

# MINUTES

of the

## COUNCIL OF THE COUNTY OF MAUI

August 3, 2018

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, AUGUST 3, 2018, BEGINNING AT 9:04 A.M., WITH CHAIR MICHAEL B. WHITE PRESIDING.

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

Mr. Clerk, please call the roll.

### ROLL CALL

PRESENT: COUNCILMEMBERS ALIKA ATAY, ELEANORA COCHRAN, S. STACY CRIVELLO, G. RIKI HOKAMA, YUKI LEI K. SUGIMURA, VICE-CHAIR ROBERT CARROLL, AND CHAIR MICHAEL B. WHITE.

EXCUSED: COUNCILMEMBERS DONALD S. GUZMAN AND KELLY T. KING.

*(Councilmember Guzman was not present when the roll was called; however, he arrived at 9:23 a.m.)*

DEPUTY COUNTY CLERK JOSIAH K. NISHITA: Mr. Chair, there are seven Members present, two excused. A quorum is present to conduct the business of the Council.

CHAIR WHITE: Thank you, Mr. Clerk.

Will you all please 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: Thank you. And just a reminder to please turn your phones to silent mode please.

And, Mr. Clerk, let's proceed with the agenda.

DEPUTY COUNTY CLERK: Mr. Chair, proceeding with ceremonial resolutions.

## CEREMONIAL RESOLUTIONS

RESOLUTION  
NO. 18-130

CONGRATULATING OFFICER MARVIN TEVAGA  
OF THE DEPARTMENT OF POLICE FOR  
RECEIVING THE 2018 FLOYD LEDBETTER  
NATIONAL SCHOOL RESOURCE OFFICER OF  
THE YEAR AWARD

CHAIR WHITE: Thank you, Mr. Clerk.

Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Thank you, Chair.

I MOVE TO ADOPT THE RESOLUTION ENTITLED  
"CONGRATULATING OFFICER MARVIN TEVAGA TO *[SIC]*  
THE MAUI POLICE DEPARTMENT FOR RECEIVING THE 2018  
FLOYD LEDBETTER NATIONAL SCHOOL RESOURCE  
OFFICER OF THE YEAR AWARD".

VICE-CHAIR CARROLL:

SECOND.

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

Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Thank you, Chair. May I ask that the Clerk read the resolution in its entirety?

CHAIR WHITE: Certainly.

Mr. Clerk.

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

CHAIR WHITE: Thank you, Mr. Clerk.

Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Thank you, Chair. Wow, what an amazing person he is, and we are so proud to honor him. Educating and safeguarding our children, the future of Maui, is a huge responsibility. And, we are grateful to have people like Officer Tevaga to take on that challenge.

After reading the Maui News article about how Officer Tevaga achieved this recognition, overcoming the challenges as a youth, putting his faith in the system, and growing from the trust and aloha he received to speak to what makes Maui County so special; the people. I love how he was able to utilize all of his talents on the job, the, with music and culture. And, I imagine the, imagine the force you traditionally use speaks to your versatility and creative problem-solving tells us that there is a value in a holistic approach, taking into account mental and social forces.

In Hawaii, more so than anywhere else, we recognize those who came before us and touched our lives, who made us who we are today. People like Officer Tevaga, former Lahainaluna SRO Myrna Sabas, who is actually a retired detective for the police officer; thank you for changing lives.

Also present is Officer Tevaga's family. Myrna is a son, Marvin is a son, brother, husband, a father, ohana Tevaga. He has four children and one on its way, by the way. And, we are so proud to have him. I, I ask all my Councilmembers to please support this resolution, so we can honor him for all his achievements. Thank you.

CHAIR WHITE: Thank you, Ms. Sugimura.

Any further discussion, Members?

COUNCILMEMBER HOKAMA: Chairman.

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA: Just quickly, Chairman. I speak in support of the motion, excuse me. You know, unfortunately, we hear a lot of, at times, disturbing or, I would say, headline grabbing type of headlines regarding our law enforcement. I for one find this type of recognition of this gentleman, this family, to be very heartwarming, and one very encouraging for the community to know that in law enforcement, our own people are doing a wonderful job doing positive things with our youth, Chairman.

You know, we always hear about those incidents, some are very tragic, very sad, that occurs nationwide. But, I think in Hawaii, in our County, we should acknowledge, appreciate, and celebrate the efforts of our law enforcement that are doing these positive things throughout the whole County, even on Lanai, with our SRO Officer. These enforcement people are doing a wonderful community relations, that enforcement and our community is not adversaries. They're complementary partners in keeping this County healthy and safe. So, I thank the Officer, his family, and the Department for supporting this program. Thank you.

CHAIR WHITE: Thank you, Mr. Hokama.

Mr. Atay, followed by Ms. Cochran.

COUNCILMEMBER ATAY: Thank you, Chair. I too fully support this motion. You know, as I was listening to the Clerk read the motion, my heart was beaming with pride, not only for the men and women in blue, not only for those who wear uniforms of public service, but for those born and raised here, following a role model and now becoming a role model. So, we salute and honor all the role models in our community who are willing to serve. But, today we honor Office Tevaga. And, with that honor, I also send out a hulo hulo to the ohana Tevaga, because he needs the support to carry on his passion. Congratulations.

CHAIR WHITE: Thank you, Mr. Atay.

Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair. Yes, and so thankful. And, my heart also, you know, beams with pride. And, it's that tie between the job and our youth, which is one of the whereas', helped bridge the gap between law enforcement and youth. And, I think it's such a positive role model as everyone has stated so far. So, again, I'm very much in support of this.

And hopefully others can see that being a police officer isn't like just strong-arming or, you know, the bad guy, but also taking care of, yea, the negative crime and things that do occur. But also they're there to lend a supporting hand, and to teach others how to be positive and yet strong in this community to move forward with positive efforts.

So, so happy to see this here. And I think, yea, putting, again Maui No Ka Oi on the map for the rest of the nation and the world. So, this is a proud moment for all of us. So, thank you to the Tevaga family and the Maui Police Department. Mahalo.

CHAIR WHITE: Thank you, Ms. Cochran.

Ms. Crivello.

COUNCILMEMBER CRIVELLO: Thank you, Chair. I'd like to join into the, applauding Officer Tevaga, as well as his family. But, I more or less would want to say mahalo. Mahalo for your service. This appears to be somewhat like a pay forward process, because he was inspired by Officer Myrna Sabas when he was a student. So, I think this is a good motto for the rest of our Department and for the rest of us also. So, mahalo nui.

CHAIR WHITE: Thank you, Ms. Crivello.

Mr. Carroll.

VICE-CHAIR CARROLL: Thank you, Chair. In Hana, before when I was young, there were only two officers took all the care from Kanaio to Keanae. And, they were always close to the community. They were born and raised in the community. And, ever since then, I always looked up to officers, police officers, because they were always there for the community. Maui's grown a lot now, and a lot of us aren't familiar with all the officers because there's so many of them.

But, we really need to appreciate what they go through. Those two officers in Hana, they only had the two; one was Officer Roback, he was killed in the line of duty. The other one was shot and wounded. Even in a small place that is considered laid back and safe, police officers are always at risk. And, we really need to appreciate what they go through. And to them I say, mahalo.

CHAIR WHITE: Thank you, Mr. Carroll.

Any further discussion, Members? Well, the Chair would just like to add that this is a wonderful example of how the community can recognize the very special talents of, of an officer who malamas the kids during their formative years. And, these are times that are very, very critical in the development of our youth. And it's, in today's world, it's especially important that the officers make that connection with our youth so that they know that a police officer are your friends, they're your protectors. And, they're there to make sure that people are doing what's right.

My mother spent about 25 years as a juvenile probation officer in family court in Honolulu back during a time where there weren't school resource officers. And, I'd like to think that her case load would have been much reduced if we had people like Officer Tevaga in the schools back then. So, this really hits home for me.

And, I want to congratulate Officer Tevaga, his family, and the Maui Police Department for really shining nationwide, and bringing pride to Maui, and pride to our schools, and pride to our police force. So, mahalo to all of you.

With that, I'll call for the vote. All those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS ATAY, COCHRAN,  
CRIVELLO, HOKAMA, SUGIMURA, VICE-CHAIR  
CARROLL, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBERS GUZMAN AND KING.

CHAIR WHITE: Measure passes with seven "ayes", and two "excused"; Members King and Guzman.

Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Thank you, Chair. With your permission, I'd like to call down Officer Tevaga to present him with the official copy of the resolution. Also, retired detective Myrna Sabas and Sergeant Yoshizawa from the Maui Police Department.

CHAIR WHITE: Yes, please join us.

COUNCILMEMBER SUGIMURA: So, at this time I'd like to ask Officer Tevaga, and if Sergeant Yoshizawa or Myrna want to say a few words. And, here's your resolution. Thank you.

OFFICER MARVIN TEVAGA: Good morning.

CHAIR WHITE: Good morning.

OFFICER TEVAGA: Truly humbled and grateful for this opportunity to be here, to also be, to receive the award for the National Association of School Resource Officers for the 2018.

In 2004, a group of terrorists took over a school in Beslan, Russia. And prior to the entry of the police officers went into the school, a police sergeant was asked if he was ready. And his response became a mantra, a song to me in my life. He said, "if not us, then who?" That mantra is something that all of us police officers answer every single day.

Without the team that I have to work with, the officers that do Special Olympics, that do Maui Police Activities League, the Teen Academy, the school resource officers throughout the country that answer the call, if not us then who, I wouldn't have been able to accomplish the things that I have been able to accomplish in the last year. So, I'd like to mahalo my team. I'd like to mahalo those who have come before me and help be the role model.

See, Detective Sabas, when she came to Lahainaluna, she saw me as a, as a troubled kid. I got into fights every single day, and I was at the Vice-Principal's office at least once, twice a week. And, you know, she saw something in me and gave me the opportunity to make a change in my life. And, I'm grateful for her example. And, when I became a police officer, to answer the call if not us then who, I wanted to be a school resource officer. And, I'm so grateful for the opportunity that was presented to me, because opportunity gives people the, the chance to either grow or not. And, I'm grateful for the opportunity to have to grow.

The other day I heard, was saying, you know, "anybody is better than nobody", but not everybody can do what our body does as police officers. And, I'm grateful for the officers that answer the call every single day. I can't do your job, but I know that with the support that we have from my family, my wife, and my children, and our fellow team members of the Maui Police Department Juvenile Section and the SRO's, and those who have come before us like Sergeant Detective Sabas, that we can be able to help other kids and bridge that gap, and give them the opportunity that I had, the grace and aloha that was afforded me.

And, so I'd like to mahalo everyone for this opportunity. And, I'm grateful for Councilmember Sugimura for having me here today. Mahalo nui. Aloha.

(Councilmember Guzman arrived at the meeting at 9:23 a.m.)

MS. MYRNA SABAS: I just want to thank--

CHAIR WHITE: You can pull the mic down.

MS. SABAS: --the Councilmembers and Chair for having us down to, to present this award to Officer Tevaga. He's a good kid. Well, he's not a kid anymore, but when I met him he was, he was little bit, yea, he was kolohe. But, you know what, I did see something in him. You know, I knew he was going to be a leader one day. I just had that feeling. But, thank you so much, and thank you, Marvin for everything that you do.

SERGEANT SHANE YOSHIZAWA: Good morning, Chair and Councilmembers. I'm not sure if you guys know what exactly a school resource officer does. So, we have one at every high school. First of all, they do law enforcement. They enforce the criminal laws and status offense, which means they handle cases involving just juveniles. They're also our counselors in schools. They're the mediators and teachers. They teach laws, they teach about the status offenses, and other areas. They're pretty much a jack of all trades in the school. And, every single school loves their school resource officer. They create a special bond with students and the faculty, which is important.

We're not sure if you guys know, but this award that Officer Marvin Tevaga got, this Floyd Ledbetter National School Resource Officer of the Year Award, is the most prestigious award a school resource officer can get. There's only one, and he got it out of the thousands and thousands of school resource officers. So, it's a really big thing, and so that's awesome. But, you guys already said all, his accolades, and all his accomplishments. But, yea, he, he is a great officer.

On another note, the school resource officers on, in Maui County as a whole, were awarded, they were awarded the Model Agency Award for Region Nine. So, this is a, the School Resource Officer's Program on Maui got an award. This is on the, I believe it's the West Coast. So, that's also a big award for that model agency.

Just to let you know, the school resource officers, they put in their times volunteering with M-PAL's Program, coaching, refereeing, and putting everything together for these kids. And that's the thing, everything is for the kids. And like how Officer Tevaga was saying, being role models to these kids. And, they get looked up to and hopefully, you know, they, these kids follow the right path. School resource officers also, they work



after school, weekends, doing programs for the, with counselors for doing the Diversion Programs, such as the POI Program and KALO Program.

And lastly, I just want to thank all the Councilmembers for your support. Aloha.

CHAIR WHITE: Thank you so much for joining us today.

Mr. Clerk.

DEPUTY COUNTY CLERK: For the record, RESOLUTION 18-130.

RESOLUTION  
NO. 18-131

CONGRATULATING MAUI WINNERS AT THE  
2018 HAWAI'I ACADEMY OF RECORDING ARTS  
NĀ HŌKŪ HANO HANO AWARDS

CHAIR WHITE: Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Thank you, Chair.

I MOVE TO ADOPT THE RESOLUTION ENTITLED  
"CONGRATULATING MAUI WINNERS OF THE 2018 HAWAI'I  
ACADEMY OF RECORDING ARTIST [S/C] NA HOKU  
HANO HANO AWARDS".

VICE-CHAIR CARROLL:

SECOND.

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

Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Could I please ask the Clerk to read the resolution in its entirety?

CHAIR WHITE: Certainly.

Mr. Clerk.

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

CHAIR WHITE: Thank you, Mr. Clerk.

Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Thank you, Chair. I, "Music is the greatest communication in the world. Even if people don't understand the language that they're singing in, they still know good music when they hear it."; a quote from Lou Rawls.

They say Maui No Ka Oi, and I agree. Year after year, our Maui County artists don't just produce, they exceed and they excel.

This year, beside all the Na Hoku winners, I just wanted to also say that we had 14 Maui finalists. And, I just want to mention their names; Kihei-born Kala'e Camarillo for "Working Man"; Hip Hop Album nominee Openeyes (former Kihei Charter School student Tristan Rucynski and friends) with "Geranimo"; Pat Simmons Jr. for the Most Promising Artist and Extended Play of the Year for "This Mountain"; Scott Johnson of Polyphonic Industries for his work on Ledward Kaapana's anthology music "Jus' Bes"; and a favorite of mine which is a staffer, Daryl Fujiwara for his graphics of Leipono's album "Ku`u Pua-lei"; the trio Cane Fire debut album "Coming Home"; Damien Paiva who was nominated for "Island Treasures"; Andrew Molina "A New Journey"; Neal Chin for "The Spotless Mind"; Arlie-Avery Asiu's latest album, "My Dog Has Fleas"; Matagi from help, with help from Fiji on "Sincerely" for the Single of the Year; students from Maui Institute of Hawaiian Music produced by Dr. Keola Donaghy and Joel Katz for EP of the Year; and Grammy Award winner Kalani Pe`a's Christmas homage, "Kanakanaloka", nominated in the new category Hawaiian Single of the Year; and Kalani Pe`a and Greig who were also nominated in the new Music Video of the Year category. Amazing right? All from Maui.

To all of our Maui 2018 Na Hoku Hanohano Music Award Winners, thank you for sharing your love of music and Hawaiian culture. Please keep shining. Thank you, Chair.

CHAIR WHITE: Thank you, Ms. Sugimura.

Members, any further discussion on this item? That's a pretty impressive list.

Mr. Atay.

COUNCILMEMBER ATAY: It's a, you know, proud day for Maui. You know, here on the chamber floors we honor athletes, we honor engineers in the field of robotics, you know. Today, I mean, recently, we honored winners of the hula. So, today, we honor our musicians that come from our County, and, we also honor the, the winners of the Hawaii Academy of Recording Arts Na Hoku Hanohano Award Winners.

And, I know a couple of them are away travelling and performing. But, those I see in the audience, congratulations to them for their accomplishments; most especially who's here, representatives Pono, Pono Murray, and Halemanu Villiarimo. What else can we say, except hulo hulo.

CHAIR WHITE: Thank you, Mr. Atay.

Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you. And, yea, what a list. And, thank you, Ms. Sugimura for bringing this forward. Can't really, you know, highlight or elaborate more on what she's already stated. But, it's just so much work does go in, you know, the backstory to every single one of these accomplishments has just volumes of stories and experiences to tell, I'm sure, to get to where they are today, and to the awards they've received, and, and to, and further, you know, more awards to come.

I mean, just trying to record a 30-second piece on a radio ad is like time, I don't even know how they did albums and cd's. And so, I mean, that's like really simple. But, so, just from that experience alone, I know it took a lot. So, congratulations on however you do it, and juggle it, and make it happen to produce such a beautiful thing in the end. And perpetuating our culture is number one, so mahalo for that.

CHAIR WHITE: Thank you, Ms. Cochran.

Ms. Crivello, followed by Mr. Carroll.

COUNCILMEMBER CRIVELLO: Thank you. I just want to join in with everyone else to mahalo you for continuing to perpetuate our culture through music, the hula, and the universal language of music. We are so blessed. And, when you look at our Maui contingency, it is with great pride that when you are listening to the music of, of our culture, and whether or not you have the contemporary or what have you, it's music that just helps you to breathe it, breathe in the full essence of our island, and our island people.

So, it's like, I think it's Kamaka Kukona's winning, winning song on Hanu `A`ala, I, I think it means like inhaling the sweetest fragrance. And, that's what we're doing as we're taking in the deep breath; to congratulate our talented, we could say musicians, we could say entertainers, we could say performers, but our cultural network of perpetuating who we are. Mahalo.

CHAIR WHITE: Thank you, Ms. Crivello.

Mr. Carroll.

VICE-CHAIR CARROLL: Thank you, Chair. I really want to thank them, because I'm a beneficiary of their talent and their music. Because, I'm so fortunate, I get to listen to Hawaiian music four hours every day; two hours coming and two hours going. And so, I really appreciate the effort they make and the beautiful music that they provide for us. Mahalo.

CHAIR WHITE: Thank you, Mr. Carroll.

Any further discussion, Members?

COUNCILMEMBER HOKAMA: Chairman.

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA: Well, I, I think this should just be a total County love-fest. You know one thing that's great, you know, listening to the Clerk read the resolution and stating the honorees this morning, Chairman, kind of takes me back a little back to when I was a little younger, because those people helped to plant seeds. These people are nurturing a new generation of seeds for our community, our youth, our kupuna.

But, I'd like to think that, you know, those that came before us that, whether was on Maui; was the Buddy Fo and The Invitations; Myra English, okay, let's go back to the old guys, whether it was Peter Moon and the Sunday Manoa gang, the pre-Cazimero's. Whether you went with, you know, the people that we understood, the Hui `Ohana's and what not that was making the music, Makaha Sons of Ni`ihau, you know, every generation we have the new voices that speak at that point in time.

And, I just appreciate these new voices, because they will then now help nurture the new seeds in the soil for the next upcoming voices to sing, the new hands to dance the hulas for us. And so, for, for me, I just see this as a wonderful continuation of who we are as a people. Because we, what they're doing, Chairman, is the best thing you can

do for our people; is keeping culture alive. And that's the key thing; culture, if it's not alive, it's going to be lost. And, I thank these people for keeping the blood, the vitality of this culture alive. Thank you, Chairman.

CHAIR WHITE: Thank you.

Any further comments?

The Chair would just like to add that, you know what Mr. Hokama said about honoring those who are, are being the role models. We often talk about role models here. And, Officer Tevaga obviously is a wonderful role model for kids.

All of you who are being awarded by the, by this organization are the role models. And, I, I'm touched by the fact that this organization is actually providing a system by which we can recognize those that excel. Because, if we didn't have this system of recognition, maybe somebody involved in music would not have reached as far as they've reached and not as, not excelled to the degree they might have, or they would have with this recognition.

So, I think it's a great thing that we've got musicians that are acting as role models who are performing largely because they probably had a great role model and the support of their families, and support of their community. So, to all of you who have done such an incredible amount of work in the music field, mahalo, mahalo, mahalo.

With that, I'll call for the vote; and all those in favor of the motion please signify by saying "aye".

AYES: COUNCILMEMBERS ATAY, COCHRAN,  
CRIVELLO, GUZMAN, HOKAMA, SUGIMURA,  
VICE-CHAIR CARROLL, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBER KING.

CHAIR WHITE: Measure passes with eight "ayes", and one "excused"; Ms. King.

Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Thank you. Before I ask the Na Hoku Award winners to come to the podium, I also wanted to mention, isn't this amazing, one of the honoring, honorees that were recognized, Matagi, produced "Sincerely", for the Single of the Year, is also a band which, which Officer Tevaga is the leader. Isn't that amazing? He's a, I mean, amazing all the way around. But, I just wanted to mention that.

I'd like to, with your permission, Chair, ask Halemanu, Kip Lukela Keala, and Pono Murray to come to the podium to receive congratulations from the Members, as well as to say a few words?

CHAIR WHITE: Yes. Would you all please join us?

COUNCILMEMBER SUGIMURA: Congratulations, everyone. I want to know if each of you would like to say a few words. Yea, thank you.

MR. HALEMANU VILLIARIMO: Aloha, Councilmembers, Council Chair. Good morning.

CHAIR WHITE: Aloha.

MR. VILLIARIMO: I'd like to first of all say thank you guys, again, for our recognition of our musical endeavors and our projects and stuff. You know, we talked about, you guys talked about role models and stuff. And you know, we, each of us, we bring our, our upbringing and our experience to our music. And, I always think about, you know, I grew up between Hana and Kahului. My family is from Hana, born and raised in Hana. And, when I go out, I feel like almost as like an ambassador, whether I play for the visitors or the kama`aina, or when I fly out and I play. And, of course I think about Maui and my home, and to sort of represent. So, there's a great honor in, and to be recognized, but that feeling of representation for Maui is always with me when I, when I present that.

And, I, you know, I also want to say I've had some great role models growing up. My grandmother, who did a lot of charity work and contributions for Hale Makua as a volunteer for many years. And my dad who also, who volunteered because of health problems, he couldn't work, so what he did with his time is he volunteered. And he was the first Girl Scout leader, a male Girl Scout leader in the State; they called him the "Lone Ranger".

So, what has stuck with me, though, is to, to use my music, my talents, as sort of like a tool to, to put back into the community. My wife and I, I always say that my wife Lisa and I, we really was a collective effort. I couldn't have done this without her. It's our project, but we've always believed to put back into our communities. And we have

supported throughout the years, for about 15 years or so; the Maui Farm, Child and Family Service, United Way, I mean, Women Helping Women and countless others. And, I just want to say that we continue to use our talents as a tool to put back into our community, and to enrich our community. And, mahalo once again. Thank you.

MR. PONO MURRAY: Just real quick. It's easy to write on Maui, because life is good. I haven't written anything in Oahu. I was born and raised over there. But, life is good because there are people in places that make life good. But, everything is malie where you, we can receive that inspiration to write. That is because everything can flow when life is good. So, thanks to you folks for keeping this peace here, and to continue to have, be in these places that allow life to be good, and we can continue to write. But, that's kuleana.

The Lord has blessed us with certain gifts. I find out that this is a gift. I didn't think I could do this. But, now as a promising artist, I have to promise to write some more, and I will. Your guys kuleana is to keep everything malie and good. So, thank you so much for the recognition, for the words of aloha. But, I got to thank my wife for allowing me to, that's where all the love come from. When there's love, there's love songs, yea. So, but, mahalo. Thank you very much.

MR. KIP LUKELA KEALA: Aloha you guys. I'd like to thank you guys for this awesome achievement, and just for being here. So funny cause last week this kid asked me what is my most greatest achievement in life? We, as a band from Maui, we have nine awards under our belt. For Ekoru was the first, first band from Maui to ever win the island reggae award from any other island. And, this kid asks me, what is your greatest achievement?

I said my greatest achievement is never doing drugs, never smoked cigarettes, never did drink in my life, never did do any drugs; and that's my greatest achievement. And, he's like, wow, that's pretty awesome that you have all these accolades, but that, you know, that, that holds second to you. I said, yea, because in my line of work everybody parties, you know, everybody goes out, they do their thing. But, I just wanted to be different. And, I wanted to be a good model for the, all these kids coming up, just to let them know that it's cool to not drink, and it's cool to not smoke, it's cool to not do drugs. And, I wanted to be that person for all these kids. So, thank you guys.

