

# MINUTES

## PUBLIC WORKS AND FACILITIES COMMITTEE

Council of the County of Maui

Council Chamber

August 1, 2007

**CONVENE:** 9:12 a.m.

**PRESENT:** Councilmember Bill Kauakea Medeiros, Co-Chair  
Councilmember Michael P. Victorino, Co-Chair  
Councilmember G. Riki Hokama, Member (arr. at 10:01 a.m.)  
Councilmember Danny A. Mateo, Member  
Councilmember Joseph Pontanilla, Member

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

Lei Kihm, Executive Assistant to Councilmember Medeiros  
Stephanie Ohigashi, Executive Assistant to Councilmember Victorino

**ADMIN.:** Michael Hopper, Deputy Corporation Counsel, Department of the  
Corporation Counsel (Item No. 14)  
Zachary Helm, Deputy Director, Department of Parks and Recreation  
(Item No. 14)  
Robert Straub, Special Events Specialist, Department of Parks and  
Recreation (Item No. 14)  
Milton Arakawa, Director, Department of Public Works (Item Nos. 6, 48 & 49)  
Cindy Young, Deputy Corporation Counsel, Department of the Corporation  
Counsel (Item Nos. 6, 48 & 49)  
David Galazin, Deputy Corporation Counsel, Department of the  
Corporation Counsel

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

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CO-CHAIR VICTORINO: ... (*gavel*) ... Good morning. I would like to call this meeting to order for the Public Works and Facilities Committee. This is August 1, 2007 and the time is 9:11, and our apologies for getting a little late start. Some items came up last minute; we going, had to make sure we got it taken care of. First of all, again, a reminder--and I know this hasn't been said for a while. But since no action has been taken on the Special Council meeting of

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February 26, 2007, with the issue of the informal OIP Ruling remains unresolved, we will still conduct the meeting as OIP has verbally ruled that only Members may attend. Hopefully, in the near future, this will be resolved. We do have a quorum this morning of Members. Members that are present right now is Council Vice-Chair Mateo.

COUNCILMEMBER MATEO: Good morning.

CO-CHAIR VICTORINO: Councilmember and Budget Chair Pontanilla.

COUNCILMEMBER PONTANILLA: Good morning.

CO-CHAIR VICTORINO: And our Co-Chair, Mr. William Medeiros.

CO-CHAIR MEDEIROS: Good morning, Chair.

CO-CHAIR VICTORINO: Council Chair Hokama will be joining us a little bit later. He is still involved in a meeting. I am the Co-Chair that will be handling the first part of the meeting, Michael Victorino, and I will be handling PWF-14, which is in the area of Parks and Recreation. Our Council Staff, Council Analyst, Scott Jensen; and our Council Secretary, Pauline Martins, thank you for being here. Our representatives from the Parks and Recreation Department this morning are . . . uh . . . first of all, Deputy Parks and Recreation Director, Mr. Zach Helm.

MR. HELM: Good morning.

CO-CHAIR VICTORINO: Also, Mr. Robert Straub is here this morning and graces us with his presence; and our counsel, Corp. Counsel, representing is Mike Hopper.

MR. HOPPER: . . . (*inaudible*) . . .

CO-CHAIR VICTORINO: Mike, good morning. Thank you.

**PWF-14 RECREATIONAL AREA REGULATIONS GOVERNING CAMPING (MISC.)**

CO-CHAIR VICTORINO: Before we get started, I will open the floor for any public testimony on PWF-14, and that will be in regards to the rules and regulations on governing our parks. Do we have any public testimony, Ms. Martins?

MS. MARTINS: No.

CO-CHAIR VICTORINO: And I look around the gallery and see an array of empty seats and I guess if it's okay with the Committee, I will leave public testimony open for a little while on PWF-14.

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CO-CHAIR MEDEIROS: No objections.

CO-CHAIR VICTORINO: Thank you very much. Members, we have four items today. And since I'm presiding on PWF-14, I will now go to--excuse me. Since there's no objections, let me start by opening statement describing PWF-14, PWF-14 recreational area regulations governing camping. Description, this Committee is in receipt of the following: 1. a miscellaneous communication dated September 23, 2003 from the County Clerk, relating to the penalties in Chapter 13.04, Maui County Code; and 2. correspondence dated July 24, 2007 from the Director of Parks and Recreation, transmitting a revised proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 13.04, MAUI COUNTY CODE, PERTAINING TO THE RECREATIONAL AREA REGULATIONS". The proposed revision, proposed bill is to amend Chapter 13.04, Maui County Code, as it relates to camping. At this time, I would like to call upon the Deputy Director of Parks and Recreation for an overview in this matter.

MR. HELM: Thank you, Co-Chair Victorino and Members of the . . . uh . . . Council members of the Public Works and Facilities Committee. Good morning.

COUNCILMEMBER PONTANILLA: Good morning.

MR. HELM: I just would like to give you a brief history regarding this bill. It's basically concerning the curfew hours and it has been a very difficult task in the past to deal with campers that are using our camping facilities to monitor and inspect campers that are not . . . uh . . . are without camping permits because the hours are from 12 midnight to 6 a.m. The proposal that we have in front of you, it would change that from 8 p.m. to 6 a.m. That would provide our staff to do a better job in . . . um . . . inspecting the campers to be sure that they, you know, they have their permits and also, you know, do it at an earlier stage . . . rather than, you know, in the middle of the night, to make sure that they are complying with the camping ordinance, which they must have a permit. So at this time, to give you a little bit more overview, I have our . . . uh . . . head of our park rangers and also the Special Events Coordinator, Mr. Bob Straub.

MR. STRAUB: Thank you, Zach. Good morning, Co-Chair Victorino and other Council members. Basically, what we're looking at changing here is a timing factor for the comfort of the community more than anything at this point. As late yesterday, I've received a call because our security at Papalaua woke up a legal camper at quarter to one in the morning in order to check his permit. With the number of complaints that we get of this type, it seems to be much more reasonable to change this time to an earlier time so that people aren't asleep yet. This particular individual lived in Kula and he comes down probably once a month and gets a legitimate permit. He goes out and stays overnight with his family, and then goes shopping in the morning kinda thing. That was the purpose of his trip - to come overnight. I mean my comment to him was yeah, I know; "when I go to Lahaina, it's overnight also". So . . . uh . . . but same situation. But he was very receptive to the idea that 8 p.m. seems like a much more reasonable time to be able to deal with checking permits, whether it be our park rangers or the security that we do have in

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place at this point in time. That's taken care of by the West district. So we are anticipating as we hire our new park rangers that we will be dealing with nighttime checks. And this is a much more commonsense kind of approach as well as a safety issue for the people that are dealing with it. In case we have to call in MPD, you know, for confrontational issues, at midnight seemed to be a little bit more confrontational. Whereas if we change it to 8 o'clock, I think we'd be much better prepared to deal with some people and deal with the issues on a more commonsense basis. So that's why we're looking to change this; so we can deal with the community in a little bit more reasonable manner. *(NOTE: He coughed.)* Excuse me. And we're only dealing with two parks here. We're dealing with Papalaua and Kanaha on Maui. So these are the parks that we're dealing with. While we are changing times for several parks to be closed a little earlier, those are the parks that we're dealing with in this camping issue.

CO-CHAIR VICTORINO: Thank you. At this time, I'll open the floor up to questions from the Committee members.

COUNCILMEMBER PONTANILLA: Yeah.

CO-CHAIR VICTORINO: Councilmember Pontanilla?

COUNCILMEMBER PONTANILLA: Thank you. I'm glad to hear that our present park rangers are going to the camping sites to check for camping permits. You mentioned about security company that's also doing this. How often do we go out there? The present ordinance reads, "from 12 midnight to 6 a.m." Do they make that one check or several checks during the night?

MR. HELM: It depends on the Park. I believe we do have security on Molokai for example at Papohaku Beach Park, and that's Wackenhut. They do occasionally check as far as campers at the park to see if they have their permits. They try to do it as early as possible, but you know. We do have security at the Papohaku Beach Park and I believe we will be having security also at Kanaha, besides our park rangers.

MR. STRAUB: Yes. That's what I understand.

COUNCILMEMBER PONTANILLA: That's true.

MR. STRAUB: Yes.

