring her forward if she has an answer for us.

COUNCILMEMBER HOKAMA: Chairman?

CO-CHAIR VICTORINO: Oh, I'm sorry. Go ahead, mister . . .

COUNCILMEMBER HOKAMA: I would prefer that in writing so that can be part of the Committee's documentation.

CO-CHAIR VICTORINO: Okay. Okay, that'd be fine. In fact, if there's no other questions . . .

COUNCILMEMBER HOKAMA: Chairman?

CO-CHAIR VICTORINO: Yes.

COUNCILMEMBER HOKAMA: I do have one--

CO-CHAIR VICTORINO: Go ahead.

COUNCILMEMBER HOKAMA: --for Ms. Ribucan--

CO-CHAIR VICTORINO: Okay, go ahead.

COUNCILMEMBER HOKAMA: --at the appropriate time.

CO-CHAIR VICTORINO: You go ahead, mister . . . Chair Hokama.

CO-CHAIR MEDEIROS: I . . .

CO-CHAIR VICTORINO: But Mr. Medeiros, you had another question?

CO-CHAIR MEDEIROS: No, I am done. That was my question--to get more clarification on the use of old growth fiber, which seems like none of us are familiar with.

CO-CHAIR VICTORINO: So we'll request that in writing from--

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CO-CHAIR MEDEIROS: All right.

CO-CHAIR VICTORINO: --Councilmember Molina.

CO-CHAIR MEDEIROS: Yeah. Thank you, Chair.

CO-CHAIR VICTORINO: And whoever your sources are, so long as we can get the written response, please. Go ahead, Chair Hokama.

COUNCILMEMBER HOKAMA: Thank . . . thank you. You know, for Ms. Ribucan. My interest to assist me with the Committee's due diligence is: has your office been able to make some type of economic evaluation on some of the advantages or disadvantages dollar wise to various components of our business community--whether this impacts smaller businesses more than medium businesses but not so much large businesses; or no impact at all throughout the various spectrum of different businesses that utilize the product; or we really need to be aware of this component, food service industry compared to auto parts or manufacturing kinda things of that nature?

MS. RIBUCAN: No, not specifically, as the way you've stated that. The impact that we've looked at from businesses, basically, was the cost and their willingness to make this change. In the document that they have, you see that 92 percent of the that we actually talked to were in favor of this action. The question is thresholds of . . . the amount of gross income they had; and they look at things like how much inventory they have of logoed plastic bags, and how long it's going to take to use that. So that was the reason that we talked to them, to find out what's the impact. And I think when you're looking at using other kinds of products to package whatever they purchase, the cost of that product of course comes back to the retailer, and ultimately will either change the amount of money they are able to put in the profits, or it's going to get passed along to the consumer. So as you know, it's a tough time for retail; so those costs, that . . . that has to be considered. But you know, what we've discovered is that . . . well 92 percent of the people we talked to support making a change because they care about the environment.

COUNCILMEMBER HOKAMA: And I'm not, my concern is not the 92 percent that is willing to change. I'm just trying to ascertain the financial impacts to our County, good or bad, and that's what I want to know. What is . . . you know for people like me, when you give me a number and a figure, I can grasp it real easy, than just telling me 92 percent are willing to make--I mean almost all of us are willing to adjustments. It's whether we really do it or not. So I'm just trying to have a good sense of the economic factors; so that when I make my decision, I can, you know, I would like to take it from a well-rounded perspective of financial component; environmental component; the ability for us to enforce and have compliance to the component. It's all part of our due diligence in deliberations. So what I had hoped to come from your office was something more specifically tied to a dollar value, for us to make a judgment on the impact of what this proposal can and . . . you may tell us that businesses may have a decline of

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x-dollars; but then, Ms. Okuma might say “on our side though, we have a plus because we don’t have to have this, this, this, and this”; and we can make the calculations of addition and subtraction to find out from a different type of dollar standpoint analysis. Even with the proposal, the County still comes out ahead in the long run because under operations and departmental requirements for EPA and health department requirements, it comes out to our advantage. But no one has been able to provide us with that type of comments or analysis to show us how this thing is going to work out from a dollar standpoint, so I’m hoping you can present the Committee or the councilors appropriate information that may assist us in making that final determination.