CHAIR WHITE: Thank you for being even more of a role model than we thought you were. Great words. Thank you for joining us today.

Mr. Clerk, let's proceed.

DEPUTY COUNTY CLERK: For the record, RESOLUTION 18-131.

Mr. Chair, proceeding with the presentation of testimony on agenda items. We have established limited interactive communication 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.

When testifying, please state your name and the name of any organization you represent.

DEPUTY COUNTY CLERK: Currently, we have no testifiers waiting at our District Offices. We have four individuals signed up to testify in the Council chamber. The first person to testify in the chamber is Barbara Henny, testifying on Committee Report 18-122. To be followed by Sam Small.

### PRESENTATION OF WRITTEN OR ORAL TESTIMONY

MS. BARBARA HENNY (testifying on Committee Report 18-122):

Good morning and aloha--

CHAIR WHITE: Good morning.

MS. HENNY: Chairman Mike White and respected Councilmembers. I'm Barbara Henny, as you well know, Co-Chair of the Front Street Apartments Tenants Group. I'm not here to provide further testimony, just to merely represent our group.

CHAIR WHITE: Pull the microphone down please.

MS. HENNY: Down?

CHAIR WHITE: Thank you.

MS. HENNY: Is that better?

CHAIR WHITE: Much better.



MS. HENNY: And, seek some resolution in regard to our quest to retain affordable rental housing at Front Street Apartments. My comment, my comments relate specifically to agenda item 18-122, under Budget and Finance Committee, and to content of Bill SB 2293, originally submitted by Senator Roz Baker in conjunction with Representative Angus McKelvey, which was unexpectedly amended in the final Senate Committee meetings.

Governor Ige and Mayor Arakawa visited Lahaina on July 7 to sign our Bill 2293 amidst great jubilation wherein funds would be made available from the Maui County Council to match the \$250,000 allotted by the State to proceed with appraisal, condemnation of the Front Street Apartments ground lease, and eventual purchase of the property.

Time is running out for our tenants. August 2019 is the deadline when proposed market rates will be enforced, leading to the eviction of many.

I do want to thank all of you for making this meeting, this hearing available, and look forward to future meetings in order to resolve our understandings. Please give us your consideration on agenda item 18-122 during today's meeting, to provide some assurance that Bill 2293 is indeed a promise of continued action for Front Street Apartments and its residents.

Thank you all for allowing me to express the hopes and prayers of our community. Mahalo.

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

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

Mr. Clerk.

DEPUTY COUNTY CLERK: Next testifier is Sam Small, testifying on County Communications 18-281, 18-284, and 18-286. To be followed by Christopher Fishkin.

MR. SAM SMALL (testifying on County Communication Nos. 18-281, 18-284, and 18-286):

You need a bigger podium. Thank you for your patience. As always, it's an honor to be here and participating in the democratic process. Please read the background section of the petition that I submitted yesterday. There's a written petition. Over 300 signatures that Maui Causes is submitting to you today and will continue to collect

petition signatures. It reflects on Council minutes that clearly show that the intention of the 2015 Upcountry Water Bill was always to benefit only families on the Upcountry water meter wait list.

Instead, somehow, unbeknownst to apparently everybody, the language that got inserted into Title 18's existing roadway exemptions was the simple sentence fragment, two-lot subdivisions with no mention of the families on the Upcountry water meter wait list. And so, commercial developers island-wide are receiving what are essentially secret roadway exemptions. A&B got one for 1200, for a 1200-acre parcel south of Puunene and Dairy Road. Dozens more commercial exemptions have already been given; Snorkel Bob got one for a commercial subdivision on Front Street. That's not a family on the Upcountry water meter wait list. And, there are perhaps hundreds more in the subdivision pipeline.

So, just like the three lot or less subdivision deferral agreements that were never collected on since 1974, once again, hundreds of millions of dollars of developers' obligations are being shifted onto the backs of Maui taxpayers. Mr. Guzman is calling for this secret giveaway to be removed; that's his motion here today. And, Maui Causes agrees. It needs to be removed, because it was done essentially secretly.

Now, Ms. Baisa said that the purpose of the 2015 water bill was to streamline the issuing of water meters to the premises, this is important, that directly front the Department's existing water system where it has been determined adequate, where it was been determined adequate. Only the families that have frontage on existing capacity were to have received this exemption. It's being given island-wide, but the bill and all of the public discussions narrowly focused it. So narrowly focused it that it was only the families that had frontage on existing capacity.

Now me, personally, I happen to live Upcountry on Piihola Road. And, I've on, been on the Upcountry water meter list since 2001. And suddenly, I'm, I was number 68. Now, I'm number 8, and they offered me a water meter. But, there's no capacity on Piihola Road. There's just a small two-inch pipe. So, how are they offering me a water meter when there's no capacity? When they deliberated on the Upcountry Water Meter Bill, they identified those other people that do have capacity. But, they never even iden, they never identified who doesn't have capacity.

And, in fact, reading the minutes of the Upcountry Water Bill committee sessions, anytime anybody was asked, any of the directors or department heads were asked, do you have any numbers, do you know the percentage of who's this and what permutations we have, and what are we actually dealing with? They had nothing. They hadn't done no research. They didn't understand the population. They didn't do an analysis of the various different zones that were impacted. Who has capacity? Who

doesn't have capacity? Who needs a water meter? Who just needs additional fixtures. There's people on my block, they don't want a water meter, they just want a bathroom. And, they can't do it.

Because I'm low number on the list, after waiting for 16 years, I've been given just 30 days to pay thousands of dollars to actually purchase my water meter. No thank you. It's at a price that was based on value back in 2001. So, it's about \$4,000 instead of 15. Thanks. So, that's, you know, that was a nice thing. But, I have to pay that \$4,000 or else I will forever lose any chance that I have of being able to subdivide my five acres into two lots.

Roll me over if you would.

CHAIR WHITE: Next item.

MR. SMALL: It, it's, forgive me. It's all kind of conjoined. They're telling me that before I can install the meter that I, that I'm forced to pay for or else I have to go away, the only way for me to stay in the game is for me to pay the money. I'm paying for a water meter that I can't install unless, what they're telling me, that I exclusively, me, must upgrade the water main that runs in front of 18 other properties on my street. So, all of those other properties will be affected by me. They will all benefit by me.

And, the cost that, that I've, that I've researched, the bid that I got to do that work is \$1.5 million. So, for me to actualize the water meter that I don't think that they should even be offering me today, because it's not my responsibility to pay \$1.5 million to upgrade all of Piiholo Road. That's not my job. That's the job of an assessment district. That's how these things get done in the real world.

You, you, you, you spend the time and you look at the capacity, you look at how much water is available, you look at the community's needs. There are companies that do this on a professional basis. You don't even, you know, it doesn't even have to be tasked to the Water Department, which is understaffed. All of this stuff, every other municipality that I know of, they farm this stuff out to a consulting company that's specialize in creating assessment districts. There are formulas and best practices, mechanisms, that are designed to handle these kinds of situations.

The County can underwrite the financing of it over time. The community can pay it back in installments spread into their taxes over time.

CHAIR WHITE: Mr. Small, I'm going to--

MR. SMALL: The work gets done--

CHAIR WHITE: I'm going to have to ask you to get to one of your other two items.

MR. SMALL: Yes.

CHAIR WHITE: Because I think what you're testifying on is still on Mr. Guzman's item.

MR. SMALL: Totally understand.

CHAIR WHITE: Thank you.

(Councilmember Cochran was excused from the meeting at 9:59 a.m.)

MR. SMALL: Well, it's, it's, you know, that aspect is related to the transfer of funds out of the Water Fund into the General Fund. So, I don't, you know, know the specifics of that. But, if there's a potential for--

CHAIR WHITE: Not, not exactly.

MR. SMALL: Well, it says transfer and or loan; Water Fund to General Fund. So, there's a potential there for water, water money, which could be going to improve the water supply on Piipolo Road. Somehow that's being diverted somewhere else. My water meter, what I pay for my water meter, is it actually going to be for water or is it for something else? But, moving on.

CHAIR WHITE: If you could move onto, I believe it's 286.

MR. SMALL: So, now, water, of course, is an enormous and precious resource on Maui. And, the mechanics behind water distribution are extraordinarily complex, that the Mayor is, has made a politically driven appointment of a Water Director. And, this is not a personal thing, no matter who the person is in our community. The Mayor has appointed someone as the Water Director who has no engineering background. How does that serve this community? It's an extremely complex position, issue to be dealing with.

And now I'm stuck with here I am, you know, calling attention to the Upcountry water meter wait, a bill in 2015 that didn't anybody read the language that Corporation Counsel inserted into Title 18? Did everybody miss it? You know, we, Chair, we, you know, I asked you years ago, did you know if people, if the sub, two-lot subdivision exemption was being issued island-wide? You said no. You didn't know that. All, every, all of the Councilmembers I've spoken to said that they don't, they didn't know that that was going on. Did the Chair of Water not know that that was going on?

(Councilmember Cochran returned to the meeting at 10:01 a.m.)

MR. SMALL: I, you know, I, I'm, you know, I'm speechless. How is, is, if the Chair of Water didn't know that, didn't pay attention, was, was the whole thing intentional? Was the Upcountry Water Bill actually designed not really to deal with the families of Upcountry, but to deal, but to manufacture this secret two-lot subdivision exemption? Were we all snookered that the entire process never was designed to, to achieve its stated goal. But, it was all subterfuge? And then, I'm, I have to go to this Director now and, and, and negotiate. I'm here as a community whistleblower, and yet I have to personally deal and be personally affected by someone who I'm essentially calling out. So, I'm between a rock and a hard place.

I'm trying to do the right thing for the community. And, I pray that you folks do the same. We need assessment districts. They'll fix Hui Road too. You can fix the Hui Road debacle with assessment districts as well.

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

MR. SMALL: Thank you for your time.

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

Mr. Clerk.

DEPUTY COUNTY CLERK: Next testifier is Christopher Fishkin, testifying on County Communications 18-284 and County Communication 18-286. To be followed by Rose Reilly.

MR. CHRISTOPHER FISHKIN (testifying on County Communication No. 18-284 and 18-286):

Good morning, Mr., Mr. Chair.

CHAIR WHITE: Good morning.

MR. FISHKIN: Good morning, Councilmembers. I took off today from work to be able to be here today to report, essentially a bank heist fraud on the community. In 2015, an Upcountry Water Bill, David Goode and Gladys Baisa were the direct assistants of Deputy Corp. Counsel Jennifer Oana, fooled this Council into voting for three

exemptions, of roadway frontage improvements for two-lot subdivisions island-wide, like Mr. Small was referring to. And, in blatant violation of the Sunshine Law. And now, please note the Mayor is appointing Gladys Baisa as the Director of Water.

Returning to David Goode, the Director of Public Works. This finally conclusively exposes the fraud being perpetuated over and over again upon the people of Maui by Mr. Goode. First of the three latter less deferrals, then with his scribbling out roadway improvement obligations of developer Kent Smith, right before he leaves the County to go work for Smith Development. Then by working with Mayor Arakawa to remove the capital improvement project on the same road from the County budget in Ms. Cochran's district, which resulted in a recent traffic fatality, the all too narrow bridge on Lower Honoapiilani Road.

And yet, again, in amending the Title 18, Subdivision ordinance to give unlawful and unjustifiable free exemptions through the water bill Ordinance 4255 to real estate developers throughout Maui County on two-lot subdivisions; including, but not limited to A&B 1200 acres, and Front Street Snorkel Bob's commercial locations. With respect to A&B and Snorkel Bob, Councilmembers, the taxpayer, taxpayers of Maui County are paying for their roadway improvement obligations.

I have submitted into testimony obtained through a Freedom of Information Act the list of subdivisions receiving these unlawful exemptions, which have already obtained preliminary approval; 3.2377 is the A&B one next to Home Depot, 4.1004 is the Front Street commercial property of Snorkel Bob's.

Deputy Corp. Counsel Jennifer Oana stated during a public hearing on that water bill ordinance, and I quote, "This is for the purpose of, you know, our citizen's building homes for their family on their property. Not for them to do any commercial type of activities besides, you know, farming or whatever". However, the same Ms. Oana then approved this unlawful amendment to Title 18 to legality and to form from the Department of Corp. Counsel. Wow. So, who pays for the harm to the taxpayer? Elle Cochran, David Goode?

Goode's Department of Public Works wrote to a County resident requesting they stop granting these free exemptions to which he responded that they will continue to do so pursuant to the current water bill Ordinance 4255. This is what Mr. Guzman's motion being sent to Committee will now successfully repeal.

For the record, any attempt by Ms. Cochran's office to spin these exemptions for affordable housing, into affordable housing incentives is, would also be a sham. No roadway improvement exemptions offset the values of the property so subdivided, which far exceed affordable housing prices. There is already a family subdivision

section of Title 18 which could be amended in various ways to help families with affordable housing; not this water bill Ordinance 4255.

Mr. Guzman has offered the no-nonsense direct approach to correcting a fraudulent ordinance perpetuated upon both the County and this Council which has been allowed to go on for three years. I want to, excuse me.

CHAIR WHITE: If you could move onto your next item, Mr. Fishkin.

MR. FISHKIN: Yes.

CHAIR WHITE: Thank you.

MR. FISHKIN: Essentially, the, to support what Mr. Small said earlier, the appointment of Gladys Baisa to the position of Water Director is a complete and utter farce. And for this Council to allow such a thing to go on in our community while, while representing and, and proclaiming the competence of our departments, and our management, and our expertise is, is not only hypocritical, it's kind of farcical.

I just want to say, for the record, that I call at this time for the resignation of David Goode as the Director of Public Works. I also call for the resignation of Ms. Cochran as the Chair of Infrastructure for her negligence in harming the County with the three-lot deferrals, the elimination of Phase 4 of capital improvement project on Lower Honoapiilani Road, and this two-lot exemption under her purview as Chair of Infrastructure. Thank you.

CHAIR WHITE: Thank you, Mr. Fishkin.

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

Mr. Clerk.

DEPUTY COUNTY CLERK: Next testifier is Rose Reilly, testifying on Committee Report 18-127. To be followed by Barbara Barry.

MS. C. ROSE REILLY (testifying on Committee Report 18-127):

Aloha. Good morning. So, I'm here to ask for an extension of the sand mining moratorium, which is less than satisfactory. As being in the courtroom for the majority

of the sand mining case, I was in waterfalls of tears of the outcome of that and the lack of justice that can be even expected in the system was heartbreaking to me.

So, that, it's come to this that we have an unsatisfactory moratorium on a wrong that has been, like, it's so obvious. Like, they just came in and they took what they weren't supposed to take. They did it in a way that wasn't approved. They abused the law. They didn't even really get, like, proper fines or anything, like, nothing; no, no slap on the wrist, no any kind of, like, punishment. And, then it's just like put back on us that we're trying to harm their business because they're not following laws that were put in to protect the community. Like, so, that we don't have a continuation of the sand mining moratorium for way longer than six months already.

Like, you know, this needs to be gotten under control where true law is being exercised in the actions of the people who are standing up to say that they're going to do these things. Like, they can't just be allowed to come in and just rape the land, and be like, oh well they did it already, so, you know, moving on. You know, that's not okay. Like, it's just, it's been really, really hard to see the way that these processes work. And, like, my assessment is that we need a lot more people in government. We need a lot more people who are over there, like, assessing the way that things are going down. We just don't have enough people in the County working on these things.

And in light of the testimony earlier, I think that that exemption for A&B is atrocious for 1200-acre commercial lot. Thank you.

CHAIR WHITE: Thank you for being here this morning.

Members, any need for clarification?

Seeing none, Mr. Clerk.

DEPUTY COUNTY CLERK: Next testifier is Barbara Barry, testifying on Committee Reports 18-124 and 18-125. To be followed by Annette Heu.

MS. BARBARA BARRY (testifying on Committee Reports 18-124 and 18-125, and County Communication No. 18-286):

Good morning, Chair, County Councilmembers.

CHAIR WHITE: Good morning.



MS. BARRY: First of all, thanks for allowing us to speak today. It's always wonderful to be able to be heard. So, appreciate that. I first want to mention item number 18-127. I have submitted email testimony to everyone last night regarding that.

The 18-124 and 125, since I am a recently appointed Kula Ag Park representative, I would like to just inquire about this, and wanting to make sure that this infrastructure work and this water improvement to the water systems is potable water. So, in case Maui County ever changes its rulings for tenant housing on the ag lot, like there is on other parts of the State of Hawaii ag parks, that that's a possibility. So, that would make a big difference as far as theft, and young farmers needing affordable housing. So, I just wanted to make a comment about that.

And then the last thing that I didn't sign up to comment on, but I will, just, it won't take long; 18-286, having Gladys Baisa as the Director of the Water, Department of Water Supply. I know she was appointed as a interim director, even though there was quite a large concern about her not having an engineering degree, which I thought was required. So, to see that the Mayor has appointed her as the Director of the Water Supply is, is disconcerting to me because she still doesn't have an engineering degree. And, considering how complicated that Department is with all the different issues going on and the purchase of the Wailuku Water Company, it just seems like, that we should really have a competent, you know, engineer degree person running the Water Department. That's all. Thank you.

CHAIR WHITE: Thank you, Ms. Barry.

Members, any need for clarification?

COUNCILMEMBER ATAY: Chair.

CHAIR WHITE: Mr. Atay.

COUNCILMEMBER ATAY: I just want to get some clarification here. Ms. Barry, aren't you the recently appointed member on the Kula Ag Park board?

MS. BARRY: Yes, I am.

COUNCILMEMBER ATAY: So, you're asking a question that the board should know. So, has the board met?

MS. BARRY: No, not yet. We do have our first meeting scheduled for August 7.

COUNCILMEMBER ATAY: Okay.

MS. BARRY: So, that'll be the orientation for myself and the other woman that was appointed last, the end of March last, or 2018. So, hopefully I will get--

COUNCILMEMBER ATAY: So, you have--

MS. BARRY: --get some clarification about that. But, since it was on the agenda today and I was here, I thought why not talk about it?

COUNCILMEMBER ATAY: Okay. Thank you.

MS. BARRY: Mahalo.

CHAIR WHITE: Any other discussion?

Ms. Sugimura.

COUNCILMEMBER SUGIMURA: So, Chair, just kind of point of order. I've heard two testifiers talk about Gladys Baisa not having an engineering degree. And, just so the people know that the Charter requires the Director or Deputy to have an engineering degree, of which we just met yesterday at the Water Committee meeting. Mr. Agawa, I think is his last name, he's an engineer, and so it does satisfy Charter requirements. For the public to know; because she doesn't have an engineering degree, which we all know, but her Deputy does, and that satisfies the Charter. So, just point of order.

CHAIR WHITE: Okay. Thank you. Thank you, Ms. Barry for being here this morning.

MS. BARRY: Mahalo.

CHAIR WHITE: Mr. Clerk.

DEPUTY COUNTY CLERK: Next testifier is Annette Heu, testifying on Committee Report 18-127. To be followed by Amy Halas.

MS. ANNETTE HEU (testifying on Committee Report 18-127):

Good morning, Councilmembers.

CHAIR WHITE: Good morning.

MS. HEU: I'm here to testify on 18-127, regarding the first reading of the sand mining moratorium. Many of us came and testified to ask that you realize what is happening in the sand dunes. This morning, I watched as you all congratulated people on law and teaching the children what is right. Everyone professed their love and respect for the language and the iwi kupuna.

I am a child born on this sand dune. The exemptions allow for our beloved to be removed by bulldozers and very large commercial machinery. It is very painful to know that all of your promises to represent me make me have to come here and speak this way publicly.

I live on Palama Drive. Mr. Guzman has never come to Palama Drive and seen the destructions that exemptions give. They say Kuikahi Road is a County road. We often go there to honor our ancestors, and have even placed a very tasteful ahu just as a reflection of this place. And, every time you put it there, they take it away. Just like the bulldozer scraped away the remains of an infant a few days ago.

I have one final thing to say. I ulu no ka lala I ke kumu, the grand branches grow because of the trunk. Without our ancestors, we would not be here. Remember when you speak for us. Thank you.

CHAIR WHITE: Thank you for your testimony this morning.

Members, any need for clarification?

Mr. Clerk.

DEPUTY COUNTY CLERK: Next testifier is Amy Halas, testifying on Committee Report 18-127. To be followed by Kaniloa Kamaunu.

MS. AMY HALAS (testifying on County Communication No. 18-270):

Aloha. For the sake of future generations, please extend and renew the Maui Inland Sand Mining Moratorium ordinance. This is not about "hampering development". This is about preserving this extremely culturally sensitive and significant area. Who are we to excavate sand from a known burial and battle site for use in sandboxes, beach replenishment, sand volleyball courts, etc. Would the burials at Punchbowl ever be excavated in order to gain access to, to the soil?

Kanaka maoli graves deserve the same respect and protection as other gravesites in any other cemetery. How tragic to see the historic preservation efforts of the community pitted against developers, concrete companies, and landowners. Please understand that we are not anti-development. We wish to preserve what remains of this sacred landscape.

The purpose of the sand mining moratorium ordinance was to "conduct further analysis required to establish regulations for mining inland sand to protect Maui's environment, unlimited natural resources, and to prevent the disturbance of Hawaiian historical, cultural, or archaeological sites, and unmarked human burial sites". Unfortunately, not a single regulation has been enacted to regulate sand mining or to prevent continued imperilment of irreparable harm to the in situ burials. In fact, unfortunately, Public Works won't release the 2018 update of the 2006 Maui Inland Sand Quantification Study.

In regards to the ordinance, which I pray you will renew, it needs to be amended so it's to include properties where, for example, mass excavation is currently occurring and causing irreparable harm to the iwi kupuna. We see this at Maui Lani Phase 6 Town Parkways Increment 4, where last week mass excavation activities crushed at least two iwi kupuna, one of which was an infant. While there were indeed archaeological monitors present during mass grading utility work, this destruction was, could have been avoided had there been a moratorium on all sand mining activity. There needs to be lidar. There needs to be higher technologies used.

I wish to extend an invitation to each and every single one of you, to come learn more about the iwi kupuna, the mo`olelo, and our undying commitment to protect and preserve the remaining in situ burials and pu`uone. Please attend the 6th Annual Hoolaulea at Owa: Ua Noho Au a Kupa beginning at noon at August 17, next to the burial preserve in the Maui Lani Safeway parking lot. This is an overnight vigil, so please stop by to come meet, hear speakers.

In closing, according to Kamakau, one of his records from the years 1775 to 1779, there was continual fighting between Kalani`opu`u of Hawaii and Kahekili. They slew the Alapa on the sandhills at the southeast of Kalua. There they lay in heaps strewn like kukui branches; the corpses lay heaped in death; they were slain like fish enclosed in a net. The great slaughter was called Ahulau ka Pi`ipi`i i Kakanilua, Slaughter of the Pi`ipi`i at Kakanilua. Mahalo nui loa.

CHAIR WHITE: Thank you for being here this morning.

Any need for clarification, Members? Seeing none--

MS. HALAS: Oh, just one additional. If any of you are interested, I do have the preliminary injunction from the Malama Kakanilua versus Maui Lani Partners. I'd be happy to give this to you. I also have a copy of the 2006 Maui Inland Sand Quantification Study. So, again, mahalo.

CHAIR WHITE: If you'll, if you'll please provide it to staff, we'll make copies for the Members. Thank you.

COUNCILMEMBER COCHRAN: Yea, sorry. Ms. Halas.

CHAIR WHITE: Ms. Cochran.

COUNCILMEMBER COCHRAN: I was, she mentioned a vigil.

CHAIR WHITE: Wait, hold on.

COUNCILMEMBER COCHRAN: Oh sorry.

CHAIR WHITE: Wait till she gets back to the microphone.

COUNCILMEMBER COCHRAN: Ms. Halas, thank you for your testimony this morning. You did mention in your testimony a vigil, though. Is there further information on that?

MS. HALAS: Yes, there is. On, on the internet. Actually, Aha Moku O Wailuku representative Kaniloa Kamaunu can provide more information. It's the 6th Annual Hoolaulea, and we would be honored to have you, our elected representatives, who actually, technically represent all the people of Maui Nui come. So, yes, I will disseminate some printed material. We would be honored to have you, who represent the people of Hawaii, e kala mai, the people of Maui Nui come attend.

We will see if we can get it on Lynn Araki-Regan's Calendar Maui. That would, thank you.

COUNCILMEMBER COCHRAN: Yea. No. Thank you very much. I have it in my calendar, but I wanted to make sure everyone else did. Thanks.

MS. HALAS: Okay.

Mahalo.

CHAIR WHITE: Okay. Anything else, Members?