MR. HELM: And we are probably gonna instruct them to, you know, do inspect these campers--

COUNCILMEMBER PONTANILLA: Thank you.

MR. HELM: --to make sure that they, you know, have camping permits.

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COUNCILMEMBER PONTANILLA: Thank you. I like the idea of going much earlier. That way, you know, families can deal with the situation if they don't have a camping permit and make alternative moves. So you know, moving at midnight, you know, it's almost like "where I going?" You know, and most people will probably sleep in their cars. So Chair, that's . . . thank you for allowing me to question the Department.

CO-CHAIR VICTORINO: Thank you, Mr. Pontanilla. Vice-Chair Mateo?

COUNCILMEMBER MATEO: Yeah. Thank you, Chairman. Gentlemen, I make reference to the October 12, 2005 communication from then Parks and Economic Development Committee Chair Johnson, who forwarded a letter to inquire . . . uh . . . one of her considerations was moving the time--instead of 8 p.m. to 6 p.m. Can, you know, can the Department verify the rationale in the 8 p.m., the reduction of time from 8 p.m. instead of using the 6 p.m. time that was discussed a couple of years ago?

CO-CHAIR VICTORINO: Department?

MR. STRAUB: I'll be honest with you. I was not aware of that request. That was the prior Administration, and I don't remember having a conversation along those lines. From my perspective as a park user, 6 p.m. is probably flat out too early to do it, to close the park. I mean people are still actively using it because it's light out and what have you. So I would say from a user's perspective, I think 6 o'clock is too early.

COUNCILMEMBER PONTANILLA: Okay.

MR. STRAUB: And so I would, I think that's probably the discussions that we've had since then and that's why we concentrated more at . . . uh . . . on 8 p.m. Michael, you might be able to add something into that.

CO-CHAIR VICTORINO: Mr. Hopper?

MR. HOPPER: I don't want to speak for anybody; but I believe that when I talked with the Parks Director earlier that they had spoken with the Police Department, and I think that they could live with 8 p.m. I think they had originally wanted six because it would have been light out; but I think because of the . . . some of the concerns that Mr. Straub just articulated that it was . . . um . . . 8 p.m. was sort of the compromise point. That it wasn't too late but it also wasn't so early as to, you know, inconvenience the people that were already using the park.

COUNCILMEMBER MATEO: And for the Department, the bill before us this morning is really a nice change from the original bill that came forward with a lot of concerns and issues, yeah. So what we're actually looking at is just this one item?

MR. STRAUB: Uh-huh.

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COUNCILMEMBER MATEO: The time change.

MR. STRAUB: Yes.

COUNCILMEMBER MATEO: You know, so that it is now 8 p.m. And there is no penalties still involved; and there is no misdemeanor still involved; so we're just looking at a time change?

MR. STRAUB: Correct.

COUNCILMEMBER MATEO: Okay.

MR. HOPPER: Actually, that . . . uh . . . a penalty of up to \$500 could apply because that's the general penalty for all . . . um . . . for any violation of any portion of the Parks Ordinance. But there was . . . um . . . it's true that in the original bill, there was a . . . it was made a misdemeanor with a \$1,000 fine. That portion of the bill isn't in there any longer.

COUNCILMEMBER MATEO: But the \$500 fine is?

MR. HOPPER: Well the \$500 fine because it applies across the board to any violation of a portion of the Parks Ordinance. There are some other provisions that are . . . uh . . . misdemeanors are given. For example, conducting a commercial ocean recreational activity without a permit is punishable by a misdemeanor; but this would not be one of the specific . . . um . . . under our Parks Ordinance, it would be punishable by a \$500 fine.

COUNCILMEMBER MATEO: Okay. So because there still is this fine and because people go camping and you'll start checking for permits starting at 8 p.m., then is the Department looking at expanding your hours for acquiring permits for those who say come in on flights from neighbor islands, so they can in fact get a camping permit so that they're not gonna be subjected to removal and a \$500 fine.

MR. HELM: Well there is a possibility of accommodating those people. We are talking about those things. As a matter of fact, you know, we are even thinking about putting a trailer at the particular sites to have someone . . . like maybe a park ranger or some personnel people to not only monitor but probably eventually provide permits for people because . . . for example, on Molokai, if they come after five, the office is closed. So they wouldn't be able to get their permits but we're going to be looking into that issue because to me it's very important that we try to accommodate those people that are traveling late at night to get a permit. It's only fair that we give them an opportunity to get their permits, even if it's after working hours. So we are going to be looking into that matter.

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COUNCILMEMBER MATEO: Thank you. So for the park ranger, in stopping at sites and checking for permits, are you running across these individuals that could not get a permit because of time constraints?

MR. STRAUB: Well, that's what they'll tell us. You know, and I think it's very, very important to stress that we're not out there looking to catch people doing something wrong. What we're trying to do them, do with these people . . . and, and it involves many, many issues. What we're trying to do is educate them. I think our whole thrust from this park ranger program that we've . . . that we've initiated and we're expanding has been and will be education. And we've gone through some training with MPD on . . . uh . . . even how to approach people, and it becomes a three-step process . . . with the first step being "may I ask you a question" kind of thing. You know, so . . . I mean you're even asking them permission to talk to them. So with that kind of training, with that kind of background, that I think the MPD has been very, very helpful in assisting us. We're not going in there strong-arming anybody, and we're not going in there at 8 o'clock to kick somebody out if they're there at 8 o'clock at night and they don't have a permit. Our instructions generally are, "the permit office opens at 8 o'clock in the morning; if we find you here tomorrow night, we will ask you to leave". So . . .

COUNCILMEMBER MATEO: So there's a--

MR. STRAUB: So . . .

COUNCILMEMBER MATEO: --warning that's provided first.

MR. STRAUB: Yeah. Basically, what we're doing is, you know what? We know . . . I know you're here illegally; please don't be here illegally tomorrow.

COUNCILMEMBER MATEO: Oh, okay.

MR. STRAUB: That kind of thing.

COUNCILMEMBER MATEO: So a warning . . .

MR. STRAUB: So we're not going in there with the strong-arm tactics.

MR. HELM: Yeah.

MR. STRAUB: That's not the idea.

COUNCILMEMBER MATEO: Okay. So, the biggest educational component is a \$500 fine?

MR. STRAUB: Absolutely. . . . *(chuckled)* . . . Yes.

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OTHERS: . . . (*chuckled*) . . .

COUNCILMEMBER MATEO: So you learn real fast, yeah. . . . (*chuckled*) . . .

MR. STRAUB: And that's funny you mention it that way, because I remember when we were going through the training, our favorite police officer in the Wailuku District here is the gentleman that gives out tickets in Wailuku; and he's the one that actually does the training. One of the things that he said, he says after you go through the first two stages, he said the loudest thing that you can speak is to pull the book out; and it speaks many, many, many louder . . . I mean much, much, much louder than anything you can say. And people generally respond pretty positively to it. So . . .

COUNCILMEMBER MATEO: Yeah. My only reason for comments, Chairman, is because I am from Molokai and on Molokai, access to the beach is not a thing we look forward to on weekends. That's a lifestyle for us. And parks, because of your limitations in camping sites, you know, it's time. It's time to start working on expanding it because on this island with 100,000-plus people, you have just two parks; and I don't know where these people are gonna camp, especially since the . . . I guess the concept of what's happening at Kanaha deters people from wanting to go to that park to camp, so we're kind of overloading the other side of the island. So it's time, as we go through the process, to start looking at which other parks, we need to start looking at and creating additional camping facilities or areas for, especially for Maui island.

MR. STRAUB: I don't disagree with you at all with that. I mean because we . . . even in just going down on holiday weekends and you drive down South Kihei Road, there are camps set up illegally all the way down from North Kihei Road (where the canoe club is) all the way down to Kalama Park. We don't bother them. I mean we just, you know, that . . . that's tradition and it's just. We know they're not homeless, so we know they're not gonna be there for longer than two or three days; so you sort of turn the cheek kinda thing. But the problem is, is when you get into specific camping areas such as Papalaua and Kanaha, what happens is the homeless tend to, you know, get their "oh, I'm only here for a couple days". Well we had someone who had a dog, that now they have five dogs because the dog had puppies; and they're still . . . now they're raising to the dogs on the campground, and we know they're homeless. We know they're not going anywhere. We make them get their, you know, and we may . . . we have them get out those two days that the park is closed; so we work with people. It's not like we're trying to be the Ogre. We don't want to be. I don't like to approach people that way and I'm not encouraging any of the park rangers to do that either. So I feel comfortable on Maui as well as on Molokai as a lifestyle that we're not changing things; we're just controlling it.