MS. RIBUCAN: Well I agree that it is a complex issue because when we’re telling the businesses that they’re going to have to find an alternate way to package their merchandise, and we’ve not given them a lot of options as to this is where you can purchase this kind of a bag; or this is how much it’s gonna cost. I mean I did hear some testimony that the cost were for plastic, were maybe a cent per bag, where some of the other kinds of materials are more expensive. And I think the bottom line is that the change is going to cost--all people who use plastic bags--more money. How many dollars? I don’t know because each individual company has their own sources. They may buy it from different places. They may be able to make large purchases and save because they’re buying in bulk, where others (small retailers) they probably don’t carry more than six months worth of inventory bags at a time; so they’re purchasing in smaller quantities. It’s gonna cost more per bag. So I don’t know that that number would be something that we could pull out. I mean we could estimate, maybe do another research and find out how many bags people use per month or per year or whatever and do an estimate; but it would be just that. Because there are over a thousand--what, what was the figure here--1,025 small businesses that are in the category of \$500,000 or less. So clearly we can’t, you know, call all of those businesses; but we could do a sampling to at least get an idea, so we certainly would be willing to do that.

COUNCILMEMBER HOKAMA: Thank you very much for the consideration. And Chairman, my last question was something from a testifier that I would like to ask Ms. Okuma. You know, part of the testimony we heard this morning was relating to why a certain jurisdiction chose to, I guess, defer the--their proposal was that the municipality or the county department and program itself was not able to provide certain components of the program; and I guess that was the recycling or the ability to separate waste and collect waste that made sense. I don’t know. I think it was the representative from the Business Retail Merchants Association but it dealt with wet food, processed foods, or from human consumption, those kinds of things. The separation issues for that municipality, and that’s why they chose to defer. Is that something that we need to consider for Maui County? Since we still have the traditional pickup, then we have the new single-arm-automotive pickup program, some areas have twice-a-week service, some areas don’t have that service, so is what we do compatible to the needs of the ordinance proposal?

MS. OKUMA: In terms of this proposed bill and what we have going on, I mean all I can say right now is that, you know, we don’t have curbside recycling at this point. An important component



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for that is that we have the processing facility, and that goes the same for any food waste as well too. I know there are places in other jurisdictions where they do have the food waste collection, but they also have the process or the endpoint that they can deal with. We here are not at that stage where we have that kind of endpoint, so I'm not sure. I don't see any. If the question is, is there any conflict between this proposed bill and anything that we're doing now? I don't think.

COUNCILMEMBER HOKAMA: Operationally, it could work today, if we implemented this today?

MS. OKUMA: We would need the resources. I think that's why my statement was "in order to successfully roll this program out, we would need the resources, which would include an additional position for us".

COUNCILMEMBER HOKAMA: Okay.

MS. OKUMA: Because this would be a new program.

COUNCILMEMBER HOKAMA: Okay, thank you.

MS. OKUMA: And the other, and the other component . . .

COUNCILMEMBER HOKAMA: We . . .

MS. OKUMA: I'm sorry. The other component is that we need the Administrative Rules in place--and that's a whole other public hearing process--and we'd need to have the staff to push that forward as well too. So it's the process of getting the resources and the staffing; and then the process of pushing forward in a public process for the Administrative Rules that we would need.

COUNCILMEMBER HOKAMA: Okay. Is this already, as your knowledge is aware, part of the--and I going be honest--I have not taken the time to go through the whole draft of the Solid Waste Integrated Proposed Study yet. So is that included in your--

MS. OKUMA: Well, let me . . .

COUNCILMEMBER HOKAMA: --your consultant's submittal to the Department?

MS. OKUMA: Well, let me answer it this way. This is a . . . the final plan is like many pages long, like a thousand pages long, and a lot of different things were covered. But I'm glad you asked that question because as a matter of fact, what's coming out of the recommendation from the advisory committee (the SWRAC Committee as we call it) is an emphasis on our recycling, pushing our recycling numbers up; and so I would say that this falls in line with that general concept.

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COUNCILMEMBER HOKAMA: Okay. Thank you very much.

CO-CHAIR VICTORINO: Thank you, Chair.

COUNCILMEMBER HOKAMA: Mr. Victorino, thank you.

CO-CHAIR VICTORINO: Mr. Molina? I mean--correction!

COUNCIL MEMBERS: . . . (*chuckled*) . . .

CO-CHAIR VICTORINO: Mr. Mateo--sorry.

COUNCILMEMBER MATEO: Thank you, Chairman.

CO-CHAIR VICTORINO: I apologize.

COUNCILMEMBER MATEO: Ms. Ribucan, your reference to the 92 percent of the businesses that you've spoken with, was part of the understanding that in the long run they will be saving monies because they won't need to purchase these bags?

MS. RIBUCAN: No, that was not even part of the question. It was "do they support the ban on plastic bags?"

COUNCILMEMBER MATEO: So no consideration of a cost factor involved?

MS. RIBUCAN: No, there's consideration for all of them; but even given the consideration, they were still willing to do it. The question is the timeline. How much time do they have to make the changeover and being able to find alternate sources . . . of other materials.

COUNCILMEMBER MATEO: Okay. Thank you. And secondly, throughout the different stores, I see bags for sale from \$0.99-\$1.50. What is the profit margin?

