

MINUTES

PUBLIC WORKS AND FACILITIES COMMITTEE

Council of the County of Maui

Council Chamber

January 23, 2008

CONVENE: 9:08 a.m.

PRESENT: VOTING MEMBERS:

Councilmember Bill Kauakea Medeiros, Co-Chair
Councilmember Michael P. Victorino, Co-Chair
Councilmember G. Riki Hokama
Councilmember Danny A. Mateo
Councilmember Joseph Pontanilla

NON-VOTING MEMBERS:

Councilmember Jo Anne Johnson (arr. at 9:32 a.m.)

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

Lei Kihm, Executive Assistant to Councilmember Medeiros

ADMIN.: David Galazin, Deputy Corporation Counsel, Department of the Corporation
Counsel (Item No. 16)
Cheryl Okuma, Director, Department of Environmental Management
(Item Nos. 16)
Tracy Takamine, Solid Waste Division Chief, Department of Environmental
Management (Item No. 16)
Jeffrey Ueoka, Deputy Corporation Counsel, Department of the
Corporation Counsel (Item No. 61)
Tamara Horcajo, Director, Department of Parks and Recreation (Item No. 61)
Roxanne Teshima, Special Events/Grants Coordinator, Department of Parks
and Recreation (Item No. 61)

OTHERS: Keoki Freeland, Executive Director, Lahaina Restoration Foundation
Plus (3) other people

PRESS: *Akaku Maui Community Television, Inc.*

PUBLIC WORKS AND FACILITIES COMMITTEE
Council of the County of Maui

January 23, 2008

CO-CHAIR MEDEIROS: . . . (*gavel*) . . . We have a quorum present and I am calling the meeting to order. This is the meeting of the Public Works and Facilities Committee for January 23, 2008. It is now nine minutes after 9 a.m. I am Councilmember Medeiros and I am one of the two Co-Chairs of this Committee. The other Co-Chair is Member Victorino. At this time, I'd like to introduce the Members present this morning. We have Council Chair Hokama here this morning.

COUNCILMEMBER HOKAMA: Good morning, Chairman.

CO-CHAIR MEDEIROS: Good morning. We have Council Vice-Chair Mateo this morning.

COUNCILMEMBER MATEO: Good morning, Chair.

CO-CHAIR MEDEIROS: Good morning. We have Co-Chair Victorino of the Committee here this morning.

CO-CHAIR VICTORINO: Good morning, Chair.

CO-CHAIR MEDEIROS: And we have Member Pontanilla.

COUNCILMEMBER PONTANILLA: Good morning.

CO-CHAIR MEDEIROS: Good morning. Thank you, Members, for being here. We have a full Committee this morning; and we have no Non-Voting Members present, so we do not have to explain that this morning. Also Members, I'd like to introduce the other staff here this morning. We have representing the first item, which is Public Works . . . I mean PWF-16, we have from Corp. Counsel, Mr. David Galazin.

MR. GALAZIN: Good morning.

CO-CHAIR MEDEIROS: Good morning, Mr. Galazin. And from the Department of Environmental Management, we have Director Okuma. Good morning.

MS. OKUMA: Morning.

CO-CHAIR MEDEIROS: And we have the Chief of the Solid Waste Division, Mr. Takamine. Good morning.

MR. TAKAMINE: Good morning.

PUBLIC WORKS AND FACILITIES COMMITTEE
Council of the County of Maui

January 23, 2008

CO-CHAIR MEDEIROS: From our Council Services Committee Staff, we have Pauline Martins, our Committee Secretary; and we have Mr. Scott Jensen, our Legislative Analyst. Good morning. Okay. At this time, Members, today, we have two items on the agenda. I will be presiding over the first item on today's agenda, and Committee Co-Chair Victorino will preside over the second half of today's meeting.

At this time, I'd like to first announce that if you have any cell phones, pagers, or any other kind of electronic devices that can interfere with the meeting, would you please put them on the appropriate mode--either off or silent. Also, we'd like to announce that public testimony will be accepted for each item on the agenda. Any member of the public not able to stay until their item is heard may provide testimony at this time. Those wishing to testify should sign up at the secretary's desk, to my left. Testifiers are requested to state their name for the record and to indicate who they're representing. Testimony shall be limited to three minutes. The yellow light will indicate that you have 30 seconds remaining and should begin to conclude. If testimony is incomplete, an additional three minutes may be provided after all testifiers have been heard.

