

MINUTES

PUBLIC WORKS AND FACILITIES COMMITTEE

Council of the County of Maui

Council Chamber

January 31, 2007

CONVENE: 9:03 a.m.

PRESENT: Councilmember Bill Kauakea Medeiros, Co-Chair
Councilmember Michael P. Victorino, Co-Chair
Councilmember G. Riki Hokama, Member (arr. at 9:18 a.m.)
Councilmember Danny A. Mateo, Member
Councilmember Joseph Pontanilla, Member

Councilmember Michelle Anderson, Nonmember (left at 9:34 a.m.)
Councilmember Gladys Baisa, Nonmember (left at 10:17 a.m.)

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

Lei Kihm, Executive Assistant to Councilmember Medeiros
Deanna Hookano, Executive Assistant to Councilmember Victorino
Jock Yamaguchi, Executive Assistant to Councilmember Anderson

ADMIN.: Cindy Young, Deputy Corporation Counsel, Department of the
Corporation Counsel (Item Nos. 8 & 9)
Milton Arakawa, Director, Department of Public Works and
Environmental Management (Item Nos. 8 & 9)
Bradney Hickle, Officer, Department of Police (Item No. 8)
Roger Duchane, Acting Lieutenant, Department of Police (Item No. 8)
John D. Kim, Deputy Corporation Counsel, Department of the
Corporation Counsel (Item Nos. 1 & 42)
Michael Hopper, Deputy Corporation Counsel, Department of the
Corporation Counsel (Item Nos. 1 & 42)
Tamara Horcajo, Director, Department of Parks and Recreation
(Item Nos. 1 & 42)

OTHERS: James Banigan, General Manager, Schnitzer Steel Hawaii Corp.
Rene Mansho, Community Relations Director, Schnitzer Steel Hawaii
Corp.
Dave Gleason, Maui Lani Partners

PUBLIC WORKS AND FACILITIES COMMITTEE
Council of the County of Maui

January 31, 2007

Plus (9) other people

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

CO-CHAIR MEDEIROS: . . . (*gavel*) . . . Aloha and good morning, everyone. We are convening the Public Works and Facilities Committee meeting on this day, January 31, 2007, at about three minutes after 9 a.m. At this time, I'd like to welcome and introduce the Members. Here this morning, we have Co-Chair Councilmember Victorino.

CO-CHAIR VICTORINO: Good morning.

CO-CHAIR MEDEIROS: We have Member Mateo. We have Member Baisa.

COUNCILMEMBER BAISA: Good morning.

CO-CHAIR MEDEIROS: I'm sorry and we have Member Anderson.

COUNCILMEMBER ANDERSON: Good morning.

CO-CHAIR MEDEIROS: We have Member Pontanilla.

COUNCILMEMBER PONTANILLA: Good morning.

CO-CHAIR MEDEIROS: Also present with us this morning from Corp Counsel, we have Cindy Young and she'll be with us for the Public Works' items. And for the Parks' items, we'll have Mr. J. D. Kim and also with him will be Mr. Michael Hopper. And representing the departments, we have Director of Department of Public Works and Environmental Management, Mr. Milton Arakawa, and in the gallery until her part of the item . . . meeting comes up, we have from the Parks Department, Director, Ms. Tamara Horcajo. And we also have representatives here from the Maui Police Department and at the appropriate time they will come up when they're needed to come forward. Also we have our Committee staff. We have Pauline Martins, Secretary, and Scott Jensen, Legislative Analyst.

This is a, a brand new concept that we're undertaking. This is a committee that has co-chairs and so we ask for your indulgence and patience as we conduct this morning's meeting for the first time for this Committee.

Members, today we have four items on the agenda. I will be presiding over the first half of the meeting, which will be, which will include PWF Items 8 and 9. Committee Co-Chair Michael Victorino will preside over the second half of the meeting, which will include PWF Items 1 and 42.

PUBLIC WORKS AND FACILITIES COMMITTEE
Council of the County of Maui

January 31, 2007

At this time, I'd like to do a housekeeping announcement and inform you to please turn off your cell phones or pagers or put them on a viber or silent mode, so they will not interrupt the meeting. Public testimony will be accepted for each item on the agenda. Any member of the public not able to stay until their item is heard may provide testimony at this time. Those wishing to testify should sign up at the secretary's desk. Testimony shall be limited to three minutes. The yellow light will indicate you have 30 seconds remaining and should begin to conclude. An additional minute to conclude testimony will be granted subject to the discretion of the Chair and we have decided when the red light comes on we'll give you another minute to conclude. And that's if you haven't completed your testimony after three minutes, you'll have that additional minute. Testifiers are requested to state their name for the record and to indicate who they're representing.

PWF-8 ESTABLISHING A CROSSWALK ON SOUTH KIHEI ROAD (C.C. No. 06-309)

CO-CHAIR MEDEIROS: PWF-8. This item relates to County Communication No. 06-309, from Councilmember Michelle Anderson, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 10.60, MAUI COUNTY CODE, PERTAINING TO PEDESTRIANS". The purpose of the proposed bill is to establish a 12-foot-wide crosswalk on a portion of South Kihei Road, approximately 1,300 feet south of the intersection of Alanui Ke Alii and South Kihei Road.

At this time, I will accept public testimony on this item, PWF-8, or for any of the other three items should the testifier not be able to stay until the item is discussed. So at this time, do we have anybody signed up for testimony? Okay. The indication is that we do not have anybody signed up for testimony. So without objection, I will close public testimony for PWF-8 at this time.

CO-CHAIR VICTORINO: No objections.

CO-CHAIR MEDEIROS: Thank you. I've invited representatives from the Department of Police should there be any questions for them related to this item. I'll call them forward at the appropriate time. I would like now to ask the Director of the Public Works and Environmental Management to provide an overview of this matter. Director Arakawa.

MR. ARAKAWA: Thank you, Mr. Chair. The communication before you stems from a request from 41 Kihei residents, many of whom reside at the Hale Pau Hana development, which is located on the makai side of South Kihei Road across from the Rainbow Mall.

The request notes that there are 250 units on the makai side with no crosswalk to conveniently access the Rainbow Mall. There also is a Maui Bus Stop on each side of the road in this vicinity with no convenient way to cross South Kihei Road. In addition, there are more units

PUBLIC WORKS AND FACILITIES COMMITTEE
Council of the County of Maui

January 31, 2007

under construction on the mauka side of Rainbow Mall and when these units are completed more traffic will be generated which increases the need for a crosswalk.

Pursuant to Section 2.36.020 of the Maui County Code, traffic safety measures must be referred to the Traffic Safety Council for its recommendation. Our department has also reviewed this request and concurs with the purpose of the proposed bill.

At the Traffic Safety Council's meeting of December 5, 2006, they voted unanimously to recommend that the crosswalk be installed as requested. Just some background, Council Members, Councilmember Anderson's request was considered by the full Council at its meeting of December 19, 2006, and it was referred to this Council, which then referred the matter to the Public Works and Facilities Committee.

Although the Public Works and Facilities Committee has scheduled this item for discussion today, I would also like to note that the Department has initiated the process to install the crosswalk. This was done in response to a request from individual Members of the Council who felt that it was important to install the crosswalk, crosswalk as quickly as possible. Pursuant to Section 10.28.130 of the Code, the Department may administratively authorize any traffic-control device to be placed on any County roadway for a period of eight weeks or less. And during this trial period, the Department monitors the traffic control device and submits a report to the Council for further action. Weather permitting the crosswalk can be installed later this week or early next week.

While the temporary test allows the improvements to be implemented immediately, your approval of the proposed bill is respectfully requested and passage of the bill permits the crosswalk to be located there for the long-term. That concludes my report.

CO-CHAIR MEDEIROS: Thank you, Director Arakawa. Any further discussion, Members? Member Anderson.

COUNCILMEMBER ANDERSON: Thank you, Mr. Chair, as this is a, a request initiated by me. I, I wanted to sit in on the, on the meeting and give Members a, a little bit more background. I have some pictures here that I'm gonna pass down because I think it's important for people to see where we're talking about, and I have sort of drawn in where I think the crosswalk should be. When these pictures get to Mr. Arakawa he can correct my squiggles here if I don't have it in the right place. What you're gonna see, Members, is where there is a driveway intersecting South Kihei Road, and as Mr. Arakawa said this driveway is actually turning. It was a driveway from the parking lot which is turned into actually a roadway that will be servicing condos . . . currently services condos and will be servicing some more as soon as they . . . finish being built.

So, I put together a little packet here showing you where the area we're talking about so that you can see all the condominiums on the makai side of South Kihei Road, the shopping center,

PUBLIC WORKS AND FACILITIES COMMITTEE
Council of the County of Maui

January 31, 2007

mostly all you're seeing is the parking lot but it's the shopping center that has Denny's in it, and showing you north and south of what this, this spot where we're putting the drive . . . or the crosswalk looking north and south so you can see. There's no crosswalk for . . . I'm not good at, you know, estimating distances but it, it's at least a quarter of a mile, and you can see it's a very busy way . . . roadway in this section and people are crossing the road without a crosswalk putting everyone in danger.

The driveway that intersects onto South Kihei Road, there used to be a crosswalk across the driveway and it's faded away. If you're down there on the ground you can see up against the curb where the crosswalk was painted, where the cars don't drive over it, but other than that it's completely faded away, and you can't even see it. And so, we're going to have a lot of cars coming down this roadway more than there are now. And because there is a hedge looking south, it's very difficult for the drivers, and the walkers, the pedestrians, to see each other. And without that crosswalk being painted in, there's no real warning to people who are driving down that driveway that they need to slow down because pedestrians are crossing.

So, I'm, I'm gonna pass this down. I'm sorry, Members, that I only have one copy but I wanted them to see what we're talking about. I'm sorry, Mr. Mateo.

Then the other thing I passed out, Mr. Chair, is . . . Members, you'll see this says ResortQuest on top. At the southern end of this shopping mall is another small mall called Kai Nani. And recently well recently, I guess it's been over a year now. Recently, that's recently in County time I guess, and when you see what I've been doing for the last year on this, you'll see why.

The problem with this little shopping mall is that Moose McGillicuddy's came in and that's a restaurant. So now there are three restaurants in this tiny shopping mall and parking requirements for a restaurant are greater than a parking requirement for say a real estate or property management business. And ResortQuest is a property management business that has been . . . that have been in this mall -- it's called Kai Nani Center -- for quite some time. And they are very upset with the parking situation because their little parking lot is overcrowded now. There's not enough space in the parking lot for all of the people who are using that center. All the retail operations, specifically because of basically there's too many restaurants there.

So anyway, we've been working . . . our office has been working with Public Works and Planning for basically, the Planning Department, for over a year now trying to get this situation sorted out because what's happened is because there isn't enough parking to service all the restaurants in the parking lot, the overflow parking is taking up beach access parking along South Kihei Road. The parking that traditionally has been used for, oh I think it's Kam II.

COUNCILMEMBER PONTANILLA: Mr. Chair.

COUNCILMEMBER ANDERSON: And . . .

PUBLIC WORKS AND FACILITIES COMMITTEE
Council of the County of Maui

January 31, 2007

CO-CHAIR MEDEIROS: Member Anderson, can, can you enlighten us how this connects to--

COUNCILMEMBER ANDERSON: Yeah.

CO-CHAIR MEDEIROS: --the agenda item?

COUNCILMEMBER ANDERSON: The reason I'm bringing this to your attention, Members, is because it's at the very end. It's in the same strip that we're looking at for the need for the crosswalk and the, the closest crosswalk to any of this area is right near this center. And so, to give you a perspective of how far people have to go to get to a crosswalk, it's way down at that end. And so you'll see why I've shown Moose McGillicuddy's Kai Nani Center. That's where the nearest crosswalk is and I think it's all relative although it's not this specific item on our agenda. I feel it's relative because I, I want you to see the high impact that this area is receiving from pedestrians. People who are parking along South Kihei Road on the makai side. They are crossing across the road without a crosswalk to get to this center. So that's why I, I have attached this. I'm also sending this as a doc trans. I'm only giving you three of the letters here to just give you an idea of what's going on. The packet I have of information on this of letters back and forth from ResortQuest and the Planning Department and the property management company for the center is about this thick and I'll be doc transing that to your Committee for a specific item.

CO-CHAIR MEDEIROS: Thank you, Member Anderson. Any further discussion? Oh, before we go into further discussion, I'd like to recognize and . . . our Council Chair, Mr. Hokama, also a Committee Member. Welcome.

COUNCILMEMBER HOKAMA: Chairman, thank you.

CO-CHAIR MEDEIROS: Further discussion? Seeing no . . . Member Pontanilla.

COUNCILMEMBER PONTANILLA: Thank you, Chair. Just . . . Mr. Arakawa, can take a look at the last photo?

CO-CHAIR MEDEIROS: Is this regarding the photos that we're . . .

COUNCILMEMBER PONTANILLA: Yeah --

CO-CHAIR MEDEIROS: Submitted by Member Anderson?

COUNCILMEMBER PONTANILLA: --regarding the crosswalk.

CO-CHAIR MEDEIROS: Okay.

