

MINUTES

PUBLIC WORKS AND FACILITIES COMMITTEE

Council of the County of Maui

Council Chamber

March 14, 2007

CONVENE: 9:07 a.m.

PRESENT: Councilmember Bill Kauakea Medeiros, Co-Chair
Councilmember Michael P. Victorino, Co-Chair
Councilmember G. Riki Hokama, Member (arr. at 9:10 a.m.)
Councilmember Danny A. Mateo, Member
Councilmember Joseph Pontanilla, Member (excused from 9:45 to 10:43 a.m.)

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

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

ADMIN.: Michael Hopper, Deputy Corporation Counsel, Department of the
Corporation Counsel
Tamara Horcajo, Director, Department of Parks and Recreation
(Item No. 14)
Robert Straub, Special Events Specialist, Department of Parks and
Recreation
Milton Matsuoka, Captain, Wailuku Patrol, Department of Police
(Item No. 14)
Benjamin Acob, Prosecuting Attorney, Department of the Prosecuting
Attorney (Item No. 14)
Milton Arakawa, Director, Department of Public Works and
Environmental Management
Cindy Young, Deputy Corporation Counsel, Department of the
Corporation Counsel
Brian Moto, Corporation Counsel, Department of the Corporation
Counsel

OTHERS: Two (2) people

PRESS: *Akaku--Maui County Community Television, Inc.*
Ilima Loomis, The Maui News

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CO-CHAIR VICTORINO: . . . *(gavel)* . . . Good morning.

CO-CHAIR MEDEIROS: Good morning.

CO-CHAIR VICTORINO: This is the Committee meeting for Public Works and Facilities County of Maui for March 14, 2007. We're starting at 9:07 a.m. Sorry about the delay. Present today are Members . . . Councilmember Danny Mateo.

COUNCILMEMBER MATEO: Good morning.

CO-CHAIR VICTORINO: Councilmember Bill Medeiros.

CO-CHAIR MEDEIROS: Aloha.

CO-CHAIR VICTORINO: Councilmember Joe Pontanilla.

COUNCILMEMBER PONTANILLA: Good morning.

CO-CHAIR VICTORINO: And will be joining us very soon is Council Chair Hokama and myself (the Chair) Mike Victorino. This morning, we also have representing the Public Works for all Public Works items will be Cindy Young. Cindy is sitting in the audience. For the Parks and Recreation will be Michael Hooper *[sic]* as well as--Hopper, I should say. Sorry. I'll get that right. And as well as J.D. Kim. Also present is Parks' Director Tamara Horcajo. Good morning. In the audience, we have . . . uh . . .

MS. HORCAJO: Milton Matsuoka.

CO-CHAIR VICTORINO: *(NOTE: He's asking Ms. Horcajo.)* Captain, eh?

MS. HORCAJO: Captain.

CO-CHAIR VICTORINO: Captain Milton Matsuoka. Also we have Corp. Counsel Brian Moto, Prosecuting Attorney . . . uh . . . Mr. Acob. Nice to have you. And also representing the Parks, Mr. Bob Straub. Thank you, Mr. Straub, for being here. Members, today, we have nine items; and I will be presiding over the first half of the meeting, which will be PWF Item No. 14. Co-Chair Medeiros will be presiding over the second half of the meeting, which includes PWF Items 4, 5, 6, 7, 19, 20, 24, and 35. Before I go on, I want to also not forget to introduce our Council Services Staff, Pauline Martins, Secretary; and Scott Jensen, our Legislative Analyst. Announcement: public testimony will be accepted on each item on this agenda. Any member of the public not able to stay until the item is heard may provide testimony at this time. Those wishing to testify should sign up with the Secretary, Pauline Martins, right now.

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PWF-14 PENALTIES PERTAINING TO THE RECREATIONAL AREA REGULATIONS GOVERNING CAMPING (MISC.)

CO-CHAIR VICTORINO: Pauline, do we have any public testimony?

MS. MARTINS: No.

CO-CHAIR VICTORINO: If it's all right with the Committee, I will leave public testimony open for now.

CO-CHAIR MEDEIROS: No objections.

CO-CHAIR VICTORINO: No objections. Thank you. Okay. Moving right along. Opening statement: we have in hand a miscellaneous communication, dated September 23, 2003, from the County Clerk, relating to the penalties in Chapter 13.04, Maui County Code; as well as the correspondence dated August 24, 2005, from the Department 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 . . . uh . . . the proposed revised . . . of this proposed bill is to amend Chapter 13.04, Maui County Code, as it relates to camping. And we have no public testimony at this time. And I'd like to recognize the attendance of our Council Chair Riki Hokama. Thank you, Mr. Hokama.

COUNCILMEMBER HOKAMA: Good morning, Chairman.

CO-CHAIR VICTORINO: Before I go into an overview with the Parks, Tamara, I would like to make one quick opening statement, which is not related to any item that we're discussing; but I think has some very importance to our community. Yesterday, we lost a very good friend, a longtime supporter of the Parks and Recreation, Mr. Anthony (Uncle Tony Medeiros). I've known the Medeiros family as well as Uncle Tony for many, many years. He was instrumental in helping many groups on many events throughout this County. He was a Parks' employee for many years. Also, I think, worked with F&M Construction and a number of other jobs. On behalf of myself, and I hope the rest of the Committee, we'd like to send our condolences and our deepest sympathy for the entire . . . to the entire Medeiros family; and wish them, in this time of loss, the best. Thank you for that consideration, gentlemen. Okay.

I would like now to ask the Parks and Recreation Director, Ms. Tamara Horcajo, for an overview on this matter. Ms. Horcajo?

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MS. HORCAJO: Thank you. Good morning, Committee Chair Victorino and Council members. We're here this morning to get the support from . . . uh . . . from you (the County Council) to enable the Department of Parks and Recreation to provide a more safe environment for our camping for our residents and our visitors that come to Maui County. There are recommendations to amending the current ordinance in Chapter 13.04 that we believe will make our ability to provide a safer arena for camping in our County. And we would request that you assist us in making these changes to the ordinance so that we can continue to provide existing camping for our four areas: two on Molokai and we have two camping areas on Maui. And in order for us to continue or expand our camping opportunities, we need to have this amendment . . . uh . . . or our current County Code more clear.

This amendment clarifies four areas. One, being the definition of "camping". Two, it provides assistance for the Department to close camping if we need to. The third area is to change the camping time that, where a permit is required for camping from midnight to 8 p.m. so that enforcement becomes a little easier. The fourth area is to change the penalty from a citation offense to a petty misdemeanor. And we have with us our Police and our Prosecutor and our Corp. Counsel as well as our enforcement arm of our Parks' Department to answer any questions that you folks might have so that we can proceed and get this amendment completed.

CO-CHAIR VICTORINO: Thank you. Any questions for Ms. Horcajo . . . before we call upon the Police?

COUNCILMEMBER MATEO: Chairman?

CO-CHAIR VICTORINO: Yes, Mr.--Councilmember Mateo, I should say.

COUNCILMEMBER MATEO: Chairman Victorino, thank you very much. The proposed ordinance that is being recommended for amendment. Now that Ms. Horcajo has gone through the four cites being proposed for amendment, are you going to have the Department walk through this section by section so we are able to ask specific questions? Or is it just . . . are you just willing to open the floor at this point for coverage of the whole ordinance, itself?

CO-CHAIR VICTORINO: I would prefer to . . . if--whatever the body desires. If they'd like to go on the four main points and go by section? If that's what you prefer, Members? Okay. Then we will do it that way.

COUNCILMEMBER MATEO: Thank you, Mr. Victorino.

CO-CHAIR VICTORINO: Go ahead, Mr. Mateo.

COUNCILMEMBER MATEO: Okay. Madam Director. Under the amendment to reference the definition of "camping", yeah, the definition in itself "uses the park for living accommodation purposes". "Living accommodation purposes", the reference to it seems so broad and vague in

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terms of living accommodations and it also does not reference a duration. So are you looking at providing a duration time in here . . . uh . . . because the way it looks. The way I'd read this right now is--you can camp for a month, two months, three months--because there is no duration that identifies what camping actually is, and to reference it with "living accommodations", it's just too general.

CO-CHAIR VICTORINO: Ms. Horcajo?

MS. HORCAJO: Thank you. Councilmember Mateo. Currently the ordinance states that there is a maximum of a three-day allowance for a permit; so any camper currently is only allowed a three-day camping permit.

COUNCILMEMBER MATEO: Okay. So that would not be included in the definition, itself? Because the reference to "living accommodation" kinda like throws that three-day thing . . . um . . . questionable?

MS. HORCAJO: The three-day limit is mentioned elsewhere.

COUNCILMEMBER MATEO: Okay.

MS. HORCAJO: In our Admin Rules & Reg's.

COUNCILMEMBER MATEO: Okay. Thank you. The next item I'd like to also ask you about is your reference to closures. Closures will be done specifically just to clean and maintain?

