

# MINUTES

of the

## COUNCIL OF THE COUNTY OF MAUI

October 16, 2015

THE REGULAR MEETING OF THE COUNCIL OF THE COUNTY OF MAUI, STATE OF HAWAII, WAS HELD IN THE COUNCIL CHAMBER, KALANA O MAUI BUILDING, WAILUKU, HAWAII, ON FRIDAY, OCTOBER 16, 2015, BEGINNING AT 9:03 A.M., WITH CHAIR MICHAEL B. WHITE PRESIDING.

CHAIR WHITE: This meeting of the Maui County Council will please come to order.

Mr. Clerk, will you please call the roll.

### ROLL CALL

PRESENT: COUNCILMEMBERS GLADYS C. BAISA, ROBERT CARROLL, ELEANORA COCHRAN, DONALD G. COUCH JR., S. STACY CRIVELLO, G. RIKI HOKAMA, VICE-CHAIR DONALD S. GUZMAN, AND CHAIR MICHAEL B. WHITE.

EXCUSED: COUNCILMEMBER MICHAEL P. VICTORINO.

DEPUTY COUNTY CLERK JOSIAH K. NISHITA: Mr. Chair, there are eight Members "present" and one Member "excused". A quorum is present to conduct the business of the Council.

CHAIR WHITE: Thank you very much, Mr. Clerk. And for opening remarks this morning, we have Mr. Robert Carroll.

COUNCILMEMBER CARROLL: Thank you, Chair.

CHAIR WHITE: Good morning.

## OPENING REMARKS

The opening remarks were offered by Councilmember Robert Carroll.

CHAIR WHITE: Thank you, Mr. Carroll.

Members and audience, will you please all rise and join me in the Pledge of Allegiance.

## PLEDGE OF ALLEGIANCE

The Members of the Council, and others in attendance, rose and recited the Pledge of Allegiance.

CHAIR WHITE: And, before we proceed with today's agenda, would you all please turn off your cellphones?

Mr. Clerk, please proceed.

DEPUTY COUNTY CLERK: Mr. Chair, proceeding with the presentation of testimony on agenda items. We have established limited interactive communications that enables individuals from Hana, Lanai, and Molokai to provide testimony from our District Offices.

Individuals who wish to offer testimony from Hana, Lanai, and Molokai, should now sign up with District Office staff. Individuals who wish to offer testimony in the chamber, please sign up at the desk located in the eighth floor lobby just outside the chamber door. Testimony at all locations is limited to the items listed on today's agenda.

Pursuant to the Rules of the Council, each testifier may be allowed to testify for up to three minutes. When testifying, please state your name and the name of any organization you represent.

Hana Office, please identify yourself and introduce your first testifier.

MS. DAWN LONO: Good morning. This is Dawn Lono at the Hana Office and there is no one waiting to testify.

DEPUTY COUNTY CLERK: Thank you.

Lanai Office, please identify yourself and introduce your first testifier.

MS. DENISE FERNANDEZ: Good morning, Chair. This is Denise Fernandez on Lanai and there is no one waiting to testify.

DEPUTY COUNTY CLERK: Thank you.

Molokai Office, please identify yourself and introduce your first testifier.

MS. ELLA ALCON: Good morning, Chair. This is Ella Alcon on Molokai and there is no one here waiting to testify.

DEPUTY COUNTY CLERK: Thank you.

Mr. Chair, we have four individuals who have signed up to testify in the Council chamber. The first person to testify in the chamber is Barbara Fernandez, testifying on Committee Report 15-148. She will be followed by Ernest Rezens.

### PRESENTATION OF WRITTEN OR ORAL TESTIMONY

MS. BARBARA FERNANDEZ, MAUI GREEN & BEAUTIFUL (testifying on Committee Report 15-148):

Good morning, Chair Mike White and Councilmembers. Happy Aloha Friday. My name is Barbara Hala'i Fernandez, and I am Vice-President of Maui Green & Beautiful. I'm here today to testify on agenda item number 15-148, our Maui County Planting Plan.

My mana`o is the Maui County Planting Plan has been reviewed by all the proper committees, and has various landscape and landscape professionals, and certified arborists to have a look at it. All of you were also given an I, time to have input on this also. Mahalo to all of you for you've taken a lot of time on this bill over the years. And, now, it's ready to go.

As you know, our Mr. Ernest Rezens, also was getting input from other folks. Endless hours are given to our committee, and all the other committees and professionals that looked at this bill. Ernie just came back from receiving the highest international award from his peers. This, there is no one, I repeat, no one within our County and public system that is at this level. I guess we're saying, as a community, he really knows his stuff. So, he's also been dedicated to helping you folks and the community, working with Council and Committees on this tree planting issue.

Finally, as I mentioned, the Planting Plan is all set for your vote of adoption as presented in full. Let's without delay, vote for the passage of Maui County Planting Plan today without future revisions. Mahalo.

CHAIR WHITE: Thank you, Ms. Fernandez.

Members, any need for clarification of the testimony? Seeing none, thank you for being here this morning.

MS. FERNANDEZ: Thank you.

CHAIR WHITE: Mr. Clerk.

DEPUTY COUNTY CLERK: The next person to testify is Ernest Rezens, testifying on Committee Report 15-148. He will be followed by Jean Pezzoli.

MR. ERNEST REZENTS (testifying on Committee Report No. 15-148):

Good morning. My name is Ernie Rezens and I'm very, very happy to be here. I know all of you, and I hope you support this document completely.

The, a synopsis, we have had Maui County Planting Plan's, First Edition, I think it was mimeograph. The Second Edition is what we have presently in use. And, the Third Edition is what we are reviewing today. I have it in a folder here before me.

Now, a brief synopsis, the Third Edition removes all invasive species. The second had many invasive species. And, it defines what a "large crown shade tree" is. Without the definition topping is okay, but with a "large crown shade tree" definition in the document, hopefully it will avoid the topping of trees especially in parking lots.

The Native-Hawaiian trees, ground covers, and shrubs are in all the tables. However, to encourage their usage, Chapter 9 is devoted to native plants and it includes all of them. And, it even have the Hawaiian names with the diacritical marks. This is very difficult using words. You have to do that manually.

And, this document has been reviewed by various County departments, has been reviewed by Maui County Landscape Architects, Maui Association of Landscape Professionals, Maui Green & Beautiful, the Hawaii Association of Landscape Architects, Aloha Arborist's Association, and the Landscape Industry Council of Hawaii. It was reviewed by everybody in the State, you might say, involved with tree work, and they have all supported it.

Russel Gushi and Mike Miyabara, two landscape architects, provided some input, and they have been addressed. We have recognized and incorporated their ideas.

It has been 15 years, about 4,000 hours, and here we are today. I received help from many people, and they are listed in the acknowledgements. But, Bob Hobdy helped tremendously by having the island with the planting zones. Now, if we had him do that for all the islands in the State of Hawaii, this could be the "State of Hawaii Planting Plan", because it puts trees and ground covers, shrubs, and everything in planting zones. So, this could be the Hawaii State Planting Plan.

Phillip Thomas helped with the invasive species. We have removed them and have worked with MISC and the Hawaii Pacific Weed Risk Assessment.

Christine Andrews, I cannot speak more highly. She's the one who tamed Windows 7. It didn't want to stay with the formatting I wanted, and she came through and did the formatting and typing for me.

Thank you very, very much. This is a very worthwhile project for Maui County.

CHAIR WHITE: Thank you, Mr. Rezens.

MR. REZENTS: Thank you very much.

CHAIR WHITE: Members, any need for clarification?

Seeing none, Mr. Rezens, I think on behalf of all of us, we would like to thank you for your tireless efforts in this Planting Plan.

MR. REZENTS: Thank you.

DEPUTY COUNTY CLERK: Thank you so much.

Mr. Clerk.

DEPUTY COUNTY CLERK: The next person to testify is Jean Pezzoli, testifying on Committee Report 15-148. She will be followed by Patrick Wong.

MS. JEAN PEZZOLI (testifying on Committee Report No. 15-148):

Good morning. Thank you very much for this opportunity. I would like to support the adoption of the Planting Plan, Maui County Planting Plan in its, in its entirety.

As a member of the Arborist Committee, in my second term, I can tell you how much dialogue and discussion there has been on this document. And, I'm here to say that it truly represents the consensus of many individuals who are arborist, growers statewide, as it's been represented here already.

Just did some math on it, I know six different professional groups have reviewed it. At least six people on each group have reviewed it. With 20 years' experience, that's over 700 years of experience that have been pulled together to come up with this consensus of the next Maui County Planting Plan, which lays out, I have to say, it's truly a masterpiece.

And, I believe it lays out the best practices and the best species of trees and plants for Maui County and statewide. Every plant that you sow is your legacy to the future of Maui County and our planet. Every breath of oxygen that you take comes from a plant somewhere that is growing.

Oxygen just doesn't get mined like diamonds, but it does grow on trees by photosynthesis. And, it takes four or five large trees, like monkey pods, to produce enough oxygen for you to breath in one day. So, every time a tree gets butchered, you're taking away our oxygen, and you're taking away our shade.

Now, we spend a lot of time talking about sustainability, but what could be more sustainable than oxygen to breathe? Plus, photosynthesis reduces carbon dioxide. So, trees truly, trees and all plants are truly our future.

And, research has shown that shady parking lots produce more sales, so we can also make more money from these trees.

Thank you for your consideration. We have put together this recipe for the selection and caring of our plant life and our planet. Thank you.

CHAIR WHITE: Thank you very much, Ms. Pezzoli.

Members, any need for clarification? Seeing none, thanks for being here this morning.

Mr. Clerk.

DEPUTY COUNTY CLERK: The next person to testify is Patrick Wong, testifying on Committee Report 15-146 and County Communication 15-257. He will be followed by Tom Blackburn-Rodriguez.

CHAIR WHITE: Good morning.

MR. PATRICK WONG (testifying on Committee Report No. 15-146 and County Communication 15-257):

Good morning, Chair, Councilmembers. You know me; I'm your Corporation Counsel. Today, I appear before you as a private individual. I'm on vacation currently. I'm here to ask you to please support the resolution authorizing the appointment of special counsel to defend my personal interest in that Salem matter.

I felt compelled to be here today and take personal time, because if in the event the matter is either deferred, voted down, or recommitted, I need to employ, implore upon you that because my personal assets may be at risk, I needed to inform my wife yesterday, who's sitting here in the gallery, and her law partner, Mr. James Krueger who is also in the gallery, in the event I need to employ special counsel myself.

So, Mr. Krueger's prepared to answer the complaint on my behalf in the event I am without representation. The old adage is any lawyer who wants to represent himself has a fool for a client. So, I will not represent myself in a personal capacity, but I will have somebody do it for me.

I ask you to seriously consider approving the authorization for the resolution, not just for me, but also for the other directors, the Managing Director who is also in the gallery, and the Mayor, in defense of a frivolous case that we've been named personally in addition to our official capacity.

So, I am very confident that the Deputy assigned to this matter is more than capable of handling it. I'm also very confident that the proposed special counsel is also capable of handling this matter, and protecting our interests on a personal level.

However, I cannot predict how the body will act. And, with that said, I chose to appear today to provide you with my insight from my personal standpoint. If there's any questions, I'm ready to entertain it. If not, thank you and good luck in your decision.

CHAIR WHITE: Thank you, Mr. Wong.

Members, any clarification?

Mr. Couch.

COUNCILMEMBER COUCH: Thank you.

Thank you, Mr. Wong. I, I don't know if I heard, is there a time limit on this?

MR. WONG: My understanding is that the complaint must be answered by October 30. I also understand, just by looking at the calendar, that this body does not reconvene until November 6, which is beyond the October 30 deadline. With that said, I'm not suggesting that it's a difficult thing, but other directors may have a difficult time finding competent defense counsel to respond to this matter in a short window of opportunity.

COUNCILMEMBER COUCH: Thank you.

Thank you, Chair.

CHAIR WHITE: Members, any other need for clarification?

Seeing none, thank you for being here this morning.

MR. WONG: Thank you.

CHAIR WHITE: Mr. Clerk.

DEPUTY COUNTY CLERK: The next person to testify is Tom Blackburn-Rodriguez testifying on Committee Report 15-149. He will be followed by Daniel Kanahale. Mr. Blackburn-Rodriguez is here on behalf of GO Maui Inc.

CHAIR WHITE: Good morning.

MR. TOM BLACKBURN-RODRIGUEZ, GO MAUI, INC. (testifying on Committee Report No. 15-149):

Good morning, Chair White, Members of the Council. Before I begin my testimony, just a personal note, I'm very glad to see Councilmember Elle Cochran here. I know that sometimes things happen to us. I understand you had a fall. I had an operation. I'm very glad to see you here. I know how difficult it is so welcome, welcome back.

Mr. Chairman, thank you for that, I appreciate it. Chair White, Members of the County Council, my name is Tom Blackburn-Rodriguez and I am testifying on behalf of GO Maui in support of item 15-149, adoption of resolution "APPROVING WITH MODIFICATION THE KENOLIO APARTMENTS PROJECT, PURSUANT TO SECTION 201H-38, HAWAII REVISED STATUTES".

GO Maui is a nonpartisan, nonprofit organization, focusing on housing, jobs, water, agriculture, economic opportunity, and the infrastructure needed to sustain a strong economy, better paying jobs, and a vibrant housing market.

GO Maui supports the passage of this item on first reading, and ultimate passage by the Council at the proper time. This project is critical to the supply of affordable rental housing in Kihei, where rents for a two-bedroom apartment are running over \$1600 a month, over \$1600 a month. Recently, land in Kihei that had been zoned for housing has been rezoned to commercial. This continues to happen. No major rental housing project has been built in Kihei since the Piilani Gardens Project, which is where I reside by the way.

Is it cliché to say that Maui has an affordable housing crisis? But, the crisis is not about housing. It is about people, the growing homeless population, and that safe and secure housing, and safe and secure housing for our children.

GO Maui respectfully asks that the Kenolio Project be approved. And, we thank you for the opportunity to testify this morning, and for your continued efforts to deal with the need for affordable workforce housing. Mahalo.

CHAIR WHITE: Thank you, Mr. Blackburn-Rodriguez.

Members, any need for clarification? Seeing none, thank you for being here.

MR. BLACKBURN-RODRIGUEZ: Thank you.

CHAIR WHITE: Mr. Clerk.

DEPUTY COUNTY CLERK: The next person to testify is Daniel Kanahele testifying on Committee Report 15-149. Mr. Kanahele is the last individual who has signed up to testify in the Council chamber.

MR. DANIEL KANAHELE (testifying on Committee Report No. 15-149):

Aloha kakou, Chair White and Councilmembers. My name is Daniel Kanahele. I am testifying as an individual, and I am testifying on the Kenolio Apartment Project.

And, I have only one concern with the project. And, I have brought this to the attention of the Councilmembers before, and that is the culverting of a segment of Ka`ono`ulu Gulch, which runs through the project area.

Ka`ono`ulu Gulch is a character defining feature of this region, and makes up a cultural landscape. Uncle Les Kuloloio has said that our gulches are the heart of Maui. Gulches have cultural and religious significance to the kanaka maoli, and symbolize the spiritual link between the kanaka community, and the environment. Left in their natural state, they reduce the amount of pollution that reaches the ocean, clean and filter water for recreation and drinking, and support the area while, area wildlife and fisheries which Hawaiians have used for millennium for traditional and gathering practices.

Culverting a natural gulch to interfere, as I believe, with these natural processes, increasing marine degradation, and impacts traditional, cultural gathering practices. So Ka`ono`ulu for example, brings water from mauka to makai, surface water, fresh water, and groundwater to the ocean. Freshwater is important to growth of limu and important for spawning in the fisheries.

At mauka side, the makai side of the Ka`ono`ulu Gulch, you have Kalepolepo which was a settlement area, and you have four fishponds. Now, those fishponds aren't there by accident. They're there because of the freshwater resources that were provided so that they could spawn, grow fisheries, right? So, this is a cultural impact. If you're going to impact limu, if you're going to impact fisheries, then you're going to impact traditional cultural gathering rights which are protected under Article 12, Section 7, of the State Constitution.

Another impact I would like to point out is that culverts are prone to blockage by debris, both natural, wood, and litter, and can result in flooding. I am familiar with

this, this area of the, they're going to be hooking up to an existing culvert that runs into Kulanihako`i Gulch. And this, the part of that culvert that runs into the gulch is, is filled with sediment. Who is going to clean that out? Who is going to make sure that that sediment is cleaned out? And, what happens if that section is completely blocked by debris and not able to enter into Kulanihako`i Gulch, cause it's an enclosed culvert. Then, you're going to have issues, and you might have flooding issues.