COUNCILMEMBER MATEO: Thank you.

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MR. STRAUB: Because controls have to be established based on that sheer size that we're dealing with (the 100,000 people) and just because of that, we have to establish controls all the way down to parking on grass . . . because people are used to it. However, we can't do it anymore because now there's too many people parking on grass and they're breaking irrigation heads; so I mean there's a lot of issues that we're dealing with.

MR. HELM: Yeah.

MR. STRAUB: This is only a small portion.

MR. HELM: I'd like to add also. No, there is a need for more campsites for those special people that look forward to camping with families, you know, and . . . no not so much . . . uh . . . those people that are without a home . . . because that's another issue. But I really believe that, you know, the . . . uh . . . the good old days, we used to go out and camp with families and it was, you know, the environment was beautiful and safe. And you know, I think we really need to, you know, start thinking about possibly opening up some campsites that will accommodate those people. Because you know, it's hard to mix those people together, you know, for those homeless people; and you know, it's a different kind of lifestyle. So I think a lot of people would love to go to the beach and camp and bring their families, and that's what I think we need here on Maui because with two and 100,000 people on Maui, it's. So hopefully, our Department and you know, we could somehow propose some--

COUNCILMEMBER MATEO: Yeah.

MR. HELM: --expansion.

COUNCILMEMBER MATEO: Yeah. A couple of years ago, under another Parks Chair, there was a listing of recommended beach parks; and that discussion occurred throughout the different communities, including Molokai. So there is a listing in the Department that indicates areas that communities recommended, so perhaps revisiting that. Thank you very much, gentlemen. And Chairman, thank you for my opportunity.

CO-CHAIR VICTORINO: Thank you, Mr. Mateo. And I think I concur with all of what you said. Also the fact that the Department is taking its first step with changing the hours. I think that's really the crucial point right now. But most importantly, I think the people of Maui County really need to know that when they go camping, wherever they go camping, that it's a secure safe environment for their families and their friends, yeah. And we still do. Our family does on Labor Day and some of the long weekends. We go camping. The one thing that I've been appalled--and I'll put this out for the public to hear; and I want others to understand my point of view on this one; and it's kinda on the subject matter but a little different. Is that when you go camping on beaches adjacent to or close to homes, no matter where on this island, I'd like to let those landowners know that the beach is not theirs. And that they cannot say, "you cannot park here"; or "you cannot be here"; "you cannot camp here". Okay. I think that's something that

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I've always been appalled at. I've had this incident happen to me to me in the East end of the island, and I don't think anybody owns the beaches. As far as I know, the State is the only one that controls the beach when you're talking from the vegetation line to the ocean line. Right? To the sea line. Right? The waterline, I should say. So . . . um . . . remember this is our island and let's kokua and work together. You know, I think this is very important. And then the last thing I'll say is "Zach, please go find that list" because I know it still exists and bring it forward in, maybe in another meeting in the near future. We can put it as an agenda item in something else and bring it out so that people can start hearing about it, and let's see what we can do.

MR. HELM: Thank you. I will do that.

CO-CHAIR VICTORINO: Thank you.

CO-CHAIR MEDEIROS: Chair?

CO-CHAIR VICTORINO: Any other questions in regards to this matter? Councilmember, Co-Chair Medeiros.

CO-CHAIR MEDEIROS: Mahalo, Mr. Chair. For the Department, it was brought up by Member Mateo about people coming in from other islands after the office has closed and not being able to get a permit; and you folks have mentioned that you try to be a little bit flexible on that. Is it possible for people on the other islands or even from like East Maui to get a permit via a fax or an E-mail so that they can get it before they travel?

MR. HELM: I'm not sure though about that. I know if their residence are in East Maui, they could go to the Parks and Recreation office in East Maui and get a permit.

CO-CHAIR MEDEIROS: And what about Molokai and Lanai?

MR. HELM: Molokai, same. They would go to the Parks office on Molokai, and they'll be able . . .

CO-CHAIR MEDEIROS: And get a permit--

MR. HELM: Yes.

CO-CHAIR MEDEIROS: --to camp on Maui?

MR. HELM: Yeah. They would be able to do that, no matter if it's Papalaua--

CO-CHAIR MEDEIROS: Okay.

MR. HELM: --Kanaha--

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CO-CHAIR MEDEIROS: Oh, okay.

MR. HELM: --One Alii Park or Papohaku Beach Park.

CO-CHAIR MEDEIROS: And that's also . . .

MR. HELM: It's all part of the Recware that we have here at the . . .

CO-CHAIR MEDEIROS: Is that available to Lanai also?

MR. HELM: Yes.

CO-CHAIR MEDEIROS: Okay. My next question is . . . uh . . . on this bill amending the ordinance. You have made the hours to be 8 p.m. instead of midnight to 6 a.m. So at 8 p.m. is when you start enforcing that people that are there camping need to have permits? Is that when you do your checks?

CO-CHAIR VICTORINO: Mr. Straub, maybe you can address that, that . . . that question, or Zach? Who'd like to take it?

CO-CHAIR MEDEIROS: Well let me also ask, connected to that. If a person goes to get a camping permit, when can they enter the park to camp? I mean, anytime? Oh, okay. So if they get a permit at 8 o'clock in the morning, they can go straight to the Park?

MR. STRAUB: Unless the park is closed for that day. We will not issue the permit for that day.

CO-CHAIR MEDEIROS: Right. Right.

MR. STRAUB: So that, you know, the parks are closed for cleaning purposes.

CO-CHAIR MEDEIROS: Right.

MR. STRAUB: To have a start over kind of thing, we've had to deal with closing the parks for two days (different days)--

CO-CHAIR MEDEIROS: Right.

MR. STRAUB: --in each of the cases at Papalaua and Kanaha. However, if they approach our permit office on a day that it's closed, we will advise them that they cannot get a permit for that day but the first day they would be able to do it would be Friday, for instance. Okay.

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CO-CHAIR MEDEIROS: Okay.

MR. STRAUB: So yeah, but they can go in pretty much any time. The reason for the enforcement that was established was because we've had the influx of homeless and what have you within the park system. Within the camping areas, we've had to deal with those issues; and the only way you can deal with those issues is: 1. to close the park; and then 2. to inspect the permits. That's where the . . . uh . . . because we were trying to take care of one problem, we unwittingly created another problem, and that problem grew to proportions that we just felt that it was time to take care of the time problem also. So that's really where this all came from . . . uh . . . in regards to both the camping issue as well as the timing issue.

CO-CHAIR MEDEIROS: Okay. And so if at 8 p.m. a person at the park doesn't have a camping permit, even if they're there just in their vehicle, they have to vacate the park?

MR. STRAUB: We would ask them to leave. That's correct.

CO-CHAIR MEDEIROS: And what happens if they're fishermen and they don't have a tent? They're just fishing.

MR. STRAUB: Okay. The way it's been explained to me by MPD has been that "if you put up a tent, that tells me you're camping".

CO-CHAIR MEDEIROS: Okay. No, these are fishermen that do not put up a tent.

MR. STRAUB: Then the fishermen would be fine.

CO-CHAIR MEDEIROS: Okay.

MR. STRAUB: We do not (*NOTE: He cleared his throat.*) excuse me. Because of that, going back to that tradition again--

CO-CHAIR MEDEIROS: Right.

MR. STRAUB: --we do not. That's why . . . initially, this whole thing was aimed at also describing it the way the National Park Service--

CO-CHAIR MEDEIROS: Right.

MR. STRAUB: --described what camping was, so that we did not affect the fishermen.

CO-CHAIR MEDEIROS: Okay.

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MR. STRAUB: The fishermen on Oahu were dealt with in a very positive way and that's the way they established their camping description; and that's what we are trying to deal with, so the fishermen would not be affected. They are told, when we do see fishermen there, they are advised that if you put up a tent, we will consider that you are camping--

CO-CHAIR MEDEIROS: Right.