MS. HORCAJO: We currently have a two-day closure for each of our camping areas on Maui.

COUNCILMEMBER MATEO: Okay.

MS. HORCAJO: And those closures are to do any improvements, to clean, and maintain the park.

COUNCILMEMBER MATEO: Okay. So Madam Director, I think, my initial problem is this. With this particular item, is . . . uh . . . a continuation of our earlier discussion. I find it quite difficult for the Department to close camping sites for our people, especially when on this island, there's just two facilities or two areas that you can camp. And I understand the need for maintenance and upgrade, but I think it's time for the Department to take a look at opening additional beach sites so that our people can actually camp. You're looking at an island of a population of what . . . 100,000-plus, and there's two campsites. Then you look at Molokai. We've got a population of what . . . 7,400, and we've got two campsites. It's just difficult to fathom how, you know, we encourage our people to use the recreational facilities; and yet, we don't provide enough for our people. So closures for me is an initial problem that is not yet addressed by the Department.

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The other area that I'm concerned about is the penalties. I think . . . um . . . I'm reading that "persons violating any provision of the article shall upon conviction be guilty of a petty misdemeanor subject to a fine of \$1,000". You know, I don't know the reference to this. Is it when approached and advised that you're illegally camping, you get out of hand? I mean what is the scenario for this? Because . . . uh . . . I get concerned you're gonna put our people in jail and you're gonna charge `em a fine for camping?

MS. HORCAJO: Regarding the fines, I'd like to turn that over to Captain Matsuoka. But prior to that, again, I believe that the Department and the Administration, as well as the County Council, has indicated we do want more camping in our community; and we do want to make it safe. This ordinance change will lay the first step in a foundation to, so that we can open additional sites; so that we can get them under control; make them safe for our community. And I believe that . . . um . . . as soon as we also obtain funding for the security of our sites and better maintenance of our sites, we are with you. We want to look at opening new sites as well. So with your assistance, I think that should be a priority in the next year or so. Regarding the penalty, I'd like to have the Police discuss that with you. So, thank you. We are here so that we can accommodate camping better in our community, so your assistance is appreciated.

MR. MATSUOKA: Good morning, Council members. I'm Milton Matsuoka. I'm a Captain with the Police Department and Commander of the Central District. I just wanted to say that as far as the upgrade from the violation to the petty misdemeanor, it's not our intent, or was never our intent to . . . uh . . . make it like an automatic arrestable [*sic*] offense. What it is, is it assists us in addressing habitual abusers of this camping ordinance. And at this point, right now, all we can do is cite. There's a lot of--well not a lot of--but there are issues involving just being able to cite. Because what's happening (and has happened in the past) is if someone gives us a false name, there is no way that we can . . . uh . . . enforce that; especially if we, it's obvious that they are giving a false name because that's what's happened in the past. You give a citation for a camping violation and basically it's not gonna go anywhere if it's a false . . . uh . . . if he gives us a false name, or the person gives us a false name, because once it goes to court, again, it's just gonna sit there and it's not, nothing's gonna happen with it because again, it's already a false name. So even if they have a subpoena that goes out for the person, I don't think . . . uh . . . and it's a false name, I mean there's no way that we can have that person come into court. So again, for these habitual abusers that are giving us . . . uh . . . you know, or know that they can get away with it, then again, that's an option that is available to us. So that if he continues to give us a false name, we can now make an arrest and bring him in and now we can have fingerprints or also, and also he has to verify what his name is. And so again, our intent was never to . . . so that we can just go down there the first time and arrest someone. Of course, you know, that is still an option available to us; but it's, that was never our intent. It was more . . . it was always for the people that are constantly abusing it and citations have not worked or don't work; and again, that's the reason why we have one more option available to us.

CO-CHAIR VICTORINO: Members, other questions for Captain Matsuoka?

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CO-CHAIR MEDEIROS: Chair?

CO-CHAIR VICTORINO: Yes, Member Medeiros.

CO-CHAIR MEDEIROS: Captain, when you speak about approaching somebody and trying to determine their name and they're giving a false name, now are these people that are camping without permits? Is that who you're referring to?

MR. MATSUOKA: Well part of this change in the ordinance also is to make a better definition of what camping actually is. And so, yeah, some of these people are . . . again, they're not camping within a camping area but they're also saying that they're fishing. And so I think that's the reason why we're trying to get a better definition of what camping actually is. And so, again, we'll . . . uh . . . you know, so again, we can . . . it kinda helps us determine whether the person is actually fishing or we can still charge `em for camping. Especially if we know that the person is . . . has been there like days and days and weeks and weeks; and so again, he can't make that claim that they're fishing.

CO-CHAIR MEDEIROS: Chair?

CO-CHAIR VICTORINO: Yes.

CO-CHAIR MEDEIROS: I'd like to direct a question to the Administration.

CO-CHAIR VICTORINO: Yes. Go ahead, Mr. Medeiros.

CO-CHAIR MEDEIROS: Director Horcajo. If you . . . if your Department issues out a permit for camping, are there ID documents required in order to get a camping permit?

MS. HORCAJO: They . . .

CO-CHAIR MEDEIROS: Or you just take the person's name for what they give you?

MS. HORCAJO: They are required to show some form of ID.

CO-CHAIR MEDEIROS: Okay.

MS. HORCAJO: Their driver's license or State ID.

CO-CHAIR MEDEIROS: Okay. So if they're approached by the Police at a campsite and they do have a camping permit, then that identification of them on the permit should be a correct identification of that person.

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MS. HORCAJO: That is correct.

CO-CHAIR MEDEIROS: Okay. And Captain, if you issue a citation, what kind of penalty (if anything) or what kind of ramification is that? It's just . . . is it just a notice that they're in violation; they're not supposed to be there.

MR. MATSUOKA: You mean once the citation is issued?

CO-CHAIR MEDEIROS: Yes.

MR. MATSUOKA: Usually, the citation is issued and then what it is, is they can call the court (District Court) to find out if they want to contest it . . . uh . . . I believe a court date is set. Otherwise, if they want to just pay the fine, they can pay the fine.

CO-CHAIR MEDEIROS: And that citation would be issued under what ordinance or law . . . is what I'm trying to get at?

MR. MATSUOKA: Oh, I guess it would be under that Ordinance 13.04 . . .

CO-CHAIR MEDEIROS: Okay. About camping?

MR. MATSUOKA: Yeah.

CO-CHAIR MEDEIROS: Oh, I see. Okay. So there is a penalty to the citation that you issue if the court so deems to be correct?

MR. MATSUOKA: Yeah, it would be up to \$500, I believe, the way it's written now.

UNIDENTIFIED SPEAKER: It's up to \$1,000.

MR. MATSUOKA: I'm sorry. It . . . uh . . . it would be changed to up to \$1,000.

CO-CHAIR MEDEIROS: Okay. So that would be the possible penalty on the citation you would issue and that you currently issue as the Police Department? I'm trying to find out, you know, the citation that you currently issue has the penalty of a monetary penalty and imprisonment? I know the new one, you know, is being raised to \$1,000 and imprisonment. What's the current, what currently do, does the citation, you know?

MR. MATSUOKA: Presently, it's \$500.

CO-CHAIR MEDEIROS: Oh, okay.

MR. MATSUOKA: Yeah.

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CO-CHAIR MEDEIROS: Okay.

MR. MATSUOKA: And it's just a violation; it's not a petty misdemeanor.

CO-CHAIR MEDEIROS: Right. Okay, just a violation. Thank you, Chair.

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

COUNCILMEMBER PONTANILLA: Thank you. And I appreciate the ordinance that's being brought forward in regards to tightening up some of our camping codes. And I do support the Police Department. You know, if it's gonna help the Police Department to do their jobs, then by all means, we should support the Police Department. My question though is to the Parks' Director in regards to the Park Rangers. Are they able to cite campers that are not allowed in the camping area?

CO-CHAIR VICTORINO: Ms. Horcajo?

MS. HORCAJO: The two Park Rangers that we currently have were specifically designated for the ocean recreation activity areas. If they are in a park that also has commercial activity in that park, they have assisted the department in looking at the permits for the campers. I do have Bob Straub here, who is in charge of the enforcement, if we want to get more specific. But I guess, the Budget comes out tomorrow and we'll hope that more rangers can be accommodated in the future to actually address this issue better. Currently, the two that we have now focus on commercial ocean recreation activity.

COUNCILMEMBER PONTANILLA: Thank you. Thank you, Chair.

MS. HORCAJO: So our enforcement is a little weak.

COUNCILMEMBER PONTANILLA: Okay. One more question. Are they trained to do enforcement presently?

MS. HORCAJO: Yes, they are.

COUNCILMEMBER PONTANILLA: Thank you.

MS. HORCAJO: Our Parks' officers have been trained by the Maui Police Department.