PWF-16 RESIDENTIAL REFUSE COLLECTION ACCOUNTS (C.C. No. 07-60)

CO-CHAIR MEDEIROS: The first item on our agenda, Members, is PWF-16. The Committee is in receipt of County Communication No. 07-60, from the Director of Public Works and Environmental Management, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 8.04, MAUI COUNTY CODE, PERTAINING TO REFUSE COLLECTION AND LANDFILLS". The purpose of the proposed bill is to allow only the owner of a residential unit to open a residential refuse account. At this time, I will accept public testimony on this item . . . or the other items on our agenda should the testifier not be able to stay until that item is discussed. Committee Secretary, do we have anybody testifying on PWF-16?

MS. MARTINS: No.

CO-CHAIR MEDEIROS: Okay. We have none. Anyone in the gallery wishing to testify on PWF-16, or any other item at this time? If you prefer to wait till your item is heard, you can testify at that time. Seeing no one come forward, without objections, Members, I'd like to close public testimony on PWF-16.

COUNCIL MEMBERS: No objections.

CO-CHAIR MEDEIROS: Thank you, Members. I would like now to ask the Director of Environmental Management to provide an overview of this matter. Director Okuma?

PUBLIC WORKS AND FACILITIES COMMITTEE
Council of the County of Maui

January 23, 2008

MS. OKUMA: Thank you. Good morning, Committee Chair, Committee Members. The purpose of this proposed bill is to allow the property owner to open and close refuse accounts. This addresses those situations where people open and close accounts. Primarily, the person who resides here for a few months of the year; and renters who move in and out of the premises without notifying the Solid Waste Division, which has resulted in free refuse collection, unless they happen to be caught. What this translates into for Solid Waste, in terms of the current situation, is an added Administrative burden in costs it takes to open and close these accounts. It results in our refuse folks having to retrieve and deliver bins. Tracy Takamine, our Division Chief of Solid Waste, is here to provide more information on this.

CO-CHAIR MEDEIROS: Thank you, Director. Mr. Takamine, would you like to add to the Director's comments?

MR. TAKAMINE: Not at this time. I will just be open for further questions.

CO-CHAIR MEDEIROS: Thank you, Mr. Takamine. At this time, Members, we'd open the floor to any questions or discussions. Members, any questions?

COUNCILMEMBER PONTANILLA: I got one.

COUNCILMEMBER MATEO: Mr. Chair?

CO-CHAIR MEDEIROS: Member Pontanilla followed by Member Mateo.

COUNCILMEMBER PONTANILLA: The question I have is that, as far as delinquent accounts, what is the average accounts that are delinquent because of, you know, people renting cottages and moving away from the prem [sic] do we have . . . for the last two years?

MR. TAKAMINE: In terms of those statistics, I cannot give you any . . . because we don't track, unfortunately, accounts by whether they're renters or owners at this time. As I mentioned, I think, in the last Committee meeting, when we were not keeping up to date on delinquent accounts, we had times it ran up to about a 2,000-delinquent list. When we maintain our delinquent lists, we . . . our average is a lot lower, maybe in the 3-4 hundred range.

COUNCILMEMBER PONTANILLA: So at this time, you cannot give us a dollar figure as far as uncollected refuse collection fees?

MR. TAKAMINE: From renters, we cannot. As I mentioned, we . . . our application and when we . . . our database doesn't distinguish between whether it's a renter or a property owner.

PUBLIC WORKS AND FACILITIES COMMITTEE
Council of the County of Maui

January 23, 2008

COUNCILMEMBER PONTANILLA: Oh, okay. So is the Department looking into a mechanism to provide this Council with some numbers in regards to accounts that are delinquent, so that you know, when you come for Budget time, you know, some of this information can be utilized as we prepare our Budget (upcoming Budget) for '09?

MR. TAKAMINE: We'd have to look into if we can add that into the database when we do accept applications.

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

CO-CHAIR MEDEIROS: Thank you, Member Pontanilla. Member Mateo?

COUNCILMEMBER MATEO: Thank you, Chair. Mr. Takamine, the last time we met, it was . . . you indicated that we had in the area of 23,000 accounts; and there was--in terms of delinquencies--to the song of about \$10,000. Can you give us a status update at this time? Are these numbers still current?

MR. TAKAMINE: That changes every six months. We are actually now in the period for, collecting money for the period January 1st through June 30th. So I do not know what that delinquent list is like at this time because we usually wait. We give them a deadline. I think this period is a due date of January 15th. Once January 15th comes around, we usually give about a month grace period and then we start looking at what our delinquent list is. So I don't have a current count at this time.

COUNCILMEMBER MATEO: Would you have an idea? Is it still in the area of \$10,000, just to . . . so we can have a ballpark of what we're actually looking at at this point?

MR. TAKAMINE: It's hard for me to give you that figure, you know. I wouldn't want to speculate at this time what that would be.