So, I think you need to ask who's going to clean out the culvert when it's, there's a lot of sediment in there, which there is right now, and who's going to clean out any other debris that may block the free flow of water down through the gulch?

I believe my time is up. Thank you very much, Chair. And, I'm happy to entertain any questions.

CHAIR WHITE: Thank you very much, Mr. Kanahele.

Members, any need for clarification?

Mr. Couch.

COUNCILMEMBER COUCH: Thank you, Mr. Chair.

And, thank you Mr. Kanahele for being here.

MR. KANAHELE: Sure.

COUNCILMEMBER COUCH: Have you recently checked out that? Is there water actually flowing through the, the smaller branch that they're intending to culvertize?

MR. KANAHELE: It's a seasonal drainage way. I mean, it runs when it's raining. It doesn't have to be raining in Kihei for it to have water in it. It can be raining mauka.

COUNCILMEMBER COUCH: Yea, cause it's my understanding that it's actually on the other side, it's been blocked by whatever grading's going on up there that there's no, there's no inflow anymore.

MR. KANAHELE: I don't, I'm not aware of that. I know that the gulch, Ka`ono`ulu Gulch peels off of Waiakoa Gulch which is three miles inland. The Waiakoa Gulch goes all the way to the top of the mountain. And, so if there's any blockage occurring along any part of that gulch, it's going to interfere with surface flow and groundwater's flow.

Cause if you look at a gulch, any gulch in South Maui from the air, you can easily identify it cause there's a green ribbon running through it, even during dry season. Why is it green in the gulch? Because there's water underground in the gulch. So, if you don't see water on the surface, doesn't mean there's not underground flow.

So, I'm concerned about impacting the free flow of the water into the ocean, which is going to impact limu and our fisheries, our fisheries and impact our traditional cultural practices; that's just one impact.

And, so I don't think you should take the culverting of any segment of any gulch lightly, as they are planning to do here. So, I, I hope you ask good questions.

COUNCILMEMBER COUCH: Okay. Thank you.

Thank you, Chair.

MR. KANAHELE: Mahalo.

CHAIR WHITE: Any other questions?

Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair.

And, thank you Mr. Kanahale for being here. When you say culverting, or whatever, is that channelizing, you mean?

MR. KANAHELE: My under, I think I need to ask what kind of culvert they're going to put in there. My understanding, they're going to put a, the culvert they're going to hook up to is a box culvert. So, are they going to put in the same kind of culvert? Or are they going to put a culvert that allows for the water to percolate into the ground. In other words, it leaves the, the base natural so water can percolate down and recharge the groundwater.

So, maybe you could ask them what kind of culvert, the size, because it's important that the size be correct. Because once you put the culvert in, if there is things like climate change or up mauka development and there's more flow, but the, it's not sized adequately to handle that flow, then what's going to happen? Might have flooding issues. So, I think you should ask those kinds of questions. I think they're important.

COUNCILMEMBER COCHRAN: Very good. Thank you for your comments, Mr. Kanahale.

MR. KANAHELE: Thank you.

COUNCILMEMBER COCHRAN: Thank you, Chair.

CHAIR WHITE: Thank you.

Members, any other need for clarification? Seeing none, thank you for being here this morning.

MR. KANAHELE: Thank you, Chair.

CHAIR WHITE: Mr. Clerk.

DEPUTY COUNTY CLERK: The next person to testify is Keith Regan, testifying on Committee Report 15-126 and County Communication 15-257. He will be followed by David Goode.

MR. KEITH REGAN (testifying on Committee Report No. 15-126 and County Communication 15-257):

Good morning, Chair White. Good morning, Members. I want to just start by saying that; for one thing, I'm here in my personal capacity. I have been on vacation since Wednesday of this week taking care of my wife who had a surgery.

And, so, but was not planning on being here this morning to testify until I was informed of some very concerning news with regards to this particular matter that I'm, I'm worried that this particular issue is going to impact me personally. The directors and deputies that work for this County put themselves at risk everyday by doing their jobs. They do their jobs professionally, they do it with a lot of thought, and they do it with the community in mind every single day.

And, to have to come down here this morning to talk about this particular matter because some of the directors and deputies are named in this frivolous lawsuit are concerned that they may not have or be afforded protection, coverage from the County, is concerning to me personally. Because now, I had no plans to go out and search for counsel on my own. But, now it looks like I might have to do so if this is not passed today.

I ask that you please consider this matter before you, that you please consider passing this resolution. Support the directors and deputies that are being named in

this lawsuit. Allow them to have a defense. Allow them to have coverage and protection.

Chair, I ask you humbly to consider supporting this resolution. That's all I have. Thank you.

CHAIR WHITE: Thank you.

Members, need for any clarification? Seeing none, thank you for being here this morning.

MR. REGAN: Thank you, Chair.

CHAIR WHITE: Mr. Clerk.

DEPUTY COUNTY CLERK: The next person to testify is David Goode, testifying on CR 15-146

MR. DAVID GOODE (testifying on Committee Report 15-146):

Good morning, Chair, Members of the Council.

CHAIR WHITE: Good morning.

MR. GOODE: Dave Goode here, Director of Department of Public Works. I'm testifying on, personally, but also on behalf of my department. I was notified late yesterday, rather surprisingly, that the subject resolution getting us and others special counsel may not move forward today.

I was also informed by Deputy Corporation Counsel that an answer is due in Federal court on October 30, therefore, that reso, in my mind, needs to pass today so that the special counsel that's identified in that reso has time to prepare a competent defense and hopefully get us thrown out as individuals.

I didn't come to the Committee meeting cause I thought it was rather a proforma item. This Council regularly gets special counsel for folks that are named individually. I don't understand at all the reasons for potentially not passing this and sending it back to Committee. But, if it happens, I need to get special counsel. I'm not sure who I'm going to call, but evidently Mr. Krueger is taken, so I'll try to find somebody else.

But, I'm also really concerned about the chilling effect, if something like that happens, will have on current directors, future directors, and our employees. I think about our employees. We oftentimes, line staff has to make difficult decisions, you know, primarily about construction and development projects. But, there's always the fear that you could get sued.

And, I'd like them to know that if they make a good competent decision and for some reason they are sued in their individual capacity, that this body, as essentially our board of directors will step up. And, well we'll see what happens today. I certainly hope the item moves forward.

If for some reason you want to revisit the reso and look at the parameters regarding compensation, timing, or see how the case moves forward on October 30, certainly do that. But, time is of the essence. And otherwise, I'll find some special counsel. And I will dip into my IRA; I will dip into my kids' college tuition accounts to pay for it. But, I would hope I get reimbursed. Thank you.

CHAIR WHITE: Thank you, Mr. Goode.

Members, any need for clarification? Seeing none, thank you for being here this morning.

MR. GOODE: Thank you.

CHAIR WHITE: Mr. Clerk.

DEPUTY COUNTY CLERK: Mr. Chair, there are no further individuals signed up to testify in the Council chamber. If there are any additional individuals in the Council chamber or at the District Offices who would like to offer testimony, please identify yourself to the appropriate staff and proceed to the testimony lectern or District Office conference call at this time.

Hana Office, are there any additional testifiers?

MS. LONO: The Hana Office has no one waiting to testify.

DEPUTY COUNTY CLERK: Thank you.

Lanai Office, are there any additional testifiers?

MS. FERNANDEZ: There is no one waiting to testify on Lanai.

DEPUTY COUNTY CLERK: Thank you.

Molokai Office, are there any additional testifiers?

MS. ALCON: There is no testifiers here on Molokai.

DEPUTY COUNTY CLERK: Thank you.

Mr. Chair, there are no other individuals in the District Offices nor the chamber who wish to offer testimony.

CHAIR WHITE: Thank you very much. Mr. Clerk, I note that we received written testimony.

Members, if there is no objection, we will admit the written testimony into the record.

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: Thank you.

THERE BEING NO OBJECTION, WRITTEN TESTIMONY  
RECEIVED FROM THE FOLLOWING WERE MADE A PART  
OF THE RECORD OF THIS MEETING:

1. Ernest H. Rezens;
2. Lauren Zirbel, Hawaii Food Industry Association;
3. Tyler Dos Santos-Tam, Hawai'i Construction Alliance;
4. Nelson Okumura, VIP Food service;
5. Arabella Ark;
6. Barbara Barry;
7. Paul Solomon;
8. Adrian K. Hong, Island Plastic Bags, Inc.;
9. Bill Greenleaf;
10. Diana Van Tassel;
11. John Fitzpatrick;
12. Elaine Malina, Maui Green & Beautiful;
13. Unite Here, Local 5 Hawaii; and
14. Michele Kurihara-Klein, HGEA.

CHAIR WHITE: And, without objection we'll close public testimony.

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: Okay, so ordered.

Mr. Clerk.

DEPUTY COUNTY CLERK: Mr. Chair, proceeding with minutes.

### MINUTES

The minutes of the Council of the County of Maui's regular meeting of August 25, 2015 was presented at this time.

CHAIR WHITE: Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair.

MOVE TO APPROVE THE REGULAR MINUTES OF  
AUGUST 25, 2015.

COUNCILMEMBER COUCH:

SECOND.

CHAIR WHITE: We have a motion from Mr. Guzman and a second from Mr. Couch.

Mr. Guzman.

VICE-CHAIR GUZMAN: Nothing further, Chair. Thank you.

CHAIR WHITE: Members, any discussion on the minutes? Thank you. All those in favor signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,  
COCHRAN, COUCH, CRIVELLO, HOKAMA,  
VICE-CHAIR GUZMAN, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBER VICTORINO.

CHAIR WHITE: Measure passes with eight "ayes"; zero "noes"; and one "excused", Mr. Victorino.

Mr. Clerk.

COUNTY CLERK: Mr. Chair, proceeding with committee reports.

### COMMITTEE REPORTS

COMMITTEE REPORT  
NO. 15-145 - COMMITTEE OF THE WHOLE:

Recommending that Resolution 15-127, entitled "AUTHORIZING SETTLEMENT OF CLAIM NO. 2014-2022-21 OF DOUGLAS CALDITO," be ADOPTED.

CHAIR WHITE: Mr. Guzman.

COUNCILMEMBER GUZMAN: Thank you, Chair.

MOVE TO ADOPT THE RECOMMENDATIONS OF THE  
COMMITTEE OF THE WHOLE COMMITTEE REPORT 15-145.

COUNCILMEMBER CRIVELLO:

I SECOND THE MOTION.

CHAIR WHITE: We have a motion from Mr. Guzman and a second from Ms. Crivello.

Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair. Your Committee met on September 23, 2015, to consider the request to settle Douglas Caldito's claim for \$8,851.

The claim alleges damages to Mr. Caldito's rock wall resulting from a blocked County sewer line, which caused flooding on his property and created a sinkhole below the

wall on or about August 27, 2013. The requested settlement amount of 8,851 represents the lower of the two estimates Mr. Caldito submitted for the repairs.

Your Committee voted 5-0 to recommend adoption of the proposed resolution.

I ask for the Members support of this motion.

CHAIR WHITE: Members, any further discussion on this item? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,  
COCHRAN, COUCH, CRIVELLO, HOKAMA,  
VICE-CHAIR GUZMAN, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBER VICTORINO.

CHAIR WHITE: Measure passes with eight "ayes", zero "noes", one "excused".

Mr. Clerk.

COUNTY CLERK: For the record, RESOLUTION 15-127.

COMMITTEE REPORT

NO. 15-146 - COMMITTEE OF THE WHOLE:

Recommending that Resolution \_\_\_\_\_, entitled "AUTHORIZING THE EMPLOYMENT OF SPECIAL COUNSEL IN CHRISTOPHER SALEM V. ALAN ARAKAWA, ET AL., CIVIL 15-00384 LEK-KSC," be ADOPTED.

CHAIR WHITE: Thank you, Mr. Clerk.

Members, without objection, the Chair would like to move this to the end of the calendar.

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: Thank you.

Mr. Clerk.

*(See pages 60 through 75 for discussion and action.)*

COMMITTEE REPORT

NO. 15-147 - ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE, AND RECREATION COMMITTEE:

Recommending the following:

1. That Bill 73 (2015), entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 12.24A, MAUI COUNTY CODE, RELATING TO EXCEPTIONAL TREES," be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 12-5, from the Director of Parks and Recreation, be FILED.

CHAIR WHITE: Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair.

I MOVE TO ADOPT THE RECOMMENDATIONS IN  
COMMITTEE REPORT 15-147.

COUNCILMEMBER COCHRAN:

CHAIR, I SECOND THE MOTION.

CHAIR WHITE: We have a motion from Mr. Guzman and a second from Ms. Cochran.

Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair. Your Committee met on September 29, 2015, to consider a proposed bill to codify the ordinances relating to exceptional tree list.

Your Committee noted that the process to amend the exceptional tree list is cumbersome, as each new ordinance amends an exhibit to Ordinance 3737 (2010), which itself amends an exhibit to Ordinance 2041 (1991).

CHAIR WHITE: Thank you.

Mr. Clerk.

*(See pages \_\_\_ through \_\_\_ for discussion and action.)*

COMMITTEE REPORT

NO. 15-147 - ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE, AND RECREATION COMMITTEE:

Recommending the following:

1. That Bill 73 (2015), entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 12.24A, MAUI COUNTY CODE, RELATING TO EXCEPTIONAL TREES," be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 12-5, from the Director of Parks and Recreation, be FILED.

CHAIR WHITE: Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair.

I MOVE TO ADOPT THE RECOMMENDATIONS IN COMMITTEE REPORT 15-147.

COUNCILMEMBER COCHRAN:

CHAIR, I SECOND THE MOTION.

CHAIR WHITE: We have a motion from Mr. Guzman and a second from Ms. Cochran.

Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair. Your Committee met on September 29, 2015, to consider a proposed bill to codify the ordinances relating to exceptional tree list.

Your Committee noted that the process to amend the exceptional tree list is cumbersome, as each new ordinance amends an exhibit to Ordinance 3737 (2010), which itself amends an exhibit to Ordinance 2041 (1991).

The proposed bill would make the list more readily accessible and easier to amend, as needed, pursuant to Maui County Code procedures.

Also, the proposed bill would add requirements for exceptional tree nominations to help standardize the submission of exceptional tree nominations from the Maui County Arborist Committee to the Council.

I respectfully ask the Council's full support for your Committee's recommendations. Thank you, Chair.

CHAIR WHITE: Thank you.

Members, any further discussion on this item?

COUNCILMEMBER HOKAMA: Chair.

CHAIR WHITE: Yes, Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, I am happy to speak in favor of the motion this morning. But, I will just state for the record, for Lanai in our current community, there's trees that are about 100 years old. We have a lot of issues regarding splittings, dry rot, termites.

And, you know, for me there comes a time when we need to start replanting and removing dangerous trees also. I know its part of a, the character of our community, but I've lived long enough to know those trees that are ten feet tall. So, my thing is, you know, everything is in its proper time and place, and you know, I hope the plan takes into account the need, again of, of taking account the safety of our, of the residents that live under those trees. Because we're having issues in our community, and I think it's only appropriate we remove but replant accordingly to preserve our character. So, thank you very much.

CHAIR WHITE: Thank you, Mr. Hokama.

Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair. And, commend the Committee's work. Unfortunately, I was not here but have been following. And, I'd just like to kind of echo Mr. Hokama too, in the sense that, you know, these trees are put on here for a reason, because of their importance whether culturally, historically, and what have you.

And, unfortunately, there has been a couple in Lahaina that have died due to, I don't think it was ever determined really, but partly negligence, partly improper care and what have you. So, I hope that, you know, there's a lot of emphasis on these particular trees and, and close scrutiny and attention being paid to the fact, you know, to keep them alive, you know, thriving and being healthy throughout its lifespan. So, just want to reiterate that, cause it was unfortunate that even though it was on the list, the tree had died anyways.

So, I'd like for better protection and care for these exceptional trees. Thank you, Chair.

CHAIR WHITE: Thank you.

Mr. Carroll.

COUNCILMEMBER CARROLL: Thank you, Chair. I would just like to say thank you to Mr. Guzman for bringing this up, and for all of those involved in our community with the preservation of our trees. This has been a long time in coming. And, I think this is really the best pro-action that we can take to preserve our trees. Thank you.

CHAIR WHITE: Thank you.

VICE-CHAIR GUZMAN: Chair.

CHAIR WHITE: Any further, yes, Mr. Guzman.

VICE-CHAIR GUZMAN: Yea, just, just wanted to clarify that this, this bill was basically put forth to, to, to address those issues that Ms. Cochran mentioned. That trees that are on the exceptional list sometimes are not recognized as exceptional trees, so therefore, negligence may occur.