CO-CHAIR VICTORINO: Okay, okay. So just to make sure we're on the same page.

PUBLIC WORKS AND FACILITIES COMMITTEE
Council of the County of Maui

January 31, 2007

COUNCILMEMBER PONTANILLA: Mr. Arakawa, if you can take a look at the last photo. I think that's the photo that shows the driveway to the condominiums in the back. The driveway, driveway, now as Member Anderson had alluded to the crossing at that location is not visible. In regards to the driveway itself, is it our responsibility to note, I know at one, at one time, yeah, you know, the white lines could be seen as far as noting the crosswalk. Is it our responsibility to put up a sign noting to the drivers coming down that driveway that a crosswalk is at that location?

CO-CHAIR MEDEIROS: Director Arakawa?

COUNCILMEMBER PONTANILLA: And if not, and if it's our, our responsibility if we could install one?

MR. ARAKAWA: The . . . as you've noted it is a driveway so it's a, it's a, just a private driveway that connects up to South Kihei Road. I'm not sure if we, why we don't have jurisdiction. I'm, I'm sure we don't have jurisdiction to install a sign on private property per se. But the crosswalk that Councilmember Anderson is referring to is actually across the, the driveway but that'll be actually within the public right-of-way. It'll connect up the sidewalks on both sides, so that we intend to do as part of the striping with the crosswalk that goes across South Kihei Road.

COUNCILMEMBER PONTANILLA: So there's no notification of some kind on the private driveway because, you know, you do have the condominiums in the back, yeah?

MR. ARAKAWA: Actually, I don't know if we have any jurisdiction over that per se but we can certainly write to the, the management company recommending some sort of signage. And there was also some discussion about the hedge height at that location. And even that we may not have jurisdiction, Director's jurisdiction over that, but we can at least notify the management company of some concerns there.

COUNCILMEMBER PONTANILLA: Thank you. Thank you, Chair.

CO-CHAIR MEDEIROS: Thank you, Member Pontanilla. Any further discussion?

COUNCILMEMBER ANDERSON: Chair. Chair .

CO-CHAIR MEDEIROS: Member Victorino.

CO-CHAIR VICTORINO: Mr. Chair. Mr. Arakawa, on that drawing as you . . . we were looking at it, can you describe because where I think, and I think Mem. . . , Member Anderson was in the right area, but isn't on . . . not on that intersection but further up beyond the intersection? And it's hard because you don't have a picture to relate to and I realize that.

PUBLIC WORKS AND FACILITIES COMMITTEE

Council of the County of Maui

January 31, 2007

MR. ARAKAWA: We . . . Member Anderson's drawing is fairly close . . . will basically connect across South Kihei Road but it'll be at the corner of the driveway on the mauka side and connect directly across at a 90 degree angle across South Kihei Road.

CO-CHAIR VICTORINO: Okay. Will there be in this project, I think you're just looking at a crosswalk, are we having warning lights?

MR. ARAKAWA: No. It's basically just a crosswalk that goes, a mid-block crosswalk, going across South Kihei Road, and the striping of the driveway as I've mentioned, and also the relocation of two Maui Bus Stop signs. The, the Bus Stop basically stops right in this particular location, so we're proposing to move the signs. The mauka sign, you want, you want the bus to stop at least 20 feet before the crosswalk. So, the sign on the mauka side will be relocated basically 20 feet to the south and the Bus Stop sign on the makai side will be relocated about 20 feet to the, to the north.

CO-CHAIR VICTORINO: One more question. As far as parking along South Kihei Road, when this crosswalk is put in, how many feet from the crosswalk back would the first car or vehicle be able to park? What's the distances that we by ordinance have to put in?

MR. ARAKAWA: I believe that clearance is about 20 feet so . . . but anyway there is that Bus Stop there so there won't be parking in the Bus Stop area.

CO-CHAIR VICTORINO: Okay, okay. Thank you.

CO-CHAIR MEDEIROS: Any further discussion? Member Anderson:

COUNCILMEMBER ANDERSON: Thank you, Chair. I'm just . . . I wanna follow up on Director Arakawa's comments about the driveway not being our jurisdiction even though it does . . . it does cross public right-of-way.

In, in approving the, the subdivision, Director Arakawa, is it not your mandate to make sure that there's . . . that safety concerns on the roadway are addressed so that . . . that larger subdivision that's . . . the second subdivision that's going in right now where you can see that it's still under construction. In approving that wouldn't you have the right to insist that they repaint the crosswalk along the driveway for safety purposes?

MR. ARAKAWA: Councilmember Anderson, typically maintenance type issues are, you know, basically done by the County. So, you know, if that crosswalk across the driveway is on public property, it's basically our responsibility to take care of it. So we're, we're going to repaint it.

COUNCILMEMBER ANDERSON: Okay. I guess I must have been . . . misunderstood you because I thought you said it wasn't your jurisdiction.

PUBLIC WORKS AND FACILITIES COMMITTEE
Council of the County of Maui

January 31, 2007

MR. ARAKAWA: The portion of the driveway that extends mauka is on private property and that is not our jurisdiction.

COUNCILMEMBER ANDERSON: Oh, mauka. Yeah. And so, I mean just, you know, from your judgment on looking at how much housing is mauka of this driveway. Wouldn't it be more appropriate to designate this as a coun..., as a roadway rather than a driveway and give it a name, you know?

MR. ARAKAWA: Well, right now, it's on . . . in private property and basically if the owner or owners wish to dedicate it to the County, they'd have to bring it up to County standards, and then it's up to the Council to accept. So that's an option that is available to, you know, any, any owner or owners of the roadway.

COUNCILMEMBER ANDERSON: Well. I guess what I'm asking you, Mr. Arakawa, is why would the County allow this much housing to be built with the intention of the ingress and egress to the housing on a private driveway? Why wouldn't the County not require them to make this a roadway and dedicate it to the County because, you know, in the County Code, private roads and/or driveways are only suppose to access no more than five lots or four lots, or something like that? And here, you know, it's accessing two large condominium projects.

MR. ARAKAWA: Actually private roads can access much more than four lots. And the option for dedication actually lies with the roadway owner. It's not something that we can compel from our side. We certainly encourage people to dedicate roads to the County if it's brought up to standard but other than that it's the option of the roadway owner to do so.

CO-CHAIR MEDEIROS: Member Anderson, can we stay focused on the crosswalk, which I, I know you, you're getting further than the crosswalk? So, can we just focus on the crosswalk?

COUNCILMEMBER ANDERSON: That's fine, Chair. I appreciate it that. I, I'll address that further later with Mr. Arakawa.

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

COUNCILMEMBER MATEO: Chairman, thank you very much. Mr. Director, just for clarification purposes. The actual request is the crosswalk that will cross the street. The striping that will connect one sidewalk to the other sidewalk that is considered maintenance, so it's not gonna be identified in the scope of the request. Is that, is that correct?

MR. ARAKAWA: That's correct.

COUNCILMEMBER MATEO: But the job is gonna get done simultaneously with that crossing?

MR. ARAKAWA: That's correct.

PUBLIC WORKS AND FACILITIES COMMITTEE
Council of the County of Maui

January 31, 2007

COUNCILMEMBER MATEO: Thank you very much. Thank you, Chair.

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

COUNCILMEMBER PONTANILLA: Just one more question for me. When we relocate the Bus Stop signs, are we taking away street parking on the makai side?

MR. ARAKAWA: I'm not certain. I don't believe so but the street signs will be loc..., relocated on the, on the makai side to the north, 20 feet to the north. And there is another driveway that is fairly close by. So I, I, I'll go back and check but I'm not sure if it's . . . I, I doubt if it's going to be displacing existing street parking.

COUNCILMEMBER PONTANILLA: Thank you. Thank you, Chair.

CO-CHAIR MEDEIROS: Thank you, Member Pontanilla. Further discussion? Seeing none. The Chair will entertain a motion to recommend passage of the proposed bill on first reading and the filing of this item.

CO-CHAIR VICTORINO: So moved.

COUNCILMEMBER PONTANILLA: Second.

CO-CHAIR MEDEIROS: Moved by Member Victorino, seconded by Member Pontanilla. Any discussion? Seeing no discussion. We'll call for the vote. All in favor say aye.

COUNCIL MEMBERS VOICED AYE.

CO-CHAIR MEDEIROS: All oppose?

PUBLIC WORKS AND FACILITIES COMMITTEE

Council of the County of Maui

January 31, 2007

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

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: None.

MOTION CARRIED.

ACTION: FIRST READING AND FILE COMMUNICATION.

CO-CHAIR MEDEIROS: Okay. The bill passes on majority of votes. Thank you, Members. We are now on agenda item PWF-9.

**PWF-9 INDEMNIFYING SCHNITZER STEEL HAWAII CORP. PURSUANT TO A
CONTRACT TO PROVIDE RECYCLING OF SCRAP METAL AND
ASSOCIATED RECYCLABLE MATERIALS FROM THE MOLOKAI
LANDFILL (C.C. No. 06-312)**

CO-CHAIR MEDEIROS: This item relates to County Communication No. 06-312, from the Director of Public Works and Environmental Management, transmitting a proposed resolution entitled "INDEMNIFYING SCHNITZER STEEL HAWAII CORP. PURSUANT TO A CONTRACT TO PROVIDE RECYCLING OF SCRAP METAL AND ASSOCIATED RECYCLABLE, RECYCLABLE MATERIALS FROM THE MOLOKAI LANDFILL FOR THE DEPARTMENT OF PUBLIC WORKS AND ENVIRONMENTAL MANAGEMENT, JOB NO. 06-07/P-4". The purpose of the proposed resolution is to allow the County to execute a contract, which contains a provision requiring the County to indemnify Schnitzer Steel Hawaii Corp. for preexisting pollution, soil contamination, and hazardous waste contamination at the Molokai Landfill in connection with services it provides under the contract.

At this time, I will accept public testimony on this item or for any other of the other two items on the agenda should the testifier not be able to stay until those items are discussed. And our testimony time will follow the same ground rules that we stated at the beginning of the meeting. So at this time, do we have anyone signed up for public testimony? Okay. We have no one signed up for public testimony. Without objections, I will close public testimony on agenda item PWF-9.

COUNCILMEMBER MATEO: No objections.

PUBLIC WORKS AND FACILITIES COMMITTEE
Council of the County of Maui

January 31, 2007

CO-CHAIR MEDEIROS: No objections. Thank you, Members. I would like now to ask the Director of Public Works and Environmental Management to provide an overview on this matter. Director Arakawa.

MR. ARAKAWA: Thank you, Mr. Chair. The purpose of the proposed resolution is to allow the County to execute a contract, which contains a provision requiring the County to indemnify Schnitzer Steel Hawaii Corp. for preexisting pollution, soil contamination, and hazardous waste contamination at the Molokai Landfill.

By way of background, the island of Molokai does not have an organized program to deal with abandoned vehicles and used white goods. . . .(end of tape, start 1B at 9:34 a.m.) . . . used white goods instead have been accepted at the landfill. A total of \$400,000 was appropriated in the County Fiscal Year 2005 to address derelict vehicle and white goods processing at, at the landfill. At that time, a vendor was selected to, to do that job and the contract was awarded back in June of 2005. However that vendor was unable to provide the necessary performance bond in accordance with the requirements of the request for proposal, and consequently this contract was terminated, and the funds which were appropriated in Fiscal Year '05 lapsed.

A second procurement was initiated after funding was approved in the County's Fiscal Year '07 Budget and Schnitzer Steel Hawaii Corp. was the low bidder at \$777,000 to take care of derelict vehicle and white goods processing. During the contract preparation phase, Schnitzer Steel had an issue with the indemnification provision in the County contract. And basically Schnitzer Steel felt that they should not be held responsible for claims, damages, costs, or expenses arising from or relating to preexisting pollution, soil contamination or hazardous waste. However, the vendor would be responsible for preventing or mitigating any pollution, soil contamination, or hazardous waste contamination caused by them in the performance of their duties.

We believe that this is a reasonable request and we're recommending approval of the language.

CO-CHAIR MEDEIROS: Discussion?

CO-CHAIR VICTORINO: Mr. Chair?

CO-CHAIR MEDEIROS: Member Victorino.

CO-CHAIR VICTORINO: We have representatives from Schnitzer Steel here and I think at this time it would be appropriate if they were called up and we have questions that directed to them that they could answer it for us. If that's alright with the Chair?

PUBLIC WORKS AND FACILITIES COMMITTEE
Council of the County of Maui

January 31, 2007

CO-CHAIR MEDEIROS: Certainly. Could we have representatives from Schnitzer Steel come to the podium, please? And would you state your name and the company again that you're representing.

MR. BANIGAN: Good morning, Mr. Chairman. My name is Jim Banigan. I'm the General Manager of Schnitzer Steel Hawaii Corporation.

CO-CHAIR MEDEIROS: Good morning.

MR. BANIGAN: Thank you for having us here.

CO-CHAIR MEDEIROS: Members, any questions for the representative?

COUNCILMEMBER MATEO: Mr. Chairman.

CO-CHAIR MEDEIROS: Member Mateo.