COUNCILMEMBER MATEO: Okay. But at the last meeting, you did speculate. You did tell us it was \$10,000.

MR. TAKAMINE: Right. That's . . .

COUNCILMEMBER MATEO: So, at that time, it--

MR. TAKAMINE: That's correct.

COUNCILMEMBER MATEO: --was okay to tell us what the delinquencies were. So apparently, the delinquencies are extremely high at this point. So Chairman, unless we have an idea of what we're actually looking at, it's hard to have a discussion because they're asking us to change the reference primarily because of delinquencies and the difficulties in tracking renters versus

PUBLIC WORKS AND FACILITIES COMMITTEE
Council of the County of Maui

January 23, 2008

owners. We don't know what those numbers are. It is not broken down. Out of 20-somewhat-thousand accounts, we have no idea what is considered rental units and what are homeowner units. So you know, the same issues I had the last time, I guess I still have . . . because no new information was really brought to us. So we're making it easier for the Department, you know, but it becomes more difficult for us to get information from the Department. So, thank you.

CO-CHAIR MEDEIROS: Thank you, Member Mateo, for raising that point. Before I ask for any further questions, I'd like to ask Mr. Takamine and the Director. In the June 13, 2007 meeting--which was the last time we met on this, and when the Department of Public Works was still the overseeing Department--it was then told to us that there were, I think, like Member Mateo mentioned, out of the 23,000 residential accounts, there was about 130 delinquent accounts. Do you have a more current number as far as the delinquent accounts? Is it about the same? Or has it increased? Has it gone down?

MR. TAKAMINE: As I just mentioned, the problem I would have in giving you a current list is that our billings just went out in December for the period January 1st through June 30th. It's a six-month billing period. Again, the due date was January 15th. We could run one now, but these billings come in . . . or the checks come in daily right now. We have hundreds coming in. So that . . . the norm is that we don't get a bulk of it until after January. People just don't pay. So we give them a one-month's grace period. Then we'll send out a second notice. We'll give them another maybe two weeks; and at that point, we'll generate a delinquent list. And then we will start either closing accounts, or we will start trying to take back refuse containers.

CO-CHAIR MEDEIROS: Okay, and just a follow-up question to that. So would the Department have, at this time, the number of delinquent accounts in the previous pay period, or the previous period of refuse collection--

MR. TAKAMINE: That . . .

CO-CHAIR MEDEIROS: --accounts?

MR. TAKAMINE: That we would have, and . . . and I don't have that number offhand. I'd have to get back with you.

CO-CHAIR MEDEIROS: Okay. Thank you. Members, any further questions? Or the Department, any further comments you'd like to make?

MR. TAKAMINE: I would like to comment on Councilmember Mateo's point; but . . . although I cannot give you a breakdown of what the renters versus property owners are. Our main point, I guess, for this bill is not to . . . it's not to recoup delinquent accounts because it--yeah--the delinquent accounts . . . a number of them are property owners, you know. The main point for this pro..., a bill is to reduce the number of accounts being open and closed on a periodic basis.

PUBLIC WORKS AND FACILITIES COMMITTEE
Council of the County of Maui

January 23, 2008

Also because with the automation in effect now--and with our increase in automation that we're gonna be doing in the next few months--whenever an account closes, we need to pull back that cart. Technically, we should pull back the cart but we don't have the staff to maintain that--to go out; collect the cart; and when the next guy comes in, then we have to reissue the cart. It's a very time-consuming process and to . . . to track these carts. So if an owner opens the account, in all likelihood--especially if it's a renter (rented unit)--he or the person will maintain that account because the cart will be there and it will, you know, it . . . I guess the . . . you know. I'm a landlord and I want to make sure I get someone there as soon as possible to maintain the cash flow, so the turnaround won't be . . . how a renter would do it. A renter would just leave. Or they would come in and close it, then we'd have to open for a new renter. That's the . . . one of the main purposes of our proposal on this bill.

CO-CHAIR MEDEIROS: Thank you, Mr. Takamine: Director?

MS. OKUMA: I just want to mention that . . . should this go forward, we would probably need at least one year for implementation.

CO-CHAIR MEDEIROS: Okay. Member Pontanilla, I'll recognize you very shortly. I just want to follow up on the Director's comments there. So Director, would that mean that we would be revising this bill for an ordinance?

MS. OKUMA: I think if that affects the . . . addresses the effective date, I believe so; and I'm looking to . . . our, the Corporation Counsel. Is that?

MR. GALAZIN: Yeah.

CO-CHAIR MEDEIROS: Mr. Corporation Counsel, yeah. What are your comments on this?