MR. STRAUB: --and you are not fishing. So that's the way it's been dealt with by both Maui Police Department and now our division with the park rangers.

CO-CHAIR MEDEIROS: That's also a tricky description because nowadays people put up blue tarps. They don't even put up a tent, you know. . . . (*chuckled*) . . . So how do you describe a tent. So that's gonna be a challenge for you folks.

MR. STRAUB: Yeah.

CO-CHAIR MEDEIROS: The other thought, you know, I mentioned is because you brought up the case where the park ranger checked on a permit at 1 o'clock in the morning and that person wasn't very happy. This is just an idea that you--how much is a camping permit?

MR. HELM: It's \$3 a night per adult.

CO-CHAIR MEDEIROS: Three dollars. Okay. This may be a thought that when you issue a permit, you issue a plastic packet that they can hang on the outside of the tent. So they get one copy to keep with them and one bright-colored copy goes in this packet and you hang it on the outside of the tent. The reason for that is if you're only gonna go early to check permits, the word will get around fast that "oh, they only come about 8 o'clock; after that, they won't come around because it's too late and people are sleeping". But with the permit on the outside of the tent, the ranger can just drive by and see it and know that they have something, you know. But that's just my, you know, thought on that, but thank you. Thank you, Mr. Chair.

CO-CHAIR VICTORINO: Thank you. So . . . uh . . . it's a, that's a valid idea, I think. The only thing is, of course, today in replication and being able to replicate anything fairly easy, I think that would be another challenge would be, we maybe open another Pandora's box; but you know, an idea that, you know, it still exists. At this time, I'd like your permission, Committee, to close public testimony. I see nobody and I don't think anybody is coming up for this item, so may I close public testimony?

COUNCIL MEMBERS VOICED NO OBJECTIONS.

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CO-CHAIR VICTORINO: Thank you. Okay. Moving along, any other questions for the . . .

COUNCILMEMBER PONTANILLA: Yeah. Before you . . .

CO-CHAIR VICTORINO: Councilmember Pontanilla, excuse me.

COUNCILMEMBER PONTANILLA: Yeah, before you make your recommendation.

CO-CHAIR VICTORINO: Yes.

COUNCILMEMBER PONTANILLA: At Kanaha, I know there's a parking area . . . *(end of tape, start 1B at 9:42 a.m.)*. . . there is the camping facility. When you close the camping facility for maintenance work on those two days, is the parking area still active? Or do you close the parking area also?

MR. HELM: Well we haven't really enforced that issue regarding cars parking in the parking area in front of the camping site. Although they have been cooperating much more, I mean, lately because we have been constantly going over there and doing our inspection; and you know, our rangers are on top of it. So you know, there's a lot of concerns that when we do clean up that two days when we close the park, there's a lot of rubbish that we have to remove and it's a . . . . it's a constant problem that we run into. And you know, our Central district employees, you know, they do their rounds; and they have to do, you know, remove all of this trash every week. So you know, we . . . uh . . . we hope it gets better, you know, as far as that is concerned.

MR. STRAUB: May I add to that?

COUNCILMEMBER PONTANILLA: Sure.

MR. STRAUB: We have gone in twice in the past two months at 10:30 at night with park caretakers, MPD, park rangers, and the district supervisor, et cetera, and basically remove the people after the park was closed because the park was closed on that particular day. So we just went in there under the premise of cleaning up the park, but we just did it at 10:30 at night instead of 10:30 in the morning. It's almost shocking. So we, it is . . . uh . . . it's a huge problem and it's a huge situation that as time goes on, we'll find ways to deal with it. And we will deal with it, whether it be the parking, issues in that parking lot area, or what have you; but the cooperation with MPD has been absolutely tremendous. And . . . uh . . . the fact that we work together within our own Department and coordinate this effort, I think we're making inroads and we're making people realize that we are watching and paying attention and trying to correct the wrong. So I think with that, it'll . . . with these kinds of changes and little things happening at a time, it will get better also.

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COUNCILMEMBER PONTANILLA: Thank you. I've gone to Kanaha Park sometimes and I see the problems that you guys are faced with in regards to cleaning up the park, and . . . um . . . I don't know what else facilities, maybe the bathrooms. The bathrooms facilities are abused, you know, things like that; but . . . um . . . yeah, the question was, you know, if the parking lot is open. Thank you.

MR. HELM: The other thing that I . . . had discussed this with the Director. You know, the question is when you do clean up that particular area for those two days, where are these people gonna go? So the other . . . uh . . . what I shared with the . . . uh . . . my Director was to possibly, having a campsite two as another site in Kanaha. We're talking about that. We haven't decided as to a location but, you know, just to try to provide the camping areas for these people that have to vacate those two days. That's a possibility, but you know, we . . . uh . . . it's a sensitive issue and we want to make sure that everything we do is accordingly to the public (the general public) and the Administration. So it's something that we're looking into possibly doing to have another campsite at Kanaha because it's . . . uh . . . it's 63 acres. I believe 33 acres of it is developed and the rest is not. So there's, you know, it's a beautiful park; but you know, everybody has to do their part. I mean we have kite surfing. We have windsurfing. We have our local people that go fishing and swimmers; and the canoe club, you know, they're paddling everyday. So you know, there's a lot of usage there. If you had a chance to go there at 1 o'clock to 2 o'clock in the afternoon, you cannot find any parking over there. So you know, Kanaha is always in the back of our mind. So we'll do the best we can to, to . . . to try to deal with these issues. Thank you.

COUNCILMEMBER PONTANILLA: Thank you.

CO-CHAIR VICTORINO: Thank you. I do have one question. Maybe, Bob, you can address this question. Do we still have . . . uh . . . I remember years ago, they put some kind of--I don't know if it was an agreement or a policy. When it came to windsurfers and kite surfers because I know a lot of the public (my brother-in-law guys included) could not go diving along that area of Kanaha, on the backside, which is prime area for those guys who like getting squid and all the other things; and I remember something was worked out. Do we still have that policy in existence? 'Cause I've . . . and I'm sorry; I've not paid attention to it lately. So, is it still in existence?

MR. STRAUB: I'm glad to say that it is. There's a kite surfing group that stays together and I've had several meetings with them over the last three years just trying to deal with locations where kiteboarding should be because kiteboarding is the new sport now. Going back to when windsurfing came in and what have you, there was that little disagreement; but pretty much, everybody has agreed. Even the canoe clubs and the kite, the canoe club rather and the kiteboarding and what have you, there was a little disagreement as to when people should be out there. We worked it out because they are community people and those community people want to help each other. That issue is not really a problem. We have other little small little holes that we gotta deal with but that's not a problem at all. In regards to fishermen, et cetera, et cetera,

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because they all go out there at 11 o'clock in the morning, small kind stuff at 9 o'clock when we have kids classes and things like that; but other than that, it's pretty much left to the fishermen and the divers, et cetera. Probably the biggest thing that's happened recently has been that the activities have increased over at Kanaha because of the cruise ships that come in now six days a week instead of two days a week. So we've seen a tremendous increase in that area with people being brought in by the trolley and buses and what have you, so it's been an interesting challenge. Like Zach has said, it's something that we are paying attention to and we're gonna have baby steps to take care of it.

CO-CHAIR VICTORINO: Good. Thank you very much. I appreciate that. And I'm glad to hear that, you know, everyone works together in the spirit of community and cooperation. I think that's very, very important. It's our community, not just any one segment. No matter if you've been here 50 years or 2 years, we all gotta work and live together and I think that's very important. At this time, any other comments or questions from the Committee or from the Department? If not, I would like to make my recommendation.

CO-CHAIR MEDEIROS: Your recommendation?

CO-CHAIR VICTORINO: Thank you. The Chair would like to entertain a motion to recommend the passage of the revised proposed bill on first reading and the filing of this item.

CO-CHAIR MEDEIROS: So moved.

COUNCILMEMBER PONTANILLA: Second.

CO-CHAIR VICTORINO: It's been moved by Co-Chair Medeiros and seconded by Councilmember Pontanilla. Any other discussion or questions? Sensing none. All those in favor, say "aye".

COUNCIL MEMBERS VOICED AYE.

CO-CHAIR VICTORINO: All those opposed?