Thank you for being here, Ms. Halas.

MS. HALAS: Okay. Thank you.

CHAIR WHITE: Mr. Clerk.

DEPUTY COUNTY CLERK: Next testifier is Kaniloa Kamaunu, testifying on Committee Report 18-127. Mr. Kamaunu is the last individual who signed up to testify in the Council chamber or the District Offices.

MR. KANILOA KAMAUNU (testifying on Committee Report 18-127):

Aloha mai kakou, Council. Kaniloa Kamaunu ko`u inoa. I have an email from Philip Andrew, who's with SHPD, and referring to what Amy had talked about as far as the inadvertent find.

The concerning part about this is, it says, "archaeological monitors from the ASH identified a small scattered skeletal remains in previously disturbed sand". That means that thing wasn't monitored prior to, because it was already previously disturbed; meaning that they dug em up. And, as they were going through it, they found the scatters. The scatters are made by the machine, okay cause these bones are intact. So, when you hear scattered, that means, and it says, "previously disturbed", mean they already had dug in that area.

And, you know, to be able to receive an extension on a permit from 2013 without any amendments to that, I don't see any amendments of what, how much more they have to grade. There's no tonnage of sand that was mentioned, that was previously removed, and minused, taken off and readjusted on the permit. It's the same exact permit. So, does that mean the person go back and redo the same amount again? There's no clarification. But yet, the permit is given. And in the area that was shown, they were digging in places, if you saw their map, that they already knew were known burials. But yet, these things are permitted.

They're also trying to get permitted to grade again on the preservation site. Luckily, Leslie Otani, had taken the time to go through the permit to make sure that the areas that were approved by SHPD were in the area, and those things that weren't were taken off. But, still yet, I think it's very tragic that this information hasn't been amended, that the permit was, allowed to continue on its original face of it.

And, then to come to get a report previously disturbed. And yet, we're talking about sand mining. We're not talking about iwi kupuna. It's an afterthought. So, that's disturbing. Which is more important? The economic value of the sand or the historic burial sites of our people? This is very disconcerting and needs to be justly talked about. Thank you.

CHAIR WHITE: Thank you, Mr. Kamaunu.

Members, any need for clarification? Mr. Atay, did you have your hand up? Okay, thank you. Thank you for being here this morning.

Mr. Clerk.

DEPUTY COUNTY CLERK: Mr. Chair, there are no other individuals in the District Offices nor the chamber who wish to offer testimony. And, we have received written testimony.

CHAIR WHITE: Thank you.

Members, without objection, we'll receive the written testimony into the record.

MEMBERS VOICED NO OBJECTION.

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

1. Sam Small;
2. Christopher Fishkin;
3. Barbara Barry;
4. Amy Halas;
5. Jim Smith;
6. Pamela Tumpap, Maui Chamber of Commerce; and
7. Shelly Stevens.

CHAIR WHITE: Thank you. And without objection, we will close public testimony for this morning.

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: Public testimony is closed.

We'll take our morning break. Please be back in your seats at 10:40. We're in recess.

(THE MEETING WAS RECESSED BY THE CHAIR AT 10:27 A.M., AND WAS RECONVENED AT 10:40 A.M., WITH ALL MEMBERS PRESENT, EXCEPT FOR MEMBER KING, EXCUSED.)

CHAIR WHITE: This meeting will come back to order.

I didn't realize we didn't have our Clerk.

COUNCILMEMBER COCHRAN: No Clerk.

CHAIR WHITE: Okay. Well, the next thing on the agenda we have the approval of minutes.

## MINUTES

The minutes of the Council of the County of Maui's public hearing of April 18, 2018, regular meeting of May 4, 2018, and public hearing of May 11, 2018 were presented at this time.

CHAIR WHITE: Mr. Carroll.

VICE-CHAIR CARROLL: Thank you, Chair.

I MOVE THAT THE MEETING, THE MINUTES OF THE MEETING OF PUBLIC HEARING APRIL 18, 2018; REGULAR MEETING OF MAY 4, 2018; PUBLIC HEARING OF MAY 11, 2018, BE APPROVED.

COUNCILMEMBER CRIVELLO:

SECOND.

CHAIR WHITE: Thank you, Mr. Carroll.

We were just informed that Akaku has to reset. So, we'll be in recess at the call of the Chair.



(THE MEETING WAS RECESSED BY THE CHAIR AT 10:41 A.M., AND WAS RECONVENED AT 10:45 A.M., WITH ALL MEMBERS PRESENT, EXCEPT FOR MEMBER KING, EXCUSED.)

CHAIR WHITE: This meeting shall please come back to order.

And, we'll, we will start over now that the Clerk here. We'll ask the Clerk, actually, we've already called up the minutes. And, Mr. Carroll had made a motion. We just need a second.

COUNCILMEMBER CRIVELLO: I did.

CHAIR WHITE: Okay, and we have a second from Ms. Crivello.

Mr. Carroll, any further discussion?

VICE-CHAIR CARROLL: No discussion.

CHAIR WHITE: Thank you. Members, any further discussion on the minutes? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS ATAY, COCHRAN,  
CRIVELLO, GUZMAN, HOKAMA, SUGIMURA,  
VICE-CHAIR CARROLL, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBER KING.

CHAIR WHITE: Measure passes with eight "ayes", one "excused"; Ms. King.

Mr. Clerk.

COUNTY CLERK: Mr. Chair, proceeding with county communications.

COUNTY COMMUNICATIONS

NO. 18-277 - ROBERT RIVERA, FIRST DEPUTY PROSECUTING ATTORNEY,  
(dated July 11, 2018)

Transmitting a notice of grant award from the State of Hawaii, Department of the Attorney General Crime Prevention and Justice Assistance Division for the Domestic Violence Investigation Program, in the amount of \$73,840.

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, with no objection from the Members, I would ask the Clerk to bring up 278, also at the same time.

CHAIR WHITE: Any objections, Members?

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: Thank you. So ordered.

Mr. Clerk.

NO. 18-278 - TIVOLI S. FAAUMU, CHIEF OF POLICE,  
(dated July 18, 2018)

Transmitting a grant agreement with the State of Hawaii, Department of the Attorney General for the Combating Domestic Violence and Sexual Assault in Maui County grant in the amount of \$73,840.

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, I have reviewed these communications. I'm not going to agree with the request for filing. As Members should know, this requires an intergovernmental agreement, and therefore, this needs to be referred to Committee. And, I do not support the recommendation as staff has provided.

CHAIR WHITE: Okay. Members, without objection, these items will be referred to Budget and Finance.

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: Okay. So ordered.

Mr. Clerk.

NO. 18-279 - MARK R. WALKER, DIRECTOR OF FINANCE,  
(dated July 18, 2018)

Informing of the acceptance of Sewerline Easement S-1, 224 Mamo Place, Wailuku, identified as TMK: (2) 3-4-025:046.

CHAIR WHITE: Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair.

I MOVE TO FILE COUNTY COMMUNICATION 18-279.

COUNCILMEMBER HOKAMA:

SECOND.

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

Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair. This matter is a housekeeping type item. And, in accordance with Section 3.44.015(H) of Maui County Code, Director of Finance is required to notify us, the Council, in writing of any acquisition, conveyance, or conveyance made to this County, pursuant to the Section.

And, according to the information that's provided in this county communication, the easement purpose is for underground sewerlines, including manholes and other equipment. No County funds were used to acquire the property. And, the easement location and width are acceptable to Departments of Environmental Management, and is in conformance with our County standards. So, I'm asking for the filing of the communication. Thank you, Chair.

CHAIR WHITE: Thank you, Ms. Cochran.

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

AYES: COUNCILMEMBERS ATAY, COCHRAN,  
CRIVELLO, GUZMAN, HOKAMA, SUGIMURA,  
VICE-CHAIR CARROLL, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBER KING.

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

Mr. Clerk.

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

NO. 18-280 - MARK R. WALKER, DIRECTOR OF FINANCE,  
(dated July 17, 2018)

Transmitting a report of short-term investments for the quarter ended June 30, 2018.

The recommended action is that County Communication No. 18-280 be referred to the Budget and Finance Committee.

NO. 18-281 - MARK R. WALKER, DIRECTOR OF FINANCE,  
(dated July 19, 2018)

Reporting on transfers/loans from the General Fund and the Department of Water Supply Revenue Fund to the 2017 Proposed General Obligation Bond Fund as of June 30, 2018.

The recommended action is that County Communication No. 18-281 be referred to the Budget and Finance Committee.

NO. 18-282 - SANANDA K. BAZ, BUDGET DIRECTOR,  
(dated July 26, 2018)

Transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING APPENDIX A OF THE FISCAL YEAR 2019 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO PART II, SPECIAL PURPOSE REVENUES – SCHEDULE OF REVOLVING/SPECIAL FUNDS FOR FISCAL YEAR 2019, AFFORDABLE HOUSING FUND".

The recommended action is that County Communication No. 18-282 be referred to the Budget and Finance Committee.

NO. 18-283 - DAVID C. GOODE, DIRECTOR OF PUBLIC WORKS,  
(dated July 16, 2018)

Transmitting a proposed draft bill entitled "A BILL FOR AN ORDINANCE AMENDING SECTIONS 10.48.220 AND 10.56A.010, MAUI COUNTY CODE, RELATING TO TOW-AWAY ZONES AND LOADING ZONES".

The recommended action is that County Communication No. 18-283 be referred to the Infrastructure and Environmental Management Committee.

NO. 18-284 - DON S. GUZMAN, COUNCILMEMBER,  
(dated July 27, 2018)

Transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 18.20.040, MAUI COUNTY CODE, RELATING TO EXISTING STREETS".

The recommended action is that County Communication No. 18-284 be referred to the Housing, Human Services, and Transportation Committee.

NO. 18-285 - MICHELE MCLEAN, PLANNING DIRECTOR,  
(dated July 18, 2018)

Transmitting a Conditional Permit application submitted by Ho`omoana Foundation for the Ho`omoana Campground, transmitting documents and a proposed bill entitled "A BILL FOR AN ORDINANCE GRANTING HO`OMOANA FOUNDATION, A HAWAII NONPROFIT CORPORATION, A CONDITIONAL PERMIT TO ALLOW THE

DEVELOPMENT OF THE HO'OMOANA OVERNIGHT CAMPGROUND FOR PROPERTY SITUATED AT HOKIOKIO PLACE AND LAHAINA BYPASS ROAD AND IDENTIFIED AS TAX MAP KEY NO. (2) 4-7-003:031 (POR), LAHAINA, MAUI, HAWAII".

The recommended action is that County Communication No. 18-285 be referred to the Land Use Committee.

NO. 18-286 - ALAN M. ARAKAWA, MAYOR,  
(dated July 12, 2018)

Informing of the appointment of Gladys Baisa as Director of the Department of Water Supply.

The recommended action is that County Communication No. 18-286 be referred to the Policy, Economic Development, and Agriculture Committee.

NO. 18-287 - MIKE WHITE, COUNCIL CHAIR,  
(dated July 19, 2018)

Transmitting a proposed resolution entitled "APPROVING THE HAWAII STATE ASSOCIATION OF COUNTIES EXECUTIVE COMMITTEE'S NOMINATION OF COUNCILMEMBER RIKI HOKAMA OF THE MAUI COUNTY COUNCIL TO THE WESTERN INTERSTATE REGION BOARD OF DIRECTORS FOR THE TERM ENDING JUNE 30, 2019".

The recommended action is that County Communication No. 18-287 be referred to the Policy, Economic Development, and Agriculture Committee.

(THE PROPOSED RESOLUTION ATTACHED TO COUNTY COMMUNICATION NO. 18-287 WAS ADOPTED LATER IN THE MEETING AND ASSIGNED RESOLUTION NO. 18-132. COUNTY COMMUNICATION NO. 18-287 WAS THEN FILED. See pages 39 and 40 for discussion and action.)

NO. 18-288 - MIKE WHITE, COUNCIL CHAIR,  
(dated July 26, 2018)

Transmitting a proposed resolution entitled "APPROVING THE APPOINTMENT OF JAMES B. FORREST AS A LEGISLATIVE ATTORNEY IN THE OFFICE OF COUNCIL SERVICES".

The recommended action is that County Communication No. 18-288 be referred to the Policy, Economic Development, and Agriculture Committee.

(THE PROPOSED RESOLUTION ATTACHED TO COUNTY COMMUNICATION NO. 18-288 WAS ADOPTED LATER IN THE MEETING AND ASSIGNED RESOLUTION NO. 18-133. See pages 40 through 51 for discussion and action. ACTION ON COUNTY COMMUNICATION NO. 18-288 WAS LATER RECONSIDERED. UPON RECONSIDERATION, COUNTY COMMUNICATION NO. 18-288 WAS DEFERRED TO THE AUGUST 24, 2018 COUNCIL MEETING. See pages 71 through 77 for discussion relating to reconsideration.)

CHAIR WHITE: Thank you, Mr. Clerk.

Before I ask if there are any objections to the referrals as read by the Clerk, we'll go to Ms. Crivello.

**DISCUSSION AND ACTION RELATING TO  
COUNTY COMMUNICATION NO. 18-287**

COUNCILMEMBER CRIVELLO: Thank you, Chair.

I MOVE TO ADOPT THE PROPOSED RESOLUTION ATTACHED TO COUNTY COMMUNICATION 18-287, AND THAT THE COMMUNICATION BE FILED.

VICE-CHAIR CARROLL:

SO MOVED.

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

Ms. Crivello.

COUNCILMEMBER CRIVELLO: Thank you, Chair. The resolution would approve the appointment of Councilmember Riki Hokama to serve as the Western Interstate Region Board of Directors Representative for the term ending on June 30, 2019. I respectfully ask for the Council's support. Thank you.

CHAIR WHITE: Thank you.

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

AYES: COUNCILMEMBERS ATAY, COCHRAN,  
CRIVELLO, GUZMAN, HOKAMA, SUGIMURA,  
VICE-CHAIR CARROLL, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBER KING.

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

And we'll go to Mr. Carroll.

**DISCUSSION AND ACTION RELATING TO  
COUNTY COMMUNICATION NO. 18-288**

VICE-CHAIR CARROLL: Thank you, Chair.

I MOVE TO ADOPT THE PROPOSED RESOLUTION ENTITLED "APPROVING THE APPOINTMENT OF JAMES B. FORREST AS A LEGISLATIVE ATTORNEY IN THE OFFICE OF COUNCIL SERVICES", AND FILING OF THE COMMUNICATION.

COUNCILMEMBER SUGIMURA:

SECOND.



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

Mr. Carroll.

VICE-CHAIR CARROLL: Thank you, Chair. James B. Forrest obtained his Law Degree from Texas U, Tech University, School of Law, and is admitted into the State Bar of both Hawaii and Texas.

With over 14 years of attorney and legislative experience, James has worked for the Hawaii State Legislature in 2016, under Representative Karl Rhoads. Most recently, we worked for the Texas Municipal League, in-house counsel, and as general practice attorney at the Law Offices of James Braxton Forrest in Texas.

James' experience will make him a valuable addition to the Office of Council Services. I ask for the Council's support in this resolution.

CHAIR WHITE: Thank you, Mr. Carroll.

Any further discussion?

COUNCILMEMBER HOKAMA: Chairman. Chairman.

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, I speak against the motion this morning. Excuse me, Members. For those that have yet to have gone through an end of term experience like some of us have, I've gone through quite a few, I can tell you at this point in time I cannot see the benefit of hiring someone brand new, okay.

We've had a tough term. Maybe one of the most challenging since the Charter created a Council and Mayor form of government. Seventh floor is lacking, okay. It is what it is, and we need to make improvements and adjustments. But, at this point in time, seeing who we have as our current staff, seeing who is going to need to be assigned additional potential duties for a brand-new employee that needs to go through training and some internship, look where we are in the term. We have basically, take care his paperwork, starts September 1, September 15, there's maybe two more months of Committee work, so early November. Then, we prepare for end of term, okay.

So, is it better to hire someone brand new that existing staff now has to go and do additional work, okay? I know the workings of what's going on downstairs. Look who's taking vacation, approved vacation already. Who's going to do the training? Who's going to do the requirements of existing Committee Chair's? Cause, I'm tired of my

Committee getting impacted a lot through my staff, okay. I know who's not going to be here during those months; the very ones that asking for this position. Have they been through end of term? Not to my satisfaction. I don't even know if they're capable of knowing what we're going to need to do for end of term.

So, I would say, Members, I hope you've been talking to experienced staff, because you got to know what this decision is going to place on them, okay. We are not the ones that's going to have to suffer through this three more months, four more months. And, end of term, Members, what happens at end of term? We're going to have a new Administration. We will have attorneys currently working for this County that will become available for potential consideration by the new Council. Why wouldn't we look at potentially those that already know our system, know the process?

I've worked ten years at the Capitol, as a clerk for standing committees of the House and Senate. It's not the same thing. Their procedure and ours is totally different. There is no advantage for a person that's worked there one, one session to this Council; nothing. They have to understand how this organization works, how our procedures are. Cause I'm not satisfied with how the thinking on the seventh floor is. And, if need be, let's go executive, cause if we want to talk personnel, let's talk personnel. But, I will not support this crazy recommendation from seventh floor this morning. Thank you.

CHAIR WHITE: Thank you, Mr. Hokama.

Ms. Crivello.

COUNCILMEMBER CRIVELLO: Thank you, Chair. I too at this time cannot support approving this appointment. Number one is I have to, my train of thoughts is the same; we're reaching the end of our term, he comes in September, and then we have October, and November it opens up to who will be the new leadership for this Council, who will be back in here for this Council? So, I think, you know, to bring somebody to allow us to hire a new legislative attorney for just September-October, and then I also have the information that there will be a . . . of vacation from our attorney. So, and then we're having the transitioning of our supervising attorney that probably will be transitioning out of Office of Council Service. So, question is, who will be training our new hire?

And, the, I can appreciate the intent and my understanding there were just limited applicants for this position, and both of them are from the mainland. And yes, he has, he does have one, I understand with Senator Rhoads, one session with the Senator at our local State Legislature.

So, I want us to really consider why we have this push right now. We've experienced absence of our supervisor attorney. We've experienced the absence of a director from a limited time. And then we're saying we need this attorney to prepare for us as we're hitting the finish, the finish line. The finish line is also going to determine who the new leadership will be, and maybe that leadership would like to have everybody else comes up again for renewal.

And, I, I just think there's not enough time for, for this new hire on the attorney side to be able to get the training that this person will need. I understand our Supervising Attorney leaves October, whether it's the end or not. I also understand that our other legal analyst will be on vacation September-October; my understanding, I may be wrong. So, who's, who's the trainer? Who's going to be available to really work with the Committees on, on the legal side?

That's, that's my concern; for us to, the rationale why, why we want to make sure we have this attorney at, hiring of the attorney at this time of, at, where we're at with us as Council, Chair. So, for this kind of flippy floppy reasons, I, I cannot at this time support a hiring of our, nothing personal, but at this stage of the game for us to hire the legislative attorney in the Office of Council Services. Thank you, Chair.

CHAIR WHITE: Thank you, Ms. Crivello.

You know, the Chair would just like to offer a couple of comments. I understand the, the concerns of Members Crivello and Hokama. I would have a better time accepting the rationale had more Members actually taken the time to interview this young man, who's had not just the experience on Oahu, one session there, but he's been a legislative attorney for I believe 15 years. So, he comes to us with a significant amount of research background, drafting background, and so this is not a, a newbie that's going to need a lot of training.

There are four of us who are not going to be coming back next year. The Chair's job is not to just simply leave us with a flat tire. And, I think that's what will happen. You all know that we have been running with, with very low resources in the, in the attorneys' realm, and we will be running even lower.

This is not a, in my view, it's not a measure to get us to the end of the term. This person understands that he has one, you know, one opportunity to prove himself or he won't be reappointed next time around. And, he's willing to take that chance, and come out, and prove to those of you who will be returning that he's worthy of your support.

I have to say that I went into the interview with him, with mostly the emotion that I got to do this because, you know, he's asked for an interview and he's qualified, more than

qualified. But, I really didn't think that I was going to be terribly excited about it. I came out of the interview feeling like this guy is really sharp. And he's, he's ready and willing to move out here with, as he said, two suitcases, his guitar and his ukulele, and he'll take his chances.

But, I believe that he will be an asset to this organization or I wouldn't have put it up on the agenda. I understand the hesitation, but at the same time, my job is not to leave us with a flat tire at the end of the year. You all know that we've had a very difficult time attracting attorneys. This is a person that I feel is going to do a very good job for the, the Council, for years to come.

So, those are my feelings. It's up to this body to, to determine for themselves what, what shape you want it to be in when the new term starts. I don't believe that it's my job to leave the next Council scrambling for legal resources. So, any further discussion on this item?

VICE-CHAIR CARROLL: Chair.

CHAIR WHITE: Mr. Guzman, followed by Mr. Carroll.

COUNCILMEMBER GUZMAN: Thank, thank you, Chair. And, I appreciate my colleagues' input, as well as yours, Chair. My question is, as Mr. Hokama and Ms. Crivello had stated in their opinion, do we have the resources for training? And, and it appears that just by listening, it sounded like there was two of our legislative attorneys that will be absent, I believe, for the October through December?

CHAIR WHITE: No. The, the timeframes mentioned are not quite right. We have--

COUNCILMEMBER GUZMAN: Okay. Can you clarify?

CHAIR WHITE: We will, we will have the resources for him to get a fair amount of time in training that would not, not draw from the two that will, will be staying with us.

COUNCILMEMBER GUZMAN: Okay. Okay. And then, he's very well aware that there's a reappointment process at the end of the year?

CHAIR WHITE: Correct.

COUNCILMEMBER GUZMAN: Okay.

CHAIR WHITE: We made that very clear.

COUNCILMEMBER GUZMAN: So, it's basically a three months trial period?

CHAIR WHITE: Right.

COUNCILMEMBER GUZMAN: Like any private sector would have.

CHAIR WHITE: Correct.

COUNCILMEMBER GUZMAN: Okay. Alright. Thank you.

CHAIR WHITE: Yea, basically a probationary period for lack of a better term.

Mr. Carroll.

VICE-CHAIR CARROLL: Thank you, Chair. I, like many of my fellow Councilmembers, have a lot of irons in the fire, not only with my Committee but with other special projects that Corporation Counsel, I mean, Corporation Counsel, that the seventh floor, our attorneys and staff work on. It's really stressed down there.

It's very difficult, because there is so much going on, and because it's not like we have one person assigned to us, only to us. The one legislative attorney attached to me has just about on every other committee. We restructured down there to make it a little bit better and try to take off some of the pressures with a new person that came inside. I notice most of the training is a person that's attached to an existing person and works with them a lot. It takes a lot of the load off of them. So, that works quite well.

We really need somebody down there. I don't think the training is going to be detrimental, and as far as adversely affecting the work on the seventh floor. I think it will enhance it because we will have some relief for some of our people down there. It'll at least spread the work out to a degree. It's not like we're hiring somebody off the street that's not knowledgeable and doesn't know anything. We have somebody over there that does have knowledge. I would urge the Members to think of the people on the seventh floor that really allow this operation to function. And, without, we would be really in dire straits.

And, right now, I get calls from the staff assigned to me on the seventh floor after hours. I had one call at 6:35 this morning, trying to go there and keep up, and work with the issues that I have to deal with. There's just too much pressure down there. I really think that we need to get this person on board. Thank you, Chair.

CHAIR WHITE: Thank you, Mr. Carroll.

Any further discussion, Members?

Mr. Atay.

COUNCILMEMBER ATAY: Thank you, Chair. First off, I want to say thank you for your in-depth explanation of understanding why you brought this forward. Initially, when Member Carroll made the motion, I was kind of sitting like, yes but with reservation. But, but for me to move forward, is it okay if I can get a word from the Director of Council Services, so that we can, I can better understand what's going on, on that floor and the necessity of this now, the position now, or is it okay to hold off, or?

CHAIR WHITE: Certainly. Director.

DIRECTOR OF COUNCIL SERVICES MARIA ZIELINSKI: Thank you, Chair. Councilmember Atay, to respond to your question, you know we have, as you know, we have three attorneys right now. We have one supervising attorney who is going to be retiring, and basically out of the office by the middle or late, latter part of October; then we have two others. And, I know you know them; you've worked with them. And as you know, all of the Councilmembers, I'm sure, know that, you know, we have, it's, everybody is extraordinarily busy and kind of double-teaming in many cases. We have, the attorneys are manning committees, that sort of thing as well.