MR. GALAZIN: Yeah. We would want to go ahead and amend the effective date of the ordinance, and just make that--as the Director said--a year to give time for the Department to plan the implementation of it. So if there's something you wanted to act on today, we'd have to amend it.

CO-CHAIR MEDEIROS: So we could do that amendment here? Or would you need to . . . have to have this deferred in order to research and do that amendment to the resolution?

MR. GALAZIN: I'm not sure that any further research would be required. I don't know off the top of my head if we can do the amendment right here . . . or not.

CO-CHAIR MEDEIROS: Okay. Member Pontanilla?

COUNCILMEMBER PONTANILLA: Thank you. Since we're going after the property owner in this case here, how do we handle property owners that are living out of state? And how do we collect from those property owners, if you guys have any idea?

PUBLIC WORKS AND FACILITIES COMMITTEE
Council of the County of Maui

January 23, 2008

MR. TAKAMINE: In terms of the service charge? I mean the semiannual--

COUNCILMEMBER PONTANILLA: Yeah.

MR. TAKAMINE: --refuse charge? We currently just mail it out.

COUNCILMEMBER PONTANILLA: In other words, you know, now that we're gonna go after the property owner to have an account made, some of the property owners may live out of state. So anytime that they rent a premise [*sic*], then a property owner--the way it's written--need to apply for refuse collection. So how do we do that, you know, with property owners living out of state?

MR. TAKAMINE: The current procedure is if, yeah, when the bills go out, if it's a property owner that lives out of state and he's applied for the, he's the applicant for the account, on our file, we would most likely have their billing address, whether it be in state or out of state. When the bills go out, it will go out. If it's in California, it will go to California . . . and they mail their bill in, so it shouldn't be a problem.

COUNCILMEMBER PONTANILLA: So we do that today, then?

MR. TAKAMINE: We do that. We currently do that. We have a billing account address, and we have . . . it may have a different actual resident address that gets the refuse picked up. Because right now, we have . . . we do have owners that pay for the refuse for a rental unit.

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

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

COUNCILMEMBER HOKAMA: Just one quick question, Chairman, for the Department. When you're dealing with corporations, are you gonna allow an agent of the entity to sign? Or are you gonna expect all the officers of a corporation to sign? Have you folks decided how you're gonna deal with those type of property owners that are more than just an individual or a family. It's a business entity.

MS. OKUMA: Yeah. I don't know that we'd address that now, but that's a really good question. I think these go towards how we're gonna implement under all these different circumstances. So I don't have an answer for you today, but that's certainly something that we would need to look at . . . and see what the options are.

COUNCILMEMBER HOKAMA: Yeah. I would ask if you would give us some ideas. Because my understanding, when you for a, like a liquor license, the officers of the entity are required . . .

PUBLIC WORKS AND FACILITIES COMMITTEE
Council of the County of Maui

January 23, 2008

MS. OKUMA: They can receive . . .

COUNCILMEMBER HOKAMA: Yeah?

MS. OKUMA: Right.

COUNCILMEMBER HOKAMA: They have . . .

MS. OKUMA: They can receive service documents.

COUNCILMEMBER HOKAMA: They have the signature.

MS. OKUMA: Sure.

COUNCILMEMBER HOKAMA: So you know, it would be helpful for us how the Department would like to approach this specific group of property owners.

MS. OKUMA: Okay. We can give that thought and address that.

COUNCILMEMBER HOKAMA: Okay.

MS. OKUMA: Thank you.

COUNCILMEMBER HOKAMA: Thank you very much.

CO-CHAIR MEDEIROS: Thank you, Member Hokama. Any other questions, Members? Okay. The Chair would like to provide his recommendation.

CO-CHAIR VICTORINO: Recommendation?

CO-CHAIR MEDEIROS: Thank you, Members. At this time, with the unanswered questions from several of our Members, and because of the proposed amendment, I think the Committee would like to have the Department research the questions that have been asked by the Members, and provide us some answers to those questions before we can move forward on this. So, at this time, the Chair, without objections, would like to defer this item.

COUNCIL MEMBERS: No objections.

CO-CHAIR MEDEIROS: No objections. Thank you, Members.

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

ACTION: DEFER.

PUBLIC WORKS AND FACILITIES COMMITTEE
Council of the County of Maui

January 23, 2008

CO-CHAIR MEDEIROS: Okay. At this time, we are done with the item and we're going to move on to the next item. And before we do that, we are going to take a short recess so that we can provide a change of our Co-Chairs. So we are now in recess. . . . (*gavel*) . . .

RECESS: 9:28 a.m.

RECONVENE: 9:30 a.m.