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

**NOES: None.**

**ABSTAIN: None.**

**ABSENT: None.**

**EXC.: Councilmember Hokama.**

**MOTION CARRIED.**

**ACTION: FIRST READING OF REVISED BILL AND FILING OF  
COMMUNICATION.**

CO-CHAIR VICTORINO: Let the record show four "ayes", one excused--Council Chair Hokama. At this time, we'd like to take a quick recess; so that we can make the switchover, so that Co-Chair Medeiros can now take over for the Public Works division. We'll take a five-minute break. Thank you, Department of Parks and Recreation.

CO-CHAIR MEDEIROS: Chair?

CO-CHAIR VICTORINO: Yes.

CO-CHAIR MEDEIROS: Can you make it a little longer than that?

CO-CHAIR VICTORINO: Okay. We'll make it till 10 o'clock.

CO-CHAIR MEDEIROS: Okay, thank you.

CO-CHAIR VICTORINO: Okay. So since Co-Chair has asked for ten minutes, I will give it up to 10 a.m. Meeting is in recess. . . . *(gavel)* . . .

**RECESS: 9:51 a.m.**

**RECONVENE: 10:01 a.m. . . .(end of tape, start 2A). . .**

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CO-CHAIR MEDEIROS: ... *(gavel)* ... Good morning, Members. We're gonna reconvene the meeting of the Public Works and Facilities Committee from recess. I am Co-Chair Bill Medeiros. I will be presiding over the second half of the meeting, which will be over agenda items PWF-6, PWF-48, and PWF-49. I want to thank Co-Chair Mike Victorino for presiding over the first half of this meeting and we welcome the Members. We have Council Chair, Riki Hokama, in attendance now with us; and we say good morning to the people in the gallery (all two people); and those that are following our meeting on TV.

I just want to make a brief statement, Members, that'll help us when we're looking at these items. Due to the division of the Department of Public Works and Environmental Management, we will need to revise the resolutions related to PWF Item 6 and PWF Item 48 to reflect this change; and I would be open to motions to that effect when we get to these two items that are discussed. So that's just some information for you, Members.

**PWF-6 ACCEPTING DEDICATION OF A ROAD WIDENING LOT FOR THE STICE SUBDIVISION (MAKAWAO) (C.C. No. 07-26)**

CO-CHAIR MEDEIROS: The first agenda item that we will be taking up will be PWF-6. And PWF-6 is accepting dedication of a road widening lot for the Stice Subdivision in Makawao. The Committee is in receipt of the County Communication No. 07-26, from the Director of Public Works and Environmental Management, transmitting a proposed resolution entitled "ACCEPTING DEDICATION OF A ROAD WIDENING LOT FOR THE STICE SUBDIVISION, PURSUANT TO SECTION 3.44.015, MAUI COUNTY CODE". The purpose of the proposed resolution is to accept the dedication of road widening Lot 5 in Makawao, Maui, along Laie Drive, consisting of approximately 212 square feet, TMK: (2) 2-4-09;portion of 053. At this time, before we take public testimony, I just want to introduce two members from the Administration that are here that were not here at the morning portion, and they'll be here for the second half of our meeting. We have the Director of Public Works, Mr. Milton Arakawa; and from Corporation Counsel, we have Ms. Cindy Young. Thank you for being here. At this time, I will accept public testimony on this item or the other items remaining on the agenda should the testifier not be able to stay until their item is discussed. Committee Secretary, we have anyone signed up?

MS. MARTINS: No.

CO-CHAIR MEDEIROS: Okay. We have no one signed up for testimony and it doesn't appear anybody from the gallery will be coming down. So at this time, without objections, I would like to close public testimony on PWF-6.

COUNCIL MEMBERS VOICED NO OBJECTIONS.

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CO-CHAIR MEDEIROS: Thank you, Members. Now, I would like to ask the Director of Public Works to provide an overview of this matter.

MR. ARAKAWA: Thank you, Mr. Chair. The item you have before you pertains to a road widening lot for the Stice Subdivision located along Laie Road in Makawao. The subdivision was granted final subdivision approval on December 19, 2006. The road widening lot proposed to be dedicated is 212 square feet in area. It is 2 feet in width and runs along the Laie Road frontage. As allowed under Section 18.20.040 of the Code, the subdivider has deferred roadway improvements by completing the requirements of the Three-lots-or-less Subdivision Agreement. The Public Works and Facilities Committee discussed this item at its meeting of June 13, 2007; and at that time, clarification was requested on an easement for fire hydrant purposes located on the final subdivision map. The fire hydrant lot is located outside of the road widening lot. An easement was executed between the subdivider and the County Department of Water Supply on December 19, 2006. The acceptance of the easement by the Director of Water Supply was done pursuant to Ordinance No. 3180, which allows the Director to accept the conveyance of real property interests for water storage tank lots, water reservoir sites, and easements for waterline and other related improvements. A transmittal dated July 11, 2007 documenting the foregoing discussion has been sent to the Committee. A resolution entitled, "ACCEPTING DEDICATION OF A ROAD WIDENING LOT FOR THE STICE SUBDIVISION, PURSUANT TO SECTION 3.44.015, MAUI COUNTY CODE", has been drafted and is in your binder. The Committee's review and consideration of the proposed resolution is respectfully requested.

CO-CHAIR MEDEIROS: Thank you, Mr. Director. Members, it's now open for discussion or questions? Member Hokama.

COUNCILMEMBER HOKAMA: Chairman, thank you. You know, looking at this map that has been provided for the Committee, Director Arakawa. I know the Code allows it but viewing how it is along Laie Drive, why wouldn't we want the improvement done now, instead of deferring it?

MR. ARAKAWA: The deferral is basically allowed by the Code. And generally, our policy is, you know, unless the Code is changed, we've pretty much allowed these types of three-lots-or-less subdivisions because this is basically minor small types of subdivisions to defer their frontage improvements. As you know, there is a Code amendment before the Council to require those frontage improvements to be installed; but our feeling was until that . . . uh . . . or if, until or if that passes, you know, we will just go with the existing deferral privileges, which are allowed by the current provisions of the Code.

COUNCILMEMBER HOKAMA: If we agree. Is that just per the, administratively decided? Or do we have a say in it, on the deferral?

MR. ARAKAWA: I believe that's an administrative decision. However, the decision before you is whether to accept the road widening lot.

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COUNCILMEMBER HOKAMA: So we couldn't say "we would accept it upon improvements completed"? What is . . . Corporation Counsel, you would be able to re-verify Mr. Arakawa's statement that it is an administrative decision?

MS. YOUNG: Let me find the pertinent section in the Code.

COUNCILMEMBER HOKAMA: It's 18.20.040. . . . *(pause)* . . .

MS. YOUNG: Looking at the Code Provision 18.20.040.A, there are certain instances where improvements to existing streets may be deferred, and it lists out those instances containing where a subdivision has three lots or less and . . . um . . . there have, there needs to be an agreement for deferral executed by the Director and the subdivider. So yes, it would be in the discretion of the Director of Public Works whether or not the improvements would be required. Then moving on, what's before you is acceptance . . . is the item of acceptance of the road widening lot; and per HRS, that is limited by the provisions of HRS, which requires the County to accept roadway lots or road widening lots that meet all pertinent Code and Code provisions, rules, and anything pertaining to . . . uh . . . our, basically, our standards; and if it meets our standards, then basically, the County would have to accept those road widening lots.

COUNCILMEMBER HOKAMA: And I would say I would agree with you if the improvements were already done, because then it meets the standards. Deferring the improvements doesn't meet the standards because we still have a substandard situation. We're just telling them the County will allow you to pay for this later . . . to do the improvements; but currently the status is "it doesn't meet the standards". Would you agree to that? So we're not required to accept.

MS. YOUNG: Well under the . . . the way that the Code is currently worded, the lot doesn't have to be improved at this time because the subdivision contains three lots or less and there was an agreement executed between the Public Works Director and the subdivider, so it meets all of the requirements of the Code. And as the Director indicated, there is a proposal before this Committee that would amend this 18.20.040 to change that to basically take away that deferral option and give you basically revised requirements.

COUNCILMEMBER HOKAMA: I thank you for your opinion on that, Corporation Counsel. Chairman, I'm done. Thank you very much.