MS. RIBUCAN: I don't have the answer to that question.

COUNCILMEMBER MATEO: Because it seems like, you know, they have the opportunity because . . . I don't know why the varying costs, you know. It's kind of \$0.99-\$1.50, there should be a profit margin involved in there. So they're making money selling these bags as well, so it's not all doom and gloom in taking a look at a transitional cost.

MS. RIBUCAN: Uh-huh.

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COUNCILMEMBER MATEO: Because in one factor, they're helping to get rid of the plastics and lessen their cost, which in the long run should be passed down to the consumer. And then, secondly, as they're helping the environment in selling these reusable bags, they are making a profit off of it.

MS. RIBUCAN: I can't speak to that. I haven't asked that question.

COUNCILMEMBER MATEO: Yeah.

MS. RIBUCAN: But . . .

COUNCILMEMBER MATEO: Well perhaps, perhaps, you should.

MS. RIBUCAN: It's . . .

COUNCILMEMBER MATEO: So we have--

MS. RIBUCAN: It's a good question.

COUNCILMEMBER MATEO: --a better understanding because of the differentiation of costs.

MS. RIBUCAN: Okay, thank you.

COUNCILMEMBER MATEO: Thank you. Thank you, Mr. Chair.

CO-CHAIR VICTORINO: Before I recognize Co-Chair Medeiros, what I'd like to also tell the Committee is that there's a number of concerns being brought up today and, two things. Number one, I'd like these concerns to be addressed so that we can probably, I'll look at some recommendations and maybe some revisions to what we're working on right now (the bill itself) because a number of things have been brought up. So that would be something that I'd be considering today, you know, just to let the Members know. Whatever you concerns you have, I'd like to hear them so that we can really look at a revision. Then next time we come together at our next meeting, we can really move this along. I think this is something I . . . I understand what all the concerns are and, you know. I'd like to get answers from your office, Ms. Ribucan; and Ms. Okuma, from your office; also from Corp. Counsel, you know, because they are legitimate concerns and I'd like those addressed. So I would like to ask the Members, if you have other concerns and questions, please bring them forward now; so that we can address them. I'll start with Co-Chair Medeiros first.

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CO-CHAIR MEDEIROS: Thank you, Chair. Ms. Ribucan, I'm referencing the June 30<sup>th</sup> letter from your office, which was transmitted to our Committee. On Page 2, which is the backside of Page 1, the bottom half listed item Nos. 1 through 6, on Item No. 4, "how much plastic bag inventory do you currently have" was the question. And I guess this is a range of answers "between six months to three years inventory". Can you tell us about how many businesses were at the three-years, two-years inventory?

MS. RIBUCAN: Unfortunately, I don't have all of the backup data for that, so I can't tell you exactly. But I think most of the businesses that I personally talked to, which I did speak with about 17 of those businesses, most of them did not have a large inventory. However, some of our Molokai businesses--because they don't have access to just going down to XYZ and picking up a bag of plastic bags--they had larger inventories. So I would say most of them do not have large inventories, but enough do that we needed to include that information.

CO-CHAIR MEDEIROS: And so this was the range of the responses, between six months and three years inventory?

MS. RIBUCAN: Correct.

CO-CHAIR MEDEIROS: Okay. And then going down to Item No. 6, but then continuing on to Page 3, Subsection B. It says . . . and they're talking about a number of the stores surveyed stated that they're already taking measures to reduce the use of plastic bags, which include, and "B" is sell renewable bags in the store. Now, the definition of "renewable", is that the same as "reusable"? Or are they taking the bags and creating new bags again?

MS. RIBUCAN: I believe that that references the kind of reusable bags like . . .

CO-CHAIR MEDEIROS: Okay. Reusable--right?

MS. RIBUCAN: Yeah, "reusable" bags.

CO-CHAIR MEDEIROS: Okay. Yeah. Because the report says "renewable" and I couldn't figure out what was renewable. If you guys were taking bags and then, or the stores were gonna take bags and then create new bags from that. So I just, so it is reusable bags that is referencing?

MS. RIBUCAN: I believe so.

CO-CHAIR MEDEIROS: Okay. Thank you, Ms. Ribucan. Thank you, Chair.

CO-CHAIR VICTORINO: Thank you, Co-Chair Medeiros . . . *(end of tape, start 3B at 11:48 a.m.)* . . . recognize Chair, I mean Councilmember Pontanilla first.

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COUNCILMEMBER PONTANILLA: Thank you. Ms. Ribucan, according to your letter here, some of the merchants had ideas like a soft approach or, I guess, opening or project.

MS. RIBUCAN: Uh-huh.