And, when I entered, you know, when I became Chair of EAR, I had to, I had to ask where is the exceptional tree list? And, the exceptional tree list is not really a true list. It's exhibits to an ordinance, to an ordinance, to an ordinance, so you have to really look and gather all the exhibits to create the list. So, this, this bill basically says let's, let's create the list and put it in the ordinance so that we can track and actually see what trees are out there.

And, also adding a standardized submission procedure for the Arborist Committee to submit to the Council when they nominate these, these trees so it's more organized and streamlined.

So, I think this is, will better, in fact, recognize those trees that are on Lanai that may or may not need to be on the list anymore, and, and really identify these trees not having to go back through the records and look for them to see in fact they are exceptional.

So, thank you, Chair. And, I thank you, thank the Committee for all their hard work as well.

CHAIR WHITE: Thank you.

Any other comments? Seeing none, all those in favor, please signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,  
COCHRAN, COUCH, CRIVELLO, HOKAMA,  
VICE-CHAIR GUZMAN, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBER VICTORINO.

CHAIR WHITE: Measure passes with eight "ayes", zero "noes", and one "excused".

Mr. Clerk.

DEPUTY COUNTY CLERK: For the record, BILL 73 (2015).

COMMITTEE REPORT

NO. 15-148 - ECONOMIC DEVELOPMENT, ENERGY, AGRICULTURE, AND RECREATION COMMITTEE:

Recommending the following:

1. That Resolution 15-128, entitled "PROVIDING COMMENTS ON DRAFT MAUI COUNTY PLANTING PLAN, THIRD EDITION," be ADOPTED;
2. That County Communication 13-325, from Councilmember Don S. Guzman, be FILED; and
3. That County Communication 15-214, from the Director of Parks and Recreation, be FILED.

CHAIR WHITE: Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair.

I MOVE TO ADOPT THE RECOMMENDATIONS IN  
COMMITTEE REPORT 15-148.

COUNCILMEMBER COCHRAN:

AND, CHAIR, I SECOND THE MOTION.

CHAIR WHITE: We have a motion from Mr. Guzman and a second from Ms. Cochran.

Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair. Your Committee met on September 29, 2015, to consider a proposed resolution to provide comments on the draft "MAUI COUNTY PLANTING PLAN, THIRD EDITION", submitted to the Council by the Maui County Arborist Committee, pursuant to Section 12.24A.030(C)(1) of the Maui County Code.

The Maui, the Maui County Landscaping Planting Plan was originally adopted in 1991 and has been revised only once, in 1993.

An update of the plan is needed to eliminate invasive species from the landscape planting plan, increase tree canopies and parking lot shade, expand the list of native-Hawaiian plants, and include an alphabetical list of plants by common and scientific names.

The draft plan updates the prior edition and adds new chapters on the history of the Arborist Committee, County planting zones, highway-median trees, and parking-lot shade trees.

The draft plan also includes expanded guidelines and information on sound, wind, and visual barriers; and exceptional tree programs; planting, care, and maintenance; ground cover, drought-tolerant plants; native Hawaiian and Polynesian-introduced species; and alien and invasive species.

Your Committee revised the proposed resolution to express its support, revise and review the resolution to express its support of the plan.

I respectfully ask the Council's full support of the Committee's recommendations.  
Thank you, Chair.

CHAIR WHITE: Thank you.

Members, any further discussion on this item?

Ms. Baisa.

COUNCILMEMBER BAISA: Thank you very much, Mr. Chair. I'm not a voting Member of this Committee, and I didn't sit in on this meeting.

But, I did listen to Mr. Rezens this morning, and I am just so, I'm, I think Maui is so lucky to have him. And, we're just lucky that he leaves a legacy for us, and this is, this tree plan that he has worked, I mean, this Planting Plan that he has worked so really hard on. And, one thing he said in his testimony that I just wanted to say Amen to, and that is what happens with parking lot trees.

You know, it's kind of shocking that you go to a parking lot that was really pretty and all of a sudden there's all these bare stumps. And, it's kind of sad because you know how much we love and, and we really enjoy the trees even though sometimes you have to be careful parking under them because of the birds. But, you can't have it both ways.

But, you know, I'm really happy that we have somebody like him who is willing to share all the knowledge that he's gained over all these years. And, he's very well-respected. And, so I'm really happy to be able to support this today. Thank you.

CHAIR WHITE: Thank you.

Members, other comments on this item?

Well, I'd just like to say that it's an impressive piece of work and I would hope that Mr. Hobdy would be willing to, maybe with some assistance from others, provide the mapping for the other islands because I think this is something that applies to every island and should very well serve not just the County of Maui but many other places in the, in the State.

So, I, I would agree with you. We have ourselves a, a true treasure in Mr. Rezens. And, once again, Mr. Rezens, I'd like to thank you for sharing all of your knowledge and taking the time to put this wonderful piece of work together. So--

MR. REZENTS: You're welcome

CHAIR WHITE: --thank you.

Members, other discussion on this item? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,  
COCHRAN, COUCH, CRIVELLO, HOKAMA,  
VICE-CHAIR GUZMAN, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBER VICTORINO.

CHAIR WHITE: Measure passes with eight "ayes", zero "noes", and one "excused".

Mr. Clerk.

DEPUTY COUNTY CLERK: For the record, RESOLUTION 15-128.

COMMITTEE REPORT

NO. 15-149 - LAND USE COMMITTEE:

Recommending the following:

1. That Resolution 15-129, entitled "APPROVING WITH MODIFICATIONS THE KENOLIO APARTMENTS PROJECT PURSUANT TO SECTION 201H-38, HAWAII REVISED STATUTES," be ADOPTED;
2. That the resolution, entitled "APPROVING THE KENOLIO APARTMENTS PROJECT PURSUANT TO SECTION 201H-38, HAWAII REVISED STATUTES," be FILED; and
3. That the resolution, entitled "DISAPPROVING THE KENOLIO APARTMENTS PROJECT PURSUANT TO SECTION 201H-38, HAWAII REVISED STATUTES," be FILED.

CHAIR WHITE: Mr. Carroll.

COUNCILMEMBER CARROLL: Thank you, Chair.

I MOVE TO ADOPT THE RECOMMENDATIONS IN LAND USE  
COMMITTEE REPORT 15-149.

COUNCILMEMBER COUCH:

MR. CHAIR, I SECOND.

CHAIR WHITE: We have a motion from Mr. Carroll and a second from Mr. Couch.

Mr. Carroll.

COUNCILMEMBER CARROLL: Thank you, Chair. May I refer you and, to you and the Members of the floor amendment form which I have asked the Clerk to distribute to you at this meeting.

I WOULD LIKE TO MOVE TO SUBSTITUTE THE PROPOSED  
RESOLUTION TO APPROVE WITH MODIFICATIONS  
ATTACHED TO THE LAND USE COMMITTEE REPORT  
15-149, THE REVISED PROPOSED RESOLUTION TO  
APPROVE WITH MODIFICATIONS ATTACHED TO MY  
FLOOR AMENDMENT FORM.

COUNCILMEMBER COUCH:

MR. CHAIR, I SECOND.

CHAIR WHITE: We have a motion from Mr. Carroll and a second from Mr. Couch.

Mr. Carroll.

COUNCILMEMBER CARROLL: Thank you, Chair. The revisions include fixing references to the Maui County Code, including references to Title 16 and Title 19 exemptions, and organizing the exemptions by title. That's all Chair.

CHAIR WHITE: Members, any further discussion or questions from Mr. Carroll.

COUNCILMEMBER COUCH: Yea.

CHAIR WHITE: Mr. Couch.

COUNCILMEMBER COUCH: Thank you, Mr. Chair. You know, I, I would like a, a minute or so to read this. I've tried to read it in between items, but I just want to make sure that everything is copacetic before we, we vote on it.

CHAIR WHITE: Would you like a five minute recess?

COUNCILMEMBER COUCH: Please.

CHAIR WHITE: Okay, we'll be in recess for five minutes. Please be ready to go at 9:55.

(THE MEETING WAS RECESSED BY THE CHAIR AT 9:50 A.M., AND WAS RECONVENED AT 10:00 A.M., WITH ALL MEMBERS PRESENT, EXCEPT COUNCILMEMBER VICTORINO, EXCUSED.)

CHAIR WHITE: This meeting of the County Council will please come back to order.

Mr. Couch.

COUNCILMEMBER COUCH: Thank you, Mr. Chair, for that. And, looked through it and got some other paperwork and it looks, looks fine. Thank you.

CHAIR WHITE: Okay. Members, any further discussion on the, the amendment to the main motion? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,  
COCHRAN, COUCH, CRIVELLO, HOKAMA,  
VICE-CHAIR GUZMAN, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBER VICTORINO.

CHAIR WHITE: Measure passes with eight "ayes", zero "noes", and one "excused".

Mr. Carroll, we're back on the main motion.

COUNCILMEMBER CARROLL: Thank you, Chair. On September 15, September 16, and September 30, 2015, your Committee met to consider proposed resolutions to approve, approve with modifications, or disapprove an application transmitted by the Director of Housing and Human Concerns for the development of the proposed Kenolio Apartments Project on 8, 8, 8.274 acres in Kihei, Maui, Hawaii, pursuant to Section 201H-38, Hawaii Revised Statutes.

The project site is owned by Pacific West Communications [*sic*] Inc., and located between Piilani Highway and Kenolio. The proposed project consists of 184 multifamily rental units for individuals and families with annual incomes not exceeding 60 per cent of the County's median income and 2 on-site management, manager units. According to the application, the project will consist of 12 three-story buildings, containing 63 one-bedroom units, 100 two-bedroom units, and 23 three-bedroom units.

Pursuant to Section 201H-38, HRS, the Council has until October 23, 2015, to act on the application or it will be deemed approved as submitted. Your Committee recognized the acute need for affordable rental housing and voted to support this project.

Your Committee voted 5-0 to recommend adoption of the revised proposed resolution approving the project with modifications and filing of the two remaining resolutions. I ask for the Council's full support on these recommendations. Thank you, Chair.

CHAIR WHITE: Thank you, Mr. Carroll.

Members, further discussion?

Mr. Couch.

COUNCILMEMBER COUCH: Thank you, Mr. Chair. And, I thank Mr. Carroll for bringing this up, and also for, thank you and Mr. Carroll for allowing me to set up a remote attendance to the meeting. I wish I could have attended the 30th meeting, but that was in a different country. So, unfortunately that was not allowed.

You know, every time we come before Ms. Crivello's Committee, we talk about affordable housing and especially affordable rentals. We finally have a project, somebody who is willing to do affordable rentals. I want to applaud them, but I also want to make sure that they don't cut corners.

There are concerns about the flow of the water through that gulch. I understand why they want to culvertize it, because that's where they're going to put the parking. I just want to put the applicant on notice that, you know, they, they're responsible for keeping that clean and the waterway through, because if it floods as we saw in our first item today, if it floods, they could be responsible for the damage. So, I want to make sure that if this goes through and they culvertize that that they make sure it stays open.

Also, the North South Collector Road, the, I know the Kihei community has some concerns about traffic and what not. And, I will commit to working with the Department of Public Works to see if they can do our portion of the North South Collector Road, as well as in conjunction with the Department or the, the applicant, to do their section. Whether we both do it together or something, I would like to see it all be done at the same time and somebody pay somebody, you know, whoever does it pays, the other guy pays. And, I would like to get some support from the Members if, if we can get that. If we can pull that, that clearing of red tape off, I would like to get support of the Members to help with that to go through.

But, other than that, this is finally, we're getting some affordable rentals; 184 units. It, it's about time. So, I want to thank everybody and ask for their full support. Thank you.

CHAIR WHITE: Other discussion, Members?

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, I speak with reservations this morning. I still have my concerns about this project. I really hope it all pans out as the Committee was told in its meeting by the representatives. I have my concerns, but nonetheless, I can support moving this forward.

I will echo, though, Mr. Couch's comment about infrastructure reinvestment. You know, we continue to either exempt or delay the investment. We got to come to grips that the longer we wait, the more it will cost and the worse the situation will be to rectify.

So, I, I just again, support that we start looking and considering the type of resources we want to put to taking care of the infrastructure. It's getting worse and not better, Chair. We all know it. Thank you.

CHAIR WHITE: Thank you, Mr. Hokama.

Members, any further discussion? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,  
COCHRAN, COUCH, CRIVELLO, HOKAMA,  
VICE-CHAIR GUZMAN, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBER VICTORINO.

CHAIR WHITE: Measure passes with eight "ayes", zero "noes", and one "excused".

Mr. Clerk.

DEPUTY COUNTY CLERK: For the record, RESOLUTION 15-129.

COMMITTEE REPORT

NO. 15-150 - POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE:

Recommending that Resolution 15-130, entitled "RELATING TO THE APPOINTMENT OF ZACHARY HELM TO THE LIQUOR CONTROL ADJUDICATION BOARD," be ADOPTED.

*Approve the appointment of Zachary Helm (replacing Henry Kauka Jr.) to the Liquor Control Adjudication Board for a term expiring March 31, 2016.*

CHAIR WHITE: Mr. Couch.

COUNCILMEMBER COUCH: Thank you, Mr. Chair. Without objection, could we ask the Clerk to bring up the next item too?

CHAIR WHITE: Please call up the next item, Mr. Clerk.

COMMITTEE REPORT

NO. 15-151 - POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE:

Recommending that Resolution 15-131, entitled "RELATING TO THE APPOINTMENT OF ANNIE ALVARADO TO THE COST OF GOVERNMENT COMMISSION," be ADOPTED.

*Approve the appointment of Annie Alvarado (replacing Tina Gomes) to the Cost of Government Commission, for a term expiring March 31, 2019.*

CHAIR WHITE: Mr. Couch.

COUNCILMEMBER COUCH: Thank you, Mr. Chair.

I MOVE THAT THE RECOMMENDATIONS OF COMMITTEE REPORT 15-150 AND 15-151 BE ADOPTED.

COUNCILMEMBER CRIVELLO:

I SECOND THE MOTION.

COUNCILMEMBER CARROLL: Second.

CHAIR WHITE: We have a motion by Mr. Couch and a second by Ms. Crivello.

Mr. Couch.

COUNCILMEMBER COUCH: Thank you, Mr. Chair. At its meeting of, on, on behalf of the Chair of the Committee, Mr. Victorino, I am speaking, at its Committee meeting of September 29, 2015, your Policy and Intergovernmental Affairs Committee voted 5-0 to recommend the approval of the Mayor's nomination of Zachary Helm to the Liquor Control Adjudication Board for a term expiring March 31, 2016.

Your Committee noted Mr. Helm's background as Deputy Director of the Department of Parks and Recreation and a former member of the Liquor Control Commission. We want to thank Mr. Helm for volunteering.

And, also on that same meeting, the Committee voted to 5-0 to recommend the approval of Mayor's nomination of the Annie Alvarado to the Cost of Government Commission for a term expiring March 31, 2019.

Your Committee noted Ms. Alvarado's experience and knowledge as a former Federal and State employee would benefit the Commission.

I want to thank Ms. Alvarado, also, for volunteering. And, I request Council's consideration on this, these two items. Thank you.

CHAIR WHITE: Thank you.

Members, any further discussion on these items? Seeing none, all those in favor, please signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,  
COCHRAN, COUCH, CRIVELLO, HOKAMA,  
VICE-CHAIR GUZMAN, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBER VICTORINO.

CHAIR WHITE: Measure passes with eight "ayes", zero "noes", and one "excused".

Mr. Clerk.

DEPUTY COUNTY CLERK: Relative to Committee 15-150, that's RESOLUTION 15-130.  
And, relative to Committee Report 15-151, that's RESOLUTION 15-131.

Mr. Chair, proceeding with county communications.

### COUNTY COMMUNICATION

NO. 15-256 - DANILO F. AGSALOG, DIRECTOR OF FINANCE,  
(dated October 5, 2015)

Transmitting two reports on settlement of claims as of June 30, 2015.

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA:

CHAIRMAN, I MOVE TO FILE COUNTY COMMUNICATION  
15-256.

COUNCILMEMBER COUCH:

SECOND.

CHAIR WHITE: We have a motion from Mr. Hokama and a second from Mr. Couch.

Mr. Hokama.

COUNCILMEMBER HOKAMA: No further discussion.

CHAIR WHITE: Any discussion, Members? Seeing none, all, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,  
COCHRAN, COUCH, CRIVELLO, HOKAMA,  
VICE-CHAIR GUZMAN, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBER VICTORINO.

CHAIR WHITE: Measure passes with eight "ayes", zero "noes", and one "excused".

Mr. Clerk.

NO. 15-257 - BRIAN A. BILBERRY, DEPUTY CORPORATION COUNSEL,  
(dated October 8, 2015)

Transmitting a proposed resolution entitled "AUTHORIZING THE EMPLOYMENT OF  
SPECIAL COUNSEL IN CHRISTOPHER SALEM V. ALAN ARAKAWA, ET AL.,  
CIVIL NO. 15-00384 LEK-KSC".