So, this position is really needed. We need an additional person, additional attorney. You know, we did look and I, I, looked at to, to make sure that we had the, we had the training ability that we could. Our supervising attorney will be around. If in fact this individual is confirmed, he would probably start September 1. And, our supervising attorney is, is here until the latter part of October, at least. So, that's, you know, a month and a half of solid training. He's an excellent trainer, I can tell you.

In addition to that, the other two, two attorneys actually have met this individual. Not in person, but by go-to meeting, and because I wanted to make sure that they were comfortable with him. Even though that he had passed the selection panel and all of that process, I felt it was important that they felt he was a good fit, and that he would be a good team worker, team player with them. So, I had, actually had them meet with him. And, I wasn't in the room, and they met with him for over an hour. And, they came out and they said, we feel very comfortable with him, no red flags, we could work with him.

So, those were all kind of the reasons why, you know, we thought we could, should advance this and then ultimately had the Chair and offered it to you folks as well. So, we do believe we have the training. The other two attorneys have agreed they will also train. We also have a person who is on contract, who is retired, who can certainly give him some of the basics if necessary. But, I think with our supervising attorney around for at least a month and a half, he can definitely train him on the basics.

And, as Chair indicated, you know, he's, this, he's not new to legislative type of, you know, being a legislative attorney. This is not new to him. So, I believe that he can hit the ground running. He's already asked me if I do get confirmed, can you start sending me documents that I can start reviewing. And, as far as, not, not confidential documents, just as far as protocol doc, you know, as far our processes, policies, and procedures. So, he's very much motivated to get this, do this right, and to succeed obviously. And, we want him to succeed. So, the need is definitely there.

And, at the end of the day, you know, my concern also is our two remaining attorneys. Once our supervising attorney is gone, we have two people. And, if I have one that's on vacation, and I don't, they don't have anything sche, they don't have anything scheduled towards the end of the year simply because we have inauguration and transition issues that have to be handled. But, if one is out sick or whatever, we have one person. I mean, we are, we really cannot, you know, I don't feel we can operate in a very, you know, efficient manner that way. So, in my mind, this, this individual who's as qualified as he is, is critical to the, you know, operation of OCS.

CHAIR WHITE: Any further questions, Mr. Atay?

COUNCILMEMBER ATAY: Thank you, Director, for your explanation. With that, I have a better understanding, and a better understanding from Chair's explanation. So, my understanding would be that this individual, if accepted, there will be adequate time, at least a month and a half, close to two months, of the supervisor training that person. Then that supervisor will leave. That will leave only three, two--

CHAIR WHITE: Two.

COUNCILMEMBER ATAY: --two regulars and this new one. And, the possibility that any one of them can go on vacation in November-December, I understand. And, for me, personally myself, my, my office, you know, we have a lot of requests for legal input and I, I see the necessity that we do need this. And, following along Member Guzman's thought that this would probably be like a probationary period prior to the end of the year. So, I'll change my reservation position to supporting this motion.

CHAIR WHITE: Thank you.

Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Thank you, Chair. I had the privilege of also interviewing Mr. Forrest, and I do have his resume here. And, as you can, as you all know, because it was shared with us, that he has actually 14, over 14 years of attorney legislative experience. So, not only is he an attorney, but he also has experience working in our type of business. So, I thought that was important. I inquired how many applicants did we have. And, we had ten total for this position, seven of which did not have the Hawaii State Bar attorney's, you know, license. So, that took them out of the race.

And, the three remaining, I'm not sure if all of them wanted to, but I think Mr. Forrest took the exam. And, I don't know if the other two wanted to and didn't. But, he qualified in, in ways that are, well, mandatory, right; passed the exam, and to have your Hawaii State Bar License. So, he also has his Texas as well as Hawaii. So he made sure that he had that even before, way before this happened.

I asked him why did he leave Hawaii? He was, he worked for the Legislature 2016 Session. I asked him why did he leave if he's so anxious to come back? And, he said, because he had to take care of his mother. And, for family reasons, he went back to Texas, and he has a brother, and they both take care of his mother who has polio, I believe. So, they've got that worked out. So, as a family emergency, he took care of what he needed to, which I thought showed a lot of integrity.

And, I did ask him also the question, I said, you realize that we are a two term, you know, Council, and that come January 2, there's going to be a whole new Administration and that, you know, things will change. And, you know, he may or may not get appointed and you're going to come all this way. And, he said that, kind of what Mr. Guzman was saying, that he said he's going to be on like a probationary period, he's going to work really hard to make sure that he would be considered for possible appointment for the, the new body that gets formed.

I like his attitude, because I think, as you all know, a lot of what you do, if you're going to get good at it, takes, you know, attitude. And, I just wanted to hear him say that he's willing to come if this body so approves of him today, and to work really hard. And, another interesting thing that he told me is that by looking for a place to live, coming to Maui if he gets appointed, that he found someplace in Wailuku so that he could be close to work, which to me just talks about his intention to do a good job, and to put the hours in to do the work that we need.



The other thing is I asked Director, I asked Maria for more information. And she said that Carla and Tracy, the attorneys, legislative attorneys, our existing ones, or as far as, and also Greg, but Carla and Tracy also interviewed him and they were fine with him. So, that made me feel at ease because I'm sure they would have a lot of interaction with them. And their work, you know, they would have to work together.

And, Carla being, you know, our most experienced, I think to me, I wanted to really hear what she had to say, because she's been around the longest and has probably seen the most change. And, I don't know what the end of term means, but it must be a lot for everybody in, on the seventh floor. So, but, anyway, I, I just wanted to share all these, kind of bits and pieces of information that I picked up through Mr. Forrest's interview and by talking to other people, just wanted to make sure that this was the right decision.

And, Chair, I appreciate the fact that you're just trying to solidify what we need to do to have a, you know, smooth working Office of Council Services. And, I think you were looking for, you know, many more months before this has come before us. So, it's not like something that just popped up, you know, suddenly. I also know that by a change in your office, which was when Troy, who is, who was your executive assistant, but when Troy went off to be your, you know, State Representative and do that work, that I think that left a gap in the office too. So, to me that, that left some shuffling in the Office of Council Services. So, kind of just a combination of everything. I appreciate you trying to fill this gap.

And, no, we do not have to appoint him for the new term. And, he will be working hard to try to be appointed with everybody else that, that gets accepted, I'm sorry, through the, through the new Council, January 2, in 2019. So, Chair, that's, I just want to give you some of my thoughts that I picked up over time. Thanks.

CHAIR WHITE: Thank you, Ms. Sugimura.

Any further comment, Members?

Mr. Hokama.

COUNCILMEMBER HOKAMA: Last comment, Chair. And, I'm glad the Members admit they don't know what it takes to close end of term, okay. Staff, well, not all the staff, certain staff knows what end of term means, okay. And, you know, hearing the other Members questions and the responses, I find interesting. I guess we kind of strayed from our own recruitment policy, because I didn't know the Director take that much of a role in helping to advocate for a potential hire.

All I can tell you, Members, is since we left, we lost Ken Fukuoka, we've gone toward the bottom of the heap, okay. And with every succeeding director, gone down the slippery, sloping, quality work production, and employee satisfaction from the Members. So, you know, it is, this is going to be what it is. But, I will tell the staff now, I'm going to hawk you till the end of this term. And, we'll see who comes back and doesn't come back, including myself. Thank you.

CHAIR WHITE: Thank you, Mr. Hokama.

You know, the Chair would just add that beginning of the term, what I would submit is just as busy, and just as much in need of support as end of the term. So, you know, again, I'm not coming back. This is not for me. This is to give the incoming Council an option that is not available if we just leave the position open. So, I think this is the responsible thing to do.

And, and, yes, Ms. Crivello.

COUNCILMEMBER CRIVELLO: Thank you, Chair. I, I really appreciate, I appreciate you. And, I would have to echo what my colleague Yuki Lei Sugimura made mention about the, the exiting of our, your executive assistant, and not being there. So, I, I want to ask the question, would our Director, as well as some of our new hires or analysts, who is doing the training? I mean, who's training our Director? Who's training our, our OCS staff?

And, to me, that, that's the kind of consideration we have to take into play too. Not to take anything away on the efforts of everyone that's in place today, but it also has an impact on those that are extending their expertise in training existing staff.

I have often heard many concerns from staff members and, and others. And, I'm just, I'm just an ear, but I know you, you hear a lot of that concern addressed to you, Chair. And, I continue with that kind of concern. We've had our period of dry bones, you know. And, we, I, I think we're slowly recovering. But, can we, I guess my question is, or my comment is, I feel we can manage at this point. But, you know, that coming from you, I can appreciate that. But, I stand by my negative vote in hiring the position for the legal analyst. So, thank you.

CHAIR WHITE: Okay. Thank you, Ms. Crivello.

No further discussion. All those in favor please signify by saying "aye".

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

CHAIR WHITE: Those opposed say "no".

NOES: COUNCILMEMBERS CRIVELLO AND HOKAMA.

EXCUSED: COUNCILMEMBER KING.

CHAIR WHITE: I heard two "noes"; Hokama and Crivello. Any others? Okay, thank you. The measure passes with six "ayes", two "noes", and one "excused"; and the excused Member is Ms. King.

Thank you. Okay, any, any further, any objections to the referrals as read by the Clerk? Seeing none, we'll move onto the next item.

Mr. Clerk.

DEPUTY COUNTY CLERK: Relative to County Communication 18-287, for the record, RESOLUTION 18-132. And, relative to County Communication 18-288, for the record, RESOLUTION 18-133.

Mr. Chair, proceeding with general communications for referral.

### GENERAL COMMUNICATIONS

NO. 18-6 - CRAIG K. HIRAI, HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION, (dated July 5, 2018)

Relating to the proposed 200-unit affordable family rental project north of the Keawe Street Extension in Lahaina, Maui, Hawaii, to be named, "Keawe Street Apartments at the Villages of Leiali'i". TMK No. (2) 4-5-021:003 (por.).

The recommended action is that General Communication No. 18-6 be referred to the Housing, Human Services, and Transportation Committee.

NO. 18-7 - CRAIG K. HIRAI, HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION, (dated July 5, 2018)

Relating to the proposed Kahului Civic Center Mixed Use Project consisting of office space/civic center uses, a new Maui Bus hub, affordable housing, parking and ancillary uses at 153 West Kaahumanu Avenue, Kahului, Maui, Hawaii, and 70 South High Street, Wailuku, Maui, Hawaii.

The recommended action is that General Communication No. 18-7 be referred to the Housing, Human Services, and Transportation Committee.

CHAIR WHITE: Thank you, Mr. Clerk. Any objections to the referral to the Committee as read by the Clerk?

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: Seeing none, thank you. So ordered.

Mr. Clerk.

DEPUTY COUNTY CLERK: Mr. Chair, proceeding with Committee Reports.

### COMMITTEE REPORTS

COMMITTEE REPORT  
NO. 18-118 - BUDGET AND FINANCE COMMITTEE:

Recommending the following:

1. That Resolution 18-132, entitled "AUTHORIZING THE EMPLOYMENT OF SPECIAL COUNSEL HAWKINS DELAFIELD & WOOD LLP, FOR THE COUNTY OF MAUI 2018 GENERAL OBLIGATION BOND ISSUANCE," be ADOPTED; and
2. That County Communication 18-221, from the Director of Finance, be FILED.

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, with no objections from the Members, I would request the Clerk to bring up all reports under Budget and Finance.

CHAIR WHITE: Any objections?

MEMBERS VOICED NO OBJECTIONS.

CHAIR WHITE: So ordered.

COMMITTEE REPORT  
NO. 18-119 - BUDGET AND FINANCE COMMITTEE:

Recommending the following:

1. That Bill 66 (2018), entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 3.08, MAUI COUNTY CODE, BY ADDING A NEW SECTION RELATING TO COUNTY INVESTMENTS," be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That the Miscellaneous Communication, from the Deputy County Clerk, be FILED.

COMMITTEE REPORT  
NO. 18-120 - BUDGET AND FINANCE COMMITTEE:

Recommending the following:

1. That Bill 67 (2018), entitled "A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION FOR THE HOUSING TRUST FUND PROGRAM," be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 18-223, from the Director of Housing and Human Concerns, be FILED.

COMMITTEE REPORT

NO. 18-121 - BUDGET AND FINANCE COMMITTEE:

Recommending the following:

1. That Bill 68 (2018), entitled "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2019 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO APPENDIX B, REVENUES – FEES, RATES, ASSESSMENTS AND TAXES, DEPARTMENT OF PARKS AND RECREATION, GENERAL FUND, CHARGES FOR CURRENT SERVICES, SCHEDULE OF FEES AND DEPOSITS," be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 18-248, from Councilmember Riki Hokama, be FILED.

COMMITTEE REPORT

NO. 18-122 - BUDGET AND FINANCE COMMITTEE:

Recommending that Bill 69 (2018), entitled "A BILL FOR AN ORDINANCE AMENDING APPENDIX A OF THE FISCAL YEAR 2019 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO PART II, SPECIAL PURPOSE REVENUES – SCHEDULE OF REVOLVING/SPECIAL FUNDS FOR FISCAL YEAR 2019, AFFORDABLE HOUSING FUND," be PASSED ON FIRST READING and be ORDERED TO PRINT.

COMMITTEE REPORT

NO. 18-123 - BUDGET AND FINANCE COMMITTEE:

Recommending that Bill 70 (2018), entitled "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2019 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO APPENDIX A, PART I, GRANTS AND RESTRICTED USE REVENUES – SCHEDULE OF GRANTS AND RESTRICTED USE REVENUES BY DEPARTMENTS AND PROGRAMS, DEPARTMENT OF PUBLIC WORKS (STATE OF HAWAII – OLD HALEAKALA HIGHWAY SIDEWALK)," be PASSED ON FIRST READING and be ORDERED TO PRINT.

COMMITTEE REPORT  
NO. 18-124 - BUDGET AND FINANCE COMMITTEE:

Recommending that Bill 71 (2018), entitled "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2019 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO APPENDIX A, PART I, GRANTS AND RESTRICTED USE REVENUES – SCHEDULE OF GRANTS AND RESTRICTED USE REVENUES BY DEPARTMENTS AND PROGRAMS, OFFICE OF THE MAYOR (STATE OF HAWAII DEPARTMENT OF AGRICULTURE – KULA AGRICULTURAL PARK EXPANSION)," be PASSED ON FIRST READING and be ORDERED TO PRINT.

COMMITTEE REPORT  
NO. 18-125 - BUDGET AND FINANCE COMMITTEE:

Recommending that Bill 72 (2018), entitled "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2019 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO APPENDIX A, PART I, GRANTS AND RESTRICTED USE REVENUES – SCHEDULE OF GRANTS AND RESTRICTED USE REVENUES BY DEPARTMENTS AND PROGRAMS, DEPARTMENT OF WATER SUPPLY (STATE OF HAWAII – UPCOUNTRY MAUI AGRICULTURAL PARK, MAUI WATER SYSTEM IMPROVEMENTS)," be PASSED ON FIRST READING and be ORDERED TO PRINT.

CHAIR WHITE: Thank you, Mr. Clerk.

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, thank you.

CHAIRMAN, I MOVE THAT ALL COMMITTEE REPORTS AS BROUGHT UP BY THE CLERK, THAT THE COMMITTEE REPORT ALONG WITH ITS RECOMMENDATIONS BE ADOPTED BY THE COUNCIL.

COUNCILMEMBER COCHRAN:

SECOND.

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

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, the first report is, of course, a resolution that your Committee is recommending adoption regarding employment of a Bond Counsel for the County's future bond authorization that we're going to go out for in the short-term future.

All other reports and recommendations as it, as it pertains to your Committee's prerogatives are recommending first reading, be ordered to print of various bills. One, I would say, we are currently placing into position, support for the Front Street Apartments in West Maui. We are also placing forth funding and associate support for expansion of Kula Agricultural Park. There is also safety monies involved for Upcountry sidewalk improvements, Chairman. So, other than that, I would say that your Committee is recommending all of these.

And again, Chairman, I make note that part of, for the community, is to go back to the committee reports for a sense of intent and understanding of the Committee's discussion and action. It is a critical part of our process; the committee report, not just the minutes, okay. So, for other Committee Chairs, I would say that committee report is an essential component that you need to ensure the sufficient amount of detail to ensure clarification and understanding by our community. Thank you, Chairman.

CHAIR WHITE: Thank you, Mr. Hokama.

Any further discussion?

Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Thank you, Chair. And, thank you, Member Hokama. I just want to express appreciation for this passing as it involves the Kula Ag Park, the water system, as well as that sidewalk.

And, tied to the item that we passed before for the legislative, a legal analyst, I want to commend Michele Yoshimura, cause she worked so hard in the Budget Committee. And, I know that all this work, I'm looking at how many committee reports she did, and exactly what Member Hokama said, cause he's so detailed, and particular about the committee report. But, she does a great job. And, I think I failed to mention during our last discussion that Michele also was a huge part of what keeps that downstairs running. So, thank you. Thank you, Mr. Hokama. And, thank you, Ms. Yoshimura.

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



AYES: COUNCILMEMBERS ATAY, COCHRAN,  
CRIVELLO, GUZMAN, HOKAMA, SUGIMURA,  
VICE-CHAIR CARROLL, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBER KING.

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

Mr. Clerk.

DEPUTY COUNTY CLERK: Relative to Committee Report 18-118, that's RESOLUTION 18-134. Relative to Committee Report 18-119, BILL 66 (2018). Relative to Committee Report 18-120 is BILL 67 (2018). Relative to Committee Report 18-121, BILL 68 (2018). Relative to Committee Report 18-122, BILL 69 (2018). Relative to Committee Report 18-123, BILL 70 (2018). Relative to Committee Report 18-124, BILL 71 (2018). Relative to Committee Report 18-125, BILL 72 (2018).

COMMITTEE REPORT  
NO. 18-126 - HOUSING, HUMAN SERVICES, AND TRANSPORTATION  
COMMITTEE:

Recommending that Bill 73 (2018), entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 11.01.020, MAUI COUNTY CODE, RELATING TO DEFINITIONS FOR PUBLIC TRANSIT," be PASSED ON FIRST READING and be ORDERED TO PRINT.

CHAIR WHITE: Ms. Crivello.

COUNCILMEMBER CRIVELLO: Thank you, Chair. Your Housing, Human Services, and Transportation Committee met on July 5, 2018, and July 19, 2018, to discuss paratransit fares.

CHAIR WHITE: We, we need a motion.

COUNCILMEMBER CRIVELLO: Oh, e kala mai.

I MOVE TO ADOPT THE RECOMMENDATION IN COMMITTEE  
REPORT 18-126.

COUNCILMEMBER SUGIMURA:

SECOND.

CHAIR WHITE: We have a motion from Ms. Crivello, and a second from Ms. Sugimura.

Ms. Crivello.

COUNCILMEMBER CRIVELLO: Okay. Thank you, Chair. Your Housing, Human Services, and Transportation Committee met on July 5, 2018, and July 19, 2018, to discuss paratransit fares, student fares, and the individual human services transportation programs. The discussion centered on the definition of the term "Student", as it relates to public transit in the Maui County Code.

The Director of Transportation informed the Committee that as a result of the Fiscal Year 2019 budget deliberations, the monthly public transit fares for paratransit riders was increased from \$30 to \$45. Some paratransit riders, who are also college students, have inquired about being eligible for the monthly public transit student fare.

The Committee discussed a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 11.01.020, MAUI COUNTY CODE, RELATING TO DEFINITIONS FOR PUBLIC TRANSIT".

Currently, Section 11.01.020, Maui County Code, defines "Students" as a person age 6 through 17, subject to the presentation of a valid identification card establishing the age of the person. The term includes high school students up to 19 years of age with a valid high school student school identification card establishing the age of the high school student and the high school student's current enrollment, but excludes college, university, and vocational training students ages 18 years and older.

The purpose of the proposed bill is to amend the definition of the "Student" in Section 11.01.020, Maui County Code, to include a person enrolled in college, university, or vocational school up to 24 years of age with a valid college, university, or vocational school identification card.

Further, this will also encourage and promote the use of the public transit system to Maui's younger generation in an effort to decrease the number of vehicles on our roads.

Your Committee recommended the adoption of the proposed bill, and I ask my Members for their support. Thank you, Chair.

CHAIR WHITE: Thank you, Ms. Crivello.

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

AYES: COUNCILMEMBERS ATAY, COCHRAN,  
CRIVELLO, GUZMAN, HOKAMA, SUGIMURA,  
VICE-CHAIR CARROLL, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBER KING.

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

Mr. Clerk.

DEPUTY COUNTY CLERK: For the record, BILL 73 (2018).

COMMITTEE REPORT

NO. 18-127 - INFRASTRUCTURE AND ENVIRONMENTAL MANAGEMENT COMMITTEE:

Recommending that Bill 74 (2018), entitled "A BILL FOR AN ORDINANCE ESTABLISHING CHAPTER 20.40A, MAUI COUNTY CODE, DECLARING A CONTINUED MORATORIUM ON SAND MINING OF CENTRAL MAUI INLAND SAND," be PASSED ON FIRST READING and be ORDERED TO PRINT.

CHAIR WHITE: Thank you.

Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair.

I MOVE TO ADOPT THE RECOMMENDATION IN COMMITTEE  
REPORT 18-127.

COUNCILMEMBER HOKAMA:

SECOND.

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

Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair. The purpose of this proposed bill is to enact a continued moratorium on sand mining of central Maui inland sand until the Council determines the purposes established in the proposed bill have been satisfied, or December 31, 2018, whichever is sooner; and to allow the Council, by resolution, to extend the term of the moratorium on sand mining of central Maui inland sand prior to the repeal of the ordinance. Upon approval, the ordinance would be retroactive to July 19, 2018, the expiration date of the first ordinance.

Your Committee recommend passage of the bill at first reading, and I, at this time respectfully ask for Members support of my motion. Thank you, Chair.

CHAIR WHITE: Thank you, Ms. Cochran.

Members, any discussion on this item?

Mr. Carroll.

VICE-CHAIR CARROLL: Thank you, Chair. I support this bill for first reading. For everybody's information, we are working on a actual bill that would satisfy the requirements of this moratorium, and another bill looking to protect our kupuna's iwi. Thank you, Chair.

CHAIR WHITE: Thank you, Mr. Carroll.

Any further discussion?

Mr. Guzman, followed by Ms. Sugimura.

COUNCILMEMBER GUZMAN: Thank you, Chair. I, along with Mr. Carroll, will support this measure on the extension. As stated previously in other meetings, back in October of 2017, on the Council floor, I had introduced two bills. One was the bill that would clarify the definition of grubbing and grading, and source extraction under Chapter 19, which required the, the planning commissions to review that bill. It went forward to the planning commissions and have now returned to Mr. Carroll's Committee.

The other bill is, as Mr. Carroll indicated, is under Chapter 20, and that deals with the permit processes, and more, more or less the iwi kupuna, the checks and balances with SHPD. Also, in that bill has the entry of the properties which would be granted, as well as the presentation, or the preservation plans and the 45-day recommendations. All of these measures, or can, provisions would clean up, or at least fill in the loops that we feel are the problem as the, as the dysfunction.

Again, back in October of 2017, I did request the IEM Chair to take these two bills into her Committee so that we could somewhat fast-track them. However, Ms. Cochran refused, so they did go to Mr. Carroll's Committee. And, understandably, Mr. Carroll has a very much so packed agenda. We went through the budget. So, there was a time period wherein all the Committees were basically in abeyance until now.

We did have three meetings on the Chapter 20 bill which would clarify the loops, in terms of the working relationship with SHPD. And, we had invited SHPD to an internal meeting with Public Works. And it was amazing meeting, because of the fact that over the period of time over the years there had been a breakdown of communication and processes. So, just to have that ability to get on the same page and codify some of the procedures, I think these two bills in working in tandem together will really be a resolution and solution of what is, what we are facing in terms of the moratorium.

So, unfortunately it took, it's taken longer than expected and, but there is hope. There is hope that these two bills will, will be passed within this year, or at least be presented in Mr. Carroll's Committee. And, I know Mr. Carroll has been working hard on, on expedited these two bills. Thank you, Chair.

CHAIR WHITE: Thank you, Mr. Guzman.

Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Thank you, Chair. So, I have a question, basically. So, I know we've talked about Mr. Guzman's bills as being the answer to, you know, the, to solve the problems that were brought up during the sand mining discussion in IEM. And, I wondered if these bills passed, then does it have any impact on the, in the sand moratorium bill?

CHAIR WHITE: Mr. Guzman.