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

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CO-CHAIR VICTORINO: Thank you. If we want to get more specific on the Parks' Ranger, we can have Mr. Straub come up a little bit later and get more specific on their duties and responsibilities. Any more questions for Captain Matsuoka at this time?

COUNCILMEMBER MATEO: Chairman?

CO-CHAIR VICTORINO: Yes, Mateo.

COUNCILMEMBER MATEO: Thank you, Mr. Victorino. Captain, your reference to individual fishing. If an individual is fishing for the weekend and the fact that he has his cooler and a sleeping bag, would that require . . . um . . . well, I don't know, maybe to the Department first. Would that require a permit? And then secondly, how would enforcement affect this individual had he not have a camping permit?

MR. MATSUOKA: What is the . . .

CO-CHAIR VICTORINO: Excuse me. Mr. Mateo, you said to the Department first?

COUNCILMEMBER MATEO: First.

CO-CHAIR VICTORINO: Yeah.

COUNCILMEMBER MATEO: Right.

CO-CHAIR VICTORINO: So that would be Ms. Horcajo, that you're asking?

COUNCILMEMBER MATEO: Yes.

MR. MATSUOKA: Oh! I'm sorry.

CO-CHAIR VICTORINO: Ms. Horcajo, would you answer the question first. I think he was referring it to you, your Department.

MS. HORCAJO: Currently, the enforcement, we rely on the Police for enforcement.

COUNCILMEMBER MATEO: Okay. So the individual fishing . . . um . . . the fact that he has a cooler and a sleeping bag, that apparently would indicate camping?

MS. HORCAJO: If . . . uh . . . it came to the Parks attention that there was an individual fishing at that point, at this point, we don't . . . um . . . in the evening, we don't have staff monitoring the area.

COUNCILMEMBER MATEO: So . . .

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MS. HORCAJO: If it would have come to our attention because of a complaint call from a neighbor, we would then phone the Police for enforcement.

COUNCILMEMBER MATEO: Thank you very much. So that would be a camping activity that would be, that it would require to have a camping permit . . . to the Department? Is that what I'm hearing you say?

MR. MATSUOKA: . . . *(inaudible)* . . . *(NOTE: He's speaking to Ms. Horcajo.)*

MS. HORCAJO: Yeah. Oh, okay.

CO-CHAIR VICTORINO: Captain Matsuoka, maybe you can better answer that.

COUNCILMEMBER MATEO: Please.

MR. MATSUOKA: Councilmember Mateo. I believe that camping permits are only issued for the legal camping areas. It's not . . . they're not gonna issue a permit for someone that wants to go fishing, you know, like say down Nuu Landing or what they call Plenty Kiawe. That's . . . the camping permits are only for the two areas that are actually permitted for camping. That's the only time they'll actually issue a permit if I believe that.

MS. HORCAJO: That's correct.

COUNCILMEMBER MATEO: Okay. And that is consistent with the Department? The Department is kinda, kinda hazy on your explanations. Is that . . . *(inaudible)* . . . ?

MR. MATSUOKA: You mean my department?

COUNCILMEMBER MATEO: No.

MR. MATSUOKA: Oh!

COUNCILMEMBER MATEO: I'm talking about the Parks Department.

CO-CHAIR VICTORINO: Parks, please.

COUNCILMEMBER MATEO: Yeah.

CO-CHAIR VICTORINO: Ms. Horcajo?

MS. HORCAJO: We only have camping in two areas on Maui--

COUNCILMEMBER MATEO: Yeah.

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MS. HORCAJO: --currently.

COUNCILMEMBER MATEO: Okay.

MS. HORCAJO: And those two areas, I think, you are aware, they are Papalaua and Kanaha.

COUNCILMEMBER MATEO: Yeah. And Papalaua, there is a camping . . . there is fishing sites right on the rocks areas. So I figure if someone would go camping in that . . . if someone would go fishing in that particular area, without a camping permit, then is that considered a violation?

MS. HORCAJO: If . . . uh . . . by definition, "if they have a bedroll or a tent set up", then that would be camping as defined in the ordinance. And then . . . um . . . if again, that were in the camping location, they would need a permit. If it's outside the camping area, if it's in the high-water jurisdiction, if they're just staying in the State jurisdiction, that would be the State's jurisdiction there--

COUNCILMEMBER MATEO: Okay.

MS. HORCAJO: --between the ocean and the high-water.

COUNCILMEMBER MATEO: Okay.

MS. HORCAJO: If they're outside the camping areas and the park is closed, then again, that would be an enforcement, where we would . . . um . . . if there was a complaint called, we would call the Police.

COUNCILMEMBER MATEO: Thank you. Thank you, Chairman.

CO-CHAIR VICTORINO: Thank you, Mr. Mateo. Any other comments or questions for Officer?

CO-CHAIR MEDEIROS: Chair?

CO-CHAIR VICTORINO: Yes. Go ahead, Mr. Medeiros.

CO-CHAIR MEDEIROS: I want to follow up with Member Mateo's question to the Parks Department. In your ordinance, or in your Administrative Rules for the camping areas, have you taken into consideration indigenous rights to gather at the beach site? How would you approach that if people went fishing or . . . um . . . a lot of gathering of foods in the Hawaiian culture is at night; and I was wondering if they were in the camping area, would that be considered being there without a camping permit?

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MS. HORCAJO: As the ordinance would state, again, "if they had their bedroll, their tent up", et cetera, then they would be bound by the ordinance for camping. If it appears that they are camping.

CO-CHAIR MEDEIROS: Okay. Also, I want to express the same concern that Member Mateo had about the vagueness of what camping means and so forth; and I want to ask you if you researched other jurisdictions (whether in Hawaii or on the mainland) as far as what camping was described as? Or did this definition come strictly from the Department?

MS. HORCAJO: This definition came . . .

MR. HOPPER: I can answer. *(NOTE: He's speaking to Ms. Horcajo.)*

MS. HORCAJO: Oh! I'll defer to Mike Hopper.

CO-CHAIR VICTORINO: Yeah. Go ahead, Mr. Hopper.

MR. HOPPER: Michael Hopper, Corporation Counsel. The definition was taken . . . uh . . . appears to mirror a couple of Hawaii State and also ordinances at the Federal level involving national parks that were . . . um . . . that in previous Supreme Court cases were upheld as valid. It tracks very closely those . . . um . . . that language in fact, and the idea with going with this language was that because it had been tested and withstood the test that we should stick with that language and that it was workable language and should basically be adopted as we had drafted it.

CO-CHAIR MEDEIROS: And in your research of the Federal guidelines or how they worded their, you know, camping definition, did the Federal government or the jurisdictions that you checked on, did they incorporate (within their definition) the rights of indigenous people?

MR. HOPPER: I did not find that in the research that I had done. The case, the Federal case, I don't believe did involve national parks. As far as the Hawaii State, I had . . . did not see that incorporated . . . um . . . as like, you are thinking of it as like an exception; or to provide for it; or . . . ?

CO-CHAIR MEDEIROS: Well Federal government, I'm sure . . . uh . . . at some of their parks would be involved with native Americans (indigenous people of that area) that have some indigenous rights, which is similar to the Hawaiians that have indigenous rights; and I was just wondering if you ran across that in your research of other jurisdictions in determining the camping definition.

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MR. HOPPER: I did not see that issue. I mean the issue would be whether or not, I suppose, there'd be some sort of indigenous right to use the area as a living accommodation under the definition. But the . . . I mean the definition would prohibit the use of the area where it reasonably appears that it would be used as a living accommodation; and under those circumstances, it would be prohibited. As it's currently worded, there's no exception for those rights. . . . *(end of tape, start 1B at 9:37 a.m.)*. . . But that's . . . um . . . in doing the research, I didn't see anything like that come up.

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

CO-CHAIR VICTORINO: Thank you. And I think I'd like to preface something at this time. This is only preliminary. We are now trying to establish better guidelines and rules for which both the Parks and Recreation, hopefully our Parks' Ranger program, and the Police, can get a better handling of our park situation. We only have two parks. In fact, I asked the State last night, and they only have two parks on this island. I was quite surprised to find out that an area where we depend on recreation and our whole lifestyle is around recreation (the beach, picnics, and all that) that there really are only two campsites for Maui County and two campsites for the State. And both of them--one in Polipoli and one in Wainapanapa--are pretty inaccessible, you know. I mean in other words, you'd have to go out into these areas or go up there. I think the public is also wanting more areas designated for camping. I think that's something we've gotta look upon; but I think this is just the beginning . . . to make sure that we have a . . . uh . . . guidelines and procedures and policies in place to make these sites safe for our public. For those who want to use it at any given time, they have the right to use it; and those who abuse it, then this is what this is designed for. I don't think the Police, or our Park Rangers, or even our Parks' people go out there looking to get people off of our parks. That's not the intent. Okay? But I . . . I, I'm appreciative of the questions because they raise some valid points. I think this is what we intended today, to bring it up for discussion so that the public sees that we are moving in this area. We want to have more campsites; but before we make any more, we need to take care of what we have, and make sure they're safe and clean and are readily available for the general public for their use. Whether it's indigenous or any other rights of other groups, we want to make sure we protect them in any way we can as far as our ordinance is concerned. So I would at this time--if it's okay with the Committee--I'd like to call up Bob Straub to speak about the Park Rangers because I think this is all an intricate part of what we're trying to attempt to put forward. And Captain Matsuoka, thank you very much for being here. You have something else you want to add?