CHAIR WHITE: Members, without objection, we'll move this to the end of calendar, along with the previous item.

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: Thank you.

*(See pages 66 through 75 for discussion and action.)*

CHAIR WHITE: Mr. Clerk.

NO. 15-258 - MIKE WHITE, COUNCIL CHAIR,  
(dated October 9, 2015)

Transmitting a proposed resolution entitled "APPROVING THE HAWAII STATE ASSOCIATION OF COUNTIES OFFICERS FOR FISCAL YEAR 2016".

CHAIR WHITE: Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair.

I MOVE TO WAIVE THE REQUIREMENTS OF THE COMMITTEE REFERRAL AND REPORT FOR THE PROPOSED RESOLUTION ATTACHED TO COUNTY COMMUNICATION 15-258, ENTITLED "APPROVING THE HAWAII STATE ASSOCIATION OF COUNTIES OFFICERS FOR FISCAL YEAR 2016", AS PROVIDED FOR IN RULE 7(E) OF THE RULES OF THE COUNCIL.

COUNCILMEMBER COUCH:

SECOND.

CHAIR WHITE: We have a motion from Mr. Guzman and a second from Mr. Couch.

Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair. The Bylaws of the state of, the Hawaii State Association of Counties, HSAC, require each Council to approve the nominated slate of HSAC officers prior to the June HSAC annual meeting.

This year's HSAC annual meeting in June has already passed; therefore, immediate approval is requested for the new slate of officers.

Mr. Chair, I respectfully request passage of this motion, and to waive committee report and referral.

CHAIR WHITE: Okay. Any further discussion, Members? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,  
COCHRAN, COUCH, CRIVELLO, HOKAMA,  
VICE-CHAIR GUZMAN, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBER VICTORINO.

CHAIR WHITE: Measure passes with eight "ayes", zero "noes", and one "excused".

Mr. Guzman.

VICE-CHAIR GUZMAN: Chair, thank you.

I MOVE TO, I MOVE THAT THE PROPOSED RESOLUTION  
BE ADOPTED, AND THE COUNTY COMMUNICATION 15-258  
BE FILED.

COUNCILMEMBER COUCH:

SECOND.

CHAIR WHITE: We have a motion from Mr. Guzman and a second from Mr. Couch.

Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair. The proposed resolution approves the nominated slate of HSAC officers for Fiscal Year 2016.

A slate of officers was recommended by the HSAC Executive Committee earlier this year, but failed to be approved by all four Councils; therefore, a new slate is proposed. From the Maui County Council, Presiding Officer Pro Tempore Michael P. Victorino is nominated as the HSAC President with Councilmember Gladys C. Baisa as the alternate.

Mr. Chair, I respectfully request support of the motion.

CHAIR WHITE: Thank you.

Members, any further discussion?

The Chair would just like to point out that this, this slate of officers includes Mr. Victorino, our colleague, moving into the position of President. So, we should be very proud that Maui is now going to be leading this organization.

Any further discussion? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,  
COCHRAN, COUCH, CRIVELLO, HOKAMA,  
VICE-CHAIR GUZMAN, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBER VICTORINO.

CHAIR WHITE: Measure passes with eight "ayes" and zero "noes".

Mr. Clerk.

DEPUTY COUNTY CLERK: For the record, RESOLUTION 15-132.

Mr. Chair, proceeding with county communications for referral. The following county communications are recommended for referral to the following Committees as noted:

NO. 15-259 - DAVID TAYLOR, DIRECTOR OF WATER SUPPLY,  
(dated September 29, 2015)

Transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. 4128, BILL NO. 32 (2014), AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO INTERGOVERNMENTAL AGREEMENTS FOR LOANS FROM THE STATE OF HAWAII'S DRINKING WATER TREATMENT REVOLVING LOAN FUND FOR VARIOUS WATER PROJECTS, FISCAL YEAR 2015 BUDGET ORDINANCE" and a related document.

The recommended action is that County Communication No. 15-259 be referred to the Budget and Finance Committee.

NO. 15-260 - DANILO F. AGSALOG, DIRECTOR OF FINANCE,  
(dated September 23, 2015)

Transmitting the Summary of Total Funded Indebtedness Outstanding and Unpaid as of July 1, 2015.

The recommended action is that County Communication No. 15-260 be referred to the Budget and Finance Committee.

NO. 15-261 - MIKE WHITE, COUNCIL CHAIR,  
(dated October 8, 2015)

Transmitting a proposed resolution entitled "ENCOURAGING THE DEVELOPMENT OF ENTITLED RESIDENTIAL-HOUSING PROJECTS".

The recommended action is that County Communication No. 15-261 be referred to the Housing, Human Services and Transportation Committee.

NO. 15-262 - CAROL K. REIMANN, DIRECTOR OF HOUSING AND HUMAN CONCERNS, (dated September 29, 2015)

Transmitting a proposed resolution entitled "AUTHORIZING THE GRANTING OF EASEMENTS FOR SEWERLINE PURPOSES TO HOSPICE MAUI, INC., PURSUANT TO CHAPTER 3.44, MAUI COUNTY CODE".

The recommended action is that County Communication No. 15-262 be referred to the Infrastructure and Environmental Management Committee.

CHAIR WHITE: Thank you, Mr. Clerk.

Members, are there any objections to the referrals as read by the Clerk?

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: Thank you.

Mr. Clerk, proceed.

DEPUTY COUNTY CLERK: Mr. Chair, proceeding with ordinances, second and final reading.

### ORDINANCES

ORDINANCE NO. \_\_\_\_\_  
BILL NO. 71 (2015)

A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE UNITED STATES DEPARTMENT OF THE INTERIOR, FISH AND WILDLIFE SERVICE, FOR THE SETTLEMENT OF ALLEGED VIOLATIONS AT THE WAILUKU-KAHULUI WASTEWATER RECLAMATION FACILITY

CHAIR WHITE: Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair. May I request the, the Deputy Clerk to call up Bill 72 (2015) so the Council can consider both bills at the same time?

CHAIR WHITE: Members, are there any objections to calling up the second bill?

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: Okay. So ordered.

Clerk.

ORDINANCE NO. \_\_\_\_\_  
BILL NO. 72 (2015)

A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE UNITED STATES DEPARTMENT OF THE INTERIOR, FISH AND WILDLIFE SERVICE, FOR THE SETTLEMENT OF ALLEGED VIOLATIONS AT THE LANAI WASTEWATER TREATMENT FACILITY

CHAIR WHITE: Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair.

I MOVE TO PASS BILL 71 AND 72 OF 2015 ON SECOND AND FINAL READING.

COUNCILMEMBER COUCH:

SECOND.

CHAIR WHITE: We have a motion from Mr. Guzman and a second from Mr. Couch.

Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair. Bill 71 would authorize the Mayor to enter into an intergovernmental agreement with the U.S. Fish and Wildlife Service to settle alleged violations regarding the take of endangered birds and migratory birds, nests, or eggs in violation of the Federal Migratory Bird Treaty Act at the Wailuku-Kahului Wastewater Reclamation Facility during September 2014.

Bill 72 would authorize the Mayor to enter into intergovernmental agreement with the U.S. Fish and Wildlife Services to settle, yet again, a alleged violations regarding the take of endangered birds, migratory birds, nests, or eggs in violation of the Federal Endangered Species Act and Migratory Bird Treaty Act at the Lanai Wastewater Treatment Facility during February 2012 and September 2014 to January 2015.

I ask for the Council's support of these bills. Thank you.

CHAIR WHITE: Thank you, Mr. Guzman.

Members, any further discussion on these items? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,  
COCHRAN, COUCH, CRIVELLO, HOKAMA,  
VICE-CHAIR GUZMAN, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBER VICTORINO.

CHAIR WHITE: Measure passes with eight "ayes", zero "noes", and one "excused".

Mr. Clerk.

DEPUTY COUNTY CLERK: Mr. Chair, proceeding with unfinished business.

## UNFINISHED BUSINESS

## COUNTY COMMUNICATION

NO. 15-242 - RIKI HOKAMA, COUNCILMEMBER,  
(dated September 8, 2015)

Transmitting a proposed resolution entitled "A RESOLUTION IN OPPOSITION TO THE PROPOSED CHANGE IN CONTROL IN THE MATTER OF THE APPLICATION BY HAWAIIAN ELECTRIC INDUSTRIES, INC. AND NEXTERA ENERGY, INC. IN DOCKET NO. 2015-0022 FILED ON 1/29/15".

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA:

CHAIRMAN, I MOVE THAT THE RESOLUTION ATTACHED TO COUNTY COMMUNICATION, PROPOSED RESOLUTION

ATTACHED TO COUNTY COMMUNICATION 15-242 BE  
ADOPTED AND COUNTY COMMUNICATION, AND THE  
FILING OF SAID COMMUNICATION.

COUNCILMEMBER CRIVELLO:

I SECOND THE MOTION, CHAIR.

CHAIR WHITE: We have a motion from Mr. Hokama and a second from Ms. Crivello.

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, thank you. I am requesting the Members to consider this resolution to be sent to the PUC to express this body's position on the current application as proposed before the Public Utilities Commission of the State of Hawaii regarding the change in control regarding Hawaiian Electric Energies and NextEra Energy, Inc.

I would ask if no objections, if the Clerk would read the resolution, Mr. Chairman.

CHAIR WHITE: Are there any objections to the resolution being read in its entirety?

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: Seeing none, Mr. Clerk.

*(The resolution was read in its entirety.)*

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, thank you very much and thank you, Mr. Clerk.

Chairman, you know, what I'm asking the Members is exactly what the "RESOLVE" clause states. Unfortunately with the PUC, we need to say we either support or oppose it. And that's how Chairman Iwase conducts his hearings. You have to say, take a position, so I'm taking a position that currently we should oppose the current, the proposal as currently presented before them.

I state why that I think the Commission needs to look at island based options. We are an island based state. We're a County with multiple islands, with three different communities on three different islands. And we have different generation needs as well as requirements.

I would say, Mr. Chairman, that, you know, at this time, I've been waiting 37 years, since 1978's Constitutional Convention to have the people of this State have greater say in their energy future. I think we should make use of this opportunity and at the end of the day, if NextEra is still, after all the vetment, the best option for the State of Hawaii, at least we can be assured that we have vetted out other options that will. And I hate to go back and look over my shoulder and say I wish we did this, or I wish we had investigated that before making a commitment whereby maybe for the next 37 years we'll never have another opportunity.

We can learn from what Kauai has done through their cooperative efforts and whether or not that is something that is smart for this County. But I think we should at least have that discussion, Mr. Chairman, and allow our people to weigh in. And again, every island has a different perspective of energy; Lanaians have one unique; Molokaians have a unique perspective of energy.

And so I think this is a great opportunity for us to investigate those options and allow our communities to continue to have input in their energy future. Thank you.

CHAIR WHITE: Thank you, Mr. Hokama.

Any further discussion?

Ms. Crivello, followed by Mr. Couch, and then Ms. Baisa.

COUNCILMEMBER CRIVELLO: Thank you, Chair. Thank you, Mr. Hokama to bringing this forward.

I agree as an island state or more so how our County is setup that we provide the process of further discussion. You know, on my island, it, there needs to be massive improvement with the infrastructure. And we've mentioned that through the PUC . . . forums. And I think this, this expands that kind of opportunity for us to further discuss before the PUC makes definite decision-making with regards to a merger or not or. Cause it, it comes as a package deal. You can't separate that we're just interested in the urbanizing area. We are part of the existing electric company and so we need to look at each island very differently and what is appropriately accommodating for our residents. Thank you.

CHAIR WHITE: Thank you.

Mr. Couch.

COUNCILMEMBER COUCH: Thank you, Mr. Chair.

And, in general, I am in support of this resolution. My only hesitation is that we haven't had a chance to actually have the discussion. I, I'm wondering if there is a, a need for getting this out right away because while I agree with everything in the "BE IT RESOLVED", I also would like to have everybody to have their chance to have a say in this. So, I, I would ask that the, from Mr. Hokama, if there is a, a deadline that, why we have to have it out now as opposed to having it in Committee.

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA: I wish I could predict what Chair Iwase and the other two Commissioners will do with decision-making. My understanding, it's before them, with proper posting, I guess they can make a decision as soon as they feel to make a decision, Chairman and Members.

You know, part of the proposal is if you'll note, is after pretty much every, or this discussion today is after all three islands had public meetings by the Commission, and a lot of the comments is what is being reflected in this proposal.

Lanaians came out, Ms. Crivello can tell you what Molokaians said because they went to Molokai. The Commission came here to Maui and I think if you look at the general overall comments, it's about let's go check out what our opportunities are before we make this commitment.

And part of it Chairman, if you'll allow me, it's been interesting because at the time of, before the Molokai hearing, already NextEra had been talking about 88 additional things they would be considering in addition to what was currently submitted. So already things is pretty much changing from the NextEra component of what they were really, or not really told by the existing utility regarding the current state of affairs.

So it's kind of interesting, all the dynamics, but my thing is it's a fluid thing, and we should make use, and at least, that's why I say, I think we still can have the subject in Committee and have continued discussions, Mr. Couch. But I prefer that, we're the last County that's making a comment, except for County of Kauai, because of their cooperative. But the City Council has made it, a decision. Our counterparts on the Big Island have made a decision. And so I'm just asking if we, if you are comfortable today, I would ask for that consideration. Thank you.

CHAIR WHITE: Mr. Couch.

COUNCILMEMBER COUCH: Yeah, thank you, Mr. Chair and thank you, Mr. Hokama for filling me in on that. I would certainly love to still have this, maybe not this item, but bring that up in; I'm guessing it would be IEM Committee. If--

COUNCILMEMBER BAISA: Energy.

COUNCILMEMBER COCHRAN: EAR.

COUNCILMEMBER COUCH: --or, or even EAR, yeah, Energy as well.

So, if, if we can make an item out of this subject, or would you rather have a letter from, from me to, to do that.

CHAIR WHITE: I, I think we can allow the communication, instead of filing the County Communication; we'll allow it to go to Committee without objection.

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: No objection, okay.

Ms. Baisa.

COUNCILMEMBER BAISA: Thank you very much, Chair.

And today is one of those days that I wish that our Rules allowed us to abstain. And the reason is that I'm not comfortable in supporting this resolution at this moment. I'm asking a lot of questions about this subject, have been following daily information about what is going on. I've subscribed to a newsletter that every day tells me what's going on at the PUC and what they're looking at, and who they are questioning and all of that stuff. And it really is very complicated.

I don't feel that I understand enough to, to say, don't, don't do this. I don't know enough to say do it either. And so you know, we're being asked to either support or not support and at this point, I'm uncomfortable supporting. I would, I wish that we had had more time, at least to discuss it once in a Committee and to bring in both sides of this so we could hear both sides ourselves and look at some of the alternatives and what they mean.

You know, we're waiting for a report from a consultant as to the idea of being a independent utility. We know there's scores of intervenors that are involved before the PUC who are doing the questioning and asking all the hard questions. So, really,

I'm kind of uncomfortable to make a decision on a matter that I don't feel I know enough about.

CHAIR WHITE: Members, further discussion?

Mr. Guzman.

VICE-CHAIR GUZMAN: Yeah, thank you, Chair.

And my question may lead to having to go into executive session, but I'm not sure how this would, if we were to pass this resolution, would affect the County's position as a joinder in the PUC case, or at least proceedings. So I, I'm kind of unsure about that, that position, or how that would affect. And I would probably have to ask Corp. Counsel if there would be any effect on how our County's positioned as a joinder in the PUC proceedings.

So I, I'm, that's the only concern that I have at this very moment, aside from the language in the "WHEREAS", the last, last paragraph, the "WHEREAS", a little bit, a little bit compounded with very negative wording, we could probably somewhat lighten that up. But other than that those are the two concerns I have. So I have reservations in supporting this bill at this very moment.

CHAIR WHITE: Corp. Counsel, are you able to provide a response to Mr. Guzman's question?

FIRST DEPUTY CORPORATION COUNSEL ED KUSHI: Mr. Chair, as far as I know, we did intervene in this matter. I'm not sure what the position is, I, I'm not handling this. I could call a Deputy who is assigned to this, but I don't see a problem with the "BE IT RESOLVED" cause I think our position, position is also that we do not approve the current proposal. But whatever proposal comes out, we want to be a party to it. So I don't see, I don't see a problem.

And this resolution is not intervening. It's just an expression of a, this body's position.

CHAIR WHITE: Any further questions, Mr. Guzman.

Any further discussion, Members? Seeing none, all those in favor, please signify by saying "aye".

COUNCILMEMBER HOKAMA: Aye.

COUNCILMEMBER COUCH: Aye.