CO-CHAIR VICTORINO: . . . (*gavel*) . . . The meeting of the Public Works and Facilities Committee will reconvene. I am Co-Chair Mike Victorino doing the second part of this, which will be PWF-61.

PWF-61 AUTHORIZING A SECOND AMENDMENT TO LEASE OF REAL PROPERTY TO LAHAINA RESTORATION FOUNDATION (LAHAINA) (C.C. No. 07-315)

CO-CHAIR VICTORINO: Representing the Department today from the Department of Parks and Recreation is Tamara Horcajo, the Director.

MS. HORCAJO: Good morning.

CO-CHAIR VICTORINO: Corp. Counsel, Jeffrey Ueoka.

MR. UEOKA: Morning.

CO-CHAIR VICTORINO: And also as resource, Roxanne Teshima, who's in the gallery. Thank you, Roxanne, for being here. At this time, I would like to open for public testimony. Is there anyone that wants to give public testimony on PWF-61, which . . . and let me state what that is. The Committee is in receipt of a county communication 07-60 from the Director of Public Works. *Wait*. Oh, wait. I'm reading the wrong one. *Excuse* me. Okay. Okay, where did I? Oh, here you go.

The Committee is in receipt of County Communication No. 07-315, from the Director of Parks and Recreation, transmitting a proposed resolution, entitled "AUTHORIZING A SECOND AMENDMENT TO LEASE OF REAL PROPERTY TO LAHAINA RESTORATION FOUNDATION", to delete Section 16.B, Banyan Tree Park, Maintenance, from the Lahaina Restoration Foundation's responsibilities under the lease of the Old Lahaina Courthouse in Lahaina, Maui, TMK: (2) 4-6-01:009. And would *allow* to draw the Members' attention to the correspondence dated January 22, 2008 from the Parks and Recreation. This correspondence transmits the further revised proposed resolution for our consideration. At this time, I will take anyone who has public testimony on PWF-61. Seeing none, Members, without objection, I will close public testimony.

PUBLIC WORKS AND FACILITIES COMMITTEE
Council of the County of Maui

January 23, 2008

COUNCIL MEMBERS: No objections.

CO-CHAIR VICTORINO: Thank you. At this time, I would like to ask the Director of Parks and Recreation, Ms. Horcajo, to give us a brief overview on the changes that we have proposed with this lease. Ms. Horcajo?

MS. HORCAJO: Thank you, Chairman Victorino, and Mr. Medeiros, and Committee Members, as well as Councilmember Jo Anne Johnson. Thank you for attending. This proposed amendment to the Lahaina Restoration Foundation lease agreement is to delete the wording "safety related repairs" from Section 16.B; and it's proposed as a stopgap measure to accommodate the foundation to obtain reasonable insurance coverage. This lease amendment covers the period up until March 15, 2009. At which time, our Department plans to begin initiating a reevaluation and negotiation for a new lease agreement with the foundation; and we will be incorporating the comments that you folks have made to us.

CO-CHAIR VICTORINO: Questions for the Department at this time? Yes, Ms. Johnson?

COUNCILMEMBER JOHNSON: Yes, Tamara. Thanks very much. And you visited with Mr. Freeland and this is satisfactory as far as his coverage is concerned? Is that correct?

MS. HORCAJO: Yes, it is.

CO-CHAIR VICTORINO: Okay. Thank you very much.

CO-CHAIR VICTORINO: Thank you, Ms. Johnson. Any other questions? Seeing none, the Chair would like to make his recommendation.

CO-CHAIR MEDEIROS: Recommendation?

CO-CHAIR VICTORINO: Thank you. The Chair will entertain a motion to recommend the adoption of the revised proposed resolution and filing of this communication.

CO-CHAIR MEDEIROS: So moved.

COUNCILMEMBER HOKAMA: Second.

CO-CHAIR VICTORINO: It's been moved and seconded. Any other discussion? Yes, Mr. Chair Hokama?

COUNCILMEMBER HOKAMA: Chairman Victorino?

CO-CHAIR VICTORINO: Yes.

PUBLIC WORKS AND FACILITIES COMMITTEE
Council of the County of Maui

January 23, 2008

COUNCILMEMBER HOKAMA: Has your staff presented us with the newly-revised resolution?

CO-CHAIR VICTORINO: Yes. It is the one dated July 22, 2008 in the back.

MR. JENSEN: January.

CO-CHAIR VICTORINO: January! Excuse me. Correction--*January!* . . . (*chuckled*) . . . I'm still six months behind. Sorry.

COUNCILMEMBER HOKAMA: Chairman, I was wondering. You know, in our last meeting, I thought Corporation Counsel was to work with you and come up with some revisions to the proposed resolution, so I'm just wondering if staff has that prepared resolution with the revisions from Corp. Counsel to eliminate specific language than elimination of the whole section.