MR. MATSUOKA: Yeah, could I?

CO-CHAIR VICTORINO: Yes, please. Go ahead, Captain Matsuoka.

MR. MATSUOKA: Just one more thing.

CO-CHAIR VICTORINO: Thank you.

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MR. MATSUOKA: I just wanted to add that, you know, the reason for this ordinance change is that it's driven from complaints from the residents, you know, that people are just camping. You know, they're not fishing. They're not trying to gather, you know, food from the ocean. It's just people that are camping there week after week and just remaining there. And so again, and I believe that this ordinance is also kind of mirrors what Oahu County has for their ordinance and that's what they've been using; and they've been apparently very successful, you know, with the ordinance the way it's written.

CO-CHAIR VICTORINO: Thank you, Captain Matsuoka. At this time, I'd like to call up Bob Straub; and Mr. Straub, if you would identify yourself and your position.

MR. STRAUB: Good morning, Council Chair Victorino and Council members. My name is Bob Straub. I am Special Events Coordinator/Ocean Recreation Enforcement Supervisor; and currently, we have two Park Rangers. As Ms. Horcajo has mentioned, they . . . they're responsibility is basically for the commercial ocean recreation permits and have been pretty much sticking with the Kihei/Lahaina side of the island and enforcing those issues because that's where most of the commercial operators are. Through community input and many of those . . . that input--much of that input has been complaints--we have been following up on issues that we're discussing here this morning, including camping at Papalaua because that's part of the commercial ocean recreation areas that have permits. So we do have an opportunity to just go and deal with some of these issues. And the camping thing does get out of hand occasionally and it's very important because in our interaction with the Police Department, we have been able to determine that we do have a little bit of a problem in trying to enforce the camping issue. And it's very important that we clarify what we describe as camping. We don't go out there. We're in an educational mode at this point. We are going out and educating the commercial ocean recreation people as to what they're allowed to do, as well as those people that are both legal and illegal in regards to either the ocean recreation activities or camping or anything going on in our parks. And it's important to note that our Park Rangers are . . . have been trained through MPD. We have arranged a little program with them and that we will have the authority to issue citations in our parks. We actually have the authority already granted by the court system here on Maui. We already have the training to be able to issue the ocean recreation citations as well as any other illegal citations that we could issue. For safety purposes, we are now waiting for our dispatch radio so that we have--and this is per the Police Department's request--that we hold off issuing anything or doing anything from that point of view, until we have a safety net around us in case we do need backup due to confrontation or what have you. But I think just overall, the Parks' Rangers program will assist this enforcement issue. And it's important to note that what we're doing now is really educational. And we will continue that part of it until we get more authorization from everyone and get clarification with regards to some of our Rules & Regulations and especially this camping issue.

CO-CHAIR VICTORINO: Thank you, Mr. Straub. Any questions for Mr. Straub?

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CO-CHAIR MEDEIROS: Chair?

CO-CHAIR VICTORINO: Yes, Mr. Medeiros.

CO-CHAIR MEDEIROS: Mr. Straub. Thank you for your explanation of the rangers. What level of training do you folks receive from the Police Department?

MR. STRAUB: I'm sorry?

CO-CHAIR MEDEIROS: What level of training, what kind of training do you receive to conduct what kind of operations?

MR. STRAUB: Much of our training that we've done so far has been classroom training. We've been fortunate in that the two gentlemen that we do have in our . . . uh . . . employed--as far as the Park Rangers--one is a Veteran of Iraq and has training through . . . for other reasons; and one of the other gentlemen is a former Customs Agent, who has had formal FBI training down in Virginia. So we've had the luck of the draw in regards to hiring those two individuals.

The training that we had from MPD was along the lines of . . . uh . . . one of the things they call verbal judo, which is how to deal with people. Basically, it's how to approach people; how to talk to them; how to get information from them without any confrontational aspect. And then we went on into gang kind of descriptions as far as how to identify gangs that are actually on island. We went through how to issue citations; what the process is; what we are going to be required to do with regards to the potential for appearing in court. So we do have some of the basic MPD requirements. We will not have weapons. We will not have arresting powers. We are not approaching that whatsoever. We are strictly looking at this from . . . uh . . . number one--and more important than anything--is an educational; and then secondly, from an enforcement issue.

CO-CHAIR MEDEIROS: And . . . um . . . the authority to issue citations . . . uh . . . so you issue the same citation as a Police Officer would--

MR. STRAUB: That's correct.

CO-CHAIR MEDEIROS: --regarding the violations at the campsite?

MR. STRAUB: That's correct.

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CO-CHAIR MEDEIROS: Okay. And . . . uh . . . maybe just a last question. I know, you know, one of your rangers--the US Customs . . . uh . . . former US Customs Agent--and I know his qualifications, you know, certainly are beyond what is required for a Park Ranger. But in issuing the citations, are you equipped, you know, to--I don't know how you say it--protect yourself? . . . *(chuckled)* . . . I mean I know you don't carry arms--

MR. STRAUB: No.

CO-CHAIR MEDEIROS: --but . . . uh . . . in issuing citations, I'm sure there'd be some ramifications, you know, when people receive citations.

MR. STRAUB: That's one of the things that the MPD had stressed when we went to. We went into the training aspect of it, that we set up with MPD; and when we went into the training, we had no idea and never thought of really the confrontational aspect of the job. And after attending two days of that training, every one of them indicated that we should have some sort of protection (security). We are relying on the Police for that backup. That's one of the reasons why we have not begun to issue citations at this point. There's a backlog of 800 megahertz radios that everybody's ordering to try and get these things in place. So we have additional training coming from MPD, which will include how to deal with dispatch; how to use the radios; what the restrictions are; et cetera, et cetera. So we will be going through additional training in order to create that safety net.

CO-CHAIR MEDEIROS: Okay.

MR. STRAUB: They, you know, what will happen down the road, that's, you know, that's down the road. Right now, we're just really just looking to create that idea that our presence also is meaningful in addition to being educational.

CO-CHAIR MEDEIROS: Thank you, Mr. Straub. Thank you, Chair.

CO-CHAIR VICTORINO: Thank you. And I just . . . uh . . . I was reminded and I apologize that really the Park Rangers wasn't part of the agenda, I just added it too because of the discussion purposes. So I would like not to get too far off on it as far as details are concerned. We are thankful that they are moving in that direction and that they will be an intricate part of our eyes and ears on the parks and on our . . . our, our other public facilities in helping us to make sure things are controlled in a good manner. And the safety and wellbeing of the people of Maui County is important. So thank you, Mr. Straub. So going back to the agenda, are there any further questions? Because gentlemen, I really would like more than anything else--this was informational, for the public as well as yourself. Some of the Members have been around have gone through this scenario. For Council . . . Co-Chairs (myself and Mr. Medeiros) have not had the opportunity, so this is a good getting up to snuff kinda opportunity. But more for the public because we are moving very quickly and I think it's . . . the time has come that we start looking at changes in our ordinance to protect and enhance our park system and I think that's all

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become very apparent by all parties concerned. So if there's any further questions for Ms. Horcajo or Mr. Hooper *[sic]* . . . um . . . anybody else that would like to ask any questions? If not, you would like to close with a statement, Ms. Horcajo?

MS. HORCAJO: No.

CO-CHAIR VICTORINO: Do you have any other additional comments to add?

MS. HORCAJO: My comment was . . . uh . . . so then, there will be no action taken today on this?

CO-CHAIR VICTORINO: Well, I . . . the Chair will be making a recommendation--

MS. HORCAJO: Okay.

CO-CHAIR VICTORINO: --and basically, it's to defer this matter.

MS. HORCAJO: Okay.

CO-CHAIR VICTORINO: But I was gonna--and that would be up to the Committee. But I think there's still some work that needs to be done. I think we all agree with that but . . . um . . . it's all good. You know, you've done a great job. Mr. Hooper *[sic]* you've done a very good job. But I think some points have been brought up and I'd like to maybe get more specific on the points that were raised, Mr. Hooper *[sic]*. Okay? Thank you. Any other questions specifically on this camping ordinance, the changes? Mr. Mateo.