CO-CHAIR MEDEIROS: Thank you, Chairman Hokama. Members, any other Members have any questions for the Administration or Corp. Counsel? Member Pontanilla.

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COUNCILMEMBER PONTANILLA: Thank you. In regards to the fire hydrant easement and the agreement between the Department of Water Supply, who made a separate agreement with the developer, on the exhibit that is given to us, is there a possibility of including any agreements by any other departments in regards to easements that they may have along with . . . um . . . you know, when we come in for highway improvements? That way it gives us a fairly good understanding as far as the other easements that are also involved. I know the Department Director has the responsibility to provide the road improvements and the easements that they give us. Is there a way that that can be also included so that we don't second-guess all the time?

CO-CHAIR MEDEIROS: Director?

MR. ARAKAWA: Councilmember Pontanilla, when a road is proposed to be dedicated to the County, we will disclose to you and the public what is involved with that dedication. If there are sewerlines or drain lines or waterlines within the roadway, that would be disclosed at, you know, that the County is accepting those . . . uh . . . portions of infrastructure with the roadway dedication. But the easements would involve lands that are typically outside of the dedicated areas per se. Generally, our Department's preference is to have these types of public infrastructure within dedicated roadways. That's our preference. Although in some cases that you have before you, there are easements that are being requested before this Committee; but generally, our preference is to have it within the road right-of-way, and you will know about it when the dedication comes before you.

COUNCILMEMBER PONTANILLA: So we'll still continue to have separate agreements whenever we go into private property?

MR. ARAKAWA: Yes. These things do come up from time to time. Of course, these are road widening lots per se, which is actually widening of the existing right-of-way. But if there are easements like for. Like in this case, a fire hydrant, occasionally, waterlines run between lots or in the back of lots. You have sewer easements that also may traverse private property as well, so that's when we would need easements. So in those types of situations, you know, we'd need approval. Well the sewer easements would require the approval of the Council. I guess in the water . . . in the case of water easements, the Director of Water Supply is empowered to execute that type of document.

COUNCILMEMBER PONTANILLA: Okay, fine. Thank you. Let me ask you this other question. In regards to frontage improvements, road improvements, knowing that this road (the present road) does not have any of those improvements--and when I say improvements, it's curb, gutter, sidewalk. Is that the type of improvements, if this deferral don't go through, that will be needed to be done by family subdivision proposals . . . or applicants?

MR. ARAKAWA: Are you referring to the proposed bill for an ordinance that the Council is considering? Or just . . . *(inaudible)* . . .

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COUNCILMEMBER PONTANILLA: In this case here, you know, just for discussion.

MR. ARAKAWA: If the frontage improvements were required, generally, yeah. That subdivider would be required to put in half of the roadway widths . . . uh . . . standard roadway at their cost. So whatever sidewalk, curb, gutter, that would be required by our standard details, would be required of the applicant.

COUNCILMEMBER PONTANILLA: Thank you. Thank you for that explanation. Thank you, Chair.

CO-CHAIR MEDEIROS: Thank you, Member Pontanilla. I will recognize Member Mateo, then Member Hokama.

COUNCILMEMBER MATEO: Thank you, Chairman. Mr. Director, what improvements are not yet completed?

MR. ARAKAWA: I'm sorry?

COUNCILMEMBER MATEO: What improvements are not yet completed?

MR. ARAKAWA: It's basically the sidewalk, curb, and gutter. In this case, I'm not sure if the sidewalk is planned for this side of the street or the other side of the street. It may just involve curb and gutter; but if the sidewalk is required on this side, then the sidewalk would be required as one of this . . .

COUNCILMEMBER MATEO: And one of the reasons for the delay in completing the improvement is until a determination is made on which side of the street the sidewalk gets built on?

MR. ARAKAWA: No. I just don't know at this . . . offhand, whether or not it would be required on this side or the other side.

COUNCILMEMBER MATEO: Thank you. Thank you, Chairman.

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

COUNCILMEMBER HOKAMA: You would think it would be on the side where get the houses, yeah, Mr. Mateo. . . . *(chuckled)* . . .

OTHERS: . . . *(chuckled)* . . .

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COUNCILMEMBER HOKAMA: Chairman, thank you. Director, tell us the disposition of the executed agreement. Is it recorded with the Land Court? And so that it is tied to the title and the land, and that should the Department for whatever reason forgets that it has a deferred agreement, that if and when the County moves forward, should they not pay, we can place a lien on the property? Or take whatever other means available to the County to ensure that we can get the resources to construct the improvements? How does the Department handle those executed agreements, please?

MR. ARAKAWA: Councilmember Hokama, the agreement, the Three-lots-or-less Agreement is recorded with the bureau so that if the property is sold, future purchasers are, you know, have notice that this agreement exists.

COUNCILMEMBER HOKAMA: Okay. And it's a practice that the Department does for all of these deferred agreements? Because I know there was a concern by one of our colleagues, you know, should we have memory lapse, institutional loss of files, that there's a way for us to be able to go back and fairly assess those that have deferred the improvements?

MR. ARAKAWA: I believe you're correct. I mean it's recorded. The Department would know about it. But I believe the question you are raising is more of a philosophical question as to whether or not it could be enforced, or whether or not it should be imposed upfront. The bill that you have before you basically eliminates this deferral option. One of the issues with the deferral agreement as you know is that we may be dealing with people who are not the original purchasers. And if we are trying to enforce an agreement years after it's actually approved, we may be dealing with different financial circumstances and different owners, which complicates matters as far as, you know, basically the collection. So those are some of the issues that I think the bill (the other bill that you have before you) should address.

COUNCILMEMBER HOKAMA: I'm more concerned about these three agendized items as well as those that have already come forward and have been approved with the deferrals, that the County doesn't have issues later when we're ready to move forward. That's my concern. Because it's not fair to have the general fund make up the need of the financial revenues that these subdivisions are committed to providing. And that's one of my issues there, Mr. Chairman, so thank you.

CO-CHAIR MEDEIROS: Thank you, Chair Hokama. Members, any other questions, concerns? Okay. Thank you for raising, you know, those issues. And I think, as the Director said, maybe a proposed Charter change is coming forth that maybe will make it a better process. And certainly, we don't want the County to end up having to, again, be part of . . . uh . . . trying to make corrections later. But at this time . . .

COUNCILMEMBER HOKAMA: Mr. Chairman?

CO-CHAIR MEDEIROS: Yes.

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COUNCILMEMBER HOKAMA: May I ask Corp. Counsel one question for clarification, please?

CO-CHAIR MEDEIROS: Sure, Chair Hokama.

COUNCILMEMBER HOKAMA: Thank you, Mr. Chairman. Corporation Counsel, for this Committee's understanding, is there (if any) a difference between a recorded document with the Bureau of Conveyances and an agreement recorded with the State Land Court?

MS. YOUNG: Well . . .

COUNCILMEMBER HOKAMA: Or is it one in the same?

MS. YOUNG: Let me answer your question this way. The state of Hawaii has two, you have a dual--

COUNCILMEMBER HOKAMA: Recording system.

MS. YOUNG: --recording system. Right. There's two components. There's Bureau and there's Land Court, and so it depends on what kind of property you have. Right. If you have property that is in Land Court, then you would need to record it with Land Court. They have their own specific procedures and processes that are different from the Bureau of Conveyances. And likewise, the Bureau of Conveyances, if your property is a Bureau of Conveyances' property, then it would be recorded in the Bureau of Conveyances. And sometimes, just to be on the safe side, you can record your property in both. Particularly if it's Land Court, you can just . . . on the safe side, just, you know. I know some developers and people out there, they record in both as a, the kind of the shotgun approach.

COUNCILMEMBER HOKAMA: Is there--

MS. YOUNG: Yeah.

COUNCILMEMBER HOKAMA: --any specific standard or specific item that would differentiate which we would use if we had a choice? Because I know Land Court must be a fully subdivided lot. You cannot go to Land Court with a parcel of a larger lot. They won't accept just meets and bounds. We went through this with our Kaunakakai Fire Station. It must be subdivided out, which . . . what comes before us is a fully subdivided lot. Right? So I would think it would, it can meet the mustard of standards to be recorded with Land Court. Whereby, it's on the title and everything else, and I would say that the County can then prove and lien the property in the future. Is . . . would that hold with the same effect of law under the Bureau of Conveyances?