CO-CHAIR VICTORINO: That is correct. Mr. Ueoka, would you point out the changes that we worked on. Yes?

COUNCILMEMBER HOKAMA: Chairman, you know what. Just a short recess.

CO-CHAIR VICTORINO: Short recess. This Committee will stand in recess at . . . subject to the Chair . . . call of the Chair. . . . (*gavel*) . . .

RECESS: 9:36 a.m.

RECONVENE: 9:37 a.m.

CO-CHAIR VICTORINO: . . . (*gavel*) . . . The meeting of the PWF Committee is now reconvened. Council Chair Hokama, are you now able to find that section that you were looking for?

COUNCILMEMBER HOKAMA: Chairman, thank you. Thank you for that short recess. In discussions with Deputy Corp. Counsel Ueoka, I am satisfied that this is, as you stated, a short-term resolution to this situation. This is not how I had preferred the Department to move forward. You know, I still believe the right way is to rewrite a brand new lease . . . instead of dickering around with old leases and we keep doing revisions or extensions on it. But I am happy to support the work from Corp. Counsel; I think it's a reasonable request before the Committee, Chairman. Thank you.

CO-CHAIR VICTORINO: Thank you, Chair Hokama. And again, just for the public's information, this was again--basically as we stated--a measure to assist the Lahaina Restoration Foundation to get . . . their ability to get insurance. And by removing this one sentence, safety related--or I should say, one segment, "safety related repairs", for which they are not doing anyhow and

PUBLIC WORKS AND FACILITIES COMMITTEE
Council of the County of Maui

January 23, 2008

never have done. This enables them to go back and probably get a reasonable insurance quote for their upcoming year, which is May of 2008. So this was the urgency in this one. I have assurances from the Department (Ms. Horcajo) and Corp. Counsel that they will be working on a new lease very soon.

Mr. Freeland, you have also told me that you're gonna start with the new . . . negotiation, incorporating--Chair and all of the Members--your ideas, your suggestions, you know, what you have brought forth. So we will look very closely in the near future to see something come out from the Parks and Recreation. Mr. Mateo?

COUNCILMEMBER MATEO: Chairman, thank you very much. For the Department. With the removal of those three words "safety related repairs", does the Department have any idea of what the savings would be in terms of securing the insurance that we pay for?

MS. HORCAJO: I don't have those figures with me at this time, Councilmember--

COUNCILMEMBER MATEO: Would . . .

MS. HORCAJO: --Mateo.

COUNCILMEMBER MATEO: Would you . . .

MS. HORCAJO: I . . .

COUNCILMEMBER MATEO: Would you know if it is a substantial amount for their insurance coverage? Or it's a small investment?

MS. HORCAJO: I believe it was substantial, as I recall the discussions I had with Mr. Freeland previously, but he would have those. The insurance negotiation is with the foundation and not with the County.

COUNCILMEMBER MATEO: Okay. No, just for the, you know, because like . . . you know. This is such a small change, just to remove three words of the original resolution to make, you know, such a huge difference in what they pay for their insurance coverage. So I was just interested in seeing . . . or being provided the information on what their final outcome is as they do, in fact, secure a new policy for their coverage. Thank you, Chair.

CO-CHAIR VICTORINO: Mr. Mateo and the rest of the Committee Members, because of my expertise--or not expertise--my background in this area, I can say, without any question, this may help. But as far as *tremendously* reducing it--because the claim was paid last year, and it was a substantial payout--that the savings may not be truly reflected until three years down the road, and that was stated in the previous meeting. However, this helps them to look for other companies and it gives them an opportunity to reduce the cost. Now that will probably happen.

PUBLIC WORKS AND FACILITIES COMMITTEE
Council of the County of Maui

January 23, 2008

But if you're talking substantially, going back to the 3,000 they originally were paying versus the 44 they're now paying, I don't think that's going to happen right away; but this will give them the ability--with the insurance carriers--to reduce that cost, which reduces our cost because we are paying for it.

COUNCILMEMBER MATEO: Uh-huh. Uh-huh.

CO-CHAIR VICTORINO: Yes, Mr. Pontanilla?

COUNCILMEMBER PONTANILLA: Thank you. Kinda, little bit confused on this one here. So as far as the protection for the County, when we do maintain the banyan tree area, there is another, I guess, organization that does the maintenance of Front Street . . . or another contract that does the maintenance of Front Street, which also includes the banyan tree park; and if I remember correctly, at the last meeting, that's the insurance that the County pays for.

CO-CHAIR VICTORINO: Uh-huh.