COUNCILMEMBER MATEO: Chairman, thank you very much. And hearing the Chairman's direction with this particular item, I thank you very much. I'd like to make it real clear in terms of the question that I have asked the Department and my feelings towards the implementation of the proposed ordinance. Without a doubt, public safety and education is paramount. Yeah? So there is no, there is no . . . um . . . ambiguity towards the development of rigidness in the ordinance. Yeah? So I support the Police Department's efforts. I question Corporation Counsel's inability to define certain cultural priorities in our ocean access. And if the issue, Chairman, is really homelessness, then I think we should address the issue . . . and do not apply penalties or rigid limitations to the general public. And that is my whole, my whole . . . um . . . concern at this particular point in time, because I believe the issue is really not camping. I think it's the limitations and the restrictions of our homeless population utilizing our beaches that has warranted, you know, the rigidness of \$1,000 fine, misdemeanor charges, et cetera. And I think that we have to be specific, Mr. Chair, in addressing what the problem really is. So your consideration for deferment is one that I really think . . . uh . . . you know, I appreciate at this time because I think--as you had mentioned--I think a little more consideration needs to be developed in trying to come up with an ordinance that will benefit both the general public and those with the . . . um . . . inopportunity to actually have a home to live in. So thank you, Mr. Chairman, for my comments.

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CO-CHAIR VICTORINO: Thank you, Mr. Mateo. You put the whole issue in perspective and I don't. And I will not say that one was, one issue was related to the other; but yes, there is much interconnection. In our communities, there are many interconnections when we deal with situations such as the one we've been presented today; but I think the complaints have been and are true because I hear it from the public out there that they don't have the opportunities to use our facilities. So we need to address . . . if homelessness is part of the problem, then we need to address that. That would come down from the Administration, maybe our affordable housing, workforce development. There's so many things out there that we are moving in that direction. However, this is just one step. So the deferral would be to continue the discussion so that down the road, in the very near future, we have something which will enhance and enable us to open up more camping areas so that maybe, we have more areas for more people to enjoy, instead of what I see . . . only four (two State and two County facilities) in the entire island. Of course, I guess, Haleakala would Federal. You got that one also. But for one area that has so much recreation around, we are limited to just four camping sites. I was very surprised and kinda appalled because all my life, we've always gone camping and nobody's ever said anything. But again, the time in the world has changed. So I apologize and I think time to . . . to move on, on this. So, unless there's any other discussion, the Chair will--oh! Okay. Mr. Medeiros?

CO-CHAIR MEDEIROS: Thank you, Mr. Chair. I just want to close my remarks by commending the Police Department because they do a very good job at the parks and I know they have a lot of things on their plate besides citing people at the parks. So I appreciate what the Police Department does and I want to commend the Parks Department for moving in a direction that we can make some positive changes just to make our parks more user friendly and more safe. Thank you, Chair.

CO-CHAIR VICTORINO: And before we move on, I will say this: "we do not want to limit anyone's uses of our facilities". The big deal with this was, I think, and Ms. Horcajo and the Police Department has come across is 8 o'clock and that's one of the big things that . . . the 8 o'clock enforcement will help them and the Police be able to really distinguish between those who are camping and those who want to go fishing and other things. It's a little easier than midnight. Midnight becomes virtually impossible. So anyhow, unless I hear anything else, I will . . . my recommendation to the Committee is to defer this matter to . . . uh . . . with your approval, to defer this matter.

COUNCIL MEMBERS VOICED NO OBJECTIONS. (PRESENT: HOKAMA, MATEO, MEDEIROS, AND VICTORINO)

CO-CHAIR VICTORINO: It's been moved by Council Chair Hokama and seconded by . . . *(chuckled)* . . . Councilmember Medeiros. *[sic]* Any discussion? All those in favor, say "aye".

COUNCIL MEMBERS VOICED AYE.

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ACTION: DEFER.

CO-CHAIR VICTORINO: Let the record show four “ayes” and one excused. *[sic]* Chair at this time will recess the meeting so that we can get set up for the second half of our meeting, which Co-Chair Medeiros will be chairing. Thank you for your consideration. Meeting recessed. . . . *(gavel)* . . .

RECESS: 9:55 a.m.

RECONVENE: 10:04 a.m. . . .(end of tape, start 2A). . .

CO-CHAIR MEDEIROS: . . . *(gavel)* . . . Good morning. This is the Public Works and Facilities Committee meeting of March 14, 2007 and we are reconvening, and this meeting will come to order. I am Committee Chair Bill Medeiros and I will preside over the rest of the meeting. Welcome to all the Members and the Staff and the representatives here . . . uh . . . for being here.

There are eight more agenda items: PWF-4, 5, 6, 7, 19, 20, 24, and 35. As a reminder, if you haven’t already done so, or if you have just joined our meeting, please turn off all cell phones, pagers, and other electronic devices, or put them on silent or vibrant modes. Mahalo.

PWF-4 ACCEPTING DEDICATION OF SEWERLINE EASEMENTS FOR THE ROYAL LAHAINA RESORT BULK SUBDIVISION (LAHAINA) (C.C. No. 07-15)

CO-CHAIR MEDEIROS: Our first agenda item for the Public Works side--and let me introduce first . . . uh . . . the Administration representative here. We have Director Milton Arakawa from Public Works and Environmental Management and we have Cindy Young from Corporation Counsel. Looking around, we already introduced Mr. Brian Moto that’s in the gallery; and that would be the people available today.

Agenda item PWF-4. This item relates to the County Communication No. 07-15, from the Director of Public Works and Environmental Management, transmitting a proposed resolution entitled “ACCEPTING DEDICATION OF SEWERLINE EASEMENTS FOR THE ROYAL LAHAINA RESORT BULK SUBDIVISION, PURSUANT TO SECTION 3.44.015, MAUI COUNTY CODE”. The purpose of the proposed resolution is to accept the dedication of the nonexclusive sewerline easements in Lahaina, Maui, and to document the County’s rights to locate, maintain, repair, and replace the existing sewerline at TMK: (2) 4-4-08:007. Correspondence from the Department of the Corporation Counsel dated March 13, 2007 transmits a revised proposed resolution correcting certain nonsubstantive errors found in the original resolution.

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At this time, we'll be following the same procedures for public testimony that was explained at the beginning of the meeting by Co-Chair Victorino. And so at this time . . . uh . . . Secretary, is . . . are there any public testimony signed up?

MS. MARTINS: No.

CO-CHAIR MEDEIROS: Okay. Having none and looking at the gallery, and the people in the gallery work for us, so I guess we don't have any public testimony. . . . (*chuckled*) . . . So we'll leave it open for the other items; but as far as public testimony for PWF-4, without objection, I will close public testimony on that agenda item.

CO-CHAIR VICTORINO: No objections.

CO-CHAIR MEDEIROS: Thank you, Members. At this time, I would like now to ask Director Milton Arakawa of Public Works and Environmental Management to provide an overview of this agenda item. Mr. Arakawa?

MR. ARAKAWA: Thank you, Mr. Chair. As you've noted, this item pertains to the proposed dedication of two sewerline easements for the Royal Lahaina Resort Bulk Subdivision. As you all know, the Royal Lahaina is currently going through a process of major redesign and redevelopment. During the processing of the latest subdivision of the property, it was discovered that two sewerline segments did not have easements in favor of the County. There are other County sewerlines on the property; but a number of years ago, there were no accepted easement documents for the two segments that are before you today.

And the first segment that was omitted was a 15-inch sewerline, which extends along the Royal Lahaina's main road into the property, which is Kekaa Drive. This is shown as proposed easement 133. I believe we've circulated some maps which graphically depict the easements. From the Kekaa Drive terminus, the second segment of the 15-inch sewerline extends from the bulb end of the cul-de-sac to the property line; and this is shown as proposed easement 142. Both easements are proposed to be 15 feet wide with the existing sewerline in the center of the easement. Easement 133 is 9,761 square feet in area; while easement 142 is 4,430 square feet in area. These sewerlines were constructed way back in 1961 and they do serve the Royal Lahaina property as well as the neighboring Hale Kaanapali Condominium. In this general area, a number of sewerlines and easements were dedicated to the County in the 1980s. However, the two segments that you have before you were omitted.

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With the execution of the easement documents, this will document the owner's (Pleasant Travel Service) rights and responsibilities as well as the County's rights and responsibilities. With the impending construction on the site, we believe that it is prudent to execute these easement documents. If the redevelopment of the resort occurs pursuant to the approved plans and specifications, it is noted that the new . . . that new sewerlines are intended to be dedicated to the County along different alignments and new easements will then be needed.

At a future date, Council approval of the future sewerlines and easements would be sought. Thus the easement documents you have before you today are for the existing onsite sewerlines and are intended to be temporary until the new lines can be installed. However, if the redevelopment for whatever reason does not occur, then the easements would continue in effect for the existing lines. A resolution, entitled "ACCEPTING DEDICATION OF SEWERLINE EASEMENTS FOR THE ROYAL LAHAINA RESORT BULK SUBDIVISION, PURSUANT TO SECTION 3.44.015, MAUI COUNTY CODE", has been drafted and is in your binder; and the Committee's review and approval of the proposed resolution is respectfully requested.