COUNCILMEMBER COCHRAN: Aye.

CHAIR WHITE: Those opposed say "no".

COUNCILMEMBER BAISA: No.

COUNCILMEMBER CARROLL: No.

CHAIR WHITE: Okay, do a roll call please.

DEPUTY COUNTY CLERK: Councilmember Robert Carroll.

COUNCILMEMBER CARROLL: NO.

DEPUTY COUNTY CLERK: Councilmember Gladys Coelho Baisa.

COUNCILMEMBER BAISA: NO.

DEPUTY COUNTY CLERK: Councilmember Elle Cochran.

COUNCILMEMBER COCHRAN: AYE.

DEPUTY COUNTY CLERK: Councilmember Don Couch.

COUNCILMEMBER COUCH: AYE.

DEPUTY COUNTY CLERK: Councilmember Stacy Crivello.

COUNCILMEMBER CRIVELLO: AYE.

DEPUTY COUNTY CLERK: Councilmember Riki Hokama.

COUNCILMEMBER HOKAMA: AYE.

DEPUTY COUNTY CLERK: Presiding Officer Pro Temp Michael P. Victorino.

CHAIR WHITE: EXCUSED.

DEPUTY COUNTY CLERK: Vice-Chair Don S. Guzman.

VICE-CHAIR GUZMAN: NO.

DEPUTY COUNTY CLERK: Chair Mike White.

CHAIR WHITE: AYE.

AYES: COUNCILMEMBERS COCHRAN, COUCH,  
CRIVELLO, HOKAMA, AND CHAIR WHITE.

NOES: COUNCILMEMBERS BAISA AND CARROLL, AND  
VICE-CHAIR GUZMAN.

EXCUSED: COUNCILMEMBER VICTORINO.

DEPUTY COUNTY CLERK: Mr. Chair, there are five "ayes", three "noes", and one Member "excused". Motion passes.

CHAIR WHITE: Thank you. And before we move on, I think it would be appropriate to refer the communication item to--

COUNCILMEMBER COUCH: EAR.

CHAIR WHITE: --well either, well--

COUNCILMEMBER BAISA: Energy.

COUNCILMEMBER COUCH: Energy.

COUNCILMEMBER BAISA: He has Energy.

CHAIR WHITE: --but it, it's--

COUNCILMEMBER HOKAMA: Chairman.

CHAIR WHITE: --it covers two so it may go to PIA.

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, if, if I may from a procedure standpoint. Since part of the motion was the filing of the communication, and we approved it by five votes, that communication accordingly, should be considered dead.

CHAIR WHITE: Yeah.

COUNCILMEMBER HOKAMA: And that we just send a new letter, with the subject matter to, for you to refer to the appropriate standing Committee.

CHAIR WHITE: So, Mr. Couch if you'd like to provide such a letter, we would--

COUNCILMEMBER COUCH: And I'm fine with that but I, you had mentioned prior to the vote that we, we vote filing, without objection and there was no objection.

CHAIR WHITE: I'm not, I'm not sure the, I'm not sure the effect of that. I believe Mr. Hokama's likely right. But we can get a--

DEPUTY COUNTY CLERK: Well, Mr. Chair, as your parliamentarian and as you as the presiding officer, you have the, the final decision in this matter. But as your parliamentarian, there was a request to remove filing and instead refer it to Committee and no objections were received from the Members at that time. But you as the presiding officer may make the final decision on that.

CHAIR WHITE: I'm, I'm fine referring it to Committee. Do either of you, does either EI, IEM or EAR want this, because it can be covered in both of your Committees? I think it's more likely, should be in Ms. Cochran's Committee.

COUNCILMEMBER COCHRAN: And Chair, I'm fine with that.

CHAIR WHITE: Okay.

COUNCILMEMBER COCHRAN: Yeah, that's fine.

CHAIR WHITE: Without objections, we'll refer the communication item to--

COUNCILMEMBER COCHRAN: Unless--

VICE-CHAIR GUZMAN: No--

CHAIR WHITE: --Ms. Cochran's Committee.

COUNCILMEMBER COCHRAN: --I mean, unless Mr. Guzman wants to fight over it.

VICE-CHAIR GUZMAN: No, no, no, it, Chair, she's, Ms. Cochran is also Vice-Chair for EAR, so it's--

CHAIR WHITE: Right.

VICE-CHAIR GUZMAN: --it's okay. It's all good.

CHAIR WHITE: Okay, thank you, Members.

Mr. Clerk.

DEPUTY COUNTY CLERK: For the record RESOLUTION 15-133.

NO. 15-244 - ELLE COCHRAN, COUNCILMEMBER,  
(dated September 17, 2015)

Transmitting a proposed resolution entitled "APPROVING FOR INCLUSION IN THE 2016 HAWAII STATE ASSOCIATION OF COUNTIES LEGISLATIVE PACKAGE A STATE BILL PROHIBITING SMOKING IN MOTOR VEHICLES OCCUPIED BY MINORS".

CHAIR WHITE: Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair.

FOR THE RESOLUTION ATTACHED TO THIS COUNTY COMMUNICATION 14-244 [SIC], I MOVE TO WAIVE THE REQUIREMENT OF COMMITTEE REFERRAL AND RECOMMENDATION PURSUANT TO RULE 7(E) OF THE RULES OF THE COUNCIL.

VICE-CHAIR GUZMAN:

SECOND.

CHAIR WHITE: We have a motion from Ms. Cochran and a second from Mr. Guzman.

Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair. Thank you, Mr. Guzman. This matter relates to a proposal for the HSAC Legislature Package which is currently being formulated in advance of the 2016 Legislative Session, and therefore, time is of the essence and why I'm seeking to waive the, our requirements.

CHAIR WHITE: Members, any further discussion?

Mr. Couch.

COUNCILMEMBER COUCH: Thank you, Mr. Chair. I'm just a little curious as to, we had this item up in PIA on Monday, October 12, and there were votes taken on all of these items. So, I'm not sure what the procedure is, cause it, you know, you don't have a committee report and I know these were old things. So, it's kind of like two items passing the, the--

CHAIR WHITE: No, the difference is that the ones that were in PIA were the Maui County Package, and these are for the HSAC Package.

COUNCILMEMBER COUCH: Ah, okay.

CHAIR WHITE: So, they need to be dealt with separately.

Any further discussion? Seeing none, all those in favor of the waiver, please signify by saying "aye".

COUNCILMEMBER COCHRAN: Aye.

VICE-CHAIR GUZMAN: Aye.

CHAIR WHITE: Those opposed say "no".

COUNCILMEMBER HOKAMA: No.

COUNCILMEMBER COUCH: No.

COUNCILMEMBER CRIVELLO: No.

CHAIR WHITE: Roll call.

DEPUTY COUNTY CLERK: Councilmember Robert Carroll.  
COUNCILMEMBER CARROLL: AYE.  
DEPUTY COUNTY CLERK: Councilmember Gladys Coelho Baisa.  
COUNCILMEMBER BAISA: AYE.  
DEPUTY COUNTY CLERK: Councilmember Elle Cochran.  
COUNCILMEMBER COCHRAN: AYE.  
DEPUTY COUNTY CLERK: Councilmember Don Couch.  
COUNCILMEMBER COUCH: NO.  
DEPUTY COUNTY CLERK: Councilmember Stacy Crivello.  
COUNCILMEMBER CRIVELLO: NO.  
DEPUTY COUNTY CLERK: Councilmember Riki Hokama.  
COUNCILMEMBER HOKAMA: NO.  
DEPUTY COUNTY CLERK: Presiding Officer Pro Tem Michael P. Victorino.  
CHAIR WHITE: EXCUSED.  
DEPUTY COUNTY CLERK: Vice-Chair Don S. Guzman.  
CHAIR WHITE: AYE.  
DEPUTY COUNTY CLERK: Chair Mike White.  
CHAIR WHITE: AYE.

AYES: COUNCILMEMBERS BAISA, CARROLL,  
COCHRAN, VICE-CHAIR GUZMAN, AND  
CHAIR WHITE.

NOES: COUNCILMEMBERS COUCH, CRIVELLO AND  
HOKAMA.

EXCUSED: COUNCILMEMBER VICTORINO.

DEPUTY COUNTY CLERK: Mr. Chair, there are five "ayes", three "noes", and one "excused". The motion to waive fails.

CHAIR WHITE: Okay, we're back to the main motion. Or, onto the main motion.

Ms. Cochran.

COUNCILMEMBER HOKAMA: Chairman.

COUNCILMEMBER COCHRAN: But, wait it was waived, sorry.

DEPUTY COUNTY CLERK: Yea, Mr. Chair, the--

CHAIR WHITE: Oh.

DEPUTY COUNTY CLERK: --the motion to waive failed, so we just have the pending item before us. You know, I would request that the Council do provide us some direction as to how to dispose or take care of this item going forward.

COUNCILMEMBER COCHRAN: So, Chair.

CHAIR WHITE: Ms. Cochran.

COUNCILMEMBER COCHRAN: Let me, I'll, I'll go through the steps here. So, I was looking to waive referral in order to not have to send this item to Committee for work because the time is of the essence. That referral that has, has failed, so now we can't actually discuss or adopt this particular item. So, I guess it's just to file it at this point, because it just dies right? We have no way of discussing it and voting on it at this point.

CHAIR WHITE: Let's, let's take a quick recess.

(THE MEETING WAS RECESSED BY THE CHAIR AT 10:37 A.M., AND WAS RECONVENED AT 10:42 A.M., WITH ALL MEMBERS PRESENT, EXCEPT COUNCILMEMBER VICTORINO, EXCUSED.)

CHAIR WHITE: This meeting will come back to order.

Ms. Cochran.

COUNCILMEMBER COCHRAN: Well, thank you, Chair. I guess the option at this point is with objections, I know there's a deadline for HSAC, but I'll just try and see if I can refer it back to Committee for further discussion and see where it goes from that. If it gets, you know, posted in time and, and figured out, and then rerun through Council again, and then hopefully on the HSAC Package, then perhaps it still has hope. I don't know.

CHAIR WHITE: Well, without objections, Members, the Chair would like to refer it to PIA for further consideration.

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: And, I will point out that the same, I believe it's the same bill--

COUNCILMEMBER COCHRAN: Yea.

CHAIR WHITE: --passed in PIA 6-2, correct?

COUNCILMEMBER COCHRAN: Right.

CHAIR WHITE: So, there must be some, some new information that has come to light that has made some Members uncomfortable. But--

COUNCILMEMBER COUCH: The, the--

CHAIR WHITE: Mr. Couch.

COUNCILMEMBER COUCH: The PIA Committee, speaking as the Vice-Chair of the PIA Committee, that was, as you mentioned, to the Maui County Package, this is going to HSAC.

CHAIR WHITE: Correct.

COUNCILMEMBER COUCH: I think that's what the difference is.

CHAIR WHITE: Right.

COUNCILMEMBER COCHRAN: All right, well thank you. I just thought it would be a, I guess a, a common sense step, I guess for Maui, for all of us collectively to pass it through our body, and then from there move to the higher level on the State level and see where it goes from there.

CHAIR WHITE: Right.

COUNCILMEMBER COCHRAN: So, that was kind of the idea. But, you know, we can go through the motions how we need to. So, thank you, Chair.

The recommended action is that County Communication No. 15-244 be referred to the Policy and Intergovernmental Affairs Committee.

CHAIR WHITE: Okay, thank you. And, with that Members, we're going to take our morning break. We will be in recess until 10:55.

(THE MEETING WAS RECESSED BY THE CHAIR AT 10:44 A.M., AND WAS RECONVENED AT 11:12 A.M., WITH ALL MEMBERS PRESENT, EXCEPT COUNCILMEMBER VICTORINO, EXCUSED.)

CHAIR WHITE: This meeting of the County Council will come back to order.

Mr. Clerk, proceed please.

NO. 15-245 - ELLE COCHRAN, COUNCILMEMBER,  
(dated September 18, 2015)

Transmitting a proposed resolution entitled "APPROVING FOR INCLUSION IN THE 2016 HAWAII STATE ASSOCIATION OF COUNTIES LEGISLATIVE PACKAGE A STATE BILL TO INCREASE THE MINIMUM WAGE TO \$15.00 PER HOUR IN 2019".

CHAIR WHITE: Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair.

FOR THIS RESOLUTION, ATTACHED TO COUNTY COMMUNICATION 14-245 [S/C], I MOVE TO WAIVE THE REQUIREMENT OF COMMITTEE REFERRAL AND

RECOMMENDATION PURSUANT TO RULE 7(E) OF THE  
RULES OF THIS COUNCIL.

VICE-CHAIR GUZMAN:

SECOND, SORRY.

CHAIR WHITE: There's a motion by Ms. Cochran and a second by Mr. Guzman.

Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair. And, thank you, Mr. Guzman. This matter relates to a proposal for our HSAC package, which is like the last item, currently being formulated. And, time, again is of the essence. And, looking forward to seeing for further discussion on this. And, basic, so that's the justification for my wanting to ref--

CHAIR WHITE: The waiver.

COUNCILMEMBER COCHRAN: --waive referral, yes.

CHAIR WHITE: So, the motion is on the waiver. Any further discussion, Members? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBER COCHRAN AND  
VICE-CHAIR GUZMAN.

CHAIR WHITE: Those opposed say "no".

NOES: COUNCILMEMBERS BAISA, CARROLL, COUCH,  
CRIVELLO, HOKAMA, AND CHAIR WHITE.

EXCUSED: COUNCILMEMBER VICTORINO.

CHAIR WHITE: I think we're two "ayes". So, measure does not pass.

COUNCILMEMBER COCHRAN: Okay.

CHAIR WHITE: And, this has, well, Ms. Cochran would you like to move to file or?

COUNCILMEMBER COCHRAN: Well, I guess rather than just have it completely die a sudden death, I'll try and refer it back to PIA, just to see at this point. It's like the last item. And, not sure if it'll make the deadline of sorts, but I think there could still be a chance and see if PIA will be able to put it on the agenda to discuss.

CHAIR WHITE: Yea, I would, Chair would just point out that this identical measure did not pass in Committee, so.

COUNCILMEMBER COCHRAN: Right.

CHAIR WHITE: Are there any, if you'd, you'd like to refer it back to Committee?

COUNCILMEMBER COCHRAN: Yea, Chair. At that time, I, it died cause there wasn't a second. I at least got that much here today. And, I've noticed in our folder, we have gotten numerous testimonies in favor of, there's been opposition, yes, but quite a bit of in favor of legis, testimony.

So, I think to discuss those and perhaps bring some of those people, there's a couple unions here, there's private citizens and, and people of that nature that I think should give, be given that opportunity to speak their mind and voice their opinion on this particular legislation. So, I'm willing to submit it back and just to see where it goes.

CHAIR WHITE: Okay, Members, any objections to referring this matter to PIA? No objections? Okay, thank you. So ordered.

The recommended action is that County Communication No. 15-245 be referred to the Policy and Intergovernmental Affairs Committee.

CHAIR WHITE: Mr. Clerk.

NO. 15-246 - ELLE COCHRAN, COUNCILMEMBER,  
(dated September 25, 2015)

Transmitting a proposed resolution entitled "APPROVING FOR INCLUSION IN THE 2016 HAWAII STATE ASSOCIATION OF COUNTIES LEGISLATIVE PACKAGE A STATE BILL TO ALLOW PERSONS WITH DISABILITIES TO INDICATE ON THEIR IDENTIFICATION CARDS THEIR DISABILITY".

CHAIR WHITE: Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair. Me again.

AND, LOOKING TO AGAIN, I MOVE TO WAIVE REQUIREMENT OF COMMITTEE REFERRAL PURSUANT TO RULE (E), RULES OF THIS COUNCIL, FOR THE RESOLUTION ATTACHED, COUNTY COMMUNICATION 14-246 [SIC].

COUNCILMEMBER CARROLL:

SECOND.

VICE-CHAIR GUZMAN: Second.

CHAIR WHITE: We have a, we have a motion by Ms. Cochran and a second by Mr. Carroll.

Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you. Well, I got everyone wanting to second this one.

Chair, same reasoning, deadline to meet, and would like to discuss this today and vote it through. Thank you, Chair.

CHAIR WHITE: Thank you.

Any further discussion, Members, on the waiver? All those in favor, please signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,  
COCHRAN, COUCH, CRIVELLO, HOKAMA,  
VICE-CHAIR GUZMAN, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBER VICTORINO.

CHAIR WHITE: Measure passes with eight "ayes", zero "noes".

Mr. Clerk. And, one "excuse", oh I'm sorry.

COUNCILMEMBER COCHRAN: My main motion.

CHAIR WHITE: Back to Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you.