MS. YOUNG: And again, it . . .

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COUNCILMEMBER HOKAMA: Or does Land Court have a higher value as far as enforcement and execution of the agreement upon request by the County?

MS. YOUNG: Right. And again, it depends on the property that you're talking about because if you look at the history of the property, you can ascertain whether or not it's within the jurisdiction of the Land Court or Bureau of Conveyances. And that would . . . and based on that history, you would look at whether or not it's properly, it properly should be recorded with Bureau of Conveyances or Land Court.

COUNCILMEMBER HOKAMA: So I need to know, are you telling us there's no difference in a sense?

MS. YOUNG: Well the purpose of recordation is to give future owners or everyone out there, you know, it shows that there is this--

COUNCILMEMBER HOKAMA: Encumbrance.

MS. YOUNG: --document, this encumbrance on the property. With Land Court, there are much more, you know, there is much stricter requirements on what's recorded on Land Court property and there is very strict requirements. Bureau has its own set of requirements and in certain respects is not as strict as to what gets recorded on the property.

COUNCILMEMBER HOKAMA: Which would give the County the bigger hammer?

MS. YOUNG: Well, I mean either one gives notice; so whatever the, whatever property it is, that's what you have . . . that's what you would record it as.

COUNCILMEMBER HOKAMA: So if worst-case scenario, if we were to then say, you know, we're gonna lien it; put it part of their taxes; they don't pay, we're going foreclose on that property. Which one would have greater standing? Does it matter--Land Court recordation or Bureau of Conveyances recordation?

MS. YOUNG: It's not that one has greater power. It's just that certain property is designated Land Court and you going go through the specifics. But . . . uh . . . and then certain property, which is actually is the majority of property is Bureau of Conveyances. And as for the lien issue, basically, it will come down to . . . we need to go to court; get a judgment; and then that judgment could be placed as a lien on the property, but we would have to go through that court process first.

COUNCILMEMBER HOKAMA: Thank you very much, Corporation Counsel. Chairman, thank you so much.

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CO-CHAIR MEDEIROS: Thank you, Chair Hokama. Members, any other questions, discussions?  
Member Pontanilla.

COUNCILMEMBER PONTANILLA: Just want to have it clear in my mind. The proposed ordinance that the Director is talking about in regards to not allowing deferrals, if and when we approve that amendment, what happens to all of the deferrals that we have presently on our books? Do we go after `em? Are they grandfathered?

CO-CHAIR MEDEIROS: Director, are you prepared to respond?

MR. ARAKAWA: Councilmember Pontanilla, the agreements would still stand in effect, basically.

COUNCILMEMBER PONTANILLA: As agreed prior?

MR. ARAKAWA: Yes. So if the ordinance is passed, then it would apply to any new applications that are submitted after the effective date of the ordinance.

COUNCILMEMBER PONTANILLA: Thank you. Thank you, Chair.

CO-CHAIR MEDEIROS: Thank you, Member Pontanilla. Any other discussion, questions, Members? Okay. Hearing none.

CO-CHAIR VICTORINO: Recommendation?

CO-CHAIR MEDEIROS: The Chair would entertain a motion to recommend adoption of the proposed resolution and the filing of this item.

CO-CHAIR VICTORINO: So moved.

COUNCILMEMBER HOKAMA: Second.

CO-CHAIR MEDEIROS: Okay, thank you. It's been moved by Co-Chair Victorino and seconded by Chair Hokama. Any more discussion, Members? Seeing none.

COUNCILMEMBER HOKAMA: Did you want a motion to amend regarding just some editing and nonsubstantive amendments to the original resolution to meet your requirements, Chairman?

CO-CHAIR MEDEIROS: Thank you for that, Chair Hokama. Co-Chair Victorino, are you prepared to make a motion to revise the proposed resolution by replacing each reference to "the Director of Public Works and Environmental Management" with "the Director of Public Works"?





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

MR. ARAKAWA: Thank you, Mr. Chair. This item pertains to a road widening lot for the Wahikuli House Lots Subdivision in Lahaina. The subdivision was granted final approval on June 22, 2007. The road widening lot proposed to be dedicated is 215 square feet. It is 2.03 feet in width and runs along the Wahikuli Road frontage. The Department of Water Supply has required a waterline and easement so that water service can be provided to the back lot of the subdivision. As allowed under Section 18.20.040 of the Code, the subdivider has deferred roadway improvements by completing the requirements of the Three-lots-or-less Subdivision Agreement. A resolution entitled, "ACCEPTING DEDICATION OF A ROAD WIDENING LOT FOR THE WAHIKULI HOUSE LOTS SUBDIVISION, PURSUANT TO SECTION 3.44.015, MAUI COUNTY CODE", has been drafted and is in your binder. The Committee's review and consideration of the proposed resolution is respectfully requested.

CO-CHAIR MEDEIROS: Thank you, Director Arakawa. Members, the floor is open for discussion and questions.

COUNCILMEMBER HOKAMA: Just one question, Chairman, please.

CO-CHAIR MEDEIROS: Chair Hokama?

COUNCILMEMBER HOKAMA: Mr. Director, can you confirm for the Committee this morning that those documents that have been sent to the State for recordation have been executed, and the Department of Finance has received those executed documents? I'm just reading what is in our attachment regarding on this one (Wahikuli) June 26, 2007, you have Exhibit I attached, which says "recordation shall be returned to County of Maui, Department of Finance".

CO-CHAIR MEDEIROS: Director Arakawa, do you have that in your binder?

MS. YOUNG: Mr. Chair, if I may? If you're talking about the warranty deed, the deed wouldn't be recorded until after Council accepts the road widening lot. Then at that point, I believe the Department of Public Works--and maybe Milton, maybe the Director of Public Works can verify this--but I believe what happens then is his Department sends this warranty deed to the Bureau of Conveyances, or Land Court as the case may be, for recordation of the warranty deed. But that would occur **after** Council accepts this lot.

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COUNCILMEMBER HOKAMA: You know, now then, you know, it's kinda interesting, yeah, Mr. Chairman? Because we want the grantor, yeah, to be required to do the deferred improvements, yeah? So it should be, to me, recorded prior to Council action. Because already, if we follow Corp. Counsel's comments, we've already accepted the lot; so what then induces the grantor or the applicant to follow through, because we've already accepted the lot? Maybe this is something that, you know, as far as the Council is concerned, we won't take action until we get the executed document . . . like we treat all other unilateral agreements . . . because I don't see the purpose of recording after we accept the lot. And what is signing is the grantor, not the County.

CO-CHAIR MEDEIROS: Corp. Counsel, you have a response?

MS. YOUNG: If I may clarify my comments? The warranty deed would not get recorded until after this Council passes the resolution accepting the lot. But the agreement deferring the improvements (the three-lots-or-less deferral agreement) basically would be recorded prior to final subdivision approval.

COUNCILMEMBER HOKAMA: So that being the case, Corporation Counsel, it is interesting you state that because only what is before this Committee is the warranty. Why don't we get a copy of the executed recordation of agreement between the Director and the grantor . . . to verify the execution and recordation?

CO-CHAIR MEDEIROS: Director or Corp. Counsel, would you like to respond?

MR. ARAKAWA: We haven't submitted those. But if the Council desires to see those, I mean we can certainly submit those in the future.

COUNCILMEMBER HOKAMA: Well I would just like someone's signature to verify that it has been completed. Because if it hasn't, then we know who we're gonna go back and who's feet we're gonna put on the fire. Thank you, Chairman.

CO-CHAIR MEDEIROS: Thank you, Chair Hokama. Members, any other questions? Okay. Seeing none. The Chair would like to give his recommendation at this time.

CO-CHAIR VICTORINO: Recommendation?

CO-CHAIR MEDEIROS: Okay. The Chair will entertain a motion to recommend the adoption of the proposed resolution and the filing of this item.

CO-CHAIR VICTORINO: So moved.

COUNCILMEMBER PONTANILLA: Second.





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CO-CHAIR MEDEIROS: Okay. Seeing none and no one coming from the gallery to give testimony, without objections, Members, the Chair would like to close testimony on PWF-49.

COUNCIL MEMBERS VOICED NO OBJECTIONS.