CO-CHAIR MEDEIROS: Thank you, Director Arakawa. Members, any questions for the Director?
Member Hokama.

COUNCILMEMBER HOKAMA: Chairman, thank you. I'm looking at Exhibit B, Mr. Director, which is attached to a March 13th communication from yourself to this Committee. The red . . . the solid red line that's connected to, I guess, the various manholes, that is already existing at the property site? So I would say like the . . . um . . . the system runs right through hole No. 4 and No. 6 or whatever, 7?

MR. ARAKAWA: Councilmember Hokama. I'm not familiar with the hole numbers but the red lines on the map are . . . uh . . . they depict existing lines in the area, yes.

COUNCILMEMBER HOKAMA: Okay. In your opening comments, you mentioned to this Committee a new construction. Where would that be in regards to the proposed easement request?

MR. ARAKAWA: That is not known to me, at least at this point. My understanding is that when they do the redevelopment of that entire Royal Lahaina Resort site, they will propose a different alignment for the sewerlines that run through this particular site. Where it is, I'm not certain. But once, if that occurs, then they would basically abandon the existing red lines that go through the Royal Lahaina Resort site now.

COUNCILMEMBER HOKAMA: Okay. Who owns the line that goes through this private property?
Pleasant . . .

MR. ARAKAWA: It's Pleasant Travel Service is the owner.

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COUNCILMEMBER HOKAMA: Okay. Our easement is just to take care of the transmission of the private properties affluent to our treatment plant? Is that what it is?

MR. ARAKAWA: It takes care of the wastewater from the Royal Lahaina Resort as well as the neighboring Hale Kaanapali Condominium. So basically, if it were just sewerlines that take care of only their property, basically, we would look at it as their responsibility; but because it also takes care of a neighboring property, we have actually unknowingly maintained these lines for a couple decades already.

COUNCILMEMBER HOKAMA: Kekaa Drive is private property?

MR. ARAKAWA: Kekaa Drive is private property but many of the sewerlines--because it services the Kaanapali area in general--already have easements and are considered County lines. For whatever reason--and I don't know what the reasons were back then--these two segments were not . . . um . . . there are no easements for these two segments that are before you today.

COUNCILMEMBER HOKAMA: Okay. So the property line that abuts Hale Kaanapali with the Royal Lahaina, those portions . . . that's the County's sewerline?

MR. ARAKAWA: Yes, that's correct.

COUNCILMEMBER HOKAMA: And that has been dedicated to the County in a previous action?

MR. ARAKAWA: There are easements, yes.

COUNCILMEMBER HOKAMA: Thank you, Mr. Chairman.

CO-CHAIR MEDEIROS: Thank you, Member Hokama. Any further questions or discussion, Members? Seeing none. At this time, without objection, the Chair would like to offer his recommendation.

CO-CHAIR VICTORINO: Go ahead.

CO-CHAIR MEDEIROS: 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 MATEO: Second.

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PWF-5 ACCEPTING DEDICATION OF A ROAD WIDENING LOT FOR THE TEXEIRA AND MEDEIROS SUBDIVISION (KULA) (C.C. No. 07-25)

CO-CHAIR MEDEIROS: Our next item will be PWF-5. This item relates to County Communication No. 07-25, from the Director of Public Works and Environmental Management, transmitting a proposed resolution entitled "ACCEPTING DEDICATION OF A ROAD WIDENING LOT FOR THE TEXEIRA AND MEDEIROS 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 B-1-D in Kula, Maui, along Lower Kula Road, consisting of approximately 985 square feet, TMK: (2) 2-3-03:portion of 151.

At this time, I'd like to ask if we have any public testimony signed up, Ms. Martins?

MS. MARTINS: No.

CO-CHAIR MEDEIROS: None. So at this time, without objection, I'd like to close public testimony on PWF-5.

CO-CHAIR VICTORINO: No objections.

CO-CHAIR MEDEIROS: Thank you, Members. At this time, I would like to ask the Director of Public Works and Environmental Management (Director Arakawa) to provide an overview of this matter. Director?

MR. ARAKAWA: Thank you, Mr. Chair. This item pertains to a proposed dedication of a road widening lot relating to the Teixeira and Medeiros Subdivision, located at the corner of Omaopio Road and Lower Kula Road. The subdivision was granted final subdivision approval on December 19, 2006. The road widening lot proposed to be dedicated is 987 square feet in area. It is 3 feet in width and runs along the Lower Kula Road frontage. As allowed under Section 18.20.04 of the Code, the subdivider has deferred roadway improvements by completing the requirements of a three-lots-or-less subdivision agreement. A resolution, entitled "ACCEPTING DEDICATION OF A ROAD WIDENING LOT FOR THE TEXEIRA AND MEDEIROS 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. Any questions for the Director? Seeing none.

COUNCILMEMBER HOKAMA: One question.

CO-CHAIR MEDEIROS: Yes, Member Hokama.

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COUNCILMEMBER HOKAMA: Why isn't the road widening lot all the way to the intersection of Omaopio Road, please?

MR. ARAKAWA: Councilmember Hokama. Actually, it goes along the property's frontage, all the way to the Omaopio Road frontage, and then it . . . there's that corner rounding that goes right to that intersection, the intersection of Omaopio Road and Lower Kula Road.

COUNCILMEMBER HOKAMA: So it doesn't end where the Lot B-1-C . . . ends?

MR. ARAKAWA: No. It goes along the entire frontage (the Lower Kula Road frontage of the subdivision).

COUNCILMEMBER HOKAMA: Is this what we're looking at? Something about 3½ feet wide?

MR. ARAKAWA: Yeah. At that one corner, I noticed that it's 3.46 at that angle--

COUNCILMEMBER HOKAMA: Right.

MR. ARAKAWA: --but the width (according to the Engineering drawings) is . . . it's a 3-foot-wide road widening lot.

COUNCILMEMBER HOKAMA: Okay. I'm done. Chairman, thank you very much.

CO-CHAIR MEDEIROS: Thank you, Member Hokama. Any further questions for the Director? Any discussion?

CO-CHAIR VICTORINO: No.

CO-CHAIR MEDEIROS: Okay. Seeing none. There's no further discussion. Without objection, the Chair would like to offer his recommendation.

CO-CHAIR VICTORINO: No objections.

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 MATEO: Second.

CO-CHAIR MEDEIROS: Thank you. Moved by Member Victorino; seconded by Member Mateo. I'll call for the vote. All in favor, say "aye".

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COUNCILMEMBER HOKAMA: What Corporation Counsel is asking of you in this Committee, Mr. Chairman, please?

CO-CHAIR MEDEIROS: Corp. Counsel, would you like to address that for Member Hokama?

MS. YOUNG: Mr. Chair, Council Services Staff brought to our attention that the reference to the location of the road widening lot was incorrectly referenced in the agenda. It's referenced as Haiku, but the correct reference is Makawao. So . . . um . . . and their initial assessment was that it should be re-agendad [*sic*] and we agreed that . . . that the cautious approach would be to reference the lot correctly by location as Makawao. We would note that Council Services Staff also noted that the Haiku reference is both in the title of the item as well as in the body of the . . . of the description. It's also noted in the description, both as Haiku and it both should be noted as Makawao.

COUNCILMEMBER HOKAMA: Thank you, Chairman.

CO-CHAIR MEDEIROS: Thank you, Member Hokama. Any other questions on that? So without objection, Members, the Chair would like to defer this item so that the corrections can be made.

COUNCIL MEMBERS VOICED NO OBJECTIONS. (PRESENT: HOKAMA, MATEO, MEDEIROS, AND VICTORINO)

ACTION: DEFER.

CO-CHAIR MEDEIROS: Thank you, Members.

PWF-7 ACCEPTING DEDICATION OF A ROAD WIDENING LOT FROM A.D. FURTADO PROPERTIES WAILUKU, LLC (WAILUKU) (C.C. No. 06-298)

CO-CHAIR MEDEIROS: Next item on the agenda is PWF-7. This item relates to County Communication No. 06-298, from the Director of Public Works and Environmental Management, transmitting a proposed resolution entitled "ACCEPTING DEDICATION OF A ROAD WIDENING LOT SITUATED AT WAILUKU, MAUI, HAWAII, FROM A.D. FURTADO PROPERTIES WAILUKU, LLC, PURSUANT TO SECTION 3.44.015, MAUI COUNTY CODE". The purpose of the proposed resolution is to accept the dedication of the road widening Lot 2 in Wailuku, Maui, along Central Avenue, consisting of approximately 2,999 square feet at TMK: (2) 3-4-12:080 and 113.

At this time, we'd like to ask if there's any public testimony on this agenda item?