COUNCILMEMBER MATEO: Chairman, thank you very much. Mr. Banigan, good morning. The, the sc..., scope of the work that you're planning on doing is, is expected to take up what length of time?

MR. BANIGAN: We have budgeted three months in order to complete this project.

COUNCILMEMBER MATEO: And three months we'll be able to rid this landfill from the scrap materials and all of the white waste?

MR. BANIGAN: Ah, we . . . yes, sir, we do expect it to, to, to be a three-month job.

COUNCILMEMBER MATEO: Okay. And, can you, can you kinda share with us how you expect on getting this materials off of our island?

MR. BANIGAN: What we are planning to do, we will bring a crew of four or five people from, from our operation, employees of Schnitzer Steel, along with several pieces of equipment, hydraulic excavators, hydraulic shears, and begin segregating the various types of metal that are in the landfill. You have, you have cars. You have white goods and appliances. There are other heavier pieces of steel, which require cutting with a shear, such as truck frames, and big pieces of beams and steel. We will segregate all these items.

In the process, we will recover the, the fluids from the vehicles, the appliances prior to us actually segregating and sorting 'em, will be checked for any Freon. That will be recovered and recycled. And then what we'll do is bring in trucks from Oahu, hire a barge, bring in trucks from Oahu, load up the scrap over a two-week per., two weekend period, and bring it to Oahu and process it at our facility in Oahu.

PUBLIC WORKS AND FACILITIES COMMITTEE

Council of the County of Maui

January 31, 2007

COUNCILMEMBER MATEO: So then the, the issue on indemnification then, have you already done an assessment to take a look at what kind of contaminants could already be there?

MR. BANIGAN: We have not done a formal assessment, but I know that there are, there are, there is documentation, photographs, et cetera, letters that we've been told have been passed between the Department of Health and the County regarding the lack of Best Management Practices that, that, that do not exist at that landfill, and that there have been batteries and other things bulldozed into the ground. So, we do know that there are some preexisting problems there.

COUNCILMEMBER MATEO: And, and in the process of cleaning out the landfill then you will have a representative there to, to monitor what is considered your damage or your contribution to the, the hazardous materials on the soil? Or how is it planned? How do you plan to monitor the kind of cleanup that you will be responsible for versus the kind of cleanup that's required from items that have already been there prior?

MR. BANIGAN: That's a very good question. It's, it's without having a baseline analysis of the soil to determine what is preexisting, and that will require a lot of money to do, and there isn't any money in this, in this bid to do that. There is really no definitive way to determine preexisting versus what we contribute to it. However, we will institute Best Management Practices, which will be defined in our operations plan to the Department of Health, whereby we will put steel plates down . . . to put where we're processing automobiles to prevent any fluids that, that do drip out of the vehicles from actually touching the soil. It will go on the steel plates and we will recover that with spill kits that we'll have on site and throw that material away.

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

CO-CHAIR MEDEIROS: Thank you, Member Mateo. Any more questions?

COUNCILMEMBER HOKAMA: Chairman?

CO-CHAIR VICTORINO: Oh, okay.

CO-CHAIR MEDEIROS: I'm sorry. Member Hokama --

CO-CHAIR VICTORINO: No worry, go ahead. I yield the floor.

CO-CHAIR MEDEIROS: --followed by Member Victorino.

COUNCILMEMBER HOKAMA: My, my question to the gentleman is, if what my understanding is that you're sharing with us this morning that you . . . this is what I am . . . my understanding you, you didn't know what is the current condition of the site before you put in a bid to the County to do the work?

PUBLIC WORKS AND FACILITIES COMMITTEE
Council of the County of Maui

January 31, 2007

MR. BANIGAN: Well, no. What, what, there was a site inspection with all the prospective bidders prior to the actual bid being published and bid on. And during that site visit the, the contractors requested that a provision be added to the bid that indemnify the contractor for all preexisting damages, I mean, preexisting pollution or contamination. And that was an addendum that was issued and that's what all the contractors bid on. So when we submitted our bid we understood that, that provision would be included in the contract. However, when the contract was issued that language was taken out and actually flipped whereby now the County wanted the contractor to indemnify the County for any pollution. So, we felt that that was somewhat inappropriate from the standpoint that we had bid on a contract that we thought had the indemnification in it and when we actually got the contract it wasn't there and had been turned around.

COUNCILMEMBER HOKAMA: Who from the County gave you the understanding that it was the other way than the way the contract proposed?

MR. BANIGAN: I'm sorry, sir. I don't quite . . .

COUNCILMEMBER HOKAMA: What County person told you that they would take care of this sit..., that this liability issue that the County would accept the precondition liabilities before, instead of the way that --

MR. BANIGAN: Well, there was . . .

COUNCILMEMBER HOKAMA: --we normally put contracts?

MR. BANIGAN: There was a representative from the Department of Public Works at the time. I don't. . . well I think you have split the department now - - Department of Environmental Management, whatever.

COUNCILMEMBER HOKAMA: Yeah. But it doesn't exist.

MR. BANIGAN: Okay.

COUNCILMEMBER HOKAMA: It's just the one department.

MR. BANIGAN: There was a representative who, who walked us through the landfill and then when the, when the addendum came out. There isn't a published addendum that actually came out from the Department of Public Works that indemnify the contractor. But we were told later, and we understand this, that, that someone from the department can't do that. That, that's something that the Council has to approve. That's, that's indemnification of the County -- it has to come from the Council not from a department and then we completely understand that.

PUBLIC WORKS AND FACILITIES COMMITTEE
Council of the County of Maui

January 31, 2007

COUNCILMEMBER HOKAMA: And Chairman, I'm . . . I appreciate my opportunity with the gentleman. At the appropriate time, I have questions for Corporation Counsel.

CO-CHAIR MEDEIROS: Oh, okay. Member Hokama, can I add something that may help you that the addendum that I have a copy of and I just received was signed by Tracy Takamine of the Solid Waste Division.

COUNCILMEMBER HOKAMA: Thank you, Chairman. I have . . . I've gone through that addendum also.

CO-CHAIR MEDEIROS: Okay.

COUNCILMEMBER HOKAMA: But I, I need to ask our legal counsel some questions at the appropriate time, please.

CO-CHAIR VICTORINO: Mr. Chair, I will yield to Councilman Hokama because I think since we're at this point and it's applicable to the discussion that we continue on that discussion and my questions are a little different and not directly related. So, I will yield to Council..., Councilman Hokama.

CO-CHAIR MEDEIROS: Thank you, Member Victorino. Member Hokama, would you like to continue?

COUNCILMEMBER HOKAMA: I'm done with the gentleman, Chairman. So, if there's other Members that have questions for the gentleman since he's up, I am happy to yield the floor.

CO-CHAIR MEDEIROS: Thank you for that. Any other Members have questions for the representative from the company?

CO-CHAIR VICTORINO: Okay.

CO-CHAIR MEDEIROS: Member Victorino.

CO-CHAIR VICTORINO: Then with that in mind I will state that as far as the indemnification and the process that has been forthcoming to us, what you're looking for is just for this project because this project, if I'm correct in saying, is an E..., EPA environmental situation for which this County has been put on notice unless we get it done real soon we're going to be, be fined. Is that not correct, Director Arakawa?

CO-CHAIR MEDEIROS: Director Arakawa?

MR. ARAKAWA: I'm sorry, Councilmember Victorino.

PUBLIC WORKS AND FACILITIES COMMITTEE
Council of the County of Maui

January 31, 2007

CO-CHAIR VICTORINO: I said the reason for this indemnification and the expediency of this contract is because right now the EPA is upon us because of environmental mismanagement or whatever words you want to use as far as that particular site is concerned.

MR. ARAKAWA: Councilmember Victorino, we, to my knowledge, we don't have a notice of violation for this particular site per se. But if you have gone out you've seen the pictures there. The cars and the, the scrap metal have been collecting for quite some time. So there've been threats to cite us on this. And so that's why we are trying to get rid and process all of the scrap metal out from the landfill site.

The other issue regarding a matter of some expediency is that a portion of the scrap metal is also in the next cell of the landfill and the existing cell is filling up quite fast. And so, we need to remove all of the scrap metals from the next cell and actually prepare the next cell to actually accept municipal solid waste. So there's some, you know, expediency for, for that occurring as well.

CO-CHAIR VICTORINO: Last question for the representative from Schnitzer Steel. For dust control, you will bring over equipment to make sure that we don't have a dust bowl over there 'cause it's a very dry area? Anyone knows that.

MR. BANIGAN: Yes, sir. We're gonna bring a 2,500 gallon water tank over - - a tanker truck. And we will be spraying the, the prop..., the area that we're processing and then collecting scrap virtually all the time to make sure that the . . . we minimize whatever dust impacts we have on the community.

CO-CHAIR VICTORINO: Okay. Good. Thank you, Mr. Chair.

MR. BANIGAN: I would . . .

CO-CHAIR MEDEIROS: Thank you, Member Victorino. Member Pontanilla. And at this time, I'd like to say we need to ask our questions of the representatives so when we done with that we can excuse them and then further discussion and questions can be asked of Corp Counsel and the Director. Thank you.

COUNCILMEMBER PONTANILLA: Thank you, Chair. The scope of your work is to remove scrap metal. As far as the tires as well as the batteries, are you gonna take care of that too?

MR. BANIGAN: Yes. That's also . . . I was gonna add that, that there also is a provision in the contract to remove all the tires as well as batteries. The way the batteries will be handled . . . you, you currently have, I understand, a contract with Interstate Battery to take any loose batteries that are associated or around the landfill area or anybody that brings in an automobile or a battery. So that is an ongoing contract. Any batteries that we remove from automobiles will be palletized, will be shrink-wrapped, will be sent to Oahu to Interstate Battery, who is the,

PUBLIC WORKS AND FACILITIES COMMITTEE
Council of the County of Maui

January 31, 2007

the licensed battery recycler. So, yes, we will take care of any batteries that, that come out of the vehicles.

COUNCILMEMBER PONTANILLA: I, I, I note on the addendum, on the delete, General Information, 1.3 Description, of an airplane behind a tree, behind the recycling facility. You going take care of that too?

MR. BANIGAN: If it's scrap metal, we'll take it.

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

CO-CHAIR MEDEIROS: Thank you, Member Pontanilla. Any other further questions for the representative? Seeing none. Thank you, sir.

MR. BANIGAN: I wonder if I could ask just one question of Mr. Arakawa. I'm, I'm wondering if it's possible, you'd mention that there are no notices of violations that you're aware of. If there are any at all, I'm wondering if we as a contractor could be notified or see any copies if anything does happen between now and the time that we get on site.

MR. ARAKAWA: Any notices of apparent violation, notice of violation that we receive, it's a matter of public record, so we'd be able to share that with you.

MR. BANIGAN: Thank you.

CO-CHAIR MEDEIROS: Okay. Thank you once again.

MR. BANIGAN: Okay. Thank you very much for your time.

CO-CHAIR MEDEIROS: Members, any other further discussion? Member Hokama.

COUNCILMEMBER HOKAMA: Chairman, thank you. This would be for Corporation Counsel, Ms. Young.

CO-CHAIR MEDEIROS: Corporation Counsel?

COUNCILMEMBER HOKAMA: Did your office review this addendum number one as well as I'm assuming the original contract that was sent for . . . provided to for this project? Your office has had also reviewed and approved?

MS. YOUNG: Mr. Hokama, Exhibit A to the Resolution I believe we did review because that is attached to the Resolution. So we would . . . we're, we're familiar with what that says and actually there's an attorney in our office that does, that does review all contracts.

PUBLIC WORKS AND FACILITIES COMMITTEE
Council of the County of Maui

January 31, 2007

As far as the addendum, I had a very brief conversation with, with Director Arakawa because I had . . . this is the first time I had seen this and when I spoke to the attorney that does review the contracts and that did draft the Resolution that's before you today, she didn't mention the addendum so I do not believe we're familiar with it. And, and when I spoke to Director Arakawa this is the first time that his office or that, that the Director was, was made aware of this addendum.

COUNCILMEMBER HOKAMA: So stating that, how valid is this addendum? We don't have your department signing off. There's no agreed to sign off by the Director. There's nothing from Finance regarding possible adjustments to contract.

MS. YOUNG: Correct. Well, really there's, there's nothing binding between us and the contractor in the sense that there's no contract. So, technically there's no addendum to a, a valid executed contract, right. That's, that's why we're here before you today with the Public Works Department requesting this indemnification because that would allow them to enter into the contract. So, the, the addendum . . . I . . . you know is, is basically, you know.

COUNCILMEMBER HOKAMA: It doesn't exist, right?

MS. YOUNG: I would say with . . ., without knowing more, it looks to me like a proposal but without knowing more, I, I can't speak to what kind of conversation Schnitzer has had with County officials.

COUNCILMEMBER HOKAMA: Okay; fine. Next question. We've done other similar type of jobs in the past. Have we ever reversed the liability portion for other contractors? You know we've hauled things out of Hana Landfill, which was a contract.