COUNCILMEMBER PONTANILLA: Right? Wrong?

MS. HORCAJO: That's correct.

COUNCILMEMBER PONTANILLA: So as far as coverage, we are paying the coverage for that, I guess, organization that provides maintenance for Front Street as well as the banyan tree.

CO-CHAIR VICTORINO: But it's just . . . *(inaudible)* . . .

MS. HORCAJO: As I understand it, Councilmember Pontanilla, the grant that we have with the Lahaina Restoration Foundation is for the upkeep and maintenance of the historic district. So their distribution of the funds towards in the . . . *(end of tape, start 1B at 9:40 a.m.)* . . . maintenance of that area is part of their discretion of what they use that grant money for. Our provision is for the upkeep and integrity of the historic district.

COUNCILMEMBER PONTANILLA: Question. You do have the Lahaina Restoration Foundation. What is the other group that takes care of the maintenance of the streets and the park itself?

MS. HORCAJO: The other group is our Department.

COUNCILMEMBER PONTANILLA: Your Department?

MS. HORCAJO: Uh-huh.

COUNCILMEMBER PONTANILLA: Okay; fine. Nothing like Lahaina Historical--

PUBLIC WORKS AND FACILITIES COMMITTEE
Council of the County of Maui

January 23, 2008

COUNCILMEMBER HOKAMA: Society.

COUNCILMEMBER PONTANILLA: --Society?

MS. HORCAJO: The Lahaina Restoration Foundation is the historical society for that area.

COUNCILMEMBER PONTANILLA: Or Lahaina Town Action Committee? Do we have any agreements with those organizations?

MS. HORCAJO: Not for the maintenance duties and responsibilities for that area.

COUNCILMEMBER PONTANILLA: Comments, Corporation Counsel? . . . (*chuckled*) . . . How do we get protection?

MR. UEOKA: I believe, in the agreements, we're indemnified and we have insurance language. However . . .

COUNCILMEMBER PONTANILLA: Not through this organization, though?

MR. UEOKA: Through Lahaina Restoration Foundation. They hold an insurance policy and we are named as an additional-named insured, but they are no longer obligated under the lease agreement to do safety related repairs.

COUNCILMEMBER PONTANILLA: Thank you, Chairman.

CO-CHAIR VICTORINO: I think maybe some clarification, again. Let me say, Ms. Tamara, correct me if I'm wrong. Lahaina Restoration Foundation, right, historical foundation is one and the same group. Right?

MS. HORCAJO: Their mission is to provide the historical significance and integrity--

CO-CHAIR VICTORINO: Okay.

MS. HORCAJO: --of the area, but there isn't a Lahaina historic--

CO-CHAIR VICTORINO: Okay. I'm sorry.

MS. HORCAJO: --society.

CO-CHAIR VICTORINO: So, the Lahaina . . .

MS. HORCAJO: Right.

PUBLIC WORKS AND FACILITIES COMMITTEE
Council of the County of Maui

January 23, 2008

CO-CHAIR VICTORINO: Okay. Sorry. Okay, yeah. Sorry.

MS. HORCAJO: It's the--

CO-CHAIR VICTORINO: I'm confusing that . . .

MS. HORCAJO: --Lahaina Restoration Foundation.

CO-CHAIR VICTORINO: The Lahaina Restoration Foundation, who has the grant to maintain and clean the Lahaina historical district. That's correct?

MS. HORCAJO: That's correct.

CO-CHAIR VICTORINO: And the same foundation has the care custody control of the old Lahaina Courthouse and the banyan tree park?

COUNCILMEMBER PONTANILLA: No.

COUNCILMEMBER JOHNSON: No, not the banyan tree park.

MS. HORCAJO: No.

CO-CHAIR VICTORINO: Yes?

MS. HORCAJO: The Lahaina Courthouse, we have an agreement with them. The lease agreement that we're discussing today is with the Lahaina Restoration Foundation.

CO-CHAIR VICTORINO: Okay.

MS. HORCAJO: And the park itself is Parks Department.

CO-CHAIR VICTORINO: Parks Department maintains the park itself?

COUNCILMEMBER JOHNSON: . . . *(chuckled)* . . .

MS. HORCAJO: . . . *(chuckled)* . . .

CO-CHAIR MEDEIROS: A portion of it.

COUNCILMEMBER JOHNSON: Safety related items . . .

MS. HORCAJO: We maintain a portion of the park.

PUBLIC WORKS AND FACILITIES COMMITTEE
Council of the County of Maui

January 23, 2008

CO-CHAIR VICTORINO: Okay.

COUNCILMEMBER PONTANILLA: Chairman?

MS. HORCAJO: It is two separate agreements. The lease agreement . . .