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MS. MARTINS: No.

CO-CHAIR MEDEIROS: Seeing none. I'd like to close public testimony on PWF-7 without objections.

CO-CHAIR VICTORINO: No objections.

CO-CHAIR MEDEIROS: Thank you, Members. At this time, I'd like to ask the Director of Public Works and Environmental Management (Director Arakawa) to provide an overview of this matter.

MR. ARAKAWA: Thank you, Mr. Chair. As you've noted, this item pertains to a proposed dedication of a road widening lot along Central Avenue in Wailuku. The subdivision was granted final subdivision approval back in October 1, 1985. The road widening lot in question is Lot 2, which is 2,999 square feet in area. This is further defined by TMK: 3-4-12:parcel 80, which comprises 1,081 square feet and TMK: 3-4-12:parcel 113, which comprises 1,918 square feet.

Back in January 20, 1986, a roadway deed was executed by Richard C. Wo and the A.D. Furtado Properties Trust to dedicate Lot 2 to the County of Maui; and on December 5, 1986, the Maui County Council accepted dedication of Lot 2. However, a more recent title report by Title Guaranty of Hawaii dated April 16, 2005 found that a slightly different entity (A.D. Furtado Properties Wailuku, LLC) still possesses a two-fifths undivided interest in parcel 113 and a four-fifths undivided interest in parcel 80. Title Guaranty concluded that at the time the roadway deed was executed, certain Furtado Trust family members had not effectively conveyed their interest in Lot 2 to the A.D. Furtado Properties Trust. Therefore, at the time of the 1986 dedication to the County, the trust was not able to convey the entire interest in Lot 2 to the County. Since that time, those Furtado Trust family members have quitclaimed all their interest in Lot 2 to the A.D. Furtado Properties Wailuku, LLC. Accordingly, the LLC is now shown as the co-owners with the County in the title report. The A.D. Furtado Properties Wailuku, LLC is willing to dedicate its undivided interest to the County provided that access to their abutting properties would be able to continue through Lot 2. The Department of Public Works and Environmental Management has reviewed the documents and found it to be satisfactory. The document has also been reviewed and approved by Corp. Counsel. A resolution, entitled "ACCEPTING DEDICATION OF A ROAD WIDENING LOT SITUATED AT WAILUKU, MAUI, HAWAII, FROM A.D. FURTADO PROPERTIES WAILUKU, LLC, 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. Any questions for the Director?

COUNCILMEMBER MATEO: Chairman?

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CO-CHAIR MEDEIROS: Yes, Member Mateo.

COUNCILMEMBER MATEO: Thank you very much, Mr. Chairman. Mr. Director, and is there anywhere in these documents that also cite your reference to the Furtado's access to their property . . . so in the future it is not . . . uh . . . fall back on and we inadvertently omitted that apparent important part?

MR. ARAKAWA: Basically, they're giving us a road widening lot and of course the area that . . . uh . . . area of the lot has already been improved as a roadway, currently used as public access. So I'm not sure. Maybe Corp. Counsel can add more to it. But it is already used as public access. We envision it continuing as public access. So you know, we certainly don't have a problem with the . . . um . . . the condition that the Furtado Trust has.

COUNCILMEMBER MATEO: Okay. So at this point, because it is already used as public access, that we would not need to incorporate that language so that it is . . . uh . . . it remains, I guess, in perpetuity?

MS. YOUNG: Mr. Chair, that is correct. They would be using it as a public access.

COUNCILMEMBER MATEO: Thank you.

MS. YOUNG: Yes.

COUNCILMEMBER MATEO: Thank you, Chairman.

CO-CHAIR MEDEIROS: Thank you, Member Mateo. Any further questions, or discussion?

COUNCILMEMBER HOKAMA: Question.

CO-CHAIR MEDEIROS: Member Hokama?

COUNCILMEMBER HOKAMA: I am . . . I'm believing that this is the lot across the old Wailuku Florist, where Minute Stop, Mike's Café, the radio station occupies that main parcel. Is our . . . is the Committee's understanding of the location accurate?

CO-CHAIR MEDEIROS: Director?

MR. ARAKAWA: Yes, that's correct.

COUNCILMEMBER HOKAMA: Okay. Thank you, Chairman.

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PWF-19 ACCEPTING DEDICATION OF A ROAD WIDENING LOT FOR THE MALAIHI AG SUBDIVISION (WAILUKU) (C.C. No. 07-62)

CO-CHAIR MEDEIROS: Okay. Our next item, Members, is Public . . . uh . . . PWF-19. This item relates to County Communication No. 07-62, from the Director of Public Works and Environmental Management, transmitting a proposed resolution entitled "ACCEPTING DEDICATION OF A ROAD WIDENING LOT FOR THE MALAIHI AG 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 13 in Wailuku, Maui, along Malaihi Road, consisting of approximately 0.750 acre, TMK: (2) 3-2-13:046.

At this time, we'd like ask anyone wanting to testify in the gallery to come forward. Seeing none. At this time, I would like to, without objection, close testimony on Public Works or PWF-19.

CO-CHAIR VICTORINO: No objections.

CO-CHAIR MEDEIROS: Thank you, Members. So at this time, I'd like to ask the Director of Public Works and Environmental Management to provide an overview of this matter. Director Arakawa?

MR. ARAKAWA: Mr. Chair, this item pertains to a proposed dedication of a road widening lot relating to the Malaihi Ag Subdivision, located along Malaihi Road in Waiehu. The subdivision was granted final subdivision approval on January 28, 2005. The road widening lot proposed to be dedicated is 0.75 acre in area. The width varies along the width of the Malaihi Road frontage for the subdivision; but basically, the requirement was for a 24-foot-wide right-of-way from the centerline of the existing pavement. The improvements are complete and were approved by the Department of Public Works and Environmental Management on May 30, 2005, and the Department of Water Supply on December 13, 2005. A resolution, entitled "ACCEPTING DEDICATION OF A ROAD WIDENING LOT FOR THE MALAIHI AG 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. Members, any questions for the Director? Member Hokama.

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COUNCILMEMBER HOKAMA: Chairman, thank you. I'm just trying to understand. This is a brand new subdivision, a brand new road. So why couldn't--in the original construction of this road--all of these things regarding the water or, you know, width . . . uh . . . not handled earlier . . . and now we're coming back after the road is built for this easement consideration? I'm trying to follow. Is this part of a regular problem we get by preliminary subdivisions, where things are not finalized and then things move forward; and then we gotta deal with this . . . uh . . . what I would call housekeeping type of considerations?

MR. ARAKAWA: Councilmember Hokama. Actually, Malaihi Road is an existing County road, so . . . um . . . and it's an existing substandard paved road. . . .(end of tape, start 2B at 10:35 a.m.). . . So what was required of the subdivider was to basically improve half of the roadway to basically an Ag-collector-road standard, which is . . . um . . . you know, a 48-foot-wide right-of-way. So it's basically, they're required to put in a 24-foot-wide right-of-way along their half of the roadway. So that's why the road widening lot may vary, depending on the actual width of the . . . how the width of the existing road is. So generally, that was what was required of the subdivider.

COUNCILMEMBER HOKAMA: And since this connects to Kahekili Highway and it goes into Happy Valley, my question is: "did the County secure enough easements or right-of-ways so that as we prepare to take . . . increase traffic down through Wailuku, through Happy Valley, this subdivision is providing its fair share of easements or right-of-ways?"

MR. ARAKAWA: The only road-widening lot that is before you today is along that Malaihi Road, which is along the, that . . . um . . . well it's basically abutting the proposed subdivision; and they have an internal road within the subdivision itself. But . . . uh . . . it abuts Kahekili Highway, along areas that are owned by the State; and the portion which the County actually owns of Kahekili is from Waiehu Beach Road going toward Wailuku Town.

COUNCILMEMBER HOKAMA: So until you enter Happy Valley, it's State road?

MR. ARAKAWA: No, it's County. Kahekili Highway, from Waiehu Beach Road going toward Wailuku Town, is County; but from Waiehu Beach Road, going towards Waihee is--

COUNCILMEMBER HOKAMA: State road.

MR. ARAKAWA: --a State road.

COUNCILMEMBER HOKAMA: So there's enough . . . my issue is, you know, are we--

MR. ARAKAWA: Well . . .

COUNCILMEMBER HOKAMA: --taking care of the needs of what I anticipate with the build-outs of the projects we've approved? We know we're gonna get increased traffic right in this area.

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MR. ARAKAWA: The traffic portion, it is a concern around there. As far as on this specific subdivision itself, you know, DOT can make comments on it . . . as far as any widening. We didn't receive anything from them. But if you're looking at perhaps pro-rata contributions for area wide improvements, those are not really required as part of the subdivision process itself. It's probably more appropriate to look at those types of exactions through traffic impact fees, which you know, the Council is currently considering at this juncture.