MS. YOUNG: Mr. Hokama, I'm, I'm not aware of a time that we've entered into this type of agreement whereby the County indemnifies the contractor, and when I consulted briefly with the Director of Public Works and Environmental Management he's not, he's not aware of any contract like this or any type of requests similar to this particular request that's before you today regarding a County contract for services.

COUNCILMEMBER HOKAMA: Are we aware of the potential limits of the liability? What are we talking about? What are you asking Council or through this Committee to agree to? Potential liability of one million dollars, ten, a hundred? What are, what are we being asked?

MS. YOUNG: Well . . . that, that is a challenge of this resolution, is that we can't come up with a figure because we can't foresee. We, we cannot predict rather what is going to happen. So, you know, the, the, the best we could do and the best we could recommend if, if Council wanted to pass this, is to have a baseline study because at least you would know what, what is existing on the landfill currently and, therefore, what the County would be responsible for pursuant to the language that's proposed.

PUBLIC WORKS AND FACILITIES COMMITTEE
Council of the County of Maui

January 31, 2007

COUNCILMEMBER HOKAMA: Are there any existing warnings or violations from governmental agencies, State or Federal, on this site?

MS. YOUNG: I, I believe the Director may be, may be better, more, more familiar with those types of issues.

COUNCILMEMBER HOKAMA: Chairman, if I may redirect the question to the Director of the Department, please?

CO-CHAIR MEDEIROS: Yes, Member Hokama.

COUNCILMEMBER HOKAMA: Mr. Director.

CO-CHAIR MEDEIROS: Director?

MR. ARAKAWA: Councilmember Hokama, as, as I noted, I, I don't believe we have a, an active notice of violation. We have had discussions with the Department of Health who is very concerned about the condition of the landfill and they may in the future issue a notice of violation. But to my knowledge, at the present time, there is no existing one.

COUNCILMEMBER HOKAMA: Okay. I hope the response you're gonna give me to this question is the one I hoping you would give. Do we know what is in the landfill regarding potential Hazmat, hazardous materials or things that could be of a major liability issue for this County? Or have we no understanding of even what's in there?

MR. ARAKAWA: Councilmember Hokama, the scrap metal whether it's abandoned vehicles and other used white goods and other pieces of, you know, metal have basically been stockpiled there for lack of a processor on the island. So, in terms of what has leaked out, we really don't know. And in fact it's covering the ground in which it's leaked onto, so we'd have to remove all of the materials first before we, we are able to do any kind of, you know, detailed testing. But as the representative from, from Schnitzer ment..., mentioned, you know, if we really wanted to get a good idea of, of what the preexisting pollution would, you know is, we'd have to go and actually do sampling and do some studies of the soil itself, which we have not done. So, in answer to your question, we, we really don't have a good idea as far as what is there currently.

COUNCILMEMBER HOKAMA: So, we may currently have potentially our employees in a very unsafe situation that would we . . . would be violating OSHA standards? Would that be a good guess on our part?

MR. ARAKAWA: With regard to OSHA, I, I, I'm not, I, I cannot comment on that item. I don't know.

PUBLIC WORKS AND FACILITIES COMMITTEE
Council of the County of Maui

January 31, 2007

COUNCILMEMBER HOKAMA: How much more would this potential contract cost if we went with our standard language? Do you folks have a guesstimate to, to share with us?

MR. ARAKAWA: No, I, I don't. If the Council decides not to approve the indemnification language then I suppose we would have to go out to do another re-bid and we were not certain what the prices will, will come in with.

COUNCILMEMBER HOKAMA: This is something that cannot be done with your, your personnel on the island and supplemental support from your main baseyards?

MR. ARAKAWA: No. There's, there's no way we could do that. 'Cause we'd have to . . . it involves processing basically draining all the fluids from the, the metal. Probably baling it, shipping it from the landfill to the harbor, getting some sort of a barge to barge it off to the metal recycling facility on Oahu. So that's way beyond our capability.

COUNCILMEMBER HOKAMA: Thank you very much, Mr. Director. Chairman, thank you.

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

COUNCILMEMBER PONTANILLA: Thank you, Chair. You mentioned about this site being a future cell. The existing landfill, I know it's a mountain right now. How long before we meet the life of that landfill or have we already met it . . . met the life?

MR. ARAKAWA: Gee, I don't have an exact date for you but I know that we are very close to the capacity on the existing cell. Therefore, one of our proposals is to include in the Fiscal Year '08 Budget to do construction for the next cell . . . Cell 3 of the Molokai Landfill. And in conjunction with that we'd wanted to clear out all of the scrap metal from the area of Cell 3 so that we can begin the process of actually lining Cell 3 so that we can accept municipal solid waste there and initiate the process of closing the existing cell.

COUNCILMEMBER PONTANILLA: So this would be considered Cell Number 3?

MR. ARAKAWA: The scrap metal is all over the . . . of unused portion of the landfill. And the scrap is on . . . Cell 3 is a portion of that.

COUNCILMEMBER PONTANILLA: Yes.

MR. ARAKAWA: Yeah.

COUNCILMEMBER PONTANILLA: So if we meet contamination, I, I guess I don't know how long it's going to take to have that soil decontaminated. Do we have any idea how long it would

PUBLIC WORKS AND FACILITIES COMMITTEE
Council of the County of Maui

January 31, 2007

take if, if contamination was . . . I'm sure it's gonna get some . . . it's going to take to decontaminate the portion of this particular area here?

MR. ARAKAWA: No, we . . . I, I wouldn't have an estimate on that. That we'd have to work with the Department of Health and come up with a program to actually . . . to do whatever remediation that might be required.

COUNCILMEMBER PONTANILLA: Once the scrap metals and tires are removed, you're gonna . . . I'm assuming that you gonna be doing some excavation also to, you know, well you going have to prepare for Cell Number 3.

MR. ARAKAWA: I haven't seen the scope of work for Cell 3 but it may involve some excavation but it will involve also placing of the lining and other, you know, drainage issues that need to be taken care of before the site can accept solid waste.

COUNCILMEMBER PONTANILLA: Okay. As far as the addendum, addendum, it doesn't note any cost on this particular sheet here. Will that add cost to the existing bid price that we've gotten from the vendor?

MR. ARAKAWA: Councilmember Pontanilla, as far as this addendum number one that was circulated today, I personally haven't seen the addendum item, so I, I would hesitate to comment on it. It would seem like we would have to at least get the Corp Counsel's signature on it as well as review by the Department of Finance, and it doesn't appear that it's been done from, from what, from what I can see.

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

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

CO-CHAIR VICTORINO: Mr. Chair, my question is directed to Director Arakawa.

CO-CHAIR MEDEIROS: Director Arakawa.

CO-CHAIR VICTORINO: Director Arakawa, for the soil samples, would you give, be able to give us if we were out to go and get tests and results, an approximate time frame that would take? And again, an approximate time frame?

MR. ARAKAWA: Offhand, I, I wouldn't be able to. I can respond in writing to you if you, if you like. Give you some rough . . . can give you some rough cost figures and maybe a rough time frame on that.

PUBLIC WORKS AND FACILITIES COMMITTEE
Council of the County of Maui

January 31, 2007

CO-CHAIR VICTORINO: Okay. Well the reason for that is again the importance of this. And secondly, could it be done without removing the vehicles? Could we get a good soil analysis with all the vehicles, scrap metal, and white all still sitting there?

MR. ARAKAWA: I, I'd have to go back and check and see if, you know, that's even a possibility. 'Cause, you know, basically if we're sampling areas where with no, no scrap metal then you're not going to find any spillage, so probably the best place to do your sampling would be under the, the vehicles themselves.

CO-CHAIR VICTORINO: Okay. These, these are important facts, Mr. Chair. The other thing is . . . the other question for Mr. Arakawa is simply this. If we procrastinate and continue to put off for whatever reasons, we will . . . you have the ample time in the near future if you had to go out and get new bids to get this job done before we get into violations?

MR. ARAKAWA: That's a hard question to answer. I can tell you that time is very tight right now. The Department of Health may be issuing a notice of violation on the scrap metal as it is on the landfill. If we defer . . . *(end of tape, start 2A at 10:02 a.m.)* . . . the removal of the scrap metals further. The existing permit that we have on the existing cell may then become in violation a . . . , a . . . , above the approved height limit. So, we're kind of in a, a catch-22 that we have move one way or the other or else we, we will be in violation.

CO-CHAIR VICTORINO: Thank you, Mr. Chair. Thank you, Mr. Arakawa. I will defer to others for questioning. I have a couple more but I'll wait to see if they ask it.

CO-CHAIR MEDEIROS: Thank you, Member Victorino. Any other questions? Member Mateo.

COUNCILMEMBER MATEO: Thank you, Chairman. Mr. . . . Mr. Director, the vehicles on, on the landfill . . . has, has the County ever removed any vehicles from this landfill, landfill?

MR. ARAKAWA: Councilmember Mateo, I, I'm not aware of any removal that has been done by the County. If, if has been done, I'm, I'm not sure where it would've been taken to. We, we have no processor on the island. So, it's basically been stock-piled there at the landfill.

COUNCILMEMBER MATEO: Yeah. It hasn't . . . it hasn't been moved from the landfill, including, including white waste. The only thing that was removed from the landfill several years ago was several containers of tires that still left several thousand tires left in the landfill. I'm a little disturbed at this point because we're, we're addressing contamination possibilities at this point with this cont . . . , with this, I guess, person who provided a bid to the County.

In 2005, when there was another individual wanting to do similar work, was there ever discussions on how to deal with contamination and potentials at that . . . at that point with this low bidder at the time?

PUBLIC WORKS AND FACILITIES COMMITTEE
Council of the County of Maui

January 31, 2007

MR. ARAKAWA: Well, the discussion with the previous vendor dealt primarily with his inability to provide a performance bond and the fact that he never did provide that performance bond eventually lead to us terminating the contract.

COUNCILMEMBER MATEO: Okay. And so, the initial boiler plate language in, in that potential contract was just based on his responsibility in dealing with contamination should it be evident?

MR. ARAKAWA: I believe the indemnification provision that we had in the original contract would've required the contractor to be responsible for all of the pollution and contamination that was on the site.

COUNCILMEMBER MATEO: Mr. Director, has the County . . . have we ever done an assessment because the stock-piling has not crea..., was . . . didn't happen in the last five years? It's just been for a real long time. And, you know, we know of the, the leaks that are occurring both with vehicles as well as our white appliances there. And it is not only a concern for our own employees who work the landfill, but we drive to the landfill. We pass the mountains of vehicles. We pass the mountains of white appliances as well. So if, in fact, there's concern of contamination then our residents are being exposed to it as well. So, you know, to me we have waited too long at this particular point.

Cell 3 was a factor that should've happened a long time ago and we have delayed it. So, to me, this is, this is of the utmost urgency because if we don't do it now we are continuing to compound the potential hazards that, that could already exist in this landfill.

And I support your recommendation to get this job done because it would baffle me how any business person would wanna assume this responsibility and be liable for inefficiencies of, I guess, the County of being sure that our landfill is safe. So, I would, you know, I'm a little concerned of this back and forth at this point. And I think perhaps we should take a look at the landfill and see that if we don't deal with it now, and pay for it now, we're going to pay a lot more for it later. And that's just the bottom line in the reality of us not removing old vehicles, not removing white waste, not removing batteries and tires, and then think that we have a safe situation. I don't think so. Thank you.

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

COUNCILMEMBER HOKAMA: Question.

CO-CHAIR MEDEIROS: Member Hokama.

COUNCILMEMBER HOKAMA: Mr. Director, my other, my colleague refreshes my memory. I know we had that big appropriation a few years ago to take care Hana and Molokai's scrap tire, and, and metal, I believe. I, I think that was one of your division's request that we supported. So, I, I, I appreciate the comments from my colleague of Molokai.

PUBLIC WORKS AND FACILITIES COMMITTEE

Council of the County of Maui

January 31, 2007

You know, but we also had the issue of stock-piling and removal of scrap metal at the old Waikapu Dump. What is that, a year and a half ago, more or less? How, how did the Coun..., County accomplish getting those scrap metals removed? Did we go through a contractor? Did they ask for the same type of indemnification? Can, can you recall, Mr. Director?

MR. ARAKAWA: Councilmember Hokama, I don't recall the specific indemnification provision for the removal of the cars from the Waikapu Landfill. But that was accomplished through the previous vendor that we had on, on the island of Maui here. So, he basically took care of all the transport and the processing of, you know, those vehicles at the landfill - Waikapu Landfill.

COUNCILMEMBER HOKAMA: Right, right, right, right. I'm just trying to get a grip on this request on the indemnification, Mr. Director. And, and for me, you know, I've been trying to . . . see if, if this is a request that I would like to support or not. So, I'm getting the feeling that we, we, we don't this in, in a consistent manner, it's depended upon who wins the, the bid, and, and then what they try to negotiate with the department for certain considerations. Would that be a good understanding on our part?

MS. YOUNG: Mr. Hokama, my understanding is that typically the general terms and conditions, which indemnification by the contractor would be a, a standard general term and condition for the County. And, and this, you know, what we're, we're talking here obviously is, is not. That is usually included in the IFB -- the Inv., the Invitation for Bids. For some reason it wasn't done here for this particular IFB. I, I believe what . . . my understanding is that that's been addressed where now that is done as a standard practice. So that accounts for the, the . . . one of the reasons why this doesn't come before you is because usually we take care of that in the IFB process.