COUNCILMEMBER PONTANILLA: Oh, okay.

MS. HORCAJO: So it is . . . it does get a little confusing here. We actually should keep these two discussions separate.

CO-CHAIR VICTORINO: Okay.

MS. HORCAJO: Because the lease agreement is for the courthouse; and as part of this current lease agreement now, the maintenance is incumbent upon the Lahaina Restoration Foundation to maintain that park as well. That is in this particular agreement. The other grant, we could leave to another discussion--

CO-CHAIR VICTORINO: Okay.

MS. HORCAJO: --as it just kind of muddies the water.

CO-CHAIR VICTORINO: So we get that two separate, yeah.

MS. HORCAJO: It's two separate issues.

CO-CHAIR VICTORINO: And the safety related repairs have never been done by the Lahaina Restoration Foundation?

MS. HORCAJO: That is correct. Things like the lighting, you know, the sidewalk repairs, we contract those things out through the Department.

CO-CHAIR VICTORINO: So Department of Parks and Recreation takes care of that.

MS. HORCAJO: Yes.

CO-CHAIR VICTORINO: Okay. Yes, Mr. Pontanilla?

COUNCILMEMBER PONTANILLA: Thank you. . . . (*chuckled*) . . . Sorry to create that confusion but my understanding, at the last meeting, was that because the Lahaina Historical Foundation or Society was the one that created--or not created--are responsible for the maintenance of the streets, they are also responsible for the maintenance, and for the banyan tree maintenance and repair, you know, things like that. And that this was like, almost like a double coverage; and by

PUBLIC WORKS AND FACILITIES COMMITTEE
Council of the County of Maui

January 23, 2008

removing safety related items on the Lahaina Restoration Foundation agreement, our coverage would come from that other agreement that we have. No? . . . *(chuckled)* . . .

MS. HORCAJO: I apologize for the confusion from last meeting, bringing up the other area of responsibilities. I believe that the way the Council has chosen to handle this particular amendment is a good one in that it stays with the requirements for the courthouse itself and doesn't get too mixed up in the other arrangements that we have with them. So I believe that the amendment of reducing the liability for safety related repairs, again, is a good stopgap measure and doesn't get . . .

COUNCILMEMBER PONTANILLA: No. Yeah, I agree with you.

MS. HORCAJO: Okay.

COUNCILMEMBER PONTANILLA: I just looking after the County, itself. You know, how do we get protection under the banyan tree?

MS. HORCAJO: Right. And we do have that coverage through our liability waivers with the foundation.

CO-CHAIR VICTORINO: Okay. Mr. Pontanilla, are you clear with that now?

COUNCILMEMBER PONTANILLA: Not really.

CO-CHAIR VICTORINO: Okay. Yes, Mr. Hokama?

COUNCILMEMBER HOKAMA: Just one question please for our Corporation Counsel, Mr. Ueoka. Is in any way the agreement we're amending . . . are considering to amend this morning--you know, there's a portion where it says "for a nominal fee of \$1", Mr. Ueoka. So in a sense, while we execute . . . are agreeing to amend a, I guess, a lease document, because of the nominal amount of \$1, is this also viewed in a sense like a grant through the vehicle of a lease agreement?

MR. UEOKA: Yes. It's a grant of real property, in a sense, because it is well below fair market value of the Lahaina courthouse, old Lahaina courthouse property. So it would be a grant of real property.

COUNCILMEMBER HOKAMA: Okay. You know, I'll leave it at that at this point. I just needed Corporation Counsel's--and again, I know this is a verbal opinion, Mr. Ueoka, but it's something, I think the Budget Chair will need to consider during Budget deliberations about the issues of grantees getting additional . . . other sources of grant funding because I thought we had a policy that you cannot apply. Thank you, Chairman.

PUBLIC WORKS AND FACILITIES COMMITTEE
Council of the County of Maui

January 23, 2008

CO-CHAIR VICTORINO: Let the record show five "ayes" no "nays". And . . . we will file this communication--right? Yeah. I did say that at the end--did I? If not, then we're gonna file this communication. Thank you, Members, very much. Thank you, Ms. Johnson, for attending; and I'm sorry I didn't introduce you. You snuck in when I didn't see you. I apologize for that.

COUNCILMEMBER JOHNSON: . . . (*chuckled*) . . .

CO-CHAIR VICTORINO: Mr. Freeland, thank you very much. Department, thank you very much. If there's no other announcements? Seeing none, I will call the meeting of the Public Works and Facilities Committee adjourned. . . . (*gavel*) . . .

ADJOURN: 9:53 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

pwf:min:080123

Transcribed by: Pauline Martins