COUNCILMEMBER HOKAMA: Okay. Thank you very much, Mr. Director. Thank you.

CO-CHAIR MEDEIROS: Thank you, Member Hokama. Any other questions or discussion, Members? Seeing none. There's no further discussion? Without objection, the Chair would like to offer his recommendation.

CO-CHAIR VICTORINO: No objections.

CO-CHAIR MEDEIROS: Thank you, Members. 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 MATEO: Second.

CO-CHAIR MEDEIROS: Thank you. It's been moved and seconded, and Chair will call for the vote. All those in favor of the motion, say "aye".

COUNCIL MEMBERS VOICED AYE.

CO-CHAIR MEDEIROS: All opposed, say "no"?

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MR. ARAKAWA: Thank you, Mr. Chair. This item pertains to a proposed dedication of a road widening lot relating to the J.P. Tavares - Makawao Avenue Subdivision, located along Makawao Avenue, near its intersection with Kokomo Road. The purpose of the proposed resolution is to accept dedication of road widening Lots 2 and 3 that contain County roadway facilities; and . . . um . . . the description of the lot is: Lot 2 basically is 76 square feet in area, and Lot 3 is 455 square feet in area. Basically, portions of sidewalk and guardrails are located on these lots. In its desire to sell the abutting property, the . . . uh . . . in its desire to sell the abutting property in order to deal with estate matters, the Tavares family discovered the County encroachment onto their property. The family desires to dedicate Lots 2 and 3 to the County. The Department of Corporation Counsel prepared the proposed resolution and approved the warranty deed as to form and legality. The Department of Public Works and Environmental Management--in cooperation with the Tavares family--has prepared the subdivision plats and processed the subdivision for approval, and final subdivision approval was granted on December 7, 2006. A resolution, entitled "ACCEPTING DEDICATION OF A ROAD WIDENING LOT FOR THE J.P. TAVARES - MAKAWAO AVENUE 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. Any questions for the Director? Seeing none. If there are no further discussion, without objection, Members, the Chair would like to offer his recommendation.

CO-CHAIR VICTORINO: No objection.

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

CO-CHAIR VICTORINO: So moved.

COUNCILMEMBER MATEO: Second.

CO-CHAIR MEDEIROS: Thank you, Member Victorino, and seconded by Member Mateo. At this time, all in favor, say "aye".

COUNCIL MEMBERS VOICED AYE.

CO-CHAIR MEDEIROS: Opposed?

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

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmember Pontanilla.

MOTION CARRIED.

ACTION: ADOPT REVISED RESOLUTION AND FILE COMMUNICATION.

CO-CHAIR MEDEIROS: Okay. It passes with four “ayes”, zero “noes”, and one excused.

PWF-24 ACCEPTING DEDICATION OF A ROAD WIDENING LOT FOR THE LAND COURT APPLICATION 862 SUBDIVISION (MOLOKAI) (C.C. No. 07-79)

CO-CHAIR MEDEIROS: Members, the next agenda item is PWF-24. This item relates to County Communication No. 07-79, from the Director of Public Works and Environmental Management, transmitting a proposed resolution entitled “ACCEPTING DEDICATION OF A ROAD WIDENING LOT FOR THE LAND COURT APPLICATION 862 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 430-E-1-A-2-C in Kaunakakai, Molokai, along Kolapa Place, consisting of approximately 0.041 acre, TMK: (2) 5-3-02:169.

At this time, I’d like to ask anyone wanting to offer public testimony in the gallery, to come down at this time. Seeing no one coming forward. Without objection, Members, the Chair would like to close public testimony on PWF-24.

CO-CHAIR VICTORINO: No objections.

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

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MR. ARAKAWA: Thank you, Mr. Chair. This item pertains to a proposed dedication of a road widening lot for the Land Court Application 862 Subdivision, located in Kaunakakai, Molokai. The purpose of the proposed resolution is to accept the dedication of road widening Lot 430-E-1-A-2-C, which comprises 0.041 acre. The road-widening lot is 2 feet in width, along Kolapa Place, and extends from the park lot with the tennis courts to the vicinity of Lepo Place. The dedication of the road widening lot was a requirement to be fulfilled after receiving final subdivision approval on June 8, 1977. In Fiscal Year '07 (2007), a sum of \$175,000 was appropriated for the Kolapa Place sidewalk project. In doing the survey work (work for the sidewalk project) it was found that the dedication of road widening Lot 430-E-1-A-2-C was never completed. It is noted that the dedication of the road widening lot is needed in order to complete the sidewalk project. Accordingly, a resolution, entitled "ACCEPTING DEDICATION OF A ROAD WIDENING LOT FOR THE LAND COURT APPLICATION 862 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. Any questions for the Director? Seeing none. If there is no further discussion . . . well if there's no further discussion, without objections, the Chair would like to offer his recommendation.

COUNCILMEMBER PONTANILLA: 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 MATEO: Second.

CO-CHAIR MEDEIROS: Okay. Moved by Member Victorino; seconded by Member Mateo. All in favor, say "aye".

COUNCIL MEMBERS VOICED AYE.

CO-CHAIR MEDEIROS: All opposed, say "no"?

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

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: None.

MOTION CARRIED.

ACTION: ADOPT RESOLUTION AND FILE COMMUNICATION.

CO-CHAIR MEDEIROS: Okay. We have--and we'd like to, at this time, recognize the return to meeting of Member Pontanilla. So we have five "ayes", zero "noes" on this item.

PWF-35 DEPARTMENT OF PLANNING APPLICATION AND PROCEDURES
(C.C. No. 05-255)

CO-CHAIR MEDEIROS: The next item, Members, is Public . . . uh . . . PWF-35. This item relates to County Communication No. 05-255, from the Director of Public Works and Environmental Management, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 19.510.010, MAUI COUNTY CODE, PERTAINING TO APPLICATION AND PROCEDURES". The purpose of the proposed bill is to streamline the application process for the various permits and approvals processed by the Department of Planning.

At this time, I'd like to ask if there's any public testimony from anyone in the gallery? If you'd like to come down and testify, this is your opportunity. Seeing none. Without objection, Members, the Chair would close public testimony on PWF-35.

CO-CHAIR VICTORINO: No objections.

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

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MR. ARAKAWA: Thank you, Mr. Chair. This item pertains to a proposed bill to amend Section 19.510.010 of the County Code, to streamline the application procedure for various permits and approvals processed by the Planning Department. Currently, the Planning Department transmits applications processed through Section 19.510.010 of the County Code to Public Works for the purpose of checking whether the application is considered complete. This includes a wide range of applications such as special management area use permit, conditional use permits, special use permits, community plan amendments, and changes in zoning requests. Public Works basically goes through a checklist to determine whether the required items have been submitted; but there is no review as to the substance of the actual items that have been submitted by the applicant. It appears that the intent of the existing provisions stem from a previous period in time when Public Works was involved in zoning administration. However, in 1996, the County Charter was amended to delegate zoning administration functions to the Planning Department. Thus, the current provisions require Public Works to do a completeness check of applications, which we do not administer or process. The proposed bill would eliminate the transmittal to and from Public Works. The bill would enable the Planning Department to conduct the review for completeness and then initiate the processing for those applications which are considered complete. This will lessen the paperwork burden affecting the staff from both departments. Depending on the existing workload cue for the Public Works and Planning staff, the elimination of this step could shorten the process by about one to three weeks. The Public Works Committee from the last Council term discussed this matter back on August 29, 2005. Because this involved a change to Title 19, the proposed change needed to be reviewed by the planning commissions. The proposed changes have been reviewed and recommended for approval by the Lanai, Maui, and Molokai Planning Commissions at the various hearings and meetings in September 2006; and all the minutes of those hearings are in your binders. The Committee's review and approval of the proposed bill is respectfully requested.

CO-CHAIR MEDEIROS: Thank you, Director Arakawa. Members, any questions for the Director? Seeing none. If there is no further discussion, without objections, the Chair would like to offer his recommendation.

CO-CHAIR VICTORINO: No objection.

CO-CHAIR MEDEIROS: Thank you, Members. The Chair will entertain a motion to recommend passage of the proposed bill on the first reading and the filing of this item.

CO-CHAIR VICTORINO: So moved.

COUNCILMEMBER MATEO: Second.

CO-CHAIR MEDEIROS: Moved by Member Victorino; seconded by Member Mateo. All in favor of the motion, say "aye".

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CO-CHAIR MEDEIROS: Okay. Four "ayes" and one "no". Okay. Members, that was the last agenda item for this meeting. If there are no other matters to discuss, I would like to thank (on behalf of Co-Chair Victorino and myself) the Committee Members that are here, and the representatives from Corp. Counsel, the Administration, our Council Staff, and the public, for being here this morning and for participating in this meeting. Thank you to everyone. At this time, without objections, the meeting is adjourned. . . . *(gavel)* . . .

ADJOURN: 10:53 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:070314

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