COUNCILMEMBER HOKAMA: Okay. Normally Mr. Mateo, we need to get this job done, but I'm not happy how we're achieving that goal right now. I wish I had an opera. I wish I had some . . . a proposal to present to this Committee on how maybe we might wanna take care my concern. Is this . . . we, we can limit the, the indemnification parameters? Or are we just giving a blanket consideration, Corp. Counsel?

MS. YOUNG: Well the, the limitation would be that it would have . . . the injury or damage would have to be a result from the contamination that's preexisting Schnitzer's work on the, on the property.

COUNCILMEMBER HOKAMA: You feel that we can make that black and white and no gray? Or, or minimize the gray enough that the County is . . . can be reasonably or reasonably assured of what our responsibility would be, if any? I don't like the guessing because when it comes to us we're going to be looking at big numbers to settle a suit or claim.

PUBLIC WORKS AND FACILITIES COMMITTEE

Council of the County of Maui

January 31, 2007

MS. YOUNG: I, I suppose you could limit by . . . and you indicated, you know, an, an amount, a dollar amount. However, I'm not sure if that would address Schnitzer's concerns so we may be in the same predicament that we're in now. But that is an option that we . . . that could be discussed with Schnitzer. It, it's difficult because we're dealing with a contract and, and, you know, the options, you know, I guess include as, as Director Arakawa mentioned going back out for bid. You know, it's not clear what that bid would come in at, what . . . how much higher if, if it were higher. How much higher it would be . . . whether there would be any bidders on, on the, on the IFB. So, but that's . . .

COUNCILMEMBER HOKAMA: And, and that's my dilemma, yeah? Just like Mr. Mateo said, we going pay now, pay more or potentially pay more later. I can agree to this indemnification and we might save money and agree to one half million dollar contract. But does it help us if we get sued for ten million later?

MS. YOUNG: And, and your comment is correct. It's, it's . . . it would be impossible for us to predict, you know, it's hard to predict if, if we even would get sued. You know, there . . . it may be, it may be well that we don't get sued, right?

COUNCILMEMBER HOKAMA: And that's why we go to contract that limits and sets the parameters, right?

MS. YOUNG: Correct. And, and on the, on the flip side of what I'm saying is that, you know, if we did get sued it's, you know, we couldn't tell you what that amount, you know, what the plaintiff would, would claim. What, what amount the plaintiff would be asking for.

COUNCILMEMBER HOKAMA: I understand your position, Corp..., Corporation Counsel. Mr. Chairman, thank you very much.

CO-CHAIR MEDEIROS: Thank you, Member Hokama. Member Victorino.

CO-CHAIR VICTORINO: Mr. Chair, at this time, I'd like to ask for a five minute recess.

CO-CHAIR MEDEIROS: Okay.

CO-CHAIR VICTORINO: If that can be granted.

PUBLIC WORKS AND FACILITIES COMMITTEE
Council of the County of Maui

January 31, 2007

CO-CHAIR MEDEIROS: Okay. The Chair will call a five minute recess. . . . (*gavel*) . . .

RECESS: 10:17 a.m.

RECONVENE: 10:37 a.m.

CO-CHAIR MEDEIROS: . . . (*gavel*) . . . Okay. The meeting of Public Works and Facilities Committee is now reconvened and we'll continue with the discussion. The floor is open to discussion, Members.

COUNCILMEMBER HOKAMA: Chairman?

CO-CHAIR MEDEIROS: Member Hokama.

COUNCILMEMBER HOKAMA: Thank you for that recess that you granted Mr. Victorino. I'm wondering if the department has any other information to share with the Committee before we consider decision making, please.

CO-CHAIR MEDEIROS: Thank you, Member Hokama. Director, would you like to add anything to this discussion, please?

MR. ARAKAWA: Mr. Chair, I, I can certainly understand the, the, the reluctance of the Committee to move forward on the indemnification. However, I, I also believe that the issue of these abandoned vehicles and scrap metal at the Molokai Landfill, you know, has been a, a long thorn in our side and we wanna deal with it. We are aware that there may be preexisting pollution issues that we may have deal with. But this is a step I believe in the right direction to try to at least remove the cause of the problem and, you know, we'll . . . we realize that we'll have to deal with the, the preexisting issues later. So our, our recommendation is that, you know, we accept the changes to the indemnification provisions and move forward with the procurement.

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

COUNCILMEMBER HOKAMA: Chairman, if I can follow up, please?

CO-CHAIR MEDEIROS: Certainly; go ahead.

COUNCILMEMBER HOKAMA: Thank you. Okay. Mr. Director, we, we heard your recommendation. What would you be able to share with us this morning then for your department through your division, when would be . . . when do you feel we would or the division would deal with the contamination issue? Within the next six months? The next fiscal year? Because I think there's all agreement. We need to take care of the contamination issue and we need to take care the scrap metal. And, and unused tires, you know, concern on

PUBLIC WORKS AND FACILITIES COMMITTEE
Council of the County of Maui

January 31, 2007

Molokai. So what would be the plan then? If we go with us, at this time, this would be the, the Phase I. What . . . how would we then approach the contamination issue?

MR. ARAKAWA: We, we would have to, of course, deal with the people who regulate us, which is the Department of Health. Our first step would be to, to touch base with them. See what they would require as far as any remediation that may be needed on the site and then proceed accordingly. If you like I can, I mean. Well to me we would get a better idea of the contamination once the scrap metal is removed 'cause it's very, very difficult to do accurate sampling with all the, the vehicles there. So once it is removed we can, you know, discuss the matter with the Department of Health and come forward with a program to deal with any required remediation. That may take the form as far as our budget request in, in future budget years. But we realize that the, the preexisting pollution is something that we need to deal with and, you know, we'll, we'll come forward with the appropriate funding once we know what's going to be required of us, once the scrap metal is removed from the site.

COUNCILMEMBER HOKAMA: Would this be a priority for your division, Mr. Director?

MR. ARAKAWA: It, it's going to be a . . .

COUNCILMEMBER HOKAMA: We understand the, the issue with the Central Maui Landfill, so, you know, we know that's a priority. A very high priority but I would hope that this would not fall to the waist side, please, is, is my concern.

MR. ARAKAWA: I understand. Your words are taken very seriously and it . . . it's an outstanding issue and, you know, from our side our intent is to try to resolve all of these outstanding issues in solid waste. And there are many so . . . there are many fires that we need to be working on and putting out. So, I'll, I'll certainly keep that in mind.

COUNCILMEMBER HOKAMA: Chairman, thank you very much.

CO-CHAIR MEDEIROS: Thank you, Member Hokama. Any further discussion? Seeing none. Member Pontanilla.

COUNCILMEMBER PONTANILLA: I'll, I'll wait for your recommendation.

CO-CHAIR MEDEIROS: Thank you. Okay, with no further discussion, the Chair would like to give its recommendation. Based on the Director's recommendation, the Chair will entertain a motion at this time to recommend adoption of the proposed resolution and the filing of this item.

CO-CHAIR VICTORINO: So moved.

COUNCILMEMBER MATEO: Second.

PUBLIC WORKS AND FACILITIES COMMITTEE
Council of the County of Maui

January 31, 2007

CO-CHAIR MEDEIROS: Okay. Moved by Member Victorino, second by Member Pontanilla. Further discussion, Members? Member Mateo.

COUNCILMEMBER MATEO: Chairman, thank you very much. I will support the motion on the floor and I'm . . . I, I thank Chairman Hokama for bringing up such a, a crucial concerns that we definitely need to address. I'm also encouraged that the Director ha..., will initiate additional work in this landfill. I'm hope..., hopeful that during these three or four month removal process from this landfill that the department will initiate at least a soil study process or initiate efforts that will take a look at assessing this landfill. And I am encouraged that in three to four months this landfill could return to a more healthy situation than it currently is in right now. Thank you, Chairman.

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

CO-CHAIR VICTORINO: Mr. Chair, I will also speak in support of this bill. I think it's long overdue. The people of Molokai, like anywhere else, deserves nothing but a, a safe environment, and I think this is a step in the right direction. And as long as myself and you are Co-Chairs of Public Works and Facilities, we will make sure Mr. Arakawa's feet is to the fire as far as this issue and other issues in the health area. And I think the people of Maui County can be assured we'll work well together to solve and . . . or at least resolve many of these problems. So, I thank you, Mr. Chair.

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

COUNCILMEMBER PONTANILLA: I yield to Member Hokama at this time.

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

COUNCILMEMBER HOKAMA: Chairman, I'm going to be speaking in support with reservations. But before giving my statement, Mr. Chairman, I just have one question for clarification, if you would allow it, Chairman?

CO-CHAIR MEDEIROS: Certainly. Go ahead, Member Hokama.

COUNCILMEMBER HOKAMA: Thank you. This would, I guess would be for Mr. Arakawa, the Director.

CO-CHAIR MEDEIROS: Okay, Director.

COUNCILMEMBER HOKAMA: The addendum, and I, and again, I don't know how to view this potential addendum, but the addendum speaks on, on page two, Mr. Director, under number five -- this budget, budget for the project is half a million dollars, \$500,000 for 5000 tons. And

PUBLIC WORKS AND FACILITIES COMMITTEE
Council of the County of Maui

January 31, 2007

yet in Exhibit 1 of the communication, the amount being requested is \$777,000. So I'm, I'm just wondering what is the appropriate amount?

MR. ARAKAWA: Councilmember Hokama, the low bid was \$777,000. So there, I believe, there's a . . . two sources of funding. The Council appropriated \$500,000 under Molokai Landfill Operations under contractual services and we're also using \$277,000 from the Abandoned Vehicle and Scrap Metal Appropriation.

COUNCILMEMBER HOKAMA: Okay. So, Corporation Counsel, I just wanted you to know that the addendum is very erroneous if you're going to rely on this document. Chairman, thank you for that point of clarification. Again, I have my reservations with this request. It's . . . I mean, in my opinion, Mr. Chairman, the rule then the exception regarding indemnification that this County is being requested many times, not only by individual vendors, but by the State of Hawaii itself. I feel we deserve it. I think the Constitution hinted that we should have sovereign immunity and this time the Legislature is not willing to share. That's sovereign immunity that they enjoy. That privilege that they enjoy. So stating that, Mr. Chairman, request for indemnification should be a rare occurrence before this body and not a regular request.

And I would say that I can support your request, Mr. Chairman. One because I think it's still the right thing to do, even with my concerns, to get this job started and completed. But I can state for the record, Mr. Chairman, that I along with Mr. Mateo will be on top to ensure that we take care the next phase, which is the contamination. That we should never allow to continue. It's an issue that we need to take care of. I'm tired of dealing with consent decrees, federal requirements of how to spend our money. So, if we do our job right, we won't have to deal these issues in the future, Chairman. Thank you.

CO-CHAIR MEDEIROS: Thank you, Member Hokama. And before I go to Member Pontanilla, I'd just like to say, your reservations and concerns are, are so noted, and also supported by Co-Chair Victorino and I about the follow through on this. Member Pontanilla.

COUNCILMEMBER PONTANILLA: Thank you, Chair. I'm gonna be supporting your recommendation. It's something that, you know, we should've done long time ago. And I find that, you know, sitting in your position the last two years, there's a lot of things that we need to correct in this County, and this is not the first. So, it's something that we need to do, you know, like Director Ara . . . , Arakawa had said, you know, this would provide us another cell in regards to a landfill on Molo . . . , on Molokai. So, I'm gonna be supporting your recommendation in regards to this proposal. Thank you.

CO-CHAIR MEDEIROS: Thank you, Member Pontanilla. Any further discussion? Seeing none. At this time, I'll call for the vote and this is to adopt a proposed resolution and the filing of this item. All in favor of this say aye.

PUBLIC WORKS AND FACILITIES COMMITTEE
Council of the County of Maui

January 31, 2007

At this time, is there any public testimony on PWF-1, the accepting of the donation from the Maui Economic Opportunity, Inc. to the Department of Parks and Recreation for a 1994 Ford 21-passenger minivan? Seeing none. If it's alright with the Committee, I will close public testimony on PWF-1.

COUNCIL MEMBERS VOICED NO OBJECTIONS.

CO-CHAIR VICTORINO: Thank you. At this time, I'd like to introduce our guests. They were introduced earlier but I will now point to their . . . to the table and address our esteemed Park Director, Tamara Horcajo, and attorney Michael Hooper [*sic*], and attorney . . .

MR. HOPPER: Hopper.

CO-CHAIR VICTORINO: Hopper. Oh, I thought you said Hooper. Okay, Hopper. Okay. And attorney John Kim from Corp. Counsel. Thank you, gentlemen, and Tamara, for being here.

At this time, I will call upon our esteemed Parks Director, Ms. Horcajo, to speak on the acceptance of this donation from Maui Economic Opportunity, Inc.