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

MR. ARAKAWA: Mr. Chair, this item pertains to road widening lots for the BKJK Subdivision in Piihola. This subdivision was granted final approval on June 22, 2007. There are three separate road widening lots proposed to be dedicated. Lot 2-D is 266 square feet, which provides for a corner rounding at the intersection of Waiahiwi Road and Ehu Road. Lot 2-E is 367 square feet. Lot 2-F is 686 square feet. Lots 2-E and 2-F are located along the Waiahiwi Road frontage and are irregularly-shaped parcels, which provide additional space around severe curves on Waiahiwi Road. As allowed under Section 18.20.040 of the Code, the subdivider has deferred roadway improvements by completing the requirements of the Three-lots-or-less Subdivision Agreement. A resolution entitled, "ACCEPTING DEDICATION OF A ROAD WIDENING LOT FOR THE WAHIKULI HOUSE LOTS SUBDIVISION, PURSUANT TO SECTION 3.44.015, MAUI COUNTY CODE" [*sic*], has been drafted and is in your binder. The Committee's review and consideration of the proposed resolution is respectfully requested.

CO-CHAIR MEDEIROS: Thank you, Director Arakawa. Members, the floor is open for discussion and questions. Any questions? Member Pontanilla.

COUNCILMEMBER PONTANILLA: Thank you, Chair. The previous two deferrals we looked at, road dedication fronting the major lot that faced the roadway. In this case here, you know, I noticed that--and the Director also pointed it out--that 2-D, 2-E, 2-F is to provide additional frontage or . . . um . . . for those curves. In regards to the road itself, you know, the total length of the particular subdivision, is there a reason why we're not asking that 2 feet for road widening, should we have road widening in the future?

MR. ARAKAWA: Generally, what we require as far as the amount of the road widening lot is . . . uh . . . the lot that's being subdivided provides half of the required amount. So basically, if let's--like in the previous example, the existing right-of-way was 40 feet. The standard (urban standard) would be 44; and if you're a subdivider on one side of the street, we would require a 2-foot-wide road widening lot. In this particular case that you have before you, it's in the Ag zone and the remainder of the road actually has adequate right-of-way. We just felt that along these severe curves, where you can see the actual pavement is right near the edge of the right-of-way, we just felt that additional right-of-way would be needed around the curves to provide an additional margin of safety; and the other lot, of course, is to provide that corner rounding at the intersection.

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

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CO-CHAIR MEDEIROS: Thank you, Member Pontanilla. Members, any other questions, discussions?

COUNCILMEMBER HOKAMA: Mr. Chairman?

CO-CHAIR MEDEIROS: Council Chair Hokama.

COUNCILMEMBER HOKAMA: Thank you so much. I take note from what's in our file regarding this request, that it is--and I believe the Director also mentioned it--that this is an agricultural subdivision. So I'm assuming it passes mustard and anything to do with sliding scale and other requirements has been met. Can that be verified, Mr. Chairman, either through the Director or Corporation Counsel?

CO-CHAIR MEDEIROS: Director Arakawa, would you like to respond to that?

MR. ARAKAWA: The subdivision process basically involves review by the Department of Planning. So they would review any proposed subdivision for compliance with the zoning, and they have signed off.

COUNCILMEMBER HOKAMA: And they have signed off? Okay.

CO-CHAIR MEDEIROS: Corp. Counsel, would you like to add any further comments to that?

MS. YOUNG: With respect to the sliding scale, and that's under 19.30A of the Maui County Code, there is required to be an agreement for future lot potential and that agreement is between the subdivider and the Department of Public Works. So basically, DSA would do this worksheet that shows the lot potential for each created lot and that would be attached to an agreement for future subdivision potential. That agreement again--between the subdivider and the Director of Public Works--would be recorded prior to final subdivision approval.

COUNCILMEMBER HOKAMA: Okay, and I just want this so that it's clear that the Committee did consider it. *(NOTE: He cleared his throat.)* Excuse me. Mr. Chairman, my understanding is once this subdivision has been completed and it's been signed by the Director, it cannot be further subdivided, not under our Agricultural Sliding Scale Law. So I would like that verified, that this is it. It does not have opportunities in the future to be further subdivided.

CO-CHAIR MEDEIROS: Director Arakawa, you have some comments on that? Or Corp. Counsel?

MR. ARAKAWA: In looking at the lots, you know, there are basically three lots that are being created with this subdivision. All are slightly over 2 acres and since it's in Ag zone, it cannot be subdivided any further.

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COUNCILMEMBER HOKAMA: Thank you for that confirmation, Director Arakawa. I just have one question regarding 2-B since it's on the notes, Members, under Point-11. It says, the depth of Lot 2-B may restrict construction of buildings and we only allow a main dwelling and an accessory on Agriculture. Can you explain this note to us, Director, please . . . when it says "the depth may restrict construction"?

CO-CHAIR MEDEIROS: Council Chair Hokama, is that on the map, that note you're referring to?

COUNCILMEMBER HOKAMA: Yes.

CO-CHAIR MEDEIROS: Okay.

COUNCILMEMBER HOKAMA: Yes, Mr. Chairman.

CO-CHAIR MEDEIROS: Okay. Thank . . .

COUNCILMEMBER HOKAMA: It's on the map that's been--

CO-CHAIR MEDEIROS: Okay.

COUNCILMEMBER HOKAMA: --produced for the Members.

CO-CHAIR MEDEIROS: Thank you. Director Arakawa?

MR. ARAKAWA: This property that you have before you is property that contains a gulch, and it's noted there. It's an existing drainage reserve. So basically, that crosshatched area that you see on the map, generally, is an unbuildable area. So the remaining area is what the subdivider would have to build his lot on, so it's quite restricted as far as the area is concerned. So that's probably why the note has been placed on the subdivision map.

COUNCILMEMBER HOKAMA: So again, just for . . . *(inaudible)* . . . saying. You described it as a gulch, so I'm assuming there's steep . . . uh . . . it's not an incline but a slope, steep slope. More than 30 degrees or something? Would you be able to share with us that comment?

MR. ARAKAWA: I don't know the exact slope but I can vouch for the gulch. It is a fairly steep gulch but I don't know the slope offhand.

COUNCILMEMBER HOKAMA: And again, you know, forgive my lack of understanding. I had thought that once we reach a certain degree of slope, that would then be one of the criteria distinctions between Agriculture and Conservation lands. So why wouldn't the gulch be Conservation? You wouldn't be able to give us comment, Mr. Director?

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MR. ARAKAWA: I wouldn't be able to comment on that. I just know that the zoning is County Ag and it's also State Ag.

COUNCILMEMBER HOKAMA: Thank . . .

MR. ARAKAWA: And also community planned Ag as well.

COUNCILMEMBER HOKAMA: Right. Right. No, I . . . uh . . . yeah, I read the stat sheet; but thank you for explaining the hatched lines . Thank you very much, Chairman.

CO-CHAIR MEDEIROS: Thank you, Council Chair Hokama. Any other questions or discussion, Members? Seeing none. I'd like to . . .uh . . . the Chair would like to give his recommendation.

CO-CHAIR VICTORINO: Recommendation?

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

CO-CHAIR VICTORINO: So moved.

COUNCILMEMBER PONTANILLA: Second.

CO-CHAIR MEDEIROS: It's been moved by Co-Chair Victorino and seconded by Member Pontanilla. Any further discussion? Seeing none. All in favor of the motion, say "aye".

COUNCIL MEMBERS VOICED AYE.

CO-CHAIR MEDEIROS: All opposed?



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COUNCILMEMBER MATEO: Chairman, thank you very much. Under announcements, I would just like to let the Chair and the Committee know that I will be forwarding a request to the Committee in terms of the Molokai Landfill and the ordnances found in the landfill. I will be requesting information on an update from the Department. So that would be forthcoming, Chairman.

CO-CHAIR MEDEIROS: Thank you, Member Mateo, for that announcement. Any other announcements, Members? Seeing none. I would like to thank the Administrative representatives here; and all Committee Staff; and all of you, Members. Without objection, the Chair will adjourn this meeting.

CO-CHAIR VICTORINO: No objection.

CO-CHAIR MEDEIROS: Okay. Meeting adjourned. . . . (*gavel*) . . .

**ADJOURN: 10:55 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