COUNCILMEMBER PONTANILLA: Can you explain that?

MS. RIBUCAN: Well rather than, I think what that references is doing like a trial or--

COUNCILMEMBER PONTANILLA: Pilot.

MS. RIBUCAN: --a pilot program or something like that. Or rather than saying that this is, that it has to be done within six months, which this is part of the proposal, that you have a time to phase that in. So a softer approach rather than mandating that it has to be done, that you have to discontinue use in six months, or something like that.

COUNCILMEMBER PONTANILLA: Thank you. One final question, I know most supermarkets, drugstores, are the ones that, you know, provide customers with a lot of plastic bags. Did the Department take a survey of how many bags these supermarkets, drugstores have in inventory for their customers?

MS. RIBUCAN: We did ask that question. However, this is a sample of our percentages and it's only 25 at this point. Not all of those were larger companies, many of them were the smaller companies. So--

COUNCILMEMBER PONTANILLA: Yeah, I . . .

MS. RIBUCAN: --the answer is we don't have.

COUNCILMEMBER PONTANILLA: The reason why I ask you that question is that, you know, like I said earlier, most supermarkets and drugstores, you know, basically, that's . . . they provide that most often to customers.

MS. RIBUCAN: Uh-huh.

COUNCILMEMBER PONTANILLA: Thank you. Thank you for your response.

MS. RIBUCAN: Thank you.

CO-CHAIR VICTORINO: Thank you, Member Pontanilla. Member Molina?

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COUNCILMEMBER MOLINA: Yeah. Thank you very much, Mr. Chairman, and I'm aware of the time. I know we have a Land Use meeting at 1:30 and the Members want to get charged up for that; but before we . . .

CO-CHAIR VICTORINO: Well then we'll use your time. We're here to . . . for the duration. . . . (*chuckled*) . . . We'll use your time, sir. . . . (*chuckled*) . . .

COUNCIL MEMBERS: . . . (*laughter*) . . .

COUNCILMEMBER MOLINA: I'll try . . . (*chuckled*) . . .

CO-CHAIR VICTORINO: Thank you, Mr. Molina. . . . (*chuckled*) . . .

COUNCILMEMBER MOLINA: I'll try to keep it as brief as I can. First, I want to thank Ms. Zirbel from the Hawaii Food Retailers [*sic*] for coming here, and I just want to express my own appreciation for their comments and, you know, we look forward to working with them; and also to you and the rest of the Committee Members for dealing with this matter. If I could make a--being although I'm a Non-Committee [*sic*] Member, I would ask for your consideration of a request from Ms. Ribucan of OED as well as Director Okuma. Earlier, we heard a suggestion made from one of the testifiers regarding the elimination of the threshold and instead substituting that with a specific timetable for all businesses to comply with this ordinance should it occur. And I would . . . I don't know if you have some initial comments on that but if not, if at a later point (whenever our next meeting is) if you could provide some comments with regards to that particular issue--to just do away with a threshold and instead just set a specific timetable (two years, three years, whatever) for implementation of this. So, that's basically what I had Mr. Chairman. Thank you.

CO-CHAIR VICTORINO: Thank you, Member Molina. Any other questions or discussion? If not, I will first of all say thank you to the departments and Corp. Counsel because they had just about a week to put all this together, so I do appreciate their efforts. Thank you, again, Ms. Okuma, Ms. Ribucan, and Mr. Galazin for all your work. I'd like to thank Scott too and . . . for all his work. They're diligently putting this together. We've had a whole bunch of suggestions and ideas and it is my hope that we'll incorporate all of this and come back with something for our review; and possibly, moving ahead. So I will ask for the Members' consideration to defer this matter to our next meeting, if that is the feeling of the other Members of the Committee. Any objections?

**COUNCIL MEMBERS VOICED NO OBJECTIONS. (PRESENT: RH, DM, BM, JP, MV)**

**ACTION: DEFER.**

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CO-CHAIR VICTORINO: Thank you very much. And again, I'd like to thank Ms. Bonar and Ms. Zirbel for being here and I hope you'll both be here next time around; so that if we have questions, we would like to call upon you folks as resources. And you know what was very heartwarming is that I saw Ms. Bonar and Ms. Zirbel sitting together sharing ideas. So I said "it's working". So I'm very thankful that you sat together and are working together because it's all for the good of our community, our County, and I thank everyone here. If there's no other comments or announcements, this meeting of the Public Works and Facilities Committee is adjourned. . . . *(gavel)* . . .

**ADJOURN: 11:52 a.m.**

APPROVED BY:



BILL KAUAKEA MEDEIROS, Co-Chair  
Public Works and Facilities Committee

APPROVED BY:



MICHAEL P. VICTORINO, Co-Chair  
Public Works and Facilities Committee

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