MS. HORCAJO: Thank you very much, Co-Chair Victorino, and Mr. Medeiros. And thank you, Members of the Committee, for being here. My name is Tamara Horcajo and I'm delighted to work with you and partner with you to make Maui a better place. I do believe that we're all on the same team and am very . . . feel very lucky to be able to represent our department here today.

We passed out pictures of the donation for a 1994, 21-passenger minivan that was obtained by donation from Maui Economic Opportunity. The reason for this donation, in case the camera can't see it, is to assist in our youth sports programs. Our Department had been requesting a van for some years; and since our Department has so many and diverse requests in our Department; the van seemed to keep getting on the bottom of the barrel. When Maui Economic Opportunity offered us this donation, as the van was in and is in good working condition, does have a safety check, and is safe to transport our youth for our youth programs, we did willingly accept this donation.

We're looking at using this van to transport youth in our programs for our Menchune Basketball Program, which we have youth teams coming from the islands of Molokai and Lanai. And at this time, we are coordinating parents and volunteers to pick them up at the boats to bring them over so that they can play with our other teams. This van will assist us in that transportation issues.

Our Junior Lifeguard Programs, which we offer at our pools as well as our beaches, will have the accommodations to transport the youth to and from program educational sites for our Youth

PUBLIC WORKS AND FACILITIES COMMITTEE
Council of the County of Maui

January 31, 2007

Lifeguard Programs, as well as our PALS Programs. We hire specialists during the summer and inter-session periods. And our specialists with specific equipment or musical instruments now need to transport themselves from one PALS location to another. This van will assist us in providing expanded programming for that program as well.

So, it's our department's recommendation that we do in fact accept this donation and then we will continue to have it licensed.

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

CO-CHAIR MEDEIROS: Um.

CO-CHAIR VICTORINO: Councilmember Medeiros.

CO-CHAIR MEDEIROS: Thank you. Director, you mentioned that this will be used for the youths' sports programs.

MS. HORCAJO: Yes.

CO-CHAIR MEDEIROS: And so, is it going to be available for any organizations to use as they participate in MIL and County programs?

MS. HORCAJO: At this time, Councilman Medeiros, we are looking at having our staff only driving this vehicle as they will be licensed and make sure that they meet all the requirements for driving the vehicle. We will not be looking at loaning it out to other groups. Our staff, however, could be scheduled to assist with other youth sports programs other than our own. But we are looking specifically at our programs at this time.

CO-CHAIR MEDEIROS: And looking at the photograph of the vehicle.

MS. HORCAJO: Uh-huh.

CO-CHAIR MEDEIROS: Will this vehicle require the County seal and any appropriate PUC stickers on it?

MS. HORCAJO: It will require the County seal. And we're also looking at some . . . some proposed maybe airbrushing of something that looks fun, a little more recreation-oriented, as well as the County seal, so that it does have a little lighter look than just a white . . . a white van.

CO-CHAIR MEDEIROS: Thank you, Chair.

CO-CHAIR VICTORINO: Thank you. Any other questions from our Members?

PUBLIC WORKS AND FACILITIES COMMITTEE
Council of the County of Maui

January 31, 2007

COUNCILMEMBER HOKAMA: Chairman?

CO-CHAIR VICTORINO: Yes, Councilmember Hokama.

COUNCILMEMBER HOKAMA: I would just . . . make a note for the department that I would hope a primary request that would be the department would take in account is the needs of Hana, Molokai and Lanai as, as higher, higher priorities.

MS. HORCAJO: Thank you very much, Chairman Hokama, that is our priority as well.

COUNCILMEMBER HOKAMA: I appreciate that. Thank you very much.

CO-CHAIR VICTORINO: Thank you, Councilmember Hokama. Councilmember Pontanilla.

COUNCILMEMBER PONTANILLA: Thank you, Chair. Maybe question for Corporation Counsel in regards to what the Director said . . . noted about painting of the bus with, you know, along with the County seal different type of design. Is there anything in regards to, I guess, conformity?

CO-CHAIR VICTORINO: Coun..., Council Chair *[sic]*, please, if you would . . . answer the question.

MR. KIM: Oh! Thank you. Not that we're aware of any kind of policy or issues with respect to how to identify County vehicle.

COUNCILMEMBER PONTANILLA: Thank you. The other question that I have, you know, looking at this. This is 1994 Ford 21-passenger minibus and you said that the bus is in good condition. If we transport from Hana to Central Maui, you know, we, we . . . I'm look..., I guess I'm looking at the maintenance of the bus. Hopefully, it's in, in really good condition that we don't have to maintain it quite often and it becomes, becomes costly after a while. Got any comments to that?

MS. HORCAJO: Thank you, Council Member. This van was selected by our mechanics from our Department as the best in the fleet available for donation. It did have the lowest amount of miles. I don't have that number with me currently. Travel to and from Hana will be considered after we are using the bus. The main . . . looking at pickup from Lahaina for the transport of the Molokai and Lanai kids that come over on the ferries has been our major concern. So, we too are a little concerned about the upkeep and the wear and tear on the vehicle. Like I said, it has been looked at. Our mechanics do feel comfortable with it and it is safety-checked and ready.

Having a van in our fleet is a first step for our Department. We have not had this before, so we'll be assessing the program as we go along.

PUBLIC WORKS AND FACILITIES COMMITTEE
Council of the County of Maui

January 31, 2007

COUNCILMEMBER PONTANILLA: Thank you. Thank you for that comment, you know, in regards to this is being the first. You know, I, I really do appreciate MEO for donating the bus for the youths . . . for Maui County. I guess I'm looking down later years maybe four or five years because it's gonna be part of the County's fleet.

MS. HORCAJO: Correct.

COUNCILMEMBER PONTANILLA: And, you know, although the bus value is \$3,000 today, when time for replacement, you know, it's gonna be probably, I, I don't know how much but quite a bit more than \$3,000. So, do you have any idea the, you know, well . . . since your mechanic says . . . said that this is the best of the lot. Did they have any kind of an idea in regards to when this bus might have to be replaced?

MS. HORCAJO: The replacement at this time I don't know when we're looking at replacement, but just due to the age of the van, it may be in the very near, you know, next few years. But we feel this will allow us an opportunity to see if that is something that we need to include in our programming and in our budget and in our inventory. This donation allows us to kind of assess its use, and in our department right now and see how that works out with our neighbor groups, and at that time we'll be better able to say if that's something that's very important to us and again high on priority list. So at least gives us that opportunity to look at it.

COUNCILMEMBER PONTANILLA: Thank you for that answer. Thank you.

MR. KIM: Mr. Chair? Mr. Chair?

CO-CHAIR VICTORINO: Yes; go ahead.

MR. KIM: I would like to extend on my answer to Mr. . . . to Councilmember Pontanilla. I believe I heard that this bus may be used to transport MIL students, and if that's the case, then I believe there's a State requirement that the bus be painted yellow. And, and with respect to the . . . to answer your question on design.

COUNCILMEMBER PONTANILLA: Okay.

MR. KIM: I think that may have been your question but since this is a Parks and Recreation bus, I don't know if the future use, wheth..., whether or not Parks plans to transport students. And if, if that's the case, to student functions then it will have to be painted yellow.

CO-CHAIR VICTORINO: Alright. May, may I interject at this point. As far as I know, through the years working with the MIL, all of the schools, all the neighbor island schools, and the outlying districts all have their own buses. In fact, most of the high schools have their own buses and very seldom have they . . . if and they need to, they will have to go out to a what they call a commercial entity because the State requires that. Okay.

PUBLIC WORKS AND FACILITIES COMMITTEE
Council of the County of Maui

January 31, 2007

So to answer Mr. Medeiros' question. Hana High School, and in fact, all the neighbor . . . neighboring district high schools, all have their own buses. And if you've seen 'em come in where it says Molokai, the MIL purchased a number of buses through the years to make sure that Molokai and Lanai, as well as Hana, had transportation. Even Lanai . . . Lahainaluna has their own bus system or they re . . . , purchase or rent out the buses from Roberts or a commercial entity. So as far as them using our bus, I think that would be very rare. That would be a rare occasion.

So, and I think the County seal must be on our vehicle if I'm not . . . I think that's one of the only requirements. Mr. Kim, our County seal be on our vehicles?

MR. KIM: That's correct.

CO-CHAIR VICTORINO: Okay. As far as color, we've always used white. I think that's been kind of the accepted color, but I see other County vehicles that were red and blue and from purchase time and we just put over our County seal. So, as far as the yellow in, in regards to transporting MIL or what I call school, State, State students, I don't think that's going to be a concern or an issue at this point. I think we're basically looking at our programs, if I'm correct, Ms. Horcajo?

MS. HORCAJO: That's correct.

CO-CHAIR VICTORINO: Thank you. Are there any other questions? I'm sorry.

CO-CHAIR MEDEIROS: Chair?

CO-CHAIR VICTORINO: Mr. Medeiros.

CO-CHAIR MEDEIROS: Director, does this vehicle require CDL licenses?

MS. HORCAJO: Upon attaining the resolution, we will look at getting it licensed with the Department of Finance and that's one thing that we need to work with them on. It is my understanding that the 21-passenger can be reduced to 18-passenger, which would in fact waive that requirement. But that is not something un . . . , until we had received this resolution to go forward with where we're right at that point at this time.

CO-CHAIR MEDEIROS: Okay. Normally PUC requirements and CDL requirements are based on the GVW of the vehicle, the gross vehicle weight, and when you have a multi-passenger, a CDL license may require a passenger endorsement on it. So you need to confirm that so that if you do have staff that's gonna be driving this vehicle that they're in compliance.

MS. HORCAJO: Yes, we will do that.

PUBLIC WORKS AND FACILITIES COMMITTEE
Council of the County of Maui

January 31, 2007

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

CO-CHAIR VICTORINO: Thank you, Mr. Medeiros. Member . . . Councilmember Mateo, please.

COUNCILMEMBER MATEO: Chairman, thank you very much. Director Horcajo, can you actually tell us what the utilization of this vehicle is anticipated to be?

MS. HORCAJO: Ah, yes. One of the main uses will be . . . for example, currently we have our Menhune Basketball Program is now underway. We have teams from Molokai as well as teams from Lanai traveling to Maui to participate with our kids not only in the pre-tournament, post-tournament, but league play. Currently the youth do come over on the ferries and we assist the families in coordinating rides and transportation to get over to play and compete with our Maui families here in their games. So this van would alleviate a lot of that coordination in that we could pick up the team coming off the ferry as well as their chaperones in one fell swoop there and take them to the location.

COUNCILMEMBER MATEO: So the County-run sports events?

MS. HORCAJO: Uh huh..

COUNCILMEMBER MATEO: Then there . . . this is year, year-round?

MS. HORCAJO: Well, we have different seasons for different sports.

COUNCILMEMBER MATEO: Yeah. So the bus is going to be used year, year-round?

MS. HORCAJO: That's correct.

COUNCILMEMBER MATEO: Okay. And it's gonna be used frequently? Can you give us an idea of the, the projected utilization of it?

MS. HORCAJO: We're anticipating that the summer months will be very high use. Our Aquatics Division for the Junior Lifeguard Programs has plans for it to transport their equipment for their programming and education for that Junior Lifeguard Program as well as our PALS program would like to use it for their specialty.

We hire like ukulele instructors and they have to then, you know, carry all the ukuleles or our drama instructors carrying those items with them to support our PALS program that have a hundred to a hundred and fifty kids at each location.

So the summer months we'll be very busy between the Aquatics Division and the PALS program and probably will not be able to accommodate our ongoing youth sports programs at that time. During the year . . . the rest of the school year then we will look at accommodating

PUBLIC WORKS AND FACILITIES COMMITTEE
Council of the County of Maui

January 31, 2007

whatever sport is in season by assisting with hauling equipment and supplies to the needed events, tournaments, or clinics that we sponsor.

COUNCILMEMBER MATEO: Okay. Thank you very much.

MS. HORCAJO: Okay.

COUNCILMEMBER MATEO: Thank you, Chairman.

CO-CHAIR VICTORINO: Thank you, Councilmember Mateo. Any other questions from the Council Members? I will point out one more issue that has not been discussed and I think Corp. Counsel can correct me if I'm wrong. But my recollection is also that by having something of this nature, we will reduce the liability that the individual parents are facing now by transporting 'em from Lahaina into the Central area and be kinda like Ms. Horcajo said everybody in one bus, instead of three or four cars. And am I correct that in saying that Mr. Kim as far as Corp. Counsel Kim that we would reduce that liability exposure for the individual families that have been assisting us all these years in bringing these children in?

MR. KIM: Mr. Chair, that is a factor and a consideration in using this one vehicle for transportation.

CO-CHAIR VICTORINO: Thank you. Any other questions? Then the Chair would like to make his recommendation. I would like to recommend the adoption of this resolution accepting the donation from Maui Economic Opportunity of the 1994 Ford van, minivan, to the Department of Parks and Recreation, County of Maui, in pursuance of Section 13-8, Chapter . . . Charter of the County of Maui (2003), and Chapter 3.56, Maui County Code.

COUNCILMEMBER PONTANILLA: So moved.

CO-CHAIR MEDEIROS: Second.