COUNCILMEMBER GUZMAN: Yes, thank you, Chair. As one of the, as two of the conditions of the moratorium bill indicated, one of the conditions was that we, we as the Council, at least produce or pass bills or measures that would address the issues. And number two, that there would be a sand study conducted. And, so, I believe there was a meeting in IEM that Public Works has, had indicated that they're still in the process of completing the sand study. So, those two conditions within the moratorium bill have not yet been met. So, it is appropriate that we extend the, this bill, the moratorium, until those two conditions are met. Thank you.

COUNCILMEMBER SUGIMURA: So, just a clarification then, cause we, Public Works did say that they wanted an extension of time with the contractor which, which may be a few months to get that sand. It's a quantification study, so it's not about iwi kupuna, right. So, just, everybody's clear, it's about how much sand is left.

And then, with Mr. Guzman's bill, once that passes, then, and the quantification study done, if it's before December 31, 2018, which is when this moratorium would be extended to, that this would die?

COUNCILMEMBER GUZMAN: Yes. Chair, may I answer? Yes, it, it's in the provision of the moratorium that it would automatically, once the, there are measures that are passed, as well as the sand quantification study are, is completed, then it would automatically sunset.

And, just addressing Ms. Sugimura's other question is that the two bills; one, which was Chapter 19, specifically deals with sand extraction which is the source, you know, the source of our sand as a resource, natural resource. And, the second bill, which is under Chapter 20, deals with the iwi kupuna and how the processes and the reports are conducted, and in working in conjunction with our Public Works, and tightening the, and tightening the process so that there is more checks and balances as they go through the permit process.

So, it, so there's two. So, there's, we're talking about the cultural which is Chapter 20, and the sand resource which is Chapter 19. So, two bills. Thank you.

CHAIR WHITE: Thank you, Mr. Guzman.

Any further?

Ms. Sugimura.

COUNCILMEMBER SUGIMURA: One more last question. So, when is it going to be heard?  
When is Land Use going to--

CHAIR WHITE: Well, that's, that's up to Mr. Carroll.

COUNCILMEMBER SUGIMURA: Oh, okay.

CHAIR WHITE: So, any further discussion on this item?

Yes, Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair. And, I just want to state that I have been in contact with Mr. Carroll and appreciate him alleviating my packed master agenda in IEM, and, and that's how it got there. So, currently, I have worked, come in every day, and worked very, very hard to alleviate my agenda. And at this time, if so needed, I'm more than willing to transfer them back into my Committee. But, that was how that had gotten worked out.

And, as for the couple bills, I feel, there's, OHA has commented; one will do more harm than actually help. And, I am currently drafting more solid legislation in order to protect our iwi kupuna in perpetuity and have the blessings of the iwi protectors. So, there's more work to be done most definitely. But, since I again have worked extremely hard lately to alleviate my master agenda, I am able to take them immediately. But, if Mr. Carroll's ready to, then, then so be it. But, just wanted to explain that. Thank you, Chair.

CHAIR WHITE: Okay. Thank you, Ms. Cochran. Any further discussion?

All those in favor please signify by saying "aye".

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

CHAIR WHITE: Those opposed say "no".

NOES: COUNCILMEMBER SUGIMURA.

EXCUSED: COUNCILMEMBER KING.

CHAIR WHITE: I heard one "no"; Ms. Sugimura. Any others? Okay, measure passes with seven "ayes", one "no", and one "excused"; Ms. King.

Mr. Clerk.

DEPUTY COUNTY CLERK: For the record, BILL 74 (2018).

COMMITTEE REPORT

NO. 18-128 - POLICY, ECONOMIC DEVELOPMENT, AND AGRICULTURE COMMITTEE:

Recommending that the Miscellaneous Communication dated May 21, 2018, reporting that the Council referred the matter relating to a proposed Constitutional amendment to allow a surcharge on real property taxes to fund public education, be REFERRED to your Budget and Finance Committee.

CHAIR WHITE: Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Thank you, Chair.

I MOVE TO ADOPT RECOMMENDATIONS IN COMMITTEE REPORT 18-128.

COUNCILMEMBER COCHRAN:

SECOND.

CHAIR WHITE: We have a motion from Ms. Sugimura, and a second from Ms. Cochran.

Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Thank you, Chair. Your Policy, Economic Development, Agriculture Committee met on July 23, 2018, to consider the matter relating to the proposed Constitutional amendment to allow a surcharge on real property taxes to fund public education.

The Constitutional amendment, if approved by voters in the general election in November, would give the State the power to create an investment real property surcharge, generating hundreds of millions of dollars, verbatim "hundreds of millions of dollars" for the public school systems.



However, due to many obscurities with the proposed legislation, including failure to clearly define investment properties or caps or limits on funds generated, your Committee agreed the public should be educated on the impacts of this legislation.

Your Committee noted a 50,000 proviso in the Office of Council Services for Fiscal Year 2019 Budget, for public education on this measure regarding the real property tax. Therefore, your Committee recommends referral referring the matter to the Budget and Finance Committee to authorize use of these funds. I respectfully ask for the Council's support of my motion. Thank you, Chair.

CHAIR WHITE: Thank you, Ms. Sugimura.

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

AYES: COUNCILMEMBERS ATAY, COCHRAN,  
CRIVELLO, GUZMAN, HOKAMA, SUGIMURA,  
VICE-CHAIR CARROLL, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBER KING.

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

Mr. Clerk.

COMMITTEE REPORT  
NO. 18-129 - POLICY, ECONOMIC DEVELOPMENT, AND AGRICULTURE  
COMMITTEE:

Recommending that Resolution 18-135, entitled "RELATING TO THE APPOINTMENT OF ROBERTA PATNODE TO THE POLICE COMMISSION," be ADOPTED.

*Approving the appointment of Roberta Patnode to the Police Commission for term expiring March 31, 2022.*

CHAIR WHITE: Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Thank you. Could I also ask the Chair to bring up the next item, 18-130?

CHAIR WHITE: Any objections, Members?

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: Thank you. So ordered.

COMMITTEE REPORT  
NO. 18-130 - POLICY, ECONOMIC DEVELOPMENT, AND AGRICULTURE  
MANAGEMENT COMMITTEE:

Recommending that Resolution 18-136, entitled "RELATING TO THE APPOINTMENT OF LOUELLA ALBINO TO THE MAUI COUNTY CULTURAL RESOURCES COMMISSION," be ADOPTED.

*Approving the appointment of Louella Albino to the Maui County Cultural Resources Commission for term expiring March 31, 2021.*

CHAIR WHITE: Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Thank you, Chair. Your, your Policy, Economic Development--

CHAIR WHITE: No, we need, we need the motion first.

COUNCILMEMBER SUGIMURA: Oh, I'm sorry.

CHAIR WHITE: Thank you.

COUNCILMEMBER SUGIMURA:

I MOVE TO ADOPT THE COMMITTEE REPORTS,  
COMMITTEE REPORTS 18-129 AND 130.

COUNCILMEMBER CRIVELLO:

SECOND.

CHAIR WHITE: We have a motion from Ms. Sugimura, and I think I heard from Ms. Crivello, the second. Go ahead.

COUNCILMEMBER SUGIMURA: Thank you. Your Policy, Economic Development, Agriculture Committee met on July 23 to take up these two items to consider the nomination of Roberta Patnode to the Police Commission for a term expiring March 31, 2022, to fill a vacancy due to the resignation of Max Tsai. And, the Council must approve or disapprove her nomination by August 14, 2018.

And, regarding the next item with Ms. Albino's nomination by August 26, 2018 *[sic]*. Your Committee also took up this item, which was actually a nomination from Molokai from Member Crivello to fill this vacancy.

Your Committee satisfied both and recommended approval. And, I would ask for the Council's support on these motions.

CHAIR WHITE: Thank you, Ms. Sugimura.

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

AYES: COUNCILMEMBERS ATAY, COCHRAN,  
CRIVELLO, GUZMAN, HOKAMA, SUGIMURA,  
VICE-CHAIR CARROLL, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBER KING.

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

Mr. Clerk.

DEPUTY COUNTY CLERK: Relative to Committee Report 18-129, for the record,  
RESOLUTION 18-135. Relative to Committee Report 18-130, for the record,  
RESOLUTION 18-136.

COMMITTEE REPORT  
NO. 18-131 - POLICY, ECONOMIC DEVELOPMENT, AND AGRICULTURE  
COMMITTEE:

Recommending the following:

1. That Resolution 18-137, entitled "APPROVING THE APPOINTMENT OF WILLIAM SPENCE AS THE DIRECTOR OF THE DEPARTMENT OF HOUSING AND HUMAN CONCERNS," be ADOPTED;
2. That Resolution 18-138, entitled "APPROVING THE APPOINTMENT OF MICHELE MCLEAN AS THE DIRECTOR OF THE DEPARTMENT OF PLANNING," be ADOPTED; and
3. That County Communication 18-255, from the Mayor, be FILED.

CHAIR WHITE: Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Thank you, Chair.

I MOVE TO ADOPT THE RECOMMENDATIONS IN  
COMMITTEE REPORT 18-131.

COUNCILMEMBER CRIVELLO:

SECOND.

CHAIR WHITE: We have a motion from Ms. Sugimura, and a second from Ms. Crivello.

Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Thank you, Chair. Your Policy, Economic Development, Agriculture Committee met on July 23, 2018, to consider the appointment of Will Spence as the Director of Housing and Human Concerns.

Pursuant to Section 8-10.2 of the Revised Charter of the County of Maui (1983), as amended, "the director of housing and human concerns shall be appointed by the mayor with the approval of the council." Further, pursuant to Section 6-2(5) of the Charter, the Mayor shall appoint the Director of Housing and Human Concerns within 60 days after a vacancy is created. The deadline for Council's approval is August 26, 2018, or the appointments will be deemed confirmed.

The Charter also requires that the Director "shall have had a minimum of five years' experience in an administrative capacity, either in public or private business, or both."

Mr. Spence has held the position of Planning Director since January 2011 and has supported housing projects, particularly affordable housing.

He possesses a Bachelor's degree in Urban and Regional Planning from California State Polytech, Polytechnic at Pomona, School of Environmental Design.

At the same meeting, your Committee considered the appointment of Michele McLean as the Planning Director. Pursuant to Section 8-8.2 of the Charter, "the planning director shall be appointed by the mayor with the approval of the council." Further, Sections 6-2(5) of the Charter, the Mayor shall appoint the Planning Director within 60 days after the vacancy is created. The deadline for Council approval is August 26, 2018, for both, or the appointment shall be deemed confirmed.

The Charter also requires that the Planning Director "shall have a minimum of five years of experience in the fields of planning, at least three of which shall have been in an administrative capacity, either in public or private business, or both."

Ms. McLean has served as the Deputy Director since 2018 *[sic]*. She said her background as a Legislative Analyst served her well, she worked in OCS as an, as well, to be an administrator as well as a planner.

And, she, I also wanted to note a correction that in our committee report we had stated that Ms. McLean received her match, Bach, I'm sorry, Master's degree in Business Administration from University of Phoenix on page 3, although Ms. McLean's resume references graduate studies and MBA Program at the University of Phoenix. And so, I wanted to make that correction.

Your Committee was assured of Mr. Spence and Ms. McLean's qualifications to meet the responsibilities of their new roles and voted 8-0 to recommend adoption of the proposed resolution.

Your Committee received responses dated July 30 from the Department of Finance at the Committee's request for information regarding Mr. Spence's estimated vacation payout from the Department of Personnel Service regarding his estimated pension payout as of January 2, 2019. This question was brought up in the Committee. And, under the assumption that Mr. Spence takes no vacation between now and January 2, his estimated vacation payout would be approximately \$13,545.32, according to the Director of Finance.

The Director of Personnel Services stated that Mr. Spence's pension amounts are determined by the Employee Retirement System, and Mr. Spence does not qualify for any direct pension payouts from the County. Should he choose to file for retirement pension benefits, would be paid by the ERS not the County. The change is ongoing, the change and ongoing pension liability due to Mr. Spence assuming the possession of Director of Housing and Human Concerns would also be quite small. The calculation of average final compensation would decrease due to his lower pay rate in his new position. Based on this, Mr. Spence's potential pension would be approximately \$3,230 per month.

Copies of both transmittals were distributed to the Council today for review. And, Chair, sorry for my long detail, but it's very important. So, I ask for the Council's full support of this measure.

CHAIR WHITE: Thank you, Ms. Sugimura.

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

AYES: COUNCILMEMBERS ATAY, COCHRAN,  
CRIVELLO, GUZMAN, HOKAMA, SUGIMURA,  
VICE-CHAIR CARROLL, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBER KING.

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

Mr. Clerk.

DEPUTY COUNTY CLERK: For the record, RESOLUTIONS 18-137 and 18-138.

Mr. Chair, there is no further business before the Council.

COUNCILMEMBER COCHRAN: Chair.

CHAIR WHITE: Thank you very much.

RECONSIDERATION OF ACTION RELATING TO  
COUNTY COMMUNICATION NO. 18-288

COUNCILMEMBER COCHRAN: Chair, I have a, I'd like to make a, take a reconsideration on a vote we did this morning. Can I make that motion? I'm going to make that motion.

CHAIR WHITE: Okay, let's take a quick recess at the call of the Chair.

(THE MEETING WAS RECESSED BY THE CHAIR AT 11:54 A.M., AND WAS RECONVENED AT 12:00 P.M., WITH ALL MEMBERS PRESENT, EXCEPT FOR MEMBER KING, EXCUSED.)

CHAIR WHITE: This meeting will please come back to order.

Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair.

I WANT TO, I MOTION TO, I'D LIKE TO MAKE A MOTION TO RECONSIDER ITEM 18-288.

CHAIR WHITE: Do we have a second?

COUNCILMEMBER HOKAMA:

SECOND.

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

Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair. And, reason for this, thank you for the reconsideration, is the new information that's been received during this, the progression of this meeting. And, the paperwork states that Mr. James Forrest is, license has been suspended at this time. And, as I'm, as I understand, it's due to lack of having taken the Board of Ethics class that's needed. And, that won't be held until this year, November. So, I'm feeling if we're going to hire a person now who is unlicensed and won't really truly be confirmed or licensed, whatever, till November and then end of term is December, that's a month. And, that's primarily my reasons for this reconsideration at this time, Chair. Thank you.

CHAIR WHITE: Okay, further discussion, Members?

COUNCILMEMBER HOKAMA: Chairman.

CHAIR WHITE: I'd like to, I'd like to ask--

COUNCILMEMBER HOKAMA: Chairman.

CHAIR WHITE: Yes, Mr. Hokama.

COUNCILMEMBER HOKAMA: Thank you. I think, you know, again, the information that we have received is from the Hawaii State Bar Association. Under the gentleman's status of license, it says, suspended, professional course. The Bar states definitions, whether it's the ethics component or what, under their definition it did say, the member is suspended for failure to comply with the requirements set forth in RSCH 1.14. In black highlighted letters, "Not eligible to practice", okay. This is the State Bar Association, okay.

So, I don't know why the Members, this Council wasn't informed of this status prior to a decision, because it makes a difference. Okay, Members? I'm disappointed that for whatever reason at least, I still have contacts in the Bar that told me, are you aware of the status of license? Okay. I'm very disappointed this wasn't disclosed up front. Thank you, Chairman.

CHAIR WHITE: Thank you, Mr. Hokama.

The Chair will just mention that I, I apologize for not bringing that up. The issue, as I understand it is that he didn't take the test because he's, he went back to Texas. Our staff, the Director called the Bar Association. The Bar Association said, he just needs to take the ethics test when he gets back, and his license will be reinstated as long as he passes it.

We didn't see any reason that he wouldn't pass it. It is not a problem if he's doing legislative work, because you are required to have a license if you are repre, individually representing people. If you're doing legislative work, we, we want to have a license.

DIRECTOR OF COUNCIL SERVICES: It's not a test. It's just a two-hour class.

CHAIR WHITE: Oh, I'm sorry, I thought I, I'm sorry, it's not a--



COUNCILMEMBER HOKAMA: Chairman, we have decorum in these chambers, please.

CHAIR WHITE: Okay. Staff just corrected me that it's not, it's not a test, it's just a class. So, all he has to do in November is go take the test, or I'm sorry, take the class, and his license will be renewed. So, on that basis, I won't support the vote for consideration. But, everybody can vote as they see fit.

Ms. Sugimura.

COUNCILMEMBER SUGIMURA: So, this is, like, totally, to tell you the truth, I just thought that all of this was vetted before it even, you know, came before us. But, can I ask Corp. Counsel how important is that? Or what does this play out in terms of him being hired, if he is, and not having this? Well, he, he doesn't have a license. But, can you tell us more?

CHAIR WHITE: Mr. Wong.

CORPORATION COUNSEL PATRICK WONG: Thank you, Chair and Ms. Sugimura, for the question. If you want to compare it to my Department, I would not be hiring an attorney that's not currently licensed to practice law in the State of Hawaii. We're obligated to do that by, by Charter.

As it relates to a legislative attorney, you know, I'm not certain of what the role and responsibility and the duties are of a legislative attorney. Now, typically a legislative analyst would not need a law degree. And so, the question becomes whether or not the active licensure is a necessary requirement of that position. And, I think you'd have to go back and look at the definition of the legislative attorney position. And, if a active license is a necessary component of that, therein lies your answer.

You know, you can have, also, you can have inactive licensures, but still have the skill and qualification, or the capacity to provide that direction. But, as it relates to, if you compare it to, again, to the Department of the Corporation Counsel or even the Department of the Prosecuting Attorney's Office, you must have a valid and active, in good standing license, to practice law. I hope that answers your question.

COUNCILMEMBER CRIVELLO: Chair.

CHAIR WHITE: Ms. Crivello.

COUNCILMEMBER CRIVELLO: Thank you, Chair. So, this is a curveball. But, my question would be, if I recall when we did salary adjustments, not this budget session, but when we did salary adjustment for our legal attorney, it was based on the fact that they also can be representative of, of Council. You know, we, normally, prior to that, we gone to Corporation Counsel. But, because of the increase in their salary, that was one of the stipulations that they would be representative of us should we deem necessary. So, wouldn't that require for, I'm not sure what the job requirement is that they hold their license to serve as a legislative attorney.

And, in conversation with our Director, there were applicant or an app, other applicant that was just not qualified because lacked the license to practice here in Hawaii. So, would be good for us to clarify. Is this a requirement before the hire, or do we hire and await for the individual to regain his legal status with the Hawaii Bar Association?

CHAIR WHITE: Any further discussion?

Mr. Guzman.

COUNCILMEMBER GUZMAN: Yea, thank you, Chair. Yea, the, I would also go along with Ms. Crivello and Mr. Wong, in terms of, is, my question is, and I haven't looked at it for a while, is it a requirement that within our system that our legislative attorneys be required to have a valid license? And, so I guess that's my question for that.

And then in terms of the ethics portion of our Bar, our licensure, we're all required to have what we call the continuing education portion. We have to have so many hours of, "x" amount of training per year, and then we submit those to the Bar so that our license can be renewed. Sometimes there are attorneys, and myself included, forget to take these continuing education classes. So, there's online programs that you can watch the video and then simply certify that you've, you've completed the continuing education hours.

And so, I wasn't sure whether or not when, when the Director indicated that there's something set in November, that could be doublechecked because as Mr. Wong knows as well, there are classes that you, that are on video, on the Bar website that they monitor you whether you actually watched it or not as part of the certification of continuing hours that you're required to obtain. So, that could be done, I don't know if that, if he could possibly get that done right away. I, so, those are the two questions. Number one--

CHAIR WHITE: Yea, that's certainly, certainly worth checking out.

COUNCILMEMBER GUZMAN: Yeah, yeah, so, number one is it a requirement that we, he have a license prior to the hire? Or, the other question is, can he go online and complete his continuing education certification? Thank you.

COUNCILMEMBER CRIVELLO: Chair, I was able to--

CHAIR WHITE: Ms. Crivello.

COUNCILMEMBER CRIVELLO: Thank you. So, the advertisement on the hire--

CHAIR WHITE: Could you get a little closer to the mic?

COUNCILMEMBER CRIVELLO: Okay. I'm sorry. Thank you. So, the ad that we recently put out there did make mention on the minimum qualification requirements; first bullet, current Hawaii State Bar license. And, this was with the ad for recruitment of legislative attorney. So, I, were, were we, yea, more so?

CHAIR WHITE: Yea, it's, it's just a matter of whether you're comfortable with the fact that if once he takes the class, he gets his, his license back. So, I'm, I'm comfortable with that. I'm not sure everyone else would be.

Any further discussion?

Mr. Atay.

COUNCILMEMBER ATAY: Chair, definitely for me this is a curveball. But, you know, if, if that's our requirements at time of hiring, then that's our requirement. And so, with that, you know, my affirmative vote, should this reconsideration vote be, I would position myself to rescind that vote. However, I don't know, if this issue could be addressed within the next two weeks before our next Council meeting--

CHAIR WHITE: We'll find out.

COUNCILMEMBER ATAY: --and defer this, and, and get more updated information if there is a tutorial that you can do off the internet or whatever to achieve that, but if not, we just got to wait till November. You know, just got to deal with the cards that we get dealt. And so, for now, I would entertain following Member Cochran's consideration on this matter.

CHAIR WHITE: Okay. Thank you.

Any further discussion?

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, just some historical. About 2002, Council agreed, again that was still with Mr. Fukuoka, who had made recommendations with then Corporation Counsel Takayesu, I believe, and that is how we came up with the pay, pay schedule, pay ranges for legislative attorneys, and Corp Counsel and Prosecutors. There was an understanding that, for the Council, it would be viewed not as legislative analysts, but as legislative attorneys. And, that is why they are on the attorney pay schedule, okay. We talked about attorneys back then, and that's how we arrived at this new format of budgeting and pay schedule and ranges for attorneys of the County of Maui.

Second, I hope you're aware, we pay for our attorneys' licenses in our budget, okay. So, that also gives you an idea of what Council's expectations are. We expect them to be ready to practice with a valid license, okay. So, you know, for me, it's very straight and black and white. Thank you, Chairman.

CHAIR WHITE: Thank you. Any further discussion?

Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Chair, so, I guess the question is, can we defer this then until we get this all squared away?

CHAIR WHITE: Well, we have to, we have to vote on the reconsideration.

COUNCILMEMBER COCHRAN: Yea.

COUNCILMEMBER SUGIMURA: Vote on the reconsideration first.

CHAIR WHITE: Let me just take a quick break.

(THE MEETING WAS RECESSED BY THE CHAIR AT 12:13 P.M., AND WAS RECONVENED AT 12:15 P.M., WITH ALL MEMBERS PRESENT, EXCEPT FOR MEMBER KING, EXCUSED.)

CHAIR WHITE: Meeting come back to order.

Any further discussion on the motion to reconsider? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS ATAY, COCHRAN,  
CRIVELLO, GUZMAN, HOKAMA, SUGIMURA,  
VICE-CHAIR CARROLL, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBER KING.

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

Members, we will defer this item until our next meeting, and we'll find out what our options are.

COUNCILMEMBER CRIVELLO: Thank you.

CHAIR WHITE: And, thank you, Ms. Cochran.

And with that, Members, we are adjourned.

## ADJOURNMENT

The regular meeting of August 3, 2018 was adjourned by the Chair at 12:16 p.m.



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

RECEIVED

2018 AUG -2 PM 3: 15

OFFICE OF THE  
COUNTY CLERK

Fwd: Minutes

S sam@swvs.net  
Today, 2:45 PM  
County Clerk ▾

👤 ↻ Reply all | ▾

Petition.pdf  
254 KB ▾

CC 17-489 (1).pdf  
496 KB ▾

2 attachments (750 KB) Download all Save all to OneDrive - County of Maui Office of Council Services

Begin forwarded message:

**From:** [sam@swvs.net](mailto:sam@swvs.net)  
**Subject:** Re: Minutes  
**Date:** August 2, 2018 at 2:40:20 PM HST  
**To:** Lauren Saldana <[Lauren.Saldana@mauicounty.us](mailto:Lauren.Saldana@mauicounty.us)>

Mahalo

Attached is a petition that i would like to submit for testimony for tomorrow Fri Aug 2 with regard to Don Guzman's request for a matter related to Title 18 Roadway Exemptions to be heard, also attached.  
Am I in time or do I need to print 16 copies and bring?

Please confirm  
Thanks  
Sam Small  
(973) 271 0788

On Aug 2, 2018, at 2:02 PM, Lauren Saldana  
<[Lauren.Saldana@mauicounty.us](mailto:Lauren.Saldana@mauicounty.us)> wrote:

Hi Sam –

Attached are the requested minutes regarding the Upcountry Water System.

May 26, 2015 - mentions the first reading of bill to establish an Upcountry Water System Expansion Capital Improvement Reserve Fund.  
June 5, 2016 - are the second reading to that bill.