MR. CHAIR, I MOVE TO ADOPT THE RESOLUTION APPROVING FOR INCLUSION IN THE 2016 HSAC LEGISLATIVE PACKAGE A STATE BILL TO ALLOW INDIVIDUALS TO INDICATE THEIR DISABILITIES ON STATE IDENTIFICATION CARDS, AND TO FILE THIS COMMUNICATION.

COUNCILMEMBER CARROLL:

SECOND.

CHAIR WHITE: We have a motion from Ms. Cochran and a second from Mr. Carroll.

Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you. This, this resolution has already been considered on the, our PIA Committee meeting this Monday, and has been recommended to be included in our Maui County Legislative Package.

And, this measure will provide individuals the option, I know it was discussed in Committee to be forcing people, no if you have a disability it's your option to put it on your ID. And, indicating a disability on a ID may help the individual more readily access appropriate special services. It may also assist safety personnel in case of emergencies.

So, and I, and I had brought to our attention during Committee also that it was brought forth through my office, especially with parents of autistic children who they felt this would be helpful for their children to have it noted on ID's with, if ever, you know, police force or anyone are relating, relating to them and they can show, you know, that they have this type of disability.

So, with that, Members, I would like to urge support from yourselves for this resolution. Thank you, Chair.

CHAIR WHITE: Thank you, Ms. Cochran.

Mr. Carroll.

COUNCILMEMBER CARROLL: Thank you, Chair. Ms. Cochran covered just about everything on there. And, I would like to say that it's something that's really necessary. It's voluntary. For some people, they really need that on their, either their disability is not very obvious, and people just tend to give them grief. And, that's really sad. And, for all the other reasons that Ms. Cochran went over, so I support this and I hope my fellow Members will support this. Thank you.

CHAIR WHITE: Thank you, Mr. Carroll.

Any further discussion on this item, Members? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,  
COCHRAN, COUCH, CRIVELLO, HOKAMA,  
VICE-CHAIR GUZMAN, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBER VICTORINO.

CHAIR WHITE: Measure passes with eight "ayes", zero "noes", and one "excused".

Mr. Clerk.

DEPUTY COUNTY CLERK: For the record, RESOLUTION 15-134.

DISCUSSION AND ACTION RELATING TO  
COMMITTEE REPORT NO. 15-146  
AND COUNTY COMMUNICATION NO. 15-257

DEPUTY COUNTY CLERK: Mr. Chair, the Council has before it, again, CR 15-146 and County Communication 15-257.

COMMITTEE REPORT

NO. 15-146 - COMMITTEE OF THE WHOLE:

Recommending that Resolution 15-135, entitled "AUTHORIZING THE EMPLOYMENT OF SPECIAL COUNSEL IN CHRISTOPHER SALEM V. ALAN ARAKAWA, ET AL., CIVIL 15-00384 LEK-KSC," be ADOPTED.

CHAIR WHITE: Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair.

MOVE TO ADOPT THE RECOMMENDATION, COMMITTEE OF THE WHOLE COMMITTEE REPORT 15-146.

COUNCILMEMBER CRIVELLO:

I SECOND.

CHAIR WHITE: We have a motion from Mr. Guzman and a second from Mr. Couch. Oh, I'm sorry, Ms. Crivello.

Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair. The, the 133 page complaint filed on September 18, 2015 by the plaintiff Christopher Salem names the County and various County Departments and their individual and official capacities. On our last Committee meeting that we had, we had discussed the reso, resolution that is before the Committee.

Your Committee notes that the complaint alleges Christopher Salem owned 4, Lot 48C of the Hui Partition Subdivision along Lower H'p'ilani Road and Hui Road E, Lahaina, Maui, Hawaii, until the property was auctioned for sale on January 20, 2015. The Complaint alleges damages arising from the actions and omissions of the Defendants, including a failure for, to administer and enforce conditions imposed on developers through subdivision agreements for subdivisions involving three lots or less.

Your Committee recommended the resolution transmitted by the Department of Corporation Counsel be revised to reflect the filing of the Complaint on September 18, 2015, and to delete outdated references to the anticipated lawsuit.

Your Committee also notes that the case was subsequently removed to Federal Court and is now designated as Civil No. 15-00384 LEK-KSC.

Your Committee also recommended that the resolution be revised by inserting a new "BE IT RESOLVED" paragraph to ensure special counsel for the County. And, your Committee on the status of this, and to direct all reports to the Committee of the Whole on the status of the case and the County's legal strategy

CHAIR WHITE: Thank you. Members, any further discussion?

VICE-CHAIR GUZMAN: Chair.

CHAIR WHITE: Seeing none, oh, Mr. Guzman.

VICE-CHAIR GUZMAN: Yea, thank you, Chair. We also, just procedurally, Chair, we have, I know that in our Committee, the Committee of the Whole, we had discussed that further amendments to the resolution, or at least, excuse me, specifically discussion of who the firm, which firm would be hired, the rates that would be indicated.

And, I believe also there was no discussion in the Committee of the Whole as to the named defendants. We, we clearly discussed, in general, defendants in, every defendant in the case, so there was no, no individually named defendant that was discussed in Committee. As results of that, we did pass it out because there was an, an urgency for, to, for not delaying the, the resolution, so we did pass it out without those type, with those specific language that was incorporated into the, the reso.

However, we do have a County Communication that was sent to this Council. County Communication No. 15-257 from Deputy Corporation Counsel Brian A. Bilberry, transmitting a new resolution. And those, and that resolution discusses all of those, or at least incorporates all of the missing items that are in the original resolution.

However, by procedure, in order to discuss County Communication No. 15-257, there would be a required waiver of Committee referral which would require six votes to waive it out of Committee referral.

I think there's, there's other technical issues that we need to look at in, in that communication. And comparing it to the, the reso that we have before us that we passed out of Committee of the Whole, purely for the discussion purposes because the Committee Members had not had an opportunity to discuss what is the differences between the two resos.

SO, I, AT THIS TIME WOULD REQUEST AN EXECUTIVE SESSION UNDER, PURSUANT TO SECTION 92-5(A)(4) OF THE HAWAII REVISED STATUTES, TO CONSULT WITH LEGAL COUNSEL ON QUESTIONS AND ISSUES PERTAINING TO THE POWERS, DUTIES, PRIVILEGES, IMMUNITIES, AND LIABILITIES THAT THE COUNTY, THE COUNCIL, AND THE COMMITTEE.

COUNCILMEMBER COUCH:

SECOND.

CHAIR WHITE: We have a motion from Mr. Guzman and a second from Mr. Couch to enter into executive session. Further discussion?

VICE-CHAIR GUZMAN: Nothing further.

CHAIR WHITE: Mr. Couch.

COUNCILMEMBER COUCH: Thank you, Mr. Chair. I'm asking the maker of the motion if he's including County Communication 15-257 in there.

VICE-CHAIR GUZMAN: Oh, yes.

COUNCILMEMBER COUCH: And, if that's the case, then I think the Clerk needs to bring that up.

CHAIR WHITE: I thought the Clerk brought up both. Thank you.

Mr. Clerk.

DEPUTY COUNTY CLERK: Yea, I can bring it up again for the Committee. We previously had brought it up before the Council earlier in the meeting.

COUNCILMEMBER COUCH: Oh, okay.

CHAIR WHITE: Yea, I, I think we're fine. And, and there, they're so similar that discussing one is discussing the other, essentially.

COUNCILMEMBER COCHRAN: Chair.

CHAIR WHITE: Okay, Ms. Cochran.

COUNCILMEMBER COCHRAN: Is this the time to see if there's any open session questions that can be asked on this? Or we want to vote this referral through now? Is this, or do we, cause I had questions now and I'm feeling like it's okay to do in open, but session.

CHAIR WHITE: Why don't you.

COUNCILMEMBER COUCH: After.

COUNCILMEMBER COCHRAN: After? Okay, we can do the vote.

CHAIR WHITE: I think we can do that after we take the vote.

COUNCILMEMBER COCHRAN: Okay. Okay.

CHAIR WHITE: Okay.

Mr. Carroll.

COUNCILMEMBER CARROLL: We are discussing only the executive session for that one item then?

CHAIR WHITE: For both items.

COUNCILMEMBER CARROLL: For both items.

CHAIR WHITE: Right.

COUNCILMEMBER CARROLL: Actually, I find a problem with that, because if it ever came to where there were problems and they did, the court or somebody asked for the minutes of the executive session, we would be giving them the total minutes which would cover two items instead of just the one that was requested. Which is why we usually do one, one, one, one, instead of putting two items of discussion at the same time.

CHAIR WHITE: Well, the, the Chair is comfortable going into executive session on only one because that's, they're so similar that, was your, was your motion, did your motion include both?

VICE-CHAIR GUZMAN: My motion just included the, the committee report and the resolution attached to it, Chair. I could, I could motion to waive Committee referral for item 15-257, and then have that placed on, on the Council floor to go into executive session. But, I, I'm not sure if that's needed at this time. I think we can cover what we, you know, the, the missing elements that are in the reso that came out of the Committee of the Whole.

CHAIR WHITE: I don't believe there's any reason why we couldn't discuss, or we couldn't discuss the one that's attached to the committee report. Everyone has the, the other one as well. So, they're so similar, I think we go into executive committee on the, on the one item and if, and that should handle it. I think Mr. Carroll's point is, is well taken, that we probably should keep them separated.

Any further discussion?

COUNCILMEMBER HOKAMA: Chairman.

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA: I would say since it's still under the purview of the Council at this time, the subject, for me, I prefer both items to be discussed because the second communication from Mr. Bilberry is a little bit more specific. And, part of my concerns is the revisions to his, on his submittal to this body for consideration. So, for me, I would prefer we talk about it at one time, because my concern is the revised proposal.

VICE-CHAIR GUZMAN: Chair. I, I can motion for a separate item to go into executive session.

CHAIR WHITE: We'll take two separate.

VICE-CHAIR GUZMAN: But, we'll take a vote first on the first item.

CHAIR WHITE: Is the vote, at this point, is on the Committee Report 15-146, to go into executive session for that item only. Any further discussion? All those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,  
COCHRAN, COUCH, CRIVELLO, HOKAMA,  
VICE-CHAIR GUZMAN, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBER VICTORINO.

CHAIR WHITE: Measure passes with eight "ayes", zero "noes", and one "excused".

VICE-CHAIR GUZMAN: Chair, can I ask the Clerk to call up item number 15-257.

CHAIR WHITE: Mr. Clerk.

NO. 15-257 - BRIAN A. BILBERRY, DEPUTY CORPORATION COUNSEL,  
(dated October 8, 2015)

Transmitting a proposed resolution entitled "AUTHORIZING THE EMPLOYMENT OF SPECIAL COUNSEL IN CHRISTOPHER SALEM V. ALAN ARAKAWA, ET AL., CIVIL NO. 15-00384 LEK-KSC".

CHAIR WHITE: Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair. I, I do realize, and I'd like to take personal privilege that this does require a, the waiver of Committee referral of six votes to discuss this item.

BUT, I WOULD LIKE TO HAVE THIS OPPORTUNITY TO MOTION FOR EXECUTIVE SESSION FOR THIS ITEM, UNDER HAWAII, HRS 92-5(A)(4), TO CONSULT WITH LEGAL COUNSEL ON QUESTIONS AND ISSUES PERTAINING TO THE POWERS, DUTIES, PRIVILEGES, IMMUNITIES, AND LIABILITIES OF THE COUNTY, THE COUNCIL, AND THE COMMITTEE.

CHAIR WHITE: Thank you. And, just for clarification--

COUNCILMEMBER CRIVELLO:

SECOND.

CHAIR WHITE: --it's not, a waiver is not necessary --

VICE-CHAIR GUZMAN: Okay.

CHAIR WHITE: --for it to go into executive session.

VICE-CHAIR GUZMAN: Okay, very good.

CHAIR WHITE: It's only--

VICE-CHAIR GUZMAN: Just trying to cover myself.

CHAIR WHITE: We have a motion from Mr. Guzman and a second from Ms. Crivello.

Mr. Guzman.

VICE-CHAIR GUZMAN: Yes, Chair, as I, I'd like to reiterate that there are differences between the resolution under 15-146 and 15-257. There are certain elements that are missing in the Committee of the Whole resolution that were not discussed that are in the resolution of Corporation Counsel's present, under Brian Bilberry. So, we'd like an opportunity to discuss those, those items. This, this whole case is under litigation, so it's imperative that we do enter into executive session to discuss certain aspects of this. Thank you.

CHAIR WHITE: Any further discussion on this item, Members? Seeing none, all those in favor, please signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,  
COCHRAN, COUCH, CRIVELLO, HOKAMA,  
VICE-CHAIR GUZMAN, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBER VICTORINO.

CHAIR WHITE: Measure passes with eight "ayes", zero "noes", and one "excused".

Now, Ms. Cochran.

COUNCILMEMBER COCHRAN: Yea, Chair, thank you. And, I think my question pertains to both items we're going into executive session. Why no indemnification for the parties? What, what's the difference in this one? I mean, I was reading, you have individuals are, are singled out or whatever in parenthesis. Cause we've done other cases, Maui Police Department, wherever where there's names, individual that they're indemnified. So it just goes straight to litigation with department, the Chief or whoever, but not the subordinate officers and what have you that were involved in a certain case. So, why, why are these individuals not indemnified?

CHAIR WHITE: Corp. Counsel.

DEPUTY CORPORATION COUNSEL BRIAN A. BILBERRY: I, yea, my recollection is, is that at the time that this was being considered, we had just received a filed copy of the Complaint. And, actually, I think the initial first time this might not have even been filed. And, they were, it's a rather lengthy Complaint. It's got 604 allegations and it's 130 some pages. And I think the determination was made that that is an item that could be taken up at a later date once we had a more opportunity to sift through what is a mountain of facts and try to figure out precisely what the allegations are as to the individuals pending that it, that a indemnification might be premature.

COUNCILMEMBER COCHRAN: Okay. Okay, thank you. I was just curious, because in the Committee of the Whole's report, a Deputy Corporation Counsel said Department is seeking special counsel to represent the named Defendants in their individual capacity. So, that's why I was wondering why that call, that particular, whoever Deputy Corporation Counsel? It doesn't say who that person is. It's saying we need special counsel for each individual which is going to be pricey. So, okay, that's, that's all Chair.

CHAIR WHITE: Okay, thank you. Any further discussion, Members?

VICE-CHAIR GUZMAN: I think, Chair, just to clarify for Member Cochran is that the, the reso that came out of the Committee of the Whole was very general. When we were talking about the Defendants and representing the Defendants we, we said to, all Defendants would be represented by special counsel, including the County.

So, I think Mr. Hokama has a point that, now the new reso that that has been presented by the Corporation Counsel is more narrow and specific. I'm sure that the other, the other Members have questions about it. That this, this reso presented by Corporation Counsel has just been submitted to the Council, so that hasn't been vetted by any Member of Committee of the Whole. So, I think there needs to be a lot of clarification. Thank you.

CHAIR WHITE: Any further discussion, Members?

Well, the Chairman would just like to say, before we go into executive session, that neither the Chair nor any of the Members of this Council would leave a Department Head hanging with respect to exposure to liability.

This Chair was given assurances by Corp. Counsel that they would be answering the complaint on behalf of all Defendants. And, at the time, it would be also doing what is called a special appearance on behalf of the individual named Defendant in their individual capacities. And, they assured us, just yesterday, that if they were requested of the court to have two to three months' time within which to secure and secure special counsel and get working on the individual defenses, that that was adequate amount of time.

So, it's puzzling to this Chair, how after receiving those assurances from Corp. Counsel yesterday in what I believed to be a confidential discussion, that all of a sudden all of the Department Heads are here saying we're all now exposed. I don't believe this Chair or this Council would ever do that. I appreciate them coming here, but there's no way that I would, I would support leaving either Mr. Goode, Mr. Regan, or Mr. Wong in a, a level of exposure.

So, there are a number of other items that I cannot discuss at this time. And, so, with that, we will recess and--

DEPUTY CORPORATION COUNSEL: Before we recess, Chair, may I say--

CHAIR WHITE: No, we're recessed.

(THE CHAIR DECLARED THE OPEN SESSION IN RECESS AT 11:37 A.M., AND CONVENED IN EXECUTIVE SESSION. THE OPEN SESSION WAS RECONVENED AT 1:18 P.M., WITH ALL MEMBERS PRESENT, EXCEPT FOR COUNCILMEMBER VICTORINO, EXCUSED.)

CHAIR WHITE: This meeting of the Council of the County of Maui will come back to order. Thank you for the discussions and advice in the, in our executive session.

And, we'll go back to Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair. I'd like to have the Clerk call 15, 15-257.

CHAIR WHITE: Actually, I, before we move that, we had a pending motion that I believe you need to withdraw.