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

COUNCIL MEMBERS VOICED AYE.

CO-CHAIR VICTORINO: Opposed?

PUBLIC WORKS AND FACILITIES COMMITTEE
Council of the County of Maui

January 31, 2007

**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 REVISED RESOLUTION AND FILE
COMMUNICATION.**

CO-CHAIR VICTORINO: Let it be noted that the resolution was received and accepted unanimously.
Thank you, Ms. Horcajo, and good luck with your van.

MS. HORCAJO: Thank you.

**PWF-42 ACCEPTING LAND DEDICATION FOR PARK AND PLAYGROUND
PURPOSES AND WAIVING CERTAIN PARK DEDICATION REQUIREMENTS
FOR PHASE I OF THE MAUI LANI SUBDIVISION (KAHULUI) (C.C. No. 06-237)**

CO-CHAIR VICTORINO: Okay. We'll now move on to PWF-420 [sic] and this is accepting land ded..., dedication for parks and playground purposes, and waiving certain park dedication requirements for Phase I of the Maui Lani Subdivision. This is in Kahului. Let me describe the following to the Committee.

The County Communication No. 06-237, from the Director of Parks and Recreation, transmitting the proposed resolution: 1) acceptance of the dedication of this park located in Phase I of Maui Lani Subdivision, Kahului, Maui, comprising of approximately 7 . . . 78,308 square feet or 1.798 acres and iden..., iden..., and identified as TMK: (2)3-8-81:067; and 2) to waive requirements for a comfort station and parking area in subject . . . in the subject park.

I will open it now to any public testimony on PWF-42. None. Seeing none. I will, if it is alright with the Committee, I will close public testimony.

COUNCIL MEMBERS VOICED NO OBJECTIONS.

PUBLIC WORKS AND FACILITIES COMMITTEE
Council of the County of Maui

January 31, 2007

CO-CHAIR VICTORINO: Thank you. Director Horcajo, would you like to address this PWF-42, acceptance of this, and the . . . acceptance land . . . accepting the land dedicated to parks and playground?

MS. HORCAJO: Ah, yes, I would.

CO-CHAIR VICTORINO: Thank you.

MS. HORCAJO: Staff who was previously assigned to this project is not with us at this time but I will do my best to explain the small history of this project. And this Maui Lani Subdivision has a unique situation where the Community Plan mandates that the applicant provide the park land to fulfill the park dedication requirements. So a cash contribution was not considered for this property. Final approval of the Maui Lani Subdivision, Phase I, was granted in January of 1999. So this is a very old project.

In 2001, the Parks and . . . Department of Parks and Recreation accepted this park dedication and we currently are under an agreement with Maui Lani as they are doing the maintenance of this park area. We have another up until 2010 for this maintenance agreement to be reviewed again. So our department is very happy with that situation.

At this time, I understand that there was some questions regarding the waiving of the restroom and parking facilities. So at this time I think J. D. . . . our Corp. Counsel, J. D. Kim, has some information on that . . . that may assist us--

CO-CHAIR VICTORINO: Corp.

MS. HORCAJO: --with this proposal.

CO-CHAIR VICTORINO: Thank you, Ms. Horcajo. Mr. Kim.

MR. KIM: As I understand the history of this park, it was built during the development of this subdivision . . . particular subdivision in Maui Lani. The subdivision design responsibility at that time was under the Department of Public Works and Waste Management. That's now Public Works and Environmental Management.

I believe the, the request for the dedication came up to the County and it sat. And then again renewed in 2005 when we moved upon it. At the time when the park was built, there was no requirements for grading, grassing, irrigation, for comfort stations or parking. What you see here is a community park for the homeowners within that subdivision and it's in . . . within walking distance as you can see in the map on Exhibit A. So there is no comfort station and there is basically no parking. There's just the residents' use and so the ordinance was changed in 2004 to require that of, of future subdivisions. And by then . . . we proceeded in our caution

PUBLIC WORKS AND FACILITIES COMMITTEE
Council of the County of Maui

January 31, 2007

to ask this Council to waive those requirements anyhow. If you have any questions, I'm free to ask . . . answer that.

CO-CHAIR VICTORINO: Thank you, Mr. Kim. I will also note that we have representatives from Maui Lani if there are questions of any Council Member would like them to come up and address any questions in that area. I would be willing to call them up. Okay. Thank you, Dave. If you have any questions directed at Ms. Horcajo or Mr. Kim, at this time, I'd entertain your questions?

COUNCILMEMBER HOKAMA: Question.

CO-CHAIR VICTORINO: Councilmember Hokama.

COUNCILMEMBER HOKAMA: Just so we can appreciate the request. It is our . . . this Committee's understanding that this park was built in 1995?

MR. KIM: No. I believe 1999 or thereabout.

COUNCILMEMBER HOKAMA: Nineteen ninety-nine, I'm sorry. Gee. So it was before the change in the ordinance?

MR. KIM: That's correct. The ordinance was changed in 2004.

COUNCILMEMBER HOKAMA: When was the request for dedication . . . sent from the landowner to the County for consideration, please?

MR. KIM: From speaking with current management at Maui Lani, I understood it around 2001.

COUNCILMEMBER HOKAMA: Okay. You need some time, time understanding. May I ask why five to six years later the request now comes to Council for decision making?

MR. KIM: I believe that request was sent to the Department of Public Works and Environmental Management or Public Works and Waste Management at that time. It fell through the cracks with the Department. We did not receive it until it came to the attention of Department of Parks and Recreation, who then took over the . . . managing that, that park assessment requirements from subdivide . . . , through the Subdivision Ordinance.

COUNCILMEMBER HOKAMA: I'm trying to recall, you know, this is project district requirement, so it's a part of Title 19. And until we made the change in the Charter, Director of Public Works was the responsible County person to enforce Title 19, and that's why it went to Public Works? They had the inspectors. They had the permit approvals in the past. I, I'm just trying to understand.

PUBLIC WORKS AND FACILITIES COMMITTEE
Council of the County of Maui

January 31, 2007

MR. KIM: I think it was under Section 18.6.

COUNCILMEMBER HOKAMA: Yeah.

MR. KIM: Subdivision design requirements and that was under Public Works as I understand the history. And then it was turned over to Parks and Recreation. This particular Section 18.16.320.

COUNCILMEMBER HOKAMA: Okay. So this wasn't a condition of the Project District Ordinance?

MR. KIM: That I, I don't believe so.

COUNCILMEMBER HOKAMA: Okay. And then from Public Works it came . . . how did it go to Parks? Just, just.

MR. KIM: Parks, Parks, I believe when the statute . . . the ordinance was changed, the Director of Parks and Recreation then took over the initial design review with . . . regarding the subdivision. I think initially it was just a consultant . . . consultation between the Director of Parks and Recreation and the Public Works Director on subdivision design. And because I, I believe the Parks Department wanted more control of where or what type of park would be put into a subdivision they, they took over that portion.

COUNCILMEMBER HOKAMA: Gee. I'm, I'm trying to, trying to appreciate the, the, the time. The timeframes and the . . . who were the responsible directors of the department under those Administrations. So Chairman that is two, two previous Mayors a . . . ago. Okay. Talking about Mr. Apana's Administration with Mr. Jencks as Public Works Director and Mr. Goode as the Deputy. And I think Mr. Miyazono was the Parks Director at that time. Okay. I'm, I'm disappointed it took so long to be processed, Chairman. Thank you.

CO-CHAIR VICTORINO: Thank you, Council Chair Hokama. And your historical background really helps a lot, especially for our . . . us new Co-Chairs. Thank you very much. We do appreciate that. Any other questions?

CO-CHAIR MEDEIROS: Chair?

CO-CHAIR VICTORINO: Councilmember Medeiros.

CO-CHAIR MEDEIROS: Thank you. Director Horcajo. The agenda item says waiving certain park dedication requirements. And further down, are those requirements the only two requirements that was waived--was the to provide comfort stations and parking areas? . . . *(end of tape, start 3B at 11:36 a.m.)*. . . Were there any further waivers of any other requirements?

PUBLIC WORKS AND FACILITIES COMMITTEE
Council of the County of Maui

January 31, 2007

MS. HORCAJO: Not to my knowledge, Councilmember Medeiros. The Department did work with Maui Lani in grading, grassing, planting, and the irrigation, as well as the walkway and the picnic tables and other amenities that are currently located in the park. There was a working arrangement for those items at that time. And again, I think as J. D. Kim pointed out that the language of waiving in here is based on the new requirements of the park dedication not the requirements that were applicable at that time.

CO-CHAIR MEDEIROS: I understand, you know, when you say you're waiving something meaning, you're making a decision whether you want it or you, you don't need it so you're waiving it. And I know you're just coming on board. You know the rationale behind waiving those requirements of the comfort stations and parking areas?

CO-CHAIR VICTORINO: Corp. Counsel Kim, maybe you can address that?

MR. KIM: Ah, yes. Previously with respect to asking for waivers of other subdivision parks requirements, Deputy Director John Buck did state to this body that the maintenance alone of those comfort stations or parking areas within these small parks bec..., becomes a, an issue with the department and sending out crews on a daily basis.

Secondly, when you have a parking area in, in a subdivision of a small park, it attracts a certain element. And they may use it for their own purposes and, and actually chase out the, the homeowners in the subdivision because of, of the types of various activities that they conduct. And so, the Department, during the last Administration, really didn't want to have the . . . to do all that maintenance for these small parks as well as have these parking areas. They would rather have a small park within walking distance for the residents of the subdivision and to use as such. And, therefore, they, they've recommended the, the waiver.

CO-CHAIR MEDEIROS: Thank you for that information. I can understand the waiving of the parking areas for the reasons you just stated. But what happens when children or people of that subdivision go to utilize the park and need to go to a comfort station. Do they run home and then come back?

MR. KIM: That was Mr. Buck's answer to the, to this body.

CO-CHAIR MEDEIROS: And the . . .

MR. KIM: Go home.

CO-CHAIR MEDEIROS: And the . . . and the rationale behind Mr. Buck's decision was that they didn't have the maintenance personnel to take care of a comfort station?

MR. KIM: They would probably have to put in and reschedule the maintenance crew but . . . to cover maintaining all these other small pocket parks, if comfort stations were required.

PUBLIC WORKS AND FACILITIES COMMITTEE
Council of the County of Maui

January 31, 2007

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

CO-CHAIR VICTORINO: Thank you, Councilmember Medeiros. Other questions?

COUNCILMEMBER PONTANILLA: I get one.

CO-CHAIR VICTORINO: Councilmember Pontanilla.

COUNCILMEMBER PONTANILLA: Thank you. Director, you mentioned that the Park Maintenance Agreement was signed August 2, 2005 for five years. And you mentioned after five years, there's a clause in regards to renegotiation. I'm happy to say, you know, if Maui Lani can take care that, man, you know, it's good for the County.

MS. HORCAJO: I have not seen a clause about renegotiation. I'm hoping that in 2010 when the agreement does end that our Department is either equipped with the manpower to accommodate the needs of the park or renegotiation with community associations is made, so that there is an understanding that the parks continue to be maintained at a high level.

COUNCILMEMBER PONTANILLA: Thank you. Thank you, Chair.

CO-CHAIR VICTORINO: Thank you, Councilmember Pontanilla.

COUNCILMEMBER MATEO: Chairman?

CO-CHAIR VICTORINO: Councilmember Mateo.

COUNCILMEMBER MATEO: Chairman, thank you very much. Director Horcajo, that, that same item that you reference, which would be the, the, the maintenance of the park. On your resolution . . . one, two, three . . . the third "WHEREAS" that indicates that the initial five years will be maintained by Maui Lani . . . Maui Lani Partners. That five years is from the time we approve this resolution or from an earlier period of time?

MR. KIM: If I may, Mr. Chair?

CO-CHAIR VICTORINO: Yes. Go ahead, Counsel.

MR. KIM: I believe it runs from the, the date of the agreement, which is August 2, 2005. I think it was anticipated that we, we would have had this resolution before this body earlier than 2000, I mean August, I mean earlier than today. And in fact, it was presented in 2006. As you recall, there was a site visitation to that park. Vice-Chair Carroll did raise some concerns. And I, I believe those concerns were addressed and the park benches . . . the ADA park benches are now ADA compliant.

PUBLIC WORKS AND FACILITIES COMMITTEE
Council of the County of Maui

January 31, 2007

COUNCILMEMBER MATEO: So wouldn't it make it cleaner to have an actual . . . to have an actual reference to the number of years to provide the maintenance from the actual date that this is actually approved?

MR. KIM: Um . . .

COUNCILMEMBER MATEO: To make it cleaner for the County?

MR. KIM: Yes. That, that certainly is a, a valid point. However, we did anti . . ., I believe the Department did anticipate that the, the maintenance would be done or at least covered by the, the County in the Year 2010, and that would give the Department sufficient to recruit personnel or to change their schedules. This is Phase I of a larger project and there are, there are other parks coming . . . a larger park coming on board with the Maui Lani Subdivision.