September 18, 2015 - mentions the first reading of bill of the Water Meter Issuance Provisions to for the Upcountry Water System.  
October 6, 2015 - are the second reading to that bill.

We did not have Council meetings scheduled for the dates of July 22, 2015 and September 2, 2018.

The 2015 Council Meeting minutes can be accessed via the website:  
<https://www.mauicounty.gov/Archive.aspx?AMID=226>

Scroll down to get to the older meeting minutes.

If you need assistance with anything else, please email me.

Lauren Saldana  
County Clerk's Office

<150526.pdf> <150605.pdf> <150918.pdf> <151016.pdf>

Dear ELLE COCHRAN, DON GUZMAN, MIKE WHITE, KELLY KING, ALIKA ATAY, BOB CARROLL, RIKI HOKAMA, YUKI LEE SUGIMURA, and STACY CRIVELLO,

We are pleased to present you with this petition affirming this statement:

**"The public and many of our Council Members were never told of significant changes made at the last minute to the Upcountry Water Bill that is today allowing professional residential and commercial developers, ISLAND WIDE, to inappropriately avoid performing roadway improvements along their two-lot subdivisions, effectively shifting their financial burdens onto Maui's taxpayers.**

**The County Council must act immediately before budget hearings preempt all other actions, to repeal the Upcountry Water Bill and stop this extraordinary exploitation of Maui County Taxpayers.**

"

Below is a list of individuals who have added their names to this petition, as well as additional comments written by the petition signers themselves.

**Background:**

**REPEAL or AMEND THE 2015 UPCOUNTRY WATER BILL**

Public Documents now reveal that in 2015, Gladys Baisa, then Chair of the Water Resources Committee, Corporation Counsel, and Director of Public Works David Goode, apparently pulled a classic Bait and Switch on the rest of the County Council and the people of Maui County.

**THE BAIT:**

The Upcountry Water Bill was said to aid residents on the Upcountry Water Meter Priority List eligible to get a second water meter, which would allow them to subdivide their property into two lots. All public notices of the bill specified its intent to exempt those 2 lot subdividers from having to perform costly infrastructure improvements related only to water connections for fire protection.

**SWITCH #1:**

After numerous committee hearings, at the Council's first reading for the proposed bill, Public Works Director David Goode testified that in addition to fire protection, costly roadway improvements could also prevent residents from building a second home for their family. So, responding to Director Goode's suggestion, language was added to the bill that significantly extended the exemption for 2 Lot Subdivisions beyond fire suppression, to include all roadway improvements as well.



Contrary to our County Charter, no public notice has ever been made of that significant change to the bill's scope and intent.

**THE BIGGER SWITCH:**

Certainly not the public, and perhaps not even the Council Members, were made aware that when Corporation Counsel's Jennifer Oana (who has recently been nominated for a judgeship) added David Goode's suggested roadway exemption, the language Oana added to the bill to amend the County Code's Title 18 Subdivision Ordinance was not specific to 'Family' Residential Subdividers on the Upcountry Priority List.

Instead, Oana's significant language change is today allowing professional residential and commercial developers, island-wide, to inappropriately avoid performing roadway improvements along their two-lot subdivisions, effectively shifting their financial burdens into Maui's taxpayers.

Public documents, received through Freedom of Information requests, reveal that by virtue of the "Upcountry Water Bill", Alexander and Baldwin has been awarded a roadway improvement exemption for a 1200 acre parcel just south of Puunene and Dairy Rd. and that Snorkel Bob's got an exemption for a commercial development on Front St. in Lahaina and that the Blue Golf Course got an exemption for 60 acres in Wailea. That's just not fair.

So far Public Works has admitted to 20 exemptions awarded to approved 2 lot subdivisions, we don't know yet how many more have their preliminary subdivision approvals.

In fact, the specifics of this "mistake" and the potential for this abuse was communicated in July of 2016 to Water Committee Chair Baisa, Council Chair White, Council Member Guzman, Council Member Hokama, Council Services' David Raatz, Corporation Counsel's Jennifer Oana and Mayor Arakawa. None of them has ever responded, nor has anyone initiated any action to correct and stop the growing harm that public documents now prove is being done to our community.

The County Council must act immediately to repeal or amend the Upcountry Water Bill and stop this extraordinary exploitation of Maui County Taxpayers.

Sincerely,  
SAM SMALL

---

David Berzinsky  
Kent, OH 44240  
Aug 2, 2018

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Alice Stehle  
Butler, PA 16001  
Aug 2, 2018

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Linda Dawson  
Eules, TX 76039  
Aug 2, 2018

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Leave it as it is,NO new development.

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Peter Gruber  
Penn Valley, CA 95946  
Aug 2, 2018

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debbie geno  
st charles, MO 63303  
Aug 2, 2018

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Tait Gielow  
Kihei, HI 96753  
Aug 2, 2018

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Marisa Provost  
Haiku, HI 96708  
Aug 2, 2018

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Also-- stop the destruction of the land and oceans by Monsanto poisons.

---

william orr  
Honolulu, HI 96851  
Aug 2, 2018

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Thomas Lelli  
Makawao, HI 96768  
Aug 2, 2018

---

Vicki L Morrison  
Wellington, KS 67152  
Aug 2, 2018

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Lorraine Chun  
Kula, HI 96790  
Aug 2, 2018

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Jayme Frankenberger  
Reno, NV 89523  
Aug 2, 2018

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alex dennis  
Waikapu, HI 96793  
Aug 2, 2018

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John L. Langevin  
Colorado Springs, CO 80903  
Aug 2, 2018

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John A Nelson  
Vancouver, WA 98664  
Aug 2, 2018

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Alejandra Carta  
Haiku, HI 96708  
Aug 2, 2018

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Mahalo for giving us a voice!

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Debra Kaiwi  
Kahului, HI 96733  
Aug 2, 2018

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Randy French  
Kihei, HI 96753  
Aug 2, 2018

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Sundra Allen  
Salt Lake City, UT 84128  
Aug 2, 2018

---

Sandra Baran  
Independence, OH 44131  
Aug 2, 2018

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Vaughn kaaumoana  
Wailuku Maui, HI 96793  
Aug 2, 2018

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Marta Greenleaf  
Pukalani, HI 96788  
Aug 1, 2018

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Mary Ann Perreira  
Haiku, HI 96708

Aug 1, 2018

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Expose the Hewaloo

Paul K. Cullen  
Kaunakakai, HI 96748  
Aug 1, 2018

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Robin Lorentzen  
Caldwell, ID 83607-9326  
Aug 1, 2018

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Pat Damon  
Webberville, MI 48892  
Aug 1, 2018

---

Christopher Harris

Aug 1, 2018

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BonniLee vida  
kahului, HI 96732  
Aug 1, 2018

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No one should be above the laws of the area... NO ONE!!

Sue Chard  
Portland, TN 37148  
Aug 1, 2018

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Yolanda Saenz  
Nevada city, CA 95959  
Aug 1, 2018

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Down with Real Estate Developers. Crooks.

Goldie Stone  
Bronson, FL 32621  
Aug 1, 2018

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Laurent Zahnd  
Makawao, HI 96768  
Aug 1, 2018

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Kate Ague  
Menlo Park, CA 94025  
Aug 1, 2018

---

Jean Glaser  
Park City, UT 84098  
Aug 1, 2018

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Cara Burklin  
Kahului, HI 96732  
Aug 1, 2018

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Fran Amos  
Colorado Springs, CO 80920  
Aug 1, 2018

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Judy Scroggin  
Chicago, IL 60623  
Aug 1, 2018

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terry labrecque  
Lillian, AL 36549  
Aug 1, 2018

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No giveaways to commercial developers! No bait-and-switch legislation!

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Sarah Hofstadter  
Kihei, HI 96753  
Aug 1, 2018

---

Andy Ridinger  
Haiku, HI 96708  
Aug 1, 2018

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Terilee Kawaakoa  
HAIKU, HI 96708  
Jul 31, 2018

---

Tracey Vivar  
E Glacier Pk, MT 59434  
Jul 31, 2018

---

Kim Freepartner  
Hickory Hills, IL 60457  
Jul 31, 2018

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Stop the abuse of the the tax payer's money, because if the State of Hawaii gets away with this, other states will follow suit.

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Konrad Hunter  
Palmdale, CA 93590  
Jul 31, 2018

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Gail. Vidito  
Rehoboth, MA 02769  
Jul 31, 2018

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Tom Rodeheaver  
Hagaman, NY 12086  
Jul 31, 2018

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JOSEPHINE Barberini  
Jamestown, CA 95327  
Jul 31, 2018

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No developers needed, or wanted, let them go ugly up their own neighborhoods!

Lawrence Loosmore  
Berger, MO 63014  
Jul 31, 2018

---

"B. S. (Bait and Switch.... Oh no! Must be the first time ever to happen! Special interests over U.S. ... No matter the State one is in. Gotta stop this, now. It is called transparency."

Jennifer Logan  
Sioux Falls, SD 57106-0960  
Jul 31, 2018

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Stephen Moyer  
Pottsville, PA 17901  
Jul 31, 2018

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We need to shut these corporatists down ( and raise their taxes )

Daryl Burton  
Ringold, OK 74754  
Jul 31, 2018

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Cynthia McCoy  
Unity, ME 04988  
Jul 31, 2018

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Deborah Long  
Sweet Home, OR 97386  
Jul 31, 2018

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Donna Gensler  
Pittsburgh, PA 15206  
Jul 31, 2018

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Theresa Digiannantoni  
Columbus, OH 43230  
Jul 31, 2018

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Valerie Marie Braunshausen  
Kenosha, WI 53140  
Jul 31, 2018

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Ellen Kenney  
Philadelphia, PA 19147  
Jul 31, 2018

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B. S. (Bait and Switch.... Oh no! Must be the first time ever to happen! Special interests over U.S. ... No matter the State one is in. Gotta stop this, now. It is called transparency.

ken Wertz  
Pine Grove, CA 95665  
Jul 31, 2018

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No more development until housing and infrastructure issues are deal with. The golden goose is loosing feathers already!

Patricia Lailey  
Makawao, HI 96768  
Jul 31, 2018

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Just changed my mind on electing Guzman. Changing it to Elle. He knew. He did nothing! Bad!

Maureen Bacon  
kihei, HI 96753  
Jul 31, 2018

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STOP favoring developers over the hard working members of the community.

Suzanne Fields  
Haiku, HI 96708  
Jul 31, 2018

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Roma montano  
Lawndale, CA 90260  
Jul 31, 2018

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Myrna Trull  
Beaverton, OR 97008  
Jul 30, 2018

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Ed brummel  
Makawao, HI 96768

Jul 30, 2018

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Joan Dapitan  
San Clemente, CA 92672  
Jul 30, 2018

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Norma Bock  
Poughkeepsie, NY 12601  
Jul 30, 2018

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Bryan jacob  
Makawao, HI 96768  
Jul 30, 2018

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Nancy Judd  
Keene, NH 03431  
Jul 30, 2018

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Repeal 2015 UpCountry Water Bill

Wilburt Barbero

Jul 30, 2018

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We hold that each County Councilmember must be knowledgeable of and personally responsible for any insertion made by Corporation Council into all pieces of legislation on which they vote.

Daniel Minichiello  
Kihei, HI 96753  
Jul 30, 2018

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Don Hudson  
springfield, IL 62704  
Jul 30, 2018

---

Lori Williams  
yuciapa, CA 92399  
Jul 30, 2018

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jashana kippert  
Haiku, HI 96708  
Jul 30, 2018

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Katharyn Morgan  
Kihei, HI 96753  
Jul 30, 2018

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Kathleen Umphress  
Grand Island, NE 68801-8314



Jul 30, 2018

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Ellen Bailey  
Maize, KS 67101  
Jul 30, 2018

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S. Renee Layden  
REPUBLIC, WA 99166  
Jul 30, 2018

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Delaney de la Barra  
Lahaina, HI 96761  
Jul 30, 2018

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Erika Kreider  
Tucson, AZ 85719  
Jul 30, 2018

---

Andrew Anderson  
Hutchinson, MN 55350  
Jul 30, 2018

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Last minute changes mean dishonesty. If it's the right thing to do, present it to the population. Don't do it behind their back.

Vickie Fadness  
Genesee, ID 83832  
Jul 30, 2018

---

Michael Smith  
Yakima, WA 98902  
Jul 30, 2018

---

Nancy S Butler  
Pensacola, FL 32514  
Jul 30, 2018

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marian toledo  
clayton, NJ 08312  
Jul 30, 2018

---

Sherman Paul Lundy  
Hiawatha, IA 52233  
Jul 30, 2018

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This is a prime example of corporations buying politicians for personal gain! Enough is enough!!!

April Day  
Connersville, IN 47331

Jul 30, 2018

---

Stephen Boone  
Kelseyville, CA 95451  
Jul 30, 2018

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MELVIN MCCREARY  
Mountain View, WY 82939  
Jul 30, 2018

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Christine Dveirin  
Haiku, HI 96708  
Jul 30, 2018

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Steven Tayama  
waimanalo, HI 96795  
Jul 30, 2018

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Kimberly Gabaldon  
Trinidad, CO 81082  
Jul 30, 2018

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Lisa Breslauer  
Woodland, CA 95695  
Jul 30, 2018

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Greed is everywhere like a national cancer!

Sonia Liskoski  
Kennedy Twp, PA 15108  
Jul 30, 2018

---

kerry rider  
el sobrante, CA 94803  
Jul 29, 2018

---

linda blair  
Missoula, MT 59801  
Jul 29, 2018

---

This is so wrong

charlene w. mills  
Frankfort, KY 40601  
Jul 29, 2018

---

My cousin and her family live there. Water is a necessity of life.

Marc S. Killam  
Englewood, FL 34223  
Jul 29, 2018

---

Andrew Duvall  
Towanda, PA 18848  
Jul 29, 2018

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Barbara Avallon  
Toms River, NJ 08757  
Jul 29, 2018

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Be Pono and protect us from real estate giveaways and developers.

Bonnie Marsh, ND  
Haiku, HI 96708  
Jul 29, 2018

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Mark Ellerman  
Lahaina, HI 96761  
Jul 29, 2018

---

Virginia Alatasi  
Hauula, HI 96717  
Jul 29, 2018

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Brian Moore  
  
Jul 29, 2018

---

Thomas Urquhart-Myers  
Tampa, FL 33613  
Jul 29, 2018

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Jan Davenport  
Makawao, HI 96768  
Jul 29, 2018

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Susan Wyndham  
Fredericksburg, VA 22408  
Jul 29, 2018

---

Jerry Golden  
Seattle, WA 98125  
Jul 29, 2018

---

Christine Neitzke  
Tacoma, WA 98445  
Jul 29, 2018

---

Billie Kussman  
Alamosa, CO 81101  
Jul 29, 2018

---

Jared Mabie  
Palm Springs, CA 92264  
Jul 29, 2018

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The greed must stop now or the USA will fall just like the Roman empire wake up and let's not let that happen

---

Jimmie Larson23  
Hoboken, GA 31542  
Jul 29, 2018

---

Lindsay Lowry  
Hopewell Borough (Mercer), NJ 08525  
Jul 29, 2018

---

Antoinette Brown  
Apex, NC 27502  
Jul 29, 2018

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Make developers fund their own needs. By definition, residents should not be responsible for these expenses.

---

Scott van leuven  
OAKLAND, CA 94601  
Jul 29, 2018

---

Teresa Cowley  
Kingsville, TX 78363  
Jul 29, 2018

---

Randy McNea  
San Diego's, CA 92117  
Jul 29, 2018

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As a teen, my family was forced to leave the Islands because of poverty. This should stop.

---

Chelsie Marcusen  
Portland, OR 97214  
Jul 29, 2018

---

Tonya Lewis  
Sandpoint, ID 83864

Jul 29, 2018

---

Kelly Haskell  
Jacksonville, AL 36265  
Jul 29, 2018

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chris stankis  
Kihei, HI 96753  
Jul 29, 2018

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Daysha Deen  
Alta Loma, CA 91737  
Jul 29, 2018

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sam eisenbach  
Mecosta, MI 49332  
Jul 29, 2018

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Linda Silverman  
Westminster, MD 21157  
Jul 29, 2018

---

Lauren Devonshire  
Carlisle Brks, PA 17013  
Jul 29, 2018

---

M. Taylor  
Merrimac, MA 01860  
Jul 29, 2018

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Melissa Hathaway  
Gresham, OR 97030-4543  
Jul 28, 2018

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Your job is to serve the public, not line your pockets with kickbacks from developers. Work for the people!

Joseph firsich  
Wailuku, HI 96793  
Jul 28, 2018

---

Joanne Leary  
Manchester, CA 95459  
Jul 28, 2018

---

steve gomer  
Winter Haven, FL 33880  
Jul 28, 2018

---

Marcella Nadler  
Florence, OR 97439  
Jul 28, 2018

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Robert Petersen  
Stamford, CT 06902  
Jul 28, 2018

---

Patti Osborne  
Kihei, HI 96753  
Jul 28, 2018

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Audrey Minick  
Milan, MI 48160  
Jul 28, 2018

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Cynthia Fallis  
Makawao, HI 96768  
Jul 28, 2018

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Della A. Coburn  
Ketchikan, AK 99950-0340  
Jul 28, 2018

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Wendi Kuon  
Wailuku, HI 96793  
Jul 28, 2018

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Karen Comcowich  
Lahaina, HI 96761  
Jul 28, 2018

---

Charlotte Tom  
Maui, HI 96790  
Jul 28, 2018

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Anson pakaki  
Kula, HI 96790  
Jul 28, 2018

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Sarah Carknard  
East Greenbush, NY 12061  
Jul 28, 2018

---

William Sabin King  
Northglenn, CO 80233  
Jul 28, 2018

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Shirley Johnson  
Anderson, SC 29626  
Jul 28, 2018

---

Ellen McGrail  
Yonkers, NY 10704  
Jul 28, 2018

---

Nancy Silva  
Kihei, HI 96753  
Jul 28, 2018

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There is no excuse for such exploitation in any state in the US.

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Fay Payton  
College Place, WA 99324  
Jul 27, 2018

---

Donald Miller  
Summerfield, FL 34491  
Jul 27, 2018

---

Liliana Cunha  
  
Jul 27, 2018

---

Elizabeth Char  
El Cerrito, CA 94530  
Jul 27, 2018

---

Alexis Ostroski  
Kailua Kona, HI 96740  
Jul 27, 2018

---

Sara J Fisch  
Scottsdale, AZ 85260  
Jul 27, 2018

---

Jim Gear  
Medford, OR 97504  
Jul 27, 2018

---

Ruby Deutsch  
Kihei, HI 96753  
Jul 27, 2018

---

Carol gilster  
St louis, MO 63122

Jul 27, 2018

---

Dan Marks  
West Des Moines, IA 50245  
Jul 27, 2018

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My husband & I vacation in Maui every year (we have a couple timeshares). Regardless of original intention, the result of this exemption is unfair and must be corrected.

Lisa Roth  
Tracy, CA 95376  
Jul 27, 2018

---

Zachary Andreucci  
Milwaukee, WI 53207  
Jul 27, 2018

---

gin  
parma, United States 49269-9500  
Jul 27, 2018

---

Carey Higa  
Wailuku, HI 96793  
Jul 27, 2018

---

Jeanne Marchiondo  
Fairless Hills, PA 19030  
Jul 27, 2018

---

Christine Garrett  
Medford, OR 97504  
Jul 27, 2018

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homes from foreclosure left empty for years, stealing aina from kanaka maoli, posting multiple ads with your horse, in the classifieds that used to have JOBS! and HOMES for REASONABLE RENTS! may Pele dance in her way upon ALL who sell her bones to profit haole

Jennifer Liberty Bauer  
haiku, HI 96708  
Jul 27, 2018

---

Nadene Falagan  
Roberts, MT 59070  
Jul 27, 2018

---

Erika Zapparoli  
Wailuku, HI 96793  
Jul 27, 2018



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Matt Mercado  
Makawao, HI 96768  
Jul 27, 2018

---

Kathryn zarobsky  
Hi, HI 96790  
Jul 27, 2018

---

Georgia FUOTO  
Newhall, IA 52315  
Jul 27, 2018

---

Janet Quinton  
Kula, HI 96790  
Jul 27, 2018

---

Let the developers who will make the profits pay for the road improvements. It's the fair thing to do.

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Beverly WRIGHT  
San Carlos, CA 94070  
Jul 27, 2018

---

Gwen Morinaga-Kama  
Makawao, HI 96768  
Jul 27, 2018

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Chryssie Xochitl Gloria Medellin  
Canton, NC 28716  
Jul 27, 2018

---

Billie Jolene Graves  
Norman, OK 73071  
Jul 27, 2018

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PLEASE stop catering to developers at our expense!

---

Lori Babbitt  
Kula, HI 96790  
Jul 27, 2018

---

Kate Cope  
Port Townsend, WA 98368  
Jul 27, 2018

---

heather couture  
Seattle, WA 98104  
Jul 27, 2018

---

Paula Harrington  
Las Vegas, NV 89134  
Jul 27, 2018

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Dave Henninger  
San Clemente, CA 92672  
Jul 27, 2018

---

Louise Marrama  
Wailea, HI 96753  
Jul 27, 2018

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Jono Knight  
Kahului, HI 96732  
Jul 27, 2018

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Roger Cook  
Kahului, HI 96732  
Jul 27, 2018

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Jutta Hagen  
Gaithersburg, MD 20878  
Jul 27, 2018

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Steven Brofman  
Lyndhurst, OH 44124  
Jul 27, 2018

---

Vicki Trusselli  
Los Alamitos, CA 90720  
Jul 27, 2018

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Kelly Chavez  
Albuquerque, NM 87106  
Jul 26, 2018

---

Everyone should be held accountable.

Joyce  
Kihei, HI 96753  
Jul 26, 2018

---

Pamela McAlpin  
St. George, UT 84790  
Jul 26, 2018

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Stefan Hurzeler  
Northampton, MA 01060

Jul 26, 2018

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vincent mahoney  
st peters, MO 63376  
Jul 26, 2018

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Holly

Jul 26, 2018

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Keith Morris  
Los Angeles, CA 90027  
Jul 26, 2018

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Sharon Duffy  
Warner springs, CA 92086  
Jul 26, 2018

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Different rules fir different people. Follow the money for the real story. Times up!

Robin ritchie  
Lahaina, HI 96761  
Jul 26, 2018

---

Please protect the citizens.