VICE-CHAIR GUZMAN: Oh, yes. Yes, Chair, on the County Communication, I mean sorry, Committee of the Whole Report 15-146, I would request that I withdraw the, the motion to adopt the recommendations

CHAIR WHITE: Okay, the, the Clerk is suggesting that since we're going to come back to this, it may not be necessary for you to withdraw.

VICE-CHAIR GUZMAN: Yea, I thought, I believe that we were doing a substitute.

CHAIR WHITE: Okay, right.

COUNCILMEMBER CRIVELLO: Right.

CHAIR WHITE: Okay, so go ahead, Mr. Clerk, please.

VICE-CHAIR GUZMAN: Yea, can you strike that from the record? Thank you.

OKAY, GETTING BACK TO, I'D LIKE TO MAKE A MOTION TO AMEND COUNTY COMMUNICATION 15-257; THIS IS THE DEPUTY CORPORATION COUNSEL BRIAN A. BILBERRY, TRANSMITTING A PROPOSED RESOLUTION ENTITLED "AUTHORIZING THE EMPLOYMENT OF SPECIAL COUNSEL IN CHRISTOPHER SALEM V. ALAN ARAKAWA, ET AL., CIVIL NO. 15-00384 LEK-KSC". THE AMENDMENT THAT I AM PROPOSING IS ON PAGE 2 OF THE RESOLUTION, IN THE SECTION OF "BE IT RESOLVED" NUMBER 2, CHANGING THE, THE AMOUNT FROM "75,000" TO "50,000" TO READ THEREAFTER, THEREIN AS FOLLOWS: THAT TO, THAT NUMBER "2. THAT TOTAL COMPENSATION FOR THE EMPLOYMENT OF ALL SPECIAL COUNSEL EMPLOYED TO REPRESENT DEFENDANTS IN THIS CASE, PURSUANT TO THE RESOLUTION, SHALL NOT EXCEED 50,000."

COUNCILMEMBER CRIVELLO:

SECOND.

COUNCILMEMBER COUCH: Second.

CHAIR WHITE: We have a motion from Mr. Guzman and a second by Ms. Crivello.

Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair. I believe that this is a, an adequate amount for the initial startup to, for representation. Thereafter, I believe if, if special counsel requires more money, they would then come back to the Council for updates and request for additional monies.

CHAIR WHITE: Right.

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, just a question of procedure. The main motion is still adoption of the committee report with attached resolution, right? Then we need, cause my understanding is we have a motion to amend the amount in a revised reso, but that hasn't, we haven't had the motion to amend to swap the vehicle yet.

CHAIR WHITE: Yea, we need to, we need to amend the--

COUNCILMEMBER HOKAMA: So, we got to swap the vehicle first before we can revise the specifics of the--

CHAIR WHITE: --the challenge is that we need to amend the reso before it can be substituted, because once you substitute, you can't amend it, so.

COUNCILMEMBER HOKAMA: Well, on that then, the only other way is waive the Rules. Thank you, Chair.

CHAIR WHITE: Okay. Any other discussion, Members? This vote is to amend Mr. Bilberry's reso from the amount of 75,000 to 50,000. All those in favor of the amendment, please signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,  
COCHRAN, COUCH, CRIVELLO, HOKAMA,  
VICE-CHAIR GUZMAN, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBER VICTORINO.

CHAIR WHITE: Measure passes eight "ayes", zero "noes", one "excused".

Mr. Guzman.

VICE-CHAIR GUZMAN: Thank you, Chair. Just, we're still on the main motion.

I WOULD LIKE TO ALSO MAKE A MOTION TO SUBSTITUTE WITHIN ITEM 15-146, THE COMMITTEE OF THE WHOLE REPORT, THE RESO, RESOLUTION THAT IS ATTACHED THERE, THERETO THE REPORT, THE COMMITTEE OF THE WHOLE REPORT, SUBSTITUTING THAT WITH THE RESOLUTION AS INDICATED ON NUMBER 15-257, DEPUTY CORPORATION COUNSEL BRIAN A. BILBERRY'S RESOLUTION ENTITLED "AUTHORIZING THE EMPLOYMENT OF THE SPECIAL COUNSEL IN CHRISTOPHER SALEM V. ALAN ARAKAWA ET AL., CIVIL NO. 15-00384 LEK-KSC", AND ANY AMENDMENTS MADE THERETO.

CHAIR WHITE: Do we have a second?

COUNCILMEMBER CRIVELLO:

SECOND.

CHAIR WHITE: We have a motion from Mr. Guzman and a second from Ms. Crivello.

Mr. Guzman.

VICE-CHAIR GUZMAN: Nothing further, Chair.

CHAIR WHITE: Okay. Members, any further discussion on this item? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,  
COCHRAN, COUCH, CRIVELLO, HOKAMA,  
VICE-CHAIR GUZMAN, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBER VICTORINO.

CHAIR WHITE: Measure passes with eight "ayes", zero "noes", and one "excused".

Mr. Clerk.

DEPUTY COUNTY CLERK: Mr. Chair, we're back to the main motion to adopt the recommendations in Committee Report 15-146.

CHAIR WHITE: Okay, thank you. Any further discussion, Mr. Guzman.

VICE-CHAIR GUZMAN: Nothing further, Chair. We, I believe that we have resolved or at least vetted through the differences, between the two resolutions, and have come up with a good compromise.

CHAIR WHITE: And I would like to thank Mr. Bilberry and Mr. Kushi for assisting us in executive session.

Mr. Couch.

COUNCILMEMBER COUCH: Thank you. It, the, there has been, I don't believe there's a motion to file, right? We're going to recommit this to Committee of the Whole or no? Or is it a separate issue?

CHAIR WHITE: It's, no, this is not, we're not recommitting.

COUNCILMEMBER COUCH: Okay.

CHAIR WHITE: This, this item is, Mr. Clerk.

DEPUTY COUNTY CLERK: Mr. Chair, I believe Councilmember Couch's question is centered around County Communication 15-257. And currently, there's no pending action of disposition before the body, so it would be up to the body, I guess, after the

main motion to adopt the recommendations in the committee report as amended, how they would like to dispose of this item.

CHAIR WHITE: Okay, we're on the main motion on Committee Report 15-146. Any further discussion, Members? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS BAISA, CARROLL,  
COCHRAN, COUCH, CRIVELLO, HOKAMA,  
VICE-CHAIR GUZMAN, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBER VICTORINO.

CHAIR WHITE: Measure passes with eight "ayes", zero "noes", and one "excused".

Mr. Guzman, on, how would you like to dispose of 15-257.

VICE-CHAIR GUZMAN:

CHAIR, WE'LL JUST GO AHEAD AND FILE.

CHAIR WHITE: Okay. Do we have a, do we have a second?

VICE-CHAIR GUZMAN: Or--

COUNCILMEMBER HOKAMA:

SECOND.

CHAIR WHITE: Okay, we have a motion to file by Mr. Guzman and a second by Mr. Hokama.

Any discussion?

Mr. Couch.

COUNCILMEMBER COUCH: Thank, thank you, Mr. Chair. And that, and that's fine, but I thought we were going to put something into the Committee to discuss the process--

VICE-CHAIR GUZMAN: Oh, right.

COUNCILMEMBER COUCH: --or is that a whole new letter?

VICE-CHAIR GUZMAN: Right, right, right.

COUNCILMEMBER COUCH: Would, would you rather a letter be, come from the Clerk?

VICE-CHAIR GUZMAN: Chair, I--

CHAIR WHITE: Either way.

VICE-CHAIR GUZMAN: --I withdraw my, my motion, if I can.

CHAIR WHITE: Okay, so without objections, the, the committee, county communication will be referred to Committee of the Whole.

MEMBERS VOICED NO OBJECTION.

VICE-CHAIR GUZMAN: Thank you. The subject matter. Thank you.

CHAIR WHITE: Thank you.

Mr. Clerk.

DEPUTY COUNTY CLERK: Relative to Committee Report 15-146, that's RESOLUTION 15-135.

Mr. Chair, we have no further business pending before the Council.

CHAIR WHITE: Thank you very much for this extended session. And, in three minutes our Committee of the Whole begins, so, we'll have to, after we adjourn this, Mr. Guzman will likely give you a break.

COUNCILMEMBER CRIVELLO: . . . grouchy Members.

CHAIR WHITE: But, I'll, I'll leave, I'll leave that up to Mr. Guzman. So, we, we stand adjourned.

ADJOURNMENT

The regular meeting of October 16, 2015 was adjourned by the Chair at 1:27 p.m.

A handwritten signature in black ink, appearing to read "Dennis A. Mateo", written over a horizontal line.

DENNIS A. MATEO, COUNTY CLERK  
COUNTY OF MAUI, STATE OF HAWAII

**The Maui County Planting Plan (MCP)**

**October 16, 2015,**

1. The MCP 1<sup>st</sup> edition was published in 1991.  
The 2<sup>nd</sup> edition was published in 1994 and reprinted in 2000.  
Fifteen years later, the 3<sup>rd</sup> edition is up for review today.
2. A Brief Synopsis:  
The third edition:
  - a. Removes all invasive species.
  - b. Importantly it defines what a “large crown shade tree” is, based on trees having “expected canopy spreads”, as shown the document. Prior to this third edition, trees such as the monkeypod were considered as a “large crown shade” tree even when shaped to resemble a lollipop.
  - c. Native Hawaiian trees, groundcovers and shrubs, are in all the tables. However, to encourage their usage, chapter nine lists where they will do best in the landscape, and lists them by their Hawaiian names including their correct diacritical marks.
  - d. A big improvement over the second edition is the alphabetical plant index in the Appendix, listing all the trees, shrubs, ground covers, as well as turfgrasses, both native and nonnative, by common as well as scientific names. This facilitates a quick retrieval of information for decision making.
3. This document has been reviewed by:
  - a. Various County departments.
  - b. It has also been reviewed by:
    - The Maui County Landscape Architects.
    - The Maui Association of Landscape Professionals.
    - Maui Green and Beautiful.
    - The Hawaii Association of Landscape Architects
    - The Aloha Arborist’s Association, and the
    - Landscape Industry Council of Hawaii

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This resulted in good input from Maui Landscape Architect Russel Gushi and Oahu Landscape Architect Mike Miyabara.

All of this brings us to today. It has been 15 years and about 4,000 hours of work to put together the third edition of the Maui County Planting Plan. It reflects the best practices of modern arboriculture.

I received help from others but want to especially thank:

**Bob Hobdy.** He developed the island maps with planting zones. If we had the planting zones for the other Hawaiian Islands, the third edition could be called the "State of Hawaii Planting Plan". We also spent many hours working on tree and plant characteristics. Together we have in excess of 80 years of working with trees and other landscape plants in Hawaii.

**Phillip Thomas.** He was the driving force to remove all invasive species. We worked with MISC (Maui Invasive Species Committee) and used the Hawaii Pacific Weed Risk Assessment protocol to remove invasive species.

**Christine Andrews,** my savior in formatting the document as you see it today. Windows 7 would not cooperate. The document was either arranged by landscape or letterhead and not a combination of both. In fact Christine did the final typing to produce what you see today.

There are others listed in the document under "Acknowledgements" who participated in the development of this third edition.

This document reflects the best practices in today's Arboriculture and stands out as "Maui Leads".

Thank you for this day.

Do you have any questions?



1050 Bishop St. PMB 235 | Honolulu, HI 96813  
P: 808-533-1292 | e: info@hawaiiifood.com

**Executive Officers:**  
Derek Kurisu, KTA Superstores, *Chair*  
John Erickson, Young's Market Company, *Vice Chair*  
Bob Stout, Times Supermarkets, *Secretary/Treasurer*  
Lauren Zirbel, HFIA, *Executive Director*  
John Schilf, Rainbow Sales & Marketing, *Advisor / Immediate Past Chair*  
Stan Brown, ConAgra, *Advisor*  
Barry Taniguchi, KTA Superstores, *Advisor*  
Joe Detro, Foodland, *Advisor*

TO: COUNCIL OF THE COUNTY OF MAUI  
Mike White, Council Chair  
Don S. Guzman, Council Vice-Chair

FROM: HAWAII FOOD INDUSTRY ASSOCIATION  
Lauren Zirbel, Executive Director

DATE: October 16, 2015  
TIME: 9:00 a.m.  
PLACE: Council Chamber, Wailuku, Hawaii

RE: CC 15-245

Position: Oppose

The Hawaii Food Industry Association is comprised of two hundred member companies representing retailers, suppliers, producers, and distributors of food and beverage related products in the State of Hawaii.

This resolution, contained in the proposed 2016 Hawaii State Association of Counties Legislative Package, seeks to include a state bill increasing the minimum wage. While the intent of the bill is to potentially enhance economic and social benefits, there is a problem because it will also likely place an economic burden on Hawaii businesses and customers. A high minimum wage is detrimental to small businesses, particularly those in small or rural island communities because they are **less able to absorb the additional cost.**

This burden could have wide reaching and negative consequences across the state. Hawaii currently has one of the lowest unemployment rates in the country, and we pay substantially more than many other states for food. The U.S. Commerce Department Bureau of Economic Analysis lists Hawaii as having the second largest regional price parity<sup>1</sup> (RPP) in the US.<sup>2</sup> Likewise, according to The Council For

<sup>1</sup> The RPP measure the differences in the price levels of goods and services across states and metropolitan areas for a given year. It is calculated using price quotes for a wide array of items from the CPI, which are aggregated into broader expenditure categories (such as food, transportation, or education) (see footnote 2 for source).

<sup>2</sup> US Dept of Commerce, Bureau of Economic Analysis. *Real Personal Income for States and Metropolitan Areas, 2013*. Washington, DC, 2015. [https://www.bea.gov/newsreleases/regional/rpp/rpp\\_newsrelease.htm](https://www.bea.gov/newsreleases/regional/rpp/rpp_newsrelease.htm) (accessed Oct. 7, 2015).

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Community and Economic Research, Hawaii's cost of living is 83.8%<sup>3</sup> higher than the national average, just below New York (Manhattan), New York (second quarter of 2015).

In light of these add-on expenses, profit margins are already quite sparse for grocers and restaurants. Consequently, if a higher minimum wage is mandated, owners would be forced to adjust by reducing capital investment in their businesses, including the hiring of fewer employees; increasing efficiency efforts and potentially laying off employees, which in turn would mean requiring remaining workers to do more and/or forcing businesses to raise prices on goods and services. And, as the Washington Examiner points out, "(I)f customers must spend ... more on one thing, they will have less to spend on another, which can cause job losses."<sup>4</sup>

A correlation between prices and minimum wage increases has been documented. A report from William Blair, a global investment banking and management firm, concluded that when San Francisco's minimum wage increased 14% from \$10.74 to \$12.25 per hour<sup>5</sup> (May 1, 2015), prices at Chipotle increased proportionately. According to the report:

All of the Chipotles in the area saw an "across-the-board" price increase. The hike included the chicken, pork, tofu and vegetarian prices, all of which increased 10 percent. The cost of steak and barbacoa rose 14 percent.

Although only five months have passed since San Francisco's minimum wage change took effect, the price increases at Chipotle potentially suggest what is to come for Hawaii consumers and businesses. If the Chipotle model indicates the consequences of raising the minimum wage by 14% to \$12.25 in San Francisco, imagine the impact on local jobs and prices if the State of Hawaii mandates increasing minimum wage from \$10.10 per hour (2018) to \$15.00 per hour (2019) as proposed in this bill.

By law, Hawaii's current minimum wage schedule<sup>6</sup> is set to increase every year through 2018. As mentioned above, if this bill is passed, minimum wage will increase by **48.51%** from \$10.10 per hour to \$15.00 per hour. **48.51% is unfairly excessive**, particularly when compared to the average yearly increase of 9.23% (2015-2018).

Please keep in mind, food retailers generally operate at a profit margin of around 1 percent. For many it may not be possible to change their pay scales and budget around this kind of extreme change. Furthermore, increasing minimum wage by **48.51%** could force businesses to downsize or even close their doors, leaving people without jobs. In addition, it may lead to increased labor costs, which drive up the price of food, thereby affecting Hawaii families and individuals who are already struggling to pay for basic living necessities.

---

<sup>3</sup> The Council for Community & Economic Research. *Cost of Living Index*. Arlington, VA, 2015. <https://www.coli.org/ReleaseHighlights.asp> (assessed Oct. 9, 2015).

<sup>4</sup> Emilie Padgett, *Study: Minimum Wage Hike Boosted Price of Chipotle Burritos*, Washington Examiner, July 7, 2015. <http://www.washingtonexaminer.com/at-chipotle-increase-in-minimum-wage-means-pricier-burritos-study/article/2567752> (accessed Oct. 6, 2015).