COUNCILMEMBER MATEO: Well the . . . and the only reason I'm, I'm looking at that particular date is we already dealing with an after-the-fact park. You know, so, you, you know, you know, I, I just think it should be consistent. It should be current and it should be indicative of the date that we actually make an approval versus an earlier date because whether it was submitted in 205 [sic] or 206 [sic]. It still hadn't gone through this body's approval. So, it should be indicative of that approval date versus anything earlier because should have been is not as good as it was approved. And I would ho . . ., I would've hoped that, you know, perhaps the Department of Corp. Counsel could've in fact dealt with the, the partners and just make it a clean, a clean cut, and be real specific and start the, the turnover date five years from the date that we're, we're approving it. And just my two cents worth. Thank you very much.

CO-CHAIR VICTORINO: Thank you, Vice-Chair Mateo. You're again, your experience and knowledge in these areas are greatly appreciated. Any other questions?

CO-CHAIR MEDEIROS: Chair?

CO-CHAIR VICTORINO: Councilmember Medeiros.

CO-CHAIR MEDEIROS: Director Horcajo, familiarize me with this park because I haven't been there and there's no pictures, except for --

MS. HORCAJO: Yes.

CO-CHAIR MEDEIROS: --kinda a ground plan. Is it a passive park or a active park? Is there like a field there for youth sports to practice? Or, is this a walk-through, sit down kind of park?

MS. HORCAJO: Next time, I will bring pictures of parks with us. I tried to get some before this meeting. The park is . . . well as I said 1.7-plus acres. And it is very flat acreage. There is a

PUBLIC WORKS AND FACILITIES COMMITTEE
Council of the County of Maui

January 31, 2007

walking path approximately four to five feet wide, cement walking path in a large circle. Within the corners of the park, there's large trees with picnic tables underneath so that you can have families gathering in the corners.

The center grassy area of the park is large enough for T-ball games, small soccer games, which it's mostly the practices. It is not a game field but it's a multi-purpose grass area. And when I visited last week, it was well maintained and there were people walking around in the park area. So, the field in the center is large enough for an official sports practices to occur and the families gathering in the corners, I believe, there's eight picnic tables there, two of which are accessible along the walkway area.

CO-CHAIR MEDEIROS: Yeah. The reason I ask is that, you know, having coached youth sports for a long time, both in soccer, baseball, and softball, there seems to be a lack of practice fields now in Maui County because of the growth of our youth sports. And my concern is that when we look at design of parks within subdivisions or project areas that we consider making them so that they can be used for at least practicing. So thank you for that information. Thank you, Chair.

MS. HORCAJO: Thank you.

CO-CHAIR VICTORINO: Thank you, Councilman Medeiros. And I will interject that I know of this park. I have family friends that live in this area. It is a well-maintained park and used very heavily by the community and the adjacent community. I have a number of seniors that come up there and love to walk around there because of the walkway that is set up. So, it's a well used park and I think it's something that I'd like to see many of our communities have where there is a passive park.

And including what you're saying, Mr. . . . Councilmember Medeiros, that practices can be held. Not so much games but practices so that, that our youth have areas so that they can go to, not only to play, but to practice their various sports. So, you and I are in tune in that area. We've done it for many years and I think that's something we gotta continue to develop, yeah? Any other questions? Councilmember Pontanilla.

COUNCILMEMBER PONTANILLA: Thank you, Chair. I just was going to echo what you just said about, you know, this park is being utilized by the young families in the area. And in regards to Maui Lani itself, they're going to be creating a district park within the development, which probably will be adjacent to the new elementary school that's being constructed. So, I see good things in Maui Lani in regards to recreation. And, you know, with this passive park, it's only a start. Thank you.

CO-CHAIR VICTORINO: Thank you, Councilmember, Councilmember Pontanilla. And that is correct, we have seen the plans for the regional park that Maui Lani is going to put adjacent to the new elementary school, which I have been told should be open in 2007, in August. And, I

PUBLIC WORKS AND FACILITIES COMMITTEE
Council of the County of Maui

January 31, 2007

think, there's some excitement out there in the community. I love when our . . . we partner with our, our developers to develop communities that are self-sustaining and make our community and Maui County a better place for all of us to live. Any other questions in regards to this waiver?

COUNCILMEMBER HOKAMA: Chairman?

CO-CHAIR VICTORINO: Council Chair Hokama.

COUNCILMEMBER HOKAMA: Just a quick one. As far as the department is aware, there are no ADA issues that need to be dealt with or corrected?

CO-CHAIR VICTORINO: Director Horcajo.

MS. HORCAJO: That's correct. The two items that were pointed out at the site visit, which was the height of the table and chairs, were remedied by Maui Lani. They did take care of it and a site visit was made, so they look very nice now. And I would like to just interject that our department will be working on assisting developers in . . . a standard for these items so that they don't need to come back again later --

COUNCILMEMBER HOKAMA: Right.

MS. HORCAJO: --and correct issues. So, I think it was very accommodating of them to assist in that way and we do thank them.

COUNCILMEMBER HOKAMA: Okay. Thank you. Thank you. Chairman, the only thing I would state is that I would agree with Mr. Mateo. No department should assume Council's action. Therefore, no clock should start till Council action is given 'cause till then everything is up in the air. There is no decision till Council makes it through the final Council meeting. And that's when a clock should start where upon execution of the Mayor of the document. Thank you.

CO-CHAIR VICTORINO: Thank you, Chair Hokama, and duly noted. And hopefully this will be a change with the new Administration and our new director. I think she's in tune to this. And thank you, Ms. Horcajo, for your cooperation.

COUNCILMEMBER HOKAMA: Chairman?

CO-CHAIR VICTORINO: Yes.

COUNCILMEMBER HOKAMA: Maybe we need to ask Mr. Gleason, is there a problem for us to adjust the resolution so that we, we clearly state when the time begins and when the time ends?

PUBLIC WORKS AND FACILITIES COMMITTEE
Council of the County of Maui

January 31, 2007

CO-CHAIR VICTORINO: Okay. Mr. Gleason, would you like to come forward? State your name and your position. And I will ask Chair Hokama to direct the question directly to you.

MR. GLEASON: Thank you. I'm David Gleason. I am a partner with Maui Lani Partners, and good morning.

COUNCILMEMBER HOKAMA: Good morning.

CO-CHAIR VICTORINO: Council Chair Hokama, will you direct the question to Mr. Gleason?

COUNCILMEMBER HOKAMA: Sure. Mr. Gleason, you've been patient. You've been sitting in the gallery listening to the discussion. You've heard the comments that Mr. Mateo and I have shared this morning regarding the five-year, five-year agreement, I believe. Does the Partners have any comment regarding when the clock should start?

MR. GLEASON: Understanding the, the question I don't have a problem at that point. I think the comments were correct. I think the Council needs to . . . certainly we would've preferred that we be heard earlier but at the same time --

COUNCILMEMBER HOKAMA: Absolutely.

MR. GLEASON: --I understand what the comments are and we would be happy from this point on if you would like to approve it today then we can go back to Corp. Counsel and see what we need to do to extend the agreement accordingly. So, it would be five years from today.

COUNCILMEMBER HOKAMA: Okay.

MR. GLEASON: And I think we're talking specifically about the maintenance agreement --

COUNCILMEMBER HOKAMA: Right.

MR. GLEASON: --if I'm not mistaken.

CO-CHAIR VICTORINO: Right.

COUNCILMEMBER HOKAMA: That's, that's correct, Mr. Gleason. Yeah, noth..., nothing else.

MR. GLEASON: Well, I'm sure that would be fine and we will work with Tamara and the Corp. Counsel to see it happen.

COUNCILMEMBER HOKAMA: I appreciate that . . . the gesture of you and your partners, Mr. Gleason. So thank you. Chairman, I relinquish the floor to the other Members.

PUBLIC WORKS AND FACILITIES COMMITTEE
Council of the County of Maui

January 31, 2007

CO-CHAIR VICTORINO: Thank you. Any other questions for Mr. Gleason since we've brought him up and I do apologize for not bringing you up earlier. I didn't anticipate that question being brought up but again I'm learning like all of us here. So, please excuse me. The only question I'd have is directed at Corp. Counsel. Corp. Counsel, with, with Mr. Gleason's agreement, would that be able to . . . this agreement be adjusted to make it concurrent with today's approval?

COUNCILMEMBER HOKAMA: Council's approval.

COUNCILMEMBER MATEO: Council.

MR. KIM: With Council's approval.

CO-CHAIR VICTORINO: Oh, with Council approval. Excuse me. Yeah, Council's approval. I, I apologize.

MR. GLEASON: Yeah, we would need to have this scheduled and have the date . . . we would be open to negotiations regarding to that . . . that issue.

CO-CHAIR VICTORINO: Thank you. Any other questions or discussion? Thank you, Mr. Gleason. I do appreciate it. If there's no other discussion, the Chair is ready to make a recommendation.

CO-CHAIR MEDEIROS: Recommendation.

CO-CHAIR VICTORINO: Thank you. I would recommend this resolution be accepted. I guess the only question I have is how do I put the proviso making it concurrent with today's date as far as the acceptance? Council Chair Hokama, maybe you can guide me on that one.

COUNCILMEMBER HOKAMA: Chairman, if I may make a recommendation to --

CO-CHAIR VICTORINO: Sure.

COUNCILMEMBER HOKAMA: --you and the Committee?

COUNCILMEMBER HOKAMA: I would ask that it is clear . . . it is clear to me, excuse me, to me that the only revision that would be required in the resolution or the agreement, again, I would defer to Corporation Counsel and Maui Lani Partners representatives to come to a revision of language that would be acceptable. I believe that it is not sufficient enough to be retained within Committee that this item could be referred to Council for final decision --

CO-CHAIR VICTORINO: Okay.

PUBLIC WORKS AND FACILITIES COMMITTEE
Council of the County of Maui

January 31, 2007

COUNCILMEMBER HOKAMA: --at, at which time a revised resolution and/or agreement would be made available to the Members and that the effective date of the clock is the day that Council approves the document. So, we will schedule this as soon as the Committee report comes out for the . . . first immediate Council meeting, Mr. Victorino.

CO-CHAIR VICTORINO: Okay. So accepting that recommendation, I guess then we would defer this until . . .

COUNCILMEMBER HOKAMA: No. I would, I would recommend that you consider item 42 be approved to be sent to the Council with the appropriate adjustments in the resolution.

CO-CHAIR VICTORINO: Okay. So what I'm going to recommend is the approval of PWF-42 with the appropriate amendments or corrections stated by . . . to be stated by Corp. Counsel and Maui Lani Partners.

COUNCILMEMBER HOKAMA: That's correct, Chairman.

CO-CHAIR VICTORINO: Okay. So that is the recommendation of the Chair.

COUNCILMEMBER PONTANILLA: So moved.

COUNCILMEMBER HOKAMA: Second.

CO-CHAIR VICTORINO: It's been moved by Councilmember Pontanilla and seconded by Council Chair Hokama. Any other discussion? Sensing none. All those in favor say aye.

COUNCIL MEMBERS VOICED AYE.

CO-CHAIR VICTORINO: Oppose?

PUBLIC WORKS AND FACILITIES COMMITTEE
Council of the County of Maui

January 31, 2007

**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 REVISED RESOLUTION.

CO-CHAIR VICTORINO: Let the record show it was unanimously decided. Okay, at this time gentlemen and the audience that will be our last item of discussion today. Last agenda item. I'd like to thank my Co-Chair Bill Medeiros for his assistance today. Like he said earlier, this is something new and we're working our way through it. So, please excuse us if we do – and especially myself -- make a few mistakes. I will try my best to get better at this. If I sense any other business to be discussed, I will call this Committee.

COUNCILMEMBER PONTANILLA: Chair?

CO-CHAIR VICTORINO: Yes. Mr. . . . Councilmember Pontanilla, before I adjourn the meeting.

COUNCILMEMBER PONTANILLA: I, I know we already voted to move forward on this PW-42
[sic].

CO-CHAIR VICTORINO: That is correct

COUNCILMEMBER PONTANILLA: And maybe from your Analyst, do we need to file this item
here?

CO-CHAIR VICTORINO: Yes, Scott. Would you . . . Scott Jensen, please?

MR. JENSEN: Yes, the recommendation would be to file the item in addition to adopting the
resolution as revised by the Committee's recommendation and consultation with Corporation
Counsel and Maui Lani.

CO-CHAIR VICTORINO: So, I need to make a recommendation to file this matter also?

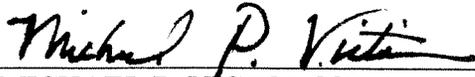
PUBLIC WORKS AND FACILITIES COMMITTEE
Council of the County of Maui

January 31, 2007

CO-CHAIR VICTORINO: Thank you. If nothing else, gentlemen, meeting adjourned. . . . (gavel) . . .

ADJOURN: 11:57 a.m.

APPROVED BY:



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

APPROVED BY:



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

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Transcribed by: Delfey Fernandez

PUBLIC WORKS AND FACILITIES COMMITTEE
Council of the County of Maui

January 31, 2007

CERTIFICATE

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

DATED this 26th day of February 2007, in Wailuku, Hawaii


Delfey Fernandez