Susan Attermeier  
Hillsborough, NC 27278  
Jul 26, 2018

---

Elaine Molina  
Kihei, HI 96753  
Jul 26, 2018

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Mary Foley  
Milwaukee, WI 53222  
Jul 26, 2018

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John P Bremer  
Bellingham, WA 98229  
Jul 26, 2018

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Paz Padilla  
Kihei, HI 96753  
Jul 26, 2018

---

Christine V Fink  
Stockton, CA 95207  
Jul 26, 2018

---

Pam Hall  
Los Angeles, CA 90019  
Jul 26, 2018

---

Lisa Mazzola  
Tampa, FL 33612  
Jul 26, 2018

---

Bill Guse  
  
Jul 26, 2018

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Paola Scodellari  
Roma,  
Jul 26, 2018

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Patricia Urbanek  
Dunnellon, FL 34432  
Jul 26, 2018

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Joris Hines  
Merritt Island, FL 32952  
Jul 26, 2018

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Nancy Martin  
Sugar Grove, WV 26815  
Jul 26, 2018

---

Lisa Cubeiro  
Stafford Township, NJ 08050  
Jul 26, 2018

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Chris Scholl  
Neptune City, NJ 07753  
Jul 26, 2018

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David DeQuasie  
WinterSprings, FL 32708  
Jul 26, 2018

---

Jennifer Brandon  
Lexington, NC 27295  
Jul 26, 2018

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Willy  
Makawao, HI 96768  
Jul 26, 2018

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We pay enough taxes

Kanani Higbee  
Lahaina, HI 96761  
Jul 26, 2018

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Kate Kenner  
Brattleboro, VT 05301  
Jul 26, 2018

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Brandi Chanthathep  
wailuku, HI 96793  
Jul 26, 2018

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Sherri Kalman  
Albuquerque, NM 87198  
Jul 26, 2018

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Brandon w  
Pahoa, HI 96778  
Jul 26, 2018

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Laurie Mann  
Lahaina, HI 96761  
Jul 26, 2018

---

Marc Takaha  
Kihei, Fa 96753  
Jul 26, 2018

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J Gray  
Boulder, CO 80302  
Jul 26, 2018

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Susan Rosier  
Kula, HI 96780  
Jul 26, 2018

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Rodney Foutch  
Peoria, IL 61604  
Jul 26, 2018

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Scott Rarick  
Kahului, HI 96732  
Jul 26, 2018

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Ray Baskerville  
Haiku, HI 96708

Jul 26, 2018

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Louise McCormick  
Berlin, MD 21811  
Jul 26, 2018

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Susan de Nolf  
Orlando, FL 32809  
Jul 26, 2018

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Sharon Ray  
Saguache, CO 81149  
Jul 26, 2018

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Grant Lopez  
  
Jul 26, 2018

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Jack Duguid  
  
Jul 26, 2018

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Amber COLEMAN  
Kula, HI 96790  
Jul 26, 2018

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Christine McGrail  
Kapolei, HI 96707  
Jul 26, 2018

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Fiona Nash  
Kihei, HI 96753  
Jul 26, 2018

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Nathan Yuen  
Ewa Beach, HI 96706  
Jul 26, 2018

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Glenna Richardson  
Portland, OR 97266  
Jul 25, 2018

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Gloria Keffer  
Arkansas, AR 72732  
Jul 25, 2018

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Sue White  
Tiffin, IA 52340  
Jul 25, 2018

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Ann saucier  
Haiku, HI 96708  
Jul 25, 2018

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Sandra Watson  
Post Falls, ID 83854  
Jul 25, 2018

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James Bonner  
Delaware City, DE 19706  
Jul 25, 2018

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Kevin Mulrane  
Makawao, HI 96768  
Jul 25, 2018

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Blanche Lei M Richmond  
Kula, HI 96790  
Jul 25, 2018

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Jim Wagner  
Kihei, HI 96753  
Jul 25, 2018

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Stephen McGrail  
Kihei, HI 96753  
Jul 25, 2018

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Dana Bleckinger  
Yachats, OR 97498  
Jul 25, 2018

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Lori LaFontaine  
Kula, HI 96790  
Jul 25, 2018

---

Judith carroll  
Kihei, HI 96753  
Jul 25, 2018

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Hildegard Kleinhans  
Eugene, OR 97402  
Jul 25, 2018

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Jennifer McGurn  
Makawao, HI 96768  
Jul 25, 2018

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sandia siegel  
Makawao, HI 96768  
Jul 25, 2018

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Nicole Bear  
Lahaina, HI 96761  
Jul 25, 2018

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Artemis Asproyerakas  
Chicago, IL 60642  
Jul 25, 2018

---

ju Hansen  
Freeman, SD 57029  
Jul 25, 2018

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KT Altman  
Columbia, SC 29223  
Jul 25, 2018

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Erik Jennings  
Lahaina, HI 96761  
Jul 25, 2018

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Debbie Brawner  
Nashville, TN 37211  
Jul 25, 2018

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J A Wilson  
Oregon City, OR 97045  
Jul 25, 2018

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Darryl Baker  
Kailua Kona, HI 96740  
Jul 25, 2018

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Kelly jenk6  
Hawaii, HI 96761  
Jul 25, 2018

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Marilyn McAteer  
Lahaina, HI 96761  
Jun 20, 2018

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Yuana GARVIN  
Makawao, HI 96768-8102  
May 21, 2018



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Pam Palencia  
Kihei, HI 96753  
Apr 16, 2018

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Raelynn Miller  
San Antonio, TX 78264  
Apr 16, 2018

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pamela palencia  
Kihei, HI 96753  
Apr 16, 2018

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Maja Daniels  
Haiku, HI 96708  
Apr 15, 2018

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Susan bohannon  
Makawao, HI 96768  
Apr 15, 2018

---

**WE NEED REAL CARING PEOPLE IN CONGRESS THAT ARE FOR THE MAUI PEOPLE, CARING FOR THE LAND & MAUI PEOPLE & CONGRESSMEN THAT MAKE FARE WAGES AND NOT TAKING PAYOFFS FROM THE PEOPLE**

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Rev. David  
Haiku, HI 96708  
Apr 15, 2018

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Vinayak Vinayak  
Kihei, HI 96753  
Apr 15, 2018

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Rebecca Hanna  
Paia, HI 96779  
Apr 15, 2018

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Malik slosberg  
Kihei, HI 96753  
Apr 15, 2018

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Brian Stone  
Kula, HI 96790  
Apr 14, 2018

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Alex Beers  
Wailuku, HI 96793  
Apr 14, 2018

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Michelle Kwik  
Haiku, HI 96708  
Apr 13, 2018

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Bond A. Rowe  
Lahaina, HI 96761  
Apr 3, 2018

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Taxpayers need to be informed of this corrupt practice and reimbursed !!!!

Mari McAteer  
Lahaina, HI 96761  
Mar 30, 2018

---

The amendment to Title 18 must be repealed. The idea that it was helping those on the Upcountry Water Priority list is a sham perpetuated upon the community by Baisa and Goode who are seeking to help real estate developers, investment and commercial properties by falsely touting it's helping the "little guy". You don't change a subdivision ordinance through a water bill island-wide without public notice and hearings for that. Sunshine Law Violation, deception, and gross negligence.

Christopher P Fishkin  
Wailuku, HI 96793  
Mar 30, 2018

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eric poulsen  
Lahaina, HI 96761  
Mar 30, 2018

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vijak ayasanonda  
Lahaina, HI 96761  
Mar 27, 2018

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Karri Ayasanonda  
Lahaina, HI 96761  
Mar 27, 2018

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shiela kawaiaea  
Haiku, HI 96708  
Mar 27, 2018

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Cecilia Reilly  
Ha'ilu, HI 96708  
Mar 26, 2018

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Sarah  
Kula, HI 96790  
Mar 26, 2018

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Catherine Velasquez  
Paia, HI 96779  
Mar 26, 2018

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Lisa Dickerson  
Haiku, HI 96708  
Mar 26, 2018

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frank knowlton  
Haiku, HI 96708  
Mar 26, 2018

---

Eileen Burg  
Kula, HI 96790  
Mar 25, 2018

---

Ian  
Keaau, HI 96749  
Mar 25, 2018

---

Barbara Nelson  
Kailua Kona, HI 96745  
Mar 25, 2018

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nflick@baymoon.com  
Laupahoehoe, HI 96764  
Mar 25, 2018

---

Isaac ah puck  
Pukalani, HI 96788  
Mar 25, 2018

---

Lorrie M Taylor  
WAIKOLOA, HI 96738  
Mar 25, 2018

---

Ralph Hendrickson  
Kihei, HI 96753  
Mar 25, 2018

---

Jamie David  
Kihei, HI 96753  
Mar 25, 2018

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Sarah Bower  
Wailuku, HI 96793  
Mar 25, 2018

---

Jamie Gentry  
Kula, HI 96790  
Mar 25, 2018

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The public and many of our Council Members were never told of significant changes made at the last minute to the Upcountry Water Bill that is today allowing professional residential and commercial developers, ISLAND WIDE, to inappropriately avoid performing roadway improvements along their two-lot subdivisions, effectively shifting their financial burdens onto Maui's taxpayers. The County Council must act immediately before budget hearings preempt all other actions, to repeal the Upcountry Water Bill and stop this extraordinary exploitation of Maui County Taxpayers.

DONNIE BECKER  
KIHEI, HI 96753  
Mar 22, 2018

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Terez Amato  
Kihei, Fa 96753  
Mar 21, 2018

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Nick Drance  
Kihei, HI 96754  
Mar 20, 2018

---

sylvia litchfield  
Kahului, HI 96732  
Mar 20, 2018

---

Patricia Teeters  
Wailuku, HI 96793  
Mar 20, 2018

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Eduardo Gandolfo  
Kihei, HI 96753  
Mar 20, 2018

---

Michael Wood  
Kula, HI 96790  
Mar 19, 2018

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Corrine Gross  
Lahaina, HI 96761  
Mar 19, 2018

---

dale y yanagi  
Wailuku, HI 96793  
Mar 19, 2018

---

Leslie Hutchinson  
Haiku, HI 96808  
Mar 19, 2018

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Karen Kriegermeier  
Kihei, HI 96753  
Mar 19, 2018

---

Frances J Salvato  
Makawao, HI 96768  
Mar 19, 2018

---

Marcy cayton  
Haiku, HI 96708  
Mar 19, 2018

---

SAM SMALL  
Makawao, HI 96768  
Mar 19, 2018

Council Chair  
Mike White

Vice-Chair  
Robert Carroll

Presiding Officer Pro Tempore  
Stacy Crivello

Councilmembers  
Alika Atay  
Elle Cochran  
Don S. Guzman  
Riki Hokama  
Kelly T. King  
Yuki Lei K. Sugimura



**COUNTY COUNCIL**  
COUNTY OF MAUI  
200 S. HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
[www.MauiCounty.us](http://www.MauiCounty.us)

December 6, 2017

RECEIVED

2017 DEC -7 PM 4: 24

OFFICE OF THE  
COUNTY CLERK

The Honorable Mike White  
Council Chair  
County of Maui  
Wailuku, Hawaii 96793

Dear Chair White:

**SUBJECT: URGING THE COUNTY AUDITOR TO INCLUDE A PERFORMANCE AUDIT OF THE DEPARTMENT OF PUBLIC WORKS RELATING TO THREE (3) LOTS OR LESS SUBDIVISION DEFERRAL AGREEMENTS IN THE FISCAL YEAR 2019 LIST OF SELF-INITIATED PROJECTS**

May I request the attached proposed RESOLUTION, entitled "**URGING THE COUNTY AUDITOR TO INCLUDE A PERFORMANCE AUDIT OF THE DEPARTMENT OF PUBLIC WORKS RELATING TO THREE (3) LOTS OR LESS SUBDIVISION DEFERRAL AGREEMENTS IN THE FISCAL YEAR 2019 LIST OF SELF-INITIATED PROJECTS,**" be placed on the next Council meeting agenda.

Sincerely,

A handwritten signature in black ink, appearing to read "Don S. Guzman".

Don S. Guzman  
Councilmember

DSG:klk

Attachment

COUNTY COMMUNICATION NO. 17-489

# Resolution

No. \_\_\_\_\_

URGING THE COUNTY AUDITOR TO INCLUDE  
A PERFORMANCE AUDIT OF THE  
DEPARTMENT OF PUBLIC WORKS RELATING  
TO THREE (3) LOTS OR LESS SUBDIVISION  
DEFERRAL AGREEMENTS IN THE FISCAL  
YEAR 2019 LIST OF AUDITOR'S  
SELF-INITIATED PROJECTS

WHEREAS, the Subdivision Ordinance was amended in its entirety by Ordinance 789 (1974) which added a new Subsection 11-1.10(l) to the Permanent Ordinances of the County of Maui (1971) ("Permanent Ordinances"), Improvements on existing streets, which provided "No improvements shall be required upon existing streets for a subdivision containing three (3) lots or less, provided the subdivider or owner, their heirs, executors or assigns agree to participate in an improvement district when and if such improvement district is proposed"; and

WHEREAS, the Permanent Ordinances were modified by Ordinance 801 (1974) to authorize the establishment of improvement districts now codified as Title 14, Article 3, Improvement Districts, Maui County Code; and

WHEREAS, agreements entered into pursuant to Subsection 11-1.10(l) came to be known as three (3) lots or less subdivision deferral agreements, or "deferral agreements"; and

WHEREAS, the County entered into an unknown number of deferral agreements with subdividers between 1974 and 1990 which may trigger contributions to the improvement of existing streets when and if improvement districts are proposed; and

WHEREAS, prior to 1990, the Subdivision Ordinance was silent on the resubdivision of lots subject to existing deferral agreements; and

WHEREAS, Subsection 11-1.10(l), Permanent Ordinances, was recodified as Subsection 18.20.040(A), Maui County Code, Existing streets, and amended by Ordinance 1907 (1990), which eliminated deferral agreements related to improvement districts; and

**Resolution No. \_\_\_\_\_**

WHEREAS, Ordinance 1907 (1990), also provided for the three (3) lots or less deferral agreements “provided the subdivider or owner, their heirs, executors, and assigns agree to pay their pro rata share of the cost of roadway improvements upon the existing street pursuant to the terms of the ordinance authorizing said improvements by the county or to a formula determined by the county”; and

WHEREAS, Ordinance 1907 (1990) additionally provided that “the land so subdivided shall not thereafter qualify for this exception with respect to any subsequent subdivision of any of the resulting parcels”; and

WHEREAS, Subsection 18.20.040(A), Maui County Code, Existing streets, was further amended by Ordinance 2214 (1993), and specifically referred to deferral of improvement agreements to existing streets for subdivisions containing three (3) lots or less; and

WHEREAS, pursuant to Ordinance 3513 (effective December 27, 2007), the Council amended Section 18.20.040 by deleting the provision allowing for the deferral of improvement agreements for subdivisions containing three (3) lots or less thus requiring improvements at the time of subdivision; and

WHEREAS, the County entered into an unknown number of deferral agreements with subdividers between 1990 and 2007 which require the payment of a pro rata share of the cost of road improvements at the time existing streets are improved; and

WHEREAS, after the adoption of Ordinance 4255 (effective October 8, 2015), subdivisions into two developable lots may receive a one-time exemption from improvements to existing streets under Section 18.20.040, Maui County Code; and

WHEREAS, pursuant to Section 3-9.2(1)(c) of the Revised Charter of the County of Maui (1983), as amended, the County Auditor is required to transmit a plan of the audits proposed to be conducted during the fiscal year to the Mayor and the Council, for review and comment, but not approval; and

WHEREAS, the plan of audits proposed by the County Auditor includes a list of both Charter-mandated audits and self-initiated projects; and



**Resolution No. \_\_\_\_\_**

WHEREAS, the plan of audits for Fiscal Year 2015 included a self-initiated audit of the County's road resurfacing, improvement, and maintenance practices which was issued as Office of the County Auditor, Report No. 15-01 (October 2015); and

WHEREAS, Report No. 15-01 did not audit or address three (3) lots or less subdivision deferral agreements; and

WHEREAS, deferral agreements require landowners to compensate the County for the pro rata share of the cost of improvements when existing streets are improved by the County; and

WHEREAS, revenue from deferral agreements represent an unknown and unquantified source of funds available to the County to make roadway improvements; and

WHEREAS, an audit of the number of deferral agreements entered into by the County between the years 1974 and 1990 that relate to improvement districts, including a list of properties encumbered by the agreements, and the current owners of the properties is needed to determine the outstanding obligations owed to the County; and

WHEREAS, an audit of the number of deferral agreements entered into by the County between the years 1990 and 2007 that relate to three (3) lots or less subdivisions and require a pro rata share contribution by the landowners, including a list of properties encumbered by the agreements, and the current owners of the properties is needed to determine the outstanding obligations owed to the County; and

WHEREAS, in addition to the identification and audit of three (3) lots or less deferral agreements, a recommendation is needed as to the enforceability of the agreements, a method to arrive at the fair calculation of costs contemplated in the agreements, and a plan to ensure that contributions are collected simultaneously with construction of existing roadway improvements by the County; now, therefore,

**BE IT RESOLVED** by the Council of the County of Maui:

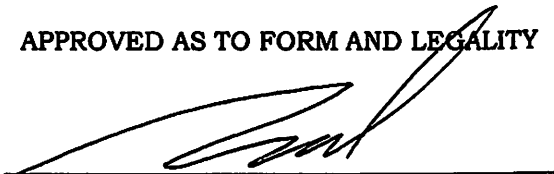
1. That it does hereby urge the County Auditor to include in his plan of audits for Fiscal Year 2019 a self-initiated audit of

**Resolution No. \_\_\_\_\_**

three (3) lots or less subdivision deferral agreements entered into by the County, Department of Public Works, for the years from 1974 to 2007 including an analysis of the number of agreements, the properties and landowners subject to the agreements, methods used to calculate the amounts owed under the agreements, the enforceability of the agreements, and plans for collecting contributions from landowners simultaneously or retroactive with the construction of existing roadway improvements by the County; and

2. That certified copies of this Resolution be transmitted to the County Auditor; Mayor of the County of Maui; the Corporation Counsel; the Director of the Department of Finance; and the Director of the Department of Public Works.

APPROVED AS TO FORM AND LEGALITY

A handwritten signature in black ink, appearing to be 'Paul', is written over a solid horizontal line.

Deputy Corporation Counsel  
County of Maui

re: Testimony for Don Guzman's repeal of Title 18 Amendment

RECEIVED

2018 AUG -3 AM 7: 46

fryrchr@aol.com

Thu 8/2/2018 11:42 PM

OFFICE OF THE  
COUNTY CLERK

To: County Clerk <County.Clerk@mauicounty.us>;

Dear County Clerk,

Please submit and print everything below as testimony of Christopher P. Fishkin for Friday August 3rd, 2018 public hearing.

Mahalo.

Christopher P. Fishkin  
670 Waiale Rd.  
Wailuku, HI 96793  
808-213-4140

Dear Council Members,

The emails below represent the response by Leslie Otani of the Dept. of Public Works to my RFS request for the subdivisions using Ordinance # 4255 in which Title 18 was amended Island Wide.

-----Original Message-----

From: Lesli Otani <Lesli.Otani@co.maui.hi.us>  
To: fryrchr <fryrchr@aol.com>  
Sent: Fri, Jul 13, 2018 8:24 am  
Subject: Re: Request for Service No. 18-0001075

Hi,

2.3312 expired and a new application was submitted for the property under 2.3353.  
2.3272 also expired.

Besides 2.3312 and 2.3272, the other files are still active. So they have preliminary subdivision approval but none of them have received final subdivision approval.

Lesli

-----Original Message-----

From: Lesli Otani <Lesli.Otani@co.maui.hi.us>  
To: FRYRCHRIS <FRYRCHRIS@AOL.COM>  
Sent: Thu, Jul 12, 2018 12:24 pm  
Subject: Request for Service No. 18-0001075

Mr. Fishkin,

This e-mail is in response to the subject request regarding Ordinance 4255. I am including (below) the current list I have of subdivisions that are using Ordinance No. 4255. If you have any questions regarding this e-mail, please contact me.

Lesli L. Otani, P.E., L.S.  
Development Services Administration  
Department of Public Works  
County of Maui  
250 South High Street  
Wailuku, Hawaii 96793  
Phone: (808) 270-7242

[Lesli.Otani@mauicounty.gov](mailto:Lesli.Otani@mauicounty.gov)

LUCA#	Subdivision Name	Lots	TMK:
1.0322	Kaupo Ranch Subdivision	2.00	1-7-002:018
2.2926	Waiohuli-Keokea Subdivision	2.00	2-2-016:099
2.3222	Raymond Subdivision	2.00	2-2-012:062
2.3272	Manawai Homesteads	2.00	2-8-003:045
2.3284	Land Court Application 1804	2.00	2-1-008:118
2.3287	Hui Kuai Aina O Peahi Partition	2.00	2-8-005:019
2.3300	Jackson Subdivision	2.00	2-7-002:035
2.3307	Omaopio Homesteads	2.00	2-3-003:173
2.3308	Pauwela Farm Lots Subdivision	2.00	2-7-012:086
2.3311	Kaonoulu Lots Subdivision	2.00	2-2-006:058
2.3312	Aeder Subdivision	2.00	2-8-003:012 expired
2.3318	Kuiaha-Pauwela Homesteads	2.00	2-7-008:123
2.3323	Hui Kauai Aina O Ulumalu	2.00	2-8-001:019
2.3347	Peahi Hui Partition	2.00	2-8-004:063
2.3353	Richard Hoehn Subdivision	2.00	2-8-003:012
3.2312	Uluniu Acre Subdivision	2.00	3-9-008:014
3.2377	Kuihelani Subdivision	2.00	3-8-006:003
4.996	Mailepai Hui Land	2.00	4-3-003:048
4.1004	Land Court Application 1599	2.00	4-5-005:007
5.691	Lamkin Subdivision	2.00	5-2-012:036

RECEIVED

Fwd: Sand Mining Moratorium Extension

2018 AUG -3 AM 8: 17

BB

Barbara Barry <begoniabarry@gmail.com>

Yesterday, 10:59 PM

County Clerk

OFFICE OF THE  
COUNTY CLERK

Reply all |



Action Items



Aloha Chair and Council Members

Thank you for renewing the Sand Mining Moratorium for 6 months that was allowed to expire a week ago Thursday.

Where is the Sand Study that was required to be done? The County Council Members and the public have a right to see this completed study and have open testimony regarding it.

I hope it will be ready far in advance of the end of the Moratorium so the Moratorium can be extended to protect the Iwi Kupuna and the precious inland sand dunes.

Below, please find an excerpt from an article dated May 8th 2016 from the Hawaiian Kingdom blog.

## Under International Law Native Hawaiians are Victims of Genocide

According to Professor Lemkin, "Generally speaking, genocide does not necessarily mean the immediate destruction of a nation, except when accomplished by mass killings of all members of a nation. It is intended rather to signify a coordinated plan of different actions aiming at the destruction of essential foundations of the life of national groups, with the aim of annihilating the groups themselves. The objectives of such a plan would be disintegration of the political and social institutions, of culture, language, national feelings, religion, and the economic existence of national groups, and the destruction of the personal security, liberty, health, dignity, and even the lives of the individuals belonging to such groups."

"Genocide has two phases," argued Professor Lemkin, "one, destruction of the national pattern of the oppressed group; the other, the imposition of the national pattern of the oppressor. This imposition, in turn, may be made upon the oppressed population which is allowed to remain, or upon the territory alone, after removal of the population and the colonization of the area by the oppressor's own nationals. Denationalization was the word used in the past to describe the

destruction of a national pattern." Professor Lemkin believed that *denationalization* was inadequate and should be replaced with *genocide*.

The term *genocide*, however, was not a war crime under international humanitarian law at the time, but it appears that Committee III was in agreement with Professor Lenkin that it should be a war crime. The problem that faced Committee III was how to categorize *genocide* as a war crime under the Hague Convention, IV. On September 27, 1945, Committee III argued that *denationalization* was not a single act of "depriving the inhabitants of the occupied territory of their national characteristics," but rather a program that attempted to achieve this result through: "interference with the methods of education; compulsory education in the language of the occupant; ... the ban on the using of the national language in schools, streets and public places; the ban on the national press and on the printing and distributing of books in the language of the occupied region; the removal of national symbols and names, both personal and geographical; [and] interference with religious services as far as they have a national peculiarity."

Committee III also argued that *denationalization* included other activities such as: "compulsory or automatic granting of the citizenship of the occupying Power; imposing the duty to swearing the oath of allegiance to the occupant; the introduction of the administrative and judicial system of the occupying Power, the imposition of its financial, economic and labour administration, the occupation of administrative offices by nationals of the occupying Power; compulsion to join organizations and associations of the occupying Power; colonization of the occupied territory by nationals of the occupant, exploitation and pillage of economic resources, confiscation of economic enterprises, permeation of the economic life through the occupying State or individuals of the nationality of the occupant."

Committee III also stated that these activities by the occupying State or its nationals would also "fall under other headings of the list of war crimes."

There were apparent similarities between Professor Lemkin's definition of *genocide* and the Committee III's definition of *denationalization*. Professor Lemkin argued that *genocide* was more than just mass murder of a particular group of people, but "the specific losses of civilization in the form of the cultural contributions which can only be made by groups of people united through national, racial or cultural characteristics (Lemkin, *Genocide as a Crime under International Law*, 41 AJIL (1947) 145, at 147)." Similarly, Committee III argued that *denationalization* "kill[s] the soul of the nation," and was "the counterpoint to the physical act of killing the body, which was ordinary murder (*Preliminary Report of the Chairman of Committee III*, C.148, 28 Sept. 1945, 6/34/PAG-3/1.1.0, at 2)."

One cannot allow this to happen if one's job and Kuleana is to protect the Native Culture and the precious Environment. Once these dunes are destroyed, the ancient Iwi Kupuna are obliterated and the Historic Inland Sand Dunes are destroyed, then what? They Iwi Kupuna cannot be replaced or the Dunes cannot be restored. This is sacred grounds for the Hawaiian People who's relations are buried here. These dunes have important cultural significance for the Hawaiians.

No amount of loss of income can be considered when making this decision. Maui Lani Partners knew what they were doing when they bought this land and have made vast amounts of money selling this precious inland Sand and the bones of countless Hawaiian Ancestors. It must stop.

Preserve these rare Sand Dunes and the Iwi Kupuna that rest there now for perpetuity. Do not have the stain of future Cultural Genocide of Hawaiians on your hands.

Using this sand for volleyball courts, sandboxes, construction or light rails must end. Mr. Goode has minimized the impact of his decisions regarding management of this irreplaceable resource. This is not a joke.