<sup>5</sup> City & County of San Francisco Office of Labor Standards Enforcement. *Minimum Wage Ordinance*. San Francisco, CA, 2015. <http://sfgsa.org/index.aspx?page=411> (accessed Oct. 9, 2015).

<sup>6</sup> State of Hawaii Wage Standards Division. *Minimum Wage and Overtime*. Honolulu, HI, 2015. <http://labor.hawaii.gov/wsd/minimum-wage/> (accessed Oct. 7, 2015).

The potential loss of jobs in the restaurant and grocery industries and implementing barriers that force businesses to drive up the already high price of food is not the right choice for our state, and for these reasons we ask that this measure be held.

Thank you for the opportunity to testify.

Hawai'i  
Construction  
Alliance

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P.O. Box 179441  
Honolulu, HI 96817  
(808) 348-8885

OFFICE OF THE  
COUNTY CLERK

October 13, 2015

The Honorable Mike White, Chair  
and members  
Council of the County of Maui  
200 South High Street  
Wailuku, Hawai'i 96793

**RE: Support for CC 15-261**

Dear Chair White and members,

The Hawai'i Construction Alliance is comprised of the Hawai'i Regional Council of Carpenters; the Operative Plasterers' and Cement Masons' Union, Local 630; International Union of Bricklayers & Allied Craftworkers, Local 1; the Laborers' International Union of North America, Local 368; and the Operating Engineers, Local Union No. 3. Together, the member unions of the Hawai'i Construction Alliance represent 15,000 working men and women in the basic crafts of our state's construction industry.

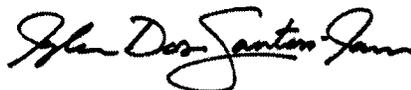
The Hawai'i Construction Alliance recognizes the great need for affordable workforce housing throughout the State of Hawai'i, and particularly in Maui County. We applaud the introduction of the resolution contained in CC 15-261, "encouraging the development of entitled residential-housing projects."

The resolution points out many important facts about the state of housing in Maui County, including the fact that there is a lack of homes for sale below \$500,000; that high prices are harming working families earning 80% AMI or below, such as many of our members; and that there is a need for at least 14,000 housing units by 2025 to keep up with natural population growth and potentially 30,000 more housing units by 2030. Further information can be found in the Hawai'i Housing Planning Study, which was prepared for the County of Maui in 2011.

The Hawai'i Construction Alliance has been and will continue to be a strong advocate for various housing projects over the past few years, including Kahoma Village in Lāhainā, Kamalani in Kīhei, and Wai'ale in Wailuku-Waikapū. We recognize, however, that these new projects will not be able to satisfy the large demand for new housing in Maui County by themselves. Other projects which have received entitlements for development over the past several years must also play a part in addressing Maui's housing crisis.

We appreciate the Council's efforts to work with Maui's home builders and developers to identify any impediments which are preventing the construction of already-entitled projects, and stand ready to support this effort in any way we can.

Mahalo,



Tyler Dos Santos-Tam  
Executive Director  
execdir@hawaiiiconstructionalliance.org

Testimony against CC 12-2-245

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Nelson Okumura <nokumura@vipfoodservice.com>

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Wed 10/14/2015 10:56 AM

To: County Clerk;

Dear Sir or madam:

I would urge the Maui County Council do not pass Resolution CC 12-2-245 which is approving inclusion a state bill to raise the minimum to \$15.00 per hour.

A high minimum wage is detrimental to our company and other small business, particularly those in small or rural island communities because they are less able to absorb the additional cost. If a higher minimum wage is mandated, owners would be forced to adjust by reducing capital investment in their businesses, including the hiring of fewer employees; increasing efficiency efforts and potentially laying off employees, which in turn would mean requiring remaining workers to do more and/or forcing businesses to raise prices on goods and services.

Please feel free to call or email me for any questions.

Thank you for your consideration.

Yours truly,

**Nelson Okumura** President  
808.877.5055 ext. 229 (p) 808.870.1129 (c) 808.877.4960 (f)  
[nokumura@vipfoodservice.com](mailto:nokumura@vipfoodservice.com) | [www.vipfoodservice.com](http://www.vipfoodservice.com)



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support of County Communication 15-245

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ARABELLA ARK <arabella@arkceramics.net>

Wed 10/14/2015 12:26 PM

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To: County Clerk;

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Aloha,

I am in support of County Communication 15-245 to increase the minimum wage.

Arabella Ark

PO Box 667

Hana, HI 96713

tel. 808 248 4890

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I support County Communication 15-245

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begoniabarry@gmail.com on behalf of Barbara Barry <garde> [Mark as unread](#)  
Thu 10/15/2015 7:07 AM

To: County Clerk;

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Aloha,

I support the resolution to increase the minimum wage to 15.00 per hour. Hawaii is one of the most expensive states to live in and you shouldn't have to work 3 jobs to pay for rent and basic needs. This needs to be implemented as soon as possible.

Mahalo,

Barbara Barry  
1220 W Kuiaha Rd  
Haiku, Hi 96708

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County Communication 15-245

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Paul Solomon <paul.solomon108@gmail.com>

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Wed 10/14/2015 9:42 PM

To: County Clerk;

Aloha,

I am writing to express my support for Maui County sending a resolution to the state to include a state bill for a gradual \$15/hour minimum wage hike in the 2016 Hawaii State Association of Counties Legislative Package.

Given the high cost of living here on Maui and the fact that many people are employed in low paying jobs, it is imperative that we increase the minimum wage so that people can make a livable wage. I know many people here who struggle to make ends meet, sometimes working 2 or more jobs to support themselves and their families.

Please support this resolution.

Mahalo,  
Paul Solomon

PO Box 1183, Haiku  
808-633-3009  
[paul.solomon108@gmail.com](mailto:paul.solomon108@gmail.com)

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**Council Chairman Mike White:**

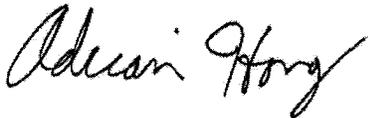
Thank you for the opportunity to write to you in opposition of CC 12-245, which seeks to increase the minimum wage to \$15 per hour beginning in 2019. I am writing to you on behalf of Island Plastic Bags, Inc., a local, family owned, plastic bag manufacturing company in Aiea, Hawaii.

Increasing the minimum wage to \$15 per hour would be incredibly harmful to manufacturers in Hawaii. We compete with manufacturers all over Asia for business in Hawaii and dramatically increasing our labor costs will make us uncompetitive. We would be forced to increase our productivity per employee through purchases of more advanced equipment, which would lead hiring of fewer workers and the eventual reduction in the total number of our workforce through attrition. It may also require us to push production out of Hawaii and into Asia.

It is already hard enough to be a manufacturer in Hawaii. This will be another added weight to the cost of doing business in Hawaii, which may force the few manufacturers in Hawaii to push production out of Hawaii. This bill will decrease the number of jobs in Hawaii.

Thank you again for the opportunity to write to you and I humbly ask your support for the changes noted above.

Sincerely,



Adrian K. Hong, CPA\*

President

Island Plastic Bags, Inc.

[www.islandplasticbags.com](http://www.islandplasticbags.com)

Email: [adrianhong@gmail.com](mailto:adrianhong@gmail.com) | Phone: 808-484-4046 | Fax: 808-488-8505

\*Not in public practice

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County Communication 15-245

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William Greenleaf <bgreenleaf.maui@yahoo.com>

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Thu 10/15/2015 1:13 PM

To: County Clerk;

I'm writing in support of County Communication 15-245.

Gradually increasing the minimum wage in Maui County to \$15 is necessary for residents to earn a living wage.

Thank you  
Bill Greenleaf

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County Communication 15-245

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Diana Van Tassel <dkihei@yahoo.com>

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Thu 10/15/2015 9:37 AM

To: County Clerk;

Cc: Elle Cochran;

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Aloha,

I am writing to express my support for County Communication 15-245, Elle Cochran's proposal for a resolution to include a state bill for a gradual \$15/hour minimum wage hike in the 2016 Hawaii State Association of Counties Legislative Package.

We need to provide a living wage for our workers, especially here in Hawaii where the cost of living is so high. To advocate for those who are struggling to survive on the barest of wages is an honorable thing.

Elle, I salute you!

Mahalo,  
Diana Van Tassel  
106 Ainakula Road  
Kula, Hawaii

*"All the water in the world cannot drown you unless it gets inside."*

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Support Resolution 15-245 to raise the minimum wage to \$15 by 2019

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John Fitzpatrick <fitzformaui@gmail.com>

Mark as unread

Thu 10/15/2015 4:16 PM

To: County Clerk; Elle Cochran; Mike White; Don Couch; Donald S. Guzman; Stacy S. Crivello;

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Aloha Kakou,

I am in strong support to raise the minimum wage to \$15 an hour by January 1, 2019. For too long our people of Maui County have been struggling financially and it is time to help them succeed as large corporations are doing all around Maui County.

\$7.75 is a poverty wage and has not kept up with inflation and productivity. It is immoral that CEO's and corporations make record profits while allowing their employees and our fellow American families barely stay afloat, requiring they go on foodstamps, or even go bankrupt because they live and work on a starvation wage.

Just today I brought the minimum wage up in one of my classes and a young girl said their family is so strapped they can barely pay rent and their electric bill. Every one of you said affordable housing was their top priority in the last election; I hope all of you realize that your efforts for affordable housing also need to be put towards affordable pay.

I look forward to fighting side by side in order to bring morality to our fellow citizens pay check.

Mahalo,  
Fitz

John Fitzpatrick  
Fitz For Maui County Council  
email: [fitzformaui@gmail.com](mailto:fitzformaui@gmail.com)  
phone: 808-268-1073  
P.O. Box 532481  
Kihei, Hi 96753

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# Maui Green & Beautiful

*Caring for the Aina  
Through Preservation, Protection & Education*

PO Box 402, Kahului, HI 96733 [mauigreenbeautiful@gmail.com](mailto:mauigreenbeautiful@gmail.com) 879-9169

## **NO. 15-148 Testimony for Maui County Planting Plan 10/16/15**

Aloha Council members,

Maui County should be proud to have the Maui County Planting Plan, the first in the state. Now we have an updated one that includes so much more.

I was introduced to the MCPP when I was serving on the Maui County Arborist Committee from 1998-2006.

I've used it a lot in my profession in the landscape industry including also being a certified arborist, and we, Maui Green & Beautiful, formerly Maui Outdoor Circle, an environmental non-profit, use it to share tree information with the community.

I urge you all to adopt the proposed resolution without anymore further revisions.

Why?

Because Ernest Rezens has taken such a remarkable & hard working journey to update the Maui County Planting Plan.

The Maui County departments associated with the document have already commented on the revision. Mr. Rezens took each suggestion seriously and researched the suggestion and changed where necessary.

Many knowledgeable individuals or organizations have contributed to this document also.

I have attended many Maui County Arborist meetings as a community member and have seen the hard work & seriousness that each tree educated volunteer of the committee has worked with Mr. Rezens to complete the document.

Maui County is extremely lucky to have one of the top tree experts in the state, our very own Ernest Rezens, who recently received international recognition for his works and contributions in arboriculture by the International Society of Arboriculture as a recipient of the True Professional of Arboriculture award this August at their conference.

To summarize:

- Please have this revised edition adopted today without further revisions
- With this revised document, Maui County is making it known that the urban forest is important, the value of trees is important to the community economically & culturally, and Maui County would continue to be a leading example of doing what is best for the people of Maui now and for future generations to benefit from a well care for and protected urban forest
- The publication has been used so much by professionals in the landscape industry, landscape architects, developers, planners, and would be used more by even the community if it was promoted more and made more available.

*Thank you so much for your time,*

*Elaine Malina Maui Green & Beautiful Board President / ISA Certified Arborist since 1997*



From Elli jr

*Eric Gill, Financial Secretary-Treasurer*

*Hernando Ramos Tan, President*

*Godfrey Maeshiro, Senior Vice-President*

October 15, 2015

Office of Council Services  
200 South High Street  
Wailuku, Hawaii 96793

**Re: Testimony: COUNTY OF MAUI AND HAWAII STATE ASSOCIATION OF COUNTIES:  
RESOLUTION RELATING TO MINIMUM WAGE**

Dear Chair Victorino and Members of the Council:

UNITE HERE, Local 5 represents over 11,000 workers in the hotel, restaurant and health care industries in Hawaii.

We thank you for the opportunity to offer comments to the above referenced resolution, which would increase the State minimum wage to \$15.00 per hour.

UNITE HERE Local 5 always appreciates discussion that would benefit working people in our communities.

We strongly support raising the minimum wage. That said, included in this proposal should be language that specifically allows an exception for workers covered by collective bargaining agreements.

Non-union workers, whose collective power has not yet been realized, would benefit greatly from a \$15 minimum wage. Unionized workers such as the members of UNITE HERE Local 5 bargain packages of wages, benefits and working conditions that in total generally exceed mandated minimum standards. When workers have such a collective voice, however, they may wish to choose allocations toward wages and benefits different from what the proposed legislation would mandate. In its current form, these measures may limit what could be achieved at the bargaining table.

Further, one of the major obstacles to forming unions in the workplace is employer opposition, which in many cases is driven by a belief that the increased wages and benefits workers would collectively bargain would drive up labor costs. And they're absolutely right about that. However, if amended to include a collective bargaining opt-out, this legislation could provide a way for employers to "ease in" to such costs. For instance, if unionized workers feel they want a defined-benefit pension plan, they could fund it by allocating money which would otherwise be paid into wages, which might make it more likely they could achieve a better future for themselves while at the same time providing the employer some economic relief from the additional cost burden.

At a time when the cost of living is increasing faster than the average wages, this proposal would provide economic relief to the most vulnerable in our society, the non-unionized working poor.

It is our collective responsibility to ensure the safety and welfare of the most vulnerable in our community and you are in a position to be proactive. We strongly urge you to move this resolution forward with amendments that provide for collective bargaining opt-outs.

Mahalo for your consideration.

**Autumn R. Ness**

---

**From:** Kurihara-Klein, Michele <mkurihara@hgea.org>  
**Sent:** Friday, October 16, 2015 8:29 AM  
**To:** Autumn R. Ness

# **Include full-time public-sector workers in fight for minimum hourly pay of \$15**

By Randy Perreira

POSTED: 1:30 a.m. HST, Aug 9, 2015

We in the labor movement applaud strides being made to lift working people out of poverty and are heartened to see that the "Fight for \$15," a national campaign to raise wages for fast-food and other underpaid workers, is gaining momentum.

Last week came news of New York State's commitment to an eventual \$15-an-hour pay rate for its 200,000 workers in the fast-food industry. Similarly, the University of California system announced plans to phase in worker raises that will increase pay for many to \$15 an hour by 2017.

Cities including Berkeley, Los Angeles, Oakland and Seattle have all approved phased-in increases to bring their minimum wage to \$15 an hour.

Now is the time to help Hawaii families by raising the wages of our dedicated public workers to a decent and dignified level. Did you know that thousands of full-time government workers in Hawaii make less than \$15 an hour?

Many of you know these workers as the educational assistants working alongside your child's teachers in the public school system, or as office assistants at any number of state or county facilities. These workers may also be your best friend, uncle or your mom.

Hawaii's government workers, whether at the county or state level, are the people who make sure our public services run well and are available for everyone.

While no one goes into a career in the public sector expecting to become wealthy, it is shameful that a segment of government workers in Hawaii make less than \$15 an hour.



*Randy Perreira is  
executive director  
of the public-union  
Hawaii Govern-  
ment Employees  
Association.*

---

Additionally, many of those in public service pay as much as approximately 40 percent of their medical insurance premiums. The average premium for single coverage is about \$200 per month; a family plan is approximately \$650 per month. For those employees who earn \$15 an hour, their one week's salary, before taxes, would go to pay for the family medical plan. That doesn't leave much for rent or mortgage payments, food and utilities.

It is a sad and ironic fact that some of these public employees whose job is to help others obtain public assistance can actually qualify for public assistance themselves.

To date, a few states across the nation have taken steps to improve the lives of their lowest-paid public workers with a living wage. While this is encouraging, much more needs to be done — including here in our own state, which has an impressive history of visionary leaders who fought to enact labor laws that ensure fairness, dignity and equity for all workers.

We all know it's challenging to raise a family in Hawaii. As headlines constantly remind us, Hawaii is one of the most expensive places to live in the country. It is also one of the most special. We are looking to our governor, our mayors and legislators — as policy makers and leaders of our great state — to take a hard look at the salaries of public workers and raise them to a level that will give these employees an opportunity to have a quality life.

As University of California President Janet Napolitano said, "It's the right thing to do."

.....

michele kurihara-klein  
legislative officer  
hawai'i government employees association / afscme local 152  
888 mililani street, suite 401 honolulu, hawai'i 96813-2991