Mahalo,

Ms. Barbara Barry

Ha'iku

August 3, 2018

RECEIVED

Re: CR 18-127 Recommending FIRST READING of bill establishing Chapter 20.40A, Maui County Code, declaring a continued moratorium on sand mining of central Maui inland sand.

OFFICE OF THE  
COUNTY CLERK

Dear Maui County Council Members:

For the sake of future generations, please extend and renew the Maui Inland Sand Mining Moratorium Ordinance. This is not about “hampering development.” This is about preserving this extremely culturally sensitive and significant area. Who are we to excavate sand from a known burial and battle site for use in sand boxes, beach replenishment, sand volleyball courts, etc. Would the burials at Punchbowl ever be excavated in order to remove the soil? Kanaka Maoli graves deserve the same respect and protection as other gravesites in any other cemetery. How tragic to see the historic preservation efforts of the community pitted against developers, concrete companies, and landowners. Please understand that we are not anti-development. We wish to preserve what remains of this sacred landscape.

In fact, the Maui Inland Sand Mining Ordinance needs to be amended so as to include properties where mass excavation is currently occurring and causing irreparable harm to the Iwi Kupuna. We see this at Maui Lani Phase 6 Increment 4 where mass excavation activities crushed at least 2 Iwi Kupuna—one of which was an infant. While there were indeed archaeological monitors on site during mass excavation, the inevitable destruction to Iwi is inevitable, especially considering the 79 plus Iwi and 35 Burial Pits disclosed in December 2017 to the Maui Lana'i Island Burial Council. The thought of using sand for a sand box, playground, sand volley ball court is an absolutely revolting concept considering the number of Iwi Kupuna found in this area. Even the 2006 Maui Inland Sand Resource Quantification Study states: “On the island of Maui, there is a high probability of iwi being buried in the sand dunes.” Unfortunately, Maui County Public Works Director David Goode refuses to release the 2018 update to the 2006 Maui Inland Sand Resource Quantification Study, so we are at a loss to know exactly how much sand remains. Considering the high likelihood of encountering ancestral skeletal remains, the notion of sand mining, mass excavation, grading , grubbing and other earth altering activities is revolting.

According to the 2006 Sand Quantification Study, HAWAIIAN CEMENT INVENTORY ON LOT 12-A, ON 234.5 Acres at Maui Lani Project Development had a remaining Sand Inventory of 984,000 tons. Hawaiian Cement uses about 3,600 tons per month on Maui, and barges 12,000 tons to Honolulu. Thus, they use a total of 15,600 tons per month, or 188,000 tons per year. Thus the remaining sand inventory would compute to a 5.3 year supply at the current usage rate. In summary, the computed inventory of



984,000 tons would amount to a 5 year supply for Hawaiian Cement's Maui and Honolulu use. As the factors affecting usage and inventory may vary widely from the assumptions made, the available life may vary from that estimate.

**AMERON HAWAII INVENTORY MAUI RESERVES** Ameron has stockpiled a 5 year supply at their Puunene plant or about 120,000 tons of sand at current sand usage rates for Maui ready mix concrete use... Ameron (which incidentally was recently acquired by the Mills Group and Maui Lani Partners owner Bill Mill, had entered into an agreement with Maui Lani Partners to excavate the sand from their southwestern most parcel which is located just north of the old Waikapu landfill. Unfortunately the Study fails to estimate the remaining quantity of sand in the Ameron reserves.

**PROJECTED CONCRETE SAND USAGE FROM 2006 (tons)** Per annum 74,000\*  
244,000\*\* 318,000 10 Year Period 740,000 2,400,000 3,200,000 \* Maui Use: Ameron  
30,000 tons, Hawaiian Cement 44,000 tons. \*\* Oahu Use: Ameron 100,000 tons,  
Hawaiian Cement 144,000 tons. The 10 year projections are based upon current  
consumption levels of concrete sand requirements only.

The purpose of the Sand Mining Moratorium Ordinance was to "conduct further analysis required to establish regulations for mining inland sand to protect Maui's environment and limited natural resources and prevent the disturbance of Hawaiian historical, cultural, or archaeological sites, and unmarked human burial sites." Unfortunately, not a single regulation has been enacted to regulate sand mining or to prevent the imperilment of irreparable harm to the in situ burials in the Moratorium Area within the Central Maui Pu'uone Sand Dunes Complex. Furthermore, the exemptions granted to landowners and developers, as stated under 20.20.020 Definitions #3, effectively undermine the purpose and intent of the Sand Mining Moratorium Ordinance.

We continue to advocate for the protection and preservation of this wahi pana and the Iwi Kupuna that inhabit this sacred topography. Nowhere else in the world is there a geological formation as unique as the Central Maui Inland Sand Dunes which once characterized the landscape of the isthmus of Maui, joining Mauna Kahalawai and Haleakala.

According to the 2006 Maui Inland Sand Resource Quantification Study: "These sand deposits were built up over thousands of years when the central valley was covered by the ocean and also through conveyance by the winds."

I wish to extend an invitation to each and every single one of you, to come learn more about the Iwi Kupuna, the mo'olelo, and our undying commitment to protect and preserve the remaining in situ burials and pu'uone. Please attend the 6th Annual

Hoolaulea at Owa : Ua Noho Au a Kupa beginning at noon on August 17, 2018, next to the burial preserve in the Maui Lani Safeway park lot. This is an overnight vigil, so please stop by and join us to hear speakers, share a meal or two, and to learn about this wahi pana. One such historical record was recorded by historian Samuel Mānaiakalani Kamakau in Ruling Chiefs, "From the years 1775 to 1779 there was continual fighting between Kalani'opu'u of Hawaii and Kahekili.... His own attendants, selected from the chiefs who excelled as soldiers, Kalani'opu'u called the Alapa and the Pi'ipi'i... In the year 1776 Kalani'opu'u and the chiefs returned to war on Maui, and in the battle with Kahekili's forces at Wailuku were completely overthrown.... They slew the Alapa on the sandhills at the southeast of Kalua. There the deal lay in heaps strewn like *kukui* branches; the corpses lay heaped in death; they were slain like fish enclosed in a net. This great slaughter was called *Ahulau ka Pi'ipi'i i Kakanilua* (Slaughter-of-the-Pi'ipi'i-at-Kakanilua). (Ruling Chiefs, pp.84-86.).

Mahalo.

Amy Halas

2006 Maui Inland Sand Resource Quantification Study:

<https://www.mauicounty.gov/DocumentCenter/View/4139/Maui-Inland-Sand-Quantity-Study?bidId=>

Law Office of Lance D. Collins  
Lance D. Collins 8246  
Post Office Box 179336  
Honolulu, Hawai'i 96817  
808.243.9292

FILED  
2017 NOV 16 AM 11:35

N. MARTINS, CLERK  
SECOND JUDICIAL CIRCUIT  
STATE OF HAWAII  
IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT  
STATE OF HAWAII

STATE OF HAWAII

MĀLAMA KAKANILUA, an unincorporated association, CLARE H. APANA, and KANILOA LANI KAMAUNU	)	Civil No. 17-1-0311(3)
	)	(Environmental Court)
	)	
Plaintiffs	)	PRELIMINARY INJUNCTION
	)	
vs.	)	
	)	
MAUI LANI PARTNERS, a domestic partnership,	)	
	)	
Defendant.	)	

**PRELIMINARY INJUNCTION**

INTRODUCTION

On July 27, 2017, Plaintiffs filed their complaint alleging violations of HRS chapter 6E (Count I) among other claims related to MLP's sand mining operations and disturbances of significant historic, archaeological, and cultural sites at Maui Lani Phase IX (Phase IX), located at TMK (2) 3-8-007:153 (por).

Also on July 27, 2017, Plaintiffs filed a motion for a preliminary injunction based on violations of HRS chapter 6E under Count I and Plaintiffs filed an Ex Parte Motion for a Temporary Ten Day Stay Order, which was delivered to MLP on the same day.

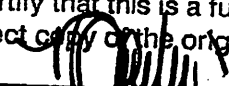
By letter dated July 31, 2017, MLP's counsel sent a letter to this Court indicating its position against allegations in the complaint.

On August 2, 2017, this Court granted Plaintiffs Ex Parte Motion for a Ten Day Stay (TRO).

On August 8, 2010, former defendant the State Historic Preservation Division of the State Department of Land and Natural Resources (SHPD) stipulated to not being a necessary or indispensable party to the claims made or relief prayed for in this case and to its dismissal from this action.

On August 9, 2017, MLP filed a motion to dissolve the TRO.

I hereby certify that this is a full, true and correct copy of the original.

  
Clerk, Second Judicial Circuit

On August 10, 2017, MLP filed its opposition to Plaintiffs' motion for a preliminary injunction.

On August 11, 2017, the County of Maui stipulated to not being a necessary or indispensable party to the claims made or relief prayed for in this case and to its dismissal from this action.

On August 11, 2017, this Court held a hearing on Plaintiffs' motion for a preliminary injunction. MLP sought an evidentiary hearing on the motion. This Court accommodated MLP's request and immediately initiated evidentiary proceedings.

On August 11, 23, 28, and 30, 2017 and September 1 and 8, 2017, evidentiary hearings were held on Plaintiffs' preliminary injunction motion on Count I.

At the August 23, 2017 hearing, MLP represented that it would not conduct any further ground disturbing activities so long as the County or SHPD did not impose further best management practice (BMP) requirements. MLP further agreed to bring to this Court's attention any such new BMP requirements.

The following Findings of Fact ("FOF"), Conclusions of Law ("COL"), and Decision and Order are based on parties' filings, respective witness testimonies and exhibits presented during the evidentiary hearing held on August 11, 23, 28, 30, and September 1 and 8, 2017. Exhibits were received into evidence during the hearing. If any statement denominated a COL is more properly considered an FOF, then it should be treated as an FOF. Conversely, if any statement denominated as an FOF is more properly considered a COL, then it should be treated as a COL.

#### FINDINGS OF FACT

1. Plaintiff MĀLAMA KAKANILUA, is an unincorporated association that was formed many years ago to protect 'iwi, burials, and other historic and archeologically significant sites in Maui. Mālama Kakanilua is named for Kakanilua, a historic and famous battle that occurred in the sandhills of Wailuku. It was founded in 2006 or 2007.

2. Plaintiff CLARE H. APANA is kanaka maoli, conducts cultural practices at Kalua sandhills, those practices are related to a responsibility to family, are connected through cultural education or family, and involve taking responsibility or care for the location. Apana has taken responsibility for speaking for the protection of the protection of our iwi kupuna and for the culture in the area that she lives in. Apana is a trained practitioner of native Hawaiian traditional and customary practices associated with this land, spirituality, and resolution of cultural and spiritual disturbances.

3. Plaintiff KANILOA LANI KAMAUNU (Kamaunu) is a resident of Wailuku moku and a lineal descendant of Owa 'ili, which lies within the Kalua sandhills. Kamaunu is also a member of Mālama Kakanilua. He engages in cultural practices at the Kalua sandhills to fulfill cultural and religious needs of himself and his family including Phase IX. His practices were learned from elders; he is connected to the Kalua sandhills because he is related to people who lived there and are buried there. He has taken responsibility for the care of the area for non-commercial, cultural purposes, and his practices are consistent with Hawaiian custom.

4. Jennifer Noelani Ahia is *kanaka maoli*, a Native Hawaiian traditional and customary practitioner and member of Mālama Kakanilua. Ahia's cultural practices include ho'okupu, oli, and prayer.

5. Continued unmonitored ground disturbing activities at Phase IX would harm Plaintiffs' and Plaintiff's members' cultural practices. The potential for unmonitored grading material containing human remains being removed from the site and being processed into cement constitute a grave threat of irreparable harm.

6. Intrusions into burials are considered extremely offensive and disrespectful—an act of violence and degradation directed at the deceased individual, the living family members, and the larger community associated with the burial.” *Kaleikini v. Yoshioka*, 128 Hawai'i 53, 283 P.3d 60 (2012)

7. Defendant Maui Lani Partners' consultant, Archaeological Services Hawaii (ASH) prepared two archaeological assessments (AAs) for the Phase IX site in 2007 and 2010.

8. The 2010 AA stated, “archaeological monitoring shall be conducted during all construction-related activities. Prior to commencing any construction activities, a monitoring plan shall be prepared for review and approval by SHPD.”

9. In 2013, ASH prepared an Archaeological Monitoring Plan for the Phase IX project site work (AMP).

10. The AMP states that archaeological monitoring at the Phase IX project site was “highly warranted” due to the numerous primary burial features and secondarily deposited human skeletal remains within the Maui Lani landholdings.

11. The AMP imposed special conditions on Maui Lani Partners' operations, including requirements that “all grading activities will be monitored full time[.]” “[n]o sand will be excavated directly out of the ground and loaded into trucks[.]” and the protocol requires “[o]ne archaeological monitor per piece of ground disturbing equipment.”

12. The AMP also states in relevant part:

The construction plans call for excavations ranging from 2-30 feet in depth and all grading activities will be monitored full time. The procedures will consist of grading the sand with a dozer and pushing it into a monitored stockpile. At that point, the stockpile can be loaded out. No sand will be excavated directly out of the ground and loaded into trucks. This procedure does not allow full inspection of the sand matrices.

13. MLP's Phase IX AMP states: "In the event that human remains are inadvertently exposed during this undertaking, the procedures for the inadvertent discovery of human skeletal remains pursuant to Chapter 6E-43.6 and HAR 13-300-40 will be instituted."

14. In accepting the 2013 AMP for Phase IX operations in a letter dated November 26, 2014, State Historic Preservation Division of the Department of Land and Natural Resources, State of Hawai'i (SHPD) specified "[m]onitoring will occur for all grading/ filling activities including those associated with installation of all utilities within the subdivision, as well as lateral connection to main lines within the Maui Lani Parkway road."

15. SHPD specified that Phase IX "[e]xcavations will range from 2-30 feet in depth, and all grading activities will be monitored full-time. One archaeologist monitor per piece of ground-disturbing equipment is the protocol for this monitoring project."

16. SHPD's November 26, 2014 letter also specified that if the project extends beyond one year in duration, annual interim monitoring reports should be submitted.

17. No monitoring reports for Phase IX operations were submitted to SHPD since issuance of SHPD approval of the AMP on November 26, 2014.

18. Since 2014, at least five inadvertent discoveries of burials have been made at the Phase IX site.

19. On February 22, 2017, grading activity was occurring at Phase IX and ground disturbing equipment was being operated but no archaeological monitor was present on site.

20. On April 29, 2017, grading activity was occurring at Phase IX and ground disturbing equipment was being operated by no archaeological monitor was present on site.

21. On June 26, 2017, grading activity was occurring at Phase IX at the request of the County of Maui and ground disturbing equipment was being operated but no archaeological monitor was present on site. The activity included moving stockpiled materials as well as material from previously undisturbed ground.

22. The operators of the ground disturbing equipment did not maliciously intent to violate the AMP.

## CONCLUSIONS OF LAW

A. Plaintiffs had standing to bring their claim before this Court.

B. Count I was properly before this Court pursuant to HRS §6E-13(b), which provides:

Any person may maintain an action in an environmental court having jurisdiction where the alleged violation occurred for restraining orders or injunctive relief against the State, its political subdivisions, or any person upon a showing of irreparable injury, for the protection of an historic property or a burial site and the public trust therein from unauthorized or improper demolition, alteration, or transfer of the property or burial site.

C. Plaintiffs' Count I meets the threefold test for granting injunctive relief, which requires consideration of: "(1) whether the plaintiff is likely to prevail on the merits; (2) whether the balance of irreparable damage favors the issuance of a temporary injunction; and (3) whether the public interest supports granting an injunction." *Office of Hawaiian Affairs v. Hous. & Cmty. Dev. Corp. of Hawai'i*, 117 Hawai'i 174, 211, 177 P.3d 884, 922 (2008) (citations omitted).

D. Plaintiffs' will likely prevail on the merits under Count I because MLP has not fully complied with its AMP at Phase IX. Complete and strict compliance with the AMP was expected in light of the imminent risk of irreparable harms and the serious nature of the site in question.

Credible testimony established that Defendant's heavy machine operator was disturbing not only previously stockpiled material, but also fresh soil that was not stockpiled.

E. The balance of irreparable damage favors the issuance of Plaintiffs' requested preliminary injunction. This balance considers that five inadvertent discoveries thus far have been found on the Phase IX site after SHPD approved the 2010 Archaeological Assessment, which required archaeological monitoring for all construction-related activities. Further, disturbance of burial sites will produce substantial, irreparable harm. Disturbance of the remains of ancestors creates tremendous anguish and anxiety to Plaintiffs.

F. There will be little risk of harm, expense, or inconvenience to Defendant.

G. The irreparable harm at issue in these proceedings relates to the unnecessary degree of disturbance of burials and human remains that may occur in the absence of strict compliance with the AMP.

H. The balance of harms fall in favor of granting Plaintiffs' requested injunction.

I. In addition to the Court's finding of a likelihood of success on the merits of Count I, the great degree of potential irreparable harm otherwise lessens Plaintiffs' burden to establish a likelihood of prevailing on the merits. See *Penn v. Transportation Lease Hawaii, Ltd.*, 2 Haw. App. 272, 630 P.2d 646 (1981) ("The more the balance of irreparable damage favors issuance of the

injunction, the less the party seeking the injunction has to show the likelihood of his success on the merits.”).

J. The public interest is satisfied with the injunctive relief ordered by this Court. This Order will provide confidence in strict compliance with the AMP, and this compliance will be accomplished in a manner that is safe and inexpensive and provides access to immediate judicial relief in the event of potential violation of the AMP.

K. The Court considered the appointment of a special master to supervise Defendant’s compliance. In light of the potential significant litigation likely to surround that appointment, added cost for Defendant, and sufficiency of its grant of emergency access to judicial relief to alleged violations, the Court has determined that appointment of a special master is unnecessary under the circumstances of this case.

#### DECISION AND ORDER

Based upon the motion, the memoranda for and against the motion, the evidence, argument of the parties as well as the record herein,

IT IS HEREBY ORDERED, ADJUDGED, and DECREED as follows:

- (1) Plaintiffs’ Motion for Preliminary Injunction (Count I) is granted.
- (2) The Court enjoins Defendant from activities that involve disturbing previously undisturbed ground, or the removal of soil from the site, whether after stockpiled or freshly from the ground, unless the following conditions are met:
  - (a) Defendant must be within in full compliance with all terms and conditions of the AMP, including all regulations and provisions listed within the AMP. Defendant’s compliance with the AMP is already required and does not impose additional burdens;
  - (b) Defendant must notify Plaintiffs’ designated representative or legal counsel at least 48 hours before Defendant causes the disturbance of ground or removal of soil from the Phase IX site. This notification procedure will ensure that there is a written or electronic record of Defendant’s activities and Plaintiffs’ receipt of notification of the same. It is reasonable to conclude that Defendant’s construction and ground-disturbing activities would require advance planning of at least 48 hours and therefore the imposition of this notification requirement does not impose an undue burden on Defendant.
  - (c) After such notification to Plaintiff’s representative, Defendant must authorize the presence of Plaintiffs’ chosen representative observer on the Phase IX site and provide the representative with an unobstructed view of the ground disturbing activities at a safe



distance of 100 yards away from ground disturbing activities or transportation of material off site. These provisions ensure that the Plaintiffs' observer will not be injured by Defendant's negligence on site and that Plaintiffs' observer has an unobstructed view of ground disturbing activities;

(3) The Court further grants immediate access to this Court on an emergency basis if Plaintiffs' observer is of the opinion that Defendant is not complying with the AMP, in order to address any and all such allegations of violations of the AMP. These claims will be granted priority access to this Court to raise these allegations. This process will grant both parties immediate access to resolution of such claims by this Court.

(4) Immediate access to judicial resolution is important in light of the immediate, irreparable harms consequent to violations of the AMP. Plaintiffs' may initiate emergency relief procedures, which may include requests for a hearing and sanctions, based on allegations of observed AMP violations by sending a written letter and email to this Court or by filing pleadings.

(5) This order shall remain in effect until further order this Court.

Dated: Wailuku, Maui, Hawai'i

NOV 15 2017

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/S/ JOSEPH E. CARDOZA (SEAL)  
JUDGE OF THE ABOVE-ENTITLED COURT

APPROVED AS TO FORM:

\_\_\_\_\_  
GREGORY W. KUGLE, ESQ.  
DAMON KEY LEONG KUPCHAK HASTERT  
Attorney for DEFENDANT  
MAUI LANI PARTNERS

\_\_\_\_\_  
Malama Kakanilua et al v. Maui Lani Partners, Civil No. 17-1-0311(3), PRELIMINARY  
INJUNCTION

Jim Smith  
99 Kapuai Road  
Haiku, Maui, Hawaii 96708

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2018 AUG -3 AM 7: 46

August 03, 2018

OFFICE OF THE  
COUNTY CLERK

Chairperson Michael White and Members of the Maui County Council

TESTIMONY: Regarding Committee Report 18-131 –  
Appointment of William Spence to Director of Department of Housing and  
Human Concerns and Michele Mc Clean Director of Department of Planning

Aloha,

It is important to note that William Spence and Michelle Mc Clean are entrepreneurs and as such belong in the private sector and not the public sector.

It appears Committee Report 18-131 fails to inform whether the Committee sought to identify responsibility for failure to empanel Citizen Advisory Committees and in particular the Director's involvement in the controversy generated by its response to the Molokai CAC recommendations.

The Committee members did not questioned the role of each appointee in the promotion of the Maui Island Plan that established community plan boundaries with out the advise of individual area CAC's. Nor, did the Committee seek to discover any change either appointee intends or may implement once confirmed as Director of a Department regarding administration of Community Plans and Maui County Code Chapter 19 Zoning.

I urge the Council to find out whether either person has operational plans that reinvent the Department they will manage.

Thank you

Jim Smith 572-0218  
August 03, 2018



**MAUI**  
CHAMBER OF COMMERCE  
VOICE OF BUSINESS

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COUNTY CLERK

**Testimony on CR 18-127**

Re: A Bill For An Ordinance Establishing Chapter 20.40A, Maui County Code,  
Declaring A Continued Moratorium On Sand Mining Of Central Maui Inland Sand  
Friday, August 3, 2018

Dear Chair White, Vice Chair Carroll &  
Members of the Maui County Council,

Aloha and Mahalo for the opportunity to provide testimony on this matter.

The Maui Chamber of Commerce opposes the new ordinance to extend the moratorium on sand mining of Central Maui inland sand to December 31, 2018. This bill began as a way to prevent the mining and exportation of Maui sand off island, to update the Sand Resource Quantification Study and to protect this precious resource, which the Maui Chamber of Commerce always supported. The Maui Chamber of Commerce does not support unilateral moratoriums and feels the original intent to halt sand mining and the exportation of sand has already occurred and the update of the Sand Resource Quantification Study is underway.

In discussions, the first measure shifted from its original intent to include a broader discussion on culture and the protection of iwi, which is an important discussion for our community to have and ultimately needs to come up with a winning solution on. However, the intent of the original bill and this extension were not for that purpose and protection of culture and iwi go beyond this region and sand. Other bills are already being taken up in the Land Use Committee to specifically address those purposes.

Further, many did not expect the moratorium to achieve its stated purpose in the 6-month time frame and worried that the short time frame would be used as an interim step for continued moratorium extensions, which now seems to be the case and is deeply concerning. Therefore, if the Council grants this extension, we ask that they do so acknowledging that no further extension will be granted until the Maui Inland Sand Resource Quantification Study Update is completed and the findings are publicly reviewed and vetted so that we can then determine what additional protectionary measures are truly needed.

Sincerely,

Pamela Tumpap  
President

To advance and promote a healthy economic environment for business, advocating for a responsive government and quality education, while preserving Maui's unique community characteristics.

Fw: Central Maui Sand Dunes

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2018 AUG -3 AM 8:17

County Clerk

Thu 8/2/2018 10:24 AM

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COUNTY CLERK

To: IEM Committee <IEM.Committee@mauicounty.us>;

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**From:** Shelly Stevens <shellsurfmaui@gmail.com>

**Sent:** Thursday, August 2, 2018 10:06 AM

**To:** County Clerk

**Subject:** Central Maui Sand Dunes

Dear Council Members,

Please stop the desecration of the ancient burial sites in the Central Maui sand dunes! The recent activity at Maui Lani Phase 6 that has disturbed more iwi kūpuna needs to stop at once, with NO exemptions from moratorium.

Mahalo,  
Shelly Stevens  
74 West Kuiaha Rd.  
Haiku, HI 96708